

**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 200, 205, 265, 275, 1050, 7075, 7078, 8254 and 8259, of the Fish and Game Code and to implement, interpret or make specific sections 110, 200, 205, 265, 275, 1050, 2365, 2535, 2536, 2538, 7050, 7055, 7056, 7071, 7852.2, 8026, 8043, 8046, 8250, 8250.5, 8254, 9002, 9002.5, 9005, 9006 and 9010, of said Code; proposes to amend Sections 29.80 and 122, Title 14, California Code of Regulations (CCR), relating to crab and lobster recreational gear marking and commercial lobster harbor restricted fishing areas.

**Informative Digest/Policy Statement Overview**

Under current regulations, Section 29.80, Title 14 of the California Code of Regulations (CCR) governs gear restrictions for recreational crustacean fishing in California and Section 122 specifies spiny lobster permits and restricted fishing areas for commercial lobster activities.

The Fish and Game Commission (Commission) proposes to amend subsections (a) and (b) of Section 29.80 concerning recreational crab trap and hoop net buoy marking, respectively. The proposed amendment to subsection 29.80(a)(3) would exempt a person from having their GO ID number on crab trap buoys when operating recreational crab traps belonging to another fisherman, provided that the fisherman operating the crab trap has written permission (i.e., a note) from the owner(s) of the traps. Written permission may be transmitted electronically (e.g., a text message) from owner to operator and is valid only if it contains the GO ID number of the owner, and that GO ID number must also be on the buoy of the trap being pulled.

In addition, an amendment to subsection 29.80(b)(3) is proposed to clarify the current hoop net buoy marking requirements. The Commission proposes to add subsection 29.80(b)(3)(A) requiring the buoys of hoop nets deployed from Commercial Passenger Fishing Vessels (CPFVs) to be marked with the corresponding CPFV number and subsection 29.80(b)(3)(B) requiring licensed guides to mark buoys with their guide license number for hoop nets provided to clients for use on trips.

The proposed action would also amend the restricted fishing areas (RFAs) specified in subsection (d)(2) of Section 122. The Commission proposes to modify the Dana Point Harbor RFA (subsection 122(d)(2)(B) from a southerly orientation to a more westerly orientation. Additionally, a new RFA for Port Hueneme is proposed in subsection 122(d)(2)(D), which would cover approximately 3.25 square nautical miles. Lobster traps would be prohibited within the proposed RFA for operational and navigational safety.

Other minor, non-substantive changes are proposed to subsection 29.80(a)(2) to fix a grammatical error (minor re-wording of text) and subsections 29.80(c)(2)-(c)(4) to remove the August 1, 2016, start date as these regulations are currently in effect.

**Benefits of the Regulations**

The proposed amendments related to lobster and crab gear marking would preserve accountable recreational gear use and allow the recreational sector to meet the gear marking requirements with minimal regulatory burdens. The modification to the Dana Point Harbor RFA will improve the efficiency and safety of the fairway while providing additional commercial lobster fishing in an area that is currently restricted. The proposed Port Hueneme RFA would

improve operational and navigational safety by decreasing the risk of commercial lobster gear fouling propellers as vessels enter and leave the port.

### **Consistency and Compatibility with Existing Regulations**

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated authority to the Commission to adopt sport fishing regulations (Fish and Game Code, sections 200, 202 and 205) as well as the power to regulate the take of lobster for commercial purposes (Fish and Game Code Section 8254). No other state agency has the authority to regulate the recreational take of marine crustaceans or the commercial take of spiny lobster.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in Airtel Plaza Hotel, 7277 Valjean Ave., Van Nuys, California, on Thursday, April 27, 2017, at 8:00 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 Howonquet Hall Community Center, 101 Indian Court, Smith River, California, on Thursday, June 22, 2017, 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 5:00 p.m. on June 8, 2017 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 12:00 noon on June 16, 2017. All comments must be received no later than June 22, 2017, at the hearing in Smith River, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

### Availability of Documents

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Commission's website at [www.fgc.ca.gov](http://www.fgc.ca.gov). The regulations as well as all related documents 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 Sheri Tiemann at the preceding address or phone number. **Tom Mason, Senior Environmental Scientist, Department of Fish and Wildlife, [(562) 342-7107 or Tom.Mason@wildlife.ca.gov], has been designated to respond to questions on the substance of the proposed regulations.**

### 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 265 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/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 because the regulatory action will not substantially increase compliance costs, is not anticipated to impact harvest quantities, and only applies to a fishery that is unique to the state of California. The commercial spiny lobster fishery extends from Point Conception in Santa Barbara County to the U.S.-Mexico border. The recreational spiny lobster fishery covers the same range but also extends further north into San Luis Obispo County.

- (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 in California, the creation of new businesses, the elimination of existing businesses, or the expansion of businesses in California. The proposed action will not significantly increase costs or reduce harvest quantities. The recreational gear marking changes are designed to accommodate efficient business practices without sacrificing gear accountability. The adjustment to the Dana Point Harbor RFA and proposed new Port Hueneme RFA will create an efficient safe passage for vessels entering and leaving the harbors with no expected change to lobster harvest quantities for the fishery.

- (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, 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: March 28, 2017

Valerie Termini  
Executive Director