

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: _____

From: (Public Agency): _____

(Address)

Project Title: _____

Project Applicant: _____

Project Location - Specific:

Project Location - City: _____ Project Location - County: _____

Description of Nature, Purpose and Beneficiaries of Project:

Name of Public Agency Approving Project: _____

Name of Person or Agency Carrying Out Project: _____

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: _____
- Statutory Exemptions. State code number: _____

Reasons why project is exempt:

Lead Agency

Contact Person: _____ Area Code/Telephone/Extension: _____

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: _____ Title: _____

Signed by Lead Agency Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: _____



August XX, 2018_[ML1]

ATTACHMENT TO NOTICE OF EXEMPTION Dungeness Crab Trap Surface Gear Limitations

The California Department of Fish and Wildlife (Department) has taken final action under the Fish and Game Code and the Administrative Procedure Act with respect to the proposed project. On August XX, 2018_[ML2], the Department filed a final statement of reasons with the Office of Administrative Law to add Section 132.6 to Title 14 of the California Code of Regulations (CCR), as well as amending Sections 132.1, 132.2, & 132.3 of Title 14, CCR. The project was discussed a public hearing in Santa Rosa, CA, on July 31, 2018.

The new Section 132.6 would limit the amount of trap lines that could be left floating on the surface from deployed crab traps, the amended Section 132.2 would allow easier retrieval of commercial crab traps that are in danger of being lost, and amendments to Sections 132.1 and 132.3 would remove extraneous language from the regulations. For the purposes of the California Environmental Quality Act (CEQA, Pub. Resources Code, Section 21000 et seq.), the Department adopted the regulations relying on the Class 7 categorical exemption for “Actions by Regulatory Agencies for Protection of Natural Resources” contained in CEQA Guideline Section 15307 (Section 15307, Title 14, CCR) the General Rule Exemption (Section 15061(b)(3), Title 14, CCR).

Categorical Exemptions to Protect Natural Resources

In compliance with CEQA, the Department adopted the regulation relying on the categorical exemptions contained in CEQA Guidelines Sections 15307 (Action by Regulatory Agencies for Protection of Natural Resources), which applies to agency actions to protect natural resources.

A Dungeness crab trap could be connected to two buoys: a main buoy and a “trailer buoy.” Both buoys are attached to the same fishing line, and the longer the space between the buoys, the more likely that there is excess line lying on the surface of the ocean. This in turn increases the risk of that line interacting with and entangling migrating whales. The proposed Section 132.6 language would restrict the amount of line allowed between the two buoys for trap gear, and is anticipated to help reduce the risk of whale entanglement.

Current regulation under Section 132.2 allows a third party to retrieve commercial Dungeness crab traps left out in the ocean during the Dungeness crab fishing season in the event that the owner of the traps is confronted with an emergency, such as vessel mechanical failures. However, the regulation only allows such retrieval to be performed

Attachment to Notice of Exemption
August XX, 2018

by other Dungeness crab permittees. The proposed change to Section 132.2 would allow any commercial fishing vessel to help provide in-season retrieval. This change would increase the pool of available trap retrievers, and is anticipated to reduce the chance of traps being lost and entangling migrating whales.

Because the proposed project is intended to reduce mortality of migrating whales, it is an activity that is the proper subject of CEQA's Class 7 categorical exemption.

General Rule Exemption

A general clean-up of outdated and extraneous regulatory language is also proposed in Sections 132.2 and 132.3. In adopting the proposed amendments to clean up the regulatory language, the Department determined that it could be seen with certainty that there is no possibility that the proposed amendment may have a significant effect on the environment (Cal. Code Regs., tit. 14 § 15061(b)(3)). Because the proposed amendments are administrative in nature, the Department's adoption of these amendments will not result in a direct or indirect physical change to the environment. Since there is no possibility that the proposed action would have a significant adverse effect on the environment, the action is the proper subject of the general rule exemption.