

State of California
Fish and Game Commission
Initial Statement of Reasons for Regulatory Action

Amend Sections 120.7, 122, 165, 190, 705.1
Title 14, California Code of Regulations
Re: Marine Logbooks and Coastal Charts

I. Date of Initial Statement of Reasons: February 5, 2024

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing

Date: April 17, 2024

Location: San Jose, CA

(b) Discussion Hearing

Date: June 19, 2024

Location: Mammoth Lakes, CA

(c) Adoption Hearing

Date: August 14, 2024

Location: Fortuna, CA

III. Description of Regulatory Action

(a) Statement of Specific Purpose of Regulatory Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary

All section references are within the California Code of Regulations, Title 14, unless otherwise noted.

The Department of Fish and Wildlife (Department) produces charts defining areas of fishing activity, commonly referred to as “fishing blocks.” The earliest record of these charts is published in the Division of Fish and Game of California Bureau of Commercial Fisheries, Fish Bulletin No. 44, which describes use in logbooks distributed to the trawler fleet in 1934. These charts, with some modifications made over time, have been in consistent use for reporting fishing activity locations for all marine commercial fisheries.

Some ambiguity has existed for decades, and correction is needed to collect accurate information as initially intended. The proposed changes are necessary for the betterment of fishery management decisions based on this information. Improved data collection will better distinguish between catch originating in U.S. versus foreign waters (i.e., U.S. – Mexico border), and between inshore and offshore waters of California.

Recent evaluation of these charts revealed areas where improvements can be made to reduce ambiguity. The proposed revision of the charts aims to improve on the following issues that are present in the current version of the charts:

- Blocks that overlap with other blocks of a different scale, leading to inconsistent reporting and ultimately poor resolution of location.
- Blocks with poor alignment with the U.S. Mexico border where in some cases U.S. catch cannot be distinguished from Mexican catch.

Within Title 14, the regulatory reference to these charts is made only in Section 705.1 relating to kelp. While the “fishing block” information is required on many fishery reporting forms, the charts are included only two times among those many forms. In order to reduce ambiguity in location reporting and to improve the resolution of the information collected, the proposed action would update the block chart references in each of these logbook forms listed below with a revision in the master set of block code charts. The result is reduction in total number of block codes that can be selected from, accurate alignment with U.S. – Mexico border, and removal of overlapping block areas which have been misinterpreted and incorrectly referenced during reporting. These revisions also condense the charts into a single series for both commercial logbooks and commercial landings. The Department believes that a more universal reference to the charts will add clarity and benefit all fisheries.

Proposed Amendments to Regulations

Section 705.1. Commercial Kelp Harvester’s Monthly Report

Delete subsection “(d) Maps of department origin blocks also known as fishing blocks” which incorporates by reference the three charts: Northern California Fisheries (September 2015); Central California Fisheries (September 2015); and Southern California Fisheries (April 2016).

The charts will instead be referenced in Section 190 with a universal provision applicable to all forms requiring fishing origin block number data.

Section 190. Fishing Activity Records.

Add a new subsection “(f) Fishing Block Charts” which will specify that when a Department form requires that the origin block number be specified, this location number shall be referenced on the California Fisheries Chart Series, as prescribed by the Department at <https://wildlife.ca.gov/Fishing/Commercial/MFSU>.

Providing this provision within Section 190 adds clarity and consistency to record reporting requirements for all commercial fisheries.

Section 165. Commercial Harvesting of Kelp and Other Aquatic Plants.

Amend subsection (a)(1)(C) by deleting the phrase “(incorporated by reference in Section 705.1)” and replacing it with “(specified in Section 190(f))”

The charts will be referenced in Section 190 with a universal provision applicable to all forms requiring fishing origin block number data.

Section 122. Spiny Lobster Permits and Restricted Areas.

Amend subsection (e), Records. States that pursuant to Section 190, any person who owns and/or operates any vessel used to take lobsters for commercial purposes shall complete and submit an accurate record of his/her lobster fishing activities on a form Daily Lobster Log (DFW 122 (REV. 03/04/16)). The form is incorporated by reference in Section 122. In this version of form 122, the Southern California Fisheries Chart (June 2001) are attached as a part of the instructions and are therefore a permanent part of the form. The amendment will strike out this outdated version of the block chart, amend text for clarity. and specify a revised form, not including the charts, which will then be subject to the universal provisions of Section 190, Fishing Activity Records.

Section 120.7. Taking of Sea Urchins for Commercial Purposes.

Amend subsection (m) Logbooks. States that pursuant to Section 190, each permittee shall complete and submit an accurate record of all sea urchin fishing activities on a form “Commercial Dive Fishing Log (DFW 120.7 (REV. 12/08/17))”. The form is incorporated by reference in Section 120.7. In this version of form 120.7, the Northern and Southern California Fisheries Charts (September 2015) are attached as a part of the instructions and are therefore a permanent part of the form. The amendment will amend text for clarity, delete a sentence which is redundant relative to provisions covered in Section 190, and specify a revised form, not including the charts, which will then be subject to the universal provisions of Section 190, Fishing Activity Records.

Proposed Revisions to Forms Incorporated by Reference.

Multiple Department forms used in mandated reporting of fishing activity include a field for reporting where fishing took place, referred to as “origin block,” “fishing block,” “F & W block number,” “F & G block number,” or “block number.” This is required on forms: 113A, 120, 120.7, 149b, 174, 176, 180A, 180B, 195A, 195B, 625m, 626 and 2025. In addition, required commercial fishing landing reporting requirements for electronic fish tickets and paper receipts outlined in Section 197 include a required field for “Department origin block number where the fish were caught.” Most of these forms do not specify a version of the fishing chart to be used. The fisheries charts are provided within only two forms (DFW 120.7 and DFW 122), and these forms will need revision so that one universal version of block chart as proposed in Section 190 is used in all forms.

Commercial Dive Fishing Log (DFW 120.7 (REV. 12/08/17)).

In the current version of form 120.7, the California Fisheries Charts (September 2015) are attached as a part of the instructions for finding and entering the origin block. Since the form is incorporated by reference in Section 120.7, the charts are therefore a permanent part of the form. The revision will remove the charts from the instructions on the form, clarifying that the log will then be subject to the universal provisions of Section 190, Fishing Activity Records with the newly proposed subsection 190(f). The revised form will also update office addresses, nomenclature for field names, and include fields for “Species” and “Fish Ticket Number.” A new revision date Rev. 03/2024 on the form

indicates the change. These changes are necessary to update the dive log for users to access the most recent procedures and block charts proposed for standardization.

Daily Lobster Log (DFW 122 (REV. 03/04/16)).

In the current version of form 122 the California Fisheries Charts (June 2001) are attached as a part of the instructions for finding and entering the origin block. The form is incorporated by reference in Section 122, and the charts are therefore a permanent part of the form. The revision will remove the charts from these instructions on the form, clarifying that the log will then be subject to the universal provisions of Section 190, Fishing Activity Records (third page, under “Definitions”).

The revised form will also update an office address and nomenclature for some field names. “Landing receipt” is changed to “Fish Ticket” to reflect potential submissions via the electronic fish ticket (E-tix) or landing receipts associated with the catch. The “F & W Vessel Number” is proposed for update to “CDFW Boat Registration Number” to more accurately reflect terminology used in lobster fishing. A new revision date Rev. 03/2024 on the form indicates the change. These changes are necessary to update the lobster log for users to access the most recent procedures and block charts proposed for standardization.

(b) Goals and Benefits of the Regulation

Improvement in fisheries charts will improve the quality of the data used by the Department in its ocean fisheries management recommendations resulting in net benefits to stakeholders.

The current reference for block codes creates ambiguity in the information collected. Corrections are needed in order to collect the information at the resolution initially intended. The proposed changes are necessary for the betterment of fishery management decisions based on this information. Additionally, the proposed changes will improve spatial resolution to a level that will allow for correct distinction between catch originating in U.S. versus foreign waters and between inshore and offshore waters of California.

(c) Authority and Reference Sections from Fish and Game Code for Regulation

§ 120.7 Authority cited: Sections 713, 1050, 9054 and 9055, Fish and Game Code.

Reference: Sections 713, 1050, 7850, 7852.2, 7857, 9054 and 9055, Fish and Game Code.

§ 122 Authority cited: Sections 1050, 7075, 7078, 8254 and 8259, Fish and Game Code.

Reference: Sections 1050, 2365, 7050, 7055, 7056, 7071, 7852.2, 8026, 8043, 8046, 8250, 8250.5, 8254, 9002, 9005, 9006 and 9010, Fish and Game Code.

§ 165 Authority cited: Sections 6653 and 6653.5, Fish and Game Code. Reference:

Sections 51, 6650, 6651, 6652, 6653, 6653.5, 6654, 6656 and 6680, Fish and Game Code.

§ 190 Authority cited: Sections 7920, 7923, 7924, 8022, 8026 and 8587.1, Fish and Game Code. Reference: Sections 7055, 7056, 7058, 7060, 7923, 7924, 8022, 8026 and 8587.1, Fish and Game Code.

§ 197 Authority cited: Sections 1050(b), 8046, 8046.1 and 8047, Fish and Game Code. Reference: Sections 8031, 8032, 8033, 8033.1, 8034, 8035, 8040, 8043, 8045 and 8047, Fish and Game Code; and Title 50, Sections 660.113, 660.213 and 660.313, Code of Federal Regulations.

§ 705.1 Authority cited: Sections 1050, 6651, 6653 and 6653.5, Fish and Game Code. Reference: Sections 713, 1050, 6650, 6651, 6652, 6653 and 6653.5, Fish and Game Code.

(d) Specific Technology or Equipment Required by Regulatory Change. None

(e) Identification of Reports or Documents Supporting Regulation Change

Landings and logbook database records going back to the origin for each of these datasets show that some block codes have never been used. This is because they do not accurately represent correct areas of effort. In addition, the current chart shows where block areas do not align with the U.S./ Mexico border.

Due to data confidentiality specified in FGC § 8022, access to raw database records in the Department's Marine Landings Data System and Marine Logs System is available internally only and is not a publicly accessible record. Public summary of the landings data is available in the Marine Fisheries Data Explorer: <https://wildlife.ca.gov/MFDE>.

(f) Public Discussions of Proposed Regulations Prior to Notice Publication

March 19, 2024, Marine Resources Committee meeting, San Clemente, CA

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

No alternatives to this regulatory change were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect. Changes to the Fisheries Charts and the necessary fishing block information cannot be accomplished by different means.

(b) No Change Alternative

Without a change, the collection of location data will continue with ambiguity and lower resolution.

(c) Description of Reasonable Alternatives that Would Lessen Adverse Impact on Small Business

There is no alternative that would lessen the burden on Small Business. The proposed regulations have no impact on small businesses such as charter boats, fishing vessel owners, commercial fishing license holders, and fish receivers. The requirement for reporting fishing block information has pre-existed for decades and is already being

provided to the Department by these businesses. The proposal entails a requirement only that they use a new lookup reference with marginal change in the updated version as compared to the existing version. Use of the new look up reference will not require any additional effort, time, or equipment.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. 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 initial 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 Commission does not anticipate that the proposed action will have significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed changes provide clarification of existing regulations that aid in the continued preservation of marine resources, while continuing to maintain commercial and sport fishing opportunities and thus, the prevention of adverse economic impacts.

(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 adverse impacts on the creation or elimination of jobs within the state. The Commission does not anticipate adverse impacts on the creation of new business, the elimination of existing businesses or the expansion of businesses in California. The proposed changes are to provide clarification of existing regulations that are not anticipated to change the level of fishing activity and thus the demand for goods and services related to marine resource harvest that could impact the demand for labor, nor induce the creation of new businesses, the elimination, nor the expansion of businesses in California. The Commission does not anticipate any benefits to the health and welfare of California residents or to worker safety.

The Commission anticipates benefits to the State's environment indirectly through improved accuracy in information collected for the betterment of fisheries management, which improves fish stocks and the marine coastal ecosystem.

(c) 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 reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State":
None.

No changes to costs or savings to state agencies or in federal funding are anticipated by the proposed clarification of existing regulations. The Department program implementation and enforcement are projected to remain the same with a stable volume of marine resource harvest activity.

(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

VII. Economic Impact Assessment

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State

The Commission does not anticipate that the proposed regulation will prompt the creation or the elimination of jobs within the state. Modifications to fishing block charts for clarity and consistency will not affect current reporting procedures for affected parties and would not precipitate the creation of jobs or the elimination of jobs.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State

The Commission anticipates that the proposed regulation will not prompt the creation of new businesses or the elimination of existing businesses within the state. Modifications to fishing block charts for clarity and consistency will not affect current reporting procedures for affected parties and would not precipitate the need for new businesses or cause the elimination of existing businesses.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State

The Commission does not anticipate that the proposed clarification of fishing block charts would induce impacts on the expansion of businesses currently doing business within the state. The proposed regulations are not anticipated to increase demand for services or products from the existing businesses that serve individuals who engage in marine resource harvest.

(d) Benefits of the Regulation to the Health and Welfare of California Residents

The Commission does not anticipate benefits to the health and welfare of California residents because the proposed regulatory change has no relation to health or welfare.

(e) Benefits of the Regulation to Worker Safety

The Commission does not anticipate any benefits to worker safety from the proposed regulations because there is no nexus with working conditions.

(f) Benefits of the Regulation to the State's Environment

The Commission anticipates benefits to the environment because the data collected will improve the quality of the information used by the Department in its ocean fisheries management decisions resulting in net benefits to management of these resources and their related ecosystem. It is the policy of this state to encourage the conservation, maintenance, and utilization of the living resources of waters under the authority and influence of the state for the benefit of all the citizens of the state.

(g) Other Benefits of the Regulation

Provides the Department consistency and a more clear and efficient common reference for information collected across all states required commercial fishery reporting.

Informative Digest/Policy Statement Overview

The Department of Fish and Wildlife (Department) produces charts defining areas of fishing activity in California waters, commonly referred to as “fishing blocks.” The earliest record of these charts is published in the Division of Fish and Game of California Bureau of Commercial Fisheries, Fish Bulletin No. 44 which describes use in logbooks distributed to the trawler fleet in 1934. These charts, with some modifications made over time, have been in consistent use for reporting fishing activity locations for all marine commercial fisheries.

Some ambiguity has existed for decades regarding accuracy of the block charts, and correction is needed to collect accurate information as initially intended. The proposed changes are necessary for the betterment of fishery management decisions based on this information. Improved data collection will better distinguish between catch originating in U.S. versus foreign waters and between inshore and offshore waters of California.

Proposed Amendments

In order to implement the proposed improvement in the block charts and to reconcile and clarify which version of block charts should be referenced universally across all forms when reporting block origin in California commercial marine fisheries, the Department proposes amendment to the following sections:

- Delete subsection (d) of Section 705.1 removing references to the California Fisheries Charts
- Add subsection (f) to Section 190 providing for universal use of the California Fisheries Chart Series that all commercial fishing activity records requiring fishing origin block data will use. Charts can be accessed here: <https://wildlife.ca.gov/Fishing/Commercial/MFSU>
- Amend subsection 165(a)(1)(C) by deleting the phrase “(incorporated by reference in Section 705.1)” and replacing it with “(specified in Section 190(f))”.
- Amend sections 120.7 and § 122 to reflect revised versions of forms DFW 120.7 and DFW 122 where the existing block chart is removed as a figure in the instruction.
- Amend forms DFW 120.7 and DFW 122, Rev. March 2024, in accordance with the changes to the regulatory sections.

Benefits of the regulations

The benefits of the proposed regulations are clarity and consistency for the commercial fishery when required to use the charts in reporting their fishing activity. Universal use of the charts is beneficial for the improvement of fishery management decisions based on this information.

Evaluation of incompatibility with existing regulations

The proposed regulations are neither inconsistent nor incompatible with existing state regulations. Article IV, Section 20 of the State Constitution specifies that the Legislature may delegate to Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated

to the Commission the power to adopt regulations governing aspects of the commercial marine fishing logs (California Fish and Game Code sections 8026, 8254, and 9054). No other state agency has the authority to adopt regulations governing marine logs. The Commission has reviewed its own regulations and finds that the proposed regulations are consistent with other marine fishing regulations and marine protected area regulations in Title 14, CCR, and therefore finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.