

**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 8403 and 9022 of the Fish and Game Code and to implement, interpret or make specific Sections 8403, 9001.6, 9001.7 and 9022 of said Code, proposes to amend Section 180.6, Title 14, California Code of Regulations, relating commercial hagfish traps.

**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, which may result in fewer 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.

**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 Lake Natoma Inn Hotel & Conference Center, 702 Gold Lake Dr., Folsom, California, on Wednesday, August 24, 2016, at 8:00 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 August 11, 2016, at the address given below, or by email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). **Written comments mailed, or emailed to the Commission office, must be received before 5:00 p.m. on August 22, 2016.** All comments must be received no later than **August 24, 2016**, at the hearing in Folsom, California. 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, Valerie Termini, 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 Valerie Termini or Sherrie Fonbuena at the preceding address or phone number. **Travis Tanaka, Department of Fish and Wildlife, phone (831) 649-2881 or email [Travis.Tanaka@wildlife.ca.gov](mailto:Travis.Tanaka@wildlife.ca.gov), has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, the regulatory language, the Notice, and other rulemaking documents, may be obtained from either the address above or on the Commission's 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. 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/Results of the Economic Impact Assessment

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. 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 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.

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, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Dated: June 28, 2016

Valerie Termini  
Executive Director