

STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION  
(Pre-publication of Notice Statement)

Amend Sections 27.85, 28.90, and 28.95  
Title 14, California Code of Regulations  
Re: SF 7: Spearfishing for Striped Bass in Ocean Waters

I. Date of Initial Statement of Reasons: May 23, 2012

II. Date of Final Statement of Reasons: November 8, 2012

III. Dates and Locations of Scheduled Hearings:

- |     |                     |   |
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| (a) | Notice Hearing:     | Date: June 20, 2012<br>Location: Bishop, CA         |
| (c) | Discussion Hearing: | Date: August 8, 2012<br>Location: Ventura, CA       |
| (d) | Adoption Hearing:   | Date: November 7, 2012<br>Location: Los Angeles, CA |

IV. Update:

The Commission adopted the proposed regulation changes at its adoption hearing November 7. No modifications were made to the originally proposed language of the Initial Statement of Reasons.

V. Summary of Primary Considerations Raised in Opposition and in Support:

Comment by Mr. Jim Martin, Recreational Fishing Alliance: Mr. Martin spoke in support of the Department proposal.

Department Response: Comment noted.

No other additional public comments, written or oral were received during the public comment period.

VI. Location and Index of Rulemaking File:

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

VII. Location of Department Files:

A rulemaking file with attached file index is maintained at:  
California Fish and Game Commission  
1416 Ninth Street, Room 1320  
Sacramento, California 95814

VIII. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Change:

No alternatives were identified.

(b) No Change Alternative:

If the proposed regulations are not adopted, spear and bow and arrow fishermen would be limited to taking authorized species other than striped bass in ocean waters.

(c) Consideration of Alternatives:

No alternate proposals were presented to the Department.

IX. 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:

None.

(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:

None.

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

None.

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

None.

(e) Non-discretionary 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:

None.

(h) Effect on Housing Costs:

None.

## UPDATED INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law authorizes the take of striped bass for recreational purposes with a sport fishing license subject to regulations prescribed by the Fish and Game Commission (Commission); commercial take of striped bass is prohibited. Current regulations specify size limit, bag and possession limit, and methods of take in ocean waters [Title 14, California Code of Regulations (CCR), Sections 27.85, 28.90, and 28.95].

In ocean waters, Section 27.85 provides for a bag limit of two, a minimum size limit of 18 inches total length north of Pt. Conception, no minimum size limit south of Pt. Conception, and no seasonal closures. Furthermore, striped bass may not be taken while using a sinker over four pounds and may be taken only by angling [Title 14, CCR, Section 1.05].

Section 28.90 specifies fishing provisions while diving and prohibits the take of striped bass by spearfishing. Additionally, Section 28.95 authorizes taking of finfish species by spears, harpoons, and bow and arrow fishing tackle, and identifies prohibited finfish species including striped bass. At its April meeting, the Commission took testimony regarding the upcoming Sport Fishing Review Cycle. Following public comments, the Commission directed the Department to prepare options that would allow the take of striped bass while spearfishing, indicating its intent to consider changes to the existing regulations which prohibit this method of take for this species.

Although the Department has concern with a blanket authorization to use spearfishing gear for striped bass in inland waters, considerations are different for ocean waters. Spearfishing is generally authorized as a method of take for finfish in the ocean, pursuant to Section 28.90. The Department's understanding is that the current prohibition on spearfishing striped bass came about due to a need to specially regulate anadromous species which were the target of sport fisheries, including salmon, sturgeon, and striped bass. Today, the Department believes that any additional harvest of striped bass that may result from spearfishing in the ocean would be sustainable given the present status of the striped bass resource. Also, because spearfishing is a highly selective method of take, the Department does not anticipate that increases in fishing effort on striped bass would have unintended consequences on other species.

For purposes of clarity and consistency, the Department recommends, that if the Commission decides to authorize spearfishing for striped bass, it also take action to amend Section 28.95. The proposed change would remove striped bass from the list of species that may not be taken with bow and arrow fishing tackle.

### ***Proposal Overview***

In response to requests by individuals and various sport fishing groups, the Department has prepared the following proposal for consideration:

**ALLOW HARVEST OF STRIPED BASS BY SPEARFISHING AND BOW AND ARROW FISHING TACKLE**

Amend Section 27.85, Striped Bass. This Section would be amended to allow the harvest of striped bass by spearfishing and bow and arrow fishing tackle that are otherwise prohibited under existing regulations for ocean waters.

Amend Section 28.90, Diving, Spearfishing. This section would be amended to remove striped bass from the list of finfish species that may not be taken by spearfishing.

Amend Section 28.95, Spears, Harpoons and Bow and Arrow Fishing Tackle. This section would be amended to remove striped bass from the list of species that may not be taken by bow and arrow fishing tackle.

***Anticipated Benefits***

The benefits of the proposed regulations are increased fishing opportunities for striped bass, continuation of sustainable management of sport fishing resources, protection of listed and special status species, and promotion of businesses that rely on California's sport fisheries.

The proposed regulations are neither inconsistent nor incompatible with existing state regulations.

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

**The Commission adopted the proposed changes at its meeting on November 7, 2012.**