

## STAFF SUMMARY FOR OCTOBER 14, 2020

**11. RECREATIONAL CRAB****Today's Item****Information** ☒**Action** ☐

Discuss proposed changes to recreational crab regulations intended to provide additional whale and turtle protections in trap fisheries.

**Summary of Previous/Future Actions**

- |   |   |
|---|---|
| • FGC/MRC considered management measures for the recreational fishery                   | Apr 2019- Feb 2020; various locations                 |
| • MRC update and recommendation   | Mar 17, 2020; MRC, Santa Rosa/ Webinar/Teleconference |
| • FGC approved MRC recommendations  | Apr 15-16, 2020; Teleconference                       |
| • FGC provided direction on regulatory options and continued notice hearing to Aug 2020 | Jun 24-25, 2020; Webinar/Teleconference               |
| • MRC received DFW update regarding crab species for rulemaking                         | Jul 29, 2020; MRC, Webinar/Teleconference             |
| • Notice hearing  | Aug 19-20, 2020; Webinar/Teleconference               |
| • <b>Today's discussion hearing</b>   | <b>Oct 14, 2020; Webinar/Teleconference</b>           |
| • Adoption hearing  | Dec 9-10, 2020; Webinar/Teleconference                |

**Background**

In early 2019, FGC initiated discussions about potential management measures for the recreational Dungeness crab fishery to minimize risks of whale entanglements in fishing gear. Management options developed by DFW were explored and refined at various FGC and MRC meetings in 2019 and 2020. Additional background information is provided in Exhibit 1.

*Proposed Regulations*

The proposed regulations in Exhibit 3 include several provisions, which are summarized in Exhibit 1:

- Enhanced gear marking
- Service interval
- Trap limit
- Director authority to delay the fishery opener or close the season early after consultation with the FGC president, and requirement to report to FGC at the meeting following any action(s) taken
- Trap validation program

## STAFF SUMMARY FOR OCTOBER 14, 2020

**Significant Public Comments**

1. A commercial passenger fishing vessel (CPFV) operator states there is very little evidence to suggest California recreational gear poses any serious threat to whales or sea turtles and that it is unfair to the recreational sector to treat recreational and commercial gear the same; he recommends implementing the gear marking requirements first to determine the actual risk of entanglement from recreational gear. Additionally, he states that requiring passengers on CPFVs to hold a validation stamp will result in lost revenue to CPFVs and suggests instead that CPFVs be charged a one-time fee for 60 validations. (Exhibit 6)
2. A CPFV owner/operator states that the cost for new buoy marking requirements is greatly underestimated because the marker buoy cannot simply be added to the main buoy, so CPFVs will need to purchase new main buoys and line. He adds that estimates do not include paying deck hands to tie, paint and mark the buoys and that red buoys are not available in sufficient quantities for the 2020 season. He requests that the validation be added to the "Lifetime License Holders package." (Exhibit 7)

**Recommendation (N/A)****Exhibits**

1. [Staff summary from Aug 19-20, 2020 FGC meeting \(for background purposes\)](#)
2. [DFW memo, received Aug 12, 2020](#)
3. [Initial statement of reasons](#)
4. [Economic and fiscal impact statement \(Std. 399\)](#)
5. [DFW presentation](#)
6. [Email to DFW from Andy Guiliano, Fish Emeryville, received Aug 25, 2020](#)
7. [Email from Tom Mattusch, F/V Huli Cat, received Aug 30, 2020](#)

**Motion/Direction (N/A)**

**STAFF SUMMARY FOR AUGUST 19-20, 2020***For background purposes only.***11. RECREATIONAL DUNGENESS CRAB\*****Today's Item****Information** ☐**Action** ☒

Consider authorizing publication of notice of intent to amend recreational take of Dungeness crab regulations intended to provide additional whale and turtle protections in the trap fishery.

*\*Note that DFW is proposing the regulations apply to all crab species.*

**Summary of Previous/Future Actions**

- |  |   |
|--|---|
| • FGC/MRC considered management measures for the recreational fishery                | April 2019 – Feb 2020; various locations              |
| • MRC update and recommendation  | Mar 17, 2020; MRC, Santa Rosa/ Webinar/Teleconference |
| • FGC approved MRC recommendations   | Apr 15-16, 2020; Teleconference                       |
| • FGC direction on regulatory options and continuation of notice hearing to Aug 2020 | Jun 24-25, 2020; Webinar/Teleconference               |
| • MRC received DFW update regarding crab species for rulemaking                      | Jul 29, 2020; MRC, Webinar/Teleconference             |
| • <b>Today's notice hearing</b>  | <b>Aug 19-20, 2020; Webinar/Teleconference</b>        |
| • Discussion hearing   | Oct 14-15, 2020; Webinar/Teleconference               |
| • Adoption hearing   | Dec 11-12, 2019; Sacramento                           |

**Background**

In early 2019, FGC initiated discussions about potential management measures for the recreational Dungeness crab fishery to minimize risks of whale entanglements in fishing gear. Management options developed by DFW were explored and refined at various FGC and MRC meetings in 2019 and 2020, culminating in FGC action in Apr 2020 to schedule a rulemaking to commence in Jun 2020.

In Apr 2020, FGC approved including MRC-recommended management measures in the proposed regulations and requested that DFW return to the Jun notice hearing with more specific criteria and considerations for four items (Exhibit 2). At its Jun 2020 meeting, FGC approved including three of the four measures in the proposed regulations and continued the notice hearing to its Aug 2020 meeting to allow time for DFW to integrate the direction into the proposal (see exhibits 1 and 2 for additional background information).

**Update**

At the Jul 2020 MRC meeting, DFW reported that its Law Enforcement Division had identified a potential regulatory loophole related to targeting other crab species, such as rock crab. Other crab species can co-occur and be harvested by trap when fishing for Dungeness crab. As a result, DFW will recommend to FGC today that the proposed regulation apply to all crab

**STAFF SUMMARY FOR AUGUST 19-20, 2020***For background purposes only.*

species to ensure effective enforcement of the new regulation. DFW will provide additional information during today's meeting.

***Proposed Regulations***

The proposed regulations in Exhibit 4 include several provisions:

- *Enhanced Gear Marking:* Require all recreational crab traps to be marked with a main buoy of 5 x 11 inches and a red marker buoy of 3 x 5 inches attached no more than three feet from the main buoy. Current regulations requiring buoy marking and, in the case of commercial passenger fishing vessels (CPFVs), trap marking, would be consolidated in this subsection.
- *Service Interval:* Establish a maximum trap service interval of 9 days, weather conditions at sea permitting, and prohibit abandoning crab traps in state waters.
- *Trap Limit:* Establish a trap limit of 10 traps per individual with a provision to allow an individual to service up to 10 additional traps if the individual possesses written permission from the operator(s) of the additional traps. Also, the current 60-trap limit for CPFVs targeting Dungeness crab would apply to CPFVs targeting any crab and be consolidated into the same subsection.
- *Director Authority:* Provide authority for the DFW director to delay the fishery opener or close the season early when the concentrations of Humpback whales, blue whales, or Pacific leatherback sea turtles exceed thresholds established in the DFW Risk Assessment and Mitigation Program (RAMP). Any delay or closure could apply statewide or by zone. Before implementing a delay or closure, DFW would provide at least five days' notice to the recreational crab trap fishery through a director's declaration on DFW's "Whale Safe Fisheries" webpage.
- *Trap Validation Program:* Establish a "Recreational Crab Trap Validation" program that would (1) require anyone who fishes for crab with recreational crab traps to purchase an annual validation and (2) establish a small fee of \$2.25 for each validation.

Staff notes that during previous meetings, FGC and MRC discussed two additional criteria governing DFW director action to implement a delay or closure under the director authority provisions: (1) consulting with the FGC president prior to taking action to delay or close a season, and (2) notifying FGC at its next meeting of any action taken; however, the motion adopted by FGC in Jun 2020 did not specify these criteria. Staff requests clarification from FGC regarding inclusion of the provisions in the proposed regulations.

**Significant Public Comments (N/A)****Recommendation**

**FGC staff:** Determine whether to incorporate the provisions for consultation and notification to the DFW director authority provision as described above, apply proposed regulations to all crab species as recommended by DFW, and authorize publication of the notice as proposed.

**DFW:** Apply the proposed regulations to other crab species in addition to Dungeness crab, and

**STAFF SUMMARY FOR AUGUST 19-20, 2020***For background purposes only.*

authorize publication of a notice of intent to amend recreational crab fishing regulations, as described in the initial statement of reasons (ISOR) (Exhibit 4).

**Exhibits**

1. Staff summary from Mar 17, 2020 MRC meeting (for background purposes)
2. Staff summary from Jun 24-25, 2020 FGC meeting (for background purposes)
3. DFW memo, received Aug 12, 2020
4. Draft initial statement of reasons
5. Draft economic and fiscal impact statement (Std. 399)
6. DFW presentation

**Motion/Direction**

Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission authorizes publication of a notice of its intent to amend sections 29.80, 29.85 and 701, related to recreational crab fishing regulations as proposed in the initial statement of reasons.

OR

Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission authorizes publication of a notice of its intent to amend sections 29.80, 29.85 and 701, related to recreational crab fishing regulations as proposed in the initial statement of reasons with the addition of language:

- (1) requiring the Department director to consult with the Commission president prior to taking action to implement a season delay or closure,

AND/OR

- (2) requiring the Department director to notify the Commission of any actions taken under the director's authority at the next Commission meeting.

## Memorandum

**Date:** August 11, 2020

**To:** Melissa Miller-Henson  
Executive Director  
Fish and Game Commission

**From:** Charlton H. Bonham  
Director

**Subject:** **Submission of Initial Statement of Reasons for Agenda Item for the August 19-20, 2020 Fish and Game Commission Meeting - RE: Amend Sections 29.80, 29.85 and 701, Recreational Crab Marine Life Protection Measures**

The Department of Fish and Wildlife (Department) requests the Fish and Game Commission (Commission) authorize publication of notice of its intent to amend regulations for the recreational crab fishery to include management measures to reduce the risk of marine life entanglement. Authorization of this request will allow for discussion at the October 14, 2020 Commission meeting, and possible adoption at the December 9, 2020 Commission meeting.

The Department is submitting the attached Initial Statement of Reasons (ISOR) supporting proposed regulations to require enhanced trap gear marking, a nine-day service interval for checking traps, a limit of 10 traps per individual angler, the addition of a trap validation program, and the provision for the Director of the Department to delay the season or take in-season management action to minimize entanglement risk.

The Department recommends adoption of the marine life protection measures in this rulemaking. They are consistent with measures the Department has already employed or is in progress of employing for the commercial Dungeness crab fishery to protect large whales and sea turtles under the Risk Assessment Mitigation Program.

If you have any questions or need additional information, please contact Dr. Craig Shuman, Marine Regional Manager at (916) 373-5491. The public notice for this rulemaking should identify Senior Environmental Scientist Specialist, Ryan Bartling as the Department's point of contact. His contact information is (415) 761-1843 or [Ryan.Bartling@wildlife.ca.gov](mailto:Ryan.Bartling@wildlife.ca.gov).

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State of California  
Fish and Game Commission  
Initial Statement of Reasons for Regulatory Action

Amend Sections 29.80, 29.85, and 701  
Title 14, California Code of Regulations  
Re: Recreational Crab Trap Fishery Marine Life Protection Measures

I. Date of Initial Statement of Reasons: September 10, 2020

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing

Date: August 19, 2020

Location: Webinar/Teleconference

(b) Discussion Hearing

Date: October 14, 2020

Location: Webinar/Teleconference

(c) Adoption Hearing

Date: December 9, 2020

Location: Webinar/Teleconference

III. Description of Regulatory Action

(a) Statement of Specific Purpose of Regulatory Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations (CCR).

In the last several years, there has been an increase in the number of reported entanglements of marine life with fishing gear on portions of the Pacific coast. Between 2014 and 2019, three Humpback whale entanglements were attributed to the recreational crab fishery in California. (Saez et al. 2020; National Oceanic Atmospheric Administration [NOAA] Fisheries, 2020). The California Fish and Game Commission (Commission) has worked with the California Department of Fish and Wildlife (Department; CDFW) and with numerous stakeholders to identify the underlying issues and proposed solutions for minimizing risk of entanglement of marine life with fishing gear. This regulatory proposal is part of the state's ongoing efforts to reduce marine life entanglements, particularly entanglements of whales and sea turtles protected and/or listed under the federal Endangered Species Act (ESA). These proposed regulations would help minimize risk of entanglement through a management response and also help collect essential baseline information for future response to entanglement risk for the recreational crab sector. The proposed regulations include five elements: enhanced gear marking, trap servicing interval, traps limits, delegated management authority, and a validation program.

There are similarities between the California recreational (sport) fishery and the commercial fishery for Dungeness and other crabs. The California recreational crab fishery uses traps to



target primarily Dungeness crab, with rock crabs being targeted in some areas and taken incidentally in others. The recreational crab fishery uses similar gear as the commercial Dungeness crab fishery and overlaps with both the commercial fishing areas and the commercial fishing season (CDFW, 2019). The California commercial Dungeness crab fishery has specific licensing and reporting requirements, providing data on fishing location and landings, and commercial operators abide by a specified service interval when traps must be raised, cleaned and emptied. Unlike it does for the commercial Dungeness crab fishery, the Department has very little information on the recreational crab fishery, including information on the levels of take or effort.

Identifying the fishery responsible for an entanglement is essential to reducing future incidences. The current marking requirements for the recreational crab fishery are less stringent than those for the commercial crab fisheries. Buoy(s) attached to a recreational crab trap must be marked with the operator's GO ID (i.e., the "Get Outdoors Identification number", a unique number issued by the Automatic License Data System (ALDS) that is permanently tied to an individual), or, when deployed from a Commercial Passenger Fishing Vessel (CPFV), the CPFV's commercial boat registration number. However, the GO ID and CPFV numbering does not have a specific number size requirement, making the numbers difficult or impossible to read from a distance. As such, the ability to distinguish recreational crab trap gear from other fishing gear during a marine life entanglement response is limited. In contrast, commercial Dungeness crab trap buoys must be marked with state-issued buoy tags, which are more easily observed on entanglements involving commercial gear.

Furthermore, while fishing buoys used by commercial fishermen are relatively standardized, the recreational sector is not required under current regulations to use a certain buoy type. Thus, the recreational sector uses a variety of floatation devices, leading to inconsistency that also makes recreational gear difficult to identify during entanglement events.

The proposed regulatory changes are designed to implement simple, common-sense measures intended both to minimize the risk of entanglements in recreational crab fishing gear and to gather baseline information towards informing mitigation measures and future fishery management actions. The proposed regulations would apply to the recreational take of any crabs by trap.

The proposed regulations introduce five elements for the recreational crab fishery:

- enhanced gear marking with a more defined surface marker buoy system,
- an interval during which traps must be retrieved for servicing,
- a per-individual trap limit of 10 traps for each recreational crab trap operator,
- delegation of authority from the Commission to the Department's Director to allow modifications to the season to help minimize entanglements in the recreational crab fishery, and
- a validation ("stamp") program to allow collection of essential fishery information.

## CURRENT REGULATIONS

Current regulations for rock crab and Dungeness crab specify seasons, size limits, bag and possession limits, closed fishing areas, and gear restrictions. Like most recreational fisheries, a recreational fishing license is the only license required to participate in recreational crab

fishing. In addition to traps, crabs can also be taken recreationally by hand, crab loop traps (snare), or hoop nets. Individuals are generally not allowed to operate a trap owned by another person unless they have in possession written permission from the owner.

Individual fishermen may fish using their own gear, or may join a scheduled fishing trip on a CPFV. CPFVs take customers on fishing trips and provide fishing gear for use by their clients or passengers. Subsection 29.85(a)(4) restricts the number of crab traps used to take Dungeness crab by a CPFV to 60. Subsection 29.85(a)(5) also requires the commercial boat registration number of the CPFV to be affixed to each trap and trap buoy deployed by that vessel. Traps not operated from CPFVs must be marked with buoys with the operator's GO ID number.

There is currently no limit to how many traps an individual may deploy, no required service interval (how often traps must be raised, cleaned and emptied), and no other buoy or trap marking requirements for recreational crab fishing.

## PROPOSED REGULATIONS

The proposed regulations would establish restrictions to minimize entanglement risk as well as allow the state to collect data that would inform management of the crab fishery. The proposed regulations focus primarily on those recreational crab fishers who use and deploy traps to take crab. The proposal includes the following provisions:

- **Enhanced Gear Marking:** The proposed regulation would require all recreational crab traps be marked with a main buoy that is at least 5 inches in diameter and 11 inches in length and that a red marker buoy that is 3 inches in diameter and 5 inches in length be attached no more than three feet from the main buoy in order to help identify gear as originating from the recreational crab fishery should it entangle marine life. (Proposed subsection 29.80(c)(3))
- **Service Interval:** The proposed regulation would establish a maximum trap service interval of 9 days, which would help reduce lost and abandoned traps, and prevent fishers from storing gear at sea when not actively fishing and would prohibit abandoned traps. (Proposed subsection 29.80(c)(5))
- **Trap Limit:** The proposed regulation would establish an individual trap limit of 10 traps per operator which would reduce risk of entanglement by limiting the total number of vertical lines, and help determine a baseline effort for the recreational crab fishery. (Proposed subsection 29.80(c)(6))
- **Director Authority:** The Commission currently has exclusive management authority over the recreational crab fishery. Proposed subsection 29.80(c)(7) would provide authority for the Director of the Department, in consultation with the President of the Commission, to delay the fishery opener or close the season early in ocean waters of the state when the concentrations of Humpback whales, Blue whales, or Pacific Leatherback sea turtles exceed thresholds established in the Risk Assessment and Mitigation Program (Section 132.8). Proposed subsection 29.80(c)(7) states that before implementing a delay or closure, the recreational crab trap fishery will be given at least 5-days' notice through a Director's declaration on the Department's "Whale Safe Fisheries" webpage (<https://wildlife.ca.gov/Conservation/Marine/Whale-Safe-Fisheries>).

- **Trap Validation Program:** The proposed “Recreational Crab Trap Validation” program would require those individuals who fish for crabs with recreational crab traps to purchase an annual validation. The purpose of the proposed Recreational Crab Trap Validation would be to identify sport fishers that use crab traps so that the Department could conduct outreach on entanglement minimization efforts and collect essential fishery information. A small fee of \$2.25 would be required for each validation (proposed subsections 29.85(b) and 701(h)).

The proposed regulatory package also includes clarifying, organizational and non-substantive edits to sections 29.80, 29.85, and 701.

#### **Amend Subsection 29.80(a)**

Subsection 29.80(a) describes allowable methods of take for saltwater crustaceans. This subsection also makes it unlawful to disturb, move or damage any trap, or remove any saltwater crustacean from a trap that belongs to another person without written permission from the trap owner.

The current text specifically references the marking requirement under the current subsection (c)(3). Under the proposed regulations, the referenced text will be moved to (c)(3)(A)1., so an update to the language is necessary to maintain its original intent.

#### **Amend Subsection 29.80(b)**

Subsection 29.80(b) prescribes how hoop nets may be used to take saltwater crustaceans. The language limits the number of hoop nets a person may possess, and further prescribes the two configurations of hoop nets that can be used legally in California.

This proposal would remove the reference to subsections (b)(1)(A) and (b)(1)(B) within the main body of subsection (b). The reference is redundant since the referenced subsections immediately follow the paragraph in which the reference is listed. The same applies to the reference to subsections (b)(3)(A) and (b)(3)(B) within subsection (b)(3). The proposed revisions to this subsection would also remove the phrase “[t]hey shall be defined as” in subsection (b)(1). “They” in this context refers to hoop nets and is redundant since the first phrase of the subsection is “Hoop Net Defined.” A comma is removed after the word, “crab” to correct the punctuation.

The proposed amendments to this subsection are necessary for streamlining the regulation and improving clarity.

#### **Amend Subsection 29.80(c)(3)**

Subsection 29.80(c)(3) addresses crab trap specifications and means for deployment, including the requirement for a single buoy marked with the operator’s GO ID. However, recent entanglement events have demonstrated that this marking is inadequate for attribution of the entanglement to the recreational crab fisheries in the event of an entanglement.

Between 1982 and 2019, there have been 506 separate large whale entanglements along the U.S. West Coast which have been confirmed by the National Marine Fisheries Service (NMFS; Saez et al. 2020; NOAA Fisheries 2020; NOAA Fisheries 2019). Of those entanglements, the

gear type could not be identified in 44% of the cases. The California recreational crab fishery has been responsible for three known entanglements, and potentially more due to the difficulties of identifying recreational gear as outlined above. Uncertainty in verifying fishery gear types from entanglements significantly limits fishery managers' ability to implement any targeted management response. A standardized marker buoy on recreational crab traps would greatly enhance the ability to identify the fishing gear type in the event of an entanglement. (Figure 1).



*Figure 1. Example of a main buoy attached to a marker buoy (left) and a commercial California Dungeness crab buoy tag (right). Since 2013, commercial California Dungeness crab traps have been marked with standardized buoy tags, which have proven useful for identifying fishing gear type in marine life entanglement cases.*

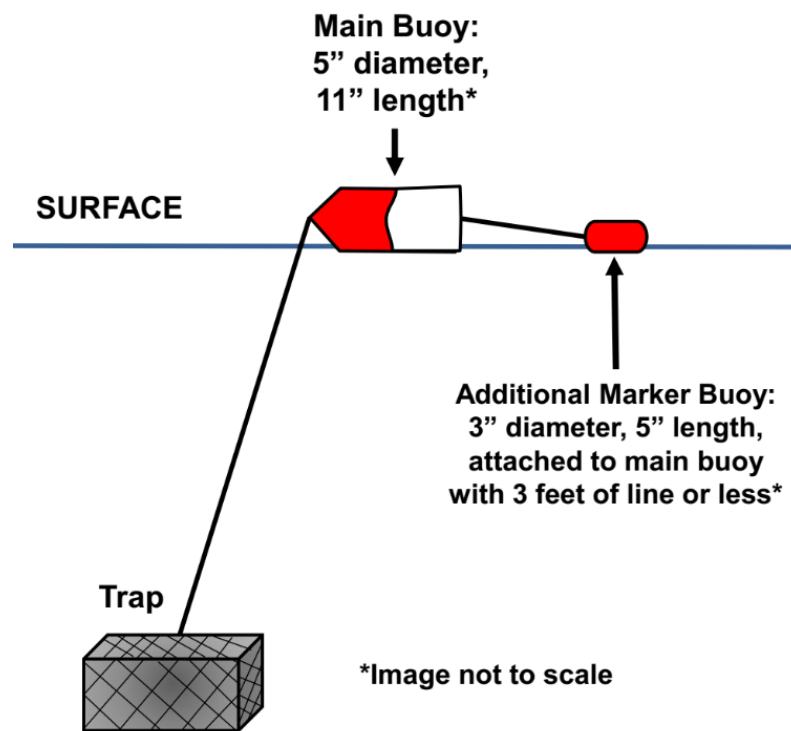
Proposed revisions to subsection 29.80(c)(3) relocate the information on buoy identification and expand the buoy requirements for recreational crab traps. This regulatory proposal would add to the existing buoy requirement by requiring all traps to be marked with two buoys (main and marker buoys).

Proposed subsection 29.80(c)(3)(A) defines the “main buoy.” The specific dimensions of the buoy are proposed to be at least 5 inches in diameter and 11 inches in length, to be known as the main buoy. This minimum buoy size is available at most locations where fishing supplies are purchased and are commonly sold with crab traps.

Proposed subsection 29.80(c)(3)(A)1.: The language from current subsection (c)(3) is revised and relocated to this paragraph to state that an individual’s main buoy must be marked with the operator’s GO ID.

Proposed subsection 29.80(c)(3)(A)2.: The requirement for CPFV trap buoys to be labeled with the commercial boat registration number is moved from subsection 29.85(a)(5) to proposed subsection 29.80(c)(3)(A)2. This is a consolidation of the current requirement for CPFVs for buoy marking, and is necessary for placing all the buoy marking requirements in the same Section 29.80.

Proposed subsection 29.80(c)(3)(B) defines “marker buoy.” The marker buoy is a red buoy attached no more than 3 feet from the main buoy with dimensions of 3 inches in diameter and 5 inches in length (Figure 2). .



*Figure 2. Diagram of main buoy and additional marker buoy attached to crab trap as proposed in regulations (\*image not to scale).*

This length of line will ensure that the main buoy and the marker buoy are likely to be viewed together in the event of an entanglement. Minimizing the length of line is also important to minimize risk of entanglement. These regulations would be consistent with end marker buoy regulations that the commercial fishery employs to designate the last traps located at the end of a row of deployed traps. The commercial buoys have similar dimensions although they can be any color and are required to be no more than 3 feet away from the main buoy or last trailer buoy as specified in subsections 132.6(a)(2) and (b).

Marker buoys are necessary to help identify recreational crab traps in the event of an entanglement. This buoy size and color were selected for marking recreational gear because such buoys are widely available at fishing supply stores.

Limiting the number of buoys to two is necessary to minimize risk of entanglement.

Proposed subsection 29.80(c)(3)(C): The requirement for CPFV traps themselves to be labeled with the commercial boat registration number is moved from subsection 29.85(a)(5). This is necessary to place all marking requirements in the same Section 29.80.



*Figure 3. A main buoy marked with a marker buoy (top) versus a main buoy on its own. The addition of a marker buoy helps distinguish the buoy from a distance.*

#### **Add Subsection 29.80(c)(5)**

Proposed subsection 29.80(c)(5) would add a 9-day maximum service interval to the recreational crab fishery and prohibit abandonment of traps in state waters. “Servicing” means raising the trap from the sea floor, cleaning the trap and related gear, and emptying out the trap. This 9-day service interval will help ensure regular tending and maintenance of recreational trap gear to reduce drifting or loss of the gear. Servicing of the trap can include removing fouling organisms, such as kelp, that may weigh down on the vertical line as well as re-baiting of traps, removing traps entirely from the ocean or redeploying traps to locations that better account for changing ocean conditions like large swells and storms. Lost and abandoned traps pose a long-term entanglement hazard for marine species, including ESA-protected species, long after the recreational crab fishing season ends. The 9-day period was chosen out of practical concerns for how the recreational fishery operates. Many participants

may only be able to check and retrieve traps during the weekends due to traditional weekday work schedules. A 9-day period thus covers two consecutive weekends, allowing crab trap operators at least two weekends to tend to their gear.

The proposed regulation mirrors Fish and Game Code (FGC) Section 9004, which establishes a maximum service interval for commercial trap fisheries. The statute has been in place for decades with firmly established enforcement practices. The servicing requirement is qualified by a weather exemption. The proposed regulatory text under subsection 29.80(c)(5) also exempts individuals from the service interval in the event of adverse weather to ensure individuals are not forced to choose between complying with a regulatory requirement and safety when ocean conditions are dangerous.

### **Add Subsection 29.80(c)(6) – Trap Limits**

Proposed subsection 29.80(c)(6)(A) would add a 10-trap limit for each individual crab trap operator. The individual trap limit requirement is necessary to cap the number of deployed traps to a number a crab trap operator can responsibly deploy and still achieve a rewarding recreational experience. The individual trap limit requirement helps determine a baseline for recreational crab trap effort in the state. A trap limit also reduces the likelihood that a fisher will operate more traps than can be reasonably retrieved during a single fishing trip.

A trap limit may reduce the total number of deployed traps by individual fishers but will likely not reduce overall effort because of “trap sharing” within fisher groups. This proposed revision also makes it clear that an individual may service up to 10 traps from other operator(s), in addition to the 10 crab traps the individual is restricted to operate under the new crab trap limit. Any individual can currently service another person’s trap if that owner or operator provides a written note. This allows a fisher to operate additional traps in the event an owner is incapacitated. This proposed language is necessary to preserve the existing ability to share gear, as it is recognized that gear-sharing has become important for some fishers and may help reduce the overall number of traps deployed, in some circumstances. Discussions with constituent groups suggest that the option to share traps is important for certain segments of the recreational fishing community. However, allowing unlimited gear sharing would complicate law enforcement efforts, blur the responsibility of trap operators, and ultimately work to the detriment of the fishery, therefore servicing a maximum of another 10 crab traps is proposed.

While a 10-trap limit may not significantly reduce the total number of deployed traps, a trap limit in conjunction with a trap validation requirement (see below) can help determine the baseline effort level for this fishery, and prevent unlimited expansion of individual effort. The 10-trap limit was chosen based on extensive consultation with stakeholders, and is expected to accommodate fishing effort of most, if not all, recreational crab fishers. The lack of impact to existing fishing behavior is also supported by data from the California Recreational Fisheries Survey, which shows that between 2015 and 2019 the average number of traps used per boat-based fisher was less than two.

Proposed subsection 29.80(c)(6)(B) consolidates the new individual trap operator limit with the current trap limit for CPFVs, moving the existing maximum of 60 traps from subsection 29.85(a)(4) to subsection 29.80(c)(6). The trap limit for CPFVs will remain at the current 60 traps per vessel, but the limit will apply to all crab traps instead of only applying to Dungeness crab traps. Moving the CPFV 60-trap limit to this subsection is necessary to place



all the trap limit requirements (in addition to the buoy marking requirements) in the same section for ease of reference for recreational crab fishery participants. This regulation change will maintain the current trap limit for CPFVs of 60 traps but will apply the trap limit for the take of all crab species, and not just Dungeness crab. Typically, CPFVs will target Dungeness crab while other crabs could be caught incidentally in traps. Establishing that this trap limit is for the take of all crab would prohibit additional traps from being deployed from CPFVs that target other crab, which, if allowed could increase the number of deployed traps and entanglement risks.

### **Add Subsection 29.80(c)(7)**

Proposed subsection 29.80(c)(7) would provide authority to the Director of the Department, after consulting with the President of the Commission, to respond to potential marine life entanglement risk. This allows the Director to possibly delay the recreational crab fishing season, or close the season early based on entanglement risk to Humpback whales, Blue whales, and/or Pacific Leatherback sea turtles. The proposed regulation uses the numerical triggers in subsection 132.8(c)(2), which is part of the Risk Assessment Mitigation Program (RAMP) (OAL Notice #Z2020-0505-11) that requires the delay or closure of the commercial Dungeness crab fishery when certain criteria are met for ESA-protected marine species.

The underlying structure of the RAMP was developed by the California Dungeness Crab Fishing Gear Working Group (Working Group) through a multi-year iterative process. The Working Group was convened in 2015 to address the increased rate of marine life entanglements in California commercial Dungeness crab fishing gear and is comprised of commercial and recreational fishermen, environmental organization representatives, state and federal agencies, and subject matter experts. Additionally, the RAMP has undergone extensive public outreach through the regulatory development process.

The RAMP was originally developed by the Working Group to assess circumstances where entanglement risk by the commercial sector may be elevated and provide recommendations on appropriate management responses for the Department's Director to take action (CDFW, 2020). Section 132.8 will formalize that management framework into regulation, allowing the Director to take actions to reduce entanglement risk when such risk is elevated (e.g., high concentration of Humpback whales in fishing grounds at the start of the fishing season, or in the spring/summer months). The RAMP rulemaking process is currently underway and is expected to be completed prior to the adoption of this proposal for the recreational sector (CDFW, 2020).

Due to the dynamic nature of ocean processes and the risk of entanglements, it is proposed that the regulatory authority to restrict fishing be delegated to the Director. Thus under this proposal, starting at least 5 days in advance of the opening of the recreational Dungeness crab fishing season pursuant to Section 29.85, the Director would, on at least a monthly basis, evaluate and respond to risk of marine life entanglements and, after consulting with the President, implement a management action in the case of elevated risk consistent with acceptable data and numerical triggers outlined in subsection 132.8(c)(2). This delegation of authority is necessary to provide for real-time response to environmental conditions as urgent as a potential whale entanglement, which is not possible under the Commission's regulatory process and Bagley-Keene Open Meeting Act requirements. During periods of elevated



entanglement risk, entanglements could occur within days of triggering events and the Commission decision-making process cannot be implemented as quickly as that of the executive officer of an agency (i.e., the Department's Director). Furthermore, managing a seasonal delay or early closure for the recreational fishery separately from the commercial Dungeness crab fishery which is already subject to RAMP would add an extra layer of complexity that could further impede the management process; whereas consolidating this entanglement risk management for both fisheries under the authority of the Director would implement a timely and coordinated response. Thus, the proposed regulation outlines a separate but parallel process that allows the Director to take coordinated action.

After the initial risk evaluation at least 5 days in advance of the start of the recreational Dungeness crab fishing season, the Director shall undertake additional evaluations at least monthly until the season opens statewide and March 1 through June 15. Experience from implementing pilot forms of the RAMP in the commercial fishery has shown that this time frame adequately allows for additional information gathering and analysis by the Department to evaluate risk. Additionally, the monthly evaluations cycle mirrors the requirements in the commercial fishery RAMP, and the Department anticipates matching up (to the extent possible) the risk evaluation process for the recreational and commercial fisheries. After June 15, the Department expects potential entanglement risk to be low given anecdotal information on recreational fishing effort at this point in the summer.

*Add Subsection 29.80(c)(7)(A)*

Proposed subsection 29.80(c)(7)(A) specifies that the Director shall evaluate risk based on marine life concentrations as defined in RAMP subsection 132.8(a)(10), and consistent with the data and numerical triggers outlined in subsection 132.8(c)(2). The RAMP triggers for marine life concentrations are based on the historical migration patterns of protected Humpback whales, Blue whales, and Pacific Leatherback sea turtles. Triggers are defined primarily for two time periods when ESA-protected species are expected to leave waters off California during the fall (November 1 through the opening of the commercial Dungeness crab season) and arrive back to those same waters in spring (March 1 through the close of the commercial Dungeness crab season). "Data" as described in subsection 132.8(c)(2) include those current surveys and telemetry monitoring of those ESA-protected species that the Director shall consider to determine marine life concentrations as information for choosing an appropriate recreational management action in response to entanglement risk (as determined by the triggers). This provides the most reliable and up-to-date information on presence of species of concern, which can indicate the need to take a recreational management action.

Under proposed subsection 29.80(c)(7)(A)1., if data are available prior to the start of the season, and those data indicate the numerical triggers for marine life concentrations outlined in subsection 132.8(c)(2) are met, the Director shall implement one of the recreational management actions listed under subsection 29.80(c)(7)(B). Potential actions include an advisory to recreational fishers, a season delay or a season closure. Under subsection 29.80(c)(7)(A)2., if data are unavailable, the Director shall similarly implement a recreational management action until data become available. If specific triggers are reached, then the resulting management actions could delay the start of the season, close the season early, or both. Ensuring that the Director will implement a recreational management action(s) when the different scenarios under subsections 29.80(c)(7)(A)1. and 29.80(c)(7)(A)2. are met provides

clarity to recreational fishers on how the Director would respond in the event of elevated risk, communicating the Director's responsibility to address an entanglement risk. This subsection is necessary to provide a framework for risk evaluation by the Director, and to explain the framework within which the Director may implement management actions in response to an entanglement risk. It provides for consistency with the framework for Director management action in the commercial sector.

*Add Subsection 29.80(c)(7)(B)*

If the conditions in subsection 29.80(c)(7)(A) are met, the Director is required to pick from one or more of the three potential recreational management actions listed in subsection 29.80(c)(7)(B). After consulting with the President, the Director shall implement the recreational management action that the Director demonstrates protects Humpback whales, Blue whales, and Pacific Leatherback sea turtles based on best available science. Rationale for the recreational management action is provided in the Director declaration (further discussed below). The appropriate recreational management action shall be determined based on consideration of information outlined in subsection 132.8(d).

- Under proposed subsection 29.80(c)(7)(B)1.: an advisory to recreational fishers to employ voluntary efforts to reduce the risk of entanglements. In certain instances, for example depending on the depth of the whales or sea turtles, a delay or closure of the recreational fishery is not necessary to address the entanglement risk. However, even under those circumstances, an advisory is necessary to remind fishers of important measures to reduce entanglement risk and avoid further management response.
- Under proposed subsection 29.80(c)(7)(B)2.: a season delay, and continuation of the crab trap prohibition in subsection 29.80(c)(4), whereby the Director shall prohibit the deployment and use of recreational crab traps until new data indicate the measures are no longer necessary. A season delay is appropriate in circumstances when before the opening of the recreational Dungeness crab season, marine life concentrations indicate that putting traps in the water would cause overlap between fishing activity and location of whales or sea turtles, which causes entanglement risk.
- Under proposed subsection 29.80(c)(7)(B)3.: a season closure, whereby the Director shall prohibit the deployment and use of recreational crab traps until new data indicate the measures are no longer necessary or the end of the normal recreational Dungeness crab season. A season closure would be implemented after the opening of the season when marine life concentrations indicate removing traps is necessary to address an entanglement risk.

This subsection is necessary to make clear to recreational crab fishery participants what recreational management action(s) the Director may implement given the triggers for marine life concentrations under the risk assessment framework of RAMP referenced in Section 132.8. Additionally, it provides clarity on the duration of a recreational management action (i.e. until new data indicate the triggers are no longer met).

*Add subsection 29.80(c)(7)(C)*

The marine life concentration trigger under RAMP is determined by the number of Humpback whales, Blue whales, or Pacific Leatherback sea turtles that occur in one of seven delineated fishing zones (Figure 4), one of which applies exclusively to the Pacific leatherback sea turtle

(Zone 7). Proposed subsection 29.80(c)(7)(C) describes the geographic scale in crab fishing grounds at which a recreational management action may be implemented by the Director, either statewide or by fishing zone as defined in subsections 132.8(a)(7)(A)-(G). The zones are designed around the likely geographic resolution of available data, and behavioral dynamics of both fishing activities and protected species.

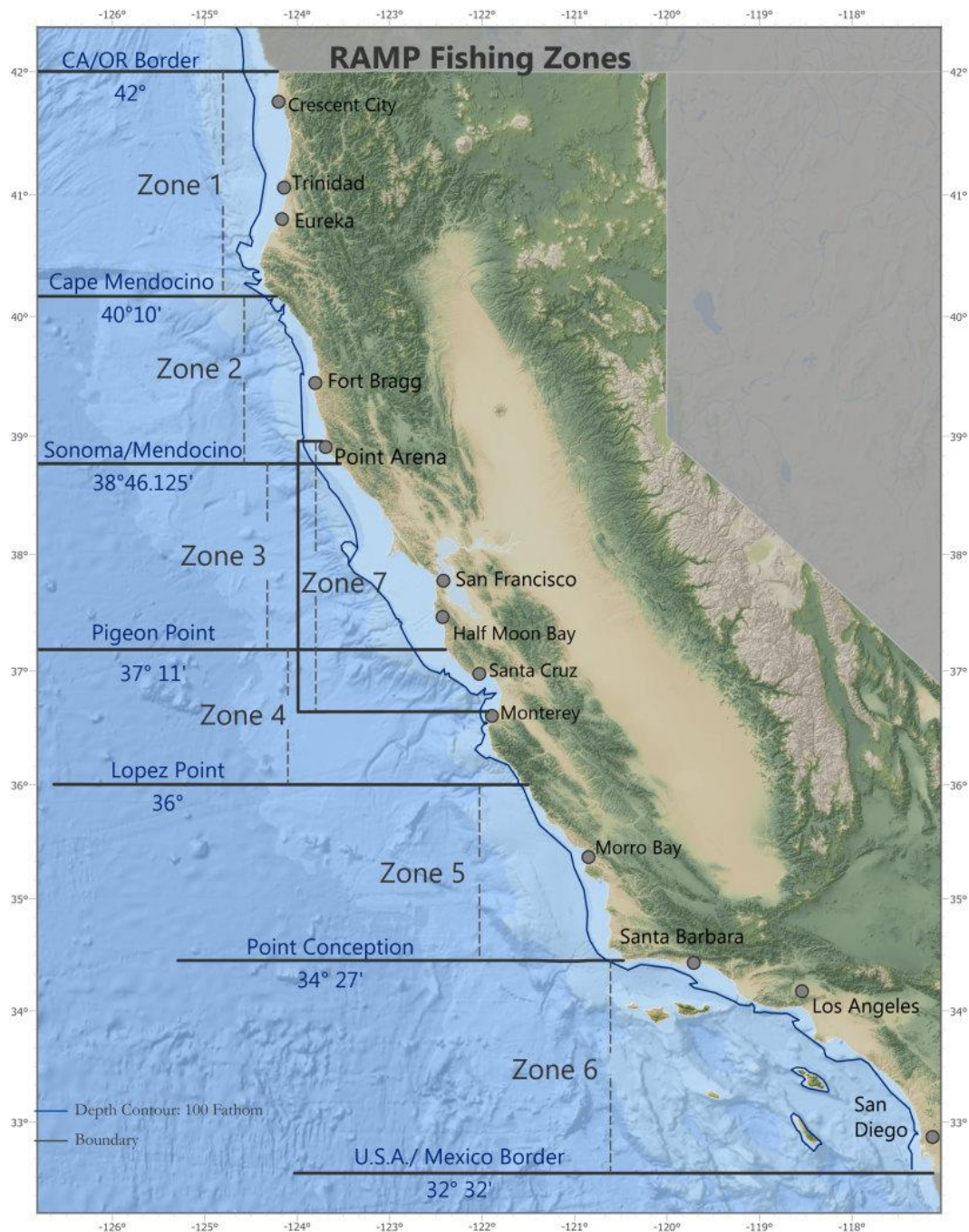


Figure 4. Proposed RAMP Fishing Zones.

If the Director demonstrates less-than-statewide action protects Humpback whales, Blue whales, and Pacific Leatherback sea turtles based on best available science, the Director may implement a recreational management action by fishing zone(s). For example, survey data may indicate that whale presence is concentrated in the fishing zone encompassing Monterey

Bay, but no whales were surveyed in the northern coast. In that instance, a fishing zone closure would appropriately address the entanglement risk while leaving recreational fishing opportunities available in other areas of the state where data indicate there is not an entanglement risk.

This subsection is necessary to make clear to recreational crab fishery participants what geographic scale a recreational management action may encompass.

*Add Subsection 29.80(c)(7)(D)*

Proposed subsection 29.80(c)(7)(D) requires the Director to provide notice of a recreational management action to the recreational fishery participants through a Director's declaration. Similar to the declaration prescribed in subsection 132.8(f)(1) for the commercial fishery, the recreational declaration will provide the information relied upon for recreational management action and supporting rationale for the Director's determination of risk and accompanying recreational management action, as well as anticipated duration of the recreational management action. If timing allows, the Department anticipates the recreational declaration will be paired with the commercial declaration for efficiencies in internal processing.

This subsection is necessary to specify how the Director and the Department will clearly articulate the basis and rationale for any decision on recreational management actions. This will ensure transparency to interested stakeholders and provide a record of decision-making.

*Add Subsection 29.80(c)(7)(E)*

Proposed subsection 29.80(c)(8) will require any declaration made by the Director pursuant to subsection 29.80(c)(7)(D) to include a minimum of 5-days' notice before any closure or delay takes effect. This notice is necessary to establish a reasonable time period for recreational fishery participants to receive the notice and make preparations to implement any required modification to their fishing practices.

*Add Subsection 29.80(c)(7)(F)*

Proposed subsection 29.80(c)(9) will require all advisory notices and declarations made by the Director pursuant to subsection 29.80(c)(7)(D) to be posted on the Department's "Whale Safe Fisheries" webpage, located at <https://wildlife.ca.gov/Conservation/Marine/Whale-Safe-Fisheries>. This subsection is necessary to inform recreational fishers of where to find the most up-to-date information on any recreational management actions. Posting to the webpage is the most efficient way to quickly provide notification of any advisory notice, Director's declaration or other recreational management action made by the Department. However, at its discretion, the Department may also provide notification through other means.

*Add Subsection 29.80(c)(7)(G)*

Proposed subsection 29.80(c)(10) will require the Director to notify the Commission of any actions taken and request the Commission schedule a public discussion of any such action at the next regularly-scheduled Commission meeting.

### **Amend Subsection 29.80(e)**

The revision to subsection 29.80(e) removes the reference to 29.85 regarding take of crabs from commercial passenger fishing vessels, as that language was moved to subsection 29.80(c)(3) for consolidation purposes.

### **Amend Subsection 29.85(a)(1)**

The term “Closure” is proposed to be removed from subsection 29.85(a)(1). As explained above for subsection 29.80(c)(7)(B), this rulemaking would add a new type of closure/season delay for the recreational crab fishery. It is necessary to remove the term “Closure” under in subsection 29.85(a)(1) to avoid confusion with a closure pursuant to proposed subsection 29.80(c)(7)(B). The removal will not lead to any substantive change to the regulation.

### **Add New Subsection 29.85(a)**

Proposed subsection 29.85(a) would require anyone who takes crab recreationally using crab traps to possess a valid Recreational Crab Trap Validation. The validation is an add-on to a recreational fishing license, and will alert Department staff that the individual intends to participate in the recreational crab fishery using crab traps. The proposed trap validation would be valid for current license year and will only be needed for those that take crab recreationally using crab traps pursuant to subsection 29.80(c).

Department staff will be able to target validation holders with surveys to obtain essential fisheries data, and potentially share information to help minimize entanglement risk (i.e., the Director’s declarations or fishery advisories pursuant to subsection 29.80(c)(7)).

Information on recreational crab fishery effort, such as where and how many traps are deployed, can help the Department evaluate whether there is substantial overlap between fishing areas and key forage habitats of the protected species. Moreover, the validation along with the trap limit will allow Department staff to acquire essential fishery information, such as the number of participants, maximum trap effort and the level of take each year, which has not been formally accounted for in this fishery. Acquiring such information will allow the state to better monitor the direct and incidental impacts the fishery has on the natural environment through the use of traps in the recreational fishery, as well as its value to California’s coastal economy, ultimately resulting in management more consistent with the state’s marine life management goals.

### **Repeal Subsection 29.85(a)(4)-(5)**

Trap limit and marking requirements for the recreational crab fishery would be consolidated under subsection 29.80(c)(6). Subsections 29.85(a)(4) and (a)(5), which prescribe such trap limits and marking requirements for CPFVs, would also be moved to Section 29.80 accordingly. Moving these two subsections is necessary to consolidate and streamline the regulation so recreational crab fishers can refer to such requirements in a single section.

### **Renumber Subsections 29.85(a)-(e)**

Current subsections 29.85(a), (b), (c), (d), and (e) will be renumbered to accommodate new subsection 29.85(a).

## **Amend Subsections 29.85(b)(2) and (c)(1)**

Renumbered subsections 29.85(b)(2) and (c)(1) would be amended to add a reference to the Director's authority to delay or close the recreational crab trap season. These additions are necessary to ensure recreational crab fishers are aware of the potential closures.

## **Amend Section 701**

A nominal fee will be assessed for the Recreational Crab Trap Validation to cover its administrative cost. The fee will be added as subsection 701(h), and the original subsection (h) will be renumbered as subsection (i). The fee is proposed to be \$2.25. See the Addendum to the STD. 399 for the fee determination calculation. This fee amount may be adjusted in the future as the Department develops a better understanding of the number of participants of the recreational crab fishery and is subject to annual adjustments pursuant to Section 699, Title 14, CCR.

## **Changes Without Regulatory Effect**

Reference citations are being updated to better reflect the statutes being implemented, interpreted, and made specific. Section 110 of the Fish and Game Code (FGC) is being removed from the list of reference sections for sections 29.80, 29.85 and 701. Prior to January 1, 2007, Section 206 FGC outlined the Commission process for the adoption of sport fishing regulations. In 2006, Senate Bill (SB) 1535 repealed Section 206 and added a new Section 206 which outlined the Commission's general meeting schedule. In 2016 legislation (SB 1473), the then-current Section 206 FGC was amended and renumbered as Section 110 FGC. When updates to the authority and reference citations were made in rulemaking file 2017-0818-05S, staff inadvertently changed Section 206 FGC to Section 110 FGC. Section 1055 FGC is being replaced with Section 1055.1 FGC in the reference sections for Section 701 due to the repeal of Section 1055 FGC and addition of Section 1055.1 in 2015 legislation (SB 798).

### **(b) Goals and Benefits of the Regulation**

It is the policy of this state to conserve, protect, restore, and enhance any endangered species or any threatened species and its habitat.

The proposed regulation would help reduce the entanglement risk posed by recreational crab traps towards marine animals protected by the federal Endangered Species Act and Marine Mammal Protection Act. The proposed regulations would also help the state obtain valuable information on recreational crab fishery participants. The information acquired would help the state better mitigate entanglement risk as well as better manage the crab fisheries overall to meet the state's various policy goals.

### **(c) Authority and Reference Sections from Fish and Game Code for Regulation**

Authority: Sections 200, 205, 265, 270, 275, 713, 1050, 1053.1, 7075, 7078 and 7149.8, Fish and Game Code

Reference: Sections 200, 205, 265, 270, 275, 713, 1050, 1053.1, 1055.1, 7050, 7055, 7056 and 7149.8, Fish and Game Code



(d) Specific Technology or Equipment Required by Regulatory Change

Under subsection 29.80(c), new buoy requirements include the designation of the existing buoy requirement to be the “main buoy,” and add specific minimum dimensions (5 inches diameter, 11 inches in length). The addition of the “marker buoy” to all recreational crab main buoys is intended to be the distinguishing characteristic of the fishery.

(e) Identification of Reports or Documents Supporting Regulation Change

California Department of Fish and Wildlife. 2019. Dungeness Crab, *Metacarcinus magister*, Enhanced Status Report. Available from <https://marinespecies.wildlife.ca.gov/dungeness-crab/>

California Department of Fish and Wildlife. 2020. Initial Statement of Reasons for Regulatory Action to Add Section 132.8, Title 14, California Code of Regulations, Re Risk Assessment Mitigation Program: Commercial Dungeness Crab Fishery. Available from <https://wildlife.ca.gov/Notices/Regulations/RAMP>

Documents Supporting RAMP regulation change:

- Senate Bill 1309, 2018, McGuire:  
[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180SB1309](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB1309)
- Benson, S.R., K.A. Forney, J.T. Harvey, J.V. Carretta, and P.H. Dutton (2007). Abundance, distribution, and habitat of leatherback turtles (*Dermochelys coriacea*) off California, 1990-2003. *Fishery Bulletin*, 105(3): 337–347.
- Calambokidis, J., G.H. Steiger, C. Curtice, J. Harrison, M.C. Ferguson, E. Becker, M. DeAngelis, and S.M. Van Parijs. 2015. Biologically Important Areas for Selected Cetaceans Within U.S. Waters – West Coast Region. *Aquatic Mammals*, 41(1): 39-53. DOI 10.1578/AM.41.1.2015.39
- Carretta, J. V., K.A. Forney, E.M. Oleson, D.W. Weller, A.R. Lang, J. Baker, M.M. Muto, B. Hanson, A.J. Orr, H. Huber, M.S. Lowry, J. Barlow, J.E. Moore, D. Lynch, L. Carswell, and R.L. Brownell Jr. 2019. Humpback Whale (*Megaptera novaengliae*): California/ Oregon/ Washington Stock (pp. 173-182), and Blue Whale (*Balaenoptera musculus musculus*): Eastern North Pacific Stock (pp. 183-190), *In* Assessment U.S. Pacific Marine Mammal Stock Assessments: 2018. U.S. Department of Commerce, NOAA Technical Memorandum NMFSSWFSC-617.
- California Dungeness Crab Fishing Gear Working Group, Guidelines for Research and Development Projects, Focus on Ropeless Gear Innovations, Feb 2019:  
[http://www.opc.ca.gov/webmaster/media\\_library/2019/02/Whales-Gear-Innovations-R-and-D-Guidelines-February-2019.pdf](http://www.opc.ca.gov/webmaster/media_library/2019/02/Whales-Gear-Innovations-R-and-D-Guidelines-February-2019.pdf)
- California Dungeness Crab Fishing Gear Working Group, Recommendations Memo, November 12, 2019:  
[http://www.opc.ca.gov/webmaster/media\\_library/2019/11/CAWhaleWorkingGroup\\_HighlightsRecommendationsMemo\\_SeptOct2019\\_FINAL.pdf](http://www.opc.ca.gov/webmaster/media_library/2019/11/CAWhaleWorkingGroup_HighlightsRecommendationsMemo_SeptOct2019_FINAL.pdf)

- California Dungeness Crab Fishing Gear Working Group, Recommendations Memo, October 15, 2018:  
[http://www.opc.ca.gov/webmaster/media\\_library/2018/10/Whales\\_WorkingGroupRecommendationsMemo\\_October2018\\_FINAL.pdf](http://www.opc.ca.gov/webmaster/media_library/2018/10/Whales_WorkingGroupRecommendationsMemo_October2018_FINAL.pdf)
- California Dungeness Crab Fishing Gear Working Group, Call Summary, September 26, 2019:  
[http://www.opc.ca.gov/webmaster/media\\_library/2019/10/CAWorkingGroup\\_WebinarSummary\\_Sept262019.pdf](http://www.opc.ca.gov/webmaster/media_library/2019/10/CAWorkingGroup_WebinarSummary_Sept262019.pdf)
- California Dungeness Crab Fishing Gear Working Group, Summary of Key Themes, September 4-5, 2019:  
[http://www.opc.ca.gov/webmaster/media\\_library/2019/10/CAWorkingGroup\\_KeyThemesSummary\\_FINAL\\_Sept4-52019.pdf](http://www.opc.ca.gov/webmaster/media_library/2019/10/CAWorkingGroup_KeyThemesSummary_FINAL_Sept4-52019.pdf)
- California Dungeness Crab Fishing Gear Working Group, Summary of Key Themes, March 26, 2019:  
[http://www.opc.ca.gov/webmaster/media\\_library/2019/04/CAWhaleWorkingGroup\\_KeyThemesSummary\\_26March2019Meeting\\_FINAL.pdf](http://www.opc.ca.gov/webmaster/media_library/2019/04/CAWhaleWorkingGroup_KeyThemesSummary_26March2019Meeting_FINAL.pdf)
- California Dungeness Crab Fishing Gear Working Group Risk Assessment and Recommendation  
<https://www.wildlife.ca.gov/Conservation/Marine/Whale-Safe-Fisheries>
- California Ocean Protection Council, Strategic Plan to Protect California's Coast and Ocean 2020-2025  
[http://www.opc.ca.gov/webmaster/ftp/pdf/agenda\\_items/20200226/OPC2020-2025-Strategic-Plan-FINAL-20200228.pdf](http://www.opc.ca.gov/webmaster/ftp/pdf/agenda_items/20200226/OPC2020-2025-Strategic-Plan-FINAL-20200228.pdf)
- NMFS, 2020. West Coast Region Protected Resources Division, Draft Serious Injury Mortality Report, July 13, 2020. Available from: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=180688>
- NMFS, 2012a. NMFS Policy Directive (PD-02-038), Process for Distinguishing Serious from Non-Serious Injury of Marine Mammals, effective January 27, 2012, available from: [https://www.avma.org/sites/default/files/resources/noaa\\_serious\\_injury\\_policy.pdf](https://www.avma.org/sites/default/files/resources/noaa_serious_injury_policy.pdf)
- NMFS, 2012b. NMFS Instruction (02-038-01), Process for Distinguishing Serious from Non-Serious Injury of Marine Mammals: Process for Injury Determinations, effective January 27, 2012, available from: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-protection-act-policies-guidance-and-regulations>
- Saez, L., D. Lawson, and M. DeAngelis. 2020. Large whale entanglements off the U.S. West Coast, from 1982-2017. NOAA Tech. Memo. NMFS-OPR-63, 48 p. Available from <https://www.fisheries.noaa.gov/resource/document/large-whale-entanglements-us-west-coast-1982-2017>
- 64 Federal Register 102, May 27, 1999. North Pacific Fishery Management Council; Public Meetings, pages 28800-28802. Available from: <https://www.govinfo.gov/content/pkg/FR-1999-05-27/pdf/FR-1999-05-27.pdf>
- 77 Federal Register 4169, January 26, 2012. NOAA Endangered and Threatened Species: Final rule to revise the critical habitat designation for the endangered



Leatherback Sea Turtle, pages 4170-4201. Available from <https://www.govinfo.gov/content/pkg/FR-2012-01-26/pdf/2012-995.pdf>

NOAA Fisheries. 2020. 2019 West Coast Whale Entanglement Summary. Available from <https://www.fisheries.noaa.gov/resource/document/2019-west-coast-whale-entanglement-summary-and-infographic>

NOAA Fisheries. 2019. 2018 West Coast Whale Entanglement Summary. Available from <https://www.fisheries.noaa.gov/resource/document/2018-west-coast-whale-entanglement-summary>

(f) Identification of Reports or Documents Providing Background Information:

Santora, J. A., Mantua, N. J., Schroeder, I. D., *et al.* (2020). Habitat compression and ecosystem shifts as potential links between marine heatwave and record whale entanglements. *Nature communications*, 11(1), 1-12. Available from <https://www.nature.com/articles/s41467-019-14215-w>

(g) Public Discussions of Proposed Regulations Prior to Notice Publication

- November 5, 2019: Commission Marine Resources Committee meeting in Sacramento.
- December 3, 2019: Public webinar to discuss proposed regulations.
- December 12, 2019: Fish and Game Commission meeting in Sacramento.
- January 6, 2020: Workshop with representatives of the recreational sector in Sacramento.
- January 11, 2020: Workshop with representatives of the recreational sector in Sausalito.
- January 23, 2020: Workshop with representatives of the recreational sector in Eureka.
- March 17, 2020: Commission Marine Resources Committee webinar.
- March 19, 2020: CA Dungeness Crab Fishing Gear Working Group teleconference.
- April 16, 2020: Fish and Game Commission teleconference.
- June 24, 2020: Fish and Game Commission webinar/teleconference.

On May 11, 2020, the Department provided formal notice to California tribal governments regarding the development of the proposed regulations and requested preliminary input by June 15, 2020. As of the date on this Initial Statement of Reasons, no requests for government-to-government consultation have been received. Four tribal governments did contact the Department: Santa Ynez Band of Chumash Indians, Yocha Dehe Wintun Nation, Manchester Band of Pomo Indians, and Federated Indians of Graton Rancheria. Three tribal governments had questions about the intent or background of the rulemaking proposals which the Department was able to provide. A fourth tribal government voiced its support for measures to protect marine animals.

#### IV. Description of Reasonable Alternatives to Regulatory Action

##### (a) Alternatives to Regulation Change

###### Alternative 1:

Adoption of a trap limit that would appreciably reduce the number of recreational crab traps deployed in the ocean. Initial discussions included a range from three to ten traps. Based on stakeholder feedback, a more stringent trap reduction would constrain an fishers' ability to share gear with family and friends during fishing trips. Allowing individuals to share gear with other fishers may also help to limit the total number of traps fished by area. As a result, a lower trap limit was rejected. The issue of gear sharing may be addressed in a future rulemaking.

###### Alternative 2:

Requiring that *all* crab fishers, not just those fishing with crab traps, obtain the validation. There are many unknowns about the number of individuals fishing with the various methods and the validation would provide an opportunity for information gathering. However, the purpose of the regulation is to gather information to inform ways of minimizing whale entanglement risk, and crab fishers using methods other than crab traps deployed from boats have no known contribution to that risk. Therefore, this alternative was rejected.

###### Alternative 3:

A Recreational Crab Trap Validation "sunset" date. The intent of the validation is to gather information to inform the Department on recreational crab trap fishing effort and to document the crab trap fishery participants for the purpose of communication of Director's declarations, advisories to recreational fishers, etc. Due to the likelihood of ongoing entanglement risk as well as the need to obtain ongoing information for the orderly management of the fishery, continued data collection is essential for maintaining consistent seasonal communication with fishery participants. As a result, a sunset provision was rejected. If the validation ever outlives its purpose, it can be eliminated in a future rulemaking.

###### Alternative 4:

A recreational gear retrieval program which would remove lost and/or abandoned recreational crab trap gear. The commercial gear retrieval program started for the first time on May 22, 2020. Before layering on an additional program, the Department wants to implement and evaluate the current program to determine if there are any changes that need to be made. Additionally, the Department has not conducted outreach on this alternative, and it was not included in the initial proposals that have been discussed with the recreational fishery participants dating back to July of 2019. The buoy marking aspect in this rulemaking needs to be implemented so that gear can clearly be identified before a retrieval program is established. Lastly, prior to implementing this type of program, considerations of Commission authority need to be further explored to ensure a retrieval program can be appropriately implemented. For these reasons, this alternative was rejected.

###### Alternative 5:

Inclusion of specific regulatory language banning the use of plastic liquid containers such as used milk jugs or detergent bottles as main buoys. These items are not intended to serve as buoys, nor built for the harsh conditions of the marine environment and may easily contribute

to gear loss. However, the difficulty of developing adequate regulatory language led to the rejection of this alternative at this time.

Alternative 6:

Marking recreational traps with tags or lettering. These methods are already being used to mark commercial gear. Department staff were concerned that using either tags or lettering would lead to the traps being conflated with commercial gear in the event of an entanglement and this alternative was rejected.

Alternative 7:

The development of an independent recreational counterpart to RAMP. This alternative was rejected due to the lack of an identifiable trigger unique to the recreational fishery. The recreational and commercial fisheries operate using similar, if not identical gear, and over the same fishing grounds at roughly the same time of year. As such, the Department is recommending use of the established RAMP program to inform a management action in the recreational fishery using only the Marine Life Concentrations trigger in the RAMP.

(b) No Change Alternative

Without change, the recreational crab fishery will maintain the same level of entanglement risk for ESA-protected species, and the Department and Commission will continue to lack baseline information regarding the fishery that could inform a management action to address risk. When entanglement risk is elevated, the quickest regulatory response would be through emergency regulations, providing stakeholders with a shortened opportunity for input. While the emergency rulemaking process is faster than a regular rulemaking, it still would not be responsive enough to address the immediate threat of entanglement when large whales and sea turtles are actively migrating along the coast.

(c) Description of Reasonable Alternatives that Would Lessen Adverse Impact on Small Business

No reasonable alternatives that would lessen adverse impacts on small businesses were identified by or brought to the attention of Department or Commission staff.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures needed.

VI. 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 initial 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 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 at a cost of \$4.00 per buoy for up to the maximum 60 traps per vessel, resulting in industry costs of \$15,360 in initial costs and approximately \$7,680 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.

(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 because the proposed regulations are not anticipated to affect the volume of recreational crab trapping activity nor result in significant costs to CPFVs that serve recreational crab trappers.

The Commission does not anticipate any benefits to the health and welfare of California residents or to worker safety.

The Commission anticipates benefits to the state's environment by reducing the potential for marine life entanglement in recreational fishing gear.

(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 \$4.00 per buoy for up to the maximum 60 traps, summing to \$240 in initial costs and approximately \$120 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.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State

The proposed regulations are anticipated to introduce some start-up and ongoing implementation and enforcement costs that will be re-covered with the proposed Recreational Crab Trap validation program. An estimated additional \$13,500 in validation revenue is anticipated to be collected by the Department. The Commission does not anticipate any savings to State agencies or costs/savings in federal funding to the State.

(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.

## VII. Economic Impact Assessment

The principal intent of the proposed regulation is to minimize entanglement risks as well as to improve marine resource management through the collection of key fishery activity information. Department recreational fishing survey data indicate that at least 6,000 individuals engage in recreational crab trap fishing and would be affected by changes in requirements regarding: enhanced gear marking; service intervals; trap limits; Director authority to restrict take; and a new validation program. CPFV operators provide recreational fishing trips for dozens of ocean species, and those who provide crab trapping (average of 64 vessels per 2010-2019 CPFV log data), would also be directly affected by the proposed regulations. CPFVs operating in California are characterized as small businesses (per CA Government Code Article 2, Section 11342.610) as all are independently owned and operated and not dominant in its field of operation.

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State

The Commission does not anticipate impacts on the creation or elimination of jobs within the state because the proposed regulations are for a recreational marine fishery and are not anticipated to change the level of fishing activity. The additional costs for CPFVs to purchase marker buoys is not anticipated to result in the creation or elimination of jobs because these costs are a very small share of CPFV operating costs and would not change procedures so as to require more or less labor. 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. Impacts to the creation or elimination of jobs are not anticipated because the number of CPFV

trips are not anticipated to change more than the typical seasonal variation due to weather and other unknown influences.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State

The Commission does not anticipate any new businesses, or elimination of existing businesses, because the proposed regulation is not likely to substantially increase or decrease recreational fishing activity within the state. The additional costs for CPFVs to purchase marker buoys is not anticipated to result in the creation or elimination of businesses because costs are a very small share of CPFV operating costs and the supply of buoys is already sufficient to fulfill this requirement. 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. However, this is not anticipated to result in the creation or elimination of businesses because the number of CPFV trips are not anticipated to change more than the typical seasonal variation due to weather and other unknown influences.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State

The Commission does not anticipate any effects on the expansion of businesses currently doing business in the State because the proposed regulation is not likely to substantially increase or decrease recreational fishing activity within the State.

The additional costs for CPFVs to purchase marker buoys is not anticipated to result in the expansion of businesses because costs are a very small share of CPFV operating costs, and the supply of buoys is already sufficient to fulfill this requirement. 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. However, this is not anticipated to result in the expansion of businesses because the number of CPFV trips are not anticipated to change more than the typical seasonal variation due to weather and other unknown influences.

(d) Benefits of the Regulation to the Health and Welfare of California Residents

The Commission does not anticipate any benefits to the health and welfare of California residents.

(e) Benefits of the Regulation to Worker Safety

The Commission does not anticipate any benefits to worker safety because the proposed regulation does not affect existing working conditions.

(f) Benefits of the Regulation to the State's Environment

The regulation is anticipated to benefit the State's environment by reducing the potential for entanglements of ESA-protected marine life species in fishing gear.

## Informative Digest/Policy Statement Overview

Current regulations for the recreational take of rock crab and Dungeness crab specify seasons, size limits, bag and possession limits, closed fishing areas, and gear restrictions. Like most recreational fisheries, a recreational fishing license is the only license required to participate in recreational crab fishing. In addition to traps, crabs can also be taken recreationally by hand, crab loop traps (snares), or hoop nets. Individuals are generally not allowed to operate a trap owned by another person unless they have in possession written permission from the owner.

Individual fishermen may fish using their own gear, or may join a scheduled fishing trip on a Commercial Passenger Fishing Vessel (CPFV). CPFVs take customers on fishing trips and provide fishing gear for use by their clients or passengers. Current regulations limit the number of crab traps used to take Dungeness crab by a CPFV to 60 and specify that the commercial boat registration number of the CPFV must be affixed to each trap and trap buoy deployed by that vessel. Current regulations specify that traps not operated from CPFVs must be marked with buoys with the operator's GO ID number.

There is currently no limit to how many traps an individual may deploy, no required service interval (how often traps must be raised, cleaned and emptied), and no other buoy or trap marking requirements for recreational crab fishing.

The Fish and Game Commission (Commission) and the Department of Fish and Wildlife (Department) are proposing to amend sections 29.80, 29.85, and 701, Title 14, California Code of Regulations (CCR). The proposed regulatory changes would be the first step in addressing entanglement risk posed by the recreational crab fishery in California towards species listed under the federal Endangered Species Act (ESA). Between 2014 and 2019, three Humpback whale entanglements were attributed to the recreational crab fishery in California. The proposal would also allow the Department to gather essential fishery information.

The fishing gear responsible for entanglement could not be identified in 44% of all confirmed entanglements between 1982 and 2017, and the recreational crab fishery may be responsible in some of these instances. This uncertainty, along with the scarcity of essential fishery information, makes development of mitigation measures very difficult.

The proposed regulations would establish some restrictions to minimize entanglement risks as well as allow the state to collect crucial information that would contribute to future management. The proposed regulations include the following provisions:

- **Enhanced Gear Marking:** Proposed subsection 29.80(c)(3), Title 14, CCR, would require all recreational crab traps be marked with a main buoy that is at least 5 inches in diameter and 11 inches in length and that a red marker buoy that is 3 inches in diameter and 5 inches in length be attached no more than three feet from the main buoy. Current regulation requiring buoy marking, and in the case of CPFV's, trap marking, would be consolidated in this subsection.
- **Service Interval:** Proposed subsection 29.80(c)(5), Title 14, CCR, would establish a maximum service interval of 9 days, weather conditions at sea permitting, and would prohibit abandoned traps.
- **Trap Limit:** Proposed subsection 29.80(c)(6), Title 14, CCR, would establish an individual trap limit of 10 traps. The current 60-trap limit for Commercial Passenger Fishing Vessels (CPFVs)

targeting Dungeness crab will be moved from subsection 29.85(a)(4) to this subsection and will apply to CPFVs targeting any crab. The proposed regulation would allow an individual to service up to 10 additional traps if they possess written permission from the operator(s) of the additional traps whose gear are identified in accordance with subsection 29.80(c)(3).

- **Director Authority:** Proposed subsection 29.80(c)(7), Title 14, CCR, would provide authority for the Director of the Department, after consulting with the President of the Commission, to delay the fishery opener or close the season early in ocean waters of the state when the concentrations of Humpback whales, Blue whales, or Pacific Leatherback sea turtles exceed thresholds established in the Risk Assessment and Mitigation Program (Section 132.8, Title 14, CCR). Starting at least 5 days in advance of the opening of the recreational Dungeness crab fishing season, 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. Any delay or closure could apply statewide or by zone(s). The proposed regulation provides that before implementing a delay or closure, the recreational crab trap fishery will be given at least 5-days' notice through a Director's declaration on the Department's "Whale Safe Fisheries" webpage (<https://wildlife.ca.gov/Conservation/Marine/Whale-Safe-Fisheries>). In addition, the Director will notify the Commission of any actions taken and request the Commission schedule a public discussion of any such action at the next regularly-scheduled Commission meeting. References to this authority will be added to subsections 29.85(b)(2) and (c)(1).
- **Trap Validation Program:** Proposed subsections 29.85(b) and 701(h), Title 14, CCR, would establish a "Recreational Crab Trap Validation" program that would require those individuals who fish for crabs with recreational crab traps to purchase an annual validation. A small fee of \$2.25 would be required for each validation.

The proposed regulatory package also includes clarifying, organizational and non-substantive edits to sections 29.80, 29.85, and 701, Title 14, CCR.

## **Benefits of the Regulations**

The proposed regulation would help reduce marine life entanglement caused by the recreational crab fishery. It would also establish a framework by which the Commission and the Department can collect the requisite information to better manage the fishery to further reduce entanglement and to better meet the state's fishery management goals.

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

Article IV, Section 20 of the State Constitution specifies that the Legislature may delegate to Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated authority to the Commission to promulgate sport fishing regulations (Fish and Game Code sections 200, 205, 315, and 316.5). Commission staff has searched the California Code of Regulations and has found no other state regulations that address the recreational take of crabs using trap gear. The Commission has reviewed its own regulations and finds that the proposed regulations are consistent with other recreational fishing regulations and marine protected area regulations in Title 14, CCR, and therefore finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.



## Proposed Regulatory Language

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 operator of the trap. Any person with written permission from the operator of a crab trap will be in compliance with subsection (c)(3)(A)1. if the written permission contains the 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. 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.

## Proposed Regulatory Language

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.~~

~~(6)~~(4) 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.

~~(7)~~(5) 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.

~~(c)~~(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

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
(h) <u>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.

**ECONOMIC IMPACT STATEMENT**

DEPARTMENT NAME <b>Fish and Game Commission</b>	CONTACT PERSON <b>Margaret Duncan</b>	EMAIL ADDRESS <b>margaret.duncan@wildlife.ca.gov</b>	TELEPHONE NUMBER <b>(916) 704-3215</b>
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 <b>Amend Sections 29.80, 29.85, 701 CCR, Title 14, Re: Recreational Crab Marine Life Protection Measures</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 type="checkbox"/> a. Impacts business and/or employees   | <input type="checkbox"/> e. Imposes reporting requirements              |
| <input checked="" type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations         | <input checked="" 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 **Fish and Game Commission** 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: **64 CPFVs**

Describe the types of businesses (Include nonprofits): **N/A**

Enter the number or percentage of total businesses impacted that are small businesses: **N/A**

4. Enter the number of businesses that will be created: **none** eliminated: **none**

Explain: **Regulation to determine baseline of a recreational fishery, with no change in amount of fishing activity anticipated**

5. Indicate the geographic extent of impacts: ☐ Statewide  
☒ Local or regional (List areas): **Coastal areas where recreational crab are trapped**

6. Enter the number of jobs created: **none** and eliminated: **none**

Describe the types of jobs or occupations impacted: **N/A**

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:

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

STD. 399 (Rev. 10/2019)

**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? \$ 141,180 / year
  - a. Initial costs for a small business: \$ 240 Annual ongoing costs: \$ 120 Years: 1
  - b. Initial costs for a typical business: \$ 0 Annual ongoing costs: \$ 0 Years: 1
  - c. Initial costs for an individual: \$ 2.25 to \$42.25 Annual ongoing costs: \$ 2.25 to \$20.25 Years: 1
  - d. Describe other economic costs that may occur: \$2.25 crab trap validation alone; add(\$4 per buoy x 5-10 buoys) = \$22.25 to \$42.25  
Annual=\$2.25+ some replace 5 buoys.Total costs=average ongoing individual + CPFV costs = \$141,180. See Addendum
2. If multiple industries are impacted, enter the share of total costs for each industry: Commercial Passenger Fishing Vessels (CPFV) 100%  
2010-2019 Average of 64 CPFVs deployed crab traps on group fishing trips of the 373 CPFVs that submitted logs to CDFW
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: Fish and Game Commission authority to regulate  
sport fishing in state waters to manage marine resources.  
Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ 0

**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: regulation benefits to the State's environment are:  
better information on recreational crab fishery activity to aid the management of marine resources for continued sport  
fishing and to reduce marine life entanglement risk. No direct impacts on health and welfare or worker safety.
2. Are the benefits the result of: ☐ specific statutory requirements, or ☒ goals developed by the agency based on broad statutory authority?  
Explain: Statute provides Fish & Game Commission authority to establish sport fishing regulations.
3. What are the total statewide benefits from this regulation over its lifetime? \$ 2,061,374
4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: The proposed  
regulation is not likely to substantially increase or decrease recreational fishing activity su cient to induce the expansion  
of businesses currently doing business within the State.

**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: Alt 1) Lower trap limits, which could  
constrain trap sharing, was anticipated to be incapitable with the fishery common practices with the potential of higher  
costs than the proposed Regulation. Alt 2) Validation would be required to pursue Crabs by all methods not only traps.

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

STD. 399 (Rev. 10/2019)

**ECONOMIC IMPACT STATEMENT (CONTINUED)**

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

Regulation: Benefit: \$ 2,061,374 Cost: \$ 141,180/year  
Alternative 1: Benefit: \$ 2,061,374 Cost: \$ >141,180/year  
Alternative 2: Benefit: \$ 2,061,374 Cost: \$ >141,180/year

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: Unknown entanglement reductions with Regulation & Alts until in place & benefits are non-use values. Alt 1 may result in trappers needing more equipment. Alt2 more validations req'd.

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 ☒ NO

Explain: Fisheries management regulations traditionally involve setting season length, and/or imposing gear, and/or bait restrictions.

**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: Proposed regulation will not impact investment incentives in the State.

The incentive for innovation in products, materials or processes: Proposed regulation will not impact innovation incentives in the State.

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: Reduced entanglements of non-target and listed marine life; obtain information on rec crab fisheries to mitigate risk and benefit the environment.

## 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 \_\_\_\_\_  
\_\_\_\_\_

**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 The CA Department of Fish and Wildlife anticipates recreational crab trap validation fee revenue of about \$13,500 (6,000 @ \$2.25 ea) for program administration and to fund the management of the marine resources.

**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

DocuSigned by:  
 Dennis Farrell

DATE  
9/10/2020

*The signature certifies 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

DocuSigned by:  
 Melissa A. Miller 9/15/2020

DATE

*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

## STD 399 Addendum

### Amend Sections 29.80, 29.85 and 701, CCR, Title 14

#### Re: Recreational Crab Marine Life Protection Measures

### ECONOMIC IMPACT STATEMENT

#### Background

The principal intent of the proposed regulation is to minimize entanglement risks as well as to improve marine resource management through the collection of key fishery activity information. Department of Fish and Wildlife recreational fishing survey data<sup>1</sup> indicate that at least 6,000 individuals engage in recreational crab trap fishing and would be affected by changes in requirements regarding: enhanced gear marking, service intervals; trap limits, Director authority to restrict take, and a new validation program.

Commercial Passenger Fishing Vessel (CPFV) operators provide recreational fishing trips for dozens of ocean species, and those who provide crab trapping (average of 64 vessels per 2010-2019 CPFV log data<sup>2</sup>), would also be directly affected by the proposed regulations. CPFVs operating in California are characterized as small businesses (per CA GOV Code Article 2, Section 11342.610) as all are independently owned and operated and not dominant in their field of operation. Additional details on CPFVs, trips, and trips for crab are shown in Table 2. in the Appendix to this Addendum.

The proposed regulations introduce five elements for the recreational crab fishery:

- Enhanced Gear Marking Costs:** All recreational crab traps must be attached to a Main Buoy that is at least 5 inches in diameter and 11 inches long. With the proposed regulation, all crab participants must also mark each crab trap with a red Marker Buoy that is 3 inches in diameter and 5 inches long, which would help identify gear as originating from the recreational crab fishery should it entangle marine life. The extra buoy is widely available at an estimated cost of \$4.00 each. Individuals may have up to ten traps although most have between two and five. Using the high-end average quantity of 5 traps x \$4.00 for each additional buoy = \$20.00. The maximum 10 traps per crab trap operator x \$4.00 for each additional buoy = maximum of \$40.00 in initial costs. Annual ongoing costs would be the potential replacement of 5 buoys or \$4.00 x 5 = \$20.00. CPFVs have a maximum of 60 buoys that would entail about \$240 in initial costs and about \$120 in annual ongoing maintenance costs.

<sup>1</sup> CDFW, California Recreational Fishing Survey (CRFS), data extracts for 2015 – 2019.

<sup>2</sup> CDFW, CPFV annual reporting logs data extracts: 2010 – 2020.

- **Service Interval:** Set a maximum service interval of 9 days, which would help reduce lost and abandoned traps and prevent fishermen from storing gear in the ocean when not actively fishing. This component of the regulation has no cost impacts to individuals or businesses.
- **Trap Limit:** Establish an individual trap limit of 10 traps per operator, which would reduce risk of entanglement by limiting the total number of vertical lines and determine the baseline effort level for further analyses. This does not affect the number of hoop nets, crab loop traps or take by hand. This component of the regulation has no costs impacts to individuals because most crab trap participants have between two and five traps and those who deploy the maximum 10 crab traps already possess the gear. The number of traps that a CPFV can deploy remains the same under the amended subsection 29.80(c)(6) (language which was moved from 29.85(a)(4)).
- **Director Authority:** The Fish and Game Commission (Commission) currently has exclusive management authority over the recreational fishery. The proposal would provide authority for the Director of the Department to take in-season 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.
- **Trap Validation Program:** Require all individuals using recreational crab traps to purchase an additional Recreational Crab Trap Validation. This would allow the Department to track individuals who participate in the recreational crab fishery and contact them for survey efforts. The surveys in turn would allow the Department to collect crucial information it needs to better manage the fishery and address entanglement risk in the recreational fishery. A trap validation is a way for a consumer to pay a fair share to contribute to management of the target species, habitat, or specific area. If the validation is purchased at the time the license is purchased, it is imprinted on the license. If purchased separately, then a separate receipt-document is printed to be held by the fisher while trapping.

Table 2. in the Appendix contains CPFV data on the number of vessels and the share that have trips reporting the take of crab. But, it is not currently known how many individuals pursue crabs with traps while aboard CPFVs; depending on size, CPFVs take anywhere from six to about 30 passengers. Department survey data indicate that approximately 6,000 individuals pursue crabs with traps on their own. Information gathered as a result of this regulation will help to more accurately identify the number of fishers in each group.



The fee to recover reasonable administrative and program costs has been determined to be \$2.25 as shown in Table 1. Item Fee Calculation for Recreational Crab Trap Validation.

**Table 1. Item Fee Calculation for Recreational Crab Trap Validation**

**START UP COSTS**

<b>Cost Description</b>	<b>Hours</b>	<b>Rate*</b>	<b>Total</b>
<b><i>ALDS IT support: Item setup/ configuration /reporting</i></b>			
Information Technology Specialist I	8	\$96.42	\$771.36
Total Startup Costs			\$771.36
Amortized over 5 years:			\$154.27
Amortized Startup Costs per Item			\$0.03

**ONGOING ANNUAL PROGRAM COSTS**

<b><i>ALDS IT support: Item Review</i></b>			
Information Technology Specialist I	1	\$71.48	\$71.48
<b><i>LRB IT support</i></b>			
Associate Governmental Program Analyst (AGPA)	25	\$53.77	\$1,344.25
Program technician II (PTII)	42	\$32.90	\$1,381.80
<b>Total Annual Program Costs</b>			<b>\$2,797.53</b>
<b>Annual Program Costs per Item</b>			<b>\$0.47</b>

**ONGOING ANNUAL PROGRAM COSTS**

**ITEM FEE CALCULATION**

Amortized Startup Cost per Item Sold			\$0.03
Annual Program Cost per Item Sold			\$0.47
Overhead for above costs		24%	\$0.17
ALDS System costs Per transaction			\$0.78
LRB Operations costs Per transaction			\$0.89
<b>Item Fee</b>			<b>\$2.33</b>
<b>Item Fee (rounded to nearest .25) per FGC Section 713</b>			<b>\$2.25</b>

\*Rate per hour = hourly wage with benefits

Sources: CalHR for State Employee by Classification Payscales; CDFW Budgets Branch for Staff Benefit Rates 2019/20 and Departmental Overhead Rates 2019/20.

**A. ESTIMATED PRIVATE SECTOR COSTS IMPACTS**

Answer (from STD 399): b. Impacts small businesses; g. Impacts individuals

## B. ESTIMATED COSTS

- a. **Initial costs for a small business:** = \$240 to purchase buoys at \$4 each for 60 recreational crab traps, the maximum allowed per CPFV. Buoys can be purchased at most outdoor supply retailers or online. CPFV operators themselves do not have to purchase the crab trap validation, but individuals (passengers) who expect to take crab must.

**Annual ongoing costs:** = \$120 to replace an estimated 30 buoys (due to damage or loss) or  $\$4.00 \times 30 = \$120.00$  per CPFV.

- b. **Initial costs for an individual:** = a total that ranges from \$2.25 to \$42.25. All individuals that trap crabs incur the cost of a \$2.25 validation. For the not yet known number of fishers who pursue crab with traps aboard CPFVs, that is the only new cost. For those that deploy crab traps on their own, the new gear marking requirement for an additional buoy on each crab trap, has an estimated cost of \$4.00 each for the average quantity of 5 traps = \$20.  $\$2.25 + \$20 = \$22.25$  or up to the maximum 10 traps = \$42.25 for initial costs. Buoys can be purchased at most outdoor supply retailers or online.

**Annual ongoing costs:** = \$2.25 to \$22.25. The required crab trap validation at \$2.25, and for non-CPFV fishers, the potential replacement of 5 buoys (due to damage or loss) or  $\$4.00 \times 5 = \$20.00 + \$2.25 = \$22.25$ .

**Total Statewide costs:** = **\$141,180**, consisting of:

- (Crab Trap Validation fee of \$2.25 for 6,000 non-CPFV recreational crab fishers + unknown number of CPFV crab fishers = **\$13,500**) +
- (average annual buoy costs of \$20 x 6,000 non-CPFV individual recreational crab fishers = **\$120,000**) +
- (\$120 buoy costs per year for 64 CPFVs = **\$7,680**)

## C. ESTIMATED BENEFITS

**Total statewide benefits:** **\$2,061,374**

There are some challenges in the quantification of the anticipated benefits of the proposed regulation because the intended outcomes are comprised of non-use values. The aim is to help reduce the entanglement risk posed by recreational crab fisheries activities towards marine animals protected by the federal Endangered Species Act and Marine Mammal Protection Act. The proposed regulations would also help the state obtain valuable information on recreational crab fisheries to help the state better mitigate entanglement risk as well as better manage the crab fisheries overall to meet the state's various policy goals.

The value of reduced unintended marine life entanglements in a recreational fishery is inherently difficult to monetize. Any unintended catch, known as “bycatch,” whether a listed marine mammal, sea turtle or any other non-target species, could not be traded in the market per codes regarding recreational take. The valuation of bycatch in this case, would be entirely “non-use” (or “non-consumptive”) values, that could be estimated with contingent valuation surveys of residents and non-residents as to how much they would pay to protect the various non-target marine wildlife from harm due to this recreational fishery. Such contingent valuation information informs the derivation of the existence, bequest, and altruistic values which are likely to be substantial, given the widely held concern for whales in particular. Additionally, the ecosystem value of a whale’s life, or the contribution of that life to the nutrient composition that supports other marine life, along with beneficial carbon sequestration, and more has been estimated to be \$2 M per whale (Chami et al., 2019<sup>3</sup>).

Given these difficulties, this analysis first focuses more narrowly on the monetized market-traded direct uses, such as expenditures in the whale-watching industry, supplemented with monetized travel costs research to estimate the benefits of reducing the risk of marine life entanglement. Whale-watching is an industry that draws value from an abundance of whales that will attract more whale-watchers. Whale-watchers derive value from the sighting of whales and in theory the ticket price along with the travel costs of getting to the shore equal the “price” of seeing whales. The value of the whale-watching industry is evaluated as a proxy for the value of an abundance of whales.

A literature survey<sup>4</sup> of the economic contribution of the whale watching industry in California yielded an estimated \$44,614,500 to \$59,902,500 in direct expenditures annually. The multipliers for whale-watching tourism expand the initial direct expenditure to a range of \$127,894,900 to \$171,720,500 in total economic value for the whale-watching industry, that supports 79 jobs per \$1 million in direct expenditures. With a total economic value of the industry the next steps taken to arrive at the monetary value of an individual whale are shown below.

*Total Economic Value of Whale-Watching Tourism*  
[Range = \$127,894,900 to \$171,720,050]

The travel cost research that traces the additional real costs of travel (e.g. gas and time) to estimate the consumer surplus of whale-watching beyond the direct ticket

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<sup>3</sup> Chami, R., Cosimano, T., Fullenkamp, C. and S. Oztosun. 2019. Nature’s Solution To Climate Change: A strategy to protect whales can limit greenhouse gases and global warming, Finance & Development, December 2019.

<sup>4</sup> Erich Hoyt and E.C.M.Parsons (2014); Knowles, T., Campbell, R. (2011); Linwood Pendleton, (2006).

costs was also surveyed. Consumer surplus is the benefit that consumers reap beyond what is paid for the experience.

*Travel Cost as a Measure of Consumer Surplus*

[Average total = \$52,400]

The average total travel costs values were added to the total economic impact of direct expenditures in the state. That sum was then divided by the number of whales of the species traveling in the water depths and areas that could be most likely vulnerable to entanglement with crab gear lines. This provides a measure of the total economic value of the whale watching industry and travel cost consumer surplus per whale.

$(\$127,894,900 + \$52,400)/2,442 \text{ whales} = \$52,400 \text{ per whale}$

$(\$171,720,050 + \$52,400)/2,442 \text{ whales} = \$70,348 \text{ per whale}$

The number of whales off the California coast at risk of entanglement in recreational crab gear is the other key factor in assigning a value for the benefits of this regulatory action. Records on whale entanglement off the California coast show that at least three whales have been entangled over recent years in recreational crab gear (Draft Conservation Plan for California's Commercial Dungeness Crab Fishery 2020). This regulation is intended to reduce the frequency of entanglements of large whales and sea turtles.

The total benefit would be about \$52,400 to \$70,348, with an average of \$61,374 for each whale that is not entangled in recreational crab gear. If the \$2M ecosystem services value (Chami, et al., 2019) of that whale is included the proposed regulation benefits sums to **\$2,061,374**.

## **D. ALTERNATIVES TO THE REGULATION**

### **1. List Alternatives Considered**

#### **Alternative 1: Lower Trap Limit Without Gear Sharing**

One alternative considered was the adoption of a trap limit that would appreciably reduce the number of recreational crab traps deployed in the ocean. Initial discussions included a range from three to ten traps. Based on stakeholder feedback, a more stringent trap limit would constrain an fishers' ability to share gear through written notes by trap owners. Allowing individuals to share gear with other fishers may also help to achieve the goal of limiting the total number of traps fished by area. As a result, a higher trap limit was chosen, and the issue of gear sharing may be addressed in a future rulemaking. The 10-trap individual limit will be used primarily as a benchmark for Department and Commission staff to determine maximum effort.

#### **Alternative 2: Unlimited Validation**

The Department considered requiring that *all* crab fishers obtain the validation, and not just those fishing with crab traps. There are many unknowns about the number of individuals fishing with the various methods, and the validation would provide an opportunity for information gathering. However, the purpose of the regulation is to gather information to inform ways of minimizing whale entanglement risk, and crab fishers using methods other than crab traps deployed from boats have no known contribution to that risk. Therefore, the regulation focuses solely on recreational fishers pursuing the take of crab using crab traps.

## **D2. Summarize the Total Statewide Costs and Benefits from this Regulation and Each Alternative Considered**

**Regulation Costs: \$141,180**, consisting of: (Crab Trap Validation fee of \$2.25 for 6,000 non-CPFV recreational crab fishers + unknown number of CPFV crab fishers = **\$13,500**) + (average annual buoy costs of \$20 x 6,000 non-CPFV individual recreational crab fishers = **\$120,000**) + (\$120 buoy costs per year for 64 CPFVs = **\$7,680**).

**Regulation Benefits:** reduction of entanglement risk posed by recreational crab trap fishing activities towards marine animals, particularly those protected by the federal Endangered Species Act and Marine Mammal Protection Act, valued at: **\$2,061,374**. The proposed regulations would also help the state obtain valuable information on recreational crab fisheries to help the state better mitigate entanglement risk as well as better manage the crab fisheries overall to meet the state's various policy goals.

### **Alternatives**

The following two alternatives represent likely costs and benefits from two modifications of the rulemaking that were not selected.

**Alternative 1 Costs: Greater than \$141,180**, that is greater than the regulation costs as specified above, but since Alternative 1 would be at odds with current practices, it is likely to entail more costs to individual fishery participants as parts of the recreational sector currently rely heavily on the ability to share gear.

**Alternative 1 Benefits:** were expected to be similar to the proposed regulation, **\$2,061,374**, but at higher costs to the affected recreational fishery participants.

**Alternative 2 Costs:** An estimated 1,000 crab fishers use methods other than crab traps deployed from boats, such as hoop nets and manual extraction from the sandy shoreline. If those fishers also had to purchase the \$2.25 Recreational Crab Validation, total statewide individual costs would increase annually by **\$2,250**.

**Alternative 2 Benefits:** Anticipated benefits would not be increased by including crab fishers using methods other than deploying crab traps from boats since those other methods do not increase the risk of whale entanglements. The benefits are estimated to be equivalent to the proposed regulation: **\$2,061,374.**

## **FISCAL IMPACT STATEMENT**

### **A. A. FISCAL EFFECT ON LOCAL GOVERNMENT**

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

### **B. FISCAL EFFECT ON STATE GOVERNMENT**

Answer: 4. Other. Explain: The proposed regulations are anticipated to introduce some start-up and ongoing implementation and enforcement costs that will be covered by the anticipated recreational crab validation revenue.

The Department expects to sell at least 6,000 recreational crab trap validations at the cost of \$2.25 for an annual validation. The additional sales revenue anticipated from 6,000 validations sold is **\$13,500.** The Commission does not anticipate any savings to State agencies or costs/savings in federal funding to the State.

### **C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS**

Answer: 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.

**Appendix: Table 2. CPFV Vessels and Trips Involving Crab Take: 2010-2020**

Year	All Vessels	Vessels with Crab	% Crab Vessels	All Trips	Trips with Crab	% Crab Trips
2010	314	41	13.1%	23,801	618	2.6%
2011	316	55	17.4%	26,144	1,173	4.5%
2012	339	64	18.9%	29,455	1,207	4.1%
2013	361	72	19.9%	31,252	1,214	3.9%
2014	418	79	18.9%	36,465	1,362	3.7%
2015	391	43	11.0%	40,060	657	1.6%
2016	398	76	19.1%	35,101	1,523	4.3%
2017	371	64	17.3%	34,087	1,089	3.2%
2018	423	71	16.8%	35,345	1,129	3.2%
2019	399	75	18.8%	35,051	1,460	4.2%
2020*	280	23	8.2%	6,482	129	2.0%
2010-2019 Average	373	64	17.2%	32,676	1,143	3.5%

\*YTD - July 29, 2020; 2020 is excluded from annual average 2010-2019.

Source: California Department of Fish and Wildlife: CPFV annual reporting logs data extracts: 2010 – 2020.



# Recreational Crab Marine Life Protection Measures

Proposed Amendments to Sections 29.80, 29.85 and 701

14 October 2020

*Presented to:*

**Fish and Game Commission**

*Presented by:*

**Ryan Bartling**

**Senior Environmental Scientist  
Marine Region**





# Inclusion of ALL Trap Caught Sport Crab

- Stakeholder engagement started >1 year ago
- Initial scoping/discussions focused on Dungeness crab
- Entanglement risk is from ALL crab trap gear/line
- Drafting revealed broader approach needed to address risk and enforcement
- Proposed regulations apply to all crab





# Proposed Changes to Recreational Crab Fishery

## Overview of proposals:

1. Unique “marker buoy” (simple red buoy)
2. Trap limit program (10 traps per individual)
3. Service interval requirement (9 days)
4. Recreational Crab Trap Validation (low cost)
5. Director’s authority (minimize entanglement risk)



Credit: CDFW



# Proposed Changes to Recreational Crab Fishery (cont. 1)

## § 29.80: Gear Restrictions for Recreational Take of Saltwater Crustaceans

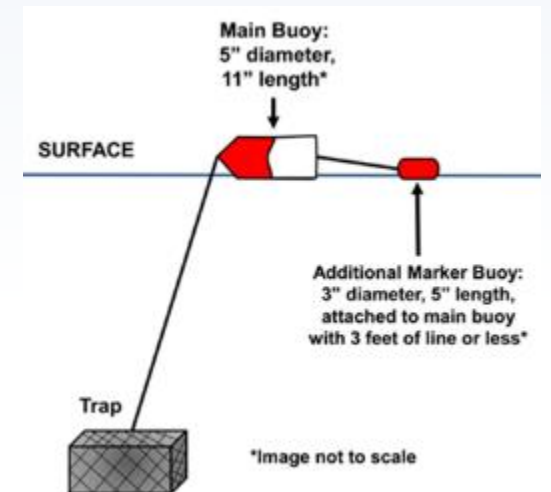
- (b)(1) and (3) Revise: hoop net language to remove redundancy
- (c)(3)(A) Add: Main buoy marking requirements, buoy must 5 x 11 inches
- (c)(3)(A)1. & 2. Reorg: GO ID # and CPFV license buoy marking requirements into this subsection



# Proposed Changes to Recreational Crab Fishery (cont. 2)

## § 29.80: Gear Restrictions for Recreational Take of Saltwater Crustaceans

- (c)(3)(B) Add: Marker buoy requirements, 3 x 5-inch red buoy (readily available)
- (c)(3)(C) Reorg: CPFV trap marking requirements into this subsection
- (c)(5) Add: Service interval  $\leq 9$  days





# Proposed Changes to Recreational Crab Fishery (cont. 3)

## § 29.80: Gear Restrictions for Recreational Take of Saltwater Crustaceans

- (c)(6)(A) Add: Individual trap limit of 10 and provision for servicing up to 10 additional traps with written permission
- (c)(6)(B) Move: CPFV trap limit to this subsection; CPFV trap limit will apply for all crab species





# Proposed Changes to Recreational Crab Fishery (cont. 4)

## § 29.80: Gear Restrictions for Recreational Take of Saltwater Crustaceans

- (c)(7)(A) Add: Director's authority using Risk Assessment Mitigation Program (RAMP) § 132.8
  - Director evaluates risk of entanglement prior to recreational opener
  - Risk will be determined based on consistency with § 132.8 on a monthly basis
  - Data driven process (based on best available science)



# Proposed Changes to Recreational Crab Fishery (cont. 5)

## § 29.80: Gear Restrictions for Recreational Take of Saltwater Crustaceans

- (c)(7)(B) and (C) Add: Director's authority using Risk Assessment Mitigation Program (RAMP) § 132.8
  - Director shall implement management actions to minimize risk after consulting Commission
  - Actions include: Advisory, delay or closure
  - Management Actions can be at the Fishing Zone level or statewide





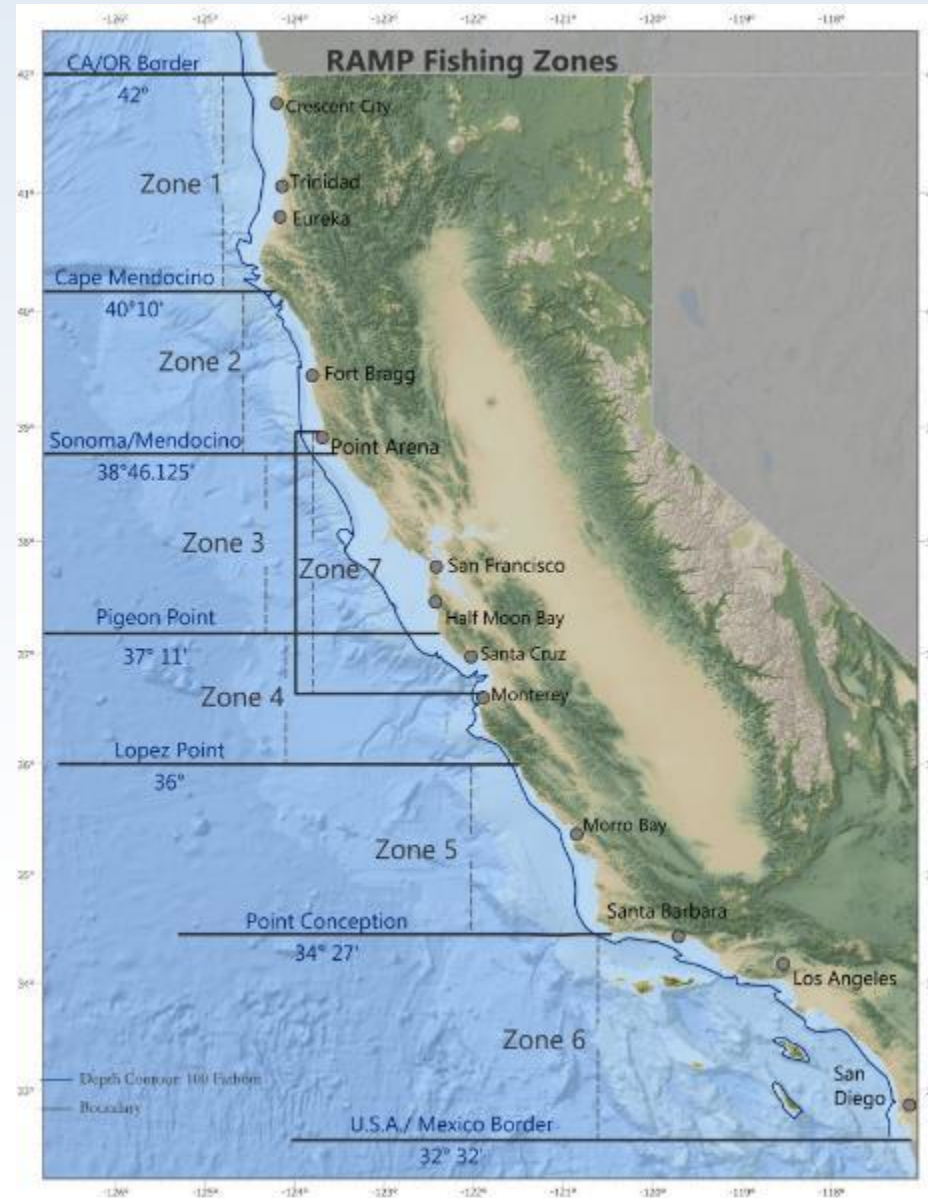
# Proposed Changes to Recreational Crab Fishery (cont. 6)

## § 29.80: Gear Restrictions for Recreational Take of Saltwater Crustaceans

- (c)(7) Add: Director's authority using Risk Assessment Mitigation Program (RAMP) § 132.8
  - (D) Notice of management action transmitted by Director's declaration
  - (E) Minimum of 5-days prior to implementation
  - (F) Communicated through Whale Safe Fisheries webpage
  - (G) Director will notify Commission and schedule discussion



# RAMP Fishing Zones





# Proposed Changes to Recreational Crab Fishery (cont. 7)

## § 29.85 Recreation Take of Crab

- (a) Add: Recreational Crab Trap Validation to identify anglers for communications
- (a)(b) Amend and re-number: San Francisco Bay closure for clarity
- (b)(2) and (c)(1) Add: Fishing rules may change
- (a)(4)and(5) Move: Subsections to §29.80

## § 701 Sport Fishing Forms and Fees

- (h) Add: Crab Trap Validation fee



Credit: CDFW



# Recreational Crab Rulemaking Timeline

**2019 – 2020 – Scoping and Stakeholder Discussions**

**August 2020 – Notice Hearing**

**October 2020 – Discussion Hearing**

**December 2020 – Adoption Hearing**

**January 2021 – Office of Administrative Law Review**

**February 2021 – Submit to Secretary of State**

**Summer/Fall 2021 – Outreach Conducted**

**November 2021 – Regulations Effective**



# Questions?

**Whale Safe Fisheries**

[www.wildlife.ca.gov/Conservation/Marine/Whale-Safe-Fisheries](http://www.wildlife.ca.gov/Conservation/Marine/Whale-Safe-Fisheries)

**Ryan Bartling**

[Ryan.Bartling@wildlife.ca.gov](mailto:Ryan.Bartling@wildlife.ca.gov)



Credit: CDFW

**RE: Recreational Dungeness crab proposal**

Bartling, Ryan@Wildlife <Ryan.Bartling@wildlife.ca.gov>

Tue 08/25/2020 04:15 PM

To: info@fishemeryville.com <info@fishemeryville.com>

Cc: FGC <FGC@fgc.ca.gov>; Fonbuena, Sherrie@FGC <Sherrie.Fonbuena@fgc.ca.gov>

Good afternoon Andy,

Thank you for providing comments on the proposed sport crab regulations. I will forward your comments to the Fish and Game Commission for consideration at their next scheduled meeting.

Ryan Bartling

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**From:** info@fishemeryville.com <info@fishemeryville.com>

**Sent:** Tuesday, August 25, 2020 3:04 PM

**To:** Bartling, Ryan@Wildlife <Ryan.Bartling@wildlife.ca.gov>

**Subject:** Recreational Dungeness crab proposal

**Warning:** This email originated from outside of CDFW and should be treated with extra caution.

Ryan,

We have a lot of reservation regarding the proposal to amend recreational dungeness crab fishing, specifically CPFV regulations. If I understand your numbers correctly, from the period 1982 to 2019, 3 of the 506 known West Coast entanglements have been determined to be caused by Ca recreational gear. (44% of the entanglements unknown gear. ) Statistically speaking that's one entanglement every 5.6 years or .0059% of the entanglements. Very low statistically speaking and overall very little evidence to suggest CA recreational gear poses any serious threat to whales or sea turtles. The evidence of Commercial gear is far more significant than Rec gear and treating both industries the same unfair to the recreational sector.

Further more, if you are asking CPFV's to require each passenger, each day to hold a \$2.25 Trap Validation stamp you are not factoring in the loss of revenue each boat will suffer due to the additional cost an angler must occur daily.

The Dept is was out of bounds lumping Commercial and Recreational Crab sectors together with whale risk. One suggestion would be to implement the gear marking requirements FIRST to accurately determine the risk recreational gear has to whale entanglements. As it relates to validation stamp a one time fee to CPFV's of 2.25 x 60 pots of \$135.00 might be considered.

Our Crab trips are some of our most sought after trips and in high demand. Irrationally delaying the season and adding additional fee's to our operations that are already under stress is poor form on the Depts part.

Thank you,

Andy Guiliano

Fish Emeryville

3310 Powell Street

Emeryville, CA. 94608

Bait Shop: (510)652-3403

Hotline: (510)652-3474

[www.FishEmeryville.com](http://www.FishEmeryville.com)

Recreational Dungeness Crab - CPFV Economic Impact Report Comment.txt

From: tom@hulicat.com

Sent: Sunday, August 30, 2020 7:26 AM

To: Lehr, Stafford@Wildlife; Shuman, Craig@Wildlife;

Ian.Tanaguchi@wildlife.ca.gov; Puccinelli,

Robert@Wildlife; Stefanak, Mike@Wildlife; Loum, Mary@Wildlife; Mastrup,

Sonke@Wildlife; FGC

Subject: Recreational Dungeness Crab - CPFV Economic Impact Report Comment

Attachments: Recreational Dungeness Crab.docx; CPFV EconomicImpactReport.xlsx

CA Department of Fish & Wildlife and CA Fish & Game Commission,

I'm enclosing detail to improve the economic impact report of the proposed change to the recreational

Dungeness crab regulations currently being discussed. Please also consider adding any fee for

Dungeness crab fee to the Lifetime License package. Feel free to contact me about this.

Regards,

Tom Mattusch

Huli Cat

650.726.2926 W



Recreational Dungeness Crab – CPFV Input 8/29/2020

To:

Stafford Lehr

Craig Shuman

Ian Tanaguchi

Robert Puccinelli

Mike Stefanick

Mary Loum

Sonke Mastrup

Fish & Game Commission

Marine Resources Committee

As a CPFV Owner/Operator, I'm asking you to revise the Economic Impact Report (EIR) for California Passenger Fishing Vessels.

I've attached a short spreadsheet to show the buoy revision. A buoy cannot simply be added to another buoy as pictured adjacent to the 5"x11" buoys. The line to existing buoys cannot be simply untied and retied. Assume 1 roll of SuperTec 3/8" neutrally bouyant line, \$173.85 +tax+shipping. 60 5'x11" buoys from West Marine \$7.99+tax. Labor was not included in the existing EIR. Passenger vessel Deckhands and crew are not going to take a couple days and set this up for nothing. My crew gets \$150 per day for Deckhand or general labor. Assume 2 crew for 2 days, \$300. 60 red buoys, \$240 + tax. EIR \$1619 for CPFV. This does not cover labor for painting and branding or marking the 5"x11" buoy, only tying. Double the labor for painting and marking, (not included in spreadsheet).

Red Buoys

I spoke to 3 large wholesale fishing tackle dealers. None could supply the red buoys in sufficient quantity for the 2020 season. I understand this could affect 2021.

Feedback on Proposed Regulation

I request the \$2.25 crab fee be added to the Lifetime License Holders package.

Please feel free to contact me with any questions or comments.

Regards,

Capt Tom Mattusch

Huli Cat 650.726.2926W



Item	cost	tax	shipping	tota	x 60
Crab buoy 5"x11'		.99	0.72	8.7	22.6
red float		0.36		.3	61.6
Labor	600			00	
SuperTec 3/8"	73.85	15.6465	5	234.4965	
CPFV EIR Total				618.697	