

these specific limits to the Commission with input from the Department of Fish and Wildlife (Department) and the recreational constituency. In accordance with the original public requests, the Department recommends that the CPFV regulations requiring different bag and size limits in the central California coastal counties be eliminated so that these limits are uniform throughout the state.

Two additional requests put forth by the Coastside Fishing Club, but later retracted in order to expedite the CPFV proposal, are also being recommended by the Department for adoption in this package. These additional proposals would require that recreational crab traps contain a destruct device to prevent 'ghost fishing' by lost traps, and that trap buoys display the contact information of the crab trap owner to deter theft of crabs from traps. The Department recommends that each trap possess a destruct device similar to commercial crab traps as well as a crab trap buoy that displays the trap owner's GO ID number, obtained from his/her sport fishing license. The Commission expressed its support of these additional requirements at the August 2014 meeting. These changes would be added to subsection (c) of Section 29.80, Title 14, California Code of Regulations (CCR).

Lastly, the Department recommends a seven day waiting period prior to the start of the Dungeness crab recreational season for deploying crab traps. This would prevent crab traps, as specified in subsection (c) of Section 29.80, Title 14, CCR, from occupying fishing grounds for Dungeness crab before the season starts. This change would also be added to this subsection (c).

In addition to these changes, the Department would like 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 subsection (c) changes would take effect one season after the CPFVs bag and size limit changes have been implemented, because unlike the proposed bag and size limit changes, these changes are more restrictive and require action on the part of fishermen, and therefore the Department felt that they should appear in the regulation booklet prior to implementation.

Background and Rationale

Current regulations for the recreational take of Dungeness crab require anglers to have on hand a gauge that can accurately measure crab that are at least 5.75 inches, or at least 6 inches if aboard a CPFV in Sonoma, Marin, San Francisco, San Mateo, Santa Cruz, and Monterey counties. In addition, they can take and possess up to ten crab per day unless aboard a CPFV in the aforementioned coastal counties where they can only take six crab per

day. The season begins statewide on the first Saturday in November and ends in Del Norte, Humboldt and Mendocino counties on July 30 while the season ends one month earlier, on June 30, in all other counties to the south.

From Sonoma County south, the recreational season allows approximately one to two weeks of fishing prior to the start of the commercial season on November 15 (depending on which day the first Saturday falls on in November), and current recreational minimum size requirements are below the 6.25 inches required by Dungeness crab commercial vessels, which provides recreational anglers an enhanced opportunity to catch crab before and during the commercial fishing season.

The CPFV regulations for the taking of Dungeness crab in Sonoma, Marin, San Francisco, San Mateo, Santa Cruz, and Monterey counties were proposed by commercial fishing interests in the early 1990s, concerned with what they thought was unfair competition from CPFVs whose fishing methods, where crewmembers set traps and pull them each day and distribute the catch to passengers aboard, closely resemble those methods employed by the commercial fishing fleet. A compromise was reached that allowed the CPFVs to continue to catch Dungeness crab but reduced the bag limit and increased the size limit.

Historically, catches have been cyclical and during the past ten seasons from 2004-05 to 2013-14, average commercial Dungeness crab landings of 7.9 million pounds from Sonoma County south have more than tripled from the 2.6 million pounds of the previous ten seasons. Preliminary catch estimates from the Department for the first two months of the 2013-14 recreational and commercial fishing seasons (November and December 2013) indicate that the recreationally-caught Dungeness crab brought in by anglers from Sonoma, Marin, San Francisco, and San Mateo counties (District 4, California Recreational Fishery Survey) accounted for about 2% of the total combined recreational and commercial catch for that area. Also, on average about 26 CPFVs per season for the last five seasons (2009-10 to 2013-14) from Sonoma, Marin, San Francisco, San Mateo, Santa Cruz, and Monterey counties have submitted daily fishing logs with Dungeness crab catch recorded on them. This is a relatively small number of vessels compared to the larger commercial fleet in the area (~10%). Although the recreational data does not include catch from Santa Cruz and Monterey counties, the increasing trend in commercial landings and the small proportion of recreational catch compared to these landings does not indicate a resource allocation issue between the commercial fleet and the recreational fishery from Sonoma, Marin, San Francisco, San Mateo, Santa Cruz, and Monterey counties.

Traps used by recreational crabbers are very similar in style to commercial

crab traps but they are not required to have a destruct device to prevent 'ghost fishing'. The requirement that commercial traps used to take finfish, mollusks or crustaceans be equipped with at least one trap destruct device is described in Fish and Game Code Section 9003 and Section 180.2, Title 14, CCR. The device on crab traps must be made of cotton twine, No. 120 or less, used to replace several meshes in the trap. If the trap is lost at sea, the cotton will decompose, and any marine life trapped inside can escape out of the opening created. Adding this requirement to recreational fished crab traps would ensure that all traps used to fish crabs in California ocean waters would be equipped with a destruct device.

Traps used by commercial fishermen are also required to be labeled appropriately according to the type of trap being used. Trap buoys in the Dungeness crab commercial fishery are labelled with the commercial fisher's license or L number as stated in Fish and Game Code subsection (b) of Section 9006. In addition, Department buoy tags identify the trap tier and permit number of the commercial vessel fishing the trap. Traps are labeled with a tag provided by the owner that must contain his/her telephone number (Section 132.1, Title 14, CCR). CPFVs are also required to label their crab traps and buoys used for taking Dungeness crab with their commercial boat registration number (subsection (a)(5) of Section 29.85, Title 14, CCR). These requirements are in place to not only identify the owner of the trap for enforcement purposes, since it is unlawful to disturb traps that belong to another person, but to potentially contact the owner if the trap becomes abandoned or derelict and is later recovered. A similar requirement for recreational crab trap buoys to contain the owner's GO ID number as listed on his/her sport fishing license would also serve the same purpose.

In the week prior to the recreational Dungeness crab opener, there is a large influx of traps placed by some individuals in ocean waters that are allegedly targeting rock crab, which have a year round open season of take. However, most of these traps are actually being used to take and hold Dungeness crab before the season opens since they are placed in Dungeness crab habitat and not in areas where rock crab catch would be expected. These traps are typically not serviced by their owners until after the season starts and are effectively fishing for Dungeness crabs in the meantime. When the traps are pulled and inspected by enforcement prior to the season opener, they are mainly occupied by Dungeness crab and very rarely by rock crab. Imposing a seven day waiting period where crab traps cannot be deployed or used prior to the opening date of the Dungeness crab season would prohibit this illegal fishing behavior and create a fairer and more orderly fishery whereby crab traps targeting Dungeness crab are not deployed until the first Saturday of November. Since recreational crab traps can only be deployed north of Point Arguello, Santa Barbara County, *ipso facto* this regulation would apply to all areas of

the California coast north of this landmark.

This seven-day moratorium of using crab traps would not prevent rock crab fishing using hoop nets or crab loop traps, also known as snares. This time period generally encompasses the last week of October or the first week of November depending on what day the first Saturday of November falls and is not considered an optimal fishing time for rock crab. The rock crab recreational fishery is open year-round and there are many other opportunities to fish using crab traps the other 51 weeks of the year, especially during the summertime.

Present Regulations

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

Proposed Regulations

The following proposed regulation changes would become effective by November 7, 2015 (first Saturday in November, 2015). The proposed regulatory changes include:

1. Removing the exception language in subsections (a)(3) and (a)(7) of Section 29.85, Title 14, CCR, limiting 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 length or greater. This change will align statewide bag and size limits.
2. Adding language to subsection (c) of Section 29.80, Title 14, CCR, requiring 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. This change will help to ensure trapped organisms can escape from a lost trap.
3. Adding language to subsection (c) of Section 29.80, Title 14, CCR, that requires every crab trap to be affixed with a buoy and that each buoy shall be legibly marked to identify the operator's GO ID number as stated on his/her sport fishing license. These changes will identify the owner of the trap for enforcement purposes since it is unlawful to disturb traps that belong to another person.
4. Adding language to subsection (e) of Section 29.80, Title 14, CCR, prohibiting all crab traps from being deployed in ocean waters seven days prior to the opening of the Dungeness crab season. This would

prevent crab traps from being in the water before the season starts, thus reducing illegal catch.

5. Adding Santa Barbara County to subsection (e) of Section 29.80 to clarify the location of Point Arguello, the southernmost landmark crab traps and crab loop traps can be used in California.

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

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

Authority: Sections 200, 202, 205, 215, & 220, Fish and Game Code

Reference: Sections 200, 202, 205, 206, 215, & 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:

Dungeness Crab Task Force Meeting in April 2014 discussed the Coastside Fishing Club proposals starting on page 11 of the final meeting summary that can be accessed at this link:

http://www.opc.ca.gov/webmaster/media_library/2009/04/DCTF_FINAL_SummaryApr22-23Meeting_06162014.pdf

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

One public recommendation was received to eliminate the 60 crab trap limit for charterboats. This recommendation was rejected. The increase in the

bag limit and a lower size limit was determined to provide additional harvest without potential issues with the Dungeness crab trap limits and trap tags implemented for commercial crab industry.

(b) No Change Alternative:

The no change alternative would leave existing regulations in place without resolving the following issues raised by the public:

1. Recreational fishers aboard CPFVs from Sonoma, Marin, San Francisco, San Mateo, Santa Cruz and Monterey counties will continue to be limited to take only six Dungeness crab that are 6 inches or greater in carapace width unlike other fishers on CPFVs in other counties or not on board CPFVs, who enjoy a larger bag limit and lower size limit.
2. Crab traps used in the recreational fishery that are derelict will continue to fish for crabs and other organisms that will become trapped inside with no means to escape.
3. There will continue to be no means to enforce Subsection 29.80(a)(3), Title 14, CCR, that states that it is unlawful to disturb, move or damage any trap that belongs to another person since no identification of the trap owner is required on traps or buoys used for the recreational take of Dungeness crab.
4. Crab traps illegally targeting Dungeness crab will continue to be deployed sometimes up to a week before the recreational season begins, giving some fishers an unfair advantage before the start of the Dungeness crab season and creating a disorderly fishery opening.
5. Point Arguello, Santa Barbara County is specified under subsection (b) of Section 29.80 regarding hoop net use, but it will not be clarified under subsection (e) of Section 29.80, the southernmost landmark crab traps and crab loop traps can be used in California.

(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 as and less burdensome to the affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action is expected to 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. 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.

VII. Economic Impact Assessment:

The economic impact of the proposed regulatory changes for the Dungeness crab recreational fishery can be estimated by tracking any resulting changes in fishing effort, defined as trapping trips and length of stay in the coastal fishery areas. Direct expenditures ripple through the economy, as receiving businesses buy intermediate goods from suppliers who then spend that revenue again. Business spending on wages is received by workers who then spend that income, some of which goes to local businesses.

The proposed changes to the recreational Dungeness crab regulations are to make the current Dungeness crab daily bag limits and size limits uniform statewide; to require that recreational crab traps contain a destruct device to prevent 'ghost fishing' by lost traps; and that trap buoys have the contact information of the crab trap owner to assist enforcement when checking that anglers' traps are in compliance and as a measure to deter theft of crabs from traps. Additionally, a seven day waiting period for deploying crab traps is proposed prior to the start of the Dungeness crab recreational season. These proposed regulatory changes are intended to provide increased fishing opportunity, less 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.

These regulatory changes are not anticipated to directly affect the level of trapping activity and thus are anticipated to be economically neutral. The proposed changes are consistent with existing scientifically-based regulations related to minimum size and season length, which maintain sustainable populations of Dungeness crab to ensure their continued existence and future Dungeness crab recreational fishing opportunities. Sustainability of Dungeness crab resources will also benefit from the reduction in “ghost fishing” due to the proposed regulations. Providing for sustainable Dungeness crab fishing in turn supports businesses that contribute to the fishery economy, such as: recreational fishing business owners, boat owners, tackle store owners, boat manufacturers, vendors of food, bait, fuel and lodging, and others that provide goods or services to those that recreationally pursue Dungeness crab off California.

Effects of the Regulation on the Creation or Elimination of Jobs within the State

The cumulative effects of the changes statewide are estimated to be neutral to the creation or elimination of jobs in California. No significant changes in fishing effort and recreational fishing expenditures to businesses are expected as a direct result of the proposed regulation changes.

Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses within the State

The cumulative effects of the changes statewide are expected to be neutral to the creation or elimination of businesses in California. No significant changes in fishing effort and recreational fishing expenditures to businesses are expected as a direct result of the proposed regulation changes.

Effects of the Regulation on the Expansion of Businesses Currently Doing Business within the State

The cumulative effects of the changes statewide are expected to be neutral to the expansion of businesses currently doing business in California. No significant changes in fishing effort and recreational fishing expenditures to businesses are expected as a direct result of the proposed regulation changes.

Benefits of the Regulation to the Health and Welfare of California Residents

Providing sustainable fishing bag limits that preserve ongoing opportunities for Dungeness crab trapping encourages recreation, which can have a positive impact on the health and welfare of California residents. Dungeness crab taken in the recreational fishery and later consumed may have positive human health benefits.

Benefits of the Regulation to Worker Safety

The proposed regulations are not anticipated to impact worker safety conditions.

Benefits of the Regulation to the State's Environment

It is the policy of this State to encourage the conservation, maintenance, and utilization of living marine resources under the jurisdiction and influence of the State for the benefit of all citizens (Section 1701, Fish and Game Code). Benefits of the proposed management actions include increased fishing opportunity, along with the continuation of the reasonable and sustainable management of recreational Dungeness crab resources.

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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.

Several constituents 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. This would eliminate the perceived unfairness to fishers aboard Commercial Passenger Fishing Vessels (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. The Department has reviewed landings data for the commercial fleet in this region for the past ten seasons and recent recreational catch estimates. The data indicate that a resource allocation problem does not exist between the commercial fleet and CPFVs to warrant a reduced bag limit and increased size limit; therefore the Department is proposing that the separate CPFV regulatory language be removed.

The Coastside Fishing Club also requested that recreational crab traps 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 owner to deter theft of crabs from traps. The Department is proposing that each trap possess a destruct device similar to commercial crab traps as well as a crab trap buoy that must contain 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 Section 29.80(e), Title 14, CCR specifying that Point Arguello is located in Santa Barbara County.

The following Title 14, California Code of Regulations (CCR), proposed regulation changes would begin by November 7, 2015 (first Saturday in November). The proposed changes include:

1. Removing the exception language in subsections (a)(3) and (a)(7) of Section 29.85 limiting 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. Adding language to subsection (c) of Section 29.80 requiring 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 to be effective August 1, 2016.

3. Adding language to subsection (c) of Section 29.80 that requires every crab trap to be marked with a buoy and that each buoy shall be legibly marked to identify the owner's GO ID number as found on his/her sport fishing license to be effective August 1, 2016.
4. Adding language to subsection (c) of Section 29.80 prohibiting crab traps from being deployed in ocean waters seven days prior to the opening of the Dungeness crab season to be effective August 1, 2016.
5. Adding the location of Point Arguello in Santa Barbara County to subsection (e) of Section 29.80.

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 (Fish and Game Code 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 California Code of Regulations and finds no other state agency regulations pertaining to the recreational take of Dungeness crab and the use of crab traps while recreational fishing.

Regulatory Language

Amend Section 29.80, Title 14, CCR, as follows:

§29.80. GEAR RESTRICTIONS.

... [No changes to subsections (a) and (b)]

(c) Crab traps:

(1) Crab traps shall have at least two rigid circular openings of not less than four and one-quarter inches inside diameter so constructed that the lowest portion of each opening is no lower than five inches from the top of the trap.

(2) Starting August 1, 2016, crab traps shall contain at least 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.

(3) Starting August 1, 2016, every crab trap except those used under authority of subsection 29.85(a)(5) of these regulations shall be marked with a buoy. Each buoy shall be legibly marked to identify the owner's GO ID number as stated on his/her sport fishing license.

(4) Starting August 1, 2016, crab traps shall not be deployed and used in ocean waters seven days prior to the opening of the Dungeness crab season.

... [No changes to subsection (d)]

(e) Crab trap areas: Crab traps, including crab loop traps, may be used north of Point Arguello, Santa Barbara County, to take all species of crabs (see regulations for take of Dungeness crabs in traps from commercial passenger fishing vessels in Section 29.85, Title 14, CCR of these regulations).

... [No changes to subsections (f) through (j)]

Note: Authority cited: Sections 200, 202, 205, 215 and 220, Fish and Game Code.

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

Amend Section 29.85, Title 14, CCR, as follows:

§29.85. CRABS.

... [No changes to subsections (a)(1) and (a)(2)]

~~(a)(3) Limit: Ten, except in Sonoma, Marin, San Francisco, San Mateo, Santa Cruz, and Monterey counties, when fishing aboard a commercial passenger fishing vessel required to be licensed pursuant to Section 7881 and/or Section 7920, Fish and Game Code, the limit is six.~~

... [No changes to subsections (a)(4) through (a)(6)]

~~(a)(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); except in Sonoma, Marin, San Francisco, San Mateo, Santa Cruz, and Monterey counties, when fishing aboard a commercial passenger fishing vessel required to be licensed pursuant to Section 7881 and/or Section 7920, Fish and Game Code, the minimum size is six 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).~~

... [No changes to subsections (b) through (d)]

Note: Authority cited: Sections 200, 202, 205 and 220, Fish and Game Code.
Reference: Sections 200, 202, 205, 206 and 220, Fish and Game Code.

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