

Date: June 5, 2019

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

From: Charlton H. Bonham
Director

Subject: **Public comment response for proposed amendments to Section 180.6, Title 14, California Code of Regulations, Re: Hagfish traps (Agenda item for the June 12-13, 2019 Fish and Game Commission meeting)**

The Department of Fish and Wildlife (Department) has prepared this memo in response to public comments received regarding the proposed amendment to Section 180.6, Title 14, California Code of Regulations. Four comment letters were received and are addressed in Attachment 1 (two letters from Brad Wilcox, one from Mark Hamerdinger, and one from Craig and Rachel Thomsson). The letter submitted by the Thomssons pertains to the use of ropeless gear in the Hagfish fishery and is outside the scope of this rulemaking. However, one comment within the Thomssons' letter is related to the proposed rulemaking, and is addressed by the Department in Attachment 1.

As explained in Attachment 1, the Department finds that changes to the proposed amendments to Hagfish trapping regulations are not warranted in light of these comments.

If you have any questions regarding this item, please contact Environmental Scientist, Travis Tanaka as the Department's point of contact. Mr. Tanaka can be reached at (831) 649-2881 or Travis.Tanaka@wildlife.ca.gov.

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Attachment 1

180.6 -Responses to Public Comment: - Hagfish Traps

Commenter Name, Format, Date		Comment	Department Response
Responses to comments received during the period April 17 to May 30, 2019.			
1	Brad Wilcox Commercial fisherman, Hagfish receiver and exporter email dated 5/15/2019	1-a. We are against any change to the 25 barrel trap regulation The ability for 2 permittees to run (2) sets of 25 barrel traps makes the Hagfish Fishery viable and encourages efficiency and cooperation amongst fishermen.	1-a. The proposed amendment to subsection (b) of Section 180.6, Title 14, California Code of Regulations (CCR), is necessary to clarify the original intent of the Hagfish regulation effective January 1, 2016 which restricts a vessel to utilize and possess no more than 25 barrel traps. The intent of subsection 180.6(b), Title 14, CCR was 25 barrel traps per vessel, and not for 25 barrel traps per crewman on the same vessel. This limit is volumetrically equivalent to the 200 bucket trap vessel limit, which is set by Fish and Game Code Section 9001.6.
1	Brad Wilcox, cont.	1-b. This proposed change would likely force many fishermen back to using the 200 buckets, wasting years of hard by the DFW to get barrels allowable in California.	1-b. According to California Department of Fish and Wildlife (Department) records, in 2018, there were 35 vessels (49 fishermen) with 15 vessels utilizing barrels. Of the 15, based on landing records, 10 vessels use the intended 25 barrels.
1	Brad Wilcox, cont.	1-c. Many fishermen and their crews have recently invested in switching to barrels.	1-c. The Department recognizes the effort and expense of making the switch to barrel traps. However, this comment is outside the scope and intent of the proposed regulation.
1	Brad Wilcox, Cont.	1-d. This proposed change to a gear plan that was just approved by the FGC only 2 years ago, would be unfair to stakeholders and possibly unlawful.	1-d. Refer to response 1a. Amending the law to clarify the original intent of the regulation is not unlawful or unfair since this change brings barrel trap regulations in line with bucket traps (Fish and Game Code Section 9001.6) based on a volumetric comparison.
1	Brad Wilcox, Cont.	1-e. This proposed change in regulation is unnecessary for proper management of the fishery.	1-e. There are no limitations on total take or closed season for Pacific Hagfish in California. As such, the Hagfish fishery is managed though gear restrictions. The Department views the intent of the proposed regulation as a precautionary mechanism to prevent overfishing of a resource with unknown biomass and for management of the Hagfish resource for commercial fishing in the long run. The proposed amendment is a clarification of the original intent of the barrel trap regulation effective January 1, 2016. The 25 barrel trap limit is volumetrically equivalent to the 200 bucket trap vessel limit, which is set by Fish and Game Code Section 9001.6.
1	Brad Wilcox	1-f. We believe in DFW needs to provide evidence that	1-f. The Department is being proactive in conserving the Hagfish biomass.

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	cont.	there is a problem with the current take and fishing method.	Refer to Department response 1-a. As noted on page 3 of the March 20, 2019 Initial Statement of Reasons (ISOR), a vessel identified utilizing more than 25 traps per vessel landed an average of 14 times the amount of hagfish per landing than other vessels running just 25 traps. While cumulative statewide, annual landings appear stable, and increasing the number of allowed traps per vessel (assuming the same number of participants) will increase the overall take.
1	Brad Wilcox cont.	1-g. When a species becomes overfished departments role in regulating take can be done many ways:	1-g. Ultimately, the goal in fisheries management is to avoid overfished conditions. For Hagfish, the Department is being proactive in limiting the potential for overfishing through restrictive gear regulations. Little is known about the biomass and time required for population recovery if severe depletion were to occur. This comment is outside the scope and intent of the proposed regulation.
1	Brad Wilcox cont.	1-h. Limit fishermen access (permits)	1-h. This suggestion is outside the scope of the proposed regulation as the Department does not see the need to make the Hagfish trap fishery limited entry, nor are the resources available to institute a restricted access program for the Hagfish fishery. As an open access fishery, this offers another option to those without permits or in a fishery subject to closure. Strict trap limits can have the same effect as limiting overall fleet numbers. This fishery may have a de facto carrying capacity based on the number of buyers and the condition of the export market.
1	Brad Wilcox cont.	1-i. Fish Size (though there is no limit, small fish are unmarketable therefore willingly released by fishermen)	1-i. This suggestion is outside the scope of the proposed regulation. Trap retention of small Hagfish is also influenced by soak duration. Short soaks do not allow time for escapement of immature Hagfish.
1	Brad Wilcox cont.	1-j. Season – no research concluding that seasons are necessary for reproduction, the export market relies on year-round consistency	1-j. The proposed regulation does not institute a fishing season or seasonally limit the opportunity to take Hagfish, therefore this comment is not relevant to this rulemaking.
1	Brad Wilcox cont.	1-k. Reduce allowable gear (the DFW has a history of making this the last limitation, not the first.)	1-k. The Hagfish fishery is managed through trap limits and mandatory hole diameter. Currently, there are no other management tools for this fishery. This proposed amendment clarifies the original intent of the existing regulation effective January 1, 2016, which is to allow 25 barrel traps per vessel consistent with the 200 bucket trap vessel limit set by Fish and Game Code Section 9001.6.
1	Brad Wilcox	1-l. There is no [precedence] of DFW limiting gear of an open access Fishery)	1-l. The number of bucket or Korean traps is limited by Fish and Game Code Section 9001.6. Another example of an open access gear limitation

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	cont.		is the open access fishery for California Halibut. While there are other gear types available to the restricted access fleet, the open access commercial fishery for California Halibut is hook-and-line.
1	Brad Wilcox cont.	1-m. This is perhaps the most market driven fishery on the west coast, resulting in steep competition amongst all 3 states.	1-m. Economics of the Hagfish fishery are considered by the Commission and Department, though fisheries are not managed strictly by market conditions, but mainly by the biology of the species and the impact of fishing. This comment is outside the scope and intent of the proposed regulation.
1	Brad Wilcox cont.	1-n. When barrel traps became legal in California, our fish size, quality and marketability increased significantly.	1-n. This comment is outside the scope and intent of the proposed regulation.
1	Brad Wilcox cont.	1-o. The former 200 bucket trap limit had more catch potential, but is a poorly designed trap. Big fish do not like entering the smaller trap, which becomes overcrowded very often, resulting in dead unmarketable Hagfish.	1-o. This comment is outside the scope and intent of the proposed regulation.
1	Brad Wilcox cont.	1-p. The barrel trap has made California begin to compete with Oregon (200 barrel trap limit) and Washington (100 traps).	1-p. This comment is outside the scope and intent of the proposed regulation.
1	Brad Wilcox cont.	1-q. The current fishing effort has proven sustainable for almost 2 decades since the Korean export market begun.	1-q. Department landing records show that catch is stable, particularly due to established trap limits. The number of fishermen in the Hagfish fishery has been consistent due to a balance between exiting and new fishermen. The Department has noted annual short-term downward trends in market demand, mostly due to Korean fishery and import practices.
1	Brad Wilcox cont.	1-r. With very slim profit margins, fishermen are only targeting grounds closest to their home port, leaving much of the extremely abundant pacific Hagfish habitat untouched.	1-r. This comment is outside the scope and intent of the proposed regulation.
1	Brad Wilcox cont.	1-s. The Hagfish can literally be found everywhere there is mud bottom.	1-s. Hagfish have a wide depth range over suitable habitat. However, total biomass estimates and density are not available. While Hagfish are found wherever there is mud bottom, other life history parameters such as spawning fecundity and sexual maturity make the species susceptible to depletion.
1	Brad Wilcox cont.	1-t. Please vote no on this change in regulation or at least reconsider the economic impact it would have.	1-t. An economic analysis (STD 399) of this regulation proposal was performed by Department staff and is available. The Department will recommend to the Commission to adopt the proposed

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			amendments due to the reasons cited in Department response 1-a.
2	Mark Hamerdinger Commercial fisherman Email dated 5/16/2019	2-a. Supports comments submitted by B. Wilcox (1a-1t)	2-a. Refer to Department responses to Wilcox 1a-1t.
3	Craig and Rachel Thomsson Commercial fisherman and Hagfish exporter Letter received 5/20/2019	3-a. <i>We do not wish to change the existing regulations.</i>	3-a. Refer to Department response 1-a.
4	Brad Wilcox Commercial fisherman, Hagfish receiver and exporter email dated 5/24/2019	4-a. What data you have to suggest that the resource is not sufficiently protected with the current regulations?	4-a. The proposed amendment is to clarify the intent of the original barrel traps regulation effective January 1, 2016. Refer to Department response 1-a.
4	Brad Wilcox Cont.	4-b. The fishery is regulated by its own market.	4-b. Refer to Department response 1-q. Department staff have noted annual difficulties in exporting Hagfish due to freight, Korean holidays, and influence of other fisheries.
4	Brad Wilcox Cont.	4-c. The commenter suggests the Department amend the proposed regulation to two (25) sets hauled with 1 boat. Both permittees have to be onboard.	4-c. The commenters proposal is counter to the original intent of the barrel traps regulation effective January 1, 2016, which this proposed rulemaking is intended to clarify. Refer to Department response 1-a.
4.	Brad Wilcox Cont.	4-d. If we see a slammer [vessel] from Oregon, maybe its time for permits.	4-d. Refer to Department response 1-h.

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4. Brad Wilcox Cont.	4-e. We have high overhead like every big boat operating, let's keep this profitable.	4-e. Refer to Department response 1-t.