



California Department of Fish and Wildlife Preliminary Assessment and Management Recommendation for the Risk Assessment Mitigation Program

Date: April 26, 2023

This preliminary assessment and management recommendation has been developed by California Department of Fish and Wildlife (CDFW) Marine Region staff for consideration by the California Dungeness Crab Fishing Gear Working Group (Working Group) for the Risk Assessment Mitigation Program (RAMP; Section 132.8, Title 14, California Code of Regulations) regarding Management Actions to address marine life entanglement risk in the commercial and recreational Dungeness crab fishery. CDFW will prepare a Final Assessment and Management Recommendation after review of the Working Group Recommendation and other relevant data.

A. Confirmed Entanglements and Marine Life Concentration Triggers for Management Action, RAMP subsection (c)

Entanglements:

As of April 24, 2023, two entanglements have been reported to CDFW by NOAA for the 2022-23 season that involved unidentified gear that is of the type that is used in the commercial Dungeness crab fishery resulting in an in-season Confirmed Entanglement Impact Score of 0.76. The Impact Score for calendar year 2021 is 1.89 for humpback whales. The total Impact Score for the calendar year 2022 is 5.28 for humpback whales. Therefore, the current running 3-year average Impact Score is 2.64 for humpback whales for the years 2021-2023, which exceeds the triggers in Section 132.8(c)(1)(C)(1). Note: Entanglement data are subject to revision based on review and verification by NOAA.

Marine Life Concentrations:

CDFW and USCG aerial surveys for Fishing Zones 1, 2 and 3 did not observe humpback whales, blue whales, or leatherback sea turtles. Surveys conducted by Oregon State University across Fishing Zones 1 and 2 observed 28 humpback whales in depths ranging from 42 to 546 fathoms. This survey is not used to inform triggers in RAMP but informative as an indicator of humpback presence in Fishing Zones 1 and 2. Monterey Bay Whale Watch data documented 25 humpback whales during a single trip and an average of 9.2 humpback whales per trip during the most recent seven-day period in Fishing Zone 4. In addition, two blue whales were observed during one of those trips on April 21, 2023. Based on historical migration patterns, blue

and humpback whale migration arrivals will increase over the coming weeks and remain across California waters through at least November.

For additional details, see the Available Data document prepared for this Risk Assessment.

B. Recommended Management Action from options identified in subsection (e)

Recreational Fishery:

- **Continue statewide Fleet Advisory**
- **Effective May 15, 2023 at 12:00pm, prohibit the use of recreational traps in Fishing Zones 3-5**

Commercial Fishery:

- **Continue Fleet Advisory for Fishing Zones 1 and 2**
- **Depth Constraint of 30 fathoms and 50% Gear Reduction (trap reduction) for Fishing Zones 1 and 2 effective May 15, 2023 at 12:00pm (noon)**

Management Recommendation Summary Rationale:

Two recent entanglements involving humpback whales with unknown fishing gear bring the total three-year average Impact Score to 2.64 which exceeds the Calendar Year Impact Score trigger as defined in RAMP for the commercial Dungeness crab fishery. In addition, based on recent Marine Life Concentration surveys for Fishing Zone 4, humpback whale sightings continue to increase and are expected to continue to migrate into all Fishing Zones over the coming weeks. The increasing numbers of migrating whales and recent entanglements support additional management actions across the California Fishing Grounds to reduce the overall risk of entanglement. This is particularly important for the commercial fishery in Fishing Zones 1 and 2 because fishing effort remains high based on the most recent bi-weekly reporting period. As of April 16, 2023, 80 permits were active with more than 24,000 traps reported in Fishing Zone 1 and 16 permits were active reporting more than 3,000 traps in Fishing Zone 2. It should also be noted that bi-weekly reporting has not achieved 100% compliance from permitted vessels, so trap numbers are underestimated. Without further restrictions in the commercial and recreational fishery, entanglement risk will increase as well as the potential for additional in-season entanglements of Actionable Species. Therefore, CDFW Marine Region staff's preliminary recommendation is to prohibit the use of recreational traps in Fishing Zones 3-5 effective May 15, 2023 at 12:00pm (noon). Staff also recommend implementing a 30-fathom Depth Constraint and a 50% Gear Reduction (trap reduction) for Fishing Zones 1 and 2 effective May 15, 2023. Traps used in the commercial fishery would thereby be prohibited in waters seaward of the 30-fathom contour as defined in Title 50 of the Federal Codes of Regulations, Part 660, Section 660.71. Humpback whales are known to migrate across a broad range of

depths as they forage in the Fishing Grounds. Therefore, it is necessary to implement both a Depth Constraint and Gear Reduction to avoid concentrating traps in areas where foraging humpback whales may be present. Based on historical data, humpbacks are often observed in all depths, including areas inside the 40-fathom depth contour which is often fished by the commercial fleet in the spring months. In addition, moving gear inside the 30-fathom contour and reducing the total number of traps will also support a more rapid removal of gear if additional entanglements occur or if Marine Life Concentrations triggers are reached in the coming weeks. The recommendation is to also continue the Fleet Advisory for both the recreational and commercial fishery in all Fishing Zones until Fishing Zone closures/trap prohibitions are in effect statewide.

Effective May 15, 2023, at 12:00pm (noon), any commercial Dungeness Crab vessel fishing in or transiting Fishing Zones 1-2, is subject to the 30 fathom Depth Constraint and 50% trap reduction. All permitted vessels must have at least half of their valid buoy tags for the current fishing season onboard and available for inspection by CDFW at all times. All permitted vessels must comply by that date and consistent with the Director's declaration all unused buoy tags shall be onboard the permitted vessel and made available for inspection by the department upon request, pursuant to Section 132.8 (e)(3) Title 14, CCR.

The above recommendations are informed by historical migration patterns, recent entanglements, and exceedance of the running three-year average entanglement Impact Score for humpback whales which requires CDFW to implement precautionary management actions to avoid additional entanglements. Both commercial and recreational fleets should be prepared to modify fishing operations to minimize risk of entanglement. Currently, the recreational crab fishery is not subject to any additional management actions in Fishing Zones 1 and 2 because Marine Life Concentration triggers have not been reached. However, if Marine Life Concentration triggers are reached during a future risk assessment, the Director may implement a trap prohibition for the recreational fishery either by Fishing Zone or statewide. While not actionable under RAMP regulations, there was also a recent grey whale entanglement in unidentified trap gear (likely commercial Dungeness crab trap) near Shelter Cove and a spot prawn trap gear entanglement involving a humpback whale near Moss Landing. As a result, CDFW reminds all fisherman to use best fishing practices to minimize risk of entanglement as whales begin to arrive in Fishing Zones that remain open to fishing, regardless of fishery or gear type.

Alternatives Considered but Rejected

- Fishery Closure – based on available data this is not currently the recommended Management Action but based on historical migration patterns CDFW anticipates this action will likely be required in the coming weeks.
- Alternative Gear - can be authorized after April 1st, but no gear currently is authorized for the commercial Dungeness crab fishery.

