

**ECONOMIC AND FISCAL IMPACT STATEMENT  
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

[SAM Section 6601-6616](#)**ECONOMIC IMPACT STATEMENT**

DEPARTMENT NAME <b>Department of Fish and Wildlife</b>	CONTACT PERSON <b>Margaret Duncan    margaret.duncan</b>	EMAIL ADDRESS <b>@wildlife.ca.gov</b>	TELEPHONE NUMBER <b>916-653-4674</b>
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 <b>Amend Sec.122.1,125,126.1,180.1,180.5, Title 14, CCR Re: Standardized Commercial Trap Marking Program</b>			NOTICE FILE NUMBER <b>Z</b>

**A. ESTIMATED PRIVATE SECTOR COST IMPACTS** *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements                         |
| <input checked="" type="checkbox"/> b. Impacts small businesses          | <input checked="" type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations                  | <input type="checkbox"/> g. Impacts individuals                                    |
| <input type="checkbox"/> d. Impacts California competitiveness           | <input type="checkbox"/> h. None of the above (Explain below):                     |

*If any box in Items 1 a through g is checked, complete this Economic Impact Statement.  
If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.*

2. The Department of Fish and Wildlife estimates that the economic impact of this regulation (which includes the fiscal impact) is:  
(Agency/Department)

- ☒ Below \$10 million  
☐ Between \$10 and \$25 million  
☐ Between \$25 and \$50 million  
☐ Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a [Standardized Regulatory Impact Assessment](#) as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: 680-900

Describe the types of businesses (Include nonprofits): Commercial Trap Fishery operators and crewmembers

Enter the number or percentage of total businesses impacted that are small businesses: 100%

4. Enter the number of businesses that will be created: 0 eliminated: 0

Explain: No change to fishery access or harvest quotas.

5. Indicate the geographic extent of impacts: ☐ Statewide  
☒ Local or regional (List areas): Coastal California waters

6. Enter the number of jobs created: 0 and eliminated: 0

Describe the types of jobs or occupations impacted: Operators of commercial fishing boats and/or crewmembers/deckhands would have to mark all buoys in accordance with the proposed marking requirements, one time, and then maintain the markings.

7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here? ☐ YES ☒ NO

If YES, explain briefly: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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**ECONOMIC IMPACT STATEMENT (CONTINUED)****B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ 0 - 5,000
- a. Initial costs for a small business: \$ 0 - 50 Annual ongoing costs: \$ 0 - 50 Years: 1
- b. Initial costs for a typical business: \$ 0 - 50 Annual ongoing costs: \$ 0 - 50 Years: 1
- c. Initial costs for an individual: \$ N/A Annual ongoing costs: \$ N/A Years: N/A
- d. Describe other economic costs that may occur: For most, only costs are for additional paint & time to mark buoys for each fishery.  
Some who participate in more than one fishery may choose to save time by buying separate buoys instead of re-marking one set (See Addendum).

2. If multiple industries are impacted, enter the share of total costs for each industry: Commercial Trap Fishery permittees (100% of impacts)

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements.  
*Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.* \$ N/A

4. Will this regulation directly impact housing costs? ☐ YES ☒ NO

If YES, enter the annual dollar cost per housing unit: \$ \_\_\_\_\_

Number of units: \_\_\_\_\_

5. Are there comparable Federal regulations? ☐ YES ☒ NO

Explain the need for State regulation given the existence or absence of Federal regulations: State legislature mandates CDFW to implement law

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ none

**C. ESTIMATED BENEFITS** *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: Trap gear marking should benefit the environment by enabling more efficient identification of which fishery's gear is involved in the entanglement of bycatch, particularly of marine mammals, so that mitigation measures may be developed to reduce negative impacts to the marine environment.

2. Are the benefits the result of: ☒ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?

Explain: SB1309 (2018) implementation with 9005 FGC that requires CDFW to implement a standardized gear marking program

3. What are the total statewide benefits from this regulation over its lifetime? \$ mitigation of bycatch

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: N/A

**D. ALTERNATIVES TO THE REGULATION** *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: 1) Colored buoy lines and differently colored trap tags were considered, but found to be too expensive and could create drag and tangle with kelp, etc. 2) No change alternative would not implement the legislature-mandated program or help to address the risk of bycatch entanglements.



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**ECONOMIC IMPACT STATEMENT (CONTINUED)**

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ mitigation Cost: \$ 0 - 5,000Alternative 1: Benefit: \$ mitigation Cost: \$ 10,000Alternative 2: Benefit: \$ no mitigation Cost: \$ bycatch risk

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives:

No other alternative was brought forward that required less cost in time and materials to durably mark buoys while not introducing drag or snagging on kelp.

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs?

☐ YES☒ NOExplain: Prescriptive regulations were called for by the legislature.**E. MAJOR REGULATIONS** *Include calculations and assumptions in the rulemaking record.**California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.*1. Will the estimated costs of this regulation to California business enterprises **exceed \$10 million**? ☐ YES ☐ NO*If YES, complete E2. and E3**If NO, skip to E4*

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: \_\_\_\_\_

Alternative 2: \_\_\_\_\_

*(Attach additional pages for other alternatives)*

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ \_\_\_\_\_ Cost-effectiveness ratio: \$ \_\_\_\_\_

Alternative 1: Total Cost \$ \_\_\_\_\_ Cost-effectiveness ratio: \$ \_\_\_\_\_

Alternative 2: Total Cost \$ \_\_\_\_\_ Cost-effectiveness ratio: \$ \_\_\_\_\_

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES ☒ NO*If YES, agencies are required to submit a [Standardized Regulatory Impact Assessment \(SRIA\)](#) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: \_\_\_\_\_

The incentive for innovation in products, materials or processes: \_\_\_\_\_

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: \_\_\_\_\_

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**FISCAL IMPACT STATEMENT****A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)  
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ \_\_\_\_\_

- ☐ a. Funding provided in \_\_\_\_\_  
Budget Act of \_\_\_\_\_ or Chapter \_\_\_\_\_, Statutes of \_\_\_\_\_

- ☐ b. Funding will be requested in the Governor's Budget Act of \_\_\_\_\_  
Fiscal Year: \_\_\_\_\_

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)  
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ \_\_\_\_\_

*Check reason(s) this regulation is not reimbursable and provide the appropriate information:*

- ☐ a. Implements the Federal mandate contained in \_\_\_\_\_
- ☐ b. Implements the court mandate set forth by the \_\_\_\_\_ Court.

Case of: \_\_\_\_\_ vs. \_\_\_\_\_

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. \_\_\_\_\_

Date of Election: \_\_\_\_\_

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: \_\_\_\_\_  
\_\_\_\_\_

- ☐ e. Will be fully financed from the fees, revenue, etc. from: \_\_\_\_\_

Authorized by Section: \_\_\_\_\_ of the \_\_\_\_\_ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in \_\_\_\_\_

- ☐ 3. Annual Savings. (approximate)

\$ \_\_\_\_\_

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☐ 6. Other. Explain \_\_\_\_\_  
\_\_\_\_\_

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**FISCAL IMPACT STATEMENT (CONTINUED)****B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ \_\_\_\_\_

*It is anticipated that State agencies will:*☐ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the \_\_\_\_\_ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ \_\_\_\_\_

☒ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☐ 4. Other. Explain \_\_\_\_\_**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ \_\_\_\_\_

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ \_\_\_\_\_

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain \_\_\_\_\_

FISCAL OFFICER SIGNATURE

DATE



6/5/19

*The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.*

AGENCY SECRETARY

DATE



6/11/19

*Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.*

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER

DATE



**STATE OF CALIFORNIA  
DEPARTMENT OF FISH AND WILDLIFE  
STD. 399 Addendum**

Amend Sections 122.1, 125, 126.1, 180.1, 180.5  
Title 14, California Code of Regulations  
Re: Standardized Commercial Trap Marking Program

**Economic Impact Statement**

The California Department of Fish and Wildlife (Department) proposes amendments to sections 122.1, 125, 126.1, 180.1, and 180.5, Title 14, California Code of Regulations (CCR) to implement a “Standardized Commercial Trap Marking Program” (Marking Program) pursuant to Fish and Game Code (FGC) Section 9005. Senate Bill 1309 (SB 1309; McGuire), signed into law on September 30, 2018, amended several sections in the Fish and Game Code (FGC), including Section 9005 under Article 1 (“Traps”) requiring the Department to develop regulations for standardized gear marking of commercial fishing gear to aid with identifying the fisheries responsible for marine life entanglements.

Under the proposed Marking Program, every trap or string of traps must be attached to at least one buoy that is marked with a number that identifies the operator of the trap (“Identification Number”). This number is usually the commercial fishing license number of the trap’s operator. Furthermore, every buoy will now be required to be marked on four sides with a letter that identifies the fishery that the gear belongs to (“Identification Letter”). Several fisheries already require marking of buoys by statute, as listed in Table 1 below.

**Table 1. Fisheries Currently Subject to Gear Marking Requirements**

Fishery	Existing		Proposed		Max # of traps	Purchased licenses <sup>^</sup>
	ID Number	ID Letter	ID Number	ID Letter		
Lobster Trap (Operator & Crewmember)	operator's FISH #	P	No Change	No Change	300/ operator; up to 2 permits/ operator	401
Rock Crab Trap (Northern & Southern)	None	None	FISH #	X	None	162
Tanner Crab Trap (Vessel)	VESS #	TC	VESS #	T	480	1
Spot Prawn Trap (Vessel, Tiers 1-3)	FISH #	None	FISH #	S	150-500	24
Coonstripe Shrimp Trap (Vessel)	None	None	FISH #	C	None	37
Nearshore Finfish Trap (No. Central Coast, S. Central Coast)	FISH #	Z	FISH #	No Change	None	57
Number of operators involved in the above fisheries (note; some fishermen operate more than one fishery; unique fishermen total approximately 460)						683

<sup>^</sup> 2014-2018 average fishermen who purchased a fishery specific license

FISH # = Commercial fishing license identification number

VESS # = California boat registration number

## Section B, Estimated Costs, Question 1.

For most fishery participants, compliance may involve the cost of additional paint and the time to mark their existing gear. A few who participate in multiple fisheries may find it more time-efficient to purchase additional buoys to keep marked for other trap fisheries that they participate in, rather than re-paint and cross-purpose one set of buoys for other trap fishery seasons.

The possible cost impacts to businesses, all of which are commercial fishermen operating as small businesses under a commercial fishing license, will vary based on the number of traps that are deployed for their fishery. Since the proposed Marking Program will require every buoy that marks a trap be marked with a fishery-specific letter, those fishermen who have greater numbers of buoys deployed will have to spend more time and materials to mark their buoys.

Many participants in the various commercial trap fisheries off the coast of California participate in more than one fishery. The proposed Marking Program will prohibit buoys from being marked with more than one set of letters. For example, a buoy cannot simultaneously display letters "P" and "Z." As such, fishery participants who are currently reusing the same buoys for multiple fisheries must either repaint, or otherwise



re-mark their buoys every time the gear transitions from one fishery to another, or the individual must purchase new buoys.

Purchasing new buoys would greatly reduce the amount of time spent upkeeping gear, however, the up-front cost will be more substantial. Several fishermen would need to purchase replacement buoys for two additional fisheries. The number of buoys, however, is likely minimal. Fishery participants only deploy hundreds of individual traps in highly competitive and crowded fisheries, namely Lobster and Dungeness crab. Though Dungeness crab is not one of the proposed fisheries for the Marking Program, individuals who already participate in these fisheries are likely to have enough buoys already to execute those fisheries. Most other fisheries, such as the tanner crab fisheries, tend to be fished in strings, and in general no more than five strings. Even assuming both ends of every string are marked with the most expensive setup of one inflatable buoy plus one small marker buoy, and assuming that an individual must purchase two additional sets of buoys for fisheries, the additional cost could add up to approximately \$1,000 as an upper-end estimate. In most cases, individuals only need to purchase one extra set of buoys, and would likely purchase the less expensive solid foam floats, in which case the cost of the new buoys should not exceed \$200.

**Section D. Alternatives to the Regulation, Question 3.** Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives.

No alternatives were identified by or brought to the attention of Department staff that would have the same desired regulatory effect. However, the Department, in consultation with National Oceanic Atmospheric Administration (NOAA) and others, explored several alternatives for the Marking Program itself. The Department considered requiring fishery-specific line markings modeled after federal requirements for commercial fixed-gear fisheries on the East Coast (50 CFR Section 229.32). The Dungeness Crab Fishing Gear Working Group has previously expressed support for this proposal, which has improved identification of trap fisheries contributing to entanglements of the highly endangered North Atlantic Right Whale. The Department ultimately rejected this option, because unlike attaching buoy tags, or re-marking buoys, affixing buoy lines with colored markings that can survive in the marine environment requires removal of the fishing gear from the water, and haul of the gear back to shore, which automatically increases the burden of complying with new marking requirements. Furthermore, additional research is ongoing by other government agencies and non-profit partners to identify and analyze cost-effective, yet durable marking methods. While such buoy line markings can be contemplated in the future (pending research on efficacy and durability), time constraints on implementing the program by the recently accelerated timeline of November 15, 2019 suggests that the Department focus on a simpler approach.

The Department also considered marking all trap gear with buoy tags that would be supplied by fishery participants. This option was ultimately rejected due to logistical



difficulties related to the limited types and shapes of tags that are readily available from various commercial industries. The number of fisheries involved in the proposed program could potentially require tag manufacturers to develop new molds at substantial costs to fishery participants, which is particularly difficult for those fisheries with relatively few participants. Plastic tags also create additional drag on the buoys and cause them to be fouled by drifting kelp, increasing the potential for gear loss or tag detachment in fisheries that operate close to shore. As with line marking, time constraints required that the Department focus on a simpler approach.

## **Fiscal Impact Statement**

### **A. Fiscal Effect on Local Government**

***Answer 5.*** *No fiscal impact exists. This regulation does not affect any local entity or program.* No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution.

### **B. Fiscal Effect on State Government**

***Answer 3.*** *No fiscal impact exists. This regulation does not affect any state agency or program in the current fiscal year.*