

STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Section 107; Section 174; and Section 176  
Title 14, California Code of Regulations  
Re: Commercial Logbooks  
Broadbill Swordfish Harpoon; Gill and Trammel Net Fisheries; and  
Trawl Fisheries

I. Date of Initial Statement of Reasons: June 28, 2018

II. Date of Final Statement of Reasons: January 2, 2019

III. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing:	Date:	August 22, 2018
	Location:	Fortuna, CA

(b) Adoption Hearing:	Date:	December 12, 2018
	Location:	Oceanside, CA

IV. Update:

The Commission adopted these regulations at its December 12, 2018 meeting in Oceanside. There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.

V. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting Those Considerations:

No public comments, written or oral, were received during the public comment period.

VI. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:  
California Fish and Game Commission  
1416 Ninth Street, Suite 1320  
Sacramento, California 95814

VII. Location of Department Files:

Department of Fish and Wildlife  
1416 Ninth Street, Suite 1342A  
Sacramento, California 95814

VIII. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

No Alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

(b) No Change Alternative:

Section 107

If the regulations are not changed, harpoon permittees will continue to submit the State Swordfish Harpoon Log (DFG 107). This will continue to require printing, mailing, data processing, and data analysis costs by the state and no management information will be obtained that is not already available on landing receipts and will potentially duplicate a federal log requirement when implemented.

Section 174

If the regulations are not changed, large mesh drift gill net permittees will continue to fill out the state Gill and Trammel Net Fishing Log (DFG 174) and there will be insufficient data to track fishing effort and the bycatch of ESA-listed, MMPA-protected, and other species. This will require continued printing and mailing costs by the state and potentially duplicate a federal log requirement when implemented.

Section 176

If the regulations are not changed, federal TIQ fishermen will continue to fill out the state Trawl Trip Log. This will require continued mailing costs by the state and potentially duplicate a federal log requirement when implemented. These logs are required to be submitted monthly, creating a significant time lag between when fishing occurs and the activity showing up in the state and federal data systems, which could result in federal permittees exceeding their individual quota allotments. Additionally, the Trawl Trip Log does not collect the needed discard information for EM. Amending this log to include the discard information required for EM is not sufficient due to the time lag.

Finally, if the regulations are not changed, there will continue to be confusion regarding which log to fill out for California halibut trawl, sea cucumber trawl activity, and other trawl activity that does not require a specific permit. Since the Trawl Trip Log (DFG 176) and the Shrimp/Prawn Trawl Log (DFG 120) do not capture the same information, having fishermen use both logs results in incomplete data for fisheries management and makes it difficult to track compliance.

(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 regulations are proposed, would be as effective and less burdensome to affected private persons than the proposed regulations, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

IX. Impact of Regulatory Action:

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

(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 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.

The Commission does not anticipate any benefits to the health and welfare of California residents, worker safety, or the environment.

(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.

## Updated 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 the 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.

#### **UPDATE**

**The Commission adopted these regulations at its December 12, 2018 meeting in Oceanside. There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.**