

VII. Location of Department Files:

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

VIII. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

No alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

(b) No Change Alternative:

The No Change alternative would continue the current difficulty in identifying and enforcing suitable barrel sizes **based on volume for commercially-caught** hagfish. **In addition**, whale entanglement in trap/pot fisheries is a concern. The number of vertical lines **used in the commercial hagfish** fishery is minimal when compared to other trap fisheries; however there is still risk of whale entanglement. The average hagfish fisherman fishes up to five ground lines while using bucket traps, **one of the three legal trap types in this fishery**. Difficulty in finding 40-gallon barrels at a cost effective price or having to modify existing barrels are acting as a deterrent to fishermen who want to **switch from buckets to barrels**. For every **fisherman that did not switch from bucket to barrel traps due to the previously described problems, there would be no reduction in the number of ground lines used**.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

IX. 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.

Amending this regulation will allow fishermen to utilize any barrel, up to the maximum allowed dimensions, without need for modification or ordering special barrels at significant cost. However, fishermen may continue to use Korean or bucket traps for the take of hagfish if they desire to do so.

- (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; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California, or any benefits to the health and welfare of California residents or worker safety.

The Commission anticipates possible benefits to the State's environment due to the anticipated reduction in vertical buoy lines and traps on the seafloor if more fishermen switch from buckets to barrels.

- (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. The proposed amendment does not require fishermen to use barrel traps. Fishermen who choose to switch to barrel traps may incur costs of approximately \$30 per barrel. Total cost for the allowable 25 barrels is estimated to be about \$750.

- (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.

Updated Informative Digest /Policy Statement Overview

Current regulations in Section 180.6, Title 14, California Code of Regulations (CCR) allow hagfish, *Eptatretus spp.*, to be taken in 40-gallon barrel traps if attached to a ground line. Permittees may fish up to 25 barrel traps spread over a maximum of three ground lines.

PROPOSED REGULATION AMENDMENT

The proposed amendment replaces the 40-gallon requirement for barrel traps with a maximum total trap length of 45 inches and maximum outside diameter of 25 inches. Additional language is proposed to enact the same restrictions that are in place for other hagfish traps: 1) no take of finfish other than hagfish; and 2) no possession of any other hagfish trap type when using or in possession of barrels.

BENEFITS OF THE PROPOSED REGULATIONS

The proposed amendment would redefine maximum barrel size using linear dimensions instead of volume. Due to the variability in barrel manufacturing, linear dimensions offer flexibility to fishermen who want to switch to this gear and a consistent standard that enforcement staff can validate easily. With greater flexibility, more fishermen may switch over to this gear type which would reduce the number of traps on the seafloor and the number of vertical lines in the water; **this in turn** may result in fewer **potential** whale entanglements. Adoption of sustainable fishing regulations, including gear type, provides for the maintenance of sufficient fish populations and ensures their continued existence.

EVALUATION OF INCOMPATIBILITY WITH EXISTING REGULATIONS:

Section 20, Article IV, of the State Constitution specifies that the Legislature may delegate to the Fish and Game Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to regulate the commercial take of finfish using traps (Sections 8403 and 9022, Fish and Game Code). No other State agency has the authority to promulgate commercial fishing regulations. The proposed amended regulations are compatible with Sections 180, 180.2, 180.4 and 180.5, Title 14, CCR, which address other aspects of commercial take of finfish using traps. The Commission has searched the CCR for any regulations regarding the use of traps for the commercial take of hagfish and has found no such regulation; therefore the Commission has concluded that the proposed regulations are neither inconsistent nor incompatible with existing State regulations.

UPDATE

At its August 24, 2016, meeting, the Commission adopted the proposed regulations as described in the April 19, 2016, Initial Statement of Reasons.

There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.