

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

Amend Section 29.90
Title 14, California Code of Regulations
Re: Spiny Lobsters

I. Date of Initial Statement of Reasons: July1, 2009

II. Dates and Locations of Scheduled Hearings:

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| (a) | Notice Hearing: | Date: August 6, 2009
Location: Woodland |
| (b) | Discussion Hearing: | Date: October 1, 2009
Location: Woodland |
| (c) | Discussion Hearing: | Date: November 5, 2009
Location: Woodland |
| (d) | Adoption Hearing: | Date: December 11, 2009
Location: West Sacramento |

III. Description of Regulatory Action:

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

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.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:
Authority: Sections 200, 202, 205, 219 and 220 Fish and Game Code.
Reference: Sections 200, 202, 205, 210 and 220, Fish and Game Code.
- (c) Specific Technology or Equipment Required by Regulatory Change:
None.
- (d) Identification of Reports or Documents Supporting Regulation Change:
None.
- (e) Public Discussions of Proposed Regulations Prior to Notice Publication:
No public meetings are being held prior to the public notice. The 45 day comment period provides adequate time for review of the proposed documents.

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:
No reasonable alternatives were identified.
- (b) No Change Alternative:
The no change alternative was considered and rejected because the current language makes it almost impossible to enforce the size limit for a spiny lobster once it is brought to shore and the tail is removed from the carapace.
The no change alternative was also rejected in regards to the taking and measuring of lobsters. In order to benefit the lobster resource, the no change alternative was rejected.
- (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 persons than the proposed regulation.

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. The regulation only involves the possession of sport taken lobster.

- (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 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.

Informative Digest/Policy Statement Overview

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