

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

Responses to unique Comments received during the Public Notice period May 15-June 29, 2020.

- *Comments listed here are referred to as “Category C” comments in the Summary of Comments Received in Appendix 1. Each individual comment letter is also labeled as “C-XX” where the “XX” corresponds to the numbers below.*
- *Comments are paraphrased from the commenters for succinctness.*

#	Commenter Name, Format, Date	Comment	Response
1	Kirk Boyd Email dated 6/12/2020	1-a. Expressed general support for removing fishing gear from ocean waters.	1-a. CDFW acknowledges support. The intention of the proposed regulations is to limit interactions between Actionable Species and commercial Dungeness crab trap gear, including removing gear from specified areas when entanglement risk is elevated.
2	Mara Duncan Email dated 6/12/2020	2-a. Expressed general support for the proposed regulation, and that we must commit to protecting healthy oceans and marine life.	2-a. See General Response A1.
3	Ian Hall Email dated 6/12/2020	3-a. Does not support additional regulations which require expensive fishing equipment.	3-a. The proposed regulations specify two management actions that would require additional fishing gear prior to the 2023-2024 Fishing Season: 1. An electronic monitoring system would be required for those choosing to fish when a Depth Constraint has been implemented for that Fishing Zone and, 2. Alternative Gear authorized for use under subsection (h) must be used by choosing to fish following any early fishery closure occurring on or after April 1. When using Alternative Gear, an electronic monitoring device is also required. See General Response A6-7 and General Response E1-E4 for additional responses related to Alternative Gear. Starting with the 2023-2024 Fishing Season all vessels will be required to carry an electronic monitoring device that is capable of tracking and recording vessel location. Additional information regarding this requirement is provided on pages 38-39 of the Amended Initial Statement of Reasons (ISOR) and in General Response F2. Analysis of the economic impact from these requirements is provided in the STD Form 399 and Amended Addendum to the STD Form 399.

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#	Commenter Name, Format, Date	Comment	Response
4	<p>Jared Morris Email dated 6/12/2020</p>	<p>4-a. Boundary between Zones 1 and 2 should be Cape Mendocino (40° 10') rather than Horse Mountain (40° 5'). Current boundary at Horse Mountain will compress the available fishing ground for the 7 boats operating out of Shelter Cove and potentially lead to congestion.</p>	<p>4-a. See General Response B1.</p>
4	<p>Jared Morris, cont.</p>	<p>4-b. More whales are killed by ship strikes, illegal whaling operations, tug and tows and container ships than the CA commercial crab fleet. Additional regulations should be targeted at them rather than commercial fishermen.</p>	<p>4-b. See General Response L.</p>
4	<p>Jared Morris, cont.</p>	<p>4-c. Marine life protections should be balanced with consideration of economic impacts on the fleet. The Shelter Cove fleet is not wealthy, and the situation is especially unfair considering that the fleet has not been responsible for any known entanglement.</p>	<p>4-c. See General Response K.</p>

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4	Jared Morris, cont.	4-d. CDFW should consider small fleets to continue fishing heritage.	4-d. There are opportunities for the Director to consider the operation of small fleets in the proposed regulations. Under subsection (b)(4) and subsection (f)(2), management actions will be implemented and removed in consideration of the fair and orderly operations of the Fleet; this would include operation of small fleets. This refers to providing sufficient time to implement management actions that accounts for differences in vessel capability, ocean conditions, infrastructure constraints, and minimizing impacts to other users or fisheries that could be impacted by actions necessary to reduce entanglement risk.
5	Kathi Jenni Email dated 6/12/2020	Comments A1-A7 are consistent with General Comments A1-A7, see Appendix 1.	See General Response A1-A7.
5	Kathi Jenni, cont.	5-a. Need to change fishing methods to eliminate or lessen entanglement risk.	5-a. See General Response E1.
6	Joseph Nungary Commercial Dungeness Crab Fisherman Email dated 6/15/2020	6-a. General opposition to the proposed regulations because it provides jobs only for the enforcement and research of people who use “best available science”.	6-a. Comment noted. CDFW, in consultation with the California Dungeness Crab Fishing Gear Working Group (Working Group) and other stakeholders, is mandated to adopt regulations by November 1, 2020 that establishes criteria and protocols to evaluate and respond to potential risk of marine life entanglement (see Section 8276.1(b) of the Fish and Game Code).
7	Bonnie MacRaith Email dated 6/17/2020	Comments A1-A7 are consistent with General Comments A1-A7, see Appendix 1.	See General Response A1-A7.
7	Bonnie MacRaith, cont.	7-a. CDFW should prohibit use of outdated trap gear.	7-a. See General Response E1.

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8	Lindsay Merryman Email dated 6/16/2020	Comments A1-A7 are consistent with General Comments A1-A7, see Appendix 1.	See General Response A1-A7.
8	Lindsay Merryman, cont.	8-a. CDFW should lead a national effort to revamp fishing practices that minimize bycatch.	8-a. See General Response E1.
9	Jane Pelton Email dated 6/12/2020	Comments A1-A7 are consistent with General Comments A1-A7, see Appendix 1.	See General Response A1-A7.
9	Jane Pelton, cont.	9-a. CDFW should provide incentives for investment in pop-up gear.	9-a. See General Response E4.
10	Scott Hockett Salmon and Troller's Marketing Association in Fort Bragg Email dated 6/24/2020	10-a. Boundary between Fishing Zones 1 and 2 should be Cape Mendocino or Gorda rather than Horse Mountain (40° 5' N. latitude).	10-a. See General Response B1.
11	Debra Siefken Email dated 6/13/2020	Comments A1-A7 are consistent with General Comments A1-A7, see Appendix 1.	See General Response A1-A7.
11	Debra Siefken, cont.	11-a. CDFW should prohibit use of traditional trap gear that have led to mortalities, and require use of innovative gear.	11-a. See General Response E1.

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#	Commenter Name, Format, Date	Comment	Response
12	Tim Obert Commercial Fisherman Email dated 6/12/2020	12-a. Proposed regulations are ridiculous and overboard. Fishing operations under restrictions in place during the 2019-20 season have resulted in no entanglement issues.	12-a. Regarding need for the proposed regulations, see Specific Response 6-a. Regarding the 2019-20 Fishing Season, as of this writing there has been one Confirmed Entanglement of a Humpback Whale in California Commercial Dungeness Crab Gear. It is anticipated that the RAMP will operate similar to the 2019-20 season and while RAMP will not prevent all entanglements, it will help minimize risk while supporting a viable commercial fishery.
12	Tim Obert, cont.	12-b. Additional regulations would put our family out of business; his operation will continue to practice safe fishing and self-regulation.	12-b. CDFW recognizes the economic burden that may result from implementation of these proposed regulations, as detailed in the Standardized Regulatory Impact Assessment (SRIA), STD399 form and the Amended Addendum to the STD 399. The proposed regulations therefore employ a flexible management framework, which allows for consideration of a broad range of supplemental information (subsection (d)) and input from the Working Group prior to implementation of a management action (subsection (e)) which can range from a Fleet Advisory (low impact) to Fishery Zone(s) delay or closure (high impact).
13	Kourtney Opshaug Blue Ocean Gear Email dated 6/25/2020	13-a. Regulations should clearly articulate how fishing activity can continue when using Alternative Gear.	13-a. Subsections (e)(5) and (f)(1) of the proposed regulations specify how fishing with Alternative Gear, once approved pursuant to subsection (h), will be allowed. Additional amendments are not necessary.
13	Kourtney Opshaug, cont.	13-b. Regulations should explicitly indicate what measures and capabilities are needed for certification for continued operations and so that gear innovation companies can work towards compliance.	13-b. See General Response E3.

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13	Kourtney Opshaug, cont.	13-c. Alternative Gear should not be limited to pop-up technologies, as other solutions may be available on a shorter timescale.	13-c. See General Response E2.
13	Kourtney Opshaug, cont.	13-d. Gear tracking techniques and lost gear recovery projects should be used to reduce presence of vertical lines during the off season.	13-d. In addition to providing real-time information on fishing activity, the electronic monitoring and mandatory reporting requirements in subsection (g) will facilitate retrieval under the CDFW Trap Gear Retrieval Program (see Section 132.7, Title 14, California Code of Regulations). Gear tracking in and of itself may not qualify for authorization under Alternative Gear criteria, but could be used in conjunction with either Alternative Gear or traditional gear to reduce gear loss.
13	Kourtney Opshaug, cont.	13-e. To reduce costs to fishermen, CDFW or OPC should purchase cache of alternative gear which fishers could rent for use when traditional gear is not allowed.	13-e. See General Response E4.
14	Thomas Cassidy Email dated 6/12/2020	Comments A1-A7 are consistent with General Comments A1-A7, see Appendix 1.	See General Response A1-A7.

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14	Thomas Cassidy, cont.	14-a. Gear currently used in Dungeness crab fishery threatens and needlessly destroys creatures and resources of incalculable value. Simple optimization steps in gear, practices, and sea area management would make industry more sustainably productive without damage to non-target species.	14-a. See General Response A1.
15	Carol Nelson Email dated 6/12/2020	Comment A1 is consistent with General Comment A1, see Appendix 1.	See General Response A1.
15	Carol Nelson, cont.	15-a. CDFW should incentivize use of pop-up (“ropeless”) fishing gear by allowing its use throughout the entire fishing season, without closures due to risk of entangling nearby whales and sea turtles.	15-a. See General Response A7.
15	Carol Nelson, cont.	15-b. General support for other incentives or measures that would protect whales and sea turtles.	15-b. See General Response A1.
16	Tania Roa Email dated 6/12/2020	16-a. Better technology exists and should be used to avoid entanglements in fishing lines. CDFW should implement better fishing tactics to allow for continued enjoyment of California beaches.	16-a. See General Response E1.

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17	Arlen Stahlberg Email dated 6/12/2020	17-a. Public counts on CDFW to keep whales and sea turtles safe.	17-a. CDFW acknowledges this responsibility as the trustee agency of California’s natural resources.
17	Arlen Stahlberg, cont.	17-b. Need to rein in gear that is entangling and killing whales and sea turtles.	17-b. See General Response E1.
18	Ashley Draeger Oceana on behalf of 21,081 individuals Email dated 6/26/2020	Comments A1-2 and A5-7 are consistent with General Comments A1-2 and A5-7, see Appendix 1.	See General Response A1-2 and A5-7.
18	Ashley Draeger Oceana on behalf of 21,081 individuals Email dated 6/26/2020	18-a. Whales and sea turtles have national and international importance, migrating across state and international boundaries. They should be safe when they feed off of California.	18-a. See General Response A1.

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18	Ashley Draeger , cont. Oceana	18-b. Supports measures to temporarily close areas to crab fishing using conventional pots and lines when increased numbers of whales and sea turtles are present and re-open them once those animals have left the fishing grounds.	18-b. See General Response A4.
18	Ashley Draeger , cont. Oceana	18-c. Supports increasing monitoring requirements towards the goal of 100% real-time monitoring of fishing effort to enable fine-scale management.	18-c. See General Response F2.
18	Ashley Draeger , cont.	18-d. Allowing and advancing the use of innovative pop-up fishing gear throughout the entire fishing season and in areas closed to conventional gear will allow fishermen to catch Dungeness crab in a way that eliminates entanglement threats to whales and sea turtles.	18-d. See General Response A7.
19	Bill Barrow Commercial Fisherman Email dated 6/28/2020	19-a. Southern boundary of Zone 5 includes waters where no Dungeness crab fishing occurs and should be changed to Point Conception.	19-a. See General Response B2.
19	Bill Barrow , cont.	19-b. All commercial Dungeness crab traps are marked, and the Dungeness crab fishery should not be negatively impacted by unidentified gear.	19-b. See General Response C.

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#	Commenter Name, Format, Date	Comment	Response
20	<p>Catherine Kilduff Center for Biological Diversity on behalf of 32 organizations Email dated 6/29/2020</p>	<p>20-a. General support for elements of the proposed regulations regarding new protections, management measures, monitoring, and data collection.</p>	<p>20-a. See General Response A1.</p>
20	<p>Catherine Kilduff, cont.</p>	<p>20-b. Regulations should specify that Alternative Gear authorization criteria cannot include gear with vertical lines other than during active retrieval.</p>	<p>20-b. See General Response A6.</p>
20	<p>Catherine Kilduff, cont.</p>	<p>20-c. Supports inclusion of transparent criteria in subsection (h) for Alternative Gear that, when met, requires the Director to approve use of the gear. Language should be revised to ensure that gear meeting certain objective criteria are approved, including elimination of vertical lines, surface on demand, specific software requirements, law enforcement retrieval, back up release capability, a gear recovery plan, and 15 successful deployments Specific suggested edits to proposed regulatory text are captured in Specific Comment 20-h.</p>	<p>20-c. See General Response E3. Additionally, subsection (h)(1)(B) requires the Director to authorize Alternative Gear which meets the criteria other than for the specified reasons in subsection (h)(1)(D). Allowing CDFW to decline authorization is necessary to prevent authorization of gear which will not benefit Actionable Species or be challenging for CDFW to enforce. Providing a specific list of reasons why CDFW may decline authorization provides clarity to potential requestors as to under what circumstances Alternative Gear will or will not be authorized.</p>

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20	Catherine Kilduff, cont.	<p>20-d. Recommends subsections (e)(5) and (h) be amended to allow use of authorized Alternative Gear at any time during the Dungeness crab fishing season. Regulations should allow use of Alternative Gear during November and December delays due to entanglement risk when ability to fish could offer substantial economic benefits. Specific suggested edits to proposed regulatory text are captured in Specific Comment 20-f and 20-g.</p>	<p>20-d. See General Response A7.</p>
20	Catherine Kilduff, cont.	<p>20-e. Authorizing Alternative Gear without vertical lines is one tool the state should use to improve fishery resilience in light of domoic acid, trade barriers, COVID-19, and the recent gear loss at Fisherman’s Wharf in San Francisco and to increase predictability of the season by ensuring compliance with federal laws.</p>	<p>20-e. Regarding authorization of Alternative Gear without vertical lines, see General Response A6. Regarding Alternative Gear more broadly, CDFW agrees that during the last several seasons, the commercial Dungeness crab fishery has been subject to unpredictable delayed openers and closures due to human health concerns from elevated levels of domoic acid, low meat quality, and legal actions regarding marine life entanglements. Future authorization of Alternative Gear will expand fishing opportunity during periods of elevated entanglement risk in the spring. However, given the anticipated lead time needed to develop Alternative Gears which meet the criteria in subsection (h) of the proposed regulations, CDFW does not anticipate authorization of Alternative Gear will meaningfully mitigate hardships imposed by COVID-19 and gear loss from the May 2020 fire at Fisherman’s Wharf in San Francisco. As a whole, the proposed RAMP regulations and complementary Incidental Take Permit (ITP) application are intended to provide additional stability to the fishery, by ensuring operations are in line with applicable federal statutes.</p>

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20	Catherine Kilduff, cont.	20-f. Subsection (e)(5) should allow Director to require use of Alternative Gear for the duration of any management action.	20-f. As described in General Response A7, CDFW is limiting use of Alternative Gear to closures after April 1. CDFW has therefore not incorporated this suggestion, which would functionally allow the Director to authorize use of Alternative Gear during any part of the Fishing Season.
20	Catherine Kilduff, cont.	20-g. Subsection (h) should be amended to allow Alternative Gear to be used at any time during the Fishing Season.	20-g. See General Response A7.
20	Catherine Kilduff, cont.	20-h. Comment provides specific language incorporating the changes summarized in Specific Comment 20-c.	20-h. See General Response E3.
21	Christopher Lish Email dated 6/28/2020	Comments A1-2 and A5-7 are consistent with General Comments A1-2 and A5-7, see Appendix 1.	See General Response A1-2 and A5-7.
21	Christopher Lish, cont.	21-a. Whales and sea turtles have national and international importance, migrating across state and international boundaries. They should be safe when they feed off of California.	21-a. See General Response A1.
21	Christopher Lish, cont.	21-b. Supports measures to temporarily close areas to crab fishing using conventional pots and lines when increased numbers of whales and sea turtles are present and re-open them once those animals have left the fishing grounds.	21-b. See General Response A4.

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21	Christopher Lish, cont.	21-c. Supports increasing monitoring requirements towards the goal of 100% real-time monitoring of fishing effort to enable fine-scale management.	21-c. See General Response F2.
21	Christopher Lish, cont.	21-d. Allowing and advancing the use of innovative pop-up fishing gear throughout the entire fishing season and in areas closed to conventional gear will allow fishermen to catch Dungeness crab in a way that eliminates entanglement threats to whales and sea turtles and would incentivize investment in the new gear.	21-d. See General Response A7.
22	Christopher Miller Santa Barbara Trappers Email dated 6/29/2020	22-a. Social and economic evaluation portions of the proposed risk assessment process are poor.	22-a. Due to the uncertainties associated with marine life entanglements, social and economic evaluations will be conducted by the Director in consultation with the Working Group on a case by case basis.
22	Christopher Miller, cont.	22-b. Reduced (“slowing down the”) fishing effort would decrease whale interactions.	22-b. The proposed regulations can further reduce fishing effort if that is determined to be the best course of action to protect Actionable Species.
22	Christopher Miller, cont.	22-c. An experimental dedicated fund framework should be established to improve fishery management.	22-c. A dedicated fund to generally improve fishery and fishery management is outside the scope of this rulemaking. However, CDFW encourages constituents to contact the Ocean Protection Council (OPC) or their legislative representatives regarding funding opportunities to improve fishery management.

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22	Christopher Miller, cont.	22-d. CDFW should directly engage (by “reaching out to”) commercial fish businesses, who’s fees have recently increased by 900%.	22-d. The fees and taxes assigned to fish businesses are outside the scope of this rulemaking.
22	Christopher Miller, cont.	22-e. CDFW should undertake a Marine Stewardship Council Assessment of the crab fishery which considers bycatch of box crab during Marine heat wave events.	22-e. An MSC assessment for the California commercial Dungeness crab fishery is outside the scope of this rulemaking.
22	Christopher Miller, cont.	22-f. Suggests surveillance and data-mandated rebuilding timelines are reviewed with climate reference priorities.	22-f. The ongoing population assessment of Actionable Species is the responsibility of the National Oceanic and Atmospheric Administration (NOAA), not CDFW. However, both agencies consider climate change impacts in ongoing management and planning efforts.
22	Christopher Miller, cont.	22-g. Adaptive harvest approaches which consider climate change should include use of Experimental State Tidelands Lease Sites (including unincorporated marine districts) for mitigation of displaced high density fisheries.	22-g. Comment noted.
22	Christopher Miller, cont.	22-h. Funding for the CDFW Whale Safe program, including reduction in “trapping numbers,” should come from the Ocean Enhancement Stamp and the California Fisheries Funds Revolving loan program.	22-h. Allocation of financial resources is outside the scope of this rulemaking. Pursuant to Fish and Game Code section 6595, all fees collection from the Ocean Enhancement Stamp are appropriated solely to the California Ocean Resources Enhancement and Hatchery Program and cannot be utilized to fund the Whale Safe Fisheries Program. Similarly, CDFW does not control distribution of funds from the California Fisheries Fund, although individual fishermen may choose to pursue that funding source.

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22	Christopher Miller, cont.	22-i. Risk assessments should test use of electronic logs for trap reduction.	22-i. The proposed regulations impose new electronic reporting requirements (subsection (g)) and identify trap reduction as a potential management response (subsection (e)).
22	Christopher Miller, cont.	22-j. RAMP is big and expensive following past DFW practice in spending money. Fishery needs to make sure RAMP does not create big science for little problems.	22-j. CDFW is cognizant of the cost of implementing a program such as RAMP, as detailed in the SRIA, SRIA Supplement, STD 399 form, and the Amended Addendum to the STD 399. There will be additional opportunities to review the fiscal implications of different management responses as the program is implemented.
22	Christopher Miller, cont.	22-k. RAMP should be evaluated within the context of climate change and Marine Heat Waves.	22-k. The proposed regulations allow the Director, with input from the Working Group, to consider the newest environmental data and theories while formulating and reviewing management responses.
22	Christopher Miller, cont.	22-l. Dungeness fishermen should be given experimental permits for French Frigate Shoals lobster fishery as a MPA-based monitoring fishery.	22-l. Issuing experimental lobster fishing permits is outside the scope of this rulemaking.
23	Shinann Earnshaw Email dated 6/14/2020	Comments A1-A7 are consistent with General Comments A1-A7, see Appendix 1.	See General Response A1-A7.
23	Shinann Earnshaw, cont.	23-a. We don't need vast amounts of seafood which destroys other marine animals and leads to overfishing, entanglements, and destruction of marine reserves.	23-a. Total amount of seafood harvest, and impacts other than marine life entanglement risk in the commercial Dungeness crab fishery, is outside of scope of this rulemaking.
23	Shinann Earnshaw, cont.	23-b. Use of all vertical lines should be banned.	23-b. See General Response E1.

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24	John Stewart Email dated 6/27/2020	24-a. Regulations should (must) be amended to allow boats in Shelter Cove and Fort Bragg to land in their home ports rather than Eureka.	24-a. See General Response B1 regarding amendments made to the boundaries of Fishing Zones 1 and 2. Furthermore, vessels will be able to harvest, transit through, and make landings in any open Fishing Zone. As Shelter Cove and Fort Bragg are both located within Fishing Zone 2, only a closure of that Fishing Zone would prevent vessels from making landings in their home ports.
25	Michael Cunningham Commercial Fisherman; member of the DCTF Executive Committee, Tri-State Crab Committee, California Coast Crab Association, and Humboldt Fisherman's Marketing Association Email dated 6/28/2020	25-a. Subsection (c)(1)(B)(1) should be revised as follows “ . . . the Director will may close the season.” This would allow the Director greater flexibility, given that a trigger level could be reached as a result of multiple and varied factors.	25-a. See General Response I1.
25	Michael Cunningham, cont.	25-b. Subsections (c)(1)(B)(1) - (3) should be revised to allow the Director to consider other management actions than the minimum response of a Fishing Zone closure.	25-b. See General Response I2.

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<p>25</p>	<p>Michael Cunningham, cont.</p>	<p>25-c. Subsection (c)(2)(B)(1) should be revised to allow the season to remain open until available data indicates a management action, such as a closure, is necessary. This change is warranted for the following reasons: (1) Points from risk assessment schedule in the 5 months prior to April 1 will be available to Director and data compiled with historical data would provide enough short term information to bridge gap until real time data becomes available; (2) If proposed regulation was in place in the 2019-20 season, the fishery would have ended 14 weeks sooner than normally scheduled 30 week season i.e. 50% of fishing would have been lost to fishermen and communities on the North Coast; (3) 2015-16 season domoic acid delays in the North Coast were the opposite experience of record whale entanglements in Monterey Bay. Season on North Coast was delayed until May and closed unabated until July 15 with a record number of fishing participants and gear during this time period. A statewide closure due to lack of data is unsupported by what happened in 2016.</p>	<p>25-c. See General Response D.</p>
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26	<p>Michael Cohen Commercial Fisherman Email dated 6/29/2020</p>	<p>26-a. Southern boundary of Zone 5 should be moved to Point Conception to avoid unnecessary constraints on fishing activity when Humpback Whales are present in the Channel Islands and other southern waters where there is no commercial Dungeness crab fishing.</p>	<p>26-a. See General Response B2.</p>
26	<p>Michael Cohen, cont.</p>	<p>26-b. Entanglements in unknown fishing gear should not be counted against the Dungeness crab fishery. States that unknown fishing gear could originate thousands of miles away and then be reported in California. Recommends that for any entanglement to be counted against Commercial Dungeness crab fleet it must be proven without a doubt to be commercial Dungeness crab fishing gear. The new law is unconstitutional and in direct conflict with the Fifth Amendment.</p>	<p>26-b. See General Response C. Furthermore, the Fifth Amendment only applies in criminal contexts and is not relevant here.</p>
26	<p>Michael Cohen, cont.</p>	<p>26-c. Electronic monitoring requirements represent an unnecessary cost to fishery participants for the system and subscription. CDFW Law Enforcement Division personnel should be responsible for enforcing these regulations.</p>	<p>26-c. See General Response F2.</p>

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26	Michael Cohen, cont.	26-d. In addition to the incurred costs of from required electronic monitoring, depth restrictions hinder the fleet from income and production and should not be imposed on the fleet.	26-d. Depth restrictions or constraints, specified in subsection (e)(2), provide an opportunity for management action that doesn't entirely close a Fishing Zone, and may be an appropriate response in some circumstances.
27	Richard James Email dated 6/29/2020	27-a. Commercial crab fishing poses great risks to whales, turtles, and the planet in general.	27-a. Comment noted.
27	Richard James, cont.	27-b. CDFW should enforce litter laws. The comment includes several web links with photos of litter which has washed up on local California beaches.	27-b. Concerns related to commercial crab fishing gear washing ashore on California beaches are outside the scope of the proposed regulations.
27	Richard James, cont.	27-c. CDFW should transition the fishery to use less dangerous gear.	27-c. See General Response E1.
28	Barbara Sopjes Email dated 6/12/2020	Comments A1-A7 are consistent with General Comments A1-A7, see Appendix 1.	See General Response A1-A7.
28	Barbara Sopjes, cont.	28-a. CDFW should develop a program to provide financial assistance to fishermen as they transition to innovative pop-up fishing gear.	28-a. See General Response E4.

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29	<p>Susan Rotwein California Dungeness Crab Fishing Gear Working Group Email dated 6/29/2020</p>	<p>29-a. Ocean and forage conditions are an essential part of assessing the risk of interaction and entanglement.</p>	<p>29-a. CDFW agrees that ocean conditions and forage distribution are valuable elements of assessing entanglement risk, particularly in regard to forecasting potential co-occurrence of Actionable Species and commercial Dungeness crab trap gear. However, during scoping for this rulemaking, CDFW could not identify routinely produced, real-time data streams with corresponding objective thresholds for management action which would allow incorporation of this factor into subsection (c). Therefore, CDFW has incorporated ocean and forage conditions into subsection (d), allowing the Working Group and Director to consider them on a case-by-case basis when determining appropriate actions following attainment of either the entanglement or marine life concentration triggers in subsection (c). Incorporation of thresholds could be included in a future rulemaking.</p>
29	<p>Susan Rotwein, cont.</p>	<p>29-b. Models show CDFW may have underestimated the industry cost of the proposed regulations by 6 fold.</p>	<p>29-b. Comment does not identify specific models or provide the model output. Therefore, CDFW cannot compare it to the economic analyses included in SRIA, SRIA Supplement, STD 399, and the Amended Addendum to the STD 399 or consider revisions to incorporate this additional/new information.</p>

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29	Susan Rotwein, cont.	<p>29-c. RAMP regulations as proposed by CDFW considers only 2 of the four factors when assessing marine life entanglement risk (ocean/forage, marine life concentrations, entanglements, and fishing dynamics). All four factors are necessary for a scientific, precautionary approach. Hardwiring closures based only on two of the Working Group’s four RAMP factors lacks scientific basis to be predictive of entanglement risk, is not a precautionary approach to interactions/entanglements, and is not credible.</p>	<p>29-c. CDFW acknowledges that the proposed RAMP regulations differ from the pilot program developed by the Working Group, particularly in regard to the way the Working Group’s four risk factors are incorporated into subsections (c) and (d). In order to provide clarity and predictability to fishery participants, CDFW must assess risk and need for management action relative to specific threshold values for the RAMP factors. The consequences of this approach are described in Specific Response 29-a. Taken as a whole, the proposed RAMP regulations allow for considerations regarding all four factors when determining appropriate management response, which in some cases allows for a management response other than closure.</p>
29	Susan Rotwein, cont.	<p>29-d. Lack of scientific basis and loss of flexibility will result in loss of adaptive fishery management, loss of ability to respond to marine mammal population dynamics, and loss of economic considerations for the Industry.</p>	<p>29-d. CDFW has crafted the proposed regulations to allow for selection of appropriate management actions on a case-by-case basis, which is adaptive. While the proposed regulations do not specifically name an adaptive management process, the RAMP, by its design, affords the ability to adapt to changing conditions and information and tailor a specific management response to minimize the risk of marine life entanglement.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
29	Susan Rotwein, cont.	<p>29-e. Rather than instituting closures, presence of Actionable Species should prompt a full assessment of entanglement risk across all 4 RAMP factors by the Working Group. Working Group recommendation should include the overall risk of entanglement and economic impact of proposed management measures.</p>	<p>29-e. As amended, the only situations resulting in closure of the Fishing Grounds are upon exceedance of thresholds related to Impact Score Calculations. Upon attainment of the Marine Life Concentrations thresholds in subsection (c)(2), subsection (d) specifies the Director will consider the Working Group’s assessment of the management considerations, which includes all four of the RAMP factors from the pilot program as well as economic impact.</p>
29	Susan Rotwein, cont.	<p>29-f. Regulations should be amended to completely remove the provision that absence of information on marine mammal concentrations will result in fishery closure since data on entanglements, ocean/forage conditions, and fishing dynamics along with historic records of migration and feeding patterns can be used to inform the RAMP.</p>	<p>29-f. See General Response D.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
29	Susan Rotwein, cont.	<p>29-g. Dungeness crab fishery should not be responsible for entanglements of Actionable Species in Unknown Fishing Gear. Saez et al. 2020 projections are grossly overestimated and mitigated by new regulations requiring marking of all fixed gear in California as well as 3 year downward trend of Actionable Species entanglements in California commercial Dungeness crab gear.</p>	<p>29-g. See General Response C.</p>
29	Susan Rotwein, cont.	<p>29-h. Additional reporting requirements should not be imposed on the fleet. Instead, CDFW should work collaboratively with industry to refine available data for the fishing dynamics factor. Specifically, VMS data should be identified in proposed regulation as appropriate vessel monitoring.</p>	<p>29-h. See General Response F1 and F2.</p>
29	Susan Rotwein, cont.	<p>29-i. Working Group should review all management measures enacted to evaluate their efficacy in decreasing further interactions/entanglements and their economic impact to the industry.</p>	<p>29-i. See General Response N2.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
30	<p>Donald Sack Commercial Fisherman Email dated 6/26/2020</p>	<p>30-a. Shelter Cove crab fishery will be negatively impacted by the proposed 40° 5' boundary line. Transiting crab caught in this area to Eureka for landing would require 8-12 hours travel time over rough water, which is impossible for small boat operators. Boundary should be moved to 40° 10', the same line used by NOAA for groundfish management, is a prominent landmark, and is well known to fishermen. This area contains very good crabbing grounds, protected from ocean conditions and are also used by the Fort Bragg fleet.</p>	<p>30-a. See General Response B1.</p>
31	<p>Richard Riels Sea Mammal Education Learning Technology Society Email dated 6/29/2020</p>	<p>31-a. Expresses support for California being a leader and adopting a plan for fisheries to co-exist with whales, especially in areas with high concentrations.</p>	<p>31-a. Comment noted.</p>
31	<p>Richard Riels, cont.</p>	<p>31-b. Combining ropeless fishing gear and smart buoys could provide a real solution for the survival of fisheries and save whales and other sea life.</p>	<p>31-b. Requests for approved Alternative Gear may include multiple systems which are intended to operate as a unit, and will be considered on a case-by-case basis according to criteria in subsection (h).</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
31	Richard Riels, cont.	31-c. Has philosophies on gear cache and leasing options to fishermen and a realistic adoption plan to save a centuries old passion.	31-c. Comment mentions ideas related to gear cache, leasing, and an adoption plan but does not offer any specific details; therefore, CDFW cannot respond to their comment or consider amendments to the proposed regulations.
32	Lori French Commercial Dungeness crab family Email dated 6/29/2020	32-a. Southern boundary of Zone 6 (Point Sur to Mexico) does not make sense, Dungeness crab range within this area is from Point Sur to Point Conception.	32-a. Note that commenter incorrectly identifies the originally proposed Fishing Zone spanning Point Sur to Mexico as Fishing Zone 6, rather than Fishing Zone 5. Based on geographic landmarks mentioned, CDFW interprets their comment as pertaining to the originally proposed Fishing Zone 5; see General Response B2.
32	Lori French, cont.	32-b. Dungeness crab fishery should not be held responsible for whale entanglements between Point Conception and Mexico.	32-b. CDFW will respond to Confirmed Entanglements as determined by NOAA. Every entanglement during the Fishing Season allows the Director to evaluate the management considerations as described in subsection (d) in determining, based on best available science, whether a Fishing Zone(s) closure or other management response protects the relevant species. Location of the Confirmed Entanglement will be a consideration in that analysis.
32	Lori French, cont.	32-c. Proposal is poorly written.	32-c. Comment noted and without suggested revisions cannot consider changes.
32	Lori French, cont.	32-d. Point system will not work for the fishery. Possibility of a two year closure would kill any market.	32-d. Precautionary Impact Score triggers during the Fishing Season and calendar year are in place to avoid exceedances of take for Endangered Species Act (ESA)-listed species that could violate the terms of the eventual ITP, which could lead to graver consequences for the fishery.
32	Lori French, cont.	32-e. Regulations should not hold the Dungeness fishery responsible for actions of other fisheries, including sport crab.	32-e. CDFW is unsure what specific actions of other fisheries the commenter is referring to, but in regard to entanglements in Unknown Fishing Gear see General Response C. The recreational crab fishery is regulated by the Fish and Game Commission which has proposed new marking requirements, currently anticipated to be adopted at the Commission’s December 2020 meeting, to increase accountability.

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#	Commenter Name, Format, Date	Comment	Response
32	Lori French, cont.	32-f. Support PCFFA and CCCA's comments.	32-f. Comment noted; responses to the specific elements of these two comment letters can be found in Specific Response 35 and 36.
32	Lori French, cont.	32-g. Expresses concern regarding potential for unintended consequences.	32-g. Comment noted and without specifying unintended consequences cannot consider changes.
32	Lori French, cont.	32-h. States that crisis management is not managing the resource and that 2015-16 crab season was an anomaly, and should not be used as a measure of whale entanglements. This management style will open doors for increased pressure on foreign fleets and imports.	32-h. CDFW lacked the authority to implement management changes in response to high numbers of marine life entanglements during the 2015-16 season. Should similar conditions develop in the future, the proposed regulations would be able to mitigate marine life entanglements of Actionable Species with commercial Dungeness crab fishing gear. The proposed regulations do not reference the 2015-16 season as a baseline, but rather allow for a flexible approach to determining appropriate management actions. The comment about foreign fleets and imports is outside the scope of this rulemaking.
33	Lorne Edwards Bodega Bay Fisherman's Marketing Association Email dated 6/29/2020	33-a. Does not support the proposed regulations. CDFW should revisit and make drastic changes which will better benefit the fleet as well as CDFW.	33-a. Comment does not include specific issues with the proposed regulations or suggestions for improvement; therefore, CDFW cannot respond to their comment or consider amendments to the proposed regulations.
34	Marco Flagg Desert Star Systems LLC Email dated 6/29/2020	34-a. Endorses comments by Catherine Kilduff (Center for Biological Diversity) and Tara Brock (Oceana) during the 6/29 public hearing.	34-a. Comment noted; responses to the specific elements of these two comments can be found in Specific Response 67 and 69.

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#	Commenter Name, Format, Date	Comment	Response
34	Marco Flagg, cont.	<p>34-b. Subsection (e)(5) should be amended to allow use of ropeless gear at any time during the season to maximize benefits for fishers. Gives examples on how to coordinate between traditional and ropeless for best outcome. Specific suggested edits to proposed regulatory text are captured in Specific Comment 34-f.</p>	<p>34-b. See General Response A7.</p>
34	Marco Flagg, cont.	<p>34-c. Proposed regulations require advanced capabilities for ropeless gear which are not suitable for many fishery participants. Ropeless gear options which are low cost, simple, and speedy to operate should be authorized. Commenter provides supplemental information (case study) of a ropeless system that fits these characteristics and used by the small boat lobster fishery at Cape Cod.</p>	<p>34-c. CDFW appreciates the commenter providing the case study from Cape Cod for the lobster fishery in Massachusetts. However, the gear set-up, quantity, and deployment and retrieval scenarios mentioned in the case study are not wholly applicable or relate to the California commercial Dungeness Crab fishery under California state law. The Massachusetts lobster fishery appears to utilize fewer traps/ pots which are also linked together, so fewer pop-up releases are needed. California currently does not allow linking of traps, so every trap would need a release, resulting in higher equipment costs. In addition, the commercial California Dungeness crab fishery has larger pot limits than the East Coast lobster fishery, which would further increase costs to operators. Ropeless gear (regardless of cost or complexity) will be authorized if it meets the standards related to gear detection, gear retrieval, and gear identification set forth in the proposed regulations</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
34	Marco Flagg, cont.	<p>34-d. Language regarding successful deployments and retrievals of not less than 90% in subsection (h) is unclear. Regulations should distinguish between failure of the automated pop-up command where gear is recovered and failures that result in gear loss. A variety of factors affect pop-up failures and equipment losses, not only failure of the release system or trigger. Fishermen have strong incentives to recover ropeless gear if pop-up command fails. Pop-up failures can be mitigated by use of tag lines and other back-up recovery mechanisms to avoid gear loss. Current standards in subsection (h) are problematic for system authorization. Specific suggested edits to proposed regulatory text are captured in Specific Comment 34-g - i.</p>	<p>34-d. CDFW addressed this comment in the revised proposed regulations, see pages 41-42 of the Amended ISOR.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
34	Marco Flagg, cont.	<p>34-e. Proposed deauthorization process should be amended and operate similar to building codes, whereby existing equipment is authorized even if requirements are changed in the future. Sudden deauthorization of fisher owned ropeless system presents a major problem given the significant investment nor is it likely that a fisher would be able to obtain capital financing if system is at risk of complete loss. Factors beyond control of fisher such as improper use by another or mobile gear interference could cause floats and ropes to exit prematurely and become entanglement hazard.</p>	<p>34-e. CDFW does not support “grandfathering” previously authorized gear that no longer aligns with the performance standards specified in subsection (h). This is also not consistent with management in other fisheries.</p>
34	Marco Flagg, cont.	<p>34-f. Subsection (e)(5) should be amended to allow use of Alternative Gear in areas open to traditional gear.</p>	<p>34-f. See General Response A7.</p>
34	Marco Flagg, cont.	<p>34-g. Subsection (h)(1)(B)(2) should be amended to replace requirement of 90% successful deployments and retrievals with a description of safeguards and procedures for minimizing gear loss. Regulations should require documentation of successful retrieval by primary and backup methods during testing.</p>	<p>34-g. Regarding the percentage of successful deployments and retrievals, CDFW addressed this comment in the revised proposed regulations, see pages 41-42 of the Amended ISOR. Regarding documentation of retrieval by primary and backup methods, CDFW believes this would likely be covered in the description of safeguards and procedures, as well as the maximum of 10% gear loss. Additionally, the gear must include backup release capability and a gear recovery plan (see revised proposed regulations in subsection (h)(1)(B)(2)). Anyone seeking authorization is welcome to submit additional information for consideration by CDFW.</p>

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#	Commenter Name, Format, Date	Comment	Response
34	Marco Flagg, cont.	<p>34-h. Subsection (h)(1)(B)(3) should be amended to include specific marking requirements for Alternative Gear buoys or floats while at the surface. This should be separated from detectability requirement when Alternative Gear is submerged, which should allow for acoustic interrogation or non-electronic means.</p>	<p>34-h. Because Alternative Gear could be developed in a variety of ways, CDFW did not include any specific marking requirements at this time. However, buoys at the surface would need to be marked consistent with existing regulations (i.e. in the same manner as other commercial Dungeness crab trap buoys). As different Alternative Gear types become more frequent in the fishery, CDFW may adopt additional regulations to distinguish those through different marking requirements as it deems appropriate.</p> <p>Regarding the detectability requirement and acoustic interrogation or non-electronic means of detection, CDFW considers “software” to be inclusive of virtual or acoustic methods.</p>
34	Marco Flagg, cont.	<p>34-i. Subsection (h)(1)(C)(3) should be amended to require reporting of successful deployments and retrievals by primary and backup mechanisms rather than attainment of a 90% success rate.</p>	<p>34-i. CDFW addressed this comment in the revised proposed regulations, see pages 41-42 of the Amended ISOR and Specific Response 34-g.</p>
34	Marco Flagg, cont.	<p>34-j. Subsection (h)(1)(D)(5) should be amended to decline authorization if gear relies on proprietary technology that is not routinely available, rather than technology which is either proprietary or not routinely available.</p>	<p>34-j. CDFW addressed this comment in the revised proposed regulations, see page 43 of the Amended ISOR.</p>

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#	Commenter Name, Format, Date	Comment	Response
34	<p>Marco Flagg, cont.</p>	<p>34-k. Subsection (h)(2) should be amended to specify new evidence would document equipment does not meet criteria. Subsection should also be amended to allow any gear in possession at the time of deauthorization to remain authorized.</p>	<p>34-k. See Specific Response 34-e. Additionally, CDFW is unsure how deauthorization would occur without new evidence contradicting the information previously submitted in support of the Alternative Gear authorization. It is not necessary to specify this requirement in regulation.</p>
35	<p>Michael Conroy Pacific Coast Federation of Fishermen's Associations Email dated 6/29/2020</p>	<p>35-a. Proposed regulations do not appropriately balance economic impacts to the fleet with conservation of Actionable Species. CDFW underestimates proposed rule's financial impacts to fishing industry, dependent businesses, and the State. Supports Department of Finance comments submitted on April 3, 2020.</p>	<p>35-a. See General Response K. Additionally, comment does not identify any specific output for financial impacts. Therefore, CDFW cannot compare it to the initial economic analyses included in the STD 399 to consider revising the STD 399 to incorporate this additional information. April 3, 2020 comments from Department of Finance were addressed in the Supplement to the SRIA. Additional comments provided by Department of Finance on June 24, 2020 are addressed in the Amended STD 399 and Amended Addendum to the STD 399.</p>
35	<p>Michael Conroy, cont.</p>	<p>35-b. Concerns regarding the amount of discretion granted to the Director and the subjective manner in which discretion would be used within the proposed regulatory framework. Additional language should be added which provides clarity and certainty to interested parties, e.g. why certain management actions listed in subsection (e) would be selected.</p>	<p>35-b. See General Response N1.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
35	Michael Conroy, cont.	<p>35-c. Proposed regulations describe a highly data-intensive process, but do not require CDFW to collect the necessary data or fund critically important data collection programs. Regulations should be amended to specify that CDFW will both fund appropriate data collection programs and collect data needed to appropriately manage the fishery, especially in light of the COVID-19-driven budget crisis.</p>	<p>35-c. CDFW is dedicated to supporting a thriving commercial Dungeness crab fishery, and will make every effort to ensure data are available to inform implementation of the proposed regulation.</p> <p>During the 2019-20 Fishing Season, the first full fishing season where two dedicated CDFW staff were available to address entanglement risk in this fishery, CDFW conducted numerous aerial surveys and oversaw 13 Risk Assessments by the Working Group, including collaboration with multiple Working Group members and Advisors to collect and synthesize available data regarding Confirmed Entanglements, Marine Life Concentrations, Ocean and Forage Conditions, and Fleet Dynamics for each Risk Assessment.</p> <p>Data available to inform management actions will include aerial surveys, telemetry, CDFW fishery landings data, vessel surveys, fixed point observation, and modelling results. These sources are highly collaborative amongst government agencies and other partners, requiring the sharing of existing data, or sharing of data as it becomes available. Specifically regarding season delays for a lack of Marine Life Concentration data, subsection (c)(2) specifically allows other entities to undertake surveys, so long as they are CDFW or NOAA approved and otherwise meet the requirements of this subsection.</p> <p>The 2018-19 budget included three years of funding earmarked for entanglement issues, including dedicated CDFW positions and resources. Beginning with the 2021-22 Fiscal Year, availability of dedicated resources to support marine life entanglement issues is at the discretion of the legislature and outside both CDFW’s control and the scope of this rulemaking. CDFW could in the future work with the legislature to raise money through increased fees to pay for the requested data collection.</p>
35	Michael Conroy, cont.	<p>35-d. Regulations should include recognition of other sources of mortality and commitment for CDFW to consider addressing ship strike impacts to Actionable Species at a later date.</p>	<p>35-d. See General Response L.</p>

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#	Commenter Name, Format, Date	Comment	Response
35	Michael Conroy, cont.	<p>35-e. Regulations should include adaptive management concepts and principles, including a 3-year review period to determine effectiveness of the risk assessment process and whether numerical values in subsection (b) are still appropriate and in accordance with best available science. If subsection (b) is amended to remove those values, this may not be necessary.</p>	<p>35-e. See General Response N2.</p>
35	Michael Conroy, cont.	<p>35-f. Definition of Actionable Species should be amended to include specific Distinct Population Segments of Humpback Whales. Furthermore, species or Distinct Population Segments would only be considered Actionable Species as long as they are listed under the federal ESA. Other sections of the proposed regulations should be specific to “listed” species or DPS. This will provide flexibility for RAMP to respond to any delisting.</p>	<p>35-f. See General Response H.</p>

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#	Commenter Name, Format, Date	Comment	Response
35	Michael Conroy, cont.	35-g. ISOR’s reference to Marine Mammal Protection Act (MMPA) is misplaced, since MMPA covers all marine mammals and is outside the scope of this rulemaking.	35-g. As described on page 2 of the Amended ISOR, the proposed regulations will form an essential component of CDFW’s application for an ITP under the federal ESA. NOAA is unable to issue an ITP if the proposed management approach violates requirements for negligible impact under the MMPA. As such, CDFW intended the proposed rulemaking to address the requirements of MMPA to ensure adequate protection of marine mammals within the scope of the definition of “Actionable Species
35	Michael Conroy, cont.	35-h. Definition of Alternative Gear should be amended to remove reference to ropeless gear. Inclusion of ropeless gear is implied. Furthermore, ropeless gear is currently not feasible or practical at the moment.	35-h. See General Response E2.
35	Michael Conroy, cont.	35-i. Subsection (a) should be amended to include a definition of “entanglement”, which should clarify how phased entanglements (where an initial entanglement occurs, and additional gear is later involved) are considered under the proposed regulations. Entanglement should only be confirmed for the gear that originally entangled the animal.	35-i. CDFW addressed this comment in the revised proposed regulations; see pages 6-7 of the Amended ISOR for further discussion.

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#	Commenter Name, Format, Date	Comment	Response
35	Michael Conroy, cont.	<p>35-j. Subsection (a)(4)(A) should be amended to clarify how double-counting will be avoided if both National Marine Fisheries Service (NMFS) and CDFW separately confirm an entanglement with California commercial Dungeness crab gear. Suggests addition of “such as” to regulatory text. This subsection should also reference the condition of the animal upon release and future prognosis.</p>	<p>35-j. CDFW addressed this comment in the revised proposed regulations; see pages 6-7 of the Amended ISOR for further discussion. NOAA will be the agency solely responsible for confirming an entanglement, and CDFW will only be providing information requested by NOAA in aiding their assessment of any reported entanglement. NOAA will be responsible for ensuring no single event would be double-counted. CDFW considers “information regarding the severity of the entanglement and any subsequent disentanglement” would include available information about the condition of the animal and future prognosis if a disentanglement is attempted; therefore, additional changes to this section are not required</p>
35	Michael Conroy, cont.	<p>35-k. All California trap fisheries will be required to affix specific markings. As such all unknown gear in the future will necessarily belong to foreign fisheries. Subsection (a)(4)(B) should be amended to explicitly exclude gear from foreign fisheries as Confirmed Entanglements.</p>	<p>35-k. See General Response C. Additionally, should gear be determined to originate in a foreign fishery, it would no longer qualify as Unknown Fishing Gear, and thus would not be assigned an Impact Score. The proposed amendment to specifically exclude gear from foreign fisheries is therefore unnecessary.</p>
35	Michael Conroy, cont.	<p>35-l. Subsection (a)(4)(C) should be amended to clarify what “any additional data” refers to.</p>	<p>35-l. CDFW addressed this comment in the revised proposed regulations; see page 7 of the Amended ISOR for further discussion.</p>
35	Michael Conroy, cont.	<p>35-m. Subsection (a)(4) should be amended to include a new subsection which specifies that entanglements which occur after the death of an Actionable Species will not be considered Confirmed Entanglements.</p>	<p>35-m. CDFW addressed this comment in the revised proposed regulations; see page 7 of the Amended ISOR for further discussion.</p>

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#	Commenter Name, Format, Date	Comment	Response
35	Michael Conroy, cont.	<p>35-n. Definition of Fishing Season should be amended as “any period of time in which it is lawful to deploy commercial Dungeness crab fishing gear in specific ocean waters under the jurisdiction of the State of California.</p>	<p>35-n. CDFW addressed this comment in the revised proposed regulations; see page 8 of the Amended ISOR for further discussion.</p>
35	Michael Conroy, cont.	<p>35-o. Recommend Fishing Zone definition be amended to read as follows: “Fishing Zone” means Fishing Grounds in any of the following areas from zero to 200 nautical miles offshore (U.S. Exclusive Economic Zone).” Definition is broader than necessary since majority of Fishing Zone will never be fished.</p>	<p>35-o. See General Response B5.</p>
35	Michael Conroy, cont.	<p>35-p. Southern boundary of Zone 5 should be moved to Point Conception. Additional Fishing Zone could be added to include waters from Point Conception to Mexico.</p>	<p>35-p. See General Response B2-B3.</p>
35	Michael Conroy, cont.	<p>35-q. Definition should specify Zones 1 and 2 encompass the Northern Management Area and Zones 3-5 encompass the Central Management Area.</p>	<p>35-q. CDFW does not see any particular advantage to explicitly linking definitions under the proposed regulations, which deal with protected species, to existing Dungeness crab management zones, which were created for other purposes, such as quality control and season dates. However, as noted in the comment, Fishing Zones represent discrete subsets of the two management areas commonly used for management of the Dungeness crab fishery.</p>

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#	Commenter Name, Format, Date	Comment	Response
35	Michael Conroy, cont.	<p>35-r. Given that Monterey Bay is a known focal point for aggregations of Actionable Species, proposed regulations should allow smaller-scale management actions than at the level of Zone 4. High concentrations of Actionable Species within Monterey Bay should not necessarily impact operations around Point Lopez or Pigeon Point.</p>	<p>35-r. As described on page 8 of the Amended ISOR, the general sizing of the Fishing Zones is due to the highly mobile nature of Actionable Species and also mirrors the likely geographic resolution of data. CDFW disagrees that applying management actions to smaller areas within Fishing Zone 4 would be appropriate, supported by available data, or sufficiently protective of Actionable Species.</p>
35	Michael Conroy, cont.	<p>35-s. Definition of Impact Score should be amended to clarify the process by which Impact Scores would be updated following NOAA’s final determination of injury and mortality. Impact Score assignment should be a collaborative effort by CDFW and NOAA. Definition should specify how CDFW Impact Score assignments would be reviewed. Impact Scores of zero should be assigned to entanglements which are determined to result in no harm the animal.</p>	<p>35-s. See General Response M.</p>

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#	Commenter Name, Format, Date	Comment	Response
35	Michael Conroy, cont.	35-t. Definition of Marine Life Concentrations should be amended as “measures of local abundance of Actionable Species” and specify what is meant by local abundance, including whether it is limited to state waters.	35-t. CDFW addressed this comment in the revised proposed regulations; see page 13 of the Amended ISOR for further discussion.
35	Michael Conroy, cont.	35-u. Definition of Risk Assessment should specify “California” when referring to Commercial Dungeness crab fishing gear for clarity.	35-u. CDFW addressed this comment in the revised proposed regulations; see page 13 of the Amended ISOR for further discussion.
35	Michael Conroy, cont.	35-v. Definition of Unknown Fishing Gear should be amended to exclude gear which is reasonable traceable to an out-of-state or foreign fishery.	35-v. See General Response C and Specific Response 35-k.
35	Michael Conroy, cont.	35-w. Definition of Working Group should be amended to reference NMFS rather than NOAA for consistency with FGC 8276.1(a)(1).	35-w. Subsection (a)(11) of the proposed regulation defines NOAA to include NMFS employees and staff, and so is consistent with Section 8276.1(a)(1) of the Fish and Game Code.
35	Michael Conroy, cont.	35-x. Regulations should include provisions for how risk assessments will be scheduled and conducted given opener delays due to low meat quality or domoic acid. Suggests adding an assessment trigger related to clean tests and meat content levels.	35-x. The timing and process for conducting Risk Assessments will be conducted independently from quality or public health-related management actions. Delays due to low quality or public health concerns are specifically mentioned in subsection (d)(7) as a consideration which can inform management action.

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#	Commenter Name, Format, Date	Comment	Response
35	Michael Conroy, cont.	35-y. Unknown Fishing Gear elements of subsection (c) should be amended. Restrictions should not be implemented based on entanglements in other fisheries, particularly those outside of California jurisdiction.	35-y. See General Response C.
35	Michael Conroy, cont.	35-z. Amended marking requirements in California and additional efforts in Oregon and Washington do not support assumptions that 50% of entanglements in Unknown Fishing Gear are likely caused by California commercial Dungeness crab gear.	35-z. See General Response C.
35	Michael Conroy, cont.	35-aa. Add word “Listed” whenever Humpback Whales are described so proposed regulations are responsive to de-listings.	35-aa. See General Response H.
35	Michael Conroy, cont.	35-bb. In subsection (c)(1)(A)(1) add language “and that mortality is directly attributed to California Commercial Dungeness Crab Gear” after “deceased.”	35-bb. The addition of subsection (a)(4)(D) (see page 7 of the Amended ISOR) in the revised proposed regulations addresses circumstances where an entanglement occurred after death of an Actionable Species. However, requiring a mortality to be directly attributable to California Commercial Crab Gear before assignment of an Impact Score would not be sufficiently protective of Actionable Species. Therefore, Impact Scores will be assigned unless the entanglement is determined to have resulted after death of the Actionable Species. Given the addition of subsection (a)(4)(D), additional amendments to subsection (c)(1)(A)(1) are unnecessary.

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#	Commenter Name, Format, Date	Comment	Response
35	Michael Conroy, cont.	35-cc. Subsection (c)(1)(A) should be amended to include language that the default Impact Score of 0.7 can be adjusted downward pursuant to NMFS Policy Directive 02-238-01.	35-cc. See General Response M.
35	Michael Conroy, cont.	35-dd. Impact Scores for Blue Whales should be calculated similarly to those for Humpback Whales.	35-dd. See General Response M.
35	Michael Conroy, cont.	35-ee. Recommend for all three species that only a Confirmed Entanglement in California Commercial Dungeness Crab Gear will result in the action by the Director.	35-ee. See General Response C.
35	Michael Conroy, cont.	35-ff. Language regarding the minimum action of a Fishing Zone closure contradicts language in the ISOR describing needed flexibility in the management response.	35-ff. See General Response I2.
35	Michael Conroy, cont.	35-gg. Recommend adding “Listed” for reasons stated above (see Specific Comment 35-aa).	35-gg. See General Response H.
35	Michael Conroy, cont.	35-hh. Closures should not be implemented based solely on Confirmed Entanglements in Unknown Fishing Gear. This unfairly requires the fishery to pay for the actions of other fisheries.	35-hh. See General Response C.

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
35	Michael Conroy, cont.	35-ii. Statewide closures should not be implemented if entanglements are occurring only within certain Fishing Zones.	35-ii. See General Response I1.
35	Michael Conroy, cont.	35-jj. Subsection (c)(1)(C)(1) (average total Impact Score Calculation for Humpback Whales) should be amended to replace the Impact Score value of 2 with a reference to population estimates or PBR. Additionally, initial score should be established at 2.7 rather than 2.	35-jj. See General Response M.
35	Michael Conroy, cont.	35-kk. Subsection (c)(1)(C)(3) should be amended to remove “or equal to”. Despite the low probability, management action due to a single incidence will create severe economic hardship for the fleet.	35-kk. The commenter is incorrect regarding action based on a single incident during a calendar year. Under this subsection, management action under subsection (e) would not necessarily be a closure of the entire fishery. The trigger is based on an average value over three calendar years, the threshold can be exceeded after three incidents. This value was set to reflect the endangered status of Pacific Leatherback Sea Turtles as described on page 23 of the Amended ISOR.
35	Michael Conroy, cont.	35-ll. Subsection (c)(2)(A) should not prevent the fishery from opening based on lack of available data, especially in light of the hardships caused by the pandemic and the associated budget constraints. Language committing DFW to fund and actively collect data is needed.	35-ll. See General Response D and Specific Response 35-c.

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#	Commenter Name, Format, Date	Comment	Response
35	Michael Conroy, cont.	35-mm. Delays due to lack of available data should be linked to a period of time after data does become available, and shorter than the 15-day increments in the proposed regulations. Suggests 7 or 10 days.	35-mm. See General Response D.
35	Michael Conroy, cont.	35-nn. ISOR contains insufficient rationale for the values specified in subsection (c)(2)(A)(4). Proposed language should be amended to remove hard-wired values and instead reference recent Stock Assessment Reports or population estimates, particularly for Pacific Leatherback Sea Turtles.	<p>35-nn. As discussed on pages 25-27 of the Amended ISOR, these values are selected based on recent experience regarding levels that indicate presence of Actionable Species in the Fishing Grounds, which in turn indicates a need to consider the appropriate management response to reduce possible entanglement risk. CDFW assume the comment requests for the Marine Life Concentrations numbers to be defined in terms of a percentage of a stock assessment or recent population efforts. At this time, CDFW is unaware of a way to calculate what percentage of a stock or population size would be appropriate as a trigger. Additionally, the data sources specified in subsection (c)(2) are not designed to capture a certain percentage of a population; instead, they provide a snapshot of Actionable Species presence at the time of a Risk Assessment, while ensuring some basic criteria are met. When the values in subsection (c)(2)(A)(4) are met, that indicates possible overlap of Actionable Species presence and fishing activity, in which case management action is appropriate. However, the Director retains the ability to evaluate the entirety of the circumstances under subsection (d) to determine if action other than a Fishing Zone closure protects the relevant species.</p> <p>If future scientific developments provides a reliable means of correlating population size to entanglement risk, CDFW may amend these regulations if appropriate.</p>
35	Michael Conroy, cont.	35-oo. Regulations should be amended to provide greater clarity as to what circumstances would result in a Fishing Zone closure.	35-oo. See General Response N1.

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#	Commenter Name, Format, Date	Comment	Response
35	Michael Conroy, cont.	35-pp. Adding “listed” for reasons previously discussed (see Specific Comment 35-aa).	35-pp. See General Response H .
35	Michael Conroy, cont.	35-qq. Subsection (c)(2)(B) should be amended to remove the default fishery closure if data is unavailable by March 15. Instead, proposed regulations should allow CDFW, NMFS and the Working Group to rely on historic data from similar time frames and ocean conditions to select appropriate management actions.	35-qq. CDFW addressed this comment in the revised proposed regulations; see General Response D . Additionally, the proposed regulations allow the Director to select an appropriate management response after consideration of the items in subsection (d), including historical data.
35	Michael Conroy, cont.	35-rr. ISOR does not contain sufficient rationale for the value of 10 in subsection (c)(2)(B)(2)(a).	35-rr. See pages 27-28 of the Amended ISOR and Specific Response 35-nn .
35	Michael Conroy, cont.	35-ss. Regulations should not require closure of an entire Fishing Zone based on presence of a single Pacific Leatherback Sea Turtle but instead allow CDFW to close smaller areas.	35-ss. Current language allows the Director to implement a management measures other than closure if best available science shows that action protects Pacific Leatherback Sea Turtles. Regarding the boundaries of this Fishing Zone, see General Response B4 .

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
35	Michael Conroy, cont.	<p>35-tt. Several provisions within the proposed regulations are speculative in nature. For example, observing a specific number of whales does not mean that an entanglement is inevitable. Proposed remedy for recent spike in entanglements for a short period of time is in part caused by extreme ocean conditions and is therefore more restrictive than necessary.</p>	<p>35-tt. The uncertain nature of marine life entanglement means that a precautionary framework is necessary to avoid mortality and serious injury of the Actionable Species.</p>
35	Michael Conroy, cont.	<p>35-uu. The items under subsection (d) are only loosely based on FGC Section 8276.1(c)(3). Subsection (d) should include a definition of “statistically valid”. In addition, it must be complemented with the appropriate scale, scope, precision, impartiality, and objectivity of the data.</p>	<p>35-uu. Regarding descriptions of data in the main clause of subsection (d), CDFW addressed this comment in the revised proposed regulations; see page 29 of the Amended ISOR for further discussion. Regarding which items are listed in subsection (d), Section 8276.1 of the Fish and Game Code does not require CDFW to incorporate the factors listed in Section 8276.1(c)(3) into the regulations adopted pursuant to Section 8276.1(b). Additional discussion regarding the factors listed under subsection (d) can be found on pages 28-33 of the Amended ISOR.</p>
35	Michael Conroy, cont.	<p>35-vv. Subsection (d)(2) should identify the type of information NOAA would provide.</p>	<p>35-vv. CDFW prefers not to restrict its consideration of information provided from another agency, and cannot dictate to NOAA staff what it may evaluate in informing entanglement issues. CDFW will rely on NOAA staff to provide accurate and thoughtful information germane to any entanglement issue at hand.</p>
35	Michael Conroy, cont.	<p>35-ww. Subsection (d)(3) should specify how management measure effectiveness will be judged, and on what basis.</p>	<p>35-ww. See General Response N2.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
35	Michael Conroy, cont.	<p>35-xx. Subsection (d)(4) should be amended to remove presumption of seasonal differences in economic impacts of management actions. Furthermore, economic impact should be considered for all management actions, not only those that equivalently reduce entanglement risk as intended by the legislature.</p>	<p>35-xx. The primary goal of the proposed regulation is ultimately to reduce entanglement of Actionable Species to the extent practicable. As discussed in the SRIA and SIRA Supplement, the fishery typically lands the majority of its catch within the first several weeks of the fishery and recent seasons where delays were implemented for quality or public health reasons still show the high volume of landings in the initial weeks after opening and lower landings in the late spring and early summer months. Therefore, CDFW expects a seasonal difference in the total landings and resulting economic impacts of any management action and the language of this subsection reflects that fact.</p>
35	Michael Conroy, cont.	<p>35-yy. Subsections (d)(5) should be amended to include language describing useful historical data, such as specifying it is from similar timeframes and under similar ocean conditions.</p>	<p>35-yy. CDFW disagrees that further definition of historical information is necessary. As specified in the main clause of subsection (d), CDFW will rely on relevant data and will evaluate data within the context from which those data originated.</p>
35	Michael Conroy, cont.	<p>35-zz. Subsections (d)(6) should be amended to include language describing useful historical data, such as specifying it is from similar ocean and forage conditions.</p>	<p>35-zz. See Specific Response 35-yy.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
35	Michael Conroy, cont.	<p>35-aaa. Subsection (d)(8) identifies forage as a possible information source that will be considered when adopting management action. This is arguably an ineffective type of information, since entanglement number was very low for the 2019-2020 season despite record level of forage fish, which has been linked to higher entanglement risk in the fishery.</p>	<p>35-aaa. CDFW and NOAA staff will continue to improve the understanding of marine life entanglements, including the impact of forage on Actionable Species migration patterns. CDFW agrees that as of the time of this rulemaking forage location alone does not provide the complete picture of entanglement risk; however, CDFW would evaluate this factor in conjunction with the other listed factors in subsection (d) to gain the most accurate understanding of conditions in the current Fishing Season.</p>
35	Michael Conroy, cont.	<p>35-bbb. Subsection (d)(9) should be amended to include La Niña.</p>	<p>35-bbb. CDFW addressed this comment in the revised proposed regulations; see page 33 of the Amended ISOR for further discussion.</p>
35	Michael Conroy, cont.	<p>35-ccc. Subsection (e)(1) should be revised to refer to encouraging voluntary actions and measures to reduce the risk of entanglements and specify best practices.</p>	<p>35-ccc. CDFW addressed this comment in the revised proposed regulations; see pages 33-34 of the Amended ISOR for further discussion.</p>
35	Michael Conroy, cont.	<p>35-ddd. Subsection (e)(2) should be amended to remove “or possessed,” particularly if the Electronic Monitoring requirement in subsection (g)(2) is implemented. There might be situations where banning possession of crabs in certain depth may inadvertently prohibit individuals from navigating through safer areas with crabs caught in open areas.</p>	<p>35-ddd. Tying the rule to possession is necessary for enforcement purposes and is consistent with current management practices in state and federal fisheries. Current language would allow the Director to narrowly tailor any depth constraints to accommodate safe and orderly operation of the fishery. In addition, CDFW has specifically readjusted the boundaries of Fishing Zones 1 and 2 to accommodate the operations of the local fishing communities.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
35	Michael Conroy, cont.	35-eee. Subsection (e)(4) should be amended to remove possession.	35-eee. See Specific Response 35-ddd.
35	Michael Conroy, cont.	35-fff. Regulations should require the Director to state rationale when taking a management action that is contrary to a majority recommendation for the Working Group to prevent marginalization of the Working Group.	35-fff. See General Response G.
35	Michael Conroy, cont.	35-ggg. CDFW should create a form or online application for submission of the data required in subsection (g)(1).	35-ggg. See General Response F1.
35	Michael Conroy, cont.	35-hhh. CDFW should clarify this information would be considered proprietary and not subject to public disclosure, other than in aggregated form or for statistical and research purposes.	35-hhh. See General Response F3.
35	Michael Conroy, cont.	35-iii. Proposed regulations in section (g)(2) are unclear as to what constitutes an operational electronic monitoring system; language should be clarified. Language should be added to protect ownership and confidentiality of the data.	35-iii. See General Response F2 and F3.

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#	Commenter Name, Format, Date	Comment	Response
35	Michael Conroy, cont.	35-jjj. Expresses support for updates from prior drafts of subsection (h) – Alternative Gear.	35-jjj. Comment noted.
35	Michael Conroy, cont.	35-kkk. Suggests adding a new subsection (i), which specifies CDFW will conduct, fund, and manage appropriate data collection programs needed to inform management of the California commercial Dungeness crab fishery in alignment with the Risk Assessment and Mitigation Program.	35-kkk. See Specific Response 35-c.
35	Michael Conroy, cont.	35-III. Suggests adding a new subsection (j), which acknowledges California commercial Dungeness crab gear entanglements are only one source of harm to Actionable Species, and commits CDFW to considering options within its purview to address impacts of ship strikes on populations of Actionable Species.	35-III. See General Response L.

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#	Commenter Name, Format, Date	Comment	Response
35	Michael Conroy, cont.	<p>35-mmm. Suggests adding a new section k, which specifies CDFW, the Working Group, and the Dungeness Crab Task Force will review these regulations at least once every 3 years to determine effectiveness of the risk and whether numerical values in subsection (b) are in accordance with best available science</p>	<p>35-mmm. See General Response N2.</p>
36	<p>Ben Platt, California Coast Crab Association (CCCA) Email dated 6/29/2020</p>	<p>36-a. States that comments are not to be considered concessions on any aspect of the proposed regulations nor an endorsement for them. States that they recognize that settlement agreement of <i>CBD v. Bonham</i> constrains general approach. Believes that proposed regulations can and should be modified and improved in the anticipated Conservation Plan, which provides CDFW with more flexibility.</p>	<p>36-a. The proposed regulations reflect CDW’s consideration of the science in light of all appropriate law. They serve as the foundation and regulatory framework for the Conservation Plan and their intent is to minimize entanglements of Actionable Species by commercial Dungeness crab fishing gear. There may be the need to amend regulations under the ITP process, of which the Conservation Plan is a key component, but any future requirements would still need to adhere to the requirements of the California Administrative Procedure Act (APA) requirements.</p>
36	Ben Platt, cont.	<p>36-b. Supports the emphasis on the role of the Working Group in subsection (d) and in agreement that their recommendations are “critical to informing the Director on management decisions.”</p>	<p>36-b. Comment noted.</p>

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#	Commenter Name, Format, Date	Comment	Response
36	Ben Platt, cont.	<p>36-c. States that final regulations should strike a balance between protection of species and a thriving, economically viable fishery as expressed by the Legislature in Sections 7056(i), 7056(j) and 8280(a) of the Fish and Game Code .</p>	<p>36-c. See General Response K.</p>
36	Ben Platt, cont.	<p>36-d. States that proposed regulations must allow for adaptability based on best available science as required by Section 7056(g) of the Fish and Game Code. Further states that as new information about gear interactions, whale populations, whale migrations, and other environmental data become available, triggers, impact scores, and other numerical assumptions described may not be consistent with the best available science. The proposed regulations do not allow for this flexibility and must be revised, which is essential for implementation of the Conservation Plan.</p>	<p>36-d. California APA requirements stress specificity and clarity. With these parameters in mind, proposed regulations were drafted with best available information on Actionable Species and the Fleet’s fishing behavior. See also General Response N2.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
36	Ben Platt, cont.	<p>36-e. Recommends that definition of “actionable species” in the proposed regulations should only address certain species or distinct population segments (DPS) that are listed under the Endangered Species Act (ESA) as expressly limited in the settlement agreement of <i>CBD v. Bonham</i>. The species or DPS should be identified with reference to the federal listing decisions otherwise unhelpful ambiguities will arise and final regulations should include a provision that removes a species or DPS from the “actionable species” when they are delisted.</p>	<p>36-e. See General Response H.</p>

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<p>36</p>	<p>Ben Platt, cont.</p>	<p>36-f. States that proposed regulations express a preference for “ropeless gear” in the “alternative gear” definition and excludes other gears or methods that may be more effective. “Ropeless gear” remains experimental and commercially unviable and the proposed regulations must be designed to encourage testing of simple and effective alternative gear arrangements such as long-lining and yale grips. Information on these gear types have been compiled and provided as an attachment to comment letter. Recommend proposed regulation either eliminate “including but not limited to ropeless gear” or revise the definition of “alternative gear” to state “gear modifications and other gear innovations, including but not limited to, longlining, alternative riggings, alternative ropes or gear accessories such as yale greps, ropeless gear, pingers, or alternative fishing practices as authorized by CDFW pursuant to subdivision (h).” Recommend that modified fishing practices being included at a minimum to definition to provide solutions in isolation or in concert with alternative gear implementation.</p>	<p>36-f. See General Response E2.</p>
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#	Commenter Name, Format, Date	Comment	Response
36	Ben Platt, cont.	<p>36-g. States that National Marine Fisheries Service (NMFS) will not identify California Commercial Dungeness crab gear unless there is a clear buoy tag that identifies the fishery. This limitation is unacceptable as there are multiple, reliable methods of identifying gear specific to the fishery. NMFS can report entanglements to CDFW, but CDFW must reach an evidence-based conclusion that the entanglement involved fishing gear from the fishery to qualify as a “Confirmed Entanglement with California Commercial Dungeness Crab Gear.” Recommends that CDFW establish an Entanglement Review Board that utilizes California-specific expertise, such as fishermen in lieu of or in conjunction with NMFS and should not rely solely on this federal agency that admits its limitations to make critical decisions for a fishery managed by the state. Recommends that CDFW identify and incorporate to the proposed regulations the separate regulations they have implemented that require distinct gear markings for each fixed gear fishery in California.</p>	<p>36-g. The proposed regulations define “Confirmed Entanglement with California Commercial Dungeness Crab Gear” as those reported to and confirmed by NOAA. This section was amended in response to public comment to remove reference to gear identified by the CDFW through clearly visible gear markings (see pages 6-7 of the Amended ISOR). Neither CDFW nor NOAA would be able to definitively identify gear as belonging to the California Commercial Dungeness crab fishery without a California buoy tag. However, NOAA may be able to eliminate the fishery from being involved if other identifying marks are found on the fishing gear (e.g. other state’s Dungeness crab buoy tag or a buoy marker that identifies another fishery). In instances when buoy tags are absent, but license numbers are observed, CDFW will provide NOAA with access confidential licensing information to better determine the operator of the gear and the source fishery. This is similarly done with other U.S. West Coast fisheries. Incidentally, any gear confirmed as belonging to another fishery, whether through the new buoy marking requirements or other means, will not be scored under RAMP. It is not necessary to incorporate the gear marking requirements for them to apply, and CDFW intends for those regulations to help reduce the number of Confirmed Entanglements in Unknown Fishing Gear.</p> <p>CDFW does not support an external review board comprised of California fishermen engaged in trap fisheries to determine source fisheries for entanglement primarily due to the entanglement confirmation process falling under NOAA’s purview. In addition, there may be issues with sharing of confidential information, bias and meeting in a timely manner. There are opportunities for fishermen to engage with agencies through entanglement forensic workshops, provided confidential information is not shared with the public, but these are not considered as part of the entanglement impact scoring process.</p>

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<p>36</p>	<p>Ben Platt, cont.</p>	<p>36-h. Supports proposed regulations including more management zones however suggests modifying zones to better correspond to fishing activity and whale distribution as follows: (1) California/Oregon Border to Patrick’s Point; (2) Patrick’s Point to Delgado Canyon; (3) Delgado Canyon to Point Arena; (4) Point Arena to Pigeon Point; (5) Pigeon Point to Lopez Point; (6) Lopez Point to Point Conception; (7) Point Conception to U.S. Mexico Border; (8) “Pacific Leatherback Sea Turtle Foraging Area” from Point Arena (38° 57.5’ N. latitude) to Point Pinos (36° 38.314’ N. latitude). This will align better with the areas where groups of vessels operate from and will allow CDFW to better understand interactions of the risk factors and how to effectively manage them at the necessary scale. Emphasizes that Fishing Zone from Lopez Point to US/Mexico Border would be disastrous for the Morro Bay/Avila/Santa Barbara fleet since crab are rarely found south of Point Conception and whale numbers in this area could result in zero fishing opportunity without any conservation benefit for whales. Recommends that if CDFW does not adopt the eight-</p>	<p>36-h. As described on pages 8-11 of the Amended ISOR, the Fishing Zones are designed around the likely geographic resolution of available data, and behavioral dynamics of both the fleet and the Actionable Species. Adding an additional zone at Patrick’s Point would have resulted in too fine scale of a management zone based on the factors described above.</p> <p>Regarding the proposed line at Point Arena, CDFW has determined that the Sonoma/Mendocino county line (located relatively close to the south of Point Arena), is a more appropriate boundary as it is currently used in other contexts for the fishery (i.e. quality testing) and is well-known to fishery participants.</p> <p>Regarding the proposed lines at Delgado Canyon and Point Conception, see General Response B1-B3.</p>
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#	Commenter Name, Format, Date	Comment	Response
		zone structure, at a minimum the single zone from Lopez Point to Point Conception (and separately for Point Conception south to the Mexico border) be considered.	
36	Ben Platt, cont.	<p>36-i. States that the definition provided for “Impact Score Calculation” is “subject to revision after NOAA’s final determination of injury or mortality.” Under the proposed regulations, the impact score changes based only if the interaction results in a mortality. If NOAA’s injury score determination process has any relevance, then CDFW should revise impact scores for Humpback Whales to assign 0.7 for “serious” injury determinations and 0.0 for “non-serious” injury determinations. Similar changes should be made to impact score definitions for Blue Whales. For purposes of the Marine Mammal Protection Act, “non-serious” injury does not count against a marine mammal stock’s potential biological removal rate (“PBR”), thus a 0.0 score is appropriate.</p>	<p>36-i. See General Response M.</p>

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#	Commenter Name, Format, Date	Comment	Response
36	Ben Platt, cont.	<p>36-j. States it is unclear in subsection (b)(4) how and when the Director must “perform an additional Risk Assessment when new information becomes available.” Recommends that proposed regulations be revised to clarify that when fleet is restricted under a management action that the Director perform the additional assessment “immediately” upon new information becoming available, and if it dictates a management change then Director must “expeditiously” lift or modify restrictions. Cites Section 8276.1(c)(6) of the Fish and Game Code and language provided by CDFW in the Notice of Proposed Changes that “any fishery closures are to be minimized in duration and extent, and expeditiously lifted when the risk has been abated.” The text of regulations must be revised to correspond to CDFW’s intent language.</p>	<p>36-j. Including language such as “expeditiously” and “immediately” can create clarity issues under California APA. Subsection (b) of the proposed regulations specifies the process for the Director to evaluate risk between November 1 and June 30 or the close of the Fishing Season. As new information becomes available for potentially lifting or modifying any restrictions, the Director must provide a minimum of 48 hours-notice of anticipated Risk Assessment to Working Group and members of the public who are subscribed to CDFW’s email list. If a different management response is warranted it must be done in a manner that promotes fair and orderly fisheries. Finally, under subsection (f)(2), the Director shall provide a minimum of 72 hour’s notice before implementing any management action to ensure the fair and orderly operation of the fleet. Providing sufficient time to implement management actions that accounts for differences in Fleet capability, ocean conditions, infrastructure constraints, and minimizing impacts to other users or fisheries that could be impacted by actions necessary to reduce entanglement risk is needed to ensure orderly operation. These are the time considerations that will be made prior to any lifting or modifying of prior management action. As stated in the language referenced from the ISOR, CDFW intends to minimize the economic impact of any fishery closure, or other management action, by removing fishing restrictions consistent with the timeframes outlined above.</p>

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#	Commenter Name, Format, Date	Comment	Response
36	Ben Platt, cont.	<p>36-k. Strongly opposes any management actions based upon entanglements with “unknown gear.” Three specific objections: 1. The proposed regulations penalize the fishery with 0.5 of an entanglement even if the California commercial crab gear is eliminated as a source of the entanglement and this is arbitrary and unlawful. 2. States that 50% estimate of unknown interactions as the new gear marking program is implemented will decrease, which will make this arbitrary and inaccurate. Encourages that CDFW improve gear marking regulations to require that crab lines be marked to effectively eliminate commercial gear as a source for all unknown entanglements. 3. The proposed regulations do not allow for the “unknown gear” metric to be adaptable based on best available information. Recommends that proposed regulations be eliminated entirely since all commercial crab gear will soon be identifiable. Recommends that if not eliminated, then they be revised to address these issues.</p>	<p>36-k. See General Response C. Regarding gear marking regulations, CDFW recently implemented standardized marking requirements for state-managed trap fisheries; compliance was required as of May 1, 2020. During scoping for the proposed regulations, staff examined a wide variety of approaches and consulted with fishing gear manufacturers and agency experts, including NMFS staff involved in disentanglement efforts, to select the appropriate type of marking. Based on conversations with NMFS and PSMFC, line marking efforts on the East Coast have not appreciably improved ability to identify fisheries. Washington recently implemented new gear marking requirements and Oregon has not implemented any changes as of this time. The Dungeness Crab Task Force identified gear marking as an important topic for further discussion at future meetings. Changes to other (i.e. not commercial Dungeness crab) fisheries is outside the scope of this rulemaking.</p>

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#	Commenter Name, Format, Date	Comment	Response
36	Ben Platt, cont.	<p>36-I. Impact scoring provides no incentive for fishermen to attempt to release entangled whales alive and uninjured and must be revised to incentivize actions that minimize the effects of entanglements. Recommends that confirmed entanglements with Humpback or Blue Whales that are disentangled and uninjured be scored as zero. This is consistent with implementation of the Marine Mammal Protection Act, in which non-serious injuries do not count against PBR and are valued as zero for purposes of the negligible impact determination. Recommends that if the National Marine Fisheries Service subsequently determines that an entanglement resulted in a non-serious injury, then impact score should be revised to zero.</p>	<p>36-I. As there are federal laws that prohibit public interactions with Actionable Species, CDFW does not advise fishermen to approach or attempt to release entangled marine life. Disentanglement network trainings exist but are outside the scope of this rulemaking. Impact scores may be revised following a disentanglement, subject to final mortality and serious injury determination by NOAA. Regarding comment for Impact Score Calculations of non-serious injuries to be valued as zero, see General Response M.</p>

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#	Commenter Name, Format, Date	Comment	Response
36	Ben Platt, cont.	<p>36-m. Recommends revising the proposed impact score for Blue Whales to align with Humpback Whales and to include a score of zero for non-serious injury entanglements. There is no evidence that each Blue Whale interaction results in mortality and proposed regulation is not based on best available science nor is it consistent with proposed methodology for scoring whale interactions. National Marine Fisheries Service recognizes that not every marine mammal interaction with fishing gear results in a mortality.</p>	<p>36-m. See General Response M.</p>

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#	Commenter Name, Format, Date	Comment	Response
36	Ben Platt, cont.	<p>36-n. Recommends that any Leatherback Sea Turtle interaction that results in the animal being released alive be scored 0.5. CDFW has not identified a single instance in which a Leatherback Sea Turtle entanglement has resulted in a mortality and it is nearly impossible for commercial crab gear to entangle a turtle because they rarely feed where gear is deployed. NMFS standard practice is to apply a mortality estimate based upon the post-hooking mortality criteria and this approach is most consistent with the best available scientific information. Although crab fishing interacts differently than longline gear, it does not follow that all crab gear interactions result in mortalities.</p>	<p>36-n. See General Response M.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
36	Ben Platt, cont.	<p>36-o. States that one in-season interaction with Blue Whales and Pacific Leatherback Sea Turtles not penalize the fishery by closing one or more fishing zones and cites that there is no basis in fact or science for such a result. Recommends that since these species are rare, management triggers should be based solely on a three-year (or longer) running average, which would better account for rare interactions.</p>	<p>36-o. Regarding one in-season entanglement with Blue Whales and Pacific Leatherback Sea Turtles resulting in a management action, see pages 21-22 of the Amended ISOR, which may or may not result in a Fishery Zone(s) closure and will be evaluated on a case by case basis. Regarding a minimum of a Fishery Zone closure, see General Response I2.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
36	Ben Platt, cont.	<p>36-p. Strongly objects to management triggers that would impose closures due to “marine life concentrations” of Leatherback Sea Turtles. States that fishery has limited interactions with Leatherback Sea Turtles and closing based on their mere presence in large open-water areas is not consistent with that record, lacks supporting evidence and is unnecessarily punitive. Cites that this is not a term included in the settlement agreement <i>CBD v. Bonham</i> and no U.S. fishery is managed based upon the presence of ESA-listed sea turtles in a fishing area, but operate within the ranges of ESA-listed sea turtles and are successfully managed. Further states that closing a fishery based on presence will have dire ramifications for many U.S. fisheries and that there is no basis for a fishery that has extremely minimal entanglements with and no demonstrated material impacts on the Pacific Leatherback sea turtle species. Recommends that this overly precautionary provision be removed.</p>	<p>36-p. The proposed regulations in subsections (c)(2)(A)(4)(c) and (c)(2)(B)(2)(c) do not preclude another management action besides a closure from being implemented due to the presence of one Pacific Leatherback Sea Turtle, if that management action protects the sea turtles, see pages 26-28 of the Amended ISOR. The term “minimum of a” was removed from the revised proposed regulations to reduce confusion, see General Response I2.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
36	Ben Platt, cont.	<p>36-q. Recommends that numerical thresholds for marine life concentration triggers align with the settlement agreement <i>CBD v. Bonham</i> that refers to marine life concentration triggers for observations of 20 or more ESA-listed whales or 5 or more ESA-listed whales over a one-week period and that these apply equally to Humpback and Blue Whales. States there is no basis for marine life concentration triggers less than these amounts by Fishing Zone.</p>	<p>36-q. The Marine Life Concentration triggers for Blue Whales are based on a more precautionary approach given their protected status and the rarity of occurrence in the Fishing Grounds as they tend to be found foraging in deeper waters on the continental shelf. Using the same Marine Life Concentration triggers as for Humpback Whales is inappropriate since these two species normally occupy different depth distributions, with Humpback Whales being more frequently found in the Fishing Grounds. Therefore, similar presence of Blue Whales indicates anomalous conditions and a lower threshold for management response is appropriate.</p>
36	Ben Platt, cont.	<p>36-r. States that consequence of exceedances of marine life concentration thresholds do not make sense for the Fall period because these scenarios occur during a time before the “the Fishing Season opens statewide.”</p>	<p>36-r. CDFW addressed this comment in the revised proposed regulations; see pages 25-26 of the Amended ISOR for further discussion.</p>
36	Ben Platt, cont.	<p>36-s. Recommends that a comma be inserted between “over a one-week period” and “within a single Fishing Zone” to make clear proposed Marine Life Concentration triggers for Humpback Whales and Blue Whales during the fall apply within a single Fishing Zone.</p>	<p>36-s. CDFW addressed this comment in the revised proposed regulations; see pages 25-26 of the Amended ISOR for further discussion.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
36	Ben Platt, cont.	36-t. Recommends that revising language under the Spring period specify that “data are unavailable” by Fishing Zone similar to what is stated under the Fall period.	36-t. CDFW addressed this comment in the revised proposed regulations; see page 27 of the Amended ISOR for further discussion.
36	Ben Platt, cont.	36-u. Recommends revising language under the Spring period for Humpback Whales that a “running average” applies “over a one-week period” and inserting a comma between “one week period” and “within a single Fishing Zone” to clarify that both triggers apply to a single Fishing Zone.	36-u. As explained on pages 27-28 of the Amended ISOR, CDFW intends to implement as described over a one-week period.

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
36	Ben Platt, cont.	<p>36-v. States the proposed regulations “minimum” fishing zone closures are unsupported and arbitrary and effectively eliminates all other management actions listed in subsection (e) rendering them meaningless since the most extreme management action, a closure, is mandated as a “minimum.” States that this undermines CDFW statements made in the ISOR of “flexibility in the choice of a management response is necessary to ensure the Director can consider all timely and relevant information in formulating the most appropriate management response” and “is not proposing an automatic closure” for either Blue Whale or Leatherback Sea Turtle interactions. Recommends that “minimum” language be removed for all species to read: “the Director shall implement, as appropriate, a management action described in subsection (e).” This will allow flexibility to implement another management action, consistent with CDFW’s stated intent.</p>	<p>36-v. See General Response I2.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
36	Ben Platt, cont.	<p>36-w. States that informed decision-making and resulting management measures should be based on best available scientific information. States that proposed regulations should provide for a clear “ramp-up” of management actions that begin with non-closure management measures that may progress to fishing zone closures. States that flexibility is essential for compliance and consistent with existing statute, citing Section 7056(g) of the Fish and Game Code.</p>	<p>36-w. Multiple places in the proposed regulation reference the need for decisions to be made based on best available science, including many references under subsection (c) as well as subsection (d). CDFW’s goal in all instances is to manage resources adaptively based on best available scientific information.</p> <p>The commenter’s recommendation to provide for a “ramp-up” of management actions is consistent with the proposed regulations. The Director has the option to apply management measures from issuing a Fleet Advisory to closures that can be applied in a “ramp-up” fashion if conditions warrant. Proscribing specific management options would limit the flexibility of the Working Group to recommend management measures and the Director to implement measures that are appropriate for a given situation. As noted here as well as in Specific Comment 36-a, 36-d, and 36-v, flexibility is an important element of successful implementation of the RAMP and management of the fishery.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
36	Ben Platt, cont.	<p>36-x. Strongly opposes any statewide closures and recommends that all statewide closure provisions be eliminated from the proposed regulations. These are not contemplated by the settlement agreement <i>CBD v. Bonham</i>. States that should an extreme and unanticipated event occur then CDFW could consider closing more than one fishing zone as appropriate. States that the sentence mandating the statewide closure is unhelpfully ambiguous. Recommends that if CDFW retains the provision for Humpback Whales, although opposed, the provision should be revised as follows: “If an impact score Calculation of three (3) or more is reached <u>during a single Fishing Season</u>, the Director will close the remainder of the Fishing Season statewide.”</p>	<p>36-x. In response to public comments, CDFW has eliminated mandatory statewide closure due to lack of data under (c)(2)(B)(1). However, statewide closure is still in place in the event of high level of Humpback Whale take due to concern over exceeding a negligible impact threshold; see Specific Response 35-ii.</p> <p>Subsection (c)(1)(B) is framed specifically as actions taken during a given Fishing Season, whereas subsection (c)(1)(3) describes actions taken during a calendar year based on attainment of multi-year triggers. Therefore, CDFW views the exiting language as sufficient to specify that the statewide closure would only be implemented if the Impact Score Calculation reaches 3 or more during a single Fishing Season and the additional language suggested by the comment as unnecessary.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
36	Ben Platt, cont.	<p>36-y. States that CDFW justifies the closure for Humpback Whales to “prevent further entanglements and avoid violating terms of the ITP.” States that an ITP will not exist for several years and suggests that NMFS has instructed CDFW as to what take levels are or are not appropriate under Section 10 of the ESA and are pre-decisional and unlawful until full Section 10 process, including public involvement, is completed.</p>	<p>36-y. In the course of this rulemaking, CDFW has diligently reached out to a broad and diverse group of stakeholders to receive input, including sister agencies, the commercial Dungeness crab fleet, environmental organizations, and other interested parties. CDFW has been working closely with NOAA to develop RAMP and the draft Conservation Plan as it pursues applying for ITP. CDFW must respect NOAA’s role as the subject matter experts of the science regarding endangered whales and sea turtles, and make the best decision based on recommendations from NOAA staff. CDFW is free to seek guidance from NOAA which does not constitute, nor is it interpreted as, a formal NOAA-position or recommendation. In addition, Section 8276.1 of the Fish and Game Code mandates that CDFW takes action to minimize marine life entanglement, regardless of NOAA take authorization.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
36	Ben Platt, cont.	<p>36-z. States that the calendar year provisions create the very unacceptable prospect of the fishery being subject to closures for consecutive seasons, which would decimate fishery. States there is no benefit gained from including both single-season triggers and three-year averaging provisions. Recommends that if proposed regulations retain calendar year triggers then it should significantly reduce the number of and to eventually phase out the in-season triggers. Additionally, recommends that if they are retained (1) any management actions based on calendar year trigger terminate at the end of the fishing season and (2) the triggers are recalculated and reevaluated each month.</p> <p>States that this will prevent consecutive, long-running closures.</p>	<p>36-z. The three-year triggers are necessary to account for entanglements occurring or detected outside of the Fishing Season. In addition, the triggers serve to smooth impacts to the fishery without compromising the level of protection for the Actionable Species. The in-season triggers serve a slightly different purpose of minimizing entanglements at first available opportunity, when fishing is still ongoing and immediate entanglement risk can be quickly mitigated.</p> <p>The proposed regulations do not stipulate that the fishery be closed for consecutive seasons. If the 3-year average is exceeded, CDFW will confer with NOAA and the Working Group to determine an appropriate management response which may include, but does not automatically mandate, a multi-season closure.</p> <p>In response to public comment, CDFW amended the proposed regulations to require the Director’s declaration include a section outlining the duration of a management action. The duration of any management action will depend on the specific situation, but CDFW anticipates that an action put in place in the spring would be reevaluated in the fall before the start of the next fishing season (if not sooner) based on the data available at that time.</p> <p>Recalculation of triggers on a monthly basis is unnecessary because of the potential frequency of entanglement. Recalculation would also ignore the cumulative effects of entanglements. CDFW will update Impact Score Calculation at the time of a Confirmed Entanglement or when updated information is available from NOAA.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
36	Ben Platt, cont.	<p>36-aa. Although questions purpose of the three-year trigger, agrees with the consequence, which provides appropriate flexibility: “the Director shall consult with NOAA and the Working Group. After consultation, the Director shall consider a management action(s) described in subsection (e).”</p>	<p>36-aa. Comment noted.</p>
36	Ben Platt, cont.	<p>36-bb. Proposed regulations penalize fishery for agency failures to collect data by allowing CDFW to delay the season until December 31 if data are unavailable to inform management. This is arbitrary, overly precautionary, unsupported by evidence, and unnecessary given other measures in place to safeguard against unacceptable incidental take levels.</p>	<p>36-bb. See General Response D.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
36	Ben Platt, cont.	<p>36-cc. CDFW must be more diligent in collecting necessary information, and is required by law (Section 7060 of the Fish and Game Code) to do so. CDFW failed to take advantage of a 2-week window to conduct survey during the 2019-2020 season. Existing statutes under the Marine Life Management Act require CDFW to collect and otherwise support the collection of essential fishery information in collaboration with the fishery to the maximum extent practicable. CDFW should partner with industry to ensure data collection is fully integrated into the Risk Assessment process and ensure there is never “unavailable” data.</p>	<p>36-cc. Regarding data collection efforts during the 2019-20 season, see Specific Response 35-c. To the extent it was safe and feasible, CDFW took all opportunities to collect information necessary to inform entanglement risk and reasonable management response. However, CDFW cannot control weather conditions, nor impacts from public health emergencies such as COVID-19, which limited aerial survey opportunities.</p> <p>Consistent with Section 7060(c) of the Fish and Game Code, proposed subsection (c)(2) creates opportunity for other entities to undertake surveys, so long as they are CDFW or NOAA approved and otherwise meet the requirements of that subsection. CDFW welcomes industry participation in conducting approved surveys to inform the evaluation of risk relative to the marine life concentrations triggers in subsection (c), and can provide input to CCCA on survey design to ensure aerial or vessel surveys undertaken by CCCA meet the requirements of subsection (c)(2).</p> <p>CDFW is dedicated to supporting a thriving commercial Dungeness crab fishery and will make every effort to ensure data is available to inform implementation of the proposed regulation.</p>
36	Ben Platt, cont.	<p>36-dd. In situations where data is unavailable, only non-closure management measures should be considered if absolutely necessary, and management measures should be effective for 7 days rather than 15 days. CDFW must react quickly when data becomes available.</p>	<p>36-dd. See General Response D.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
36	Ben Platt, cont.	<p>36-ee. Agree fishery management decisions should be based on best available science and relevant, non-speculative information. Term “statistically valid” is unclear and should be removed or revised to eliminate ambiguity.</p>	<p>36-ee. CDFW addressed this comment in the revised proposed regulations; see page 29 of the Amended ISOR for further discussion.</p>
36	Ben Platt, cont.	<p>36-ff. Management considerations should include economic impact for all actions, not just those which equivalently reduce entanglement risk. When closing a Fishing Zone, the Marine Life Management Act requires that CDFW must evaluate impact to vessels that fish in that zone.</p>	<p>36-ff. Regarding considering economic impact for all actions, see Specific Response 35-xx. The intent of subsection (d) is to allow for consideration of economic impacts to both the fleet and fishing communities, which would include vessels that fish in a Fishing Zone where a closure is being considered. CDFW is dedicated to supporting a thriving commercial Dungeness crab fishery.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
36	Ben Platt, cont.	<p>36-gg. Regulations must require the Director explain rationale for management actions which aren't consistent with majority recommendations of the Working Group. Regulations correctly place special emphasis on role of the Working Group in informing Director's determinations, but Working Group input is meaningless if Director can ignore their recommendation without providing evidence-supported explanation. Fishery members will reconsider value of participation without this change.</p>	<p>36-gg. See General Response G.</p>
36	Ben Platt, cont.	<p>36-hh. Mandatory reporting requirements require submission of otherwise confidential and proprietary information to CDFW. Regulations must include provisions similar to those in the federal Magnuson-Stevens Fishery Conservation and Management Act to preserve confidentiality of this data, and that data cannot be disclosed in response to public records requests under either federal or state law.</p>	<p>36-hh. See General Response F3.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
36	Ben Platt, cont.	<p>36-ii. One-minute frequency of electronic monitoring location reporting is too high. Regulations should use a similar rate to the 15-minute interval in federally managed West Coast Groundfish fisheries.</p>	<p>36-ii. See General Response F2.</p>
36	Ben Platt, cont.	<p>36-jj. Development of effective and practical alternative gear and fishing practices is important for minimizing incidental take of protected species. Regulations should require the Director to make a decision within 60 days of receiving a request, with a default approval if no action is taken. CDFW needs to demonstrate it is committed to eliminating bureaucracy and red tape.</p>	<p>36-jj. CDFW has established a 60-day review period to decline written requests for Alternative Gear authorization if the proposed gear does not meet criteria set forth in subsection (h)(1)(B). Authorizations will therefore be approved or declined within 60-days by CDFW.</p>
36	Ben Platt, cont.	<p>36-kk. Final regulations should allow for easy implementation of gear modifications such as long-lining and yale grips. If research trials are required, requirements should be flexible and non-burdensome.</p>	<p>36-kk. CDFW notes yale grips are allowed under current regulation and statute, with no need for authorization under this section. CDFW is committed to supporting other gear modifications either through authorization pursuant to proposed subsection (h) of the proposed regulations, or other avenues for testing new gear types when appropriate.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
36	Ben Platt, cont.	<p>36-II. Strongly disagrees with ISOR conclusion that the proposed action will not have significant statewide adverse economic impact and agrees with the comments provided by Department of Finance on April 3, 2020. CDFW’s responses to the DOF comments are insufficient.</p>	<p>36-II. CDFW acknowledges the success of its rulemaking process, which invited, received, and considered information and modifications to its initial assessment. This occurred in a variety of areas, including changes to the rulemaking text itself as well as to the evaluation of economic impacts. CDFW is pleased and grateful for the extensive engagement of stakeholders, including the commenter, throughout this process . CDFW’s conclusion regarding statewide economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, was based on the development of similar mitigation programs in other west coast states with commercial Dungeness crab fisheries (see Specific Response 36-mm.). The proposed RAMP regulation was determined to be a major regulation because of potential management action scenarios that could result in exceedances of the economic impact threshold of \$50 million. These impacts were further analyzed in the SRIA that accompanied these noticed regulations. It is unknown how each season will ultimately be impacted by the proposed regulations, but likely scenarios could result in impacts far less than \$50 million as stated in CDFW’s response to the Department of Finance’s April 3 comments, contained in the SRIA Supplement. Department of Finance provided additional comments via email on June 4, 2020, and CDFW responded to those comments in the Amended Addendum to the STD 399 (see https://wildlife.ca.gov/Notices/Regulations/RAMP for all relevant documents).</p>
36	Ben Platt, cont.	<p>36-mm. Disagrees with statements that Oregon and Washington are developing or have similar mitigation programs in effect. Measures in these states are not comparable to the draconian triggers and actions in the proposed regulations. Proposed regulations will therefore cause competitive disadvantages for the California fleet.</p>	<p>36-mm. As discussed on page 2 of the Amended Addendum to the STD 399, the RAMP is expected to be much more adaptive than efforts in Washington and Oregon. Because California is taking a more tailored approach to risk assessment, and has more options in management response, it is not expected to impact the ability of California businesses to compete with other states.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
37	<p>Michael Cunningham, Email dated 6/29/2020</p>	<p>37-a. Proposed regulations and ISOR do not provide sufficient rationale for proposed statewide spring fishery closure if current data are not available. Director could rely on data collected thus far during the season, and historical information, to inform management while additional data is collected. Closures based solely on the lack of short-term data are an overreaction. Furthermore, any closures should be at the scale of the proposed Fishing Zones, rather than statewide. Suggests the sections be rewritten to allow the season to remain open until more timely data becomes available.</p>	<p>37-a. See General Response D.</p>

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#	Commenter Name, Format, Date	Comment	Response
38	<p>Kathi George, California Dungeness Crab Fishing Gear Working Group and The Marine Mammal Center</p> <p>Email dated 6/29/2020</p>	<p>38-a. As written, proposed RAMP regulations will disincentivize reporting of entanglements, with the following unintended consequences: (1) Fewer, or no, entangled whales reported by fishermen who have traditionally been active reporting and response partners; (2) Non-permitted mariners deciding to conduct disentanglement efforts, which poses risks to both themselves and the entangled animal; (3) Decreased documentation of entanglements and responses, limiting available data which would improve understanding of entanglements and inform mitigation efforts.</p>	<p>38-a. CDFW strongly values the collaborative efforts of the West Coast entanglement response network, including the role of fishermen and other on-the-water individuals in reporting entanglements. Prompt, detailed reporting increases the ability of the response network to mount an effective response, document trends in total entanglements, and conduct forensic analysis regarding the circumstances of each entanglement which informs future mitigation and minimization efforts. CDFW acknowledges that there is a possibility of negative incentives for reporting and attempts to conduct unauthorized disentanglements rather than notifying the response network.</p> <p>The Best Practices Guide produced by the Working Group prior to each Fishing Season has encouraged fishermen to report entanglements and allow trained personnel to handle the complex and dangerous work of entanglement response, and CDFW will emphasize the value of such actions in complementary outreach efforts.</p> <p>CDFW will remain engaged with the response network and monitor need for additional communications and potential modifications to these proposed regulations to address emergent gaps.</p>
38	<p>Kathi George, cont.</p>	<p>38-b. CDFW and NMFS should expedite review, evaluation, and scoring of entanglements during and outside the season to allow for reduced Impact Score values for whales which are disentangled with non-serious injuries.</p>	<p>38-b. See General Response J.</p>
38	<p>Kathi George, cont.</p>	<p>38-c. Strengthen gear marking requirements in all trap fisheries and add line marking.</p>	<p>38-c. See Specific Response 36-k.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
38	Kathi George, cont.	38-d. Utilize best available science to inform decision-making and assessment of risk.	38-d. The proposed regulations explicitly reference and require use of best available science, for example multiple references in subsections (c) and (d).
38	Kathi George, cont.	38-e. Amend subsection (c)(1)(B)(1) to specify that if an Impact Score Calculation of 3 or more is reached during the fishing season Director may, rather than will, close the remainder of the fishing season.	38-e. See General Response I1.
38	Kathi George, cont.	38-f. Amend subsection (c)(1)(C)(1) regarding actions taken during a calendar year.	38-f. Comment references a threshold Impact Score Calculation of 3 for Humpback Whales during a calendar year, however proposed regulations specify actions will be taken if the average annual Impact Score Calculation exceeds 2. Rationale for this value is provided on page 21 of the Amended ISOR.
38	Kathi George, cont.	38-g. Amend subsection (c)(2) to include a documented process and frequency to add new sources of data for approval by NOAA or CDFW.	38-g. It would be improper for CDFW to specify an approval process for a federal agency. As described on pages 23-24 of the Amended ISOR, the acceptable data described in subsection (c)(2) were chosen to ensure consistent data collection protocol as well as accurate information is provided to inform Marine Life Concentrations. New data streams will be incorporated as they become available and utilized to inform Marine Life Concentrations. Each of those data streams will be evaluated based on methodology and CDFW needs flexibility to evaluate each on a case by case basis. Given the uncertainty of new data availability, it is not possible to specify a frequency of incorporation. It should also be noted that all relevant information may be considered under the proposed regulation when appropriate if it falls within the Management Consideration categories outlined in subsection (d).

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
38	Kathi George, cont.	38-h. Amend subsection (c)(2)(B) to specify that if data is unavailable to inform a risk assessment, fishery will remain open until data is available to inform otherwise.	38-h. See General Response D.
38	Kathi George, cont.	38-i. Move southern boundary of Fishing Zone 5 to Point Conception and create a new zone between Point Conception and the Mexican border.	38-i. See General Response B2-B3.
38	Kathi George, cont.	38-j. Reduce size of Zone 6 so that a smaller area would be closed if Pacific Leatherback Sea Turtles are present.	38-j. See General Response B4.
38	Kathi George, cont.	38-k. Reduce seaward extent of the Fishing Zones to the distance covered by aerial surveys rather than 200 nautical miles.	38-k. See General Response B5.
39	Kate Kauer, The Nature Conservancy Email dated 6/29/2020	39-a. Current RAMP regulation does not provide a framework for how the Director will assess the effectiveness of management actions.	39-a. Instead of developing a substantive standard, CDFW elected to focus on the review process itself, and tackle the substantive decision-making collaboratively with stakeholders on a case-by-case basis. The proposed regulations do not directly embody the adaptive management framework, but they are drafted in a way to accommodate one. See also General Response N2.

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
39	Kate Kauer, cont.	39-b. Amend subsection (e) to provide a more prescriptive decision-making process for evaluating management measures, to be updated at least once every three years (in consultation with the Working Group).	39-b. See Specific Response 39-a and General Response N2. Under the proposed regulations, reviews and potential updates will likely occur more quickly than once every three years.
39	Kate Kauer, cont.	39-c. CDFW should evaluate the effectiveness of alternative management measures regularly to inform objective decision-making.	39-c. The proposed regulations will allow review by CDFW and stakeholders each time an actionable threshold is triggered.
39	Kate Kauer, cont.	39-d. More specificity is needed in subsection (d) to clarify how the Director will make decision on whether an alternative measure sufficiently protects Actionable Species.	39-d. See Specific Response 39-a.
39	Kate Kauer, cont.	39-e. CDFW should evaluate the adaptive management approaches from other fishery managers such as the Western and Central Pacific Fisheries Commission and the Inter-American Tropical Tuna Commission.	39-e. CDFW is cognizant of different approaches taken by other fishery managers, but does not believe they are appropriate to incorporate within the requirements for state regulatory efforts. See also General Response N2 for RAMP’s approach to adaptive management.
39	Kate Kauer, cont.	39-f. CDFW should consult the Working Group in evaluating and refining management measures.	39-f. See General Response N2. CDFW agrees the continued involvement of the Working Group is critical in developing an effective, equitable, and sustainable management framework and will consult the Working Group as necessary.

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
39	Kate Kauer, cont.	39-g. Expected frequency of regulatory change and cost should be part of the SRIA.	39-g. The SRIA is required to address the costs in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented (as estimated by the agency) (1 California Code of Regulations 2000, (g)). Future regulatory changes are not foreseen within the immediate 12-month period following implementation, and would be analyzed for economics separate from the current regulatory proposal.
39	Kate Kauer, cont.	39-h. Inflexible regulations will require frequent regulatory change, which can be cost-prohibitive. Furthermore, if RAMP is described in-detail in the CP, any RAMP amendment will necessarily lead to CP amendment.	39-h. The proposed regulations are expected to be flexible enough to respond to a range of scenarios on a case-by-case basis. The drafting of the Conservation Plan is outside the scope of this rulemaking, but CDFW encourages all stakeholders to engage with its development in the coming months. The three-year review cycle that is anticipated for the ITP and Conservation Plan are designed to evaluate developing science, results to date, changes in protected species, allowing necessary changes to be incorporated into the Conservation Plan and supporting regulations (RAMP).
39	Kate Kauer, cont.	39-i. Working Group members should have at least a 48-hour minimum notice before convening, especially considering the fact that fishing community members may not be able to drop their ongoing work immediately	39-i. CDFW addressed this comment in the revised proposed regulations; see pages 14-15 of the Amended ISOR for further discussion.
39	Kate Kauer, cont.	39-j. Regulation should guarantee that Working Group members have every publicly available data under CDFW’s consideration.	39-j. CDFW addressed this comment in the revised proposed regulations; see page 15 of the Amended ISOR for further discussion.

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
39	Kate Kauer, cont.	39-k. RAMP should specify the time period between convening the Working Group and when the Director issues a management decision.	39-k. Due to the dynamic nature of marine life entanglement, CDFW does not wish to restrict the Director’s ability to implement decisions as quickly as possible. However, the Director is required to give 48 hours notice of a Risk Assessment to the Working Group under subsection (b)(2). CDFW anticipates there will be open communication with the Working Group and other stakeholders regarding expected timeframes for a decision on management action. Additionally, prior to implementation of any management action the fleet will be given a minimum of 72-hours notice.
39	Kate Kauer, cont.	39-l. The Director should provide a clear rationale in instances when their action deviates from the Working Group’s recommendation. This will ensure accountability on the part of CDFW.	39-l. See General Response G.
39	Kate Kauer, cont.	39-m. Subsection (c)(2) should be clear on whether surveys will be conducted over fishing zones or fishing grounds.	39-m. CDFW addressed this comment in the revised proposed regulations; see page 24 of the Amended ISOR for further discussion.
39	Kate Kauer, cont.	39-n. There is no approved objective criteria or survey design within the Working Group’s Risk Assessment Framework for aerial survey data.	39-n. Due to the unpredictability of increment weather, CDFW has elected to approach the consideration of aerial survey on a case-by-case basis. However, CDFW amended subsection (c)(2) in response to public comment to provide additional parameters around surveys. Any aerial survey that meets all the requirements outlined in subsection (c)(2) will be acceptable to inform Marine Life concentration.

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
39	Kate Kauer, cont.	<p>39-o. There is lack of scientific justification over the Marine Life concentration triggers and the related aerial survey design. Zone 5, in particular, encompasses two distinct areas where Actionable Species forage. It might be more reasonable to split the area into two.</p>	<p>39-o. See pages 8-12 and 23-24 of the Amended ISOR and General Responses B1 and B2. CDFW has amended the Fishing Zones in response to public comment.</p>
39	Kate Kauer, cont.	<p>39-p. Lack of survey data should not automatically lead to management response under Marine Life Concentration trigger. Instead data from adjacent zones, historical data, and alternative data source should be considered.</p>	<p>39-p. See General Response D.</p>
39	Kate Kauer, cont.	<p>39-q. Data on fishing dynamics is included as consideration under subsection (d), but there is a lack of clarity on how such data will be assessed and used to inform management decisions.</p>	<p>39-q. Pages 31-32 of the Amended ISOR discuss how the fishing dynamics will be considered under subsection (d).</p>

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#	Commenter Name, Format, Date	Comment	Response
39	Kate Kauer, cont.	39-r. RAMP as currently written could lead to data being collected in different formats, resulting in inefficiencies in data processing and use. CDFW should work with the Working Group and the Dungeness Crab Task Force to ensure data uniformity.	39-r. CDFW agrees and to the extent possible will work closely with its partners, including the Working Group, to ensure uniform data collection and processing.
39	Kate Kauer, cont.	39-s. CDFW should consider and potentially adopt existing electronic monitoring framework developed by the federal government and the Pacific States Marine Fisheries Commission.	39-s. See General Response F2.
40	Colleen Weiler, Whale and Dolphin Conservation Email dated 6/29/2020	40-a. WDC is alarmed by the sharp increase in reported entanglements off the West Coast beginning in 2014, and agree additional management actions are needed to provide protections for at-risk marine species and ensure longevity of the Dungeness crab fishery.	40-a. See General Response A3.
40	Colleen Weiler, cont.	40-b. Expresses general support for the proposed regulations and appreciation for the work by CDFW and the Working Group to develop adaptive mitigation measures to reduce entanglements.	40-b. See General Response A1.

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#	Commenter Name, Format, Date	Comment	Response
40	Colleen Weiler, cont.	<p>40-c. Regulations and ISOR should outline the specific process by which fishing gear involved in entanglements will be attributed to a specific fishery, including which entities or agencies will be responsible for identifying the gear and what metrics will be used to classify gear to a fishery or non-fishery source. CDFW should clarify how gear that cannot be confirmed to a source, and gear confirmed as commercial Dungeness crab but where the state is unknown, will be classified and considered in Impact Score Calculations.</p>	<p>40-c. CDFW addressed this comment in the revised proposed regulations; see pages 6-7 of the Amended ISOR for further discussion. To further clarify, in the event of a Confirmed Entanglement with commercial Dungeness crab gear but where the state is unknown, it would be considered Unknown Fishing Gear and would receive the corresponding impact score. The Director would apply a management response informed by considerations under subsection (d) and based on all available information from NOAA related to the entanglement.</p>
40	Colleen Weiler, cont.	<p>40-d. ISOR and regulations are inconsistent with regards to whether proposed Impact Score Calculation values are limited to California commercial Dungeness crab gear or include all commercial Dungeness crab gear. CDFW should also clarify how Confirmed Entanglements in Commercial Dungeness crab gear from other states or provinces that is observed and reported in California waters will be scored.</p>	<p>40-d. CDFW addressed this comment in the revised proposed regulations; see pages 12-13 of the Amended ISOR for further discussion.</p>

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#	Commenter Name, Format, Date	Comment	Response
40	Colleen Weiler, cont.	<p>40-e. Disentanglements should not be considered a management measure that reduces the risk or impact of entanglements. Disentanglements do not guarantee a whale will survive or return to full health, and ultimate outcomes may not be known due to a lack of re-sight data. Regulations should specify that it “may” be appropriate to use a lower Impact Score Calculation for disentangled animals, rather than stating they will be given a lower Impact Score.</p>	<p>40-e. CDFW addressed this comment in the revised proposed regulations; see pages 6-7 of the Amended ISOR for further discussion.</p>
40	Colleen Weiler, cont.	<p>40-f. ISOR explains why PBR is not directly used in entanglement triggers, but does reference PBR-derived negligible impact standard as rationale for setting the multi-year Humpback whale triggers. However, proposed value (2 whales) exceeds 10% of PBR (1.67 whales). CDFW should clarify why trigger is set at greater than 2 rather than at two, or at 1.67. When this trigger is reached, regulations should require action rather than providing discretion following consultation with NMFS.</p>	<p>40-f. See General Response M. Additionally, when a trigger is reached, the Director after consultation with NOAA shall apply a management action as described on page 22 of the Amended ISOR.</p>

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#	Commenter Name, Format, Date	Comment	Response
40	Colleen Weiler, cont.	<p>40-g. CDFW should reconsider use of opportunistic sightings data in assessing Marine Life Concentrations and distribution of humpback and Blue Whales in California waters. CDFW could develop a process for reviewing and confirming these reports, similar to that described for confirming entanglements.</p>	<p>40-g. The proposed regulations would provide the flexibility for the Director to consider these data as part of management considerations under subsection (d) once thresholds have been triggered; this would include consideration of any recommendation from the Working Group that might incorporate such data. However, as described on pages 53-54 of the Amended ISOR, CDFW considered and rejected the explicit incorporation of opportunistic sightings data in the proposed regulations.</p>
40	Colleen Weiler, cont.	<p>40-h. ISOR is unclear as to how the Director will determine equivalency of actions to reduce entanglement risk when assessing management measures. Proposed regulations should provide more detail on the process of evaluating different management actions to achieve the same risk reduction as closing the fishery in a zone or statewide.</p>	<p>40-h. See General Response N1. Because the effectiveness of a given management measure can change throughout the Fishing Season, the Director will make a determination on a case-by-case basis after considering the recommendation from the Working Group, any information provided from NOAA, and other management considerations outlined in subsection (d).</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
40	Colleen Weiler, cont.	40-i. CDFW should provide more information on how economic impacts will be considered when assessing management measures, what will be considered as part of the fishing community, and any thresholds for economic impact that would alter implementation of management actions.	40-i. See Specific Response 40-h regarding case-by-case action. The fishing community is comprised of fishing vessel owners, operators, and crew, along with fish processors and businesses that provide other goods and services for fishing operations. Economic impacts to individuals and small businesses for all scenarios were analyzed and disclosed in the STD399 and Addendum, as well as the SRIA analysis, with the predicted most likely scenario of 2a (no season delay but potential early closure May 1). CDFW does not anticipate substantial impacts on the creation of new businesses or the elimination of existing businesses because any fishery closures could be limited to a Fishing Zone, and would be minimized in duration, and expeditiously lifted when the risk has abated. The triggers for action do not include specific thresholds for economic impact, however minimizing that impact to fishing communities may be weighed under subsection (d)(4) as part of the Director’s decision-making on a case-by-case basis.
40	Colleen Weiler, cont.	40-j. Supports use of Alternative Gear, and should be allowed at any time during the commercial Dungeness crab season.	40-j. See General Response A7.
40	Colleen Weiler, cont.	40-k. CDFW should revise ISOR to provide more detail and clarity regarding the specifics of the proposed RAMP regulations and amend the proposed regulatory text to reflect these. California’s leadership is appreciated, and actions should provide as much detail as possible to guide other state’s development of similar measures.	40-k. CDFW made numerous revisions to the Amended ISOR and proposed regulatory text to address comments received during the initial 45-day comment period, including increased clarity and specificity.

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#	Commenter Name, Format, Date	Comment	Response
41	Lori Steele, West Coast Seafood Processors Association Email dated 6/29/2020	41-a. Generally supports California Coastal Crab Association (CCCA) comments provided at public hearing and in writing to CDFW. Urges CDFW to consider CCCA points to adjust proposed regulations before finalizing.	41-a. See Specific Response 36.
41	Lori Steele, cont.	41-b. Recommend that actionable species identify only those species or distinct population segments that are federally identified under the Endangered Species Act to lessen likelihood of inadvertent rules that would hinder successful crab harvests. Definitions that are overly broad could result in needless proscriptive management changes to the Dungeness crab fishery.	41-b. See General Response H.

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#	Commenter Name, Format, Date	Comment	Response
41	Lori Steele, cont.	<p>41-c. Recommends section on unknown gear entanglement be further considered so that the Dungeness crab fishery is not held accountable for entanglements specifically identified as not caused by California crab gear or that is unknown or unidentifiable. All three West Coast states are working on reducing whale entanglements while some discussions include making crab gear more easily identifiable by state and fishery to determine origin of entanglement. Penalizing the industry for something not attributable to their fishing effort is patently unfair.</p>	<p>41-c. See General Response C.</p>

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#	Commenter Name, Format, Date	Comment	Response
41	Lori Steele, cont.	<p>41-d. Shares concern that the Working Group’s recommendations are dismissed in favor of CDFW’s independent staff assessment. Recommends that Working Group recommendations be fully considered while negating them erodes industry’s confidence in the management process and CDFW. Recommends that CDFW’s analysis be made available to the Working Group for inclusion in its deliberations prior to making its recommendations since in the past this information has supported actions contrary to Working Group’s recommendations.</p>	<p>41-d. See General Response G.</p>
42	<p>Andrea Treece, Earthjustice on behalf of 4 organizations Email Dated 6/29/2020</p>	<p>42-a. Regulations do not include clear, objective criteria for determining management measures. Urges CDFW to provide greater clarity and certainty that management will consistently minimize entanglement risk by ensuring clear criteria are in place.</p>	<p>42-a. See General Response N1.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
42	Andrea Treece, cont.	<p>42-b. Subsection (b)(3) implies that the Director may only consider the most recently dated Working Group recommendation and no other information. Suggests amendment so that the language explicitly allows consideration of other comments.</p>	<p>42-b. Subsection (b)(3) specifically identifies the most recently dated Working Group recommendation as part of the Director’s risk assessment process in recognition of the unique role the Working Group will continue to play under the RAMP as codified by the proposed regulations. However, in response to public comment (see page 29 of the Amended ISOR) CDFW amended subsection (d)(1) to specify that best available science made available to CDFW regarding the management considerations in subsection (d) will be considered when the Director determines appropriate management action. This allows CDFW to consider additional information provided by members of the public.</p>
42	Andrea Treece, cont.	<p>42-c. Believes that the Working Group will no longer be assessing entanglement risks and provides changes to section (b)(3) based on that understanding.</p>	<p>42-c. CDFW addressed this comment in the revised proposed regulations; see pages 13, 15 and 29 of the Amended ISOR for further discussion. Entanglement risk will be determined by CDFW under subsection (c). The Working Group is expected to evaluate the scope and severity of risk, as an element of its evaluation of appropriate management recommendation to the Director, pursuant to subsection (d).</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
42	Andrea Treece, cont.	<p>42-d. Prorating confirmed Humpback Whale entanglement to 0.7 is not precautionary and ignores the reality that there are more entanglements than confirmed. The underlying rationale that 30% of all entanglements will be successfully disentangled ignores the sublethal effect of an entanglement, even when there is successful release. Furthermore, for each whale observed entangled, there are more unobserved, and these will not benefit from potential disentanglement. Urges that the impact score should not be discounted for humpback entanglements that do not result in known mortality and that the impact score remains 1 (regardless of immediate mortality) just as it is 1 for Pacific Leatherback Sea Turtles and Blue Whales.</p>	<p>42-d. See General Response M.</p>
42	Andrea Treece, cont.	<p>42-e. CDFW should provide the baseline criteria for approving each new aerial survey method because neither NOAA nor CDFW provided a consistent methodology/survey design.</p>	<p>42-e. CDFW addressed this comment in the revised proposed regulations; see page 24 of the Amended ISOR for further discussion.</p> <p>CDFW intends to work collaboratively with NOAA to develop more detailed guidance regarding these surveys and continue to build baseline criteria as survey capability is developed. Methodology will be considered on a case-by-case basis based on available resources and funding and should not be constrained by proposed regulation as long as they meet standard survey techniques.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
42	Andrea Treece, cont.	42-f. CDFW should standardize aerial survey with the spatial extent of each survey, or alternatively establish a minimum survey length. These numbers should be specified in regulations and backed by historical data.	42-f. During the scoping process for this regulation, CDFW considered specifying spatial extent or a minimum linear distance which surveys must cover in order to be considered under this section. Due to the differences in geographic extent and bathymetry between Fishing Zones, the importance of available data for informing risk assessments and management actions, and the expectation that what constitutes best available science may change over time. CDFW amended subsection (c)(2) to include additional standards for surveys under this section. CDFW has established performance standards for these surveys as opposed to the prescriptive standards requested by the commenter.
42	Andrea Treece, cont.	42-g. CDFW should clarify each survey meet the following criteria: 1) minimum distance; 2) spatial extent that includes full range of depths in Fishing Zone; 3) weather/visibility conditions to ensure accurate detection of Actionable Species; 4) NOAA approval based on statistical power and validity.	42-g. CDFW has amended subsection (c)(2) to add requirements regarding spatial extent across a full range of depths in each Fishing Zone and weather and visibility conditions enabling accurate detection of Actionable Species, see page 24 of the Amended ISOR. CDFW has not added minimum distance criteria, as explained in Specific Response 42-f. Proposed regulations state that either CDFW or NOAA approved surveys would be considered; however, reliance on NOAA approval would add additional burdens to the agency and is unnecessary as CDFW staff is independently capable of evaluating survey methodologies.
42	Andrea Treece, cont.	42-h. CDFW should consult with NOAA to develop density measurement for marine life concentration trigger.	42-h. During scoping for the proposed regulations, CDFW engaged with NOAA scientists and requested assistance developing a density-based trigger. Given available information and resources, NOAA was not able to derive a density value. CDFW therefore selected the abundance-based triggers listed in this subsection.
42	Andrea Treece, cont.	42-i. Monterey Bay Whale Watch data should be included in regulations to inform marine life concentrations in the Fishing Zone 4.	42-i. Not all data sources that have been considered by the Working Group in prior years will be appropriate for determining attainment of the triggers specified in this subsection. However, any survey data can be considered under subsection (d)(11), and CDFW and/or NOAA may approve Monterey Bay Whale Watch reports as a qualified survey following adoption of the proposed regulations if consistent with subsection (c)(2). See additional discussion on pages 53-54 of the Amended ISOR.

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#	Commenter Name, Format, Date	Comment	Response
42	Andrea Treece, cont.	<p>42-j. The Central Management Area should close starting April 1 of each year. Historical record shows that Humpback Whales would travel to the Central Management Area around April of each year and quickly disperse along the coast. As Spring 2020 demonstrated, current survey effort does not allow timely response to migration. Also notes that CDFW budgetary restraints, lag time in detection of elevated risk, current inability to quickly close areas, and desire for more certain management are other reasons to close on April 1.</p>	<p>42-j. As described on pages 54-55 of the Amended ISOR, CDFW considered establishing a static season structure as an alternative to the in-season management approach of the proposed regulations. CDFW acknowledged the additional reliance on real time data collection required to conduct effective in-season management, and has addressed this by requiring the Director to undertake a management action in the event data is unavailable in the spring under subsection (c)(2)(B)(1).</p>
42	Andrea Treece, cont.	<p>42-k. Subsection (c)(2)(B) should clarify that the fishery will remain closed for the entire season when survey information is not available by March 1.</p>	<p>42-k. CDFW amended the originally proposed regulations to specify that, in the absence of recent Marine Life Concentrations data, management actions will be applied to the affected Fishing Zone. The comment does not include specific rationale for why March 1 is a more appropriate date by which data must be available; therefore, CDFW has retained the March 15 date from the proposed regulations.</p>

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#	Commenter Name, Format, Date	Comment	Response
42	Andrea Treece, cont.	<p>42-l. Section (d) should explicitly allow Director to consider information from third-party entities because not only could limiting data sources undermine informed decision making by precluding consideration of relevant Data but it could also undermine transparency and public participation in conservation and management of public resources.</p>	<p>42-l. CDFW is committed to utilizing the best available science related to each of the management considerations in subsection (d) when determining appropriate management actions, including information from third-party entities. See page 29 of the Amended ISOR.</p> <p>Additionally, the Director’s declaration under subsection (f)(1) must include relevant information and rationale for every management action taken by the Director, which provides transparency in decision-making.</p>
42	Andrea Treece, cont.	<p>42-m. If CDFW does not allow scientifically reliable data from third-party, then zone closure should be the sole management option when no data is available.</p>	<p>42-m. CDFW will consider information provided by third-party entities (see page 29 of the Amended ISOR) therefore the rest of the comment is not applicable.</p>
42	Andrea Treece, cont.	<p>42-n. Management framework should be more precautionary by requiring management action whenever a trigger is activated. Subsection (e) should be amended as “Director MUST implement one or more . . .”</p>	<p>42-n. CDFW addressed this comment in the revised proposed regulations; see page 33 of the Amended ISOR for further discussion.</p>
42	Andrea Treece, cont.	<p>42-o. The open-ended nature of the management framework may diminish the effectiveness of the conservation effort. The draft regulations don’t provide sideboards or guidance as to the type of management that is warranted given an identified level of entanglement.</p>	<p>42-o. See General Response N1.</p>

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#	Commenter Name, Format, Date	Comment	Response
42	Andrea Treece, cont.	42-p. Fleet advisory should not be a management response under subsection (e). Experience from 2016 shows that the effectiveness of the tool is limited.	42-p. See General Response A5.
42	Andrea Treece, cont.	42-q. Depth constraints have not been tested and may have unintended consequences. Regulations should specify the following criteria for implementing depth constraints: 1) evidence that Actionable Species is located and likely to remain in areas where fishing is prohibited; 2) data indicates substantial benefit from depth-based shift in fishing effort; 3) evidence no unintended consequences by increasing density in other areas; 4) readily enforceable by law enforcement.	42-q. As described on page 34 of the Amended ISOR, depth constraints have been used successfully in the federally-managed groundfish fishery to avoid co-occurrence with species of concern. While the effectiveness of this management measure has not yet been applied to the commercial Dungeness crab fishery, CDFW has included it as a potential management measure in subsection (e). As described in General Response N1, CDFW has crafted the proposed regulations to allow for flexibility when determining the appropriate management response. The first three suggested criteria listed in the comment are incorporated in the management considerations in subsection (d)(1), (d)(8), (d)(10) and (d)(11). Additionally, subsection (f)(1) requires the Director to explain the information and rationale supporting any management action. With regards to the fourth criteria, CDFW will not implement any management measures which are not enforceable.

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#	Commenter Name, Format, Date	Comment	Response
42	Andrea Treece, cont.	<p>42-r. Vertical line reduction has not been tested and may have unintended consequences. Regulations should specify the following criteria for implementing vertical line reduction: 1) applies to all members of the fleet; 2) CDFW can independently assess; 3) will reduce total lines in use by over 50%; 4) reduction will substantially reduce lines in use in areas of elevated risk; 5) will not increase lines in certain areas; 6) number allowable lines can be readily changed and enforced.</p>	<p>42-r. As described in General Response N1, CDFW has developed a flexible management approach, where selection of appropriate management actions is informed by the considerations identified in subsection (d). As with depth restrictions, vertical line reductions are untested in this fishery because the only management options available to CDFW prior to implementation of the proposed regulations were spatiotemporal closures. However, it is understood that vertical lines are the portion of the gear that pose entanglement risk; therefore a reduction in the number of vertical lines should reduce that risk. As with all management measures implemented under the proposed regulations, CDFW will consider prior effectiveness when assessing future actions.</p> <p>CDFW intends that the proposed regulations, as written, will apply to all permit holders and do not require amendment to address item 1 of this comment. As described on page 35 of the Amended ISOR , requiring permit holders to keep unused buoy tags on board the vessel will allow for CDFW Law Enforcement Division personnel to assess compliance and easily re-deploy the gear when restrictions are lifted; this addresses items 2 and 6. It will also prevent redeployment of those traps in a different Fishing Zone, addressing item 5. While the Amended ISOR provides an example of 50% reduction, the appropriate percentage of gear reduction will depend on the unique circumstances and is not specified in the proposed regulation. Therefore, CDFW has not amended the regulations as suggested in item 3. The amended regulatory language specifies that gear reduction is relative to the most recent information reported under subsection (g)(1), rather than the tier-specific allocation for that permit. This will ensure that vertical lines within the relevant Fishing Zone are reduced, addressing item 4.</p>

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#	Commenter Name, Format, Date	Comment	Response
42	Andrea Treece, cont.	<p>42-s. Commenter concerned over reporting requirement under subsection (g)(1). The method is work intensive and incidentally may not be timely. Furthermore, there is no way for CDFW to independently verify. Proposed approach may lead to incomplete and unreliable information.</p>	<p>42-s. See General Response F1.</p>
42	Andrea Treece, cont.	<p>42-t. Reporting requirement under (g)(2) should be expanded to include all members of the Fleet when participating in fishery. Transition into electronic monitoring such as solar logger should occur by the 2021-22 season. Such devices have been helpful in informing past deliberations and can contribute to better vessel safety.</p>	<p>42-t. See General Response F2.</p>
42	Andrea Treece, cont.	<p>42-u. CDFW should obtain funding from the Ocean Protection Council and NOAA to assist the fleet in implementing Electronic Monitoring.</p>	<p>42-u. See General Response F2.</p>
42	Andrea Treece, cont.	<p>42-v. CDFW should reach out to groups such as Global Fishing Watch for support in managing collected data. Comment offers to facilitate discussions.</p>	<p>42-v. Thank you for the suggestion. In partnership with the Working Group, CDFW intends to evaluate a variety of systems for managing electronic monitoring data.</p>

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#	Commenter Name, Format, Date	Comment	Response
42	Andrea Treece, cont.	42-w. Current criteria for alternative gear is not clear or objective. For example, it is unclear whether there is a maximum cost threshold or if the proponent simply needs to disclose estimated cost.	42-w. See General Response E3.
42	Andrea Treece, cont.	42-x. Regulations should explicitly allow Alternative Gear to be used during any spatial and temporal closure, and in any open area.	42-x. See General Response A7.
42	Andrea Treece, cont.	42-y. Alternative gear should be assessed based on whether they reduce entanglement risk. Severity of injury should not be a factor.	42-y. CDFW disagrees that reducing severity of injury should not be a factor when considering authorization of Alternative Gear. Mechanisms that limit the persistence of a given entanglement or the degree of injury provide benefit to an entangled animal and reduce the likelihood of mortality or serious injury.

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#	Commenter Name, Format, Date	Comment	Response
42	Andrea Treece, cont.	<p>42-z. CDFW should adopt the following criteria: 1) authorized gear can be used at any time during the fishing season for commercial purposes; 2) gear that meets listed criteria shall be authorized; 3) gear must eliminate all vertical lines and surface buoys when vessel not present, and surface on demand for retrieval; 4) gear must use software to allow detectability within ¼ mile of location of gear; 5) law enforcement must be able to retrieve and redeploy gear; 6) gear must include backup release capability and gear recovery plan.</p>	<p>42-z. Regarding item 1, see General Response A7.</p> <p>Regarding item 2, the proposed regulations require CDFW to authorize Alternative Gear which meets the criteria in subsection (h)(1)(B) unless the conditions in subsection (h)(1)(D) are met. For appropriate rationale see pages 41-43 of the Amended ISOR.</p> <p>Regarding item 3, see General Response A6. Furthermore, CDFW is aware of pop-up systems where release of the submerged surface gear is through mechanisms other than an acoustic trigger. Provided the Alternative Gear satisfies the criteria in subsection (h)(1)(B), CDFW will consider non-acoustic release systems for authorization under this subsection.</p> <p>Regarding items 4-6, see General Response E3.</p>
42	Andrea Treece, cont.	<p>42-aa. Subsection (e)(5) should allow alternative gear to be used anytime throughout the season, during any closure (not just after April 1) as well as in open areas.</p>	<p>42-aa. See General Response A7.</p>
42	Andrea Treece, cont.	<p>42-bb. Allowing alternative gear in closed area only comes into play when there is area closure under (e)(4). As such the two management actions should be merged.</p>	<p>42-bb. Since Alternative Gear will only be authorized for a subset of potential fishery closures, CDFW has retained the separation of these two management actions.</p>

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#	Commenter Name, Format, Date	Comment	Response
43	<p>Dungeness Crab Task Force (DCTF)</p> <p>Email Dated 6/29/2020;</p> <p>Voted by a quorum of the full DCTF’s membership during the June 17, 2020 teleconference meeting</p>	<p>43-a. Recommends that CDFW augment available data sources of the Risk Assessment and Mitigation Program by utilizing the commercial Dungeness crab fleet and working with California Coastal Crab Association to develop a framework for this data collection. DCTF would like to use this data to add research capacity especially since unavailable data could result in delays or closures to the fishery.</p>	<p>43-a. Comment noted and CDFW appreciates DCTF’s recommendation to augment data collection efforts. Surveys to inform Marine Life Concentrations of Actionable Species must be designed, conducted or approved by NOAA or CDFW as specified under subsection (c)(2) to ensure consistent protocols and procedures. In addition, the active Fleet will be required to provide bi-weekly reports to CDFW on fishing effort under subsection (g)(1) to help assess entanglement risk and/or effectiveness of management actions, such as gear reductions or closures, see page 37 of the Amended ISOR. Also, under subsection (g)(2), an electronic monitoring device will be required starting with the 2023-2024 Fishing Season that is capable of tracking and recording vessel location; see General Response F2. In the interim under the proposed regulations, an electronic monitoring system will only be required under a depth constraint or when using Alternative Gear that is authorized under subsection (h). Additionally, CDFW encourages any relevant data collection that supports management considerations under subsection (d).</p>
43	<p>DCTF, cont.</p>	<p>43-b. Recommends that OPC allocate \$500,000 to support commercial fishery’s data collection efforts to inform the Risk Assessment and Mitigation Program including but not limited to vessel expenses and time towards collecting data. Also recommend that OPC work with California Coastal Crab Association on this effort.</p>	<p>43-b. Comment noted. Available funding sources, including those from OPC, are outside the scope of this rulemaking.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
43	DCTF, cont.	<p>43-c. Supports the development of alternative gears as outlined subsection (h) and recommends that industry play a direct role in designing and testing gears that may be approved by CDFW based on best fishing principles to ensure gear is fishable and economically feasible.</p>	<p>43-c. The process for authorization of Alternative Gear is outlined in subsection (h) and allows applications from industry.</p>
43	DCTF, cont.	<p>43-d. Recommends amending (g)2 to reflect current electronic monitoring systems approved by the National Marine Fisheries Service (NMFS) in the Electronic Code of Federal Regulations, Title 50, Chapter VI, Part 660 to inform fleet dynamics under certain management actions. Suggests that CDFW use electronic monitoring systems (i.e. AIS and VMS) that are already in use by the commercial fleet and adopt the same standard of recording vessel locations as NMFS so as not incur additional costs for the fleet to implement.</p>	<p>43-d. See General Response F2.</p>

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#	Commenter Name, Format, Date	Comment	Response
43	DCTF, cont.	<p>43-e. Recommends amending subsection (c)(1)(B)(1) to read: the Director “may” close the remainder of the fishing season rather than “will” to allow more flexibility should conditions indicate that a statewide closure is unnecessary when the impact score of 3 or more is reached for Humpback Whales during a single season.</p>	<p>43-e. See General Response I1.</p>
43	DCTF, cont.	<p>43-f. Recommends amending subsection (c)(2)(B) to allow the fishery to remain open until data is available to inform otherwise. Data have been limited or unavailable to inform risk assessments in the Northern Management Area (NMA) during the 2019-20 fishing season and under the proposed Risk Assessment and Mitigation Program would have resulted in an early closure with widespread economic impacts. As of 06/17/20, there have been no reported entanglements in the NMA while during the 2015-16 season, the season with the highest recorded entanglements, there were few confirmed entanglement reports from the NMA.</p>	<p>43-f. See General Response D.</p>

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#	Commenter Name, Format, Date	Comment	Response
43	DCTF, cont.	<p>43-g. Recommends that CDFW and NMFS expedite review, evaluation and scoring of entanglements both during and outside of seasons to prevent any unnecessary closures during the season and give the fleet a full understanding of the current Impact Score at the start of each season.</p>	<p>43-g. See General Response J.</p>

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#	Commenter Name, Format, Date	Comment	Response
43	DCTF, cont.	<p>43-h. Recommends modifying Fishing Zone boundaries in subsection (a)(7) as follows: (1) move southern boundary of Zone 5 to Point Conception and create a new zone from this boundary to the California-Mexico border, since fishing does not occur in the area south of Point Conception and marine life concentrations here could unfairly impact the fishery north of this boundary; (2) reduce Zone 6 so that a smaller area and portion of the fleet would be negatively impacted by the presence of one Pacific Leatherback Sea Turtle and this zone better reflects where Pacific Leatherback Sea Turtles forage based on tracking data; (3) reduce the offshore distance of the zones from 200 nautical miles to the area that is covered during aerial surveys since this is where data are collected and available.</p>	<p>43-h. See General Response B2-B5.</p>

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#	Commenter Name, Format, Date	Comment	Response
43	DCTF, cont.	<p>43-i. Recommends that portions of the proposed regulation related to Humpback Whales sunset when species is delisted from Endangered Species Act (ESA). The DCTF noted that they understand that the proposed regulations and incidental take permit would continue for the other ESA-listed species would continue. When the proposed regulations regarding Humpback Whales are no longer necessary, they would continue to pose a hardship on the fleet.</p>	<p>43-i. See General Response H.</p>
44	<p>Ebie Muller Email Dated 6/29/2020</p>	<p>44-a. Dungeness crab industry should be rapidly transitioned to pop-up buoy gear.</p>	<p>44-a. See General Response E1.</p>
44	<p>Ebie Muller, cont.</p>	<p>44-b. Each Actionable Species death is a violation of ESA.</p>	<p>44-b. Comment noted.</p>
45	<p>John Provolt Email dated 6/28/2020</p>	<p>45-a. Comment expresses support for hard work by CDFW to improve the industry, keep fishermen working, and protect marine life and public image.</p>	<p>45-a. Comment noted.</p>

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
45	John Provolt, cont.	45-b. The California commercial crab fleet should not be responsible for entanglements caused by unknown gear since they may have come from other fisheries, especially considering that a small number of entanglements could lead to management actions.	45-b. See General Response C.
45	John Provolt, cont.	45-c. A potential early closure on April 1 if data on Marine Life Concentration is not available by March 15 is of particular concern for fishermen in the Northern Management Zone, since their season generally starts later and an early closure will impact them more. This should be removed from the proposed regulations.	45-c. See General Response D.
45	John Provolt, cont.	45-d. Depth limit is much more preferable to full closure. Commenter expresses personal support for installing VMS or other data loggers rather than a season closure, which has the added benefit of providing additional fishing data.	45-d. Comment noted. Additional monitoring requirements in subsection (g) will improve available data regarding fishing activity and potential interactions with Actionable Species. However, improved data gathering is not a substitute for the management actions in subsection (e), which include closures as well as less impactful options.

Appendix 2. Specific Responses to Comments, 45-Day Comment Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
45	John Provolt, cont.	45-e. Comment expresses concern that when in-season management actions are triggered, the entire coast could be shut down even if all the triggering entanglements occur in only one Fishing Zone. In such a situation a zonal closure or other alternative actions is more appropriate.	<p>45-e. Attainment of a trigger in-season does not automatically mean the entire coast will be closed. The Director has the discretion to apply actions to one or more Fishing Zones. When triggers are reached, CDFW will review the management considerations in subsection (d) when selecting the appropriate response from the options identified in subsection (e) by Fishing Zone, which may or may not result in a full season closure.</p> <p>Regarding appropriate management actions upon reaching an Impact Score Calculations of three (3) or more for Humpback Whales, see Specific Response 35-ii.</p>
46	Christina Williams Email Dated 6/13/2020	Comments A1-A6 are consistent with General Comments A1-A6, see Appendix 1.	See General Response A1-A6.
46	Christina Williams, cont.	46-a. Society should transition towards a 100% plant-based food production. Fishing is outdated and unnecessary, but implementing protections for whales and turtles is an interim step.	46-a. Elimination of commercial fishing is outside the scope of this rulemaking.
47	Subir Trivedi Email Dated 6/23/2020	Comments A1-A7 are consistent with General Comments A1-A7, see Appendix 1.	See General Response A1-A7.
47	Subir Trivedi, cont.	47-a. Commenter expresses personal support for increased cost of seafood if latest, best, and safest gear with reduced impacts on biodiversity is implemented.	47-a. Outside the scope of this rulemaking.

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#	Commenter Name, Format, Date	Comment	Response
48	Jane Mygatt Email Dated 6/12/2020	Comments A1-A7 are consistent with General Comments A1-A7, see Appendix 1.	See General Response A1-A7.
48	Jane Mygatt, cont.	48-a. Commenter is also concerned with entangled seabirds and other wildlife.	48-a. Outside the scope of this rulemaking.
49	Dorothy Shelley Email Dated 6/17/2020	Comments A1-A7 are consistent with General Comments A1-A7, see Appendix 1.	See General Response A1-A7.
49	Dorothy Shelley, cont.	49-a. Commenter notes that the Actionable Species have been in peril since 1970s and expresses frustration that advocacy is still needed.	49-a. See General Response O.
49	Dorothy Shelley, cont.	49-b. Alternative methods for crab fishing exist, which should be used instead of ropes.	49-b. See General Response E1.
49	Dorothy Shelley, cont.	49-c. CDFW should consider balancing marine life protections with supporting livelihoods of crab fishermen.	49-c. See General Response K.
50	Kae Bender Email Dated 6/16/2020	Comments A1-A7 are consistent with General Comments A1-A7, see Appendix 1.	See General Response A1-A7.

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#	Commenter Name, Format, Date	Comment	Response
50	Kae Bender, cont.	50-a. Commenter expresses displeasure at the time taken to implement regulations to eliminate gear that entangles marine life and threatens endangered species.	50-a. See General Response O.
51	Kaitlin Birnbaum Email Dated 6/12/2020	Comments A1-A7 are consistent with General Comments A1-A7, see Appendix 1.	See General Response A1-A7.
51	Kaitlin Birnbaum, cont.	51-a. In addition to enhancing ocean biodiversity, whales serve as an important source of carbon sink and protecting them is a crucial step in fighting climate change.	51-a. Outside the scope of this rulemaking.
52	Susan Blain Email Dated 6/12/2020	Comments A1-A7 are consistent with General Comments A1-A7, see Appendix 1.	See General Response A1-A7.
52	Susan Blain, cont.	52-a. Commenter expresses displeasure at the time taken to implement meaningful protections for whales and turtles being entangled.	52-a. See General Response O.
53	Jennifer Bradford Email Dated 6/13/2020	Comments A1-A7 are consistent with General Comments A1-A7, see Appendix 1.	See General Response A1-A7.

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#	Commenter Name, Format, Date	Comment	Response
53	Jennifer Bradford, cont.	53-a. Commenter states that net fishing is archaic and marine mammals should be protected from it.	53-a. Comment appears to conflate net fishing with trap gear used by the commercial Dungeness crab fishery. Net fishing is outside the scope of this rulemaking.
54	Maura Buckley Email Dated 6/14/2020	Comments A1-A7 are consistent with General Comments A1-A7, see Appendix 1.	See General Response A1-A7.
54	Maura Buckley, cont.	54-a. Business will adapt to new wildlife protection measures when required to.	54-a. Comment noted.
55	Jasmine Domingo Email Dated 6/29/2020	Comments A1-A7 are consistent with General Comments A1-A7, see Appendix 1.	See General Response A1-A7.
55	Jasmine Domingo, cont.	55-a. Continued existence of wildlife is beneficial to scientific progress and for future generations.	55-a. Outside the scope of this rulemaking.
56	Sarah Doull Email Dated 6/12/2020	Comments A1-A7 are consistent with General Comments A1-A7, see Appendix 1.	See General Response A1-A7.
56	Sarah Doull, cont.	56-a. General support for new gear and more oversight.	56-a. Comment noted.
57	Carole Ehrhardt Email Dated 6/12/2020	Comments A1-A7 are consistent with General Comments A1-A7, see Appendix 1.	See General Response A1-A7.

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#	Commenter Name, Format, Date	Comment	Response
57	Carole Ehrhardt, cont.	57-a. Commenter expresses displeasure at the time taken to implement meaningful protections for whales being caught in fishing nets.	57-a. Regarding net gear, see Specific Response 53-a. Regarding the time required to implement the proposed regulation, see General Response O.
58	Graham Fulk Email Dated 6/12/2020	Comments A1-A7 are consistent with General Comments A1-A7, see Appendix 1.	See General Response A1-A7.
58	Graham Fulk, cont.	58-a. CDFW should save endangered animals and make fishing more efficient.	58-a. Comment noted and without any specific suggestions provided, CDFW cannot comment further.
59	Beth Goode Email Dated 6/12/2020	Comments A1-A7 are consistent with General Comments A1-A7, see Appendix 1.	See General Response A1-A7.
59	Beth Goode, cont.	59-a. There are alternatives to using crab fishing lines.	59-a. See General Response E1.
60	Louise Gray Email Dated 6/13/2020	Comments A1-A7 are consistent with General Comments A1-A7, see Appendix 1.	See General Response A1-A7.
60	Louise Gray, cont.	60-a. Lost and abandoned fishing lines are found all over California’s beaches, and they are creating hazards to people and animals, including children on school trips.	60-a. Comment is outside of the scope of the proposed regulation. Please see information about CDFW’s Trap Gear Retrieval Program, which is intended to address lost and abandoned commercial Dungeness crab Traps, at https://wildlife.ca.gov/Conservation/Marine/Whale-Safe-Fisheries
61	Pamela Lowry Email Dated 6/14/2020	Comments A1-A7 are consistent with General Comments A1-A7, see Appendix 1.	See General Response A1-A7.

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#	Commenter Name, Format, Date	Comment	Response
61	Pamela Lowry , cont.	61-a. Need to require more to ensure well-being of whales and sea turtles.	61-a. Comment is vague, CDFW cannot provide a specific response.
62	Catherine Kilduff Email dated 6/29/2020	Comment provides list of references regarding Pacific Leatherback Sea Turtles, and requests inclusion in the final regulations as “Documents supporting the proposed regulation change.”	Thank you for providing references, which CDFW will keep on file as part of the best available science. Commenter has not indicated how documents would support modification to proposed regulatory language, or otherwise invalidate documents referenced in the Amended ISOR.
63	Catherine Kilduff Email dated 6/29/2020	Comment provides list of references regarding Blue Whales, and requests inclusion in the final regulations as “Documents supporting the proposed regulation change.”	Thank you for providing references, which CDFW will keep on file as part of the best available science Commenter has not indicated how documents would support modification to proposed regulatory language, or otherwise invalidate documents referenced in the Amended ISOR.
64	Catherine Kilduff Email dated 6/29/2020	Comment provides list of references regarding Humpback Whales, and requests inclusion in the final regulations as “Documents supporting the proposed regulation change.”	Thank you for providing references, which CDFW will keep on file as part of the best available science Commenter has not indicated how documents would support modification to proposed regulatory language, or otherwise invalidate documents referenced in the Amended ISOR.