

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

Amend Sections 1.74 and 701
Title 14, California Code of Regulations
Re: Sport Fishing Report Card Requirements and Fees

- I. Date of Initial Statement of Reasons: November 16, 2012
- II. Date of Final Statement of Reasons March 15, 2013
- III. Dates and Locations of Scheduled Hearings:
 - (a) Hearing: Date: December 12, 2012
Location: San Diego, CA
 - (b) Discussion Hearing: Date: February 6, 2013
Location: Sacramento, CA
 - (c) Adoption Hearing Date: March 6, 2013
Location: Mt. Shasta, CA

IV. Update:

No modifications were made to the originally proposed language of the Initial Statement of Reasons.

At its March 6, 2013 meeting, the Fish and Game Commission (Commission) adopted the regulations as originally proposed.

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

Comment 1

Ben Wolfe III, recreational angler, oral comment given at February 6, 2013 and March 6, 2013 Commission meetings and e-mail received February 17, 2013.

Commenter opposes the proposed change to a seasonal lobster report card and offered an alternative option to change the definition of the lobster season to a calendar cycle. Commenter states the proposed change to a seasonal card would increase the burden on recreational anglers to purchase licenses and report cards at different times and would result in possible confusion during the inevitable overlap during implementation of the new seasonal card. Commenter states that his alternate proposal would be more effective and less burdensome

than the proposed changes. Commenter states recreational lobster fishermen were not provided notice. Commenter supports other proposed changes.

Response 1

Commenter's alternate proposal to change the lobster season to an annual cycle is the functional equivalent of the no-change alternative. This approach would perpetuate the current 10 month delay in data submission and would split the reproductive cycle of lobster into two fishing seasons. This would not improve management as intended by the proposed changes. The majority of stakeholders support the proposed change and it is anticipated the change to a seasonal card will simplify, not complicate, the purchase and submission of report cards resulting in more effective and less burdensome system than under the no-change alternative. The proposed regulations were properly noticed pursuant to the Administrative Procedure Act.

Comment 2

Pete Gray, Let's Talk Hook-up, e-mail received February 14, 2013

Supports proposed seasonal lobster report card.

Response 2

Support noted.

Comment 3

Bryce Carnehl. E-mail received February 15, 2013

Supports proposed seasonal lobster report card.

Response 3

Support noted.

Comment 4

Paul Giacalone, Recreational Angler, e-mail received February 17, 2013

Supports report cards. Hopes to preserve fisheries for future generations.

Response 4

Support and comment noted.

Comment 5

Jim Salazar, Recreational Representative Lobster Advisory Committee, e-mail received February 18, 2013.

Supports proposed changes to lobster report cards because new and quicker data will allow better assessment of the take and status of the resource, thus helping DFW and Lobster Advisory Committee make better and more informed choices.

Response 5

Support and comment noted.

Comment 6

Charles A. Stasukevich, Recreational Representative Lobster Advisory Committee, e-mail received February 18, 2013.

Supports proposed changes to lobster report cards because seasonal card will help the Department and Lobster Advisory Committee make closer to real-time decisions regarding the status of the stock.

Response 6

Support and comment noted.

Comment 7

Kari Rantala, Recreational angler, e-mail received February 20, 2013.

- a. *Supports proposed regulation to implement a \$20.00 non-return fee*
- b. *Recommends that return penalty should be clearly stated in bold at the top of report cards.*

Response 7

- a. Support noted.
- b. This comment is outside the scope of the proposed regulations; comment noted.

Comment 8

Steve Johnson, Recreational angler, e-mail received February 26, 2013.

Supports proposed changes to lobster report card because seasonal card will help the Department make closer to real-time decisions regarding the status of the stock.

Response 8

Support and comment noted.

Comment 9

Ron Coleman, Recreational angler, e-mail received March 4, 2013.

- a. *Supports proposed changes.*
- b. *Recommends that penalty for failure to return cards should be inability to purchase a card, thereby precluding ability to fish for lobster, in the subsequent year.*
- c. *Looks forward to time when there is sufficient data to determine the effect of MPAs (Marine Protected Areas) on the lobster population.*

Response 9

- a. Support noted.
- b. This option was explored and rejected because it would not generate additional funds to cover the costs incurred due to non-reporting and was estimated to negatively impact recreational fishing opportunities for individuals who forgot to return their report cards, especially in the first few years of the program.
- c. Comment noted.

Comment 10

Greg Helms, Ocean Conservancy. Oral comment given at March 6, 2013 Commission meeting.

- a. *Supports proposed changes to lobster report cards.*
- b. *Suggests that lobster may be one of the last of the large high-dollar fisheries for traditional FMPs (Fishery Management Plans) and that a new approach may be needed.*

Response 10

- a. Support noted.
- b. This comment is outside the scope of the proposed regulations; comment noted.

Comment 11

Paul Weakland, commercial fisherman, Oral comment given at February 6, 2013 Commission meeting.

Data collected from report cards will never withstand scrutiny because people will not report their best fishing spots.

Response 11

This comment does not address the proposed changes to the sport fishing report card regulations.

VI. Location and Index of Rulemaking File:

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

VII. Location of Department Files:

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

VIII. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

Two alternatives were identified, evaluated, and dismissed as described below:

1. An alternative was identified that would prohibit individuals who failed to return their lobster report cards by the deadline from purchasing lobster report cards in the subsequent report card period. Although this alternative is estimated to increase return rates of report cards, it would not generate additional funds to cover the costs incurred due to non-reporting. In addition, this option was estimated to negatively impact recreational fishing opportunities for individuals who forgot to return their report cards, especially in the first few years of the program.
2. A second alternative was identified which would require individuals to return their lobster report cards in order to be eligible to purchase a lobster report in any subsequent license year. This option was dismissed because it was estimated to not result in timely data submissions and could promote inaccurate reporting.

(b) No Change Alternative:

The no change alternative would maintain the current system where the low return rate of lobster report cards results in increased costs to manage the fishery and retrieve non-reported data; leave the lobster report card on a calendar year basis, thereby splitting the lobster season and delaying the submission of catch data by 10 months; and retain outdated and obsolete regulatory language.

(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, 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.

IX. Impact of Regulatory Action:

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

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Economic impacts of fishing are attributable largely to fishing effort, fishing opportunity, and fishing success. The proposed regulations would not alter fishing effort, fishing opportunity, or fishing success. Over time, the enhanced management efforts are expected to improve fishing success.

- (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 Commission anticipates benefits to the environment through the sustainable management of California's sport fishing resources.

The Commission anticipates benefits to the health and welfare of California residents. Increased data to inform improved fisheries management is anticipated to increase outdoor recreational activities and encourage the consumption of fresh locally caught seafood.

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

- (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 propose action.

The proposed fee assessed to anglers who fail to return their lobster report card is fully preventable and avoidable should an angler report or return his report card by the due date. In addition, if an angler did not return his report card by the due date, he has the option to wait a season and then be eligible to purchase a lobster report card without the

additional fee.

- (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

Updated Informative Digest/Policy Statement Overview

Under current regulations (Section 1.74, Title 14, CCR) recreational anglers are required to fill out report cards when fishing for salmon in the Klamath-Trinity River System and Smith River, steelhead trout, white sturgeon, red abalone and California spiny lobster. Report cards are valid during the open fishing season for a calendar year and are required to be returned to the Department at the address specified on the card by January 31 of the following year. Current regulations specify procedures to replace lost report cards and stipulate that any person who fails to return his report card 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.

Current fees for sport fishing forms and report cards are specified in Section 701, Title 14, CCR.

The proposed regulatory changes will enact a non-reporting fee to recover the increased costs of management of lobster due to non-reporting of report cards; adjust the duration of the lobster report card and timing of reporting to match the lobster season; modify replacement procedures for lobster, steelhead, and salmon report cards; simplify reporting procedures; and update regulatory language to make it consistent with new procedures made possible through the implementation of the Automatic License Data System (ALDS). The following is a summary of changes proposed to sections 1.74 and 701, Title 14, CCR.

- Require a non-return fee of \$20.00 to be applied at the time of purchase of a lobster report card for any individual who fails to return his lobster report card from the previous season by the deadline.
- Specify that lobster report cards shall be valid for the duration of the lobster fishing season and the deadline for the return of lobster report cards will be April 30 following the season for which the report card was valid.
- Update replacement report card procedures for lobster, steelhead and salmon report cards. Any person who loses his lobster, steelhead or salmon report card must provide a written affidavit to the Department that contains the following information:
 - A statement confirming that the originally issued report card cannot be recovered.
 - A statement of the cardholder's best recollection of the prior catch records that were entered on the report card that was lost.
 - A statement describing the factual circumstances surrounding the loss of the card.
- Simplify and clarify return and reporting procedures. Report cards sent by mail and not received by the Department will be assumed not returned and the individual will be required to report his report card as lost.

Editorial changes are also proposed to improve the clarity and consistency of the regulations.

The proposed regulations will benefit the environment in the sustainable management of California's sport fishing resources which in turn will benefit the health and welfare of California residents by encouraging outdoor exercise, consumption of nutritious food, intergenerational activities, and environmental awareness.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to adopt sport fishing regulations.

Commission Action

At its March 6, 2013 meeting, the Commission adopted the regulations as originally proposed.

ADDENDUM TO
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

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The costs listed in Table 2 of the Initial Statement of Reasons and in the attachment to the Economic and Fiscal Impact Statement (Std. 399) are the estimated costs for the extra effort required to acquire the necessary lobster data and for enforcement of the existing regulation which requires the lobster report cards to be returned. If all lobster report cards are returned, it is anticipated the Department would not have these extra costs. The costs shown are the estimated costs for the non-return of lobster report cards and do not include costs for any other non-returned report cards.

Revenue from lobster report card sales, and a portion of sport fishing license sales, are for the basic lobster program, and do not cover the extra enforcement or data collection efforts that are incurred due to non-reporting.