



**THURSDAY, October 25, 2018**

**Meeting Time: 4:00 P.M.**

**Location: DER Conference Room, 3800 Cornucopia Way, Ste. C, Modesto (Stanislaus Building - 2nd floor)**

### **AGENDA**

#### **Call Meeting to Order & Introductions:**

The Stanislaus County *Fish & Wildlife Committee (F&WC)* encourages public participation and welcomes the public's interest.

A moment of remembrance, in honor of Dr. Ed. Channing, the First Chairmen of the Stanislaus County Fish & Wildlife committee.

Members of the public may be heard on any item of the Fish and Wildlife Committee's agenda. A person addressing the Committee will be limited to five (5) minutes, unless the Chairperson of the Committee grants a longer period of time. The Committee will allow comments by members of the public on an agenda item only during consideration of the item.

#### **Requests for Funds & Project Updates:**

1. No Fund Requests received

#### **Correspondence:**

1. Notice of date change for Discussion/Adoption Hearings on Proposed Regulatory Actions.
2. Notice of proposed regulatory action relative to amending Section 29.15 Title 14.
3. Notice of proposed regulatory action relative to amending Sections 107,174, and 176, Title 14.
4. Notice of proposed regulatory action relative to amending Sections 27.35, 27.40, 27.45, 27.50, 28.37, 28.55, 52.10, and 150.16. Title 14.

#### **Agenda Items:**

1. Public Comment(s)
2. Introduction of Attendees
3. By law change: Concerning Alternate members; to be voted on, January meeting.
4. Approval of April 26, 2018 Meeting Minutes
5. Wildlife Management Report
6. Fishery Report
7. Wildlife Enforcement Report
8. Wood Duck Report
9. Old Business
10. Committee Comments

#### **Adjourn: Next meeting – Thursday, January 24 , 2019 at 4:00 p.m.**

*Please notify the Department of Parks and Recreation at 525-6770 in advance if you will be attending this meeting and require special accommodation for the meeting.*

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**REASONABLE ACCOMMODATIONS:** In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Committee Secretary at (209) 525-6770. Notification 72 hours prior to the meeting will enable the Department to make reasonable arrangements to ensure accessibility to this meeting. Agendas can also be found online at <http://www.stancounty.com/parks/fish-wildlife-committee.shtml> subject to staff's ability to post prior to the meeting. Materials related to an item on this Agenda submitted to the Committee after distribution of the agenda packet are available for public inspection during normal business hours at the main office of the Department of Parks and Recreation, 3800 Cornucopia Way, Suite C, Modesto, CA 95358.



# STANISLAUS COUNTY FISH AND WILDLIFE COMMITTEE

3800 CORNUCOPIA WAY, SUITE C, MODESTO, CALIFORNIA 95358



## PARKS AND RECREATION

Jami Aggers, Director  
Merry Mayhew, Asst. Director  
Ed Ayers, Chair

## MINUTES

JULY 26, 2018, AT 4:00 P.M.

3800 CORNUCOPIA WAY, 2<sup>ND</sup> FLOOR, CONFERENCE ROOM

(Agendas can be found online at <http://www.stancounty.com/parks/fish-wildlife-committee.shtm>)

### COUNTY FISH & WILDLIFE MEMBERS PRESENT:

Ed Ayers, D2  
Jim Atherstone, D3  
Bob Bashaw, D5  
Kern Hunewill, D5  
Tom Sexton, D1  
Kenneth Meidl, D4  
Philip McKay, D2  
(\*present by telephone conference)

### STATE FISH & GAME REPRESENTATIVE:

### PARKS & RECREATION STAFF PRESENT:

Jennifer Marchy

### EXCUSED/ABSENT:

Ed Channing, ALT  
Jason Guignard CDFW

### GUESTS PRESENT:

Ben Lewis- Fish & Game

### A. CALL TO ORDER & INTRODUCTIONS

Ed Ayers called the meeting to order and introductions were made.

Ed Ayers

### B. REQUESTS FOR FUNDS/PROJECT UPDATES

#### ACTIONS & REPORTER

1. East Stanislaus Resources Conservation District requested fund in the amount of \$737.20 for Salmon Festival T-Shirts. The request for funds was approved by the committee.

Alexandria Miranda

### C. CORRESPONDENCE

#### ACTIONS

The Committee acknowledged the correspondence received and suggested further action or comment be directed to the corresponding agency as listed on the agenda and referred correspondence.

Ed Ayers

### D. PUBLIC COMMENTS

#### ACTIONS & REPORTER

1. No comment was received.

### E. APPROVAL OF MINUTES

#### ACTIONS

1. Jim Atherstone motioned to accept the July 26<sup>th</sup> meeting minutes and Bob Bashaw seconded the motion.

Jim Atherstone, Bob Bashaw

### F. WILDLIFE MANAGEMENT REPORT

#### ACTIONS & REPORTER

1. No new information to report.

### G. FISHERY REPORT

#### ACTIONS & REPORTER

1. No new information to report.

### H. WILDLIFE ENFORCEMENT REPORT

#### REPORTER

1. Representative was not there to report.

### **I. WOOD DUCK REPORT**

#### **ACTIONS & REPORTER**

1. Bob placed several wood duck boxes on City of Modesto's property. No activity in the wood duck boxes, the water had receded. Although he did see a hatch with eight (8) Wood Duck ducklings in the natural habitat.

*Bob Bashaw*

### **J. OLD BUSINESS AND COMMITTEE COMMENTS**

#### **ACTIONS & REPORTER**

1. Committee members conducted a survey of the Del Puerto Canyon Guzzlers, they found two out of three.
2. Fish & Game representative, Ben Lewis presented information on Guzzlers. He presented pictures and information on the different types of Guzzlers and which ones would be best for the different areas. Ben discussed that the modern Guzzler, made of a concrete apron and fiberglass tanks are the most efficient and economical Guzzlers to have. He also discussed the best options to create man made brush covers for protection from prey. The Guzzlers average about \$1500 a tank, Fish & game can help set up and assist with maintenance as feasible with their schedule, if the Guzzler is on public land. Fish & Game may be able to donate a guzzler.

*Ben Lewis*

### **K. ADJOURNMENT & NEXT MEETING**

#### **ACTIONS & REPORTER**

There being no further business, the meeting was adjourned. The next regular meeting of the Fish and Wildlife Committee will be held on:

*Ed Ayers*

**Thursday, October 25, 2018 at 4:00 p.m.**  
**Conference Room, 2<sup>nd</sup> Floor - Stanislaus Bldg.**  
 3800 Cornucopia Way, Modesto

Prepared By: Jennifer Marchy, Fish & Wildlife Secretary

209-525-6700

Agendas can also be found online at <http://www.stancounty.com/parks/fish-wildlife-committee.shtml> subject to staff's ability to post prior to the meeting. Materials related to an item on this agenda submitted to the Commission after distribution of the agenda packet are available for public inspection during normal business hours at the main office of the Department of Parks and Recreation, 3800 Cornucopia Way, Suite C, Modesto, CA 95358.

**CALIFORNIA CODES  
FISH AND GAME CODE  
SECTIONS 13100-13104**

**§13100** (a) The amounts paid to and retained in the county treasury pursuant to Sections 12009 and 13003 shall be deposited in a county fish and wildlife propagation fund and expended for the protection, conservation, propagation, and preservation of fish and wildlife, under the direction of the board of supervisors, pursuant to this chapter.

**§13101** (a) The board of supervisors of any county may enter into a written agreement with the board of supervisors of one or more counties for the expenditure of any funds deposited in its fish and wildlife propagation fund pursuant to Section **13100** for any purpose authorized by Section 13103 in either, or any, of the counties for the joint benefit of both, or all, of the counties as the judgment of the boards of supervisors may direct. The purchase of real property necessary for that purpose is lawful and title thereto shall be taken in the joint names of each county which contributes funds there for. The property may be deeded to the state upon the express condition that it shall be employed for the purposes of this chapter within the counties.

(b) (c) The board of supervisors of one or more counties may enter into a written agreement with the department for the expenditure of any funds deposited in its fish and wildlife propagation fund pursuant to Section **13100** for any purpose authorized by Section 13103.

**§13102** Expenditures from the fish and **game** propagation fund of any county shall be subject to the provisions of Division 3 (commencing with Section 29000) of Title 3 of the Government Code.

**§13103** Expenditures from the fish and wildlife propagation fund of any county may be made only for the following purposes:

(a) Public education relating to the scientific principles of fish and wildlife conservation, consisting of supervised formal instruction carried out pursuant to a planned curriculum and aids to education such as literature, audio and video recordings, training models, and nature study facilities.

(b) Temporary emergency treatment and care of injured or orphaned wildlife.

(c) Temporary treatment and care of wildlife confiscated by the department as evidence.

(d) Breeding, raising, purchasing, or releasing fish or wildlife which are to be released upon approval of the department pursuant to Sections 6400 and 6401 onto land or into waters of local, state, or federal agencies or onto land or into waters open to the public.

(e) Improvement of fish and wildlife habitat, including, but not limited to, construction of fish screens, weirs, and ladders; drainage or other watershed improvements; gravel and rock removal or placement; construction of irrigation and water distribution systems; earthwork and grading; fencing; planting trees and other vegetation management; and removal of barriers to the migration of fish and wildlife.

**CALIFORNIA CODES  
FISH AND GAME CODE  
SECTIONS 13100-13104**

- (f) Construction, maintenance, and operation of public hatchery facilities.
- (g) Purchase and maintain materials, supplies, or equipment for either the department's ownership and use or the department's use in the normal performance of the department's responsibilities.
- (h) Predator control actions for the benefit of fish or wild life following certification in writing by the department that the proposed actions will significantly benefit a particular wild life species.
- (i) Scientific fish and wildlife research conducted by institutions of higher learning, qualified researchers, or governmental agencies, if approved by the department.
- (j) Reasonable administrative costs, excluding the costs of audits required by Section 13104, for secretarial service, travel, and postage by the county fish and wildlife commission when authorized by the county board of supervisors. For purposes of this subdivision, "reasonable cost" means an amount which does not exceed 3 percent of the average amount received by the fund during the previous three-year period, or three thousand dollars (\$3,000) annually, whichever is greater, excluding any funds carried over from a previous fiscal year.
- (k) Contributions to a secret witness program for the purpose of facilitating enforcement of this **code** and regulations adopted pursuant to this **code**.
- (l) Costs incurred by the district attorney or city attorney in investigating and prosecuting civil and criminal actions for violations of this **code**, as approved by the department.
- (m) Other expenditures, approved by the department, for the purpose of protecting, conserving, propagating, and preserving fish and wildlife. 13104. The department may audit, or require the county to audit, expenditures by the county from its fish and wildlife propagation

**§13104** The department may audit, or require the county to audit, expenditures by the County from its fish and wildlife propagation fund in order to determine compliance with this chapter.

**Commissioners**  
**Eric Sklar**, President  
Saint Helena  
**Anthony C. Williams**, Vice President  
Huntington Beach  
**Jacque Hostler-Carmesin**, Member  
McKinleyville  
**Russell E. Burns**, Member  
Napa  
**Peter S. Silva**, Member  
Jamul

STATE OF CALIFORNIA  
Edmund G. Brown Jr., Governor

**Valerie Termini**, Executive Director  
P.O. Box 944209  
Sacramento, CA 94244-2090  
(916) 653-4899  
fgc@fgc.ca.gov  
www.fgc.ca.gov

## Fish and Game Commission



*Wildlife Heritage and Conservation*  
*Since 1870*

September 19, 2018

This is to provide you with a copy of the notice of proposed regulatory action relative to amending Sections 27.35, 27.40, 27.45, 27.50, 28.27, 28.55, 52.10 and 150.16, Title 14, California Code of Regulations, relating to recreational and commercial fishing regulations for federal groundfish and associated species for consistency with federal rules for 2019 and 2020, which is published in the California Regulatory Notice Register on September 21, 2018.

Please note the dates of the public hearings related to this matter and associated deadlines for receipt of written comments.

Additional information and all associated documents may be found on the Fish and Game Commission website at <http://www.fgc.ca.gov/regulations/>.

**Laura Ryley**, Environmental Scientist, Department of Fish and Wildlife, has been designated to respond to questions on the substance of the proposed regulations. Ms. Ryley can be reached at (831) 649-7142 or by email at [Laura.Ryley@wildlife.ca.gov](mailto:Laura.Ryley@wildlife.ca.gov).

Sincerely,

Sheri Tiemann  
Associate Governmental Program Analyst

Attachment

## **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 200, 205, 265, 275, 702, 7071 and 8587.1 of the Fish and Game Code and to implement, interpret or make specific sections 200, 205, 240, 265, 275, 1802, 7071 and 8585.5 of said Code and Title 50, Code of Federal Regulations, Part 660, Subpart G, proposes to amend 27.30, 27.35, 27.40, 27.45, 27.50, 28.27, 28.55, 52.10 and 150.16, Title 14, California Code of Regulations, relating to Recreational and Commercial Fishing Regulations for Federal Groundfish and Associated Species for Consistency with Federal Rules for 2019 and 2020.

#### **Informative Digest/Policy Statement Overview**

Biennially, the Pacific Fishery Management Council (PFMC) reviews the status of west coast groundfish populations. As part of that process, it recommends groundfish fisheries harvest limits and regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Pacific Coast Groundfish Fishery Management Plan (FGFMP).

These recommendations coordinate west coast management of recreational and commercial groundfish fisheries in the Exclusive Economic Zone (EEZ) (three to 200 miles offshore) off Washington, Oregon and California. These recommendations are subsequently implemented as federal fishing regulations by the National Oceanic and Atmospheric Administration National Marine Fisheries Service NOAA Fisheries.

Regulatory authority for most nearshore stocks is shared jointly between State and federal governments. For consistency, the California Fish and Game Commission (Commission) routinely adopts regulations to bring State law into conformance with federal law for groundfish and other federally-managed species. Nearshore stocks are managed based on both PFMC-established federal annual catch limits (ACL), and Commission-established total allowable catch (TAC) values. ACLs and TACs serve the same purpose of setting a limit on catch.

Current regulations establish recreational season lengths, depth constraints, methods of take, and size, bag and possession limits within the five groundfish management areas for all federal groundfish and associated species.

Current State regulations also provide for a statewide TAC for cabezon and greenlings of the genus *Hexagrammos* along with allocation of these TACs between the recreational and commercial fishery sectors, and commercial trip limits for cabezon and greenling. Until recently, TACs specified in Title 14 have been lower than the ACLs established in federal regulations. Starting in 2019, the federal ACL for cabezon will be lower than the State TAC.

Modest increases to trip limits can be accommodated under federal ACLs since commercial cabezon and greenling landings have fallen below ACLs in recent years.

#### **Summary of Proposed Amendments**

The Department of Fish and Wildlife (Department) is proposing the following regulatory changes to be consistent with PFMC recommendations for federal groundfish regulations in 2019 and 2020. This approach will allow the Commission to adopt State recreational groundfish regulations to timely conform to those taking effect in federal ocean waters in January 2019.

The proposed regulatory changes will implement the following changes:

1. Increase the allowable depth for the recreational groundfish fishery from 60 to 75 fathoms in the Southern Management Area and from 20 to 40 fathoms in the Cowcod Conservation Area;
2. Increase the recreational season length for groundfish in the San Francisco Management Area by two weeks;
3. Increase the recreational season length for California scorpionfish by removing the September 1 to December 31 closure in the Mendocino, San Francisco, Central and Southern Management Areas;
4. Increase the recreational bag limit for canary rockfish from one to two fish statewide;
5. Decrease the recreational bag limit for lingcod from two to one fish in Mendocino, San Francisco, Central, and Southern Management Areas;
6. Replace language referencing numerical values for cabezon and greenling total allowable catch limits with references to federal annual catch limits in federal regulation;
7. Eliminate language referencing allocation limits for cabezon and greenling from Section 52.10; and
8. Increase commercial trip limits to 500 pounds for cabezon and 250 pounds for greenling.

The benefits of the proposed regulations are consistency with federal law, sustainable management of groundfish resources and promotion of businesses that rely on recreational and commercial groundfish fishing.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated authority to the Commission to adopt fishing regulations (Fish and Game Code, sections 200, 205 and 265). The proposed regulations are consistent with regulations for fishing in marine protected areas (Section 632, Title 14, CCR), with Nearshore Fishery Management Plan regulations (Sections 52.00 through 52.10, Title 14, CCR) and with general fishing regulations in Chapters 1 and 4 of Subdivision 1 of Division 1, Title 14, CCR. Commission staff has searched the California Code of Regulations and has found no other State regulations related to the take of groundfish.

#### Update 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, and moving the Commission's effective period procedures from Section 220 to Section 275 of the Fish and Game Code. In accordance with these changes to the Fish and Game Code, sections 202 and 220 are removed from, and sections 265 and 275 are added to, the authority and reference citations for this rulemaking.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Radisson Fresno Conference Center, 1055 Van Ness Avenue, Fresno, California, on Wednesday, October 17, 2018, at 8:00 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, relevant to this action at a hearing to be held at the QLN Conference Center, 1938 Avenida del Oro, Oceanside, California, on Wednesday, December 12, 2018, at 8:00 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 5:00 p.m. on November 29, 2018, at the address given below, or by email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov).



Written comments mailed (to Fish and Game Commission, PO Box 944209, Sacramento, CA 94244-2090), or emailed to the Commission office, must be received before 12:00 noon on December 7, 2018. All comments must be received no later than December 12, 2018, at the hearing in Oceanside, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

#### Availability of Documents

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Commission's website at [www.fgc.ca.gov](http://www.fgc.ca.gov). The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Valerie Termini, 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 Valerie Termini or Sheri Tiemann at the preceding address or phone number. **Laura Ryley, Environmental Scientist, Department of Fish and Wildlife, has been designated to respond to questions on the substance of the proposed regulations. Ms. Ryley can be reached at (831) 649-7142 or by email at [Laura.Ryley@wildlife.ca.gov](mailto:Laura.Ryley@wildlife.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. 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 Assessment

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 Business, 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 Department anticipates increased opportunities for the recreational and commercial groundfish fishery in 2019-2020 compared to 2018.

- (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 significant 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 Department anticipates increased opportunities for the recreational and commercial groundfish fishery in 2019-2020 compared to 2018.

The Commission anticipates benefits to the health and welfare of California residents. Participation in sport fisheries opportunities fosters conservation through education and appreciation of California's wildlife.

The Commission does not anticipate any benefits to worker safety.

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

(c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

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

(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 affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Dated: September 21, 2018

Valerie Termini  
Executive Director

**Commissioners**  
**Eric Sklar**, President  
Saint Helena  
**Anthony C. Williams**, Vice President  
Huntington Beach  
**Jacque Hostler-Carmesin**, Member  
McKinleyville  
**Russell E. Burns**, Member  
Napa  
**Peter S. Silva**, Member  
Jamul

STATE OF CALIFORNIA  
Edmund G. Brown Jr., Governor

**Valerie Termini, Executive Director**  
P.O. Box 944209  
Sacramento, CA 94244-2090  
(916) 653-4899  
fgc@fgc.ca.gov  
www.fgc.ca.gov

## Fish and Game Commission



*Wildlife Heritage and Conservation*  
*Since 1870*

September 19, 2018

This is to provide you with a copy of the notice of proposed regulatory action relative to amending sections 107, 174 and 176, Title 14, California Code of Regulations, regarding state logbook requirements for commercial broadbill swordfish harpoon, gill and trammel net fisheries, and trawl fisheries which is published in the California Regulatory Notice Register on September 21, 2018.

Please note the dates of the public hearings related to this matter and associated deadlines for receipt of written comments.

Additional information and all associated documents may be found on the Fish and Game Commission website at <http://www.fgc.ca.gov/regulations/>.

**Traci Larinto, Sr. Environmental Specialist, Department of Fish and Wildlife, has been designated to respond to questions on the substance of the proposed regulations. Ms. Larinto can be reached at (562) 355-7061 or by email at [Traci.Larinto@wildlife.ca.gov](mailto:Traci.Larinto@wildlife.ca.gov).**

Sincerely,

Sheri Tiemann  
Associate Governmental Program Analyst

Attachment

## **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 1050, 7857, 7892, 8026, 8394, 8681 and 8682 of the Fish and Game Code and to implement, interpret or make specific sections 1050, 1700, 7852.2, 7857, 7892, 8026, 8394, 8394.5, 8568, 8573, 8577, 8680, 8681, 8682, 8683 and 8841 of said Code, proposes to amend sections 107, 174 and 176, Title 14, California Code of Regulations, relating to commercial logbooks.

#### **Informative Digest/Policy Statement Overview**

It is necessary to amend sections 107, 174 and 176, Title 14, California Code of Regulations (CCR) in order to eliminate the use of California forms by the affected fisheries in favor of federal forms. The National Oceanic and Atmospheric Administration National Marine Fisheries Service (NOAA Fisheries) either has or is in process of developing federal logs that will more accurately reflect the catch and discard in federally managed fisheries for highly migratory species (HMS) and groundfish under the federal Trawl Individual Quota (TIQ) program.

Under current regulations (subsection 107(c), Title 14, CCR) all State swordfish harpoon permittees are required to complete a State Swordfish Harpoon Log (DFG 107). The information required on this log is specifically related to fish behavior and catch success and does not include bycatch information. The log does not provide location information beyond fishing block that is included on landing receipts. Current federal regulation (CFR 660.708) requires completion of either a state or federal log for all federal HMS fishing activity.

Additionally, under current regulations (subsection 174(f), Title 14, CCR) all state general gill/trammel net permittees are required to complete a State Gill and Trammel Net Fishing Log (DFG 174). This includes State large mesh drift gill net permittees, as described in Fish and Game Code Section 8573, who are also required to have a general gill/trammel net permit. Current federal regulation (CFR 660.708) requires completion of either a state or federal log for all federal highly migratory species (HMS) fishing activity, including drift gill net. These permittees are required to carry a federal observer upon request to accurately document the incidental take of sea turtles, marine mammals, and seabirds. The State's General Gill/Trammel Net Fishing Log (DFG 174) does not record discard information for federal Endangered Species Act (ESA)-listed species needed for managing the federal HMS large mesh drift gill net fishery.

Current regulations (Section 176, Title 14, CCR) require that all trawl vessel operators fill out a State Trawl Trip Log (DFG 176). Additionally, current federal regulation (CFR 660.13) requires that federal groundfish TIQ permittees complete a state trawl log. The Pacific Fishery Management Council is adopting electronic monitoring for the groundfish TIQ fishery. Additionally, there is a need for real time data collection of catch as well as discards so that TIQ quota accounts can be updated within 48 hours. Waiting for a paper log to be submitted and entered into a database could result in TIQ vessels exceeding their individual quotas, given that the timing of logbook submission varies by state (California requires that they be submitted monthly). The State's Trawl Trip Log (DFG 176) does not record needed discard information of federal groundfish species necessary for catch accounting under the federal Trawl Individual Quota (TIQ) program.

#### **AMEND SECTION 107**

Subsection 107(c) would be deleted eliminating the need for State logs recording swordfishing activities, and subsections (d)-(h) would be renumbered and Form Swordfish Harpoon Log, DFG 107 (10/90) is deleted from Appendix A.

#### **AMEND SECTION 174**

Subsection 174(f) would be amended to exempt fishermen from the State log requirement: (1) targeting highly migratory species, and (2) using large mesh (greater than 14 inch) drift gill nets.

## AMEND SECTION 176

Section 176, Title 14, CCR, requires all trawl fishermen to fill out a Trawl Trip Log (DFG 176), but does not specify which fisheries, thus some fishermen targeting invertebrates fill out the Trawl Trip Log (DFG 176) while other fill out the Shrimp/Prawn Trawl Log (DFG 120). To clarify the logbook requirement for each State managed fishery and to eliminate any potential redundancy between State and federal regulations for the groundfish trawl fishery, Section 176, Title 14, CCR, would be amended as follows:

- The first paragraph of Section 176 is deleted and rewritten as Subsection 176(a) and would require completion of the Trawl Trip Log (DFG 176) by these fisheries:
  - subsection (a)(1) all California halibut bottom trawl permittees.
  - subsection (a)(2) any finfish trawl fisheries without a specific permit to complete the Trawl Trip Log (DFG 176).
- Subsection (b) exempts federal TIQ permittees targeting federal groundfish from the state trawl log requirement.
- Subsection 176(c) would require completion of the Shrimp/Prawn Trawl Log (DFG 120) by these fisheries:
  - subsection (c)(1) all golden/ridgeback prawn trawl, northern pink shrimp trawl, and southern pink shrimp permittees.
  - subsection (c)(2) all sea cucumber trawl permittees.
  - subsection (c)(3) any invertebrate trawl fishery without a specific permit.

### Benefit of the Regulations

Currently, the permittees in these fisheries complete multiple forms for both the State and federal governments. The State forms do not provide additional information that is necessary for managing the fisheries and, in some cases, will be replaced by more comprehensive electronic monitoring and logbooks. By eliminating the need for State forms and relying on the improved reporting on federal forms, and potentially the electronic forms, the fishery benefits from less paperwork and the State benefits from a better and more useful format for information gathering. The State also benefits from a reduction in staff time and expenses surrounding printing, processing, and maintaining these unnecessary forms.

### Consistency with State Regulations

Department staff has conducted a review of the California Code of Regulations and determined that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. No other State agency has the statutory authority to amend regulations pertaining to the logbooks used by these fisheries.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the QLN Conference Center, 1938 Avenida del Oro, Oceanside, California, on Wednesday, December 12, 2018, at 8:00 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 5:00 p.m. on November 29, 2018, at the address given below, or by email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed (to Fish and Game Commission, PO Box 944209, Sacramento, CA 94244-2090), or emailed to the Commission office, must be received before 12:00 noon on December 7, 2018. All comments must be received no later than December 12, 2018, at the hearing in Oceanside, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

### Availability of Documents

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Commission's website at [www.fgc.ca.gov](http://www.fgc.ca.gov). The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and

available for public review from the agency representative, Valerie Termini, 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 Valerie Termini or Sheri Tiemann at the preceding address or phone number. **Traci Larinto, Sr. Environmental Specialist, Department of Fish and Wildlife, has been designated to respond to questions on the substance of the proposed regulations. Ms. Larinto can be reached at (562) 355-7061 or by email at Traci.Larinto@wildlife.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. 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 Assessment

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 Business, 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 rulemaking proposes to increase clarity and efficiency by removing the state logbook requirement for various state and federal fisheries.

- (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 because this rulemaking proposes to increase clarity and efficiency by removing the state logbook requirement for various state and federal fisheries.

As stated under the Informative Digest/Policy Statement Overview above, these proposed regulations will provide for more improved and comprehensive monitoring systems, which will benefit fishermen and the state in terms of more streamlined submission requirements and administering processing and ultimately benefit the management of California fisheries.

- (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:

The Department would realize a savings of about \$30,000 annually in printing and mailing costs as well as time-savings for existing personnel.

- (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 affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Valerie Termini  
Executive Director

Dated: September 21, 2018

**Commissioners**

**Eric Sklar, President**  
Saint Helena

**Anthony C. Williams, Vice President**  
Huntington Beach

**Jacque Hostler-Carmesin, Member**  
McKinleyville

**Russell E. Burns, Member**  
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STATE OF CALIFORNIA  
Edmund G. Brown Jr., Governor

**Valerie Termini, Executive Director**

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Sacramento, CA 94244-2090  
(916) 653-4899  
fgc@fgc.ca.gov  
www.fgc.ca.gov

**Fish and Game Commission**



*Wildlife Heritage and Conservation*  
*Since 1870*

September 19, 2018

This is to provide you with a copy of the notice of proposed regulatory action relative to amending Section 29.15, Title 14, California Code of Regulations, relating to recreational take of red abalone, which is published in the California Regulatory Notice Register on September 21, 2018.

Please note the dates of the public hearings related to this matter and associated deadlines for receipt of written comments.

Additional information and all associated documents may be found on the Fish and Game Commission website at <http://www.fgc.ca.gov/regulations/>.

**Tom Mason, Sr. Environmental Scientist, Department of Fish and Wildlife, has been designated to respond to questions on the substance of the proposed regulations. Mr. Mason can be reached at (562) 342-7107 or by email at [Tom.Mason@wildlife.ca.gov](mailto:Tom.Mason@wildlife.ca.gov).**

Sincerely,

Sheri Tiemann  
Associate Governmental Program Analyst

Attachment



## **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 200, 205, 260, 265, 399, 5520, 5521, and 7149.8 of the Fish and Game Code and to implement, interpret or make specific sections 200, 205, 265, 275, 5520, 5521, 7145 and 7149.8 of said Code, proposes to amend Section 29.15, Title 14, California Code of Regulations, relating to recreational take of red abalone.

#### **Informative Digest/Policy Statement Overview**

Red abalone is a resource currently managed by the California Department of Fish and Wildlife (Department) under the Abalone Recovery and Management Plan (ARMP). The Fish and Game Commission (Commission) is the decision-making body that regulates the recreational take of abalone (sections 200 and 205, Fish and Game Code).

In September 2017, the Department identified wide-sweeping changes in density, occurrence, depth distribution, size and health of red abalone as well as the kelp upon which it depends for food. In addition, the Department found that the average density of red abalone populations has declined below the ARMP fishery closure trigger (0.30 abalone/m<sup>2</sup>), indicating that the stock could no longer support a fishery. In December 2017, the Commission adopted regulations to close the abalone fishery consistent with the ARMP and Department findings. The Commission also adopted a sunset provision for the closure; the fishery would re-open on April 1, 2019, or upon adoption of a Red Abalone Fishery Management Plan (FMP) and the guidance it provides for fishery reopening, whichever comes first. The regulations closing the recreational abalone fishery became effective on March 29, 2018.

Current recreational abalone fishing regulations in Section 29.15, Title 14, California Code of Regulations (CCR) specify: open areas, season, hours, daily limits, special gear provisions, measuring devices, abalone report card requirements, and minimum size limit. Subsection 29.15(i) closes all ocean waters to the take of abalone beginning on April 1, 2018. This regulation is only in effect until April 1, 2019; if the regulations are not amended to delete or extend that date (subsection 29.15(j)), the fishery will re-open on April 1, 2019, which will allow for the recreational take of abalone in open fishing areas during the open season (subsections 29.15(a), (b), and (c)).

Since the closure of the recreational fishery, the Department has found no meaningful changes in the abalone resource conditions. The limited data the Department has from public reports of dead or dying abalone washing ashore during this past winter and spring corroborates the findings of no meaningful positive changes. Department concludes that re-opening the fishery at this time would be inconsistent with the ARMP and detrimental to the recovery of the fishery. The Commission is proposing to amend subsection 29.15(j) to extend the closure of the abalone fishery for another two years, until April 1, 2021. Effective dates for take and possession contained in subsections 29.15 (a), (b) and (c) of the abalone fishing regulations would be updated as well to reflect the proposed change. The action is necessary to facilitate recovery of the red abalone population while the preparation of the Red Abalone FMP is currently underway.

#### **Benefits of the Regulations**

The proposed extension of the red abalone fishery closure will benefit the valuable red abalone resource by protecting it from fishing mortality during the current poor environmental conditions. Further conserving the red abalone resource now will allow it the opportunity to rebuild and be sustainable for the future.

## Consistency and Compatibility with Existing Regulations

The Legislature has delegated authority to the Commission to promulgate recreational fishing regulations (Fish and Game Code, sections 200, 205, and 265); no other state agency has the authority to promulgate such regulations. The Commission has conducted a search of Title 14, CCR and determined that the proposed regulation is neither inconsistent nor incompatible with existing State regulations and that the proposed regulations are consistent with other recreational fishing regulations and marine protected area regulations in Title 14, CCR.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Radisson Fresno Conference Center, 1055 Van Ness Avenue, Fresno, California, on Wednesday, October 17, 2018, at 8:00 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, relevant to this action at a hearing to be held at the QLN Conference Center, 1938 Avenida del Oro, Oceanside, California, on Wednesday, December 12, 2018, at 8:00 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 5:00 p.m. on November 29, 2018, at the address given below, or by email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed (to Fish and Game Commission, PO Box 944209, Sacramento, CA 94244-2090), or emailed to the Commission office, must be received before 12:00 noon on December 7, 2018. All comments must be received no later than December 12, 2018, at the hearing in Oceanside, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

### Availability of Documents

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Commission's website at [www.fgc.ca.gov](http://www.fgc.ca.gov). The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Valerie Termini, 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 Valerie Termini or Sheri Tiemann at the preceding address or phone number. **Tom Mason, Sr. Environmental Scientist, Department of Fish and Wildlife, has been designated to respond to questions on the substance of the proposed regulations. Mr. Mason can be reached at (562) 342-7107 or by email at [Tom.Mason@wildlife.ca.gov](mailto:Tom.Mason@wildlife.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 265 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, 11346.8 and 11347.1 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 Assessment**

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 Business, 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 because the regulatory action is not likely to significantly increase compliance costs, may or may not significantly impact fishery activity, and only applies to a fishery that is unique to the state of California.

- (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 generalized benefits to the health and welfare of California residents through the sustainable management of the red abalone fishery.

The Commission does not anticipate any benefits to worker safety.

The Commission anticipates benefits to the States environment. The proposed action is designed to ensure the sustainability and quality of the fishery, promoting participation, fishing activity, and economic activity.

- (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:

No new costs or savings to State agencies. However, the proposed abalone fishery closure would result in the continued reduction in abalone report card sales with revenue deficits to the California Department of Fish and Wildlife of about \$533,375 for the 2019-20 and 2020-21 fiscal years based on the typical sales of 25,100 at \$21.25 per card. Federal funding to the state would not be impacted by this proposed change in recreational abalone fishing regulations.

(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 affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Valerie Termini  
Executive Director

Dated: September 21, 2018