

San Francisco Bay Conservation and Development Commission

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Public Notice

August 1, 2023

NOTICE OF PROPOSED PROGRAM CHANGES TO THE SAN FRANCISCO BAY SEGMENT OF THE CALIFORNIA COASTAL MANAGEMENT PROGRAM

Amendments to San Francisco Bay Conservation and Development Commission Regulations concerning Enforcement Procedures Title 14 of the California Code of Regulations, Division 5, Chapter 13

Pursuant to the Coastal Zone Management Act regulations, 15 C.F.R. § 923.81(e), the San Francisco Bay Conservation and Development Commission (Commission) has submitted to the Office for Coastal Management (OCM) of the National Oceanic and Atmospheric Administration (NOAA) proposed program changes to the federally approved coastal management program for the San Francisco Bay segment of the California coastal zone. The Commission is requesting OCM concurrence for amendments to certain of the Commission existing regulations that are codified at Title 14 of the California Code of Regulations, Division 5, Chapter 13 (Enforcement Procedures) and Appendices H and I, and New Appendix J.

In summary, the amendments to the Commission's enforcement procedures regulations:

- Add a definition of the term "significant harm to the Bay's resources or to existing or future public access."
- Clarify that declarations under penalty of perjury may be submitted by both staff and a respondent in an enforcement proceeding, and that cross-examination may be allowed only of such declarants.
- Establish an additional option for Commission action on an Enforcement Committee recommended enforcement decision.
- Add an Administrative Civil Penalty Policy as Appendix J of the regulations to be used to calculate administrative civil penalties in accordance with the factors that the Commission is required by statute to consider in determining the amount of administrative civil penalties for violations.
- Increase some of the standardized fine amounts established by the regulations for certain categories of violations.
- Provide for notices and documents related to an enforcement hearing to be sent by email or regular mail, and to be made available on the Commission's website.



- Allow certain documents to be sent to a respondent by email (rather than certified or registered mail) with the respondent's consent.
- Revise certain nomenclature used in the regulations for clarity and consistency.
- Revise the authority and reference citations throughout the regulations to correct errors and ensure consistency between or among regulatory provisions on the same topic.

The Commission adopted the amendments on April 21, 2022. The California Office of Administrative Law approved the amendments on August 2, 2022, and the amendments became effective under California law on October 1, 2022.

The amendments do not add, modify, or delete any enforceable policies. The amendments are detailed in the program change submission documents available on the NOAA website here: <https://coast.noaa.gov/czmprogramchange/#/public/home> and on the Commission's website here: <https://www.bcdc.ca.gov/>

The NOAA OCM is reviewing the Commission's request for concurrence. Comments regarding the incorporation of the proposed program changes to the San Francisco Bay segment of the California Coastal Management Program should be submitted directly to NOAA OCM via the NOAA website listed above or by mail. Please send any written comments to:

Joelle Gore, Chief
Stewardship Division
Office of Coastal Management
National Oceanic and Atmospheric Administration
1305 East-West Highway, SSMC4 N/OCM6
Silver Spring, MD 20910

Comments will be accepted by OCM for three weeks (21 days) following the date of publication of this notice on August 1, 2023.