

STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Sections 1.53 and 27.00 and  
subsection (a) of Section 28.65,  
Title 14, California Code of Regulations (CCR)  
Re: Definitions for tidal waters and finfish gear restrictions in  
San Francisco and San Pablo bays

- I. Date of Initial Statement of Reasons: March 10, 2016
- II. Date of Final Statement of Reasons: September 9, 2016, and  
**Amended November 1, 2016**
- III. Dates and Locations of Scheduled Hearings:
- (a) Notice Hearing: Date: April 14, 2016  
Location: Santa Rosa
  - (b) Discussion Hearing: Date: June 23, 2016  
Location: Bakersfield
  - (c) Adoption Hearing: Date: August 25, 2016  
Location: Folsom
- IV. Update:
- There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.
- The Commission adopted the proposed regulations as described in the Initial Statement of Reasons on August 25, 2016.
- V. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting Those Considerations:
- No public comments, written or oral, were received during the public comment period.
- VI. 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

VII. Location of Department Files:

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

VIII. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

No alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

(b) No Change Alternative:

Not changing the regulation as written will allow inconsistent regulations to persist and perpetuate the unintended consequences of the regulations adopted on December 10, 2015.

(c) Consideration of Alternatives: In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose 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.

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 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 business, including the ability of California businesses to compete with businesses in other states.

There are no businesses that are expected to be impacted by the proposed regulatory changes to clarify definition of boundaries of "Inland

Waters” in relation to San Francisco and San Pablo bays.

- (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:

The Commission does not anticipate any significant impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California because the proposed definition changes will not affect angling effort.

The Commission anticipates benefits to the health and welfare of California residents. Participation in sport fishing opportunities fosters conservation through education and appreciation of California’s wildlife.

The Commission does not anticipate any benefits to worker safety because the proposed changes do not address worker safety.

The Commission anticipates benefits to the environment by the sustainable management of California’s sport fishing 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.

- (c) 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

### **Summary of Proposed Amendments**

The Commission proposes to amend Title 14 sections 1.53, 27.00, and 28.65 (a) to clarify the meaning of “inland waters” and the “Ocean and San Francisco Bay District” in order to facilitate compliance and enforcement of the gear restrictions and seasons that apply in those waters. In Section 27.00, the proposed changes would include addition of physical landmarks on the Napa River, Sonoma Creek, and the Petaluma River to delineate between “inland waters” and “San Francisco Bay” on those waterways. For Section 28.65 (a), there would be an added reference to the San Francisco Bay definition under Section 27.00. These changes will provide greater consistency among the sections, reduce the potential for confusion, and improve clarity.

By reverting back to language similar to pre-December 2015, for sections 1.53 and 27.00, adding boundaries for specific waterways to Section 27.00, adding a needed clarification to Section 28.65 (a), and making other minor language corrections to all sections, the proposed amendments effectively alleviate the concerns outlined in the original regulation change proposal while avoiding the unintended enforcement challenges from the current regulation.

### **Benefits of the Regulations**

The proposed regulations clarify the boundaries between inland waters and the waters of San Francisco Bay, making it easier for anglers to understand which regulations apply to the waters being fished. The proposed amendments will also make it easier for wildlife officers to enforce angling regulations in and adjacent to San Francisco Bay.

### **Consistency and Compatibility with Existing Regulations**

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated authority to the Commission to adopt sport fishing regulations (Fish and Game Code, sections 200, 202 and 205). The Commission has conducted a search of Title 14, CCR and determined that the proposed regulations are consistent with general sport fishing regulations in Chapters 1 and 4 of Subdivision 1 of Division 1, Title 14, CCR.

### **Update:**

**There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.**

**The Commission adopted the proposed regulations as described in the Initial Statement of Reasons on August 25, 2016.**

**It was discovered that on page 8 of the Initial Statement of Reasons, VII (f) “Benefits of the Regulations to the State’s Environment” contained incorrect information. The correct Benefits of the Regulations to the State’s Environment should read:**

**“It is the policy of the state to encourage the conservation, maintenance, and utilization of the living resources of the inland waters under the jurisdiction and influence of the state for the benefit of all its citizens and to promote the development of local California fisheries. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence and the maintenance of a sufficient resource to support a reasonable sport use, taking into consideration the necessity of regulating individual sport fishery boundaries.”**