

**TITLE 14. DEPARTMENT OF FISH AND WILDLIFE
NOTICE OF PROPOSED CHANGES IN REGULATION**

May 15, 2020

NOTICE IS HEREBY GIVEN that the Department of Fish and Wildlife (Department) proposes to adopt the addition of Section 132.8 to Title 14, California Code of Regulations (CCR), implementing the Risk Assessment Mitigation Program (RAMP): Commercial Dungeness Crab Fishery. Section 8276.1 of the Fish and Game Code (FGC) requires the Department, in consultation with the California Dungeness Crab Fishing Gear Working Group (Working Group) and other stakeholders, to adopt regulations establishing criteria and protocols to assess and manage risk of marine life entanglement with fishing gear associated with the commercial Dungeness crab fishery.

The Working Group has developed the RAMP to assess circumstances where entanglement risk may be elevated and provide recommendations on appropriate management responses to the Director of the Department (Director) to take action. The pilot RAMP program developed by the Working Group is the basis for the proposed regulations.

The proposed RAMP regulations implement the program as required under FGC Section 8276.1(b). The RAMP, as listed by subsection, consists of the following:

- (a) definitions;
- (b) a risk assessment schedule;
- (c) triggers for management actions;
- (d) management considerations;
- (e) management actions;
- (f) notification process;
- (g) mandatory reporting requirements; and
- (h) alternative gear authorization.

After consideration of all public comments, objections, and recommendations regarding the proposed action, the Department may adopt the proposed regulations.

PUBLIC HEARING

A virtual public hearing is scheduled by as follows:

Date: Monday, June 29, 2020
Time: 10 a.m. to 12 p.m. (meeting details will be made available on the Whale Safe Fisheries Page: wildlife.ca.gov/Conservation/Marine/Whale-Safe-Fisheries)

Location: Teleconference and Webinar

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments on the proposed action to the Department. All written comments must be

received by the Department via mail, or e-mail, no later than **June 29, 2020**, to the contact as follows:

California Department of Fish and Wildlife, Marine Region
Attn: Ryan Bartling, Sr. Environmental Scientist
3637 Westwind Blvd, Santa Rosa, CA
Email: WhaleSafeFisheries@wildlife.ca.gov

AUTHORITY AND REFERENCE:

Authority: Section 8276.1, Fish and Game Code.

Reference: Sections 8276, 8276.1, 8276.5, 9002.5, 9008, Fish and Game Code.

Informative Digest/ Policy Statement Overview

Background

Under current regulations, the California Department of Fish and Wildlife (Department) Director's authority to alter operations of the commercial Dungeness crab fishery is limited to closures protecting human health (Fish and Game Code (FGC) Section 5523) and delays due to low crab quality (FGC Section 8276.2). Senate Bill (SB) 1309 (2018, McGuire) added Section 8276.1 to the FGC. FGC Section 8276.1(c) provides additional, interim authority for the Director to restrict take of Dungeness crab in response to significant risk of marine life entanglement. FGC Section 8276.1(b) requires the Department, in consultation with the California Dungeness Crab Fishing Gear Working Group (Working Group) and other stakeholders, to adopt regulations establishing criteria and protocols to evaluate and respond to potential risk of marine life entanglement.

Regulatory Proposal

The proposed regulation would add Section 132.8 to Title 14, California Code of Regulations (CCR) to establish a Risk Assessment Mitigation Program (RAMP) which will evaluate and respond to marine life entanglement risk from California commercial Dungeness crab fishing gear. Upon the effective date of these regulations, the RAMP would replace the Director's interim authority under FGC Section 8276.1(c) as the primary mechanism for mitigating entanglement risk in this fishery. The following is a summary of the new regulations proposed in Section 132.8:

- Define Actionable Species which will be considered under the RAMP as Blue Whales, Humpback Whales, and Pacific Leatherback Sea Turtles;
- Define six Fishing Zones which prescribe the scale at which available data will be assessed and management actions considered;
- Specify how Impact Score Calculations are used to represent severity of injury caused by Confirmed Entanglements with California Commercial Dungeness Crab Gear or Confirmed Entanglements with Unknown Fishing Gear and the necessity for management action;
- Define the Working Group and their role in assessing available information and informing management actions by the Director;
- Specify the frequency and process by which Risk Assessments will be conducted;
- Specify triggers for management action, including closure of one or more Fishing Zones, based on confirmed entanglements (Impact Score Calculation) or presence of Actionable Species;
- Identify data which will be considered when determining the need for, and appropriate category of, management action;

- Identify categories of management actions which the Director may implement in response to attainment of a specified trigger as including an advisory to the Fleet, depth constraint, vertical line/gear reduction, closure of one or more Fishing zones, and use of Alternative Gear;
- Specify the process by which the Department will notify the Fleet of any management actions;
- Establish mandatory reporting requirements for all members of the Fleet, and additional requirements when fishing during a depth constraint or using Alternative Gear; and
- Define Alternative Gear and the process by which it will be authorized to reduce the risk of marine life entanglement, including circumstances in which the Department would not approve an initial application or later deauthorize an approved gear.

Benefits of the Proposed Regulations

The proposed regulations will clearly define the process by which the Department, in consultation with the Working Group, will implement and remove restrictions on commercial Dungeness crab fishing activity in response to marine life entanglement risk. This will provide a measure of certainty to fishery participants regarding how their future operations may be impacted. Furthermore, regulations are expected to promote the survival and recovery of Actionable Species by reducing anthropogenic impacts from entanglement in fishing gear. These regulations are also expected to provide benefits to other marine life which co-occur in space or time with Actionable Species and are at similar risk of entanglement.

Consistency and Compatibility with Existing Regulations

The Legislature has delegated authority to the Department to adopt regulations establishing criteria and protocols to evaluate and respond to risk of marine life entanglement in the commercial Dungeness crab fishery (Section 8276.1 of the FGC). The Department has reviewed existing regulations in Title 14, CCR and finds that the proposed regulations are neither inconsistent nor incompatible with existing State regulation. Department staff have searched the CCR and has found no other State regulations that implement measures to reduce marine life entanglement in commercial Dungeness crab fishing gear.

DOCUMENTS INCORPORATED BY REFERENCE

Title 50, Code of Federal Regulations (CFR) Part 660, sections 660.71 through 660.74, as revised December 12, 2018:

Section 660.71, CFR - Latitude/longitude coordinates defining the 10-fm (18-m) through 40-fm (73-m) depth contours, available from: https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=8fe553043a533fe4f08397bdb91bef85&mc=true&r=PART&n=pt50.13.660#se50.13.660_171

Section 660.72, CFR - Latitude/longitude coordinates defining the 50 fm (91 m) through 75 fm (137 m) depth contours, available from: https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=8fe553043a533fe4f08397bdb91bef85&mc=true&r=PART&n=pt50.13.660#se50.13.660_172

Section 660.73, CFR - Latitude/longitude coordinates defining the 100 fm (183 m) through 150 fm (274 m) depth contours, available from: https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=8fe553043a533fe4f08397bdb91bef85&mc=true&r=PART&n=pt50.13.660#se50.13.660_173

Section 660.74, CFR - Latitude/longitude coordinates defining the 180 fm (329 m) through 250 fm (457 m) depth contours, available from: https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=8fe553043a533fe4f08397bdb91bef85&mc=true&r=PART&n=pt50.13.660#se50.13.660_174

DOCUMENTS SUPPORTING THE PROPOSED REGULATION CHANGE

Senate Bill 1309, 2018, McGuire, available from: https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB1309

Benson, S.R., K.A. Forney, J.T. Harvey, J.V. Carretta, and P.H. Dutton (2007). Abundance, distribution, and habitat of leatherback turtles (*Dermochelys coriacea*) off California, 1990-2003. *Fishery Bulletin*, 105(3): 337–347.

Calambokidis, J., G.H. Steiger, C. Curtice, J. Harrison, M.C. Ferguson, E. Becker, M. DeAngelis, and S.M. Van Parijs. 2015. Biologically Important Areas for Selected Cetaceans Within U.S. Waters – West Coast Region. *Aquatic Mammals*, 41(1): 39-53. DOI 10.1578/AM.41.1.2015.39

Carretta, J. V., K.A. Forney, E.M. Oleson, D.W. Weller, A.R. Lang, J. Baker, M.M. Muto, B. Hanson, A.J. Orr, H. Huber, M.S. Lowry, J. Barlow, J.E. Moore, D. Lynch, L. Carswell, and R.L. Brownell Jr. 2019. Humpback Whale (*Megaptera novaengliae*): California/ Oregon/ Washington Stock (pp. 173-182), and Blue Whale (*Balaenoptera musculus musculus*): Eastern North Pacific Stock (pp. 183-190), *In* Assessment U.S. Pacific Marine Mammal Stock Assessments: 2018. U.S. Department of Commerce, NOAA Technical Memorandum NMFSSWFSC-617.

California Dungeness Crab Fishing Gear Working Group, Guidelines for Research and

Development Projects, Focus on Ropeless Gear Innovations, Feb 2019:
[http://www.opc.ca.gov/webmaster/ media library/2019/02/Whales-Gear-Innovations-R-and-D-Guidelines-February-2019.pdf](http://www.opc.ca.gov/webmaster/media_library/2019/02/Whales-Gear-Innovations-R-and-D-Guidelines-February-2019.pdf)

California Dungeness Crab Fishing Gear Working Group, Recommendations Memo, November 12 2019:
[http://www.opc.ca.gov/webmaster/ media library/2019/11/CAWhaleWorkingGroup_HighlightsRecommendationsMemo_SeptOct2019_FINAL.pdf](http://www.opc.ca.gov/webmaster/media_library/2019/11/CAWhaleWorkingGroup_HighlightsRecommendationsMemo_SeptOct2019_FINAL.pdf)

California Dungeness Crab Fishing Gear Working Group, Recommendations Memo, October 15 2018:
[http://www.opc.ca.gov/webmaster/ media library/2018/10/Whales_WorkingGroupRecommendationsMemo_October2018_FINAL.pdf](http://www.opc.ca.gov/webmaster/media_library/2018/10/Whales_WorkingGroupRecommendationsMemo_October2018_FINAL.pdf)

California Dungeness Crab Fishing Gear Working Group, Call Summary, September 26 2019:
[http://www.opc.ca.gov/webmaster/ media library/2019/10/CAWorkingGroup_WebinarSummary_Sept262019.pdf](http://www.opc.ca.gov/webmaster/media_library/2019/10/CAWorkingGroup_WebinarSummary_Sept262019.pdf)

California Dungeness Crab Fishing Gear Working Group, Summary of Key Themes, September 4-5 2019:
[http://www.opc.ca.gov/webmaster/ media library/2019/10/CAWorkingGroup_KeyThemesSummary_FINAL_Sept4-52019.pdf](http://www.opc.ca.gov/webmaster/media_library/2019/10/CAWorkingGroup_KeyThemesSummary_FINAL_Sept4-52019.pdf)

California Dungeness Crab Fishing Gear Working Group, Summary of Key Themes, March 26 2019:
[http://www.opc.ca.gov/webmaster/ media library/2019/04/CAWhaleWorkingGroup_KeyThemesSummary_26March2019Meeting_FINAL.pdf](http://www.opc.ca.gov/webmaster/media_library/2019/04/CAWhaleWorkingGroup_KeyThemesSummary_26March2019Meeting_FINAL.pdf)

California Dungeness Crab Fishing Gear Working Group Risk Assessment and Recommendation: <https://www.wildlife.ca.gov/Conservation/Marine/Whale-Safe-Fisheries>

NMFS, 2012a. NMFS Policy Directive (PD-02-038), Process for Distinguishing Serious from Non-Serious Injury of Marine Mammals, effective January 27, 2012, available from: https://www.avma.org/sites/default/files/resources/noaa_serious_injury_policy.pdf

NMFS, 2012b. NMFS Instruction (02-038-01), Process for Distinguishing Serious from Non-Serious Injury of Marine Mammals: Process for Injury Determinations, effective January 27, 2012, available from: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-protection-act-policies-guidance-and-regulations>

Saez, L., D. Lawson, and M. DeAngelis. 2020. Large whale entanglements off the U.S. West Coast, from 1982-2017. NOAA Tech. Memo. NMFS-OPR-63, 48 p.

64 Federal Register 102, May 27, 1999. North Pacific Fishery Management Council; Public Meetings, pages 28800-28802. Available from: <https://www.govinfo.gov/content/pkg/FR-1999-05-27/pdf/FR-1999-05-27.pdf>

77 Federal Register 4169, January 26, 2012. NOAA Endangered and Threatened Species: Final rule to revise the critical habitat designation for the endangered Leatherback Sea Turtle, pages 4170-4201. Available from <https://www.govinfo.gov/content/pkg/FR-2012-01-26/pdf/2012-995.pdf>

IMPACT OF THE REGULATORY ACTION

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because west coast states with commercial Dungeness crab fisheries are developing or have similar mitigation programs in effect.

As reported by NOAA, in 2018, Working Groups in Oregon and Washington (both initially formed in 2017) continued meeting to evaluate whale entanglements, develop Best Practices Guides applicable to their respective state fisheries, and discuss potential measures to avoid entanglements with Dungeness crab and other gear in their state. Potential measures that have been discussed by the Working Groups and industry at large include: limitations on gear during the later portion of the fishing season, implementing summer buoy tags to better distinguish when entanglements may be occurring, and promoting research to determine if there are particular whale “hot spot” areas that could be avoided by fishermen during certain times.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment:

The Department anticipates the potential for some seasonal impacts on the creation or elimination of jobs due to direct, indirect and induced impacts, some jobs (from 50 to 900) may be eliminated during a potential full closure period. Any fishery closures are to be minimized in duration and extent, and expeditiously lifted when the risk has been abated. The Department does not anticipate substantial impacts on the creation of new businesses or the elimination of existing businesses within the state because any fishery closures would be minimized in duration and extent, and because it’s expected that businesses are diversified and are fishing other species commercially to offset the unpredictability of the Dungeness crab fishery. The Department anticipates benefits to the health and welfare of California residents from better protection of the State’s natural resources and through the better management of valuable state fisheries that benefit fishing communities and consumers, among other residents of the state. The Department does not anticipate any benefits to worker safety because this

regulatory action will not impact working conditions or worker safety. The Department anticipates benefits to the environment through the better protection of the State's natural resources better management of sustainable fisheries.

(c) Cost Impacts on a Representative Private Person or Business:

The proposed regulation does not impose new compliance costs directly to businesses, most of which are commercial fishermen operating under a Dungeness crab vessel permit. However, RAMP management actions could result in season delays, early closures, and/or a 50% reduction in gear that could reduce the amount of Dungeness crab brought to market. Due to concern for privacy of individual permit holders, we do not have access to an average harvest per vessel to estimate an average potential revenue loss per vessel. The impacts on the total fishery and supporting businesses from a range of potential reductions in the direct expenditure from the seasonal Dungeness crab harvest is described in a Standardized Regulatory Impact Assessment (SRIA; Appendix A to the ISOR) and Supplement to the SRIA, prepared for the proposed regulation (see attached Appendix B to the ISOR).

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The Department anticipates ongoing Implementation, Monitoring, and Enforcement Costs. The Department also anticipates to experience reductions in Landings Fee Revenue projected to range from \$0 to a maximum of \$2,057,628 per fiscal year of full implementation. No impact on costs/savings in Federal Funding to the State are anticipated.

(e) Nondiscretionary Costs/Savings to Local Agencies: None.

(f) Programs Mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: *This regulation does not affect any local entity or program. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution.*

(h) Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The proposed regulations may affect several entities characterized as small businesses in that they are independently owned and operated business that are not dominant in their field of operation (CA GOV Code, Article 2, 11342.610). The Department does not collect information on the overall business diversification or size of Dungeness crab permit holders, but data on vessel size is collected (SRIA, pg. 5-8). For the state of California, about 60% of active permits are in the medium and large category or 36-99 feet in length, with the remaining 40% categorized as small vessels or less than 36 feet

(per recent Department 2013-14 and 2014-15 permitting and landings data). Additionally, it is reasonable to presume that a large share of businesses that support the Dungeness crab fleet harvest and distribution are small businesses.

RESULTS OF THE STANDARDIZED REGULATORY IMPACT ASSESSMENT (SRIA)

- (a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State: The Department anticipates the potential for some seasonal impacts on the creation or elimination of jobs due to direct, indirect and induced impacts, some jobs (from 50 to 900) may be eliminated during a potential full closure period, but any fishery closures are to be minimized in duration and extent, and expeditiously lifted when the risk has been abated.
- (b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State: The Department does not anticipate substantial impacts on the creation of new businesses or the elimination of existing businesses within the state because any fishery closures would be minimized in duration and extent, and because it's expected that businesses are diversified and are fishing other species commercially to offset the unpredictability of the Dungeness crab fishery.
- (c) Effects of the Regulation on Competitive Advantages or Disadvantages for Businesses Currently Doing Business Within the State: The Department does not anticipate substantial impacts on the competitive advantages or disadvantages for businesses currently doing business within the state because other west coast states with commercial Dungeness crab fisheries are developing or have similar mitigation programs in effect.
- (d) Effects of the Regulation on the increase or decrease of investment in the state.

It is difficult to measure the change in investment that this regulation could induce; however, generally new requirements may induce compliance investment.

Since the environmental consequences of marine life bycatch have precipitated public and legislative action, now new government regulations may act as critical triggers to prompt investment. Fishing gear designers and manufacturers are anticipated to be compelled to invest in the development new gear protocols that comply with developing alternative gear standards. The spread of new technologies may eventually bring costs down and externalities as well.

- (e) Effects of the Regulation on the incentives for innovation in products, materials, or processes in the state.

Innovation typically involves research and development expenditures and prototype development at less than cost-effective scales of production. Moreover, firms that invest in innovation often have difficulty retaining all of the benefits of their expenditures because their new technologies may be copied by competing

firms. In this instance the proposed regulations will spur incentives to innovate in a larger variety of crab trap gear types than are currently available. Over time competition among manufacturers is expected to promote innovation in performance and to reduce production costs that may be passed onto consumers.

- (f) Benefits of the Regulation to the Health and Welfare of California Residents: The Department anticipates benefits to the health and welfare of California residents from better protection of the State's natural resources and through the better management of valuable state fisheries that benefit fishing communities and consumers, among other residents of the state.
- (g) Benefits of the Regulation to Worker Safety: The Department does not anticipate any benefits to worker safety because this regulatory action will not impact working conditions or worker safety.
- (h) Benefits of the Regulation to the State's Environment: The proposed regulations will clearly define the process by which the Department, in consultation with the Working Group, will implement and remove restrictions on commercial Dungeness crab fishing activity in response to marine life entanglement risk. This will provide a measure of certainty to fishery participants regarding how their future operations may be impacted. Furthermore, regulations are expected to promote the survival and recovery of Actionable Species by reducing anthropogenic impacts from entanglement in fishing gear. These regulations are also expected to provide benefits to other marine life which co-occur in space or time with Actionable Species and are at similar risk of entanglement.

COMMENTS MADE BY THE DEPARTMENT OF FINANCE (DOF) ON THE SRIA

On March 4, 2020, the Department submitted a SRIA for the regulation to DOF. On April 3, 2020, The Department received a letter from DOF with comments on the SRIA requesting expanded discussion on certain elements of the SRIA. The Supplement to SRIA (Appendix B) addresses those comments and presents such expanded discussion. The SRIA, and the Supplement to the SRIA, are appendices A and B to the Initial Statement of Reasons (ISOR).

DOF generally concurred with the methodology used to estimate impacts of proposed regulations, with three exceptions as summarized with comment and response below, and expanded upon in Appendix B to the ISOR.

Comment 1A. Disclose risk factors triggering each mitigation action. The SRIA does not describe the risk thresholds and it is unclear what the typical levels of risk factors are. The analysis and identification of costs should be augmented with an assessment of the likelihood that a particular mitigation action would be triggered in any one season.

Response 1A. Two main risk factors are central to the RAMP risk assessment determinations: 1) number of confirmed entanglements of Actionable Species and 2) the Marine Life Concentrations of those species. While the collection of consistent

historical data series to construct overlapping probability distributions is a goal in progress, provisionally, the CDFW Marine Region scientists' observations of the Dungeness Crab fishery support the view that the less restrictive Scenarios 2 or 3 (as described in the SRIA on Projected Scenarios, pgs. 16-18), are anticipated to be the most likely to occur in future fishing seasons.

Comment 1B. the SRIA should clarify the methodology for estimating benefits, identify the number of entanglements that occur in the baseline, and assess the likely reduction in bycatch under each scenario.

Response 1B. Given that the RAMP program has not been enacted, a cautious approach to projecting the possible benefits was taken. We derived a range of for the monetary value per whale that was used to calculate the dollar value of saving 50% (25 whales saved), 75% (38 whales saved), or 100% (50 whales saved) of the five-year average number of west coast whale entanglements. While the proposed RAMP program focuses on the three Actionable Species, the program could contribute to reduced entanglement for all listed and non-listed whales which would benefit the whale-watching industry, provide ecosystem benefits and enhance non-use value benefits.

Comment 1C. It is not clear how the 50 percent, 75 percent, and 100 percent reductions relate to the historical data used for the cost estimates.

Response 1C. The costs of implementing each Scenario were based on projected reductions in the Dungeness crab ex-vessel value (harvest tons x market price). Delays due to other issues (meat quality and/or domoic acid) provided evidence of how season delays or early closures could impact fleet dynamics and harvest volumes (as a sort of proxy for delays or closures due to marine life entanglement risk). Given no history on the effectiveness of the proposed RAMP, the benefits achieved from each Scenario could only be speculative, suggesting the strategy of posing a range of success rates to, at a minimum, illustrate the relative magnitude of the probable benefits to costs.

Comment 2. The SRIA should discuss disparate impacts of the regulations on businesses and individuals. This should be done by clearly describing the number of small versus large businesses, their regional distributions, and how impacts on affected entities might vary

Response 2. Directly affected individuals would be Dungeness crab permit holders/vessel operators and deckhands, the latter whom may be employees of a specific vessel/business or independent contractors that work for a few vessels/businesses in one or more fisheries throughout year. The Department does not collect information on the overall business diversification or size of Dungeness crab permit holders, but data on vessel size is collected. About 60% of active permits are in the medium and large category or 36-99 feet in length, with the remaining 40% categorized as small vessels or less than 36 feet. Anecdotal information suggests greater difficulty is anticipated for small vessel owners to adapt to shorter seasons, more frequent service intervals, and/or depth restrictions. Larger vessels were

described as advantaged by ability to operate in a wider range of sea conditions, ability to stay out overnight, and cover more area of the fishing grounds. Some also expressed the view that larger vessels that are affiliated with larger business operations may be more diversified than small vessel owners, such that they can weather a slow down in one fishery, by still working other fisheries.

Comment 3. The SRIA identifies alternatives, although procedures for assessing risk and determining numerical thresholds are not detailed in the SRIA. The SRIA must evaluate and discuss the costs and benefits associated with at least two of the alternatives considered.

Response 3. In summary, the alternatives analyzed are expected to be greater or equal to costs in the Scenarios analyzed in the SRIA, with equal or lower benefits.

Alt 1 - Other Actionable Species: estimated to have higher costs than any of the proposed regulations scenarios evaluated in the SRIA; and the same highest level of benefits of scenario 5 based on similar numbers of saved animals (or slightly reduced).

Alt 2 – Higher Entanglement Triggers: estimated to have the same costs of the proposed regulation due to possibility of a full closure; and lower benefits (fewer Actionable Species saved).

CONSIDERATION OF ALTERNATIVES

The Department is under mandate to implement regulations for FGC Section 8276.1. However, several different approaches for the RAMP itself were approached, discussed and either implemented, or rejected in discussions with the Working Group and other stakeholders. Below is a summary of the alternatives considered, but ultimately not utilized for this rulemaking:

- Integration of other fisheries – other commercial and recreational fishing sectors that pose entanglement risk to marine life;
- Inclusion of other Actionable Species – Grey whales or others;
- The process for entanglement confirmation – roles of the Department and NOAA in confirming entanglements, entanglement review board, etc.;
- Entanglement triggers – higher takes levels;
- Using Potential Biological Removal – to set take levels and thresholds;
- Pacific Leatherback Sea Turtle Take Levels – using other fisheries as a reference;
- Undetected and Unreported Entanglements - accounting mechanisms;
- Marine Life Concentrations – additional data sources and methodology;
- Alternative season structure - static management approach;
- Fishing Zone resolution – course vs fine scale approaches.; and
- Vertical Line/Gear Reduction options – alternate management approach.

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency would be more

effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action should be directed to:

California Department of Fish and Wildlife, Marine Region
Attn: Ryan Bartling, Sr. Environmental Scientist
3637 Westwind Blvd
Santa Rosa, CA 95403

Email: Whalesafefisheries@wildlife.ca.gov

The backup contact person is:

California Department of Fish and Wildlife, Marine Region
Attn: Morgan Ivens-Duran, Environmental Scientist
20 Lower Ragsdale Dr Suite #100
Monterey, CA 93940
Phone: (831) 649-2811
Email: Morgan.Ivens-Duran@wildlife.ca.gov

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Ryan Bartling (see above for contact information).

AVAILABILITY OF THE INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Department will have the entire rulemaking file available for inspection and copying at its office at the Santa Rosa address above. In the event of office closures due to public health concerns, the rulemaking file will be available electronically upon request by contacting the Department at Whalesafefisheries@wildlife.ca.gov. As of the date this notice is published, the rulemaking file consists of:

1. STD Form 400: Notice of Proposed Action
2. Initial Statement of Reasons
3. Proposed Text of the Regulation: Addition of Section 132.8, Title 14, CCR
4. Economic and Fiscal Impact Assessment (Form STD 399) and addendum
5. Standardized Regulatory Impact Assessment (SRIA): Proposed Addition

of Section 132.8, Title 14, California Code of Regulations for the Risk Assessment Mitigation Program: Commercial Dungeness Crab Fishery (February 2020)

6. Comments from the Dept. of Finance, and SRIA Supplement (Proposed Addition of Section 132.8, Title 14, California Code of Regulations for the Risk Assessment Mitigation Program: Commercial Dungeness Crab Fishery April 2020)
7. Documents or Reports Supporting the Proposed Regulation Change

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The rulemaking file is available online at:

<https://www.wildlife.ca.gov/Notices/Regulations>

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received by the Department, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Ryan Bartling (see above for further contact information). The Department would accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by checking the website at the link provided above or contacting Ryan Bartling (see above for further contact information).