

**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, 202, 205, 215, and 220, of the Fish and Game Code, and to implement, interpret or make specific sections 200, 202, 205, 206, 215, and 220, of said Code, proposes to amend subsections (c) and (e) of Section 29.80, and subsections (a)(3) and (a)(7) of Section 29.85, Title 14, California Code of Regulations, relating to recreational Dungeness crab and crab trap regulations.

Informative Digest/Policy Statement Overview

Under existing law, Dungeness crab may be taken for recreational purposes with a sport fishing license subject to regulations prescribed by the Fish and Game Commission (Commission). Current regulations specify seasons, size limits, bag and possession limits, closed fishing areas, and gear restrictions.

Recreational fishing groups and constituents, including the Coastside Fishing Club, the Golden Gate Fishermen's Association, and one Commercial Passenger Fishing Vessel (CPFV) Captain, sent letters to the Department of Fish and Wildlife (Department) and the Commission requesting several changes to Dungeness crab recreational fishery regulations. They proposed making the current Dungeness crab daily bag limits and size limits uniform statewide at ten crab that are a minimum of 5.75 inches carapace width, in order to eliminate the unfairness to fishers aboard CPFVs in Sonoma, Marin, San Francisco, San Mateo, Santa Cruz, and Monterey counties, who are only allowed to take six crab that are 6 inches or greater under current regulations. The Department has reviewed landings data for the commercial fleet in this region for the past ten seasons and recent recreational catch estimates. While there is no resource allocation between sectors, the data suggest that the increase in CPFV bag limit and decrease in minimum size limit would not significantly alter use patterns between sectors, and that maintaining different bag and size limit for CPFVs in these counties is not warranted. Therefore the Department is proposing that the separate CPFV regulatory language be removed.

The Coastside Fishing Club also requested that recreational crab traps be required to contain a destruct device to prevent 'ghost fishing' by lost traps, and that the trap buoys must contain the contact information of the crab trap operator to deter theft of crabs from traps. The Department is proposing that each crab trap possess a destruct device similar to commercial crab traps, and that each crab trap buoy must display the trap owner's GO ID number located on his/her sport fishing license.

Lastly, the Department proposes a seven day waiting period prior to the start of the Dungeness crab recreational season for deploying crab traps. This would prohibit the covert targeting of Dungeness crab under the guise of rock crab fishing before the start of the season.

In addition to these changes, the Department is proposing to add clarifying language to subsection (e) of Section 29.80, Title 14, CCR, specifying that Point Arguello is located in Santa Barbara County.

The following Title 14, CCR, regulation changes are proposed to become effective prior to the start of the 2015-16 Dungeness crab season (i.e., November 7, 2015, the first Saturday in November):

1. Remove the bag and minimum size exception language in subsections (a)(3) and (a)(7) of Section 29.85 that limits CPFVs in Sonoma, Marin, San Francisco, San Mateo, Santa Cruz, and Monterey counties to the take of six Dungeness crab that are 6 inches in carapace width or greater.
2. Add Santa Barbara County as the location of Point Arguello under subsection (e) of Section 29.80.

The following Title 14, CCR, regulation changes would specify an effective date of August 1, 2016, which immediately follows the close of the 2015-16 Dungeness crab season:

3. Add language to subsection (c) of Section 29.80 that requires, as of August 1, 2016, crab traps to have one destruct device of a single strand of untreated cotton twine size No. 120 or less that creates an unobstructed escape opening in the top or upper half of the trap of at least five inches in diameter when the destruct attachment material corrodes or fails.
4. Add language to subsection (c) of Section 29.80 that requires, as of August 1, 2016, every crab trap to be marked with a buoy and that each buoy shall be legibly marked to identify the operator's GO ID number as found on his/her sport fishing license.
5. Add language to subsection (c) of Section 29.80 that prohibits, as of August 1, 2016, crab traps from being deployed in ocean waters seven days prior to the opening of the Dungeness crab season.

Benefits of the Regulation

The Commission anticipates benefits to the State's environment and the health and welfare of California residents. The proposed regulation changes are intended to provide increased fishing opportunity, reduce incidences of derelict trap gear continuing to fish, deter crab theft and promote a more orderly fishery at the start of the Dungeness crab season, and eliminate unfairness and unnecessary complexity in the bag and size limit regulations. The Commission anticipates benefits to the environment by the sustainable management of California's Dungeness crab resources.

Consistency with State or Federal Regulations

The proposed regulations are neither inconsistent nor incompatible with existing state regulations. Section 20, Article IV, of the State Constitution specifies that the Legislature may delegate to the Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to regulate the recreational take of Dungeness crab, specifically the size and bag limits and means of taking (FGC sections 200 and 205). The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has searched the CCR and finds no other state agency regulations pertaining to the recreational take of Dungeness crab and the use of crab traps while recreational fishing.

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 Embassy Suites -- LAX North, 9801 Airport Boulevard, Los Angeles, California, on October 7, 2015, at 8 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 September 24, 2015, at the address given below, or by e-mail to FGC@fgc.ca.gov.

Written comments mailed or e-mailed to the Commission office, must be received before 5:00 p.m. on October 5, 2015. All comments must be received no later than October 7, 2015, at the hearing in Los Angeles, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Sonke Mastrup, 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 Sonke Mastrup or Sheri Tiemann at the preceding address or phone number. **Dr. Craig Shuman, Regional Manager of the Marine Region, Department of Fish and Wildlife, phone (805) 568-1246, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.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 202 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 and 11346.8 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 Analysis

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 proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

- (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 proposed regulation changes are intended to provide increased fishing opportunity, reduce incidences of derelict trap gear continuing to fish, deter crab theft and promote a more orderly fishery at the start of the Dungeness crab season.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a Dungeness crab recreational fishery encourages consumption of a nutritious food.

The Commission anticipates benefits to the environment by the sustainable management of California's Dungeness crab resources.

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 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: August 11, 2015

Sonke Mastrup
Executive Director