



VII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:  
California Fish and Game Commission  
1416 Ninth Street  
Sacramento, California 95814

VIII. Location of Department Files:

Department of Fish and Game  
1416 Ninth Street  
Sacramento, California 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

Several alternatives to regulation change include, 1) slot limits for kelp bass and barred sand bass, 2) spawning area closures for barred sand bass, and 3) catch and release only fishing for spotted sand bass.

1. Slot limits for kelp bass and barred sand bass. Take is restricted to fish caught within the harvestable size range (equal to or within the minimum and maximum size limits). This alternative has been dismissed due to the following reasons:

- Catch and release mortality must be minimal for slot limits to be effective. Kelp bass and spotted sand bass appear to suffer little mortality upon release; however, there have been no studies to determine if there is delayed mortality. Barred sand bass have increased mortality due to barotrauma issues and slot limits are not a viable alternative for them.
- Currently no definitive data exists on the age structure of the fishery. Slot limits will put increased fishing pressure on the age classes within the given slot limits instead of spreading take across more age classes. If there are any weak age classes within the slot limit, this could have negative effects on the population.
- Slot limits will be difficult to enforce. Currently, there are fillet length regulations for kelp bass and barred sand bass based on the minimum size limit. A maximum size from a slot limit would also require a maximum fillet length. Since it would be difficult to ensure that fillet lengths were from the appropriate sized fish, the regulation would be impossible to enforce. Slot limits could be enforced better if anglers were required to keep the entire fish intact until they were home or at some designated fish cleaning station. However, many anglers enjoy the filleting service provided by CPFVs or private charters, and eliminating this service could have a negative economic effect on their business. In addition, requiring filleting of fish at the dock or designated cleaning stations requires

an infrastructure not currently in place, and it would greatly delay the schedules of CPFV trips and decrease fishing times.

- Slot limits would be an impractical regulation for spear fishermen due to the inability to accurately determine sizes of fish underwater within this narrow size window.

2. Area closures for barred sand bass during spawning season. Spawning area closures for other species of fish that form spawning aggregations have been implemented in other regions of the world with success. Current Marine Protected Areas (MPAs) in southern California are not inclusive of all major barred sand bass spawning grounds. Barred sand bass spawning grounds include the Ventura Flats, inner Santa Monica Bay, Huntington Flats, San Onofre, Pt. Loma, and Imperial Beach Flats (a total of approximately 600 square nautical miles). Only a small proportion of this spawning habitat (less than four percent) is estimated to be included within the current MPA array. This alternative is not recommended for the following reasons:

- To encompass all spawning areas, this alternative would necessarily include large areas on the Ventura Flats, within Santa Monica Bay, Huntington Flats, San Onofre, Pt. Loma, and Imperial Beach Flats. This represents a significant increase in area coverage (approximately 162 percent) to the existing MPAs in southern California.
- Bycatch mortality of barred sand bass would be a concern as fishing for other popular sport fish (including Pacific bonito, Pacific barracuda, yellowtail, kelp bass, California scorpionfish, and jumbo squid) occurs within these areas during the summer spawning season.
- Area closure boundaries on spawning grounds would necessarily be conservative to account for variability in the site-specificity of aggregations. Although the general location of barred sand bass spawning grounds is well-known, the exact location of individual spawning aggregations varies from year to year.

3. Catch-and-release only for spotted sand bass. This alternative has been raised by the public several times in recent years. There is some public concern that effort (and harvest) for spotted sand bass may be underestimated and/or increasing. By fishing mode, 73 percent of harvested spotted sand bass are estimated taken by private/rental boats, 16 percent by beach and bank, 10 percent by man-made structures, and less than one percent by CPFV/charter boats. From 1980-2011, spotted sand bass was estimated to comprise less than one percent of the total harvested catch of all three basses. This alternative is not recommended for the following reasons:

- The estimated take in the spotted sand bass fishery is very low when compared to total catch (~6 percent) and a zero bag limit is

estimated to provide minimal reductions in catch.

- Catch-and-release only would unnecessarily impact low income fishermen that are more likely to keep spotted sand bass for subsistence.

(b) No Change Alternative:

The no change alternative would maintain current regulations which have been used for the past 50 years and are well understood. However, this is not preferable because evidence exists that current levels of take may be unsustainable. Continued fishing pressure at current levels may drive the fishery to the point of being unable to recover even when favorable environmental conditions return. If that were to happen, the Commission would then need to revisit regulation changes that may be far more restrictive than those currently proposed. In order to avoid more restrictive measures in the future, regulatory changes are recommended now.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

(d) Description of Reasonable Alternatives That Would Lessen Adverse Impact on Small Business:

The proposed regulation included three options, with multiple sub-options, which will impact small businesses to varying degrees. The alternatives identified in section IX (a), above, are not expected to have less adverse impacts on small business. No additional alternatives were identified.

The Commission selected the no change alternative for Option 3 in response to public comment that Option 3 would have significant adverse economic impacts on small businesses. In order to compensate for the potential protections for the bass species that would not be realized due to not adopting Option 3, the Commission adopted more restrictive sub-options within Options 1 and 2.

X. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Some impacts to southern California businesses catering to bass fishing may be realized; however, these impacts are not expected to be significant or statewide. The bass fishery is only a southern California fishery, and businesses from other states do not compete with southern California businesses for this resource.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

An increase in the minimum size limit (Option 1) will result in fewer bass taken, but it is unlikely to result in the creation or elimination of jobs or businesses. The minimum size increase is not expected to reduce the number of anglers aboard CPFVs and rental boats to the same extent that a reduction in the bag limit would because the opportunity to catch larger fish still exists.

Due to some of the recreational fishing community having support for a reduction in the bag limit (Option 2), it is unknown whether a moderate reduction in the bag limit would deter a significant portion of anglers from fishing. However, a severe reduction in the bag limit (e.g., zero take) would most likely result in the loss of jobs and the elimination of several businesses associated with the industry (see economic impact analysis report).

A barred sand bass season closure (Option 3) could also result in the loss of jobs or businesses, depending on actual customer interest (fishing for barred sand bass versus other species) and revenue lost due to potential impacts to sport fishing landings. Under a partial season closure, it seems likely that landings would choose to continue their regular schedule and fish for other species, resulting in no loss of jobs or businesses. However, under a full season closure, a significant reduction in fishing trips would most likely result in the loss of jobs and the elimination of several businesses associated with the industry (see economic impact analysis report).

For all three options, fewer fish being taken home would result in some lost income to CPFV crew members due to filleting fewer fish.

Despite the possibility of a short-term adverse impact to businesses, the long-term intent of all the proposed actions is to increase sustainability of the bass fisheries and, subsequently, the long-term viability of these same businesses.

The Commission anticipates benefits to the health and welfare of California residents. Currently there are health advisories recommending limited consumption of kelp bass and barred sand bass from certain areas within southern California due to contaminants (see economic impact analysis report). Limiting take of these fishes through the proposed regulations will help residents comply with these health advisories.

The Commission does not anticipate any non-monetary benefits to worker safety.

The Commission anticipates benefits to the environment by the sustainable management of California's bass resources.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

(e) Nondiscretionary Costs/Savings to Local Agencies:

None.

(f) Programs Mandated on Local Agencies or School Districts:

None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code:

None.

(h) Effect on Housing Costs:

None.

## Updated Informative Digest/Policy Statement Overview

Under current regulations, Section 27.65 b (1), Title 14, CCR specifies a minimum fillet length for kelp bass, barred sand bass, spotted sand bass, and ocean whitefish. Section 28.30 specifies a minimum size (total length and alternate length) and bag limit for kelp bass, barred sand bass, and spotted sand bass.

The three proposed regulatory options are intended to work together to favor population increases of the three bass species by reducing take. The options include an increase in the minimum size limit for all three species (with a corresponding increase in fillet length and alternate length), a reduction in the bag limit for all three species, and a spawning season closure for barred sand bass only. Each proposed option includes a range of sub-options yielding different reductions in catch depending on the species. The following summarizes the options for regulatory change in Title 14, Sections 27.65 b(1) and 28.30:

Option 1: The proposed regulation would increase the minimum size limit for bass to either 13, 14, or 15 inches total length. An increase in the minimum size limit to 13, 14, or 15 inches will require a corresponding increase in the fillet length size to 7, 7.5, or 8 inches, respectively and a corresponding increase in the alternate length size to 9.25, 10, or 10.75 inches, respectively. Ocean whitefish fillets would retain the 6.5 inches minimum length and require the entire skin attached.

Option 2: Current regulations specify a limit of 10 fish (bass) in any combination of species. The proposed regulation would retain the 10 fish upper limit in aggregate stipulation, but provide for a reduction in the individual species limit from 10 to 0.

Option 3: Current regulations do not specify any seasonal closure of barred sand bass fishing. The proposed regulation would close barred sand bass fishing from 1 week to 3 months during the spawning season (June 1-August 31).

The benefits of the proposed regulations are sustainable management of the bass resources to protect bass populations while continuing to provide recreational fishing opportunities.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate sport fishing regulations.

**At the November 7, 2012 adoption hearing, the Commission adopted the following sub-options: increase the minimum size limit from 12 to 14 inches total length for all three basses and reduce the bag limit from ten in combination to five in combination. The Commission adopted the no-change alternative concerning the proposed seasonal closure. Due to the increase in minimum size (total length), the Commission adopted corresponding fillet length and alternate length of 7 ½**

**and 10 inches, respectively, for all three basses. Ocean whitefish fillets would retain the 6.5 inches minimum length and require the entire skin attached, as proposed.**