

Amend Sections 132.8
Title 14, California Code of Regulations
Re: Risk Assessment and Mitigation Program 2024 Revision

Final Statement of Reasons

I. Dates of Statements of Reasons

- (a) Initial Statement of Reasons Date: March 1, 2024
- (b) Amended Initial Statement of Reasons Date: November 1, 2024
- (c) Final Statement of Reasons Date: July 23, 2025

II. Dates and Locations of Scheduled Hearings

- (a) Public Discussion Hearing Location: Teleconference (Meeting details available on the Whale Safe Fisheries Page: <https://wildlife.ca.gov/Conservation/Marine/Whale-Safe-Fisheries>)
Date: May 21, 2024
- (b) Public Discussion Hearing Location: Teleconference (Meeting details available on the Whale Safe Fisheries Page: <https://wildlife.ca.gov/Conservation/Marine/Whale-Safe-Fisheries>)
Date: January 21, 2025

III. Update

The California Department of Fish and Wildlife (Department) proposed amendments to Section 132.8, Title 14, California Code of Regulations (CCR) to modify the Risk Assessment Mitigation Program (RAMP), which assesses and mitigates risk of marine life entanglement with fishing gear associated with the commercial Dungeness crab fishery.

The proposed regulatory amendments and Initial Statement of Reasons (ISOR) were noticed for a 45-day public comment period starting April 5, 2024 and ending May 21, 2024 (California Regulatory Notice Register No. Z2024-0326-03). The Department held a public hearing on May 21, 2024 from 10:00 a.m. to 12:00 p.m. by webinar. During the webinar, the proposal was presented to the public and comments were taken. The Department subsequently amended the ISOR (Amended ISOR) and noticed it for a further 45-day comment period starting December 6, 2024 and ending January 21, 2025 (California Regulatory Notice Register No. Z2024-1126-04). An additional public hearing on the additional modifications was held on January 21, 2025 from 10:00 a.m. to 12:00 p.m. by webinar. Changes from the original ISOR were shown as underline and strikeout in the Amended ISOR and are summarized in the Updated Informative Digest.

With this Final Statement of Reasons (FSOR), the Department provides the following related changes following a 15-day comment period starting June 25, 2025 and ending July 11, 2025:

1. In subsection 132.8(a)(2) and (a)(3), two references to the previous subsection (h), which is renumbered to subsection (i), were amended to correctly reference subsection (i) for alternative gear.
2. The language under subsection 132.8(c)(1)(A), which discounts the calculation of Confirmed Entanglements in Unknown Gear, has been amended to clarify that the entanglement applies

to the triggering of mandatory closure and other management actions under subsection (c)(1)(B), and that such an entanglement applies automatically and that the Department has no discretion to apply any other factor once a Confirmed Entanglement in Unknown Fishing Gear has been established. Under 132.8(c)(1), a cross-reference to subsection (a)(4) has also been removed to further streamline the language. These changes are necessary to bring clarity to this subsection.

3. Following consultation with fishery representatives, for subsection 132.8(e)(4), the Department will maintain the current date restriction on Alternative Gear (on April 1 or later), where the Director can only authorize its use on April 1 or later. This change was necessary to meet concerns raised by other members of the commercial fishing fleet concerning Alternative Gear.
4. Following consultation with fishery representatives, the Department has withdrawn the buoy marking requirement under former subsection 132.8(h)(1) to reduce the burden on the Dungeness crab industry. The tags attached to commercial Dungeness crab buoys along with the proposed line marking requirements are expected to contribute to the gear's identifiability.

One non-substantive edit has been made to fix a typo following the 15-day continuation period in June – July 2025.

- Subsection 132.8(c)(2)(B)2.a.: remove the word “in” after “...over a one-week period within...” so the sentence reads, “If the number of Humpback Whales is greater than or equal to 10, or a running average of five (5) or more animals over a one-week period within ~~in~~ a single Fishing Zone (excluding Zone 7), the Director shall implement a Fishing Zone closure or other management action as described in subsection (e) that the Director demonstrates protects Humpback Whales based on best available science.” This corrects the grammar of the sentence.

Another non-substantive edit was made to include as an authority in the notes Fish and Game Code Section 12000 per discussion with Office of Administrative Law reviewing staff with regard to mechanisms for enforcement.

Documents Incorporated by Reference

The Department incorporates by reference the following Code of Federal Regulations (CFR) sections because publication of these documents in full in the CCR would be cumbersome, unduly expensive, or otherwise impractical (Section 20, Title 1, CCR) because the documents are lengthy, are publicly available on the internet, and it would be inefficient for printing purposes. These documents are also available upon request from the Department, and they are reasonably available from commonly known or identified sources as noted by the webpage links provided. Title 50, Code of Federal Regulations (CFR) Part 660, sections 660.71 through 660.73, as revised December 12, 2018 (available from <https://wildlife.ca.gov/Notices/Regulations/RAMP2024>).

- Latitude/longitude coordinates defining the 10-fm (18-m) through 40-fm (73-m) depth contours - Title 50, Code of Federal Regulations Part 660, Section 660.71 (Revised March 1, 2023)
- Latitude/longitude coordinates defining the 50 fm (91 m) through 75 fm (137 m) depth contours - Title 50, Code of Federal Regulations Part 660, Section 660.72 (Revised December 1, 2023)

- Latitude/longitude coordinates defining the 100 fm (183 m) through 150 fm (274 m) depth contours -Title 50, Code of Federal Regulations Part 660, Section 660.73 (Revised December 1, 2023)

There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action (NOPA). The Department adopted the regulations on August 27, 2025.

IV. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting Those Considerations

During the initial 45-day public comment period (April 5, 2024 – May 21, 2024) for the proposed regulations, the Department received a total of 3,799 comments (including letters and comments from public hearing speakers) and another 27 comments were received during the second 45-day public comment period (December 6, 2024 – January 21, 2025). During the 15-day comment period (June 25 – July 11, 2025), four comments were received. Consistent with Government Code Section 11346.9(a)(3), comments were organized and sorted into one of three categories.

- Category A consisted of form comment letters, with identical language in the body of each letter constituting 3,594 comments (described below). In most instances, Category A comments differ only in their subject and signature lines. Substantive elements of an example form comment letter were underlined and labeled and are included as a coversheet. Category A was split into two subcategories, as there were two form letters generated by two different organizations (Subcategory A1 and A2).
- Category B consisted of letters with non-substantive language added to the form comments (i.e. those in Subcategories A1 and A2). Deviations from the form letter language have been highlighted in each Category B comment.
 - Subcategory B1: Comment letters with non-substantive language added to form letter A2. While the comment letters were nearly identical in both the content and the number and structure of paragraphs to the A2 form letter, the letters slightly varied in word choice and sentence structure. Department staff believe that these comments were generated via software through a third-party digital advocacy company, since the email header information identified that the letters originated from the same IP address and email address.
 - Subcategory B2: Comment letters with non-substantive language added to form letter A1.
- Category C consisted of letters which either (1) include substantive additional comments compared to the form comment language from those in Category A, and/ or (2) include new and relevant specific comments aside from a form comment.

Several specific points were raised in every Category A and B comments, as well as multiple Category C comments. Comments similar in nature were grouped and responded to collectively (as “General Responses to Comments,” below). Comment letters for Category C were numbered and each individual comment consistent with Government Code Section 11346.9(a)(3) was bracketed and assigned a cross-reference code for providing specific response in the

Appendices. Responses to the remaining Category C Comments for the two 45-day public comment periods and 15-day public comment period are presented in appendices as follows:

Appendix 1 to the FSOR - Responses to *written comments* received during the 45-day notice periods (April 5, 2024 – May 21, 2024, and December 6, 2024 – January 21, 2025). Updates to responses for this Appendix from the prior FSOR submitted in April 2025 are shown in **yellow highlight**.

Appendix 2 to the FSOR - Responses to comments received during the *public hearings* held (May 21, 2024 and January 21, 2025). Updates to responses for this Appendix from the prior FSOR submitted in April 2025 are shown in **yellow highlight**.

- During the public hearing held on May 21, 2024, 61 additional comments were received. Another 15 comments were received during the January 21, 2025 hearing.

Appendix 3 to the FSOR - Responses to *written comments* received during the 15-day continuation period June 25 – July 11, 2025

Table 1 summarizes the comments received during the two comment periods and the two public hearings. All comments received (either written or oral) were numbered sequentially for all appendices.

Table 1. Summary of Comments Received on the Proposed RAMP revisions.

Notice Period	Category (Location of Responses)	# Letters Received (Letter code)	Number of Specific Comments
45-Day (April 5 – May 21)	A1: Form letter (exact verbatim) (Responded to in General Responses)	840 (A001_A843)	7/letter
	A2: Form letter (near exact verbatim) (Responded to in General Responses)	2,754 (A2_CBD)	2/letter
	B1: Form letter plus non-substantive language or remarks not equivalent to additional comments	5 (B1_001 – B1_005)	7/letter, plus non-substantive language
	B2: Form letter plus non-substantive language or remarks not equivalent to additional comments	149 (B2_001-B2_161)	2/letter, plus non-substantive language
	C: Comments with relevant/substantive differences from form letter (Responded to in Appendix 1)	31 (C001 – C031) *C014 (Oceana) had 627 CA resident signatures	220
	C: May 21, 2024 Public Hearing (Responded to in Appendix 2)	20 commentors (C032 – C060)	61
45-Day (December 6 – January 21)	Comments with relevant/substantive differences from form letter (Responded to in Appendix 1)	15 (C061 – C075)	71
	C: January 21, 2025 Public Hearing (Responded to in Appendix 2)	12 (C076-C090)	36
15-Day (June 25– July 11)	C: Comments with relevant/substantive differences from form letter (Responded to in Appendix 3)	4 (C092-C095)	13

Comments received during the initial 45-day, second 45-day continuation period, and 15-day continuation period, were grouped based on similarity in topic or concern. General Responses A-

J to the public comments on the proposed RAMP regulations were focused on the following topics:

A. Marine Life Entanglements

Despite the adoption of RAMP regulation, the Dungeness crab fishery has nonetheless continued to entangle endangered marine life. Since RAMP's implementation, numerous humpback whale entanglements and one leatherback turtle have occurred.

Comment: A1-a, A2-a, C001-d, C004-a, C004-e, C012-a, C016, C018, C019, C020, C022, C023, C024, C035-a, C039-a

Response: While this is true, there has been a significant decline in the number of entanglements since RAMP was implemented. Confirmed entanglements of humpback whales in California commercial Dungeness crab gear reached a peak in 2016 with 19 entanglements. Since the implementation of RAMP, the highest number of confirmed entanglements with humpback whales and the fishery has been five. An analysis was performed by the NOAA Climate, Ecosystem, and Fisheries Initiative West Coast Decision Support Team on the impact of RAMP on entanglement (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=228124>). While the analysis acknowledges a high level of uncertainties inherent to marine life entanglement, RAMP was found to have reduced entanglement risk to blue whale by 71% and humpback whale by 35%. The Department will continue to work towards minimizing and mitigating marine life entanglement pursuant to the requirements of the Endangered Species Act (ESA), Marine Mammal Protection Act (MMPA), and any other relevant state policy. This proposal itself is an attempt to further improve RAMP and further reduce the likelihood of future entanglements.

B. Alternative Gear/Pop-up Gear

- 1. The Dungeness Crab Fishery should transition completely into using pop-up gear, which eliminates risk of entanglement in vertical lines. This includes removing Alternative Gear from subsection (e), since leaving the item in subsection (e) suggests that Alternative Gear is not allowed unless it is specifically authorized during a fishing season.**

Comment: A1-e, A2-b, C004-a, C004-d, C004-e, C007, C011-a, C011-c, C011-e, C011-f, C011-h, C012-f, C012-k, C012-l, C012-m, C013-c, C014-a, C016, C017-d, C018-a, C019-a, C020-a, C022-a, C023-a, C024, C025-a, C035-d, C036-b, C037-d, C039-g, C042, C043, C051, C053-d, C065-a, C076-a, C077-a, C081-b

Response: Pop-up gear is actively being tested and is viewed as one of the many management tools available to further reduce entanglement risk to large whales and sea turtles while still providing fishing opportunities during periods of elevated risk. The complete transition to pop-up gear is also addressed in General Comment A7 of the 2020 RAMP rulemaking (Office of Administrative Law File 2020-0902-02S). Available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=184263>. As of early 2025, preliminary information from ongoing Experimental Fishing Permits (EFP) on pop-up gear has shown promise. However, detectability through virtual application to track/detect deployed gear is still in the development stage and not widely available to the public. This issue must be addressed to ensure the equipment is not lost due to conflicts with other fisheries or ocean users. Once the final results from the EFPs are available, the

Department will compare the gear's performance to the criteria under renumbered subsection (i)(1). Further, the Department has reverted the adopted regulatory language in subsection 132.8(e)(4) to maintain the current date restriction on Alternative Gear (on April 1 or later), where the Director can only authorize its use on April 1 or later.

- 2. The start of the season is crucial for the entire fishery for important socioeconomic reasons, and all participants should be able to use their traditional gear during this period, not just those that are able to use Alternative Gear. As such, the regulation should explicitly qualify the use of Alternative Gear to after a fishing season has opened and then closed due to entanglement risk.**

Comment: C001-e, C005-e, C006-k, C006-xxx, C011-c, C011-e, C015-f, C017-b, C026-a, C029-f, C030-f, C031-b, C032-d, C048-b, C064-b, C067-d, C067-ee, C070-c, C071-b, C073-b, C074-b, C089

Response: The Department understands the concerns over Alternative Gear during the season opener and is keeping the current Alternative Gear restrictions in place. As shown in the proposed regulatory language, the Department has amended subsections (e)(4) & (5) to further clarify that such gear will be allowed use only after a fishing season has already started and is then subject to an early closure due to elevated entanglement risk.

- 3. Require third party validation of Alternative Gear testing results to ensure gear types meet the requirements of RAMP.**

Comment: C006-l, C015-f, C026-g, C029-g, C030-g, C032-d

Response: The Department is vested with the authority to develop RAMP as well as the mandate to implement the EFP program in collaboration with the California Fish and Game Commission. The performance standards listed under proposed subsection (i)(1)(B) represent important criteria and standards for the Department. The Department is in the best position to review testing results and approve Alternative Gear if the criteria are met. The Department will continue to work with all stakeholders to develop alternative gear, ensure it meets the criteria within RAMP and reduces the risk of entanglement as its primary goal.

- 4. Maximum service interval for Alternative Gear should be 7 days**

Comment: C012-l, C039-h

Response: The current maximum trap service interval is prescribed under Fish and Game Code Section 9004. Amending this requirement is outside the Department's rulemaking authority.

- 5. Pop-up gear are not ready for use. They are expensive, unreliable, and untried, and its use is unconstitutional.**

Comment: C013-c, C051, C053-d, C048-b, C071-b, C072-d, C092

Response: The Department understands that there are numerous challenges associated with the use of ropeless alternative gear. However, the gear offers conservation advantages not found in other gear types and preliminary testing results from the EFP program indicate a high degree of reliability. While the gear requires higher initial cost compared to traditional ones, such cost can be mitigated by stringing individual traps on a

common ground line and borrowing equipment from lending libraries. Pop-up gear is currently being tested under multiple EFPs. The Department will only approve gear that meet the criteria under renumbered subsection (i). The Department remains open to different gear types that can help conserve protected resources while maintaining access to fishery for the commercial Dungeness crab fleet. The commenter does not provide sufficient information specifying how the alternative gear requirements are unconstitutional. However, the Department has ensured the regulations meet the clarity requirements of the Administrative Procedure Act and are within the scope of the Department's statutory authority.

C. Entanglement Triggers and Impact Scoring

1. **The regulation should provide for more conservative entanglement triggers as well as retaining triggers tied to the number of entanglements averaged over three years. In particular, the automatic closure after three confirmed humpback whale entanglement is not strict enough. The NIT (Negligible Impact Threshold) for the Central America/Southern Mexico humpback whale population will be exceeded if three takes occur within a year.**

Comment: A1-f, C012-a, C012-b, C035-a, C037-a, C039-c; C065-c; C065-e, C066-c, C077-d, C078-d, C085-d

Response: The proposed triggers under subsection (c)(1)(B) are more conservative than the triggers under current subsection (c)(1)(B) and (c)(1)(C). With the exception of a single humpback whale entanglement, the proposed triggers in all other cases require immediate closure and subsequent season curtailments. Additionally, the proposed triggers, which require responses within a calendar year or after an entanglement, are more responsive than the previous 3-year trigger.

As explained in the ISOR, the mandatory closure and delay after three or more confirmed humpback whale entanglements are part of a suite of management actions, and the Director will take action to avoid violating legal obligations under federal laws. However, the exact actions that will be taken will depend on management considerations as specified under RAMP and the specific stock in question.

2. **High concentration or any entanglement of leatherback turtles should trigger closure of all Fishing Zones**

Comment: A1-b, C010-c, C012-c, C035-b, C039-d

Response: Pacific leatherback turtles are known to feed off specific important bioregions along the central/north central California coast which align with specific Fishing Zones. The Director will apply Fishing Zone closures that match the known foraging areas for leatherback turtles, and a closure of all Fishing Zones would likely not be necessary since Fishing Zones 3 and 4 comprise most of the known foraging area for Pacific leatherback turtles.

3. **The proposed entanglement triggers are too strict, and thus not in compliance with MMPA. In particular, repealing Impact Score calculation does not align with the management framework of MMPA. Some commenters also question the rationale behind repealing Impact Score generally.**

Comment: C002-a, C005-a, C006-c, C006-g, C006-x, C006-bb, C006-ggg, C006-hhh, C006-iii, C015-b, C026-c, C029-b, C030-b, C046, C067-b, C067-c, C067-x, C067-cc

Response: The proposed regulations are in alignment with the draft Conservation Plan to be submitted to NOAA Fisheries as a part of the application for an Incidental Take Permit (ITP). 16 USC 1538 (a)(1), among others, prohibits the take of any listed species. Take under ESA is broadly construed and does not differentiate takes that lead to Mortality or Serious Injury from other takes the way MMPA does. Any take of ESA-listed species would constitute violation of the ESA regardless of MMPA. As such the Department's application for an ITP must continue, and the adoption of RAMP 2.0 regulations and the repeal of Impact Score remain necessary.

D. Management Actions

- 1. The Management Action of Fleet Advisory should remain to help raise the Dungeness crab fleet's awareness during periods of elevated entanglement risk.**

Comment: C005-b, C006-h, C012-e, C015-c, C026-d, C029-c, C030-c, C032-a, C040-c

Response: During the initial 45-day comment period, members and representatives of the Dungeness crab fleet informed the Department that this Management Action still has the potential to modify fishing activities. The Department then proposed to retain fleet advisory as a management tool under subsection (e) provided that it is used in conjunction with another Management Action within the subsection, since the tool alone is not sufficient at reducing the likelihood of an entanglement when entanglement risk is high. As a result, the Management Action was removed because risk reduction is not quantifiable.

- 2. The new Management Action of minimizing surface gear should be removed. Properly affixed surface gear help reduce gear loss, and disallowing their use will lead to higher gear loss.**

Comment: C005-c, C006-i, C012-g, C015-d, C026-e, C029-d, C030-d, C032-b, C040-c

Response: The Department has withdrawn this proposal following comments received during the initial 45-day comment period.

- 3. The new Management Action of Active Tending should be removed since it can easily lead to congestion on the fishing grounds.**

Comment: C005-d, C006-j, C012-g, C013-c, C015-e, C026-f, C029-e, C030-e, C031-a, C032-c, C040-c C050

Response: The Department has withdrawn this proposal following comments received during the initial 45-day comment period.

E. Electronic Monitoring (EM)

- 1. The regulation should specify the format, timing, and transmission of EM, and provide more detailed justification for how such data help fulfill information needs. The regulation should also stipulate specific EM types and acquisition processes that are allowed under RAMP.**

Comment: C006-m, C008-a, C008-b, C008-c, C032-e

Response: Even though the current subsection (g)(2) is being amended, the requirement for an onboard EM system that can monitor the location and movement of vessels at frequency no less than once every minute using GPS coordinates has not changed and is not within the scope of either the original ISOR or the Amended ISOR. Unlike biweekly reporting, which focuses on large-scale data for traps, and landing receipts, which focus on landings, an EM system focuses on the location of the vessel. The 2020 RAMP ISOR explained that the EM requirement allows the Department to monitor Dungeness crab vessels compliance with active RAMP restrictions, including any trap deployment rules regarding conventional and alternative gears, as well as providing data regarding fleet's co-occurrence with protected animals at a scale finer than what is otherwise available to the Department through 10x10-nautical-mile fishing blocks or Fishing Zones.

As explained in the 2020 ISOR, ping frequency lower than once per minute is not sufficient to ensure compliance with area restrictions. At this frequency, staff would be able to differentiate between trap-setting and transiting, especially potential trap-setting within closed areas. The data can then further inform enforcement officers in conducting their patrols and investigations. To adequately enforce trap service interval requirements and monitor potential use of alternative gear types, data must be transmitted when traps are deployed even if the vessel is docked.

As the last few seasons have demonstrated, RAMP delays and closures cover large areas of the ocean, and the pattern of delay and closure for each Fishing Zone varies from season to season. Furthermore, as explained, the finer scale resolution will allow the Department to identify portions of crab fishing trips that overlap spatially with protected species and would allow the Department to work with stakeholders to further reduce such co-occurrence.

As explained in the current ISOR, requiring the upload of data reflects the prevailing norm following technological advancement where data are uploaded automatically following each trip. Once uploaded, Department staff could immediately check for compliance with active restrictions, which could change throughout the season based on ongoing animal prevalence or entanglements, as well as providing fine-scale data immediately to help inform ongoing overlap with protected species.

In regard to stipulating specific EM systems, the Department understands the importance of predictability to business operations. However, the Department also has concerns over the exclusionary effect of such a provision on new EM developers. The Department will continue to work with all constituents to clarify RAMP regulation as necessary to further develop EM technology and ensure they meet data reporting requirements. The Department will continue to update the existing [Compliance Guide for the California Commercial Dungeness Crab Fishery Electronic Monitoring Program](#) to provide further guidance for the fleet. The Department will also continue to work with other agencies and partners to subsidize or otherwise reduce the compliance cost of purchasing, installing, and maintaining EM systems.

- 2. Revise transmission requirements such that data interruptions that occur during fishing activity can be reported once the vessel has returned to port after fishing activity has concluded.**

Comment: C006-n, C013-g, C015-g, C026-h, C029-h, C030-h

Response: As explained in response to General Comment E1 above, the EM requirement has been implemented in large part to help enforce active RAMP management measures. Ensuring that the EM system captures the entirety of a vessel's fishing trip is thus necessary to ensure full compliance. Furthermore, without active EM capturing the entire length of each fishing trip, Department staff would not be able to sufficiently and accurately analyze and understand the potential overlap between protected species and fishing activities at the desired resolution.

F. Gear Marking

- 1. The entire line on a Dungeness crab gear must be marked instead of just the top portion of the submerged line.**

Comment: A1-c, C010-d, C012-j, C065-b, C066-b, C077-c, C078-c, C085-c

Response: As explained in the ISOR, surface gear has been identified as the most visible portion of fishing gear observed during an entanglement. As such, marking the entire length of fishing line does not provide added benefit in identifying fishing gear. Based on NOAA data, the trap is not typically observed in entanglement reports since the trap typically breaks off at some point during the entanglement event, along with the bottom-most portion of line near the trap itself. A NOAA analysis determined that the upper portions of line (generally fifty feet or less) was commonly seen in photo evidence of whale entanglements and rarely included line longer than fifty feet. Marking this portion of the gear is thus not expected to improve the gear's visibility on an entangled whale and does not justify the additional economic costs to the fleet.

- 2. Dyed lines are not as effective as purpose-manufactured ones; many commenters suggest that all surface lines must be purpose-manufactured with marking starting 2028.**

Comment: A1-d, C010-e, C013-e, C037-b, C039-e

Response: The Department understands that dyed/painted lines may not be as durable as purpose-manufactured lines. However, the Department believes that if properly maintained, these lines are just as effective as purpose-manufactured lines. For those who choose to eventually transition into manufactured lines, this option may ease the transition by reducing its upfront costs.

- 3. Gear marking should be delayed until an agreement is reached through either the Tri-State Crab Commission or TRT process.**

Comment: C006-o, C015-h, C026-i, C029-i, C030-i, C033-d

Response: The Department has actively participated in Tri-State Crab Manager meetings to discuss coordination for gear marking. Oregon, Washington, and California have all agreed to the current proposal and it is also supported by NOAA to align with requirements of an ITP. As the Department continues to pursue the ITP, gear marking needs to be implemented before a permit is issued, as advised by NOAA Fisheries. As such, phased implementation of gear marking is included in the current rulemaking. The additional language under proposed updated subsection (h)(2)(A)(1), pertaining to maintenance of painted lines was drafted to ensure that permit holders are aware of and held accountable for legible markings.

- 4. The Department has underestimated the cost of the new buoy marking and/or line marking and/or reporting requirements.**

Comment: C009-a, C009-b, C033-c, C061-c, C061-d

Response: The Department appreciates the alternative analysis provided by the commentor. There is a diversity of business models and fishing operations within the commercial Dungeness crab fleet across the state. As such, developing cost estimates will always prove to be difficult due to variability in labor and material costs. The Department relied on fleet members (personal communication) as well as publicly available data, including statistics from the U.S. Bureau of Labor Statistics, to inform the estimates developed in the rulemaking. Nonetheless, following consultation with fishery representatives, the Department has withdrawn the buoy marking requirement under former subsection 132.8(h)(1) to reduce the burden on the Dungeness crab industry, and has removed it from the final adopted regulation.

G. Lost/Derelict Gear

- 1. The Department should better account for lost/derelict gear using methods such as end-of-season tag accounting requiring all Dungeness crab permit holders to return their retrieved tags at the end of each season.**

Comment: A1-g, C010-f, C012-n, C037-c, C039-f

Response: Currently, a tag return requirement is beyond the scope of the Department's RAMP authority and may require a legislative change. It should be noted that the current proposal already contains new reporting requirements that include enhanced lost trap reporting, which is expected to improve trap loss accounting.

- 2. More must be done to prevent and retrieve lost or derelict gear.**

Comment: C013-b, C014-c, C052, C052, C054, C065-f

Response: The Department is currently updating regulations (14 CCR 132.2) surrounding gear retrieval in the commercial Dungeness crab fishery to allow expanded opportunities to retrieve lost or abandoned fishing gear. Please contact the Department at <https://wildlife.ca.gov/Conservation/Marine/Whale-Safe-Fisheries/Contact>, or subscribe to updates at <https://wildlife.ca.gov/Conservation/Marine/Whale-Safe-Fisheries>.

- #### **H. The Department should reverse changes to economic consideration under subsection (d)(4).**

Comment: C011-g, C012-i

Response: The Department has withdrawn the proposed amendment to subsection (d)(4) and original language will be maintained.

- I. The humpback whale population off the west coast is growing. The Department should amend the regulations to reflect this trend or at least discuss it.**

Comment: C001-j, C005-a, C006-g, C044-b, C045, C047, C053, C63-b, C067-z, C067-bb, C070-b, C074-b, C084-b, C088-a, C091-a

Response: The Department has worked closely with the National Marine Fisheries Service (NMFS) to estimate what might be allowable levels of “take” under the federal ESA and MMPA; as such the current RAMP regulations and resulting triggers closely mirror the requirements anticipated in an issued ITP. In addition, NMFS suggests that the allowable take of humpback whales under the ITP will likely remain limited in large part due to the slow recovery of the Central America Distinct Population Segment (DPS).

J. The entanglement and Marine Life Concentration (MLC) triggers are arbitrary. The federal government is convening a Take Reduction Team under the Marine Life Protection Act, which will comprehensively tackle fishery-related entanglements of protected whales using the most up-to-date population assessments. Changes to RAMP should be held off pending the result of that process.

Comment: C063-a, C063-b, C064-a, C067-a, C067-b; C067-v, C067-w, C067-y, C067-z, C067-dd, C069, C070-a, C071-a, C072-a, C072-c, C073-a, C074-a, C075, C079-b, C081-a, C082-b, C084-a

Response: Neither the original 45-day notice nor the second 45-day notices and comment periods made any substantive change to the MLC triggers. Additionally, the entanglement and MLC triggers were established to meet current legal obligations under federal law notwithstanding the convening TRT and eventual development of a TRP under the MMPA. Those obligations still remain, including those pertaining to the protection of the endangered Central America humpback whale DPS, which continues to exhibit slow growth as of the most recent 2023 stock assessment.

V. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

The following were alternatives for the regulation change itself. No other alternatives were identified by or brought to the attention of Department staff that would have the same desired regulatory effect.

1. Retaining Fishing Zone 6

Department staff have considered retaining Fishing Zone 6. The zone would be exempted from management action (since Dungeness crab fishery does not occur within it) and mandatory surveys, while still allowing the Director to consider data coming from within the zone. However, removing the Fishing Zone ultimately creates the most concise language.

2. Prescribe specific dates for risk assessments in the fall and their associated opening dates

Department staff have considered prescribing specific dates for each risk assessment in the fall, with each assessment then tied to a specific prospective opening date. The advantage of this approach is that it creates greater certainty for Department staff as well as the Dungeness crab fleet. However, concerns over factors beyond the Department’s control, such as when third-party data will become available, and ongoing changes in the ocean environment have dissuaded staff from taking that path.

3. Requiring biweekly reports to be transmitted through an electronic form

Department staff considered making transmission by the Department’s electronic form mandatory. However, using electronic forms for this type of application is still relatively new.

The Department is still processing the lessons that it has learned from the recent transition to electronically submitted landing receipts. As such, requiring an electronic form for biweekly reports is considered premature.

4. Requiring permit holders to report the tag number of lost traps during each biweekly report

Department staff considered requiring each permit holder to report the specific tag number of lost traps during each biweekly report. However, most permit holders do not track individual tags that closely during the fishing season, and requiring the entire fleet to shift its accounting practices enough to accommodate this change was deemed unrealistic and too disruptive.

5. Add new management actions: limit surface gear and active tending

The Department originally intended to add two additional management actions under subsection (e). First was to require surface line reduction for all commercial crab gear to help reduce potential points of entanglement. This was withdrawn following the first 45-day comment period due to concerns over increased gear loss from reduced surface gear. The second management action was to require operators to stay close to and actively tend their respective gear. If operators can pull their gear upon sighting protected marine life, they can avoid entanglement. However, concerns over congestion over fishing grounds, especially those close to ports, led to this proposal's withdrawal.

6. Requiring line marking on all gear starting November 1, 2028

The Department originally intended to require line marking for all gear starting November 1, 2028. However, guidance from NMFS suggests that the state may risk not obtaining an ITP for the Dungeness crab fishery if it does not start phasing in line marking beginning with the 2026-27 fishing season. In response, the Department decided to put forth the phased-in approach currently proposed to more quickly incorporate line marking into the fishery.

7. Requiring buoy marking starting November 1, 2025

The Department originally intended to require buoy marking for main and trailer buoys as defined in subsection 132.6(a) to be marked with a letter "D". However, concerns over the ability to mark buoys as proposed arose from the commercial fleet, which led to this proposal's withdrawal.

(b) No Change Alternative

Without the proposed changes, the identified inefficiencies, deficiencies, and ambiguities within RAMP will persist and continue to limit the state's ability to respond to Actionable Species entanglement, enforce management actions, collect data, and improve management tools.

(c) Consideration of Alternatives

In view of information currently possessed, no alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

(d) Description of Reasonable Alternatives that Would Lessen Adverse Impact on Small Business

It is reasonable to presume that the permit holders and a large share of businesses that support the Dungeness crab fleet harvest and distribution are small businesses. New compliance requirements and other changes to the regulations would increase the success of RAMP to achieve its goal in trying to avoid entanglement by Actionable Species. In light of the available evidence, Department staff could not identify reasonable alternatives that would lessen adverse impact on small business and still achieve the goals of this proposal.

VI. Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

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

The Department does not anticipate that the proposed action will have 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. The proposed changes provide improved enforceability and clarification of existing regulations that aid in the continued preservation of marine resources, while endeavoring to minimize interruptions to commercial harvest opportunities and thus, the prevention of adverse economic impacts

(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 does not anticipate adverse impacts on the creation or elimination of jobs within the state given that the proposed amendments are to the existing RAMP program, with improvements that include consideration of other management actions as options. The Department does not anticipate adverse impacts on the creation of new business, the elimination of existing businesses or the expansion of businesses in California. The proposed changes are to provide improved enforceability and clarification of existing regulations that are not anticipated to change the annual level of harvest activity, and thus the demand for goods and services related to marine resource harvest that could impact the demand for labor, nor induce the creation of new businesses, the elimination, nor the expansion of businesses in California. The Department does not anticipate any benefits to the health and welfare of California residents or to worker safety. The Department anticipates benefits to the State's environment indirectly through improved accuracy in information collected for the betterment of marine resources management, which improves fish stocks and the marine ecosystems.

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

The Department is aware of cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Dungeness crab permit holders are anticipated to have some additional gear-marking and EM costs, and some increases in reporting time (see STD399 and Addendum). Labor time required for line-marking is not changed by this requirement since line-marking is a part of the general line-handling tasks that fishers and their crews currently perform annually to service and prepare gear for use prior to the season. Additionally, some portion of each vessel's trap lines are replaced each season due to normal wear and tear.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None
- (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: None
- (h) Effect on Housing Costs: None

Updated Informative Digest

Unless otherwise specified, all section and subsection references in this document are to Title 14 of the California Code of Regulations (CCR). Furthermore, unless otherwise specified, “Dungeness crab fishery” refers to the California commercial Dungeness crab fishery.

The California Department of Fish and Wildlife (Department) adopted the Risk Assessment and Management Plan (RAMP) regulation in 2020 to reduce and mitigate the entanglement risk for humpback whales, blue whales, and Pacific leatherback sea turtles (Actionable Species) posed by the Dungeness crab fishery. Under RAMP, management responses will trigger whenever a confirmed entanglement of Actionable Species occurs, or the observed number of an Actionable Species reaches specific thresholds within any of the seven prescribed management area (Fishing Zone) along the state’s coast. The Director of the Department (Director) will also take management actions whenever the number of confirmed entanglements for an Actionable Species reaches specific statewide thresholds. Under several of these conditions, the Director is required to delay the fishery or close it early. Once the Dungeness crab fishery is closed within a Fishing Zone, only specific fishing gear designed to reduce entanglement risk that have been approved by the Department (Alternative Gear) may be used in such zones.

It has been over four years since the RAMP regulation, codified as Section 132.8, first went into effect, and it has since been implemented for four fishing seasons for the Dungeness crab fishery. The amendments proposed here are based on the Department’s experience implementing Section 132.8 as well as feedback from stakeholders and federal counterparts.

1. Definition and calculation for Confirmed Entanglement:

- a. Clarify that an Actionable Species entanglement involving California commercial Dungeness crab gear observed anywhere will be considered as a Confirmed Entanglement (subsection (a))
- b. Clarify that an Actionable Species entanglement in Unknown Fishing Gear will count as a Confirmed Entanglement only if it is reported from a Fishing Zone off California (subsection (a))
- c. Clarify that Confirmed Entanglements will be assigned based on information provided by the NMFS, and will be made when sufficient data are available, but no longer than on a quarterly basis (subsection (a))
- d. Remove provision pertaining to Confirmed Entanglements involving multiple fisheries (subsection (a))
- e. Simplify Confirmed Entanglement’s calculation by repealing the concept of Impact Score (subsections (a) & (c))
- f. An unidentifiable gear will be considered as Unknown Fishing Gear unless the gear in question is entirely inconsistent with a Dungeness crab trap (subsection (a))
- g. Phase out assignment of Confirmed Entanglements in Unknown Fishing Gear to the Dungeness crab fishery based on a new line marking requirement (subsection (c) & (h))

2. Management areas under RAMP:

- a. Specify that Fishing Zones extend to all “Ocean Waters” within the specified area (subsection (a))
- b. Remove the concept of “Fishing Grounds” and apply the 100-fathom boundary to only the Marine Life Concentration surveys (subsections (a), (c), and (d))
- c. Defines “Ocean Waters” (subsection (a))
- d. Remove Fishing Zones 6 & 7 (subsection (a))

3. Management Actions:

- a. Move the start time of risk assessments from November 1 to October 15 and discontinue assessment once a Fishing Zone has been closed for the rest of the season (subsection (b))
- b. Clarify that a management action will remain in effect until it is revoked (subsection (b))
- c. If a Fishing Zone is closed for the season, only approved Alternative Gear can be used in that zone for the rest of the season (subsections (b) & (e))
- d. Institute revised Confirmed Entanglement thresholds to align with ESA and anticipated requirements under an ITP (subsection (c))
- e. The validity of a survey for risk assessment no longer expires after a specified period of time (subsection (c))
- f. Elevate a management action’s effectiveness at minimizing entanglement to its primary goal (subsection (d))
- g. Consolidate the spatial data on the Actionable Species under one subsection and explicitly allow the consideration of data in areas adjacent to Fishing Zones (subsection (d))
- h. Extend consideration of entanglement pattern from only the ongoing calendar year and Fishing Season to prior years and seasons as well while crafting management actions (subsection (d))
- i. Remove Fleet Advisory as a management action (subsection (e))
- ~~j. Add restrictions to the amount of surface gear and mandatory active tending of crab gear as a possible management actions (subsection (e))~~
- j. Update fishery closure requirements by clarifying that all fishing gear must be removed from a closed Fishing Zone by the effective date of the fishery closure; crabs from delayed or closed zones cannot be taken, possessed, sold, or landed, with special stipulations for crabs taken from these zone(s) right before closure (subsection (e))

4. Reporting

- a. Further clarify that all Dungeness crab permit holders, whether they are using traditional or Alternative Gear, must submit the biweekly report when they have gear in any Fishing Zone(s); reports are due on the first and sixteenth of each month, and

may be submitted through a Department provided form in addition to email or text (subsection (g))

- b. Biweekly report now includes the due dates and number of newly lost traps known to each permit holders (subsection (g))
- c. Requiring an end-of-season report due two weeks following the submission of each permit holder's last biweekly report of a Fishing Season documenting the traps lost during that season and their associated buoy tags (subsection (g))
- d. Update requirements for electronic monitoring systems by commercial Dungeness crab vessels when RAMP management measures are in place; monitoring systems must be able to track vessel accurately without interruption; tampering is prohibited, and any interruption must be reported and corrected before fishing can resume (subsection (g))

5. Dungeness crab fishing gear identification

- a. Requiring trap line marking to identify the gear belonging to the Dungeness crab fishery (subsection (h))

6. Alternative Gear

Further stipulate the types of limitations or conditions that may be attached to the authorization of an Alternative Gear (subsection (i))

Benefits of the Proposed Regulations

This proposal clarifies existing RAMP language, particularly those pertaining to Confirmed Entanglements, and improves the program's enforceability. The proposal also promotes compliance with ESA, simplifies the geographic aspect of the program, improves the efficiency and predictability of the risk assessments, improves program flexibility by introducing two new management tools, improves data collection by updating the biweekly reporting requirement, implements new marking requirements to improve information quality and help phase out the use of Unknown Fishing Gear, improves the integrity of the electronic monitoring program, and finally to build out the conditions for Alternative Gear authorization and use.

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 Fish and Game Code). 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 that other than Section 132.8, no other State regulations implement measures to reduce marine life entanglement in commercial Dungeness crab fishing gear.

UPDATE #1

The proposed regulatory amendments and Initial Statement of Reasons (ISOR) were noticed for a 45-day public comment period starting April 5, 2024 and ending May 21, 2024 (California

Regulatory Notice Register No. Z2024-0326-03). The Department held a public hearing on May 21, 2024 from 10:00 a.m. to 12:00 p.m. by webinar.

The Department subsequently amended the ISOR (Amended ISOR) based on public comments received during the first 45-day period, and noticed it for a further 45-day comment period starting December 6, 2024 and ending January 21, 2025 (California Regulatory Notice Register No. Z2024-1126-04). An additional public hearing on the additional modifications was held on January 21, 2025 from 10:00 a.m. to 12:00 p.m. by webinar. Changes from the original ISOR were shown as underline and strikeout in the Amended ISOR.

The changes made are summarized as follows:

- **Subsection 132.8(a)(4)(C):** remove the word “made” as it was redundant with the phrase “made available.” This change was necessary to bring clarity to the subsection.
- **Subsection 132.8(b)(1):** make lowercase the word “Closed” as it is not a defined term and does not require capitalization (non-substantive change).
- **Subsection 132.8(c)(1)(A):** Given timing for implementation of these updated regulations, changed the timing for implementation from November 1, 2025 to “until” November 1, 2028. Also, lower the Entanglement Evaluation Score for Confirmed Entanglements in Unknown Fishing Gear from 0.5 to 0.25.
- **Subsection 132.8(c)(1)(B)1.:** Amend “remainder of the Fishing Season” to include the word “current” and include the word “following,” to clarify the subsequent fishing season in Humpback Whale Entanglement Evaluation.
- **Subsection 132.8(c)(1)(B)2.:** Update the management action trigger for blue whales to clarify the season by added “current,” and revise the fishery closure date for management action due to blue whale entanglement from “on April 1” to “no later than April 1,” to provide flexibility for closure based on blue whale migratory patterns.
- **Subsection 132.8(c)(1)(B)3.:** Update the management action trigger for Pacific leatherback sea turtles to clarify the season by added “current.”
- **Subsection 132.8(d):** Revert back to language from the 2020 establishment of RAMP, to say, “if deciding between management measures that equivalently reduce entanglement risk...” with regards to total economic impact of the fleet for management considerations. **Subsection 132.8(e):** Remove proposed sections in Management Actions that consider surface gear and tending requirements; these will not be considered Management Actions. Subsequent renumbering is proposed to (e)(2), (e)(3), and (e)(4).
- **Subsection 132.8(g):** clarify the requirement for electronic monitoring system when possession any Dungeness crab or when it possesses any Dungeness crab trap onboard. Similarly, language is updated for prohibition against tampering to clarify “participating in the fishery.”
- **Subsection 132.8(h)(1):** Amend Main Buoy marking to remove the date of November 1, 2024, as these regulations are planned for implementation in 2025, and change the word “drawn” to “marked” to reflect means to meet the marking requirements.

- **Subsection 132.8(h)(2): Clarify requirement for use of purple and black lines, and prohibit the use of line colors used by other states or (red/black and yellow/black for Washington and Oregon, respectively) in the California commercial Dungeness crab fishery.**
- **Subsection 132.8(h)(2)(B): Provide for an exception to surface line marking requirements in Continuous Line Marking so that buoy gangions do not have to be marked. The effective date of November 1, 2025 is moved to 2026 given timing for implementation of these updated regulations.**
- **Subsection 132.8(h)(2)(C): Update line marking implementation to exempt the bottom 5 fathoms of line closest to the trap from line marking requirements. Also, change date of mandatory surface line marking from November 1, 2024 to November 1, 2025. Revise the implementation timeline for line marking to stagger milestones, keeping the full implementation date November 1, 2028.**
- **Subsection 132.8(i): Clarify that Alternative Gear must be detectable and that the ability to detect such gear must be freely available to the Department and the public.**

UPDATE #2

With guidance from the Office of Administrative Law, the Department noticed a 15-day continuation period June 25, 2025 and ending July 11, 2025.

The changes made are summarized as follows:

- **Subsection 132.8(a)(2) and (a)(3): two references to the previous subsection (h), which is renumbered to subsection (i), were amended to correctly reference subsection (i) for alternative gear.**
- **Subsection 132.8(c)(1)(A): language which discounts the calculation of Confirmed Entanglements in Unknown Gear has been amended to clarify that the entanglement applies to the triggering of mandatory closure and other management actions under subsection (c)(1)(B), and that such an entanglement applies automatically and that the Department has no discretion to apply any other factor once a Confirmed Entanglement in Unknown Fishing Gear has been established. Under 132.8(c)(1), a cross-reference to subsection (a)(4) has also been removed to further streamline the language.**
- **Subsection 132.8(e)(4): following consultation with fishery representatives, the Department will maintain the current date restriction on Alternative Gear (on April 1 or later), where the Director can only authorize its use on April 1 or later. It was later determined that the additional language did not serve the intended purpose and the language in this section has reverted to current regulation, with the exception of a subsection reference that was changed from (h) to (i).**
- **Subsection 132.8(h)(1): Following consultation with fishery representatives, the Department has withdrawn the buoy marking requirement under former subsection 132.8(h)(1) to reduce the burden on the Dungeness crab industry with the 15-day continuation period in June – July 2025.**

One non-substantive edit has been made to fix a typo following the 15-day continuation period in June – July 2025.

- Subsection 132.8(c)(2)(B)2.a.: remove the word “in” after “...over a one-week period within...” so the sentence reads, “If the number of Humpback Whales is greater than or equal to 10, or a running average of five (5) or more animals over a one-week period within ~~in~~ a single Fishing Zone (excluding Zone 7), the Director shall implement a Fishing Zone closure or other management action as described in subsection (e) that the Director demonstrates protects Humpback Whales based on best available science.” This corrects the grammar of the sentence.

Another non-substantive edit was made to include as an authority in the notes Fish and Game Code Section 12000 per discussion with Office of Administrative Law reviewing staff with regard to mechanisms for enforcement.

There have been no other changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action. The Department adopted the regulations on August 27, 2025.