

# 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:** California Fish and Game Commission  
P.O. Box 944209  
Sacramento, CA 94244-2090

Project Title: Testing of Sub Sea Sonics Pop-Up Gear in the California Dungeness Crab and Hagfish Fisheries

Project Applicant: Bart Chadwick

Project Location - Specific: Waters off the coast of California between the California/Oregon border (42° N. latitude) and Point Conception (34° 27' N. latitude).

Project Location - City: N/A

Project Location - County: Multiple

Description of Nature, Purpose and Beneficiaries of Project: Experimental fishing permit (EFP) to test the commercial use of Sub Sea Sonics' timed- and acoustic release pop-up gear systems in conjunction with Longsoaker Fishing System's Guardian line management system in the Dungeness crab fishery. The information collected will inform future alternative gear certification under the California Department of Fish and Wildlife Risk Assessment Mitigation Program (RAMP). The applicant has also amended the application to include the hagfish fishery in testing the use of timed- and acoustic release pop-up gear. Currently pop-up gear is prohibited in the hagfish fishery and testing in this fishery could inform future changes to regulations that prohibit pop-up gear, thereby reducing entanglement risk.

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

Reason(s) 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: March 5, 2024 Title: Executive Director

Signed by Lead Agency  Signed by Applicant.

Date Received for filing at OPR:

## **Attachment to Notice of Exemption**

### **Approval of Experimental Fishing Permit for Testing Pop-Up Gear in the California Dungeness Crab and Hagfish Fisheries**

The California Fish and Game Commission (Commission) took final action under the California Fish and Game Code (F&G Code) and the California Administrative Procedure Act on February 14, 2024 with respect to the experimental fishing permit (EFP) application major amendment related to testing pop-up gear in the California Dungeness crab and hagfish fisheries. 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 2 EFP for the 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 (CCR, 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 will test the commercial use of Sub Sea Sonics timed- and acoustic release pop-up gear systems in conjunction with Longsoaker Fishing System’s Guardian line management system in the Dungeness crab fishery to collect information to inform future alternative gear certification under CDFW’s Risk Assessment Mitigation Program (RAMP). The intent of pop-up gear is to reduce the number of vertical lines in the water and avoid potential risk of marine life entanglement in Dungeness crab fishing gear. As a separate test, the use of Sub Sea Sonics timed- and acoustic release pop-up gear systems will be used commercially in the hagfish fishery to inform future regulatory amendments to allow the use of pop-up gear which could thereby reduce entanglement risk in that fishery.

The project will: (1) occur in waters off the coast of California between the California/Oregon border (42° N. latitude) and Point Conception (34° 27’ N. latitude) for Dungeness crab and (2) include between 15 to 20 participating fishers (authorized agents pursuant to subsection 91(b), Title 14, CCR). Each fisher will test up to 150 units of the proposed systems. Authorized agents will have the option to fish single traps or string up to 10 traps per line. The pop-up gear systems will be tracked and monitored using a virtual gear marking application (e.g., trap timer) and a Pelagic Data System solar logger. The project is anticipated to span a total of four years. Testing will occur year-round; however, Dungeness crab will be retained/sold during the statutory season only. Rock crab will be taken incidentally pursuant to current fishing rules and regulations.

For hagfish, there are three authorized agents pursuant to subsection 91(b), Title 14, CCR. Each fisher will test up to six units of the proposed systems. Authorized agents will have the option to fish single or double pop-ups per groundline with a maximum of three groundlines and 25-barrel traps per vessel. The pop-up gear systems will be tracked and monitored using a

virtual gear marking application (e.g., trap timer) and a Pelagic Data System solar logger. The project is anticipated to span a total of four years. Testing will occur year-round.

The EFP will exempt the project from the following provisions of F&G Code and/or Title 14:

- F&G Code Section 8276 and Title 14 subsection 132.6(d) (requirement for removing gear at close of season);
- F&G Code subdivision (d) of Section 8276.1 and Title 14 Section 132.8 (RAMP prohibitions);
- F&G Code Section 8276.5 and Title 14 Section 132.1 (requirement for trap tags);
- F&G Code Section 9005 (surface buoy marking requirement);
- F&G Code subdivision (b) of Section 9012 (single trap per line requirement); and
- Title 14, subsection (b) of Section 180.6 (pop-up prohibition for buoy lines attached to barrel traps).

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 project is the proper subject of CEQA's Class 6 categorical exemption.

### ***No Exceptions to Categorical Exemptions Apply***

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. The Commission's review was guided by the California Supreme Court's decision in *Berkeley Hillside Preservation v. City of Berkeley*. The Commission has 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 F&G 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.