

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

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. 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 |
- III. Description of Regulatory Action:
- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Present Regulations

Under existing law, 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.

Report cards are an important tool to collect catch information and provide an additional enforcement mechanism for abalone and sturgeon. Report cards for all species currently have poor return rates ranging from a high of approximately 50% for steelhead to a low of approximately 15% for lobster. The low return rates result in increased costs for managing the fisheries through additional data collection to fill data gaps, management without adequate data, increased outreach to remind anglers to return report cards, and enforcement. In addition, existing regulations are inconsistent and do not incorporate new procedures made possible by the implementation of the Department's Automated License Data System (ALDS).

Proposed Regulations

The proposed regulations are intended to recover the increased cost of management of lobster due to non-reporting of report card data; 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 ALDS. Non-substantive changes are also proposed to improve the clarity and consistency of the regulations.

These objectives are proposed to be achieved through the following amendments to Title 14, California Code of Regulations sections 1.74 and 701:

1. Amend sections 1.74 and 701 to require a non-return fee of \$20.00 to be applied at the time of purchase of a lobster report card for all individuals who failed to return their cards from the previous season by the deadline. Lobster report cards were implemented in 2008 to help assess the recreational fishery for lobster by requiring all anglers to record catch, location, and gear type. The data collected on the cards are critical to track recreational catch, changes in the fishery - particularly with the recent increase in the use of hoop nets - and inform the development of a fishery management plan.

Since its inception, however, lobster report cards have experienced poor return rates that ranged from a low of 12% in 2010 to a high of 22% in 2008 (Table 1). The low return rates result in increased costs for managing the fisheries through additional data collection to fill data gaps, management without adequate data, increased outreach to remind anglers to return report cards, and enforcement.

Table 1. Summary of Lobster Report Card Returns

Year	Number of Cards Sold	Number of Cards Returned	Return Rate
2008*	27,472	5,987	22%
2009	32,343	4,379	14%
2010	29,112	3,494	12%
2011	33,387	5,482	16%

*Report cards were implement in fall of 2008

The proposed non-return fee of \$20.00 is necessary to recover costs incurred by the Department due to the low return rate (Table 2). The fee is proposed to be applied at the time of purchase of a report card for the subsequent season for all individuals who failed to report or return their report cards by deadline. The non-return fee will only be applied in the next report card period. The non-return fee is not proposed to carry over to subsequent report card periods if the angler does not choose to purchase a lobster report card in the season immediately following the one from which the report card was not returned. Individuals who return or report their lobster report card by the deadline will not be subject to the non-return fee.

Table 2. Estimated costs due to non-return of lobster report card and associated non-return fee.

Estimated Costs	Hrs	Rate	Total
Law Enforcement Costs for Report Card Returns	1,055	\$ 43.70	\$ 46,104
Data collection - creel survey - hours	5,300	\$ 18.18	\$ 96,354
Data collection - creel survey - mileage, (110,000 mi)		\$ 0.565	\$ 62,150
Data poor analyses ¹	160	\$ 44.23	\$ 7,077
Post card reminders (30,000)		\$ 0.42 ²	\$ 12,600
LRB costs to implement and manage non-return fee	200	\$ 41.42	\$ 8,284
Sub Total for Ongoing Costs			\$ 232,569
Admin Overhead (FY 12/13 non-Fed rate 29%)			\$ 67,445
Total Ongoing Costs			\$ 300,014
Estimated Card Sales			30,000
Estimated non-returned (50%) ³			15,000
Cost per non-returned card			\$ 20.00

¹ Additional statistical analyses and modeling are required when sufficient data are not available

² Rate includes data processing, printing and postage

³ Estimated return rate of 50% in initial years of implementation is based on current steelhead report card return rate of 50%

It is anticipated that the non-return fee will have the indirect benefit of increasing the return rate of lobster report cards. As the return rate increases, the cost associated with the non-returned cards is expected to decrease. In the short-term, the non-return fee per card is expected to remain constant because the total number of individuals paying the non-return fee will decrease at a rate proportional to the cost decrease.

The non-return fee will be subject to the 3% application fee pursuant to subsection 700.4(e), Title 14, CCR, and the 5% license agent fee when purchased from license agents, including online through ALDS, per Fish and Game Code subsection 1055.1(d). The non-return fee will also be subject to annual adjustments pursuant to Fish and Game Code Section 713.

2. Amend Section 1.74 to specify that lobster report cards shall be valid for the duration of the lobster fishing season, as opposed to the calendar year, and that the deadline for the return of lobster report cards will be April 30 following the season for which the report card was valid. The lobster season runs from early October through the middle of March of the following year. This requires individuals to purchase two different report cards for one fishing season. This leads to confusion among stakeholders and also results in a 10 month lag between the end of the fishing season in March and the return of report cards by January 31 of the following year. The proposed changes will allow for one report card for each fishing season and would require that report card data be returned to the Department on April 30, approximately 6 weeks after the close of the season. This change is anticipated to reduce angler confusion, reduce the number of lost cards, increase report card returns, and provide data to the Department much sooner.
3. Amend Section 1.74 to require that prior to the purchase of a replacement lobster, steelhead or salmon report card, any person who loses his lobster, steelhead or salmon report card must provide a written affidavit to the Department that contains the following information:
 - o A statement confirming that the originally issued report card cannot be recovered.
 - o A statement of the cardholder's best recollection of the prior catch records that were entered on the report card that was lost.
 - o A statement describing the factual circumstances surrounding the loss of the card.

This proposed change clarifies the existing requirements to obtain replacement cards for those that are lost and makes replacement procedures consistent with those for abalone and sturgeon report cards.

4. Amend Section 1.74 to simplify and clarify return and reporting procedures. The proposed regulations clarify existing return/reporting mechanisms and responsibilities of the angler. 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.

The proposed changes to report card returns are needed to accommodate the recently implemented online data reporting tool on the Department's internet license sales service website and to provide a mechanism for individuals to return report card data from report cards that may have been lost or stolen.

5. Amend Section 1.74 to update language to be consistent with the implementation of the ALDS. Minor technical corrections are proposed to remove references to fishing licenses and report cards not issued through the ALDS. Non-ALDS licenses and report cards are no longer available.

Benefits of the Proposed Regulations

It is the policy of this state to encourage the conservation, maintenance, and utilization of California's marine resources for the benefit of all the citizens of the state. The objectives of this policy include, but are not limited to the maintenance of sufficient population of marine fishes and invertebrates to support recreational opportunity. Without more detailed information on the current levels of recreational spiny lobster harvest, the state's spiny lobster population can only be estimated with an unacceptably high level of uncertainty. Adoption of a non-return fee for those individuals who don't return their lobster report cards is intended to recover the increased cost of management of lobster due to non-reporting of report card data. The combination of the non-reporting fee and seasonal card is also anticipated to increase return rates of lobster cards, which will allow for an accurate estimation of the recreational lobster harvest.

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.

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

Authority: Sections 200, 202, 205, 220, 1050, 1053.1, 1055.1 and 7380 Fish and Game Code

Reference: Sections 200, 202, 205, 206, 220, 240, 713, 1050, 1053.1, 1055.1, 7149.8, 7380, 7381, and 7382 Fish and Game Code.

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

None

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

[Economic Impact Analysis](#)

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

- (1) Marine Resources Committee, September 27, 2011, Monterey, CA.
- (2) Marine Resources Committee, August 10, 2012, Ventura, CA.
- (3) Fish and Game Commission, October 3, 2012, Sacramento, CA

IV. 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.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment. Therefore, no mitigation is necessary.

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.

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

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.