

## STAFF SUMMARY FOR APRIL 26-27, 2017

**25. CRAB AND LOBSTER****Today's Item****Information** ☒**Action** ☐

Discussion on the proposed changes to the crab and lobster recreational gear and commercial lobster harbor restricted fishing area regulations.

**Summary of Previous/Future Actions**

- |                                     |                                  |
|-------------------------------------|----------------------------------|
| • Notice hearing                    | Feb 8-9, 2017; Rohnert Park      |
| • <b>Today's discussion hearing</b> | <b>Apr 26-27, 2017; Van Nuys</b> |
| • Adoption hearing                  | Jun 21-22, 2017; Smith River     |

**Background**

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

In addition, an amendment is proposed to clarify the current hoop net buoy marking requirements, another is proposed to require the buoys of hoop nets deployed from commercial passenger fishing vessels (CPFVs) be marked with the corresponding CPFV number, and another is proposed to require licensed guides to mark buoys with their guide license number for hoop nets provided to clients for use on trips.

The proposed regulations would also amend the restricted fishing areas (RFAs) specified in subsection 122(d)(2). The Dana Point Harbor RFA is proposed to be modified from a southerly orientation to a more westerly orientation (see Exhibit 3). A new RFA for Port Hueneme is proposed, which would cover approximately 3.25 square nautical miles where lobster traps would be prohibited for operational and navigational safety purposes (see Exhibit 4).

**Significant Public Comments**

1. Support for the proposed amendment that would prohibit lobster traps within the safety fairway; the intent of a safety fairway is to provide a safe route, free of obstructions, for vessels. Commercial lobster traps placed within the confines of a safety fairway can become entangled in a vessel's propeller and thus compromises vessel's maneuverability, which has long been known as a leading cause of vessels running aground and could, in a worst case scenario, result in an oil spill that pollutes beaches and water, and cause harm to wildlife. See Exhibit 6.
2. Support for the proposed amendments but requesting additional clarity in Section 29.80(c) relating to required destruct devices (adopted in 2015). Sportfishing regulations do not allow for the use of a single loop of biodegradable cotton twine in

## STAFF SUMMARY FOR APRIL 26-27, 2017

the trap closure, along with a rubber strap and hook as allowed in commercial fishing regulations. Another issue with the 2015 amendments is that the most affordable and most commonly used recreational crab trap is non-compliant with the regulations. See Exhibit 7.

**Exhibits**

1. [DFW memo, dated Jan 4, 2017](#)
2. [Initial statement of reasons \(ISOR\)](#)
3. [ISOR Attachment 1 – Document relied upon](#)
4. [ISOR Attachment 2 – Document relied upon](#)
5. [DFW presentation](#)
6. [Email from Office of Spill Prevention and Response, dated Feb 12, 2017, resubmitted Apr 12, 2017](#)
7. [Letter from Coastside Fishing Club, received Feb 9, 2017](#)

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

**State of California  
Department of Fish and Wildlife**

**M e m o r a n d u m**

**Date:** January 4, 2017

**To:** Valerie Termini,  
Executive Director  
Fish and Game Commission

**From:** Charlton H. Bonham  
Director



**Subject: Agenda Item for the February 8-9, 2017 Fish and Game Commission (Commission) Meeting Re: Request for Authorization to Publish Notice of Commission's Intent to Amend Sections 29.80 and 122, Dungeness Crab and Lobster Recreational Gear Marking and Commercial Lobster Harbor Restricted Fishing Areas**

Attached please find the Initial Statement of Reasons (ISOR), which proposes to amend Section 29.80 and Section 122, Title 14, California Code of Regulations (CCR), Re: Dungeness Crab and Lobster Recreational Gear Marking and Commercial Lobster Harbor Restricted Fishing Areas. Under current regulations, Section 29.80 governs gear restrictions for recreational crustacean fishing in California and Section 122 specifies spiny lobster permits and restricted fishing areas for commercial lobster activities.

At the October 2015 Fish and Game Commission adoption hearing for recreational crab trap regulations, the Commission received public comment identifying a discontinuity in the regulatory language as it relates to the existing provision of subsection 29.80(a)(3) and new crab trap buoy marking requirements (subsection 29.80(c)(3)). Additionally, at the June 2016 Commission adoption hearing for the California Spiny Lobster Fishery Management Plan (FMP) Implementing Regulations, the Commission received public comments identifying possible issues with the new requirement under subsection 29.80(b)(3) to mark hoop net buoys with operator GO-ID numbers for Commercial Fishing Passenger Vessels and guided operations. The Commission also received public comments during the rulemaking process for the lobster FMP implementing regulations concerning the amended restricted fishing areas for the commercial lobster fishery as specified under subsection 122(d). The California Department of Fish and Wildlife (Department) finds that the proposed changes are necessary to address concerns raised by the public to the Commission.

Valerie Termini, Executive Director  
Fish and Game Commission  
January 4, 2017  
Page 2

If you have any questions regarding this item, please contact Dr. Craig Shuman, Regional Manager, Marine Region, at (805) 568-1246. The public notice for this rulemaking should identify Senior Environmental Scientist, Tom Mason as the Department's point of contact. Mr. Mason can be reached at (562) 342-7107 or [Tom.Mason@wildlife.ca.gov](mailto:Tom.Mason@wildlife.ca.gov).

Attachment

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STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION  
(Pre-publication of Notice Statement)

Amend Section 29.80 and Section 122,  
Title 14, California Code of Regulations  
Re: Crab and Lobster Recreational Gear Marking and  
Commercial Lobster Harbor Restricted Fishing Areas

I. Date of Initial Statement of Reasons: March 13, 2017

II. Dates and Locations of Scheduled Hearings:

- (a) Notice Hearing: Date: February 9, 2017  
Location: Rohnert Park, CA
- (b) Discussion Hearing: Date: April 27, 2017  
Location: Van Nuys, CA
- (c) Adoption Hearing: Date: June 22, 2017  
Location: Smith River, CA

III. Description of Regulatory Action:

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

In October 2015, the California Fish and Game Commission (Commission) adopted recreational crab trap regulations that included a new requirement to mark crab trap buoys (subsection 29.80(c)(3), Title 14, California Code of Regulations) starting August 1, 2016. During the adoption hearing, a representative from the recreational fishing community identified a discontinuity in the provision of subsection 29.80(a)(3) as it relates to subsection 29.80(c)(3) and subsequently requested the Commission consider a change to the regulatory language to address this issue. The Commission adopted the recreational crab trap regulations as proposed by the California Department of Fish and Wildlife (Department) at that time with the caveat that further corrective action may be needed to address the issue once the regulations have been implemented. This proposed regulatory change is necessary to allow a long-standing fishing practice of sharing gear and for consistency with subsection (c)(3) of Section 29.80 regarding crab trap buoy marking requirements.

In June 2016, the Commission adopted the California Spiny Lobster Fishery Management Plan (FMP) implementing regulations that amended and added to existing commercial and recreational lobster regulations to improve the management of the spiny lobster resource and support an orderly fishery. The regulatory amendments included changes to Section 29.80, which governs gear restrictions for recreational crustacean fishing activities in California and Section 122, which specifies commercial spiny lobster permits and commercial lobster restricted fishing areas (RFA). These regulations become effective on April 1, 2017. During the rulemaking process, the Commission received public comments identifying possible issues with the new requirement for marking hoop net buoys under Section 29.80 and restricted fishing areas for the commercial lobster fishery as specified under subsection (d) of Section 122.

To address concerns raised by the public, the Commission is proposing changes to 1) recreational gear marking requirements for hoop nets and crab traps and 2) commercial lobster restricted fishing areas as described below. In addition, other minor, non-substantive changes are proposed to subsection 29.80(a)(2) to fix a grammatical error (minor re-wording of text) and subsections 29.80(c)(2)-(c)(4) to remove the August 1, 2016, start date as these regulations are currently in effect.

**Amend Section 29.80(a)(3), Title 14, CCR; Clarify Recreational Crab Trap Buoy Marking Requirements.**

Under current regulations, each recreational crab trap must be marked with a buoy and the buoy must be legibly marked with the operator's GO ID number as stated on his or her fishing license (subsection 29.80(c)(3)). This requirement, however, does not consider the provision for operating another fisherman's trap with written permission (i.e., a note) from the owner of the trap (subsection 29.80(a)(3)). It is common fishing practice for a fisherman to allow other fishermen to use and service his or her crab traps that are deployed in the ocean. However, when a deployed trap is operated under written permission from the owner, the buoy may not have been marked in advance with the operator's GO ID number(s) of the person(s) now using the deployed trap (i.e., the operator). Recreational fishing constituents initially raised the issue at the October 2015 Commission meeting and sought further clarification.

The proposed amendment would modify subsection 29.80(a)(3) to exempt recreational crab fishermen from the GO ID marking requirement when working sport crab traps under the authority of written permission from the owner and clarify that written permission may be sent electronically (e.g., a text message). Operators must possess a valid note from the traps'

owner giving them permission to operate the traps, and the note must contain the GO ID number of the owner. Furthermore, the GO ID number on the note must match the GO ID number on the buoys. The proposed regulatory change is necessary to allow a long-standing fishing practice of sharing gear and for consistency with subsection (c)(3) of Section 29.80 regarding crab trap buoy marking requirements.

**Amend Subsection 29.80(b)(3) and add Subsections 29.80(b)(3)(A) and 29.80(b)(3)(B), Title 14, CCR; Hoop Net Buoy Marking Requirements.**

Beginning on April 1, 2017, subsection 29.80(b)(3) will require hoop nets used south of Point Arguello (except those deployed from shore or from manmade structures connected to shore) to be legibly marked with a surface buoy containing the operator's GO ID number as stated on the operator's sport fishing license or lobster report card for the purpose of minimizing gear loss and improving the accountability of hoop net use in the ocean. However, at the March 2016 Marine Resources Committee meeting, several members of the public expressed concern that the new requirement would place a potential burden on fishing guide license holders and Commercial Passenger Fishing Vessel (CPFV) operations, which take customers on fishing trips for lobster and provide hoop nets for use by their clients or passengers. The regulation as currently written would require guide license holders and CPFV operators to mark each customer's GO ID number on the hoop net buoy(s) that the customer would be operating during a trip, which would need to be repeated for each trip.

The proposed amendment would add subsection 29.80(b)(3)(A) to require the buoys of hoop nets deployed from CPFVs to be marked with the corresponding CPFV number. The proposed amendment would also add subsection 29.80(b)(3)(B) to require the buoy of hoop nets provided by licensed guides to clients for use on guided trips to be marked with the guide license number of the accompanying guide. Clients who supply and operate their own hoop nets when working with a licensed guide are still required to mark the hoop net buoys with their individual GO ID numbers as stated on their sport fishing license or lobster report card. Non-substantive amendments to section 29.80(b)(3) are also proposed to improve the section and reference the proposed new subsections. The proposed change is needed to avoid undue hardship for businesses that rely on providing their gear to customers for recreational fishing. As a practical consideration, it would be more efficient for CPFV operators and guide license holders to mark the hoop net buoys with the identification number of the CPFV, or the license number of the accompanying guide,

respectively.

**Amend Subsection 122(d)(2)(B), Title 14, CCR; Dana Point Harbor Restricted Fishing Area.**

Beginning on April 1, 2017, the boundary descriptions of all navigation channel restricted fishing areas (RFAs) applicable only to commercial lobster fishing will be updated to latitude and longitude coordinates in subsection 122(d)(2). The original RFA descriptions used compass headings and distances between landmarks that are outdated, as most boaters and fishermen use GPS devices for navigation. The Dana Point RFA was initially created to reduce navigational hazards due to commercial lobster gear while minimizing economic impact to the commercial fishermen.

The latitude and longitude RFA coordinates for Dana Point Harbor entrance (subsection 122(d)(2)(B)) were reviewed by the Dana Cove Commercial Fishermen's Association (DCCFA). The DCCFA found that the navigational channel, as currently defined by the RFA, does not represent traffic patterns around Dana Point Harbor. The DCCFA also found that although the coordinates for subsection 122(d)(2)(B) properly reflect the existing description, the updated RFA description included an area that has been traditionally fished by commercial lobster fishermen. The DCCFA submitted a letter (Attachment 1) to the Commission and the Department on May 16, 2016, detailing proposed modifications to the RFA for the Dana Point Harbor entrance to better reflect current harbor traffic conditions in Dana Point as well as make available traditional fishing grounds on the easterly boundary of the RFA (Figure 1).

The proposed amendment would modify the Dana Point Harbor RFA from a southerly approach (180°) to a more westerly approach (200°) to align the RFA with current traffic patterns in the harbor. This modification would open a traditional lobster fishing area, while providing a navigational channel void of commercial lobster gear for vessels entering and leaving the harbor, most of which are heading towards or returning from areas west of Dana Point.



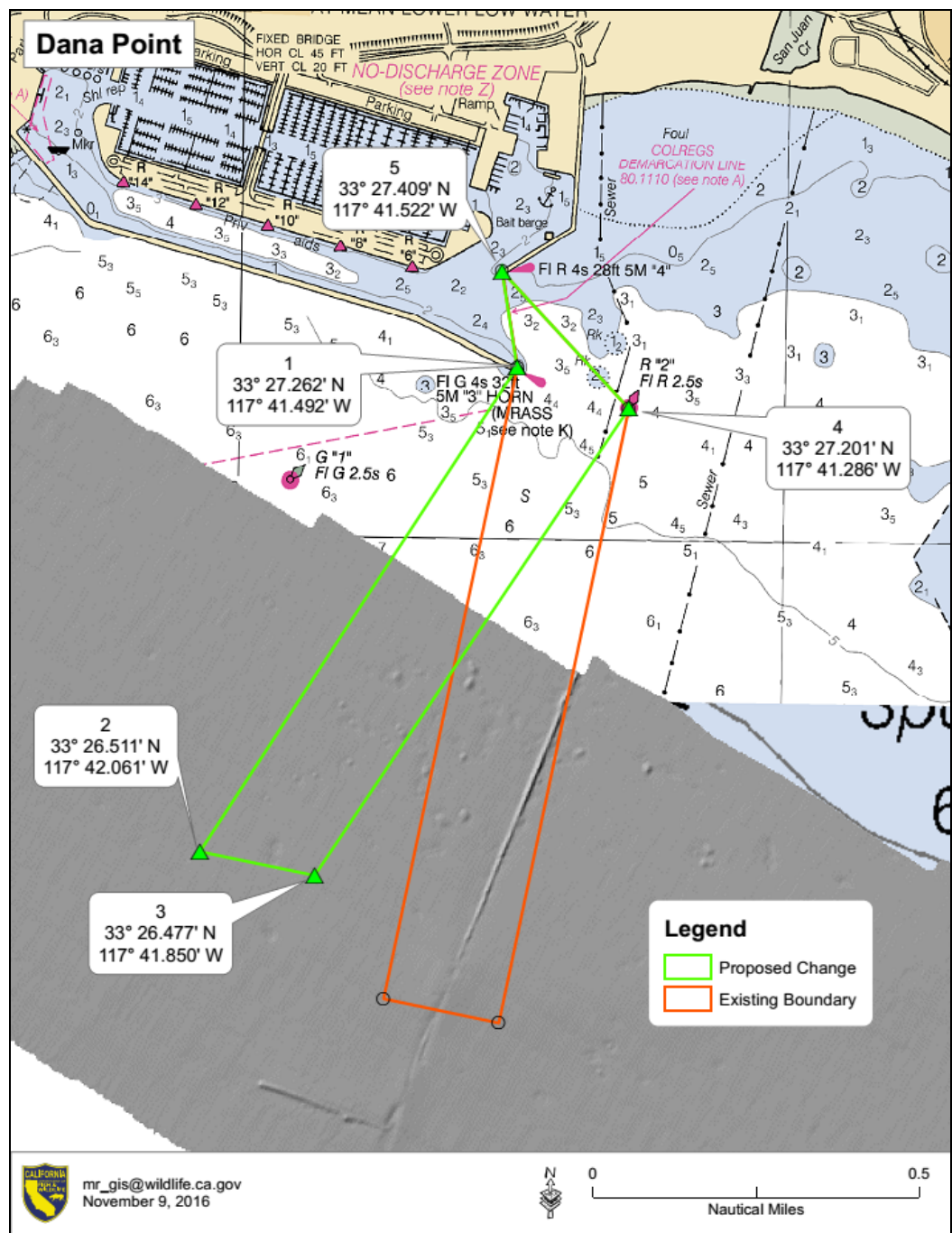


Figure 1. Proposed boundary modifications to the Dana Point Harbor entrance restricted commercial fishing area.

**Add Subsection 122(d)(2)(D), Title 14, CCR; Port Hueneme Restricted Fishing Area.**

On January 28, 2016, the Port of Hueneme (Port) submitted a letter (Attachment 2) to the Commission requesting the designation of a new RFA for the entirety of the Port Hueneme safety fairway as shown on NOAA Chart 18724 (Figure 2). The letter noted that the safety fairway of the Port has consistently experienced commercial gear deployment, mainly lobster gear, and the placement of commercial lobster gear within the operating areas of the Port poses a hazard to navigational safety. The Department analyzed the commercial lobster logbook data reported for fishing block 683, which encompasses the safety fairway of the Port and surrounding area (Figure 3). The data indicate that commercial lobster fishing effort (number of trap pulls) has substantially increased in block 683 since the 2005-06 lobster season (Figure 4).

The proposed amendment would designate the safety fairway of the Port as a new RFA under new subsection 122(d)(2)(D) (Figure 2). This designation is necessary to reduce the potential for commercial lobster gear fouling vessel propellers and ensure continued safety of port operations and navigation. The proposed RFA is consistent with the RFAs listed in subsection 122(d)(2) restricting the use of commercial lobster gear around harbor entrances located in Newport Beach, Dana Point, and Oceanside.



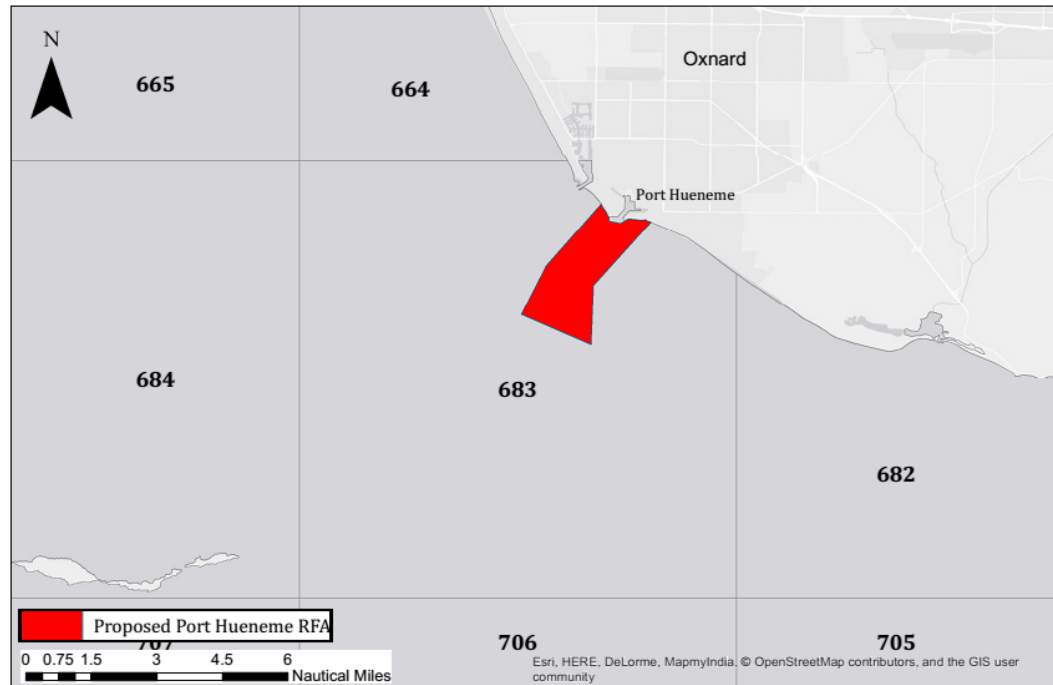


Figure 3. Map showing the extent of the proposed Port Hueneme commercial lobster restricted fishing area (RFA) relative to fishing block 683.

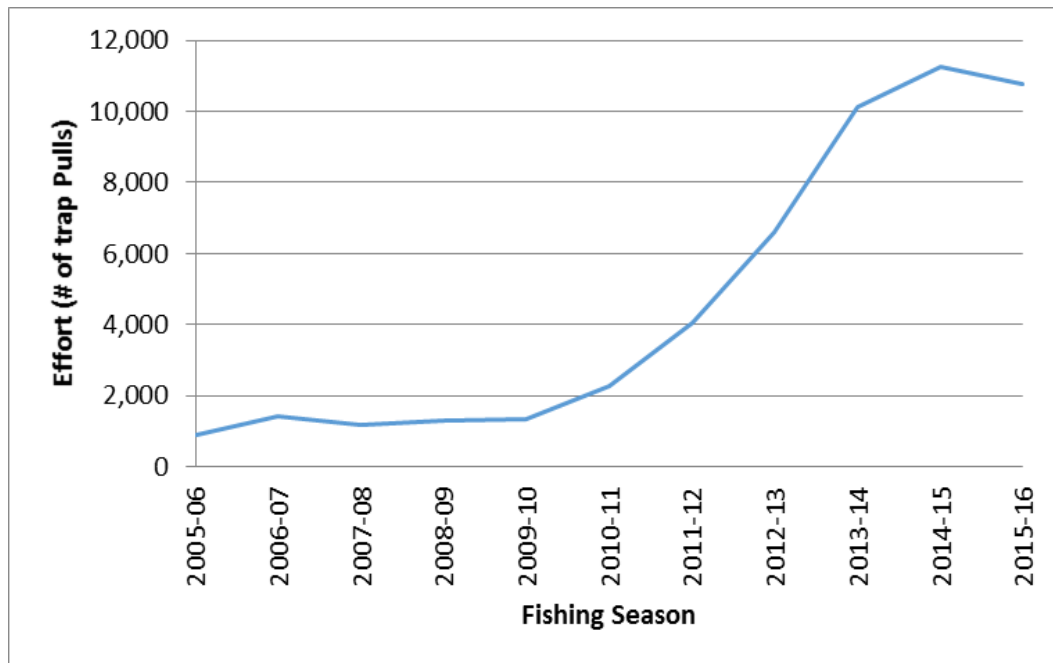


Figure 4. Commercial lobster fishing effort (trap pulls) for fishing block 683 from the 2005 – 2015 fishing seasons.

### **Benefit of the Proposed Regulations**

It is the policy of this State that conservation and management measures for a restricted access fishery include modifications that contribute to a more orderly and sustainable fishery. (Section 7082(b), Fish and Game Code.) The proposed regulation changes are intended to provide clarification of the regulatory language concerning buoy marking requirements for hoop nets and crab traps, minimize the potential for trap gear and vessel entanglement, and improve safety in navigational channels where commercial lobster fishing currently occurs.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, ~~202~~, 205, ~~215~~, ~~220~~, 265, 270, 275, 1050, 7075, 7078, 8254 and 8259, Fish and Game Code. Reference: Sections 110, 200, ~~202~~, 205, ~~206~~, ~~215~~ and ~~220~~, 265, 270, 275, 1050, 2365, 7050, 7055, 7056, 7071, 7852.2, 8026, 8043, 8046, 8250, 8250.5, 8254, 9002, 9002.5, 9005, 9006 and 9010, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None.

- (d) Identification of Reports or Documents Supporting Regulation Change:

Attachment 1

Roger Healy, DCCFA, Letter to the Fish and Game Commission and the Department of Fish and Wildlife, May 16, 2016.

Attachment 2

John Demers, the Port of Hueneme, Letter to the Fish and Game Commission, January 28, 2016.

- (e) Public Discussions of Proposed Regulations Prior to Notice Publication:

January 10, 2017, Port of Hueneme District Office, California. The proposed Port Hueneme RFA was presented and discussed at an outreach meeting with commercial lobster fishing constituents and interested members of the public.

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

- (a) Alternatives to Regulation Change:

No alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

(b) No Change Alternative:

Without regulatory change, crab and lobster recreational gear marking requirements will continue to place avoidable burdens on CPFVs, guided operations, and the recreational sector in general. Commercial lobster gear will continue to pose a hazard to safe navigation in the Port Hueneme safety fairway. The Dana Point Harbor RFA will not reflect current vessel traffic patterns and will not make available fishing grounds traditionally fished by commercial lobster fishermen.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the proposed regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are 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 regulatory action will not substantially increase compliance costs, is not anticipated to impact harvest quantities, and only applies to a fishery that is unique to the state of California. The commercial spiny lobster fishery extends from Point Conception in Santa Barbara County to the

U.S.-Mexico border. The recreational spiny lobster fishery covers the same range but also extends further north into San Luis Obispo County.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

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

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

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action,

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

None.

- (e) Nondiscretionary Costs/Savings to Local Agencies:

None.

- (f) Programs Mandated on Local Agencies or School Districts:

None.

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code:

None.

(h) Effect on Housing Costs:

None.

VII. Economic Impact Assessment:

**Commercial Spiny Lobster Fishery Economic Impact**

The commercial California spiny lobster fishery ranks as the fourth highest in ex-vessel value, ranging from \$15 to \$18 million in the last three seasons. This rank is achieved, despite having amongst the lowest harvest volume, by having generally the highest value per pound of all California fisheries. The fishery is a restricted access fishery with about 150 permits actively fished since 2008.

The average total statewide economic output is estimated at \$34,477,000, based on the 2012-13 to 2014-15 seasons, supporting about 495 FTE jobs. The economic impact of the catch by each south coast county for the 2014-15 season is shown in Table 1. The commercial lobster fishery adds about \$6.9 million in total value added (also called net economic output) to Santa Barbara County, \$2.2 million to Ventura County, \$3.4 million to Los Angeles County, \$2.1 million to Orange County, and \$5.1 million to San Diego County.

Table 1. Commercial Lobster Fishery Economic Impacts by County for 2014-15 Season

County	Ex-Vessel Value (2015\$)	Total Lobster- Associated Employment (2015)	Employee Compensation (2015)	Total Value Added (2015)	Total Economic Output (2015)
Santa Barbara*	\$ 6,527,889	188.5	\$ 2,250,535	\$ 6,925,470	\$ 13,129,557
Ventura	\$ 2,126,246	61.4	\$ 733,038	\$ 2,255,745	\$ 4,276,523
Los Angeles	\$ 3,172,293	91.6	\$ 1,093,670	\$ 3,365,501	\$ 6,380,439
Orange	\$ 2,014,218	58.1	\$ 694,416	\$ 2,136,894	\$ 4,051,200
San Diego	\$ 4,846,048	139.9	\$ 1,670,709	\$ 5,141,197	\$ 9,746,866
California State Total	\$ 18,686,694	539.5	\$ 6,442,368	\$ 19,824,807	\$ 37,584,585

\* Santa Barbara County includes Channel Islands spiny lobster catch.

The proposed modification to the Dana Point Harbor RFA to a more westerly approach would have no negative economic impacts because the realignment would result in increased access to a traditional lobster fishing area. Opening access to areas with favorable conditions may increase harvest quantities and/or decrease harvest costs.

The proposed new Port Hueneme RFA would prohibit commercial lobster fishing in approximately 3.25 square nautical miles inside fishing block 683 (Figure 3), which covers about 78 square nautical miles off the Ventura County coast. According to landing receipt data for the 2015-16 lobster season, 11 commercial fishermen landed 5,008 pounds of lobster from fishing block 683 with an ex-



vessel value of \$102,000. As a whole, the fishery landed 793,861 pounds of lobster with an ex-vessel value of \$15,628,167. For the 2015-16 season, block 683 accounted for 0.63 percent of the total landings and 0.65 percent of the ex-vessel value for the fishery. The 11 fishermen that made landings from block 683, obtained between 1 and 25 percent of their catch from block 683, with the majority obtaining between 1 and 5 percent. However, with landing receipt data it is not possible to determine the portion of reported landings from block 683 originating from within the proposed Port Hueneme RFA. It has been reported and observed by Department personnel that only a few fisherman operate in the proposed Port Hueneme RFA. Therefore, the potential annual economic impact of the Port Hueneme RFA will likely be substantially less than the reported \$102,000, because only a small portion of block 683 would be closed to commercial lobster fishing. Additionally, it is anticipated that current commercial lobster fishing activity inside the proposed Port Hueneme RFA will likely be redirected to other open areas.

The proposed regulations are designed to preserve efficient business practices without sacrificing important conservation and safety objectives.

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

The Commission anticipates no negative impacts on the creation or elimination of jobs within the state because the proposed action is not likely to reduce harvest quantities. These actions are intended to simultaneously promote safety, efficient business practices, and gear accountability.

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

The Commission anticipates no negative impacts on the creation of new businesses or the elimination of existing businesses within the state because the proposed action is not likely to reduce harvest quantities. These actions are intended to simultaneously promote safety, efficient business practices, and gear accountability.

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

The Commission anticipates no negative impacts on the expansion of businesses currently doing businesses within the state because the proposed action is not likely to reduce harvest quantities. These actions

are intended to simultaneously promote safety, efficient business practices, and gear accountability.

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

The Commission anticipates generalized benefits to the health and welfare of California residents through the sustainable management of the spiny lobster resource. These actions are intended to simultaneously promote safety, efficient business practices, and gear accountability.

(e) Benefits of the Regulation to Worker Safety:

The Commission anticipates that this regulatory action will benefit worker safety by improving operational and navigational safety by decreasing the risk of commercial lobster gear fouling propellers of vessels entering and leaving Port Hueneme.

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

The Commission anticipates benefits to the State's environment. It is the policy of this State to ensure "the conservation, sustainable use, and, where feasible, restoration of California's marine living resources for the benefit of all the citizens of the State" (FGC Section 7050(b)). These actions are intended to simultaneously promote safety, efficient business practices, and gear accountability.

(g) Other Benefits of the Regulation:

None

## Informative Digest/Policy Statement Overview

### Summary of Proposed Amendments

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

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

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

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

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

### Benefits of the Regulations

The proposed amendments related to lobster and crab gear marking would preserve accountable recreational gear use and allow the recreational sector to meet the gear marking requirements with minimal regulatory burdens. The modification to the Dana Point Harbor RFA will improve the efficiency and safety of the fairway while providing

additional commercial lobster fishing in an area that is currently restricted. The proposed Port Hueneme RFA would improve operational and navigational safety by decreasing the risk of commercial lobster gear fouling propellers as vessels enter and leave the port.

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

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

## New Regulatory Language

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

**§ 29.80. Gear Restrictions.**

(a) General Provisions.

*[...No proposed changes to subsection (a)(1)]*

(2) Nets, traps or other appliances may not be ~~not~~ used except as provided in this Section.

(3) It is unlawful to disturb, move, or damage any trap; or remove any saltwater crustacean from a trap, that belongs to another person without written permission including permission transmitted electronically, in possession from the owner of the trap. Any person with written permission from the owner of a crab trap will be in compliance with subsection (c)(3) if the written permission contains the owner'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, 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.

*[...No proposed changes to subsections (b)(1) and (b)(2)]*

(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), the surface buoy shall be legibly marked to identify the operator's GO ID number as stated on the operator's sport fishing license or lobster report card. This section does not apply to ~~H~~hoop nets deployed from by persons on shore or manmade structures connected to the shore, are not required to be marked with a surface buoy.

(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:

*[...No proposed changes to subsection (c)(1)]*

(2) ~~Starting August 1, 2016, crab~~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) ~~Starting August 1, 2016, every~~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.

(4) ~~Starting August 1, 2016, crab~~Crab traps shall not be deployed and used in ocean waters seven days prior to the opening of the Dungeness crab season.

*[...No proposed changes to subsections (d) through (j)]*

Note: Authority cited: Sections 200, ~~202~~, 205, ~~215~~, ~~220~~, 265, 270, 275, 7075 and 7078, Fish and Game Code. Reference: Sections 110, 200, ~~202~~, 205, ~~206~~, ~~215~~ and ~~220~~, 265, 270, 275, 7050, 7055 and 7056, Fish and Game Code.

## **Section 122, Title 14, CCR, is amended to read:**

### **§ 122. Spiny Lobster Permits and Restricted Areas.**

*[...No proposed changes to subsections (a) through (c)]*

(d) Restricted Fishing Areas.

*[...No proposed changes to subsection (d)(1)]*

(2) No lobster traps shall be set or operated within 250 feet of the following specified navigation channels.

*[...No proposed changes to subsection (d)(2)(A)]*

(B) Dana Point Harbor entrance: This area is bounded by straight lines connecting the following points in the order listed:

~~33° 27.262' N. lat. 117° 41.492' W. long.;~~

~~33° 26.289' N. lat. 117° 41.721' W. long.;~~

~~33° 26.254' N. lat. 117° 41.509' W. long.;~~

~~33° 27.201' N. lat. 117° 41.286' W. long.;~~

~~33° 27.409' N. lat. 117° 41.522' W. long.; and~~

~~33° 27.262' N. lat. 117° 41.492' W. long.~~

33° 27.262' N. lat. 117° 41.492' W. long.;

33° 26.511' N. lat. 117° 42.061' W. long.;

33° 26.477' N. lat. 117° 41.850' W. long.;

33° 27.201' N. lat. 117° 41.286' W. long.;

33° 27.409' N. lat. 117° 41.522' W. long.; and  
33° 27.262' N. lat. 117° 41.492' W. long.

[...*No proposed changes to subsection (d)(2)(C)*]

(D) Port of Hueneme entrance: This area is bounded by the mean high tide and straight lines connecting the following points in the order listed except where noted:

34° 8.639' N. lat. 119° 12.976' W. long.; thence northward along the mean high tide line onshore boundary to

34° 9.086' N. lat. 119° 13.112' W. long.;

34° 7.620' N. lat. 119° 14.417' W. long.;

34° 6.500' N. lat. 119° 15.000' W. long.;

34° 5.800' N. lat. 119° 13.380' W. long.;

34° 7.167' N. lat. 119° 13.330' W. long.;

34° 8.668' N. lat. 119° 11.958' W. long.; thence westward along the mean high tide line onshore boundary to

34° 8.586' N. lat. 119° 12.713' W. long.; and

34° 8.639' N. lat. 119° 12.976' W. long.

[...*No proposed changes to subsections (e) through (h)*]

Note: Authority cited: Sections 1050, 7075, 7078, 8254 and 8259, Fish and Game Code. Reference: Sections 1050, 2365, 7050, 7055, 7056, 7071, 7852.2, 8026, 8043, 8046, 8250, 8250.5, 8254, 9002, 9002.5, 9005, 9006 and 9010, Fish and Game Code.

Greetings,

The Dana Cove Commercial Fishermen's Association DCCFA is looking for your support in our request to the Department of Fish and Wildlife DFW that would move the current "no commercial trapping" Navigational Channel from a 180 degree heading to a 200 degree heading exiting the harbor.

The DFW is currently working on the final portions of a compressive Lobster Fishery Management Plan FMP. The plan is designed to ensure the health and sustainability of the lobster resource. The regulatory portion of this plan is scheduled for DFW Commission approval in June. This regulatory package includes new proposed regulations and rewording or retooling of existing regulations.

The previous regulation defining the no commercial trapping navigational channel was put into place over 30 years ago prior to GPS and other more sophisticated electronic equipment. Through my conversations with retired Lobster Fisherman and the DFW it seems that the original channel was designed by the use of only maps. The concept was negotiated between local veteran lobster fishermen and the DFW to allow for a navigational entry and exit from Dana Pt. Harbor that was free of lobster traps/buoys and to avoid capturing any viable rocky lobster habitat that would negatively impact the local commercial lobster fishing fleet. Unfortunately the maps used to originally design the channel DO NOT show the true location of the San Juan Creek Ocean Outfall Pipeline. The DFW wants to amend the existing antiquated regulations that were confusing and unplotable with current GPS coordinates. The use of GPS waypoints greatly increases the accuracy and understanding of where the navigational boundaries lie. I took it upon myself to plot and run the proposed GPS Waypoints and found that although they seem to properly reflect the existing regulations they unfortunately transect the outfall pipeline on the easterly channel line. The pipeline is very valuable and important lobster habitat, which is fished by vitally all the commercial lobster men out of Dana Pt. Harbor. We have all fished this pipeline since its construction and the adoption of the navigational channel unaware that it was technically off limits.

Although boats entering and exiting Dana Pt. Harbor come from every direction, the majority are usually headed west. The current navigation channel is pointed 180 degrees due south. The course to the most popular boating locations out of Dana Pt., I.E. San Clemente Is., Catalina Is., 14/209/277 banks and the coastline of Laguna Beach and Newport Harbor, are all significantly more westerly. Any negative boat/ lobster gear interactions generally take place on the edge of the westerly navigational channel boundary line.

By shifting the channels two outside GPS waypoints further west to allow for a 200 degree exit out of Dana Point Harbor we will retain our ability to legally fish the San Juan Creek Ocean Outfall. Commercial Lobster Fishermen would lose some fishing grounds on the westerly Channel line along



the jetty, but boaters would have a clearer approach in and out of the harbor from Catalina Is. and Newport Harbor. This compromise seems like a responsible solution that properly reflects the needs of all individuals out of Dana Pt. Harbor commercial and recreational.

Previously proposed GPS points;

(B) Dana Point Harbor entrance:

33 27.262'N - 117 41.492'W

33 26.289'N - 117 41.721'W

33 26.254'N - 117 41.509'W

33 27.201'N - 117 41.286'W

33 27.409'N - 117 41.522'W

33 27.262'N - 117 41.492'W

DCCFA proposed GPS points reflecting a 20 degree westerly shift in the outer two waypoints:

(B) Dana Point Harbor entrance:

33 27.262'N - 117 41.492'W

33 26.511'N - 117 42.061'W

33 26.477'N - 117 41.850'W

33 27.201'N - 117 41.286'W

33 27.409'N - 117 41.522'W

33 27.262'N - 117 41.492'W

Thank you for your time, feel free to contact me with any questions or concerns.

Rodger Healy

President DCCFA

President California Lobster and Trap Fishermen's Assoc.

To Sonke and Susan on May 16, 2016

Rodger and whom ever else this may concern:

Thanks for the update on the Nav Channel and the issues concerning our commercial fishermen. Your analysis and suggestions to change the channel heading to 200 degrees make perfect sense to me and I am in total support of your suggested changes. Please let me know how I can help to ensure the changes are actually made.

Best regards,

Brad Gross, Director  
OC Dana Point Harbor

To whom it may concern,

My name is Eric Smith and I am a commercial lobster permit holder out of Dana Point. I would like to make it fully known that I support the movement of the navigational channel from 180 degrees to 200 degrees for entering and exiting the harbor. I feel that this is a fair heading and compromise for all concerned parties.

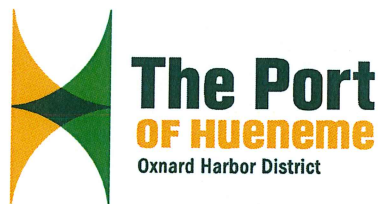
Thank you,  
Eric F Smith

Rodger,

After speaking with you and hearing your proposed changes to the Navigational Channel from its current placement towards the West, I must agree that it makes more sense. This would align it with the majority of boating traffic coming and going from Dana Point Harbor. The current Navigation Channel does not represent the current traffic patterns coming into or leaving Dana Point Harbor. Your proposed change is spot on and even lines up with the Catalina Express's daily route.

Thanks for keeping us in the loop,

Sergeant Mike Scalise  
Dana Point Harbor Patrol



BOARD OF HARBOR COMMISSIONERS

Dr. Manuel M. Lopez President  
Arlene N. Fraser Vice President  
Jason T. Hodge Secretary  
Jess Herrera Commissioner  
Mary Anne Rooney Commissioner

PORT MANAGEMENT Mary Anne Rooney

Kristin Decas CEO & Port Director

Foreign Trade Zone #205



WORLD TRADE CENTER  
OXNARD

January 28, 2016

California Fish and Game Commission  
1416 Ninth Street, Suite 1320  
Sacramento, CA 95814

Dear Commissioners,

The Port of Hueneme (Port) is formally requesting the California Fish and Game Commission (Commission) to consider and approve regulation changes that will significantly improve the safety of vessel operations in the vicinity of the Port. The justification for this request is that the placement of commercial fishing equipment within operating areas at the Port currently poses a hazard to safe navigation.

The Port has been a popular location for the placement of fishing equipment, primarily lobster traps (pots) but also other various items. These items typically contain large amounts of line that attach the trap itself to a float. If this line becomes entangled in the propulsion or steering equipment of a vessel significant damage can occur which would require lengthy and costly repairs.

More importantly, the Port has a somewhat difficult approach and a narrow entrance channel. As a part of our routine operations, we receive ocean going vessels up to 230 meters (LOA). As these vessels enter or depart, our Harbor Safety Plan requires that they receive the assistance of two tugs to ensure safe transit. If one of these tugs should experience a propulsion or steering casualty while engaged in maneuvering a vessel into or out of the harbor, a significant safety hazard would occur since that tug would be unable to continue to provide vessel assistance. The presence of these fishing devices in the vicinity of the Port greatly increases the chance that a tug will experience a mechanical casualty, and creates the possibility of a collision, allision, or grounding, with the risk of significant damage to the vessel and surrounding structures and the possibility of environmental damage from a fuel or oil leak from the damaged vessel.

To date, the Port has tried to manage the situation by working with the local fishing community. Where that has not been fully successful, the Port has taken it upon itself to move traps into safer areas. This method has proven inadequate as the traps soon return. We have spoken with local Fish and Wildlife representatives, as well as the U.S. Coast Guard, who have both advised us that they are unable to provide assistance as there is not currently an enforcement mechanism. This situation has necessitated our request for regulatory changes.



To be more specific, the Port requests that the entirety of the safety fairway for the Port, as shown on NOAA chart 18724, be placed off limits for commercial fishing and fishing devices. In this manner we can ensure the continued safety of Port operations.

Should you have any questions, or require additional technical or operational information, I can be reached at [JDemers@portofhueneme.org](mailto:JDemers@portofhueneme.org), or 805-754-0400.

Thank you for your attention to this matter.

Sincerely,

John Demers  
Chief Operations Officer

jd

CC: California Department of Fish and Wildlife





# **Proposed Regulation Changes to Crab and Lobster Recreational Gear Marking Requirements and Commercial Lobster Harbor Restricted Fishing Area**

**Fish and Game Commission Meeting  
April 27, 2017**

**Cpt. Robert Puccinelli  
Law Enforcement Division**



# February Meeting Recap

## ***Request Commission Authorization to Publish Notice***

- Department presented proposed changes to sections 29.80 and 122, Title 14, CCR
- Port of Hueneme informed the Commission of plans to meet with commercial lobster fishermen regarding the Port Hueneme RFA boundaries
- Commission authorized publication of notice as originally proposed



# Summary of Proposed Changes

- **Amend Section 29.80**
  - Clarify Recreational Crab Trap Buoy Marking Requirements
  - Clarify Hoop Net Buoy Marking Requirements for Commercial Passenger Fishing Vessel (CPFVs) and Licensed Guides
- **Amend Subsection 122(d)**
  - Modify Restricted Fishing Area (RFA) for Dana Point Harbor
  - Add RFA for Port Hueneme
- **Minor, non-substantive editorial fixes**



# Next Steps

## RULEMAKING TIMELINE

Public Outreach Meeting

January 10, 2017

Notice Hearing

February 9, 2017

Published Notice of Proposed Changes

April 7, 2016

➡ **Discussion Hearing**

**April 27, 2017**

Possible Adoption

June 22, 2017





**Thank You**

Cpt. Robert Puccinelli  
Law Enforcement Division  
[robert.puccinelli@wildlife.ca.gov](mailto:robert.puccinelli@wildlife.ca.gov)

**From:** [Coyne, Mike@Wildlife](mailto:Coyne.Mike@Wildlife)  
**To:** [FGC](#)  
**Subject:** OSPR Letter of Support for RFA - Port Hueneme  
**Date:** Wednesday, April 12, 2017 2:52:21 PM  
**Attachments:** [Port Hueneme RFA.PDF](#)

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Dear Commissioners,

Please see attached file.

Best regards,

Michael P. Coyne  
Oil Spill Prevention Specialist  
Department of Fish and Wildlife  
Office of Spill Prevention and Response  
1700 K Street, Suite 250  
Sacramento, CA 95811  
Phone: (916) 324-5659

E-mail: [mike.coyne@wildlife.ca.gov](mailto:mike.coyne@wildlife.ca.gov)



State of California -The Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Office of Spill Prevention and Response  
1700 K Street, Suite 250  
Sacramento, California 95811  
Telephone: (916) 445-9338  
[www.wildlife.ca.gov/ospr](http://www.wildlife.ca.gov/ospr)

**EDMUND G. BROWN JR.**, Governor  
**CHARLTON H. BONHAM**, Director



February 8, 2017

California Fish and Game Commission  
1416 Ninth Street, Room 1320  
Sacramento, CA 95814

Subject: Proposed Regulation Change to Add Port Hueneme Restricted Fishing Area

Dear Commissioners:

Pursuant to Government Code 8670.23, I am required to provide administrative oversight for five locally based Harbor Safety Committees, including the Port Hueneme Harbor Safety Committee (PH HSC). My appointment of committee members is representative of the diverse demographic of waterway users. Subsequently, they become my *de facto* local subject matter experts on a wide range of maritime and safe navigation topics. Pursuant to Government Code 8670.23.1(e), I am guided by their input when determining to support a new rule making effort that supports the effective implementation of a committees' Harbor Safety Plan.

The PH HSC has the responsibility for planning and providing for the safe navigation and operation of all vessels operating within the waters of Port Hueneme Harbor and the approaches thereto, including the Safety Fairway (as depicted on NOAA Chart 18724), and to address the prevention of oil spills and other mishaps that could endanger (pollute) the harbors, channels, and coast.

At recent PH HSC meetings, the issue of commercial lobster traps and their associated gear placed in the approach to Port Hueneme, known as the Safety Fairway, has increasingly become a nuisance that threatens to impede the safe navigation of large cargo ships. The intent of a Safety Fairway is to provide a safe route, free of obstructions, for these vessels. Commercial lobster traps placed within the confines of the Safety Fairway can become entangled in a vessel's propeller and thus compromise a vessel's maneuverability. Compromised maneuverability has long been known as a leading cause of vessels running aground and could, in a worst case scenario, result in an oil spill that pollutes beaches, water, and cause harm to wildlife.

It is for this reason, as stated above, that I am in support of the proposed rulemaking effort to add Section 122(d)(2)(D) to Title 14 of the California Code of Regulations (CCR). This proposed regulation would prohibit lobster traps within the Safety Fairway by designating it as a Restricted Fishing Area (RFA). In doing so, the RFA would promote safe navigation of large cargo ships and help prevent vessel casualties that could lead to groundings and subsequent oil spills.

The Office of Spill Prevention and Response (OSPR) has the mission to protect California's natural resources by preventing, preparing for, and responding to oil spills. Creating a RFA as detailed in the proposed rule Title 14 CCR, Section 122(d)(2)(D) supports the OSPR's mission and provides for vital protection to California's natural resources.

Sincerely,

A handwritten signature in blue ink, appearing to read "Thomas M. Cullen, Jr.", with a stylized flourish at the end.

Thomas M. Cullen, Jr.  
Administrator  
Office of Spill Prevention and Response





Coastside Fishing Club  
P.O. Box 5501, San Mateo, CA 94402

RECEIVED AT

FEB 09 2017

8 February 2017

COMMISSION MEETING  
AGENDA ITEM 30  
*George Osborn*

Eric Sklar, President  
California Fish and Game Commission  
1416 Ninth Street, Suite 1320  
Sacramento, CA 95814

Subject: Support for Recreational Crab Regulation Revisions

Dear President Sklar:

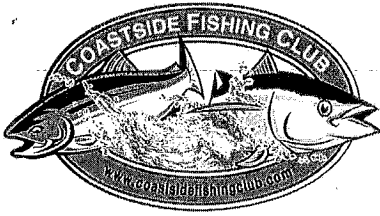
Coastside is pleased to support the Department's proposed revision to Title 14, Section 29.80(a)(2) that will facilitate the sharing of Dungeness crab traps and thereby reduce the number of traps deployed.

Coastside is disappointed, however, that the Department has not taken this opportunity to provide additional clarity in Section 29.80(c) relating to required destruct devices. The current regulations, as adopted in 2015, require "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" as the sole means of recreational compliance. The sportfishing regulations do not also allow for the use of a single loop of biodegradable cotton twine in the trap closure, along with a rubber strap and hook as is expressly found in the analogous commercial regulations. 14 CCR § 180.2(b)(5).

We appreciate the Department's internal guidance to wildlife officers that allows for the use of biodegradable cotton twine in the closure. As a matter of public policy, however, the regulations should reflect this means of compliance.

A further issue is that the previous changes to Section 29.80(c) were made without regard to the most commonly used - and most affordable - sport crab trap, which is sold under the Danielson brand. These traps have long been manufactured with a destruct device with an 8.5 inch by 3 inch opening. Since crabs present a flattened profile rather than a circular cross-section, the Danielson trap provides an opening more generous than the five inch diameter in the current regulations. Nevertheless, the Danielson trap's opening is deemed non-compliant. Even though the traps can be modified with some tools and effort to meet regulations, there would be no functional benefit whatsoever.

Washington State, like California, requires destruct devices on sport crab traps. Unlike



Coastside Fishing Club  
P.O. Box 5501, San Mateo, CA 94402

California, Washington enacted regulations with the Danielson traps in mind. Absent some justification, Coastside believes that the California's regulations should also allow Danielson crab traps without the need for unwarranted modifications.

Coastside has worked directly with the Department on these issues for most of the last year and looks forward to continuing these efforts.

Dan Wolford, Science Director

A handwritten signature in black ink, appearing to read "D L Wolford".

Coastside Fishing Club

Copies to:

Fish and Game Commissioners  
Director, California Department of Fish and Wildlife  
Coastside Directors