

Comments:

This proposed regulation change requires that lobster be kept in a whole, measurable condition until being prepared for immediate consumption. This is the same type of requirement as there is with sport caught abalone. The general public does not appear to have an issue understanding what immediate consumption is for abalone. The take and possession limit for lobsters is seven. Most people eat lobsters in a fresh condition and therefore the need to store large quantities of lobsters in a home freezer is normally not an issue.

VII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:
California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

VIII. Location of Department files:

Department of Fish and Game
1416 Ninth Street
Sacramento, California 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

No alternatives were identified.

(b) No Change Alternative:

The no change alternative would allow lobster to be tailed once brought to shore and therefore make it difficult to enforce legal size limits.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective, and less burdensome to the affected private persons than the proposed regulation.

X. 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 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.

- (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:

The proposed change is not likely to have any negative economic impact.

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

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

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

- (e) Nondiscretionary Costs/Savings to Local Agencies:

None.

- (f) Programs mandated on Local Agencies or School Districts:

None.

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None.

(h) Effect on Housing Costs:

None.

Updated Informative Digest/Policy Statement Overview

Pursuant to Section 29.90, Title 14, CCR, the legal size for spiny lobster is 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 or carapace. This measurement relies on the lobster being kept in a condition where the body stays in a whole condition and the tail is not separated. If a person were to possess only the tail portion of the spiny lobster, there would be no way to determine if the lobster tail possessed came from a legal sized lobster.

Fish and Game Code Section 5508 makes it unlawful to possess on a boat or bring ashore any fish upon which a size or weight limit is prescribed in such a condition that its size or weight cannot be determined. This section makes it unlawful to possess lobster tails on boats or for divers to bring ashore only the tails of the lobster taken. This section does not cover lobster taken on piers or jetties or lobster already brought ashore. If a person is on shore and possesses only the lobster tail there is no way to determine if the lobster was legal size, and there are no requirements to keep a lobster in a whole condition once it is brought on shore.

Biologists for the Department of Fish and Game have attempted to determine a correlation with the tail length and the carapace length of the spiny lobster. However, due to environmental conditions and their method of growth there is not a uniform (or consistent) correlation between the two lengths.

The proposed amendment would require lobster to be kept in a whole condition until being prepared for immediate consumption. This will ensure that a lobster would be kept in a measurable condition and its legal size could be determined when checked on the shore.

The Fish and Game Commission adopted the proposed regulations as noticed at its December 10, 2009 meeting.