May 18, 2009

Sarah E. Morison
NOAA Marine Debris Program Coordinator
National Ocean Service
SSMC 4/Station 10400
1305 East-West Highway
Silver Spring, MD 20910

Re: Revised DFG Laws and Regulations for Selected Fisheries (MASGP 09-008-04)

This product was prepared by the National Sea Grant Law Center under award number NA060AR4170078 from the National Oceanic and Atmospheric Administration, U.S. Department of Commerce. The statements, findings, conclusions, and recommendations are those of the authors and do not necessarily reflect the views of NOAA or the U.S. Department of Commerce.

Dear Sarah,

Please find attached the revised compilation of statutory and regulatory derelict fishing gear provisions for selected fisheries identified in your January 2009 Advisory Request and April 28, 2009 revised request. The attached information is intended as advisory research only and does not constitute legal representation of the NOAA Marine Debris Program or its constituents. It represents our interpretations of the relevant laws and regulations.

The NOAA Marine Debris Program asked the Law Center to compile information on the Dungeness crab fishery in the Puget Sound; the Chesapeake blue crab fishery in Maryland and Virginia; the blue crab fishery in the five Gulf of Mexico states; pot/trap fisheries in Florida; hagfish traps in California; the Dungeness and King crab pot fisheries in Alaska, and the blue crab pot fishery in North Carolina. The attached report contains information on those fisheries, as well as the Dungeness crab fishery in Oregon and California and the Tanner crab fishery in Alaska.

This report was prepared using traditional legal research methods. For each fishery, state codes and regulations were searched using Westlaw, an online legal database, for definitions of fishing gear used; definitions of derelict fishing gear; restrictions on handling gear; requirements for escape mechanisms; closed areas and periods; and provisions providing for the removal of derelict fishing gear. State agency websites were then consulted to verify results and provide additional information on derelict fishing gear removal programs.
In this revised version of the memo, I have also tried to clarify whether the regulations are for the commercial fishery, recreational fishery, or both. If a particular fishery is not referenced, the regulations apply to both. This is most likely to occur with respect to escape mechanism requirements, which generally apply equally to both commercial and recreational gear.

I hope you find this information helpful. If you would like additional information on these or other fisheries, please let me know.

Sincerely,

Stephanie Showalter
Director, National Sea Grant Law Center
TABLE OF CONTENTS

I. WEST COAST DUNGENESS CRAB FISHERY ................................................................. 1
   A. WASHINGTON ........................................................................................................ 1
   B. OREGON ................................................................................................................ 5
   C. CALIFORNIA ......................................................................................................... 8

II. ALASKA CRAB FISHERIES ..................................................................................... 11

III. CHESAPEAKE BAY BLUE CRAB FISHERY ......................................................... 29
    A. MARYLAND .......................................................................................................... 29
    B. VIRGINIA ............................................................................................................ 34

IV. NORTH CAROLINA BLUE CRAB FISHERY ......................................................... 36

V. GULF OF MEXICO BLUE CRAB FISHERY ............................................................ 41
    A. FLORIDA ............................................................................................................ 41
    B. ALABAMA .......................................................................................................... 47
    C. MISSISSIPPI ....................................................................................................... 49
    D. LOUISIANA ......................................................................................................... 52
    F. TEXAS ................................................................................................................ 55

VI. FLORIDA POT FISHERIES .................................................................................... 58

VII. CALIFORNIA HAGFISH FISHERY ......................................................................... 69

I. WEST COAST DUNGENESS CRAB FISHERY

A. WASHINGTON

Definition of Fishing Gear Used

Ring Nets: “All fishing gear having a rigid frame measuring no more than ten feet in diameter that is used to take shellfish in a live condition. The sides and all other parts of the gear must lie flat on the bottom in such a manner that the gear does not entrap or restrict the free movement of shellfish until lifted.” (WASH. ADMIN. CODE § 220-16-085).

Shellfish Pot: “a movable trap with one or more entrance tunnels used to entrap shellfish in a live condition.” (Id. § 220-16-100).

Definition of Derelict Fishing Gear

Under Washington law “derelict fishing gear” includes lost or abandoned fishing nets, fishing lines, crab pots, and other commercial and recreational fishing equipment. DFG does not consider lost or abandoned vessels derelict fishing gear. (WASH. REV. CODE § 77.12.865(1)).
• Shellfish pots become derelict fishing gear when either the surface floats are lost due to wear and tear or the pots become so entangled and muddied in on the seabed and are lost. (Washington Department of Fish and Wildlife, Derelict Fishing Gear Removal Guidelines, 7 (Nov. 2002), available at http://wdfw.wa.gov/fish/derelict/derelict_fishing_gear Removal_guidelines.pdf).

Restrictions on Handling Gear

Washington law prohibits anyone from removing, damaging, or otherwise tampering with crab buoy or pot tags except when lawfully applying or removing tags on the person’s own buoys and pots. (WASH. ADMIN. CODE § 220-52-040(9)).

• The WDFW has set up a 1-800 hotline for reporting purposes if gear is lost. If the gear is subsequently recovered, the owner will be contacted. (http://wdfw.wa.gov/fish/derelict).

The removal of derelict fishing gear does not require a permit if the gear is removed according to the WDFW Derelict Fishing Gear Removal Guidelines (WASH. REV. STAT. § 77.55.041).

• To reduce conflicts with legally fished pots, derelict pot or trap removal operations cannot be conducted in an area where active commercial pot fishing is ongoing. (DFG Removal Guidelines at 20).

Requirements for Escape Mechanisms

It is unlawful to operate any shellfish pot gear in the commercial Dungeness crab fishery unless it meets the following requirements:

• Pot gear must have at least two escape rings or ports not less than 4-1/4 inches inside diameter.

• Escape rings or ports must be located in the upper half of the trap. (WASH. ADMIN. CODE § 220-52-043(2)).

It is unlawful to fish for or possess crab, shrimp, or crawfish taken for commercial purposes with shellfish pot gear unless the gear allows for escapement using at least one of the following methods:

• Attachment of pot lid hooks or tiedown straps with a single strand or loop of untreated cotton twine or other natural fiber no larger than thread size 120 so that the pot lid will open freely if the twine or fiber is broken.

• An opening in the pot mesh no less than three inches by five inches which is laced or sewn closed with untreated cotton twine or other natural fiber no larger than thread size 120. The opening must be located within the top half of the pot and be unimpeded by the entry tunnels, bait boxes, or any other structures or materials. (Id. § 220-52-035(1)-(2)).

Requirements for Marking Gear
In the state of Washington it is illegal to place in the water, pull from the water, possess in the water, or transport on the water crab pots or buoys without the proper identification tags. (Id. § 220-52-040(7)(a)).

- Each shellfish pot used for commercial purposes in the coastal Dungeness crab fishery must bear a tag that identifies either the name of the vessel being used to operate the pot or the Dungeness crab fishery license number of the owner of the pot, and the telephone number of a contact person. (Id. § 220-52-040(7)(b)).

- In Puget Sound, all crab pots used for commercial purposes must have a durable, non-biodegradable tag securely attached to the pot and marked with the license owner’s name, or license number, and telephone number. If the tag information is illegible, or if the tag is lost for any reason, the pot is not in compliance with law. (Id. § 220-52-040(7)(c)).

**Closed Areas/Periods for the Fishery**

All Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas are open for commercial crab fishing beginning 8:00 a.m. October 1st through the following April 15th and, after 8:00 a.m. October 1st, from one-half hour before sunrise to one-half hour after sunset. (Id. § 220-52-046(1)).

Coastal, Pacific Ocean, Grays Harbor, Willapa Bay and Columbia River waters are open to commercial crab fishing December 1 through September 15 except that it is lawful to set baited crab gear beginning at 8:00 a.m. November 28. However, the Washington Department of Fish and Wildlife (WDFW) may delay opening of the coastal crab fishery due to soft-shell crab conditions, in which case the following provisions will apply:

- It is unlawful to fish for or possess Dungeness crabs or to set crab gear in waters of the Pacific Ocean adjacent to the states of Oregon or California without the licenses or permits required to commercially fish for Dungeness crab within the state waters of Oregon or California. Washington coastal Dungeness crab permits are valid only in Washington state waters, the Columbia River, Willapa Bay, Grays Harbor, and the Pacific Ocean in federal waters north of the Washington/Oregon border (46°15'00"N. Lat.), extending 200 nautical miles westward. (Id. § 220-52-046(6)(d)).

**Provisions Allowing Removal DFG**

In 2002, the Washington legislature adopted Senate Bill 6316 for the purpose of developing safe, effective methods to remove derelict fishing gear, eliminating regulatory barriers to gear removal (i.e., no-fault reporting, no required permits), and discouraging future losses of fishing gear. (Id. § 77.12.865).

- The WDFW, in conjunction with the Northwest Straits Commission and other interested parties, was required to develop guidelines for the safe removal and disposal of DFG. (Id. § 77.12.865(2)).
  - As long as gear removal is conducted in accordance with the guidelines, the removing party is not subject to additional permits by the WDFW.
The Derelict Fishing Gear Removal Guidelines (DFGRG) promulgated pursuant to WASH. REV. CODE § 77.12.865(2) establish the procedures for the removal of lost or abandoned fishing gear.

- No permit is required for DFG removal, but permits from private landowners or Tribe, state, or county parks may need to be obtained depending on where the removal activities will occur.

- A removal plan must be submitted to WDFW 30 days in advance. The WDFW’s response letter authorizing the removal must be kept onboard the vessel conducting the removal operation.

- Volunteers may remove derelict fishing gear from beaches as long as common sense safety precautions are followed.
  - Beach removal should be scheduled to coordinate with the tidal cycle at the cleanup site. No mechanical advantage equipment (vehicles, winches, come-along, etc.) should be used to dislodge or uncover derelict fishing gear during beach removal.

- Experienced, organized recreational divers with a WDFW approved derelict fishing gear removal plan may conduct recovery of derelict crab and shrimp pots in shallow water.
  - In shallow water operations, dive teams can survey for derelict pots or traps and mark those found with surface floats. The pots can then be removed with air lift-bags or hand positioned grapple. Blind grapple must be avoided.
  - Derelict pot or trap removal operations cannot be conducted in areas where active commercial pot fisheries are ongoing.
  - The following conditions apply to DFG projects:
    - The project must be done in accordance with a WDFW approved derelict fishing gear removal plan, the project must include appropriate supervision of the team involved, and the operation must have a safety plan for the team.
    - The Guidelines encourage divers to reconnoiter for derelict pots or traps using SCUBA, ROV, sonar or other survey methods prior to undertaking actual removal operations.

- Only professional divers in compliance with OSHA/WISHA safety standards should attempt the recovery of derelict fishing nets, lines and aquaculture net pen materials in the water.

- If the pot can be identified, the owner must be contacted in accordance with federal admiralty law and Washington State Abandoned Property Law.
  - All derelict fishing gear removal plans must address compliance with these regulations during the removal operation.
• Derelict fishing gear must be disposed of properly, or preferably recycled, after removal from the marine environment.

• A post-recovery report is due to the DFWF within 60 days of completion of the operation or every six months if the project is of long duration. The report should include the following data:
  
  o Participation (organizations and individuals)
  o What organization conducted the removal operation
  o List of participants
  o Sponsoring organization
  o Disposal entity
  o Cost of removal and disposal (as much detail as possible)
  o Date and Time
  o Location
  o Nature of DFG removed
  o Removal methods employed
  o Environmental consequences
  o Type, volume and condition of any derelict fishing gear that was not removed
  o Disposal method

B. OREGON

Definition of Fishing Gear Used

Pot or Trap: A portable, enclosed device with one or more gates or entrances and one or more lines attached to surface floats. (ORE. ADMIN. R. 635-004-0020(7)(p)).

Crab Ring: Any fishing device that allows crab unrestricted entry or exit while fishing. (Id. 635-005-0055(1)).

Although there is no statutory or regulatory definition of crab pot, there is a minimum size. Pots used in the commercial Dungeness crab fishery must be greater than thirteen cubic feet in volume, calculated using external dimensions. (Id. 635-005-0055(3)).

• Fishermen may not attach one crab pot to another crab pot or ring net by a common groundline or any other means that connects crab pots together. (Id. 635-005-0055(10)).

Definition of Derelict Fishing Gear

Oregon does not have a definition of derelict fishing gear or abandoned pots, but the state does have a few provisions requiring the removal of gear. Pot gear which is fixed or anchored to the bottom or drifting unattached to the vessel must not be left unattended for more than seven days. (Id. 632-004-0035(3)(a)).

Commercial fishermen may not place, operate, or leave Dungeness crab rings or pots in the Pacific Ocean and Columbia River or in any bay or estuary during the closed season. (Id. 635-
• In the Pacific Ocean and Columbia River only, rings or pots may be placed no more than 64 hours immediately prior to the date the season opens.

• Unbaited crab rings or pots with open release mechanisms may be left in the Pacific Ocean (not including the Columbia River) for a period not to exceed 14 days following the closure of the season.

• Fishermen may not have Dungeness crab gear deployed in the Pacific Ocean or Columbia River more than 14 days without making a landing of Dungeness crab. (Id. 635-005-0055(6)).

Restricted on Handling Gear

It is unlawful to possess on a vessel, use, control, or operate any crab pot for commercial purposes which does not have a pot tag identifying the pot as that vessel’s, a surface buoy bearing the Oregon Department of Fish and Wildlife (ODFW) buoy brand registered to that vessel and a ODFW buoy tag issued to that vessel, except:

• To set gear as allowed under Oregon regulations or

• Under a waiver granted by the ODFW to allow one time retrieval of permitted crab gear to shore by another crab permitted vessel. (Id. 635-005-0055(9)).

It is unlawful to remove, damage, or otherwise tamper with crab buoy or pot tags except when lawfully applying or removing tags. (Id. 635-005-0055(8)).

Requirements for Escape Mechanisms

Dungeness crab pots used in the commercial shellfish fishery must include a minimum of two circular escape ports of at least 4-1/4 inches inside diameter located on the top or side of the pot (Id. 635-005-0055(3)).

• If escape ports are placed on the side of the pot, they must be located in the upper half of the pot.

Commercial Dungeness crab pots must also have release mechanisms (Id. 635-005-0055(4)). Acceptable release mechanisms are:

• Iron lid strap hooks constructed of iron or “mild” steel rod (not stainless steel) not to exceed 1/4-inch (6 mm) in diameter;

• A single loop of untreated cotton or other natural fiber twine, or other twine approved by the ODFW not heavier than 120 thread size between pot lid tiedown hooks and the tiedown straps; or

• Any modification of the wire mesh on the top or side of the pot, secured with a single strand of 120 thread size untreated cotton, natural fiber, or other twine approved by the ODFW
which, when removed, will create an opening of at least five inches in diameter.

Commercial pot gear used for hagfish must be equipped with “a biodegradable escape exit of at least three inches in diameter constructed with 120 thread size or smaller, untreated cotton twine or mild steel not to exceed 1/4-inch (six mm) in diameter” or other materials approved by ODFW. (Id. 635-004-0035(3)(e)).

Commercial pot gear used for other fisheries shall have biodegradable escape panels constructed with #21 or smaller, untreated cotton twine in such manner that an opening at least eight inches in diameter will result when the twine deteriorates (ld. 635-004-0035(3)(d)).

Requirements for Marking Gear

Pot gear used in the commercial shellfish fishery must be marked at each terminal surface end with a pole, flag, light, radar reflector, and a buoy showing clear identification of the owner or operator. (Id. 635-004-0035(3)(b)).

- A buoy used to mark fixed gear must be marked with a number clearly identifying the owner or operator of the vessel. That number may be either the vessel’s number, the commercial fishing license number, buoy brand number, vessel documentation number issued by the U.S. Coast. Guard, or vessel registration number issued by the state. (Id. 635-004-0035(4)).

Each crab ring or crab pot used for the taking of crabs for commercial purposes must have attached to it a tag identifying the owner or the vessel from which the rings or pots are operated. (ORE. REV. STAT. § 509.415(3)).

Commercial Dungeness crab pots used in the Columbia River or Pacific Ocean must be individually marked with a surface buoy bearing the brand of the owner and the ODFW buoy tag. (ORE. ADMIN. R. 635-005-0055(7)).

Closed Areas/Periods for the Fishery

The commercial season for Dungeness crab is December 1 through August 14. (ORE. REV. STAT. § 508.931(2)(a)).

- It is unlawful to take, land, or possess Dungeness crab for commercial purposes from the Pacific Ocean or the Columbia River from August 15 through November 30. (ORE. ADMIN. R. 635-005-0045(1)).

- The ODFW Director may issue administrative rules delaying the season openings in certain situations.

Fishermen may not take Dungeness crab for commercial purposes from any bay or estuary from January 1 through Labor Day; during December, if the adjacent ocean area has been closed by administrative rule; from midnight Friday through midnight Sunday of any week; and on all legal state and federal holidays. (Id. 635-005-0049).
• It is unlawful to take Dungeness crabs for commercial purposes by crab pots from any bay or estuary except the Columbia River. (Id. 635-005-0055(11)).

Oregon Dungeness crab permits are valid only in Oregon state waters and the Pacific Ocean in federal waters south of an east-west line extending westward at 46° 15' 00" N. Latitude (Oregon/Washington border) and north of an east-west line at 42° 00' 00" N. Latitude (Oregon/California border). (Id. 635-005-0042).

**Provisions Allowing for Removal of DFG**

Oregon does not have a formal regulatory program for the removal of derelict fishing gear. However, the ODFW does have the authority to adopt temporary rules to facilitate voluntary derelict gear removal activities. In 2007, for example, the DFW waived the regulation prohibiting possession of gear on a vessel unless it has that vessel’s buoy tags and markings for a two-month period from September 1 through October 31, 2007. (Press Release, Oregon Department of Fish and Wildlife, *Retrieving Ocean Commercial Dungeness Crab Gear* (Aug. 31, 2007)). The temporary rule allowed commercial vessels to retrieve gear and make it available for pickup by the owner.

C. **CALIFORNIA**

**Definition of Fishing Gear**

**Dungeness Crab Trap:** A Dungeness crab trap may have any number of openings of any size. However, every Dungeness crab trap shall have at least two rigid circular openings of not less than 4 1/4 inches, inside diameter, on the top or side of the trap. If both of the openings are located on the side of the trap, at least one of the openings shall be located so that at least one-half of the opening is in the upper half of the trap. (CAL. FISH & GAME CODE § 9011(a)(2)).

• Crab loop traps may have up to six loops. (CAL. CODE REGS. tit. 14, § 29.80(d)).

**Definition of Derelict Fishing Gear**

California does not have a definition of derelict fish gear, but § 9004 of the Cal. Fish & Game Code prohibits the abandonment of traps in state waters.

In addition, any trap that is used without a buoy, or with a buoy that is improperly marked, is considered a public nuisance which may be removed by any person authorized to enforce the California Fish and Game Code. (CAL. FISH & GAME CODE § 9007).

**Restrictions on Handling Gear**

It is unlawful in California to willfully or recklessly disturb, move, or damage any trap that belongs to another person and that is marked with a buoy identification number. (Id. § 9002).

• A person pulling or raising a trap marked with a buoy identification number other than his own must have written permission in his or her possession from the person who holds the identification number.
• This prohibition does not apply to employees of the California Department of Fish and Game (DFG) when engaged in the performance of their official duties.

Requirements for Escape Mechanisms

California requires all commercial traps to have at least one “destruction device” meeting specifications approved by the DFG. “In order to minimize the adverse effects on living marine resources, the specifications for destruction devices shall provide for a device that destructs rapidly enough to facilitate escape of a substantial proportion of all species confined in the trap from any trap that cannot be raised.” (Id. § 9003).

• Each destruction device “shall create an unobstructed escape opening in the top or upper half of the trap of at least 5 inches in diameter when the destruct attachment material corrodes or fails.” (CAL. CODE REGS. tit. 14, § 180.2(a)(1)).

• The escape opening on each trap must be closed with one of the following destruct attachment materials:
  - 14 gauge (.080 + or -.003 inch) or smaller metal hog rings excluding stainless steel or other non-corrodible materials;
  - Untreated cotton twine size No. 21-thread or less, except that traps used to take Dungeness, Tanner or rock crabs are limited to a single strand of untreated cotton twine size No. 120 or less;
  - 24 gauge (.028 + or -.003 inch) or smaller uncoated bare metal crimps excluding stainless steel or other non-corrodible materials;
  - Magnesium pins not larger than one-quarter (.25) inch in diameter which may be used to hold together each half of plastic or fiberglass traps or may be used to attach the lid or door; or
  - The use of rubber straps attached to metal or plastic hooks with a single loop of untreated cotton twine size No. 120 or less may be used to close the trap provided they are attached in such a manner as to aid the destruct process. The use of any rubber strap or non-corrosive material that defeats or interferes with the purpose of the destruct panel is prohibited. (Id. § 180.2(b)).

Traps used to take Dungeness crabs for commercial purposes, which are constructed of wire mesh, may have not more than a single wire mesh (described as a “V”) that protrudes into the destruct device opening provided that mesh extends into the opening a distance of not more than 2 1/2 inches, as measured from the perimeter of the opening along either edge of the protruding wire mesh, to serve as an anchor for the destruct attachment material. (Id. § 180.2(c)).

• On Dungeness crab traps constructed of wire mesh, the panel containing the destruct device and the wire mesh acting as an anchor for the destruct material must be constructed of a single wire no greater than .050 inches in diameter.

Requirements for Marking Gear

Every trap and string of traps used for commercial purposes must be marked with a buoy.
Dungeness traps must be marked with a buoy that is marked with the operator’s commercial fishing license number. (Id. § 9006).

Traps and trap buoys used by a commercial passenger fishing vessel to take Dungeness crab must have the commercial boat registration number of that vessel affixed to each trap and buoy. (CAL. CODE REGS. tit. 14, § 29.85(5)).

Any trap that is used without a buoy, or with a buoy that is improperly marked, is considered a public nuisance which may be removed by any person authorized to enforce the California Fish and Game Code. (CAL. FISH & GAME CODE § 9007).

Closed Areas

Crab traps, including crab loop traps, may be used north of Point Arguello to take all species of crabs both commercially and recreationally. (CAL. CODE REGS. tit. 14, § 29.80(e)).

Dungeness crab may not be taken from San Francisco Bay and San Pablo Bay, plus all their tidal bays, sloughs and estuaries between the Golden Gate Bridge and Carquinez Bridge. (Id. § 29.85(1)).

Dungeness crab may not be taken for commercial purposes in any district, or part of a district, lying within the portions of Crescent City Harbor between the south sand barrier and the breakwater. (Id. § 8276(c)).

In addition, California has an extensive network of marine protected areas in which most fishing is prohibited. For more information on the California MPAs and the existing MPA-specific fishing regulations, visit the California Department of Fish and Game’s Marine Life Protection Act Initiative’s website at http://www.dfg.ca.gov/mlpa/.

Closed Periods

Dungeness crab may be taken for commercial purposes

• Between December 1 and July 15 in Fish and Game Districts 6, 7, 8, and 9; and
• Between November 15 and June 30 in all other districts. (Cal. Fish & G. Code § 8276).

In Del Norte, Humbolt, and Mendocino counties, Dungeness crab may be taken for commercial purposes from the first Saturday in November through July 30. In all other counties, crab may be taken from the first Saturday in November through June 30. (Cal. Admin. Code tit. 14, § 29.85(2)).

Except in Districts 6, 7, 8, and 9, crab traps may be set and baited 18 hours in advance of the opening date of the commercial Dungeness crab season. (Id. § 8283).
In Districts 6, 7, 8, and 9, the Director of the Department of Fish and Game may specify by public announcement when crab traps can be set and baited prior to the season opening. Traps may not be used in Districts 6, 7, 8, and 9, if the trap is attached to another trap or other traps by a common line. (Id. § 9012(b)).

Provisions Allowing for Removal of DFG

California does not have a formal regulatory program for the removal of derelict fishing gear, but, as mentioned above, any trap that is used without a buoy, or with a buoy that is improperly marked, is considered a public nuisance which may be removed by any person authorized to enforce the California Fish and Game Code. (Id. § 9007).

Publicly employed safety personnel, including lifeguards, marine safety officers, harbor patrol officers, and peace officers, while engaged in the performance of their official duties, may remove traps, buoys, or lines located in or near breaking surf or adjacent to a public beach if they believe that the trap poses a public safety hazard. (Id. § 9002(d)(1)).

- Any marine life captured by the removed traps, buoys, or lines must be immediately returned to the ocean.

The person who removes a trap, buoy, or line pursuant to the above provision is required to make an attempt to contact the person whose permit or license number is marked on the buoy by phone, mail, or other means. There is no responsibility, however, to secure the trap or attachments against loss or damage. (Id. § 9002(d)(2)).

- The trap may be discarded if the person notified does not retrieve the trap within seven days or if a contact person cannot be identified within seven days after removal. (Id. § 9002(d)(4)).

II. ALASKA CRAB FISHERIES

Definition of Fishing Gear Used

Pot: A portable structure designed and constructed to capture and retain fish and shellfish alive in the water. (ALASKA ADMIN. CODE tit. 5, § 39.105(d)(11)).

Ring Net: A bag-shaped net suspended between no more than two frames. The bottom frame may not be larger in perimeter than the top frame. The gear must be non-rigid and collapsible so that when fishing it does not prohibit free movement of fish or shellfish across the top of the net. (Id. § 39.105(d)(12)).

- A Tanner crab ring net is defined as a bag-shaped net suspended between no more than two frames. The bottom frame may not be larger in perimeter than the top frame and the maximum diameter of the ring net may not exceed six feet for a round ring net. For a ring net with a frame that is not round, the area encompassed by the larger frame may not exceed 29 square feet. The ring net web must be non-rigid and collapsible, and must lay flat
so that when fishing it does not prohibit free movement of fish or shellfish across the net. *(Id. § 35.125(c)).*

**Dungeness Crab Pot:** A crab pot that must have permanent and rigid tunnel eye openings that individually do not exceed 30 inches in perimeter. *(Id. § 32.050(b)(1)).*

**King Crab Pot:** A pot that is no more than 10 feet long by 10 feet wide by 42 inches high with rigid tunnel eye openings that individually are no less than five inches (13 cm) in any one dimension with tunnel eye opening perimeters that individually are more than 36 inches (91.4 cm) or a pot that is no more than 10 feet long by 10 feet wide by 42 inches high and that tapers inward from its base to a top consisting of one horizontal opening of any size. *(Id. § 34.050(2)).*

- During the open season for king crab, all shellfish pots, other than those described as Dungeness crab, Tanner crab, or shrimp pots, must conform to these specifications.

**Tanner Crab Pot:** A pot that is no more than 10 feet long by 10 feet wide by 42 inches high with rigid tunnel eye openings that individually are less than five inches (13 cm) in one dimension with tunnel eye opening perimeters that individually are more than 36 inches (91.4 cm) or a pot that is no more than 10 feet long by 10 feet wide by 42 inches high and that tapers inward from its base to a top that consists of one horizontal opening of any size. *(Id. § 35.050(2)).*

- Tanner crab pots with tunnel eye openings on the vertical plane of the pot that are used to take Tanner crab during the closed king crab season in any area may not have tunnel eye openings more than five inches (13 cm) in height. *(Id. § 35.050(3)).*

- In the Bering Sea District, the tunnel eye openings on the vertical side of a Tanner crab pot may be no more than three inches high. *(Id. § 35.525(d)).*

Rigid, as applied to Dungeness, King, and Tanner crab pot tunnel eye openings, means that after placing 20 pounds of pressure, in any direction, anywhere around the perimeter of the tunnel eye opening, the opening is no larger than a maximum dimension allowed under the regulations. *(Id. §§ § 32.081, 34.081, and 35.081, respectively)*

**Definition of Derelict Fishing Gear**

Alaska does not have a definition for derelict fishing gear, but the state does require *commercial* crab fishermen to remove their gear from the water.

**Dungeness Crab**

During the closed season for the commercial Dungeness crab fishery, Dungeness crab pots must be removed from the water. *(ALASKA ADMIN. CODE tit. 5, § 32.052(a)).*

- In waters that are closed to fishing, a person may store his/her Dungeness crab pots in the water if all pot doors are secured fully open and all bait and bait containers are removed. *(Id. § 32.052(b)).*
• Pots may be stored in the Bering Sea for seven days following the season closure for Dungeness crab in a registration area or 72 hours following the closure of any district, portion of a district or portion of a registration area. The Alaska Department of Fish and Game (DFG) may grant vessel operators extensions due to major vessel breakdowns or extreme weather conditions.

**King Crab**

During the closed season for the commercial king crab fishery, king crab pots must be removed from the water.

• Rectangular king crab pots with all bait and bait containers removed and all doors secured fully open, and cone or pyramid king crab pots with all bait and bait containers removed and all doors not secured closed, may be stored in waters of 25 fathoms or less in depth. (*Id.* § 34.052(1)).

• Pots may be stored in waters deeper than 25 fathoms for only seven days following the season closure for king crab in a registration area or 72 hours following the closure of any district, portion of a district or portion of a registration area. (*Id.* § 34.052(2)).

• King crab pots with all doors secured fully open and with all bait containers removed may be stored in water deeper than the maximum permissible depth if the vessel owner has been granted an extension of time to remove and store pots by the local representative of the DFG due to a major vessel breakdown or extreme weather conditions. (*Id.* § 34.052(b)).

• A stored pot may not have any portion of the line attaching the pot to a buoy or buoys floating on the surface of the water at any time, except for that portion of the line connecting the main buoy to an auxiliary buoy or buoys. (*Id.* § 34.052(c)).

In the Southeastern Area (Registration Area A), king crab pots with all bait and bait containers removed and all doors secured fully open may be stored in the water only for seven days following the season closure for king crab in Registration Area A; for five days following the season closure for king crab in any portion of Registration Area A; or during the 10 days before the scheduled opening of the commercial king and Tanner crab seasons in Registration Area A, only if the pot stored in waters less than 10 fathoms deep at mean low tide and the buoys are attached to the stored pots and marked as specified in ALASKA ADMIN. CODE tit. 5, § 34.051. (*Id.* § 34.127).

In Yakutat (Registration Area D), king crab pots with all bait and bait containers removed and all doors secured fully open may be stored in the water only for seven days following the season closure for king crab in Registration Area D; for 72 hours following the season closure for king crab in any portion of Registration Area D; and at any time in the waters of Russell Fiord (first bay south of Cape Stoss) in waters no deeper than 10 fathoms. (*Id.* § 34.187).

In Prince William Sound (Registration Area E), cone or pyramid king crab pots with all bait and bait containers removed and all doors not secured closed may be stored in the water only from 30 days before the scheduled opening date of the commercial king crab season in Registration Area E, until 30 days following the closure of that season. (*Id.* § 34.227).
In Cook Inlet (Registration Area H), rectangular king crab pots with all bait and bait containers removed and all doors secured fully open, and cone or pyramid king crab pots with all bait and bait containers removed and with all doors not secured closed, may be stored in the Kamishak Bay District and in those waters of the Southern District west of a line from Coal Point to Sixty-foot Rock to Anisom Point only in waters no deeper than 15 fathoms. *(Id. § 34.317).*

- In all remaining waters of the Southern District, rectangular king crab pots with all bait and bait containers removed and all doors secured fully open and cone or pyramid king crab pots with all bait and bait containers removed and all doors not secured closed may be stored only in waters of not more than 10 fathoms deep.

- Cone or pyramid pots with all bait and bait containers removed and all doors not secured closed may be stored in the water only from 30 days before the scheduled opening date of the commercial king crab season in Registration Area H, until 30 days following the closure of that season.

In Kodiak (Registration Area K), cone or pyramid king crab pots with all bait and bait containers removed and all doors not secured closed may be stored in the water only from 30 days before the scheduled opening date of the commercial king crab season in Registration Area K, until 30 days following the closure of that season. *(Id. § 34.427).*

In the Alaska Peninsula (Registration Area M), king crab pots may not be stored in the water starting seven days following the closure of the South Peninsula and Chignik District commercial Tanner crab seasons until the scheduled opening date of the commercial king crab season in Registration Area M. *(Id. § 34.527).*

In the Aleutian Islands Area (Registration Area O), during the closed season for king crab in Registration Area O, king crab pots must be removed from the water except, with all doors fully open and with all bait containers removed, single line king crab pots may be stored in waters 25 fathoms or less in depth; and longline king crab pots may be stored in waters 75 fathoms or less in depth. *(Id. § 34.627).*

- King crab pots may not be stored in the following waters: from June 1 through August 15, the waters east of 1698 W. long.; Hot Springs Bay, inside of a line from the tip of Ridge Point to 548 12.67' N. lat., 1658 52' W. long.; and Kalekta Bay, inside of a line from the tip of Erskine Point to the tip of Cape Kalekta.

In Bristol Bay (Registration Area T), king crab pots may be stored in waters north of 578 N. lat., south of 588 N. lat., east of 1668 W. long., and west of 1648 W. long. during the closed commercial king crab season. *(Id. § 34.827).*

For the registration area in which the Bering Sea is located there are some additional pot storage restrictions. *(Id. § 34.927).*

- In the Norton Sound Section, rectangular king crab pots with all bait and bait containers removed and all doors secured fully open, and cone or pyramid king crab pots with all bait and bait containers removed and all doors not secured closed, may be stored in waters
deeper than 25 fathoms only for 72 hours following the closure of the commercial king crab season in the Norton Sound Section.

- In the Northern District, king crab pots may be stored only in waters north of 59° 8’ N. lat., south of 59° 30’ N. lat., west of 169° 31’ W. long., and east of 171° W. long., or by removal from the water.

- From June 1 through August 31, king crab pots may not be stored in the waters around the Pribilof Islands shoreward of the 25-fathom isobath.

**Tanner Crab**

During the closed season for the commercial Tanner crab fishery, crab pots must be removed from the water. *(Id. § 35.052).*

- Rectangular Tanner crab pots with all bait and bait containers removed and with all doors secured fully open, and cone or pyramid Tanner crab pots with all bait and bait containers removed and with all doors not secured closed, may be stored in waters of 25 fathoms or less in depth if the vessel owner has been granted an extension to remove and store pots due to major vessel breakdown or extreme weather conditions.

  o Pots may be stored in waters deeper than 25 fathoms only for seven days following the season closure for Tanner crab in that registration area or 72 hours following the closure of any portion of that registration area.

- Stored pot may not have any portion of the line attaching the pot to a buoy or buoys floating on the surface of the water at any time, except for that portion of the line connecting the main buoy to a trailer buoy or buoys.

In addition to the above requirements, in the Southeastern Area (Registration Area A), rectangular Tanner crab pots with all bait and bait containers removed and all doors secured fully open, and cone or pyramid Tanner crab pots with all bait and bait containers removed and all doors not secured closed, may be stored in the water only for seven days following the season closure for Tanner crab in Registration Area A; for 72 hours following the season closure for Tanner crab in any portion of Registration Area A; and during the 10 days before the opening of the commercial king and Tanner crab seasons in Registration Area A only if the pot is stored in waters less than 10 fathoms deep at mean low tide and buoys are attached to stored pots and marked as specified in ALASKA ADMIN. CODE tit. 5, § 35.051. *(Id. § 35.127)*

- Ring nets with all bait and bait containers removed may be stored in the water as specified above.

In Yakutat (Registration Area D), rectangular Tanner crab pots with all bait and bait containers removed and all doors secured fully open, and cone or pyramid Tanner crab pots with all bait and bait containers removed and all doors not secured closed, may be stored in the water only for seven days following the season closure for Tanner crab in Registration Area D and 72 hours following the season closure for Tanner crab in any portion of Registration Area D. *(Id. § 35.182).*
• Ring nets with all bait and bait containers removed may be stored in the water as specified above.

In Prince William Sound (Registration Area E), cone or pyramid Tanner crab pots with all bait and bait containers removed and all doors not secured closed may be stored in the water only from 30 days before the scheduled opening date of the commercial Tanner crab season in Registration Area E until 30 days after the closure of that season. (Id. § 35.327).

• The Tanner crab pot storage provisions in ALASKA ADMIN. CODE tit. 5, § 35.052(a)(2)(A) apply to the Eastern and Western Districts of Registration Area E.

In Cook Inlet (Registration Area H), rectangular Tanner crab pots with all bait and bait containers removed and with all doors secured fully open, and cone or pyramid Tanner crab pots with all bait and bait containers removed and all doors not secured closed, may be stored in the Kamishak District and in those waters of the Southern District west of a line from Coal Point to 60 Foot Rock to Anisom Point only in waters of not more than 15 fathoms deep. In all remaining waters of the Southern District, rectangular Tanner crab pots with all bait and bait containers removed and all doors secured fully open, and cone or pyramid Tanner crab pots with all bait and bait containers removed and all doors not secured closed, may be stored only in waters of not more than 10 fathoms deep. (Id. § 35.427).

• Cone or pyramid pots with all bait and bait containers removed and all doors not secured closed may be stored in the water only from 30 days before the scheduled opening date of the commercial Tanner crab season in Registration Area H until 30 days after the closure of that season.

For the Westward Area (Registration Area J), there are additional Tanner crab pot storage restrictions. (Id. § 35.527).

• In the Western Aleutian District, pots may be stored in waters of not more than 30 fathoms deep from January 1 through December 31.

• In the Eastern Aleutian District, pots may be stored in waters of not more than 25 fathoms deep only from 30 days before the scheduled opening date of the commercial red and blue king crab season through seven days after the closure of the commercial Tanner crab season, except that pots may not be stored in the waters of
  
  o Hot Springs Bay inside of a line from the tip of Ridge Point to 548 12.67’ N. lat., 1658 52’ W. long.; or
  
  o Kalekta Bay inside of a line from the tip of Erskine Point to the tip of Cape Kalekta;

• South Peninsula and Chignik Districts, pots may be stored in the water only from the scheduled opening date of the commercial red and blue king crab season until seven days after the closure of the commercial Tanner crab season;

• In the Bering Sea District, pots may be stored in
In the waters of the Eastern Subdistrict north of 57°8′ N. lat., south of 58°8′ N. lat., east of 166°8′ W. long., and west of 164°8′ W. long., from January 1 through December 31;

The waters around the Pribilof Islands shoreward of the 25-fathom isobath only from September 1 through May 31, and pots may also be stored in the waters around the Pribilof Islands at any depth within five nautical miles from the shoreline of St. Paul or St. George Islands, or in waters that are not more than 35 fathoms deep for 14 days before the scheduled opening date, and for 14 days after the closure, of the commercial *C. opilio* season;

- In the Kodiak District, cone or pyramid pots with all bait and bait containers removed and all doors not secured closed may be stored in the water only from 30 days before the scheduled opening date of the commercial Tanner crab season until 30 days after the closure of that season.

- In the Kodiak, Chignik, and South Peninsula Districts, if the commissioner, by emergency order, closes the commercial Tanner crab fishing season with less than six-hours notice in a daily period, baited pot gear may be stored in waters deeper than 25 fathoms for up to three days following the closure.

**Restrictions on Handling Gear**

It is unlawful for any person to disturb, tamper with, or retrieve another person’s shellfish pot gear without the owner’s prior permission. (*Alaska Admin. Code* tit. 5, §§ 75.069, 77.019).

**Requirements for Escape Mechanisms**

In general, all commercial, recreational, subsistence, and personal use shellfish and bottomfish pots must include an escape mechanism in accordance with the following provisions:

- A sidewall, which may include the tunnel, of all shellfish and bottomfish pots must contain an opening equal to or exceeding 18 inches in length, except that in shrimp pots the opening must be a minimum of six inches in length. The opening must be laced, sewn, or secured together by a single length of untreated, 100 percent cotton twine, no larger than 30 thread. The cotton twine may be knotted at each end only. The opening must be within six inches of the bottom of the pot and must be parallel with it. The cotton twine may not be tied or looped around the web bars. (*Alaska Admin. Code* tit. 5, § 39.145(1)).

  - Dungeness crab pots may have the pot lid tie-down straps secured to the pot at one end by a single loop of untreated, 100 percent cotton twine no larger than 60 thread, as a substitute for the above requirement; the pot lid must be secured so that, when the twine degrades, the lid will no longer be securely closed.

- All king crab, Tanner crab, shrimp, miscellaneous shellfish and bottomfish pots, may, instead of complying with § 39.145(1), satisfy the following: a sidewall, which may include the tunnel, must contain an opening at least 18 inches in length, except that shrimp pots must contain an opening at least six inches in length. The opening must be laced, sewn, or
secured together by a single length of treated or untreated twine, no larger than 36 thread. A galvanic timed release (GTR) device, designed to release in no more than 30 days in salt water, must be integral to the length of twine so that, when the device releases, the twine will no longer secure or obstruct the opening of the pot. The twine may be knotted only at each end and at the attachment points on the galvanic timed release device. The opening must be within six inches of the bottom of the pot and must be parallel with it. The twine may not be tied or looped around the web bars. (Id. § 39.145(2)).

Beginning January 1, 2007, all subsistence, personal use, and sport shellfish pots constructed with rigid mesh must have at least one opening in a sidewall of the pot which may include the tunnel, except Dungeness crab pots that have a pot lid tie-down that complies with § 39.145(1);

• The opening in a king crab or Tanner crab pot must be equal to or exceed a 12-inch by 8-inch rectangle;
• The opening in a Dungeness crab pot must be equal to or exceed a 10-inch by 6-inch rectangle and the lower long edge of the opening must be parallel to, and within six inches of, the bottom of the pot;
• The opening in a shrimp pot must be equal to or exceed a four-inch square and the lower edge of the opening must be parallel to, and within six inches of, the bottom of the pot;
• The opening may be covered with a single panel secured to the pot with no more than four single loops of untreated, 100 percent cotton twine no larger than 30 thread; each single loop of cotton twine may contain only one knot and may not be laced along the opening; the panel must be attached to the pot in a manner that when the cotton twine degrades the panel will drop away from the pot exposing the opening completely. (Id. § 39.145(4)).

Commercial Shellfish Fishery

Dungeness Crab

In addition to the general escape mechanism requirements, a Dungeness crab pot used in the commercial shellfish pot fishery must have two circular escape rings of four and three-eighths inches (11 cm) minimum inside diameter; the rings must be on opposite sides of the pot and must be on the upper half of the vertical plane of the pot. (Id. § 32.050(b)(2)).

King Crab

In addition to the requirements of § 39.145, king crab pots used in the commercial shellfish fishery must be equipped with the following escape mechanisms.

• In the Southeastern Area (Registration Area A) and Yakutat (Registration Area D), king crab pots must have either at least the bottom one-third of one vertical surface of a square pot, or sloping sidewall surface of a conical or pyramid pot, composed of not less than nine-inch stretch mesh webbing or have at least four circular escape rings of six and one-quarter inches minimum inside diameter. The lowest edge of each escape ring must be within eight inches of the top of the bottom web bar on the pot. One ring must be installed in each
quadrant of the pot. Escape rings or stretch mesh webbing must be so located on the vertical or sloping sidewall surface to permit the escapement of undersize crab. (Id. §§ 34.125(c), 34.185(f)).

- In the Pribilof District of Registration Area J, each king crab pot must have at least one-third of one vertical surface of the pot composed of not less than nine-inch stretched mesh webbing. (Id. § 34.925(b)).

- In the Saint Matthew Island Section, each king crab pot must have eight escape rings with an inside diameter measure of 5.8 inches placed within one mesh measurement from the bottom of the pot, with four escape rings on two sides of a four-sided pot, or if the pot has no escape rings as specified in this paragraph, then one-half of one side of a four-sided pot must have a side panel composed of not less than eight-inch stretched mesh webbing.

- In the Norton Sound Section, each king crab pot must have at least four circular escape rings with a minimum inside diameter of four and one-half inches installed on a vertical plane within one mesh measurement from the bottom of the pot or have at least one half of one vertical surface of a square pot, or sloping side-wall surface of a conical or pyramid pot, composed of not less than six and one-half inch stretched mesh webbing to permit the escapement of undersized crab.

- Each pot used to take golden king crab must have no less than four circular escape rings of not less than five and one-half inches inside diameter installed on the vertical plane or have at least one-third of one vertical surface of the pot composed of not less than nine-inch stretched mesh webbing to permit the escapement of undersize golden king crab. (Id. § 34.925(c)).

- In the Norton Sound and Kotzebue Sound Sections during the winter commercial king crab season, a king crab pot may be of any dimension or size, operated only through solid ice cover, attached to the ice by a stake marked with the name and address of operator, and have at least four circular escape rings with a minimum inside diameter of four and one-half inches installed on a vertical plane within one mesh measurement of the bottom of the pot or have at least one half of one vertical surface of a square pot, or sloping side-wall surface of a conical or pyramid pot, composed of not less than six and one-half inch stretched mesh webbing to permit the escapement of undersized king crab. (Id. § 34.925(d)).

**Tanner Crab**

In the Southeastern Area (Registration Area A) and Yakutat (Registration Area D), pots used to take Tanner crab must be rigged to permit escapement of undersize Tanner crab as follows:

- At least one-third of one vertical surface of a square pot, or sloping surface of a conical or pyramid pot, must be composed of not less than seven-inch stretched mesh webbing, placed on the bottom one-third of the vertical or sloping sidewall surface of the pot; or

- No less than four circular escape rings of four and three-quarters inch minimum inside diameter must be installed on the vertical plane of a square pot, or the sloping sidewall surface of a conical or pyramid pot; the lowest edge of each escape ring must be within eight
inches of the top of the bottom web bar on the pot; one escape ring must be installed in each quadrant of the pot. (Id. §§ 35.125(f), 35.180(d)).

Tanner crab pots used in the commercial shellfish fishery in the Bering Sea (Registration Area J) are subject to additional escape mechanism requirements.

• Pots used to take *Chionoecetes bairdi* Tanner crab must have at least one-third of one vertical surface of the pot composed of not less than 71/4 inch stretched mesh webbing or have no less than four circular escape rings of no less than five inches inside diameter installed on the vertical plane to permit escape of undersize *C. bairdi* Tanner crab. (Id. § 35.525(b)(1)).

• Pots used to take *Chionoecetes opilio* Tanner crab must have at least eight escape rings with an inside diameter measure of no less than four inches placed within one mesh measurement from the bottom of the pot, with four escape rings on each of two sides of a four-sided pot, or if the pot has no escape rings as specified in this paragraph, one-half of one side of a four-sided pot must have a side panel composed of not less than five and one-quarter inch stretched mesh webbing to permit escapement of undersize *C. opilio* Tanner crab. (Id. § 35.535(b)(2)).

**Subsistence Fishery**

**Dungeness**

There are no additional restrictions for the Dungeness subsistence fisheries.

**King Crab**

All crab pots used for subsistence fishing of king crab in the Kodiak Area, Alaska Peninsula-Aleutian Islands Area, and the Bering Sea Area and left in salt water unattended longer than a two-week period shall have all bait and bait containers removed and all doors secured fully open (Id. §§ 02.420(2), 02.520(2), 02.620(2)).

Crab pot used to take king crab in the subsistence fishery must have at least two escape rings on opposing vertical or sloping sides of the pot that each are not less than six and one-quarter inches inside diameter. (Id. § 02.120(6)).

**Tanner Crab**

In the Prince William Sound Area and Cook Inlet Area, a pot used to take Tanner crab in the subsistence fishery must have a minimum of two escape rings that are at least four and three-eighths inches inside diameter; and no portion of the line attaching the pot to a buoy may floating on the surface of the water at any time, except for that portion of the line connecting the main buoy to any auxiliary buoy or buoys. (Id. §§ 02.207(2) and 02.307(2)).

**Requirements for Marking Gear**

**Commercial Fishery**
**Dungeness Crab**

Each Dungeness crab pot or ring net used in the commercial shellfish fishery must have at least one buoy legibly marked with the permanent DFG vessel license plate number of the vessel operating the gear. (ALASKA ADMIN. CODE tit. 5, § 32.051).

**King Crab**

At least one buoy on each king crab pot or ring net used in the commercial shellfish fishery must be legibly marked with the permanent DFG vessel license plate number of the king crab vessel operating the gear. (Id. § 34.051(a)).

- In registration areas where a king crab pot limit is in effect, each king crab pot must have one identification tag issued by the DFG placed on the main buoy or on the trailer buoy if more than one buoy is attached to the pot.
  - Identification tags are issued before each fishing season, are uniquely numbered for each registration year, and issued at the time of vessel registration for that vessel only.

In the Bering Sea, pots used to take golden king crab commercially may be longlined. If pots are longlined, a buoy is not required for each pot, but each end of the longline must be marked by a cluster of four buoys, as well as a pole and a flag. One buoy in the cluster must be marked in accordance with the specifications of § 34.051(a) noted above. (Id. § 34.925(f)).

**Tanner Crab**

At least one buoy on each Tanner crab pot used in the commercial shellfish fishery must be legibly marked with the permanent DFG vessel license plate number of the Tanner crab vessel operating the gear. (Id. § 35.051).

- In addition, in the Bering Sea (Registration Area J), in locations where a Tanner crab pot limit is in effect, each Tanner crab pot must have one identification tag issued by the DFG placed on the main buoy or on the trailer buoy if more than one buoy is attached to the pot. (Id. § 35.536(a)).
  - Identification tags are issued before each fishing season, are uniquely numbered for each registration year, and will be issued at the time of vessel registration for that vessel only.

**Subsistence Fishery**

Subsistence shellfish gear must be legibly inscribed with the person’s first initial, last name, and address on a keg or buoy attached to unattended subsistence fishing gear. A stake may be substituted for the key or buoy if a person is fishing through ice. (Id. § 02.010(e)).

- Subsistence fishing gear may not display a permanent DFG vessel license number.
• Kegs or buoys attached to subsistence crab pots also must be inscribed with the name or the Division of Motor Vehicles boat registration number of the vessel used to operate the pots.

Closed Areas/Periods for the Fishery

Commercial Fishery

Dungeness Crab

Closed Areas

In Southeastern Alaska (Registration Area A), the following waters are closed to the taking of Dungeness crab. (Id. § 32.150).

• Waters of Section 11-A that are north of a line from Marmion Island Light to the easternmost tip of Point Salisbury and east of a line extending from the northernmost tip of Outer Point to the southernmost tip of Portland Island to the northernmost tip of Portland Island to the southernmost tip of Point Louisa; and off the mainland shore enclosed by a line from the northernmost tip of the peninsula at the Shrine of Saint Therese to Gull Island, extending to the Sentinel Island Light, and east to the mainland at the latitude of the Sentinel Island Light;

• Waters of Tenakee Inlet west of Corner Bay Point at 1358 06.50' W. long. and east of the Crab Bay log transfer facility at 1358 18.18' W. long.;

• Waters of Port Althorp enclosed by a line from Point Lucan to 588 09.71' N. lat., 1368 19.67' W. long.;

• Waters of Merrifield Bay and Port Protection enclosed by a line extending west from Protection Head (568 18.83' N. lat., 1338 39.77' W. long.) to 1338 40' W. long., then north to 568 22' N. lat., then east to 1338 34' W. long., then south to a point on Prince of Wales Island at 568 21.05' N. lat., 1338 34' W. long.;

• Waters of Thorne Bay west of the longitude of the easternmost tip of Thorne Head;

• Waters of Icy Passage enclosed by a line starting from the northernmost end of the Gustavus Dock to the southernmost end of the Gustavus Dock to the navigational buoy off the mouth of the Salmon River to an (ADF&G) marker on the shoreline directly north of the buoy and then along the shoreline to the starting point;

• Waters of Blank Inlet north and west of a line from Blank Point to Blank Island light to the easternmost point tip of Gravina Point;

• Waters of Bostwick Inlet north and west of a line from Bostwick Point to an unnamed point at 558 12.83' N. lat., 1318 43.92' W. long.;

• Waters of Flat Bay west of the longitude of a point at 598 09.03' N. lat., 1358 19.97' W. long.;
• From December 1 through September 30, the waters of District 13-B that are in the Sitka Sound Special Use Area, which is that area of Sitka Sound enclosed on the north by lines from Kruzof Island at 57° 20.50' N. lat., 135° 45.17' W. long. to Chichagof Island at 57° 22.05' N. lat., 135° 43. W. long., and from Chichagof Island at 57° 22.58' N. lat., 135° 41.30' W. long. to Baranof Island at 57° 22.28' N. lat., 135° 40.95' W. long., and on the south and west by a line running from the southernmost tip of Sitka Point at 56° 59.38' N. lat., 135° 49.57' W. long. to Hanus Point at 56° 51.92' N. lat., 135° 30.50' W. long. to the green day marker in Dorothy Narrows to Baranof Island at 56° 49.28' N. lat., 135° 22.60' W. long.;

• Waters of Twelve-mile Arm west of a line from Prince of Wales Island at 55° 29.07' N. lat., 132° 37.60' W. long., to the northeasternmost tip of Loy Island at 55° 29.07' N. lat., 132° 36.70' W. long., to the easternmost tip of Cat Island at 55° 27.80' N. lat., 132° 39.08' W. long., to Prince of Wales Island at 55° 27.80' N. lat., 132° 40.93' W. long., including waters nearest Hollis Anchorage;

• Waters east of a line from Indian Point at 55° 36.85' N. lat., 131° 42.02' W. long., to the north easternmost tip of Betton Island at 55° 31.95' N. lat., 131° 46.37' W. long., to the southeasternmost tip of Betton Island at 55° 29.90' N. lat., 131° 48.18' W. long., to Survey Point at 55° 28.07' N. lat., 131° 49.87' W. long.;

• Waters east of a line from Point Lena at 58° 23.73' N. lat., 134° 46.67' W. long., north to 58° 25.05' N. lat., 134° 46.25' W. long., north to 58° 25.65' N. lat., 134° 46' W. long. (a point in upper Tee Harbor);

• Waters east of a line in Bridget Cove from 58° 37.05' N. lat., 134° 56.60' W. long., north to 58° 38.20' N. lat., 134° 57.10' W. long.;

• Waters of Whale Pass north and west of a line extending from 56° 05.65' N. lat., 133° 07.30' W. long. to 56° 05.85' N. lat., 133° 06.40' W. long.;

• Waters of Chaik Bay east of a line from the tip of the peninsula on the north at 57° 19.38' N. lat., 134° 28.91' W. long. to 57° 19.11' N. lat., 134° 28.90' W. long.

In Registration Area J, Dungeness crab may not be taken from waters of Iliuliuk Bay south of 53° 53' N. lat. (Id. § 32.450).

Closed Periods

In Southeastern Alaska (Registration Area A), male Dungeness crab may be taken or possessed only as follows: in Districts 1 and 2, and in Section 13-B, except the waters of the Sitka Sound Special Use Area described in ALASKA ADMIN. CODE tit. 5, § 32.150(10), from 12:00 noon October 1 through 11:59 p.m. February 28; in the waters of Section 13-B that are in the Sitka Sound Special Use Area described in ALASKA ADMIN. CODE tit. 5, § 32.150(10), from 12:00 noon October 1 through 11:59 p.m. November 30; and in all other waters of Registration Area A, from 12:00 noon June 15 through 11:59 p.m. August 15 and from 12:00 noon October 1 through 11:59 p.m. November 30. (Id. § 32.110).
In Yakutat (Registration Area D), male Dungeness crab may be taken or possessed only from 12:00 noon May 15 through July 14 and from 12:00 noon November 1 through February 28. (*Id.* § 32.165).

In Prince William Sound (Registration Area E) and Cook Inlet (Registration Area H), there is no open fishing season for Dungeness crab. (*Id.* §§ 32.210, 32.310).

In the Kodiak, Chignik, Alaska Peninsula, and Aleutian Districts of the Westward Area (Registration Area J), male Dungeness crab may be taken for commercial purposes from 12:00 noon May 1 until 12:00 noon January 1, except that in the Kodiak District south of the latitude of the southernmost tip of Boot Point and south of the latitude of the southernmost tip of Cape Ikolik, male Dungeness crab may be taken or possessed only from 12:00 noon June 15 until 12:00 noon January 1. (*Id.* § 32.410(a)).

In the North Peninsula District of Registration Area J, male Dungeness crab may be taken for commercial purposes from 12:00 noon May 1 until 12:00 noon October 18. (*Id.* § 32.410(b)).

**King Crab**

**Closed Areas**

The following waters of Section 11-A in the Southeastern Area (Registration Area A) are closed to the taking of king crab. (*Id.* § 34.150).

- Waters north of a line from Marmion Island Light to the easternmost tip of Point Salisbury at 58°12.50' N. lat., 134°13.75' W. long., and enclosed by a line from Outer Point on Douglas Island at 58°18.20' N. lat., 134°41.30' W. long., across Stephens Passage to the mouth of Bear Creek on Admiralty Island at 58°16.80' N. lat., 134°46.50' W. long., along the shoreline of Admiralty Island in a northerly direction to Symonds Point at 58°20.60' N. lat., 134°50.20' W. long., across Saginaw Channel to the southeasternmost tip of Shelter Island at 58°22.30' N. lat., 134°48.60' W. long., along the shoreline of Shelter Island to the southernmost tip of Halibut Cove at 58°27.70' N. lat., 134°53.30' W. long., across Favorite Channel to the southernmost entrance of Amalga Harbor at 58°29.30' N. lat., 134°47.30' W. long.; and

- Waters of Barlow Cove south of the latitude of Barlow Point at 58°22.80' N. lat., 134°53.70' W. long.

In Prince William Sound (Registration Area E) and Cook Inlet (Registration Area H), the commercial taking of king crab is closed until the king crab stocks have recovered enough for a harvest strategy to be developed by the DFG and adopted by the Board of Fisheries. (*Id.* §§ 34.210, 34.310).

All waters of the Norton Sound Section enclosed by a line from 64°24.00' N. lat., 166°15.00' W. long., to 64°15.00' N. lat., 166°15.00' W. long., to 64°15.00' N. lat., 163°30.00' W. long., to 64°10.00' N. lat., 163°30.00' W. long., to 64°10.00' N. lat., 162°00.00' W. long., to 64°15.00' N. lat., 162°00.00' W. long., to 64°15.00' N. lat., 161°30.00' W. long., to 64°00.00' N. lat., 161°30.00' W. long., to 64°00.00' N. lat., 161°15.00' W. long., to 63°32.00' N. lat., 161°15.00' W. long. are closed to the taking of king crab during the summer season. The DFG Commissioner may, by
emergency order, reduce by small increments, the closed waters to no less than three miles from mean lower low tide to allow the commercial king crab fishery to efficiently obtain the allowable harvest of red king crab. (Id. § 34.935(a)).

King crab may not be taken in waters within 10 miles of mean lower low water around St. Lawrence, King, and Little Diomede Islands. (Id. § 34.935(b)).

From November 15 through May 15, the waters of the Norton Sound Section enclosed by a line from 64° 30.17' N. lat., 165° 28.07' W. long., to 64° 27.13' N. lat., 165° 28.07' W. long., to 64° 25.50' N. lat., 165° 17.45' W. long., to 64° 28.55' N. lat., 165° 17.45' W. long., are closed to the taking of king crab. (Id. § 34.935(c)).

The waters of Alaska surrounding St. Matthew Island, Hall Island, and Pinnacle Island are closed to the taking of king crab. (Id. § 34.935(d)).

Closed Periods

In the Southeastern Area (Registration Area A), male red king crab may be taken only from 12:00 noon November 1 through January 24 and male golden king crab may be taken only from 12:00 noon on the date with the smallest Juneau tidal range between February 10 and February 17, as announced by emergency order, until the season is closed by emergency order. (Id. § 34.110).

In Yakutat (Registration Area D), male red king crab may be taken only from 12:00 noon October 24 through December 31; male golden king crab may be taken only during periods established by emergency order; and male blue king crab may be taken only from 12:00 noon October 24 through December 31. (Id. § 34.170).

In Kodiak (Registration Area H) and the Alaska Peninsula (Registration Area M), the DFG Commissioner may open and close, by emergency order, a season for red and blue king crab beginning 12:00 noon September 25 and male golden king crab may be taken from January 1 through December 31. (Id. §§ 34.410, 34.510).

In the Aleutian Islands Area (Registration Area O), the DFG commissioner may open and close, by emergency order, a season for red and blue king crab beginning 12:00 noon, October 15 and ending no later than 11:59 p.m. February 15 and male golden king crab may be taken only from 12:00 noon August 15 through 11:59 p.m. May 15. (Id. § 34.610).

In Bristol Bay (Registration Area T), male red king crab may be taken only from 12:00 noon October 15 through 11:59 p.m. January 15 and male golden king crab may be taken from January 1 through December 31. (Id. § 34.810).

In the Bering Sea (Registration Area Q), male golden king crab may be taken from January 1 through December 31 only under conditions of a permit issued by the DFG commissioner. (Id. § 34.910(b)(3)).

• In the Pribilof District, male red and blue king crab may only be taken from 12:00 noon October 15 though 11:50 pm January 15. (Id. § 34.910(b)(1)).
• In the Saint Matthew Island Section, male blue king crab may be taken only from 12:00 noon October 15 through 11:59 p.m. February 1. (*Id.* § 34.910(c)).

• In the Norton Sound Section, male red and blue king crab may be taken only as established by emergency order beginning on or after June 15; and, through the ice only, from 12:00 noon November 15 through 12:00 noon May 15 (winter season). (*Id.* § 34.910(d)).

• In the Kotzebue Sound Section, male red and blue king crab may be taken only during the summer season in the waters north of 66°8′ N. lat., from 12:00 noon June 15 through August 1 and through the ice only, from 12:00 noon November 15 through 12:00 noon May 15 (winter season) (*Id.* § 34.910(f)).

**Tanner Crab**

**Closed Areas**

The commercial harvest of Tanner crab in the Prince William Sound Area (Registration Areas E) is prohibited until the Board of Fisheries adopts a harvest strategy (*Id.* § 35.31).

Tanner crab may not be taken or possessed in the Norton Sound Section of the Eastern Subdistrict of the Bering Sea District within Registration Area J. (*Id.* § 35.521(f)(4)).

The waters of Alaska surrounding St. Matthew Island, Hall Island, and Pinnacle Island in Registration Area J are closed to the taking of Tanner crab. (*Id.* § 35.535).

**Closed Periods**

In the Southeastern Area (Registration Area A), male Tanner crab may be taken only from 12:00 noon on the date with the smallest Juneau tidal range between February 10 and February 17, as announced by emergency order, through May 1. (*Id.* § 35.110).

In the Yakutat Area (Registration Area D), male Tanner crab may be taken only from 12:00 noon January 15 through May 1. (*Id.* § 35.170).

In Cook Inlet (Registration Area H), in the Southern District, male Tanner crab may be taken only during periods established by emergency order within the period of January 15 through March 31. In all other districts, male Tanner crab may be taken only from 12:00 noon January 15 through March 31. (*Id.* § 35.410).

• The commercial harvest of Tanner crab in the Outer, Eastern, and Central Districts is closed until the Tanner crab stocks have recovered and a harvest strategy is developed by the DFG and adopted in a regulation by the Board of Fisheries. When the noncommercial fisheries in the Kamishak or Barren Island Districts are closed to the taking of Tanner crab, the noncommercial fisheries in the Eastern, Outer, and Central Districts are also closed.

In the Bering Sea District, male *C. bairdi* Tanner crab may be taken from 12:00 noon October 15 until 11:59 p.m. March 31 (*Id.* § 35.510(f)(1)).
In waters west of 1668 W. long., male *C. opilio* Tanner crab may be taken from 12:00 noon October 15 through 11:59 p.m. May 15 in the Eastern Subdistrict; and 12:00 noon October 15 through 11:59 p.m. May 31 in the Western Subdistrict (*Id. § 35.510(f)(2)*).

**Subsistence Fishing**

Shellfish may be taken for subsistence purposes at any time in any area of the state by any method unless restricted by the subsistence fishing regulations issued by the DFG. (*Id. § 02.005*).

*Dungeness Crab*

The subsistence taking of Dungeness crab is prohibited in the Prince William Sound Area until the Dungeness crab stocks recover enough to provide a harvestable surplus and regulations are adopted by the Board of Fisheries that reopen the fishery. (*Id. § 02.215*).

A person may not take Dungeness crab for subsistence purposes in the Cook Inlet Area. (*Id. § 02.315*).

In the Kodiak Area, the subsistence taking of Dungeness crab is prohibited in water 25 fathoms or more in depth during the 14 days immediately before the opening of a commercial king or Tanner crab fishing season in the location. (*Id. § 02.415(b)*).

*King Crab*

In waters south of 608 N. lat., king crab may be taken in the subsistence fishery from June 1 through January 31. (*Id. § 02.620 (4)*). The DFG regulations do not establish similar fishing seasons for the subsistence Dungeness and Tanner crab fishery.

In the subsistence king crab fishery, red and blue king crab may not be taken from April 1 through June 20 in the districts described in ALASKA ADMIN. CODE tit. 5, § 30.200. (*Id. § 02.120(3)*).

- Those fishing districts are the Yakataga District – all waters of Alaska between the longitude of Cape Suckling (1448 W. long.) and the longitude of Icy Cape (1418 42’ W. long.) and the Yakutat District – all waters of Alaska between the longitude of Icy Cape (1418 42’ W. long.) and a line projected southwest from the westernmost tip of Cape Fairweather.

Except for golden king crab, the subsistence taking of king crab in the Prince William Sound Area is closed until the king crab stocks recover enough to provide a harvestable surplus and regulations are adopted by the Board of Fisheries that reopen the fishery. (*Id. § 02.225(a)*).

- Golden king crab may be taken for subsistence purposes only from October 1 through March 31 and only in the waters west of 1478 20.00’ W. long. (*Id. § 02.225(b)*).

The taking of King crab for subsistence purposes is prohibited in the Cook Inlet Area. (*Id. § 02.320*).
In the Kodiak Area, king crab may be taken only from June 1 through January 31, except that the subsistence taking of king crab is prohibited in waters 25 fathoms or more in depth during the 14 days immediately before the opening of a commercial king or Tanner crab fishing season in the location. (Id. § 02.420(4)).

In the Alaska Peninsula-Aleutian Islands Area, king crab may only be taken for subsistence purposes from June 1 through January 31 (Id. § 02.520(3)).

**Tanner Crab**

In the Prince William Sound Area, Tanner crab may be taken for subsistence purposes only from October 1 through March 31 (Id. § 02.220).

- The following waters are closed to the taking of king and Tanner crab for subsistence purposes: Port Valdez: north of 618 01.00' N. lat.; Galena Bay: east of a line from 608 57.63' N. lat., 1468 45.17' W. long. to 608 58.41' N. lat., 1468 43.34' W. long.; Port Fidalgo: north of a line from Porcupine Point at 608 44.62' N. lat., 1468 42.08' W. long. to Bidarka Point at 608 49.14' N. lat., 1468 38.45' W. long.; Port Gravina: north of a line from Gravina Point at 608 37.37' N. lat., 1468 15.22' W. long. to Red Head at 608 40.25' N. lat., 1468 30.22' W. long. (Id. § 02.236(b)).

In the Cook Inlet Area, male Tanner crab may be taken only in the subsistence fishery from July 15 through March 15, except that when the subsistence Tanner crab fishery is closed in the Kamishak or Barren Islands Districts, the subsistence Tanner crab fishery is also closed in the Eastern, Outer, and Central Districts as specified in ALASKA ADMIN. CODE tit. 5, § 35.410(c). (Id. § 02.325(1)).

In the Kodiak Area, the subsistence taking of Tanner crab is prohibited in waters 25 fathoms or more in depth during the 14 days immediately before the opening of a commercial king or Tanner crab fishing season in the location; (Id. § 02.425(2)).

**Personal Use**

There is no closed season in the personal use taking of shellfish, unless specified otherwise by DFG through regulation. (Id. § 77.010(l)(1)).

**Provisions Allowing for Removal of DFG**

The DFG may issue a permit for Registration Area Q to a person or vessel to recover the lost king crab pot gear belonging to another or king crab pot gear for a vessel that has experienced a major mechanical breakdown. (ALASKA ADMIN. CODE tit. 5, § 34.057(a)).

- To receive a permit to recover king crab pot gear, the permit applicant must furnish to the DFG written authorization for the requested pot gear recovery from the owner of the lost gear or the owner or operator of the vessel experiencing a major mechanical breakdown. (Id. § 34.057(c)).
If the recovery permit is being issued to recover lost pot gear, the authorization must contain the last known location of the king crab pots and specific identification markings.

If the recovery permit is being issued due to a major mechanical breakdown of a vessel, the authorization must include the exact location of the king crab pots and specific identification markings and a written explanation by a qualified repair facility detailing the extent of the damage and estimated time for repairs.

- In the permit, the DFG may specify the requirements for a vessel area check-in and check-out procedure, DFG notification of beginning and completion of pot gear recovery operations, vessel tank inspections, and other necessary conditions. (Id. § 34.057(b)).

- King crab pot gear recovery operations may only be performed during a closed season and may not be conducted by or for any vessel or person that, at the time of pot gear recovery operations, is registered for any pot fishery in Registration Areas O, Q, or T. (Id. § 34.057(d)).

- All crab remaining in any pot gear recovered must be immediately returned to the sea without further harm. (Id. § 34.057(e)).

Similarly, the DFG is may issue a permit for the Bering Sea, Eastern Aleutian, and Western Aleutian Districts of Registration Area J to a person or vessel to recover lost Tanner crab pot gear belonging to another vessel or person; or Tanner crab pot gear for a vessel that has experienced a major mechanical breakdown. (Id. § 35.057).

III. CHESAPEAKE BLUE CRAB FISHERY

A. MARYLAND

Definition of Recreational Fishing Gear Used in Crab Fishery

Collapsible Crab Trap: A manually operated, portable device having a flat bottom not more than 1 square foot, and not more than four articulated sides, each with an area not more than 1 square foot; and designed so that failure to apply manually exerted tension on the closing mechanism allows the crabs to escape. (MD. CODE REG. 08.02.03.01(B)(2)).

Crab Ring Net: Netting supported by a ring-shaped rim. (Id. 08.02.03.01(B)(3)).

Crab Pot: A cube-shaped or rectangular shaped device with opening toward the inside for the entrance of crabs. (Id. 08.02.03.01(B)(4)).

Trotline: A length of rope or line, buoyed at both ends with one or more anchors, which is baited without hooks or snares at intervals for the purpose of catching crabs. (Id. 08.02.03.01(B)(7)).

Definition of Commercial Fishing Gear Used in Crab Fishery
Under Maryland law, in addition to the gear listed above, the following gear may also be used in commercial crab fishing.

**Bank Trap:** An enclosure constructed of wire mesh not more than 4 feet long and not more than 4 feet wide, with a single row of hedging not more than 75 feet long.” (Id. 08.02.03.01(C)(2)).

**Channel Pound:** An enclosure constructed of wire mesh not more than 8 feet long and not more than 4 feet wide, with two rows of hedging, each not longer than 100 feet long. (Id. 08.02.03.01(C)(3)).

**Crab Scrape:** A scoop or other device which is dragged along the bottom for the purpose of catching crabs. (Id. 08.02.03.01(C)(4)).

**Definition of Derelict Fishing Gear**

There is no Maryland law or regulation that directly defines derelict fishing gear.

**Restrictions on Handling Gear**

Maryland law states that “a person may not molest, disturb, destroy, or catch and carry away fish belonging to another person from any boat, live box, crab pot, trot line, or the pocket or crib of any pound net or enclosed or gilled in any fish net of any kind, or take or carry away any net or gear belonging to another person used in catching fish.” (MD. CODE ANN., NAT. RES., §4-505).

**Comment:** Although there are no provisions of Maryland law which expressly prohibit the removal of derelict crab pots and fishing gear from Chesapeake Bay, §4-505 exposes anyone removing derelict fishing gear to liability if the owner of the gear subsequently objects to the removal. In an interview for the Chesapeake Bay Journal, the President of the Maryland Watermen’s Association indicated that in the past watermen bringing abandoned pots out of the water have been accused of stealing pots that belonged to others. (Karl Blakenship, *Derelict Pots Raise the Specter of Ghost Fishing*, CHESAPEAKE BAY JOURNAL (Jan. 2008) available at http://www.bayjournal.com/article.cfm?article=3237).

**Requirements for Escape Mechanisms**

All crab pots set in Chesapeake Bay or its tributaries must have two cull rings, one at least 2-3/16 inches and one at least 2-5/16 inches inside diameter located in exterior side panels or the top panel of the crab pot. (MD. CODE REG. 08.02.03.07(B)(4)).

- A cull ring is “a device in a crab pot, for the escapement of undersized crabs.” It may be describe as either a “ring with an opening of the established measurement for the inside diameter” or a “square opening cut from the crab pot measuring at least 4-1/2 inches by 4-1/2 inches and covered by a panel of 2-inch by 2-inch mesh so that there are at least four complete 2-inch by 2-inch square meshes.” (Id. 08.02.03.07(A)).
  - Crab pots constructed with unstretched mesh measuring less than 1 1/2 inches or at least 2 inches on side are not required to have cull rings. (Id. 08.02.03.07(B)(4)).
Crab pots set for recreational purposes must have a turtle reduction device that is firmly attached to each entrance or funnel in the lower chamber, constructed of wire or plastic, rectangular in shape, and does not exceed 13/4 inches high and 4 3/4 inches long. (Id. 02.03.07(B)(6)).

Requirements for Marking Gear

Maryland Department of Natural Resources (DNR) regulations provide that each individual pot, or sting of pots must be attached to a buoy that is clearly visible on the surface. (Id. 08.02.03.07(D)(4)).

- Each buoy must be clearly marked with the identification number of the licensee and, if the buoy is attached to a string of crab pots, with the number of pots in the string.

Owners of tidewater shoreline property in Anne Arundel, Baltimore, Worcester, Calvert, Charles, St. Mary’s, Somerset, and Wicomico counties are allowed to set crab pots, attached to piers, docks, and poles, by line, string or rope. In Worcester County, an owner of tidewater shoreline property may set crab pots by buoy or float not more than 200 feet from shore. The buoy or float must be colored or painted orange and conspicuously marked by a sign at least 6 inches by 6 inches indicating the owner’s name and address. (MD. CODE ANN., NAT. RES., §4-811).

Closed Areas/Periods for the Fishery

Closed Areas

A person may set crab pots for commercial and recreational purposes in the waters of Tangier Sound, including Kedges Straits and the Somerset County waters of Holland Straits, south of a line running from Lower Island Point on Bloodsworth Island, following the Dorchester County-Somerset County line to its junction with county line buoy A; thence in a northerly direction toward Sharkfin Shoal Light to its junction with a straight line running from range marker AA northeasterly to range marker BB and the Dorchester County-Somerset County line; thence in a northeasterly direction following the straight line running from range marker AA northeasterly to range marker BB and the Dorchester County-Somerset County line to its junction with a line running from the former dwelling of Thomas Tigner near Haines Point to the southwesterly most point of land on Clay Island, provided that no crab pots be set in water that is less than 4 feet deep at mean low tide. (Id. § 4-812(a))

- A person may set crab pots outside of marked channels in the waters of Tyler Creek on Smith Island from April 1 to June 15. (Id. § 4-812(b)).

- A person may not set crab pots in the Dorchester County waters of Holland Straits. (Id. § 4-812(c)).

According to MD. CODE REG. 08.02.03.07(G), crab pots may not be set in the following areas:

- In all of the waters of Smith Island, Chesapeake Bay, Kedges Straits, and Tangier Sound enclosed by a line beginning at a point at or near the intersection of the Maryland-Virginia
line and the eastern (Tangier Sound) shoreline of Smith Island, defined by Lat. 37° 57.20'N. and Long. 75° 59.68'W.; then running approximately 270° True along the Maryland-Virginia line to a point at or near the intersection of the Maryland-Virginia line and the western (Chesapeake Bay) shoreline of Smith Island, defined by Lat. 37° 57.21'N. and Long. 76° 02.82'W.; then running northerly along the west shore of Smith Island to a point at or near the south side of Sheep Pen Gut, defined by Lat. 37° 58.77'N. and Long. 76° 02.93'W.; then running approximately 349° True to a point at or near the north side of Sheep Pen Gut, defined by Lat. 37° 58.99'N. and Long. 76° 02.98'W.; then running northerly along the west shore of Smith Island to a point at or near the south entrance of Goose Harbor, defined by Lat. 37° 59.45'N. and Long. 76° 03.04'W.; then running approximately 3° True to a point at or near Channel Point, defined by Lat. 38° 00.57'N. and Long. 76° 02.96'W.; then running northerly along the west shore of Smith Island to a point at or near Fog Point, defined by Lat. 38° 02.04'N. and Long. 76° 02.50'W.; then running easterly along the shore of Fog Point Cove to a point at or near Bards Point, defined by Lat. 38° 02.20'N. and Long. 76° 01.65'W.; then running approximately 88° True to a point at or near the east shore of Bridge Creek, defined by Lat. 38° 02.20'N. and Long. 76° 01.50'W.; then running easterly along the shore to a point at or near Fishing Point, defined by Lat. 38° 02.26'N. and Long. 76° 00.33'W.; then running approximately 138° True to a point, defined by Lat. 38° 01.53'N. and Long. 75° 59.49'W.; then running approximately 115° True to a point, defined by Lat. 38° 01.39'N. and Long. 75° 59.14'W.; then running approximately 119° True to a point at the former location of Terrapin Sands Point defined by Lat. 38° 00.95'N. and Long. 75° 58.13'W.; then running approximately 198° True to a point at or near on the north side of the channel at Big Thorofare, defined by Lat. 37° 58.13'N. and Long. 75° 59.27'W.; then running approximately 185° True to a point at or near the southerly entrance of Big Thorofare, defined by Lat. 37° 57.62'N. and Long. 75° 59.33'W.; then running approximately 214° True to the point of beginning defined by a point at or near the intersection of the Maryland-Virginia line and the eastern (Tangier Sound) shoreline of Smith Island, defined by Lat. 37° 57.20'N. and Long. 75° 59.68'W.

Closed Periods

Crab pots may not be set in Maryland waters before March 31. Pots must be removed from the Chesapeake Bay and its tidal tributaries by December 31. (Id. 08.02.03.07(C)).

- A person may not catch blue crabs in the Chesapeake Bay and its tidal tributaries between December 15 and April 1. (Id. 08.02.03.11(C)).

According to MD. CODE REG. 08.02.03.11(A), commercial crab fishermen may remove crabs from commercial gear in the Chesapeake Bay and its tidal tributaries only during the following times:

- Trotlines – May through September between 1 hour before sunrise to 9 hours after sunrise. April and October – December between sunrise and 10 hours after sunrise.

- Crab Scrapes – May through September between 1 hour before sunrise to 9 hours after sunrise. April and October between sunrise and 10 hours after sunrise.
  - A person may not catch crabs using a crab scrape from October 31 to April 14.
• Crab pots, bank traps, channel pounds, collapsible traps, net rings, handlines, dip nets, and pound nets – Between 1/2 hour before sunrise to 7 1/2 hours after sunrise.

According to Md. Code Reg. 08.02.03.11(B), except for handlines and dipnets, a person may not set any recreational crabbing gear or catch crabs for recreational purposes from a boat during:

• May through September between 5 p.m. and 1/2 hour before sunrise in the main Chesapeake Bay; and sunset and 1/2 hour before sunrise in tidal waters tributary to the Chesapeake Bay.

• April, October, November, and December between 5 p.m. and 1/2 hour after sunrise in the main Chesapeake Bay; and sunset and 1/2 hour after sunrise in tidal waters tributary to the Chesapeake Bay.

Except for crab pots from private piers, dipnets, or handlines, a person may not set any crabbing gear or catch crabs for recreational purposes on Wednesdays in the Chesapeake Bay and its tidal tributaries. (Id. 08.02.03.14(A)(1)).

• Recreational crabbing is permitted on the Wednesday immediately preceding or falling on a State or federal holiday.

A person licensed to catch crabs for sale may not set or retrieve gear or catch crabs for commercial purposes in the Chesapeake Bay and its tidal tributaries on Sundays and Mondays. (Id. 08.02.03.14(B)(1)).

• A person licensed to catch crabs for commercial purposes may set or retrieve gear or catch crabs for commercial purposes on a Sunday or Monday of a particular week if:
  o A State or federal holiday falls on the Sunday or Monday, or the immediately preceding Saturday; or
  o The Sunday or Monday precedes a State or federal holiday that falls on a Tuesday, Wednesday, Thursday, or Friday of the particular week.

A person licensed to catch crabs for sale may not set or retrieve gear or catch crabs for commercial purposes in the Chesapeake Bay and its tidal tributaries on the second and third Thursdays in November. (Id. 08.02.03.14(B)(5)).

Provisions Allowing Removal DFG

Currently Maryland does not have any provision specifically allowing the removal of DFG by private citizens or community organizations. If the removal is the appropriate course of action for dealing with ghost pots, the DNR may establish times outside the commercial crabbing season. (See Fact Sheet, NOAA, NOAA Chesapeake Bay Office Partners with Maryland Department of Natural Resources in Study of Derelict Fishing Gear (2008), available at http://noaa.chesapeakebay.net/docs/derelictgearncbomddnr.pdf )
• In the event a private citizen comes across an abandoned pot, NOAA Chesapeake Bay Office and the Maryland Department of Natural Resources recommend that they record the date and location, note the species trapped inside dead or alive, take photographs, and submit the information to NOAA.

B. VIRGINIA

Definition of Recreational and Commercial Fishing Gear Used in Crab Fishery

Crab Dredge: A device, which may have teeth on the bar that is designed and used to catch crabs buried in the bottom. (VA. CODE ANN. §28.2-700).

Crab Pot: A device made of wire or thread net used to catch crabs. (Id.)

Peeler Pot: A wire mesh pot baited with only live adult male (jimmy) blue crabs. (Id.)

Definition of Derelict Fishing Gear

There is no Virginia law or regulation which directly defines derelict fishing gear, but there are some provisions for removal of gear. For example, every owner or user of a crab trap or crab pond is required to “completely remove traps, leads, wire, poles, and all other related gear from the water not later than December 31 of each year.” (4 VA. ADMIN. CODE § 20-460-30(A)). In the vicinity of Tangier Island, owners and users may leave poles at crab trap or crab pond stands, “provided such poles will be used at said location the following season and not be abandoned.” (Id. § 20-460-30(B)).

Restrictions on Handling Gear

There are no laws or regulations expressly placing restrictions on the handling of fishing gear.

Requirements for Escape Mechanisms

It is unlawful to use a crab pot which has a mesh less than 1 1/2 inches, unless the Marine Resource Commission promulgates regulations allowing a different mesh size. (VA. CODE ANN. § 28.2-705(A)(2)).

It is also unlawful for any person to place, set or fish any crab pot, in Virginia's seaside area, that does not contain at least two unobstructed cull rings. (4 VA. ADMIN. CODE § 20-700-20(A)).

• One cull ring must be at least 2-5/16 inches inside diameter, and the other cull ring shall be at least 2-3/16 inches inside diameter. The cull rings must be located one each in opposite exterior side panels of the upper chamber of the pot. (Id.)

In any Virginia waters, it is unlawful to set a crab pot that does not contain at least two unobstructed cull rings. (Id. § 20-700-20(B)).

• The two cull rings shall be at least 2-3/8 inches inside diameter and shall be located, one each, in opposite exterior side panels of the upper chamber of the pot. (Id.)
Peeler pots with a mesh size less than 1-1/2 inches are exempt from the cull ring requirement. *(Id. § 20-700-20(C)).*

**Requirements for Marking Gear**

All crab pots must display an identification number on the float or stake attached to the pot. *(V.A. STAT. ANN. § 28.2-712).*

Commercial fishermen setting crab pots must display their Virginia Marine Resources Commission (MRC) identification number, preceded by the letter “C,” on each floating buoy or stake attached to each crab pot. *(4 VA. ADMIN. CODE § 20-140-25(A)).*

- **Commercial fishermen setting peeler pots, must display their MRC identification number, preceded by the letter “P,”** on each floating buoy or stake. *(Id. § 20-140-25(B)).*

Buoy of any eel pot, gill net or ordinary crab trot line used for recreational purposes shall be marked with the licensee’s last four numbers of his social security number or driver’s license number, preceded by the letter “R.” *(Id. § 20-670-40(A)).*

**Closed Areas/Periods for the Fishery**

**Closed Areas**

It shall be unlawful for any person to place, set or fish a crab pot or to harvest hard crabs by any gear in the following area: (all latitudes and longitudes are based on North American Datum, 83 (1993)) beginning near the northernmost point of Fishbone Island, at 37° 53' 10.4510” north, 76° 00' 08.7703” west; thence in a northerly direction approximately 0.92 miles to a point near the eastern shore of Herring Island, at 37° 54' 03.4504” north, 76° 00' 27.7700” west; thence in a northerly direction approximately 1.67 miles to a point near Peach Orchard Point, at 37° 55' 41.4491” north, 76° 00' 53.7692” west; thence following the shoreline of South Point Marsh to a point on the marsh near South Point, at 37° 55' 19.4499” north, 76° 01' 30.7706” west; thence due west approximately 0.80 miles to the remains of the overhead power cable west of the westernmost point of Shanks Island at 37° 55' 20.7101” north, 76° 02' 31.6527” west, thence in a southeasterly direction, along the remains of the overhead power cable, approximately 2.86 miles to a point near Upper Tump, at 37° 52' 50.5065” north, 76° 00' 45.6702” west; thence in a northeasterly direction approximately 0.59 miles to a point near the northernmost point of Fishbone Island, the point of beginning. *(Id. § 20-240-20).*

**Closed Periods**

The lawful season (both commercial and recreational) for the harvest of male crabs is March 17, 2008, through November 30, 2008. The lawful season for the harvest of female crabs shall be March 17, 2008, through October 26, 2008. *(Id. § 20-270-40(A)).*

It is unlawful for any person knowingly to place, set, fish or leave any hard crab pot or peeler crab pot in any tidal waters of Virginia from December 1, 2008, through March 16, 2009. *(Id. § 20-270-40(C)).*
It is unlawful to knowingly place, set, or leave any crab pot in any of the tidal tributaries of the Commonwealth between January 1 and January 31. (VA. STAT. ANN. § 28.2-711). The MRC is authorized to change the time period during which such activities are prohibited. The MRC will presume that a crab pot located in any such tributary was “knowingly placed, set, or left in that location,” although the owner may present evidence to rebut that presumption. (Id.)

It is unlawful for any person to conduct commercial or recreational crabbing within Area 1 or Area 2 of the Virginia Blue Crab Sanctuary from May 1 through September 15. (4 VA. ADMIN. CODE § 20-752-30(A)-(B)).

The lawful daily time periods for the commercial harvesting of crabs by crab pot or peeler pot shall be from 6 a.m. to 2 p.m. from March 17 through April 30 and September 1 through November 30, and from 5 a.m. to 1 p.m. during the months of May, June, July, and August. (Id. § 20-270-30(A)).

**Provisions Allowing Removal DFG**

To prevent ghost fishing by unattended nets, Virginia has made it “unlawful for any person to set nets on a fixed fishing device and let said device or nets remain unfished.” (Id. § 20-170-20). If a marine police officer determines that a device or net, except for a staked gillnet, has not been fished for at least five days, he is required to notify the licensee and the licensee has seven days to remove or fish the device or net. (Id. § 20-170-30(A)). For staked gill nets, marine police officers shall notify the licensee if it appears the net has not been fished for at least a 24-hour period. (Id. § 20-170-30(B)). The license must remove or fish the net within 24 hours after notification.

There are currently no laws or regulations providing for a derelict fishing gear removal program. The Virginia Institute of Marine Science, however, with funding from the Virginia Marine Resources Commission, has undertaken a Marine Debris Location and Removal Project. Information is available at [http://ccrm.vims.edu/marine_debris_removal/index.html](http://ccrm.vims.edu/marine_debris_removal/index.html).

### IV. NORTH CAROLINA BLUE CRAB FISHERY

**Definition of Fishing Gear Used**

**Collapsible Crab Trap**: A trap used for taking crabs with the largest open dimension no larger than 18 inches and that by design is collapsed at all times when in the water, except when it is being retrieved from or lowered to the bottom. (15A N.C. ADMIN. CODE 03I.0101(3)(c)(ii)).

**Dredge**: A device towed by engine power consisting of a frame, tooth bar or smooth bar, and catchbag used in the harvest of oysters, clams, crabs, scallops, or conchs. (Id. 03I.0101(3)(d)).

**Crab Trawl**: A device for catching crabs made of mesh. (Id. 03L.0202).

**Peeler Pot**: A wire-mesh box measuring about 2 by 2 feet used to harvest peeler crabs. (Id.).

- Peeler pots are not authorized for recreational purposes (15A N.C. ADMIN. CODE 3O.0302(a)(5)).

**Definition of Derelict Fishing Gear**

There is no North Carolina law or regulation that directly defines derelict fishing gear, but there are some restrictions on the amount of time pots may be left unattended. Pots may not be left in the water for more than five consecutive days unless it is being used for fishing or the owner can demonstrate that some hardship kept him from retrieving the pot (such as a death in the family or his boat’s mechanical breakdown). (15A N.C. ADMIN. CODE 03I.0105(b)).

**Restrictions on Handling Gear**

Crab pots may not be removed from the water between one hour after sunset and one hour before sunrise. (Id. 03J.0301(i)).

**Requirements for Escape Mechanisms**

All recreational and commercial crab pots used in coastal fishing waters must contain at least two unobstructed escape rings. (Id. 03J.0301(g)).

- Escape rings must be at least 2 5/16 inches inside diameter and located in the opposite outside panels of the upper chamber of the pot.

Peeler pots with a mesh size less than 1 ½ inches are exempt from the escape ring requirement. (Id.).

- Additionally, the Director of the N.C. Division of Marine Fisheries (Fisheries Director) may, by proclamation, exempt the escape ring requirement in order to allow the harvest of peeler crabs or mature female crabs. The director is authorized to impose restrictions on the areas and times affected.

**Requirements for Marking Gear**

**Commercial**

All commercial crab pots must be marked by attaching one floating buoy per pot. (Id. 03J.0301(c)).

- It is unlawful to use pots to take crabs unless the line connecting the pot to the buoy is non-floating. (Id. 03J.0301(k)).
Commercial crab pot buoys must be of solid foam or other solid buoyant material; no less than five inches in diameter and five inches in length; be of any color except yellow or hot pink or any combination including those two colors. (Id. 03J.0301(c)).

- The buoys must identify the owner by engraving or by attaching engraved metal or plastic tags to the buoy. Such identification must include one of the following: the gear owner’s current motor boat registration number, the gear owner’s U.S. vessel documentation name, or the gear owner’s last name and initials. (Id.).

Recreational

All recreational crab pots must be marked by attaching one floating buoy per pot. (Id. 03J.0302(a)).

- Recreational crab pot buoys must be any shade of hot pink in color; made of solid foam or other solid buoyant material no less than five inches in diameter and five inches in length. (Id.)

- Recreational crab pot buoys must identify the owner by engraving or by attaching engraved metal or plastic tags to the buoy. Such identification shall include the owner’s last name and initials. (Id.)
  - If a vessel is used, one of the following must also be present: the gear owner’s current motorboat registration number or U.S. vessel documentation name.

Closed Areas/Periods for the Fishery

Closed Areas

It is unlawful to use crab pots: (1) in any navigation channel marked by state or federal agencies; or (2) in any turning basin maintained and marked by the North Carolina Ferry Division. (Id. 03J.0301(b)).

It is unlawful to use crab pots in inland fishing waters, except by individuals owning property adjacent to the inland fishing waters of coastal rivers and their tributaries are permitted to set two crab pots if attached to their property. (Id. 10C.0404(e)).

The North Carolina Division of Marine Fisheries has designated crab spawning sanctuaries within which the taking of crabs may be restricted or prohibited. (15A N.C. ADMIN. CODE 3L.0110).

- It is unlawful to take crabs with the use of commercial fishing equipment from these sanctuaries from March 1 through August 31. (Id. 3L.0205(a)).

- From September 1 through February 28, the Fisheries Director may, by proclamation, close the crab spawning sanctuaries and impose restrictions specifying the number of days, areas, methods, times, and quantity. (Id. 3L.0205(b)).
The crab spawning sanctuaries are described as follows:

- In the Oregon Inlet Area. Beginning at a point on the Atlantic Ocean shore of Bodie Island 35° 47.7054' N--75° 32.3522' W; running northeasterly to a point in the Atlantic Ocean 35° 47.9833' N--75° 31.8500' W; running southerly to a point in the ocean 35° 46.3500' N--75° 30.6666' W; running westerly to a point on the Atlantic Ocean shore at 35° 46.1037' N--75° 31.2785' W; running northerly along the Atlantic shore of Pea Island to and around South Point and continuing southerly along the shore of Pamlico Sound to a point on the south point of Eagle Nest Bay at 35° 43.7085' N--75° 30.8009' W; running westerly to a point in Pamlico Sound at 35° 43.7100' N--75° 32.2113' W; running northerly to a point 35° 47.3992' N--75° 34.1650' W in Pamlico Sound; running northerly to a point on Bodie Island 35° 48.5740' N--75° 33.8722' W; running southerly along the shore to and around North Point at Oregon Inlet and then northerly on the Atlantic shore to the point of beginning;

- In the Hatteras Inlet Area. Beginning at a point on the Pamlico Sound shoreline of Hatteras Island 35° 12.0846' N--75° 43.3514' W; running northwesterly to a point in Pamlico Sound 35° 13.6361' N--75° 45.4451' W; running southwesterly to a point near Outer Green Island 35° 11.0794' N--75° 48.4440' W; running southeasterly to a point on the Pamlico Sound shore of Ocracoke Island 35° 10.7004' N--75° 47.9094' W; running northeasterly along the shoreline to a point on the northeastern tip of Ocracoke Island 35° 11.2340' N--75° 46.3051' W; running southeasterly to a point in the Atlantic Ocean at 35° 10.6644' N--75° 44.5221' W; running northeasterly to a point on the ocean shoreline of Hatteras Island 35° 11.7894' N--75° 43.5946' W; running southwesterly around the tip of Hatteras Island to the point of beginning;

- In the Ocracoke Inlet Area. Beginning at a point on Ocracoke Island 35° 6.2555' N--75° 59.3722' W; running westerly through Shellcastle Island to a point in Pamlico Sound 35° 5.8599' N--76° 4.3639' W; running southerly to a point on Portsmouth Island 35° 3.7378' N--76° 4.7850' W; running northeasterly along the shore of Pamlico Sound around the western side of Ocracoke Inlet and southerly along the shore of the Atlantic Ocean to a point 35° 3.0500' N--76° 3.0833' W; running southeasterly offshore to a point in the Atlantic Ocean 35° 2.6333' N--76° 2.7166' W; running northeasterly to a point in the ocean 35° 3.9666' N--75° 59.3000' W; running northwesterly to a point on the Atlantic shore of Ocracoke Island 35° 4.7402' N--75° 59.7124' W; running southwesterly along the shore around the eastern side of Ocracoke Inlet and northeasterly along the shore to the point of beginning;

- In the Drum Inlet Area. Beginning at a point on the Core Sound shore of Core Banks 34° 52.81101' N--76° 17.1780' W; running westerly to a point in Core Sound 34° 53.7347' N--76° 18.0439' W; running southerly to a point in Core Sound 34° 50.8286' N--76° 21.2515' W; running southeasterly to a point on the Core Sound shore of Core Banks 34° 50.1496' N--76° 20.3924' W; following the shoreline in a northeasterly direction around the western side of Drum Inlet then along the Atlantic Ocean shoreline to a point on Core Banks 34° 50.0049' N--76° 20.3741' W; running southeasterly to a point in the Atlantic Ocean 34° 49.4995' N--76° 19.8407' W; running northeasterly to a point in the Atlantic Ocean 34° 52.2167' N--76° 16.7476' W; running northwesterly to a point on the ocean shore of Core Banks 34° 52.6147' N--
76° 17.0705' W; running southwesterly toward and around the eastern side of Drum Inlet, then in a northeasterly direction along the Core Sound shore of Core Sound to the point of beginning;

- In the Bardens Inlet Area. Beginning at a point on Core Banks near the southern side of Hogpen Bay 34° 40.7047' N--76° 29.6108' W; running westerly to a point near Marker "35" at 34° 40.7071' N--76° 31.5922' W; running southwesterly to a point on Shackleford Banks 34° 38.9974' N--76° 32.4858' W; running southeasterly around the eastern end of Shackleford Banks and then northwesterly along the ocean shoreline to a point on shore 34° 38.5608' N-76° 32.6863' W; running southwesterly through Buoy "4" to Buoy "2" at the end of the Cape Lookout Jetty 34° 37.1272' N-76° 33.7381' W; running southeasterly to the base of the Cape Lookout Jetty 34° 36.7836' N-76° 33.1569' W; running northerly to the end of Power Squadron Spit, around Lookout Bight and northerly up Core Banks to the point of beginning. (Id. 3R.0110).

Closed Periods

Commercial and recreational crab pots may only be set in coastal fishing waters from December 1 through May 31. (Id. 3J.0301(a)(1)).

All pots must be removed from internal waters from January 15 through February 7. (Id.)

- Fish pots upstream of U.S. 17 Bridge across Chowan River and upstream of a line across the mouth of Roanoke, Cashie, Middle and Eastmost Rivers to the Highway 258 Bridge are exempt from the January 15 through February 7 removal requirement.

- The Fisheries Director may, by proclamation, reopen various waters to the use of pots after January 19 if it is determined that such waters are free of pots.

From June 1 through November 30, north and east of the Highway 58 Bridge at Emerald Isle, commercial and recreational pots may only be set in the designated pots areas described in 15A N.C. ADMIN. CODE 3R.0107(a). (Id. 3J.0301(a)(2)). A map of the designated pot areas is available at http://www.ncfisheries.net/maps/DPA_maps/index.html.

- To allow for the variable spatial distribution of crustacea and finfish, the Fisheries Director is permitted to open certain areas that are normally closed to pots by proclamation.

- Pots attached to shore or a pier are exempt from these restrictions. (Id. 3J.0301(d)).

From May 1 through November 30 commercial and recreational pots may only be set in the Atlantic Ocean and west and south of the Highway 58 Bridge at Emerald Isle in areas and during time periods designated by the Fisheries Director by proclamation. (Id. 3J.0301(a)(3)).

- Pots attached to shore or a pier are exempt from these restrictions. (Id. 3J.0301(d)).

Provisions Allowing Removal of DFG

40
There is no provision in the North Carolina statutes or regulations providing express authority for the removal of DFG. However, as mentioned above, it is unlawful to leave pots in any coastal fishing waters for more than five consecutive days, when such pots are not being employed in fishing operations, except upon a timely and sufficient showing of hardship. (15A N.C. ADMIN. CODE. 03I .0105(b)).

- Agents of the Fisheries Director may tag pots to aid and assist in the investigation and identification of unattended pots. The individual utilizing the pot must remove the device within five days to demonstrate that the pot is being employed in fishing operations.

In addition, all pots must be removed from internal waters from January through February 7. (Id. 3J.0301(a)(1)). Although the regulations do not explicitly refer to derelict pot removal, this seasonal closure does facilitate the removal of abandoned pots.

- At one time North Carolina did have a commercial fishing gear recycling program. In 1995, approximately 4,600 traps were collected during the seasonal closure. The recycling program has been discontinued, but agency personnel may collect traps during the closure. (Louisiana’s Derelict Trap Removal Program, Programs in Other States, http://www.derelictcrabtrap.net/background5.html)

While not directly applicable to crab pots, Division of Marine Fisheries personnel have express authority to remove abandoned pound net gear. All stakes and associated gear must be removed from coastal fishing waters within 30 days of abandonment of a permitted pound net. The Division may recover costs incurred during removal from the party responsible for the abandoned net. (15A N.C. ADMIN. CODE 3J.0501(g)).

V. GULF OF MEXICO BLUE CRAB FISHERY

A. FLORIDA

Definition of Fishing Gear Used

Fold Up Trap: A plastic or wire meshed collapsing trap that opens outward to occupy a single plane when placed on the water bottom. It is baited in the center of the base panel and encloses crabs when retrieved by means of a cord drawing together the side panels. (FLA. ADMIN. CODE ANN. r. 68B-45.002(5).

Blue Crab Trap: A trap authorized by and used according to the requirements of FLA. ADMIN. CODE ANN. r. 68B-45 (Id. r. 68B-4.020(1)(a)).

- Traps must be constructed of wire with a minimum mesh size of 1 1/2 inches and have throats or entrances located only on a vertical surface. Traps shall have a maximum dimension of 24 inches by 24 inches by 24 inches or a volume of 8 cubic. (Id. r. 68B-45.004(1)(a)(1)).

- Each throat (entrance) in any trap used to harvest blue crabs shall be horizontally oriented, i.e., the width of the opening where the throat meets the vertical wall of the trap and the opening of the throat at its farthest point from the vertical wall, inside the trap, is greater
than the height of any such opening. No such throat shall extend farther than 6 inches into
the inside of any trap, measured from the opening where the throat meets the vertical wall
of the trap to the opening of the throat at its farthest point from the vertical wall, inside the
trap. (Id. r. 68B-45-004(1)(a)(6).

- These requirements do not apply to traps with a less than 1 cubic foot volume which are
used to harvest blue crabs recreationally from a vessel, a dock, or from shore. (Id. r. 68B-45-
004(1)(a)(7)).

Definition of Derelict Fishing Gear

A derelict trap is any trap during any closed season for the species, or any fishable trap during
the open season, that lacks more than two of the following elements: buoy, line, current
Commission-issued trap tag (if required) and current license. (Id. r. 68B-55.001(3)).

- Traps are also considered to be derelict during the closed season for the harvest of any
species for which traps are allowable gear and after any authorized trap retrieval period. (Id.
r. 68B-55.004(1)).

Trap debris refers to any piece of a trap, or any combination of such pieces not constituting a
fishable trap. (Id. r. 68B-55.001(2)).

- A “fishable trap” means a trap that has 6 intact sides and at least two of the following
elements: buoy, line, current Commission-issued trap tag (if required), and identification.
(Id. r. 68B-55.001(4)).

Crab traps found in state waters during trap retrieval closure periods “are declared to be a
public nuisance and shall be disposed of in the manner approved by the Commission.” (Id. r.
68B-45.0045(1)(b)).

Restrictions on Handling Gear

In Florida, it is considered theft for any person to remove or take possession of the contents of
another harvester’s blue crab trap without the express written consent of the trap owner. (FLA.
STAT. ANN. § 379.366(4)(b)).

It is also unlawful for any commercial harvester or any other person to willfully molest any blue
crab trap, line, or buoy that is the property of any license holder without the permission of that
license holder. (Id. § 379.366(4)(c)(1)).

Requirement for Escape Mechanisms

In Florida, all blue crab traps must have escape rings and degradable panels. Each trap with
mesh size of 1.5 inches or larger must have at least three unobstructed escape rings installed,
each with a minimum inside diameter of 2 3/8 inches. One of the three escape rings must be
located on a vertical outer surface adjacent to each crab retaining chamber (FLA. ADMIN. CODE
ANN. r. 68B-45.004(1)(a)(5)).
According to Fla. Admin. Code Ann. r. 68B-45.004(7), a trap is considered to have a degradable panel if one of the following methods is used in the construction of the trap.

- The trap lid tie-down strap is secured to the trap at one end by a single loop of untreated jute twine. The trap lid must be secured so that when the jute degrades, the lid will no longer be securely closed.

- The trap lid tie-down strap is secured to the trap at one end with a corrodible loop composed of non-coated steel wire measuring 24 gauge or thinner. The trap lid must be secured so that when the loop degrades, the lid will no longer be securely closed.

- The trap lid tie-down strap is secured to the trap at one end by an untreated pine dowel no larger than 2 inches in length by 3/8 inch in diameter. The trap lid must be secured so that when the dowel degrades, the lid will no longer be securely closed.

- The trap contains at least one sidewall with a rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. This opening must be laced, sewn, or otherwise obstructed by a single length of untreated jute twine knotted only at each end and not tied or looped more than once around a single mesh bar.

- The trap contains at least one sidewall with a rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. This opening must be obstructed with an untreated pine slat or slats no thicker than 3/8 inch.

- The trap contains at least one sidewall with a rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. The opening may either be laced, sewn, or otherwise obstructed by non-coated steel wire measuring 24 gauge or thinner or be obstructed with a panel of ferrous single-dipped galvanized wire mesh made of 24 gauge or thinner wire.

- The trap contains at least one sidewall with a rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. The opening may be obstructed with a rectangular panel made of any material, fastened to the trap at each of the four corners of the rectangle by galvanized staples 16 gauge or thinner, rings made of non-coated 24 gauge or thinner wire, or single strands of untreated jute twine.

Requirements for Marking Gear

Blue crab traps must have the harvester’s blue crab endorsement number permanently affixed to it. The endorsement number must also be affixed to each buoy attached to the trap. (Fla. Stat. Ann. § 379.366(1)).

- These marking requirements do not apply to an individual fishing with no more than 5 traps.

All traps must have a buoy or a time release buoy attached to each trap or at each end of a weighted trotline. The buoy must be constructed of Styrofoam, cork, molded polyvinyl chloride, or molded polystyrene, be of sufficient strength and buoyancy to float, and be of such color, hue
and brilliancy to be easily distinguished, seen, and located. Buoys shall be either spherical in shape with a diameter no smaller than 6 inches or some other shape so long as it is no shorter than 10 inches in the longest dimension and the width at some point exceeds 5 inches. No more than 5 feet of any buoy line attached to a buoy used to mark a blue crab trap or attached to a trotline shall float on the surface of the water. (FLA. ADMIN. CODE ANN. r. 68B-45.004(1)(a)(2)).

- The buoy attached to each trap used to harvest blue crab, other than those used to harvest blue crabs for commercial purposes, shall have a legible “R” permanently affixed to it. The trap shall have the harvester’s name and address permanently affixed to it in legible letters. (Id. r. 68B-45.004(1)(a)(4)).
  - These marking requirements for recreational traps do not apply to traps fished from a dock.

Closed Areas/Periods for the Fishery

To facilitate the identification and removal of lost and abandoned traps, FLA. ADMIN. CODE r. 68B-45.0045(1)(a) prohibits the use of traps to harvest blue crabs for a period of up to ten days annually in the following regions, extending to three nautical miles offshore:

- All waters of the St. Johns River, its associated lakes and tributaries from west of the St. Johns River’s intersection with the Intracoastal Canal through and including Lake Hellen Blazes from January 16 through January 25;
  - All waters of Nassau, Duval, Clay, St. Johns, Putnam, Flagler, and Volusia counties from August 20 through August 29, however, not including waters listed in the above paragraph;
  - All waters of Brevard, Indian River, St. Lucie, Martin, and Palm Beach counties from August 10 through August 19, however, not including waters listed in the first paragraph above;
- All waters of Broward, Miami-Dade, Monroe, Collier, Lee, Charlotte, DeSoto, Sarasota, Manatee, Hillsborough, Pinellas, and Pasco counties from July 10 through July 19;
- All waters of Wakulla, Jefferson, Taylor, Dixie, Levy, Citrus, and Hernando counties and including all waters of the Ochlockonee River and Ochlockonee Bay from July 20 through July 29;
- All waters of Escambia, Santa Rosa, Okaloosa, Walton, Bay, Gulf, and Franklin counties from January 5 through January 14, however, excluding all waters of the Ochlockonee River and Ochlockonee Bay.

All traps must be removed from the water before 12:01 am on the first day of each regional closure. (Id. r. 68B-45.0045(1)(b)).

- Any traps remaining in the closed areas are considered public nuisances which shall be disposed of in a manner approved by the Commission.
Closures do not apply to traps secured to private property, such as a dock.

In the Gulf Seasonal Closure Region, no blue crab trap, including any trap used to harvest peeler crabs, may be placed in the water, fished, or soaked during the period beginning September 20 and continuing through October 4 each year. (Id. r. 68B-45.0045(2)).

The Gulf Seasonal Closure Region includes all state waters of the Gulf of Mexico seaward of three nautical miles from shore. (Id. r. 68B-45.002(6)).

Traps used to harvest blue crabs or peeler crabs may be worked during daylight hours only. The pulling of traps from one hour after official sunset until one hour before official sunrise is prohibited. (Id. r. 68B-45.006(2)).

Provisions Allowing Removal of DFG

In 2003, Florida passed legislation authorizing the Florida Fish and Wildlife Conservation Commission to establish a blue crab trap removal program. The Commission implements a trap retrieval program for spiny lobster, stone crab, blue crab, and black sea bass traps remaining in the water during the closed seasons for each species. (Fla. Stat. Ann. § 379.2424). The closed seasons are outlined above.

The Commission is authorized to assess trap owners, and collect, a retrieval fee of $10 per trap retrieved. For each person holding a spiny lobster, stone crab, or blue crab endorsement, the retrieval fee is waived for first five traps retrieved.

Traps recovered under the state’s removal program become the property of the Commission and are either destroyed or resold to the original owner.

Revenue from retrieval fees is deposited in the Marine Resources Conservation Trust Fund and used solely for operation of the trap retrieval program.

Removal of Traps

Traps may be retrieved by

- Commission personnel,
- A contractor under the direct oversight of Commission personnel, or
- Any approved persons through either a cooperative agreement with federal state or local governments or with fishery participant organizations acting in conjunction with the commission (Fla. Admin. Code Ann. r. 68B-55.003(1)).

A Fishery Participant Organization is a group of commercial fishermen all of whom possess a current saltwater products license and a blue crab, stone crab or spiny lobster endorsement. For the purpose of participation in the retrieval of derelict traps, this means participants who receive and possess written permission from each other to bring their traps into land or move them back into line, who work under law enforcement supervision to retrieve traps, or who prepare a plan for Commission
authorization pursuant to this rule. (Id. r. 68B-55.001(5)).

The Commission requires the following information be documented for each retrieved trap:

- The intended species targeted by the trap;
- Owner identification/endorsement number;
- Presence or absence of a required tag;
- Commercial or recreational trap;
- Location of trap; and
- Buoy colors. (Id. r. 68B-55.003(2)).

Trap owners affected by a disaster have ten calendar days after notification to claim traps from a Commission-authorized storage area. (Id. r. 68B-55.003(4)).

- Unclaimed traps will be properly disabled and disposed of as trap debris by the Commission.

During the open season for harvest of any species for which traps are allowable gear, retrieval of derelict traps may occur at any time deemed appropriate by the Commission. (Id. r. 68B-55.004(2)).

- During these times, Commission employees, local, state, or federal personnel, or members of a fishery participant organization may retrieve derelict traps.

- Retrieval of traps by individuals other than Commission personnel must be conducted pursuant to a Commission approved plan.
  
  o The plan shall include the operational area and time period proposed, authorized personnel, the number of vessels, methods of disposition, and number and qualifications of supervisory personnel.
  
  o An approved plan shall also include notification of the Commission’s Division of Law Enforcement no less than 24 hours prior to commencement of retrieval under this program with final float plan information including contact information, vessel registration numbers, trip times, and number of days.

- Local, state, or federal government personnel may retrieve traps located in areas that are permanently closed to trapping without prior authorization from the Commission. (Id. r. 68B-55.004(3)).

**Removal of Trap Debris**

Commission regulations authorize governmental (local, state, and federal) entities, nonprofit organizations, fishery participant organizations and other community or citizens groups to remove trap debris from shoreline areas landward of mean low water and from mangroves or other shoreline vegetation during coastal cleanup events for the removal of marine debris. (Id. r. 68B-55.002(1)).
Coastal cleanup events to remove trap debris from all other areas of state waters may only be undertaken with prior authorization from the Commission. (Id. r. 68B-55.002(2)).

Local, state, or federal government personnel may remove trap debris located in areas that are permanently closed to trapping without prior authorization from the Commission. (Id. r. 68B-55.002(3)).

**Recovery of Traps in Area of Major Natural Disaster**

Upon a finding that a major natural disaster, such as a hurricane or tropical storm, has caused massive trap losses, the Commission may declare a trap emergency in the affected area or a specified portion of it. (Id. r. 68B-55.005(1)).

- Each harvester in the affected trap fishery may designate, on an Emergency Trap Recovery Designation Affidavit, persons authorized to recover and possess traps of the harvester.
- Persons authorized to recover and possess traps of a harvester may do so only in the area and during the period specified in the trap emergency order.

**B. ALABAMA**

*Definition of Fishing Gear Used*

Alabama does not define “crab trap,” but traps used to take crabs or other seafood shall not exceed 27 cubic feet in volume. (ALA. ADMIN. CODE r. 220-3-.31(5)).

*Definition of Derelict Fishing Gear*

No Alabama law or regulation directly defines derelict fishing gear. However, unidentified, improperly marked, or illegally placed crab traps are considered nuisances and may be confiscated by a conservation enforcement officer or other authorized agent of the Alabama Department of Conservation and Natural Resources. (Id. r. 220-3-.31(12)).

*Restrictions on Handling Gear*

It is unlawful to intentionally damage or destroy crab traps or their attached floats and lines (Id. r. 220-3-.31(11)).

It is the owner’s responsible to remove crab traps which are no longer serviceable or in use. (Id.)

- Alabama conservation officers and DCNR personnel may remove unidentified, improperly marked, or illegally placed crab traps.

*Requirements for Escape Mechanisms*

Alabama does not require escape mechanisms on crab traps.

*Requirement for Marking Gear*
Commercial crab traps must be marked with at least one buoy no smaller than six inches in diameter. At least half of the buoy must be white. The use of plastic bottles as buoys for commercial crab traps is prohibited. (*Id. r. 220-3-.31(6)).

- Buoys must be attached to the traps with a weighted line.
- Buoys must be marked with the identification number of the owner of the trap.

Recreational crab traps must be marked with an orange floating, visible buoy not less than six inches in diameter or width.

- The buoy must have a legible letter R, at least two inches high, permanently affixed to it. (*Id. r. 220-3-.31(10)).

Closed Areas/Periods for the Fishery

It is unlawful to set or place any commercial or recreational crab trap:

- In the access canals to Heron Bay (west of and adjacent to State Highway 193);
- Within three hundred feet of any navigation channel marked by a lawfully established system of waterway markers;
- Within three hundred feet of any public boat launching ramp or public pier, Heron Bay Cutoff, or the mouth of West Fowl River, Weeks Bay, Fish River, Magnolia River, any man-made canal; or
- In any manner so as to prevent ingress or egress to or from any pier, wharf, dock, marina, or boat launching ramp. (*Id. r. 220-3-.31(8)).

Commercial crab traps may not be set or placed in Mobile River, Dog River, Theodore Industrial Canal, Fowl River, the northwest arm of Heron Bay, Heron Bayou (off northwest arm of Heron Bay), Bayou Coden, Bayou La Batre, or their tributaries, in Mobile County, or Blakely River North of the charted position of Blakely River Channel Marker #18, Fly Creek, Fish River, Magnolia River, Bon Secour River north of channel Markers 7 and 8, Wolf Creek, Sandy Creek, Miflin Creek, Hammock Creek, Roberts Bayou, Soldier Creek, Palmetto Creek, Old River (between Ono Island and Perdido Key), or their tributaries, in Baldwin County, or in any man-made canal (including but not limited to the following on Dauphin Island: Quivera Bay, Polaris Lagoon, Port Royal Lagoon, Lafitte Bay, Indian Bay, Indian Canal, Buchanan Bay, Columbia Bay, Colony Cove, Spanish Bay, Barcelona Bay, Confederate Bay, Salt Creek (Heron Bayou), Government Cut, and Billy Goat Hole). (*Id. r. 220-3-.31(9)).

- It is unlawful to set or place any recreational crab trap in the above areas, unless such trap is physically attached by a line to a pier, dock, piling, bulkhead, boathouse, or other structure, on or attached to the shore. Such line shall allow the crab trap to be placed no farther than a distance of ten feet from the pier, dock, boathouse or shoreline. No more than five traps shall be allowed per property.
Harvesting crabs with crab traps is prohibited in any waters in the Mobile Delta north of the line as provided by ALA. ADMIN. CODE r. 220-2-.42(1). That line is described “as Interstate Highway 10 eastbound land (except that portion of Interstate Highway 10 which lies north of State Highway 90 Battleship Parkway, in which case the line follows the Battleship Parkway).” (Id. 220-3-.34).

Provisions for the Removal of DFG

Unidentified, improperly marked, or illegally placed crab traps are considered nuisances and may be confiscated by a conservation enforcement officer or other authorized agent of the Alabama Department of Conservation and Natural Resources. (Id. r. 220-3-.31(12)).

In 2006, the DCNR established a one-day closed fishing season for the taking or harvesting of crabs by the use of crab traps (recreational or commercial) in any inside waters of the State of Alabama under the jurisdiction of the Marine Resources Division within 500 yards of the shoreline. (Id. r. 220-3-.52).

• No crab traps were permitted in the area on the day of the closure, March 11, 2006.
  
  o Any crab traps found within the closed area on March 11, 2006 were considered marine litter which could be removed by any individual.

• Anyone removing crab traps from the closed area was required to properly dispose of the traps by placing them in an approved waste container or facility. The crab traps could not be removed and retained for personal use.

The DCNR had promulgated similar temporary closure areas for trap removal in designated areas in 2002. (Id. r. 220-3-.62). The 2006 regulation stated that, in the future, the Commissioner of Conservation and Natural Resources would establish closure dates and areas through a public notice. (Id. r. 220-3-.52(a)).

C. MISSISSIPPI

Definition of Fishing Gear Used

Mississippi law does not provide detailed definitions of crab traps or crab pots.

Definition of Derelict Fishing Gear

There is no Mississippi law or regulation that directly defines derelict fishing gear. A brochure produced by the Mississippi Department of Marine Resources (DMR) defines derelict crab traps as “traps, which are un-buoyed, unmarked and not actively fished.” (DMR, Gone Crabbing (Oct. 2003), available at http://www.dmr.state.ms.us/Publications/crabbrochure.pdf).

The state does have a crab trap removal program, however, for abandoned traps.

• A trap is considered abandoned if, after the expiration of the seventh day of a closed season,
it remains in the closed area. (Miss. Code Ann. §49-15-84.1).

Restrictions on Handling Gear

It is unlawful for any person to steal, take, or carry away crab traps or the property of another used to catch saltwater crabs. (Id. § 49-15-92).

- Upon conviction, the person may be subject to fines and prison sentences for the violation. In addition, “any person who steals, removes, takes or carries away the crabs from another person’s crab traps shall also pay restitution to the owner of the traps for the crabs taken.”

These provisions, however, do not apply to

- Any person who removes crab traps that are illegally placed or in an illegal location; or
- Any person who catches abandoned crab traps in a shrimp trawl, keeps the crab traps aboard the vessel, and properly disposes of the crab traps.

Requirements for Escape Mechanisms

Mississippi does not require that crab traps be equipped with escape mechanisms.

Requirements for Marking Gear

All crab traps placed in the marine waters of the state must be permanently marked with a corrosion resistant metal or plastic tag identifying the licensed crab fisherman’s full name. (22-04-06 Miss. Code R. § 100).

- All crab traps or pots fished from a boat or a vessel must be marked with that boat or vessel’s Mississippi registration identification. (Id. § 103).

All crab traps or pots must also be marked with a float of at least six inches in height, six inches in length and six inches in width. (Id. § 101).

- The trap float should clearly indicate the corresponding commercial or recreational crab license number. (Id. § 102)
- Commercial crab fisherman may obtain a registered color code design from the DMR. Once obtained, the color code must be placed on each buoy or float. (Id. § 102).

Buoys or floats may not be attached to crab traps or pots with materials other than lines of nylon, hemp, cotton or woven synthetic materials which can easily be cut with a standard steel knife. (Id. § 110).

- Buoys must be attached to crab traps with a weighted line or non-floating line. (Id. § 111).

Crab traps and pots fished for personal use must be clearly marked with the owner’s name. (Id. § 103).
Closed Areas/Periods for the Fishery

Crab traps and pots may not be placed in any marked channel or fairway. (22-04-06 MISS. CODE R. § 109).

Commercial crab traps and pots are prohibited in the marine waters north of the CSX Bridge in the three coastal counties of Mississippi. (22-04-04 MISS. CODE R.§ 100).

Recreational crab traps and pots are prohibited north of the Interstate 10 (I-10) Highway in the three coastal counties. (22-04-06 MISS. CODE R. § 108).

Crabs may not be harvested between January 1 and March 31 of each year within the Cat Island Channel Sanctuary. The Sanctuary is the area bounded by the following line: beginning at a point on the Louisiana-Mississippi border due south of the Intracoastal Waterway Grand Island Channel light 1, thence running due north to said Light 1, thence running northeasterly along the Intracoastal Waterway Marianne Channel through Buoy 22, Light 18, Buoy 12 to Light 8, thence running northeasterly along the most direct line to Lighted Buoy 7, thence running northeasterly along the most direct line to Lighted Buoy 4, thence running southeasterly along the most direct line to "Cat Island West End Channel Light, thence running southwesterly along the most direct line to Cat Island Channel Buoy E, thence running due south to a point on the Louisiana-Mississippi border; thence running westerly along the Louisiana-Mississippi border to the point due south of the Intracoastal Waterway Grand Island Channel Light 1. (22-04-07 MISS. CODE R. § 100).

Provisions for the Removal of DFG

The Mississippi Legislature has authorized the Mississippi Commission on Marine Resources to establish a closed season for the use of crab traps in the public waters of the state. The closed season may not be less than ten day nor more than 30. (MISS. CODE ANN. §49-15-84.1).

• Any crab trap remaining after the expiration of the seventh day of a closed season may be considered abandoned.
  o The first seven days of the closed season are set aside to allow crab fishermen to remove their traps from the water. Harvesting crabs during this time is prohibited, however. (22-04-08 MISS. CODE R. § 100).

• Abandoned crab traps are considered litter and are subject to immediate removal and disposal.

Mississippi’s Derelict Crab Trap Removal Program is a joint effort of the DMR and the Gulf Coast Research Lab. The program is funded in part by the Mississippi Department of Environmental Quality through the Mississippi Coastal Impact Assistance Program (DMR, Gone Crabbing).

D. LOUISIANA
**Definition of Fishing Gear**

**Crab Trap:** A cube-shaped device which is constructed of wire and is no larger than thirty inches on any side with entrance funnels extending no further than seven inches into the inside of the trap and either a bait box or materials providing cover or shelter for peeler crabs, which is used for the sole purpose of taking crabs or stone crabs. This device shall be fished in a stationary, passive manner with the openings to the entrance funnels such that the horizontal diameter of each opening on the vertical wall of the trap is at least one and one-half times the vertical diameter of the opening. (LA. REV. STAT. ANN. §56:8(35)(a)).

**Definition of Derelict Fishing Gear**

While there is no definition of derelict fishing gear, Louisiana does have provisions for abandoned and unserviceable crab traps.

Under Louisiana Law, “any crab trap found in state-owned lakes and river beds and other water bottoms of the state during a period of time when their use has been prohibited by the [Louisiana Wildlife and Fisheries Commission] shall be considered abandoned. (Id. § 56:332(N)(1)).

- The LWFC is authorized to prohibit crab traps in state-owned lakes and river beds and other water bottoms of the state
  - Up to a 16 consecutive day period between February 1 and March 31 and
  - Up to a 14-consecutive-day period which includes the opening of the spring inshore shrimp season. (Id. § 56.332(N)(2)).

In addition, owners of crab traps which are no longer serviceable or in use are required to remove those traps from the water and properly disposed of or store them. (Id. § 56:332(E)(1)).

- **Serviceable Crab Trap:** Any crab trap of legal construction and condition maintained in such a manner with the potential to harvest crabs. Except as provided in La. Rev. Stat. § 56:320(B)(3), maintained condition shall include being legally tagged, legally marked with float and float line attached and two escapement rings affixed whether obstructed or not. (Id. § 56:8(35)(b)).
  - To be legally marked with a float, “each trap shall be attached by a 1/4-inch minimum diameter, non-floating line to a solid float 6 inches minimum diameter, or equivalent.” (LA. ADMIN. CODE tit. 76, § 345(B)).
  - Crab traps attached to a trotline must also have a float and line attached to at least one end. (Id.)

- **Unserviceable Crab Trap:** Any crab trap which is not a serviceable crab trap (LA. REV. STAT. ANN. § 56:8(35)(c)).

**Restrictions on Handling Gear**

52
As mentioned above, it is the responsibility of the trap owner to remove traps from the water. Except during closed periods designated by the LWFC for the Derelict Crab Trap Removal Program, “no person shall intentionally damage or destroy serviceable crab traps or the floats or lines attached thereto, or remove the contents thereof, other than the licensee or his agent.” (Id. § 56.332(E)(1)).

- If a shrimper catches a serviceable trap without a float, he must return it to the water with a common float. Any fisherman with a crab fishing license is permitted to raise the trap to determine ownership. The owner of the crab trap must return the common float to any shrimper for reuse. (Id. § 56:332(G)).
  - For the purposes of this statutory section, a common float is defined as a 1 gallon or larger all-white plastic bleach bottle. (La. Admin. Code tit. 76, § 345(B)).
- If a shrimper catches an unserviceable trap, he must retain the traps onboard for later disposal at a designated disposal site. (La. Rev. Stat. Ann. § 56:332(G)).

**Requirement for Escape Mechanisms**

All crab traps (commercial and recreational) must have a minimum of two escape rings. All escape rings shall be placed on the vertical, outside walls flush with the trap floor or baffle, with at least one ring located in each chamber of the trap. The minimum sizes of the rings shall be two and five-sixteenths inches in inside diameter, not including the ring material. The rings shall be rigid and attached to the trap with material of a smaller diameter than the wire strands of the trap. (Id. § 56.332(K)).

- Except from April 1 through June 30 and from September 1 through October 31, escape ring openings shall not be obstructed with any material that prevents or hampers exit of crabs.
- These provisions not apply to crab traps placed in Lake Pontchartrain.

**Requirements for Marking Gear**

Each crab trap must be marked with a 1/2-inch stainless steel self-locking tag attached to the center of the trap ceiling, or a durable plastic bait-box cover. The tag must have the commercial fisherman’s license number or the recreational crab trap gear license number embossed or engraved thereon. (La. Admin. Code tit. 76, § 345(A)).

As mentioned above, each trap, including crab traps attached to a trotline, must also be attached by a 1/4-inch minimum diameter, non-floating line to a solid float 6 inches minimum diameter, or equivalent. (Id. § 345(B)).

- Crab traps located in areas designated as freshwater north of the northern bank of the Intracoastal Waterway and west of Louisiana Highway 70 are not required to be marked with a float and float line. (La. Rev. Stat. Ann. § 56:320).

**Closed Areas/Periods for the Fishery**
Closed Areas

Louisiana permits the taking of crabs via crab traps “in the Lake Catherine and Lake Pontchartrain Sanctuary including the waters of Lake Catherine, and its passes, the Rigolets, Unknown Pass, and Chef Menteur, and that portion of Lake Pontchartrain as follows: The whole area from where the Rigolets and Chef Menteur Passes enter Lake Pontchartrain extending in a westerly direction to a point four miles west of the Southern Railway Bridge, being all of Lake Pontchartrain and its tributaries lying east of the Southern Railway Bridge, and all that portion of Lake Pontchartrain extending four miles west of the Southern Railway Bridge, between the northern and southern shore line, as well as that portion extending out four miles from shore along the Orleans Parish shore line to the Jefferson-Orleans Parish line, and that area of Lake Pontchartrain along the north shore extending out four miles from shore and running from the Southern Railway Bridge to a line drawn between a point four miles southwest of Goose Point and Goose Point.” (Id. § 56:332(I)).

No crab traps shall be set in navigable channels or entrances to streams. (Id. § 56:332(G)).

Metal tackle or metal crab traps may not be used in any of the public waters north of the Intracoastal Canal in the Calcasieu River or in any body of water comprising the Calcasieu River System north of the Intracoastal Canal, or in the waters of Vermilion Bay from Cypremort Point one mile offshore to Blue Point. (Id. § 56:332(J)).

Crab traps are prohibited in State Wildlife and Paul J. Rainey Refuges (LA. ADMIN. CODE tit. 76, § 323(A)(4)) and in Manchac Wildlife management area. (Id. § 111(G)(17)(bb)).

Closed Periods

The baiting, tending, checking, or removing of serviceable crab traps in use and the contents of such crab traps or their lines, buoys, or markers shall be prohibited in public waters during the time period from one-half hour after legal sunset until one-half hour before legal sunrise. (LA. REV. STAT. § 56:332(C)(1)).

Provisions Allowing Removal of DFG

In 2003, the Louisiana Legislature gave the Louisiana Wildlife and Fisheries Commission (LWFC) the authority to establish a program for the removal of derelict crab traps. The Louisiana Department of Wildlife and Fisheries is the lead agency for this program. According to the LDWF’s Louisiana Derelict Crab Trap Removal Program website (http://www.dericlitcrabtrap.net/), successful derelict crab trap clean ups have been held every year since 2004 and a total of 17,184 derelict crab traps have been removed. The Derelict Crab Trap Removal Program is funded by revenues generated by the gear fees for commercial and recreational crab traps. (LA. REV. STAT. § 56:10)

The LWFC may adopt rules and regulations “to provide for a prohibition on the use of crab traps and for the removal of abandoned traps and their disposal.” (Id. § 56:332(N)(3)).
• The Derelict Crab Trap Removal Program must be authorized by the LWFC each year and the rules must, at a minimum, specify
  
  o The beginning and ending dates for the prohibition on the use of crab traps;
  o The geographical area within which the use of crab traps shall be prohibited;
  o Who is authorized to remove the abandoned traps; and
  o The location where the removed abandoned traps are to be placed for disposal.

From 2004 to 2008, the LWFC designated closure areas and closure periods. Any traps remaining in the closure area were considered abandoned and could be removed by Program volunteers. (LDWF, Derelict Crab Trap Removal Program, 2009 Program, http://www.derelictcrabtrap.net/2009.html).

• However, due to low volunteer participation, LDWF employees carried out the 2009 crab trap cleanups in areas selected by local Marine Fisheries Division field personnel. (Id.)

E. TEXAS

Definition of Fishing Gear Used

Folding Panel Trap: A metallic or non-metallic mesh trap, the side panels hinged to fold flat when not in use, and suspended in the water by multiple lines. (31 TEX. ADMIN. CODE § 65.3(29))

• It is unlawful to use a folding panel trap with an overall surface area, including panels, exceeding 16 square feet. (Id. § 65.78(e)(2)(B)(ii)).

Trap: A rigid device of various designs and dimensions used to entrap aquatic life. (Id. § 65.3(53)).

• It is unlawful to fish a crab trap that exceeds 18 cubic feet in volume. (Id. § 65.78(e)(2)(C)(v)(I)).

Definition of Derelict Fishing Gear

Texas does not have a definition of derelict fishing gear. The state’s crab trap removal program focuses on “abandoned crab traps.”

Abandoned Crab Trap: A crab trap located in the public water of this state that is designated as abandoned by the Texas Parks and Wildlife Commission beginning on the first day of a closed season established by the Commission. (TEX. PARKS & WILD. CODE § 78.115(a)).

• Abandoned crab traps are considered litter and are subject to immediate removal and disposal.

Restrictions on Handling Gear

Prior to 2001, only the trap’s owner or a Texas game warden could remove a crab trap. (Press

**Requirement for Escape Mechanisms**

All crab traps must be equipped with at least two escape vents (minimum 2-3/8 inches inside diameter) in each crab-retaining chamber, and located on the outside trap walls of each chamber. (*31 TEX. ADMIN. CODE §65.78(e)(2)(C)(v)(II)).

All crab traps must also be equipped with a degradable panel. (*Id. § 65.78(e)(2)(C)(v)(III).* A trap is considered to have a degradable panel if one of the following methods is used in construction of the trap:

- The trap lid tie-down strap is secured to the trap by a loop of untreated jute twine (comparable to Lehigh brand # 530) or sisal twine (comparable to Lehigh brand # 390). The trap lid must be secured so that when the twine degrades, the lid will no longer be securely closed;

- The trap lid tie-down strap is secured to the trap by a loop of untreated steel wire with a diameter of no larger than 20 gauge. The trap lid must be secured so that when the wire degrades, the lid will no longer be securely closed; or

- The trap contains at least one sidewall, not including the bottom panel, with a rectangular opening no smaller than 3 inches by 6 inches. Any obstruction placed in this opening may not be secured in any manner except:
  - It may be laced, sewn, or otherwise obstructed by a single length of untreated jute twine (comparable to Lehigh brand # 530) or sisal twine (comparable to Lehigh brand # 390) knotted only at each end and not tied or looped more than once around a single mesh bar; or
  - It may be laced, sewn, or otherwise obstructed by a single length of untreated steel wire with a diameter of no larger than 20 gauge; or
  - The obstruction may be loosely hinged at the bottom of the opening by no more than two untreated steel hog rings and secured at the top of the obstruction in no more than one place by a single length of untreated jute twine (comparable to Lehigh brand # 530), sisal twine (comparable to Lehigh brand # 390), or by a single length of untreated steel wire with a diameter of no larger than 20 gauge.

**Requirements for Marking Gear**

Crab traps placed in public waters must have a crab trap tag attached to the trap. (*TEX. PARKS & WILD. CODE § 66.018(d)).
• This marking requirement does not apply to persons taking crabs from public waters for personal use.

Commercial crab traps fished under a commercial crab fisherman’s license must be marked with a floating white buoy, indicating the commercial crab fisherman’s license plate number, not less than six inches in height, six inches in length, and six inches in width. (31 TEX. ADMIN. CODE § 65.78(e)(2)(C)(vi)).

• It is unlawful for any crab fishermen to mark his traps with buoys made out of a plastic bottle of any color or size. (Id. § 65.78(e)(2)(C)(xiii)).

Commercial crab traps fished under a commercial finfish fisherman’s license must be marked with a floating white buoy not less than six inches in height, six inches in length, and six inches in width. (Id. § 65.78(e)(2)(C)(vii)).

• The buoy must bear the letter “F” and the commercial finfish fisherman’s license plate number.

Crab traps fished for non-commercial purposes must be marked with a floating white buoy not less than six inches in height, six inches in length, and six inches in width, bearing a two-inch wide center stripe of contracting color. (Id. § 65.78(e)(2)(C)(viii)).

Crab traps fished in public salt waters must have a valid gear tag attached within six inches of the buoy. (Id. § 65.78(e)(2)(C)(ix)).

Closed Areas/Periods for the Fishery

There are no closed seasons for the taking of crabs, except for the closed crab trap season. (Id. § 65.78(b)).

• To facilitate the removal of abandoned crab traps, it is unlawful to place, fish, or leave a crab trap or crab trap component in the coastal waters of the state from the third Friday in February for 10 consecutive days. (Id. § 65.78(c)).

There are no places closed to the taking of crabs (Id. § 65.78(d)), except that it is unlawful to fish a crab trap

• Within 200 feet of a market navigable channel in Aransas County; and

• In the water area of Aransas Bay within one-half mile of a line from Hail Point on the Lamar Peninsula, then direct to the eastern end of Goose Island, then along the southern shore of Goose Island, then along the eastern shoreline of the Live Oak Peninsula past the town of Fulton, past Nine Mile Point, past the town of Rockport to a point at the east end of Talley Island including that part of Copano Bay within 1,000 feet of the causeway between Lamar Peninsula and Live Oak Peninsula. (Id. § 65.78(e)(2)(C)(x)).

It is also unlawful to place any type of trap within the area in Cedar Bayou between a TPWD
sign erected where Mesquite Bay flows into Cedar Bayou and the TPWD sign erected near the point where the pass empties into the Gulf of Mexico. (*Id.* § 57.901).

**Provisions Allowing Removal of DFG**

The TPWD is authorized to establish a closed season for the use of crab traps in the public waters of the state. The closed season shall be designated as not less than 10 days or more than 30 days between January 31 and April 1. (*Tex. Parks. & Wild. Code* § 78.115(b)).

All traps must be removed from the water during a closed period. Any traps that remain are presumed to be abandoned and, as mentioned above, considered litter. Volunteers may remove abandoned traps during the closed period. TPWD requests that volunteers record and submit information on the number of traps they collect. There are no provisions providing for the removal of crab traps outside these designated closed periods.

**V. FLORIDA TRAP FISHERIES**

**Definition of Fishing Gear Used**

**Spiny Lobster Trap:** A trap authorized by and used according to the requirements of *Fla. Admin. Code* r. 68B-24. (*Fla. Admin. Code* r. 68B-4.020(1)(b)).

- Wood slat traps may be no larger than 3 feet, by 2 feet, by 2 feet, or the volume equivalent. Such traps may be reinforced with wire mesh no heavier than 9 gauge, which shall only be affixed to the wood slats constituting the vertical surfaces of such traps. Wire-reinforced wooden slat traps shall be constructed with wood slats that are a minimum of 1 1/4 inches wide, with a maximum spacing between slats of 2 1/4 inches. (*Id.* r. 68B-24.006(2)(a)).

- Plastic traps may be no larger in dimension than 3 feet, by 2 feet, by 2 feet, or the volume equivalent, and must have a degradable panel no smaller than 6 inches in length and 4 inches in width located on the top horizontal section of the trap. A panel is considered degradable if it is constructed of cypress or untreated pine slats no thicker than 3/4 inch. (*Id.* r. 68B-24.006(2)(b)).

- The throats or entrances to all traps used to harvest spiny lobster shall be located on the top horizontal section of the trap, and shall be measured using the inside dimensions of the throat. If the throat is longer in one dimension, the throat size in the longer dimension shall not be smaller than 6 inches and in the shorter dimension shall not be smaller than 3 1/2 inches. If the throat is round or square, the throat size shall not be smaller than 5 1/2 inches in diameter or per side, respectively. (*Id.* r. 68B-24.006(2)(c)).

**Stone Crab Trap:** A trap authorized by and used according to the requirements of *Fla. Admin. Code* r. 68B-13. (*Id.* r. 68B-4.020(1)(c)). A stone crab trap is also defined as “any device or gear, as defined in r. 68B-13.008, which is used to aid in the taking of stone crab.” (*Id.* r. 68B-13.0015(r)).

- Traps must be constructed of either wood, plastic or wire. (*Id.* r. 68B-13.008(2)).
Traps shall have a maximum dimension of 24 inches, by 24 inches, by 24 inches or a volume of 8 cubic feet.

- The throat or entrance to all wood and plastic traps shall be located on the top horizontal section of the trap. If the throat is longer in one dimension, the throat size in the longer dimension shall not exceed 5 1/2 inches and in the shorter dimension shall not exceed 3 1/2 inches. If the throat is round, the throat size shall not exceed 5 inches in diameter.

- The throat on a wire trap shall be horizontally oriented. The width of the opening where the throat meets the vertical wall of the trap and the opening of the throat at its farthest point from the vertical wall, inside the trap, shall be greater than the height of any such opening. No such throat shall extend farther than 6 inches into the inside of any trap, measured from where the throat opening meets the vertical wall of the trap to the throat opening at its farthest point from the vertical wall, inside the trap.

**Black Sea Bass Trap:** A trap authorized by and used according to the requirements of FLA. ADMIN. CODE r. 68B-14.005(1)(b). (Id. r. 68B-4.020(1)(d)).

- The outer dimensions of black sea bass traps may not 2 feet in height, 2 feet in width, and 2 feet in depth or a volume of 8 cubic feet, and the throat or entrance does not exceed 5 inches in height and 2 inches in width at its narrowest point. (Id. r. 68B-14.005(1)(b)).

- Traps used in state waters shall have a back panel (the side of the trap opposite the entrance) with mesh that is at least 2 inches between sides of the meshes, based on centerline measurements between opposite, parallel wires or netting strands. (Id.)

**Shrimp Trap:** A trap authorized by and used according to the requirements of FLA. ADMIN. CODE r. 68B-31.007(2)(e). (Id. r. 68B-4.020(1)(e)).

- Shrimp traps must not exceed 36 inches in length (from the rear of the heart to the leading edge of the trap), 24 inches in width (between the leading edges of the trap, or heart opening), and 12 inches in height and not containing external or unattached wings, weirs or other devices intended to funnel shrimp to the trap heart.

  - A shrimp trap meeting these specifications, regardless of configuration, shall not be considered a pound net.

**Pinfish Trap:** A trap not exceeding 2 feet in any dimension, with a throat or entrance not exceeding 3 inches in height by 3/4 inch in width. (Id. r. 68B-4.020(1)(f)).

**Definition of Derelict Fishing Gear**

A derelict trap is any trap during any closed season for the species, or any fishable trap during the open season, that lacks more than two of the following elements: buoy, line, current Commission-issued trap tag (if required) and current license. (Id. r. 68B-55.001(3)).

- Traps are also considered to be derelict during the closed season for the harvest of any species for which traps are allowable gear and after any authorized trap retrieval period. (Id.)
Trap debris refers to any piece of a trap, or any combination of such pieces not constituting a fishable trap. \( (\text{id. r. 68B-55.001(2)}) \).

- A “fishable trap” means a trap that has 6 intact sides and at least two of the following elements: buoy, line, current Commission-issued trap tag (if required), and identification. \( (\text{id. r. 68B-55.001(4)}) \).

All traps used for harvest of spiny lobster are to be removed from state waters by April 5 of each year. \( (\text{id. r. 68B-24.005(4)}) \).

Stone crab traps, floats or ropes found in the water more than 10 days prior to the opening of the stone crab season or remaining in the water or otherwise abandoned during the closed season are declared to be public nuisances and shall be disposed of in a manner approved by the state. \( (\text{id. r. 68B-13.008(4)(d)}) \).

Shrimp traps are considered abandoned if they are on or attached to beaches, causeways, seawalls, bridges, or any other structure open for use by the public and they are unattended by the person whose name is affixed to the trap. \( (\text{id. r. 68B-31.007(2)(e)(4)}) \).

- Abandoned traps may be seized by the state.

**Restrictions on Handling Gear**

It is unlawful for anyone to willfully molest any spiny lobster traps, lines, or buoys belong to another without permission of the licenseholder. \( (\text{FLA. STAT. ANN. § 379.367(4)(a)}) \).

- It is also unlawful to willfully molest, take possession of, or remove the contents of another harvester’s spiny lobster trap without the express written consent of the trap owner available for immediate inspection. \( (\text{id. § 379.367(2)(c)(3)}) \).

- Unauthorized possession of another’s trap gear or removal of trap contents constitutes theft.

Similarly, it is unlawful for any commercial harvester to remove the contents of another harvester’s stone crab trap or take possession of such without the express written consent of the trap owner. Unauthorized possession of another’s trap gear or removal of trap contents constitutes theft. \( (\text{id. § 379.365(2)(b)}) \).

**Requirements for Escape Mechanisms**

**Spiny Lobster**

There are no escape mechanism requirements for the spiny lobster trap fishery.

**Stone Crab**

Wire traps used to harvest stone crabs must have at least three unobstructed escape rings
installed on a vertical outer surface, each with a minimum diameter of 2 3/8 inches. One escape
ring must be located on a vertical outer surface adjacent to each crab retaining chamber. \((ld. r. 68B-13.008(2))\).

Plastic and wire stone crab traps must also have a degradable panel. \((ld.)\)

- A plastic trap is considered to have a degradable panel if it contains at least one sidewall
  with a rectangular opening no smaller in either dimension than that of the throat. This
  opening must be obstructed with a cypress or untreated pine slat or slats no thicker than 3/4
  inch.

- A wire trap is considered to have a degradable panel if one of the following methods is used
  in construction of the trap:
  
  - The trap lid tie-down strap is secured to the trap at one end by a single loop of
    untreated jute twine. The trap lid must be secured so that when the jute degrades,
    the lid will no longer be securely closed.
  
  - The trap lid tie-down strap is secured to the trap at one end with a corro
dible loop
    composed of non-coated steel wire measuring 24 gauge or thinner. The trap lid must
    be secured so that when the loop degrades, the lid will no longer be securely closed.
  
  - The trap lid tie-down strap is secured to the trap at one end by an untreated pine
    dowel no larger than 2 inches in length by 3/8 inch in diameter. The trap lid must
    be secured so that when the dowel degrades, the lid will no longer be securely closed.
  
  - The trap contains at least one sidewall with a rectangular opening no smaller
    in either dimension than 6 inches in height by 3 inches in width. This opening must be
    laced, sewn, or otherwise obstructed by a single length of untreated jute twine
    knotted only at each end and not tied or looped more than once around a single
    mesh bar.
  
  - The trap contains at least one sidewall with a rectangular opening no smaller
    in either dimension than 6 inches in height by 3 inches in width. This opening must be
    obstructed with an untreated pine slat or slats no thicker than 3/8 inch.
  
  - The trap contains at least one sidewall with a rectangular opening no smaller
    in either dimension than 6 inches in height by 3 inches in width. The opening may
    either be laced, sewn, or otherwise obstructed by non-coated steel wire measuring 24
    gauge or thinner or be obstructed with a panel of ferrous single-dipped galvanized
    wire mesh made of 24 gauge or thinner wire.
  
  - The trap contains at least one sidewall with a rectangular opening no smaller
    in either dimension than 6 inches in height by 3 inches in width. The opening may
    be obstructed with a rectangular panel made of any material, fastened to the trap at
    each of the four corners of the rectangle by galvanized staples 16 gauge or thinner,
    rings made of non-coated 24 gauge or thinner wire or single strands of untreated jute
    twine. When the corner fasteners degrade, the panel will fall away and the opening
in the sidewall of the trap will no longer be obstructed.

Black Sea Bass

Black sea bass traps are required to have a biodegradable panel. (Id. r. 68B-14.005(1(b)). A trap is considered to have a biodegradable or degradable panel if one of the following methods is used in the construction of the trap:

• The trap lid tie-down strap is secured to the trap at one end by a single loop of untreated jute twine. The trap lid must be secured so that when the jute degrades, the lid will no longer be securely closed.

• The trap lid tie-down strap is secured to the trap at one end with a corrodible loop composed of non-coated steel wire measuring 24 gauge or thinner. The trap lid must be secured so that when the loop degrades, the lid will no longer be securely closed.

• The trap lid tie-down strap is secured to the trap at one end by an untreated pine dowel no larger than 2 inches in length by 3/8 inch in diameter. The trap lid must be secured so that when the dowel degrades, the lid will no longer be securely closed.

• The trap contains at least one sidewall with a vertical rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. This opening must be laced, sewn, or otherwise obstructed by a single length of untreated jute twine knotted only at each end and not tied or looped more than once around a single mesh bar.

• The trap contains at least one sidewall with a vertical rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. This opening must be obstructed with an untreated pine slat or slats no thicker than 3/8 inch. When the slat degrades, the opening in the sidewall of the trap will no longer be obstructed. “Untreated pine” means raw pine wood that has not been treated with any preservative or pine wood that has been pressure treated with no more than 0.40 pounds of chromated copper arsenate (CCA) compounds per cubic foot of wood.

• The trap contains at least one sidewall with a vertical rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. The opening may either be laced, sewn, or otherwise obstructed by non-coated steel wire measuring 24 gauge or thinner or be obstructed with a panel of ferrous single-dipped galvanized wire mesh made of 24 gauge or thinner wire.

• The trap contains at least one sidewall with a vertical rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. The opening may be obstructed with a rectangular panel made of any material, fastened to the trap at each of the four corners of the rectangle by rings made of non-coated 24 gauge or thinner wire or single strands of untreated jute twine.

Black sea bass traps must also have an unobstructed escape vent opening on at least two opposite vertical sides, excluding top and bottom, that complies with one of the following minimum sizes:
• A rectangular vent, 1.125 inches (2.9 cm) by 5.75 inches (14.6 cm).
• A circular vent, 2 inches (5.1 cm) in diameter.
• A square vent with sides of 1.75 inches (4.4 cm) measured inside the square. (Id.)

**Requirements for Marking Gear**

**Spiny Lobster**

All spiny lobster traps must have a buoy or a time released buoy attached to the trap or at each end of a weighted trap trotline. (FLA. ADMIN. CODE r. 68B-24.006(3)).

- The buoys must be a minimum of six inches in diameter and constructed of styrofoam, cork, molded polyvinyl chloride, or molded polystyrene, and shall be of sufficient strength and buoyancy to float and of such color, hue, and brilliancy as to be easily distinguished, seen, and located.

- For traps set landward of the territorial sea line (3 nautical miles in the Atlantic/9 nautical miles in the Gulf), no more than 15 feet of any buoy line attached to a buoy used to mark spiny lobster trap or trotline shall float on the surface of the water.

Each commercial spiny lobster trap and buoy must have the commercial harvester’s current crawfish license or trap number permanently affixed to it. (Id. r. 68B-24.006(4)).

Spiny lobster traps must also have attached an annual trap tag issued by the Florida Fish and Wildlife Conservation Commission (FLA. STAT. ANN. § 379.3671(2)(b)).

- Tags are to be made of durable plastic or similar material and shall, based on the number of certificates held, have stamped thereon the owner’s license number. To facilitate enforcement and recordkeeping, the Commission issues each year’s tags in a color different from that of each of the previous 3 years.

- Traps with tags that are not firmly affixed by nails, staples, or otherwise securely fastened are considered untagged for enforcement purposes. (FLA. ADMIN. CODE r. 68B-24.006(4)).

**Stone Crab**

Stone crab traps must have the trap owner’s stone crab endorsement number permanently attached. The endorsement number must also be affixed on each buoy used. (Id. r. 68B-13.008(3)(a)).

A buoy or time release buoy must attached to each trap or at each end of a weighted trap trotline. (Id. r. 68B-13.008(3)(b)).

- The buoy must be constructed of styrofoam, cork, molded polyvinyl chloride, or molded polystyrene, be of sufficient strength and buoyancy to float, and be of such color, hue, and brilliancy as to be easily distinguished, seen, and located.
• Buoys must be either spherical in shape with a diameter no smaller than 6 inches or some other shape so long as it is no shorter than 10 inches in the longest dimension and the width at some point exceeds 5 inches.

• No more than 5 feet of any buoy line may float on the surface of the water.

Recreational stone crab traps must be marked with the harvester’s name and address. The buoys attached to recreational traps must have a legible “R” affixed to it. (Id. r. 68B-13.009(3)).

• This buoy requirement does not apply to traps fished from a dock.

**Black Sea Bass**

Black sea bass traps must have the trap owner’s saltwater products license number permanently attached. (Id. r. 68B-14.005(1(b)).

A buoy or time-released buoy must be attached to each black sea bass trap or at each end of a weighted trap trotline. (Id.)

• The buoy shall be constructed of styrofoam, cork, molded polyvinyl chloride, or molded polystyrene, be of sufficient strength and buoyancy to float, and be either white in color or the same color as the owner’s blue crab or stone crab buoy colors.

• Buoys shall be either spherical in shape with a diameter no smaller than 6 inches or some other shape so long as it is no shorter than 10 inches in the longest dimension and the width at some point exceeds 5 inches.

• No more than 5 feet of any buoy line attached to a buoy used to mark a black sea bass trap or attached to a trotline shall float on the surface of the water.

• Buoys must be marked with the letter "B" and the owner’s saltwater products license number.

**Shrimp**

Shrimp traps must be marked with the user’s name and address. Traps lacking proper identification can be confiscated by the Commission. (Id. r. 68B-31.007(2)(e)(2)).

**Closed Areas/Periods for the Fishery**

**Spiny Lobster**

The season for the harvest of spiny lobster is August 6 through March 31. (Id. r. 68B-24.005(1)).

Spiny lobster traps may not be set or placed within 100 feet of the intracoastal waterway or within 100 feet of any bridge or sea wall. (Id. r. 68B-24.007(3)).

It is unlawful for any person to molest, take, or trap any spiny lobster, for any purpose, within
the boundaries of the Biscayne Bay-Card Sound Spiny Lobster Sanctuary, unless such person holds a special permit issued by the Florida Fish and Wildlife Conservation Commission. The Commission may issue a special permit for the taking of spiny lobster within the sanctuary for scientific, educational or management purposes. (Id. r. 68B-11.003).

• The boundaries of the sanctuary are as follows: Begin at the intersection of the northern right-of-way of State Road 905A and the western mean high water line of Little Card Sound (said point of beginning being approximately 800 feet south and 2300 feet west of the northeast corner of Section 13, Township 59 South, Range 39 East, Dade County); thence northerly along the western mean high water line of Little Card Sound, Card Sound, and Biscayne Bay to a point located at the intersection of the western mean high water line of Biscayne Bay and the eastern end of the southern shoreline of the canal marking the northern boundary of Matheson Hammock Park (which canal shoreline also marks the southern boundary of Old Cutler Bay Section 5, according to the plat thereof, as recorded in the public records of Dade County, Florida, Plat Book 85, page 25); thence southeasterly along a straight line connecting said point with the southernmost point on the mean high water line of Key Biscayne (Cape Florida); thence southerly along a straight line to the northernmost point on the mean high water line of Soldier Key; thence southerly along the eastern mean high water line of Soldier Key to the southernmost point on the mean high water line of Soldier Key; thence southerly along a straight line to the northernmost point on the mean high water line of the northernmost key in the Ragged Keys; thence southerly along the eastern mean high water lines of the islands forming the Ragged Keys, with straight connecting lines between such islands at the points where the islands are closest to each other, to the southernmost point on the mean high water line of the southernmost key in the Ragged Keys; thence southerly along a straight line to the northernmost point on the mean high water line of Boca Chita Key; thence southerly along the eastern mean high water line of Boca Chita Key to the southernmost point on the mean high water line of Boca Chita Key; thence southerly along a straight line to the northernmost point on the mean high water line of Sands Key; thence southerly along the eastern mean high water line of Sands Key to the northeasternmost headland of Sands Cut; thence southeasterly along a straight line to the northeasternmost point on the mean high water line of Elliot Key; thence southerly along the eastern mean high water line of Elliot Key to the southernmost point on the mean high water line of Elliot Key (Christmas Point); thence southerly along a straight line across the mouth of Caesar Creek to the easternmost point on the mean high water line of Old Rhodes Key; thence southerly along the eastern mean high water line of Old Rhodes Key to the southernmost point on the mean high water line of Old Rhodes Key; thence southwesterly along a straight line across the mouth of Old Rhodes Channel to the easternmost point on the mean high water line of Swan Key; thence southwesterly along the eastern mean high water line of Swan Key to the southernmost point on the mean high water line of Swan Key; thence southwesterly in a straight line across the mouth of Broad Creek to the easternmost point on the mean high water line of Palo Alto Key; thence southwesterly along the eastern mean high water line of Palo Alto Key to the northeasternmost headland of Angelfish Creek; thence southwesterly in a straight line across the mouth of Angelfish Creek to the easternmost point on the mean high water line of Angelfish Key; thence southwesterly along the eastern mean high water line of Angelfish Key, crossing Little Angelfish Creek and Pumpkin Creek along straight headland-to-headland lines, to a point on the mean high water line of Key Largo at the southwestern headland of Pumpkin Creek; thence northerly along the mean high water line of Key Largo,
following the western shoreline of Pumpkin Creek to the northernmost point on the mean high water line of Key Largo; thence southwesterly along the mean high water line of Key Largo, following the southeastern shoreline of Little Pumpkin Creek, and continuing southwesterly along the mean high water line of Key Largo to its intersection with the northern right-of-way of State Road 905A, crossing Steamboat Creek and all other creeks along straight headland-to-headland lines; thence northwesterly along the northern right-of-way of State Road 905A to the point of beginning. (Id. r. 68B-11.001(1)).

• The western boundary of the sanctuary from the point of beginning to the northern boundary of Matheson Hammock Park, includes all natural and artificial waterways tidally connected to Little Card Sound, Card Sound, and Biscayne Bay. (Id.)

Harvest is prohibited in designated areas of John Pennekamp Coral Reef State Park. (Id. r. 68B-24.0065).

**Stone Crab**

Traps may not be placed in the navigation channels of the intracoastal waterways, or in navigation channels maintained and marked by the Corps of Engineers, Coast Guard, State of Florida, or any county or municipal government. (Id. r. 68B-13.008(4)(a)).

The season for the commercial and recreational harvest, possession, and sale of stone crab claws is from October 15 through May 15. (Id. r. 68B-13.005(2)).

• It is unlawful to fish, set, or place traps during the closed stone crab season, except that traps may be placed in the water and baited 10 days prior to the opening of the stone crab season and removed within five days after the close of the season. Extensions are available from the Commission in limited circumstances. (Id. r. 68B-13.008(4)(d)).

Any traps, floats or ropes in the water more than ten days prior to the opening of the stone crab season or remaining in the water or otherwise abandoned during the closed season (following the grace period and any extensions thereof for retrieval of traps) are declared to be public nuisances and shall be disposed of in a manner approved by the Division of Law Enforcement. (Id. r. 68B-13.008(4)(d)).

**Black Sea Bass**

Black sea bass traps are only allowed north of Latitude 27° North. (Id. r. 68B-14.005(1)(b)).

The commercial season for black sea bass begins on January 1 and continues through December 31 (Id. r. 68B-14.005(2)).

• The commercial season for black sea bass in the Atlantic Ocean is June 1 through May 31.

No black sea bass trap may be placed in state waters of the Gulf of Mexico seaward of the three nautical miles from shore during the period beginning September 20 and continuing through October 4 of each year (Id.)
• Traps are to be removed from the water by their owners once the commercial quota is met and the season is closed. (*Id. r. 68B-14.005(1)(b)(6)).

**Provisions Allowing for Removal of DFG**

The Fish and Wildlife Conservation Commission is authorized to implement a trap retrieval program for retrieval of spiny lobster, stone crab, blue crab, and black sea bass traps remaining in the water during the closed season for each species. (*Fla. Stat. Ann. § 379.2424*)

• The Commission is authorized to assess trap owners, and collect, a retrieval fee of $10 per trap retrieved. For each person holding a spiny lobster, stone crab, or blue crab endorsement, the retrieval fee is waived for first five traps retrieved.

• Traps recovered under the state’s removal program become the property of the Commission and shall be either destroyed or resold to the original owner.
  
  o Revenue from retrieval fees shall be deposited in the Marine Resources Conservation Trust Fund and used solely for operation of the trap retrieval program.

**Removal of Traps**

Traps may be retrieved by

• Commission personnel,
• A contractor under the direct oversight of Commission personnel, or
• Any approved persons through either a cooperative agreement with federal state or local governments or with fishery participant organizations acting in conjunction with the commission (*Fla. Admin. Code r. 68B-55.003(1)).

  o A Fishery Participant Organization is group of commercial fishermen all of whom possess a current saltwater products license and a blue crab, stone crab, or spiny lobster endorsement. For the purpose of participation in the retrieval of derelict traps this means participants who receive and possess written permission from each other to bring their traps into land or move them back into line, who work under law enforcement supervision to retrieve traps, or who prepare a plan for Commission authorization pursuant to this rule. (*Id. r. 68B-55.001(5)).

The Commission requires the following information be documented for each retrieved trap:

• The intended species targeted by the trap;
• Owner identification/endorsement number;
• Presence or absence of a required tag;
• Commercial or recreational trap;
• Location of trap; and
• Buoy colors. (*Id. r. 68B-55.003(2)).

Trap owners affected by a disaster have ten calendar days after notification to claim traps from
a Commission authorized storage area. (Id. r. 68B-55.003(4)).

- Unclaimed traps will be properly disabled and disposed of as trap debris by the Commission.

During the open season for harvest of any species for which traps are allowable gear, retrieval of derelict traps may occur at any time deemed appropriate by the Commission. (Id. r. 68B-55.004(2)).

- During these times, Commission employees, local, state, or federal personnel, or members of a fishery participant organization may retrieve derelict traps.

- Retrieval of traps by individuals other than Commission personnel must be conducted pursuant to a Commission approved plan.
  
  o The plan shall include the operational area and time period proposed, authorized personnel, the number of vessels, methods of disposition, and number and qualifications of supervisory personnel.
  
  o An approved plan shall also include notification of the Commission’s Division of Law Enforcement no less than 24 hours prior to commencement of retrieval under this program with final float plan information including contact information, vessel registration numbers, trip times, and number of days.

- Local, state, or federal government personnel may retrieve traps located in areas that are permanently closed to trapping without prior authorization from the Commission. (Id. r. 68B-55.004(3)).

**Removal of Trap Debris**

Commission regulations authorize governmental (local, state, and federal) entities, nonprofit organizations, fishery participant organizations and other community or citizens groups to remove trap debris from shoreline areas landward of mean low water and from mangroves or other shoreline vegetation during coastal cleanup events for the removal of marine debris. (Id. r. 68B-55.002(1)).

Coastal cleanup events to remove trap debris from all other areas of state waters may only be undertaken with prior authorization from the Commission. (Id. r. 68B-55.002(2)).

Local, state, or federal government personnel may remove trap debris located in areas that are permanently closed to trapping without prior authorization from the Commission. (Id. r. 68B-55.002(3)).

**Recovery of Traps in Area of Major Natural Disaster**

Upon a finding that a major natural disaster, such as a hurricane or tropical storm, has caused
massive trap losses, the Commission may declare a trap emergency in the affected area or a specified portion of it. (Id. r. 68B-55.005(1)).

• Each harvester in the affected trap fishery may designate, on an Emergency Trap Recovery Designation Affidavit, persons authorized to recover and possess traps of the harvester.

Persons authorized to recover and possess traps of a harvester may do so only in the area and during the period specified in the trap emergency order.

VI. CALIFORNIA HAGFISH FISHERY

Definition of Fishing Gear Used

Korean Traps: A molded plastic cylinder that does not exceed 6 inches in diameter and does not exceed 24 inches in length. (CAL. FISH & GAME CODE § 9000.5(d)).

Bucket Traps: A plastic bucket of five gallons or less in capacity. (Id. § 9000.5(a))

Definition of Derelict Fishing Gear

California does not have a definition of derelict fish gear, but § 9004 of the Cal. Fish & Game Code prohibits the abandonment of traps in state waters.

In addition, any trap that is used without a buoy, or with a buoy that is improperly marked, is considered a public nuisance which may be removed by any person authorized to enforce the California Fish and Game Code. (Id. § 9007).

Restrictions on Handling Gear

It is unlawful in California “to willfully or recklessly disturb, move, or damage any trap that belongs to another person and that is marked with a buoy identification number pursuant to [CAL. FISH & GAME CODE § 9006].” (Id. § 9002).

• A person pulling or raising a trap marked with a buoy identification number other than his own must have written permission in his or her possession from the person who holds the identification number.

• This prohibition does not apply to employees of the California Fish and Game Department when engaged in the performance of their official duties.

Requirements for Escape Mechanisms

California requires all traps to have at least one “destruction device” meeting specifications approved by the Department of Fish and Game. “In order to minimize the adverse effects on living marine resources, the specifications for destruction devices shall provide for a device that destructs rapidly enough to facilitate escape of a substantial proportion of all species confined in the trap from any trap that cannot be raised.” (Id. § 9003).
• Each destruction device “shall create an unobstructed escape opening in the top or upper half of the trap of at least 5 inches in diameter when the destruct attachment material corrodes or fails.” (CAL. CODE REGS. tit. 14, § 180.2(a)(1)).

• The escape opening on each trap must be closed with one of the following destruct attachment materials:
  
  o 14 gauge (.080 + or -.003 inch) or smaller metal hog rings excluding stainless steel or other non-corrodible materials;
  o Untreated cotton twine size No. 21-thread or less, except that traps used to take Dungeness, Tanner or rock crabs are limited to a single strand of untreated cotton twine size No. 120 or less;
  o 24 gauge (.028 + or -.003 inch) or smaller uncoated bare metal crimps excluding stainless steel or other non-corrodible materials;
  o Magnesium pins not larger than one-quarter (.25) inch in diameter which may be used to hold together each half of plastic or fiberglass traps or may be used to attach the lid or door; or
  o The use of rubber straps attached to metal or plastic hooks with a single loop of untreated cotton twine size No. 120 or less may be used to close the trap provided they are attached in such a manner as to aid the destruct process. The use of any rubber strap or non-corrosive material that defeats or interferes with the purpose of the destruct panel is prohibited. (Id. § 180.2(b)).

The entrance funnels of finfish traps used in waters between Point Arguello, Santa Barbara County and Point Montara, San Mateo County, shall have a rigid inside entrance diameter of not greater than 5 inches. Funnels constructed of a readily deformable material such as chicken wire and commonly referred to as “pulled” shall have a rigid metal ring of not greater than 5.00 inches in diameter permanently affixed in each entrance funnel. (Id. § 180.4).

Requirements for Marking Gear

Every trap and string of traps must be marked with a buoy. (CAL. FISH & GAME CODE § 9005). Hagfish traps must be marked with a buoy that is marked with the operator’s commercial fishing license number. (Id. § 9006).

• Popups are prohibited on buoy lines attached to Korean traps or bucket traps and may not be possessed by a commercial fisherman aboard a vessel when taking hagfish. (Id. § 9001.6(d)).

  o A popup is defined as “a mechanism capable of releasing a submerged buoy at a predetermined time.” (Id. § 9000.5(f)).

Any trap that is used without a buoy, or with a buoy that is improperly marked, is considered a public nuisance which may be removed by any person authorized to enforce the California Fish and Game Code. (Id. § 9007).

Closed Areas/Periods for the Fishery
The California statutes and regulations do not contain any provision indicating closed areas or periods specifically for the hagfish fishery. However, California has an extensive network of marine protected areas in which most fishing is prohibited. For more information on the California MPAs and the existing MPA-specific fishing regulations, visit the California Department of Fish and Game’s Marine Life Protection Act Initiative’s website at http://www.dfg.ca.gov/mlpa/.

Provisions Allowing for Removal of DFG

California does not have a formal regulatory program for the removal of derelict fishing gear, but, as mentioned above, any trap that is used without a buoy, or with a buoy that is improperly marked, is considered a public nuisance which may be removed by any person authorized to enforce the California Fish and Game Code. (Id. § 9007).

Publicly employed safety personnel, including lifeguards, marine safety officers, harbor patrol officers, and peace officers, while engaged in the performance of their official duties, may remove traps, buoys, or lines located in or near breaking surf or adjacent to a public beach if they believe that the trap poses a public safety hazard. (Id. § 9002(d)(1)).

• Any marine life captured by the removed traps, buoys, or lines must be immediately returned to the ocean.

The person who removes a trap, buoy, or line pursuant to the above provision is required to make an attempt to contact the person whose permit or license number is marked on the buoy by phone, mail, or other means. There is no responsibility, however, to secure the trap or attachments against loss or damage. (Id. § 9002(d)(2)).

• The trap may be discarded if the person notified does not retrieve the trap within seven days or if a contact person cannot be identified within seven days after removal. (Id. § 9002(d)(4)).