

# 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: NA

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

Project Title: Puget Buoy Pilot Project

Project Applicant: Dylan Diefendorf

Project Location - Specific: Waters off the coast of California between the California/Oregon border (42° N. latitude) and Pigeon Point (37° 10' N. latitude).

Project Location - City: NA

Project Location - County: Multiple

Description of Nature, Purpose and Beneficiaries of Project:

Experimental fishing permit (EFP) to test the use of Puget Buoy pop-up gear in the commercial Dungeness crab fishery to collect information to inform future alternative gear certification under the California Dungeness Crab Fishing Gear Working Group Risk Assessment Mitigation Program.

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: 4/21/2023

Title: Executive Director

Signed by Lead Agency  Signed by Applicant.

Date Received for filing at OPR:

April 21, 2023

## **ATTACHMENT TO NOTICE OF EXEMPTION**

RE: Approval of Experimental Fishing Permit for Puget Buoy Pilot Project

The California Fish and Game Commission (Commission) has taken final action under the California Fish and Game Code and the Administrative Procedure Act with respect to the experimental fishing permit (EFP) application for the project mentioned above on April 20, 2023. 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 1 EFP for the above-mentioned 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 in CCR, Title 14, Section 15306.

### **Categorical Exemption for Information Collection**

Section 15306 of the CEQA guidelines (Class 6 exemptions) 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 will test the use of Puget Buoy pop-up gear in the commercial Dungeness crab fishery to collect information to inform future alternative gear certification under the California Dungeness Crab Fishing Gear Working Group Risk Assessment Mitigation Program (RAMP). A timed-release ropeless fishing system, the Puget Buoy doubles as a float and a rope coiling device to reduce the number of vertical lines and avoid potential risk of marine life entanglement. When deployed, the device remains submerged with a crab trap on the ocean floor until a resurfacing time is reached. The resurfacing time is pre-set using the Puget Buoy app.

The project will test up to 125 Puget Buoy units on up to 4 commercial Dungeness crab vessels during the fishing season. Each vessel will deploy between 25 and 50 Puget Buoy units and all traps will be serviced at least once every 96 hours. Fishing will occur off the coast of California between the California/Oregon border (42° N. latitude) and Pigeon Point (37° 10' N. latitude). The project is anticipated to span a total of 17 weeks. Testing will occur throughout the Dungeness crab season. Rock crab is proposed to be taken incidentally pursuant to current fishing rules and regulations.

The EFP will exempt the project from several sections of code and regulation:

- Subdivision (d) of Section 8276.1, Fish and Game Code and Section 132.8 of Title 14, CCR (prohibition on take and possession of Dungeness crab under RAMP)

- Section 8276.5, Fish and Game Code and subsection(b) of Section 132.1, Title 14, CCR (requirement for buoy tags)
- Section 9005 of Fish and Game Code (surface buoy marking requirements)

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. The intent of pop-up gear is to reduce the number of vertical lines and avoid potential risk of marine life entanglement in Dungeness crab fishing gear. 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 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 the CEQA guidelines in Section 15300.2 of Title 14, CCR. Commission review was guided by the California Supreme Court's recent decision in *Berkeley Hillside Preservation v. City of Berkeley*. Given all of the available information in its possession relevant to the issue, the Commission 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 the CEQA guidelines in Section 15300.2 of Title 14 that would preclude the use of the categorical exemption do not apply and no further review is required.