

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

Amend Subsections and Sections 105(c), 105.1, 106, 107, 110(b), 112(b)(5), 116(a)(1), 119(b), 120.2(a)(2) and (g), 120.3(b), 120.6(c) and (g), 120.7(e)(1) and (f), 122(r)(1), 123(b) and (c), 124.1(b), 125(d)(1)(C) and (d)(2)(B) and (f)(1) and (2), 126(a)(1)(A)e. and (a)(2), 147(a)(2), 147(a)(3)(E)5.a. and 147(a)(3)(E)6., 149.1(g), (i) and (l)(1), 150(j) and (n), 150.02(d) and (g)(2), 150.3(g) and (i)(1) and (2), 150.05(g) and (i), 180.3(g) and (n)(2) through (4), 180.15(b), 700.4 and 705, and
Add Section 700.3 Title 14, California Code of Regulations (CCR)
Re: Identification Required for Licenses Issued in ALDS, Telephone Number Required for Sport Anglers, and Commercial Fishing Applications and Fees

- I. Date of Initial Statement of Reasons: February 1, 2010

- II. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: April 8, 2010
Location: Monterey, CA

 - (b) Discussion and Adoption Hearings: Date: June 24, 2010
Location: Folsom, CA

- III. Description of Regulatory Action:
 - (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:
 - 1. Identification Required to Obtain License, Permit, Tag, or Entitlement in ALDS

The Automated License Data System (ALDS) will replace the Department's cumbersome manual paper based license issuance system. The Department expects to begin piloting ALDS in August 2010. One of the chief benefits of ALDS is the creation of an electronic database of licensees. To ensure that customers are uniquely identified, the first time a customer applies for a license or other entitlement, the customer must provide valid identification. Under Fish and Game Code Section 1054, the Department may require customers to show proof of the statements or facts required for the issuance of any license, tag, permit, or other privilege or entitlement.

This proposal would add a section to specify the identification a customer must provide before a license can be issued in ALDS.

 - 2. Telephone Number Requirement to Obtain Sport Fishing License

Current Section 705 is being moved to Section 700.3. New Section 705

would have the commercial fishing applications and fees.

Under current regulations anglers are not required to provide his/her telephone number to obtain any type of sport fishing license. However, there is a new federal mandate requiring this information. The department currently relies on license agents to collect approximately 10 percent of angler data (i.e. telephone number) for survey purposes. Angler participation historically has been voluntary.

The proposed regulation extends the requirement for anglers to provide a telephone number to all sport fishing licenses customers before a sport fishing license can be issued in order to conform to Section 600.1405, Title 50, of the Code of Federal Regulations.

Federal Rule 600.1416 requires angler specific identification data be submitted to National Oceanic and Atmospheric Administration (NOAA) for purposes of the new National Saltwater Angler Registry (Registry).

The Registry will serve as a “phone book” of the nation’s sport anglers. The Registry will enable NOAA to more effectively gather information from saltwater fishermen, enhancing our ability to produce the most timely and accurate information possible about the health of recreational fish stocks. Most importantly, the registry will enable NOAA and anglers to more effectively work together to protect the long-term sustainability of our oceans and the sport of saltwater fishing.

By permitting the licenses purchaser the opportunity to providing this data directly to the State at the time of license purchase, California anglers are relieved of the annual \$15 - \$25 federal registry certification fee they would otherwise have to pay to NOAA.

3. Fees and Applications for Commercial Fishing Items

Existing regulations reference the fees and applications for commercial fishing permits and other entitlements in various sections of Title 14. Pursuant to Section 713 of the Fish and Game Code, beginning in 2005 these fees can be adjusted annually based on a calculated cost-of-living adjustment. This requires the Department to identify each section that contains a fee and take regulatory action to update the fees to ensure the regulations accurately reflect the correct fees. This proposal will streamline the process for the Department and Commission staff and will simplify the regulations for the public.

The Department has adjusted the fees as allowed under Section 713, but the regulations do not reflect the fee that commercial fishermen pay for their permits. Similar sections exist in regulation for sport fishing (701) and hunting (702) license items.

This proposal would create a new section that identifies the commercial

fishing permit fees, applications, transfer fees and other miscellaneous fees authorized in regulation. References to fees and applications from existing sections would be repealed and consolidated into the new section. In addition, the fees and references to applications as required by Section 713 would be updated.

4. Administrative Requirements for Commercial Fishing Permits

Fish and Game Section 7857 was added to the Fish and Game Code to identify the general administrative provisions that apply to commercial fishing and avoid having to restate them for each commercial fishing license, registration, permit or other entitlement. For example, the validity of a commercial fishing entitlement, possession of license or permit while fishing, and the transferability of commercial fishing permits are addressed in this section.

Existing Section 106, requires the Department to notify drift gill net permittees if their application is deficient, however permittees are not required to meet minimum landing requirements to renew a permit, so this section is outdated.

Existing Section 120.2 established fees and a deadline of April 1, 2003 to upgrade an individual northern pink shrimp trawl permit to a vessel permit, therefore it is not necessary to state fees in regulation because the deadline has expired.

Various sections of regulation list the Department offices where commercial fishing permits are issued. Currently, commercial fishing permits are issued at most Department license sales offices. It is not necessary to restrict the offices where a commercial fishing permit can be issued.

This proposal would repeal duplicative administrative requirements in various sections of Title 14 that are identified in the Fish and Game Code, and update references to the Fish and Game Code and location of Department offices.

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

Authority: Section: 713 and 1054 Fish and Game Code.

Reference: Section: 713 and 1054 Fish and Game Code.

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

None.

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

Memorandum of Agreement between the State of California and National

Marine Fisheries Service.

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

No public meetings are being held prior to notice publication.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

1. Identification Required to Obtain License, Permit, Tag, or Entitlement in ALDS

There is no reasonable alternative to the proposed action. If regulations are not adopted to specify acceptable forms of identification for license purchases, then the Department will not have accurate licensee data for fish and wildlife management, law enforcement and administrative functions under the ALDS.

2. Telephone Number Required to Obtain Sport Fishing Licenses

There is no reasonable alternative to the proposed action. If the Department is unable to collect telephone numbers of sport fishing licensees, then the Department may be unable to meet the requirements for exemption from the National Saltwater Angler Registry. As a consequence, California anglers who fish in marine or estuarine waters will be required to register with the federal government and pay \$15-\$25 registration fee annually to the federal government, in addition to the annual Department license fees.

3. Fees and Applications for Commercial Fishing Items

There is no reasonable alternative to the proposed action. Existing regulations would not comply with the provisions of Section 713 of the Fish and Game Code that allow the Department to adjust the fees to compensate for increases in annual costs of goods and services.

4. Administrative Requirements for Commercial Fishing Permits

There is no reasonable alternative to the proposed action. Existing regulations would not comply with the provisions in the Fish and Game Code.

(b) No Change Alternative:

1. Identification Requirements to obtain Sport Fishing and Hunting Licenses

If this change is not made, the Department will not have accurate licensee data for wildlife management, law enforcement and administrative

functions under the ALDS. One of the chief benefits of ALDS is an accurate electronic database.

2. Telephone Number Requirement to obtain Sport Fishing Licenses

The Department will need to use expensive survey methods ~~be unable~~ to meet the requirements for exemption from the National Saltwater Angler Registry. If the Department cannot meet the registry requirements, then California anglers who fish in marine or estuarine waters will be required to register with the federal government and pay \$15-\$25 registration fee annually to the federal government, in addition to the Department license fees.

3. Fees and Applications for Commercial Fishing Items

Under the no change alternative, fees and applications for commercial fishing permits would be scattered in various sections of Title 14 and regulations would not be in compliance with Fish and Game Code Section 713.

4. Administrative Requirements for Commercial Fishing Permits

A no change alternative would mean existing regulations would not comply with the provisions in the Fish and Game Code.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

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 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. The proposed action specifies the identification required to purchase a license from the Department and adds the requirement that anglers must provide a telephone number to purchase a sport fishing license. These proposals are economically neutral to business.

- (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:

None.

- (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:

None.

- (h) Effect on Housing Costs:

None.

INFORMATIVE DIGEST (Policy Statement Overview)

The Department will begin implementing an Automated License Data System (ALDS) in August 2010. Existing regulations specify customer information that must be collected at the time a license is purchased. This proposal would require the first time a customer applies for a license or other entitlement in ALDS, to provide an acceptable form of identification to ensure that customers are uniquely identified.

Additionally, under this proposal anglers would be required to provide their telephone number before a sport fishing license could be issued. Collection of a telephone number will allow California to conform with a federal mandate for purposes of establishing a National Saltwater Angler Registry. This will relieve California anglers of paying an additional fee each year to the federal government.

Editorial relocation of Section 705 to 700.3 is proposed to group sections affecting ALDS consecutively in regulation.

This proposal would consolidate the fees and applications for commercial fishing permits specified in regulation into one section. This would streamline the process to adjust the fees as allowed under the Fish and Game Code.

Other administrative changes affecting commercial fishing permits are proposed to comply with the Fish and Game Code; this includes incorporating by reference permits and fees that have been required for specific commercial fisheries, but the permits and fees have not previously been referenced in Title 14. Other updates and minor editorial changes are also proposed to improve the clarity and consistency of the regulations.