

**State of California
Office of Administrative Law**

In re:
Department of Fish and Wildlife

Regulatory Action:

Title 14, California Code of Regulations

Adopt sections: 131

Amend sections:

Repeal sections:

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

OAL Matter Number: 2016-0722-01

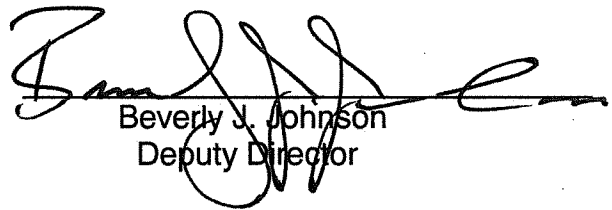
OAL Matter Type: Emergency Readopt (EE)

This is the second readopt of an emergency regulatory action by the Department of Fish and Wildlife regarding the closure of certain areas of the commercial rock crab fishery. This emergency action includes modification of the emergency text to allow partial openings of the affected rock crab fishery. Closures shall remain in effect until the Director of the Office of Environmental Health Hazard Assessment, in consultation with the Director of the California Department of Public Health, determines that domoic acid levels in these crabs no longer pose a significant risk to public health.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 8/2/2016 and will expire on 11/1/2016. The Certificate of Compliance for this action is due no later than 10/31/2016.

Date: August 1, 2016


Beverly J. Johnson
Deputy Director

For: Debra M. Cornez
Director

Original: Charlton Bonham
Copy: Craig Martz

EMERGENCY

See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

| | | | |
|------------------|---------------------------------|--------------------------|---|
| OAL FILE NUMBERS | NOTICE FILE NUMBER Z- | REGULATORY ACTION NUMBER | EMERGENCY NUMBER 2016-0722-01EE |
|------------------|---------------------------------|--------------------------|---|

For use by Office of Administrative Law (OAL) only

2016 JUL 22 A 8:52
 OFFICE OF ADMINISTRATIVE LAW

ENDORSED - FILED
 in the office of the Secretary of State
 of the State of California
AUG 01 2016
 2:01 PM

| | |
|--------|-------------|
| NOTICE | REGULATIONS |
|--------|-------------|

AGENCY WITH RULEMAKING AUTHORITY
Department of Fish and Wildlife

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

| | | | | |
|---|--|--------------------------|------------------------|-------------------------------|
| 1. SUBJECT OF NOTICE | | TITLE(S) | FIRST SECTION AFFECTED | 2. REQUESTED PUBLICATION DATE |
| 3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other | | 4. AGENCY CONTACT PERSON | TELEPHONE NUMBER | FAX NUMBER (Optional) |
| OAL USE ONLY | ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn | | NOTICE REGISTER NUMBER | PUBLICATION DATE |

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

| | |
|---|---|
| 1a. SUBJECT OF REGULATION(S) Emergency closure of commercial Dungeness and rock crab fishing | 1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2015-1106-04E, 2016-0419-02EE |
|---|---|

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

| | |
|---|--------------|
| SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.) | ADOPT 131 |
| | AMEND |
| | REPEAL 14 |

3. TYPE OF FILING

| | | | |
|---|---|--|---|
| <input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) | <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. | <input checked="" type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) | <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) |
| <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) | <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) | <input type="checkbox"/> File & Print | <input type="checkbox"/> Print Only |
| <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) | | <input type="checkbox"/> Other (Specify) _____ | |

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

| | | | |
|---|--|---|---|
| <input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) | <input type="checkbox"/> Effective on filing with Secretary of State | <input type="checkbox"/> §100 Changes Without Regulatory Effect | <input checked="" type="checkbox"/> Effective other (Specify) August 2, 2016 |
|---|--|---|---|

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

| | | |
|--|--|---|
| <input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) | <input type="checkbox"/> Fair Political Practices Commission | <input type="checkbox"/> State Fire Marshal |
| <input type="checkbox"/> Other (Specify) _____ | | |

| | | | |
|----------------------------------|------------------------------------|-----------------------|--|
| 7. CONTACT PERSON Craig Martz | TELEPHONE NUMBER (916) 653-4674 | FAX NUMBER (Optional) | E-MAIL ADDRESS (Optional) Craig.Martz@wildlife.ca.gov |
|----------------------------------|------------------------------------|-----------------------|--|

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

| | |
|---|-----------------------|
| SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>CH Bonham</i> | DATE July 22, 2016 |
| TYPED NAME AND TITLE OF SIGNATORY Charlton H. Bonham, Director | |

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

AUG 01 2016

Office of Administrative Law

PROPOSED TEXT OF REVISED EMERGENCY REGULATIONS

Section 131, Title 14, CCR, is amended to read as follows:

§ 131. Dungeness Crab and Rock Crab Emergency Closure.

(a) Pursuant to Fish and Game Code Section 7715(a), the director prohibits all take or possession of Dungeness crab (*Metacarcinus magister*) under a commercial fishing license from any ocean waters of the state north of the Sonoma/Mendocino county line (Latitude 38° 46.1'N) and all rock crab (rock crab, *Cancer antennarius*, yellow crab, *Cancer anthonyi*, and red crab, *Cancer productus*) under a commercial fishing license from any ocean waters of the state north of the ~~Piedras Blancas Light Station (Latitude 35° 40'N)~~. ~~Take or possession of rock crab under a commercial fishing license is also prohibited in ocean waters of the state between Santa Cruz and Santa Rosa Islands within the area bounded by straight lines between the following points in the order listed:~~

- ~~34° 7.75' N. lat. 120° 0.00' W long.;~~
- ~~34° 7.75' N. lat. 119° 50.00' W long.;~~
- ~~33° 53.00' N. lat. 119° 50.00' W long.;~~
- ~~33° 53.00' N. lat. 120° 0.00' W long.;~~
- ~~34° 7.75' N. lat. 120° 0.00' W long.~~ Pigeon Point, San Mateo County, (37° 11' 00" N lat.

This prohibition is due to domoic acid levels in Dungeness crab or rock crab that pose a significant risk to public health as determined by the Director of the Office of Environmental Health Hazard Assessment (OEHHA), in consultation with the Director of the California Department of Public Health (CDPH). The department shall notify the general public of all season delays or closures via the notification process as follows:

(1) Notification of Closed Waters: The department shall give the public and commercial fishermen immediate notice of any season delay or closed waters pursuant to this Section via a department news release, maintain a list of open and closed ocean waters of the state and update that list on Wednesday of each week by 1:00 pm. It shall be the responsibility of any commercial fisherman prior to taking Dungeness or rock crab to use the telephone number provided below or to go to the department's website at www.wildlife.ca.gov/Fishing/Ocean/Health-Advisories to obtain the current status of any ocean water. The number to call for information is (831) 649-2883.

(b) Pursuant to Fish and Game Code Section 7715(b), the opening of any ocean waters closed under ~~subsection~~ Fish and Game Code Section 7715(a) shall become operative

when the Director of OEHHA, in consultation with the Director of CDPH, determines that a health risk no longer exists and notifies the director with a request to reopen the commercial fishery, and the director complies with notification provisions in this subsection. The director shall notify commercial fishermen and the general public of all re-opened waters via the notification process as follows:

(1) Notification of Re-Opened Waters: The department shall give the public and commercial fishermen no less than seven calendar days' notice of any re-opened waters pursuant to this Section via a department news release and will update the list of open and closed ocean waters in subsection (a)(1) above. The department may coordinate with the commission regarding this seven day notification period to ensure an orderly fishery balancing recreational and commercial participation. It shall be the responsibility of any commercial fisherman prior to taking Dungeness or rock crab to use the telephone number provided below or to go to the department's website at www.wildlife.ca.gov/Fishing/Ocean/Health-Advisories to obtain the current status of any ocean water. The number to call for information is (831) 649-2883.

(c) This emergency action supersedes the commercial fishing seasons established by Fish and Game Code sections 8276 and 8282.

(d) This emergency closure constitutes a delay pursuant to state law in the opening of the season for purposes of Fish and Game Code Section 8279.1.

Note: Authority cited: Section 7715, Fish and Game Code. Reference: Sections 7715, 8276, 8279.1 and 8282, Fish and Game Code.