

TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 1050, 7857, 7892, 8026, 8394, 8681 and 8682 of the Fish and Game Code and to implement, interpret or make specific sections 1050, 1700, 7852.2, 7857, 7892, 8026, 8394, 8394.5, 8568, 8573, 8577, 8680, 8681, 8682, 8683 and 8841 of said Code, proposes to amend sections 107, 174 and 176, Title 14, California Code of Regulations, relating to commercial logbooks.

Informative Digest/Policy Statement Overview

It is necessary to amend sections 107, 174 and 176, Title 14, California Code of Regulations (CCR) in order to eliminate the use of California forms by the affected fisheries in favor of federal forms. The National Oceanic and Atmospheric Administration National Marine Fisheries Service (NOAA Fisheries) either has or is in process of developing federal logs that will more accurately reflect the catch and discard in federally managed fisheries for highly migratory species (HMS) and groundfish under the federal Trawl Individual Quota (TIQ) program.

Under current regulations (subsection 107(c), Title 14, CCR) all State swordfish harpoon permittees are required to complete a State Swordfish Harpoon Log (DFG 107). The information required on this log is specifically related to fish behavior and catch success and does not include bycatch information. The log does not provide location information beyond fishing block that is included on landing receipts. Current federal regulation (CFR 660.708) requires completion of either a state or federal log for all federal HMS fishing activity.

Additionally, under current regulations (subsection 174(f), Title 14, CCR) all state general gill/trammel net permittees are required to complete a State Gill and Trammel Net Fishing Log (DFG 174). This includes State large mesh drift gill net permittees, as described in Fish and Game Code Section 8573, who are also required to have a general gill/trammel net permit. Current federal regulation (CFR 660.708) requires completion of either a state or federal log for all federal highly migratory species (HMS) fishing activity, including drift gill net. These permittees are required to carry a federal observer upon request to accurately document the incidental take of sea turtles, marine mammals, and seabirds. The State's General Gill/Trammel Net Fishing Log (DFG 174) does not record discard information for federal Endangered Species Act (ESA)-listed species needed for managing the federal HMS large mesh drift gill net fishery.

Current regulations (Section 176, Title 14, CCR) require that all trawl vessel operators fill out a State Trawl Trip Log (DFG 176). Additionally, current federal regulation (CFR 660.13) requires that federal groundfish TIQ permittees complete a state trawl log. The Pacific Fishery Management Council is adopting electronic monitoring for the groundfish TIQ fishery. Additionally, there is a need for real time data collection of catch as well as discards so that TIQ quota accounts can be updated within 48 hours. Waiting for a paper log to be submitted and entered into a database could result in TIQ vessels exceeding their individual quotas, given that the timing of logbook submission varies by state (California requires that they be submitted monthly). The State's Trawl Trip Log (DFG 176) does not record needed discard information of federal groundfish species necessary for catch accounting under the federal Trawl Individual Quota (TIQ) program.

AMEND SECTION 107

Subsection 107(c) would be deleted eliminating the need for State logs recording swordfishing activities, and subsections (d)-(h) would be renumbered and Form Swordfish Harpoon Log, DFG 107 (10/90) is deleted from Appendix A.

AMEND SECTION 174

Subsection 174(f) would be amended to exempt fishermen from the State log requirement: (1) targeting highly migratory species, and (2) using large mesh (greater than 14 inch) drift gill nets.

AMEND SECTION 176

Section 176, Title 14, CCR, requires all trawl fishermen to fill out a Trawl Trip Log (DFG 176), but does not specify which fisheries, thus some fishermen targeting invertebrates fill out the Trawl Trip Log (DFG 176) while other fill out the Shrimp/Prawn Trawl Log (DFG 120). To clarify the logbook requirement for each State managed fishery and to eliminate any potential redundancy between State and federal regulations for the groundfish trawl fishery, Section 176, Title 14, CCR, would be amended as follows:

- The first paragraph of Section 176 is deleted and rewritten as Subsection 176(a) and would require completion of the Trawl Trip Log (DFG 176) by these fisheries:
 - subsection (a)(1) all California halibut bottom trawl permittees.
 - subsection (a)(2) any finfish trawl fisheries without a specific permit to complete the Trawl Trip Log (DFG 176).
- Subsection (b) exempts federal TIQ permittees targeting federal groundfish from the state trawl log requirement.
- Subsection 176(c) would require completion of the Shrimp/Prawn Trawl Log (DFG 120) by these fisheries:
 - subsection (c)(1) all golden/ridgeback prawn trawl, northern pink shrimp trawl, and southern pink shrimp permittees.
 - subsection (c)(2) all sea cucumber trawl permittees.
 - subsection (c)(3) any invertebrate trawl fishery without a specific permit.

Benefit of the Regulations

Currently, the permittees in these fisheries complete multiple forms for both the State and federal governments. The State forms do not provide additional information that is necessary for managing the fisheries and, in some cases, will be replaced by more comprehensive electronic monitoring and logbooks. By eliminating the need for State forms and relying on the improved reporting on federal forms, and potentially the electronic forms, the fishery benefits from less paperwork and the State benefits from a better and more useful format for information gathering. The State also benefits from a reduction in staff time and expenses surrounding printing, processing, and maintaining these unnecessary forms.

Consistency with State Regulations

Department staff has conducted a review of the California Code of Regulations and determined that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. No other State agency has the statutory authority to amend regulations pertaining to the logbooks used by these fisheries.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the QLN Conference Center, 1938 Avenida del Oro, Oceanside, California, on Wednesday, December 12, 2018, at 8:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before 5:00 p.m. on November 29, 2018, at the address given below, or by email to FGC@fgc.ca.gov. Written comments mailed (to Fish and Game Commission, PO Box 944209, Sacramento, CA 94244-2090), or emailed to the Commission office, must be received before 12:00 noon on December 7, 2018. All comments must be received no later than December 12, 2018, at the hearing in Oceanside, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

Availability of Documents

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikethrough format can be accessed through the Commission's website at www.fgc.ca.gov. The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and

available for public review from the agency representative, Valerie Termini, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Valerie Termini or Sheri Tiemann at the preceding address or phone number. **Traci Larinto, Sr. Environmental Specialist, Department of Fish and Wildlife, has been designated to respond to questions on the substance of the proposed regulations. Ms. Larinto can be reached at (562) 355-7061 or by email at Traci.Larinto@wildlife.ca.gov.**

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action/Results of the Economic Impact Assessment

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 Business, 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. This rulemaking proposes to increase clarity and efficiency by removing the state logbook requirement for various state and federal fisheries.

- (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 because this rulemaking proposes to increase clarity and efficiency by removing the state logbook requirement for various state and federal fisheries.

As stated under the Informative Digest/Policy Statement Overview above, these proposed regulations will provide for more improved and comprehensive monitoring systems, which will benefit fishermen and the state in terms of more streamlined submission requirements and administering processing and ultimately benefit the management of California fisheries.

- (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:

The Department would realize a savings of about \$30,000 annually in printing and mailing costs as well as time-savings for existing personnel.

(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.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, 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 provision of law.

FISH AND GAME COMMISSION

Dated: September 21, 2018

Valerie Termini
Executive Director