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THE HUMANE SOCIETY OF THE UNITED STATES

MARINE CONSERVATION INSTITUTE

North County Climate Change Alliance

NY4WHALES
June 29, 2020

Director Charles Bonham
California Department of Fish and Wildlife
P.O. Box 94209
Sacramento, CA 94244-2090

Re: Draft Risk Assessment and Mitigation Program Regulations dated May 15, 2020

Dear Director Bonham,

On behalf of the below organizations and their members and supporters in California, we support the Department’s proposed May 15, 2020, regulations insofar as they will implement new protections, management measures, monitoring, and data collection to further protect whales and sea turtles off the California coast.

Our organizations request amendments to the draft risk assessment and mitigation program regulations, specifically, the provisions allowing alternative gear that would protect whales and
sea turtles from entanglement in commercial Dungeness crab fishing gear. We highlight the following as critical pieces needed to avoid entanglements:

1. Please specify that in order to be authorized as an allowable alternative gear, the gear cannot include lines that could entangle whales and sea turtles (i.e., must not use vertical lines), except during active retrieval of gear.
2. We support the inclusion of transparent criteria for alternative gear that, when met, requires the Director to approve use of the gear. The proposed regulatory language is vague and does not ensure that gear meeting certain objective criteria will be approved. Specific language to improve this section is suggested below.
3. Please allow the use of authorized alternative gear at any time during the Dungeness crab fishing season (November 15 to July 15), particularly during November and December season delays due to entanglement risk, when the ability to fish with alternative gear could offer substantial economic benefits.

California commercial Dungeness crab fishing gear has entangled and continues to entangle too many whales and sea turtles. New methods of fishing without lines – pop-up or ropeless gear – will allow whale- and turtle-safe fishing rather than closures, and they show promise that the fishery can avoid endangered species interactions. We urge you to support these innovative approaches.

We acknowledge the fishery’s significant economic challenges in recent years, including domoic acid, trade barriers and COVID-19, and we are particularly sympathetic to the unfortunate gear loss in the recent fire at Fisherman’s Wharf in San Francisco. Alternative gear cannot solve all these problems but can increase the predictability of the season by ensuring compliance with federal laws. Authorizing alternative gear without vertical lines should be one tool that the state supports to improve the fishery’s resilience in these challenging times.

WE SUPPORT THIS POPUP REGULATION:

(e) Management Actions: . . . .
(5) Alternative Gear: For the duration of any management action, including a fleet advisory, the Director may require the use of Alternative Gear authorized pursuant to subsection (h) within any fishing zone subject to the management action.

. . . .
(h) Alternative Gear Authorization:
(1) The department shall authorize Alternative Gear types for use at any time during the Fishing Season to take Dungeness crab for commercial purposes as allowed pursuant to this section upon written request.
(2) If Alternative Gear meets all of the following criteria, the department shall authorize it.

(A) The alternative gear eliminates all vertical line and surface buoys when the fishing vessel is not present. The gear must surface on demand when the fishing vessel arrives to retrieve the gear.

(B) The gear must be used with software that enables Department law enforcement and other fishing vessels within ¼ mile of the gear to identify the location of the gear at all times when it is deployed.

(C) Department law enforcement must be able to retrieve and redeploy the gear.

(D) Gear must include a back-up release capability so it will surface in the event of acoustic equipment failure and must include a gear recovery plan if the gear does not pop up.

(E) Gear must demonstrate a minimum of 15 consecutive successful deployments in California Dungeness crab fishing grounds without failure.

Sincerely,

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