

**TITLE 14. Fish and Game Commission  
Notice of Proposed Changes in Regulations**

**(Continuation of California Notice Register 2003, No. 42-Z,  
California Notice Register 2003, No. 46-Z, California Notice Register 2003, No. 51-Z,  
and Meetings of October 3 and December 5, 2003 and February 6, 2004.)**

**(NOTE: See Updated Informative Digest changes shown in bold face type.)**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 1050 and 8282 of the Fish and Game Code and to implement, interpret or make specific sections 1050, 8275, 8282, 8284, 9000, 9001, 9002, 9003, 9004, 9005, 9006, 9007, 9008, 9011, and 9012 of said Code, proposes to add Section 125, Title 14, California Code of Regulations, relating to the commercial take of rock crab.

**Updated Informative Digest/Policy Statement Overview**

A person must have a commercial fishing license, a general trap permit, and use a vessel that is commercially registered to participate in the commercial rock crab trap fishery. The proposed regulatory action would create a **northern and southern regional** rock crab trap permit requirement beginning April 1, **2005 with the north/south boundary located at Lopez Point (Lat. 36° N), Monterey County.** It also would establish **eligibility requirements for obtaining a northern or southern rock crab trap permit, and the permit renewal process.** Possession of a valid **2005-2006 Nearshore Fishery Permit** and trap endorsement or minimum landing requirements and a permit moratorium are proposed for the southern region. Establishment of a control date is also proposed for the southern rock crab trap permit to provide for limits on future participation if necessary. The proposed northern rock crab trap permit would be a **non-restrictive permit with no minimum landing requirements.** Tidal Invertebrate permits issued pursuant to Section 123, Title 14, CCR, are not required for the commercial take of rock crab. **A fee is proposed for each annual permit.** Only one individual aboard a vessel trapping rock crab would be required to have the **northern or southern** rock crab trap permit in addition to the individual's general trap permit. Other licensed fishermen assisting in the take of rock crab would still need a commercial fishing license and a general trap permit. The permit application process and appeal and renewal processes are also specified in the proposed regulations.

The proposed regulations provide that, as a condition of the permit, a rock crab trap permittee must abide by all the all provisions of the Fish and Game Code and regulations of the Fish and Game Commission relating to crabs and traps. Pursuant to Fish and Game Code Section 9005, every trap or string of traps deployed for purposes of commercially harvesting rock crab is currently required to be marked with a buoy. The proposed regulations would prohibit the use of timed buoy release mechanisms capable of submerging a buoy attached to a trap, commonly known as "pop-ups," on buoy lines attached to rock crab traps. The proposed regulations would also prohibit the possession of pop-ups on any vessel while taking or attempting to take rock crab under the authority of a northern or southern rock crab trap permit.

The Department is proposing that a **southern** rock crab trap permit may be issued to any licensed commercial fisherman who has a **valid 2005-2006 Nearshore Fishery Permit and trap endorsement, or a general trap permit**, and who has landed **south of Lopez Point (Lat. 36° N), Monterey County**, a minimum number of pounds of rock crab during a specified time period as documented by fish landing receipts submitted to the department in the individual's name and commercial fishing license identification number. A range of minimum catch levels and time periods are provided from which the Commission may select. A minimum of 0 to 2,000 pounds must have been landed in any single calendar year between **(1990–1998)** and **(2002–2003)**, or the participant must have cumulatively landed a minimum of 0 to 2,000 pounds in the **(1990–1998)** through **(2002– 2003)** time period. **Fishermen holding lobster permits taking rock crab incidentally during the lobster fishing season and in lobster trap gear would be exempt from the rock crab trap permit.**

The range of 0-2000 pounds over the multi-year window period or in a single calendar year was chosen to provide the Commission alternatives from which a selection could be made on the composition of the future fleet once the entire industry has been notified and provided input. This range would allow the Commission to choose either a specific performance standard in a single year to measure participation, or alternatively, determine a level of participation over an extended recent time period. The tables below provide a summary of the range of options and anticipated qualifiers under various performance scenarios based on evaluation of the Department's commercial rock crab landings data.

**The updated tables below reflect catch information only in southern port areas and include only landings where trap was recorded as the gear used. The summary tables presented in the July 30, 2003 Initial Statement of Reasons included all landings throughout the state, and thus no longer accurately reflect the number of anticipated qualifiers under the proposed regional program.**

**Rock Crab Commercial Catches Over the 1998-2002  
Window Period from Morro Bay South**

<b>Five-Year Total Catch</b>	<b>Number of Individuals</b>
<b>2,000 pounds or more</b>	<b>126</b>
<b>1,000 pounds or more</b>	<b>141</b>
<b>750 pounds or more</b>	<b>148</b>
<b>500 pounds or more</b>	<b>172</b>
<b>250 pounds or more</b>	<b>207</b>
<b>200 pounds or more</b>	<b>221</b>
<b>100 pounds or more</b>	<b>251</b>
<b>50 pounds or more</b>	<b>278</b>
<b>1 pound or more</b>	<b>329</b>

**Rock Crab Commercial Catches in a Single Year During 1998-2002 Window Period from Morro Bay South**

<b>Single-Year Catch</b>	<b>Number of Individuals</b>
<b>2,000 pounds or more</b>	<b>130</b>
<b>1,000 pounds or more</b>	<b>153</b>
<b>750 pounds or more</b>	<b>163</b>
<b>500 pounds or more</b>	<b>183</b>
<b>250 pounds or more</b>	<b>216</b>
<b>200 pounds or more</b>	<b>227</b>
<b>100 pounds or more</b>	<b>254</b>
<b>50 pounds or more</b>	<b>280</b>
<b>1 pound or more</b>	<b>329</b>

**Under the proposed regulations, applications for initial issuance of a southern rock crab trap permit must be received by the Department, or, if mailed, postmarked, on or before September 30, 2005. Applications for initial issuance of a southern rock crab trap permit received October 1 through October 31, 2005 shall be considered late and will be assessed a \$50 late fee. Applications received after October 31, 2005 will not be considered. Beginning with the 2006-2007 permit year, only persons who held a valid southern rock crab trap permit during the immediately preceding permit year are eligible to obtain a permit for the following permit year. Under the proposed regulations, applications for renewal of a southern rock crab trap permit must be received by the Department, or, if mailed, postmarked, on or before April 30 of each year. Applications for permit renewal of a southern rock crab trap permit received May 1 through May 31 shall be considered late and will be assessed a \$50 late fee. Applications received after May 31 shall not be considered, and the permit shall be cancelled and shall no longer be eligible for renewal in subsequent years. The proposed southern rock crab trap permit shall be revoked: a) if the person fails to renew the permit annually or renew his or her commercial fishing license issued pursuant to Fish and Game Code Section 7852; or b) for violation of any fish and game regulation pertaining to the take of rock crabs or violation of the terms or conditions of the permit.**

**The proposed regulations would provide that any applicant who is denied initial issuance or renewal of a southern rock crab trap permit may appeal that denial to the Department in writing describing the basis for the appeal. If the Department denies the appeal, an appeal may be made to the Commission.**

Applicants are required to submit a commercial **southern** rock crab trap permit application form DFG 1324(9/03) along with the required fee. The Department is proposing an annual fee for the **southern** rock crab trap permit of \$50 to \$250. Funding will be required in order to implement the proposed permit system, track fishery landings, enforce the new regulations, staff appeal hearings, and review the program to determine if any modifications are needed. Based on estimates provided by the Department's Marine Region, License and Revenue and Enforcement Branches, **the annual costs of the program may be estimated to be at least \$140,000 (including overhead and benefits).**

Control date options from January 1, 2000 through March 31, 2003 were provided by the Department to the Commission to allow for industry input. Selecting a date of March 31, 2003 would give consideration to any fisherman who participated in the prior fishing season or earlier. Selecting a date of January 1, 2000 would acknowledge participation only by those in the fishery at or before the time that fishery representatives went to the Commission and formally requested that no new participants be allowed in the fishery.

**The Department is proposing that a northern rock crab trap permit be may be issued to any licensed commercial fisherman who has a valid general trap permit that has not been suspended or revoked. The proposed northern rock crab trap permit would be a non-restrictive permit with no minimum landing requirements. Other licensed fishermen assisting in the take of rock crab using traps would still need a commercial fishing license and a general trap permit. The northern rock crab trap permit would be renewed annually by submitting application form DFG 1375 and the annual fee for the northern rock crab trap permit of \$50 to \$250.**

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Bahia Hotel, 998 W. Mission Bay Drive, in San Diego, California, on Tuesday, May 4, 2004 at 9:00 a.m., or as soon thereafter as the matter may be heard. It is requested that written comments be submitted on or before April 30, 2004 at the address given below, or by fax at (916) 653-5040, or by e mail to [FGC@dfg.ca.gov](mailto:FGC@dfg.ca.gov), but must be received no later than May 4, 2004 at the hearing in San Diego, CA. All written comments must include the true name and mailing address of the commentor.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Robert R. Treanor or Sherrie Koell at the preceding address or phone number. **Eric Larson, Ecosystem Coordinator, Department of Fish and Game, phone (650) 631-6788, 350 Harbor Blvd., Belmont, CA 94002, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at [http://www.dfg.ca.gov/fg\\_comm/](http://www.dfg.ca.gov/fg_comm/).

#### Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

## Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Each permittee, buyer, and processor is considered a small business. The proposed permit program would cause some fishermen who have participated in the fishery in the past on a limited and sporadic level to lose some potential income if the initial issuance criteria selected requires a level of prior participation that has not been met. As the ex-vessel value of rock crab is \$1.30 to \$2.00 per pound, with prior catch history of 1,000 pounds over the five year window period, a maximum future loss might be estimated at between \$1,300 and \$2,000 per person over a five-year time period if that individual was to repeat the prior performance level and the Commission were to select a minimum catch history of 1,000 pounds for initial permit issuance. It is thought that since these individuals do not derive a significant portion of their income from this fishery, the economic impact would not be significant to those that may not qualify for initial permit issuance.

- (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: None.

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

Each individual who seeks to purchase a **southern** rock crab trap permit and meets the selected initial issuance criteria may purchase a permit at a cost of [\$50 - \$250]. **The northern permit may be purchased at a cost of [\$50 - \$250].** The permit may be renewed annually at the selected fee level. This funding is needed to offset program costs, including funds needed to implement the initial permit program, track landings, enforce the new regulations, staff appeal hearings, review the program and develop any additional modifications to the program or develop other management strategies that may be needed once the program is implemented. See Section V (a) of the Amended Initial Statement of Reasons for additional information.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: **Under the proposed regulations the Department of Fish and Game will collect new permit fees to offset increased costs of administering the Rock Crab Permit program, no fiscal impacts on other State agencies or Programs are anticipated. See Section V(a), for details on implementation and management costs.**

- (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: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: March 9, 2004

Robert R. Treanor  
Executive Director