

Appendix 3. June 29, 2020 Hearing Response to Comments – Section 132.8, Title 14 (RAMP)

Responses to unique Comments received during the Public Hearing held 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. See hearing transcript for full text of each comment.*

#	Commenter Name, Format, Date	Comment	Response
65	Marco Flagg, Desert Star	65-a. Expresses concern regarding requirements for Alternative Gear to be identifiable to the permit holder due to resulting costs and complexity. Combination of depth sounder and ROV or diving would provide similar information.	65-a. See Specific Response 34-h.
65	Marco Flagg, cont.	65-b. Criteria for successful rate of surfacing are problematic. Failures relate to the equipment being used, operations by the fishery, and environmental conditions. Strong incentives for recovery by operators, despite high failure rates during experimentation.	65-b. CDFW addressed this comment in the revised proposed regulations, see pages 41-42 of the Amended ISOR.
65	Marco Flagg, cont.	65-c. Deauthorizing a system jeopardizes substantial investments made in that gear type, and may be due to operator error or gear conflict rather than a failure of the system.	65-c. See Specific Response 34-e.

Appendix 3. June 29, 2020 Hearing Response to Comments – Section 132.8, Title 14 (RAMP)

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66	Ben Platt, California Coast Crab Association	66-a. Many traditional fisheries have been severely restricted by ESA regulations. Further punitive restrictions in the crab fishery and lead to the collapse of the entire West Coast fishing industry.	66-a. CDFW acknowledges the potential economic burden of complying with the requirements of the federal ESA.
66	Ben Platt, cont.	66-b. Appreciate improvements from initial draft, however regulations are still not acceptable or workable for the fishery.	66-b. General concern noted.
66	Ben Platt, cont.	66-c. Regulations must provide a clear and easy process for testing and approval of Alternative Gear. CCCA wants to see their alternative gear proposals implemented. Regulations must allow CDFW to authorize testing of gear not allowed under existing regulations.	66-c. See Specific Response 36-kk.
66	Ben Platt, cont.	66-d. Ropeless gear is not a silver bullet. It is impractical, overcomplicated, expensive, and will result in unnecessary lost gear. It may never be feasible. CCCA has more practical, affordable, and effective ideas.	66-d. See General Response E2. CDFW will consider all Alternative Gear proposals, and those that meet the requirements of subsection (h) will be authorized for use under the proposed regulation.

Appendix 3. June 29, 2020 Hearing Response to Comments – Section 132.8, Title 14 (RAMP)

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66	Ben Platt, cont.	<p>66-e. Final regulations must allow for adaptability of the strict numerical triggers and impact scores based on best available science. Lack of flexibility is a fatal flaw.</p>	<p>66-e. See General Response N2.</p>
66	Ben Platt, cont.	<p>66-f. Fishery should not be penalized for 50% of unknown gear entanglements. CDFW should improve gear marking regulations to require commercial crab lines are marked in addition to buoys, which will effectively eliminate commercial gear as a source of unknown entanglements.</p>	<p>66-f. See General Response C and Specific Response 36-k.</p>
66	Ben Platt, cont.	<p>66-g. Minimum default closures do not allow for the flexibility mentioned in rulemaking documents and should be removed.</p>	<p>66-g. See General Response I2.</p>
66	Ben Platt, cont.	<p>66-h. Delays due to unavailable data are unfair, particularly in light of CDFW's demonstrated failure to diligently collect data. Regulations must require CDFW to collect necessary data and default should be that the fishery is open, with only non-closure management actions.</p>	<p>66-h. See General Response D and Specific Response 36-cc.</p>

Appendix 3. June 29, 2020 Hearing Response to Comments – Section 132.8, Title 14 (RAMP)

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66	Ben Platt, cont.	<p>66-i. Proposed regulations do not account for interactions where whales are released alive and unharmed, which contradicts assessments under MMPA. There is no basis for CDFW to implement regulations stricter than the MMPA.</p>	<p>66-i. See General Response M.</p>
66	Ben Platt, cont.	<p>66-j. Pacific Leatherback Sea Turtle provisions are overly precautionary. The single confirmed Pacific Leatherback Sea Turtle entangled in CA commercial gear was released alive. There is no reason to treat every Pacific Leatherback Sea Turtle interaction as a mortality. Regulations should not close a Fishing Zone due to presence of a single turtle.</p>	<p>66-j. Regarding Impact Score Calculations for Leatherback Sea Turtles, see General Response M. Regarding trigger and resulting management action for Marine Life Concentrations of Leatherback Sea Turtles, see Specific Response 36-p.</p>
66	Ben Platt, cont.	<p>66-k. Proposed fishing zone from Lopez Point to Mexican border should be revised to span Lopez Point to Point Conception. Crabs are rarely found south of Point Conception. If whales are found there it could impact fishing north of Point Conception even if no whales are present.</p>	<p>66-k. See General Response B2.</p>

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66	Ben Platt, cont.	<p>66-l. Industry is committed to reducing interactions between crab gear and marine mammals, but basis for the RAMP regulations is an overreach of ESA law. Proposed regulations are a solution without a problem. Humpback Whale populations are thriving and rarely interact with commercial Dungeness crab gear. RAMP regulations should be amended to reflect the negligible impact of the fishery, it's importance to coastal communities, and the potential impacts of implementation.</p>	<p>66-l. The number of Confirmed Entanglements attributed to commercial Dungeness crab gear speaks contrary to commenter's assertion. Additionally, CDFW is mandated by Section 8276.1(b) of the Fish and Game Code to adopt regulations to address marine life entanglements.</p>
66	Ben Platt, cont.	<p>66-m. Industry consensus that the proposed regulations threaten livelihoods and continuation of the West Coast commercial fishing industry. Hope CDFW will make necessary changes to ensure final regulations are fair and lawful.</p>	<p>66-m. CDFW is committed to continue working with all stakeholders, and recognizes the burden that the proposed regulations may place on the fishing community.</p>
67	Catherine Kilduff, Center for Biological Diversity	<p>67-a. Alternative Gear should not include gear with vertical lies, which pose entanglement risk.</p>	<p>67-a. See General Response A6.</p>

Appendix 3. June 29, 2020 Hearing Response to Comments – Section 132.8, Title 14 (RAMP)

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67	Catherine Kilduff, cont.	67-b. Ropeless gear should be allowed at any time fishing is open for Dungeness crab to economically justify investment in the gear.	67-b. See General Response A7.
67	Catherine Kilduff, cont.	67-c. Criteria for ropeless gear should be clear and transparent so those investing in new technology understand the evaluation process and have confidence gear can be approved.	67-c. See General Response E3.
68	Estelle Fennell	68-a. Fishing Zones do not reflect on-the-water realities, and would force fishers in Shelter Cove and Fort Bragg to travel additional distances to land their catch.	68-a. See General Response B1.
68	Estelle Fennell, cont.	68-b. Appreciate the work done so far and CDFW should continue working with industry. Sustainability means that multi-generational traditions of fishing continue.	68-b. Comment noted.
68	Estelle Fennell, cont.	68-c. Only two of the factors considered by the Working Group are included in the proposed regulations; ocean/forage conditions and fishing dynamics are an important component.	68-c. See Specific Response 29-a and Specific Response 29-c.

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68	Estelle Fennell, cont.	68-d. CDFW should look at the bigger picture and keep in mind impacts on fishing industry on the North Coast.	68-d. CDFW strives to account for the regional characteristics of the diverse fishery. The recent change to the boundaries of Fishing Zones 1 and 2 (see General Response B1) is an example of this ongoing effort.
69	Tara Brock, Oceana	69-a. Support new regulations to prevent entanglements, allow fishing opportunities, and allow CDFW to receive an Incidental Take Permit.	69-a. Comment noted.
69	Tara Brock, cont.	69-b. Support new regulations allowing use of pop up gear, and encouraged by recent OPC funding allocation for testing. Written comment includes suggested language to help make pop-up gear a viable alternative. Request CDFW offer clear criteria for approving and allow during the entire season.	69-b. Comment noted, see also General Response A7 and General Response E3 .
69	Tara Brock, cont.	69-c. Support precautionary data-driven criteria to determine when risk is elevated. Regulations should require mandatory, not voluntary, management responses.	69-c. Comment noted, see also General Response A5 .

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69	Tara Brock, cont.	69-d. Support transition to electronic monitoring of entire fleet, offer assistance to seek external funding and partnerships. Global Fishing Watch could be a cost-effective way to inform future management responses.	69-d. See Specific Response 42-v.
69	Tara Brock, cont.	69-e. California Dungeness crab fishery has made progress in addressing wildlife entanglements. Adopting a strong set of regulations will ensure continued fishing opportunities while preventing entanglements.	69-e. Comment noted.
70	Jenn Humberstone, The Nature Conservancy	70-a. Appreciates efforts to incorporate flexibility, including adding all four risk factors to the management considerations.	70-a. Comment noted.

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70	Jenn Humberstone, cont.	<p>70-b. Proposed regulations do not specify how Director will determine management actions or evaluate impact and effectiveness over time, which falls short of adaptive management. Reliance on near term regulatory revisions has high time and cost, and binds the fishery to suboptimal outcomes during the rulemaking process. CDFW should maximize adaptive capabilities of the RAMP and consider meaningful contributions of the Working Group. Written comment letter includes specific recommendations.</p>	<p>70-b. See Specific Response 39-a, Specific Response 39-f, and Specific Response 39-h.</p>
70	Jenn Humberstone, cont.	<p>70-c. Expresses concerns regarding lack of scientific basis for marine life concentration triggers and clarity regarding survey design criteria.</p>	<p>70-c. See pages 23-24 of the Amended ISOR.</p>
70	Jenn Humberstone, cont.	<p>70-d. Support gathering improved information. Regulations could be improved to ensure data collection will achieve management objectives.</p>	<p>70-d. Comment noted.</p>

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71	Susan Rotwein, California Dungeness Crab Fishing Gear Working Group member	71-a. Hardwired closures decrease flexibility and ability to respond to dynamic marine mammal populations and consider economic impacts for industry.	71-a. See Specific Response 29-c and 29-d .
71	Susan Rotwein, cont.	71-b. All four risk factors developed by the Working Group should be incorporated into the RAMP.	71-b. See Specific Response 29-c .
71	Susan Rotwein, cont	71-c. Holding the fleet responsible for unknown gear entanglements is unfair, and is mitigated by gear marking. Line marking provides additional opportunities.	71-c. See General Response C and Specific Response 36-k .
71	Susan Rotwein, cont	71-d. 30% of the fleet already has VMS, and additional reporting requirements are unduly burdensome.	71-d. See General Response F1 and F2 .
71	Susan Rotwein, cont	71-e. Supports Jenn’s comments regarding Working Group role. Working Group should evaluate effectiveness and economic impact of all implemented management measures.	71-e. See General Response N2 .

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72	Michael Cunningham, Commercial Fisherman	72-a. Suggest season should remain open until data is available.	72-a. See General Response D.
72	Michael Cunningham, cont.	72-b. Even during years with high entanglements, no issues in the North coast. Mandating a statewide closure based on a few missing data points is excessive.	72-b. See General Response D.
72	Michael Cunningham, cont.	72-c. Rather than taking actions in the absence of information, wait until data is available.	72-c. See General Response D.
73	Jon Gonzalez, Pacific Seafood	73-a. CCCA is open to mandatory reporting, but regulations must specify data is confidential, similar to requirements under the federal Magnuson-Stevens Act.	73-a. See General Response F3.
73	Jon Gonzalez, cont.	73-b. One-minute ping rate requirement for electronic monitoring should match the 15-minut standard for federally-managed groundfish fisheries.	73-b. See General Response F2.
74	Dennis Mayo, California Commercial Beach Fisherman's Association	74-a. Habitat protections are critical. Fishermen, not government, pushed in removing foreign trawlers from California coast.	74-a. CDFW recognizes the importance of habitat protection and the fishing community's part in help ensuring a sustainable coastal ecosystem.

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74	Dennis Mayo, cont.	74-b. Precautionary principle being developed will impact beach fishery and crab fishery.	74-b. CDFW recognizes the importance and implications of the precautionary principle.
74	Dennis Mayo, cont.	74-c. Expresses concerns regarding inconsistent use of science, including irrelevant 200 mile addition.	74-c. See General Response B2 and B5 .
74	Dennis Mayo, cont.	74-d. Proposed regulations will end the crab industry. Alternative proposals from industry should be implemented.	74-d. Comment noted.
74	Dennis Mayo, cont.	74-e. Using “best available science” rather than industry on-the-water experience fails to meet CDFW’s mission.	74-e. It is CDFW policy to consider best available science when making management decision. Part of that consideration is the operational experience and expertise from the industry.
75	Dick Ogg	75-a. Location of prey drives movement of whale species, and should be considered under the proposed regulations.	75-a. CDFW recognizes the importance of forage data, and the proposed regulations do allow the Director to consider such data under subsection (d)(8).
75	Dick Ogg, cont.	75-b. Regulations should use a surgical approach rather than closing large areas of the coast.	75-b. The proposed regulations are intended to allow the Director, in consideration of the management recommendation from the Working Group and other factors outlined in subsection (d), the ability to narrowly tailor management response when appropriate, excepting a few circumstances.
75	Dick Ogg, cont.	75-c. Entanglements in unidentified gear should not impact the fishery.	75-c. See General Response C .