



California Fish and Game Commission  
1416 Ninth Street  
Sacramento, California 95814

VII. Location of Department Files:

Department of Fish and Wildlife  
1416 Ninth Street  
Sacramento, California 95814

VIII. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

A possession and landing limit for all non-Cancer species combined is a potential alternative to the proposed combination of a possession and landing limit for Lithodid species and a total allowable catch (TAC) for sheep crab. The California Department of Fish and Wildlife (Department) initially proposed to constituents a 100-pound limit for all non-Cancer species combined and a more restrictive limit of 25 pounds per day for any Lithodid species within the 100 pounds. The larger limit was based on a long-term average landing amount of 80 pounds for sheep crab and was intended to allow for annual catch of sheep crab to continue within a range similar to previous observations. Crab fishermen noted that sheep crab landings are highly variable and a 100-pound limit may not allow for adequate range around the average which has a standard deviation of plus or minus 116 pounds. Additionally, the Department learned that individual landings amounts in the catch records do not accurately reflect catch amounts as they are brought to the dock. Rather, they may reflect subsets of the catch that are landed in small increments after being held in receivers. Therefore, the true, larger catch amount is obscured from the records. Based on this constituent feedback, the Department recommends a TAC as a less restrictive and more effective tool for maintaining similar annual catches and business practices for fishermen harvesting sheep crab.

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

(b) No Change Alternative:

The recent increase in landings of king crab and box crab with little to no management measures in place for these species is potentially damaging to the resource. Limits on incidental take of other non-Cancer crabs are important to prevent future uncontrolled take with insufficient management measures and limited information on these species.

- (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 adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

IX. 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 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 increase compliance costs and will not substantially affect incidental take quantities.

- (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 significant impacts on the creation or elimination of jobs within the state, or the creation of new businesses or the elimination of existing businesses or the expansion of businesses because the proposed action will not significantly increase or reduce incidental take quantities for non-Cancer crab.

The Commission anticipates benefits to the environment in the sustainable management of non-Cancer crab species.

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

The proposed regulations may have adverse cost impacts to king and box crab harvest revenue for a few fishermen who have historically landed more than the proposed 25-pound limit. The following summarizes the

total statewide costs and benefits from this regulation and each alternative considered.

Regulation cost of \$71,077: These are potential cost impacts on individuals or businesses; these are minimal impacts to king and box crab harvest revenue (landed ex-vessel value) for a few fishermen who have historically harvested more than the proposed 25-pound limit.

Alternative 1 cost of \$107,445: These are potential cost impacts on individuals or businesses; these are minimal impacts to king, box and sheep crab harvest revenue (landed ex-vessel value) for a few fishermen who have historically harvested more than the alternate 100-pound limit for all non-cancer crab species.

- (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.

## Updated Informative Digest/Policy Statement Overview

### **Summary of the Proposed Amendments**

Under current law, commercial fishermen, with a Dungeness crab, rock crab or lobster permit, may incidentally take unlimited amounts of crabs not of the genus *Cancer* (non-*Cancer* crabs) when targeting Dungeness crab, rock crab, and lobster, with no limit on amount. Laws that specifically allow the incidental take of crab include subdivision 8284(c), Fish and Game Code (FGC), and subsection 125.1(c), Title 14, California Code of Regulations (CCR), which allow the take of non-*Cancer* crabs when targeting rock crab. Similarly, non-*Cancer* crabs may be taken incidentally in the lobster (subdivision 8250.5(b), FGC) and Dungeness crab (subdivision 8284(a), FGC) fisheries. The FGC provides a general definition of bycatch (incidental take) that does not give guidance on acceptable amounts (Section 90.5, FGC), but FGC and CCR sections on specific species and gear types do specify rules for retaining non-target species in some cases.

The proposed changes would amend the existing Section 126, which currently applies to the commercial take of Tanner crab. The title of 126 would be changed to “Commercial Take of Crabs not in the Genus *Cancer* in Trap Gear.” Tanner crab (*Chionoecetes* spp.) are non-*Cancer* crabs, and existing regulations regarding this fishery would be shifted to new Section 126.1. The new Section 126 would provide a definition of crabs of the genus *Cancer* and institute limits to allowable incidental take of non-*Cancer* crabs when participating in other target invertebrate trap fisheries. Species in the family Lithodidae (box and king crabs) would be subject to a 25-pound per day possession and landing limit, while the sheep (spider) crab would be subject to a total allowable catch of 95,000 pounds. When possessing or landing species in the Lithodidae family, an equal or greater amount of the target species (rock crab, lobster, or Dungeness crab) must also be possessed or landed. Additionally, a requirement to bring non-*Cancer* crab, in the whole, ashore to be recorded on a landing receipt would be added.

The proposed regulatory change would amend subsection 125.1(c)(3), which details allowances for incidental take of other species when targeting rock crab. The incidental allowances would remain unchanged except for reference to the new subsection 126(b) specifying a limit on non-*Cancer* crabs.

### **Benefit of the Regulation**

The proposed regulation will benefit the environment in the sustainable management of non-*Cancer* crab species by prohibiting the overexploitation of several non-*Cancer* crab species before adequate management measures can be developed for dedicated targeted fisheries. The proposed regulation will also allow for development of an experimental gear permit program for box and king crab designed to conduct research on species biology and potential appropriate management measures.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. Statutes and regulations specifically allow the incidental take of crab other than the genus Cancer in commercial fisheries for rock crab (subdivision 8284(c), FGC, and subsection 125.1(c), Title 14, CCR), spiny lobster (subdivision 8250.5(b), FGC), and Dungeness crab (subdivision 8284(a), FGC). The Legislature has delegated authority to the California Fish and Game Commission (Commission) to regulate fisheries that the Director of the California Department of Fish and Wildlife determines are emerging fisheries (Fish and Game Code, Section 7090) as well as the power to regulate the commercial spiny lobster and rock crab trap fisheries (Fish and Game Code Section 8254 and 8282).

## **UPDATE**

**At its October 17, 2018 meeting, the Commission adopted the proposed changes to subsection (c)(3) of Section 125.1 and Section 126, and the addition of Section 126.1, Title 14, CCR concerning Incidental Take Allowances for Crabs other than the Genus Cancer.**

**There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.**