

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

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 1050, 8254 and 8259, of the Fish and Game Code and to implement, interpret or make specific sections 1050, 2365, 7852.2, 8043, 8046, 8250-8259, 9002-9006 and 9010 of said Code, proposes to amend Section 122, Title 14, California Code of Regulations, relating to lobsters, permits to take.

Informative Digest/Policy Statement Overview

Under current regulations (Section 122, T-14, CCR) there is a listing of the classes of commercial lobster permits and stipulates the requirements for obtaining and renewing lobster permits. The regulation also describes the transferable lobster operator permit qualification criteria and procedures; procedures and deadline for permit renewal and forfeiture of non-renewed permits; and the procedures timelines and initial limit on permit transfers. Current wording specifically lists equipment/activities that are illegal as well as equipment/activities that are a mandatory part of the commercial harvesting of lobster. Restricted lobster fishing areas are listed in the regulation.

The proposed regulation clarifies current wording by mandating traps used to commercially take lobster must meet the requirements of Fish and Game Code Section 9010. The amendment clarifies that lobster traps may 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. The current intent is for the listed districts to be the exclusive areas for the legal commercial take of lobster but sentence structure does not fully support this intent. Editorial changes are proposed to improve the clarity and consistency of the regulations.

The proposal mandates that all lobster permit holders shall maintain lobster trap buoys in such a condition that buoy identification numbers are clearly readable. The purpose of marked buoys is to establish what permittee is utilizing a specific lobster trap. Ineffective methods of placing numbers on buoys or inadequate maintenance of buoys hinders the ability of enforcement officers to identify the permittee using the trap. The proposal will specifically stipulate that the numbers on the buoy will be clearly readable so that the regulatory purpose of the buoy identification number is met.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Yolo Fliers Club, Ballroom, 17980 County Road 94B, Woodland, California, on Thursday, June 25, 2009, at 8:30 a.m., or as soon thereafter as the matter may be heard.

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 Yolo Fliers Club, Ballroom, 17980 County Road 94B, Woodland, California, on Thursday, August 6, 2009, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before July 30, 2009 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on August 4, 2009. All comments must be received no later than August 6, 2009, at the hearing in Woodland, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

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, John Carlson, Jr., 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 John Carlson, Jr., or Sheri Tiemann at the preceding

address or phone number. **Mr. Rob Allen, Enforcement Branch, Department of Fish and Game, (916) 651-9953 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.fgc.ca.gov>.

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. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. 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. The proposal clarifies and strengthens the enforceability of portions of the current regulation.

- (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:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.

- (f) Programs Mandated on Local Agencies or School Districts: None.

- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

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: May 19, 2009

John Carlson, Jr.
Executive Director