

STAFF SUMMARY FOR OCTOBER 17, 2018

24. SPORT FISHING (ANNUAL)**Today's Item****Information** **Action**

Discuss proposed changes to sport fishing regulations.

Summary of Previous/Future Actions

- Notice hearing Aug 22-23, 2018; Fortuna
- **Today's discussion hearing** **Oct 17, 2018; Fresno**
- Adoption hearing Dec 12-13, 2018; Oceanside

Background

DFW is proposing three changes to current sport fishing regulations, related to the definition of inland waters (Exhibit 2), Lake Perris bass (Exhibit 2), and sport fishing report cards (Exhibit 3). This proposal updates lost report card procedures for select fresh water and marine species to provide guidelines for obtaining a replacement card and for reporting harvest from a lost card without obtaining a replacement.

Exhibit 1 is the staff summary from the Aug 2018 notice meeting with a more detailed overview of proposed changes.

Significant Public Comments (N/A)**Recommendation (N/A)****Exhibits**

1. [Staff summary from Aug 22-23, 2018 FGC meeting \(for background purposes only\)](#)
2. [Initial statement of reasons \(ISOR\), sections 1.53 and 5.00](#)
3. [ISOR, Section 1.74](#)
4. [DFW memo, received Jul 11, 2018](#)

Motion/Direction (N/A)

STAFF SUMMARY FOR AUGUST 22-23, 2018**25. SPORT FISHING (ANNUAL)****Today's Item**Information Action

Consider authorizing publication of notice of intent to amend sport fishing regulations for the 2019 seasons.

Summary of Previous/Future Actions

- WRC vetting Jan 11, 2018; Santa Rosa
- **Today's notice hearing Aug 22-23, 2018; Fortuna**
- Discussion hearing Oct 17-18, 2018; Fresno
- Adoption hearing Dec 12-13, 2018; Oceanside

Background

The Department is proposing three changes to current regulations, related to the definition of inland definition, Lake Perris bass, and sport fishing report cards.

Inland Waters Definition (Exhibit 1)

The current definition of inland waters can be confusing to anglers who want to fish two rods in a bay, but are not sure if a second rod validation is required; a second-rod validation is only required in inland waters. However, the current definition is not clear whether inland waters include or exclude bays. The definition reads, "Inland waters exclude the waters of San Francisco Bay and the waters of Elkhorn Slough..." The only bay specifically excluded in the definition is San Francisco Bay. Title 14, Section 27.00, Definition of the Ocean and San Francisco Bay District reads, "The ocean is...the waters of open or enclosed bays contiguous to the ocean," which clearly states that all bays are considered waters of the ocean. To be consistent and clear, DFW believes the definition of inland waters should state that all bays are excluded, not just San Francisco Bay, and, therefore, a second rod validation is not required in a bay.

Lake Perris Largemouth Bass Size and Bag Limit (Exhibit 1)

The current regulations were changed in 2009 to protect the fishery when the lake was drawn down by 43% to repair the dam. DFW placed 1,484 brush habitat structures into the remnant lake from 2008-2016 and built 109 rock reefs with approximately 109,000 square feet of gravel/cobble rock areas. The dam repair has been completed and the water is restored to an 80% pool. DFW proposes to re-establish the bass regulations to the statewide standard of 5 fish at 12 inches.

Sport Fishing Report Cards Requirements (Exhibit 2)

Report card regulations include requirements for reporting harvest; however, they do not include a mechanism for confirming that data from a report card has been reported. This proposal would require report card holders who submit data online to write the provided

STAFF SUMMARY FOR AUGUST 22-23, 2018

confirmation number on their card and retain the card until 90 days after the reporting deadline. The objectives of the proposed regulations are to:

- Ensure continued fishing opportunities for anglers in California by providing the Department with more timely, accurate and comprehensive data on success and take levels;
- Establish a retention period of 90 days, during which time the Department may request the angler surrender the report card to audit the reporting process; and
- Establish consistency with other report card procedures that include a 90-day retention period.

Additionally, when a report card is lost, a licensee may wish to obtain a replacement, or may simply need to fulfill the harvest reporting requirement before the reporting deadline. There are currently no guidelines for licensees who have lost their report card and need to report their harvest, but do not need to obtain a replacement card. This proposal updates lost report card procedures to provide guidelines for obtaining a replacement card, and for reporting harvest from a lost card without obtaining a replacement.

Significant Public Comments

FGC staff: Authorize publication of notice as recommended by DFW.

Committee: This proposal was supported at the Jan 11, 2018 WRC meeting in Santa Rosa.

DFW: Authorize publication of notice as detailed in the draft initial statement of reasons (ISOR).

Exhibits

1. ISOR, sections 1.53 and 5.00
2. ISOR, Section 1.74
3. DFW memo, received Jul 11, 2018
4. Economic and fiscal impact statement (Std. 399)
5. DFW presentation

Motion/Direction

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to amend sport fishing regulations for the 2019 seasons.

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

Amend Sections 1.53 and 5.00,
Title 14, California Code of Regulations
Re: Annual Sport Fishing Regulations - Freshwater Sport Fishing Amendments

- I. Date of Initial Statement of Reasons: March 16, 2018
- II. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: August 23, 2018
Location: Fortuna
 - (b) Discussion Hearing: Date: October 18, 2018
Location: Fresno
 - (c) Adoption Hearing: Date: December 13, 2018
Location: Oceanside

III. Description of Regulatory Action:

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

This California Department of Fish and Wildlife (Department) proposal requests changes to Title 14, California Code of Regulations (CCR), for the Annual Sport Fishing Regulations review cycle. This proposal will clarify that inland waters do not include bays, increase fishing opportunities for black bass in Perris Lake, and make needed corrections to existing regulations. The proposed regulatory changes are needed to reduce public confusion and improve regulatory enforcement.

The Department is proposing the following changes to current regulations:

INLAND WATERS DEFINITION

The current definition of inland waters can be confusing to anglers who want to fish two rods in a bay, but are not sure if a second rod validation is required. A second-rod validation is only required in inland waters. However, the current definition of Inland Waters (Title 14, Section 1.53) is not clear if inland waters include or exclude bays. The definition reads, "Inland waters exclude the waters of San Francisco Bay and the waters of Elkhorn Slough..." The definition only excludes San Francisco Bay. Title 14, Section 27.00, Definition of the Ocean

and San Francisco Bay District reads, “The ocean is...the waters of open or enclosed bays contiguous to the ocean.” This definition clearly states that all bays are considered waters of the ocean. To be consistent and clear, the definition of inland waters should state that all bays are excluded, not just San Francisco Bay. Amending the definition will clarify that inland waters do not include bays and, therefore, a second rod validation is not required in a bay.

Proposal: Amend Section 1.53, Inland Waters

Amend Section 1.53 to clarify that inland waters do not include bays.

LAKE PERRIS LARGEMOUTH BASS SIZE AND BAG LIMIT

The regulations were changed in 2009 to protect the fishery when the lake was drawn down by 43% to repair the dam. The dam repair is to be completed and the water was to be restored to nearly full pool in late 2017. CDFW placed 1,484 brush habitat structures into the remnant lake in 2008-2016 and built 109 rock reefs with approximately 109,000 sq/ft of gravel/cobble rock areas. In addition, once the water levels were restored, 12 years of terrestrial vegetation growth will be available in the littoral zone to help re-establish the bass population negating the need to protect the fishery beyond the statewide standard any further.

Proposal: Amend Section 5.00(B)(22), Perris Lake

Restore the black bass regulation at Lake Perris to the statewide standard 5 fish at 12 inches from 2 fish at 15 inches.

Updates to Authority and Reference Citations Based on Recent Legislation

Senate Bill 1473 (Stats. 2016, Ch. 546) made organizational changes to the Fish and Game Code that became effective January 1, 2017. The changes included moving the Commission’s exemptions from specified Administrative Procedure Act time frames from Section 202 to Section 265 of the Fish and Game Code, moving the Commission’s effective date procedures from Section 215 to Section 270 of the Fish and Game Code, moving the Commission’s effective period procedures from Section 220 to Section 275 of the Fish and Game Code, and moving the Commission’s authority to adopt emergency regulations from Section 240 to Section 399 of the Fish and Game Code. In accordance with these changes to the Fish and Game Code, sections 202, 215, and 220 are removed from, and sections 265, 270, and 275 are added to, the authority and reference citations for this rulemaking.

Minor Editorial Corrections for Clarity

In addition to the above proposals, minor editorial corrections are proposed to correct typographical errors and to improve regulation clarity.

Benefits of the Proposed Regulations

It is the policy of this state to encourage the conservation, maintenance, and utilization of the living resources of the ocean and inland waters under the

jurisdiction and influence of the state for the benefit of all the citizens of the State. In addition, it is the policy of this state to promote the development of local California fisheries in harmony with federal law respecting fishing and the conservation of the living resources of the ocean and inland waters under the jurisdiction and influence of the State. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence and the maintenance of a sufficient resource to support a reasonable sport use. Adoption of scientifically-based trout and salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of trout and salmon to ensure their continued existence.

The benefits of the proposed regulations are concurrence with Federal law, sustainable management of California's trout and salmon resources, and promotion of businesses that rely on recreational sport fishing in California.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 205, 265, 270, 275, 1050, 1053.1, 1055.1, 7380 and 8491, Fish and Game Code.

Reference: Sections 110, 200, 205, 255, 265, 270, 275, 713, 1050, 1053.1, 1055.1, 7149.8, 7380, 7381, and 7382, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None.

- (d) Identification of Reports or Documents Supporting Regulation Change:

None.

- (e) Public Discussions of Proposed Regulations Prior to Notice Publication:

No public meetings are scheduled prior to the notice publication. The 45-day public notice comment period provides adequate time for review of the proposed changes.

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

Striped Bass Petition

Petition #2017-012; received by the Commission November 2, 2017; at its February 7-8, 2018 meeting the Commission granted for consideration in

the 2018 rulemaking package for the 2019-2020 angling season.

Petitioner requests a change to the striped bass fishing regulations to protect native fish species. The petitioner proposes to allow daily fishing south of the Golden Gate Bridge in all California South Coast Rivers and ocean waters, and suggests increasing the daily bag limit to 3 fish and decreasing the size limit to 12 inches.

Department Response

The Department does not support Mr. Lambert's petition to change the striped bass sport fishing regulations because: (1) striped bass are not present in many of the watersheds south of Golden Gate Bridge; (2) the fishing impacts due to bycatch of coho salmon and steelhead during targeting of striped bass outweighs the benefit of the off chance of taking striped bass; (3) invoking a size and bag limit is a management measure and contradictory to the intent of the proposal; (4) steelhead are not allowed to be fished daily during their open season and therefore daily fishing of striped bass would likely have an adverse impact on steelhead and Coho Salmon from increase fishing ; and (5) adoption of the regulation as proposed would create an enforceability issue related to two different standards in different areas of the state.

(b) No Change Alternative:

The no change alternative would leave existing regulations in place.

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

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

- (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 is not anticipated to have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because the expected impact of the proposed regulations on the amount of fishing activity is anticipated to be minimal relative to recreational angling effort statewide.

- (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 expected impact of the proposed regulations on the amount of fishing activity is anticipated to be minimal relative to recreational angling effort statewide. Therefore, the Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing business or the expansion of businesses in California.

The Commission anticipates benefits to the health and welfare of California residents. Sport fishing contributes to increased mental health of its practitioners as fishing is a hobby and form of relaxation for many. Sport fishing also provides opportunities for multi-generational family activities and promotes respect for California's environment by younger generations, the future stewards of California's natural resources.

The Commission does not anticipate any non-monetary benefits to worker safety.

The Commission anticipates benefits to the environment by the sustainable management of California's sport fishing resources.

- (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:

None.

(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:

The proposed regulations will revise and update inland sport fishing regulations starting in 2019. Currently, the seasons, size limits, and bag and possession limits for sport fishing are periodically reviewed by the California Department of Fish and Wildlife and the California Fish and Game Commission. This set of amendments will clarify that inland waters do not include bays; increase fishing opportunities for black bass in Lake Perris; and make needed editorial corrections.

Inland sport fishing regulations' affected parties include recreational anglers, commercial passenger fishing vessels and a variety of businesses that support anglers. The economic impact of regulatory changes for sport fisheries are estimated by tracking resulting changes in fishing effort, angler trips and length of stay in the fishery areas. Distance traveled affects gas and other travel expenditures. Day trips and overnight trips involve different levels of spending for gas, food and accommodations at area businesses as well as different levels of sales tax impacts. Direct expenditures ripple through the economy, as receiving businesses buy intermediate goods from suppliers that then spend that revenue again. Business spending on wages is received by workers who then spend that income, some of which goes to local businesses. Recreational fisheries spending thus multiplies throughout the economy with the indirect and induced effects of the initial direct expenditure.

This regulatory action may impact businesses that provide services to sport fishermen but these effects are anticipated to range from none to small positive impacts, depending on the regulations ultimately adopted by the Commission. Sport fishing business owners, boat owners, tackle store owners, boat manufacturers, vendors of food, bait, fuel and lodging, and others that provide goods or services to those that sport fish in California may be positively affected to some degree from increases to business that may result under the range of proposed regulations. These anticipated impacts may vary by geographic location. Additionally, economic impacts to these same businesses may result from a number of factors unrelated to the proposed changes to inland sport fishing regulations, including weather, fuel prices, and success rates in other recreational fisheries that compete for angler trips.

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

The cumulative effects of the changes statewide are estimated to be neutral to job elimination and potentially positive to job creation in California. No significant changes in fishing effort and sport fishing expenditures to businesses are expected as a direct result of the proposed regulation changes.

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

The cumulative effects of the changes statewide are expected to be neutral to business elimination and have potentially positive impacts to the creation of businesses in California. No significant changes in fishing effort and sport fishing expenditures to businesses are expected as a direct result of the proposed regulation changes.

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

The cumulative effects of the changes statewide are expected to be neutral to positive to the expansion of businesses currently doing business in California. No significant changes in fishing effort and inland sport fishing expenditures to businesses are expected as a direct result of the proposed regulation changes.

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

The Commission anticipates benefits to the health and welfare of California residents. Sport fishing contributes to increased mental health of its practitioners as fishing is a hobby and form of relaxation for many. Sport fishing also provides opportunities for multi-generational family activities and promotes respect for California's environment by younger generations, the future stewards of California's natural resources.

(e) Benefits of the Regulation to Worker Safety:

The proposed regulations are not anticipated to impact worker safety conditions.

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

It is the policy of the state to encourage the conservation, maintenance, and utilization of the living resources of the inland waters under the jurisdiction and influence of the state for the benefit of all its citizens and to promote the development of local California fisheries. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence and the maintenance of a sufficient resource to support a reasonable sport use, taking into consideration the necessity of regulating individual sport fishery bag limits in the quantity that is sufficient to provide a satisfying sport. Adoption of scientifically-based inland trout and salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of trout and salmon to ensure their continued existence.

Informative Digest/Policy Statement Overview

This California Department of Fish and Wildlife (Department) proposal combines Department and public requests for changes to Title 14, California Code of Regulations (CCR), for the Annual Sport Fishing Regulations review cycle. This proposal will clarify that inland waters do not include bays, increase fishing opportunities for black bass in Perris Lake, and make needed corrections to existing regulations. The proposed regulatory changes are needed to reduce public confusion and improve regulatory enforcement.

The Department is proposing the following changes to current regulations:

INLAND WATERS DEFINITION

The current definition of inland waters can be confusing to anglers who want to fish two rods in a bay, but are not sure if a second rod validation is required. A second-rod validation is only required in inland waters. However, the current definition of Inland Waters (Title 14, Section 1.53) is not clear if inland waters include or exclude bays. The definition reads, "Inland waters exclude the waters of San Francisco Bay and the waters of Elkhorn Slough..." The definition only excludes San Francisco Bay. Title 14, Section 27.00, Definition of the Ocean and San Francisco Bay District reads, "The ocean is...the waters of open or enclosed bays contiguous to the ocean." This definition clearly states that all bays are considered waters of the ocean. To be consistent and clear, the definition of inland waters should state that all bays are excluded, not just San Francisco Bay. Amending the definition will clarify that inland waters do not include bays and, therefore, a second rod validation is not required in a bay.

Proposal: Amend Section 1.53, Inland Waters

Amend Section 1.53 to clarify that inland waters do not include bays.

LAKE PERRIS LARGEMOUTH BASS SIZE AND BAG LIMIT

The regulations were changed in 2009 to protect the fishery when the lake was drawn down by 43% to repair the dam. The dam repair is to be completed and the water is to be restored to nearly full pool in late 2017. CDFW placed 1,484 brush habitat structures into the remnant lake in 2008-2016 and built 109 rock reefs with approximately 109,000 sq/ft of gravel/cobble rock areas. In addition, once the water levels are restored, 12 years of terrestrial vegetation growth will be available in the littoral zone to help re-establish the bass population negating the need to protect the fishery beyond the statewide standard any further.

Proposal: Amend Section 5.00(B)(22), Perris Lake

Restore the black bass regulation at Lake Perris to the statewide standard 5 fish at 12 inches from 2 fish at 15 inches.

Updates to Authority and Reference Citations Based on Recent Legislation

Senate Bill 1473 (Stats. 2016, Ch. 546) made organizational changes to the Fish and Game Code that became effective January 1, 2017. The changes included moving the Commission's exemptions from specified Administrative Procedure Act time frames from Section 202 to Section 265 of the Fish and Game Code, moving the Commission's effective date procedures from Section 215 to Section 270 of the Fish and Game Code, moving the Commission's effective period procedures from Section 220 to Section 275 of the Fish and Game Code, and moving the Commission's authority to adopt emergency regulations from Section 240 to Section 399 of the Fish and Game Code. In accordance with these changes to the Fish and Game Code, sections 202, 215, and 220 are removed from, and sections 265, 270, and 275 are added to, the authority and reference citations for this rulemaking.

Minor Editorial Corrections for Clarity

In addition to the above proposals, minor editorial corrections are proposed to correct typographical errors and to improve regulation clarity.

Benefits of the Proposed Regulations

It is the policy of this state to encourage the conservation, maintenance, and utilization of the living resources of the ocean and inland waters under the jurisdiction and influence of the state for the benefit of all the citizens of the State. In addition, it is the policy of this state to promote the development of local California fisheries in harmony with federal law respecting fishing and the conservation of the living resources of the ocean and inland waters under the jurisdiction and influence of the State. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence and the maintenance of a sufficient resource to support a reasonable sport use. Adoption of scientifically-based trout and salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of trout and salmon to ensure their continued existence.

The benefits of the proposed regulations are concurrence with Federal law, sustainable management of California's trout and salmon resources, and promotion of businesses that rely on recreational sport fishing in California.

Regulatory Language

Section 1.53, Title 14, CCR, is amended as follows:

§ 1.53. Inland Waters.

Inland waters are all the fresh, brackish and inland saline waters of the state, including lagoons and tidewaters upstream from the mouths of coastal rivers and streams. Inland waters exclude open or enclosed bays contiguous to the ocean including the waters of San Francisco Bay and the waters of Elkhorn Slough, west of Elkhorn Road between Castroville and Watsonville. See Section 27.00 for the description of San Francisco Bay.

Note: Authority cited: Sections 200, ~~202~~, 205, ~~215~~ and ~~220~~265 and 270, Fish and Game Code. Reference: Sections 200, ~~202~~, 205, ~~215~~ and ~~220~~265 and 270, Fish and Game Code.

Section 5.00, Title 14, CCR, is amended as follows:

§ 5.00. Black Bass.

It is unlawful to take or possess black bass except as provided below:

(Note: Some waters are closed to all fishing under Section 7.50.)

[No change to subsection (a)]

(b) Special Regulations: Counties and individual waters listed below are those having regulations different from the General Statewide Restrictions in subsection (a).

<i>Area or Body of Water</i>	<i>Open Season</i>	<i>Size (total length)</i>	<i>Bag Limit</i>
DISTRICTS AND COUNTIES WITH SPECIAL REGULATIONS			
<i>[No change to subsections (b)(1) through (b)(21)]</i>			
(22) Perris Lake (Riverside County).	All year.	15-inch minimum. <u>12 inch minimum.</u>	2 <u>5</u>
<i>[No change to subsections (b)(23) through (b)(30)]</i>			

Note: Authority cited: Sections 200, ~~202~~, 205, ~~215~~ and ~~220~~265, 270 and 275, Fish and Game Code. Reference: Sections 200, ~~and 205~~ and ~~206~~, Fish and Game Code.

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

Amend Sections 1.74
Title 14, California Code of Regulations
Re: Annual Sport Fishing Regulations - Sport Fishing Report Card Requirements

- I. Date of Initial Statement of Reasons: March 16, 2018

- II. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: August 23, 2018
Location: Fortuna

 - (b) Discussion Hearing: Date: October 18, 2018
Location: Fresno

 - (c) Adoption Hearing: Date: December 13, 2018
Location: Oceanside

III. Description of Regulatory Action:

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

This California Department of Fish and Wildlife (Department) proposal requests changes to Title 14, California Code of Regulations (CCR), for the Annual Sport Fishing Regulations review cycle. Existing regulations established guidelines for report card regulations including the need for reporting harvest authorized by a report card; however, this section does not include the same mechanism for confirmation that data from a report card has been reported. This proposal requires report card holders who submit data online to write the provided confirmation number on their report card and retain the report card until for 90 days after the reporting deadline, in the same way it is regulated with other types of report cards in Title 14. The proposed regulatory changes are needed to reduce public confusion, improve the accuracy of data collected, and improve regulatory enforcement.

The Department is proposing the following changes to current regulations:

SPORT FISHING REPORT CARD REQUIREMENTS

Section 1.74 establishes guidelines for report card regulations including reporting harvest authorized by a report card; however, this section does not include a mechanism for confirmation that data from a report card has been reported. This proposal requires report card holders who submit data online to write the

provided confirmation number on their report card and retain the report card until 90 days after the reporting deadline. The objectives of this proposed regulations are to:

- Ensure continued fishing opportunities for anglers in California by providing the Department with more timely, accurate and comprehensive data on success and take levels;
- Establish a retention period of 90 days, during which time the Department may request the angler surrender the report card to audit the reporting process;
- Establish consistency with other report card procedures that include a 90 day retention period.

When a report card is lost, a licensee may wish to obtain a replacement report card, or may simply need to fulfill the harvest reporting requirement before the reporting deadline. Section 1.74 does not currently provide guidelines for licensees who have lost their report card and need to report their harvest, but do not need to obtain a replacement report card. This proposal updates procedures regarding lost report cards to provide guidelines for obtaining a replacement report card, and also for reporting harvest from a lost report card without obtaining a replacement report card.

Proposal: Amend Section 1.74, Sport Fishing Report Card Requirements

Amend Section 1.74 to update procedures for reporting online and for lost report cards.

Minor Editorial Corrections for Clarity

In addition to the above proposals, minor editorial corrections are proposed to correct typographical errors and to improve regulation clarity.

Benefits of the Proposed Regulations

It is the policy of this state to encourage the conservation, maintenance, and utilization of the living resources of the ocean and inland waters under the jurisdiction and influence of the state for the benefit of all the citizens of the State. In addition, it is the policy of this state to promote the development of local California fisheries in harmony with federal law respecting fishing and the conservation of the living resources of the ocean and inland waters under the jurisdiction and influence of the State. The objectives of this policy is to ensure more accurate data reporting as well as a mechanism to audit the data reported. Adoption of scientifically-based trout and salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of trout and salmon to ensure their continued existence, and verifiable accuracy of the data will further help to improve the fisheries impacted by this action.

The benefits of the proposed regulations are concurrence with Federal law, sustainable management of California's trout and salmon resources, and promotion of businesses that rely on recreational sport fishing in California.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 205, 265, 270, 275, 1050, 1053.1, 1055.1, 7380 and 8491, Fish and Game Code.

Reference: Sections 110, 200, 205, 255, 265, 270, 275, 713, 1050, 1053.1, 1055.1, 7149.8, 7380, 7381, and 7382, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None.

- (d) Identification of Reports or Documents Supporting Regulation Change:

None.

- (e) Public Discussions of Proposed Regulations Prior to Notice Publication:

No public meetings are scheduled prior to the notice publication. The 45-day public notice comment period provides adequate time for review of the proposed changes.

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

No alternative were identified.

- (b) No Change Alternative:

The no change alternative would leave existing regulations in place.

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

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

- (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 is not anticipated to have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because the proposed action is a procedural update to an existing report card process. No changes in fishing effort and sport fishing expenditures to businesses are expected as a result of the proposed regulation changes.

- (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 effects of the proposed action are anticipated to be neutral to the creation or elimination of jobs, the creation of new businesses, the elimination of existing businesses or the expansion of businesses in California. The proposed action is a procedural update to an existing report card process. No changes in fishing effort and sport fishing expenditures to businesses are expected as a result of the proposed regulation changes.

The Commission does not anticipate any impacts to the health and welfare of California residents from the proposed action.

The Commission does not anticipate any non-monetary benefits to worker safety.

The Commission does not anticipate any benefits to the environment from the proposed action.

- (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:

None.

(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:

The proposed regulations will provide an update for a confirmation procedure for the submission of sport fishing report cards and will correct some text errors.

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

The effects of the proposed action are anticipated to be neutral to the creation or elimination of jobs within the state. The proposed action is a procedural update to an existing report card process. No changes in fishing effort and sport fishing expenditures to businesses are expected as a result of the proposed regulation changes.

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

The effects of the proposed action are anticipated to be neutral to the creation or elimination of businesses within the state. The proposed action is a procedural update to an existing report card process. No changes in fishing effort and sport fishing expenditures to businesses are expected as a result of the proposed regulation changes.

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

The effects of the proposed action are anticipated to be neutral to the expansion of businesses currently doing business within the state. The proposed action is a procedural update to an existing report card process. No changes in fishing effort and sport fishing expenditures to businesses are expected as a result of the proposed regulation changes.

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

The proposed action is not anticipated to impact the health and welfare of California residents.

(e) Benefits of the Regulation to Worker Safety:

The proposed action is not anticipated to impact worker safety conditions.

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

The proposed action is not anticipated to provide any benefits to the state's environment.

Informative Digest/Policy Statement Overview

This California Department of Fish and Wildlife (Department) proposal requests changes to Title 14, California Code of Regulations (CCR), for the Annual Sport Fishing Regulations review cycle. This proposal will update the sport fishing report card requirements, and make needed corrections to existing regulations. The proposed regulatory changes are needed to reduce public confusion and improve regulatory enforcement.

The Department is proposing the following changes to current regulations:

SPORT FISHING REPORT CARD REQUIREMENTS

Section 1.74 establishes guidelines for report card regulations including reporting harvest authorized by a report card; however, this section does not include a mechanism for confirmation that data from a report card has been reported. This proposal requires report card holders who submit data online to write the provided confirmation number on their report card and retain the report card until 90 days after the reporting deadline.

When a report card is lost, a licensee may wish to obtain a replacement report card, or may simply need to fulfill the harvest reporting requirement before the reporting deadline. Section 1.74 does not currently provide guidelines for licensees who have lost their report card and need to report their harvest, but do not need to obtain a replacement report card. This proposal updates procedures regarding lost report cards to provide guidelines for obtaining a replacement report card, and also for reporting harvest from a lost report card without obtaining a replacement report card.

Proposal: Amend Section 1.74, Sport Fishing Report Card Requirements

Amend Section 1.74 to update procedures for reporting online and for lost report cards.

Benefits of the Proposed Regulations

It is the policy of this state to encourage the conservation, maintenance, and utilization of the living resources of the ocean and inland waters under the jurisdiction and influence of the state for the benefit of all the citizens of the State. In addition, it is the policy of this state to promote the development of local California fisheries in harmony with federal law respecting fishing and the conservation of the living resources of the ocean and inland waters under the jurisdiction and influence of the State. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence and the maintenance of a sufficient resource to support a reasonable sport use. Adoption of scientifically-based trout and salmon seasons, size limits, and bag and possession limits provides for the maintenance of sufficient populations of trout and salmon to ensure their continued existence.

The benefits of the proposed regulations are concurrence with Federal law, sustainable management of California's trout and salmon resources, and promotion of businesses that rely on recreational sport fishing in California.

Regulatory Language

Section 1.74, Title 14, CCR, is amended as follows:

§ 1.74. Sport Fishing Report Card Requirements.

(a) Purpose. These regulations are designed to improve recreational fishing effort and catch information in some or all areas where the fisheries operate. Many of these species are of high commercial value, and therefore, additional enforcement mechanisms are needed to improve compliance with existing bag limits and other regulations, and to reduce the potential for poaching.

(b) Report card requirements apply to any person fishing for or taking the following species regardless of whether a sport fishing license is required:

(1) Salmon, in the anadromous waters of the Klamath, Trinity, and Smith river basins. Anadromous waters are defined in Section 1.04 of these regulations.

(2) Steelhead trout.

(3) White sturgeon.

(4) Red abalone.

(5) California spiny lobster.

(c) General Report Card Requirements.

(1) Any person fishing for or taking any of the species identified in this Section shall have in his immediate possession a valid non-transferable report card issued by the department for the particular species. See special exemption regarding possession of report cards for lobster divers in Section 29.91 of these regulations.

(2) All entries made on any report card or tag shall be legible and in indelible ink.

(3) A report card holder fishing with a one, two, or ten-day sport fishing license, may replace the expired fishing license without purchasing a new report card so long as the report card is still valid.

(4) Report cards are not transferable and shall not be transferred to another person. No person shall possess any report card other than his own.

(5) A person may only obtain one abalone report card and one sturgeon report card per report card period.

(6) Any report card holder who fills in all available lines on his steelhead, salmon or lobster report card shall return or report the card to the department pursuant to subsection 1.74(e) prior to purchasing a second card.

(7) Data recording and tagging procedures vary between report cards and species. See specific regulations in sections 5.79, 5.87, 5.88, 27.92, 29.16, and 29.91 that apply in addition to the regulations of this Section.

(d) Report Card Return and Reporting Requirements

(1) Report card holders shall return or report their salmon, steelhead, sturgeon, or abalone report cards to the department pursuant to subsection 1.74(e) by January 31 of the following year.

(A) Any report card holder who fails to return or report his salmon, steelhead, sturgeon, or abalone report card to the department by the deadline may be restricted from obtaining the same card in a subsequent license year or may be subject to an additional fee for the issuance of the same card in a subsequent license year.

(2) Report card holders shall return or report their lobster report cards pursuant to subsection 1.74(e) by April 30 following the close of the lobster season for which the card was issued.

(A) Any report card holder who fails to return or report his or her lobster report card by April 30 following the close of the lobster season specified on the card shall be subject to a nonrefundable non-return fee specified in Section 701, in addition to the annual report card fee, for the issuance of a lobster report card in the subsequent fishing season.

(e) Report Card Return and Reporting Mechanisms:

(1) By mail or in person at the address specified on the card. A report card returned by mail shall be postmarked by the date applicable to that card as specified in subsection 1.74(d)(1) or 1.74(d)(2).

(2) Online through the department's license sales service website by the date applicable to that card as specified in subsection 1.74(d)(1) or 1.74(d)(2).

Report card holders reporting online will be provided a confirmation number upon successful submission. The report card holder must record the provided confirmation number in the space provided on the report card and retain the report card for 90 days after the reporting deadline. Report cards submitted online must be surrendered to the department upon demand.

(3) If a report card is submitted by mail and not received by the department, it is considered not returned unless the report card holder reports his or her report card as lost pursuant to subsection 1.74(f).

~~(f) Lost report cards.~~

~~(1) Any report card holder who loses his report card shall submit an affidavit, signed under penalty of perjury, in person to a department license sales office containing all of the following information:~~

~~(A) A statement containing the report card holder's full name confirming that the originally issued report card cannot be recovered.~~

~~(B) A statement containing the report card holder's best recollection of the prior catch records that were entered on the report card that was lost.~~

~~(C) A statement describing the factual circumstances surrounding the loss of the card.~~

~~(2) An affidavit for a lost report card shall be presented at a department license sales office, by the date applicable to that card specified in subsection 1.74(d)(1) or 1.74(d)(2) to be considered returned.~~

~~(3) Notwithstanding subsection 1.74(c)(5), any report card holder who loses his report card during the period for which it is valid may replace the lost report card by submitting an affidavit as described in subsection 1.74(f)(1) and payment of the report card fee and replacement processing fee specified in Section 701.~~

(A) Based on the information provided in the written affidavit for abalone and sturgeon report cards, the department shall issue only the number of tags that were reported unused on the previously issued report card.

(f) Lost report cards.

(1) Lobster, salmon, and steelhead. Notwithstanding subsection 1.74(c)(5), any report card holder who loses his report card during the report card period for which it is valid may purchase an additional report card by submitting payment to an authorized license agent or department license sales office. Catch information from the lost report card shall not be transferred to the new card. Information from lost lobster, salmon, and steelhead report cards shall be reported as specified in subsection 1.74(f)(3).

(2) Abalone and sturgeon. Notwithstanding subsection 1.74(c)(5), any report card holder who loses his or her report card during the period for which it is valid may purchase a replacement report card. The Department may issue a replacement report card for abalone and sturgeon upon completion of the following:

(A) Submitting an affidavit to any department license sales office containing all the information specified in subsection 1.74(f)(3)(B); and

(B) Submitting payment of the report card fee and the non-refundable replacement-processing fee specified in Section 701.

(C) Department staff shall enter the harvest information from the affidavit to the replacement report card.

(D) Based on the information provided on the affidavit, department staff shall remove tags reported as used and issue only the number of tags that were reported as unused on the lost original report card.

(E) Report card holders shall verify that the harvest information has been accurately transferred from the affidavit to his or her replacement report card.

(F) The replacement report card shall be reported pursuant to the requirement for the original report card as specified in subsection 1.74(d). Note: the original report card should not be reported.

(3) Reporting requirements. Except for lost abalone and sturgeon report cards for which a replacement card was purchased, all lost report cards shall be reported by the harvest report submission deadline date applicable to that card as specified in subsection 1.74(d)(1) or 1.74(d)(2) by one of the following methods:

(A) Online through the department's license sales service website; or

(B) Submitting an affidavit, signed under penalty of perjury, to a department license sales office containing the following information:

1. The report card holder's full name, GO ID#, and a statement confirming that the originally-issued report card is lost and cannot be recovered.

2. A statement containing the report card holder's best recollection of the prior catch records that were entered on the report card that was lost.

3. A statement describing the factual circumstances surrounding the loss of the report card.

Note: Authority cited: Sections 200, 205, 265, 275, 1050, 1053.1, 1055.1 and 7380, Fish and Game Code. Reference: Sections 110, 200, 205, 265, 275, 713, 1050, 1053.1, 1055.1, 7149.8, 7380, 7381 and 7382, Fish and Game Code.

Memorandum

2018 JUL 11 AM 9:30

Date: July 9, 2018

To: Valerie Termini
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director



Subject: **Initial Statement of Reasons for Amendments to the Annual Sport Fishing Regulations**

- o Attached please find the Initial Statement of Reasons to amend section 1.74, Title 14, California Code of Regulations; and
- o Attached please find the Initial Statement of Reasons to amend sections 1.53 and 5.00, Title 14, California Code of Regulations.

If you have any questions regarding this item, please contact Kevin Shaffer, Chief, Fisheries Branch, at (916) 327-8841 or by e-mail at Kevin.Shaffer@wildlife.ca.gov.

Attachment

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