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## Fish and Game Commission



*Wildlife Heritage and Conservation  
Since 1870*

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### **NOTICE OF RECEIPT OF RECOMMENDATION AND CONSIDERATION OF EXPERIMENTAL FISHING PERMIT APPLICATION**

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 1022 of the Fish and Game Code (FGC) and Section 91, Title 14 of the California Code of Regulations (CCR), on [insert date] the California Department of Fish and Wildlife (Department) transmitted to the California Fish and Game Commission (Commission) a recommendation regarding an Experimental Fishing Permit (EFP) application from the National Marine Sanctuary Foundation (applicant) to conduct a collaborative research project aimed at testing fishing gear innovations to mitigate the risk of marine life entanglements while providing increased fishing opportunities. Consistent with subsections 91(e)(2) and (91)(f), Title 14 CCR the Commission has scheduled the EFP application for consideration at its June 14-15, 2023 meeting in Sacramento.

#### **EFP Project Description**

The application requests a Tier 2 (one of four tiers of permits based on purpose and Department facilitation) EFP to test the commercial use several pop-up fishing systems in the California Dungeness crab fishery to inform future Alternative Gear decisions under the California Department of Fish and Wildlife's Risk Assessment Mitigation Program (RAMP) (proposed project). The proposed project would allow up to five permitted vessels to test different pop-up fishing systems to assess performance, feasibility, and compatibility in the California Dungeness crab fishery. The pop-up fishing systems would be comprised of a pop-up device (Desert Star ARC-1XD, EdgeTech 5112, Fiomarine Fiobuoy, and Guardian Ropeless System) attached or mounted onto a single trap. The vertical line (rope) and buoy are stored with the trap at depth until release is activated via an acoustic command or a pre-determined interval has elapsed.

The proposed project is divided into two stages:

- In Stage 1, the Foundation will provide participants with instruction and hands-on training on testing procedures, data collection, and gear operation (dockside and at-sea). Participants/participating vessels must complete a minimum of 10 successful practice deployments/retrievals per system type using a backup system (e.g., reserve buoy or an attached backup line and a surface marker buoy).
- In Stage 2, each participating vessel will test up to four different pop-up fishing systems without a backup system.

The proposed fishing activities would occur off the coast of California between the Sonoma/Mendocino County line (38° 46.125' N. latitude) and Lopez Point (36° 00' N. latitude), in depths ranging from 30 to 300 feet. Vessels will test one pop-up fishing system type at a time. No more than 50 traps will be deployed at any given time under the EFP. The soak time

for the pop-up fishing systems will range between 1 to 4 days. All vessels will be equipped with a Pelagic Data Systems device to track vessel location and movement throughout the duration of the proposed project (up to four years). The proposed project activities may occur throughout the year, but will largely occur from April to October. Catch would only be retained and landed if the Fishing Zone where gear was deployed is open for commercial activity (i.e., not closed pursuant to Fish and Game Code Section 8276; Fish and Game Code Section 8276.1; Section 132.8, Title 14, CCR; or elevated domoic acid).

### Department Recommendation

Pursuant to subsection 91(d)(2), Title 14, CCR, the EFP application was accepted by the Department for technical review on December 8, 2022. The Department has completed its evaluation of the application and recommends approval of a Tier 2 permit with special conditions as outlined on form DFW 1103. The proposed special conditions include the following: (specific changes to the proposed project and their associated justifications are marked with an asterisk\* and are in ***bold italics***):

- General requirements for valid commercial licenses, permits, and vessel registration
- Maximum number of authorized agents and vessels that may conduct the authorized activities
- Type and size of species that may be taken
  - ***\*for management and conservation purposes, only male Dungeness crab may be taken pursuant to FGC Section 8278 and only Dungeness crab greater than 6 and one-quarter inches in breadth may be taken***
- Requirements for landing EFP catch
  - ***\*for management and enforcement purposes, authorized agents must record EFP number and catch information on landing receipts and notify the Department of any landings made under the EFP***
- Allowable fishing area and time of year
  - ***\*for management and conservation purposes, no traps or gear shall be used seaward of the 100-fathom line as defined in the Federal regulations and published in Title 50, Code of Federal Regulations Part 660 and fishing activities shall not occur in any state Marine Protected Areas pursuant to Section 632, Title 14, CCR;***
  - ***\*for management and enforcement purposes, all deployed traps must be open and unbaited and side panels must be removed when fishing within any areas closed to commercial Dungeness crab fishing***
  - ***\*for management and enforcement purposes, authorized agents must suspend fishing operations or move fishing gear per Department direction in response to circumstances including elevated entanglement risk or in the event of entanglement report in the fishing or testing location***
- Gear allowances, specifications, and marking requirements
  - ***\*for research purposes, up to 20 traps may be deployed per vessel at any given time***
  - ***\*for enforcement purposes, the cumulative number of traps deployed by vessels operating under the EFP shall not exceed 50 traps at any given time***
  - ***\*for management and enforcement purposes, authorized agents shall not affix buoy tags required by Section 132.1(b), Title 14, CCR and FGC Section 8276.5 to deployed traps***

- ***\*for identification of EFP gear and enforcement purposes, every buoy shall be marked exclusively with the Identification Letters “EC” with at least one buoy marked with the operator's commercial fishing license identification number followed by the Identification Letters “EC”***
- Vessel monitoring and tracking requirements
- ***\*Best practices for avoiding whale entanglement for conservation and management purposes***
- ***\*Data sharing requirements for research, management, and enforcement purposes***
- Lost gear recovery plan and reporting requirements
- Other requirements necessary for research purposes and the protection and conservation of marine resources and the environment in accordance with applicable laws and regulations

If approved, the proposed special conditions together with the standard terms of the EFP will ensure and allow the Department to adequately enforce the permit in accordance with FGC Section 1022 and Section 91, Title 14, CCR.

In addition, the Department recommends approval of a permit fee reduction pursuant to subsection 91(m)(3), Title 14, CCR. If approved, this option would allow the collection of data and information that will help inform future management decisions regarding Alternative Gear.

The application, Department recommendation, and other information in the records before the Commission are posted on the Commission's website at <https://fgc.ca.gov/EFP>.

Written comments on the EFP application and/or Department recommendation must be received by noon on June 9, 2023 and may be emailed to [fgc@fgc.ca.gov](mailto:fgc@fgc.ca.gov) or mailed to California Fish and Game Commission, Attn: EFP, P.O. Box 944209, Sacramento, California, 94244-2090. Oral comments will be accepted at the Commission's June 14-15, 2023 meeting.

May 12, 2023

Fish and Game Commission

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