

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

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 7071, 7920, 7923, 7924, 8026 and 8587.1 of the Fish and Game Code and to implement, interpret or make specific sections 7055, 7056, 7058, 7060, 7120, 7850, 7923, 7924, 8026 and 8587.1 of said Code, proposes to amend sections 190 and 195, Title 14, California Code of Regulations, relating to Commercial Fishing Activity Reports and Commercial Passenger Fishing Vessel Logbooks.

Informative Digest/Policy Statement Overview

Section 190 to be amended.

Currently, Section 190 requires that log books be filled out for specified fisheries (e.g., trawl, trap, live bait, market squid, commercial passenger vessels, etc.). These daily records are turned in monthly to the department and used to assist the management of these fisheries. Current wording in Section 190, proposed for deletion, requires logs to be completed “before the end of a trip, at the time of sale of the catch or at the end of each day’s fishing.” This language can be confusing for those filling out the records and for the wildlife officer trying to enforce the regulations. Proposed new wording in subsection 190(b) of “immediately when any of the following first occurs: (1) prior to passengers or crew disembarking from the vessel, or (2) at the time of receipt, purchase, or transfer of fish, or (3) at the end of the calendar day (midnight) during fishing activity through the night” provides clear points in time when the records must be completed.

Section 195 to be amended.

The proposed changes in subsection 195(a) will delete and replace the existing Skipper’s Log Book with updated forms entitled “COMMERCIAL PASSENGER FISHING VESSEL LOG” for Southern and Central/Northern California. The instructions explain when and how logs are to be filled out as well as when the logs are to be delivered to the department. The new logs will provide a new box for an entry of “No fishing activities for the month of: _____.” All logbooks are valuable to the management of the fisheries and assist the department in determining catch beneficial to fishermen.

There are times when a licensed Commercial Passenger Fishing Vessel (CPFV) operator may take out nonpaying customers or friends out on a fishing venture. It is recommended in this proposal with the addition of subsection 195(a)(5) that a licensed CPFV be required to keep logbook records when on a fishing trip, whether or not the trip involves paying or nonpaying fishing customers. This would also give a better data base tracking all fish caught on CPFV’s.

Currently in subsection 195(e)(5) the regulation, in part, specifies “operating under authority of a license issued pursuant to”, this language is proposed for deletion and will be replaced by “licensed under” which clarifies the meaning of the provision.

The Commission expects that proposed amendments and additions to the regulations concerning fishing activity records will provide a non-monetary benefit by improving the monitoring and reporting of the take of ocean fish by CPFV. The Commission does not anticipate significant non-monetary benefits to the protection of public health, worker safety, the prevention of discrimination, the promotion of fairness and social equity, or to the increase in openness and transparency in business and government.

The proposed regulations are neither inconsistent nor incompatible with existing state regulations. No other agency has authority to adopt fishing log book regulations.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, on all options relevant to this action at a hearing to be held in University of California Los Angeles (UCLA), De Neve Plaza Building, 351 Charles E. Young Drive – West, Los Angeles, California, on Wednesday, May 22, 2013 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, on all actions relevant to this action at a hearing to be held at the Department of Consumer Affairs, 1747 North Market Boulevard, Sacramento, CA, on Wednesday, June 26, 2013 at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before June 14, 2013 to be included in the Commissioners' briefing materials at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. **Written comments mailed, faxed or e-mailed to the Commission office, must be received before 12:00 noon on June 25, 2013 to be delivered by staff to the meeting; or be presented to Commission staff at the meeting no later than the agenda item is heard on June 26, 2013, in Sacramento, CA.** If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Sheri Tiemann at the preceding address or phone number. **David Bess, Captain, Law Enforcement Division, Department of Fish and Wildlife, telephone (916) 651-9982, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

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

Impact of Regulatory Action/Results of the Economic Impact Analysis

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. This proposal only clarifies wording in the logbook as well as reporting requirements. It does not limit any take of interfere with the ability to make money.

- (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.

The proposed amendments to the regulations do not have foreseeable benefits to the health and welfare of California residents or to worker safety.

The proposed regulations should benefit the State's environment by improving reporting of fish take in the California waters and the resultant analysis and recommendations that the Department may make.

The Commission expects that proposed amendments and additions to the regulations concerning fishing activity records will provide a non-monetary benefit by improving the monitoring and reporting of the take of ocean fish by CPFV.

- (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.

Effect on Small Business

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

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to the affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Sonke Mastrup
Executive Director

Dated: April 23, 2013