

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

Amend Section 29.80  
Title 14, California Code of Regulations (CCR)  
Re: Disturbance of Sport Crustacean Traps

I. Date of Initial Statement of Reasons: August 28, 2006

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: August 4, 2006  
Location: Sacramento, CA

(b) Discussion Hearings: Date: October 6, 2006  
Location: San Diego, CA

Date: November 3, 2006  
Location: Redding, CA

(c) Adoption Hearing: Date: December 8, 2006  
Location: Santa Monica, 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:

Section 29.80, Title 14, CCR, specifies gear restrictions that apply for the recreational take of crustaceans, which may be caught by hand or with traps. In recent months, several Dungeness crab trap anglers have requested additional regulatory language be added to this Section that would prohibit unauthorized persons from taking crabs out of a recreational trap belonging to someone else.

Presently, general Penal Code provisions prevent theft of personal property, but because crabs that are enclosed in a trap have yet to be “possessed” by the trap owner, the crabs themselves are not the trapper’s personal property. Therefore, there is no effective anti-theft enforcement mechanism at this time to prevent a recreational fisherman from “robbing” another sport trap.

The proposed language would make it unlawful to disturb, move, damage, or remove any saltwater crustacean from a trap that belongs to another person

without written permission from the owner of the trap in his or her possession. By adding this provision to Section 29.80, it would apply for all crustacean traps, and therefore would be effective for sport prawn traps and hoop nets used for lobster, in addition to crab traps. The new regulations are intended to aid enforcement so that violators may be easily cited if caught pulling a trap that is not their own without written permission from the owner in his or her possession. They should also improve clarity and understanding for the public regarding this issue.

However, an enforcement officer must be able to establish who owns the trap in order to determine if a violation has occurred. Therefore, for a trap owner to benefit from enforcement of the proposed new regulation, he or she will need to label the trap and/or the trap buoy for identification purposes. If the trap's owner cannot readily be identified during patrol activities, the provision will have little force or effect.

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

Authority: Sections 200, 202, and 205, Fish and Game Code.

Reference: Sections 200, 202, 205, 206, 209, 210, 215, 218, and 220, Fish and Game Code.

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

None.

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

None.

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

None.

#### IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

The Department considered and rejected a proposal that would require that all sport traps be marked with the owner's information, according to specified marking requirements. The Department believes that establishing a marking requirement would take a considerable public information and outreach effort, and for those trap owners that are not worried about others robbing their traps, there is no resource impact

from their decision not to mark their gear. The proposed regulatory change is narrowly tailored to allow those that mark their traps to benefit, but does not negatively impact those who do not.

(b) No Change Alternative:

Should the Commission select the No Change Alternative, there will continue to be no effective method for owners of sport crustacean traps to prevent unauthorized persons from removing crustaceans from their traps. While general Penal Code provisions prevent theft of personal property, because crustaceans enclosed in a trap have yet to be “possessed” by the trap owner, they are not the trapper’s personal property. Therefore, there is no effective anti-theft enforcement mechanism at this time to prevent this behavior.

(c) Consideration of Alternatives:

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

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

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

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Adding regulations that specify it is unlawful to disturb, move, damage, or remove any saltwater crustacean from a trap that belongs to another person without written permission is proposed to aid enforcement and

improve clarity and understanding for the public.

(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:

The proposed change is not likely to have any economic impact as the new regulations only make clear that it is unlawful to disturb another person's trap or remove crabs from them. The regulations are proposed to aid enforcement so that violators may easily be cited, and are not expected to impact businesses or jobs relating to the recreational crab fishery.

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

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

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

(e) Nondiscretionary Costs/Savings to Local Agencies:

None.

(f) Programs Mandated on Local Agencies or School Districts:

None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None.

(h) Effect on Housing Costs:

None.

### Informative Digest/Policy Statement Overview

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