



~California Dungeness Crab Task Force~

<http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

May 16, 2024

California Department of Fish and Wildlife
Regulations Unit
Attn: Chelle Temple-King
P.O. Box 944209
Sacramento CA, 94244-2090

RE: Public Comment for the Risk Assessment Mitigation Program: 2024 Program Revisions for the Commercial Dungeness Crab Fishery

Dear Ms. Temple-King,

Thank you for the opportunity to comment on the proposed amendments to the Risk Assessment and Mitigation Program (RAMP) for the California Dungeness crab fishery (Section 132.8 to Title 14, CCR). The California Dungeness Crab Task Force (DCTF) met on April 23, 2024, to discuss the draft rulemaking and has concerns about the impacts these proposed amendments will have on the already struggling California Dungeness crab fishing community. Additionally, some of the proposed amendments are counterproductive to meeting the RAMP's goals of mitigating and reducing marine life entanglements.

The DCTF strongly recommends the California Department of Fish and Wildlife (CDFW) consider the following unanimously approved changes to the proposed RAMP rulemaking.

§ 132.8 (c), Title 14 CCR - Triggers for Management Action

The DCTF recommends amending Title 14 CCR Section 132.8(c) to increase entanglement triggers to reflect whale population increases.

The management triggers outlined in the proposed regulatory amendments are excessively low and must account for the increased anticipated interactions as whale populations rise. A 2020 report from Calambokidis and Barlow,¹ which serves as the basis for the NOAA's humpback whale stock assessment,² indicates that humpback whale stocks have grown 8.2% annually since 1989. As humpback whale populations increase, the probability of interactions between whales and fishing gear also increases. The proposed trigger of three entanglements to immediately close the fishery will severely impact our industry's ability to operate. Due to the increased probability of entanglements relative to whale populations, the DCTF recommends the trigger be set at a higher number of allowable entanglements (e.g., five) before the fishery is closed. We also question whether this lower threshold for a trigger is necessary at all because the number of entanglements from the Dungeness crab fishery has not been increasing in recent years, providing that the current mitigation measures are working and stricter triggers are unnecessary.

¹ Calambokidis, J. and J. Barlow. 2020. Updated abundance estimates for blue and humpback whales along the U.S. West Coast using data through 2018, U.S. Department of Commerce, NOAA Technical Memorandum NMFS-SWFSC-634. <https://repository.library.noaa.gov/view/noaa/27104>

²NOAA Fisheries. 2023. Humpback Whale (*Megaptera novaeangliae kuzira*) Mainland Mexico - California - Oregon - Washington Stock. <https://www.fisheries.noaa.gov/s3/2023-08/Humpback-Whale-Mainland-Mexico-2022.pdf>

§ 132.8 (e), Title 14 CCR - Management Actions

The DCTF requests that a “fleet advisory” continue to be included as a management action when the risk of entanglement is elevated and before triggering a closure or other management action.

By removing a fleet advisory from the list of RAMP management actions, CDFW is missing a critical first step in mitigating entanglements before placing a hardship on the fleet. Fleet advisories are an essential tool to raise awareness about the presence of whales in an area. Advisories help fishermen take additional precautions to avoid entanglements before CDFW issues other management action(s) that may cause financial hardship to the fleet.

The DCTF recommends removing the “surface gear” prohibition as a management action.

Surface gear is critical to help locate and recover fishing gear, especially in high current or traffic areas. Prohibiting surface gear under elevated entanglement risk will result in increased gear loss. This adverse outcome will further hinder entanglement mitigation efforts. Most of the fleet uses surface buoys (i.e., trailer buoys) to locate their gear. The DCTF recognizes the importance of following CDFW’s best practices guide³ to fish responsibly, and CDFW should hold accountable those fishermen using excessive surface lines. Fishermen who have been recovering lost gear since the season closed in the Central Management Area in early April report that approximately 85% of lost gear recovered has no surface gear attached, providing a strong argument for the association between lost gear and lack of surface line. CDFW indicated in its draft Conservation Plan that removing and preventing lost and derelict gear is an urgent and crucial step to reducing the number of entanglements.⁴ Prohibition of surface gear under elevated entanglement risk contradicts this stated goal. Instead, CDFW should require fishermen to fish with tight lines, as detailed in CDFW’s best practices guide.

The DCTF recommends removing the “active tending requirement” as a management action due to safety concerns.

The DCTF discussed a version of the active tending requirement during our November 2023 meeting⁵ and generally did not support the concept of active tending during the fall opener. During our meeting on April 23, 2024, these same concerns continue to be expressed, with DCTF Members questioning the ability to enforce compliance of active tending under a four-hour timeframe. Additionally, active tending would promote gear congestion near shore (within two miles of ports and harbors), creating safety and navigational hazards. We are concerned that CDFW disregarded our feedback and recommend that CDFW revisit our concerns about safety and enforceability.

§ 132.8 (e) & (i), Title 14 CCR - Alternative Gear

The DCTF recommends clarifying throughout the updated regulations that the fleet may only use alternative gear in the spring after a season fishery closure.

Section 132.8 (e)(6) states that alternative gear may be used “During a Fishery Closure after the Fishing Season has opened...,” which makes it clear that alternative gear will only be permitted after the season closes, not during a delay. However, Sections 132.8 (e)(5) and (i)(1)(A) are less clear about when alternative gear may be permitted to be used such that it could be authorized during a delay or at the season opener. In their 2023 report⁶, the DCTF stated that they “[do] not support, under any

³ California Department of Fish and Wildlife. 2003. Best Practices Guide for Avoiding Marine Life Entanglement in the Dungeness Crab Fishery. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=216638&inline>

⁴ California Department of Fish and Wildlife. 2024. Application for an Individual Incidental Take Permit Under the Endangered Species Act of 1973: Draft Conservation Plan for California’s Commercial Dungeness Crab Fishery. Interim Draft. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=219843&inline>

⁵ Dungeness Crab Task Force. 2023. November 2-3, 2023 DCTF Meeting Summary. https://opc.ca.gov/wp-content/uploads/2023/12/DCTF_-DRAFT_Meeting-Summary_Nov2-3_2023_508.pdf

⁶ Dungeness Crab Task Force. 2023. November 2023 recommendations from the California Dungeness Crab

circumstances, commercial Dungeness crab fishing in the fall before the legal commercial crab opener with the use of alternative or non-traditional Dungeness crab trap gear. The commercial fishery should only open once traditional fishing gear, as defined in FGC §9006 and §9011, may be used.”

The DCTF is committed to upholding the fleet’s priority to provide fishermen the opportunity to maximize their income while minimizing the risk of entanglements. The DCTF can only condone alternative/non-traditional gear (e.g., pop-up gear, hoop nets) in the spring after a season closure in a zone. The DCTF opposes using alternative gear in the fall before or during the opener. An entanglement from alternative gear during a delayed opener could jeopardize the broader commercial opener. Additionally, the fleet should only use traditional gear at the start of any fishing season. Dungeness crab is one of California’s most valuable fisheries⁷ with approximately 80% of the catch landed in the first six weeks of the season, starting late fall and tapering off in the winter. A large proportion of the commercial Dungeness crab fleet participates at the start of the season, and their businesses rely on it.

§ 132.8 (g), Title 14 CCR - Mandatory Data Reporting Requirements

The DCTF recommends amending Section 132.8(g)(3)(C) to say: “Whenever regular data transmission is interrupted, or the vessel owner/operator is notified by the department that data are otherwise not being received, the vessel shall be allowed to continue fishing. Upon request, the vessel owner/operator shall share their vessel track lines from a data plotter or other onboard backup device with the department’s law enforcement division until regular data transmission resumes.”

DCTF Members and other Dungeness crab fishery participants have extensive experience with onboard vessel tracking devices in other fisheries and have suffered financial hardships due to the malfunction of these systems. Many times, vessel operators are unaware that their devices have been malfunctioning for quite some time. Additionally, repairing a vessel tracking unit can take weeks or months since local repair services are often nonexistent. If a fishing participant were to miss the commercial fishing season opener due to a malfunction of their electronic monitoring device, it would have devastating impacts on their business and livelihood. The DCTF recommendation is an attempt at a solution that balances CDFW’s need for data where fishing occurs while not creating undue hardship on fishing participants.

The DCTF was established pursuant to Fish and Game Code Section 8276.4. The DCTF reviews and evaluates Dungeness crab fishery management measures and provides recommendations to the Joint Committee on Fisheries and Aquaculture, CDFW, and the Commission. The DCTF is composed of 27 members, including seventeen (17) members representing commercial fishing interests, two (2) members representing sport fishing interests, two (2) members representing crab processing interests, one (1) member representing Commercial Passenger Fishing Vessel (CPFV) interests, two (2) members representing nongovernmental organization interests, one (1) member from Sea Grant, and two (2) members from CDFW. Additional information about the history of the DCTF is available on the DCTF webpage: <http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>.

We appreciate the opportunity to respond to CDFW’s proposed amendments to the RAMP program. The DCTF appreciates the ongoing working relationship with CDFW and looks forward to continuing to work together. For additional information about the DCTF, including a summary of the April 23, 2024, DCTF meeting, please visit <http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/> or contact Rachelle Fisher at info@dungenesscrabtaskforce.com or 714-330-7976.

Sincerely,

Task Force. https://opc.ca.gov/wp-content/uploads/2023/12/DCTF_LegReport_November_2023_508.pdf

⁷ California Department of Fish and Wildlife. 2023. Dungeness Crab, *Metacarcinus magister*, Enhanced Status Report. <https://marinespecies.wildlife.ca.gov/dungeness-crab/>

The California Dungeness Crab Task Force

EC: CA Department of Fish and Wildlife, Charlton Bonham, Director
CA Department of Fish and Wildlife, Craig Shuman, Marine Regional Manager
CA Ocean Protection Council, Jenn Eckerle, Executive Director
California Fish and Game Commission, Samantha Murray, President
Joint Committee on Fisheries and Aquaculture, Mike McGuire, Chair
CA Dungeness Crab Fishing Gear Working Group