

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

Amend Sections 29.80, 29.85, 195, and 701
Title 14, California Code of Regulations

Re: Recreational Crab Fishing Gear and Commercial Passenger Fishing Vessel Trap Validation

I. Dates of Initial Statements of Reasons:

(a) Initial Statement of Reasons: March 3, 2025

(b) Amended Statement of Reasons: August 1, 2025

II. Date of Final Statement of Reasons: September 15, 2025

III. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing

Date: April 17, 2025 Location: Sacramento

(b) Discussion Hearing

Date: June 11, 2025 Location: Sacramento

(c) Adoption Hearing

Date: August 14, 2025 Location: Sacramento

IV. Update:

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations (CCR) and all references to "Dungeness crab" are to the species *Metacarcinus magister*. "Commission" refers to the California Fish and Game Commission unless otherwise specified. "The Department" refers to the California Department of Fish and Wildlife unless otherwise specified.

Changes were made to the originally noticed proposal to update the surface gear requirements for hoop nets used north of Point Arguello, Santa Barbara County. The changes were the following:

1. Modify the optional marker buoy to the color orange and use a unique letter marking that must be located on two opposing sides of the buoy.
2. Extend the length of the surface line between the main buoy and optional marker buoy to be a maximum of 12 feet with unique line marking required when lengths exceed six (6) feet.

On August 14, 2025, the Commission voted to adopt the amendments as proposed by the Department to sections 29.80, 29.85, 195, and 701 to update the use of hoop nets, provide additional tools to address entanglement risk of recreational crab traps, and prohibit unique line marks required in other fisheries from being used in recreational gear. They also address a petition requesting the establishment of a Commercial Passenger Fishing Vessel (CPFV) validation.

V. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting Those Considerations:

Written and oral comments received by the Commission between June 11 and August 14, 2025, are summarized and responses are provided in Attachment 1 to this document.

VI. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

During the outreach period, alternatives to the regulation change were discussed. No other alternatives were identified or brought to the attention of Department staff that would have the same desired regulatory effect. The alternatives discussed are the following:

Alternative 1: Consider adding hoop nets to the recreational entanglement evaluation process. Members of the public were not supportive of this change since the two-hour service interval already precludes long soak periods to reduce entanglement risk by the use of this gear. Hoop net gear has not been positively identified in any known confirmed entanglements.

Alternative 2: Consider adding gear reduction to the available management actions as part of the recreational entanglement evaluation process. Upon further discussions with recreational fishery constituents, this may not be an effective tool for reducing overall gear by the recreational sector since traps may be shared among users (subsection 29.80(c)(6)(A)).

Alternative 3: Only allow a main buoy with no optional marker buoy. During discussions with recreational fishery constituents, they stated the necessity for an additional buoy on the hoop net was due to removing the hoop net within the service interval period by the conclusion of a fishing trip. An additional buoy compensates for the effect of strong ocean currents pulling surface gear below the water line.

(b) No Change Alternative:

Without change, hoop net surface gear may continue to use the same buoys as required on crab traps while tampering of another person's hoop nets would not be explicitly prohibited. In addition, the recreational entanglement evaluation would continue to assess entanglement risk solely based on triggers for marine life concentrations of protected species. The management actions available to the Director during periods of elevated risk would be limited to a fleet advisory or a crab trap prohibition with no intermediary action. The crab trap validation would be required for all users of crab traps regardless of fishing mode. Uniquely marked lines either could be purchased and used in the rigging of lines for recreational crab traps and hoop nets and misidentified as other fishing gear in confirmed U.S. West Coast entanglements.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes 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.

(d) Description of Reasonable Alternatives That Would Lessen Adverse Impact on Small Business:

None identified.

VII. 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 businesses including the ability of California businesses to compete with businesses in other states because the proposed regulations are for a recreational marine fishery. CPFVs that take fishers on crab fishing trips using crab traps will now be required to purchase a CPFV-specific validation at \$1,115.08 every 365 days [$\$18.28 \times 61$ vessels], while also indicating on their fishing logbooks the number of traps or hoop nets used per daily fishing trip in addition to the information they are already required to provide. There may be unrealized cost savings for serving customers on crab trap fishing trips since they are no longer required to purchase a trap validation. CPFVs also may need to purchase an additional buoy for any hoop nets deployed if they choose to use this for their operations, but it is not required. An additional ~~yellow orange~~ marker buoy could average \$15.00 that may be needed on up to ~~5025~~ hoop nets (no hoop net limits), resulting in industry costs of approximately ~~\$60,428.13~~~~\$42,128.43~~ [~~(\$750)~~~~\$375~~ to replace up to ~~5025~~ buoys due to damage or loss, or $\$15.00 \times 5025$ hoop nets) + ~~(\$120.31)~~~~\$240.63~~ in labor costs, or $\$19.25/\text{hour} \times 0.250.5$ hours/hoop net $\times 5025$ hoop nets per CPFV) + ~~\$75 for two gallons of paint~~ $\times 61$ CPFVs]. ~~in initial costs and approximately the same amount in subsequent years to replace lost or damaged buoys (assuming all 50 buoys need to be replaced). The total economic impact to CPFVs is approximately \$61,543.21 annually.~~

(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 crabbing 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 potential for marine life entanglement risk. 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 toward marine animals protected by the federal Endangered Species Act and Marine Mammal Protection Act. The proposed regulations build off existing regulations for reducing the risk of marine life entanglements in recreational crab trapping gear and would also help the state obtain valuable information on recreational crab fisheries to help better mitigate entanglement risk and better manage the crab fisheries overall to meet the state's various policy goals. The Commission anticipates that the benefits of the proposed regulations may include the value of reducing whale entanglement risk.

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 million per whale (Chami et al., 2019¹).

Given the monetization 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 survey² of the economic contribution of the whale watching industry in California yielded an estimated \$51,576,573 to \$69,250,259 in direct expenditures annually (adjusted from 2021 values to December 2024 values using the Consumer Price Index, which is not yet available for 2025). Whale watching tourism spending that is the "direct expenditures" are received by various businesses: tour boat operators, fuel, food, and other retailers, restaurants, hotels, and service providers associated with vacation travel. Those businesses spend (indirect effect) received tourism dollars on operating expenses including payroll. Employees at those establishments receive wages that are then spent (induced effect) on living expenses. A share of business and employee spending remains within the local and state economy, while some may "leak out," of the state if dollars are spent on goods or services from outside the state. The multipliers are derived from extensive industry analysis of the interconnections from direct expenditure dollars to indirect, and induced spending by associated businesses and employees as dollars are re-spent within the region. The sum of dollars circulated by the initial direct

¹ 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.

² Erich Hoyt and E.C.M.Parsons (2014); Knowles, T., Campbell, R. (2011); Linwood Pendleton, (2006).

expenditures that serve to support the region's economy comprise the total economic impact.

The multipliers for whale-watching tourism expand the initial direct expenditure to a range of \$147,852,844 to \$198,517,410 (adjusted to December 2024 values from 2021 values of \$127,894,900 to \$171,720,500) in total economic value for the whale-watching industry, that supports approximately 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 = \$147,852,844 to \$198,517,410]

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 costs was also surveyed as part of the literature review³ from the previous rulemaking for the Department's Risk Assessment and Mitigation Program (RAMP) in 2020. 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 = \$60,577]

The average total travel cost 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.

(\$147,852,844 + \$60,577)/2,442 whales = approximately \$60,571 per whale

(\$198,517,410+ \$60,577)/2,442 whales = approximately \$81,318 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 \$60,571 to \$81,318, with an average of approximately \$70,945 for each whale that is not entangled in recreational crab gear. If the \$2.46M 2024 adjusted ecosystem services value (Chami, et al., 2019) of that whale is included, the proposed regulation benefits sums to **\$2,530,945 per whale**.

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

Recreational crab fishers who solely use crab traps from CPFVs would no longer be required to purchase a Crab Trap Validation. However, CFPVs would be required to purchase a CPFV-specific validation [\$18.28 per validation (includes \$17.75 fee plus \$0.53 surcharge) x

³ Erich Hoyt and E.C.M.Parsons (2014); Knowles, T., Campbell, R. (2011); Linwood Pendleton, (2006)

approximately 61 vessels] that will be good for 365 days and could cover a recreational Dungeness crab season that spans two calendar years depending on time of purchase. Additionally, CPFVs that opt to use an additional buoy may realize additional costs of **\$75\$150** a year if a buoy averages \$15.00 and they replace about 10 hoop net buoys annually, plus the labor cost of approximately **\$24\$48** for installing the buoys [**\$24.06\$48.12** in labor costs, or \$19.25/hr x **0.250.5** hours/hoop net x 5 hoop nets per CPFV] **and \$75 for 2 gallons of paint for marking the lines.** The total cost of the validation fee and buoy costs per CPFV is approximately **\$194\$216.**

Northern hoop net users who opt to use an additional buoy may realize initial costs of around \$75 if a buoy averages \$15.00 and they use about 5 hoop nets (no hoop net limits) that would require an additional buoy, and ongoing costs of \$75 in subsequent years to replace lost or damaged buoys.

(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 may be partially recovered with the CPFV-specific validation. An estimated \$1,115.08 in CPFV-specific validation revenue is anticipated to be collected by the Department annually. However, removing 1,615 fishers from the requirement to purchase a recreational crab trap validation by fishing from a CPFV would result in a \$4,570.45 loss in revenue for the Department, with a total net decrease of \$3,455.37 in revenue for the Department. The Commission does not anticipate any savings to State agencies or cost/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.

Updated Informative Digest/Policy Statement Overview

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations (CCR). The Fish and Game Commission (Commission) proposes to amend sections 29.80, 29.85, 195, and 701, Title 14, California Code of Regulations (CCR).

Changes were made to the originally noticed proposal to update the surface gear requirements for hoop nets used north of Point Arguello, Santa Barbara County. The changes were the following:

1. Modify the optional marker buoy to the color orange and use a unique letter marking that must be located on two opposing sides of the buoy.
2. Extend the length of the surface line between the main buoy and optional marker buoy to be a maximum of 12 feet with unique line marking required when lengths exceed six (6) feet.

On August 14, 2025, the Commission voted to adopt the Department's proposed amendments to sections 29.80, 29.85, 195, and 701 to update the use of hoop nets, provide additional tools to address entanglement risk of recreational crab traps, and prohibit unique line marks required in other fisheries from being used in recreational gear. They also address a petition requesting the establishment of a Commercial Passenger Fishing Vessel (CPFV) validation.

Background

Current regulations for the recreational Dungeness crab fishery specify seasons, size limits, bag and possession limits, closed fishing areas, and gear restrictions. Crabs can also be taken recreationally by hand, crab trap, crab loop trap (snare), or hoop net. Hoop nets may be used year-round for taking of crustaceans and have a service interval of two hours (subsection 29.80(b)(2)) and are considered abandoned if left out longer than two hours (subsection 29.80(b)(3)). Current regulations do not limit the number, size or color of buoys used on hoop net gear. Hoop nets (not used from shore) must have a surface buoy that is marked to indicate the specific operator either by an individual's GO ID, Commercial Passenger Fishing Vessel's (CPFV's) vessel commercial boat registration number, or guide license's identification number (subsection 29.80(b)(5)). There is no limit on the number of hoop nets that may be operated by an individual or CPFV when used north of Point Arguello, Santa Barbara County (subsection 29.80(b)(4)(B)).

CPFVs take customers on fishing trips and provide fishing gear, either with hoop nets or crab traps. Customers are required to have the proper licenses on board, including a crab trap validation when CPFV's use traps. The owner and operator of a CPFV is required to keep and submit a complete and accurate record of fishing activities on a logbook (subsections 190(a) and 190(b)).

Recreational crab traps are evaluated for marine life entanglement risk during the Dungeness crab season under a marine life concentration trigger (subsection 29.80(c)(7)(A)). Under the recreational evaluation when marine life concentration triggers are met, the Director may declare a management action by RAMP Fishing Zone (subsection 29.80(c)(7)(C)). The only management actions the Director can implement are the following: a fleet advisory to employ voluntary practices, a trap prohibition at the start or end of the recreational Dungeness crab season or lifting of any trap prohibition (subsection 29.80(c)(7)(B)). This recreational entanglement evaluation

regulatory framework also references definitions and management triggers described in the RAMP regulation (Section 132.8) for the commercial Dungeness crab fishery.

Proposed Changes

The proposed changes focus on updates to recreational crab gear restrictions to update use of hoop nets, provide additional tools to address entanglement risk of recreational crab traps, and prohibit unique line marks required in other fisheries from being used in recreational gear. They also address a regulation change petition (#2022-11) requesting the establishment of a CPFV validation so that CPFV customers would no longer be required to have a trap validation.

This is the summary of proposed regulations to recreational crab gear:

- **Add a hoop net tampering prohibition:** The proposed regulation would prevent unlawful tampering of hoop nets. (Proposed subsection 29.80(a)(3)(B)).
- **Prohibit the use of other West Coast fisheries' unique line marks/colors on hoop net and crab trap gear:** The proposed regulation would prohibit recreational gear for take of crustaceans from using another fishery's unique line marking. (Proposed subsection 29.80(a)(4)).
- **Clarify surface gear requirements for northern hoop nets:** The proposed regulation would standardize surface gear configurations of hoop nets used north of Point Arguello, Santa Barbara County. An optional marker buoy will be allowed that is orange in color and marked on two opposing sides with the unique letter "H." The surface line length will be set at a maximum of 12 feet, and unique line marking is required when the line exceeds 6 feet. (Proposed subsection 29.80(b)(5)).
- **Update the marine life entanglement evaluation process:** The proposed regulation would add a trigger for confirmed entanglements of any protected species referenced in RAMP as well as a depth constraint under the available management actions (Proposed subsections 29.80(c)(7)(A), 29.80(c)(7)(B), and 29.80(c)(7)(D)). **The federal RAMP regulations are incorporated by reference rather than printed verbatim in the regulatory language because, due to their length and specificity, doing so would be cumbersome, unduly expensive, or otherwise impractical.**
- **Add a separate CPFV crab trap validation:** The proposed regulation would modify the current trap validation, creating a separate CPFV validation. In addition, new fields will be added to the CPFV logbook and a new fee for the CPFV validation. (Proposed subsections 29.85(a), 195(a), 195(b), 195(d), 701(i), and 701(j)).

The proposed regulatory package also includes clarifying and non-substantive edits to Section 29.80 and 29.85.

Benefits of the Regulations

The proposed regulations would clarify and improve enforceability of current regulations for hoop nets. Regulations support a petition request that also improves data collection efforts to inform fishery management. The proposal better aligns management of the recreational sector with the commercial fishery in mitigating entanglement risk of marine animals protected by the federal Endangered Species Act and Marine Mammal Protection Act. Lastly, the proposal

parallels U.S. West Coast efforts to require uniquely marked gear by ensuring required marks in other fisheries are prohibited in California recreational crustacean gear. Northern hoop net surface gear will also require unique line marking that aligns with this initiative when an additional buoy is used and surface line lengths exceed 6 feet.

Consistency and Compatibility with Existing Regulations

The proposed regulations are neither inconsistent nor incompatible with existing state regulations. Section 20, Article IV, of the state Constitution specifies that the Legislature may delegate to the Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to adopt regulations governing recreational fishing regulations (Fish and Game Code sections 200, 205, 315, and 316.5). No other state agency has the authority to adopt regulations governing recreational fishing regulations. The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has searched the CCR for any regulations regarding the adoption of recreational crab fishing regulations; therefore, the Commission has concluded that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

UPDATE

At its August 14, 2025 meeting, the Fish and Game Commission adopted the regulations as proposed and described in the Amended Initial Statement of Reasons (ISOR) dated August 1, 2025 amending sections 29.80, 29.85, 195, and 701.

For the August adoption hearing, subsection 701(i) was changed from “2025 Commercial Passenger Fishing Vessel Crab Trap Validation” to “2026 Commercial Passenger Fishing Vessel Crab Trap Validation” and was reflected in the regulatory text that was adopted by the Commission. However, this change was not identified as a revision to the noticed regulatory language, and it was not described in the summary of regulatory changes during the 15-day continuation period, nor was it flagged in the Commission staff summary, the Department’s transmittal memo to the Commission, or in the amended ISOR. The Department wishes to keep the date of 2025 for the name of the license item (thus, “2025 Commercial Passenger Fishing Vessel Crab Trap Validation”) due to the intention of having that license item available to the public for purchase in January 2026, which falls in the middle of the commercial crab license year/ season of April 1, 2025 to March 31, 2026. The change of the license item name to “2026 Commercial Passenger Fishing Vessel Crab Trap Validation” would mean that this particular license item wouldn’t be available to the public for purchase until April 1, 2026 when the new commercial crab license year/ season commences. This change is non-substantive given that it does not alter the regulatory effect of the new validation license item.

Reporting requirements

The Commission adopted the shift from incorporation by reference of forms DFW 195A and 195B with the 2013 rulemaking to moving those same data fields in use by those forms to subsection 195(b)(1) through (b)(27), and new fields (b)(28) and (b)(29) requesting the number of traps and number of hoop nets only when crab

fishing north of Point Arguello, Santa Barbara County to be added. Pursuant to subdivision (d) of Section 11346.3 of the Government Code, the Commission finds that these changes serve the welfare of the people of the state and the CPFV validation holders themselves. This is because the Department will be able to estimate crab gear fishery effort of the CPFV sector during the Dungeness crab season to inform fishery management, data that is currently lacking.

Updates have been made to Section VII, Impact of the Regulatory Action, to reflect economic estimates transpiring from the regulatory adjustments with the Amended ISOR.

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.

During review by the Office of Administrative Law, some changes were made to the adopted regulatory language. Language in Section 29.80(a)(3)(B) was changed to remove a cross-reference to another subsection and replace it with more straightforward language about the permissibility of tampering with another person's hoop nets from a vessel so long as that other individual is present on the same vessel. Section 701 was also updated to reflect the most up-to-date regulatory language, which was changed by a separate Fish and Game Commission rulemaking while this one was promulgated.

Section VII(B) of this document was also expanded to incorporate the rulemaking benefits calculation from the Form STD. 399.

A statement regarding incorporation by reference of the federal RAMP regulations was added to the informative digest to read "The federal RAMP regulations are incorporated by reference rather than printed verbatim in the regulatory language because, due to their length and specificity, doing so would be cumbersome, unduly expensive, or otherwise impractical."