

Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044
County Clerk
County of: N/A

From: (Public Agency): California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090

Project Title: Emergency Regulatory Action to Amend Subsection 29.80(b), Title 14, CCR, Re: Hoop Nets

Project Applicant: N/A

Project Location - Specific: State oceanic waters

Project Location - City: N/A

Project Location - County: N/A

Description of Nature, Purpose and Beneficiaries of Project:

The proposed project would amend subsection 29.80(b), Title 14, California Code of Regulations, to prohibit the use of a new type of hoop net and to expand the current identification requirement in effect south of Pt. Arguello, Santa Barbara County, to apply statewide.

Name of Public Agency Approving Project: California Fish and Game Commission

Name of Person or Agency Carrying Out Project: California Department of Fish and Wildlife

Exempt Status: **(check one):**

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: Cal. Code Regs., tit. 14, §§ 15307
- Statutory Exemptions. State code number:

Reasons why project is exempt:

See attachment

Lead Agency

Contact Person: Melissa Miller-Henson

Area Code/Telephone/Extension: (916) 653-4899

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature:

Date: October 18, 2022 Title: Executive Director

Signed by Lead Agency Signed by Applicant.

Date Received for filing at OPR:

October 14, 2022

ATTACHMENT TO NOTICE OF EXEMPTION
Emergency Regulatory Action to Amend Subsection 29.80(b), Title 14, California Code of Regulations Re: Hoop Nets

On October 13, 2022, the California Fish and Game Commission (Commission) took final action under the California Fish and Game Code and the Administrative Procedure Act with respect to the proposed project. The Commission adopted an emergency action to amend subsection 29.80(b), Title 14, California Code of Regulations (CCR).

Statutory Exemption for Specific Actions Necessary to Prevent or Mitigate an Emergency

In compliance with the California Environmental Quality Act (CEQA; Public Resources Code Section 21000 et seq.), the Commission adopted the regulation relying on a statutory exemption contained in Public Resources Code Section 21080 (Actions Necessary to Prevent or Mitigate an Emergency). The exemption applies to agency actions to prevent or mitigate an emergency.

Animals listed under the federal Endangered Species Act have been observed entangled in fishing gear in increasing numbers since 2014. The animals in question are primarily humpback whale, blue whale, and Pacific leatherback sea turtle. The number of observed entanglements have since fallen from the height experienced during 2014 through 2017; however, marine life entanglement remains a persistent issue each year.

A dramatic increase in hoop net fishing effort in the Dungeness crab (*Metacarcinus magister*) recreational fishery during times of elevated marine life entanglement risk has created the need for an emergency rulemaking to amend current hoop net regulations before the start of the next Dungeness crab season. The increase in hoop net fishing effort was a result of crab trap prohibitions declared pursuant to changes to subsection 29.80(c), Title 14, CCR, that became effective November 1, 2021. The emergency rulemaking will amend and clarify hoop net regulations to minimize entanglement risk of the federally protected species humpback whales, blue whales, and Pacific leatherback sea turtles.

Emergency regulations will maintain the low entanglement risk of hoop nets by ensuring that the devices will be serviced every two hours and that design specifications will prevent the device from functioning as a crab trap that would otherwise incentivize longer soak periods. Other design modifications reduce the weight of the hoop net, thereby posing less harm to an entangled whale or sea turtle, should this occur. In addition, gear marking of hoop nets used north of Point Arguello, Santa Barbara County will aid in identifying this gear type to enforce these requirements and identify hoop nets involved in entanglements. The proposed actions will help reduce entanglement risk of protected marine life throughout the recreational Dungeness crab season. As such, the proposal is an activity that is the proper subject of CEQA's exemption for actions necessary to prevent or mitigate an emergency. The Department will work with the Commission to develop long-term solutions while the emergency rule is in effect.

Categorical Exemptions to Protect Natural Resources

In compliance with CEQA (Public Resources Code Section 21000 et seq.), the Commission adopted the regulation by also relying on the categorical exemption contained in CEQA Guidelines Section 15307 (Title 14, CCR; Action by Regulatory Agencies for Protection of Natural Resources); the exemption applies to agency actions to protect natural resources.

The adopted regulation is expected to help reduce entanglement risk for endangered whale and turtle species. As such, the proposal is an activity that is the proper subject of CEQA's Class 7 categorical exemption.