

Spiny Lobster Fishery Management Plan

Lobster Advisory Committee

Consensus Recommendations



The Department of Fish and Wildlife (DFW) presents the following Lobster Advisory Committee management recommendations for consideration by the California Fish and Game Commission. In accordance with the Marine Life Management Act, DFW convened a multi-stakeholder advisory committee¹ (LAC) in spring 2012 to provide advice, feedback and recommendations on the development and implementation of a spiny lobster fishery management plan (FMP). In support of this collaborative effort, DFW contracted the impartial facilitation services of the Center for Collaborative Policy (a unit of California State University, Sacramento) to organize a series of public and advisory committee meetings that inform development of the FMP. The recommendations included herein are the result of extensive dialogue, deliberation and consensus building, resulting in a unified message to the Commission as it considers future management of the fishery.

The LAC held a total of nine meetings from June 2012 to September 2013. At the outset, the group formulated a governance structure to facilitate its work together, jointly developing and adopting a charter that describes guiding principles for the effort, membership, roles and responsibilities, decision-making procedures and outreach protocols. Early meetings afforded educational opportunities that fostered common understanding of the fishery management issues being discussed. Later in the process, commercial and recreational members held multiple caucus meetings with DFW to advance development of proposals on a range of issues related to each sector. In addition, DFW solicited broad feedback from the commercial sector via a survey of all permit holders. The combination of caucus discussions and the DFW survey helped stimulate discussion and refinement of various management proposals among the full LAC membership.

Ultimately, the LAC reached consensus on a broad policy statement for the fishery, a commercial trap limit and multiple recreational management measures. The LAC's consensus recommendations are detailed below. Commissioners and other interested parties may refer to the LAC charter and meeting summaries for additional information and context as to how the LAC conducted its work. Documents are available on the DFW website: <http://www.dfg.ca.gov/marine/lobsterfmp/>.

Fishery Policy Statement

Consensus achieved at September 11, 2013 LAC Meeting

Building on LAC member interests, DFW introduced a draft policy statement that provides guidance to the Commission as it seeks to meet the following Marine Life Management Act mandate, particularly during times when a decrease or increase in fishery resource allocation is considered or warranted:

FGC 7072 (c): "To the extent that conservation and management measures in a fishery management plan either increase or restrict the overall harvest or catch in a fishery, fishery management plans shall allocate those increases or restrictions fairly among recreational and commercial sectors participating in the fishery."

LAC Action: The LAC achieved consensus on the five objectives below as a broad policy statement to guide allocation considerations for the lobster fishery.

¹ See table 2 below for the full Lobster Advisory Committee membership composition.

- Identify current effort levels for each sector, and establish controls to prevent unrestricted growth.
- Identify the proportion of overall catch and/or effort from each sector, and, if necessary, take corrective action to maintain those proportions if the percent of total catch and/or effort by sector deviates significantly from a pre-determined base period.
- Recognize the current differences between sectors in traditional fishing grounds and time-of-day fished, and seek to maintain those differences.
- If increases or decreases to the fishery are required due to application of the control rule, those changes should seek to maintain equitability and not give an advantage to either sector unless biological triggers require a change to allocation.
- End illegal commercialization.

Commercial Lobster Fishery Recommendation

Consensus achieved at August 15, 2013 LAC Meeting

The LAC achieved consensus on a commercial trap limit program. The recommendation includes a description of trap permit categories and associated provisions, general provisions and goals and objectives. Upon implementation the program is expected to hold the fishery at or slightly below current trap numbers. Future effort reduction may be realized over time, which in turn will contribute to a reduction in bycatch and lost gear. The establishment of a trap limit and use of trap tags will provide improved understanding of the amount gear used in the fishery. The temporary “phase-in” stacking permit will allow a permittee to temporarily stack an additional permit (allowing the permittee to fish up to 300 additional traps) for a period of up to three years. The aim of the temporary phase-in stacking permit is to provide a bridge opportunity for permittees who are seeking to purchase a second permit (transferable permit) but are unable to do so immediately following the establishment of the 300 base trap limit.

LAC Action: The LAC achieved consensus on all commercial management measures and associated goals and objectives included in the table below.

Table 1. Commercial Trap Limit

CATEGORY	NUMBER OF TRAPS	PROVISIONS
“300” Transferable Permit (T) “300” Non-transferable permit (NT)	300	<ul style="list-style-type: none"> • May stack another permit for a maximum of 2 permits (2 x 300 traps = 600 trap maximum) • The second permit remains transferable • Death provision applies only to transferable permits (NT permits are not transferable – even due to death)
Phase-In Stacking Permit	300	<ul style="list-style-type: none"> • Available to either transferable or non-transferable permittees • Non-transferable permit • Only available for three years (must be renewed annually) • Permit funds would go for commercial lobster research & monitoring – (\$5,000 - \$10,000 annual permit fee) • Would become effective when trap limits go into effect

<p>GENERAL PROVISIONS</p> <ul style="list-style-type: none"> • Death provision applies only to transferable permits • All traps must be tagged (on trap or buoy or both)(must be purchased annually); details to be worked out with LED • Catastrophic gear loss provision; details to be worked out with LED (application would include requirement to report details of loss)(Information could be shared with permitted recovery projects) • Allow scuba equipment on board commercial vessels to retrieve lost traps or remove line from prop (not allowed to “fish” when on scuba) • More than one permittee may operate from a single vessel; each permittee whose traps are being pulled must be aboard • 7 day soak time using “Federal Rules” regarding weather • Limit use of “note” to fish traps by other than permit holder. May open (and retain the lobsters within) or retrieve traps belonging to another lobster fisherman with a note and notification to DFW LED (details to be worked out with LED); may not bait or fish traps for another permittee • Allow commercial fishermen to start hauling their traps to sea before the season starts on the Monday before opening week (9 days before the commercial opener) and allow traps with doors open to remain in the water not more than 9 days after the close of the season • Branding of floats allowed (details to be worked out with LED)
<p>GOALS/OBJECTIVES OF PROPOSAL</p> <p>Short Term: realized when regulations implemented</p> <ul style="list-style-type: none"> • Expected to reduce gear (once Phase-In permits expire) • Cap Capacity of fleet (traps) • Accurate assessment of gear being used <p>Long Term:</p> <ul style="list-style-type: none"> • Feedback loop used to adapt to additional data, fishery changes and successes/failures (Regular review by DFW and stakeholders to assess progress toward goals and objectives) • Viable and sustainable industry • Moves fishery toward compliance with MLMA • Reduce conflict on the water • Adjust fishery to “post-MPA” circumstances

Recreational Lobster Fishery Management Recommendations

Consensus achieved at August 15 and September 11, 2013 LAC Meetings

The LAC reached consensus on five recreational management measures, including a tail-cutting proposal, a limitation on the use of mechanized pullers, a new season opener time, a clarification of the diver prohibition on carrying hooked devices (spear guns to be allowed), and a proposal to mark hoop net floats. A broad majority of the LAC supported a proposal to set a seasonal limit (70) for the recreational fishery and a proposal to ban the use of conical hoop nets. Opposition from two recreational members prevented consensus on each of these proposals. Of note, neither of these members offered an alternative proposal to address commercialization (the intent of the seasonal limit) or to address problems associated with the rapid rise in the use of hoop nets in recent years. Each recommendation below describes the relevant issue, the introduced proposal and the LAC action following discussion, deliberation and, in most cases, refinement of the original proposal.

Issue: Lobster caught by recreational fishermen is being sold in the commercial market place. Requiring sport fishermen to clip or punch the center tail flap makes it possible for law enforcement to identify lobsters caught in a recreational fishery that end up in the market and take appropriate legal action. This proposal will give law enforcement a tool to address buyers and markets that purchase lobster from recreational fishermen.

Proposal: Recreationally caught lobsters are to be tail-clipped (removing the bottom half of the central tail flap) or tail-punched in the central tail flap (Australia requires a 10 mm minimum hole). Additional details will be worked out with LED (e.g. clipped when landed?).

LAC Action: The LAC achieved consensus on the tail-clipping proposal above. The LAC did not achieve consensus on a seasonal limit as a tool to reduce illegal commercialization.

Issue: Use of mechanized pullers has made it easier to rob from commercial traps.

Proposal: Restrict the use of mechanized pullers only to persons in possession of proof of disability/medical (Disabled Mechanized Hoop Net Puller Permit). This restriction would only pertain to power driven mechanized pullers and not hand operated davits with single pulley systems.

Clarification: This restriction only applies to individuals targeting or in possession of lobster, not persons solely targeting crab.

DFW Disabled Mechanized Hoop Net Puller Permit Form:

The following conditions must be met to qualify for issuance of a Disabled Mechanized Hoop Net Puller Permit: *“For the purposes of this permit a disability means a permanent loss, significant limitation, or diagnosed disease or disorder, which substantially impairs an individual’s ability to physically pull by hand and retrieve a hoop net for the purpose of targeting lobster.”* A medical physician must sign the permit application form.

LAC Action: The LAC achieved consensus on the mechanical puller restriction proposal above. Some members noted that the broad wording of the disability option could render the management measure ineffective and suggested that the LAC work with DFW Enforcement to ensure the new rule has “teeth” when it is applied.

Issue: The midnight opener creates a “rush” mentality that fuels conflicts between recreational users and poses a safety risk. The current lobster opener date and time can be difficult to understand (confusion regarding when the season actual “starts”) and constituents are having trouble following the law. DFW has been asked to consider an alternate start time.

Proposal: Make the lobster opener 6:00 a.m. on Saturday instead of 12:01 a.m. on Saturday.

Key discussion points

- New time is workable for DFW Enforcement
 - Proposal improves safety conditions
 - Regulatory change has no impact on the resource
 - Commercial season dates would not change
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LAC Action: The LAC achieved consensus on the lobster opener proposal above. The group acknowledged concerns regarding the economic impact this proposal may have on some dive charters.

Issue: Marking hoop net floats will improve accountability and safety among recreational fishermen, and may help reduce illegal commercialization.

Proposal: Hoop net floats should be marked with unique ID (DL, Go ID, etc. — details to be worked out with LED).

LAC Action: The LAC achieved consensus on the marked hoop net proposal above. A second element of the original proposal, that hoop net floats be “closely attended”, did not receive full group support due to concerns over enforceability challenges.

Issue: Spear fisherman have been harassed or cited for carrying a spear gun while in the pursuit of lobster. Constituents have asked for clarity on the definition of a “hooked” device.

Proposal: Keep change simple. **Ensure regulatory language focuses on *how* lobster can be taken (i.e. “skin and scuba divers may take lobsters by hand only”) and not *how it cannot be taken*; remove “hooked device” term from current regulations.** The proposal allows for possession of a spear gun or pole spear underwater while hunting lobsters. Misuse of this equipment to take lobster (lobster can only be taken by hand) would remain illegal.

LAC Action: The LAC achieved consensus on the hooked device proposal above.

Table 2. Lobster Advisory Committee Membership

<i>Member Name</i>	<i>Constituent Group</i>
Rodger Healy	Commercial Fishing Member
Jim Colomy	Commercial Fishing Member
Shad Catarius	Commercial Fishing Member
Josh Fisher	Commercial Fishing Alternate
Jim Salazar	Recreational Fishing Member
Michael Gould	Recreational Fishing Member
Al Stasukevich	Recreational Fishing Member
Paul Romanowski	Recreational Fishing Alternative
Lia Protopapadakis	Marine Science Member
Kevin Hovel	Marine Science Member
Jono Wilson	Marine Science Alternate
Sarah Sikich	Environmental NGO Member
Huff McGonigal	Environmental NGO Alternate
Sean Hastings	Federal Agency Member
David Kushner	Federal Agency Alternate
Claudette Dorsey	Non-consumptive Recreational Member
Chris Grossman	Non-consumptive Recreational Member
Stefan Partelow	Non-consumptive Recreational Alternate