

# Chapter 79

## FISH RESOURCES

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79.0 Purpose: The purpose of this chapter is to ensure the protection of fish habitat and to provide for the enhancement of degraded habitat.

79.1 Applicability: This chapter is applicable to all projects and activities which could interfere with the health of fish populations in Lake Tahoe, its tributaries and other lakes. New uses, projects and activities within fish habitat, as identified by TRPA fish habitat maps or a qualified biologist, shall include provisions for the protection or enhancement of the affected habitat. The following standards shall apply to all projects in fish habitats in Lake Tahoe, its tributaries and other lakes of the Region.

79.2 Fish Habitat Protection: Fish habitat consists of a complex set of elements such as spawning and nursery or rearing areas, food supply, and escape cover. Areas of prime fish habitat are subject to verification by TRPA and are defined in Chapter 2.

79.2.A Lake Habitat: Lake habitat shall be protected as follows:

- (1) Projects and activities in the shorezone of lakes may be prohibited, limited, or otherwise regulated in prime habitat areas, or in areas or at times found by TRPA to be vulnerable or critical to the needs of fish.
- (2) Special conditions of project approval, such as restoration of physically altered substrate, construction limited to designated periods, or shoreline protective measures, may be required for development in the shorezone to mitigate or avoid significant adverse impacts to habitat or normal fish activities.
- (3) Habitat restoration projects may be permitted in the nearshore or foreshore.
- (4) Certain activities, such as construction, swimming, or boating, may be restricted temporarily in areas where spawning activity is occurring.
- (5) The physical alteration of the substrate in areas of prime fish habitat is prohibited unless approved by TRPA.

- (6) Projects and activities affecting lake fish habitat shall be referred to state and federal fisheries agencies for review and comment.

79.2.B Stream Habitat: Stream habitat shall be protected as follows:

- (1) Artificial modifications to stream channels, or other projects, activities or uses in stream environment zones that may physically alter the natural characteristics of the stream, shall not be permitted unless TRPA finds that such actions avoid significant adverse impacts to the fishery or are otherwise allowed under the Code.
- (2) All stream crossings shall be constructed so as to allow unrestricted upstream and downstream movement of fishes.
- (3) Existing structures within stream environment zones which are barriers to fish migration may be removed or modified to permit fish passage. (See Chapters 9 and 32).
- (4) Development adjacent to tributaries shall be required to fully mitigate significant adverse impacts to the fishery.
- (5) Proposals for stream habitat improvement shall include at a minimum, the following information:
  - (a) Purpose of the project;
  - (b) Species to be benefited;
  - (c) Time and methods of construction or other work;
  - (d) Materials: their use, source, placement, and quantity; and
  - (e) A vegetation plan for fish cover, shading, and bank protection as needed.
- (6) Wildlife habitat improvement projects or activities, or other projects or activities requiring the diversion of stream water, shall mitigate significant adverse impacts to the tributary by:
  - (a) Maintaining adequate instream flows adjacent and downstream from the project area;
  - (b) Preventing the introduction or reentry of nutrients or sediment-enriched water to the tributary;
  - (c) Providing for unobstructed migration of fishes through the main stream channel;
  - (d) Protecting or restoring fish habitat;
  - (e) Protecting or restoring riparian vegetation; and
  - (f) Protecting or restoring other relevant instream values such

as recreation, aesthetics, and wildlife habitat.

- (7) Fish and wildlife stream habitat projects or activities shall be developed in coordination with the appropriate fish and wildlife agencies.
- (8) Whenever possible, existing points of water diversion from streams shall be transferred to Lake Tahoe when the diversions significantly and adversely impact instream beneficial uses.
- (9) An instream beneficial use assessment, such as the type established by Title 23, Section 670.6 of the California Administrative Code, shall be required for all projects and activities involving the diversion of water from a stream where instream flow standards have not been established. The assessment also may be required on streams where existing diversions are creating identified problems such as non-compliance with environmental thresholds. Prior to TRPA approval, standards of stream flow shall be established pursuant to the results of the assessment. Approval shall be conditioned on compliance with those standards and other mitigation necessary to achieve and maintain the environmental thresholds.

79.3 Aquatic Invasive Species<sup>§</sup>: Aquatic Invasive Species pose a serious threat to the waters of the Lake Tahoe Region and can have a disastrous impact to the ecology and economy of the Tahoe Region. The following provisions are necessary to prevent the introduction and spread of Aquatic Invasive Species.<sup>§§</sup>

79.3. A The following actions are prohibited:<sup>§§§</sup>

- (1) The transport or introduction of Aquatic Invasive Species into the Lake Tahoe Region.
- (2) The launching of any Watercraft or landing of any seaplane contaminated with Aquatic Invasive Species into the waters of the Tahoe Region.
- (3) The provision of inaccurate or false information to the TRPA or persons designated to conduct inspections pursuant to Subsection 79.3.B.
- (4) The alteration or modification of any inspection seal or other device used by TRPA or its designee to indicate that a Watercraft or seaplane last entered the waters of the Lake Tahoe Region.

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<sup>§</sup> Amended 5/28/2008

<sup>§§</sup> Amended 4/28/2011

<sup>§§§</sup> Amended 4/28/2011

79.3. B Watercraft Inspections and Decontamination<sup>§</sup>: <sup>§§</sup>

- (1) All motorized Watercraft shall be inspected by TRPA or its designee prior to launching into the waters of the Lake Tahoe Region to detect the presence, and prevent the introduction of, Aquatic Invasive Species. Non-motorized Watercraft and seaplanes may be subject to an inspection prior to entering the waters of the Lake Tahoe Region if determined necessary by the TRPA or its designee.
- (2) All Watercraft and seaplanes inspected pursuant to Subparagraph 79.3.B(1) shall be subject to decontamination if determined necessary by the TRPA or its designee.
- (3) All Watercraft and seaplanes subject to decontamination pursuant to Subparagraph 79.2.B(2) shall be permitted to enter the waters of the Lake Tahoe Region only if: (a) the decontamination is performed and completed by an individual trained and certified pursuant to TRPA standards and requirements for Aquatic Invasive Species decontamination, and (b) following decontamination, the launch or landing, as appropriate, is authorized by an inspector trained and certified pursuant to TRPA's standards and requirements for Aquatic Invasive Species inspections.
- (4) Inspections and decontaminations performed pursuant to Section 79.3 are subject to a fee related to the costs of performing such services and other Watercraft inspection program costs. The TRPA Governing Board will review and approve the fee amount and structure annually.
- (5) An owner and/or operator of a Boat Ramp (excluding Marine Railway Systems) or other Boat Launch Facility shall close any ramp or facility if the provisions of Subparagraphs 79.3.B(1)-(3) are not met in order to prevent the launching of motorized watercraft.
- (6) Any Watercraft or seaplane entering the waters of the Lake Tahoe Region in violation of Chapter 79 shall be removed from those waters immediately.
- (7) Any individual who launches Watercraft in violation of Section 79.3 may be held responsible for the costs expended by the TRPA or its designee for response and mitigation of impacts.

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<sup>§</sup> Amended 9/24/2008

<sup>§§</sup> Amended 4/28/2011