

Notice of Exemption

Appendix E

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

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

County Clerk County of: NA

Project Title: Major Amendment to Experimental Fishing Permit for Testing Pop-Up Gear Systems in the Dungeness Crab and Hagfish Fisheries (Sub Sea Sonics: Commission Tracking #2022-03)

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

Project Location - City: NA

Project Location - County: Multiple

Description of Nature, Purpose and Beneficiaries of Project: The subject experimental fishing permit (EFP) tests commercial use of Sub Sea Sonics timed- and acoustic-release pop-up gear systems in the California Dungeness crab and hagfish fisheries (Project) to inform future alternative gear certification under the Risk Assessment Mitigation Program (RAMP; Section 132.8, Title 14, California Code of Regulations). The applicant requested several changes to the approved EFP (Commission Tracking #2022-03), which was subject to review by the California Department of Fish and Wildlife and approval by the Commission. The purpose of the Project is to collect information on the gear systems; the requested changes amend the permit terms and conditions, including to expand the number of individuals conducting EFP activities and the amount of deployed gear, adjust the configuration of deployed gear, revise reporting requirements, and specify the process for reporting and retrieving lost EFP gear.

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

Reasons why the project is exempt: See attachment.


Lead Agency: California Fish and Game Commission

Contact Person: Melissa Miller-Henson

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: December 27, 2024 Title: Executive Director

Signed by Lead Agency Signed by Applicant.

Date Received for filing at OPR:

**Attachment to Notice of Exemption Regarding Approval of Major Amendment to
Experimental Fishing Permit for Testing Pop-Up Gear Systems in the
Dungeness Crab and Hagfish Fisheries
(Sub Sea Sonics: Commission Tracking #2022-03)**

The California Fish and Game Commission (Commission) has taken final action under California Fish and Game Code (F&G Code) and Section 91, Title 14, California Code of Regulations (CCR) with respect to the experimental fishing permit (EFP) major amendment for the above-referenced Project on December 11, 2024. 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 (Department) to amend a Tier 2 EFP for the project in accordance with Section 91, Title 14, 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 consist 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 states that the 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 amended Project is to allow fishers and scientific partners to 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. The amended EFP will also gather information related to gear types that may reduce the likelihood of entanglement with marine mammals. EFPs may be approved for one or a combination of the following purposes: research, education, limited testing, data collection, compensation fishing, conservation engineering, and exploratory fishing.

The amended EFP exempts the project from the following provisions in F&G Code and/or Title 14, CCR:

- F&G Code Section 8276 and subsection 132.6(d) of Title 14, CCR. (requirement for removal of gear at close of season)
- F&G Code subdivision 8276.1(d) (cannot take or possess crab from waters closed under the Risk Assessment Mitigation Program)
- F&G Code Section 8276.5 and subsection 132.1(b), Title 14, CCR (requirement to affix Department-issued buoy tags to deployed traps)
- F&G Code Section 9005 (surface buoy marking requirement)
- F&G Code subdivision 9012(b) (single trap per line requirement)
- Subsection 180.6(b), Title 14, CCR (pop-up prohibition for buoy lines attached to barrel traps)
- Certain provisions of Section 132.8, Title 14, CCR (in-season management measures for the commercial Dungeness crab fishery)

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 Project is subject to special conditions deemed necessary by the Commission to avoid direct and indirect adverse impacts to the marine resources and the environment, including:

- restrictions on the 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.

The amendments to the EFP, including an increased number of participants conducting EFP activities and the amount of deployed gear, as well as adjustments to gear configurations, reporting requirements, and lost gear retrieval, are consistent with the original purpose of the EFP. The activities authorized by the amended EFP will continue 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.

Commission staff do not believe reliance on the Class 6 categorical exemption to approve the amended permit under CEQA is precluded by the exceptions set forth in CEQA Guidelines Section 15300.2. Staff review was guided by the California Supreme Court's recent decision in *Berkeley Hillside Preservation v. City of Berkeley*. Staff reviewed all 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 F&G 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 F&G 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.