

Implementation of Department of Fish and Game
Flow Criteria-related Sections of the Delta Reform Act of 2009 (SB X7 1)

Work Plan

Purpose

Department of Fish and Game (DFG) will develop and submit to the State Water Resources Control Board (SWRCB) flow criteria and quantifiable biological objectives for aquatic and terrestrial species of concern dependent on the Delta.

Tasks Identified in Legislation

85084.5: The Department of Fish and Game in consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service and based on the best available science, shall develop and recommend to the board Delta flow criteria and quantifiable biological objectives for aquatic and terrestrial species of concern dependent on the Delta. The recommendations shall be developed no later than 12 months after the date of enactment of this division.

85086(b): It is the intent of the Legislature to establish an accelerated process to determine instream flow needs of the Delta for the purposes of facilitating the planning decisions that are required to achieve the objectives of the Delta Plan.

(c) (1) For the purpose of informing planning decisions for the Delta Plan and the Bay Delta Conservation Plan, the board shall pursuant to its public trust obligations, develop new flow criteria for the Delta ecosystem necessary to protect public trust resources. In carrying out this section, the board shall review existing water quality objectives and use the best available scientific information. The flow criteria for the Delta ecosystem shall include volume, quality, and timing of water necessary for the Delta ecosystem under different conditions. The flow criteria shall be developed in a public process by the board within nine months of the enactment of this division.

85087: The board, by December 31, 2010, shall submit to the Legislature a prioritized schedule and estimate of costs to complete instream flow studies for the Delta and for high priority rivers and streams in the Delta watershed, not otherwise covered by Section 85086, by 2012, for all major rivers and streams outside the Sacramento River watershed by 2018. In developing this schedule, the board shall consult with the Department of Fish and Game as to the timing of its submission of recommendations for instream flow needs.

Assumptions

1. Biological objectives and flow criteria will be based on available data and information contained in existing recovery plans, publications, reports, journal articles, previous water right testimony, etc.
2. The biological objectives and flow criteria will be well defined and consistent with the requirements in Water Code 85084.5.
3. DFG will work with the SWRCB to meet their nine month deadline and participate in their informational proceeding announced in late December 2009.
4. The deadline for completion of the DFG biological objectives and Delta Flow Criteria is November 2010.
5. Species to be covered by the biological objectives and flow criteria may be all federal and State listed species in the Delta (e.g., Delta smelt, longfin, etc.), other commercial/recreational fish species, and other species or habitats known to be influenced by Delta water flow.
6. DFG will involve National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS) in compilation of data and information and in development and review of recommendations.
7. Current conditions will be used to establish flow recommendations, acknowledging that conditions may change with climate in the future. Minimal change in tidal range will be assumed (i.e., the influence of climate change will be assumed to be minimal for the purposes of flow criteria and biological objectives).
8. Flow criteria and biological objectives will have a scientific and public review.

Tasks

1. Participation in the SWRCB development of Delta flow criteria.

DFG's testimony serves as the foundation for development of DFG's biological objectives and recommendations for Delta flow criteria. DFG participated in the SWRCB process as described below.

- A. Submitted comments on structure of SWRCB's Informational Proceeding to develop Delta flow Criteria.
- B. Provided Written Testimony that will form the basis for DFG biological objectives and flow criteria.
- C. Participated in SWRCB's Informational Proceeding – March 24, 2010.
- D. Provided closing comments with list of draft biological objectives and numerical flow criteria from DFG Exhibits - April 14, 2010.
- E. Reviewed SWRCB's record and provided technical assistance to the SWRCB staff in developing biological objectives and flow criteria contained in the SWRCB's final report.

SWRCB Delta Flow Criteria website:

http://www.swrcb.ca.gov/waterrights/water_issues/programs/bay_delta/deltaflow/

DFG submittals for SWRCB Delta Flow Criteria development:

http://www.dfg.ca.gov/water/water_rights_docs.html

2. Review of the SWRCB report and update of DFG recommendations in light of all information available in the record to develop flow criteria - [SWRCB report review begun August 1, 2010.](#)
3. Assemble data and information for biological objectives and summaries of flow recommendations into a draft report.
 - A. Develop draft biological objectives.
 - B. Incorporate flow criteria data and information identified in the SWRCB report and record and compile into draft biological objectives report.
 - C. Consult with USFWS and NMFS – ongoing.

Product: Draft report ready for Independent Science Review and Public Review.

4. Complete scientific review of DFG's draft flow criteria and biological objectives.
5. Complete public process for review of DFG's draft flow criteria and biological objectives.
 - A. Initiate public review.
 - B. Hold informational public workshop and receive comments.

The review process will be initiated by letter from the Director that provides a 30-day review period.

6. Consider comments and incorporate them into the draft report to the extent possible.

Product: Final Report.

7. Finalize report for transmittal to SWRCB.
8. Submit final report.

Products: Transmittal letter and final report.

Tentative Timeline

Task	Deadline (2010)
Draft Goals and Objectives and Flow Criteria Report	August
Peer Review (5 weeks)	September 3 – October 5
Release Draft Report for public review (30 day)	September 16 – October 15
Hold Public Workshop	Week of September 20 – 24
Review comments and revise Draft Report as appropriate	October 15 – November 5
Send final document to SWRCB	November 22

Subsequent related tasks related to meeting requirements of Water Code Section 85087.

1. Work with the SWRCB to identify new instream flow studies for the Delta and for high priority rivers and streams in the Delta watershed - [Task begun June 28, 2010.](#)

Product: Discussion and input to the State SWRCB on their list of needed instream flow studies and the cost of the studies for report to Legislature by December 2010.

DFG Instream Flow Program documents:

http://www.dfg.ca.gov/water/instream_flow_docs.html

2. Complete instream flow studies for the Delta and for high priority rivers and streams in the Delta watershed, not otherwise covered by Section 85086, by 2012.