

STAFF SUMMARY FOR APRIL 13-14, 2016

8C. SPINY LOBSTER**Today's Item**Information Action

Discuss proposed changes to California spiny lobster fishery regulations proposed to implement the California Spiny Lobster Fishery Management Plan (FMP)

Summary of Previous/Future Actions

- Discuss regulatory options and give direction Jun 10-11, 2015; Mammoth Lakes
- Notice hearing Feb 10-11, 2016; Sacramento
- **Today's discussion hearing Apr 13-14, 2016; Santa Rosa**
- Adoption hearing Jun 22-23, 2016; TBD

Background

At FGC's Jun 2015 meeting, FGC approved the MRC-supported options for implementation of and alignment with the California Spiny Lobster FMP. At that meeting, FGC directed DFW to prepare a rulemaking package with regulatory options from consensus recommendations of the Lobster Advisory Committee (Exhibit 2) and DFW. At the Feb 2016 FGC meeting, FGC authorized DFW to publish notice of its intent to amend these regulations. That notice will be published in the California Regulatory Notice Register on Apr 8, 2016. The proposed implementing regulations cover the following major areas:

- 1) Establish a new Article in Chapter 5.5, Subdivision 1, Division 1, Title 14, CCR, and add new sections 54.00, 54.01, 54.02, and 54.03. The proposed sections will:
 - a. describe the purpose and scope of the Spiny Lobster FMP;
 - b. provide relevant definitions used in the Spiny Lobster FMP; and
 - c. describe management processes and timing.
- 2) Recreational lobster fishery regulatory amendments to subsections (b) and (g) of Section 29.80 and subsections (a), (c), and (f) of Section 29.90. If adopted, the proposed amendments will:
 - a. *require hole-punching or fin-clipping of recreationally caught lobsters;
 - b. *delay the season opener to start at 6:00 a.m.;
 - c. *require buoy marking of hoop nets;
 - d. clarify existing language on the possession of a hooked device while taking lobster; and
 - e. clarify measuring requirements in order to allow for measuring lobster aboard a boat (per FGC direction on Dec 9, 2015).
- 3) Commercial lobster fishery regulatory amendments to sections 121, 121.5, 122, 705, and Appendix A and addition of new sections 122.1 and 122.2. If adopted, the proposed amendments will:
 - a. *implement a new trap limit program to specify 300 traps per lobster operator permit, establish lobster trap tags, new buoy marking requirements, and lost trap tag replacement measures;
 - b. allow permittees to hold up to two lobster operator permits;

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- c. *establish improved trap service and lost or abandon trap regulations;
- d. *update permit renewal and transfer regulations;
- e. provide modifications to existing fishing logbook format to improve data collection;
- f. clean up and improve existing regulations; and
- g. * prohibit the sale of hole-punched or tail clipped lobsters in markets (option added per Commission direction on Dec 9, 2015).

* The proposed changes marked with an asterisk (*) above are to become effective starting with the 2017-18 lobster season and not for the upcoming 2016-17 season. DFW has identified that this delay is necessary due to the time needed for DFW to procure trap tags and to provide adequate notice to fishery participants (see Exhibit 1).

These proposed regulations will achieve the sustainability and social policy objectives enumerated in Fish and Game Code sections 7050, 7055, and 7056.

Significant Public Comments

1. Mr. Rodger Healy, Commercial Lobster Advisory Representative, has concerns about the Lobster Advisory Committee (LAC) consensus recommendation of hole-punching recreationally caught lobsters. The hole-punching concept was proposed by the recreational sector to be able to differentiate between sport and commercially caught lobsters to make it more difficult for recreational lobsters to be bought, sold or traded. They achieved consensus by agreeing that commercial fishermen and licensed buyers could possess and sell hole-punched lobsters. The LAC recommendation was amended by DFW enforcement to hold buyers accountable for hole-punched lobsters, which in turn makes commercial fishermen unable to sell any hole-punched lobsters. Mr. Healy is asking FGC to support the LAC hole-punching concept in its original form, which was carefully negotiated and consensus was achieved with the full participation, including DFW enforcement lead staff at the time. This is the only recommendation of the LAC's recreational consensus recommendations that has survived.

Recommendation (N/A)

Exhibits

1. [DFW memo](#)
2. [Spiny Lobster FMP Lobster Advisory Committee Consensus Recommendations](#)
3. [ISOR and forms](#)
4. ISOR Attachments 1 (Lobster FMP) and [2 \(trap tag fee estimates\)](#) (see Exhibit 8.AB.2 for Attachment 1)
5. [DFW presentation](#)
6. [EML from Rodger Healy, received Mar 30, 2016](#)

Motion/Direction (N/A)

2016 MAR 25 AM 7:39

Memorandum

Date: March 22, 2016

To: Michael Yaun, Acting Executive Director
Fish and Game Commission

From: Charlton H. Bonham 
Director
Department of Fish and Wildlife

Subject: **Agenda Item for April 13-14, 2016, Fish and Game Commission Meeting Regarding California Spiny Lobster Fishery Management Plan Implementing Regulations.**

At the February 2016 Fish and Game Commission (Commission) meeting, the Commission authorized the Department of Fish and Wildlife (Department) to publish notice of its intent to amend regulations in Title 14, California Code of Regulations (CCR) concerning commercial and recreational spiny lobster fishing, for alignment with the California Spiny Lobster Fishery Management Plan (Spiny Lobster FMP). The Department and Lobster Advisory Committee regulatory recommendations were previously transmitted to the Commission for consideration at its April and June 2015 meetings. At the June 2015 meeting, the Commission directed the Department to prepare a regulatory package with these regulatory options. The proposed implementing regulations cover the following major areas:

- 1) Establish a new Article in Chapter 5.5, Subdivision 1, Division 1, Title 14, CCR and add new sections 54.00, 54.01, 54.02, and 54.03.

The proposed sections will:

- a. describe the purpose and scope of the Spiny Lobster FMP;
- b. provide relevant definitions used in the Spiny Lobster FMP; and
- c. describe management processes and timing.

The proposed changes marked with an asterisk are to become effective starting with the 2017-18 lobster season and not for the upcoming 2016-17 season. Delaying these proposed changes is necessary due to the time needed for the Department to procure trap tags for the proposed trap tag program for the commercial fishery. In addition, the delay is recommended so new requirements adopted for each fishery can be noticed in the commercial fishing digest and sport fishing booklets, each of which have already been published for 2016-17. The proposed changes that will be effective for the upcoming 2016-17 season are either minor changes, clarification of existing regulations, or reorganization of existing regulations.

- 2) Recreational lobster fishery regulatory amendments to subsections (b) and (g) of Section 29.80 and subsections (a), (c), and (f) of Section 29.90. If adopted, the proposed amendments will:
 - a. *require hole-punching or fin-clipping of recreationally caught lobsters;
 - b. *delay the season opener to start at 6:00 a.m.;
 - c. *require buoy marking of hoop nets;
 - d. clarify existing language on the possession of a hooked device while taking lobster; and
 - e. clarify measuring requirements in order to allow for measuring lobster aboard a boat (per Commission direction on Dec 9, 2015).

- 3) Commercial lobster fishery regulatory amendments to sections 121, 121.5, 122, 705, and Appendix A and addition of new sections 122.1 and 122.2. If adopted, the proposed amendments will:
 - a. *implement a new trap limit program to specify 300 traps per lobster operator permit, establish lobster trap tags, new buoy marking requirements, and lost trap tag replacement measures;
 - b. allow permittees to hold up to two lobster operator permits;
 - c. *establish improved trap service and lost or abandon trap regulations;
 - d. *update permit renewal and transfer regulations;
 - e. provide modifications to existing fishing logbook format to improve data collection;
 - f. clean up and improve existing regulations, and
 - g. *option added which would prohibit the sale of hole punched or tail clipped lobsters in markets (per Commission direction on Dec 9, 2015).

These proposed regulations will achieve the sustainability and social policy objectives enumerated in Fish and Game Code sections 7050, 7055, and 7056.

If you have any questions or need additional information, please contact Dr. Craig Shuman, Regional Manager of the Marine Region, by telephone at (805) 568-0216. The public notice should identify Senior Environmental Scientist, Tom Mason as the Department's point of contact for this rulemaking. He can be reached at (562) 342-7107 or by e-mail at Tom.Mason@wildlife.ca.gov.

Enclosures

ec: Craig Shuman, D. Env.
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Michael Yaun, Acting Executive Director
Fish and Game Commission
March 22, 2016
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Spiny Lobster Fishery Management Plan

Lobster Advisory Committee

Consensus Recommendations



The Department of Fish and Wildlife (DFW) presents the following Lobster Advisory Committee management recommendations for consideration by the California Fish and Game Commission. In accordance with the Marine Life Management Act, DFW convened a multi-stakeholder advisory committee¹ (LAC) in spring 2012 to provide advice, feedback and recommendations on the development and implementation of a spiny lobster fishery management plan (FMP). In support of this collaborative effort, DFW contracted the impartial facilitation services of the Center for Collaborative Policy (a unit of California State University, Sacramento) to organize a series of public and advisory committee meetings that inform development of the FMP. The recommendations included herein are the result of extensive dialogue, deliberation and consensus building, resulting in a unified message to the Commission as it considers future management of the fishery.

The LAC held a total of nine meetings from June 2012 to September 2013. At the outset, the group formulated a governance structure to facilitate its work together, jointly developing and adopting a charter that describes guiding principles for the effort, membership, roles and responsibilities, decision-making procedures and outreach protocols. Early meetings afforded educational opportunities that fostered common understanding of the fishery management issues being discussed. Later in the process, commercial and recreational members held multiple caucus meetings with DFW to advance development of proposals on a range of issues related to each sector. In addition, DFW solicited broad feedback from the commercial sector via a survey of all permit holders. The combination of caucus discussions and the DFW survey helped stimulate discussion and refinement of various management proposals among the full LAC membership.

Ultimately, the LAC reached consensus on a broad policy statement for the fishery, a commercial trap limit and multiple recreational management measures. The LAC's consensus recommendations are detailed below. Commissioners and other interested parties may refer to the LAC charter and meeting summaries for additional information and context as to how the LAC conducted its work. Documents are available on the DFW website: <http://www.dfg.ca.gov/marine/lobsterfmp/>.

Fishery Policy Statement

Consensus achieved at September 11, 2013 LAC Meeting

Building on LAC member interests, DFW introduced a draft policy statement that provides guidance to the Commission as it seeks to meet the following Marine Life Management Act mandate, particularly during times when a decrease or increase in fishery resource allocation is considered or warranted:

FGC 7072 (c): "To the extent that conservation and management measures in a fishery management plan either increase or restrict the overall harvest or catch in a fishery, fishery management plans shall allocate those increases or restrictions fairly among recreational and commercial sectors participating in the fishery."

LAC Action: The LAC achieved consensus on the five objectives below as a broad policy statement to guide allocation considerations for the lobster fishery.

¹ See table 2 below for the full Lobster Advisory Committee membership composition.

- Identify current effort levels for each sector, and establish controls to prevent unrestricted growth.
- Identify the proportion of overall catch and/or effort from each sector, and, if necessary, take corrective action to maintain those proportions if the percent of total catch and/or effort by sector deviates significantly from a pre-determined base period.
- Recognize the current differences between sectors in traditional fishing grounds and time-of-day fished, and seek to maintain those differences.
- If increases or decreases to the fishery are required due to application of the control rule, those changes should seek to maintain equitability and not give an advantage to either sector unless biological triggers require a change to allocation.
- End illegal commercialization.

Commercial Lobster Fishery Recommendation

Consensus achieved at August 15, 2013 LAC Meeting

The LAC achieved consensus on a commercial trap limit program. The recommendation includes a description of trap permit categories and associated provisions, general provisions and goals and objectives. Upon implementation the program is expected to hold the fishery at or slightly below current trap numbers. Future effort reduction may be realized over time, which in turn will contribute to a reduction in bycatch and lost gear. The establishment of a trap limit and use of trap tags will provide improved understanding of the amount gear used in the fishery. The temporary "phase-in" stacking permit will allow a permittee to temporarily stack an additional permit (allowing the permittee to fish up to 300 additional traps) for a period of up to three years. The aim of the temporary phase-in stacking permit is to provide a bridge opportunity for permittees who are seeking to purchase a second permit (transferable permit) but are unable to do so immediately following the establishment of the 300 base trap limit.

LAC Action: The LAC achieved consensus on all commercial management measures and associated goals and objectives included in the table below.

Table 1. Commercial Trap Limit

CATEGORY	NUMBER OF TRAPS	PROVISIONS
"300" Transferable Permit (T) "300" Non-transferable permit (NT)	300	<ul style="list-style-type: none"> • May stack another permit for a maximum of 2 permits (2 x 300 traps = 600 trap maximum) • The second permit remains transferable • Death provision applies only to transferable permits (NT permits are not transferable – even due to death)
Phase-In Stacking Permit	300	<ul style="list-style-type: none"> • Available to either transferable or non-transferable permittees • Non-transferable permit • Only available for three years (must be renewed annually) • Permit funds would go for commercial lobster research & monitoring – (\$5,000 - \$10,000 annual permit fee) • Would become effective when trap limits go into effect

GENERAL PROVISIONS

- Death provision applies only to transferable permits
- All traps must be tagged (on trap or buoy or both)(must be purchased annually); details to be worked out with LED
- Catastrophic gear loss provision; details to be worked out with LED (application would include requirement to report details of loss)(Information could be shared with permitted recovery projects)
- Allow scuba equipment on board commercial vessels to retrieve lost traps or remove line from prop (not allowed to "fish" when on scuba)
- More than one permittee may operate from a single vessel; each permittee whose traps are being pulled must be aboard
- 7 day soak time using "Federal Rules" regarding weather
- Limit use of "note" to fish traps by other than permit holder. May open (and retain the lobsters within) or retrieve traps belonging to another lobster fisherman with a note and notification to DFW LED (details to be worked out with LED); may not bait or fish traps for another permittee
- Allow commercial fishermen to start hauling their traps to sea before the season starts on the Monday before opening week (9 days before the commercial opener) and allow traps with doors open to remain in the water not more than 9 days after the close of the season
- Branding of floats allowed (details to be worked out with LED)

GOALS/OBJECTIVES OF PROPOSAL

Short Term: realized when regulations implemented

- Expected to reduce gear (once Phase-In permits expire)
- Cap Capacity of fleet (traps)
- Accurate assessment of gear being used

Long Term:

- Feedback loop used to adapt to additional data, fishery changes and successes/failures (Regular review by DFW and stakeholders to assess progress toward goals and objectives)
- Viable and sustainable industry
- Moves fishery toward compliance with MLMA
- Reduce conflict on the water
- Adjust fishery to "post-MPA" circumstances

Recreational Lobster Fishery Management Recommendations***Consensus achieved at August 15 and September 11, 2013 LAC Meetings***

The LAC reached consensus on five recreational management measures, including a tail-cutting proposal, a limitation on the use of mechanized pullers, a new season opener time, a clarification of the diver prohibition on carrying hooked devices (spear guns to be allowed), and a proposal to mark hoop net floats. A broad majority of the LAC supported a proposal to set a seasonal limit (70) for the recreational fishery and a proposal to ban the use of conical hoop nets. Opposition from two recreational members prevented consensus on each of these proposals. Of note, neither of these members offered an alternative proposal to address commercialization (the intent of the seasonal limit) or to address problems associated with the rapid rise in the use of hoop nets in recent years. Each recommendation below describes the relevant issue, the introduced proposal and the LAC action following discussion, deliberation and, in most cases, refinement of the original proposal.

Issue: Lobster caught by recreational fishermen is being sold in the commercial market place. Requiring sport fishermen to clip or punch the center tail flap makes it possible for law enforcement to identify lobsters caught in a recreational fishery that end up in the market and take appropriate legal action. This proposal will give law enforcement a tool to address buyers and markets that purchase lobster from recreational fishermen.

Proposal: Recreationally caught lobsters are to be tail-clipped (removing the bottom half of the central tail flap) or tail-punched in the central tail flap (Australia requires a 10 mm minimum hole). Additional details will be worked out with LED (e.g. clipped when landed?).

LAC Action: The LAC achieved consensus on the tail-clipping proposal above. The LAC did not achieve consensus on a seasonal limit as a tool to reduce illegal commercialization.

Issue: Use of mechanized pullers has made it easier to rob from commercial traps.

Proposal: Restrict the use of mechanized pullers only to persons in possession of proof of disability/medical (Disabled Mechanized Hoop Net Puller Permit). This restriction would only pertain to power driven mechanized pullers and not hand operated davits with single pulley systems.

Clarification: This restriction only applies to individuals targeting or in possession of lobster, not persons solely targeting crab.

DFW Disabled Mechanized Hoop Net Puller Permit Form:

The following conditions must be met to qualify for issuance of a Disabled Mechanized Hoop Net Puller Permit: ***“For the purposes of this permit a disability means a permanent loss, significant limitation, or diagnosed disease or disorder, which substantially impairs an individual’s ability to physically pull by hand and retrieve a hoop net for the purpose of targeting lobster.”*** A medical physician must sign the permit application form.

LAC Action: The LAC achieved consensus on the mechanical puller restriction proposal above. Some members noted that the broad wording of the disability option could render the management measure ineffective and suggested that the LAC work with DFW Enforcement to ensure the new rule has “teeth” when it is applied.

Issue: The midnight opener creates a “rush” mentality that fuels conflicts between recreational users and poses a safety risk. The current lobster opener date and time can be difficult to understand (confusion regarding when the season actual “starts”) and constituents are having trouble following the law. DFW has been asked to consider an alternate start time.

Proposal: Make the lobster opener 6:00 a.m. on Saturday instead of 12:01 a.m. on Saturday.

Key discussion points

- New time is workable for DFW Enforcement
 - Proposal improves safety conditions
 - Regulatory change has no impact on the resource
 - Commercial season dates would not change
-

LAC Action: The LAC achieved consensus on the lobster opener proposal above. The group acknowledged concerns regarding the economic impact this proposal may have on some dive charters.

Issue: Marking hoop net floats will improve accountability and safety among recreational fishermen, and may help reduce illegal commercialization.

Proposal: Hoop net floats should be marked with unique ID (DL, Go ID, etc. — details to be worked out with LED).

LAC Action: The LAC achieved consensus on the marked hoop net proposal above. A second element of the original proposal, that hoop net floats be “closely attended”, did not receive full group support due to concerns over enforceability challenges.

Issue: Spear fisherman have been harassed or cited for carrying a spear gun while in the pursuit of lobster. Constituents have asked for clarity on the definition of a “hooked” device.

Proposal: Keep change simple. **Ensure regulatory language focuses on how lobster can be taken (i.e. “skin and scuba divers may take lobsters by hand only”) and not how it cannot be taken; remove “hooked device” term from current regulations.** The proposal allows for possession of a spear gun or pole spear underwater while hunting lobsters. Misuse of this equipment to take lobster (lobster can only be taken by hand) would remain illegal.

LAC Action: The LAC achieved consensus on the hooked device proposal above.

Table 2. Lobster Advisory Committee Membership

<i>Member Name</i>	<i>Constituent Group</i>
Rodger Healy	Commercial Fishing Member
Jim Colomy	Commercial Fishing Member
Shad Catarius	Commercial Fishing Member
Josh Fisher	Commercial Fishing Alternate
Jim Salazar	Recreational Fishing Member
Michael Gould	Recreational Fishing Member
Al Stasukevich	Recreational Fishing Member
Paul Romanowski	Recreational Fishing Alternative
Lia Protopapadakis	Marine Science Member
Kevin Hovel	Marine Science Member
Jono Wilson	Marine Science Alternate
Sarah Sikich	Environmental NGO Member
Huff McGonigal	Environmental NGO Alternate
Sean Hastings	Federal Agency Member
David Kushner	Federal Agency Alternate
Claudette Dorsey	Non-consumptive Recreational Member
Chris Grossman	Non-consumptive Recreational Member
Stefan Partelow	Non-consumptive Recreational Alternate



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

Amend Subsections (b) and (g) of Section 29.80, Amend Subsections (a) and (c) and Add Subsection (f) of Section 29.90, Amend Sections 121, 121.5, 122, and 705, Add Article 5, Sections 54.00, 54.01, 54.02, and 54.03,
And Add Sections 122.1, and 122.2, Title 14, California Code of Regulations
Re: California Spiny Lobster Fishery Management Plan Implementing Regulations

I. Date of Initial Statement of Reasons: February 24, 2016

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: February 10, 2016
Location: Sacramento

(b) Discussion Hearing: Date: April 13, 2016
Location: Santa Rosa

(c) Adoption Hearing: Date: June 22, 2016
Location: Bakersfield

III. Description of Regulatory Action:

(a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Regulations are proposed to implement a Fishery Management Plan (FMP) for California spiny lobster (*Panulirus interruptus*) pursuant to the Marine Life Management Act (MLMA) of 1999 (Fish and Game Code (FGC) sections 7070-7088 et seq.), and to amend existing commercial and recreational lobster regulations to improve management of the spiny lobster fisheries and support orderly fisheries. The MLMA was passed to implement the State's policy of ensuring "the conservation, sustainable use, and, where feasible, restoration of California's marine living resources for the benefit of all the citizens of the State" (FGC Section 7050(b)).

The MLMA provides guidelines for the development and adoption of FMPs, including a description of the contents of FMPs (FGC sections 7075-7088 et seq.). The MLMA contemplates the management of state fishery resources through FMPs implemented by the Fish and Game Commission (Commission) regulations (FGC Section 7078). The process of developing FMPs and the implementing regulations is expected to make management objectives and marine fishery regulations more readily available and clearer to the Commission, the Department of Fish and Wildlife (Department), and the

public. The California Spiny Lobster FMP (attachment 1) is scheduled for adoption by the Commission at its April 2016 meeting.

An extensive public scoping process was used by the Department to inform the development of the California Spiny Lobster FMP and the proposed implementing regulations. In accordance with the MLMA (FGC Section 7076(a)), the Department sought interested individuals representing a broad range of stakeholder interests to provide advice and assistance in developing the FMP. The Lobster Advisory Committee (LAC) was formed in the spring of 2012, following a call for volunteers by the Department. The LAC provided guidance on FMP objectives as well as management recommendations addressing key issues identified during the LAC process. The LAC consisted of representatives from the marine science community, the recreational fishing sector, commercial fishing sector, the non-consumptive recreational sector, the environmental community, and the federal government. Nine LAC meetings occurred between June 2012 and September 2013 (see Section e: Public Discussions of Proposed Regulations Prior to Notice Publication). All meetings of the LAC were open to the public, and public input was encouraged. Meeting announcements were posted on the Department's California Spiny Lobster FMP website and the public was encouraged to sign up for the California Spiny Lobster FMP news email service. Meeting summaries, as well as various background documents, are also available on the Department's website at: www.wildlife.ca.gov/Conservation/Marine/Lobster-FMP/Involved.

Once adopted and implemented through the proposed regulations, the California Spiny Lobster FMP will establish a management program for the spiny lobster recreational and commercial fisheries and detail the procedures by which the Department manages and Commission regulates the spiny lobster resource. The California Spiny Lobster FMP prescribes a harvest control rule (HCR) for the spiny lobster fisheries (attachment 1; see section 4.3). The HCR serves as the foundation for managing the fisheries in the future as well as the primary mechanism to prevent, detect, and recover from overfishing as required by the MLMA. The HCR is a type of adaptive management framework that identifies potential conservation problems and prescribes appropriate management response measures. The harvest control rule consists of three parts: 1) reference points, 2) a control rule matrix, and 3) conservation and management measures listed in the control rule toolbox. Reference points are the metrics used to gauge the status of the fishery. The three lobster reference points are: 1) Catch, 2) Catch Per Unit Effort (CPUE), and 3) Spawning Potential Ratio (SPR).

In addition to providing input on the development of the California Spiny Lobster FMP, the LAC also formed consensus on several commercial and recreational regulatory amendments that serve to create a more orderly and safe fishery, improve management, clarify regulations, and improve enforceability of regulations. The LAC proposals were compiled into a finalized consensus recommendation on September 11, 2013. Representatives from the Department met separately with the LAC Recreational and Commercial representatives to clarify and define the details for describing regulation changes that would be enforceable and effective (attachment 1; see

Appendix IX). The LAC proposals along with the Department's recommendations (attachment 1; see Appendix IX) were submitted to the Commission for consideration at its April 2015 meeting. At the Commission's June 2015 meeting, the Commission directed the Department to prepare this regulatory package using the Department's commercial and recreational recommendations as part of this FMP and implementing regulations.

At the direction of the Commission, three LAC consensus recommendations are not included in this regulatory proposal; 1) restricting the use of mechanized pullers in the recreational fishery, 2) a phase in approach to the commercial trap limit, and 3) clarifying the provisions for the branding of commercial floats. A description and rationale for excluding these three recommendations from this regulatory package are provided in the "Consideration of Alternatives" Section C.

Upon the adoption of the California Spiny Lobster FMP by the Commission, a corresponding set of implementing regulations must be adopted to enact the FMP. The California Spiny Lobster FMP implementing regulations will:

- 1) establish a new Article in Chapter 5.5, Subdivision 1, Division 1, Title 14, California Code of Regulations (CCR)
- 2) amend existing recreational lobster fishery regulations
- 3) amend existing commercial lobster fishery regulations
- 4) modify existing commercial lobster logbook to collect additional data needed to manage the fishery
- 5) amend lobster operator permit requirements and fees
- 6) create new regulations that establish applications for transferring permits and affidavits for requesting replacement trap tags and reporting trap loss

Additionally, FGC subsection 7071(b) provides authority for the Commission to adopt regulations that implement a fishery management plan or plan amendment and make inoperative any fishery management statute that applies to that fishery. To implement the conservation and management measurements identified in the FMP and the proposed trap limit, the implementing regulations of this FMP will render the following sections of the FGC inoperative once they are adopted:

- 1) FGC sections 8251, 8252, and 8258. These sections prescribe the commercial season length, size limit, and list the Districts where commercial lobster traps may be used. The FMP contemplates changes to season length, minimum size and district closures as possible future conservation and management measures. The commercial season length and size limit will be moved into Title 14, CCR, reflecting the Commission's authority to make future adjustments.
- 2) FGC sections 7857(e), 7857(j), 8102, 8103, and 8254(c). These sections state the conditions for issuing and transferring commercial permits and lobster operator permit fees. Each will be made inoperative as they apply to the spiny lobster fishery to be consistent with the commercial spiny lobster limited entry fishery permit program described in the FMP and proposed trap limit program.
- 3) FGC section 9004: This section requires commercial fishermen to service any deployed trap every 96 hours. The proposed trap servicing regulation in new

Section 122.2 will extend the servicing requirement to every 168 hours. As such, this section will be rendered inoperative as applied to the spiny lobster fishery.

The proposed regulations are drafted to serve the sustainability and social policy objectives enumerated in FGC Sections 7050, 7055, and 7056.

Current Regulations

Regulations used to manage spiny lobster recreational and commercial fisheries are found in multiple sections of Title 14 of the CCR. Section 29.80 provides general gear restrictions for the recreational take of crustaceans. Section 29.90 provides recreational fishery regulations specific to spiny lobster with report card requirements for the recreational fishery found in Section 29.91. Fishery Management Plan regulations are found in Chapter 5.5 Article 1, Section 50 et seq. Section 121 regulates the possession of spiny lobster during the closed season and Section 121.5 regulates the processing of spiny lobster. Section 122 provides regulations for the commercial fishery, including permit requirements, gear provisions, trap servicing requirements, restricted fishing areas, permit transfers, and logbook requirements.

Proposed Regulatory Changes

Proposed regulations that are substantive regulatory changes (e.g., commercial trap limit and change to the sport season opening time) are proposed to be effective for the 2017-18 spiny lobster season, not the upcoming 2016-17 season, which starts in October 2016. Proposed changes to sections 29.80(b)(2), 29.90(a), 121.5(e), 122(b)(3), 122(c)(2)(A), 122(c)(5)(A), 122.1(c), 122.2(b)(2), 122.2(d)(2), 122.2(f), and 122.2(i) will become effective with the 2017-18 lobster season. Reasons for this delay are related to the additional time that will be needed for the Department to acquire trap tags for the proposed trap tag program for the commercial fishery. In addition, the delay is recommended so that the new regulations can be noticed in the commercial fishing digest and sport fishing booklets, which are already published for the 2016-17 season. By not delaying the substantive changes identified above, the information in the 2016-17 commercial fishing digest and sport fishing booklet will be outdated and will cause public confusion. The regulatory changes that will be effective upon adoption for the 2016-17 season are not new regulations but are either minor changes, FGC sections that are made inoperative and moved into Title 14, or reorganizing of existing regulations.

1) Recreational Regulation Adjustments

Amend Subsection 29.80(b)(2), Title 14, CCR; Hoop Net Servicing Requirements.

Proposed Changes

Current regulation states, "Any hoop net abandoned or left unchecked for more then 2 hours shall be considered abandoned and seized by any person authorized to enforce these regulations." This regulation change would correct wording from "then" to "than".

Necessity and Rationale

Non-substantive change to fix a grammatical error.

Add new Subsection 29.80(b)(3), Title 14, CCR; Marking Hoop Net Floats with GO ID Number.

Proposed Changes

Subsection 29.80(b) provides provisions relating to the recreational use of hoop nets to take crustaceans. Current regulations do not require hoop net floats to be marked. Beginning on April 1, 2017, the proposed subsection would require each hoop net used south of Point Arguello to have a surface buoy legibly marked with the operator's GO ID number as stated on his or her recreational fishing license or lobster report card to provide enforcement personnel with the ability to confirm the identity of each hoop net operator. Hoop nets deployed from shore and manmade structures connected to the shore are not required to be marked with a surface buoy.

Necessity and Rationale

Currently, there is no requirement for marking hoop nets or attached floats to easily identify the individual using them; improving accountability. The proposed regulation will allow Law Enforcement Division (LED) to easily verify the operator of each hoop net in the field. This regulation would require each hoop net to have a surface buoy legibly marked with the operator's GO ID number. These regulations will also identify the operator if the hoop net becomes abandoned or lost and is later recovered. The proposed regulation will help LED determine whether an operator is pulling his or her own hoop nets and to identify the operator of hoop nets that are used unlawfully in restricted fishing areas (e.g. Marine Protected Areas). A similar regulation is currently in place for recreational crab traps, where buoys are to be marked with the operator's GO ID number as listed on his or her sport fishing license (Section 29.80(c)(3)). The proposed regulation will only affect hoop nets used south of Point Arguello since the Department did not have the opportunity to scope the recreational fishery using hoop nets north of Point Arguello.

Amend Subsection 29.80(g), Title 14, CCR; Clarifying Existing Language on the Possession of a Hooked Device While Taking Spiny Lobster.

Proposed Changes

Subsection 29.80(g) provides provisions relating to the recreational take of crustaceans while diving and specifically states that while in pursuit of crustaceans divers may not possess any hooked device while diving or attempting to dive and that crustaceans can only be taken by hand. The proposed amendment will clarify that spearfishing gear may be possessed by divers while pursuing crustaceans so long as the gear is not used to aid in the take of lobsters; a crustacean.

Necessity and Rationale

Some divers carry spearfishing gear to opportunistically take fish while pursuing lobsters. This has led to different interpretations of what constitutes a “hooked device” and has resulted in citations for spear fishermen who were in possession of spearfishing gear while pursuing lobsters by hand. This regulatory change will provide clarification for both recreational divers and LED. Proposed regulatory language will make it clear that possessing spearfishing gear is allowed while taking lobsters in compliance with all applicable regulations.

Amend Subsection 29.90(a), Title 14, CCR; Recreational Season Opener.

Proposed Changes

Currently, the regulation states that the recreational season opens at 12:01 a.m. (midnight) on the Saturday preceding the first Wednesday in October. Beginning with the 2017-2018 spiny lobster season, the proposed regulation would move the start of the recreational season six hours later from the current start time of 12:01 a.m. to 6:00 a.m.

Necessity and Rationale

The current recreational season 12:01 a.m. start time has led to concerns over safety due to the numerous dive related accidents that routinely occur on opening nights. The recreational lobster fishery is primarily a nighttime fishery for both divers and boat based anglers using hoop nets. The new 6:00 a.m. season start time will spread the initial recreational fishing effort across an entire day and night as opposed to bottlenecking the effort right at midnight. This should result in a safer, more orderly fishery opener for both boat-based fishermen and divers while also improving enforceability due to increased visibility during the early morning opener.

Amend Subsection 29.90(c), Title 14, CCR; Measuring Spiny Lobster for Minimum Size Limit.

Proposed Regulation

Currently, this regulation allows for spiny lobster to be brought to the surface of the water to be measured, but it prohibits any sub-legal size lobsters from being brought aboard any vessel. The proposed regulation would allow for spiny lobster caught via hoop netting to be brought out of the water for measuring only. This would allow hoop net fishermen to bring lobster onto a boat, pier, or any platform from which they are fishing to measure lobster. Any sub-legal sized lobsters will still be required to be returned immediately to the water after measuring. Recreational lobster divers will still be required to measure all lobster while in the water.

Necessity and Rationale

The current requirement to measure spiny lobster before they are brought aboard the vessel has been determined to be a safety issue for recreational hoop net fishermen who typically fish at night and have to lean over the side of a boat to measure spiny

lobster at the surface of the water. In addition, it is not possible for someone fishing from a pier to measure lobster in the water. The proposed change will allow individuals to bring spiny lobster out of the water so they may be safely measured.

Option to add new subsection 29.90(f) marking of spiny lobster linked to option 121.5(e) prohibiting the possession of marked spiny lobsters in markets.

Add new Subsection 29.90(f), Title 14, CCR; Requiring the Tail-Clipping or Hole Punching of Spiny Lobsters Taken in the Recreational Fishery and Prohibiting the Release of Tail Clipped or Hole-Punched Spiny Lobster.

Proposed Changes

Currently, there is no regulation requiring the marking of spiny lobster to distinguish between those lobsters caught by the recreational and commercial fisheries. The proposed regulatory options would require recreational hoop netters and divers to:

Clip (Figure 1a) or hole-punch (a minimum diameter of one-fourth inch (1/4 inch), Figure 1b) the center tail fin of all retained spiny lobsters at or before the time catch information is required to be recorded on spiny lobster report cards (14 CCR Section 29.91(C)).

The proposed regulation would also prohibit the release of tail clipped or hole-punched lobster back into the water, with the exception of LED staff releasing hole punched lobster that have been retained unlawfully that may be encountered during enforcement activities.

Necessity and Rationale

The recent rise in the ex-vessel value of spiny lobster (Figure 2) has provided increased incentive for the illegal commercialization of recreationally-caught spiny lobsters. Some jurisdictions in other parts of the world require recreational fishermen to hole-punch the tail or remove the center tail fin of each lobster taken in the recreational fishery to distinguish recreationally-caught lobsters from commercially-caught lobsters. Requiring the clipping or hole-punching of the center tail flap is a simple tool to implement and enforce and can help prevent recreationally-caught spiny lobsters from entering the black market. Proposed regulation also includes a prohibition on the release of recreationally caught spiny lobsters that are hole-punched or tail clipped. This provision is to prevent hole-punched or tail clip spiny lobsters from entering the commercial market. Some in the commercial sector have expressed a concern that recreational fishermen may intentionally release hole-punched or tail clipped lobsters, which would make them unavailable for sale (as proposed in Section 121.5(e)) if caught by commercial fishermen.

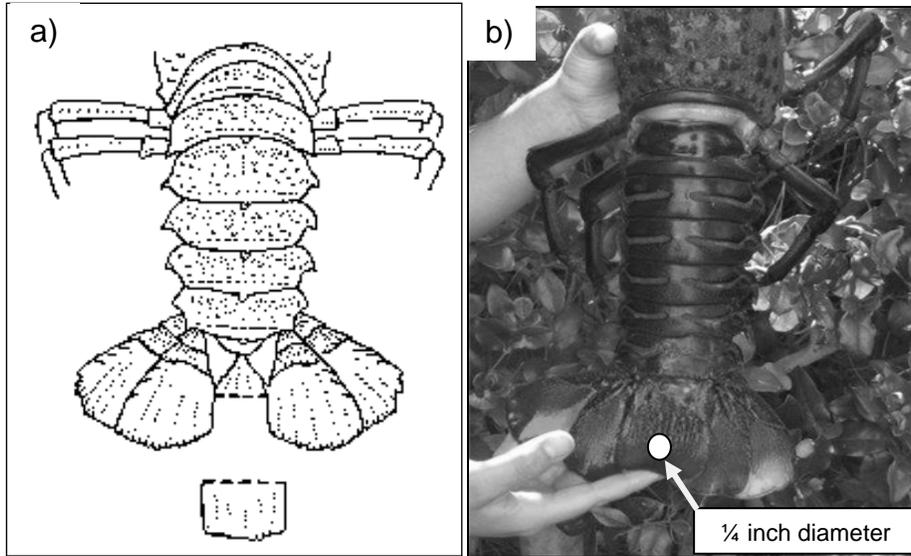


Figure 1. Proposed regulations for recreationally caught spiny lobster. Retained lobster will be required to have their center tail fin removed (a) or a hole punched in their center tail fin (minimum 1/4 inch diameter) (b) by the time that they are reported on spiny lobster report cards.

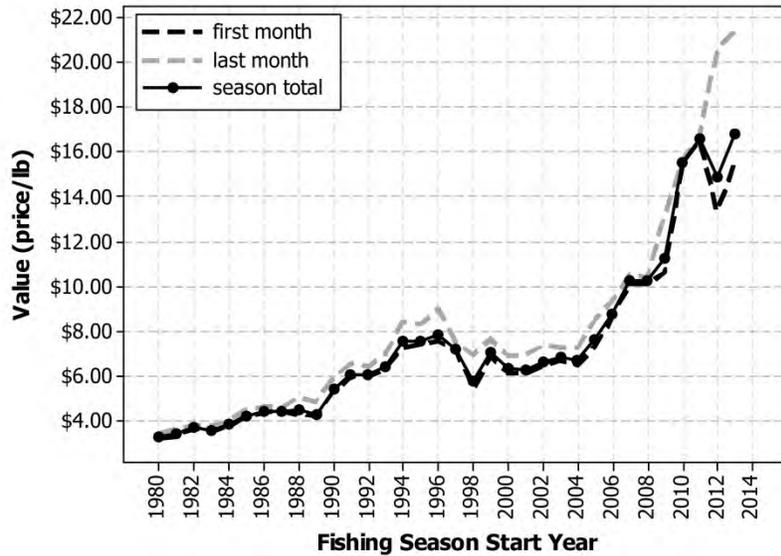


Figure 2. Average ex-vessel price/lb. of spiny lobster during the first month of the fishing season, last month of the fishing season, and total fishing season from 1980-2013 fishing seasons.

2) California Spiny Lobster Fishery Management Plan

Add Article 5.0 to Chapter 5.5, Title 14, CCR; California Spiny Lobster Fishery Management Plan

Proposed Changes

This regulatory proposal will add Article 5.0 California Spiny Lobster Fishery Management Plan to Chapter 5.5, specifically sections 54.00, 54.01, 54.02, and 54.03 to Chapter 5.5 within Title 14 of the CCR. Regulations within Chapter 5.5 of Title 14 of the CCR primarily describe the overarching management strategy of the State's FMPs. FMPs generally describe the 1) purpose and scope of each FMP, 2) relevant definitions used in each FMP, 3) process and timing of management, and 4) details regarding the management framework (e.g., harvest control rules, allocations). The new Article for the California Spiny Lobster FMP will contain four Sections: 54.00 Purpose and Scope, 54.01 Definitions, 54.02 Management Process and Timing, and 54.03 Harvest Control Rule.

Add Section 54.00, et seq. This proposed series of regulations serves to implement the California Spiny Lobster FMP, as follows:

Section 54.00 - Purpose and Scope. This section clarifies the purpose of this article consistent with the objectives and goals of the MLMA. It also states that this article together with other applicable state and federal laws and regulations will govern the spiny lobster fisheries.

Section 54.01 - Definitions. This section provides definitions that are specific to this new article. All definitions in this section are based on and are consistent with the definitions found in the California Spiny Lobster FMP. The definitions are also consistent with other provisions of state and federal laws.

Section 54.02 - Management Process and Timing. This section states that the management of the spiny lobster fisheries would conform to the California Spiny Lobster FMP and applicable California law. The Department will monitor the condition of the fisheries and the spiny lobster population and provide reports and recommendations as needed.

Section 54.03 - Harvest Control Rule. This section serves to outline the proposed management actions presented in the California Spiny Lobster FMP. This section also provides other management and conservation measures that may be considered by the Commission for implementation at a later date, consistent with the goals and objectives of the California Spiny Lobster FMP. The California Spiny Lobster FMP prescribes a Harvest Control Rule (HCR) as the primary management tool for the spiny fisheries. The HCR contains: 1) a set of three threshold reference points, 2) a HCR matrix, and 3) a control rule toolbox of conservation and management measures. Descriptions of the three components of the HCR are provided below.

1. Threshold reference points are the trigger points for potential management actions. The three threshold reference points in the California Spiny Lobster FMP are based on commercial lobster season Catch in weight, CPUE, and SPR. Each threshold reference point is designed to gauge a particular aspect of the commercial fishery and set at a level that if crossed, would be indicative of changes within the commercial fishery or spiny lobster resource that may require management action.
2. The HCR matrix is the tool prescribed by the California Spiny Lobster FMP to guide the interpretation of the status of the spiny lobster stock at any given time based on the status of the three threshold reference points (e.g., Catch, CPUE and SPR).
3. The eight conservation and management measures within the control rule toolbox of the California Spiny Lobster FMP were developed with input from the LAC and each have been utilized to manage lobster fisheries around the world. Several tools, such as a minimum size limit, are already used in California. The eight conservation and management measures are: change the commercial trap limit, change the recreational bag limit, implement a total allowable catch (TAC), fishing district closures, change season length, change minimum size limit, impose a maximum size limit, and implement a sex-selective fishery. These tools have been analyzed by Department staff and vetted with public constituents during the LAC process.

The HCR is designed to provide spiny lobster fisheries management with a proactive and coherent framework. The status of the spiny lobster fisheries would be assessed using predetermined metrics and interpretations, and management responses will be derived from the previously-vetted conservation and management measures.

3) Proposed Commercial Amendments

Amend Section 121 Title 14, CCR; Lobsters, Spiny. Possession During Closed Season

Proposed Changes

Current regulations in Section 121 provide provisions for the possession of spiny lobsters during the closed season. Current FGC Section 8251 sets the commercial fishing season for taking spiny lobster and provides provisions for baiting commercial traps in advance of the commencement of the commercial season. Section 121 will be amended by adding language currently found in FCG 8251 to new subsection 121(a), which defines the start and end of the commercial spiny lobster season as between the first Wednesday in October and the first Wednesday after March 15. Provisions of FGC 8251 on when commercial traps can be baited are added to new Section 122.2 and described in that section. Existing regulations in Section 121 relating to the possession of spiny lobster during the closed season will be lettered 121(b) and the title of Section

121 will be amended to read: Lobster, Spiny. Open Season and Possession During Closed Season.

Necessity and Rationale

FGC Section 7078 gives the Commission authority to adopt regulations to implement an FMP and to list FGC sections that are made inoperative as to the particular fishery covered by the FMP. One of the conservation and management options in the HCR in the California Lobster FMP is a change to the commercial fishing season. In order for the Commission to make future regulatory changes to the season length as contemplated by the FMP, the commercial fishing season as described in FGC Section 8251 is moved into Title 14 Section 121. FGC Section 8251 will be made inoperative as listed in the California Spiny Lobster FMP and these proposed regulations adopted by the Commission according to the process described in FGC sections 7078 and 7088.

Amend and add new Subsections to Section 121.5, Title 14, CCR; Lobster, Spiny. Minimum Size and Verification

Proposed Changes

Current regulations in this section describe the conditions that spiny lobsters are to be maintained in so that the minimum size of spiny lobsters as described in FGC 8252 can be verified. Current FGC Section 8252 sets the commercial minimum size for spiny lobsters at 3.25 inches in length, describes how the measurement is to be taken, requires the possession of a measuring device, and the immediate release of undersized lobsters. Section 121.5 will be renamed: "Lobster, Spiny. Minimum Size and Verification. Current subsections (a) and (b) will be re-lettered (c) and (d), respectively, with minor, non-substantive changes to clarify the existing regulations. This includes the addition of the term "fixed caliper" to the requirement of possessing a measuring device in subsection 121.5(b) to clarify the type of measuring device that must be possessed. New language is added from FGC Section 8252 to new subsection 121.5(a) that defines the minimum size and new subsection 121.5(b) that defines how spiny lobsters are to be measured.

Option to add Subsection 121.5(e) linked to option 29.90(f)

A new subsection (e) is added to Section 121.5, prohibiting the sale or possession of hole-punched or tail clipped spiny lobsters by any marketplace.

Necessity and Rationale

Section 7078 of the FGC gives the Commission the authority to adopt regulations to implement an FMP and Section 7088 of the FGC provides that each FMP list any FGC sections that are made inoperative as to the particular fishery covered by the FMP. One of the management options in the California Spiny Lobster FMP Harvest Control Rule is a change to the minimum size of spiny lobsters that can be taken in the commercial fishery. Currently, the minimum size is set in the FGC. In order for the Commission to make future regulatory changes to the minimum size as contemplated by the FMP, the commercial minimum size limit as described in FGC Section 8252 is moved into Section 121.5, Title 14, CCR. Section 121.5(e) will be added to support the enforceability of the

proposed regulation (Title 14, Section 29.90(f)) which will require the hole punching or tail clipping of recreationally caught lobster to address the issue of illegal commercialization of recreationally caught lobster. LED staff feels this regulation is necessary to enforce the marking provision proposed for the recreational fishery. Section 8252 of the FGC will be made inoperative, as listed in the California Spiny Lobster FMP, and the proposed new regulations Section 121.5 will be adopted by the Commission according to the process described in FGC Sections 7078 and 7088.

Amend and add new Subsections to Section 122, Title 14, CCR; Lobster, Spiny. Permits to Take.

To improve the organization and clarity of commercial regulations pertaining to the commercial take of spiny lobster, the proposed changes groups the subsections contained in Section 122 by similar regulation subject (Table 1) as well as amend and add new regulations to provide additional information and/or clarification. Some subsections in Sections 122 that regulate the marking of traps and buoys and pulling of traps will be amended and moved to new sections 122.1 and 122.2, respectively. To reflect the proposed reorganization, Section 122 is to be renamed “Spiny Lobster Permits and Restricted Areas”. The changes to Section 122 are described below.

Table 1. Summary of proposed relocation of existing subsections within Section 122.

CURRENT SUBSECTION NUMBER	REGULATION SUBJECT	PROPOSED SUBSECTION NUMBER
122(a)	Classes of Lobster Permits	No change
122(b)	Permit Renewal	No change
122(c)	Permit Transfers, Procedures, and Timeline	No change
122(d)	Permit Renewal	Move to 122(b)(2)
122(e)	Permit Renewal	Move to 122(b)(2)
122(f)	Permit Renewal	Move to 122(b)(4)
122(g)	General	Move to new 122(h)
122(h)	General	Proposed to be repealed*
122(i)	Pulling Lobster Traps	Move to 122.2(a)
122(j)	Lobster Buoys and Trap Tags	Move to 122.1(a)
122(k)	Lobster Buoys and Trap Tags	Move to 122.1(b)
122(l)	Pulling another permit holders traps	Moved to 122.2(h)**
122(m)	Pulling Lobster Traps	Move to 122.2(g)
122(n)	Pulling Lobster Traps	Move to 122.2(b)(1)
122(o)	Restricted Fishing Areas	New 122(d)
122(p)	General	New 122(e)
122(q)	General	New 122(f)
122(r)	Permit Transfers, Procedures, and Timeline	Move to 122(c)

* Subsection 122(h) will be repealed from the regulations as certain sections of the FGC applicable to lobster will become inoperative with the adoption of the California Spiny Lobster Fishery Management Plan and the proposed regulatory package.

** Section 122(l) The current requirement for servicing another fisherman's trap is proposed to be moved to 122.2(h) and replaced for the 2017/18 lobster season by a new subsection 122.2(i) and a formal Department waiver process proposed under Section 122.2(i)(2) of this regulatory package.

Amend Subsection 122(a), Title 14, CCR; Classes of Lobster Permit.

Proposed Changes

Currently, Section 122(a) describes take of spiny lobster as authorized under the three classes of spiny lobster permits in the commercial fishery: transferable lobster operator permit, non-transferable lobster operator permit, and lobster crewmember permit. The proposed amendments to paragraph (3) of Subsection 122(a) will clarify that any licensed commercial fisherman that does not possess a valid transferable or non-

transferable lobster operator permit may purchase a lobster crewmember permit that will allow him or her to accompany and assist the lobster operator permit holder in the take of spiny lobster. In addition, minor modifications are proposed in paragraph (4) of Subsection 122(a) for clarity and consistency with terminology used in paragraph (1) of Subsection 122(a).

Necessity and Rationale

The proposed amendments are minor, non-substantive changes that would provide clarity and consistency of the existing regulations.

Amend Subsection 122(b), Title 14, CCR; Permit Renewal.

Proposed Changes

Currently, regulations pertaining to permit renewal are contained in various subsections under Section 122. To improve the logical organization of these regulations, amended Section 122(b) will be entitled "Permit Renewal." Current subsections 122(b) will be renumbered as paragraph (1) of subsection 122(b), and 122(d) and (e) are proposed to be consolidated into paragraph (2) of subsection 122(b). In addition, the proposed regulatory amendment will include a new provision (subsection 122(b)(3)) allowing the issuance of no more than two lobster operator permits to a licensed commercial fisherman. This new provision will bring this section into conformance with the new trap limit program (further detailed below in the new Section 122.1). Current requirements described in subsection 122(f) that outline the procedures and deadline for permit renewal will also be moved to Section 122(b) and renumbered as paragraph (4) under this subsection 122(b)(4).

Necessity and Rationale

The proposed grouping and relocation of existing subsections by regulation subject are non-substantive changes to improve organization and clarity of the regulations. The addition of subsection 122(b)(3) is necessary to create consistency between existing and new regulations for the trap limit proposed as part of this regulatory package.

Amend Subsection 122(c), Title 14, CCR; Permit Transfer, Procedures, and Timeline.

Proposed Changes

New subsection 122(c) is proposed, entitled "Permit Transfers, Procedures, and Timelines." Proposed changes to this subsection are summarized below.

Current subsection 122(c), which requires notice of a permit transfer, will be renumbered as paragraph (1) under new subsection 122(c) with minor amendments to the regulatory text in which "Fish and Game Commission" is replaced with "commission."

Current subsection 122(r)(1) will be amended and renumbered as paragraph (2) under subsection 122(c). Subsection 122(r)(1) currently allows for the transfer of a

transferable lobster operator permit by a permit holder provided that an application in the form of a notarized letter is submitted to the Department and the nonrefundable transfer fee is paid. Under the proposed amendment, a permit holder will be required to submit a notarized transfer application (DFW 1702) (New 2/2016) with the nonrefundable transfer fee to the Department in order to transfer his or her permit to another licensed commercial fisherman. The transfer will be effective upon approval of the application by the Department. In addition, the proposed amendment includes a new provision subsection (122(c)(2)(A)) that, beginning with the 2017-2018 permit year, if the lobster operator permit is transferred to a person with a valid transferable lobster operator permit and a non-transferable lobster operator permit, the non-transferable lobster operator permit becomes null and void and must be surrendered to the Department. This new requirement is consistent with the proposed provision of subsection 122(b)(3), in that a licensed commercial fisherman will not be issued more than two lobster operator permits.

Proposed new regulation (3) under subsection 122(c) is a new requirement that delays the transfer of a lobster operator permit when the permit holder is facing pending violations that could affect the status of the permit. This will prevent a permit from being transferred in an effort to avoid a suspension or revocation of a permit.

Current subsection 122(r)(2) will be amended and renumbered as new paragraph (4) under subsection 122(c). Currently, the estate of a transferable lobster operator permit holder may transfer that permit no later than one year from the death of the permit holder (subsection 122(r)(2)). The proposed amendment will extend the deadline for the estate to apply to transfer a transferable permit from one to two years.

Current subsection 122(r)(3) will be amended and renumbered as new paragraph (5) under subsection 122(c). Currently, a non-transferable permit becomes null and void upon the death of the individual to whom the permit was issued (subsection 122(r)(3)). The proposed amendment will add a requirement that requires the estate to immediately surrender the permit, including any Department issued trap tags to the Department after the death of the permit holder.

Proposed new regulation (6) under subsection 122(c) adds appeal provisions for permit transfers. Under existing regulations no appeal provisions for denial of a transfer are specified. Under this new requirement, any applicant who is denied transfer of a transferable lobster permit may appeal the denial in writing to the Commission within 60 days of the date of the Department's decision.

Necessity and Rationale

The proposed grouping and relocation of existing regulations by subject are non-substantive changes to improve organization and clarity. The amendments also include new permit transfer procedures and deadlines to improve the administration and management of permits within the commercial lobster fishery. The limited-entry nature of the commercial fishery restricts the number of commercial participants. As such, the amendments will clarify the eligibility requirements and procedures in which the

Department will authorize the transfer of a lobster operator permit to allow permit holders to participate in the fishery.

Subsection 122(c)(3) is amended to standardize requirements for transfer of Lobster Operator Permits. The proposed regulation requires a notarized transfer application to formalize the transfer process and collect accurate information from the permit holder and the proposed permit holder in the place of a notarized letter for each transfer.

Subsection 122(c)(2) is proposed for added clarity in cases where a fisherman may be in possession of multiple lobster operator permits of different classes. When a lobster operator permit holder holds two permits, the proposed regulation clarifies that if a fisherman holds a non-transferable and a transferable lobster operator permit, the transfer of a second transferable permit to that fisherman would render the non-transferable permit null and void. This would require the permit holder to surrender the nontransferable permit and tags to the Department. This proposal is consistent with other regulations proposed as part of this regulatory package, including subsection 122(b)(3) and Section 122.1 (trap limit program).

In addition, to clarifying transfer procedures, the proposed amendment includes a new process (subsection 122(c)(6)) as a means for applicants to appeal the denial of a permit transfer if applicants do not agree with the decision made by the Department. Regulations for other fisheries have appeal provisions if a transfer of a permit is denied by the Department.

In the case of a lobster operator permit holder's death (subsections 122(c)(4) transferable permits and subsection 122(c)(5) non-transferable permits), the amendments require the estate surrender the permit and trap tags (beginning with the 2017-18 lobster season) to the Department and extends the deadline for the estate to apply for a transfer of a transferable lobster permit. This amendment is necessary because it is unlawful for the estate to fish the permit and therefore is required to surrender the permit to the Department and it will allow more time for the estate to transfer a transferable permit after the death of the permit holder. The proposed regulations are consistent with current regulations for southern rock crab trap permits with the estate allowed two years from the date of the permit holder's death to transfer the permit to another commercial fisherman (Title 14 Section 125(e)(4)).

Add new Subsection 122(d), Title 14, CCR; Restricted Fishing Areas.

Proposed Changes

As discussed above, several regulations contained in Section 122 are relocated and grouped by related subject to improve clarity and enforceability. As such, subsection 122(o) describing closed areas around harbors is amended as new subsection 122(d) with amendments to the descriptions of the restricted fishing areas. Current regulations in subsection 122(o)(2)(A), subsection 122(o)(2)(B), and subsection 122(o)(2)(C) within Title 14 will be amended by replacing current descriptions of restricted commercial fishing area boundaries with latitude and longitude

coordinates that can be easily referenced and plotted using GPS. Currently, restricted fishing area boundaries for Newport Bay, Dana Point Harbor, and Oceanside Harbor are defined by landmarks, navigational markers, and compass headings. The proposed regulations will provide clarity and improved spatial resolution for these boundaries using latitude and longitude coordinates.

Necessity and Rationale

This amendment is necessary to modernize the descriptions and provide for added clarity and enforcement. Many of the spatially referenced regulations currently found in Title 14 were created prior to GPS technology being readily available to the public. This resulted in general landmark locations and compass headings being the primary tool used to define spatially referenced regulations, which can sometimes result in regulations that are unclear and open to interpretation. For regulations that define restricted fishing areas (e.g. Marine Protected Areas), it is important to have well defined and clear boundaries that can be easily interpreted and visualized. GPS technology provides this means and updating restricted fishing areas to latitude and longitude coordinates will greatly improve the understanding of these spatially referenced regulations. In addition, the current regulations do not accurately describe the restricted fishing area boundaries for Dana Point Harbor and Oceanside Harbor due to changes in the current locations of buoys and markers referenced in the regulations (Figure 3). For Dana Point Harbor, the eastern boundary of the restricted commercial fishing area will be extended to the current location of red buoy "4" as described in the current regulations. It is important to note that new charts list this buoy as red buoy "2". For Oceanside Harbor, the southeastern boundary of the commercial fishing restricted area will be extended to adjust for an incorrect compass heading used to define the southeastern boundary line. This heading results in a boundary that does not extend completely to the southern jetty as described in the current regulation. This amendment will correct these minor boundary discrepancies and provide coordinates that can aid commercial fishing and navigational activities.

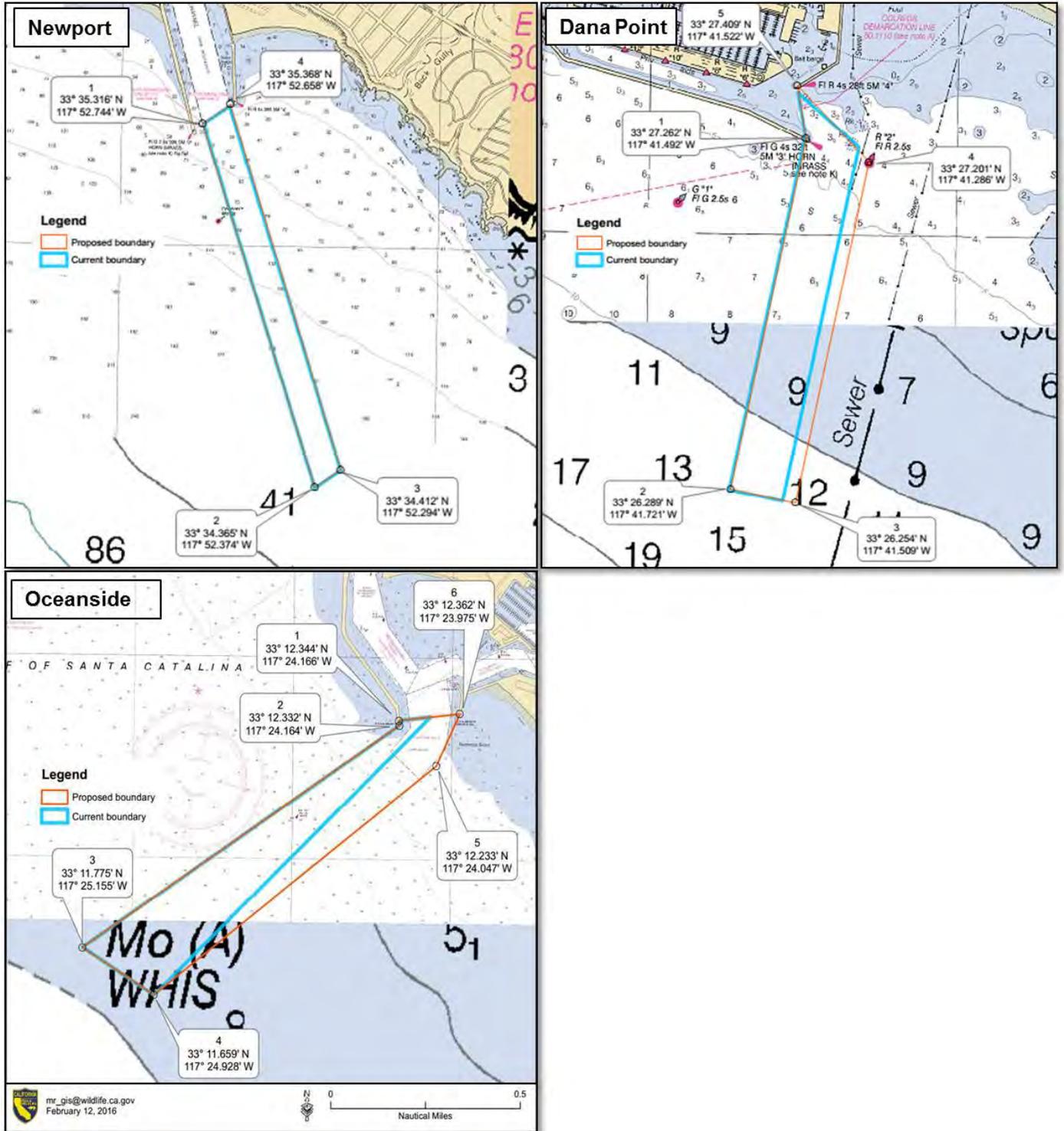


Figure 3. Proposed boundary modifications to restricted commercial fishing areas around Newport Bay, Dana Point, and Oceanside Harbor. The blue boundary lines represent the current boundaries defined by the regulations and the red boundary lines represent the proposed boundaries.

Amend Subsection 122(e), Title 14, CCR; Records.

Proposed Changes

Currently, any person who owns and/or operates any vessel used to take lobster must complete and submit an accurate record of all lobster fishing activities on a form (Daily Lobster Log, DFG 122) provided by the Department (Subsection 122(p)). As indicated in Table 1, current 122(p) is proposed to be re-lettered 122(e) as part of the restructuring of section 122. Additionally, an update to the format of the Daily Lobster Log (DFG 122 (7/96)), as referenced in the current regulation, is proposed to improve the collection of fishery-dependent data. The updated Daily Lobster Log (Rev. 03/04/16) is incorporated by reference into proposed subsection 122(e). Daily Lobster Log DFG 122 (7/96) differs from DFW 122 (Rev. 03/04/16) as follows:

1. Form contents have been updated to replace all instances of “Department of Fish and Game” with “Department of Fish and Wildlife” so that the form reflects the Department’s name change, effective January 1, 2013, pursuant to Assembly Bill 2402.
2. The “Daily Lobster Fishing Log” page has been retitled “Daily Lobster Log” and the “Notice to Individuals” section of this page has been changed to “Notice to Permittees” to be consistent with language used in the daily lobster log form and the regulations.
3. Form notices were updated to include the Regional Manager of the Marine Region as the official for maintaining the daily lobster log information and FGC Section 8022 disclosure statement.
4. The “Southern California Fisheries Chart” map elements has been updated to include scale bars, delineation of U.S. and Mexican waters, map borders with latitude and longitude marks, and acknowledgements and notes to improve the presentation of spatial information.
5. Form instructions were updated to include new Department mailing address to return completed forms, additional definitions and instructions for new fields to ensure the consistency of the information recorded, and to improve the clarity of existing instructions.
6. The updated log page will now have only two fishing activity sections per page due to changes in the page layout to accommodate new fields. The important instructions are updated to reflect the reduction in activity sections.
7. The updated log page will now require the reporting of geographic coordinates (“LATITUDE” and “LONGITUDE”) for “TRAP LOCATIONS,” which will replace “NEAREST LANDMARK.” New fields have been added to record the numerical value for latitude and longitude in degree and decimal minutes.
8. The updated log page will also provide two additional spaces (four spaces total) to record corresponding “LANDING RECEIPT NUMBER(S)” for each fishing activity section.
9. A new field named “# OF TRAPS CURRENTLY DEPLOYED” has been added to the log page under the “DATE TRAPS PULLED” section, which will require the reporting of number of traps currently deployed or fished.

Updated instructions that explain when and how logs are to be filled out as well as when the logs are to be turned in to the Department will accompany the form.

Necessity and Rationale

Currently, the reporting of landmarks for trap locations on the existing Daily Lobster Log form is not useful for management as the name and size of area for a particular landmark can vary from fisherman to fisherman. The proposed requirement of recording the geographic coordinates for a string or group of traps would modernize the location reporting requirement, be more consistent, and improve the Department's spatial understanding of fishing practices. Better spatial information on fishing practices will also be useful for informing gear recovery programs, identifying potential conflicts within the marine environment and for informing the issue of marine mammal gear interactions.

Increasing the number of spaces for fishermen to record landing receipt numbers would provide additional data to help the Department quantify the average weight of commercial lobsters landed. Average weight is a key input used to calculate the spawning potential ratio used to manage the fishery under the California Spiny Lobster FMP. Information on the number of lobsters caught and pounds landed come from two different sources. The number of legal size lobster retained by the commercial fishery is reported on the Daily Lobster Log and pounds landed reported on commercial landing receipts. Adding an additional space to record the landing receipt number associated with the catch on the Daily Lobster Log will improve correlation of these two data sources resulting in better estimates of the average weight of lobsters landed in the fishery.

The requirement to report of number of traps deployed will allow the estimation of number of traps fished at any one time during the season. This information is needed to estimate the number of traps used in the fishery and inform any future changes to the trap limit as contemplated in the California Spiny Lobster FMP. Overall, the proposed changes to update the format of the Daily Lobster Log will help improve Department fishery-dependent data collection, correlation of fishing logs and landing receipts, and overall assessment of the commercial fishery.

Amend Subsection 122(f), Title 14, CCR; Logs Submittal Requirements for an Annual Permit.

Proposed Changes

Current subsection 122(q), which requires a fisherman to submit his/her lobster logs in order to be eligible for a successive year annual permit is now under subsection 122(f).

Necessity and Rationale

This is a minor, non-substantive change in the numbering of subsections.

Add new Subsection 122(g), Title 14, CCR; Allowing More Than One Operator Permit Holder to Operate from the Same Vessel and Liability.

Proposed Changes

Current regulations do not explicitly prohibit more than one fisherman with a lobster operator permit from operating out of the same vessel at the same time. This regulation is being amended to clarify the provisions surrounding this activity. It states that if multiple lobster operator permit holders operate from the same vessel during the same trip, they may share joint liability for any potential violation arising out of their fishing activities. In addition, the proposed regulation clarifies that each permittee whose traps are being pulled must be aboard the vessel.

Necessity and Rationale

Current regulations do not define who is liable for fishing violations in situations where multiple lobster operator permit holders fishing jointly on one vessel. This proposed addition would provide clarification for fishermen who operate from the same vessel and help them understand their responsibilities. The proposed regulation will minimize confusion regarding liabilities for fishing violations and improve enforcement surrounding this activity.

Repeal Subsection 122(h), Title 14, CCR

Proposed Changes

Currently, subsection 122(h) describes the responsibilities and conditions of each lobster operator permit holder their agents, servants, employees, or those acting under their direction or control to adhere to all of the provisions of the FGC and regulations of the Fish and Game Commission. This section is proposed for deletion from Section 122.

Necessity and Rationale

This regulation is redundant with FGC Section 12000 and unnecessary within Title 14 because as written it reiterates that all laws must be followed by permit holders and is a condition of the permits. FGC Section 12000 details that any violation of the Fish and Game Code or regulation adopted under the code, is a misdemeanor.

Add new Subsection 122(h), Title 14, CCR; Permission to Carry SCUBA Gear on Commercial Vessels.

Proposed Changes

Currently, no SCUBA equipment or other breathing device may be used to assist in the take of spiny lobster from a commercial lobster vessel (subsection 122(g)). Commercial harvest of spiny lobster is permitted only with the use of traps (subsection 122(a)(2)). The proposed new subsection 122(h) would replace current subsection 122(g) regulation and clarify that SCUBA equipment may be used for the purpose of locating and securing traps for retrieval. This new provision also specifies that lobsters contained in traps that had been secured using SCUBA may be possessed only after those traps have been serviced aboard the fishing vessel within the trap service interval requirement.

Necessity and Rationale

The proposed regulation is added to provide clarification on the use of SCUBA in the commercial fishery. This provision would allow SCUBA equipment to be kept onboard a commercial fishing vessel for the purpose of locating and securing traps only, and not to be used in the take of lobsters. This regulation will help to reduce gear loss by allowing fisherman to retrieve traps that would potentially be lost. In addition, this regulation will assist permit holders to retrieve the individual trap tags that are secured to these traps. Since the new trap tag program will limit the number of traps each fisherman can fish, each trap tag will represent a unit of effort that cannot be replaced and there will be a greater incentive to recover trap tags.

Add new Section 122.1, Title 14, CCR; Lobster Buoys and Trap Tags.

Proposed Regulations

This regulatory proposal will add Section 122.1 to Title 14, which will contain existing regulations on lobster buoys and a proposed new spiny lobster trap limit program. As

discussed above, several existing regulations in Section 122 are proposed to be organized into new sections by similar subjects to improve clarity and enforceability. As such, current Section 122 regulations that explain buoy use (Section 122(j)) and describe proper identification markings on a buoy (Section 122(k)) will be moved to this section as subsection 122.1(a) and subsection 122.2(b), respectively. Minor additional modifications were made to the existing regulatory text of these proposed new subsections for clarity and consistency. In addition, subsection 122.2(c) is added to this section that detail the proposed spiny lobster trap limit program, effective beginning with the 2017-2018 commercial spiny lobster season.

Currently, there is no regulation in place that limits the number of traps each commercial lobster fisherman may fish. The proposed regulations would create a trap limit program for the commercial spiny lobster fishery. Under this new program, a commercial fisherman that holds a valid lobster operator permit may fish up to 300 traps for each valid lobster operator permit in his or her possession. A commercial fisherman may hold up to two lobster operator permits allowing them to fish a maximum of 600 traps (300 for each permit). To implement this new trap limit program, each lobster trap deployed must be marked with a single Department-issued trap tag and each trap buoy must be marked with a buoy tag that is supplied by the fisherman. The buoy tag must be legibly marked with the lobster operator permit number and the number that is listed on the trap tag that the buoy is marking. Before the beginning of each fishing season, each lobster operator permittee will be issued 300 individually numbered trap tags for each valid lobster operator permit they possess. They will not receive any additional trap tags for that season unless they submit a signed “catastrophic loss” affidavit to the Department (proposed affidavit added to Section 705 of these regulations). This would allow for the in season replacement of trap tags lost due to a “catastrophic loss,” which is defined as the cumulative loss by a lobster operator permit holder of 75 or more trap tags for each valid lobster operator permit due to such circumstances beyond the permit holder’s control, such as weather, force majeure and acts of God. The affidavit will require the lobster operator permittee to provide details regarding the circumstances leading to the catastrophic loss event, dates the loss occurred, and the identification numbers of the lost trap tags. All affidavits need to be reviewed and approved by the Department before any replacement tags are issued. A nonrefundable fee will be charged for each replacement tag. Any trap tag reported as lost are null and void and if subsequently recovered during the season must be returned to the Department.

Necessity and Rationale

Establishing a trap limit for the commercial spiny lobster fishery is one of the most important components of the California Spiny Lobster FMP implementing regulations. The trap limit provisions proposed by the LAC solution with input from the Department address an ongoing problem identified by fishery participants. As demonstrated above in Figure 2, the ex-vessel price per pound of spiny lobster has risen significantly in the past years while, at the same time, the number of total trap pulls that the fleet experienced each fishing season has also increased (Figure 4). Feedback from commercial fishermen suggests that the total number of traps that each fisherman uses is increasing as well. This escalation of trap usage is likely brought on by competition

for fishing grounds and the externalization that continue to incentivize individuals to increase their respective trap numbers.

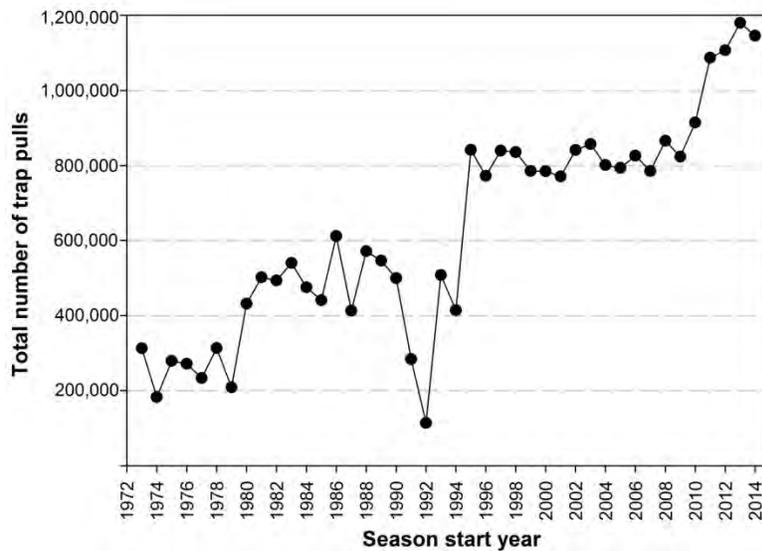


Figure 4. Total trap pulls recorded by the commercial spiny lobster fishery from 1973-2014 commercial fishing seasons.

The upward trend in the number of trap pulls in the fishery is unlikely to impact the biological sustainability of the spiny lobster stock itself due to other regulations currently in place. For example, all traps deployed by commercial fishermen are required to be outfitted with escape ports that allow small sub-legal sized individuals to escape and clips that are designed to dissolve overtime (destruction device). However, the reported rise in number of traps used in the fishery may impact other components of the ecosystem as well as increase the possibility of gear loss. More lost gear can, in turn, negatively impact the marine environment as well as the experience of those who enter that environment for recreational and other commercial purposes.

The escalating number of gear can also reduce the profitability of the commercial spiny lobster fishery. MLMA fishery management objectives include observing the long-term interest of people dependent on fishing for food, livelihood, or recreation” (FGC Section 7056(i)), and allowing fishery participants to propose methods to prevent or reduce excess effort in marine fisheries” (FGC Section 7056(e)). In 2013, the Department conducted the “California Department of Fish and Wildlife Commercial Lobster Survey” which targeted all holders of transferrable and non-transferrable lobster operator permits. The survey found that a majority of the respondents were in support of a trap limit. Of the 111 holders who responded, over 76 percent responded “yes” to the question, “Do you think there needs to be a trap limit?” Of the respondents who supported the trap limit, 48 percent wanted a trap limit of 300 or less and 34 percent wanted a trap limit of 350-400 traps. Of these respondents, 52 percent also expressed

support for the ability to hold two permits to fish a maximum 600 traps while 67 percent did not support more than two permits.

Based on the responses to the 2013 survey, the LAC was asked to consider the development and implementation of a trap limit for the commercial sector. As a group, the LAC reached consensus on recommendations to establish a 300-trap limit for each lobster operator permit and implement the use of trap tags modelled generally after the Dungeness crab trap tag program. Under this new program, each commercial lobster fisherman will be required to properly affix a Department-issued trap tag to the lobster trap along with an identifying buoy tag, supplied by the lobster operator permit holder, affixed to the lobster trap buoy to verify the number of traps fished and aid enforcement. Trap tags also provide a method to identify and return lost traps to owners during the fishing season. Following these consensus recommendations from the LAC, the Department proposes regulatory amendments that will allow a licensed fisherman to possess a maximum of two lobster operator permits, and for each lobster operator permit held, the Department will issue 300 trap tags before the start of the fishing season. The possession of two lobster operator permits will allow a commercial fisherman to deploy a maximum of 600 traps. The 300-trap limit attached to each lobster operator permit applies to both transferrable and non-transferrable lobster operator permits. The establishment of a trap limit program and trap tag provisions will optimize and create a more orderly commercial fishery as well as provide improved understanding of the amount gear used in the fishery.

In addition, a catastrophic loss provision is proposed as part of the trap limit program, which will allow lobster operator permit holders to replace lost trap tags over a season. A catastrophic loss is defined as a loss of 75 or more traps with tags (25% or more loss) per permit, based on the LAC consensus recommendations. The catastrophic loss tags would be uniquely identifiable for enforcement purposes. This provision takes into consideration unusual or unforeseen circumstances that may be encountered during a season and help ensure that these circumstances do not pose an unfair hardship for fishermen to operate within their allotted number of traps.

Add new Section 122.2, et seq. Title 14, CCR; Pulling Lobster Traps.

This regulatory proposal will add Section 122.2 to Title 14, which will specify (and therefore clarify) the pulling of traps for the take of spiny lobster. As discussed above, organizational changes affecting several Section 122 regulations are proposed to consolidate similar regulations in the same section and improve clarity and enforceability. Accordingly, the proposed changes would move current regulations that specify the time of day during which lobster traps shall not be pulled, raised, or placed in the water (subsection 122(i)) and provisions for which traps may be placed in the water before the opening of the spiny lobster season (subsection 122(n)) and disturbed or moved by Department employees (subsection 122(m)), and servicing another fisherman's traps (subsection 122(l)) to this section as subsections 122.2(a), subsection 122.2(b)(1), subsection 122.2(g) and subsection 122.2(h), respectively. In addition, the proposed regulatory package would make existing FGC Section 8251 inoperative and language of that FGC section specifying that lobster traps may be set

and baited 24 hours in advance of the spiny lobster season opening date is moved to this section as subsection 122.2(c). The current trap servicing requirement found in FGC Section 9004 that requires traps to be serviced every 96 hours (4 days) will be made inoperative and added to new subsection 122.2 (d)(1). Subsection 122(d)(1) will only be in effect for the 2016-2017 season and is proposed to be replaced by subsection 122.2(d)(2) extending the trap service requirement from 4 to 7 days. Minor additional modifications were made to the existing regulatory text of the proposed new subsections for clarity and consistency. For example, proposed subsection 122.2(g) will replace the wording of “shall” to “may” when referring to Department staff inspecting commercial fishing traps while on official duty. New regulatory proposals in this section are discussed further in the subsection summary below.

Add new Subsection 122.2(b)(2), Title 14, CCR; Grace Period for Deploying and Retrieving Traps during the Closed Season.

Proposed Regulation

The proposed regulation would provide a three-day extension to the current grace period for which fishermen have to deploy traps before the start of the commercial season and to retrieve traps after the commercial season ends. Under current regulations, legally marked lobster traps may be placed in the water not more than six days before the opening of the season and may remain in the water for not more than six days after the close of the season, provided that the traps are unbaited with doors wired open (subsection 122(n)). Beginning with the 2017-2018 spiny lobster season, the proposed new subsection would allow fishermen to deploy their traps into the water nine days before the start of the season and nine days after the end of the season to retrieve traps and transport them back to shore. With the exception for the allowance of baiting traps 24 hours in advance of the start of the commercial season, any trap that is deployed before the season starts or is left in the water after the end of the season will still be required to be left unbaited and wired open.

Necessity and Rationale

The extended grace period will provide additional time for fishermen to transport their traps to their desired fishing locations. It was discussed during the LAC process that the current six-day allowance posed a safety issue, since fisherman are currently overloading their boats with traps during the pre-season deployment period. Another benefit to the fishery is that this extended time would allow fishermen extra time to transport their own traps to fishing location, since currently some fishermen pay others to transport their traps. Similarly, the grace period after a season’s close only requires fishermen to clean out the bait jars from their deployed traps, and the physical traps can be retrieved and transported safely over a course of nine days. The proposed regulation would give fishermen three extra days to further buffer these margins of safety. The new regulation will retain the requirement of keeping the traps unbaited and wired open during the grace periods. This requirement will continue to minimize the risk of unwanted bycatch and ghost fishing

Add new Subsections 122.2(d)(1) and 122.2(d)(2), Title 14, CCR; Trap Service Requirement .

Proposed Changes

Current regulation in FGC Section 9004 requires that fishermen raise, clean, service, and empty their lobster traps at time intervals not to exceed 96 hours (four days) and also provides fisherman with an exemption if weather conditions do not allow the fisherman to service their traps. The proposed regulations would make current FGC Section 9004 inoperative as it relates to lobster and add the current service requirement of 96 hours to subsection 122.2(d)(1) to be effective for the 2016-2017 lobster season only. Beginning with the 2017-2018 lobster season, subsection 122.2(d) (2) will replace subsection 122.2(d)(1) and extend the maximum allowable trap servicing requirement to 168 hours (7 days). No weather exemptions are provided in the proposed subsection 122.2(d)(2), which is consistent with federal regulations governing servicing of fixed gear (50 CFR Section 660.230(b)(3)).

Necessity and Rationale

The proposed regulation would extend the allowable trap servicing requirement to seven days. The proposed longer servicing requirement originated from the LAC process to provide fishermen with more discretion to selectively service their traps based on prevailing weather conditions and economic incentives. In addition, the current four-day service requirement does not supply some fishermen with enough time to service all of their traps. The seven-day servicing requirement is also in line with the federal regulation controlling the maximum servicing requirement for fixed gears in federal water (50 CFR Section 660.230(b)(3)), which does not provide specific or general weather exemptions.

Add new Subsection 122.2(e), Title 14, CCR; Abandoned Traps.

Proposed Regulation

The proposed regulation specifies that it is unlawful to abandon lobster traps in the waters of the state. A trap will be considered abandoned if it is not retrieved 14 days after the close of the commercial spiny lobster season. The regulation further specifies that from 15 days after the close of the season through September 15, an unlimited number of lobster traps may be retrieved by a lobster operator permit holder or a Department designee and transported to shore.

Necessity and Rationale

Current regulations do not define when a trap is considered abandoned. The proposed regulation will provide clarification for identifying abandoned traps in state waters. The regulation would also serve to help reduce the potential impact of abandoned fishing gear on living marine resources and underwater habitat and may help inform future lost gear recovery programs.

Add new Subsection 122.2(f), Title 14, CCR; Trap Loss Affidavit.

Proposed Regulation

Beginning with the 2017-2018 spiny lobster season, the proposed subsection would require each fisherman who holds a lobster operator permit to submit an end of the season trap loss affidavit for each permit they hold at the end of each season by April 15 to the Department. The provision provides that if a permit is transferred during the season, only the fisherman who is in possession of that lobster operator permit at the end of the season is required to submit the form, and that all trap tags shall be retained by each lobster operator permit holder until the beginning of the next lobster season.

Necessity and Rationale

The proposed regulation is part of the proposed trap tag program for the commercial spiny lobster fishery, effective beginning with the 2017-2018 spiny lobster season. The proposed regulation will provide needed essential fisheries information (FGC Section 95) to estimate trap loss in the fishery to inform future management decisions and help fishermen account for the number of Department trap tags issued and lost during a season. The proposed change will also aid lost gear recovery programs by providing information on gear loss.

Add Subsection 122.2(i)(1), Title 14, CCR; Allowing the Retrieval of Lost, Damaged, or Abandoned Traps.

Proposed Regulation

Under current regulations, fishermen are prohibited from possessing and retrieving lobster traps other than their own unless they have written permission from the permit holder. This regulatory proposal would allow a lobster operator permit holder to retrieve lost, damaged, or abandoned lobster traps of another lobster permit holder without written permission or a waiver. The regulatory language is mirrored after existing language for the Dungeness crab fishery. Fishermen are limited to retrieving up to six traps per trip during spiny lobster season unless a waiver is granted by the Department (as described in new subsection 122.2(i)(2) below). The time, location, number of traps retrieved, and the trap tag information must be recorded in the retrieving vessel's log. Any lobster caught in the retrieved traps cannot be retained and must be returned to the ocean immediately.

Necessity and Rationale

The proposed provisions accommodate instances when it is necessary to retrieve lost traps during the season to help reduce potential impact of fishing gear on living marine resources and underwater habitat. The proposed regulations will also help the Department collect data on trap loss to support fisheries conservation and management.

Add new Subsection 122.2(i)(2), Title 14, CCR; Waiver Allowing One Commercial Fisherman to Service the Trap of Another.

Proposed Changes

Under the current regulation, a fisherman with a valid lobster operator permit may pull and service the traps of a non-present fisherman, provided that the fisherman pulling the trap (i.e., retriever) possesses written permission from the trap owner explicitly allowing the retriever to pull the trap. This written permission or “note” process provides fishermen with a mechanism to satisfy the existing trap servicing limit, comply with season length limit, or prevent gear loss in the event of unforeseen circumstances (e.g., illness or engine breakdown).

The proposed regulation will formalize the “note” process under this subsection by requiring fishermen to submit a waiver request to the Department. The fisherman applying for a waiver must describe the circumstances behind why having another lobster operator permit holder servicing his/her trap is necessary to prevent undue hardship. The Department may attach specific conditions to waiver as is appropriate given the specific circumstances. For instance, once a retriever services a trap, he or she may potentially be required to transport the trap back to shore or redeploy the trap unbaited and wired open. The Department may also disallow retrievers to retain any legal-size lobster captured during the process of servicing or retrieving traps. In either case, liability for any violation related to improperly redeployed traps will transfer to the fisherman that has the permission to pull the traps.

Necessity and Rationale

This provision is necessary to provide fishermen flexibility to respond to unforeseen circumstances to prevent undue hardship and comply with fishing regulations. The proposed regulation will provide clear rules for requesting a waiver to minimize public confusion and improve regulatory enforcement.

Amend Section 705, Title 14, CCR; Commercial Fishing Applications, Permits, Tags and Fees

Proposed Changes

This regulatory proposal will add multiple subsections to Section 705 of Title 14 related to commercial lobster operator permits and the new trap tag program. Current lobster operator permit fees will be added to subsection 705(a)(T) and will only be in effect for the 2016-2017 season. Fees related to “Lobster Operator Permit and Trap Tags” will be added to subsection 705(a)(8)(U) to become effective for the 2017-2018 season. Currently, the fee for a lobster operator permit is established in FGC Section 8254(c). Section 8254(c) will become inoperative as part of the California Spiny Lobster FMP implementing regulations and permit fees moved into Title 14. Moving the lobster operator permit fee to Section 705 is necessary to incorporate the cost of 300 annual trap tags to the annual permit fee as part of the proposed trap limit for the 2017-2018 lobster season. A fee will also be established for each replacement tag requested when

a permit holder suffers a catastrophic loss of at least 75 tags during a season. The proposed regulations explicitly describe the trap limit and issuance procedures for permit holders to acquire trap tags, the costs of which are added to the existing lobster operator permit fee, and replacement tags from the Department. The proposed fees for the lobster operator permits and replacement trap tags due to catastrophic loss were set based on a fiscal analyses completed by the Department to recover costs incurred by the Department pursuant to FGC Section 1050 (attachment 2). The proposed regulations require that all lobster traps are properly tagged during the season to ensure that lobster operator permit holders are operating within the proposed trap limit of 300 traps.

Other changes include a new Lobster Operator Permit Transfer Application (DFW 1702) (New 2/2016) for transferring a lobster operator permit is proposed for subsection 705(b)(1). The application replaces the notarized letter currently submitted by the permit holder who wants to transfer a lobster operator permit. Permit transfers are allowed under proposed subsection 122 (c)(2). A Lobster Operator Permit Catastrophic Lost Trap Tag Affidavit (DFW 1701) (New 2/2016) is proposed for subsection 705(c)(4) and its associated trap tag replacement fees are proposed for subsection 705(c)(5). Regulations for submitting catastrophic trap tag loss claims are described in proposed new subsection 122.1(c)(3). An End of Season Spiny Lobster Trap Loss Reporting Affidavit (DFW 1020) (New 02/18/16) is proposed for subsection 705(c)(6) as described in proposed subsection 122.2(f). Lobster operator permit holders are required to submit a report identifying the number of traps lost during the just concluded lobster season.

The Legislature finds and declares that the critical need to conserve, utilize, and manage the State's marine fish resources and to meet the policies and other requirements stated in this part require that the State's fisheries be managed by means of fishery management plans.

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

Regulation: Authority: Sections 200, 202, 205, 215, 219, 220, 713, 1050, 2365, 7071, 7072, 7075, 7078, 7082, 8254, and 8259, Fish and Game Code.

Reference: Sections 200, 202, 205, 207, 215, 220, 1050, 2365, 7050, 7055, 7056, 7071, 7075, 7078, 7852.2, 8043, 8046, 8250, 8250.5, 8254, 9002, 9002.5, 9005, 9006, and 9010 Fish and Game Code.

(c) Specific Technology or Equipment Required by Regulatory Change: None

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

Attachment 1

CDFW 2016. California Spiny Lobster Fishery Management Plan (Jan, 2016).
California Department of Fish and Wildlife, Sacramento, California.
<https://www.wildlife.ca.gov/Conservation/Marine/Lobster-FMP>

Attachment 2

Estimated CDFW cost and fees for procurement and administering lobster trap tags per permit license year and fee for replacement trap tags.

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

Lobster Advisory Committee

The California Department of Fish and Wildlife (Department) conducted an extensive public scoping process to inform the development of the California Spiny Lobster FMP and the proposed implementation regulations. The Lobster Advisory Committee (LAC) was formed in the spring of 2012, following a call for volunteers to various public stakeholder groups by the Department. The purpose of the LAC is to involve constituent representatives with the development of the FMP. The LAC provided guidance on FMP objectives as well as management recommendations that addressed key issues put forth by members of the public. The LAC consisted of representatives from the marine science community, the recreational fishing sector, commercial fishing sector, the non-consumptive recreational sector, the environmental community, and the federal government. Nine LAC meetings occurred between June 2012 and September 2013; all meetings were open to the public, and public input was encouraged. The LAC meeting summaries as well as various background documents are available on the Department website at:

<https://www.wildlife.ca.gov/Conservation/Marine/Lobster-FMP/Committee>.

LAC public meetings 2012-2013

1. June 20, 2012, Department Office, Los Alamitos, CA
2. August 1, 2012, Department Office, Los Alamitos, CA
3. September 5, 2012, Department Office, Los Alamitos, CA
4. December 5, 2012, Department Office, Los Alamitos, CA
5. April 10, 2013, Department Office, Los Alamitos, CA
6. June 12, 2013, Department Office, Los Alamitos, CA
7. July 10, 2013, Department Office, Los Alamitos, CA
8. August 15, 2013, Department Office, Los Alamitos, CA
9. September 11, 2013, Department Office, Los Alamitos, CA

Fish and Game Commission meetings

The Department provided updates on the FMP process and details of the management framework (harvest control rules) at Fish and Game Commission meetings and at Marine Resources Committee (MRC) meetings from 2014-2015. All meetings were open to the public and provided opportunities for public comments. The Department and Lobster Advisory Committee regulatory

recommendations were previously transmitted to the MRC at its March 2015 meeting and to the Commission for consideration at its April and June 2015 meetings. At the June 2015 meeting, the Commission directed the Department to prepare this regulatory package. The California Spiny Lobster FMP was delivered to the Commission for its consideration at its December 2015 meeting, the Discussion hearing was held at the February 2016 meeting and adoption is scheduled for the Commissions April 2016 meeting.

The California Spiny Lobster FMP and proposed recreational and commercial regulations were discussed at the following MRC and Commission meetings (2013-2016)

1. December 11, 2013 Commission meeting
2. March 24, 2014 MRC meeting:
3. August 5, 2014: MRC meeting.
4. November 5, 2014 MRC meeting
5. March 4, 2015 MRC meeting
6. April 8, 2015 Commission meeting
7. June 10, 2015 Commission meeting
8. December 9, 2015 Commission meeting
9. February 10, 2016 Commission meeting

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

No Alternatives were Identified.

(b) No Change Alternative:

Do not adopt the California Spiny Lobster FMP implementing regulations and proposed commercial and recreational regulatory changes. Continue managing the resource and fishery without a comprehensive management plan under current regulations. This alternative does nothing to promote a comprehensive management plan for the spiny lobster fisheries and does not bring spiny lobster management into conformance with the MLMA through adoption of implementing regulations as directed by the Legislature. While this alternative is not expected to result in immediate adverse impacts to the spiny lobster resource and fisheries, due to the generally conservative nature of current regulations (e.g. season and size limits), it would forego the greater opportunity for sustainable management under a comprehensive fishery management plan as required by the MLMA. The proposed commercial and recreational changes will clarify and improve enforcement of existing regulations and provide for a more orderly fishery.

(c) Consideration of Alternatives:

Other regulatory proposals considered by the Commission but not included in this regulatory proposal:

The LAC consensus and Department recommendations were presented to the Commission at the April 2015 meeting. At the June 2015 meeting, the Commission directed the Department to develop a regulatory package that included all Department and LAC recommendations except the following three below.

1. Restricting the use of mechanized pullers in the recreational fishery only to persons in possession of proof of disability. This was proposed to reduce the illegal tampering of commercial traps by recreational anglers using mechanized hoop net pullers. However, illegal use of mechanized pullers is not a commonly observed enforcement problem and as proposed would penalize the lawful anglers using mechanized pullers due to the very few anglers that may abuse the use of this gear.
2. A phase-in approach to the commercial trap limit. The phase-in trap limit approach was proposed by the LAC to provide fisherman with an alternative means of fishing up to 600 traps while waiting to purchase a second permit following the implementation of the commercial trap limit. The phase in approach was proposed in 2013 when the trap limit was thought to become effective for the 2015-16 season. The trap limit will not be effective until the 2017-18 season, which has provided individuals wanting to purchase a second permit with sufficient time to acquire a transferable permit. In addition, it would be difficult for the Department to implement and administer the program as proposed by the LAC.
3. Clarifying that branding of commercial trap floats is allowed. The branding of commercial floats is allowed under current regulations (Section 122(k), Title 14, CCR). The regulation currently requires the commercial fishing license number to “be in color which contrasts with that of the buoy. The branding of commercial fishing license number onto floats will result in a color, which contrasts with that of the float. Therefore, the proposed regulation is currently covered under existing regulation.

(d) Description of Reasonable Alternatives That Would Lessen Adverse Impact on Small Business:

None

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 because the regulatory action will not substantially increase compliance costs, is not anticipated to impact harvest quantities, and only applies to a fishery that is unique to the state of California. The commercial spiny lobster fishery extends from Point Conception in Santa Barbara County to the U.S./Mexico border. The recreational spiny lobster fishery covers the same range but also extends further north into San Luis Obispo County.

(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 anticipates no negative impacts on the creation or elimination of jobs within the state, the creation of new businesses or the elimination of existing businesses because the proposed action will not significantly increase costs or reduce harvest quotas. These actions are intended to promote orderly commercial and recreational fisheries while ensuring the long-term sustainability of the fisheries and spiny lobster resource.

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

The Commission anticipates an increase in the commercial lobster operator permit fee due to the proposed trap tag program to be approximately \$395 per permit. Permit holders may have the potential for a substantial gain from expanded permit transfer options and potential fuel savings with the increase in time for the maximum trap servicing

requirement. The Commission is not aware of any cost impacts in the recreational lobster fishery, 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:

Commercial Spiny Lobster Fishery Economic Impact

The commercial California spiny lobster fishery ranks as the fourth highest in ex-vessel value, ranging from \$15 to \$18 million in the last three seasons (after Dungeness crab, Market squid, and Chinook salmon). This rank is achieved, despite having amongst the lowest harvest volume, by having generally the highest value per pound of all California fisheries. Market prices for spiny lobster have been increasing at a faster than average rate as well, in part driven by a boost in export demand. The spike in prices has been accompanied by increases in commercial trap effort over recent years.

The commercial spiny lobster fishery is a restricted access fishery with about 150 permits actively fished since 2008. In 2005, over two-thirds of the commercial lobster permits became transferable. The high cost of market-traded permits (\$50,000-\$100,000) may also be a factor encouraging more trap pulls so as to recoup the cost of the permit.

The Fishery Management Plan (FMP) reports the 2009-10 to the 2011-12 season average total economic output of the fishery statewide as \$22,523,000, which supports about 323 full-time equivalent (FTE) jobs. The annual harvest volume and market price have risen since. The 2012-13 to 2014-15 season estimates for the average total statewide economic output is now \$34,477,000, supporting about 495 FTE jobs. This is largely driven by the increase in ex-vessel value from \$11,188,354 (in \$2012) to \$17,141,722 (the average for the last three seasons in \$2015).

Commercial Lobster Fishery Average Economic Impacts (\$2015)

California South Coast: Santa Barbara, Ventura, Los Angeles, Orange, and San Diego Counties				
Mean 2012-13, 2013-14, & 2014-15	Ex-Vessel Value	Indirect Effects	Induced Effects	Total Effects
Output	\$ 17,141,722	\$ 7,764,017	\$ 9,571,423	\$ 34,477,180
Employee Compensation	\$ 1,066,181	\$ 2,167,982	\$ 2,675,566	\$ 5,909,729
Proprietor's Income	\$ 5,870,817	\$ 329,378	\$ 454,496	\$ 6,654,708
Labor Income Effect	\$ 6,937,015	\$ 2,497,360	\$ 3,130,061	\$ 12,564,437
Other Property Type Income	\$ 304,283	\$ 1,078,266	\$ 2,003,233	\$ 3,385,764
Indirect Business Taxes	\$ 1,149,472	\$ 520,491	\$ 565,557	\$ 2,235,538
Total Value Added	\$ 8,390,770	\$ 4,096,117	\$ 5,698,851	\$ 18,185,739
Jobs - Full Time Equivalent (FTE)	369.9	54.2	70.8	494.9

The largest landings occur within the first two weeks of the 23-24 week season. Eighty percent of the season's total catch is landed by the fifteenth week of the season. The economic impact of the catch by each south coast county for the last season, 2014-15 is shown below. The commercial lobster fishery adds about \$6.9 million dollars in total value added (also called net economic output) to Santa Barbara County, \$2.2 million to Ventura County, \$3.4 million dollars to Los Angeles County, \$2.1 million dollars to Orange County, and \$5.1 million dollars to San Diego County.

Commercial Lobster Fishery Economic Impacts by County for 2014-15 Season

County	Total Lobster-Associated		Employee Compensation (2015)	Total Value Added (2015)	Total Economic Output (2015)
	Ex-Vessel Value (2015\$)	Employment (2015)			
Santa Barbara*	\$ 6,527,889	188.5	\$ 2,250,535	\$ 6,925,470	\$ 13,129,557
Ventura	\$ 2,126,246	61.4	\$ 733,038	\$ 2,255,745	\$ 4,276,523
Los Angeles	\$ 3,172,293	91.6	\$ 1,093,670	\$ 3,365,501	\$ 6,380,439
Orange	\$ 2,014,218	58.1	\$ 694,416	\$ 2,136,894	\$ 4,051,200
San Diego	\$ 4,846,048	139.9	\$ 1,670,709	\$ 5,141,197	\$ 9,746,866
California State Total	\$ 18,686,694	539.5	\$ 6,442,368	\$ 19,824,807	\$ 37,584,585

* Santa Barbara County includes Channel Islands spiny lobster catch.

Recreational Spiny Lobster Fishery Economic Impact

The recreational spiny lobster fishery is not limited access and report card sales suggest that participation has fluctuated but overall remained stable over recent years. Newer hoop-net techniques deployed from boats have added another method beyond traditional diving for lobsters. Increased recreational activity brings more fisher spending into the coastal economies from San Luis Obispo County down to San Diego

County, as the recreational fishery extends further north than the commercial fishery, into San Luis Obispo County. Annual expenditures in the recreational spiny lobster fishery were estimated to be \$37 million dollars for the 2011-12 season. Expenditures on spiny lobster fishing gear, personal boats, auto/vessel fuel, food, accommodations, dive/party boat fees, and other fishing-related expenditures circulate through the economy often doubling the initial direct spending in summing the total economic impact throughout the state. Recreational ocean fishing stimulates employment in a wide variety of sectors that support fishing-specific and traveler in general activities.

The proposed regulations are designed to balance the objectives of the long-term sustainability of the spiny lobster fishery while not burdening or limiting access for the spiny lobster commercial and recreational fisheries.

- a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:
The Commission anticipates no negative impacts on the creation or elimination of jobs within the state because the proposed action is not likely to reduce harvest quantities. These actions are intended to promote orderly commercial and recreational fisheries while ensuring the long-term sustainability of the fisheries and resource.
- b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:
The Commission anticipates no negative impacts on the creation of new businesses or the elimination of existing businesses within the state because the proposed action is not likely to reduce harvest quantities. These actions are intended to promote orderly commercial and recreational fisheries while ensuring the long-term sustainability of the fisheries and resource.
- c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:
The Commission anticipates no negative impacts on the expansion of businesses currently doing businesses within the state because the proposed action is not likely to reduce harvest quantities. These actions are intended to promote orderly commercial and recreational fisheries while ensuring the long-term sustainability of the fisheries and resource.
- d) Benefits of the Regulation to the Health and Welfare of California Residents:
The Commission anticipates generalized benefits to the health and welfare of California residents through the sustainable management of the spiny lobster resource.

The proposed regulations are intended to implement the California Spiny Lobster FMP and add clarity to existing regulations to improve management of the fisheries. Implementation of the FMP is anticipated to benefit persons engaged in the spiny lobster fisheries by supporting the long-term viability of spiny lobster fisheries and associated business activities.

e) Benefits of the Regulation to Worker Safety:

The Commission anticipates that this regulatory action will not have any impact on worker safety.

f) Benefits of the Regulation to the State's Environment:

The Commission anticipates benefits to the State's Environment. It is the policy of this State to ensure "the conservation, sustainable use, and, where feasible, restoration of California's marine living resources for the benefit of all the citizens of the State" (FGC Section 7050(b)). The benefits of the proposed regulatory action are sustainable management of the spiny lobster resource for both the commercial and recreational fisheries. The proposed regulations to implement the California Spiny Lobster FMP supports the MLMA (FGC Sections 7070-7088), which requires the State's fisheries be managed by means of fishery management plans. The FMP serves as the foundation for managing the spiny lobster resource, including mechanisms to prevent, detect, and recover from overfishing, as required by the MLMA. The proposed changes to existing commercial and recreational regulations clarify the implementation of the spiny lobster regulations to support orderly fisheries.

g) Other Benefits of the Regulation:

The intent of the proposed action is the long-term sustainability of the spiny lobster resource and viability of the commercial and recreational fisheries in accordance to the objectives of the MLMA. The proposed regulatory action will ensure the long-term economic, recreational, cultural, and social benefits of the fisheries by maintaining a healthy and sustainable spiny lobster resource.

Informative Digest/Policy Statement Overview

Under current regulations, the management of the California spiny lobster fishery is contained under multiple sections (sections 29.80, 29.90, 29.91, 121, 121.5 and 122) of Title 14 of the California Code of Regulations (CCR). Section 29.80 provides general gear restrictions for the recreational take of crustaceans. Section 29.90 provides recreational fishery regulations specific to spiny lobster with report card requirements for the recreational fishery found in Section 29.91. Section 121 regulates the possession of spiny lobster during the closed season. Section 121.5 regulates the processing of spiny lobster. Section 122 provides regulations for the commercial fishery, including permit requirements, gear provisions, trap servicing requirements, restricted fishing areas, permit transfers, and logbook requirements.

In accordance with the Marine Life Management Act (MLMA) of 1999 (Fish and Game Code (FGC) Sections 7050-7090), regulations are proposed to implement a California Spiny Lobster Fishery Management Plan (FMP) and to amend existing recreational and commercial spiny lobster fishing regulations to manage the spiny lobster resource at a sustainable level and support orderly fisheries. It is the policy of the State to ensure the conservation, sustainable use, and, where feasible, restoration of California's marine living resources for the benefit of all the citizens of the State (FGC Section 7050(b)). The MLMA contemplates the management of state fishery resources through FMPs developed by the Department of Fish and Wildlife (Department) and adopted by the Fish and Game Commission (Commission) (FGC sections 7072, 7075 and 7078).

FGC subsection 7071(b) provides authority for the Commission to adopt regulations that implement a fishery management plan or plan amendment and make inoperative any fishery management statute that applies to that fishery. To implement the conservation and management measurements identified in the California Spiny Lobster FMP, including a proposed trap limit program, the implementing regulations of this FMP will render the following sections of the FGC inoperative once they are adopted:

- 1) FGC sections 8251, 8252, and 8258. These sections prescribe the commercial season length, size limit, and list the Districts where commercial lobster traps may be used. The FMP contemplates changes to season length, minimum size and district closures as possible future conservation and management measures. The commercial season length and size limit will be moved into Title 14, CCR reflecting the Commission's authority to make future adjustments.
- 2) FGC sections 7857(e), 7857(j), 8102, 8103, and 8254(c). These sections state the conditions for issuing and transferring commercial fishing permits and lobster operator permit fees. Each will be made inoperative as they apply to the spiny lobster fishery to be consistent with the commercial spiny lobster limited entry fishery permit program described in the FMP and proposed trap limit program.
- 3) FGC section 9004: This section requires commercial fishermen to service any deployed trap every 96 hours. The proposed trap servicing regulation in new

Section 122.2 will extend the servicing requirement to every 168 hours. As such, this section will be rendered inoperative as applied to the spiny lobster fishery.

Upon adoption by the Commission, the California Spiny Lobster FMP will establish a management program for the spiny lobster recreational and commercial fisheries and detail the procedures by which the spiny lobster resource will be managed by the Department. The proposed regulations would implement the FMP in accordance with the policy goals enumerated in the MLMA. The proposed implementing regulations are divided into three parts: 1) new regulations to implement the FMP, 2) amendments and additions to the recreational fishing regulations, and 3) amendments and additions to the commercial fishing regulations. The following is a summary of the proposed changes to Title 14, CCR:

- 1) Establish a new Article in Chapter 5.5, Subdivision 1, Division 1, Title 14, CCR and add new sections 54.00, 54.01, 54.02, and 54.03. The proposed new sections will:
 - a. describe the purpose and scope of the California Spiny Lobster FMP;
 - b. provide relevant definitions used in the California Spiny Lobster FMP;
 - c. describe management processes and timing; and
 - d. describe the harvest control rule (HCR) as the management basis for the California Spiny Lobster FMP.
- 2) Amendments are proposed to existing recreational lobster fishery regulations in subsections (b) and (g) of Section 29.80 and subsections (a), (c), and (f) of Section 29.90. If adopted, the proposed amendments will:
 - a. Provide an option to require hole-punching or fin-clipping of recreationally caught lobsters, with commercial market restrictions, to distinguish recreational catch from commercial catch for enforcement purposes.
 - b. Delay the start of the recreational season six hours from the current start time of 12:01 a.m. to 6:00 a.m. for safety purposes.
 - c. Require buoy marking of hoop nets used south of Point Arguello for identification and enforcement purposes.
 - d. Clarify existing language on the possession of a hooked device while taking lobster. This regulatory change will provide clarification for both recreational divers and enforcement.
 - e. Clarify measuring requirements in order to allow for measuring lobster aboard a boat. The proposed change will allow hoop netters to bring spiny lobster aboard a vessel where they can be measured safely.
 - f. Make editorial changes to improve clarity of existing regulations.
- 3) Amendments to the commercial fishing are proposed to sections 121, 121.5, 122, and 705 as well as the addition of new sections 122.1 and 122.2. If adopted, the proposed amendments will:
 - a. Implement a new trap limit program, effective October 2017, to specify 300 traps per lobster operator permit, establish lobster trap tags, new buoy marking requirements, and lost trap replacement (i.e., "catastrophic

trap tag loss”) measures. The establishment of a trap limit program will optimize and create a more orderly commercial fishery as well as provide improved understanding of the amount gear used in the fishery.

- b. Allow permittees to possess up to two lobster operator permits. The possession of two lobster operator permits will allow a commercial fisherman to deploy a maximum of 600 traps in accordance with the proposed trap limit program.
- c. Allow permittees to retrieve up to six (6) traps of another lobster operator permit holder that were lost, or damaged lobster traps per fishing trip to help reduce potential impact of fishing gear on living marine resources and underwater habitat.
- d. Require Department approval of a waiver request for one lobster operator permit holder to service the trap of another. The proposed regulation will provide clear rules for requesting a waiver and improve regulatory enforcement.
- e. Require each fisherman who holds a lobster operator permit to submit an end of the season trap loss affidavit for each permit they hold at the end of each season to estimate gear loss in the fishery.
- f. Extend the maximum trap service requirement from four (4) to seven (7) days to provide fishermen more flexibility to service their gear and for safety purposes.
- g. Extend the pre- and post-season gear deployment periods from six (6) to nine (9) days for safety purposes.
- h. Extend the lobster operator permit holder death provision from one (1) to two (2) years to provide more time to transfer the lobster operator permit.
- i. Update permit renewal and transfer regulations for clarity and consistency with the proposed trap limit program.
- j. Update description of restricted fishing areas with latitude and longitude coordinates for clarification purpose.
- k. Provide clarification for identifying abandoned traps in state waters.
- l. Provide modifications to the existing fishing logbook format to improve data collection.
- m. Provide an option that would prohibit the sale of hole-punched or tail-clipped lobster in the markets for enforcement purposes.
- n. Establish fees for lobster operator permit and trap tags. Currently, lobster operator permit fees are located in FGC Section 8254(c), however, this code section will be rendered inoperative as part of the CA Lobster FMP implementing regulations as need to implement the trap limit and trap tag program for the 2017-2018 lobster season.
- o. Clarify that all lobster operator permit holder fishing jointly on one vessel will be liable for any violation from that vessel.
- p. Clarify existing language on the use and possession of SCUBA gear in the Commercial fishery.
- q. Make editorial changes to improve clarity of existing regulations.

The proposed regulations were drafted to serve the sustainability and social policy objectives enumerated in FGC Sections 7050, 7055, and 7056. The amended sections would not conflict with existing Title 14 regulations, and any part of the FGC that conflict to the proposed regulations will be made inoperative as applied to the spiny lobster fishery (FGC Section 7071(b)).

New Regulatory Language

Section 29.80, Title 14, CCR, is amended to read:
§ 29.80. Gear Restrictions.

[No changes to subsection (a)]

(b) Hoop nets may be used to take spiny lobsters and all species of crabs. Between Point Arguello, Santa Barbara County, and the United States-Mexico border, not more than five hoop nets, as defined in (b)(1)(A) or (b)(1)(B), shall be possessed by a person when taking spiny lobster or crab, not to exceed a total of 10 hoop nets possessed when taking spiny lobster or crab, per vessel. The owner of the hoop net or person who placed the hoop net into the water shall raise the hoop net to the surface and inspect the contents of the hoop net at intervals not to exceed 2 hours.

[No changes to subsection (b)(1)]

(2) Any hoop net abandoned or left unchecked for more ~~than~~than 2 hours shall be considered abandoned and seized by any person authorized to enforce these regulations.

(3) Beginning on April 1, 2017, hoop nets used south of Point Arguello shall be marked with a surface buoy. The surface buoy shall be legibly marked to identify the operator's GO ID number as stated on the operator's sport fishing license or lobster report card. Hoop nets deployed from persons on shore and manmade structures connected to the shore are not required to be marked with a surface buoy.

[No changes to subsections (c)-(f)]

(g) Diving for crustaceans: In all ocean waters, except as provided in Section 29.05, skin and SCUBA divers may take crustaceans by the use of the hands only. Divers may not possess any hooked device while diving or attempting to dive. Divers may be in possession of spearfishing equipment so long as possession of such equipment is otherwise lawful and is not being used to aid in the take of crustaceans.

[No changes to subsections (h)-(j)]

Note: Authority cited: Sections 200, 202, 205, 215, ~~and 220, 7075 and 7078,~~ Fish and Game Code. Reference: Sections 200, 202, 205, 206, 215, ~~and 220, 7050, 7055 and 7056,~~ Fish and Game Code.

Section 29.90, Title 14, CCR, is amended to read:
§ 29.90. Spiny Lobsters.

(a) Open season: From the Saturday preceding the first Wednesday in October through the first Wednesday after the 15th of March. Beginning with the 2017-2018 lobster season: From 6:00 a.m. on the Saturday preceding the first Wednesday in October through the first Wednesday after the 15th of March.

[No changes to subsection (b)]

(c) Minimum size: Three and one-fourth inches measured in a straight line on the mid-line of the back from the rear edge of the eye socket to the rear edge of the body shell. ~~Any lobster may be brought to the surface of the water for the purpose of measuring, but no undersize lobster may be brought aboard any boat, placed in any type of receiver, kept on the person or retained in any person's possession or under his direct control; all lobsters shall be measured immediately upon being brought to the surface of the water, and any undersize lobster shall be released immediately into the water. All lobsters shall be measured immediately and any undersize lobster shall be released immediately into the water. Divers shall measure lobsters while in the water and shall not remove undersized lobsters from the water. Hoop netters may measure lobsters out of the water, but no undersize lobster may be placed in any type of receiver, kept on the person or retained in any person's possession or under his or her direct control.~~

[No changes to subsection (d)-(e)]

Option – Require tail clipping along with market restrictions in the commercial regulations

(f) Marking of retained spiny lobster: Beginning with the 2017-2018 lobster season: A person taking spiny lobster recreationally shall punch a single circular hole in the center tail fin with a minimum circular diameter of one-fourth inch (1/4 inch) or remove the bottom half of the central tail fin of all retained spiny lobster at or before the time catch information is required to be recorded on the report card as specified in Section 29.91(c) of these regulations. Hole-punched or tail clipped lobsters shall not be released into ocean waters, except employees of the department may release hole punched lobster into ocean waters while performing their official duties.

Note: Authority cited: Sections 200, 202, 205, 219, ~~and~~ 220, 7075 and 7078, Fish and Game Code. Reference: Sections 200, 202, 205, 210, ~~and~~ 220, 7050, 7055 and 7056, Fish and Game Code.

Article 5.0 of Chapter 5.5 of Subdivision 1 of Title 14, CCR is added to read:

Article 5.0 California Spiny Lobster Fishery Management Plan

Section 54.00, Title 14, CCR, is added to read:

§ 54.00 Purpose and Scope

(a) This Article implements the Spiny Lobster Fishery Management Plan (Spiny Lobster FMP) as adopted and amended by the commission consistent with the goals, objectives and procedures of the Marine Life Management Act of 1999. These regulations, in combination with other applicable provisions of the Fish and Game Code and Title 14, CCR, govern management and regulation of the spiny lobster resources and fisheries.

(b) Regulations implementing the Spiny Lobster FMP are found in this Chapter. Regulations specific to recreational take of spiny lobster are found in Chapter 1, Section 1.74 and Chapter 4, beginning with Section 27.00, of these regulations. Regulations specific to the commercial take of spiny lobster are included in Chapter 6, beginning

with Section 121 of these regulations. Fish and Game Code Section 7256 prohibits recreational take of spiny lobster with means other than by hands or with hoop nets. Fish and Game Code Division 6 Part 3 Chapter 2 Article 5 further control various aspects of the commercial fishery.

(c) Pursuant to Fish and Game Code Section 7071(b), Fish and Game Code sections 8251, 8252, 8254(c), and 8258 are made inoperative.

(d) Pursuant to Fish and Game Code Section 7071(b), Fish and Game Code sections, 7857(e), 7857(j), 8102, 8103, and 9004 are made inoperative as applied to the commercial spiny lobster fishery.

Note: Authority cited: Sections 7071, 7075 and 7078, Fish and Game Code.

Reference: Sections 7050, 7055, 7056, 7070, 7071, 7075 and 7078, Fish and Game Code.

Section 54.01, Title 14, CCR, is added to read:

§ 54.01 Definitions

(a) *Catch*, in the context of the harvest control rule, means the total weight of spiny lobster reported on commercial landing receipts in a fishing season.

(b) *Catch per unit effort* means the number of legal lobsters caught per trap pull for the commercial fishery.

(c) *District closure* means temporary or permanent closure of one or more Fishing Districts as defined in Fish and Game Code sections 11026, 11027, 11028, 11029, 11030, 11031, 11032, 11038, and 11039 to the commercial and/or recreational take of spiny lobster.

(d) *Harvest control rule* is defined in Section 50.01 of these regulations. In the Spiny Lobster FMP, the harvest control rule is a management framework consisting of three threshold reference points, a harvest control rule matrix, and a harvest control rule “toolbox” of conservation and management options.

(e) *Harvest control rule matrix* means the matrix prescribed in the Spiny Lobster FMP detailing the possible causes of having one, two, or all three threshold reference points crossed and the management response sequence for those scenarios.

(f) *Harvest control rule toolbox* means the conservation and management measures identified in the Spiny Lobster FMP harvest control rule that are available to the commission when threshold reference points are crossed and management action is recommended.

(g) *Spawning Potential Ratio* means the ratio of the number of eggs produced by a fished population over the number of eggs produced by an unfished population.

(h) *Spiny lobster* means *Panulirus interruptus* as defined in Fish and Game Code Section 8250.

(i) *Spiny Lobster FMP* means chapters 1-6 of the California Spiny Lobster Fishery Management Plan as approved by the commission.

(j) *Threshold reference point* means a quantitative value that indicates that the status of a stock is at a level of concern and that management action may be needed to improve stock status. In the Spiny Lobster FMP, threshold reference points are based on commercial catch, catch per unit effort, and spawning potential ratio.

(k) *Trap limit* means a formal program adopted by the commission that limits the number of traps a commercial fisherman may fish at any one time during a season.

(l) Total allowable catch means a specified numerical catch objective for each fishing season, the attainment (or expected attainment) of which may cause closure of the fishery.

(m) Definitions contained in Chapter 1 and Article 1 of Chapter 5.5 of these regulations, and Chapters 1 and 2 of Division 0.5 of the Fish and Game Code apply to the spiny lobster fishery in addition to definitions of this Section.

Note: Authority cited: Sections 7075 and 7078, Fish and Game Code.

Reference: Sections 7071, 7082, 8252, 11026-11032, 11038 and 11039 Fish and Game Code.

Section 54.02, Title 14, CCR, is added to read:

§ 54.02 Management Process and Timing

(a) Spiny lobster management will conform to the goals, objectives, criteria, procedures, and harvest control rule guidelines in the Spiny Lobster FMP, and other applicable state and federal laws and regulations.

(b) Monitoring and assessment of the spiny lobster fisheries will be conducted annually, including the collection and review of catch reports and fishing logbook information. The department will provide management recommendations to the commission as needed.

(c) Conservation and management measures may be developed, considered, and adopted in compliance the Administrative Procedures Act and implemented at any time of year to achieve management plan goals and objectives, and may apply to any or all management areas, or portions of management areas at the discretion of the commission.

Note: Authority cited: Sections 7075 and 7078, Fish and Game Code.

Reference: Sections 7050, 7055, 7056, 7070, 7071, 7075 and 7078, Fish and Game Code.

Section 54.03, Title 14, CCR, is added to read:

§ 54.03 Harvest Control Rule

(a) The harvest control rule adopted and described in the Spiny Lobster FMP shall form the management basis for the spiny lobster commercial and recreational fisheries. The harvest control rule is comprised of three components.

(1) Three threshold reference points as defined in the Spiny Lobster FMP based on commercial catch, catch per unit effort, and spawning potential ratio that serve as metrics to gauge the status of the spiny lobster fishery and resource.

(2) A harvest control rule matrix that guides the appropriate management responses based on the status and trends of each threshold reference point scenario.

(3) A suite of conservation and management measures in the harvest control rule “toolbox” giving the department and commission flexibility in addressing emerging and ongoing concerns within the spiny lobster fishery and resource.

(b) Monitoring and assessment of the harvest control rule threshold reference points will be conducted annually utilizing the best readily available data and other relevant information. If one or more of the threshold reference points are crossed, the harvest control rule matrix will guide the department management response, which may include consultation with fishing communities and other stakeholders when investigating the cause of an exceeded reference point.

(c) If the department determines that a management response is warranted, the commission may adopt one or more of the conservation and management measures specified in the Spiny Lobster FMP harvest control rule “toolbox” pursuant to Section 50.03(a) of these regulations.

Note: Authority cited: Sections 7072 and 7082, Fish and Game Code.

Reference: Sections 7050, 7055, 7056, 7070, 7071, 7075 and 7078, Fish and Game Code.

Section 121, Title 14, CCR, is amended to read:

§ 121. Lobsters, Spiny. Open Season and Possession During Closed Season.

(a) Spiny lobsters may be taken only between the first Wednesday in October and the first Wednesday after the 15th of March.

(b) No spiny lobsters may be sold or possessed during the closed season except as follows: Lobsters taken or imported during the open season which were cooked and frozen or frozen prior to the close of the open season, and lobsters imported into California during the twenty-six (26) days following the close of the open season, provided such lobsters were cooked and frozen or frozen prior to importation. During the closed season, after the twenty-six (26) day importation period, no spiny lobsters may be possessed on any boat, barge, or vessel.

Note: Authority cited: Sections 240 and 2365, Fish and Game Code. Reference: Sections 240, 2365 and 8254, Fish and Game Code.

Section 121.5, Title 14, CCR, is amended to read:

§ 121.5, Lobster, Spiny. Minimum Size and Verification. ~~of Size.~~

(a) No spiny lobster less than three and one-quarter inches in length measured in a straight line from the rear edge of the eye socket to the rear edge of the body shell, both points to be on the midline of the back, may be taken, possessed, purchased, or sold.

(b) Every person taking spiny lobster shall carry a fixed caliper measuring device and shall measure any lobster immediately on removal from the trap and if it is found to be undersize the spiny lobster shall be returned to the water immediately. A trap shall be serviced prior to any additional trap being brought aboard a vessel.

~~(a)(c)~~ (c) All California spiny lobsters (*Panulirus interruptus*) taken, possessed, transported or sold must be maintained in such a condition that their size can be determined as described in Section 121.5(a) of these regulations pursuant to Fish and Game Code Section 8252 until prepared for immediate consumption or sold to the ultimate consumer except as provided for in subsection (d) below.

~~(b)(d)~~ (d) California spiny lobsters may be split along the midline of the carapace by persons licensed pursuant to Fish and Game Code Section 8034 (Fish Processors License) or Section 8037 (Commercial Fish Business License) provided both halves of each lobster are kept together by banding or packaging until either displayed for purchase by the ultimate consumer or prepared for immediate consumption.

[Proposed addition of subsection (e) to align with sport tail clipping Option 29.90(f)]

(e) Beginning with the 2017-2018 lobster season, except as otherwise provided in subsection 29.90(f) of these regulations, it shall be unlawful to possess, sell, or offer for

sale in a place of business where fish are bought, sold or processed, any spiny lobster that has been hole punched or tail clipped.

Note: Authority cited: Sections 240, 2365 and 8254, Fish and Game Code. Reference: Sections 240, 2365 and 8254, Fish and Game Code.

Section 122, Title 14, CCR, is amended to read:

§ 122. Lobsters, Permits to Take Spiny Lobster Permits and Restricted Areas.

(a) Classes of Lobster Permits.

(1) There is a transferable lobster operator permit, a non-transferable lobster operator permit and a lobster crewmember permit.

(2) Under operator permits issued by the department, licensed commercial fishermen may take spiny lobsters for commercial purposes, but only with traps used pursuant to Fish and Game Code Section 9010, except that such traps shall only be used in Districts 18, 19, 20A, and that part of District 20 southerly of Santa Catalina Island between Southeast Rock and China Point. No other method of take is authorized for the commercial harvest of spiny lobsters.

(3) Any licensed commercial fisherman ~~not eligible to obtain a lobster operator permit pursuant to this section~~ that does not possess a valid transferable or non-transferable lobster operator permit may purchase a lobster crewmember permit, authorizing him/her to accompany the holder of a lobster operator permit holder and to assist that person the lobster operator permit holder in the commercial take of spiny lobster.

(4) Exemption from Tidal Invertebrate Permit. A lobster operator permit holder or a lobster crewmember permit holder operating under the provisions of a lobster operator permit is not required to possess a Tidal Invertebrate Permit, but is subject to the provisions of Section 123 of these regulations.

(b) Permit Renewal.

~~(b)~~(1) Each lobster operator permit shall be issued annually and shall be valid for the period of the commercial lobster season. Each operator and crewmember permittee shall have his/her permit in immediate possession when taking lobsters.

(2) Applicants for renewal of a lobster operator permit shall be eligible to renew a lobster operator permit of the same classification, if they have held a valid lobster operator permit that has not been suspended or revoked, in the immediately preceding permit year.

(3) Beginning with the 2017-2018 lobster season, not more than two lobster operator permits shall be issued to a licensed commercial fisherman.

(4) Procedures and Deadline for Permit Renewal.

Applications for renewal of transferable and non-transferable lobster operator permits must be received by the department or if mailed, postmarked not later than April 30 of each year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2. Any person denied a permit under these regulations may submit a written request for an appeal to the commission to show cause why his/her permit request should not be denied. Such request must be received by the commission within 60 days of the department's denial.

(c) Permit Transfers, Procedures, and Timelines.

~~(e)(1)~~ Except as provided in this section, a permit shall not be assigned or transferred, and any right or privilege granted thereunder is subject to revocation, without notice, by the Fish and Game Commission~~commission~~, at any time.

~~(2)~~ A person with a valid transferable lobster operator permit that has not been suspended or revoked may transfer his/her permit to another person licensed as a California commercial fisherman. The permit holder or the estate of the deceased permit holder shall submit the transfer application and the nonrefundable permit-transfer fee specified in Section 705 for each permit transfer. The transfer shall take effect on the date written notice of approval of the application is given to the transferee by the department. The lobster operator permit shall be valid for the remainder of the permit year and may be renewed in subsequent years pursuant to these regulations.

~~(A)~~ Beginning with the 2017-2018 permit year: If a transferable lobster operator permit is transferred to a person with a valid transferable lobster operator permit and non-transferable lobster operator permit, the non-transferable lobster operator permit shall become null and void and the permit and trap tags shall be immediately surrendered to the department's License and Revenue Branch.

~~(3)~~ An application for a transfer of a lobster operator permit shall be deferred pending final resolution of any outstanding criminal, civil and/or administrative action that could affect the status of the permit.

~~(4)~~ Upon the death of a person with a valid transferable lobster operator permit, the estate of a person with a valid transferable lobster operator permit shall immediately surrender the permit to the department's License and Revenue Branch. Beginning with the 2017-2018 lobster season, trap tags shall also be surrendered to the department's License and Revenue Branch. The estate may renew that permit as provided for in these regulations if needed to keep it valid. The estate of the decedent may transfer that permit pursuant to these regulations no later than two years from the date of death of the permit holder as listed on the death certificate.

~~(5)~~ Upon the death of the person with a valid non-transferable lobster operator permit, the permit shall become null and void and the estate shall immediately surrender the permit to the department's License and Revenue Branch.

~~(A)~~ Beginning with the 2017-2018 permit year: Upon the death of the person with a valid non-transferable lobster operator permit, the estate shall immediately surrender the permit and trap tags to the department's License and Revenue Branch.

~~(6)~~ Any applicant who is denied transfer of a transferable lobster operator permit may submit a written request for an appeal to the commission within 60 days of the date of the department's denial.

~~(d)~~ Applicants for the renewal of lobster operator permits shall have held a valid lobster operator permit, that has not been suspended or revoked, in the immediately preceding permit year.

~~(e)~~ The holder of a valid lobster operator permit that has not been suspended or revoked, from the immediately preceding permit year shall be eligible to purchase a lobster operator permit of the same classification.

~~(f) Procedures and Deadline for Permit Renewal.~~

~~Applications for renewal of transferable and non-transferable lobster operator permits must be received by the department or if mailed, postmarked not later than April 30 of each year. Late fees, late fee deadlines, and late renewal appeal provisions are~~

~~specified in Fish and Game Code Section 7852.2. Any person denied a permit under these regulations may request a hearing before the commission to show cause why his/her permit request should not be denied. Such request must be received by the commission within 60 days of the department's denial.~~

~~(g) No SCUBA equipment or other breathing device may be used to assist in the take of lobster on any boat being operated pursuant to a commercial lobster permit.~~

~~(h) All provisions of the Fish and Game Code and regulations of the Fish and Game Commission relating to lobsters shall be a condition of all permits to be fully performed by the holders thereof, their agents, servants, employees, or those acting under their direction or control.~~

~~(i) No lobster trap used under authority of this permit shall be pulled or raised or placed in the water between one hour after sunset to one hour before sunrise.~~

~~(j) All lobster traps and receivers impounding lobsters shall be individually buoyed. The buoys must be on the surface of the water, except after the first Tuesday in October when buoys may be submerged by means of metallic timing devices, commonly called "pop-ups."~~

~~(k) Each buoy identifying a lobster trap shall display the commercial fishing license identification number of the lobster operator permit holder followed by the letter P. The commercial fishing license number and the letter P shall be in a color which contrasts with that of the buoy and shall be at least one (1) inch in height and at least one-eighth (1/8) inch in width. All lobster permit holders shall maintain lobster trap buoys in such a condition that buoy identifying numbers are clearly readable.~~

~~(l) Any person pulling or raising lobster traps and receivers bearing a commercial fishing license number other than his/her own must have in his/her possession from the party who holds the permit assigned to said gear written permission to pull the traps, or receivers.~~

~~(m) The employees of the department may disturb or move any lobster trap at any time while such employees are engaged in the performance of their official duties and shall inspect any lobster trap to determine whether it is in compliance with all provisions of the Fish and Game Code and regulations of the commission.~~

~~(n) During the closed season for the taking of spiny lobster, no buoy attached to any trap may be marked in such manner as to identify the trap as a lobster trap, except that legally marked lobster traps may be placed in the water not more than six (6) days before the opening of the season and may remain in the water for not more than six (6) days after the close of the season, if the door or doors to such traps are wired open, the trap is unbaited, the buoy remains at the surface of the ocean, and no attempt is made to take spiny lobsters.~~

~~(e)~~(d) ~~Restricted fishing areas~~Fishing Areas.

(1) No lobster trap used under the authority of this permit shall be used within 750 feet of any publicly-owned pier, wharf, jetty or breakwater; however, such traps may be used to within 75 feet of any privately-owned pier, wharf, jetty or breakwater.

(2) No lobster traps shall be set or operated within 250 feet of the following specified navigation channels.

(A) ~~Newport Bay: Starting at the demarcation line at the entrance to Newport Bay and extension of the west side channel line, proceed southeasterly on a bearing of 151° magnetic one nautical mile; then northeasterly 44° magnetic 500 feet; then~~

~~northwesterly 331° magnetic one nautical mile to the demarcation line and an extension of the east side channel line.~~

~~(B) Dana Point Harbor: Starting from Dana Point east jetty light "6," proceed on a bearing of 120° magnetic 450 yards to red buoy "4"; then south 180° magnetic one nautical mile; then westerly 270°, 300 yards; then north 0° magnetic approximately one nautical mile to Dana Point Harbor light "5."~~

~~(C) Oceanside Harbor: Starting from Oceanside Harbor breakwater light "1," proceed on a bearing of 225° magnetic for one nautical mile; then southeast for 450 yards on a bearing of 110° magnetic; then northeast on a bearing of 35° magnetic for one nautical mile to Oceanside Harbor south jetty light "2"; then west-southwest on a bearing of 253° to the point of beginning at Oceanside Harbor breakwater light "1."~~

(A) Newport Bay Harbor entrance: This area is bounded by straight lines connecting the following points in the order listed:

33° 35.316' N. lat. 117° 52.744' W. long.;

33° 34.365' N. lat. 117° 52.374' W. long.;

33° 34.412' N. lat. 117° 52.294' W. long.;

33° 35.368' N. lat. 117° 52.658' W. long.; and

33° 35.316' N. lat. 117° 52.744' W. long.

(B) Dana Point Harbor entrance: This area is bounded by straight lines connecting the following points in the order listed:

33° 27.262' N. lat. 117° 41.492' W. long.;

33° 26.289' N. lat. 117° 41.721' W. long.;

33° 26.254' N. lat. 117° 41.509' W. long.;

33° 27.201' N. lat. 117° 41.286' W. long.;

33° 27.409' N. lat. 117° 41.522' W. long.; and

33° 27.262' N. lat. 117° 41.492' W. long.

(C) Oceanside Harbor entrance: This area is bounded by straight lines connecting the following points in the order listed:

33° 12.344' N. lat. 117° 24.166' W. long.;

33° 12.332' N. lat. 117° 24.164' W. long.;

33° 11.775' N. lat. 117° 25.155' W. long.;

33° 11.659' N. lat. 117° 24.928' W. long.;

33° 12.233' N. lat. 117° 24.047' W. long.;

33° 12.362' N. lat. 117° 23.975' W. long.; and

33° 12.344' N. lat. 117° 24.166' W. long.

~~(p)~~(e) Records. Pursuant to section 190 of these regulations, any person who owns and/or operates any vessel used to take lobsters for commercial purposes shall complete and submit an accurate record of his/her lobster fishing activities on a form (Daily Lobster Log, ~~DFGDFW 122 (7/96 REV. 03/04/16)~~, incorporated herein by reference) provided by the department.

~~(q)~~(f) The person required to submit logs pursuant to these regulations shall have complied with said regulations during the immediate past license year, or during the last year such person held a permit, in order to be eligible for a successive year annual permit.

(g) All lobster operator permit holders fishing jointly on one vessel shall both be liable for any violation incurred by any of the lobster operator permit holders or crew-member permit holders fishing from that vessel.

(h) No SCUBA or other underwater breathing apparatus equipment shall be used to take lobster, except that this equipment shall only be used to locate and secure traps for retrieval. Lobsters contained in a trap that has been secured using SCUBA, or any other underwater breathing apparatus equipment, may be possessed after the trap has been serviced aboard the vessel only if the secured trap(s) has not exceeded the trap service interval requirement as specified in subsection 122.2(d) of these regulations.

~~(r) Procedures, Timelines on Permit Transfers.~~

~~(1) The holder of a valid transferable lobster operator permit that has not been suspended or revoked may transfer his/her permit to another person licensed as a California commercial fisherman. The application to transfer a permit shall be in the form of a notarized letter from the existing permit holder identifying the transferee and shall include the original transferable lobster operator permit, a copy of the transferee's commercial fishing license and a nonrefundable permit-transfer fee as specified in Section 705. The application shall be submitted to the department's License and Revenue Branch, 1740 N. Market Blvd., Sacramento, CA 95834. The transferable lobster operator permit shall be valid for the remainder of the current lobster season and may be renewed in subsequent years pursuant to these regulations. If the transferee holds a non-transferable lobster operator permit, that permit shall be cancelled.~~

~~(2) The estate of the holder of a transferable lobster operator permit may renew that permit as provided for in these regulations if needed to keep it valid. The estate of the decedent may transfer that permit pursuant to these regulations no later than one year from the date of death of the permit holder as listed on the death certificate.~~

~~(3) Upon the death of the individual to whom a non-transferable Lobster Operator Permit is issued, the permit shall become null and void.~~

Note: Authority cited: Sections 1050, 7075, 7078, 8254 and 8259, Fish and Game Code. Reference: Sections 1050, 2365, 7050, 7055, 7056, 7071, 7852.2, 8026, 8043, 8046, 8250-8259, 9002-9006, 8250, 8250.5, 8254, 9002, 9002.5, 9005, 9006 and 9010, Fish and Game Code.

Section 122.1 Title 14, CCR, is added to read:

§ 122.1 Lobster Buoys and Trap Tags

(a) All lobster traps and receivers impounding lobsters shall be individually buoyed. The buoys must be on the surface of the water, except after the first Tuesday in October when buoys may be submerged by means of metallic timing devices with a timed delay (commonly called "pop-ups") that does not exceed the trap service interval requirement as specified in subsection 122.2(d) of these regulations.

(b) Each buoy identifying a lobster trap shall display the commercial fishing license identification number of the lobster operator permit holder followed by the letter P. The commercial fishing license identification number and the letter P shall be in a color which contrasts with that of the buoy and shall be at least one (1) inch in height and at least one-eighth (1/8) inch in width. All lobster permit holders shall maintain lobster trap buoys in such a condition that buoy identifying numbers are clearly readable.

(c) Beginning with the 2017-2018 lobster season, no lobster operator permit holder shall possess, use, control, or operate any lobster trap without a valid department issued trap tag and a valid buoy tag supplied by the lobster operator permit holder. The trap tag assigned to the lobster operator permit holder shall be attached to the lobster trap, and have a valid buoy tag attached to the lobster trap buoy. If the information on the trap or buoy tag is illegible or incorrect, or if the trap tags are missing from the buoy or trap for any reason, the trap shall be considered not in compliance, and shall not be used to take spiny lobster for commercial purposes.

(1) Lobster trap tags. A lobster operator permit holder shall be issued 300 trap tags for use during that season for each valid lobster operator permit in possession.

(2) Lobster buoy tags. Buoy tags shall be supplied by the lobster operator permit holder and shall contain the lobster operator permit holder's permit number and the associated trap tag number that the buoy is affixed to.

(3) Replacement procedures for catastrophic loss of trap tags.

(A) A lobster operator permit holder shall only be eligible to receive replacement trap tags for trap tags lost due to catastrophic loss.

(B) Catastrophic trap tag loss is defined as the cumulative loss of 75 or more trap tags for each valid lobster operator permit due to events beyond the lobster operator permit holder's control such as weather, force majeure and acts of God.

(C) The lobster operator permit holder shall submit the affidavit and nonrefundable fee for each replacement tag as specified in Section 705 of these regulations signed under penalty of perjury by the lobster operator permit holder to the department's License and Revenue Branch.

(D) An affidavit for trap tag replacement due to catastrophic loss shall be approved by the department prior to any replacement trap tags being issued as evidence consistent with subsection (B) above.

(E) Any trap tag reported as lost and subsequently recovered during the season shall be invalid and immediately returned to the department's License and Revenue Branch.

Note: Authority cited: Sections 7075 and 7078, Fish and Game Code.

Reference: Sections 7050, 7055, 7056, 8250.5, 9002 and 9010, Fish and Game Code.

Section 122.2, Title 14, CCR, is added to read:

§ 122.2 Pulling Lobster Traps.

(a) No lobster trap shall be pulled or raised or placed in the water between one hour after sunset to one hour before sunrise.

(b) During the closed season for the taking of spiny lobster:

(1) No buoy attached to any trap may be marked in such manner as to identify the trap as a lobster trap, except that legally marked lobster traps may be placed in the water not more than six (6) days before the opening of the season and may remain in the water for not more than six (6) days after the close of the season, if the door or doors to such traps are wired open, the trap is unbaited, the buoy remains at the surface of the ocean, and no attempt is made to take spiny lobsters.

(2) Beginning with the 2017-2018 lobster season, no buoy attached to any trap may be marked in such manner as to identify the trap as a lobster trap, except that legally marked lobster traps may be placed in the water not more than nine (9) days before the opening of the season and may remain in the water for not more than nine (9) days after

the close of the season, if the doors to such traps are wired open, the trap is unbaited, the buoy remains at the surface of the ocean, and no attempt is made to take spiny lobsters.

(c) Lobster traps may be set and baited 24 hours in advance of the opening date of the lobster season if no other attempt is made to take or possess the lobsters.

(d) Trap Service Interval Requirement.(1) Every deployed lobster trap shall be raised, cleaned, serviced and emptied at intervals not to exceed 96 hours, weather conditions at sea permitting.

(2) Beginning with the 2017-2018 lobster season, every deployed lobster trap shall be raised, cleaned, serviced and emptied at intervals not to exceed 168 hours except that lobster traps are not required to be serviced during the nine day pre and post season period as described in Section 122.2(b)(2) of these regulation.

(e) No trap shall be abandoned in the waters of this state. Lobster traps not retrieved 14 days after the close of the commercial lobster season shall be considered abandoned. From 15 days after the close of the commercial lobster season through September 15th, an unlimited number of lobster traps may be retrieved by a lobster operator permit holder or a department designee and transported to shore.

(f) Beginning with the 2017-2018 lobster season, every lobster operator permit holder shall submit a trap loss affidavit as specified in Section 705 for each permit they hold by April 15 of each year to the address listed on the affidavit.

(1) If a permit is transferred during the season, only the lobster operator permit holder who is in possession of that permit at the end of the season is required to submit the affidavit.

(2) All trap tags shall be retained by each lobster operator permit holder until the beginning of the next lobster season.

(g) The employees of the department may disturb or move any lobster trap at any time while such employees are engaged in the performance of their official duties and may inspect any lobster trap to determine whether it is in compliance with all provisions of the Fish and Game Code and these regulations.

(h) Prior to the 2017-2018 lobster season, any person pulling or raising lobster traps and receivers bearing a commercial fishing licenses number other than his/her own must have in his/her possession from the party who holds the permit assigned to said gear written permission to pull the traps, or receivers.

(i) Beginning with the 2017-2018 lobster season, no lobster operator permit holder shall possess, use, control, or operate any lobster traps without a valid trap tag assigned to that lobster operator permit holder or receivers bearing a commercial fishing license identification number other than their own except:

(1) To retrieve from the ocean and transport to shore lobster trap(s) of another lobster operator permit holder that were lost, damaged, abandoned or otherwise derelict, provided that:

(A) No more than six (6) lost lobster traps may be retrieved per fishing trip, except as provided in subsection (2) below.

(B) Lobster from the retrieved lobster trap(s) shall not be retained and shall be returned to the ocean waters immediately.

(C) Immediately upon retrieval of lobster trap(s), the lobster operator permit holder retrieving the traps shall document in the retrieving vessel's log the date and time of trap

retrieval, number of retrieved lobster traps, location of retrieval, and retrieved trap tag information.

(D) Any retrieved lobster trap(s) shall be transported to shore during the same fishing trip that retrieval took place.

(2) Under a waiver granted by the department, pulling, servicing, and transporting more than six (6) lobster traps to shore by another lobster operator permit holder is allowed if:

(A) The lobster operator permit holder is unable to service their traps or receivers due to circumstances beyond the control of the permit holder.

(B) A request for the waiver has been submitted in writing to the department's License and Revenue Branch.

The waiver shall include:

1. Name and permit number of the requesting lobster operator permit holder requesting the waiver;

2. Name and permit number of the retrieving lobster operator permit holder retrieving the traps;

3. Proposed time period and location to conduct trap operations;

4. Lobster trap tag numbers or number of traps to be serviced, and

5. Any other related information as requested by the department.

(C) The waiver may include conditions such as time period to conduct retrieval, landing prohibitions or any other criteria the department deems necessary.

(D) A copy of the waiver approved by the department shall be in the possession of the retrieving lobster operator permit holder when servicing or retrieving traps.

(E) The retrieving lobster operator permit holder retrieving the traps may retain lobsters caught in the traps.

Note: Authority cited: Sections 1050 and 7078, Fish and Game Code.

Reference: Sections, 7050, 7055, 7056, 8250.5, 8251, 9002. and 9010, Fish and Game Code

Section 705, Title 14, CCR, is amended to read:

§ 705. Commercial Fishing Applications, Permits, Tags and Fees.

<i>(a) Application</i>	<i>Permit Fees (US\$)</i>	<i>Processing Fees (US\$)</i>
...[No changes to subsection (a)(1)-(a)(8)(S)]		
<u>(T) Lobster Operator Permit for the 2016-2017 lobster season</u>		<u>369.75</u>
<u>(U) Lobster Operator Permit and Trap Tags beginning with the 2017-2018</u>		<u>765.25</u>

lobster season.

(b) Transfer, Upgrade, or Change of Ownership

Fees (US\$)

(1)(A) Lobster Operator Permit Transfer Application, DFW 1702 (New 2/2016, incorporated by reference herein.

500.00

[No changes to subsection (b)(2)-(b)(11)(c)]

(c) Tags and Miscellaneous

Fees (US\$)

[No changes to subsection (c)(1)-(c)(4)]

(5) Lobster Operator Permit Catastrophic Lost Trap Tag Affidavit, DFW 1701 (New 2/2016), incorporated by reference herein, beginning with the 2017-2018 lobster season.

(6) Lobster Operator Permit Catastrophic Lost Trap Tag Fee per tag beginning with the 2017-2018 lobster season.

1.25

(7) End of Season Spiny Lobster Trap Loss Reporting Affidavit, DFW 1020 (New 02/18/16), incorporated by reference herein, beginning with the 2017-2018 lobster season.

[No changes to subsection (d)]

Note: Authority cited: Sections 713 and 1050, Fish and Game Code. Reference: Sections 713 and 1050, Fish and Game Code.



STATE OF CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

DAILY LOBSTER LOG

NOTICE TO PERMITTEES

- This information is being requested by THE STATE OF CALIFORNIA, Department of Fish and Wildlife, Marine Region, for the principal purposes of fisheries research and management. The official responsible for maintaining this information is:

Regional Manager, Marine Region
4665 Lampson Avenue, Suite C
Los Alamitos, CA 90720
- Any person who owns and/or operates any vessel used to take lobsters must complete and submit an accurate record of all lobster fishing activities on forms provided by the Department. This information is required pursuant to Fish and Game Code Sections 7923 and 8026, and California Code of Regulations, Title 14, Sections 122 and 190.
- Fish and Game Code Sections 8026 and 12002 impose permit/license suspension or revocation, and other penalties, for failing to provide this information.
- Pursuant to Fish and Game Code Section 8022, this Form and the information contained therein is confidential and shall not be public records. The information shall be compiled or published as summaries, so as not to disclose the individual records or business of any person. The Department may release this information to any federal fishery management agency for the purposes of enforcing fishery management provisions, provided the information otherwise remains confidential. The Department may also release this information for law enforcement purposes, or pursuant to a court order.
- An individual may access records maintained by the Department that contain their personal information by contacting the official at the above address.



NAME:

ADDRESS:

FISHERMEN ID:

IS THIS A CHANGE OF ADDRESS? YES NO

MORE ENVELOPES NEEDED? YES NO

Send this form in with monthly logs or call (562) 342-7130

FOR DEPARTMENT USE ONLY

LOGBOOK NUMBER:

ISSUE DATE:

ISSUED BY:

OFFICE LOCATION:



IMPORTANT INSTRUCTIONS

General

1. Complete a separate fishing activity section for each day traps are pulled, this includes multi-day trips. If more than 5 locations were fished in one day, continue recording fishing information in the next section and enter the **same date** in the data box. For multi-day trips or received catch, record the landing receipt number(s) for the entire load on the last day traps were pulled.
2. If multiple permittees are aboard the vessel, only one logbook entry should be submitted for that day's fishing. If the fisherman or vessel ID number changes before the 2 fishing activity sections are completed, proceed to the following page and record new information.
3. Return the completed top copies to the Department on or before the 10th day of the following month (MFSU, 4665 Lampson Avenue, Suite C, Los Alamitos, CA 90720). Voided logs must also be submitted. Notification is not needed for months not fished. **Do not fold or staple these forms.**
4. The duplicate copy is the property of the permittee and it remains in the book as your permanent fishing record.
5. All logbook and/or envelope requests will be processed through the Los Alamitos office. Please use the reorder form printed on the front flap of this logbook and submit with monthly logs.

Specific

1. Please print all characters in ink (no pencil) using CAPITAL letters only. Print each character entirely within the boxes that are provided.
2. The current log format **cannot** accommodate ranges in depth, block numbers, nights in water, etc. Please record information as described in the DEFINITIONS section below.
3. For those cases where mechanical failure, major storm events, etc. precludes trap tending in compliance with Fish and Wildlife regulations, record exact nights soaked with explanation in the note pad area.

DEFINITIONS

Fishing Activity Section: The area of the log where specific trapping information (Trap Location, Depth, etc.) is recorded for EACH day of trapping. One log page can accommodate two (2) separate days of fishing.

Trap Locations: Report the **Latitude and Longitude** for a specific set of traps. Use decimal minutes to the hundredths place. Example 34° 05.15N, 120° 04.85W.

F&W Block Number: The block number where most of the fishing occurred.

Depth (in feet): Depth at which **most** of the traps within the set are placed.

No. Traps Pulled: Number of traps tended within the set.

No. Shorts Released: Number of sub-legal lobsters immediately returned to the water.

No. Legals Retained: Number of legal lobsters kept for commercial/personal use.

Date Traps Pulled: Date the specified traps were tended.

Note Pad: For permittee's use. Shall be used for additional landing receipts and Crew ID numbers as well as vessel failure/storm notification..

Multi-day trip/Received: To be marked if the day's fishing activity is associated with a multi-day trip or if lobsters are received for future sale.

No. Traps Currently Deployed: Total number of traps currently deployed in the water.

Landing Receipt Number(s): Landing receipt associated with the lobsters retained for that day's fishing. Please remember to enter the Alpha character for the receipt in first box (Ex. **Q**215435 or **P**532076).

121°30'0"W

120°45'0"W

120°0'0"W

119°15'0"W

118°30'0"W

117°45'0"W

117°0'0"W

35°15'0"N

34°30'0"N

33°45'0"N

33°0'0"N

32°15'0"N

35°15'0"N

34°30'0"N

33°45'0"N

33°0'0"N

32°15'0"N

Southern California Fisheries Chart

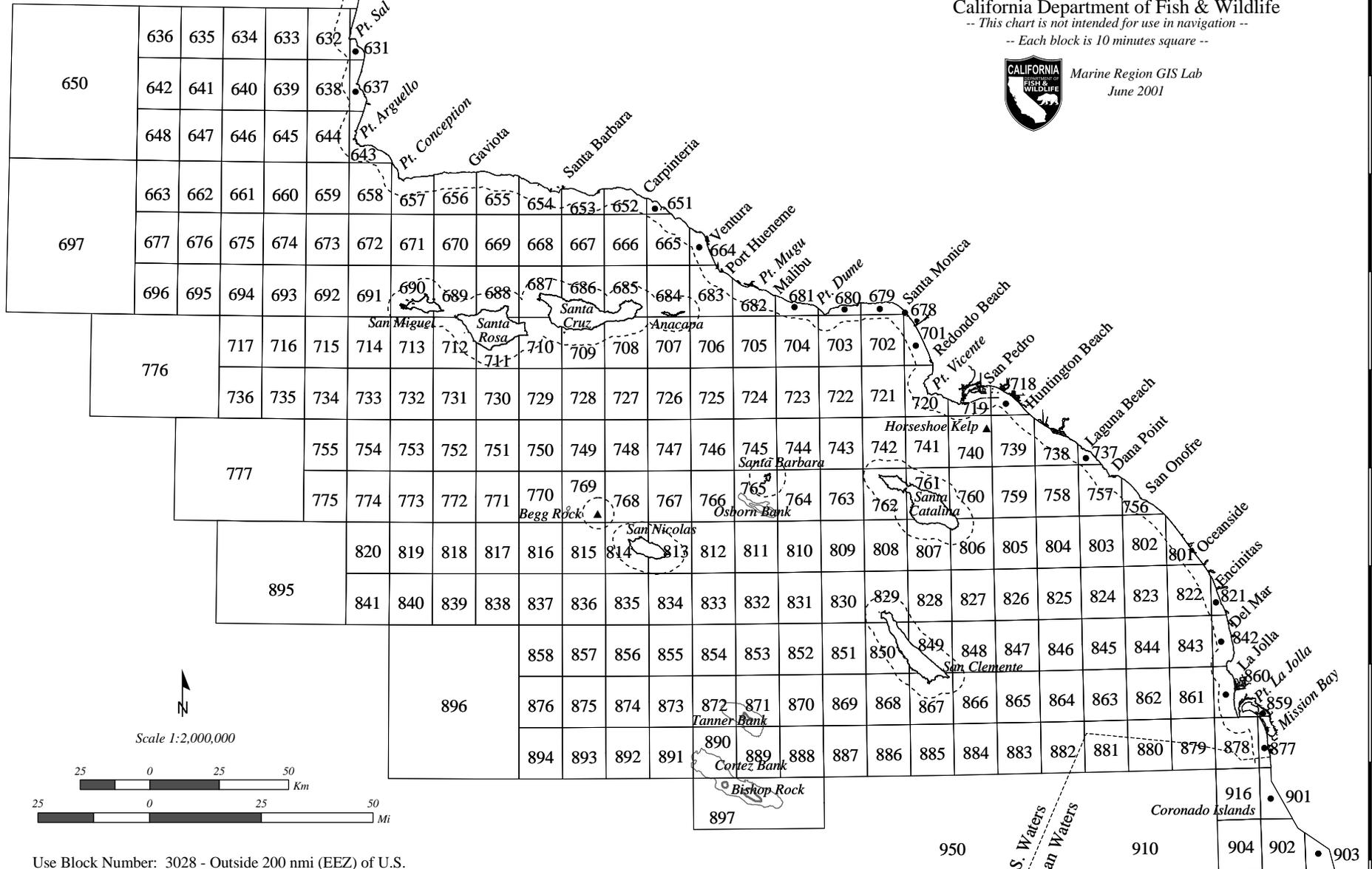
California Department of Fish & Wildlife

-- This chart is not intended for use in navigation --

-- Each block is 10 minutes square --



Marine Region GIS Lab
June 2001



Scale 1:2,000,000



Use Block Number: 3028 - Outside 200 nmi (EEZ) of U.S.
 3900 - Outside 200 nmi of Mexico
 Note: Between 1964-2000, fishing blocks 857, 858, 875, 876, 893, 894 were incorporated into a larger block denoted as 857.

121°30'0"W

120°45'0"W

120°0'0"W

119°15'0"W

118°30'0"W

117°45'0"W

117°0'0"W

U.S. Waters
Mexican Waters



DAILY LOBSTER LOG

DFW 122 (REV. 03/04/16) Previously DFG 122

SL

FISHERMAN LAST NAME	F. I.	FISHERMAN ID NUMBER	VESSEL NAME	F & W VESSEL NUMBER
		L		

TRAP LOCATIONS				F & W Block No.	DEPTH (IN FEET)	No. of TRAPS PULLED	No. NIGHTS IN WATER	No. of SHORTS RELEASED	No. of LEGALS RETAINED	DATE TRAPS PULLED		
LATITUDE		LONGITUDE								MONTH	DAY	YEAR
Degree	Minutes	Degree	Minutes									
Ex. 34°	Ex. 05.15'	Ex. 120°	Ex. 04.85'									

NOTE PAD:

MULTI-DAYTRIP

OF TRAPS CURRENTLY DEPLOYED

LANDING RECEIPT NUMBER (S)				CREW ID NUMBERS			
1)	2)	3)	4)	L			
				L			

TRAP LOCATIONS				F & W Block No.	DEPTH (IN FEET)	No. of TRAPS PULLED	No. NIGHTS IN WATER	No. of SHORTS RELEASED	No. of LEGALS RETAINED	DATE TRAPS PULLED		
LATITUDE		LONGITUDE								MONTH	DAY	YEAR
Degree	Minutes	Degree	Minutes									
Ex. 34°	Ex. 05.15'	Ex. 120°	Ex. 04.85'									

NOTE PAD:

MULTI-DAYTRIP

OF TRAPS CURRENTLY DEPLOYED

LANDING RECEIPT NUMBER (S)				CREW ID NUMBERS			
1)	2)	3)	4)	L			
				L			



State of California – Department of Fish and Wildlife

DAILY LOBSTER LOG

DFW 122 (REV. 03/04/16) Previously DFG 122

SL

FISHERMAN LAST NAME	F. I.	FISHERMAN ID NUMBER L	VESSEL NAME	F & W VESSEL NUMBER
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TRAP LOCATIONS				F & W Block No.	DEPTH (IN FEET)	No. of TRAPS PULLED	No. NIGHTS IN WATER	No. of SHORTS RELEASED	No. of LEGALS RETAINED	DATE TRAPS PULLED		
LATITUDE		LONGITUDE								MONTH	DAY	YEAR
Degree	Minutes	Degree	Minutes							<input type="text"/>	<input type="text"/>	<input type="text"/>
Ex. 34°	Ex. 05.15'	Ex. 120°	Ex. 04.85'							<input type="text"/>	<input type="text"/>	<input type="text"/>

NOTE PAD:

MULTI-DAYTRIP

OF TRAPS CURRENTLY DEPLOYED

LANDING RECEIPT NUMBER (S)				CREW ID NUMBERS			
1) <input type="text"/>	2) <input type="text"/>	3) <input type="text"/>	4) <input type="text"/>	L _____	L _____	L _____	L _____

TRAP LOCATIONS				F & W Block No.	DEPTH (IN FEET)	No. of TRAPS PULLED	No. NIGHTS IN WATER	No. of SHORTS RELEASED	No. of LEGALS RETAINED	DATE TRAPS PULLED		
LATITUDE		LONGITUDE								MONTH	DAY	YEAR
Degree	Minutes	Degree	Minutes							<input type="text"/>	<input type="text"/>	<input type="text"/>
Ex. 34°	Ex. 05.15'	Ex. 120°	Ex. 04.85'							<input type="text"/>	<input type="text"/>	<input type="text"/>

NOTE PAD:

MULTI-DAYTRIP

OF TRAPS CURRENTLY DEPLOYED

LANDING RECEIPT NUMBER (S)				CREW ID NUMBERS			
1) <input type="text"/>	2) <input type="text"/>	3) <input type="text"/>	4) <input type="text"/>	L _____	L _____	L _____	L _____



State of California - Department of Fish and Wildlife

LOBSTER OPERATOR PERMIT CATASTROPHIC LOST TRAP TAG AFFIDAVIT

DFW 1701 (New 2/2016)

Fee: \$1.25 per trap tag

INSTRUCTIONS: In the event of a catastrophic loss of 75 or more Lobster Operator Permit Trap Tags, complete and submit this affidavit with the nonrefundable fees for each replacement tag, to the California Department of Fish and Wildlife, License and Revenue Branch at 1740 N. Market Blvd., Sacramento, CA 95834.

PLEASE PRINT CLEARLY

COMMERCIAL FISHING LICENSE NUMBER		LOBSTER OPERATOR PERMIT NUMBER	GO ID NUMBER
FIRST NAME	M.I.	LAST NAME	
MAILING ADDRESS			
CITY		STATE	ZIP CODE
DAY TELEPHONE		E-MAIL ADDRESS	

COMPLETE THE FOLLOWING:

A description of the events that resulted in the destruction or loss of trap tags and any other information that will help us assess the circumstances of the loss. Provide copies of documentation of any all reports filed reporting the lost or destruction of trap tags.

Date the tags were first known to be lost or destroyed _____

Last known latitude and longitude coordinates of traps/tags _____

Date traps were last serviced _____

Describe if weather events or other suspected causes of loss: _____

Number of Lobster Operator Permit Trap Tags to be replaced: _____ X 1.25 = _____

Circle the trap tag numbers that were lost on the chart on the back of the affidavit.

All Lobster Operator Trap Tags identified as lost become null and void upon signing of the affidavit and remain so even if recovered at a later date. Based on the information provided in the written affidavit, the Department shall only issue the number of lost trap tags that were reported as lost.

I hereby certify under penalty of perjury that said Lobster Trap Tags have been lost and cannot be recovered. I understand that falsely applying for catastrophic loss for replacement trap tags is a violation of the law, punishable by a fine of up to \$1,000 pursuant to Fish and Game Code, Section 1054, and Section 746, Title 14 of the California Code of Regulations.

SIGNATURE OF PERMIT HOLDER	DATE
X	

FOR CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE USE ONLY

APPROVED DISAPPROVED

REVIEWED BY _____
PRINT NAME SIGNATURE DATE

REVIEWED BY LRB/DATE LRB APPROVED REPLACEMENT TAGS _____

ISSUED BY/DATE _____

LOBSTER OPERATOR PERMIT CATASTROPHIC LOST TRAP TAG AFFIDAVIT

NAME:	COMMERCIAL FISHING LICENSE #	LOBSTER OPERATOR PERMIT#
-------	------------------------------	--------------------------

Circle trap tag numbers that were lost.

1	11	21	31	41	51	61	71	81	91
2	12	22	32	42	52	62	72	82	92
3	13	23	33	43	53	63	73	83	93
4	14	24	34	44	54	64	74	84	94
5	15	25	35	45	55	65	75	85	95
6	16	26	36	46	56	66	76	86	96
7	17	27	37	47	57	67	77	87	97
8	18	28	38	48	58	68	78	88	98
9	19	29	39	49	59	69	79	89	99
10	20	30	40	50	60	70	80	90	100

101	111	121	131	141	151	161	171	181	191
102	112	122	132	142	152	162	172	182	192
103	113	123	133	143	153	163	173	183	193
104	114	124	134	144	154	164	174	184	194
105	115	125	135	145	155	165	175	185	195
106	116	126	136	146	156	166	176	186	196
107	117	127	137	147	157	167	177	187	197
108	118	128	138	148	158	168	178	188	198
109	119	129	139	149	159	169	179	189	199
110	120	130	140	150	160	170	180	190	200

201	211	221	231	241	251	261	271	281	291
202	212	222	232	242	252	262	272	282	292
203	213	223	233	243	253	263	273	283	293
204	214	224	234	244	254	264	274	284	294
205	215	225	235	245	255	265	275	285	295
206	216	226	236	246	256	266	276	286	296
207	217	227	237	247	257	267	277	287	297
208	218	228	238	248	258	268	278	288	298
209	219	229	239	249	259	269	279	289	299
210	220	230	240	250	260	270	280	290	300





State of California – Department of Fish and Wildlife
LOBSTER OPERATOR PERMIT TRANSFER APPLICATION
 DFW 1702 (New 2/2016)
FEE: \$500.00

GENERAL PROVISIONS

Pursuant to Section 122, Title 14, of the California Code of Regulations (CCR), any commercial fisherman with a valid transferable Lobster Operator Permit may transfer his/her permit to any person, who is licensed as a California commercial fisherman, subject to the following conditions:

A Lobster Operator Permit may be transferred by the permittee or the permit holder's estate if the permit holder, has no pending Fish and Wildlife violations, suspension or revocation.

Permit holder must complete the application and submit the required documentation. See reverse for instructions and documents required for transfer.

CURRENT PERMIT HOLDER

COMMERCIAL FISHING LICENSE NUMBER	LOBSTER OPERATOR PERMIT NUMBER	GO ID NUMBER
FIRST NAME	M.I.	LAST NAME
MAILING ADDRESS		
CITY	STATE	ZIP CODE
DAY TELEPHONE	E-MAIL ADDRESS	

PROPOSED PERMIT HOLDER		
COMMERCIAL FISHING LICENSE NUMBER	GO ID NUMBER	
FIRST NAME	M.I.	LAST NAME
MAILING ADDRESS		
CITY	STATE	ZIP CODE
DAY TELEPHONE	E-MAIL ADDRESS	

I agree to renew the permit before the expiration date, if the transfer application takes place during the annual permit renewal period. I certify that I have read, understand, and agree to abide by all conditions of the applicable provisions of the Fish and Game Code (FGC), and the regulations promulgated thereto. I agree that if I make any false statement as to any fact required as a prerequisite to the review, approval of this transfer application, the permit will be surrendered, and I understand that I may be subject to prosecution pursuant to FGC Section 1054 or to other administrative actions pursuant to Section 746, Title 14, of the CCR. I certify under penalty of perjury that the included information is true to the best of his or her information and belief.

SIGNATURE OF PERMIT HOLDER	
X	DATE

DEATH OF PERMIT HOLDER
 I hereby certify that I am the Executor/Executrix/Authorized Representative of _____, deceased, who was the holder of a valid Lobster Operator Permit immediately preceding his/her death, and that the information provided by me in connection with this application is true and accurate to the best of my knowledge. I further understand that, in the event of making any such false statement, as to any fact required as a prerequisite to the review, approval of this transfer application, the permit will be surrendered, and I understand that I may be subject to prosecution pursuant to FGC Section 1054 or to other administrative actions pursuant to Section 746, Title 14, of the CCR.

APPLICANT'S PRINTED NAME	APPLICANT'S SIGNATURE	DATE
--------------------------	-----------------------	------

SIGNATURE OF PROPOSED PERMIT HOLDER	
X	DATE

INSTRUCTION FOR TRANSFER TO ANOTHER PERSON

The current permittee must submit documentation to show proof of the facts stated in support of this transfer application with the original notarized signed transfer application.

APPLYING TO TRANSFER A LOBSTER OPERATOR PERMIT

The following items must be submitted with the transfer request:

- Original notarized Lobster Operator Permit Transfer Application.
- The original valid transferable Lobster Operator Permit.
- A copy of the proposed permittee's valid California Commercial Fishing License.
- Nonrefundable transfer fee of \$500.00.

In-Season Transfers (beginning with the 2017-2018 lobster season): All Department issued trap tags are required to be transferred to the proposed permit holder after the permit transfer has been approved pursuant to Section 122, Title 14 of the CCR.

DEATH OF PERMITTEE

In the event of the death of the permit holder, the estate of the holder of a transferable Lobster Operator Permit may renew that permit if needed to keep it valid. The estate of the decedent may transfer the transferrable Lobster Operator Permit not later than two years from the date of death of the permit holder as listed on the death certificate, pursuant to Section 122, Title 14, of the CCR.

The estate must submit all of the following with the transfer request:

- Original notarized Lobster Operator Permit Transfer Application.
- A court document naming the executor/executrix of the estate of the deceased permit holder or other evidence that the person signing the transfer application is an authorized representative of the deceased.
- Copy of the death certificate of the permittee.
- The deceased's original valid transferable Lobster Operator Permit.
- Copy of the proposed permittee's valid California Commercial Fishing License.
- Nonrefundable transfer fee of \$500.00.

A nontransferable Lobster Operator Permit, becomes null and void upon the death of the permittee, and the estate shall immediately surrender the permit and trap tags to the Department's License and Revenue Branch, pursuant to Section 122, Title 14, of the CCR.

IDENTIFICATION REQUIREMENTS

If the transferee is applying for the first time for a commercial fishing license they must provide valid identification as defined in Section 700.4, Title 14, of the CCR.

If you have any questions regarding the transfer process, please contact License and Revenue Branch, at (916) 928-5822 or via e-mail LRB@wildlife.ca.gov.

MAIL APPLICATION, TRANSFER FEE AND SUPPORTING DOCUMENTATION TO:

California Department of Fish and Wildlife
License and Revenue Branch
1740 N. Market Blvd.
Sacramento, California 95834

Attachment 2. California Department of Fish and Wildlife Estimated Cost and Fees For Lobster Trap Tags Per Permit License year and For Replacement Tags

New Permit Startup Costs			
Cost Description	Hours	Rate	Total Costs
ALDS IT support: Item setup/ configuration /reporting			
Senior Information Systems Analyst	4	\$ 49.21	\$ 196.84
Associate Programmer Analyst	2	\$ 38.87	\$ 77.74
Program review or Item Setup and configuration	2	\$ 52.32	\$ 104.64
Subtotal			\$ 379.22
Overhead		35%	\$ 132.73
Total Startup Costs			\$ 511.95
Amortized over 5 years:			\$ 102.39

Ongoing Program Costs

Cost Description	Hours	Rate	Total Costs
Specations/Bid/Vendor/Order			
Procurement Analyst	20.00	\$ 35.25	\$ 705.00
Staff			
Staff Services Manager	3	\$ 49.27	\$ 147.81
Associate Gov. Program Analyst	20	\$ 35.25	\$ 705.00
Warehouse Manager	40	\$ 35.25	\$ 1,410.00
Program Tech 1	40	\$ 35.25	\$ 1,410.00
Program Tech 1	20	\$ 35.25	\$ 705.00
Staff Total			\$ 5,082.81
Trap Tag Costs			\$ 64,595.48
Trap tag Shipping (Average of \$17.00 per 300 Tags)			\$ 3,213.00

Subtotal			\$ 72,891.29
Staff Overhead		35%	\$ 1,778.98
Total Costs			\$74,670.27
Program Total Costs			\$ 74,670.27
Amortized Startup Costs (from Above)			\$ 102.39
Total Cost			\$ 74,772.66
Program Total Costs			\$ 74,772.66
Per Applicant Total Cost			\$ 395.62
Total Cost per Tag			\$ 1.32

Permit Fee Calculation

Item Startup and program cost per transaction		\$ 395.62
2016-2017 Lobster Operator Current Permit Fee		\$ 377.25
New Item Fee (permit with trap tags)		\$ 772.87
Item Fee (rounded to nearest .25) per FGC Section 713		\$ 772.75

Catastrophic loss Tag Replacement Fee

Item Fee (Per Tag)	\$ 1.32
Item Fee (rounded to nearest .25) per FGC Section 713	\$ 1.25

ANNUAL TAG COST

Item	
Vender Tag Cost	\$1.05
Currently Lobster Operator Permittees	189
Tags per Lobster Operator Permit	300
Total tags for all permits	56,700
10% Replacement Tags = 5,670	
Total Annual Tags Purchased	56,700
Tag Cost	\$59,535.00
Tax 8.5%	\$5,060.48
Total Tag Cost	\$64,595.48



Discussion of California Spiny Lobster Regulatory Amendments



Fish and Game Commission Meeting
April 13-14, 2016
Thomas Mason
Senior Environmental Scientist Supervisor, Marine Region



Presentation Outline

- **Background and Overview of Proposed Amendments**
- **Details of Proposed Amendments:**
 - *Fishery Management Plan (FMP)*
 - *Recreational Fishery*
 - *Commercial Fishery*
- **Effective Dates of Regulations**
- **Next Steps and Timeline**





Background

- **Lobster Advisory Committee (LAC) (2012-2013)**
 - Developed 14 management recommendations
- **Department**
 - Added 6 recommendations
- **June 2015-** FGC directed Department to develop a regulatory package based on recommendations
- **February 2016-** Authorization to publish notice of intent to amend regulations





Overview of Proposed Changes

Amend 6 existing sections (§):

Recreational:

§ 29.80: Gear Restriction for take of *all crustaceans*

§ 29.90: Take, Season, and Possession

Commercial:

§ 121: Lobster Season and Possession

§ 121.5: Lobster Minimum Size

§ 122: Lobster Permits and Restricted Areas

§ 705: Applications, Permits, Tags, and Fees

Add 3 new sections (§):

§ 54: Lobster Fishery Management Plan (new)

§ 122.1: Trap Limit Provisions (new)

§ 122.2: Pulling of Lobster Traps (new)



FMP Regulations

Section 54.00

New Article 5 in Chapter 5.5, Title 14, CCR

§ 54.00- Purpose and Scope

§ 54.01- Definitions

§ 54.02- Management Process
and Timing

§ 54.03- Harvest Control Rule

CALIFORNIA SPINY LOBSTER FISHERY
MANAGEMENT PLAN



April, 2016
DRAFT FINAL

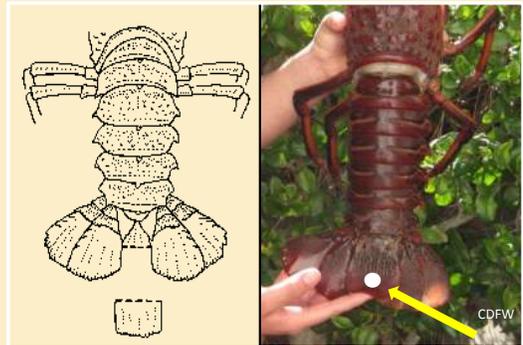


California Department of Fish and Wildlife
Marine Region



Recreational Amendments Sections 29.80 and 29.90

- **Require hole-punching or fin-clipping of retained lobster**
- **Prohibition on release of marked lobster**
**Exception Department staff*

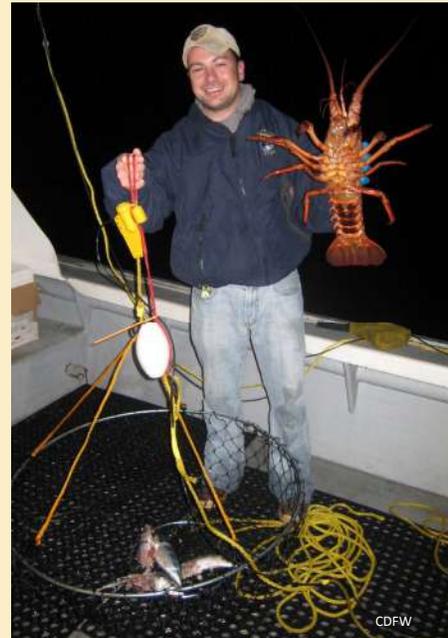


- **Season opener to start at 6:00 am (currently 12:01 am)**
- **Clarify that spearfishing gear may be possessed while lobster diving**



Recreational Amendments Sections 29.80 and 29.90

- **Measuring requirements:** Allow hoop netters to measure lobsters out of the water
- **Hoop nets:** Require marking of surface buoy with GO ID# ***except from shore & manmade structures**





Commercial Amendments Sections 121 & 121.5

- **Season and minimum size:** Moved into Title 14 to provide authority to adopt conservation measures prescribed by the FMP
- **Sale of marked lobster:** Prohibit hole punched or fin-clipped lobsters in markets





Commercial Amendments

Section 122: Permits & Restricted Areas

- **Existing regulations:** Reorganized and clarified
 - Harbor restricted area descriptions updated
- **Permit transfers:** Update procedures
 - New lobster operator permit transfer application
- **Lobster logbook:** Update with new fields





Commercial Logbook Modifications

Commercial Lobster Logbook

1. Coordinates for trap locations
2. Additional space for landing receipt numbers
3. Total number of traps currently deployed

SL

State of California – Department of Fish and Wildlife
DAILY LOBSTER LOG
 DFW 122 (REV. 03/04/16) Previously DFG 122

FISHERMAN LAST NAME		F. I.	FISHERMAN ID NUMBER		VESSEL NAME			F & W VESSEL NUMBER				
			L									
TRAP LOCATIONS				F & W Block No.	DEPTH (IN FEET)	No. of TRAPS PULLED	No. NIGHTS IN WATER	No. of SHORTS RELEASED	No. of LEGALS RETAINED	DATE TRAPS PULLED		
LATITUDE		LONGITUDE								MONTH	DAY	YEAR
Degree Ex: 34°	Minutes Ex: 05.15'	Degree Ex: 120°	Minutes Ex: 04.85'									
										NOTE PAD: MULTI-DAYTRIP <input type="checkbox"/>		
LANDING RECEIPT NUMBER (S)										# OF TRAPS CURRENTLY DEPLOYED		
1)	2)	3)		4)						CREW ID NUMBERS		
										L		
										L		



Commercial Amendments

Add New Section 122.1

Trap limit program:

- 300 traps per lobster operator permit
- Allow permittees to hold two lobster permits
- Establish lobster trap and buoy tag requirements
- Catastrophic trap tag loss affidavit

Fees (Section 705)

- Permit fee increase of \$396
- Replacement tags (\$1.25/tag)





Commercial Amendments Add New Section 122.2

Pulling of Lobster Traps:

- Pre/post-season trap deployment (6 to 9 days)
- Trap servicing requirement (4 to 7 days)
- Waiver to pull another permit holders traps
- Define abandoned traps
- Trap loss reporting





Effective Dates of Regulations

New Regulations Delayed Until 2017-2018 Season:

- *Marking of hoop nets*
- *New recreational season start time*
- *Hole punching/fin-clipping*
- *Commercial permit transfer procedures*
- *Commercial trap tag program, fees and forms*
- *Commercial trap setting and servicing requirements*

***Additional time needed to implement the trap tag program and notice changes within regulation booklets**



Next steps

- **Regulatory package released to public on April 8 starting 45 day review**
- **Please send public comments to FGC@FGC.CA.GOV**
- **Adoption hearing scheduled for the June, 2016 meeting**





Thank You/Questions



Photo Steve Barsky

www.wildlife.ca.gov/Conservation/Marine/Lobster-FMP

Sent: Wednesday, March 30, 2016 1:56 PM
To: Ashcraft, Susan@FGC
Subject: FW: Lobster FMP comment/concern

Dear Commission and Staff,

Thank you for providing me the opportunity to make an attempt at articulating my concerns at the February Commission meeting regarding the Lobster Advisory Committee (LAC) Consensus recommendation of hole punching recreationally caught lobsters. Following the meeting another teleconference call was put together with Enforcement (LED), Sonke Mastrup, Commercial Reps and other Department staff. The desire was to try to attempt to salvage our original consensus recommendation from the LAC process. Unfortunately we seem to be at an impasse with the current LED lead staff over the value of the concept, or the very serious negative impacts that will occur if it gets amended the way that LED currently chooses to support.

The commercial lobster fishery representatives worked with DFW and others to expedite this Lobster FMP for two reasons. Our primary concern was the overall sustainability of the lobster resource. Although we had a pretty good definition on the amount of effort and participation for the commercial fishery. We were concerned with the rapidly expanding recreational sector due to the advent and popularity of the newly allowed conical hoop trap. The dramatically more effective catching device and no annual recreational bag limit, along with the rampant abuse of the multi day permits, was allowing catches that were more on the level of a commercial operation. Our desire was to put some boundaries in to ensure and lessen the recreational commercialization of the resource.

The Lobster Advisory working groups did its best to avoid major confrontations so that we could provide consensus items which seemed to support the ecological and conservation needs and benefits to the fishery and State whenever possible. The obvious 800 pound gorilla in the room was trap limits for the commercial fisherman (which, while highly controversial in the commercial sector, we achieved) and a possible annual sport bag limit and/or the elimination of the conical hoop trap. We avoided these two recreational limitations by attempting to find other alternatives that would address the commercial harvesting that was taking place in the sport sector.

At the very last LAC stakeholder meeting it was apparent that the sport representatives were not there to share the concessions of effort controls or reduction that the commercial industry had proposed for their constituents. And since very little had been offered by the recreational side in regards to the commercialization of their fishery or their impacts on sustainability of the resource, we chose to vote on both an annual sport bag as well as elimination of the conical hoop trap. We had several different variations of these two items voted on, and although we achieved a very very high majority we fell short of the necessary full LAC consensus.

The only two recreational recommendations that we achieved consensus on that address the commercialization concerns were the elimination/restriction on mechanized pulling device, and the hole punching of recreational lobsters. Both of these two concepts took hours of very complicated negotiations with, as we had requested from the onset, LED lead staff present. We

requested LED Lead staff present at all meetings to ensure their support of any concepts generated so valuable time was not wasted on ideas that could not be supported. We have now gone through 4 different LED lead staff to this point.

We have since lost support from LED and DFW staff on the issue of the mechanized recreational pulling devices. There is concerns about handicap access and what constitutes disabled. Which leaves us with only the hole punching of recreational lobsters remaining.

It should be noted that the Hole Punching concept was proposed by the recreational sector. It was a concept borrowed from the Australian Spiny Lobster Fishery. The idea was to be able to differentiate between sport and commercially caught lobsters to make it more difficult for recreational lobsters to be bought, sold or traded. Since this proposal was generated and supported by the recreational sector, we all agreed that we had to be careful that it didn't negatively impact the commercial fisherman or our licensed buyers. We achieved consensus by agreeing that commercial fisherman and licensed buyers could possess and sell hole punched lobsters. The BIG concern was that if commercially we were not allowed to possess or sell these hole punched lobsters then it could very easily lead to individuals purposely hole punching all sub legal lobsters and releasing them. Since it takes an estimated 2-3 years for the lobster to recover and heal from a hole punch, that now you would have several year classes of lobsters that would be technically sport only roaming the ocean. We also did not want to incentivize individuals to purposely damage any lobster that should be released.

LED at the time supported the concept and agreed that at least it gave them the ability to differentiate sport and commercial lobster, but more importantly it would serve as a good investigative tool "more than we have now". If this rule was to be approved as it was created and agreed on, we perceived that there should be very little or no hole punched lobsters in the possession of the commercial fisherman or buyers. But if there was, enforcement would have the ability to backtrack and discover how and why. Where now all lobsters are the same once they leave the ocean.

Unfortunately current LED staff appears to have changed its stance now, LED wants to hold buyers accountable for hole punched lobsters. Which in turn makes commercial fisherman unable to sell any of these lobsters, and more importantly incentivizes damaging sub legal lobsters by anyone that does not want them caught by commercial fisherman in the future.

I realize the proposed regulations impacting the lobster fishery have still not been published – but with the March 30 advance meeting materials deadline quickly approaching, I didn't want to miss this opportunity to make the Commission aware of a serious concern we have. If the proposed regulations adequately address this concern, then I apologize; but assuming that LED's view hasn't changed since the aforementioned teleconference call – these comments are still quite pertinent.

At this point it seems our time was wasted trying to avoid the 800 pound gorilla. We spent days in the LAC working out these viable concepts, presumably only to have them tossed out in the final hours.

I beg of you to please support the LAC hole punching concept in its original form, the form that we carefully negotiated and achieved consensus on with the full participation of LED at the time.

I hate to sound negative but I personally feel without some realistic recreational annual limit or elimination of the conical hoop trap and now possibly losing both of the other recreational consensus items, we really haven't achieved much. I believe our commercial package is compressive, pragmatic and not only restrictive but responsible. I wish the other consumptive partners in this fishery could have shared some concessions. I ask now as I did years ago when we started this Lobster FMP process, what do we have in place to ensure sustainability, is there a clear capacity and effort for both consumptive entities and how do we deal with recreational commercialization? Unfortunately the answer is basically the same, most specifically with the last question.

Please allow the LAC consensus recommendation of hole punching recreational lobsters to move forward as the LAC intended it to, and allow our commercial fisherman and buyers to remain immune from participation of this rule. If you can not see it this way then please just disregard the recommendation completely, as much as it pains me to say it!

Thank you very much for your time
If you have questions or need answers I am always available to help.
Rodger Healy
Commercial Lobster Advisory Representative

President California Lobster and Trap Fishermen's Association
