State of California

Memorandum

Date: March 23, 2010

To: North Coast Regional Stakeholder Group and All Closed Marine Fishing Areas

From: Nancy Foley
Chief, Enforcement Division
Department of Fish and Game

Subject: Retrieval of Commercial Fishing Gear from Closed Areas for Fishing

The Department recognizes commercial fishing gear may drift or be moved by boats, marine mammals or other natural causes into areas that do not allow for commercial fishing. This Memo provides guidance for a commercial fishing permit holder to retrieve their commercial fishing gear from areas closed to fishing.

Fish and Game Code Section 8630; Any net or trap used for taking fish in violation of the provisions of this code is a public nuisance.

It is the duty of every person authorized to make an arrest for such a violation to seize and keep the net and report the seizure to the department.

Fish and Game Code Section 45; Fish:

"Fish" means wild fish, mollusks, crustaceans, invertebrates, or amphibians, including any part, spawn or ova thereof.

A commercial permit holder can retrieve their fishing gear from a closed area for fishing if:

- Gear was moved into a closed area by causes other than the commercial permit holder.
- Traps or other commercial gear are marked per applicable regulations.
- The commercial permit holder has a current license and is properly permitted per applicable regulations.
- No fish of any kind may be possessed onboard the vessel while recovering fishing gear.
- All catch shall be returned immediately to the water.
- Significant disturbance of the habitat while retrieving gear is prohibited. This may include trap pumping or anchoring in certain areas.
- All other applicable regulations apply.
- These are guidelines and do not take away a Warden's discretion when investigating closed fishing area violations.
- These guidelines may not fit all circumstances that may be encountered. A commercial permit holder is encouraged to call DFG if they are unsure of how to handle the recovery of fishing gear in a closed fishing area.