

# 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: Pop-Up Fishing Systems Testing in the proposed Box and King Crab Experimental Fishery Project Applicant: Kim Sawicki (Sustainable Seas Technology)

Project Location - Specific: Off the coast of California from Point Conception (34°27' N. latitude) to the U.S.-Mexico border (32°32' N. latitude) in water depths ranging between 60-150 fathoms, excluding any Marine Protected Areas and Essential Fish Habitat closures for bottom contact gear.

Project Location - City: NA

Project Location - County: Multiple

Description of Nature, Purpose and Beneficiaries of Project:

Experimental fishing permit (EFP) for testing and commercial use of pop-up gear fishing systems for take of brown box crab and California king crab. See attachment for additional information.

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

Name of Person or Agency Carrying Out Project: Kim Sawicki

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 California Code of Regulations, Title 14, Section 15306
- Statutory Exemptions. State code number:

Reasons why project is exempt: See attachment.


Lead Agency

Contact Person: Melissa Miller-Henson

Area Code/Telephone: (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: June 15, 2023 Title: Executive Director

Signed by Lead Agency  Signed by Applicant. Date Received for filing at OPR:

June 15, 2023

## **ATTACHMENT TO NOTICE OF EXEMPTION**

RE: Approval of Experimental Fishing Permit for Pop-Up Fishing Systems Testing in the Proposed Box and King Crab Experimental Fishery (EFP Application 2023-01)

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 above referenced project at its June 14-15, 2023 meeting. 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 4 EFP for the proposed 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, 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 purpose of the EFP Program is to allow fishers and scientific partners obtain limited, short-term exemptions from state fishing laws and regulations to engage in commercial or recreational marine fishing activities that are otherwise prohibited to inform fisheries management. EFPs may be approved for one or a combination of the following purposes: research, educational, limited testing, data collection, compensation fishing, conservation engineering, and exploratory fishing.

The proposed project would build on a previous EFP project for an experimental fishery for brown box crab (established in Section 90, Title 14, CCR) which was approved by the Commission in December 2018 and expired on April 1, 2023. The proposed project would test the effects and efficacy of using pop-up fishing systems (also known as "ropeless," "lineless," and "on-demand" fishing systems) and continue the experimental fishery targeting brown box crab and California king crab to collect biological and fishery data to help fill critical information gaps for these species.

The pop-up fishing systems proposed for testing include four acoustic on-demand release and line management products: Desert Star Systems, Fiomarine, Ropeless Systems, and Subsea Sonics/Guardian Ropeless Systems. These systems are designed to store lines and buoys at depth on a trap until they are released, minimizing the amount of time a vertical line is suspended in the water. Testing of the pop-up fishing systems would follow a three-phase approach. Any authorized agent (pursuant to subsection 91(b), Title 14, CCR) must first demonstrate core competency with all equipment, devices, and data collection protocols and work with Sustainable Seas Technology staff and gear manufactures to finalize individual gear configurations at sea using an attached backup line and a surface marker buoy while the gear is actively tended (Phases 1 and 2) before exploratory fishing with pop-up gear systems can

begin (Phase 3). Pop-up systems would be used on 100% of the gear deployed while fishing for brown box crab and California king crab. Electronic monitoring of vessel locations would be used in addition to the electronic reporting of the locations and times of trap deployments and retrievals.

The proposed project would occur off the coast of California between Point Conception and the California/Mexico border in water depths ranging from 60 to 150 fathoms, excluding any marine protected areas and essential fish habitat closures for bottom contact gear. Experimental fishing would take place year-round for up to four years. The proposed project would include between two to ten authorized agents and five authorized vessels. An annual fishing quota of 36,000 pounds of brown box crab and 36,000 pounds of California king crab is proposed per vessel. A maximum of 75 traps would be set in strings of up to seven traps, per vessel. Traps would soak for a maximum of 96 hours, unless weather or other safety reasons cause a delay. Data will be collected on fishing effort and catch using forms provided by the Department, and observers may be required at the request of the Department if fishing is occurring in areas where bycatch data is limited.

The EFP would exempt the proposed project from the following provisions in Fish and Game Code and/or Title 14, CCR:

- Fish and Game Code Section 9005 (requires marking traps with a surface buoy);
- Subsection 125(b)(3), Title 14, CCR (prohibits pop-up buoy systems on board a vessel while rock crab fishing); and
- Subsection 126(b)(1), Title 14, CCR (25-pound catch limit for brown box crab and California king crab).

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. The proposed EFP project will be subject to special conditions deemed necessary by the Commission to avoid direct and indirect adverse impacts the marine resources and the environment, including:

- restrictions on type and amount of fishing gear that may be used to conduct the authorized activities;
- requirements for marking fishing gear;
- restrictions on sizes and quantities of species that may be taken;
- restrictions on location and depth where the authorized activities may occur;
- rules to suspend fishing operations or move fishing gear in response to elevated entanglement risks; and
- best practices for avoiding marine life entanglement.

Because the EFP authorizes experimental activities specifically tailored to test the effects and efficacy of using pop-up fishing systems while also collecting biological and fishery data, the project is the proper subject of CEQA's Class 6 categorical exemption. The Commission does not believe the activities authorized by the EFP will result in a serious or major disturbance to an environmental resource.

Moreover, 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 staff 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. An EFP shall be revoked if the continued use would have an adverse impact on any resource or allocation of a resource, or other adverse impact to established fisheries or other marine living resources, pursuant to Fish and Game Code subdivision (a)(2). 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.