

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

Amend Section 29.80
Title 14, California Code of Regulations
Re: Gear Restrictions

I. Date of Initial Statement of Reasons: April 11, 2011

II. Dates and Locations of Scheduled Hearings:

- | | | | |
|-----|---------------------|-----------|----------------|
| (a) | Notice Hearing: | Date: | May 5, 2011 |
| | | Location: | Ontario |
| (b) | Discussion Hearing: | Date: | June 30, 2011 |
| | | Location: | Stockton |
| (c) | Adoption Hearing: | Date: | August 4, 2011 |
| | | Location: | Sacramento |

III. Description of Regulatory Action:

- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

In 2010, Title 14, CCR Section 29.80 was changed. One of the reasons for the regulation change was the need for a legal definition for a hoopnet. The adopted regulation definition included two types of hoopnets to include the traditional style hoopnet as well as a new style hoopnet on the market. The new style was more rigid with the top ring of the hoopnet sitting above the bottom ring supported by solid arms. The regulation approved by the Office of Administrative Law specified that no more than four arms could be used to support the upper ring. After the regulation was approved by OAL, the public started calling and complaining about the hoopnet definition and said that there are two current manufactured hoopnets that specifically have five and six rigid arms that support the top ring of the hoopnet.

Further research confirmed there are currently at least three types of hoopnets commercially manufactured that have support arms which support the top ring of the hoopnet. The number of arms used to support the top ring of the hoopnets varies from four to six. These hoopnets are

manufactured by Promar and Danielson companies. According to a representative from one of the companies, the added rigid arms make the hoopnet a more sturdy design and therefore the hoopnet will hold up better in detrimental conditions. The added support arms do not assist in making the hoopnet any more efficient in taking crab or lobster.

Changing the wording in the hoopnet definition to allow the Type B hoopnet to have up to six support arms, will allow the existing manufactured hoopnets on the market to be used by the public without increasing the take efficiency of the currently described hoopnet.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 202, 205, 215 and 220 Fish and Game Code.

Reference: Section 202, 205, 206, 215 and 220 Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None

- (d) Identification of Reports or Documents Supporting Regulation Change:

None

- (e) Public Discussions of Proposed Regulations Prior to Notice Publication:

Two public meetings were conducted by the Law Enforcement Division in San Diego and Newport Beach in September 2009, to gather public input on hoop net design and appropriate regulations. Hoopnet design was also discussed during public testimony at the April 7, 2011 Commission meeting in Natomas.

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

Allow lobsters to be taken with traps. This alternative would increase the take of lobsters and have the possibility of affecting the lobster population. It would also increase the efficiency of harvesting lobster which would likely increase the illegal take of sport lobster and their commercialization.

(b) No Change Alternative:

The no change alternative would make a currently used hoopnet illegal and create confusion and animosity from the public.

(c) Consideration of Alternatives:

In view of the information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed, or would be as effective as and less burdensome to affected private persons than the proposed regulation

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. 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 initial 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 business, including the ability of California businesses to compete with businesses in other states. By changing the support arms from 4 to 6 these regulations will actually make available additional hoop nets that are already produced, but currently not legal to use.

(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:

None

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

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None

(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:

None

(h) Effect on Housing Costs:

None

Informative Digest/Policy Statement Overview

In 2010 this section was changed so there could be a legal definition for a hoopnet. The definition included two types of hoopnets to include the traditional style hoopnet as well as a new style hoopnet on the market that was more rigid where the top ring of the hoopnet sat above the bottom ring supported by solid arms. The regulation specified that no more than four arms could be used to support the upper ring. After the regulation was approved by the Office of Administrative Law, the public started calling and complaining about the hoopnet definition and said that there are two current manufactured hoopnets that specifically have five and six rigid arms that support the top ring of the net.

Further research confirmed there are currently at least three types of hoopnets commercially manufactured that have support arms which support the top ring of the hoopnet. The number of arms used to support the top ring of the hoopnets vary from four to six. These hoopnets are manufactured by Promar and Danielson companies. According to a representative from one of the companies, the added rigid arms make the hoopnet more of a sturdy design and therefore the hoopnet will hold up better in detrimental conditions. The added support arms do not assist in making the hoopnet any more efficient in taking crab or lobster.

Changing the wording in the hoopnet definition to allow the Type B hoopnet to have up to six support arms, will allow the existing manufactured hoopnets on the market to be used by the public without increasing the take efficiency of the currently described hoopnet.

Regulatory Language

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

§29.80. Gear Restrictions.

(a) General Provisions.

(1) Saltwater crustaceans may be taken by hand.

(2) Nets, traps or other appliances may be not used except as provided in this Section.

(3) 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 in possession from the owner of the trap.

(b) Hoop nets may be used to take spiny lobsters and all species of crabs. Between Point Arguello, Santa Barbara County, and the United States-Mexico border, not more than five hoop nets, as defined in (b)(1)(A) or (b)(1)(B), shall be possessed by a person when taking spiny lobster or crab, not to exceed a total of 10 hoop nets possessed when taking spiny lobster or crab, per vessel. The owner of the hoop net or person who placed the hoop net into the water shall raise the hoop net to the surface and inspect the contents of the hoop net at intervals not to exceed 2 hours.

(1) Hoop Net Defined: There are two types of hoop nets allowed for use. They shall be defined as:

(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 soft mesh thereby forming a circular-shaped net with an enclosed bottom. Lift lines shall be attached only to the top ring. A second and third rigid ring(s) may be connected by soft mesh to the top ring; however, each ring must be equal in size to or smaller than the ring above it. 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 soft mesh even with or hanging below all other rings. 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. When suspended from lift lines, the entire hoop net shall measure no taller than 36 inches. The ring material shall not be thicker than one inch in any dimension.

(B) Type B: Fishing gear that is comprised of two to three rigid rings (not including the bait ring), with each ring measuring no greater than 36 inches in inside diameter and the top ring measuring no less than 15 inches in inside diameter. The upper ring or rings shall be connected to the bottom ring and supported by no more than ~~four~~ six rigid support arms, and the assembled frame shall measure no more than 10 inches tall. The rings and support material shall not be thicker than one inch in any dimension. All rings shall be connected by soft mesh, thereby forming a net with an enclosed bottom, and lift lines shall be attached only to the top ring. When suspended from lift lines the enclosed bottom portion of the net shall be even with or hanging below all other rings, and the

entire net shall measure no taller than 30 inches. A bait ring may be attached to the net as long as the ring is not part of the rigid frame.

(2) Any hoop net abandoned or left unchecked for more than 2 hours shall be considered abandoned and seized by any person authorized to enforce these regulations.

(c) 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.

(d) Crab loop traps may have up to six loops.

(e) Crab trap areas: Crab traps, including crab loop traps, may be used north of Point Arguello to take all species of crabs (see regulations for take of Dungeness crabs in traps from commercial passenger fishing vessels in Section 29.85, Title 14, CCR).

(f) Shrimp and prawn traps may be used to take shrimp and prawns only. Trap openings may not exceed 1/2 inch in any dimension on traps used south of Point Conception nor five inches in any dimension on traps used north of Point Conception.

(g) Diving for crustaceans: In all ocean waters, except as provided in Section 29.05, skin and SCUBA divers may take crustaceans by the use of the hands only. Divers may not possess any hooked device while diving or attempting to dive.

(h) Hand operated appliances: Spades, shovels, hoes, rakes or other appliances operated by hand may be used to take sand crabs and shrimp.

(i) Dip nets and Hawaiian type throw nets: Shrimp may be taken with dip nets and Hawaiian type throw nets north of Point Conception.

(j) Shrimp trawls: Shrimp beam trawls may be used to take shrimp only in San Francisco Bay waters east of the Golden Gate Bridge, and in San Pablo Bay. The beam trawl frame from which the net is hung may not exceed 24 inches by 18 inches. The trawl may be towed by motorized vessels but may not be retrieved by mechanical devices. Any fish, other than shrimp, caught in the trawl must be returned immediately to the water.

Note: Authority cited: Sections 200, 202, 205, 215 and 220, Fish and Game Code.

Reference: Sections 200, 202, 205, 206, 215 and 220, Fish and Game Code.