

# San Francisco Bay Conservation and Development Commission

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## **SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION**

Notice of Proposed Rulemaking to Amend Commission Regulations

California Code of Regulations Title 14, Division 5

### **PUBLIC HEARING**

The San Francisco Bay Conservation and Development Commission will hold a public hearing on the subject of this Notice of Proposed Rulemaking on November 20, 2025, at its regularly scheduled meeting, which will begin at 1:00 p.m. at 375 Beale Street in San Francisco, California, and will be held as a hybrid meeting under teleconference rules established by the Bagley-Keene Open Meeting Act. The hearing will concern proposed changes to the Commission's permitting regulations that are codified at Title 14 of the California Code of Regulations, Division 5.

At the hearing, any person may present comments, arguments, or statements orally or in writing relevant to the proposed action described in the Informative Digest (below). Information regarding how to access the November 20, 2025, Commission meeting online or by teleconference will be provided in a meeting notice and agenda posted on the Commission's website ([www.bcdc.ca.gov](http://www.bcdc.ca.gov)) not less than ten days prior to the meeting date.

Following the public hearing, the Commission may adopt the proposal substantially as described below or may modify the proposal. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for at least 15 days prior to its adoption from the person designated in this Notice as the Contact Person. Notice of the availability of any proposed modifications will be mailed or emailed to those persons who submit written comments, provide oral comments at the public hearing, or request notification of any changes to the proposal. Please contact the Commission to receive a meeting notice and any notice of change to the hearing date (see Contact Person, below).

### **WRITTEN COMMENT PERIOD**

Any person or organization may submit written comments on this proposed regulatory action. The written comment period closes at 5 p.m. on November 21, 2025. The Commission will consider only comments received by that time.

Please submit written comments to: [publiccomment@bcdc.ca.gov](mailto:publiccomment@bcdc.ca.gov)



## AUTHORITY AND REFERENCE

Authority: Government Code Section 66632(f); and Public Resources Code Sections 29201(e).

References: Civil Code Sections 7 and 10; Civil Procedure Code Section 1094.5; Government Code Sections 6700(a), 6701, 6702, 11125.7, 11340.9(c), 65940, 65943(a), 65943(c), 66604, 66610, 66632, 66632(a), 66632(b), 66632(c), 66632(e), 66632(f), 66632(i), 66653, 66654, and 66663-66666; Public Resources Code Sections 21065, 21080.5, 21080.5(d)(2)(C), 21080.5(d)(2)(D), 21160, 29114, 29501(a), 29505, 29508, 29509(b), 29520(a), and 29602; *Sweeney v. San Francisco Bay Conservation & Development Comm'n* (2021) 62 Cal.App.5th 1, 14-16; *Citizens Assn. for Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal App. 3d 151, 165; *Bozung v. Local Agency Formation Com.* (1975) 13 Cal. 3d 263, 283-84; and *Sunset Amusement Co. v. Board of Police Commissioners* (1972) 7 Cal. 3d 64, 80; and San Francisco Bay Plan, Tidal Marshes and Tidal Flats Policy 6, Subtidal Areas Policy 3, and Mitigation Policy 6.

## INFORMATIVE DIGEST

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, California Government Code sections 66600 through 66694; and (2) the Suisun Marsh Preservation Act, California Public Resources Code sections 29000 through 29612.

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

### 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 and another for abbreviated regionwide permits. The proposed amendments will repeal the existing regulations governing regionwide permits and abbreviated regionwide permits in their entirety and adopt a new set of amended regulations for the regionwide 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 regionwide permit, how a property owner or other project proponent applies for coverage under a regionwide permit, and how the Executive Director reviews an application for coverage under a regionwide permit.

The existing regionwide permit program applies only in areas of the Commission’s jurisdiction under the McAteer-Petris Act. The amended regulations will increase the scope of the regionwide permit program to include areas within the Commission’s jurisdiction under the Suisun Marsh Preservation Act.

Under the existing regulations, there are ambiguities and inconsistencies regarding the information that an applicant seeking coverage under a regionwide permit 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 regionwide permit application requirements and adopt new regulations to revise, clarify, and streamline the information required to apply for coverage under a regionwide permit.

#### 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. The proposed amendments will add a new introductory Article to the permitting regulations that will include sections to:

- Define the four types of permits: major, administrative, regionwide, 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.

#### 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, clarification, or updates to the following regulations:

- Section 10125 defines a “substantial change of use” for which a permit is required under the McAteer-Petris Act.
- 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.

### Objectives and Anticipated Benefits of the Proposed Amendments

The objectives of the proposed amendments are to:

- (1) streamline and improve the regionwide permit program;
- (2) add a new introductory Article to the permitting regulations with sections that 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 certain de minimis activities in the Commission's shoreline band jurisdiction that do not require a permit, and contains general provisions applicable to all types of permits; and
- (3) revise, clarify, or update certain regulations governing the Commission's permitting process and the determination of the Commission's jurisdiction.

The benefits of the proposed amendments are primarily non-monetary. The benefits include improvements and clarifications to 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 benefits also include clarifying and streamlining the information required to apply for coverage under a regionwide permit.

The benefits 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, and set forth general provisions applicable to all types of permits. Eliminating permit requirements for certain de minimis activities in the Commission's shoreline band jurisdiction will reduce permitting costs for some small projects.

The benefits of the proposed amendments include revising, clarifying, or updating certain regulations governing the Commission's permitting process and the determination of the Commission's jurisdiction, and increasing the transparency of the permitting process by providing for notice of permitting actions taken by the Executive Director.

### No Inconsistency or Incompatibility with Existing State Regulations

The Commission's regulations are the only state regulations concerning the McAteer-Petris Act, the Suisun Marsh Preservation Act, and governing Commission permits issued under either of those Acts. Therefore, the proposed amended regulations are neither inconsistent nor incompatible with existing state regulations.

### No Comparable Federal Statutes or Regulations

There are no federal statutes or regulations applicable to the McAteer-Petris Act, the Suisun Marsh Preservation Act, or Commission permits. Therefore, neither the Commission's existing regulations nor the proposed amendments differ from a comparable federal statute or regulation.

## DETERMINATIONS REGARDING THE PROPOSED ACTION

The Commission has made the following determinations or initial determinations:

Mandate imposed on local agencies or school districts by proposed amendments: None.

Cost or savings to any state agency: None. The proposed amendments will not impose any direct or indirect costs on state agencies that apply to the Commission for a permit or permit amendment.

Cost to any local agency or school district that must be reimbursed under Government Code sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states: None. The proposed amendments will not impose any direct or indirect costs on businesses or individuals.

No 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 reasonably compliance with the proposed action. The proposed amendments will not impose any direct or indirect costs on individuals, businesses, or other private parties that apply to the Commission for a permit or permit amendment.

Determination of effect on small business: The proposed amendments may affect small business. The proposed amendments will impact small businesses that apply for a Commission permit to the same extent as they will impact other businesses, individuals, local government agencies, and state agencies that apply for a permit.

Business reporting requirements: None.

### Results of the Economic Impact Assessment:

The proposed amendments will not create or eliminate jobs within California, create new businesses or eliminate existing businesses within California, or affect the expansion of businesses currently doing business within California. The benefits to the health and welfare of California residents include an improved and streamlined regionwide permit program for

routine projects that will not result in adverse environmental impacts, increased clarity and transparency for Commission permit applicants and the public, and reduced permitting costs for some small projects. The proposed amendments are not expected to affect worker safety or the state's environment. The proposed amendments will not impose any direct or indirect costs on individuals, businesses, local government agencies, or state agencies.

The amendments will eliminate permit fees for certain de minimis activities in the Commission's shoreline band jurisdiction under the McAteer-Petris Act by clarifying that no permit is required for such activities. Thus, the amendments will incrementally reduce the costs of the Commission's regulatory program by a modest amount and will correspondingly reduce the amounts collected by the Commission in annual permit application fees.

It is difficult to estimate the reduction in permitting costs (and collected application fees) that will result from clarifying that no permit is required, and therefore, no application fees will be collected, for certain de minimis activities conducted entirely in the shoreline band. However, the reduction in costs (and fees) will not be substantial. This is because if a project consists of only de minimis activities in the shoreline band, under the existing regulations, the project generally would be authorized under a regionwide permit or an abbreviated regionwide permit for which the application fee is only \$200. If an administrative permit were required for such a project and if the total project cost were under \$600,000, under the existing regulations, the application fee would be between \$300 and \$2,100. If such a project were processed as a non-material permit amendment to an administrative permit, the cost would be between \$200 and \$600 for projects with total costs under \$600,000.

If the proposed amendments clarifying that no permit is required for certain de minimis activities in the shoreline band had been in place in 2024, they likely would have eliminated the need for the Commission to issue approximately 15 permits (primarily regionwide permits and non-material amendments to existing administrative permits) for which the total application fees were \$4,750, or an average of \$467 per application. In comparison, in 2024, the Commission collected over \$1.2 million in total permit fees.

Significant effect on housing costs: None.

## CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Commission must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Commission would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

Alternatives to the proposed regulatory action are described in the accompanying Initial Statement of Reasons. The Commission invites interested persons to present comments on the

proposed amendments and alternatives at the scheduled public hearing or during the written comment period.

## CONTACT PERSON

Inquiries concerning the proposed regulatory action may be directed to:

Ethan Lavine, Assistant Regulatory Director for Climate Adaptation  
San Francisco Bay Conservation and Development Commission  
375 Beale Street, Suite 510  
San Francisco, CA 94105  
Telephone: (415) 352-3618  
Email: [ethan.lavine@bcdc.ca.gov](mailto:ethan.lavine@bcdc.ca.gov)

The backup contact person for these inquiries is:

Margie Malan, Legal Secretary  
San Francisco Bay Conservation and Development Commission  
375 Beale Street, Suite 510  
San Francisco, CA 94105  
Telephone: (415) 352-3675  
Email: [margie.malan@bcdc.ca.gov](mailto:margie.malan@bcdc.ca.gov)

## AVAILABILITY OF THE TEXT OF THE PROPOSED AMENDMENTS TO REGULATIONS AND THE INITIAL STATEMENT OF REASONS

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this Notice is published in the California Regulatory Notice Register, the rulemaking file consists of:

- (1) this Notice;
- (2) the text of the proposed amendments to the Commission's regulations, with proposed deletions shown in strikeout and proposed inserts shown in underscore;
- (3) the Initial Statement of Reasons; and
- (4) the Economic and Fiscal Impact Statement (Form 399) and supplement thereto.

Copies of these documents may be obtained from the Commission's website at [www.bcdc.ca.gov](http://www.bcdc.ca.gov) at the link to this Notice on the homepage under Latest News. Copies may also be obtained by contacting Ethan Lavine at the address, telephone number, or email address listed above.

The proposed regulations were prepared pursuant to the standard of clarity provided in Government Code Section 11349(c) and the plain English requirements of Government Code

Sections 11342.580 and 11346.2(a)(1). The proposed regulations are non-technical and written to be easily understood by the affected parties.

### **AVAILABILITY OF CHANGES OR MODIFIED TEXT**

After holding the public hearing and considering all timely and relevant comments, the Commission may adopt the proposed amendments to its regulations substantially as described in this notice. If the Commission makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with changes clearly indicated) available to the public for at least 15 days before the Commission considers whether to adopt the regulations as modified. Please send requests for copies of any modified proposed amendments to the regulations to Ethan Lavine at the address indicated above. The Commission will accept written comments on the modified text for 15 days after the date on which the modified proposed regulations are made available.

### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon the Commission's adoption of the regulations, copies of the Final Statement of Reasons may be obtained by contacting Ethan Lavine at the above address.

### **AVAILABILITY OF THE DOCUMENTS ON THE INTERNET**

Copies of this Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the proposed amendments to regulations (in strikeout and underlined format), as well as the Final Statement of Reasons once it is completed, will be posted on and can be obtained from the Commission website at [www.bcdc.ca.gov](http://www.bcdc.ca.gov).