

STAFF SUMMARY FOR OCTOBER 12-13, 2022

16. RECREATIONAL HOOP NET REGULATIONS**Today's Item**Information Action

Discuss and consider adopting emergency regulations to amend and clarify hoop net regulations in order to minimize entanglement risk of federally-protected species and to expand the current identification requirement in effect south of Pt. Arguello, Santa Barbara County, to apply statewide.

Summary of Previous/Future Actions

- | | |
|---|--|
| • MRC discussed proposed California spiny lobster (lobster) regulation changes and recommendation | Jul 14, 2022; MRC, Santa Rosa |
| • DFW Marine Region update | Aug 17, 2022; Loleta |
| • Today's adoption of regulations through emergency rulemaking | Oct 12-13, 2022; Kings Beach |
| • Notice hearing for regular rulemaking | Dec 14-15, 2022; San Diego area |
| • Discussion hearing for regular rulemaking | Feb 8-9, 2023; Sacramento |
| • Adopt first emergency 90-day extension | Feb 8-9, 2023; Sacramento |
| • Adoption hearing for regular rulemaking | Apr 19-20, 2023; Fresno/Bakersfield area |
| • Adopt second emergency 90-day extension | Jun 14-15, 2023; Location TBD |
| • Regular rulemaking effective date | Sep 1, 2023 (estimated) |

Background

Current regulations specify that hoop nets may be used to take spiny lobster and all species of crab, define two authorized types of hoop nets, require regular servicing of hoop nets, and limit the number and require marking of hoop nets used south of Point Arguello, Santa Barbara County (subsection 29.80(c)).

At the Aug 17, 2022 FGC meeting, DFW notified FGC that it had identified a dramatic increase in hoop net fishing effort in the Dungeness crab (*Metacarcinus magister*) recreational fishery since the implementation of new crab trap regulations on Nov 1, 2021 (in Section 29.80). Specifically, the increase in hoop net effort occurred during times of elevated marine life entanglement risk following declaration by the DFW director that use of crab traps was prohibited pursuant to subsection 29.80(c).

Additionally, DFW has learned that gear manufacturers are developing new hoop net designs that function like traps, and yet meet the specifications in current regulations for hoop nets. Hoop nets constructed to function like traps may motivate users to increase the amount of time that a hoop net is kept in the water (soak periods) posing elevated entanglement risk. Based on these circumstances, urgent action is needed to safeguard federally protected species during periods of elevated entanglement risk.

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The proposed emergency rulemaking will amend and clarify hoop net regulations to minimize entanglement risk of federally protected humpback whales, blue whales, and Pacific leatherback sea turtles. Specifically, the proposed regulations will:

- Ensure that hoop nets are regularly serviced every two hours;
- modify design specifications to prevent the device from functioning as a crab trap that could incentivize longer soak periods;
- reduce the weight of the hoop net, thereby posing less harm to an entangled whale or sea turtle should that occur; and
- expand current gear marking requirements for hoop nets used south of Point Arguello, Santa Barbara County, to apply statewide, which will aid in identifying this gear type for enforcing these requirements and identify hoop nets involved in entanglements.

The “Commercial and Recreational Take of California Spiny Lobster and Recreational Hoop Net Requirements for Take of Crustaceans” rulemaking scheduled for a notice hearing in Dec 2022, is proposed to continue the emergency regulations through a regular, non-emergency rulemaking process. However, up to two 90-day extensions of the emergency regulations will be necessary to cover the time period until the non-emergency regulations go into effect, anticipated to be Sep 1, 2023.

Significant Public Comments (N/A)

Recommendation

FGC staff: Adopt the emergency regulations as recommended by DFW.

DFW: Adopt the emergency regulations as presented in the emergency statement in Exhibit 2.

Exhibits

1. [Memo received Sep 16, 2022](#)
2. [Draft emergency statement, received Sep 16, 2022](#)
3. [Draft economic and fiscal impact statement \(STD. 399\)](#)
4. [DFW presentation](#)

Motion

The Commission determines, pursuant to Section 399 of the California Fish and Game Code, that adopting these regulations is necessary for the immediate conservation, preservation, and protection of birds, mammals, fish, amphibians, or reptiles, including, but not limited to, their nests or eggs.

The Commission further determines, pursuant to Section 11346.1 of the California Government Code, that an emergency situation exists and finds the proposed regulations are necessary to address the emergency.

Moved by _____ and seconded by _____ that the Commission adopts the emergency regulations amending subsection (b) of Section 29.80, related to the use of hoop nets for the recreational take of lobster and crab.

Memorandum

Date: September 9, 2022

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Agenda item for October 2022 Fish and Game Commission meeting. Emergency Regulatory Action to Amend Subsection 29.80(b), Title 14, California Code of Regulations; Re: Hoop Nets**

The California Department of Fish and Wildlife (Department) recommends that the Commission amend subsection 29.80(b), Title 14, California Code of Regulations, to remove ambiguity concerning the use and construction of hoop nets used in recreational invertebrate fisheries. Urgent action is needed to safeguard federally protected species during periods of elevated entanglement risk.

The Department requests the regulations become effective upon filing, prior to the November 5 opening of the Dungeness crab season.

If you have any questions on this item, please contact Dr. Craig Shuman, Marine Region Manager, at (916) 217-2370 or by email at R7RegionalMgr@wildlife.ca.gov.

Attachment: Finding of Emergency and Statement of Proposed Emergency Regulatory Action

cc: Chad Dibble, Deputy Director
Wildlife and Fisheries Division

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Marine Region

Eric Kord, Assistant Chief
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Melissa Miller-Henson, Executive Director
Fish and Game Commission
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State of California
Fish and Game Commission
Finding of Emergency and Statement of Proposed Emergency Regulatory Action

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

Date of Statement: September 14, 2022

I. Statement of Facts Constituting the Need for Emergency Regulatory Action

Background

Current regulations in subsection 29.80(b), Title 14, California Code of Regulations (CCR), specify that hoop nets may be used to take spiny lobster and all species of crab, define two authorized types of hoop nets, require regular servicing of hoop nets, and limit the number and require marking of hoop nets used south of Point Arguello, Santa Barbara County. Current regulations in subsection 29.80(c), Title 14, CCR, specify regulations for the use of crab traps, including provisions that became effective November 1, 2021 which allow the Director of the California Department of Fish and Wildlife (Department) to prohibit the deployment and use of crab traps to protect humpback whales, blue whales and/or Pacific leatherback sea turtles when concentrations of these species meet specified numerical triggers.

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 to apply for an emergency rulemaking to amend current hoop net regulations before the start of the next Dungeness crab season. This increase in hoop net fishing effort was a result of crab trap prohibitions declared pursuant to subsection 29.80(c), Title 14, CCR. 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.

Dungeness crab supports a popular recreational fishery that primarily occurs between San Luis Obispo and Del Norte counties. Dungeness crab are primarily fished using crab traps on private and commercial passenger fishing vessels. However, at the start of the 2021-2022 Dungeness crab recreational fishing season (the first Saturday of November), a dramatic increase in hoop net use from operators on both types of these vessels occurred between Monterey and Sonoma counties due to the prohibition on use of crab traps. The crab trap prohibition was declared by the Department Director in response to increased marine life entanglement risk at the time and lasted for 5-6 weeks. Another crab trap prohibition was declared for the Dungeness crab season in April north of Point Arguello, Santa Barbara County, to the California-Oregon border and lasted 10 and 14 weeks in the central and northern regions of the fishery, respectively. Given the potential for a dramatic increase in hoop net gear being used in the north during periods of elevated marine life entanglement risk, a standard rulemaking by the California Fish and Game Commission (Commission) would not work to address this entanglement risk since it would not be implemented until the season ended in July 2023. Therefore, the soonest Commission meeting a rulemaking could be approved and in place before the start of the 2022-2023 recreational Dungeness crab

fishing season will be at the Commission's October meeting, which is a key driver for this emergency regulation.

Traps and hoop nets both use vertical lines which pose a risk of entanglement; but the entanglement risk from hoop nets is inherently lower than traps due to their frequent service interval requirement of no more than two hours. However, the current regulatory language describing the service interval lacks clarity and has caused confusion about whether it pertains to the area north of Point Arguello, Santa Barbara County. Clarifying that the service interval is applicable statewide will make it easier to both enforce and ensure this gear type will not be left out longer, especially during times of elevated entanglement risk. Increased hoop net use along with longer service intervals could result in increased entanglements with federally protected species in addition to increased amounts of lost or abandoned gear.

The Department has been made aware that gear manufacturers are developing new hoop net designs that follow current hoop net Type B regulations but function like traps. Hoop nets constructed to function like traps may incentivize longer soak periods posing elevated entanglement risk. The Department is recommending to further specify current hoop net requirements to prevent widespread development of these new designs on the mass market and address elevated entanglement risk these new designs pose. These hoop nets will become harder to restrict once there has been public investment.

Lastly, gear marking requirements for hoop nets need to be consistent statewide as part of a broader effort to mark gear for all fixed gear fisheries to reduce entanglements from unknown gear. This will help identify operators of hoop nets for law enforcement purposes of active and lost or abandoned gear. Gear marking will also aid in the identification of hoop nets that could be involved in marine life entanglements. Identifying fisheries in the event of an entanglement helps the Department identify entanglement risk in the fishery and develop mitigation measures to reduce the risk. In addition, it reduces the number of unknown entanglements, which negatively impacts the commercial Dungeness crab fishery under the regulation for the Risk Assessment Mitigation Program (Section 132.8, Title 14, CCR).

II. Proposed Emergency Regulations

The proposed rule would amend subsection 29.80(b), Title 14, CCR, to create new subsections (1) through (6) that would organize hoop net requirements by the distinct topics that specify the use and design of this gear type for facilitating compliance and enforcement of these regulations to minimize entanglement risk.

The original regulatory text under subsection (b) will be divided into separate subsections (1), (2) and (5) and is otherwise unchanged. Placing these statements in separate subsections will remove the reference to the geographic area where hoop net limits occur to no longer precede the service interval requirement, thereby specifying the service interval of two hours is applicable to hoop nets used statewide.

The original text in subsection (2) will be renumbered as subsection (3) and amended to state that it is unlawful to abandon or leave out any hoop net beyond the service interval period and that these hoop nets can be seized by law enforcement.

Current subsection (1) will be renumbered as subsection (4) and contain the topic of "Hoop Net Defined". For both hoop net types, regulatory language will be amended to require "non-metallic"

soft mesh. Type A hoop nets are intended to be collapsible, and a metallic mesh structure could impede this design. In addition, regulatory text regarding type B hoop nets will be amended to restrict designs from “two to three rigid rings” to allow “only two rigid rings” reflecting that there is a bottom ring and a top ring. Other amendments to this subsection reflect the new two-ring design. Metallic mesh and allowing the type B design to have three rings makes both hoop net types heavier, posing a greater risk of severe injuries from entanglement due to the additional weight of the hoop net. Entanglements can affect the animal's ability to swim, forage for food, reproduce and can even lead to loss of fins or flukes in severe cases. Type B hoop nets will also require that they be constructed using rigid “straight” support arms and to prohibit any additional “entrances below the top ring” since the intent of the device is that crabs may only enter and exit from this opening of the net. These hoop net design changes will prevent a hoop net from functioning like a trap, which is contrary to the intent of the crab trap prohibition (subsection 29.80 (c)), during periods of elevated entanglement risk.

Subsection (5) will be organized under the new topic title of “Limits” and the original regulatory text from the second sentence of subsection (b) will be moved here unaltered. An additional statement will be added to clarify that hoop net limits do not apply north of Point Arguello, Santa Barbara County, to the California-Oregon border.

Current subsection (3) will be renumbered as subsection (6) and will be organized under the new topic title of “Gear Identification Requirements”. The current requirement for hoop nets used south of Point Arguello to be marked with a surface buoy, except those deployed by persons on shore or manmade structures connected to shore, will be expanded to apply statewide. The second sentence of current subsection (3) regarding surface buoy marking requirements will be moved to new subsection (6)(C) and amended to reflect its new location. This subsection will follow the buoy marking requirements for commercial passenger fishing vessels under subsection (6)(A) and licensed guides under subsection (6)(B). A statement will be added to allow only one operator's GO ID be used to mark the buoy to simplify identification of hoop net gear for the needs of enforcement and in the event of entanglements.

III. Findings for the Existence of an Emergency

The Commission considered the following factors in determining that an emergency does exist at this time.

The magnitude of potential harm:

Increased hoop net effort could result in elevated marine life entanglement risk of the federally protected species: humpback whales, blue whales, and Pacific leatherback sea turtles, after the start of the Dungeness crab season on November 5, 2022. The coastal waters of Monterey Bay, Santa Cruz, San Mateo, Marin and Sonoma Counties are of particular concern because of the large numbers of humpback whales that forage in those areas.

The existence of a crisis situation:

The state has a zero entanglement mortality goal and has made it a priority to reduce and/or eliminate marine life entanglements caused by all fishing gear types. In addition, entanglements from California fishing gear have involved federally listed species that are protected by the Endangered Species Act and the Marine Mammal Protection Act.

The immediacy of the need:

High marine life concentrations at the start of the Dungeness crab season on November 5, 2022 could result in a crab trap prohibition, which would result in increased use of hoop nets in offshore waters. Hoop net fishing effort then may overlap with foraging whales and sea turtles because some whales and sea turtles may be present within the fishing grounds well into December. Emergency regulations will maintain the low entanglement risk of this device by ensuring that hoop nets will be regularly serviced every two hours and that design modifications will prevent the device from functioning as a crab trap that would otherwise incentivize longer soak periods. In the rare instance there is an entanglement, the proposed design specifications of both hoop net types will retain the reduced weight of this gear type, thereby posing less harm to an entangled whale or sea turtle. In addition, gear marking of hoop nets used north of Point Arguello, Santa Barbara County will aid in the identification of this gear type to enforce these requirements and identify hoop nets involved in entanglements.

Whether the anticipation of harm has a basis firmer than simple speculation:

NOAA maintains an entanglement record, detailing fishery interactions with protected mammals and sea turtles dating back to the early 1980s. Based on the best available science, entanglement risk increases with the co-occurrence of protected species and vertical lines. The emergency rulemaking will amend hoop net regulations to minimize entanglement risk of federally protected humpback whales, blue whales, and Pacific leatherback sea turtles, as a result of the recently implemented crab trap prohibition during the recreational Dungeness crab season.

IV. Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

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

None

(b) Nondiscretionary Costs/Savings to Local Agencies

None

(c) Programs Mandated on Local Agencies or School Districts

None

(d) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code

None

(e) Effect on Housing Costs

None

V. Technical, Theoretical, and/or Empirical Studies, Reports, or Documents Relied Upon:

[California Department of Fish and Wildlife \(Department\) Declaration of Fishing Season Delay for the Commercial Dungeness Crab Fishery and Temporary Crab Trap Prohibition for the Recreational Crab Fishery Due to Risk of Marine Life Entanglement \(November 1, 2021\)](#)

[California Department of Fish and Wildlife Final Assessment of Marine Life Entanglement Risk and Management Action Recommendation \(October 29, 2021\)](#)

[2021-22 Risk Assessment: Available Data, California Department of Fish and Wildlife \(October 29, 2021\)](#)

[Strategic Plan to Protect California's Coast and Ocean 2020-2025 \(February 26, 2020\)](#)

VI. Authority and Reference

Authority cited: Sections 200, 205, 265, 275, 399, 7075 and 7078 Fish and Game Code.

Reference: Sections 200, 205, 265, 270, 275, 7050, 7055 and 7056, Fish and Game Code.

VII. Fish and Game Code Section 399 Finding

Delay in the amendments to hoop net devices could result in increased entanglement risk at the start of the Dungeness crab season on November 5, 2022. Emergency action is necessary now to safeguard federally protected species and minimize risk as much as feasible.

Pursuant to Section 399 of the Fish and Game Code, the Commission finds that adopting this regulation is necessary for the immediate conservation, preservation, or protection of birds, mammals, fish, amphibians, or reptiles, including but not limited to their nests or eggs.

Informative Digest/Policy Statement Overview

Current regulations in subsection 29.80(b), Title 14, California Code of Regulations (CCR), specify that hoop nets may be used to take spiny lobster and all species of crab, define two authorized types of hoop nets, require regular servicing of hoop nets, and limit the number and require marking of hoop nets used south of Point Arguello, Santa Barbara County. Current regulations in subsection 29.80(c), Title 14, CCR, specify regulations for the use of crab traps, including provisions that became effective November 1, 2021 which allow the Director of the California Department of Fish and Wildlife (Department) to prohibit the deployment and use of crab traps to protect humpback whales, blue whales and/or Pacific leatherback sea turtles when concentrations of these species meet specified numerical triggers.

The Department recommends that the California Fish and Game Commission (Commission) amend the hoop net regulations. The proposal would amend subsection 29.80(b), Title 14, CCR, through emergency action. The proposal is necessary to safeguard federally protected species from marine life entanglement risk.

The concerns addressed by this emergency action are:

- Clarify hoop net service interval requirement of 2 hours is statewide
- Add that “non-metallic” soft mesh be used in hoop net types A and B
- Amend requirements of type B hoop nets by restricting the number of rings from three to two, adding that the rigid support arms be “straight” and prohibiting the use of any additional openings
- Add that the use of a surface buoy and necessary gear marking requirements apply statewide to include hoop nets used north of Point Arguello and that only one operator’s GO ID is necessary

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 to apply for an emergency rulemaking to amend current hoop net regulations before the start of the next Dungeness crab season. This increase in hoop net fishing effort was a result of crab trap prohibitions declared pursuant to subsection 29.80(c), Title 14, CCR. 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.

Dungeness crab supports a popular recreational fishery that primarily occurs between San Luis Obispo and Del Norte counties. Dungeness crab are primarily fished using crab traps on private and commercial passenger fishing vessels. However, at the start of the 2021-2022 Dungeness crab recreational fishing season (the first Saturday of November), a dramatic increase in hoop net use from operators on both types of these vessels occurred between Monterey and Sonoma counties due to the prohibition on use of crab traps. The crab trap prohibition was declared by the Department Director in response to increased marine life entanglement risk at the time and lasted for 5-6 weeks. Another crab trap prohibition was declared for the Dungeness crab season in April north of Point Arguello, Santa Barbara County, to the California-Oregon border and lasted 10 and 14 weeks in the central and northern regions of the fishery, respectively.

Traps and hoop nets both use vertical lines which pose a risk of entanglement; but the entanglement risk from hoop nets is inherently lower than traps due to their frequent service interval requirement of no more than two hours. However, the current regulatory language describing the service interval lacks clarity and has caused confusion about whether it pertains to the area north of Point Arguello, Santa Barbara County. Clarifying that the service interval is applicable statewide will make it easier to both enforce and ensure this gear type will not be left out longer, especially during times of elevated entanglement risk. Increased hoop net use along with longer service intervals could result in increased entanglements with federally protected species in addition to increased amounts of lost or abandoned gear.

The Department has been made aware that gear manufacturers are developing new hoop net designs that follow current hoop net Type B regulations but resemble traps. Hoop nets constructed to behave like traps may incentivize longer soak periods posing elevated entanglement risk. The Department is recommending to further specify current hoop net requirements to prevent widespread development of these new designs on the mass market and address elevated entanglement risk these new designs pose. These hoop nets will become harder to restrict once there has been public investment.

Lastly, gear marking requirements for hoop nets need to be consistent statewide as part of a broader effort to mark gear for all fixed gear fisheries to reduce entanglements from unknown gear. This will help identify operators of hoop nets for law enforcement purposes of active and lost or abandoned gear. Gear marking will also aid in the identification of hoop nets that could be involved in marine life entanglements. Identifying fisheries in the event of an entanglement helps the Department identify entanglement risk in the fishery and develop mitigation measures to reduce the risk. In addition, it reduces the number of unknown entanglements, which negatively impacts the commercial Dungeness crab fishery under the regulation for the Risk Assessment Mitigation Program.

Benefits of the Regulation:

The Commission anticipates benefits to the State's environment by sustainably managing California's ocean resources and reducing bycatch. The environmental risks arising from the proposed rule are not regarded as significant, as the rule manages the resource more conservatively than existing regulation.

Consistency and Compatibility with Existing Regulations

Article IV, Section 20 of the State Constitution specifies that the Legislature may delegate to Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated authority to the Commission to promulgate sport fishing regulations (Fish and Game Code sections 200, 205, 315, and 316.5). Commission staff has searched the California Code of Regulations and has found no other state regulations that address the recreational take of crabs using hoop net gear. The Commission has reviewed its own regulations and finds that the proposed regulations are consistent with other recreational fishing regulations and marine protected area regulations in Title 14, CCR, and therefore finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

Emergency Regulatory Language

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

§29.80. Gear Restrictions for Recreational Take of Saltwater Crustaceans

(a) General Provisions.

(1) Saltwater crustaceans may be taken by hand.

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

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

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

(b) Hoop Nets

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

(2) The owner of the hoop net or person who placed the hoop net into the water shall raise the hoop net to the surface and inspect the contents of the hoop net at intervals not to exceed 2 hours.

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

~~(4)~~ (4) Hoop Net Defined: There are two types of hoop nets allowed for use:

(A) Type A: Fishing gear that is comprised of one to three rigid ring(s), with each ring measuring no greater than 36 inches in inside diameter nor less than 10 inches in inside diameter, which is/are connected to non-metallic soft mesh thereby forming a circular-shaped net with an enclosed bottom. Lift lines shall be attached only to the top ring. A second and third rigid ring(s) may be connected by non-metallic soft mesh to the top ring; however, each ring must be equal in size to or smaller than the ring above it. When the net is being raised the top ring shall be above and parallel to all other rings, with the enclosed bottom portion of the non-metallic soft mesh even with or hanging below all other rings. All parts of the hoop net shall collapse and lie flat when resting on the ocean floor in such a manner that the gear does not entrap or restrict the free movement of crustaceans until lifted. When suspended from lift lines, the entire hoop net shall measure no taller than 36 inches. The ring material shall not be thicker than one inch in any dimension.

(B) Type B: Fishing gear that is comprised of only two to three rigid rings (not including the bait ring), with ~~each~~the bottom ring measuring no greater than 36 inches in inside diameter and the top ring measuring no less than 15 inches in inside diameter. The ~~upper~~top ring ~~or rings~~ shall be connected to the bottom ring and supported by no more than six rigid straight support arms, and the assembled frame shall measure no more than 10 inches tall. The rings and support material shall not be thicker than one inch in any dimension. All rings shall be connected by non-metallic soft mesh, thereby forming a net with an enclosed bottom, and lift lines shall be attached only to the top ring. It is unlawful to have any entrances below the top ring. When suspended from lift lines the enclosed bottom portion of the net shall be even with or hanging below all other rings, and the entire net shall measure no taller than 30 inches. A bait ring may be attached to the net as long as the ring is not part of the rigid frame.

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

(5) Limits: Between Point Arguello, Santa Barbara County, and the United States-Mexico border, not more than five hoop nets shall be possessed by a person when taking spiny lobster or crab, not to exceed a total of 10 hoop nets possessed when taking spiny lobster or crab per vessel. Hoop net limits do not apply north of Point Arguello to the California-Oregon border.

~~(36) Gear Identification Requirements: Hoop nets used south of Point Arguello, Santa Barbara County, shall be marked with a surface buoy, except for those hoop nets deployed by persons on shore or manmade structures connected to the shore. Except as provided below, the surface buoy shall be legibly marked to identify the operator's GO ID number as stated on the operator's sport fishing license or lobster report card. This section does not apply to hoop nets deployed by persons on shore or manmade structures connected to the shore.~~

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

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

(C) In all other cases, the surface buoy shall be legibly marked to identify the operator's GO ID number as stated on the operator's sport fishing license or lobster report card, or the GO ID number of one operator if there are multiple operators.

... [No changes to subsections (c) through (j)]

NOTE: Authority cited: Sections 200, 205, 265, 275, 399, 7075 and 7078, Fish and Game Code. Reference: Sections 200, 205, 265, 270, 275, 7050, 7055 and 7056, Fish and Game Code.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

DRAFT DOCUMENT**ECONOMIC IMPACT STATEMENT**

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON David Thesell	EMAIL ADDRESS fgc@fgc.ca.gov	TELEPHONE NUMBER 916 902-9291
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Emergency Action to Amend Subsection 29.80 (b), Title 14, CCR, Re: Hoop Nets			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- a. Impacts business and/or employees e. Imposes reporting requirements
 b. Impacts small businesses f. Imposes prescriptive instead of performance
 c. Impacts jobs or occupations g. Impacts individuals
 d. Impacts California competitiveness h. None of the above (Explain below):

Emergency action does not require economic assessment - only fiscal impact assessment is required.

If any box in Items 1 a through g is checked, complete this Economic Impact Statement.

If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.

2. The _____ estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- Below \$10 million
 Between \$10 and \$25 million
 Between \$25 and \$50 million
 Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a Standardized Regulatory Impact Assessment as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: _____

Describe the types of businesses (Include nonprofits): _____

Enter the number or percentage of total businesses impacted that are small businesses: _____

4. Enter the number of businesses that will be created: _____ eliminated: _____

Explain: _____

5. Indicate the geographic extent of impacts: Statewide
 Local or regional (List areas): _____

6. Enter the number of jobs created: _____ and eliminated: _____

Describe the types of jobs or occupations impacted: _____

7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here? YES NO

If YES, explain briefly: _____

ECONOMIC IMPACT STATEMENT (CONTINUED)

B. ESTIMATED COSTS *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ _____
 - a. Initial costs for a small business: \$ _____ Annual ongoing costs: \$ _____ Years: _____
 - b. Initial costs for a typical business: \$ _____ Annual ongoing costs: \$ _____ Years: _____
 - c. Initial costs for an individual: \$ _____ Annual ongoing costs: \$ _____ Years: _____
 - d. Describe other economic costs that may occur: _____

 2. If multiple industries are impacted, enter the share of total costs for each industry: _____

 3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. *Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.* \$ _____
 4. Will this regulation directly impact housing costs? YES NO
If YES, enter the annual dollar cost per housing unit: \$ _____
Number of units: _____
 5. Are there comparable Federal regulations? YES NO
Explain the need for State regulation given the existence or absence of Federal regulations: _____

- Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: _____

2. Are the benefits the result of: specific statutory requirements, or goals developed by the agency based on broad statutory authority?
Explain: _____
3. What are the total statewide benefits from this regulation over its lifetime? \$ _____
4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: _____

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

DRAFT DOCUMENT**ECONOMIC IMPACT STATEMENT (CONTINUED)**

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ _____ Cost: \$ _____

Alternative 1: Benefit: \$ _____ Cost: \$ _____

Alternative 2: Benefit: \$ _____ Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? YES NO

Explain: _____

E. MAJOR REGULATIONS *Include calculations and assumptions in the rulemaking record.****California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.***1. Will the estimated costs of this regulation to California business enterprises **exceed \$10 million**? YES NO***If YES, complete E2. and E3******If NO, skip to E4***

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

 YES NO*If YES, agencies are required to submit a Standardized Regulatory Impact Assessment (SRIA) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

The incentive for innovation in products, materials or processes: _____

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

a. Funding provided in _____

Budget Act of _____ or Chapter _____, Statutes of _____

b. Funding will be requested in the Governor's Budget Act of _____

Fiscal Year: _____

2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

a. Implements the Federal mandate contained in _____

b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

3. Annual Savings. (approximate)

\$ _____

4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

5. No fiscal impact exists. This regulation does not affect any local entity or program.

6. Other. Explain _____

FISCAL IMPACT STATEMENT (CONTINUED)

B. FISCAL EFFECT ON STATE GOVERNMENT *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:

a. Absorb these additional costs within their existing budgets and resources.

b. Increase the currently authorized budget level for the _____ Fiscal Year

2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

3. No fiscal impact exists. This regulation does not affect any State agency or program.

4. Other. Explain _____

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.

4. Other. Explain _____

FISCAL OFFICER SIGNATURE

DATE

DocuSigned by:
 Dan Reagan

9/21/2022

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY

DATE



Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER

DATE



STD399 ADDENDUM
Emergency Action to Amend Subsection 29.80(b)
Title 14, California Code of Regulations
Re: Hoop Nets

Economic Impact Statement

A. ESTIMATED PRIVATE SECTOR COST IMPACTS

1. Answer: h. None of the above. (Explain below):

Emergency regulations do not require an economic impact statement; only fiscal impacts must be evaluated (California Government Code Section 11346.1).

Fiscal Impact Statement details are provided below.

Fiscal Impact Statement

The proposed emergency action to amend subsection 29.80(b) which would re-define approved hoop net construction, expand the area where hoop nets must be marked with a buoy and re-organize hoop net requirements by specific topic for clarity is not anticipated to have fiscal impacts on local or state governments, nor will there be effects to federal funding of state programs.

A. Fiscal Effect on Local Government

Answer: 5. No fiscal impact.

The Commission anticipates that the proposed emergency action will have no fiscal effect on local government.

B. Fiscal Effect on State Government

Answer: 3. No fiscal impact.

The Commission anticipates that the proposed emergency action will have no fiscal effect on state government. The California Department of Fish and Wildlife has determined that the proposed change to hoop net requirements will not affect the already existing level of monitoring and enforcement activities.

Additionally, no other state agencies would be affected by this regulatory action.

C. Fiscal Effect on Federal Funding of State Programs

Answer: 3. No fiscal impact.

The proposed emergency action will not have a fiscal effect on federal funding of state programs.



Emergency Hoop Net Regulation Changes

13 October 2022

Presented to:

California Fish and Game Commission

Presented by:

Christy Juhasz

Senior Environmental Specialist

Marine Region



Outline

- Findings for the Emergency
- Proposed Regulation Changes
- Timeline
- CDFW Outreach



Background

- Increase in offshore hoop nets due to crab trap restrictions when entanglement risk is elevated for whales and sea turtles
- Modifications to hoop net designs that function like a trap, thereby increasing entanglement risk



Findings for the Existence of an Emergency

- Hoop nets likely to overlap with high concentrations of foraging whales and sea turtles
- Minimize risk of marine life entanglements with protected species



Emergency Hoop Net Proposed Regulations

- Clarify statewide 2-hour service interval
- Update hoop net definition
- Extend surface buoy marker requirement statewide

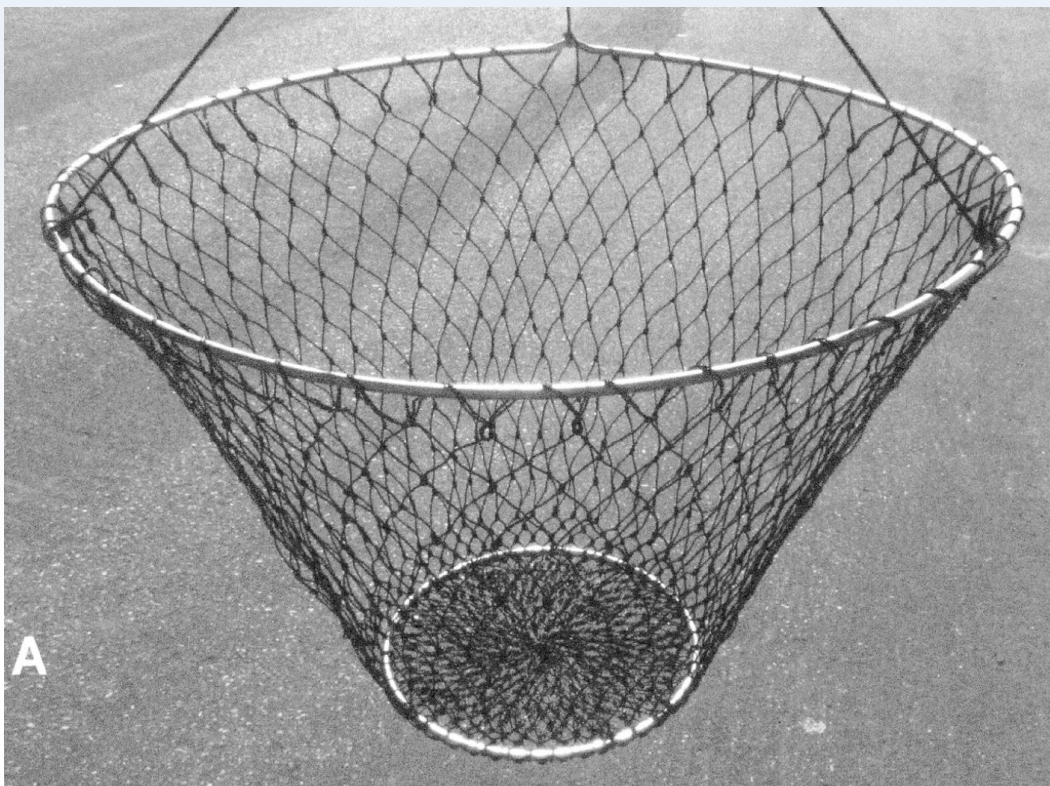


Statewide 2-Hour Service Interval

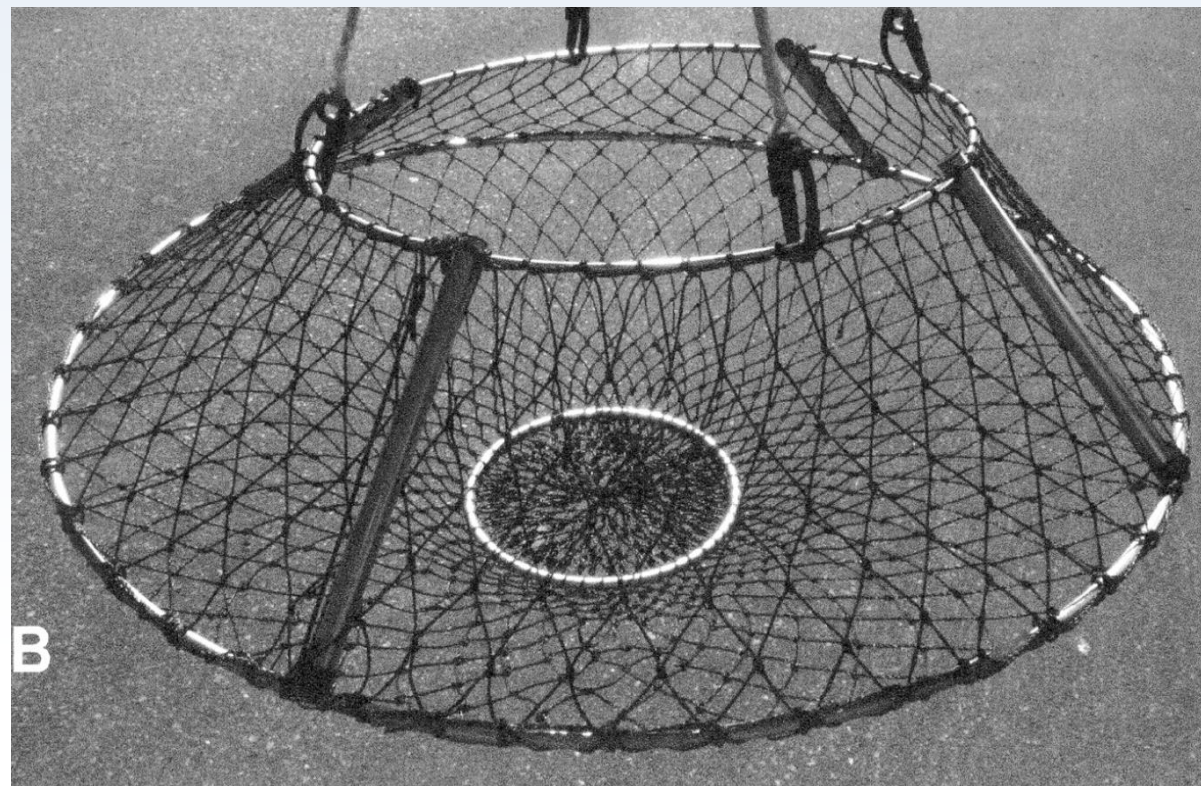
- Standalone subsection for the hoop net service interval of two hours
- Aids compliance and enforcement
- Reduce loss and abandonment of gear

Hoop Net Definition

Type A



Type B



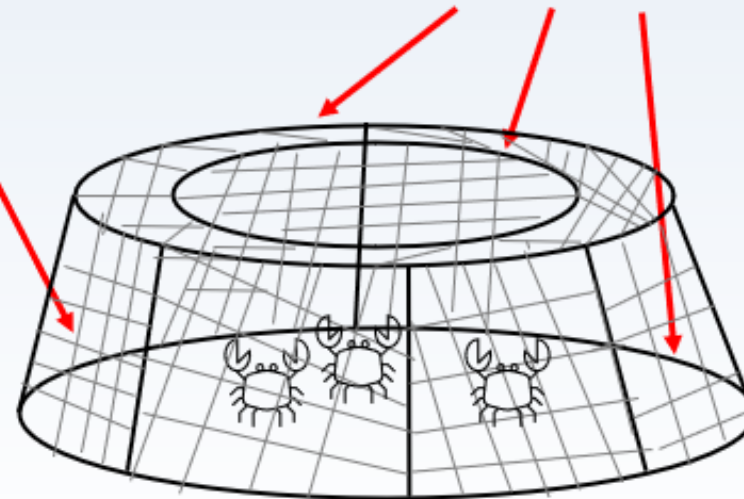
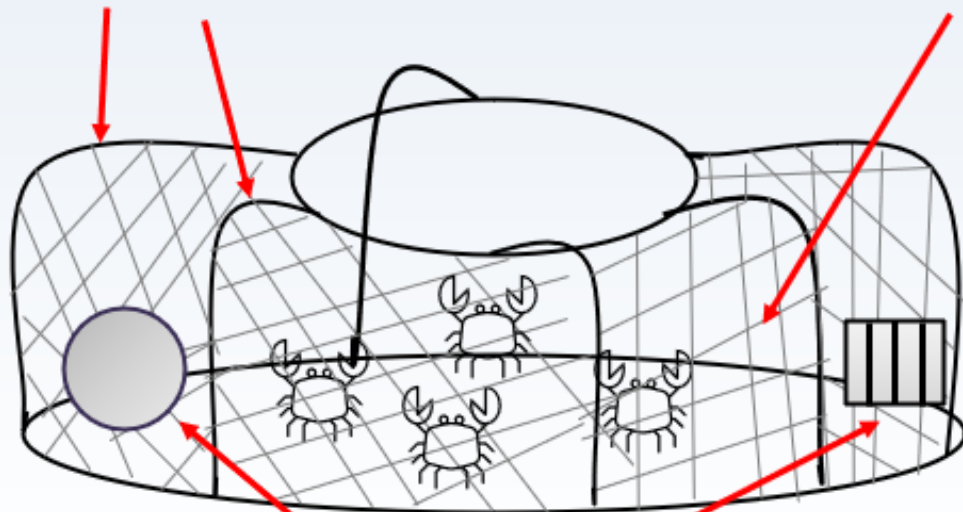
Source: Neilson et al., 2008, California Fish and Game Journal.

Modified Hoop Net Designs

Curved rigid arms

Metallic mesh

Three-ring design



Additional
openings



Hoop Net Definition (cont.)

- Changes to both Types A and B
 - Soft mesh must be non-metallic material
- Update to Type B hoop nets
 - Limit number of rings to two; not including bait ring
 - Rigid support arms must be straight
 - Prohibit openings below top ring



Surface Buoy Marker Requirements

- Extend surface buoy marking requirement to apply statewide
- Helps identify hoop nets involved in entanglements to reduce unknown gear types



Surface Buoy Marker Requirements (cont.)

- Only applies to hoop nets used offshore
- Surface buoy is required to be marked as follows:
 - CPFVs - vessel registration
 - Licensed Guide – ID number
 - For all other cases, GO ID (simplify with one GO ID for multiple operators)



Timeline of Emergency Rulemaking

- Oct 13, 2022 Commission meeting: Finding of Emergency
- Nov 1, 2022: Effective date of emergency rulemaking
- Dec 14-15, 2022 Commission Meeting: Notice of lobster rulemaking, will include hoop net emergency changes
- 2023 emergency rulemaking extensions: 90-day (x2)
- Sept 2023: Anticipated effective date of the lobster/hoop net rulemaking



CDFW Public Outreach

Completed (Aug – Oct 2022)	Planned (Oct - Nov 2022)
Update at August 2022 FGC meeting	Post updates to Whale Safe Fisheries and Crab webpages
Tribal notification to Federal recognized tribes	Update Dungeness Crab Task Force
CDFW/NMSF Gear Workshop	Social media updates
Whale Working Group Update	Email notification to fishery participants and interested parties
CDFW Virtual Webinar	Produce and distribute outreach materials

Thank You

Christy Juhasz, Senior Environmental Specialist
Invertebrate Management Program

Email: WhaleSafeFisheries@wildlife.ca.gov

