

**TITLE 14. Fish and Game Commission
Notice of Proposed Changes in Regulations**

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 219, and 220 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 203.1, 205, 207, 210, 215, 219, 220, 240, 5508, and 5509 of said Code, proposes to amend sections 27.65 and 28.30, Title 14, California Code of Regulations, relating to kelp bass, barred sand bass and spotted sand bass.

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 be 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 within the range of 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.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Crowne Plaza Ventura Beach Hotel, 450 E. Harbor Blvd., Ventura, California, on Wednesday, August 8, 2012 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Radisson Hotel-LAX, 6225 West Century Blvd., Los Angeles, California, on Wednesday, November 7, 2012, at 8:30 a.m., or as soon thereafter as the matter may be heard. Written comments may be submitted to the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on November 2, 2012. All comments must be received no later than November 7, 2012 at the hearing in Los Angeles, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Sonke Mastrup or Sherrie Fonbuena at the preceding address or phone number. **Ms. Marija Vojkovich, Regional Manager, Department of Fish and Game's Marine Region, telephone (805) 568-1246 has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

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 initial 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.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Sonke Mastrup
Executive Director

Dated: May 29, 2012

