

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

Amend Sections 1.53 and 5.00,
Title 14, California Code of Regulations

Re: Annual Sport Fishing Regulations - Freshwater Sport Fishing Amendments

I. Date of Initial Statement of Reasons: March 16, 2018

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing:	Date: August 23, 2018
	Location: Fortuna
(b) Discussion Hearing:	Date: October 18, 2018
	Location: Fresno
(c) Adoption Hearing:	Date: December 13, 2018
	Location: Oceanside

III. Description of Regulatory Action:

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

This California Department of Fish and Wildlife (Department) proposal requests changes to Title 14, California Code of Regulations (CCR), for the Annual Sport Fishing Regulations review cycle. This proposal will clarify that inland waters do not include bays, increase fishing opportunities for black bass in Perris Lake, and make needed corrections to existing regulations. The proposed regulatory changes are needed to reduce public confusion and improve regulatory enforcement.

The Department is proposing the following changes to current regulations:

INLAND WATERS DEFINITION

The current definition of inland waters can be confusing to anglers who want to fish two rods in a bay, but are not sure if a second rod validation is required. A second-rod validation is only required in inland waters. However, the current definition of Inland Waters (Title 14, Section 1.53) is not clear if inland waters include or exclude bays. The definition reads, "Inland waters exclude the waters of San Francisco Bay and the waters of Elkhorn Slough..." The definition only excludes San Francisco Bay. Title 14, Section 27.00, Definition of the Ocean

and San Francisco Bay District reads, “The ocean is...the waters of open or enclosed bays contiguous to the ocean.” This definition clearly states that all bays are considered waters of the ocean. To be consistent and clear, the definition of inland waters should state that all bays are excluded, not just San Francisco Bay. Amending the definition will clarify that inland waters do not include bays and, therefore, a second rod validation is not required in a bay.

Proposal: Amend Section 1.53, Inland Waters

Amend Section 1.53 to clarify that inland waters do not include bays.

LAKE PERRIS LARGEMOUTH BASS SIZE AND BAG LIMIT

The current regulations were changed in 2009 to protect the fishery when the lake was drawn down by 43% to repair the dam. DFW placed 1,484 brush habitat structures into the remnant lake from 2008-2016 and built 109 rock reefs with approximately 109,000 square feet of gravel/cobble rock areas. The dam repair has been completed and the water is restored to an 80% pool. DFW proposes to re-establish the bass regulations to the statewide standard of 5 fish at 12 inches.

Proposal: Amend Section 5.00(B)(22), Perris Lake

Restore the black bass regulation at Lake Perris to the statewide standard 5 fish at 12 inches from 2 fish at 15 inches.

Updates to Authority and Reference Citations Based on Recent Legislation
Senate Bill 1473 (Stats. 2016, Ch. 546) made organizational changes to the Fish and Game Code that became effective January 1, 2017. The changes included moving the Commission’s exemptions from specified Administrative Procedure Act time frames from Section 202 to Section 265 of the Fish and Game Code, moving the Commission’s effective date procedures from Section 215 to Section 270 of the Fish and Game Code, moving the Commission’s effective period procedures from Section 220 to Section 275 of the Fish and Game Code, and moving the Commission’s authority to adopt emergency regulations from Section 240 to Section 399 of the Fish and Game Code. In accordance with these changes to the Fish and Game Code, sections 202, 215, and 220 are removed from, and sections 265, 270, and 275 are added to, the authority and reference citations for this rulemaking.

Minor Editorial Corrections for Clarity

In addition to the above proposals, minor editorial corrections are proposed to correct typographical errors and to improve regulation clarity.

Benefits of the Proposed Regulations

It is the policy of this state to encourage the conservation, maintenance, and utilization of the living resources of the ocean and inland waters under the jurisdiction and influence of the state for the benefit of all the citizens of the State.

In addition, it is the policy of this state to promote the development of local California fisheries in harmony with federal law respecting fishing and the conservation of the living resources of the ocean and inland waters under the jurisdiction and influence of the State. 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. Adoption of scientifically-based trout and salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of trout and salmon to ensure their continued existence.

The benefits of the proposed regulations are concurrence with Federal law, sustainable management of California's trout and salmon resources, and promotion of businesses that rely on recreational sport fishing in California.

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

Authority: Sections 200, 205, 265, 270, 275, 1050, 1053.1, 1055.1, 7380 and 8491, Fish and Game Code.

Reference: Sections 110, 200, 205, 255, 265, 270, 275, 713, 1050, 1053.1, 1055.1, 7149.8, 7380, 7381, and 7382, 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:

Striped Bass Petition

Petition #2017-012; received by the Commission November 2, 2017; at its February 7-8, 2018 meeting the Commission granted for consideration in the 2018 rulemaking package for the 2019-2020 angling season.

Petitioner requests a change to the striped bass fishing regulations to protect native fish species. The petitioner proposes to allow daily fishing south of the Golden Gate Bridge in all California South Coast Rivers and ocean waters, and suggests increasing the daily bag limit to 3 fish and decreasing the size limit to 12 inches.

Department Response

The Department does not support Mr. Lambert's petition to change the striped bass sport fishing regulations because: (1) striped bass are not present in many of the watersheds south of Golden Gate Bridge; (2) the fishing impacts due to bycatch of coho salmon and steelhead during targeting of striped bass outweighs the benefit of the off chance of taking striped bass; (3) invoking a size and bag limit is a management measure and contradictory to the intent of the proposal; (4) steelhead are not allowed to be fished daily during their open season and therefore daily fishing of striped bass would likely have an adverse impact on steelhead and Coho Salmon from increase fishing ; and (5) adoption of the regulation as proposed would create an enforceability issue related to two different standards in different areas of the state.

(b) No Change Alternative:

The no change alternative would leave existing regulations in place.

(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 proposed regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

V. Mitigation Measures Required by Regulatory Action:

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

VI. Impact of Regulatory Action:

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

- (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 is not anticipated to have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because the expected impact of the proposed regulations on the amount of fishing activity is anticipated to be minimal relative to recreational angling effort statewide.

- (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 expected impact of the proposed regulations on the amount of fishing activity is anticipated to be minimal relative to recreational angling effort statewide. Therefore, the Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing business or the expansion of businesses in California.

The Commission anticipates benefits to the health and welfare of California residents. Sport fishing contributes to increased mental health of its practitioners as fishing is a hobby and form of relaxation for many. Sport fishing also provides opportunities for multi-generational family activities and promotes respect for California's environment by younger generations, the future stewards of California's natural resources.

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 Commission 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 proposed regulations will revise and update inland sport fishing regulations starting in 2019. Currently, the seasons, size limits, and bag and possession limits for sport fishing are periodically reviewed by the California Department of Fish and Wildlife and the California Fish and Game Commission. This set of amendments will clarify that inland waters do not include bays; increase fishing opportunities for black bass in Lake Perris; and make needed editorial corrections.

Inland sport fishing regulations' affected parties include recreational anglers, commercial passenger fishing vessels and a variety of businesses that support anglers. The economic impact of regulatory changes for sport fisheries are estimated by tracking resulting changes in fishing effort, angler trips and length of stay in the fishery areas. Distance traveled affects gas and other travel expenditures. Day trips and overnight trips involve different levels of spending for gas, food and accommodations at area businesses as well as different levels of sales tax impacts. Direct expenditures ripple through the economy, as receiving businesses buy intermediate goods from suppliers that then spend that revenue again. Business spending on wages is received by workers who then spend that income, some of which goes to local businesses. Recreational fisheries spending thus multiplies throughout the economy with the indirect and induced effects of the initial direct expenditure.

This regulatory action may impact businesses that provide services to sport fishermen but these effects are anticipated to range from none to small positive impacts, depending on the regulations ultimately adopted by the Commission. Sport fishing business owners, boat owners, tackle store owners, boat manufacturers, vendors of food, bait, fuel and lodging, and others that provide goods or services to those that sport fish in California may be positively affected to some degree from increases to business that may result under the range of proposed regulations. These anticipated impacts may vary by geographic location. Additionally, economic impacts to these same businesses may result from a number of factors unrelated to the proposed changes to inland sport fishing regulations, including weather, fuel prices, and success rates in other recreational fisheries that compete for angler trips.

- (a) 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 job elimination and potentially positive to job creation in California. No significant changes in fishing effort and sport fishing expenditures to businesses are expected as a direct result of the proposed regulation changes.

- (b) 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 business elimination and have potentially positive impacts to the creation of businesses in California. No significant changes in fishing effort and sport fishing expenditures to businesses are expected as a direct result of the proposed regulation changes.

- (c) 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 positive to the expansion of businesses currently doing business in California. No significant changes in fishing effort and inland sport fishing expenditures to businesses are expected as a direct result of the proposed regulation changes.

- (d) Benefits of the Regulation to the Health and Welfare of California Residents:

The Commission anticipates benefits to the health and welfare of California residents. Sport fishing contributes to increased mental health of its practitioners as fishing is a hobby and form of relaxation for many. Sport fishing also provides opportunities for multi-generational family activities and promotes respect for California's environment by younger generations, the future stewards of California's natural resources.

- (e) Benefits of the Regulation to Worker Safety:

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

- (f) Benefits of the Regulation to the State's Environment:

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 bag limits in the quantity that is sufficient to provide a satisfying sport. Adoption of scientifically-based inland trout and salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of trout and salmon to ensure their continued existence.

Informative Digest/Policy Statement Overview

This California Department of Fish and Wildlife (Department) proposal combines Department and public requests for changes to Title 14, California Code of Regulations (CCR), for the Annual Sport Fishing Regulations review cycle. This proposal will clarify that inland waters do not include bays, increase fishing opportunities for black bass in Perris Lake, and make needed corrections to existing regulations. The proposed regulatory changes are needed to reduce public confusion and improve regulatory enforcement.

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