

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

Amend Subsection (a)(1) of Section 29.45
Title 14, California Code of Regulations
Re: Recreational Razor Clam Fishery in Humboldt County

I. Date of Initial Statement of Reasons: June 23, 2016

II. Dates and Locations of Scheduled Hearings:

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| (a) | Notice Hearing: | Date: August 25, 2016
Location: Folsom, CA |
| (b) | Discussion Hearing: | Date: October 20, 2016
Location: Eureka, CA |
| (c) | Adoption Hearing: | Date: December 8, 2016
Location: San Diego, CA |

III. Description of Regulatory Action:

- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Under existing law, razor clams may be taken for recreational purposes with a sport fishing license subject to regulations prescribed by the Fish and Game Commission (Commission). Current regulations for clams specify bag and possession limits, open/closed fishing areas by year, fishing hours and gear restrictions. The proposed regulation change is in response to public recommendations including Humboldt Area Saltwater Anglers and Humboldt County Board of Supervisors, and would restore the original location of the management boundary at Little River Beach, Humboldt County.

Area Closures by Year:

Under existing law, razor clams can be taken all year in any area of the state, except in Del Norte County they may be taken north of Battery Point only in odd-numbered years and south of Battery Point only in even-numbered years, and at Little River Beach in Humboldt County they may be taken north of Strawberry Creek between Strawberry Creek and Moonstone Beach only in odd-numbered years, and south of Strawberry Creek between Strawberry Creek and Mad River only in even-numbered years.

The first twenty clams dug must be retained as the bag limit regardless of size or broken condition.

The razor clam management boundary line at Little River Beach, commonly referred to as Clam Beach, is a seasonal creek, named Strawberry Creek that was meant to divide the beach into approximate equal segments that could be fished in alternate years. Since the adoption of this regulation in 1953 in response to a decline in larger clams, this natural creek has meandered southward by 0.6 miles from its original location, resulting in a larger area in the northern section open for clamming during odd-numbered years. In even-numbered years, clambers now have to travel quite far south from the beach access point, the south county parking lot, to reach the smaller, southern section of the beach. The original location of the creek crossed the beach near where a county-maintained public parking lot exists today.

Rotating areas for clamming has been shown to encourage the recovery and productivity of clam beds for future seasons while relieving fishing pressure on alternate years so that clams can grow unmolested. As a result of the southward migration of the creek boundary line, the goal of an annual rotation of effort somewhat equally distributed between north and south sections of the beach has been compromised.

Change for clarity

The following regulation change to Subsection (a)(1) of Section 29.45, Title 14, CCR, would restore the original intent of the razor clam regulation pertaining to Little River Beach, Humboldt County by replacing reference to the Strawberry Creek boundary with reference to a boundary marker and accompanying latitude reading due west of the trailhead leading from the county south parking lot. The northern and southern boundaries would remain in regulation as Moonstone Beach and Mad River, respectively.

The regulation references Little River Beach near McKinleyville, Humboldt County, however it is generally referred to by area locals and on maps as Clam Beach so this name would also replace Little River Beach in regulations with the latter remaining in place parenthetically. The amendment would address the following:

1. Replace reference to the Strawberry Creek boundary with the boundary line due west from the county parking lot trailhead located at 40° 59.67' north latitude.
2. Also replace the name Little River Beach with Clam Beach while using the former name parenthetically.

Benefits of the Regulation

The Commission anticipates benefits to the razor clam resource and its

fishery in Humboldt County. The proposed regulation changes are intended to provide increased clam fishing opportunity in even-numbered years by increasing the size of the open southern Clam Beach management zone, thereby restoring the original intent of the regulation. The Commission anticipates benefits to the environment by the sustainable management of California's razor clam resources.

_(b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 202, 205, 206, 215, & 220, Fish and Game Code

Reference: Sections 200, 202, 205, 206, 215, & 220, Fish and Game Code

(c) Specific Technology or Equipment Required by Regulatory Change:

None.

(d) Identification of Reports or Documents Supporting Regulation Change:

None.

(e) Public Discussions of Proposed Regulations Prior to Notice publication:

No public meetings are scheduled prior to the notice publication. The 45-day public notice comment period provides adequate time for review of the proposed changes.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

No alternatives were identified.

(b) No Change Alternative:

The no change alternative would leave existing regulations in place without a solution to the following issues raised by the public.

The Strawberry Creek management boundary at Clam Beach has migrated a considerable distance to the south requiring a much longer walk to the southern management zone from the nearest parking lot, which is especially difficult for elderly and infirmed persons. In addition, the original intent of the creek boundary was to more or less evenly divide Clam Beach

into two management zones and the creek migration has contributed to a distinctly uneven zonation of the beach.

(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 or would be as effective and less burdensome to the affected public than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action is expected to have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. 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 business, including the ability of California businesses to compete with businesses in other states. The proposed changes are necessary for the continued preservation of the resource and fishing opportunity and therefore the prevention of adverse economic impacts.

(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 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. The proposed regulation changes are intended to provide increased razor clam fishing opportunity in Humboldt County in even numbered years.

The Commission anticipates benefits to the environment by the sustainable management of California's razor clam resource.

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

(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.

VII. Economic Impact Assessment:

The economic impact of the proposed regulatory changes for the recreational razor clam fishery is expected to be economically neutral since the regulatory change will restore the original location of the management boundary line on Clam Beach (also known as Little River Beach), Humboldt County and increase razor clam fishing opportunity in the southern management section of the beach.

The proposed changes are consistent with existing scientifically-based regulations related to rotating areas to razor clam fishing. Providing for sustainable razor clam fishing in turn supports businesses that contribute to the fishery economy, such as:

sport fishing business owners, tackle store owners, vendors of food, bait, fuel and lodging, and others that provide goods or services to those that recreationally pursue razor clams in Humboldt County, California.

Effects of the regulation on the creation or elimination of jobs within the State

The cumulative effects of the changes statewide are estimated to be neutral to the creation or elimination of jobs in California. No significant changes in fishing effort and recreational fishing expenditures to businesses are expected as a direct result of the proposed regulation changes.

Effects of the regulation on the creation of new businesses or the elimination of existing businesses within the State

The cumulative effects of the changes statewide are expected to be neutral to the creation or elimination of businesses in California. No significant changes in fishing effort and recreational fishing expenditures to businesses are expected as a direct result of the proposed regulation changes.

Effects of the regulation on the expansion of businesses currently doing business within the State

The cumulative effects of the changes statewide are expected to be neutral to the expansion of businesses currently doing business in California. No significant changes in fishing effort and recreational fishing expenditures to businesses are expected as a direct result of the proposed regulation changes.

Benefits of the regulation to the health and welfare of California residents

The proposed regulation change will provide increased opportunity for razor clam fishing in the southern management section at Clam Beach, Humboldt County during even years.

Benefits of the regulation to worker safety

The proposed regulations are not anticipated to impact worker safety conditions.

Benefits of the regulation to the State's environment

It is the policy of this State to encourage the conservation, maintenance, and utilization of living marine resources under the jurisdiction and influence of the

State for the benefit of all citizens (Section 1701, Fish and Game Code). Benefits of the proposed management actions include increased fishing opportunity, along with the continuation of the reasonable and sustainable management of recreational razor clam resources.

Informative Digest/Policy Statement Overview

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The razor clam management boundary line at Little River Beach, commonly referred to as Clam Beach, is a seasonal creek, named Strawberry Creek, that was meant to divide the beach into approximate equal segments that could be fished in alternate years. Since the adoption of this regulation in 1953 in response to a decline in larger clams, this natural creek has meandered southward by 0.6 miles from its original location, resulting in a larger area in the northern section open for clamming during odd-numbered years. In even-numbered years, clammers now have to travel quite far south from the beach access point, the south county parking lot, to reach the smaller, southern section of the beach. The original location of the creek divided the beach relatively near where a county-maintained public parking lot exists today.

Rotating areas for clamming has been shown to encourage the recovery and productivity of clam beds for future seasons while relieving fishing pressure on alternate years so that clams can grow unmolested. As a result of the southward migration of the creek boundary line, the goal of an annual rotation of effort somewhat equally distributed between north and south sections of the beach has been compromised. The amendment would address the following:

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Benefits of the Regulation

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Consistency with State or Federal Regulations

The proposed regulations are neither inconsistent nor incompatible with existing state regulations. Section 20, Article IV, of the State Constitution specifies that the Legislature may delegate to the Fish and Game Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has

delegated to the Commission the power to regulate the recreational take of razor clams, specifically the size and bag limits, seasons and means of taking (Fish and Game Code sections 200 and 205). The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has searched the California Code of Regulations and finds no other state agency regulations pertaining to the recreational take of razor clams.