

Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

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

County Clerk
County of: N/A

Project Title: Deep-Set and Night-Set Buoy Gear Fishing within State Waters

Project Applicant: Nathan J. Perez

Project Location - Specific: State waters around the Channel Islands and limited areas off southern California (Ventura, Los Angeles and Orange counties).

Project Location - City: N/A

Project Location - County: Multiple

Description of Nature, Purpose and Beneficiaries of Project:

Experimental fishing permit (EFP) for commercial use of deep-set buoy gear and night-set buoy gear to target swordfish and other highly migratory species within state waters. See attachment.

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: Class 6 Cal. Code Regs., tit. 14, § 15306
- 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: August 31, 2022 Title: Executive Director

Signed by Lead Agency Signed by Applicant.

Date Received for filing at OPR:

August 23, 2022

ATTACHMENT TO NOTICE OF EXEMPTION

RE: Approval of Experimental Fishing Permit for Deep-Set and Night-Set Buoy Gear Fishing within State Waters

The California Fish and Game Commission (Commission) has taken final action under the California Fish and Game Code (FGC) and the Administrative Procedure Act with respect to the experimental fishing permit (EFP) application for the subject project on August 17, 2022. In taking its final action for the purposes of the California Environmental Quality Act (CEQA, Public Resources Code, Section 21000 et seq.), the Commission authorized the California Department of Fish and Wildlife (CDFW) to issue a Tier 3 (exploratory fishing) EFP for the subject project in accordance with Section 91, Title 14, California Code of Regulations (CCR), relying on the categorical exemption for "Information Collection" contained in CEQA Guidelines Section 15306. (California Code of Regulations, Title 14, Section 15306.)

Categorical Exemption for Information Collection

Section 15306 of the CEQA Guidelines (Class 6) provides a categorical exemption for information collection projects that consists of basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. The section goes on to note that these information collection projects may be strictly for information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted, or funded.

The project is a limited term study under the EFP Program to evaluate the effectiveness and feasibility of new commercial fishing methods to help reduce bycatch and/or habitat impact. The project proposes testing of deep-set buoy gear (both standard and linked) and night-set buoy gear (both standard and linked) to harvest swordfish, Pacific bluefin tuna, opah, common thresher shark, and other highly migratory species in California state waters around the Channel Islands and in limited areas off the mainland (Ventura, Los Angeles and Orange counties). All fishing activity would occur outside of existing marine protected areas. While the proposed project activities are currently prohibited under state fishing laws (Fish and Game Code sections 8603, 9025.5, and 9028), the purpose of the EFP is to gather information for improving fisheries management or expanding fishing opportunities in the state by allowing researchers and fishers to engage in commercial or recreational marine fishing activities that are otherwise prohibited. All activities conducted under the EFP must comply with the terms and conditions placed on the permit for research purposes and the conservation and management of marine resources and the environment. As such, the proposed EFP project is the proper subject of CEQA's Class 6 categorical exemption.

The Commission does not believe reliance on the Class 6 categorical exemption to approve the permit under CEQA is precluded by the exceptions set forth in CEQA Guidelines Section 15300.2. Initial Commission staff review was guided by the California Supreme Court's recent decision in *Berkeley Hillside Preservation v. City of Berkeley*. Staff reviewed all of the available information in its possession relevant to the issue and does not believe authorizing the permit

poses any unusual circumstances that would constitute an exception to the cited categorical exemption. Even if there were unusual circumstances, which the Commission does not believe is the case, no potentially significant effects on either a project-specific or cumulative basis are expected from this project.

Furthermore, all activities authorized under the EFP Program are specifically prohibited from adversely impacting any established fisheries, marine living resources, or other natural resources under the provisions of Fish and Game Code Section 1022. Therefore, the exceptions set forth in CEQA Guidelines Section 15300.2 that would preclude the use of the categorical exemption do not apply and no further review is required.