

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

Amend Section 149 and Subsection (a) of Section 149.1
Title 14, California Code of Regulations
Re: Commercial Taking of Market Squid

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

	Name of Commenter	Type/Date	Summary of Comments	Response
1	Phil Schenck	Oral Testimony/ Letters received, 11/6/2013 and dated 10/2/2013, 9/1/2013, 11/2/2013, undated	1. Request separate brail allocation. 2. Request continuation of the 2-ton directed fishery after the closure of the squid quota. 3. Provides copies of documents that contain the commercial market squid fishing regulations. 4. The law that requires brail fishermen to sell their catch to only certain markets must be changed. 5. The proposed regulations will cause significant economic harm. 6. The California Environmental Quality Act (CEQA) requires a CEQA document if changing the law has the possibility of causing significant economic harm and if there is significant economic	1. This recommendation is outside the scope of this regulatory package, but may be considered in a future rulemaking package. 2. The adopted regulations close the 2-ton directed fishery after the closure of the fishery due to attainment of the quota to help ensure the conservation and sustainable use of the squid resource and the ecosystems and species dependent upon a healthy squid resource. The environmental benefits outweigh the potential adverse economic impacts. 3. Comment noted; however, the cited excerpt from the Market Squid Fishery Management Plan (MSFMP), Section 3, was

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			<p>harm, it requires mitigation.</p> <p>7. Every boat in the fishery is required to have a gross tonnage measurement to acquire a fishery document.</p> <p>8. States that a 3 minute video illustrates one of the serious problems facing the trail fleet with the 2-ton program.</p>	<p>superseded by the approved language for subsection 149(e)(2).</p> <p>4. This recommendation is outside the scope of this regulatory package. Section 8424 of the Fish and Game Code specifies qualifications for squid buyers.</p> <p>5. As stated in the Economic Impact Assessment (EIA), compared to average after-season-closure landings over the past three years (2010-2013), the proposed regulatory change could result in the loss of ex-vessel fishing revenue of about \$(726,000), and the potential loss of up to (8.0) jobs.</p> <p>6. A public agency must comply with CEQA when it undertakes a project, which may cause either a direct physical change in the environment or a reasonably foreseeable indirect change in the environment. An Environmental Impact Report must identify the significant effects on the environment of a project, identify alternatives to the project, and indicate the manner in which those significant (environmental)</p>

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				<p>effects can be mitigated or avoided.</p> <p>7. This comment is outside the scope of the proposed regulations.</p> <p>8. The referenced video was not provided to the Commission.</p>
2	Gary Harden	Oral Testimony/ Letter, 11/6/2013	<p>1. Request an immediate emergency year round 7 days a week opener for the scoop fleet.</p> <p>2. Opposes closure of 2-ton fishery and wants to fish year round.</p> <p>3. Scoop [Brail] permit holders are denied access to harvest during the only time squid float, approximately October 1 through April 1.</p> <p>4. Who in FGC’s licensing department has the authority to issue permits to “pirate ships”?</p> <p>5. Provides handout regarding the solar max and its impact on climate change.</p>	<p>1. This recommendation is outside the scope of this regulatory package. Such a change would not qualify as an emergency under Section 240 of the Fish and Game Code.</p> <p>2. See Response 1.2.</p> <p>3. Comment noted. Brail fishermen have the opportunity, and are entitled, to fish during the open portion of the market squid season. In years when the quota is attained early, the fishery may close prior to the time squid “float”.</p> <p>4. This comment is outside the scope of the proposed regulations.</p> <p>5. This comment is outside the scope of the proposed regulations.</p>
3	Jacob Molla	Oral Testimony, 11/6/2013	<p>1. Opposes closure of the 2-ton directed fishery.</p>	<p>1. See Response 1.2.</p>

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4	Tom Durr	Oral Testimony/ Letter, 11/6/2013	<p>1. Opposes closure of the 2-ton directed fishery.</p> <p>2. Provides information regarding squid landings and an excerpt of the current regulations.</p> <p>3. Brail fishermen pay the same amount for a permit as seine fishermen but brail fishermen don't have anything to catch.</p>	<p>1. See Response 1.2.</p> <p>2. Comments noted.</p> <p>3. See Response 2.3.</p>
5	Mike Kucura	Oral Testimony, 11/6/2013	<p>1. States that the effect of this regulation will be great within the fishing community.</p> <p>2. Opposes closure of the 2-ton directed fishery.</p>	<p>1. See Response 1.5.</p> <p>2. See Response 1.2.</p>
6	Vanessa Deluca	Oral Testimony, 11/6/2013	<p>1. Support seasonal catch limit.</p> <p>2. Support the Department's clarification of the 2-ton regulations.</p> <p>3. Supported weekend closures and Marine Protected Area (MPA) closures.</p>	<p>1. Comment noted. The seasonal catch limit is not proposed to be changed in this rulemaking package.</p> <p>2. Support noted. The adopted regulations clarify the 2-ton incidental take regulations.</p> <p>3. Comments noted. Weekend closures and MPA closures are not proposed to be changed in this rulemaking package.</p>
7	Diane Pleschner-Steele	Oral Testimony/ Letter, 11/6/2013	<p>1. Supports clarification re: incidental landings after fishery closure.</p> <p>2. Supports 118,000 short tons max cap.</p> <p>3. Supports one market squid</p>	<p>1. Support noted. The adopted regulations clarify incidental landings after the fishery closure.</p> <p>2. Comment noted. Also see Response 6.1.</p> <p>3. Comment noted. Also see</p>

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			<p>fishery quota</p> <p>4. Supports going to Notice.</p> <p>5. Supports the 10% incidental take allowance as an outside parameter (not to exceed 2 tons).</p> <p>6. Provides handouts regarding the squid fishery harvest limit and squid abundance.</p>	<p>Response 1.1.</p> <p>4. Support noted.</p> <p>5. Support noted. The adopted regulations restrict incidental take to an amount that (1) does not exceed 2 tons and (2) does not exceed 10 percent of the total volume of the fish landed or possessed.</p> <p>6. Comments noted.</p>
8	Mike Conroy	Email, 12/02/2013	<p>1. Supports the policy that an uncapped, unending two-ton directed fishery should not be allowed to continue after the close of the fishery.</p> <p>2. Supports a regulated, limited, directed post-closure two-ton fishery until the full season catch limit has been taken.</p> <p>3. Opposes a separate brail allocation.</p> <p>4. Does not support the claim that brail fishermen are losing opportunity as a result of the fishery closing.</p> <p>5 Does not view foreign built vessels as illegal provided they qualify under the ad-measurement protocols and are proper replacement vessels as defined in the California Code of Regulations (CCR).</p>	<p>1. Support noted. The adopted regulations close the loophole that allowed the 2-ton directed fishery after the closure of the fishery.</p> <p>2. This recommendation is outside the scope of the proposed regulations, but may be considered in a future rulemaking package.</p> <p>3. See Response 1.1.</p> <p>4. Comment noted.</p> <p>5. Comment noted.</p>

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9	Patrick Cavanaugh Dave Franklin Mike Weynands Donald Brockman Marc Ozimec Joe Ferrigno	Email, 12/2/2013 Email, 12/3/2013 Two emails, 12/5/2013 Email, 12/5/2013 Email, 12/6/2013 Email, 12/6/2013	1. Agree and support the policy that an uncapped, unending two-ton directed fishery should not be allowed to continue after the close of the Commercial Squid Fishery. 2. Supports a regulated, limited, directed post-closure two-ton fishery until the full season catch limit has been taken. 3. Opposes a separate brail allocation. 4. Does not view a foreign built vessel as illegal if it is in full compliance with all applicable laws, rules and regulations.	1. See Response 8.1. 2. See Response 8.2. 3. Comment noted. Also see Response 1.1. 4. Comment noted.
10	Joe Villareal Sal Tringali	Email, 12/5/2013 Email, 12/6/2013	1. Agree and support the policy that an uncapped, unending two-ton directed fishery should not be allowed to continue after the close of the Commercial Squid Fishery. 2. Supports a regulated, limited, directed post-closure two-ton fishery until the full season catch limit has been taken. 3. Opposes a separate brail allocation.	1. See Response 8.1. 2. See Response 8.2. 3. Comment noted. Also see Response 1.1.

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11	Tim Athens	Email, 12/5/2013	<p>1. Opposes a separate brail allocation.</p> <p>2. Supports a brail fishery at some small daily tonnage level even if there has been 118,000 tons caught before April.</p> <p>3. Squid are different than other species of forage fish and it is a waste not to harvest by brail fishing.</p>	<p>1. Comment noted. Also see Response 1.1.</p> <p>2. See Response 8.2.</p> <p>3. For commercial fishing management purposes, leaving fish in an ecosystem is not “waste”. (See Fish and Game Code Section 7704(a)). Market squid are an integral part of the food web to many marine vertebrates. Many trophic levels utilize small pelagic fishes, such as squid, as either a primary or supplementary food source.</p>
12	Mike Conroy	Email, 12/6/2013	<p>1. Provides a document that includes images and descriptions of gear used in the brail fishery.</p>	<p>2. Comments noted.</p>
13	Mike Conroy	Email, 12/9/2013	<p>1. Provides a copy of the attachment to his 12/6/2013 email.</p> <p>2. Provides a template of the form letter submitted by several fishermen</p> <p>3. Provides a copy of the attachment to his 12/2/2103 email.</p>	<p>1. Comment noted.</p> <p>2. See Responses 9.1-9.4</p> <p>3. See Responses 8.1-8.5</p>

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14	Zeke Grader	Email, 12/10/2013	<ol style="list-style-type: none"> 1. States it was never the intent of the legislation to phase-out or eliminate the dip net fishery. 2. States that there has been growth in the fishing capacity of individual purse seine vessels as a result of vessels being permitted to expand in size far beyond their original dimensions and the introduction of large, redundant Canadian built vessels using CF numbers to operate in the fishery. 3. States that the increase in fishing vessel capacity has caused the annual quota to be met early resulting in cessation of directed squid fishing for the remainder of the season. 4. Suggests that there should be a brail allocation. 5. Requests that these matters be discussed during the Marine Subcommittee. 	<ol style="list-style-type: none"> 1. Comment noted. 2. Comment noted. Outside the authority of the Department. Under inspection by the U.S. Coast Guard. 3. Comment noted. Further analysis is needed to determine the cause of the annual quota being met early including environmental factors. 4. See Response 1.1 5. This recommendation is outside the scope of this regulatory package.
15	Phil Schenck	Oral Testimony/ Letter, 12/11/2013	<ol style="list-style-type: none"> 1. States that closure of the 2-ton directed fishery will affect over 120 jobs. 2. States that the economic multiplier is 10. 3. Asks for documentation of the estimated economic impacts. 4. States that the proposed 	<ol style="list-style-type: none"> 1. See Response 1.5. 2. Total economic output, total employee wages, and total employment multipliers are provided in the Economic Impact Assessment. 3. Economic impact calculations are included in the Economic

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			<p>regulations do not define “incidental” but expand “incidental”.</p> <p>5. Opposes closure of 2-ton directed fishery.</p> <p>6. Provides copy of Zeke Grader’s 12/10.2013 letter.</p> <p>7. Provides copy of Tim Athens’ 12/5//2013 email.</p> <p>8. Provides page one of a two page email from Tom Durr to Phil Schenck dated 11/5/13 which forwards an email from Briana Brady to Mr. Durr dated 11/4/2013 containing information on the number of the market squid permit by type and information on landings by permit type.</p> <p>9. States that a fish co-op is being opened and provides an article to substantiate the statement; states fresh squid will be a key to the success of the co-op.</p> <p>10. States that he needs fresh dead bait for the slope ground fishery.</p> <p>11. Provides a copy of Paul Huh’s 12/5/2013 letter which states that 50 employees at his company would be laid off if</p>	<p>Impact Assessment.</p> <p>4. The adopted regulations clarify that “incidental” take applies to squid taken incidentally when fishing for other species – similar to commercial fishing regulations in sections 120, 120.2, 125.1, 126, 155 and 163, Title 14, CCR. In addition, the adopted regulations restrict incidental take to an amount that (1) does not exceed 2 tons and (2) does not exceed 10 percent of the total volume of the fish landed or possessed.</p> <p>5. See Response 1.2.</p> <p>6. See Responses 14.1-14.5.</p> <p>7. See Reponses 11.1-11.2.</p> <p>8. See Responses 4.1-4.2.</p> <p>9 Comment noted.</p> <p>10. This recommendation is outside the scope of the proposed regulations; however, this topic may be addressed in a future rulemaking package.</p> <p>11. See Response 1.5.</p> <p>12. See Response 1.5.</p> <p>13. See Response 1.5.</p> <p>14. Outside the scope of this regulatory package. A market squid brail permit authorizes use of lights to aggregate</p>

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			<p>the 2-ton fishery were to end.</p> <p>12. Eliminating the 2-ton directed fishery is a job killer.</p> <p>13. Provides own economic analysis.</p> <p>14. Mitigation offered: a) go light up (light boat), b) purse seine season closed, c) do another fishery.</p>	<p>squid for purposes of commercial harvest and could be utilized when the commercial season is open.</p> <p>Many squid vessels also participate in other fisheries.</p>
16	Mike Conroy	Oral Testimony, 12/11/2013	<p>1. Oppose an unlimited directed 2-ton fishery.</p> <p>2. Supports allowing a regulated, directed, post-closure 2-ton fishery until the full seasonal catch limit has been taken.</p>	<p>1. See Response 8.1.</p> <p>2. See Response 8.2.</p>
17	Danny Strunk	Oral Testimony, 12/11/2013	<p>1. States that the economic effect will be larger than stated by the Department.</p> <p>2. Supports allowing a regulated, directed, post-closure 2-ton fishery until the full seasonal catch limit has been taken.</p>	<p>1. See Response 1.5.</p> <p>2. See Response 8.2.</p>
18	Jen Eckerle	Oral Testimony, 12/11/2013	<p>1. Supports the closure of the directed 2-ton fishery.</p> <p>2. Supports an incidental limit of between 5-10 percent.</p> <p>3. Recommends that the entire catch, whether targeted catch or incidental take, should be counted toward the overall seasonal catch limitation.</p>	<p>1. See Response 8.1.</p> <p>2. Support noted. The adopted regulations include an incidental take allowance of 10 percent.</p> <p>3. This recommendation is outside the scope of the proposed regulations. Incidentally taken squid is included when calculating the amount of squid taken each year; however, the purpose of an</p>

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				incidental take allowance is to allow fishermen targeting other species to land their catch when the load includes incidentally taken squid. Not providing this allowance could result in entire loads of other marine species having to be discarded unnecessarily at a high cost to the fishermen and to the marine resources other than squid.
19	Vince Terzoli	Oral Testimony, 12/11/2013	1. Supports the closure of the directed 2-ton fishery.	1. See Response 8.1.
20	Diane Pleschner-Steele	Oral Testimony/ Letter, 12/11/2013	1. Supports the Department's recommendation that incidental take be set at 10 percent, not to exceed 2-tons. 2. Supports the Department's package as a whole. 3. Supports framework of the FMP. 4. Provided information on the market squid fishery and other "wetfish" fisheries.	1. Support noted. The adopted regulations restrict incidental take to an amount that (1) does not exceed 2 tons and (2) does not exceed 10 percent of the total volume of the fish landed or possessed. 2. Support noted. The Commission adopted the regulations as recommended by the Department. 3. This comment is outside the scope of this regulatory package. The FMP is not a regulation. 4. Comments noted.
21	Denny Corbin	Email, 12/12/2013 Letter,	1. Supports legalizing a targeted 2-ton per day fishery after the squid season has closed.	1. See Response 8.2. 2. See Response 1.2. 3. This recommendation is

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		12/18/2013	<p>2. Opposes closing the 2-ton directed fishery.</p> <p>3. States that the 118,000 ST limit should be increased.</p> <p>4. Economics of closing the 2 ton loophole has not been adequately assessed.</p> <p>5. The science of calculating squid stocks is questionable, and the FGC should promote further study of those stocks.</p>	<p>outside the scope of this regulatory package. Further analysis is needed to consider a change in the current seasonal catch limit.</p> <p>4. See Responses 1.5, 15.2 and 15.3.</p> <p>5. This comment is outside the scope of the proposed regulations.</p>
22	Phil Schenck	Fax, 1/27/2014	<p>1. Opposes closure of 2-ton directed fishery.</p> <p>2. Presents his own Economic Impact Analysis.</p> <p>3. Supports legalizing a targeted 2-ton per day fishery after the squid season has closed until the full seasonal catch limit has been taken.</p> <p>4. Presents data on market squid landings.</p> <p>5. States that Brail fishermen target squid during and after spawning events.</p> <p>6. States that the Department is illegally issuing squid permits to foreign built vessels and provides excerpts from Department of Motor Vehicles website; Commercial Fishing Digest; Coastal Pelagic Species Fishery</p>	<p>1. See Response 1.2.</p> <p>2. See Response 1.5.</p> <p>3. See Response 8.2.</p> <p>4. Comments noted</p> <p>5. Comment noted. Also see Response 2.3.</p> <p>6. See Response 14.2.</p> <p>7. See Responses 1.2 and 1.5</p> <p>8. The MRC is only an advisory body to the Commission. (FGC section 105). Although some meetings were cancelled, the full Commission is the final decision-making body. The 45-day notice period provided ample opportunity to comment on the proposed regulation.</p>

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			<p>Management Plan, Amendment 10; 46 USC.</p> <p>7. Closing the 2 ton fishery places businesses at risk of failure.</p> <p>8. MRC has cancelled numerous meetings and is trying to eliminate the brail fleet, denying due process.</p>	
23	Gary Harden	Fax, 1/27/2014	<p>1. States that brail fishermen lost opportunity to fish for squid due Canadian built vessels being allowed into the fishery illegally.</p> <p>2. States that the Squid Scoop (brail) Fleet has been denied their rights to harvest its share of the squid biomass.</p> <p>3. States that California State agencies issued permits to falsified documents.</p> <p>4. Requests a separate brail quota as mitigation for lost fishing opportunity.</p> <p>5. Claims that fish markets participated in felony conspiracy/ racketeering and discriminate against the scoop (brail) fishery.</p> <p>6. States that California Fish and Game illegally raised license fees to harvest squid.</p> <p>7. States that the FMP requires the Plan be adjusted due to</p>	<p>1. Comment noted. Also see Response 2.3.</p> <p>2. This comment is outside the scope of the proposed regulation. The brail fleet does not have a set “share” of the squid biomass. Also see Response 2.3.</p> <p>3. See Response 14.2.</p> <p>4. See Response 1.1.</p> <p>5. This comment is outside the scope of the proposed regulations.</p> <p>6. This comment is outside the scope of the proposed regulations. Section 8428 of the Fish and Game Code authorizes the Commission to establish market squid permit fees.</p> <p>7. This comment is outside the scope of the proposed regulation. The MSFMP is not a regulation.</p> <p>8. This comment is outside the scope of the proposed regulation.</p>

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			<p>increase in catch from 1000 tons/day to 4000 tons/day. Asks the Commission to investigate changes to the FMP.</p> <p>8. Requests that permits should be seized and proceeds from illegal landings should be disbursed to the families of scoop permit holders who were denied their right to fish.</p> <p>9. Requests that the Scoop (brail) fleet be allowed to fish seven days per week year-round.</p> <p>10. Requests that the number of squid licenses and their gross tonnage limitations be investigated.</p> <p>11. Claims that the 2-ton fishery law was written so the local community could enjoy the resources.</p> <p>12. Requests that the quota be increased due to gross tonnage increases.</p> <p>13. Provided copy of letter from Phil Schenck.</p> <p>14. Provided copy of summary of HR 2598 (1987).</p> <p>15. FGC has allowed “pirate” vessels to be licensed with lack of oversight and gross ton endorsement limits.</p>	<p>9. This comment is outside the scope of the proposed regulation. Weekend closures help ensure periods of uninterrupted spawning to provide protection for the resource.</p> <p>10. This comment is outside the scope of the proposed regulations. Also see response 14.2.</p> <p>11. It was never the intent, nor is it compatible with the management goals of the MSFMP to have a two ton directed fishery occurring after the Seasonal Catch Limit has been reached.</p> <p>12. See Response 21.3.</p> <p>13. See response 23.7, 23.1, 23.3, 23.4, 23.5.</p> <p>14. Comments noted.</p> <p>15. This comment is outside the scope of the proposed regulations.</p>

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24	Diane Pleschner-Steele	Oral Testimony/Letter, 2/5/2014	<ol style="list-style-type: none"> 1. Supports the Department's recommendations. 2. Would like the MRC meeting to be moved closer to the fishery. 3. Support the 118,000 ton max cap. 4. Support a single fishery quota. 	<ol style="list-style-type: none"> 1. Support noted. The Commission adopted the regulations as recommended by the Department. 2. Comment noted. The location of the Marine Resources Committee meeting is not determined by regulation. 3. Comment noted. Also see response 6.1. 4. Comment noted. Also see response 1.1.
25	Zeke Grader	Oral testimony, 2/5/2014	<ol style="list-style-type: none"> 1. Would like the Department to look into the Fishery Management Plan. 2. The original FMP did not look into providing a market for a small fishery (brail). Two separate allocations might be a good suggestion. 	<ol style="list-style-type: none"> 1. See Response 23.7. 2. Comment noted. Also see Response 1.1.

VIII. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

No alternatives were identified **by or brought to the attention of Commission staff that would have the same desired regulatory effect.**