

Submitted via email to fgc@fgc.ca.gov

July 31, 2025

Fish and Game Commissioners
California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090

Agenda Item 17: Regulation change petitions (marine) (consent), (C) Referred Petitions

Dear Fish and Game Commissioners,

On behalf of our millions of members and supporters, we write to express our strong support for the petition submitted by the Center for Biological Diversity requesting that the California Fish and Game Commission (Commission) adopt regulations for the CA coonstripe shrimp fishery. The proposed regulations would prohibit the use of traps or pots with persistent vertical buoy lines in biologically important areas (BIAs) for protected whale and sea turtle species and authorize the use of approved pop-up gear systems in the fishery. Doing so is necessary to ensure that the Commission complies with its foundational role in the stewardship of the state's fish and wildlife resources.

As one of the oldest wildlife conservation agencies in the United States, the Commission is charged with ensuring the long-term sustainability of California's fish and wildlife populations and the habitats upon which they depend. Division 5.8 of the California Public Resource Code codifies that "[w]ildlife, coastal, and park land conservation is in the public interest" and is necessary to "protect significant environmental and scenic values of wildlife and plant habitat, riparian and wetland areas, and other open-space lands."¹ The California Endangered Species Act (CESA) declares "that it is the policy of the state to conserve, protect, and enhance any endangered species or any threatened species and its habitat."² Moreover, Section 2053 of the CESA makes it a policy of the state that public agencies "should not approve projects as proposed which would jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of habitat essential to the continued existence of those species."³ Congress enacted the federal Endangered Species Act (ESA) "to provide a means whereby the ecosystems upon which endangered and threatened species depend may be conserved, [and] to provide a program for the conservation of such . . . species."⁴ Section 9 of the ESA prohibits any "person" from "taking" or causing take of any member of an endangered species, including endangered whales and sea turtles.⁵ This take prohibition also

¹ Cal. Pub. Res. Code § 5905.

² Cal. Fish & Game Code § 2052.

³*Id.* § 2053.

⁴ 16 U.S.C. § 1531(b).

⁵ See 50 C.F.R. § 17.11(h).

applies to threatened whales.⁶ The ESA broadly defines “take” to include “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect” or to attempt to engage in such conduct.⁷ “Take” includes both direct and indirect harm and it need not be purposeful.⁸ The take prohibition applies to any “person,”⁹ including state, county, or municipal agencies and/or officials in their official capacity.¹⁰ The ESA further makes it unlawful for any person, including state agencies and/or state officials in their official capacity, to “cause to be committed” the take of a listed species.¹¹ Similarly, the failure to regulate in a way that avoids take of listed species can also constitute a prohibited section 9 take.¹² The duty and responsibility of the Commission to protect the public interest and “conserve, protect, and enhance” any endangered or threatened species includes the protection of threatened and endangered whales and sea turtles and the proactive management of fisheries to prevent harm to these vulnerable populations, and prevent unlawful take.

Commercial fishing gear used in the commercial coonstripe shrimp fishery is entangling, injuring, and likely killing protected marine animals. The vertical buoy lines that run from a trap set on the seafloor through the water column to a buoy at or near the surface puts marine animals at risk of entanglement. When they get entangled, heavy fishing rope—often still connected to even heavier traps—can wrap around the animal’s head, mouth, flippers, or tail, sometimes preventing the animal from resurfacing, resulting in drowning. If entangled animals do not immediately drown, the remaining entangling line often impedes basic movement, feeding, and reproduction, and causes chronic infection and damage to bone and muscle.

Entanglements not only cause these animals immense suffering but threaten the very existence of numerous imperiled species such as critically endangered North Pacific right whales¹³ and Pacific leatherback sea turtles¹⁴. Fishing gear is also a primary threat endangering blue whales,¹⁵ humpback whales,¹⁶ fin whales,¹⁷ sperm whales,¹⁸ and other sea turtles. In 2024,

⁶ *Id.* § 223 Subpart B.

⁷ 16 U.S.C. § 1532(19); see also *Babbitt v. Sweet Home Chapter of Communities for a Great Oregon*, 515 U.S. 687, 704-05 (1995)

(finding that the ESA’s legislative history supports “the broadest possible” reading of the prohibition against take).

⁸ *Sweet Home*, 515 U.S. at 704.

⁹ 16 U.S.C. § 1538(a)(1).

¹⁰ *Id.* § 1532(13).

¹¹ *Id.* § 1538(g).

¹² *Animal Protection Inst. v. Holsten*, 541 F. Supp. 2d 1073, 1078-1080 (D. Minn. 2008).

¹³ NOAA Fisheries. 2023 Stock Assessment Report: Right Whale (Eastern North Pacific Stock). NMFS (2024). p. 289. https://www.fisheries.noaa.gov/s3/2024-12/2023_SAR_North_Pacific_Right_Whale_Eastern_NP_Stock.pdf.

¹⁴ CDFW. A Status Review of Pacific Leatherback Sea Turtle in California. CDFW (2021). p. 38-40. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=193844>.

¹⁵ NOAA Fisheries. 2023 Stock Assessment Report: Blue Whale (Eastern North Pacific Stock). NMFS (2024). p. 207. <https://www.fisheries.noaa.gov/s3/2024-12/2023-sar-blue-whale-enp.pdf>.

¹⁶ NOAA Fisheries. 2021 Stock Assessment Report: Humpback Whale (California-Oregon-Washington Stock). NMFS (2022). p. 178-179. <https://media.fisheries.noaa.gov/2022-08/2021-HumpbackWhale-CaliforniaOregonWashington%20Stock.pdf>.

¹⁷ NOAA Fisheries. 2023 Stock Assessment Report: Fin Whale (California-Oregon-Washington Stock). NMFS (2024). p. 215. <https://www.fisheries.noaa.gov/s3/2024-12/2023-sar-Fin-CAORWA.pdf>.

¹⁸ NOAA Fisheries. 2023 Stock Assessment Report: Sperm Whale (California-Oregon-Washington Stock). NMFS (2024). p. 158-159.

along the U.S. West Coast, there were a total of 36 confirmed whale entanglements, marking the highest number of confirmed entanglement reports since 2018.¹⁹ Twenty-four of these entanglements were confirmed off the coast of California alone, including, twenty-one humpback whale entanglements and three gray whale entanglements.²⁰ Moreover, these entanglements are likely only a fraction of the actual number of animals that are seriously injured or killed in California fishing gear because most entanglements go unobserved.²¹

Since 2017, there have been four confirmed whale entanglements in coonstripe shrimp fishing gear. In 2017, a humpback whale was observed entangled concurrently in sablefish gear and commercial coonstripe shrimp gear. The coonstripe shrimp gear found on the whale is believed to have been set in the northern portion of the fishery (north of the Sonoma/Mendocino County border). In 2024, two humpback whale entanglements in commercial coonstripe shrimp gear were confirmed in the southern portion of the fishery (south of the Sonoma/Mendocino County border). In 2025, preliminary data from the National Marine Fisheries Service shows that one humpback whale was entangled in coonstripe shrimp gear.²² Given the low number of vessels participating in the fishery, the occurrence of three entanglements in a two-year period is especially concerning. The coonstripe shrimp fishery does not have coverage to take any of these species under the federal Endangered Species Act or Marine Mammal Protection Act, making it critical that the California coonstripe shrimp fishery adopts regulations that will help it reach zero entanglements.

Removing vertical lines from the water is the only way to significantly reduce entanglement risk while allowing fishing to continue. The Commission must prioritize removing vertical lines in areas of high biological importance to whales and sea turtles. The best available science should be used to identify seasonal closures of the California commercial coonstripe shrimp fishery in areas of biological importance. Whales and sea turtles can be found all along the U.S. West Coast. In the waters off California's coastline, the highly productive California Current Ecosystem supports several species of whales, sea turtles, and other marine animals.²³ Of the many species that depend on California's nutrient rich waters, several are considered threatened or endangered under the ESA: North Pacific right whales (endangered),²⁴ blue whales

<https://www.fisheries.noaa.gov/s3/2024-12/2023-sar-sperm-whale-CAORWA.pdf>.

¹⁹ NOAA Fisheries. 2024 West Coast Whale Entanglement Summary. NMFS (2025), p. 1.

<https://www.fisheries.noaa.gov/s3/2025-04/2024-whale-entanglements-report.pdf>.

²⁰ *Id.*

²¹ Derville, S. et al., Exposure of whales to entanglement risk in Dungeness crab fishing gear in Oregon, USA, reveals distinctive spatio-temporal and climatic patterns, 281 Biological Conservation 109989 (2023). <https://doi.org/10.1016/j.biocon.2023.109989>.

²² Information received via email from Lauren Saez, Take Reduction Team Coordinator for the West Coast Take Reduction Team at NMFS (May 2025).

²³ Calambokidis J. et al., Biologically Important Areas II for cetaceans within U.S. and adjacent waters - West Coast Region. *Front. Mar. Sci.* 11:1283231. (2024). P. 2. <https://doi.org/10.3389/fmars.2024.1283231>.

²⁴ North Pacific right whales have been sighted off California. See NOAA Fisheries, 18 Years of Eastern North Pacific Right Whale Sightings Shed Light on Important Habitats and Movements, Aug. 24, 2024, <https://www.fisheries.noaa.gov/feature-story/18-years-eastern-north-pacific-right-whale-sightings-shed-light->

(endangered), humpback whales (endangered and threatened populations), Southern Resident killer whales (endangered), and Pacific leatherback sea turtles (endangered) and other sea turtles (threatened and endangered).

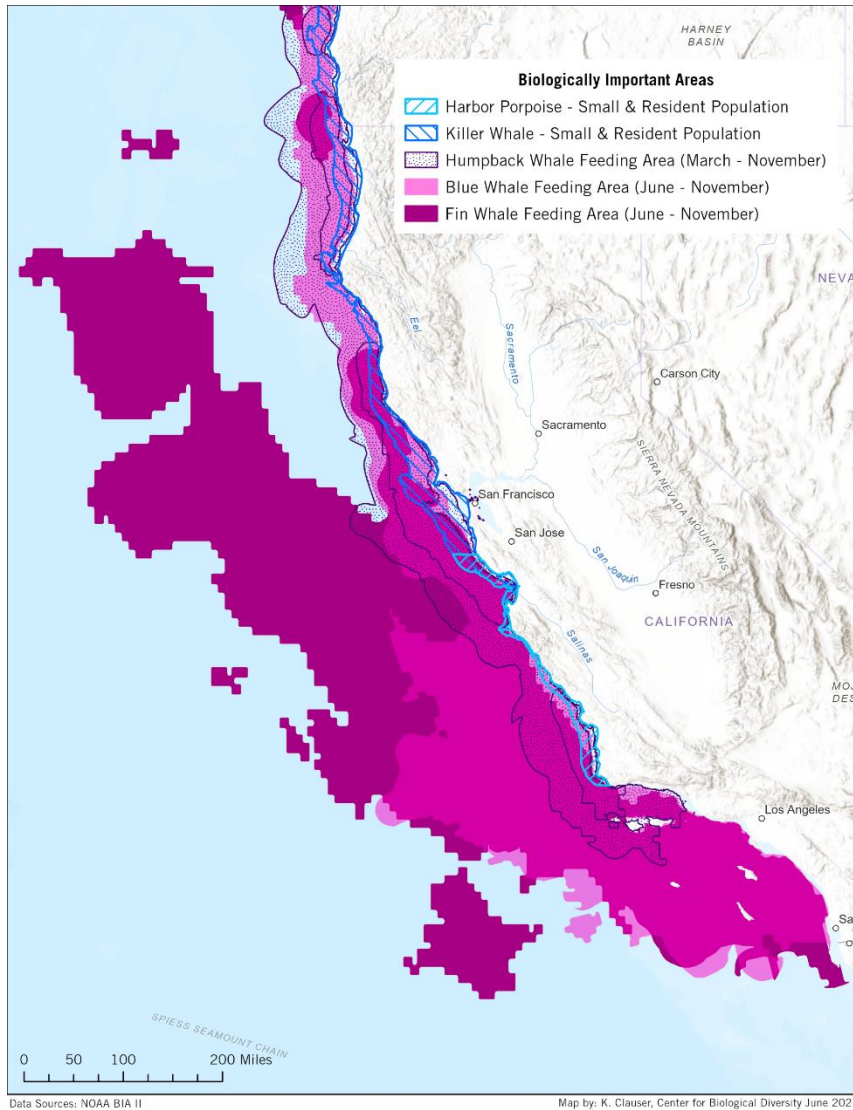
Biologically important areas (BIA) for cetaceans off the California coast are well documented. As part of a national process coordinated by the National Marine Fisheries Service, scientists examined the best available science to identify Biologically Important Areas for cetaceans off the West Coast.²⁵ Using sightings data, satellite tag data, and multi-year averaged habitat-density data, Calambokidis et al. identified biologically important feeding areas.²⁶ The purpose of BIAs is to inform management decisions, including fisheries management.²⁷ The map below highlights three of the species most frequently encountered or sighted off the coast of California:

[important-habitats-and](#); see also Tara Duggan, One of the rarest whales in the world was just spotted in Monterey Bay, San Francisco Chronicle, Mar. 6, 2023, <https://www.sfchronicle.com/climate/article/california-rare-whale-sighted-17822823.php>; Critically endangered whale spotted off California coast, NOAA confirms, ABC7 Eyewitness News, May 28, 2024, <https://abc7.com/post/critically-endangered-north-pacific-whale-spotted-off-marin/14882124/>.

²⁵ Calambokidis 2024.

²⁶ *Id.*

²⁷ BIAs have been used in federal rulemaking, for example, to inform restrictions on the use of military sonar that may harm whales.



For these species, the waters off the U.S. West Coast provide core biologically important areas for feeding from the months of June-November for fin whales and blue whales and from March to November for humpback whales.²⁸ Morphological and behavioral features of humpback whales make these whales particularly susceptible to entanglements in fishing lines. Humpback whales have long pectoral flippers and rigid structures on their head and pectoral flippers contribute to gear becoming caught on an individual. Moreover, foraging behaviors like bubble net feeding or lunge feeding can also increase the chances of a humpback whale becoming entangled since this feeding behavior involves side-rolls and twisting while foraging in the water column. The California commercial coonstripe shrimp fishery operates from May 1 through October 31 in waters within the BIA boundaries and in areas that are known to have a high likelihood of interactions between fishing gear and whales. Understanding that a large numbers of whales travel to these BIAs each year to engage in feeding behaviors that put them at

²⁸ *Id.* at 7.

increased risk of entanglement highlights the urgent need to remove vertical lines from these areas.

The Commission has a responsibility and duty to protect threatened and endangered species and the habitats that they depend on. The authorization of projects and activities that jeopardize the continued existence of an endangered or threatened species undermines CESA. The California coonstripe shrimp fishery is illegally harming protected marine wildlife and action must be taken to prevent whales and sea turtles from becoming entangled in fishing gear. The coonstripe shrimp fishery currently operates in waters known to be biologically important feeding and/or migratory areas for humpback whales, gray whales, fin whales, Pacific leather back sea turtles, and blue Whales.

To prevent further entanglements in the coonstripe shrimp fishery, the Commission should amend CCR Title 14, Section 180.15 to Title 14 California Code of Regulations Section 180.15 (c) to restrict the use of trap gear with conventional vertical buoy lines in seasonal BIAs for feeding large whales and sea turtles and clarify existing authority and explicitly authorize pop-up fishing gear with submerged buoys.

Sincerely,

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7th GENERATION
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SCIL
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in Legislation



NorCal Chapter



the
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The
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Cleanup