

Appendix 4. Specific Responses to Comments, 15-Day Continuation Notice Period – Section 132.8, Title 14 (RAMP)

Responses to unique Comments received during the 15-day Continuation Notice period July 17 - August 3, 2020.

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

#	Commenter Name, Format, Date	Comment	Response
76	Sean O’Keeffe Email dated 7/17/2020	76-a. Crab fishing should result in zero entanglements and deaths of other animals.	76-a. This comment is outside the scope of the regulatory changes included with the 15-day Continuation Notice, therefore no response is required pursuant to the APA. CDFW appreciates commenter’s participation and encourages the public’s continued engagement on these issues.
77	K. Jenkins Email dated 7/18/2020	77-a. Safety and wellbeing of our oceans and marine life should be ensured at all costs, and regardless of costs to the fishing industry.	77-a. This comment is outside the scope of the regulatory changes included with the 15-day Continuation Notice, therefore no response is required pursuant to the APA. CDFW appreciates commenter’s participation and encourages the public’s continued engagement on these issues.
78	Judith Gottesman Email dated 7/19/2020	78-a. Crab fishing gear designed to trap whales, dolphins and sea turtles is unacceptable, and safer gear types should be used.	78-a. See General Response E1.
79	Jacob Isaac-Lowry , Flywire Email dated 7/28/2020	79-a. Commenter seeks guidance on how private companies can collaborate with the Fleet and the Working Group to develop electronic monitoring in a timely, cost-effective manner	79-a. This comment is outside the scope of the regulatory changes included with the 15-day Continuation Notice, therefore no response is required pursuant to the APA. CDFW encourages commenter to reach out to the Working Group directly (https://www.opc.ca.gov/whale-entanglement-working-group/)

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79	Jacob Isaac-Lowry, cont.	79-b. To provide the best science available, CDFW needs instrumentation and data delivery that can respond as fast as the conditions on the ground and FlyWire's system arguably provides the best science available.	79-b. This comment is outside the scope of the regulatory changes included with the 15-day Continuation Notice, therefore no response is required pursuant to the APA. CDFW appreciates commenter's participation and encourages the public's continued engagement on these issues.
79	Jacob Isaac-Lowry, cont.	79-c. FlyWire's system could prevent the lack of data under subsection (c)(2) from occurring.	79-c. This comment is outside the scope of the regulatory changes included with the 15-day Continuation Notice, therefore no response is required pursuant to the APA. CDFW appreciates commenter's participation and encourages the public's continued engagement on these issues.
79	Jacob Isaac-Lowry, cont.	79-d. Instrumentation and data delivery system is only effective if the Fleet and Dept. can sustain it over time and Flywire can deliver the data in the most sustainable format at the cheapest cost.	79-d. This comment is outside the scope of the regulatory changes included with the 15-day Continuation Notice, therefore no response is required pursuant to the APA. CDFW appreciates commenter's participation and encourages the public's continued engagement on these issues.
80	Christopher Lish Email dated 8/3/2020	80-a. Strongly supports revisions to the proposed regulations, including requirements for fleet-wide monitoring and advancing use of pop-up fishing gear.	80-a. Comment noted.
80	Christopher Lish, cont.	80-b. Urges CDFW to finalize regulations and implement by November 1, 2020.	80-b. CDFW intends the regulations to be effective by November 1, 2020.

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#	Commenter Name, Format, Date	Comment	Response
81	<p>Marco Flagg, Desert Star Email dated 8/3/2020</p>	<p>81-a. Subsection (h)(1)(B)(1) should be amended to allow either virtual or acoustic gear marking software to satisfy the ¼ mile detectability requirement and that “used with software” should be understood to allow virtual and acoustic gear marking. Regulations should not require a specific search radius for acoustic identification due to cost, environmental impacts on acoustic signal range, and increased potential for interference with other gear operations. Virtual marking should be used as the primary location identifier, with some form of acoustic sensing (possibly sonar) as a supplement.</p>	<p>81-a. CDFW’s agrees with commenter’s interpretation that software could be virtual or acoustic. CDFW encourages the development of any promising form of Alternative Gear and specifies a minimum distance only for detectability. However, virtual marking with GPS only without actually tracking the physical gear may lead to gear loss in areas of strong current or following extreme weather events.</p>

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81	Marco Flagg, cont.	<p>81-b. Subsection (h)(1)(B)(2) should be amended to remove requirement for a back-up release capability. Pop-up gear typically has lower gear loss rates than traditional gear due to use of virtual gear marking; reduced interference from boats, vandalism, and entanglements; and increased incentive to attempt gear recovery. Back-up release mechanisms such as galvanic timed releases will only be effective in certain failure scenarios, and obviate many of the benefits of using the pop-up gear. Command releases may be useful for longlined gear, but will not be economically viable for single traps or shorter longlined gear.</p>	<p>81-b. CDFW recognizes that back-up release mechanism will add cost to ropeless gear. However, a failed gear with a back-up release mechanism stands a better chance of being retrieved than one without. CDFW may consider removing the requirement for a back-up release mechanism for pop-up gear in the future through an additional rulemaking if there are data to suggest it is no longer necessary or appropriate.</p>

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#	Commenter Name, Format, Date	Comment	Response
81	Marco Flagg, cont.	81-c. Support comment from Tara Brock during the August 3, 2020 public hearing allowing use of Alternative Gear during the entire Fishing Season, which will increase economic viability for investments in new gear. Benefits for fishers are not limited to reduced entanglement risk, but also include reduced poaching, vandalism and gear loss and improved retrieval during high current conditions.	81-c. This comment is outside the scope of the regulatory changes included with the 15-day Continuation Notice, therefore no response is required pursuant to the APA. CDFW appreciates commenter’s participation and encourages the public’s continued engagement on these issues.

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81	Marco Flagg, cont.	<p>81-d. Additional amendments to reduce gear conflict between traditional and Alternative Gear include: (1) detectability requirement in subsection (h)(1)(B)(1) met by virtual/GPS marking software, allowing traditional gear users to identify submerged gear without additional equipment; (2) including a visibility radius on the order of 100 miles, rather than the ¼ mile implied by subsection (h)(1)(B)(1) to allow fishers to check for presence of submerged gear in target fishing area; (3) during open season, gear marking software is free of charge to all users; (4) CDFW develop a technological solution to display virtual gear marks from all software in a single interface for reference by fishers. Comment also notes DesertStar Ropeless Fisher application can be used to mark submerged gear from any manufacturer.</p>	<p>81-d. Regarding item 1, see Specific Response 81-a.</p> <p>Regarding item 2, subsection (h)(1)(B)(1) specifies a minimum detectability distance, not visibility standards. The proposed regulations do not preclude the development of other mechanisms to allow the Fleet to see ropeless gear from greater distances. Items 3 and 4 are outside the scope of the 15-day Continuation Notice and therefore no response is required pursuant to the APA. CDFW appreciates commenter’s participation and encourages the public’s continued engagement on these issues.</p>

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82	<p>Jamie Karnik, Oceana on behalf of 4,180 California residents Email dated 8/3/2020</p>	<p>82-a. Strongly supports revisions to the proposed regulations, including requirements for Fleet-wide monitoring and advancing use of pop-up fishing gear.</p>	<p>82-a. Comment noted.</p>
82	<p>Jamie Karnik, cont.</p>	<p>82-b. Urges CDFW to finalize regulations and implement by November 1, 2020.</p>	<p>82-b. See Specific Response 80-b.</p>
83	<p>Colleen Weiler, Whale Dolphin Conservation Email dated 8/3/2020</p>	<p>83-a. Appreciate quick work by CDFW to amend the originally proposed regulations in response to comments, and overall effort to assess and reduce risk of marine life entanglements in the California commercial Dungeness crab fishery.</p>	<p>83-a. Comment noted.</p>
83	<p>Colleen Weiler, cont.</p>	<p>83-b. Appreciate intent to rely solely on NOAA to confirm entanglements. Emphasize importance of coordination and communication between CDFW and NOAA. Management action should not be delayed due to waiting for NOAA confirmation.</p>	<p>83-b. Comment noted. CDFW can only move forward with actions that impact the fishery when it is certain that an entanglement has been confirmed. This process and timing vary based on available information, entanglement response efforts, photo documentation and collecting enough information to confirm the gear type and fishery. CDFW will provide NOAA with relevant information in a timely fashion to facilitate NOAA’s prompt investigation and response.</p>
83	<p>Colleen Weiler, cont.</p>	<p>83-c. ISOR should be amended to explicitly state that NOAA will be responsible for identifying gear in confirmed entanglements.</p>	<p>83-c. See pages 6-7 of the Amended ISOR.</p>

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#	Commenter Name, Format, Date	Comment	Response
83	Colleen Weiler, cont.	83-d. Reiterate prior comment for CDFW to clarify how entanglements where gear cannot be identified to a particular fishery and how entanglements which are identified as commercial Dungeness crab but not to a specific state will be scored.	83-d. See Specific Response 40-c.
83	Colleen Weiler, cont.	83-e. Requests clarification that NOAA is the responsible party for determining whether entanglements occurred post-mortem, and describe the process by which the determination will be made.	83-e. See pages 6-7 of the Amended ISOR.
83	Colleen Weiler, cont.	83-f. Support proposed approach for attributing multiple-gear entanglements, i.e. that when the source of the initial entanglement can be identified and other gear is attached only to the initial gear, the Impact Score is applied only the initial gear.	83-f. Comment noted.

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83	Colleen Weiler, cont.	<p>83-g. Additional gear can increase severity of an entanglement, and entanglement configurations may change over time. Secondary entanglements should not be completely discounted when determining Impact Scores, particularly if additional gear is directly interacting with an Actionable Species.</p>	<p>83-g. CDFW acknowledges that additional gear could contribute to a more severe entanglement. However, CDFW will base the Impact Scoring on the primary entangling gear as confirmed by NOAA, when possible. In the event of multiple fishery gear types, the resulting entanglement will be attributed equally among those fisheries, pursuant to subsection (a)(4)(E). As discussed on page 7 of the Amended ISOR, the proposed regulation specifically deals with how the commercial Dungeness crab fishery will be held accountable for entanglements caused by commercial Dungeness crab gear, which is reflected in the Impact Scoring determination for multiple gear entanglements..</p>
83	Colleen Weiler, cont.	<p>83-h. While CDFW cannot implement management measures in other states and the California fishery should not be held responsible for entanglements which occur in other states, CDFW should include management actions to reduce risk of entanglements in non-California commercial Dungeness crab gear. Entanglements involving trailing gear are at increased risk for additional entanglements, increasing risk of serious injury and mortality. Entanglements in any gear should result in management action.</p>	<p>83-h. CDFW authority under Section 8276.1 of the Fish and Game Code, is limited to the commercial Dungeness crab fishery. The scope of this rulemaking is therefore limited to management actions applied to the California commercial Dungeness crab fishery.</p>

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#	Commenter Name, Format, Date	Comment	Response
83	Colleen Weiler, cont.	83-i. CDFW should allow use of Alternative Gear during the entire Fishing Season.	83-i. This comment is outside the scope of the regulatory changes included with the 15-day Continuation Notice, therefore no response is required pursuant to the APA. CDFW appreciates commenter’s participation and encourages the public’s continued engagement on these issues.
83	Colleen Weiler, cont.	83-j. Law enforcement personnel should be involved in testing of Alternative Gear as much as possible to ensure requirements are addressed and Alternative Gear is used as soon as feasible.	83-j. CDFW law enforcement personnel helped develop the Alternative Gear requirements under subsection (h) and will be involved in evaluation of Alternative Gear under this subsection. CDFW involvement in testing efforts is outside the scope of this rulemaking.
83	Colleen Weiler, cont.	83-k. Reiterate request for clarity on how Director will determine equivalency of actions to reduce entanglement risk when assessing management measures. Regulations should provide more detail on process for evaluating relative risk reduction compared to zonal or statewide closure.	83-k. This comment is outside the scope of the regulatory changes included with the 15-day Continuation Notice, therefore no response is required pursuant to the APA. CDFW appreciates commenter’s participation and encourages the public’s continued engagement on these issues.
84	Jenn Humberstone, on behalf of 11 members of the California Dungeness Crab Fishing Gear Working Group Email dated 8/3/2020	84-a. Appreciate CDFW’s ongoing consultation and consideration of input regarding RAMP regulations.	84-a. Comment noted.

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84	Jenn Humberstone, cont.	84-b. Appreciate amendments to clarify the role of the Working Group and Risk Assessment process, including specifying a minimum 48-hour advance notice prior to a Risk Assessment and that CDFW will provide all non-confidential data under consideration.	84-b. Comment noted.
84	Jenn Humberstone, cont.	84-c. Removing the Working Group from the definition of Risk Assessment in subsection (a)(12), not specifying on what basis the Working Group will be convened in subsection (b)(2), and not specifying scope of considerations for management action recommendations and roles regarding information gathering in subsection (d)(1) have created problematic ambiguity.	84-c. As noted in the Amended ISOR, the amendments to the proposed regulations were intended to provide additional clarity around the Working Group’s role in the Risk Assessment process. Specific responses to the suggested revisions are provided below.

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84	Jenn Humberstone, cont.	<p>84-d. Subsection (a)(12) should be amended to specifically include associated management action recommendations developed by the Working Group. Regulations should define the process and scope for the management action recommendation process, the role of the Working Group in the Risk Assessment process, and the relationship between the roles of the Working Group and CDFW.</p>	<p>84-d. Subsection (a)(12) defines “Risk Assessment.” The role of the Working Group is discussed on page 15 of the Amended ISOR and is focused on providing a management recommendation under subsection (d)(1) as opposed to input on the initial determination whether the triggers under subsection (c) have been met (in other words, whether there is entanglement risk worth management response by the Director); therefore, it is no longer appropriate to reference the Working Group in (a)(12). Given the list of possible management actions in subsection (e) and defined list of management considerations in subsection (d), CDFW views the regulation as clear as to the scope of what would be included in a Working Group recommendation.</p>
84	Jenn Humberstone, cont.	<p>84-e. Support convening the Working Group on an as-needed basis when risk is elevated, rather than on a mandatory monthly basis, but role is unclear. Subsection (b)(3) could be revised to clarify that Working Group recommendations will be considered prior to taking management action and after determining risk is elevated.</p>	<p>84-e. Subsection (b)(3) does state that “prior to taking management action, the Director shall consider the most recently dated Working Group management recommendation.” The determination of elevated risk is described under subsection (c) for Confirmed Entanglements and Marine Life Concentrations.</p>

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84	Jenn Humberstone, cont.	<p>84-f. Subsection (b)(2) should be revised to clarify that the minimum 48-hours notice by the Director will (a) occur if information indicates risk may be elevated and (b) convene the Working Group. As amended, regulations are unclear as to when in the Risk Assessment process the Working Group is convened.</p>	<p>84-f. As described in subsection (b), Risk Assessments will occur at least monthly and the Director will provide “a minimum of 48-hour notice” to the Working Group. Given the often-dynamic nature of entanglement events and to ensure all survey data are available, specifying a set date for risk assessments does not create flexibility to achieve adaptive management needs of the RAMP.</p>
84	Jenn Humberstone, cont.	<p>84-g. Proposed regulations do not clearly state what information the Working Group should consider when developing management recommendations and the scope of CDFW’s request for input. Subsection (d)(1) should be amended to provide that clarification. Comment recommends this subsection specifies the Working Group recommendation is based on an independent assessment of considerations identified in subsections (d) and (e).</p>	<p>84-g. Subsection (b)(2) specifies that CDFW will make available “all non-confidential data under consideration by the Department.” Subsection (d)(1) states that the Director will consider a management action recommendation from the Working Group based on the considerations listed under subsection (d). As discussed on page 29 of the ISOR, CDFW anticipates this will incorporate the Working Group’s analysis of the considerations under subsection (d), as well as any knowledge or expertise the Working Group may provide.</p>

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84	Jenn Humberstone, cont.	<p>84-h. Rather than relying on external sources such as the Working Group to provide information related to the management considerations in subsection (d), regulations should require CDFW to seek such information. Lack of clarity with regards to roles of the Working Group versus CDFW in acquiring this information is problematic. Obligations should be clarified in the main clause of subsection (d). Revision should be consistent with revised language in subsection (b)(2).</p>	<p>84-h. While CDFW will facilitate acquisition of data to the extent practicable, it is not reasonable to place the obligation of data acquisition solely on CDFW. CDFW will look to review and analyze the best science available to inform the risk assessment process and management response. As such it will look to all relevant data made available to CDFW. In response to recommendations by the Working Group during the scoping period for these regulations, subsection (d) intentionally allows for the inclusion of a wide variety of data sources for consideration in determining a management action. Given that the Working Group and its Advisors are subject matter experts, CDFW welcomes all data or other relevant information provided by the Working Group; however the regulations only define the opportunity (and not the obligation) for the Working Group to provide input into the management response.</p>
85	Kathi George, The Marine Mammal Center Email dated 8/3/2020	<p>85-a. Support for CDFW's efforts to reduce whale entanglement.</p>	<p>85-a. Comment noted.</p>

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85	Kathi George, cont.	<p>85-b. As written, proposed RAMP regulations will have the following unintended consequences: (1) Reduce reporting by fishermen, who have traditionally been active reporting and response partners; (2) Non-permitted mariners deciding to conduct disentanglement efforts, which poses risks to both themselves and the entangled animal; (3) Loss of critical information from decreased documentation which would otherwise improve understanding of entanglements and inform mitigation efforts.</p>	<p>85-b. This comment is outside the scope of the regulatory changes included with the 15-day Continuation Notice, therefore no response is required pursuant to the APA. CDFW appreciates commenter’s participation and encourages the public’s continued engagement on these issues.</p>
85	Kathi George, cont.	<p>85-c. Threshold values in the RAMP were designed in the absence of scientifically collected information regarding distribution and abundance of whales. Surveys to assess Marine Life Concentrations should not result in fishery closure based only on exceedance of thresholds.</p>	<p>85-c. This comment is outside the scope of the regulatory changes included with the 15-day Continuation Notice, therefore no response is required pursuant to the APA. CDFW appreciates commenter’s participation and encourages the public’s continued engagement on these issues.</p>

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85	Kathi George, cont.	<p>85-d. Surveys should address the following questions: (1) are whales feeding inshore (near the crab fishery) or offshore (away from the crab fishery); (1) is there higher or lower overlap between high whale density and main areas of current or anticipated fishing activity; (3) Is migration occurring earlier or later than usual.</p>	<p>85-d. Comment noted. CDFW has left the type and purpose of surveys flexible to avoid accidentally preventing a survey design that could produce valuable information. However, the questions raised in this comment can be addressed through the Management Considerations in subsection (d); in most instances where the Marine Life Concentrations trigger is met under subsection (c), the Director may select the management response from subsection (e) that protects the relevant species based on best available science. Feeding location, overlap with fishing activity, and migration timing are all factors that can impact that decision.</p>
85	Kathi George, cont.	<p>85-e. Regulations should be amended to require CDFW and NOAA to expedite their review, evaluation, and scoring of entanglements, both during and outside the season, to allow for reduced scoring (0) when a whale is disentangled with non-serious injuries.</p>	<p>85-e. This comment is outside the scope of the regulatory changes included with the 15-day Continuation Notice, therefore no response is required pursuant to the APA. CDFW appreciates commenter’s participation and encourages the public’s continued engagement on these issues.</p>
85	Kathi George, cont.	<p>85-f. Regulations should require use of best available science to inform decision-making and evaluation of risk.</p>	<p>85-f. This comment is outside the scope of the regulatory changes included with the 15-day Continuation Notice, therefore no response is required pursuant to the APA. CDFW appreciates commenter’s participation and encourages the public’s continued engagement on these issues.</p>
85	Kathi George, cont.	<p>85-g. Amend subsection (c)(1)(A)(1) to specify that entanglements reported during a NOAA-approved survey do not count against the fleet.</p>	<p>85-g. This comment is outside the scope of the regulatory changes included with the 15-day Continuation Notice, therefore no response is required pursuant to the APA. CDFW appreciates commenter’s participation and encourages the public’s continued engagement on these issues. Furthermore, referenced subsection does not appear relevant to the remainder of the comment.</p>

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85	Kathi George, cont.	85-h. Amend subsection (c)(2)(A)(4)(a) to specify that survey findings specific to the three questions in Specific Comment 85-d will be evaluated prior to determining risk.	85-h. This comment is outside the scope of the regulatory changes included with the 15-day Continuation Notice, therefore no response is required pursuant to the APA. CDFW appreciates commenter’s participation and encourages the public’s continued engagement on these issues.
85	Kathi George, cont.	85-i. Amend subsection (c)(2)(B)(2)(a) to specify that survey findings specific to the three questions in Specific Comment 85-d will be evaluated prior to determining risk.	85-i. This comment is outside the scope of the regulatory changes included with the 15-day Continuation Notice, therefore no response is required pursuant to the APA. CDFW appreciates commenter’s participation and encourages the public’s continued engagement on these issues.
86	Doug Sandilands, SR ³ Sealife Response Rehab & Research Email dated 8/3/2020	86-a. Expresses approval for CDFW goals of reducing whale entanglements.	86-a. Comment noted.
86	Doug Sandliands, cont.	86-b. Expresses concern about unintended consequences of triggers and states that relying on public reports to trigger management actions will make reporting politicized and have unintended consequence of reducing number of reports of large whale entanglements.	86-b. This comment is outside the scope of the regulatory changes included with the 15-day Continuation Notice, therefore no response is required pursuant to the APA. CDFW appreciates commenter’s participation and encourages the public’s continued engagement on these issues.

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86	Doug Sandliands, cont.	86-c. Entanglement reports are skewed towards areas of high effort by whale watching vessels and recreational boaters, but ongoing research indicates proportion of whales with entanglement scars does not vary by region. Actual number of entangled whales is much higher than observed and reported.	86-c. Comment noted.
86	Doug Sandliands, cont.	86-d. Relying on observed entanglements means management actions will be triggered when whales either become entangled in, or an entangled whale moves into, a high reporting area, rather than changes in the number of whales being entangled.	86-d. Triggers identified in subsection (c)(1) are designed to ensure a management action is taken in response to each Confirmed Entanglement in either California Commercial Dungeness Crab Gear or Unknown Fishing Gear. As a whole, the proposed regulations are intended to reduce the number of entanglements which are occurring.
86	Doug Sandliands, cont.	86-e. Relying on reports to trigger management actions disincentivizes reports by fishing industry.	86-e. This comment is outside the scope of the regulatory changes included with the 15-day Continuation Notice, therefore no response is required pursuant to the APA. CDFW appreciates commenter’s participation and encourages the public’s continued engagement on these issues.

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86	Doug Sandliands, cont.	<p>86-f. Reporting entanglements should be encouraged, as they trigger action by the West Coast Large Whale Entanglement Response Network, providing benefits to the individual whale, their source population, scientific understanding of how whales become entangled, and public safety. As compared to documentation collected by the response network, public reports provide less reliable information, limiting efforts to identify specific fisheries, which whale populations are affected, and needed gear modification or other management actions.</p>	<p>86-f. This comment is outside the scope of the regulatory changes included with the 15-day Continuation Notice, therefore no response is required pursuant to the APA. CDFW appreciates commenter’s participation and encourages the public’s continued engagement on these issues.</p>
86	Doug Sandliands, cont.	<p>86-g. Closure of a Fishing Zone based on a single humpback whale entanglement, and closure of the Fishing Season statewide based on reports of three humpback whale entanglements, politicizes reporting of large whale entanglements and will reduce the number of reports. Entanglements are already occurring at a rate 15 to 20 times the rate of entanglement reports.</p>	<p>86-g. Comment incorrectly describes the triggers and management actions related to Confirmed Entanglements of humpback whales, although it is correct that any entanglement leads to implementation of a management response and if the Humpback Whale in-season Impact Score Calculation trigger is reached the remainder of the Fishing Season will close. See additional discussion in General Response 11. Regarding the broader comment that establishing triggers for management action based on Confirmed Entanglements disincentivizes reporting, see Specific Response 38-a.</p>

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86	Doug Sandliands, cont.	86-h. Supports comments from John Calambokidis.	86-h. See Specific Response 87.
86	Doug Sandliands, cont.	86-i. To reduce the number of entanglements and mitigate those which do occur, CDFW should explicitly recognize the goal of reducing entanglements, rather than entanglement reports. CDFW should: (1) ensure models and progress tracking recognize that reports represent a small portion of total entanglements; (2) encourage fishers to report entanglements, rather than penalizing them by using reports to implement fishery closures; (3) encourage research efforts to find and document entanglements and recognize that any increases following such efforts represent accounting for otherwise unreported entanglements rather than an increase in the total number of entanglements.	86-i. This comment is outside the scope of the regulatory changes included with the 15-day Continuation Notice, therefore no response is required pursuant to the APA. CDFW appreciates commenter’s participation and encourages the public’s continued engagement on these issues.
87	John Calambokidis, Cascadia Research Collective Email sent 8/3/2020	87-a. Expresses support for proposed measures to protect whales from entanglement, and some of the proposed changes.	87-a. Comment noted.

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87	John Calambokidis, cont.	87-b. Expresses concerns regarding use of reported entanglements and fixed number of whale sightings as triggers for management action. Current metrics do not consider level of effort, are not based in sound science, and may have undesired impacts on acquiring better information needed to protect whales from entanglements.	87-b. This comment is outside the scope of the regulatory changes included with the 15-day Continuation Notice, therefore no response is required pursuant to the APA. CDFW encourages ongoing participation by the pu

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87	John Calambokidis, cont.	<p>87-c. Using the number of entanglement reports as a management trigger may reduce reporting rather than the number of actual entanglements. Goal should be to reduce the true number of entanglements and increase reporting. Most areas along the California coast do not have good coverage, and entanglements are unlikely to be reported outside of areas such as Monterey Bay. Encouraging Dungeness crab fishermen to report entanglements is crucial, since they are in the same areas where entanglements occur, but including management triggers based on those reports will discourage reporting. Additional research to document entanglements should not trigger management responses.</p>	<p>87-c. This comment is outside the scope of the regulatory changes included with the 15-day Continuation Notice, therefore no response is required pursuant to the APA. CDFW appreciates commenter’s participation and encourages the public’s continued engagement on these issues.</p>
87	John Calambokidis, cont.	<p>87-d. A fixed number of sightings should not be used without taking into account the type of survey, area covered, observation methods, and weather conditions.</p>	<p>87-d. See pages 23-24 of the Amended ISOR for discussion of surveys criteria.</p>

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87	John Calambokidis, cont.	<p>87-e. Studies by Cascadia Research show thousands of humpback whales feed along the California coasts, numbers are increasing, and many stay into the late fall and some through the winter. Number of sightings are a function more of survey parameters than the number of whales present.</p>	<p>87-e. Comment noted.</p>
87	John Calambokidis, cont.	<p>87-f. Accurately evaluating risk relative to Marine Life Concentrations requires assessment of the following: (1) are humpback whales feeding in shallower waters overlapping with the Dungeness crab fishery or more at shelf edges; (2) is overlap between areas of high whale density and main areas of current or anticipated fishing activity higher or lower than typical; (3) what is the general migration timing and is it occurring earlier or later than typical.</p>	<p>87-f. See Specific Response 85-d.</p>

Appendix 4. Specific Responses to Comments, 15-Day Continuation Notice Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
87	John Calambokidis, cont.	<p>87-g. CDFW should recognize the goal of reducing entanglements, not reports, and (1) ensure models and progress tracking recognize the distinction between reports and the true number of entanglements; (2) encourage fishers to report entanglements, rather than penalizing them by using reports to implement fishery closures; (3) encourage research efforts to find and document entanglements and recognize that any increases following such efforts are accounting for otherwise unreported entanglements rather than an increase in the total number of entanglements.</p>	<p>87-g. This comment is outside the scope of the regulatory changes included with the 15-day Continuation Notice, therefore no response is required pursuant to the APA. CDFW appreciates commenter’s participation and encourages the public’s continued engagement on these issues.</p>
87	John Calambokidis, cont.	<p>87-h. The number of sightings should be considered in light of survey effort, coverage, and methodology to determine whether they show an increase in overlap between whales and fishing concentration.</p>	<p>87-h. See Specific Responses 85-d and 87-d.</p>

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#	Commenter Name, Format, Date	Comment	Response
88	Catherine Kilduff, Center for Biological Diversity, on behalf of 5 organizations Email sent 8/3/2020	88-a. Thanks CDFW for revised regulations which implement new protections, management measures, monitoring requirements, and data collection to further protect whales and sea turtles off California.	88-a. Comment noted.
88	Catherine Kilduff, cont.	88-b. Support revisions clarifying the Working Group is not responsible for risk assessments and maintaining a separation between risk assessments and management recommendations, which strengthens integrity of the risk assessment process while providing an opportunity for Working Group input on the appropriate response.	88-b. Comment noted.
88	Catherine Kilduff, cont.	88-c. Support revisions requiring fleetwide electronic monitoring by the 2023-24 season, which will greatly enhance CDFW’s ability to detect and minimize entanglement risk.	88-c. Comment noted.

Appendix 4. Specific Responses to Comments, 15-Day Continuation Notice Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
88	Catherine Kilduff, cont.	<p>88-d. CDFW should revise proposed regulations to allow approved Alternative gear at any time during the fishing season, not only after April 1. Prohibiting use earlier in the season has several consequences: (1) stifle investment and hinder willingness to innovate and expand use; (2) restrict trial deployments except in closed fishing zones after April 1, constraining testing and hampering development and adoption; (3) put crab fishers who use ropeless gear at a disadvantage; (4) hinder efforts to develop new markets and price differentiation for crab caught with ropeless gear, since product will not be available during the primary Dungeness crab season; (5) undermine ability of fishermen to use ropeless gear as a tool to cope with unexpected ecosystem change (e.g. closures and delays due to domoic acid) which may further condense the fishing season to times with higher densities of whales and sea turtles.</p>	<p>88-d. This comment is outside the scope of the regulatory changes included with the 15-day Continuation Notice, therefore no response is required pursuant to the APA. CDFW appreciates commenter’s participation and encourages the public’s continued engagement on these issues.</p>

Appendix 4. Specific Responses to Comments, 15-Day Continuation Notice Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
88	Catherine Kilduff, cont.	<p>88-e. Support CDFW’s amendments to the detectability criteria in subsection (h)(1)(B)(1), which address gear conflict concerns raised in the original ISOR. Based on new criteria, ropeless gear should be allowed for use at any time during the fishing season, whether or not traditional gear is allowed.</p>	<p>88-e. Comment noted. See General Response A7.</p>
88	Catherine Kilduff, cont.	<p>88-f. Ropeless gear is the only way to eliminate entanglements in vertical lines, and allowing ropeless Alternative Gear during the entire Fishing Season is the best way to accomplish the OPC’s stated goal of zero mortality for whales and sea turtles. Intense fishing pressure at the beginning of the season creates high risk of entanglement is whales and sea turtles are still present. Allowing ropeless gear at this time would eliminate entanglement risk while allowing for lucrative fishing opportunities.</p>	<p>88-f. This comment is outside the scope of the regulatory changes included with the 15-day Continuation Notice, therefore no response is required pursuant to the APA. CDFW appreciates commenter’s participation and encourages the public’s continued engagement on these issues.</p>

Appendix 4. Specific Responses to Comments, 15-Day Continuation Notice Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
88	Catherine Kilduff, cont.	88-g. As amended, regulations ensure that only detectable ropeless gear will be used, preventing gear conflicts. Artificial restrictions on authorized ropeless gear will hinder progress towards zero mortality goal. CDFW should remove requirement that Alternative Gear can only be used in closed areas and after April 1 in the final version of these regulations rather than subsequent revisions.	88-g. Comment noted. See General Response A7.
89	Ben Platt, California Coast Crab Association Email dated 8/3/2020	89-a. Letter builds on earlier comment letter submitted on June 29, 2020. Comments are not concessions on any aspects of the proposed regulations, should not be taken as an endorsement of CDFW's approach. Except as otherwise stated, CCCA restates all comments from June 29, 2020 letter.	89-a. Comment noted. Responses to comments from CCCA's June 29, 2020 letter can be found in Specific Response 36.
89	Ben Platt, cont.	89-b. Appreciates CDFW responsiveness to some of CCCA's earlier comments.	89-b. Comment noted.

Appendix 4. Specific Responses to Comments, 15-Day Continuation Notice Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
89	Ben Platt, cont.	<p>89-c. Hope CDFW addresses remaining concerns. RAMP regulations and related Conservation Plan and Section 10 ESA permit will govern operation of the fishery for years to come, and it is essential CDFW provide a regulatory framework which protects listed species and allows the fishery to remain economically viable.</p>	<p>89-c. CDFW acknowledges the importance of balancing protection for Actionable Species with allowing continued fishing activity; see General Response K. However, as noted in the Amended ISOR and other responses to comments in Appendices 1-3, CDFW anticipates the need to update the proposed RAMP regulations as circumstances warrant during a future rulemaking.</p>

Appendix 4. Specific Responses to Comments, 15-Day Continuation Notice Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
89	Ben Platt, cont.	<p>89-d. CCCA supports retaining the following amendments made to the originally proposed regulations in the final version of the regulations: (1) additions of subsections (a)(4)(D) and (a)(4)(E); (2) revisions and additions to subsection (a)(7); (3) elimination of “minimum of” language regarding Fishing Zone delays or closures; (4) replacement of statewide closure in subsection (c)(2)(B)(1) with implementation of management actions on a Fishing Zone basis; (5) revisions to subsection (g)(2) to require compliance with new electronic monitoring provisions starting with the 2023-24 fishing season; (6) addition of subsection (g)(4). CCCA recommends revising subsection (g)(2)(A) and (B) to allow apply requirements to either all vessels or a representative sample of the fleet.</p>	<p>89-d. Comment noted.</p> <p>Regarding item 5, CDFW clarifies that the electronic monitoring requirement in subsection (g)(2)(B) is in addition to the requirement in subsection (g)(2)(A). Upon the effective date of these proposed regulations, all vessels meeting the criteria in subsection (g)(2)(A) are required to have appropriate electronic monitoring systems on board their vessel. The 2023-24 season timing relates only to the additional requirement in subsection (g)(2)(B) for 100% monitoring of the fleet.</p> <p>Regarding the request for additional amendments to subsections (g)(2)(A) and (B) allowing for the electronic monitoring requirements to be applied to either all vessels or a representative sample of the Fleet. In order to do this the CDFW will need additional information such as vessel size, port of landings, seasonality of landings, tier levels, type of permit (instate versus out of state) to characterize the Fleet and determine appropriate stratification such that any sampling will effectively capture fishing activities across all aspects of the fishery. CDFW looks forward to working with the Fleet to explore whether sampling can provide sufficient information to inform Fleet behavior.</p>

Appendix 4. Specific Responses to Comments, 15-Day Continuation Notice Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
89	Ben Platt, cont.	<p>89-e. Amended ISOR provides conflicting information regarding how Impact Score Calculations will be revised after NOAA completes their final determination of injury or serious mortality. ISOR states that the score “will” be revised, but also states that CDFW has no discretion to modify the score.</p>	<p>89-e. See General Response M.</p>
89	Ben Platt, cont.	<p>89-f. CDFW misconstrues MMPA standards and processes for assessing fishery interactions with marine mammals. Proposed regulations should expressly recognize and address situations where whales are successfully disentangled and released unharmed and free from all fishing gear, in alignment with NOAA’s Serious Injury Guidelines which are incorporated by reference in the proposed regulations. Under Sections 117 and 118 of the MMPA, non-serious injuries have no legal ramifications and are scored as 0 in NMFS SARs, not “closer to zero” as stated on page 12 of the Amended ISOR.</p>	<p>89-f. See General Response M.</p>

Appendix 4. Specific Responses to Comments, 15-Day Continuation Notice Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
89	Ben Platt, cont.	<p>89-g. If proposed regulations are intended to align with MMPA and NMFS process for assessing serious injury and mortality, CDFW must include provisions where interactions resulting in non-serious injury are scored as 0 and all interactions where the animal is released unharmed and without gear are initially and by default scored as 0. This will prevent closure of the fishery based on an inflated impact score, rather than waiting for the formal NMFS process which can take months or years.</p>	<p>89-g. See General Response M.</p>
89	Ben Platt, cont.	<p>89-h. Reiterates objections to prior comments on Marine Life Concentrations provisions.</p>	<p>89-h. See Specific Response 36 for responses related to comments on the initially proposed regulations.</p>
89	Ben Platt, cont.	<p>89-i. Removal of “Fishing Zone” in subsection (c)(2)(A)(4) implies that a delay would be statewide, rather than for the applicable Fishing Zone. Language should be amended to constrain delays or other management actions to the relevant Fishing Zone, consistent with framing in the main clause of subsection (c)(2)(A)(4).</p>	<p>89-i. When drafting the amended regulatory language, CDFW’s intention was for delays to occur at the Fishing Zone level, not statewide unless otherwise indicated by the data. As the comment points out, subsection (c)(2)(A)(4) states “If there are data to inform marine life concentrations under this subsection in each Fishing Zone(s), the following applies:” This captures CDFW’s intent that backstop management action of a Fishing Season delay apply to the Fishing Zone where the data was collected. However, CDFW notes that the Director may also take other management action that protects the relevant species based on best available science, which may not be limited in scope to that Fishing Zone.</p>

Appendix 4. Specific Responses to Comments, 15-Day Continuation Notice Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
89	Ben Platt, cont.	<p>89-j. Regulations should clarify that Marine Life Concentrations refers to local abundance of Actionable Species within each Fishing Zone between Point Conception and the California/Oregon border to avoid misinterpretations that Marine Life Concentrations are assessed based on the entire area covered by Fishing Grounds rather than by Fishing Zone.</p>	<p>89-j. In response to comments during the initial 45-day comment period, CDFW added language to the definition of Marine Life Concentrations in subsection (a)(10) clarifying that this refers to local abundances of Actionable Species within Fishing Grounds between Point Conception and the California/Oregon border to clarify that Actionable Species outside of the Fishing Grounds would not be considered as they are unlikely to pose an entanglement risk. CDFW disagrees that this can be misinterpreted, and intends to assess Marine Life Concentrations by Fishing Zone, as indicated throughout subsection (c)(2) with language referencing “Fishing Zone(s)” or discussing action taken within a Fishing Zone(s).</p>
89	Ben Platt, cont.	<p>89-k. Strongly objects to incorporation of the California Ocean Protection Council (OPC) zero-entanglement goal in any form or for any purpose in the proposed regulations. OPC is not a state agency and has no delegated rulemaking authority from the State Legislature. By relying on the OPC goal for the proposed regulations, CDFW is acting outside its legally delegated authority and contrary to the findings of SB 1309, which describe a goal of minimizing entanglement “to the fullest extent practicable”.</p>	<p>89-k. Fish and Game Code Section 8276.1(b) grants CDFW broad authority to adopt regulations to respond to potential risk of marine life entanglement. In developing these proposed regulations, CDFW considered input from multiple sources and stakeholders. Policy of a sister state agency is one consideration in the decision-making process but was not solely determinative of the outcome of these proposed regulations.</p>

Appendix 4. Specific Responses to Comments, 15-Day Continuation Notice Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
89	Ben Platt, cont.	<p>89-l. RAMP regulations and related permit are intended to secure ESA compliance for the State, and OPC goal far exceeds the standards of the ESA and MMPA. Holding the fishery accountable to the OPC goal would be unprecedented in the history of US fisheries and subject the fishery to even more impossible and draconian measures than the already-protective standards under MMPA. Adherence to this goal would eliminate the State’s most economically important fishery.</p>	<p>89-l. Comment noted.</p>
89	Ben Platt, cont.	<p>89-m. CDFW must remove all references to the OPC goal from rulemaking documents and revise any elements predicated upon it.</p>	<p>89-m. See Specific Response 89-k.</p>
89	Ben Platt, cont.	<p>89-n. Supports statement in amended ISOR that Working Group function is needed to inform management response.</p>	<p>89-n. Comment noted.</p>
89	Ben Platt, cont.	<p>89-o. Proposed regulations should be amended to reflect the Working Group recommendation is specifically incorporated into the Risk Assessment process, and subsection (a)(12) should be revised accordingly.</p>	<p>89-o. CDFW amended subsection (b)(3) and (d)(1) to clarify the role of the Working Group as providing a recommendation on the appropriate management action to address entanglement risk as triggered by subsection (c). See additional discussion on pages 13 and 15 of the Amended ISOR. There is no need to incorporate the requested language into subsection (a)(12) as subsections (b)(2) and (d) require the Director to consider the Working Group management recommendation before taking management action.</p>

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#	Commenter Name, Format, Date	Comment	Response
89	Ben Platt, cont.	<p>89-p. Proposed regulations are unclear as to whether notification of anticipated Risk Assessment will convene the Working Group, and subsection (b)(2) should be amended to clarify that the Working Group is convened as part of the Risk Assessment process and at what point in that process this will occur.</p>	<p>89-p. See Specific Response 84-f.</p>
89	Ben Platt, cont.	<p>89-q. Proposed regulations do not clearly state what information the Working Group should consider and review when developing management recommendations. Subsection (d)(1) should be amended to more clearly define scope of the Working Group as providing a recommendation based on an independent assessment of considerations identified in subsections (d) and (e).</p>	<p>89-q. See Specific Response 84-g.</p>
89	Ben Platt, cont.	<p>89-r. Subsection (d) should be revised to require CDFW to seek information regarding the identified management considerations.</p>	<p>89-r. See Specific Response 84-h. Furthermore, strike-through language in the suggested comment includes the phrase “statistically valid data”, which was removed in the amended proposed regulatory language, as described on pages 28-29 of the Amended ISOR. It is unclear whether the comment suggests this language be re-incorporated into the proposed regulations. If so, CDFW refers the commenter to the relevant pages of the Amended ISOR.</p>

Appendix 4. Specific Responses to Comments, 15-Day Continuation Notice Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
89	Ben Platt, cont.	<p>89-s. Disagrees with revisions to subsection (a)(4)(A) removing CDFW’s role in determining origin of gear involved in entanglements. Fishery is managed by CDFW, not NMFS, and CDFW is more suited to making such determinations. CDFW should retain a role, informed by the Working Group, in this process.</p>	<p>89-s. In response to comments on the initially proposed regulations, CDFW amended subsections (a)(4)(A) and (a)(4)(C) to clarify the relative responsibilities of NMFS and CDFW with regards to determining fishery origin of any gear involved in an entanglement. See Specific Response 35-j, 36-g, and pages 6-7 of the Amended ISOR.</p>
89	Ben Platt, cont.	<p>89-t. Seeks clarification that solar logger reporting at one-minute intervals would meet requirements of the reporting requirement in subsection (g)(2)(A). If so, regulation is acceptable. If another system (such as VMS) is required, the regulations is unacceptable and financially prohibitive and CDFW must prepare a new economic analysis for public review and comment.</p>	<p>89-t. Provided the other requirements in subsection (g)(2) related to access to data are met, a solar logger unit recording position information at one minute intervals would meet the requirements of this subsection.</p>
89	Ben Platt, cont.	<p>89-u. Suggests revising subsection (g)(2)(B) to allow for monitoring a representative subsample of the fleet.</p>	<p>89-u. See Specific Response 89-d.</p>

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#	Commenter Name, Format, Date	Comment	Response
90	Lori Steele, West Coast Seafood Processors Association Email sent 8/3/2020	90-a. Supports revisions and suggested language in the comments submitted by CCCA and the Working Group.	90-a. See Specific Response 84 and Specific Response 89 .
90	Lori Steele, cont.	90-b. Working Group is essential to successful management of the crab fishery and developing ways to mitigate or avoid entanglements.	90-b. CDFW agrees that the Working Group will continue to play crucial role in implementing the proposed RAMP regulations and in parallel efforts to address marine life entanglement issues.
91	Michael Conroy, Pacific Coast Federation of Fishermen’s Associations Email sent 8/3/2020	91-a. Comments are submitted jointly on behalf of PCFFA and the Institute for Fisheries Resources, and are in addition to the comments submitted on June 29, 2020. Subsequent comments do not replace prior comments.	91-a. Comment noted.

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#	Commenter Name, Format, Date	Comment	Response
91	Michael Conroy, cont.	<p>91-b. Appreciate CDFW’s consideration and incorporation of some recommendations from initial comments, including: improved clarity regarding Agency role in subsection (a)(4)(a); addition of subsection (a)(4)(D); addition of subsection (a)(4)(E); change to definition of Fishing Season in subsection (a)(6); changes to Fishing Zones in subsection (a)(7); improved clarity in subsection (a)(10); addition of “California” to subsection (a)(12); removal of fishery closure if data are unavailable by March 15; addition of “La Niña” to subsection (d)(9); addition of clarifying language to subsection (e)(1); addition of language to protect confidentiality under subsection (g); removal of “minimum” from multiple subsections for clarification.</p>	<p>91-b. Comment noted.</p>

Appendix 4. Specific Responses to Comments, 15-Day Continuation Notice Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
91	Michael Conroy, cont.	<p>91-c. Expresses remaining concern about proposed regulations and impacts on fishery participants and communities, as well as California’s consumers and economy. Expresses hope that final regulatory language will find proper balance and allow for continued operation of one of California’s most important fisheries and provide for recovery of ESA-listed species.</p>	<p>91-c. See General Response K.</p>
91	Michael Conroy, cont.	<p>91-d. Requests clarification regarding reference to California Ocean Protection Council’s Strategic Plan, as the OPC has no management authority. While zero-entanglement goal is admirable, it is in conflict with both MMPA and federal ESA, and holding fishery participants to this goal is setting them up for failure. Expresses concern this may be a method for applying the RAMP framework to non-listed species entangled in California commercial Dungeness crab gear.</p>	<p>91-d. Regarding inclusion of the OPC Strategic Plan, see Specific Response 89-k and 89-l. Regarding application of the RAMP framework to non-listed species entangled in California commercial Dungeness crab gear, Section 8276.1(b) of the Fish and Game Code does not limit CDFW’s authority to enacting protections for ESA-listed species, and CDFW could expand the scope of the proposed regulations to include other Actionable Species through future rulemaking.</p>

Appendix 4. Specific Responses to Comments, 15-Day Continuation Notice Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
91	Michael Conroy, cont.	<p>91-e. Notes inconsistencies regarding description of Impact Score Calculations in the amended ISOR and between the ISOR and subsection (a)(9), which discuss CDFW ability to revise the Impact Score Calculation but also discuss lack of discretion for CDFW to modify the score. ISOR should clarify that CDFW can and will revise the Impact Score based on updated information provided by NOAA.</p>	<p>91-e. See General Response M.</p>
91	Michael Conroy, cont.	<p>91-f. Requests clarification regarding the 51 lost jobs in Item VI(b) of the amended ISOR, and whether those are limited to those on commercial fishing vessels or include losses in fishery-dependent businesses.</p>	<p>91-f. The estimated 51 jobs lost refer to direct jobs involved in commercial fishing activity, including the indirect jobs within supporting businesses, and to jobs that are induced by fishery employee spending. The estimate utilizes an employment multiplier that is specific to the California commercial Dungeness crab fishery that measures the amount of direct, indirect, and induced jobs created (or lost) in the area.</p>
91	Michael Conroy, cont.	<p>91-g. Assuming a VMS unit is required, initial cost per vessel and ongoing reporting costs in Section VI(c) of the amended ISOR and pages 2-3 of the STD 399 addendum are underestimated. In particular, the ongoing costs of reporting of \$116/year dramatically underestimate the likely costs for a one ping per minute rate.</p>	<p>91-g. As described in Specific Response 89-t, lower cost equipment such as solar loggers would also meet this requirement. As stated in the STD 399 Addendum on page 3, costs for initial startup and annual ongoing costs associated with electronic monitoring systems still in the pilot phase (i.e. solar loggers, not VMS). CDFW would like to clarify that the \$116/year ongoing cost is associated with the biweekly reporting requirement in subsection (g)(2)(a); ongoing costs for electronic monitoring is stated as \$300/year.</p>

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#	Commenter Name, Format, Date	Comment	Response
91	Michael Conroy, cont.	91-h. Support comments submitted by the Working Group members regarding the role of the Working Group under the amended regulations.	91-h. Comment noted, see Specific Response 84 for responses to Working Group comments.
91	Michael Conroy, cont.	91-i. Support removal of “minimum of” language.	91-i. Comment noted.
91	Michael Conroy, cont.	91-j. Since elements of the proposed regulations require the Director take (rather than consider) a management action, a no-action alternative should be added under subsection (e) to account for situations where taking a management action would be impractical or cost prohibitive.	91-j. In response to comments on the originally noticed proposed regulations, including Specific Comment 35-cc from this organization, CDFW amended subsection (e)(1) to clarify that issuing an advisory notice regarding voluntary efforts by the fleet would constitute a management action under subsection (e). As amended, the regulatory requirements for the Director to take a management action reference the measures listed in subsection (e), including the fleet advisory. While not a true “no action” alternative, it does restrict the total allowable fishing effort. CDFW intends for this option to provide flexibility requested in this comment and has maintained it in the revised proposed regulations (see General Response A5).
91	Michael Conroy, cont.	91-k. Requests additional changes to subsection (a)(4)(D) to address instances where a mortally wounded animal becomes entangled before death but after injury, such as after a ship strike. Suspect this could be easily determined by visual inspection or revealed during a necropsy, and would be applied after assignment of the initial Impact Score.	91-k. CDFW and NOAA will use the best information available to determine responsibility for any entanglements or deaths and account for them according to the procedures identified in the proposed regulations.

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#	Commenter Name, Format, Date	Comment	Response
91	Michael Conroy, cont.	<p>91-l. Appreciate explanation regarding revised Impact Scores for Humpback Whales under subsection (c)(1)(A), which highlights a prior concern regarding using hard-wired values. Requests clarification regarding how quickly CDFW can amend regulations to reflect updated values from future reports.</p>	<p>91-l. Should future reports from NMFS Protected Resources Division (PRD) indicate revised Impact Score Calculation values are required, CDFW would need to undertake a rulemaking process to adjust the values in the proposed regulations. It can be difficult to estimate the timeframe for a rulemaking process, but CDFW would make all reasonable efforts to have any such adjustment in effect as quickly as possible and possibly before the start of the next Fishing Season.</p>
91	Michael Conroy, cont.	<p>91-m. Reiterates concerns from prior comment regarding inability to assign a value of less than 0.75 for entanglements which do not result in serious injury.</p>	<p>91-m. See General Response M.</p>

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#	Commenter Name, Format, Date	Comment	Response
91	Michael Conroy, cont.	<p>91-n. Amended language in subsections (c)(2)(A)(4)(a) and (b) implies attainment of specified Marine Life Concentration triggers would result in a statewide Fishing Season delay, which would unnecessarily restrict activity in Fishing Zones where whales are not present. Subsections should be amended to clarify that delays or other management actions would only be applied to those Fishing Zones where the number of Humpback or Blue Whales exceeds the specified minimum running average.</p>	<p>91-n. See Specific Response 89-i. Subsection (c)(2)(A)(4) states that “if there are data to inform Marine Life Concentrations under this subsection in each Fishing Zone(s).” As it is written it is intended to apply on a Fishing Zone basis.</p>
91	Michael Conroy, cont.	<p>91-o. Requests clarification regarding meaning of “operational electronic monitoring system” in subsection (g)(2)(A) and whether this is different from the “electronic monitoring device” in subsection (g)(2)(B). If these devices are VMS units, costs have been underestimated and will be too burdensome.</p>	<p>91-o. See General Response F2. See Specific Response 91-g regarding the cost analysis.</p>

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#	Commenter Name, Format, Date	Comment	Response
91	Michael Conroy, cont.	<p>91-p. CDFW comments during a recent call with the Working Group’s Data Project team indicate that the 100% monitoring requirement in subsection (g)(2)(B) may not be necessary if data collected under subsection (g)(1) is deemed adequate, and comment assumes that is partly why the effective date of the (g)(2)(B) requirement is the 2023-24 Fishing Season. Suggest revising the proposed regulations to specify that CDFW will review data collected under (g)(1) following the 2022-23 Fishing Season, and only if data is insufficient will the 100% monitoring requirement be implemented.</p>	<p>91-p. See Specific Response 89-d.</p>
91	Michael Conroy, cont.	<p>91-q. Expresses confusion regarding amended detectability requirement in subsection (h)(1)(B)(1), and whether CDFW will require all fishery participants to have computers on their vessels with software that would enable detection of ropeless fishing gear. This highlights one of the impracticalities regarding currently available ropeless fishing technology.</p>	<p>91-q. See Specific Response 81-a.</p>

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#	Commenter Name, Format, Date	Comment	Response
92	Andrew Corr, Commercial Fisherman Email sent 8/3/2020	92-a. Issue of whale entanglements in commercial Dungeness crab fishing gear mostly exists in a court of law. Regulations are being triggered by successful lawsuit by the Center for Biological Diversity, rather than best available science.	92-a. This comment is outside the scope of the regulatory changes included with the 15-day Continuation Notice, therefore no response is required pursuant to the APA. CDFW appreciates commenter’s participation and encourages the public’s continued engagement on these issues.
92	Andrew Corr, cont.	92-b. Real threat to whales in coastal California is ship strikes. Multiple elements of the proposed regulations including ropeless gear, time/area closures, and electronic monitoring will make it economically impossible for small operators to continue participating in the fishery and are not warranted based on relative impacts from this fishery.	92-b. This comment is outside the scope of the regulatory changes included with the 15-day Continuation Notice, therefore no response is required pursuant to the APA. CDFW appreciates commenter’s participation and encourages the public’s continued engagement on these issues.
92	Andrew Corr, cont.	92-c. Comments do not reflect lack of caring for whales. Fishermen care about viability of marine species as part of the ecosystem that supports their livelihood.	92-c. Comment noted.
92	Andrew Corr, cont.	92-d. Whale entanglements aren’t reducing whale populations.	92-d. Comment noted.

Appendix 4. Specific Responses to Comments, 15-Day Continuation Notice Period – Section 132.8, Title 14 (RAMP)

#	Commenter Name, Format, Date	Comment	Response
92	Andrew Corr, cont.	92-e. Acknowledges CDFW is constrained by the lawsuit, but should not impose onerous regulations on the Dungeness crab fishery that prevents it's economic viability. This will simply increase imports from areas with less regulation and put local fishermen out of business.	92-e. Comment noted.