



Tyrone D. Williams, Chief
Budget Branch
California Department of Fish and Wildlife
1416 9th Street, 12th Floor
Sacramento, CA 95814

April 3, 2020

Dear Mr. Williams:

Thank you for submitting the standardized regulatory impact assessment (SRIA) and summary (Form DF-131) for the Risk Assessment Mitigation Program: Commercial Dungeness Crab Fishery, as required in California Code of Regulations, Title 1, Section 200(a)(1) for major regulations. Proposed text of the regulations was not submitted; hence, comments are based solely on the SRIA and other publicly available information.

The proposed regulations establish guidelines for risk assessment and management actions to mitigate marine life entanglement in Dungeness crab fishing gear, starting in November 2020. The guidelines refer to risk criteria that will trigger a management event when the risk of marine life entanglement is high. A management event can be one or more of six actions, ranging from delaying the start of the season to full closure of the season, commensurate with the risk of entanglement. Based on historical data from the past five seasons, Department of Fish and Wildlife modeled five scenarios-of possible impacts. Depending on the management action implemented, the proposed regulations would impose direct costs on commercial crab fishers ranging from \$3.4 million due to a 5.5 percent loss in catch revenue during a season that starts on time but closes early to \$62 million or total loss of catch revenue under a full season closure. Total annual economic output costs are estimated up to \$119.6 million if a season closed completely. Of that amount, the regulation is estimated to lead to reduced revenue of \$700,000 to local governments and of \$2.1 million to state government under a full season closure. State government enforcement costs are estimated at \$500,000 annually. Benefits are estimated as 50 percent to 100 percent reductions in average number of entanglements, amounting to \$1.3 million to \$3.6 million annually. The SRIA identifies alternatives including expansion to other fisheries and protection of additional species, more tolerant risk thresholds, and data and methodological changes for determining risks of entanglement, although procedures for assessing risk and determining numerical thresholds are not detailed in the SRIA.

Finance generally concurs with the methodology used to estimate impacts of proposed regulations, with three exceptions: 1) the SRIA must disclose and describe the risk factors that would trigger each risk mitigation action, and the associated likelihood that each risk factor occurs based on historical data. 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 ranging from \$3.4 million to \$119.6 million should be augmented with an assessment of the likelihood that a particular mitigation action would be triggered in any one season. Similarly, 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. It is not clear in the SRIA how the 50 percent, 75 percent, and 100 percent reductions relate to the historical data used for the cost estimates. 2) The SRIA must discuss the 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. There is brief mention that the industry is made up of large and small operations, but the impacts are assumed to hit each type proportionately. However, disparate impacts might exist, for example with smaller operations finding it difficult to adapt to a risk mitigation requiring alternative gear or for locals in a region impacted by a full season closure. 3) The SRIA must evaluate and discuss the costs and benefits associated with at least two of the alternatives considered.

These comments are intended to provide sufficient guidance outlining revisions to the SRIA. The SRIA, a summary of Finance's comments, and any responses must be included in the rulemaking file that is available for public comment. Finance understands that the proposed regulations may change during the rulemaking process. If any significant changes to the proposed regulations result in economic impacts not discussed in the SRIA, please note that the revised economic impacts must be reflected on the Standard Form 399 for the rulemaking file submittal to the Office of Administrative Law. Please let us know if you have any questions regarding our comments.

Sincerely,



Somjita Mitra
Chief of Economic Research

cc: Mr. Lenny Mendonca, Director, Governor's Office of Business and Economic Development
Mr. Kenneth Pogue, Director, Office of Administrative Law
Mr. Charlton H. Bonham, Director, Department of Fish and Wildlife