



**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE (DEPARTMENT)
DECLARATION OF FISHING SEASON DELAY FOR
THE COMMERCIAL DUNGENESS CRAB FISHERY AND TEMPORARY CRAB TRAP
PROHIBITION FOR THE RECREATIONAL CRAB FISHERY
DUE TO RISK OF MARINE LIFE ENTANGLEMENT**

Pursuant to Fish and Game Code Section 8276.1(b) and California Code of Regulations, Title 14, Section 132.8 ("Section 132.8") and Section 29.80(c)(7) ("Section 29.80(c)"), I find and declare that:

I

On November 21, 2022, I evaluated entanglement risk for the commercial Dungeness crab fishery pursuant to Section 132.8(b). I provided the California Dungeness Crab Fishing Gear Working Group (Working Group) and the Whale Safe Fisheries email listserv with notice of the risk assessment and all non-confidential data under consideration on November 16, 2022. Prior to this risk assessment and management response, Department staff consulted with the California Dungeness Crab Fishing Gear Working Group and reviewed all relevant information provided to my staff.

II

Aerial surveys undertaken by the Department on November 9, 2022, observed 39 humpback whales in Fishing Zone 3. Pursuant to 132.8(c)(2)(A)(4)(a) I must implement a Fishing Zone delay or other protective management action.

III

NOAA-standardized data from commercial whale-watching trips in Fishing Zone 4 show continued presence of humpback whales, with the most recent weekly running average of 11.9 and a peak sighting of 22 humpback whales in Monterey Bay. Pursuant to Section 132.8(c)(2)(A)(4)(a), I must implement a Fishing Zone delay or other protective management action.

IV

Numerical triggers for marine life concentrations have been reached in Fishing Zones 3 and 4 for humpback whales. Pursuant to Section 29.80(c), I must implement a protective management action in the recreational Dungeness crab fishery. Section

29.80(c) requires that any temporary prohibition on the use of crab traps extend the general crab trap prohibition outlined in Section 29.80(c)(4).

V

There are insufficient Department approved marine life concentration survey data to inform the risk assessment in Fishing Zones 5 and 6. Pursuant to Section 29.80(c)(7)(A)(2) and Section 132.8(d), I must implement a Fishing Zone delay or other protective management action.

VI

Section 132.8(b)(4) requires that when new information so indicates, I must lift or modify any commercial fishing restrictions in a manner that promotes fair and orderly fisheries. Similarly, Section 28.80(c)(7)(B)(2) requires that I lift or modify the recreational Dungeness crab season delay as appropriate.

VII

Upon evaluation of the management considerations pursuant to Section 132.8(d), I have determined that the management action listed below protects humpback whales based on the best available science. Additional information on the relevant management considerations is provided in the attachment to this declaration.

VIII

THEREFORE, under the authority granted by Fish and Game Code Section 8276.1(b) and Sections 29.80 and 132.8 of Title 14 of the California Code of Regulations, I am implementing the following management actions:

1. Continuation of the temporary recreational trap prohibition in Fishing Zone 1 and 2 until November 28, 2022, at 9:00am. Beginning at that time, recreational crab traps will no longer be prohibited in Fishing Zones 1 and 2.
2. Continuation of the temporary recreational crab trap prohibition in Fishing Zone 3, 4, 5 and 6. The deployment and use of crab traps in any recreational fishery is temporarily prohibited in those Fishing Zones.
3. Continuation of the delay of the opening of the commercial Dungeness crab fishery in Fishing Zone 3, 4, 5 and 6. Take and possession of commercially caught Dungeness crab is prohibited in the delayed Fishing Zones.

These management actions are in effect until modified or as described above. The next risk assessment is expected to occur on or before December 7, 2022.

Updates and material regarding future entanglement risk evaluations in the commercial Dungeness crab fishery will be made available on the [Department's Whale Safe Fisheries web page](#).



Charlton H. Bonham, Director

11/21/2022 1:30 pm PT

Date/Time

ATTACHMENT TO DIRECTOR NOVEMBER 21, 2022 DECLARATION OF FISHERY SEASON
DELAY IN THE COMMERCIAL DUNGENESS CRAB FISHERY AND RECREATIONAL CRAB
TRAP PROHIBITION DUE TO RISK OF MARINE LIFE ENTANGLEMENT

Information referenced in this Attachment is further described in the Final Assessment of Marine Life Entanglement Risk and Management Recommendation dated November 18, 2022, and the Available Data document dated November 16, 2022, and located at the Department's [Whale Safe Fisheries website](#) which to the Department's knowledge represents the best available science informing this risk assessment.

Based on the management considerations identified in the Available Data document and contained in the Final Assessment of Marine Life Entanglement and Management Recommendation dated November 18, 2022, the Director will continue a delay of the opening of the commercial Dungeness crab season in Fishing Zones 3 through 6, and the temporary crab trap prohibition in the recreational Dungeness crab fishery in Fishing Zones 3-6. Use of crab traps in other recreational fisheries is also temporarily prohibited pursuant to Section 29.80(c)(4) of Title 14 of the California Code of Regulations. The Director will lift the temporary trap prohibition in Fishing Zones 1 and 2 on November 28, 2022, at 9:00am.

Fishing Zones 3 and 4 reached a marine life concentration trigger for management action, while Fishing Zones 5 and 6 did not have sufficient approved data to inform this risk assessment. The unavailability of approved data triggered a management response and subsequent analysis of the management considerations under Section 132.8(d) and appropriate management response under Section 132.8(e). Those sections anticipate a broader analysis of the factors impacting entanglement risk statewide, including accounting of the annual entanglement Impact Score.

Importantly, aerial survey data and Monterey Bay Whale Watch data, showed numerous aggregations of humpback whales that could be at risk of entanglement with recreational and commercial crab traps in Fishing Zones 3 and 4. Distribution of humpback whales changes based on foraging behavior so a depth restriction on fishing activity would likely be ineffective in reducing entanglement risk as whales migrate to their winter breeding grounds. Additionally, given the high volume of traps anticipated to be set during a season opener, it was determined that a trap reduction would not sufficiently reduce entanglement risk. Therefore, a season delay is the most protective management action given existing whale presence.

At this time, the only management response available for the recreational fishery is a trap prohibition in Fishing Zones 3 and 4 while entanglement risk remains elevated in

those areas. Available data indicate abundance of humpback whales is now below the specified triggers in Zone 1 and 2, and further actions to restrict use of recreational crab traps in those Fishing Zones is no longer warranted.