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*Celebrating 150 Years of
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MAR 08 2021

Birgitta E. Corsello, Clerk of
the Board of Supervisors of
the County of Solano, State of California

Deputy: 

March 5, 2021

TO ALL INTERESTED AND AFFECTED PARTIES:

This is to provide you with a 15-day continuation notice for the Recreational Crab Trap Fishery Marine Life Protection Measures regulations, published in the California Regulatory Notice Register on September 25, 2020, Notice No. Z2020-0915-07, and adopted by the Fish and Game Commission (Commission) on December 9, 2020.

This 15-day notice provides notice of revisions to the proposed regulatory language in sections 29.80, and 29.85, Title 14, California Code of Regulations (CCR). No revisions are being made to the proposed regulations in Section 701, Title 14, CCR.

These changes are sufficiently related to the originally proposed regulatory text such that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. These changes will benefit the regulations through adding clarity to their purpose and enforcement and will not substantially alter the original purpose of the regulations.

The proposed changes are clearly indicated on the attached revised proposed regulatory text as follows: additions of newly proposed text are shown in double underline; existing regulatory text that was inadvertently omitted in the originally proposed text and is now proposed for deletion is shown in ~~double strikeout highlight~~. Existing regulatory text that was inadvertently omitted in the originally proposed text and is being returned without edit is shown in highlight. Originally proposed text that is not affected by the changes described in this 15-day notice is indicated in single underline / ~~strikeout~~.

1. In the originally proposed language, the term "for Recreational Take of Saltwater Crustaceans" was added at the end of the title of Section 29.80; however, the addition was not illustrated in underline format.
2. In the originally proposed language, the term "operator" replaced the term "owner" in subsection 29.80(a)(3); however, the change was not illustrated in strikeout/underline format. As such the words "owner" should have been shown as strikeout and words "operator" should have been underlined.

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3/8/2021 to _____

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3. In the originally proposed language, the word “below” was added after the strikeout of “in subsections (b)(3)(A) and (b)(3)(B)” in subsection 29.80(b)(3); however, the change was not illustrated in underline format.
4. In the originally proposed language, the term “or lobster report card” was inadvertently removed from existing regulatory language in subsection 29.80(b)(3).
5. In the originally proposed language, the term “Recreational take of” was added to the title of Section 29.85; however, the change was not illustrated in underline format.

The economic analysis for the costs to Commercial Passenger Fishing Vessels (CPFVs) has also been updated in response to public comment. The language below updates sections VI(a) and (c) of the Initial Statement of Reasons, with updated language illustrated in bold.

(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 because the proposed regulations are for a recreational marine fishery and are not anticipated to change the level of fishing activity. CPFVs that take fishers on crab fishing trips would be required to attach additional buoys to crab trap lines for up to the maximum 60 traps per vessel, resulting in industry costs of **\$57,270** in initial costs and approximately **\$16,647** in subsequent years to replace lost or damaged buoys. The additional costs for CPFVs to purchase marker buoys is not anticipated to be significant because these costs are a very small share of CPFV operating costs and would not change procedure. As a result of fishing season closures or delays, CPFV operations could be impacted depending on the percentage of their group fishing trips that are solely or predominantly for crab trapping. Vessels that pursue multiple species could more readily shift effort away from trap-taken crabs should crab season delays or closures occur. These impacts are not anticipated to be more than those due to the typical season variation due to weather and other unknown influences.

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

Recreational crab fishers would be required to purchase a \$2.25 Recreational Crab Trap Validation annually to participate in any crab trap fishery. Fishers may also incur costs for up to ten buoys at approximately \$4.00 each if they elect to fish the maximum number of traps. The proposed changes are not expected to change the level of fishing activity. CPFVs that take individual fishers on crab fishing trips would be required to attach additional buoys to crab trap lines at a cost of **\$894.84 per vessel** in initial costs and approximately **\$260** in subsequent years to replace lost or damaged buoys.

The proposed regulation also includes the provision of authority for the Director of the Department to take action to reduce the risk of marine life entanglement. This component of the regulation is not anticipated to have cost impacts to individuals. However, CPFV operations could be impacted depending on the percentage of their group fishing trips that are solely or predominantly for crab trapping. Vessels that pursue multiple species could more readily shift effort away from trap-taken crabs should crab season delays or closures occur **than those vessels that pursue only**

crab. Analysis of CPFV logs was done comparing the 2015-16 season, when the recreational crab fishery was delayed due to domoic acid public health concerns, with the following season of 2016-17 that opened as scheduled. In 2015-16, areas of the recreational fishery opened in stages between December 31 and May 26 as the domoic acid public health risk abated. The analysis shows that while the cumulative number of fisher trips involving Dungeness crab during the 2015-16 season was only 75% of the number that occurred in 2016-17, the overall number of trips performed by the fleet in 2015-16 was 98% of those in 2016-17. This suggests that effort-shift did occur on the fleet level for this delayed fishing season.

Availability of Documents:

Documents relating to the proposed changes are available for inspection on the Commission's website at <https://fgc.ca.gov/Regulations/2020-New-and-Proposed> and at the Fish and Game Commission office at 1416 Ninth Street, Suite 1320, Sacramento, California, 95814, Monday through Friday, except holidays between the hours of 8:00 a.m. and 5:00 p.m.. To help maintain the safety of Commission staff and the public during the Covid-19 pandemic, in-person access to the Commission office is limited. Consistent with the Resources Building safety plan, any member of the public wishing to visit the Commission office must first obtain written approval from Commission staff. If you wish to visit the office, please send an email to fgc@fgc.ca.gov describing the reason for your visit and your desired date and time.

Comments on the revisions to the proposed regulatory language and/or the revised economic impact analysis must be emailed to fgc@fgc.ca.gov or mailed to Melissa Miller-Henson, Executive Director, California Fish and Game Commission, P.O. Box 944209, Sacramento, California, 94244-2090, from March 5-March 22, 2021.

Sincerely,



Sherrie Fonbuena
Associate Governmental Program Analyst

Attachment

Revised Proposed Regulatory Language

KEY:

Additions of newly proposed text are shown in double underline.

Existing regulatory text that was inadvertently omitted in the originally proposed text and is now proposed for deletion is shown in ~~double strikeout highlight~~.

Existing regulatory text that was inadvertently omitted in the originally proposed text and is being returned without edit is shown in highlight.

Originally proposed text that is not being revised is indicated in single underline / ~~strikeout~~.

Section 29.80, Title 14 CCR, is amended to read:

§ 29.80. Gear Restrictions for Recreational Take of Saltwater Crustaceans.

(a) General Provisions.

- (1) Saltwater crustaceans may be taken by hand.
- (2) Nets, traps or other appliances may not be used except as provided in this Section.
- (3) It is unlawful to disturb, move, or damage any trap; or remove any saltwater crustacean from a trap, that belongs to another person without written permission including permission transmitted electronically, in possession from the ~~owner~~operator of the trap. Any person with written permission from the ~~owner~~operator of a crab trap will be in compliance with subsection (c)(3)(A)1. if the written permission contains the ~~owner's~~operator's GO ID number that matches the GO ID number on the buoy of the crab trap being fished.

(b) Hoop nets may be used to take spiny lobsters and all species of crabs. Between Point Arguello, Santa Barbara County, and the United States-Mexico border, not more than five hoop nets, ~~as defined in (b)(1)(A) or (b)(1)(B)~~, shall be possessed by a person when taking spiny lobster or crab, not to exceed a total of 10 hoop nets possessed when taking spiny lobster or ~~crab, crab~~ per vessel. The owner of the hoop net or person who placed the hoop net into the water shall raise the hoop net to the surface and inspect the contents of the hoop net at intervals not to exceed 2 hours.

(1) Hoop Net Defined: There are two types of hoop nets allowed for use: ~~They shall be defined as:~~

- (A) Type A: Fishing gear that is comprised of one to three rigid ring(s), with each ring measuring no greater than 36 inches in inside diameter nor less than 10 inches in inside diameter, which is/are connected to soft mesh thereby forming a circular-shaped net with an enclosed bottom. Lift lines shall be

attached only to the top ring. A second and third rigid ring(s) may be connected by soft mesh to the top ring; however, each ring must be equal in size to or smaller than the ring above it. When the net is being raised the top ring shall be above and parallel to all other rings, with the enclosed bottom portion of the soft mesh even with or hanging below all other rings. All parts of the hoop net shall collapse and lie flat when resting on the ocean floor in such a manner that the gear does not entrap or restrict the free movement of crustaceans until lifted. When suspended from lift lines, the entire hoop net shall measure no taller than 36 inches. The ring material shall not be thicker than one inch in any dimension.

(B) Type B: Fishing gear that is comprised of two to three rigid rings (not including the bait ring), with each ring measuring no greater than 36 inches in inside diameter and the top ring measuring no less than 15 inches in inside diameter. The upper ring or rings shall be connected to the bottom ring and supported by no more than six rigid support arms, and the assembled frame shall measure no more than 10 inches tall. The rings and support material shall not be thicker than one inch in any dimension. All rings shall be connected by soft mesh, thereby forming a net with an enclosed bottom, and lift lines shall be attached only to the top ring. When suspended from lift lines the enclosed bottom portion of the net shall be even with or hanging below all other rings, and the entire net shall measure no taller than 30 inches. A bait ring may be attached to the net as long as the ring is not part of the rigid frame.

(2) Any hoop net abandoned or left unchecked for more than 2 hours shall be considered abandoned and seized by any person authorized to enforce these regulations.

(3) Hoop nets used south of Point Arguello, Santa Barbara County, shall be marked with a surface buoy. Except as provided in ~~subsections (b)(3)(A) and (b)(3)(B)~~ below, the surface buoy shall be legibly marked to identify the operator's GO ID number as stated on the operator's sport fishing license or lobster report card. This section does not apply to hoop nets deployed by persons on shore or manmade structures connected to the shore.

(A) The surface buoy of hoop nets deployed from commercial passenger fishing vessels shall be legibly marked to identify the commercial boat registration number of the vessel.

(B) The surface buoy of hoop nets provided by a licensed guide to clients for use on guided trips shall be legibly marked to identify the guide license number of the accompanying guide.

(c) Crab traps:

- (1) Crab traps shall have at least two rigid circular openings of not less than four and one-quarter inches inside diameter so constructed that the lowest portion of each opening is no lower than five inches from the top of the trap.
- (2) Crab traps shall contain at least one destruct device of a single strand of untreated cotton twine size No. 120 or less that creates an unobstructed escape opening in the top or upper half of the trap of at least five inches in diameter when the destruct attachment material corrodes or fails.
- (3) ~~Every crab trap except those used under authority of subsection 29.85(a)(5) of these regulations shall be marked with a buoy. Each buoy shall be legibly marked to identify the operator's GO ID number as stated on his/her sport fishing license.~~ Trap Gear Identification: Every crab trap shall be marked with only a main buoy and a marker buoy, except as noted under subsection 29.80(c)(3)(C) below.

(A) A main buoy is a surface buoy that is at least 5 inches in diameter and 11 inches in length.

1. The main buoy for traps deployed by an individual shall be legibly marked with the operator's assigned GO ID number.
2. The main buoy for traps deployed from a commercial passenger fishing vessel shall be legibly marked to identify the commercial boat registration number of that vessel.

(B) A marker buoy is a red buoy 3 inches in diameter and 5 inches in length attached no more than 3 feet from the Main Buoy.

(C) In addition to marking the buoy pursuant to subsection (c)(3)(A)2., traps deployed by commercial passenger fishing vessels shall be legibly marked to identify the commercial boat registration number of the vessel.

- (4) Crab traps shall not be deployed and used in ocean waters seven days prior to the opening of the Dungeness crab season.
- (5) Every crab trap shall be raised, cleaned, and emptied (serviced) at intervals not to exceed 9 days, weather conditions at sea permitting, and no crab trap shall be abandoned in the waters of this state.

(6) Trap Limits:

(A) An individual shall not operate more than 10 deployed traps, except an individual may service up to 10 additional traps if the individual has in possession written permission from the operator(s) of the additional traps whose gear are identified in accordance with subsection (c)(3)(A)1.

(B) A commercial passenger fishing vessel shall not deploy more than 60 traps per vessel.

(7) Starting at least 5 days in advance of the opening of the recreational Dungeness crab fishing season pursuant to Section 29.85, the director shall, on at least a monthly basis until the season opens statewide and March 1 through June 15, evaluate and respond to risk of humpback whales, blue whales, and/or Pacific leatherback sea turtle entanglement with recreational crab fishing gear as follows:

(A) The director shall evaluate entanglement risk based on marine life concentrations as defined in subsection 132.8(a)(10), Title 14, CCR, and consistent with the acceptable data and numerical triggers outlined in subsection 132.8(c)(2).

1. If data are available, and marine life concentrations meet the numerical triggers for any species as specified in subsection 132.8(c)(2)(A)4. (in the fall) or 132.8(c)(2)(B) (in the spring), the director shall take action pursuant to subsection 29.80(c)(7)(B) below.
2. If data are unavailable prior to the recreational Dungeness crab season opener, the director shall take action pursuant to subsection 29.80(c)(7)(B) below until data are available, at which point subsection 29.80(c)(7)(A)1. shall apply.

(B) If required under subsection 29.80(c)(7)(A) above, the director after consulting with the president of the commission or the president's designee, shall implement one or more of the following recreational management actions that the director demonstrates protects humpback whales, blue whales, and/or Pacific leatherback sea turtles based on best available science. Recreational management action shall be determined based on consideration of information outlined in subsection 132.8(d):

1. Advisory notice to recreational crab fishers to employ voluntary efforts and/or measures to reduce the risk of entanglements (e.g. best fishing practices).
2. Recreational Dungeness crab season delay and continuation of the crab trap prohibition specified in subsection 29.80(c)(4), whereby the director shall prohibit the deployment and use of recreational crab traps until new data indicates the numerical triggers for any species as specified in subsection 132.8(c)(2)(A)4. (in the fall) are no longer met, at which point the director shall lift or modify the Dungeness crab season delay as appropriate.
3. Season closure, whereby the director shall prohibit the deployment and use of recreational crab traps until new data indicates the numerical

triggers for any species as specified in subsection 132.8(c)(2)(B) (in the spring) are no longer met, or the normal end of the Dungeness crab season specified in subsection 29.85(b)(2), at which point the director shall lift or modify the closure as appropriate.

(C) Recreational management action may be implemented statewide or by fishing zone(s) (as defined in subsections 132.8(a)(7)(A)-(G)), if the director demonstrates less-than-statewide action protects humpback whales, blue whales, and/or Pacific leatherback sea turtles based on best available science.

(D) Notice of a delay or closure pursuant to subsection 29.80(c)(7)(B)2. or 3. shall be transmitted via a director's declaration. The declaration will describe the following:

1. Data supporting the entanglement risk evaluation pursuant to subsection 29.80(c)(7)(A).
2. Relevant information informing management considerations from subsection 132.8(d).
3. Rationale for nexus between management considerations in subsection 132.8(d) and chosen recreational management action under 29.80(c)(7)(B).
4. Duration of management action.

(E) The director's declaration pursuant to subsection 29.80(c)(7)(D) shall provide a minimum of 5 days' notice before the delay or closure becomes effective.

(F) The director's declaration and/or any advisory notice shall be communicated via the department's "Whale Safe Fisheries" webpage located at <https://wildlife.ca.gov/Conservation/Marine/Whale-Safe-Fisheries>. At its discretion, the department may communicate declarations and/or advisory notices via additional formats.

(G) After the director implements a management action pursuant to subsection (c)(7)(B), he or she shall notify the commission and request that the commission schedule a public discussion of the management action at its next regularly-scheduled commission meeting.

(d) Crab loop traps may have up to six loops.

(e) Crab trap areas: Crab traps, including crab loop traps, may be used north of Point Arguello, Santa Barbara County, to take all species of crabs (~~see regulations for take of Dungeness crabs in traps from commercial passenger fishing vessels in Section 29.85 of these regulations~~).

- (f) Shrimp and prawn traps may be used to take shrimp and prawns only. Trap openings may not exceed 1/2 inch in any dimension on traps used south of Point Conception nor five inches in any dimension on traps used north of Point Conception.
- (g) Diving for crustaceans: In all ocean waters, except as provided in Section 29.05, skin and SCUBA divers may take crustaceans by the use of the hands only. Divers may not possess any hooked device while diving or attempting to dive. Divers may be in possession of spearfishing equipment so long as possession of such equipment is otherwise lawful and is not being used to aid in the take of crustaceans.
- (h) Hand operated appliances: Spades, shovels, hoes, rakes or other appliances operated by hand may be used to take sand crabs and shrimp.
- (i) Dip nets and Hawaiian type throw nets: Shrimp may be taken with dip nets and Hawaiian type throw nets north of Point Conception.
- (j) Shrimp trawls: Shrimp beam trawls may be used to take shrimp only in San Francisco Bay waters east of the Golden Gate Bridge, and in San Pablo Bay. The beam trawl frame from which the net is hung may not exceed 24 inches by 18 inches. The trawl may be towed by motorized vessels but may not be retrieved by mechanical devices. Any fish, other than shrimp, caught in the trawl must be returned immediately to the water.

Note: Authority cited: Sections 200, 205, 265, 270, 275, 7075 and 7078, Fish and Game Code. Reference: Sections ~~440~~, 200, 205, 265, 270, 275, 7050, 7055 and 7056, Fish and Game Code.

Revised Proposed Regulatory Language

KEY:

Additions of newly proposed text are shown in double underline.

Originally proposed text that is not being revised is indicated in single underline / ~~strikeout~~.

Section 29.85, Title 14 CCR, is amended to read:

§ 29.85. Recreational Take of Crabs.

(a) Any individual who fishes for crabs using crab trap(s) pursuant to subsection 29.80(c), shall have in possession a valid Recreational Crab Trap Validation for the current license year (Section 701, Title 14, CCR).

~~(a)~~(b) Dungeness crabs (*Cancer magister*):

(1) Closure:

Dungeness crab may not be taken from or possessed if taken from San Francisco Bay and San Pablo Bay, plus all their tidal bays, sloughs and estuaries between the Golden Gate Bridge and Carquinez Bridge.

(2) Open season: Fishing rules for Dungeness crab may be changed during the year or in-season by the director under the authority of subsection 29.80(c)(7). See subsection 29.80(c)(7) for additional information.

(A) Del Norte, Humboldt and Mendocino counties: From the first Saturday in November through July 30.

(B) All other counties: From the first Saturday in November through June 30.

(3) Limit: Ten.

~~(4) Not more than 60 crab traps are authorized to be used to take Dungeness crab from a vessel operating under authority of a Commercial Passenger Fishing Vessel License issued pursuant to Fish and Game Code Section 7920.~~

~~(5) Traps and trap buoys by a commercial passenger fishing vessel to take Dungeness crab under authority of this Section and Section 29.80 shall have the commercial boat registration number of that vessel affixed to each trap and buoy.~~

~~(64)~~ No vessel that takes Dungeness crabs under authority of this section, or Section 29.80, shall be used to take Dungeness crabs for commercial purposes.

~~(75)~~ Minimum size: Five and three-quarter inches measured by the shortest distance through the body from edge of shell to edge of shell directly in front of and excluding the points (lateral spines).

~~(b)~~(c) All crabs of the Cancer genus except Dungeness crabs, but including: yellow crabs, rock crabs, red crabs and slender crabs:

(1) Open season: All year. Fishing rules for crabs of the Cancer genus may be changed during the year or in-season by the director under the authority of subsection 29.80(c)(7). See subsection 29.80(c)(7). for additional information.

(2) Limit: Thirty-five.

(3) Minimum size: Four inches measured by the shortest distance through the body, from edge of shell to edge of shell at the widest part, except there is no minimum size in Fish and Game districts 8 and 9.

~~(e)~~(d) All crabs of the genus *Cancer*, including Dungeness crabs, yellow crabs, rock crabs, red crabs and slender crabs, may be brought to the surface of the water for measuring, but no undersize crabs may be placed in any type of receiver, kept on the person or retained in any person's possession or under his direct control; all crabs shall be measured immediately and any undersize crabs shall be released immediately into the water.

~~(d)~~(e) Sand crabs (*Emerita analoga*): Limit: Fifty.

Note: Authority cited: Sections 200, 205, 265 and 275, Fish and Game Code. Reference: Sections 440, 200, 205, 265 and 275, Fish and Game Code.

Proposed Regulatory Language

KEY:

Originally proposed text that is not being revised is indicated in single underline / ~~strikeout~~.

Section 701, Title 14 CCR, is amended to read:

§ 701. Sport Fishing Forms and Fees

Application	Permit Fees (US\$)	Replacement Processing Fees (US\$)
(a) Declaration for Multi-Day Fishing Trip (FG 935 (Rev. 2/13)), incorporated by reference herein	5.75	
(b) 2014 North Coast Salmon Report Card	5.75	
(c) 2014 Sturgeon Fishing Report Card	7.50	
(d) 2014 Sturgeon Fishing Replacement Report Card and Replacement Fee	7.50	7.50
(e) 2014 Spiny Lobster Report Card	8.75	
(f) 2014 Spiny Lobster Report Card Non-Return Fee	20.00	
(g) 2014 Abalone Replacement Report Card and Replacement Fee	9.50	7.50
<u>(h) 2021 Recreational Crab Trap Validation</u>	<u>2.25</u>	

~~(h)~~(i) Pursuant to the provisions of Section 699, Title 14, the department shall annually adjust the fees of all licenses, stamps, permits, tags, or other entitlements required by regulations set forth in this section.

Note: Authority cited: Sections 200, 205, 265, 275, 713, 1050, 1053.1 and 7149.8, Fish and Game Code. Reference: Sections ~~440~~, 200, 205, 265, 275, 713, 1050, 1053.1, ~~4055~~1055.1 and 7149.8, Fish and Game Code.

