

STAFF SUMMARY FOR FEBRUARY 10-11, 2016

15B. SPINY LOBSTER, SPORT AND COMMERCIAL**Today's Item**Information Action

Authorization to publish notice of intent to amend and add lobster regulations.

Summary of Previous/Future Actions

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

Background

At FGC's Jun 10, 2015 meeting, FGC approved the MRC-supported regulatory options for implementation and alignment with the California Spiny Lobster Fishery Management Plan; the recommendations supported the majority of the Lobster Advisory Committee (LAC), a multi-stakeholder advisory body that worked for over two years to develop the recommendations. At that meeting, FGC directed DFW to prepare a rulemaking package with the identified regulatory options. The initial statement of reasons (ISOR) to establish the implementing regulations for the Spiny Lobster Fishery Management Plan is still under development; the proposed implementing regulations will be discussed at this meeting and again in Apr and Jun.

Significant Public Comments

1. The Ocean Defenders Alliance proposes a trap spacing requirement of no less than 100 feet to avoid whale entanglement (see Exhibit 2).
2. Captain Mike McCorkle requests adding transferability to both tiers of permits in the proposed spiny lobster regulations to be consistent with other crustacean permit types (see Exhibit 3).

Recommendation

FGC staff: Supports authorization to publish notice of intent to amend the proposed regulations as recommended by MRC and DFW.

Committee: MRC supports options as recommended by DFW and LAC.

DFW: Publish notice of intent to amend the proposed regulations largely consistent with the recommendations of LAC.

Exhibits

1. [DFW memo, received Jan 14, 2016](#)
2. [Letter from Kurt Lieber, dated Jan 6, 2016](#)
3. [Letter from Mike McCorkle, received Dec 14, 2015](#)
4. [DFW presentation](#)

STAFF SUMMARY FOR FEBRUARY 10-11, 2016

Motion/Direction

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to amend sections 29.80, 29.90, 121, 121.5, 122, 705, and Appendix A, and add new sections 122.1 and 122.2, related to California spiny lobster regulations.

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2016 JAN 14 PM 4:17

Memorandum

Date: January 13, 2016

To: Fish and Game Commission

From: Charlton H. Bonham
Director



**Subject: Agenda Item for February 10-11, 2016, Fish and Game Commission Meeting
Request for Notice Authorization Re: California Spiny Lobster Fishery
Management Plan Implementing Regulations**

The Department of Fish and Wildlife (Department) requests that the Fish and Game Commission (Commission) authorize publication of notice of its intent to consider amendments to existing regulations in Title 14, California Code of Regulations (CCR) concerning commercial and recreational spiny lobster, 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 rulemaking package with these regulatory options. The Initial Statement of Reasons to establish the implementing regulations for the Spiny Lobster FMP is still under development, and the proposed implementing regulations will 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 new 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) Amendments are proposed to existing recreational lobster fishery regulations in subsections (b) and (g) of Section 29.80 and subsections (a), (c), (e) 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 or without commercial sale restrictions;
 - b. delay the season opener to start at 6:00 a.m.;
 - c. require buoy marking of all 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 are proposed to sections 121, 121.5, 122, 705 and Appendix A, 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 tag replacement measures;
 - b. allow permittees to hold up to two lobster operator permits;
 - c. establish improved trap servicing provisions and lost or abandoned trap regulations;
 - d. update permit renewal and transfer regulations;
 - e. provide modifications to the existing fishing logbook format to improve data collection
 - f. make editorial changes to improve clarity of existing regulations, and
 - g. provide an option 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.

Authorization of this request to publish notice will allow for discussion and possible adoption at the April 13-14, 2016 and June 22-23, 2016 Commission meetings, respectively.

If you have any questions or need additional information, please contact Dr. Craig Shuman, Regional Manager of the Marine Region, 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 email at Tom.Mason@wildlife.ca.gov.

cc: Craig Shuman, D. Env., Regional Manager
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Craig.Shuman@wildlife.ca.gov

Craig Martz, Program Manager
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**OCEAN
DEFENDERS
ALLIANCE**
Working for a debris free sea

Protecting and Restoring the Underwater World Since 2000

January 6, 2016

Hello,

President & Founder

Kurt Lieber

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I run a non-profit organization here in southern California called Ocean Defenders Alliance (ODA). www.oceandefenders.org

One of our projects is to locate and remove abandoned commercial fishing gear. We have been doing this since 2000.

On Nov. 15th of this year, we took our boat out to a site where we had seen hundreds of traps set (legally) in what looked like a straight line. This is the area where Santa Monica Bay (SMB) and Palos Verdes Peninsula meet. There is no commercial harvesting of lobsters allowed in SMB, so the fishermen set their traps right along the border with the bay.

Because there has been a huge spike in whale entanglements over the last 2 years, we became concerned that this line of traps would become a severe hazard to our whales. Typically 10 whales will become entangled in a year, but this year (2015) there have been 45 confirmed incidences, according to NOAA's researcher, Lauren Saez.

We decided to utilize our boat and mark the GPS numbers of each trap buoy that we found along this line. I have attached a map that we generated which shows the approximate location of each trap buoy. I say "approximate" because I didn't want to get too close to each buoy for fear of getting the lines fouled on my prop. So each mark may be off by 20-30 feet.

Regarding the attached map, each buoy is signified by a circle with a dot in the center.

Knowing that 48% of whale entanglements are directly related to either lobster or crab traps, it seems incredulous to me that so many traps are allowed to be set so close together. I hope that the DFW rules can be modified to allow for whales to swim through these area's without the high probability of becoming entangled.

NOAA researchers have reported that 80% of Humpback whales and 50% of Gray whales show signs of becoming entangled at one point in their lives.



This lineup of traps on the attached map stretches 2.2 miles from shore, running from 30 feet deep to 190 feet deep. We counted roughly 180 traps. Most of them were spaced between 20 to 50 feet apart. The wingspan of a Humpback whale is about 50 feet. You can see how they might become entangled with the traps spaced so close together. This is on the east side of SMB, and there is a similar scenario on the west side as well.

We urge you to consider adopting stricter regulations that would mandate traps be set no closer than 100 feet apart.

Thank you,

Kurt Lieber 1-6-2016

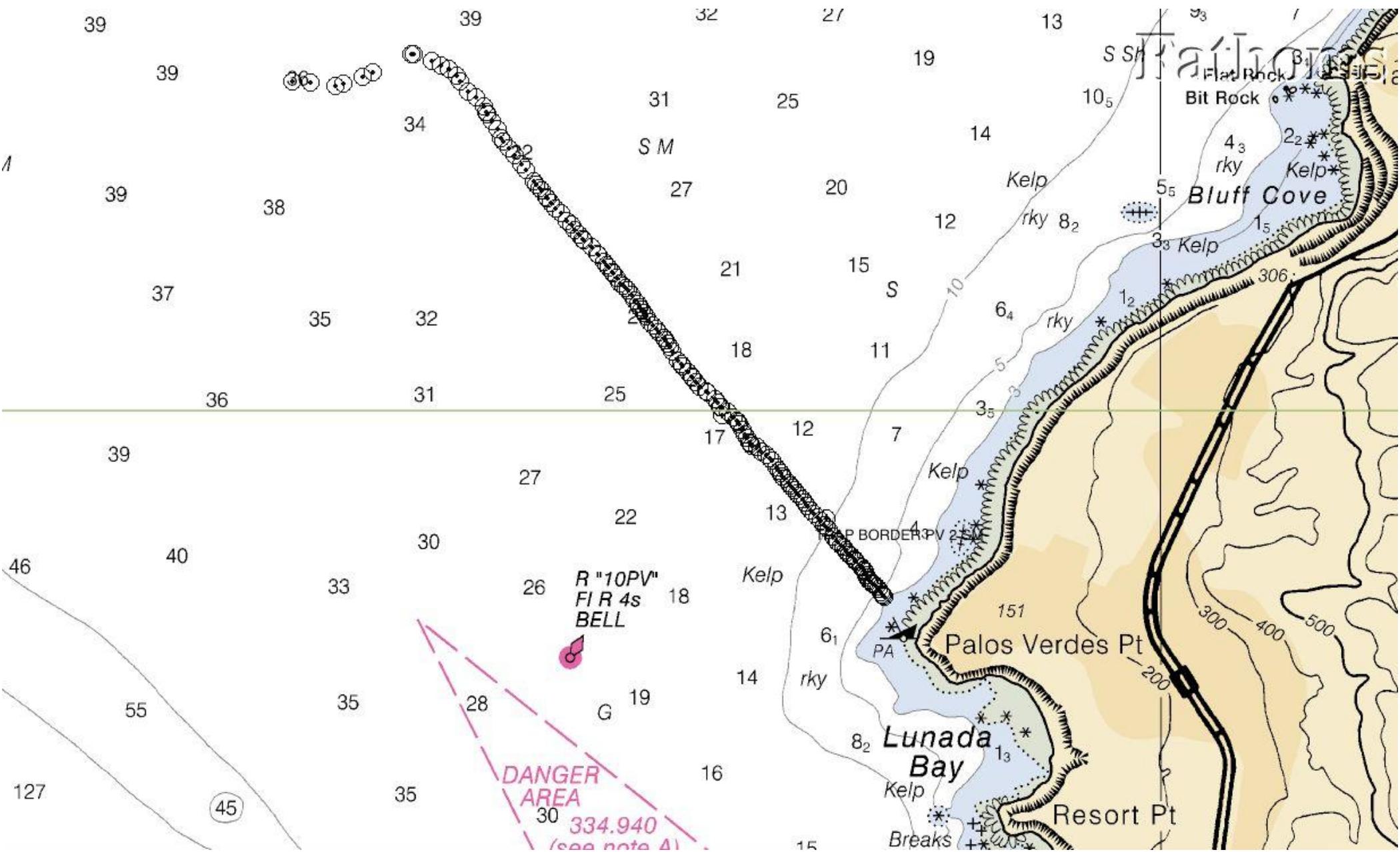
Kurt Lieber

President and Founder: Ocean Defenders Alliance

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2015 DEC 14 PM 2:22

MLS

December 10, 2015

Capt. Mike McCorkle
F/V PIEFACE
P.O. Box 713
Summerland, CA 93067

Ms. Jacque Hostler-Carmesin, Commissioner
CALIFORNIA FISH AND GAME COMMISSION
P.O. Box 944209
Sacramento, CA 94244-2090

RE: AGENDA ITEM 12, COMMISSION MEETING OF DEC. 9, 2015: LOBSTER MANAGEMENT
PLAN: PERMIT TRANSFERABILITY

At the Dec 9 Commission meeting, you may recall that I spoke in favor of transferable permits for all permittees in the California Spiny Lobster Fishery Management Plan public comment period. When I was finished, Executive Director Sonke Mastrup noted to the public that several years of meetings went into the Plan.

What Mr. Mastrup didn't say was that at every stage of these stakeholder meetings, many of which I attended, I asked that the issue of permit transferability be addressed. I have also had conversations with DFW staff (many of whom have now either retired or quit during the process of Plan development; this was noted by Dr. Shuman in his introduction to the issue). At the meetings, and during conversations with staff, I was consistently informed by Mr. Mastrup and by Dr. Shuman that "we're not going to talk about this." Biologist Kai (last name?) who quit the Department during the process, told me flat out "I've been told not to talk about permit transferability for your type of permit." When I asked Kai who gave him that direction, he would not answer the question.

So, in essence, the subject of consistency in permit transferability across lobster permit types, and across other crustacean permit types (Dungeness Crab and Rock Crab come to mind), has not been adequately addressed by the Department and its relevant staff, by the Lobster Advisory Committee, nor by the Commission. When Director Bonham noted that "this is the future" of California managed fisheries and suggested that the process be transparent, I would have to say that the issue of consistency of transferable lobster permits was as transparent as mud. Frankly, it has been systematically swept under the carpet, and my purpose in speaking to the Commission on December 9, 2015 was to shed light on this opaque part of the Lobster Plan process.

If the Department is worried about "getting the numbers down" (does that mean numbers of permits or numbers of traps), please refer to the information I handed out to the Commission on December 9. If each "second tier" permittee was limited to only 200 traps, that would be an immediate reduction of 4,600 traps (46 permittees reduced from 300 traps to 200 traps). At an average of a pound per trap, that's a reduction of 4,600 pounds of lobster landed every four days throughout the 5 month season, or a reduction of about 172,500 pounds of lobster during a season. Given that the average landings for the

four years this plan has been envisioned is 837,665 pounds, this one action represents a 20 percent reduction in lobster landings. If that isn't "getting the numbers down," I don't know what is. On top of this, when lobster permits were made limited entry (about 15 years ago), and nontransferable permits were issued, there were about 60 (possibly more). Today there are only 46. At that rate of attrition (about one permit per year), there will be continually fewer permits in the future regardless of the transferability issue.

This information could not possibly have been transferred to you in 2 minutes on December 9, hence this letter. Now that you have it before you, I request that you give thorough consideration to including transferability of both "tiers" of lobster permits in the final approved Lobster Management Plan. It is consistent with other crustacean trap permit systems, it reduces effort on the fishery, and it is the right thing to do.

Thank you for giving serious consideration to this proposal. I remain available to answer any questions or address any details you may have.

Sincerely,

A handwritten signature in blue ink that reads "Mike McCorkle".

CAPTAIN MIKE MCCORKLE

F/V PIEFACE

(805) 886-4239

C: Commissioners

Director Bonham

Marine Region Manager Shuman

Mr. Sonke Mastrup

Mike McCorkle, F/V Pieface, Santa Barbara, CA

CALIFORNIA SPINY LOBSTER DRAFT MANAGEMENT PLAN

IMPROVEMENTS TO PERMIT SYSTEM OVER EXISTING PROPOSAL

BASIC IMPROVEMENT:

ALL LOBSTER PERMITS ISSUED SHOULD BE TRANSFERABLE

1. All tiers of Dungeness Crab permits are transferable
2. All tiers of California Rock Crab permits are transferable
3. Consistency across trap permits is a good goal

THERE SHOULD BE TWO TIERS OF PERMITS:

1. "A" Permit: 300 traps allowed, transferable permit
(or whatever number of traps the Commission ends up deciding)
2. "B" Permit: 200 traps, transferable permit

BY THE NUMBERS:

Transferable:

In 2015 there were 130 transferable permits

There is an unknown number of these transferable permits that do not make landings every year.

Permits recently transferred	<u>2015</u>	<u>2014</u>	<u>2010 to 2015</u>
	6	13	71 (Averaged 14 per year)

Nontransferable:

Nontransferable permits:	<u>2013</u>	<u>2014</u>	<u>2015</u>
	51	48	46

In 2014, only 33 nontransferable permits made landings. 15 made no landings. Some of the 33 permitholders have fished for over 30 years. And the trend is clear: these permits are dwindling anyway.

BENEFITS:

1. Consistency with other trap permit systems in California
2. All lobster permits transferable is simpler, allows value to be retained by fishing businesses
3. Immediately reduces fishing effort by about 4,600 traps (300 down to 200 for 46 permits), improving the lobster stock and the CPUE of remaining traps.



California Spiny Lobster Proposed Regulatory Changes



Fish and Game Commission Meeting
February 10-11, 2016
Carlos Mireles
Environmental Scientist, Marine Region



Presentation Outline

- **Background**
- **Overview of Proposed Regulatory Changes**
- **Details of Key Proposed Regulatory Changes**
- **Next Steps and Timeline**





Background

- **Lobster Advisory Committee (LAC) (2012-2013)**
 - Defined concerns and objectives for fishery
 - Developed 14 consensus management recommendations
- **Department**
 - Added 6 management recommendations
- **June 2015-** FGC directed Department to develop a regulatory package based on recommendations





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

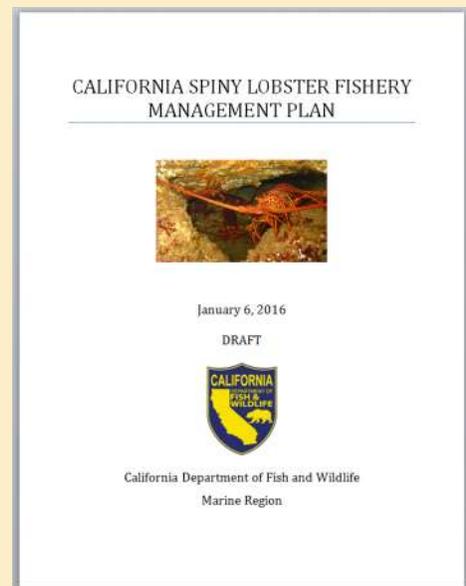
New Article 5 in Chapter 5.5, Title 14, CCR

§ 54.00- Purpose and Scope

§ 54.01- Definitions

§ 54.02- Management Process
and Timing

§ 54.03- Harvest Control Rule





Proposed Recreational Changes Sections 29.80 and 29.90

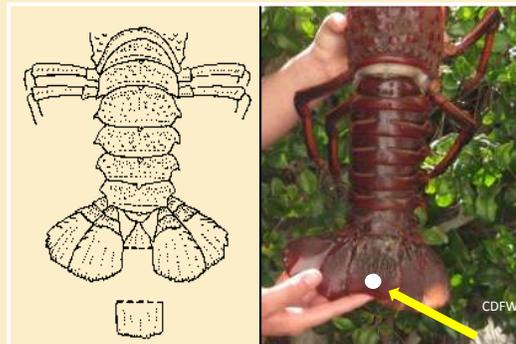
- **Allow for lobster to be measured aboard a vessel**
(Added per Commission request 12/9/15)
- **Require marking of all hoop net floats with GO ID#**





Proposed Recreational Changes Sections 29.80 and 29.90

- **Require hole-punching or fin-clipping of retained lobster**
- **Delay the season opener to start at 6:00 a.m.**
(currently 12:01 a.m.)
- **Clarify existing language on the possession of a hooked device while lobster diving**





Proposed Commercial Changes Sections 121-122.2 and 705

New trap limit program (effective 2017/18 season):

- 300 traps per lobster operator permit
- Allow permittees to hold two lobster permits
- Establish lobster trap and buoy tag requirements
- Lost trap tag replacement measures





Proposed Commercial Changes Sections 121-122.2 and 705

Amend existing trap regulations:

- Trap servicing requirement (4 to 7 days)
- Waiver to pull another permit holders traps
- Define abandoned traps
- End of season trap loss reporting





Proposed Commercial Changes Sections 121-122.2 and 705

- **Logbooks:** Modify existing logbook to improve data collection
- **Permit renewal and transfer:** Update procedures
- **Sale of lobster:** Prohibit hole punched or tail clipped lobsters in markets (per Commission 12/9/15)
- **Existing regulations:** Clean up and improve





Next steps

- **Request authorization to notice the proposed regulatory changes**
- **Discussion hearing**
April 13-14, 2016
- **Possible adoption**
June 22-23, 2016





Thank You/Questions



Photo Steve Barsky

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