

**State of California
Office of Administrative Law**

**In re:
Fish and Game Commission**

Regulatory Action:

Title 14, California Code of Regulations

Adopt sections:

Amend sections: 29.85

Repeal sections:

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

OAL Matter Number: 2016-0421-02

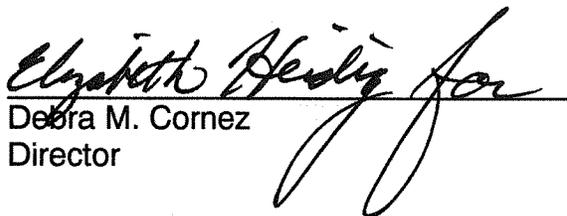
OAL Matter Type: Emergency Readopt (EE)

This is a readopt of a prior emergency regulatory action by the Fish and Game Commission to prohibit recreational take and possession of Dungeness crab and all rock crab from certain ocean waters, including bays and estuaries. This action includes modifications to the prior emergency text to designate certain ocean waters have been reopened for recreational fishing based on the recommendations of the Director of the Office of Environmental Health Hazard Assessment (OEHHA), in consultation with the Director of the California Department of Public Health (CDPH). Closure of the remaining fisheries designated shall remain in effect until the Director of OEHHA, in consultation with the Director of CDPH, determines that domoic acid levels in these crabs no longer pose a significant risk to public health. The Department of Fish and Wildlife shall maintain a list of closed ocean waters of the state and update that list on Wednesday of each week by 1:00 pm. It shall be the responsibility of any person prior to taking Dungeness crab or rock crab to call the Department's hotline or visit the Department's website to obtain the current status of any ocean water ((831) 649-2883 or www.wildlife.ca.gov/Fishing/Ocean/Health-Advisories).

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 5/4/2016 and will expire on 8/3/2016. The Certificate of Compliance for this action is due no later than 8/2/2016.

Date: May 2, 2016


Debra M. Cornez
Director

Original: Michael Yaun

Copy: Melissa Miller-Henson

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

EMERGENCY

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2016-0421-02EE
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For use by Office of Administrative Law (OAL) only

NOTICE	REGULATIONS
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ENDORSED - FILED
in the office of the Secretary of State
of the State of California

MAY 02 2016

1:42 PM

2016 APR 21 P 1:16
OFFICE OF
ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY FISH AND GAME COMMISSION	AGENCY FILE NUMBER (if any)
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A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Close recreational crab fisheries due to elevated domoic acid levels	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2015-1105-01E, 2015-1110-06N
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND
	29.85
TITLE(S) 14	REPEAL

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §511346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input checked="" type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1) *per agency memo 5-2-16*

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))
 Effective on filing with Secretary of State
 \$100 Changes Without Regulatory Effect
 Effective other (Specify) **May 4, 2016**

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

Department of Finance (Form STD. 399) (SAM §6660)
 Fair Political Practices Commission
 State Fire Marshal
 Other (Specify) _____

7. CONTACT PERSON Melissa Miller-Henson	TELEPHONE NUMBER (916) 653-6184	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) Melissa.Miller-Henson@fgc.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Melissa Miller-Henson</i>	DATE 04/21/2016
TYPED NAME AND TITLE OF SIGNATORY PROGRAM MANAGER Melissa Miller-Henson	

per agency memo 5-2-16

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

MAY 02 2016

Office of Administrative Law

Regulatory Language

Section 29.85, Title 14, CCR, is amended to read:

29.85. Crab.

(a) Dungeness crabs (*Cancer magister*)

(1) ~~Closure~~; Closures:

(A) Dungeness crab may not be taken from or possessed if taken from San Francisco Bay and San Pablo Bay, plus all their tidal bays, sloughs and estuaries between the Golden Gate Bridge and Carquinez Bridge.

(B) Dungeness crab may not be taken from or possessed if taken from ocean waters, including bays and estuaries, north of the Ventura/Santa Barbara County line north of the Sonoma/Mendocino county line at 38° 46.1' N Latitude, near Gualala in Mendocino County where the Director of the Office of Environmental Health Hazard Assessment, in consultation with the Director of the California Department of Public Health, has determined that Dungeness crab contain unhealthy domoic acid levels and recommends closing the fishery until such time as the Director of the Office of Environmental Health Hazard Assessment, in consultation with the Director of the California Department of Public Health, determines that domoic acid levels in Dungeness crab no longer pose a significant risk to public health and no longer recommends the fishery be closed. Areas may be opened on a county-by-county basis. The department shall maintain a list of closed ocean waters of the state and update that list on Wednesday of each week by 1:00 pm. It shall be the responsibility of any person prior to taking Dungeness crab to call (831) 649-2883 or go to the department's website at www.wildlife.ca.gov/Fishing/Ocean/Health-Advisories to obtain the current status of any ocean water.

(2) Open season:

(A) Del Norte, Humboldt and Mendocino counties: From the ~~first Saturday in November~~ opening date determined through subsection (a)(1)(B) through July 30.

(B) All other counties: From the ~~first Saturday in November~~ opening date determined through subsection (a)(1)(B) through June 30.

(3) Limit: Ten.

(4) Not more than 60 crab traps are authorized to be used to take Dungeness crab from a vessel operating under authority of a Commercial Passenger Fishing Vessel License issued pursuant to Fish and Game Code Section 7920.

(5) Traps and trap buoys by a commercial passenger fishing vessel to take Dungeness crab under authority of this Section and Section 29.80 shall have the commercial boat registration number of that vessel affixed to each trap and buoy.

(6) No vessel that takes Dungeness crabs under authority of this section, or Section 29.80, shall be used to take Dungeness crabs for commercial purposes.

(7) Minimum size: Five and three-quarter inches measured by the shortest distance through the body from edge of shell to edge of shell directly in front of and excluding the points (lateral spines).

(b) All crabs of the *Cancer* genus except Dungeness crabs, but including: yellow crabs, rock crabs, red crabs and slender crabs:

(1) Rock crab closure:

(A) Rock crab may not be taken from or possessed if taken from ocean waters, including bays and estuaries, north of the Ventura/Santa Barbara County line north of the Piedras Blancas Light Station in San Luis Obispo County (Latitude 35° 40' N) and in ocean waters of the state between Santa Cruz and Santa Rosa islands within the area bounded by straight lines between the following points in the order listed:

- 34° 7.75' N lat. 120° 0.00' W long.,
- 34° 7.75' N lat. 119° 50.00' W long.,
- 33° 53.00' N lat. 119° 50.00' W long.,
- 33° 53.00' N lat. 120° 0.00' W long., and
- 34° 7.75' N lat. 120° 0.00' W long.,

where the Director of the Office of Environmental Health Hazard Assessment, in consultation with the Director of the California Department of Public Health, has determined that rock crab contain unhealthy domoic acid levels and recommends closing the fishery until such time as the Director of the Office of Environmental Health Hazard Assessment, in consultation with the Director of the California Department of Public Health, determines that domoic acid levels in rock crab no longer pose a significant risk to public health and no longer recommends the fishery be closed. Areas may be opened on a county-by-county basis. The department shall maintain a list of closed ocean waters of the state and update that list on Wednesday of each week by 1:00 pm. It shall be the responsibility of any person prior to taking rock crab to call (831) 649-2883 or go to the department's website at www.wildlife.ca.gov/Fishing/Ocean/Health-Advisories to obtain the current status of any ocean water.

~~(1)~~(2) Open season:

(A) Rock crab: The rock crab season will open on the date determined through subsection (b)(1)(A) and will remain open until ~~FOAL to insert~~.

(B) All other species: All year.

August 2, 2016.

Bmc
5-2-16

~~(2)~~(3) Limit: Thirty-five.

~~(3)~~(4) Minimum size: Four inches measured by the shortest distance through the body, from edge of shell to edge of shell at the widest part, except there is no minimum size in Fish and Game districts 8 and 9.

(c) All crabs of the genus *Cancer*, including Dungeness crabs, yellow crabs, rock crabs, red crabs and slender crabs, may be brought to the surface of the water for measuring, but no undersize crabs may be placed in any type of receiver, kept on the person or retained in any person's possession or under his direct control; all crabs shall be measured immediately and any undersize crabs shall be released immediately into the water.

(d) Sand crabs (*Emerita analoga*): Limit: Fifty.

Note: Authority cited: Sections 200, 202, 205 and 220205, 220 and 240, Fish and Game Code; Reference: Sections 200, 202, 205, 206 and 220206, 220 and 240, Fish and Game Code