

Revised Proposed Regulatory Language

The changes to proposed amendments to section 29.80 are indicated by ~~double strikethrough~~ for deletions and double underline for additions.

Section 29.80, Title 14 CCR, is amended to read:

§29.80. Gear Restrictions for Recreational Take of Saltwater Crustaceans.

(a) General Provisions.

- (1) Saltwater crustaceans may be taken by hand.
- (2) Nets, traps or other appliances may not be used except as provided in this Section.

(3) Tampering Prohibition

(A) It is unlawful to disturb, move, or damage any trap; or remove any saltwater crustacean from a trap, that belongs to another person without written permission including permission transmitted electronically, in possession from the operator of the trap. Any person with written permission from the operator of a crab trap will be in compliance with subsection (c)(3)(A)1. if the written permission contains the operator's GO ID number that matches the GO ID number on the buoy of the crab trap being fished.

(B) Notwithstanding subsection (b)(5)(B), it is unlawful to disturb, move or damage any hoop net that belongs to another person. When on a vessel, hoop nets may be used by another person as long as the owner or operator of that hoop net is present, and if at least one person's GO ID number matches the GO ID number on the main buoy of the hoop net being fished. This subsection does not allow any person or any vessel to exceed the hoop net limits described in subsection (b)(4).

(4) It is unlawful to mark lines or use colored lines that are required in any other state or federal fishery operating in the U.S. West Coast Economic Exclusive Zone or in state waters of California, Oregon or Washington.

(b) Hoop nets. Hoop nets may be used to take spiny lobsters and all species of crabs.

(1) Hoop Net Defined: Only Type A and Type B hoop nets, as describe described below, are allowed for use:

(A) Type A: Fishing gear that is comprised of one to three rigid ring(s), with each ring measuring no greater than 36 inches in inside diameter nor less than 10 inches in inside diameter, which is/are connected to non-metallic soft mesh thereby forming a circular-shaped net with an enclosed bottom and with the following specifications:

1. Lift lines shall be attached only to the top ring;
2. A second and third rigid ring(s) may be connected by non-metallic soft mesh to the top ring; however, each ring must be equal in size to or smaller than the ring above it;

3. When the net is being raised, the top ring shall be above and parallel to all other rings, with the enclosed bottom portion of the non-metallic soft mesh even with or hanging below all other rings;
4. All parts of the hoop net shall collapse and lie flat when resting on the ocean floor in such a manner that the gear does not entrap or restrict the free movement of crustaceans until lifted;
5. When suspended from lift lines, the entire hoop net shall measure no taller than 36 inches; and 6. The ring material shall not be thicker than one inch in any dimension.

(B) Type B: Fishing gear that is comprised of only two rigid rings (not including the bait ring), with the bottom ring measuring no greater than 36 inches in inside diameter and the top ring measuring no less than 15 inches in inside diameter and with the following specifications:

1. The top ring shall be connected to the bottom ring and supported by no more than six rigid straight support arms, and the assembled frame shall measure no more than 10 inches tall;
2. The rings and support material shall not be thicker than one inch in any dimension;
3. All rings shall be connected by non-metallic soft mesh, thereby forming a net with an enclosed bottom;
4. Lift lines shall be attached only to the top ring;
5. When suspended from lift lines, the enclosed bottom portion of the net shall be even with or hanging below the bottom ring, and the entire net shall measure no taller than 30 inches;
6. It is unlawful to have any entrances below the top ring; and
7. A bait ring may be used if it is attached to the bottom half of the net and it is not attached to any part of the rigid frame.

(2) The owner or operator of a hoop net shall raise the hoop net to the surface and inspect the contents of the hoop net at intervals not to exceed 2 hours.

(3) It is unlawful to abandon or leave unchecked a hoop net for more than 2 hours. Any hoop net left unchecked for more than 2 hours shall be considered abandoned and may be seized by any person authorized to enforce these regulations.

(4) Limits: Except for the limit of two hoop nets when taking crabs from a public pier under subsection 28.65(b), the following limits apply when taking spiny lobster or crab.

(A) Between Point Arguello, Santa Barbara County, and the United States-Mexico border, not more than five hoop nets shall be possessed or deployed by a person, unless when two or more persons are on a vessel, in which case not more than 10 hoop nets may be possessed or deployed from such vessel.

(B) North of Point Arguello to the California-Oregon border, there is no limit on the number of hoop nets that may be possessed or deployed.

(5) Hoop Net Identification Requirements: All hoop nets shall be marked with a surface buoy, except for those hoop nets deployed by persons on shore or manmade structures connected to the shore. North of Point Arguello to the California-Oregon border, hoop nets must have at least one main surface buoy that is no more than 6 inches in diameter and no more than 14 inches in length and may have one additional marker buoy that is ~~yellow~~ orange, that is no more than 6 inches in diameter and no more than 14 inches in length, and is attached no more than ~~3~~ 12 feet from the main buoy. This orange marker buoy shall be marked on at least two (2) opposing sides with the following uppercase identification letter: H. This letter shall be at least two (2) inches in height and drawn with a line no less than 1/4 (0.25) inch thick in a contrasting color. If the line between the main buoy and the marker buoy exceeds 6 feet, the line shall be marked at the terminal end with one 24 to 26-inch solid orange color mark adjacent to one 24 to 26-inch solid purple mark with no unmarked line in between the two colors.

(A) The main surface buoy of hoop nets deployed from commercial passenger fishing vessels shall be legibly marked to identify the commercial boat registration number of the vessel.

(B) The main surface buoy of hoop nets provided by a licensed guide to clients for use on guided trips shall be legibly marked to identify the guide license number of the accompanying guide.

(C) In all other cases, the main surface buoy of any deployed hoop net shall be legibly marked with the operator's GO ID number, or the GO ID number of at least one operator if there are multiple operators.

(6) Hoop nets shall not be deployed and used in ocean waters south of Point Arguello, Santa Barbara County, during the 24-hour period prior to the opening of the recreational spiny lobster season.

(c) Crab traps:

(1) Crab traps shall have at least two rigid circular openings of not less than four and one-quarter inches inside diameter so constructed that the lowest portion of each opening is no lower than five inches from the top of the trap.

(2) Crab traps shall contain at least one destruct device of a single strand of untreated cotton twine size No. 120 or less that creates an unobstructed escape opening in the top or upper half of the trap of at least five inches in diameter when the destruct attachment material corrodes or fails.

(3) Trap Gear Identification: Every crab trap shall be marked with only a main buoy and a marker buoy, except as noted under subsection 29.80(c)(3)(C) below.

(A) A main buoy is a surface buoy that is at least 5 inches in diameter and 11 inches in length.

1. The main buoy for traps deployed by an individual shall be legibly

marked with the operator's assigned GO ID number.

2. The main buoy for traps deployed from a commercial passenger fishing vessel shall be legibly marked to identify the commercial boat registration number of that vessel.

(B) A marker buoy is a red buoy 3 inches in diameter and 5 inches in length attached no more than 3 feet from the main buoy.

(C) In addition to marking the buoy pursuant to subsection (c)(3)(A)2., traps deployed by commercial passenger fishing vessels shall be legibly marked to identify the commercial boat registration number of the vessel.

(4) Crab traps shall not be deployed and used in ocean waters seven days prior to the opening of the Dungeness crab season.

(5) Every crab trap shall be raised, cleaned, and emptied (serviced) at intervals not to exceed 9 days, weather conditions at sea permitting, and no crab trap shall be abandoned in the waters of this state.

(6) Trap Limits:

(A) An individual shall not operate more than 10 deployed traps, except an individual may service up to 10 additional traps if the individual has in possession written permission from the operator(s) of the additional traps whose gear are identified in accordance with subsection (c)(3)(A)1.

(B) A commercial passenger fishing vessel shall not deploy more than 60 traps per vessel.

(7) Starting at least 5 days in advance of the opening of the recreational Dungeness crab fishing season pursuant to Section 29.85, the director shall, on at least a monthly basis until the season opens statewide and March 1 through June 15, evaluate and respond to risk of humpback whales, blue whales, and/or Pacific leatherback sea turtle entanglement with recreational crab fishing gear as follows:

(A) The director shall evaluate entanglement risk based on marine life concentrations as defined in subsection 132.8(a)(408), Title 14, CCR, and confirmed entanglements in California Dungeness crab gear as defined in subsection 132.8(a)(4). This evaluation will be consistent with the acceptable data and numerical triggers outlined in subsections 132.8(c)(1)-(2).

1. ~~If data are available, and marine life concentrations meet the numerical triggers for any species as specified in subsection 132.8(c)(2)(A)4. (in the fall) or 132.8(c)(2)(B) (in the spring), the director shall take action pursuant to subsection 29.80(c)(7)(B) below.~~ the director shall take action pursuant to subsection 29.80(c)(7)(B) when either of the following conditions are met:

a. Marine life concentrations meet the numerical triggers for any species as specified in subsection 132.8(c)(2)(A)4. or 132.8(c)(2)(B); or

b. Confirmed entanglements in California Dungeness crab gear meets the numerical triggers for any species as specified in subsection 132.8(c)(1).

2. If data are unavailable prior to the recreational Dungeness crab season opener, the director shall take action pursuant to subsection 29.80(c)(7)(B) below until data are available, at which point subsection 29.80(c)(7)(A)1. shall apply.

(B) If required under subsection 29.80(c)(7)(A) above, the director after consulting with the president of the commission or the president's designee, shall implement one or more of the following recreational management actions that the director demonstrates protects humpback whales, blue whales, and/or Pacific leatherback sea turtles based on best available science. Recreational management action shall be determined based on consideration of information outlined in subsection 132.8(d):

1. Advisory notice to recreational crab fishers to employ voluntary efforts and/or measures to reduce the risk of entanglements (e.g., best fishing practices).

2. Recreational Dungeness crab season delay and continuation of the crab trap prohibition specified in subsection 29.80(c)(4), whereby the director shall prohibit the deployment and use of recreational crab traps until new data indicates the numerical triggers for any species as specified in ~~subsection~~ subsections 132.8(c)(1) or 132.8(c)(2)(A)4. ~~(in the fall)~~ are no longer met, at which point the director shall lift or modify the Dungeness crab season delay as appropriate.

3. Season closure, whereby the director shall prohibit the deployment and use of recreational crab traps until new data indicates the numerical triggers for any species as specified in ~~subsection~~ subsections 132.8(c)(1) or 132.8(c)(2)(B) ~~(in the spring)~~ are no longer met, or the normal end of the Dungeness crab season specified in subsection 29.85(b)(2), at which point the director shall lift or modify the closure as appropriate.

4. Depth Constraint: The Director may use a depth constraint for crab traps during the Dungeness crab season where Dungeness crab may not be taken or possessed in waters within a specific depth range. "Depth" is defined by approximating a particular depth contour by connecting the appropriate set of waypoints adopted in Federal regulations and published in Title 50, Code of Federal Regulations Part 660, Section 660.71 (Revised March 1, 2023), 660.72 (Revised December 1, 2023), and 660.73 (Revised December 1, 2023), incorporated by reference herein.

(C) Recreational management action may be implemented statewide or by fishing zone(s) (as defined in subsections 132.8(a)(7)(A)-(G)), if the director demonstrates less-than-statewide action protects humpback whales, blue whales, and/or Pacific leatherback sea turtles based on best available science.

(D) Notice of a delay, ~~or closure,~~ or other management action pursuant to subsection 29.80(c)(7)(B)2., ~~or 3., or 4.~~ shall be transmitted via a director's declaration. The declaration will describe the following:

1. Data supporting the entanglement risk evaluation pursuant to subsection 29.80(c)(7)(A).
2. Relevant information informing management considerations from subsection 132.8(d).
3. Rationale for nexus between management considerations in subsection 132.8(d) and chosen recreational management action under subsection 29.80(c)(7)(B).
4. Duration of management action.

(E) The director's declaration pursuant to subsection 29.80(c)(7)(D) shall provide a minimum of 5 days' notice before the delay or closure becomes effective.

(F) The director's declaration and/or any advisory notice shall be communicated via the department's "Whale Safe Fisheries" webpage located at <https://wildlife.ca.gov/Conservation/Marine/Whale-Safe-Fisheries>. At its discretion, the department may communicate declarations and/or advisory notices via additional formats.

(G) After the director implements a management action pursuant to subsection 29.80(c)(7)(B), he or she shall notify the commission and request that the commission schedule a public discussion of the management action at its next regularly-scheduled commission meeting.

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[No changes to subsections (d)-(j)]

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NOTE: Authority cited: Sections 200, 205, 399, 7075 and 7078, Fish and Game Code.
Reference: Sections 200, 205, 270, 275, 7050, 7055 and 7056, Fish and Game Code.