

San Francisco Bay Conservation and Development Commission

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TO: Commissioners and Alternates

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SUBJECT: **Public Hearing on Proposed Amendments to the Commission’s Permitting Regulations**
(for Commission consideration on November 20, 2025)

Introduction

On September 4, 2025, following a second staff briefing on proposed amendments to its permitting regulations, the Commission authorized staff to initiate the rulemaking process, in accordance with the Administrative Procedure Act, to consider adoption of the proposed amendments. On September 26, 2025, the Commission issued a Notice of Proposed Rulemaking, which commenced a public review and comment period, and posted on the Commission’s website the Notice of Proposed Rulemaking, the text of the proposed amendments, and the Initial Statement of Reasons.

At the Commission meeting on November 20, 2025, the Commission will hold a public hearing on the proposed amendments. Written comments will be accepted through 5:00 p.m. on November 21, 2025. Staff will then prepare a written response to comments and may modify the text of certain proposed amendments. If substantive modifications are made, the revised proposed amendments will be circulated for an additional 15-day public review period. The Commission may vote on the proposed amendments at a subsequent meeting.

Background

The Commission’s regulations establish procedures and standards for the Commission or its Executive Director to issue permits within areas of the Commission’s jurisdiction: (1) under the McAteer-Petris Act (“MPA”), California Government Code sections 66600 through 66694; and (2) the Suisun Marsh Preservation Act (“SMPA”), California Public Resources Code sections 29000 through 29612.

In brief, the proposed amendments will:

- Streamline and improve the regionwide permit program for straightforward projects that will not result in significant adverse environmental impacts;
- Add a new introductory Article to the permitting regulations including sections to define the different types of permits, describe how the type of permit required is determined



based on the nature and scope of a project, identify de minimis activities within the Commission's shoreline band jurisdiction that do not require a permit, and state general provisions applicable to all types of permits; and

- Revise, clarify, or update certain regulations governing the Commission's permitting process and the determination of the Commission's jurisdiction.

The objectives of the proposed amendments are to improve and clarify the regionwide permit program by providing more detail as to how the Commission adopts, amends, or revokes a regionwide permit, how a permit applicant applies for coverage under a regionwide permit, and how the Executive Director reviews an application for coverage under a regionwide permit. The objectives also include clarifying and streamlining the information required to apply for coverage under a regionwide permit.

The objectives of the proposed amendments include increased clarity and transparency for permit applicants and the public by adding a new introductory Article to the permitting regulations with sections to define the different types of permits, describe how the type of permit required is determined depending on the nature and scope of a proposed project, identify certain de minimis activities in the Commission's shoreline band jurisdiction that do not require a permit, and set forth general provisions applicable to all types of permits.

Finally, the objectives include revisions to update and improve the clarity of selected regulations and to increase transparency by providing for notice of permitting actions taken by the Executive Director.

Proposal and Rationale – Summary

1. Streamline and Improve the Regionwide Permit Program

The existing regulations allow the Commission to authorize similar categories of activities under two different permit programs, one for regionwide permits ("RWPs") and another for abbreviated regionwide permits ("ARWPs"). Commission adoption of permits under the two programs is governed by an identical regulatory standard, which requires that the Commission has determined the authorized activities "will have no substantial impact." However, the application requirements and processing timeframes for these programs differ slightly. Having two similar programs with different requirements is confusing to permit applicants and has resulted in little or no benefit from a regulatory perspective.

The proposed amendments will repeal the existing regulations governing RWPs and ARWPs in their entirety and adopt a new set of amended regulations for the RWP permit program only. In comparison to the existing regulations, the amended regulations will provide much more detail as to how the Commission adopts, amends, or revokes a RWP, how a property owner or other project proponent applies for coverage under a RWP, and how the Executive Director reviews an application for coverage under a RWP.

The existing RWP program applies only in areas of the Commission's jurisdiction under the MPA. This limitation is unnecessary, unjustified, and confusing. The amended regulations will increase: the scope of the RWP program to include areas within the Commission's jurisdiction under the SMPA.

Under the existing regulations, there are ambiguities and inconsistencies regarding the information that an applicant seeking coverage under a RWP is required to submit to enable the Executive Director to determine whether to approve or deny coverage under such a permit. The proposed amendments will repeal the existing RWP application requirements and adopt new regulations to revise, clarify, and streamline the information required to apply for coverage under a RWP.

2. Add a New Introductory Article to the Permitting Regulations

Because of how the Commission's permitting programs developed over time, the regulations governing the different types of permits are set forth in different Chapters of the regulations. There is no single Chapter or Article that defines the different types of permits or contains general provisions applicable to all types of permits.

To provide greater clarity to prospective permit applicants and the public, the proposed amendments will add a new introductory Article to the permitting regulations. The new Article will include sections to:

- Define the four types of permits – major, administrative, RWP, and emergency.
- Describe how the type of permit required is determined depending on the nature and scope of a proposed project.
- Inform permit applicants of the opportunity to request a pre-application meeting with Commission staff.
- Identify certain de minimis activities in the Commission's shoreline band jurisdiction that do not require a permit.
- State that any aggrieved person may seek judicial review of any decision of the Commission or the Executive Director to deny or approve a permit application by filing a petition for writ of mandate in accordance with Code of Civil Procedure section 1094.5.

3. Other Amendments to Revise, Clarify, or Update Certain Regulations

The proposed amendments include a new section 10112 that will clarify how to calculate deadlines to perform any act required by the regulations. The amendments also include revisions, clarifications, or updates to the following regulations:

- Section 10125 defines a "substantial change of use" for which a permit is required under the MPA.
- Section 10130 excludes incidental site restoration activities associated with the extraction of material for sample testing from the requirement for a permit.
- Sections 10133 and 10710 govern the determination of the Commission's jurisdiction under certain circumstances.
- Section 10601 describes the categories of activities within the different areas of the Commission's jurisdiction that constitute "minor repairs or improvements."

- Section 10602 describes the dredging and disposal projects that constitute “minor repairs or improvements.”
- Section 10620 requires the Executive Director to provide a listing to the Commission of pending applications for administrative permits.
- Section 10654 requires the Executive Director to report to the Commission as part of the administrative listing the emergency permits granted by the Executive Director.
- Sections 10810 and 10822 govern Executive Director approval of nonmaterial amendments to administrative and major permits, respectively.

Alternatives

As discussed in the Initial Statement of Reasons, one alternative, referred to as Alternative 1, is that the Commission would not adopt any of the proposed amendments to its regulations. Under this alternative, the Commission would continue to adopt regionwide and abbreviated regionwide permits, project sponsors would continue to submit notices of intent to proceed under such permits, and the Executive Director would continue to review such notices in accordance with the existing regulations. In addition, there would continue to be confusion and inconsistencies between the regulations and Appendix D, and within Appendix D, as to the information required to be submitted as part of a notice to proceed under a regionwide permit. The Commission would not adopt a new introductory article to the permitting regulations or any of the proposed amendments to clarify, revise, and update selected regulations.

Staff recommends that the Commission reject this alternative because it would not meet the objectives of the proposed amendments to: (1) streamline the regionwide permit process for straightforward projects that will not result in significant adverse environmental impacts; (2) add a new introductory Article to the permitting regulations with sections to define the different types of permits, identify de minimis activities within the Commission’s shoreline band jurisdiction that do not require a permit, and state general provisions applicable to all types of permits; and (3) clarify, revise, and update other selected regulations governing the Commission’s permitting process and the determination of the Commission’s jurisdiction in certain circumstances.

Another alternative, referred to as Alternative 2, is that the Commission would adopt most of the proposed amendments, but decline to adopt some of the proposed amendments as to certain regulations. This alternative could involve a number of sub-alternatives that would each be limited in scope and relate only to a particular section or subsection of the regulations for which the Commission would decline to adopt the proposed amendments.

A third alternative, referred to as Alternative 3, is that the Commission would adopt most of the proposed amendments, but as to certain regulations, the Commission would adopt revised or alternative amendments. This alternative, like Alternative 2, could involve a number of sub-alternatives that would each be limited in scope and relate only to a particular section or subsection of the regulations for which the Commission would decline to adopt revised or alternative amendments.

Accompanying Documents

The following documents in the rulemaking file accompany this staff report and are also posted on the Commission's website:

[Text of the Proposed Amendments](#)

[Initial Statement of Reasons](#)

[Notice of Proposed Rulemaking](#)