

STAFF SUMMARY FOR FEBRUARY 7-8, 2018

5. DUNGENESS CRAB TASK FORCE REPORT (CONSENT)**Today's Item****Information** ☐**Action** ☒

Receive the California Dungeness Crab Task Force (DCTF) report with recommendations regarding statutes scheduled to expire in 2019, pursuant to Fish and Game Code Section 8276.4.

Summary of Previous/Future Actions

- Received DCTF report Feb 11-12, 2015; Sacramento
- Received final DCTF report Feb 8-9, 2017; Rohnert Park
- **Today receive additional DCTF recommendations Feb 7-8, 2018; Sacramento**

Background

Authority over the California Dungeness crab commercial fishery resides with the California State Legislature and DFW, whereas FGC has regulatory authority over the sport fishery.

Pursuant to Fish and Game Code (Senate Bill 1690, Chapter 727, Statutes 2008 and Senate Bill 369, Chapter 335, Statutes 2011), the DCTF was directed to review and evaluate Dungeness crab fishery management measures, including a new trap limits program for California permits, and provide its recommendations to the Joint Committee on Fisheries and Aquaculture, DFW, and FGC. Pursuant to SB 1690, DCTF was established in Jan 2009, provided recommendations by Jan 15, 2010, and was disbanded on Jan 1, 2011. Pursuant to SB 369, DCTF was re-established in Jan 2012, made initial recommendations by Jan 2015 and made final recommendations by Jan 2017.

The California Ocean Protection Council (OPC) funded administration of DCTF through Jan 2017, and the Nature Conservancy has provided additional funding to support DCTF until DFW can allocate funds from the Dungeness Crab Account (an account created by fees collected from the fishermen) to support DCTF through its current sunset in 2019.

The report received today contains additional recommendations to the legislature, DFW and FGC (Exhibit 1), including several recommendations to amend or extend Fish and Game Code sections specific to management and operations of the Dungeness crab fishery. It also offers additional recommendations to help address emerging issues facing the fishery, such as continuing the efforts of the California Dungeness Crab Fishing Gear Working Group. The working group has provided a memo with updates and recommendations for reducing whale entanglements within the fishery (Exhibit 2). DCTF members support continuing the DCTF as a valuable support for the fishery and its management.

Significant Public Comments (N/A)**Recommendation (N/A)****Exhibits**

1. [DCTF legislative recommendations report with appendices, received Dec 21, 2017](#)

STAFF SUMMARY FOR FEBRUARY 7-8, 2018

2. [California Dungeness Crab Fishing Gear Working Group recommendations memo, received Jan 10, 2018](#)

Motion/Direction

Moved by _____ and seconded by _____ that the Commission adopts the consent calendar, items 5 and 6

From: Rachelle Fisher <rachelle@strategicearth.com>

Sent: Thursday, December 21, 2017 9:45 AM

To: FGC

Cc: Termini, Valerie @CNRA; Ashcraft, Susan@FGC; DCTF; Dave Colpo

Subject: Dungeness Crab Task Force - Submission of Dec 2017 Legislative Report

Dear President Sklar,

On behalf of the California Dungeness Crab Task Force (DCTF), the DCTF Administrative Team would like to submit the following report containing recommendations from the DCTF regarding management of the California Dungeness crab fishery. The report can also be accessed on the DCTF's webpage.

Pursuant to Fish and Game Code Section 8276.4, the DCTF is directed to review and evaluate the California Dungeness crab fishery and make management recommendations to the Joint Committee on Fisheries and Aquaculture, the California Department of Fish and Game, and the Fish and Game Commission. There are a number of Fish and Game code sections specific to the management and operations of the Dungeness crab fishery that are set to expire in 2019. Additionally, the Dungeness crab industry has recently been faced with a number of issues, including increased levels of domoic acid and whale entanglements. The recommendations in this report seek to respond to these issues and help inform the efforts of fisheries managers as they work with the industry to address them.

If you have any questions about this document or any general questions about the DCTF, please contact Rachelle Fisher at 805-845-9852 or info@dungenesscrabtaskforce.com.

Sincerely,
Rachelle Fisher and Kelly Sayce
DCTF Administrative Team

--

Rachelle Fisher, MAS
Senior Associate
Strategic Earth Consulting
P: 805-845-9852
C: 714-330-7976
rachelle@strategicearth.com
<http://www.strategicearth.com/>

Connect with us!





~California Dungeness Crab Task Force~

<http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

REPORT

TO: Joint Committee on Fisheries and Aquaculture, Mike McGuire, Chair
California Fish and Game Commission, Eric Sklar, Chair
California Department of Fish and Wildlife, Charlton Bonham, Director

CC: California Ocean Protection Council, Deborah Halberstadt, Executive Director
California Fish and Game Commission, Valerie Termini, Executive Director
California Fish and Game Commission, Susan Ashcraft, Marine Advisor
California Department of Fish and Wildlife, Craig Shuman, Marine Region Manager
Pacific States Marine Fisheries Commission, Dave Colpo, Sr. Program Manager

FROM: California Dungeness Crab Task Force

DATE: December 20, 2017

RE: October 2017 recommendations from the California Dungeness Crab Task Force as requested in SB 369 (Fish and Game Code 8276.4)

APPENDICES:

- (1) [Senate Bill 369](#)
- (2) [January 15, 2016 Interim Report](#)
- (3) [January 13, 2017 Final Report](#)
- (4) [Tri-State Dungeness Crab Commission Memorandum of Understanding \(MOU\)](#)
- (5) [DCTF Membership List](#)
- (6) [DCTF Charter- October 2014](#)
- (7) [Summary of DCTF Votes from October 16-18, 2017 meeting](#)
- (8) [DCTF Meeting Summary from October 16-18, 2017 meeting](#)
- (9) [October 16, 2017- Presentation to the DCTF- Dungeness Crab Fishery Season Updates: 2016-17](#)
- (10) [Senate Bill 1287](#)
- (11) [2017-18 Best Fishing Practices Guide](#)
- (12) [Dungeness Crab Fishing Gear Working Group Fact Sheet](#)
- (13) [Draft Risk Assessment and Mitigation Program \(RAMP\): Voluntary Pilot, 2017-18 CA Dungeness Crab Fishing Season](#)
- (14) [Assembly Bill 164- Claims Against the State: Payment](#)
- (15) [2017-2018 Commercial Dungeness Crab Fishery - Frequently Asked Questions](#)

This report provides recommendations from the California Dungeness Crab Task Force (DCTF) to the Joint Committee on Fisheries and Aquaculture (the Legislature), the California Department of Fish and Wildlife (the Department), and the Fish and Game Commission (the Commission) to inform future Dungeness crab fishery management. The report includes an update on the DCTF's activities since January 2017, and more specifically, recommendations to address Fish and Game code sections that will sunset in 2019.

The DCTF's work was completed pursuant to Senate Bill (SB) 369 (Evans, 2011) ([Appendix 1](#)) with financial support from The Nature Conservancy. The Ocean Protection Council (OPC) supported the

administration of the DCTF from March 2012 until January 2017 through the authorization of approximately \$215,000 from the California Coastal Protection Fund of 2006. As of the drafting of this report, administration of the DCTF is being supported by The Nature Conservancy until the Department can allocate funds from the Dungeness Crab Account to support the DCTF from January 2018 until its current sunset in 2019 (see Recommendation 2 from [Appendix 3](#) for additional details).

Additional information, including DCTF history, previous reports, and meeting summaries with details on the development of the recommendations provided in this report, is available on the DCTF webpage: <http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>.

BACKGROUND

The commercial Dungeness crab fishery is one of the most valuable and productive fisheries in California^{1,2} with an average ex-vessel value³ of approximately \$68.9 million per calendar year.⁴ This is in large part due to strong demand by consumers, including international markets. The California Dungeness crab fishery has faced unprecedented events (e.g. elevated levels of domoic acid, whale entanglements) recently that have caused a need to reevaluate the fishery's management in order to maintain the health of the fishery, safeguard its economic viability, minimize ecological impacts, and preserve the California fishing communities that rely on the resource.

Management of the California Commercial Dungeness Crab Fishery

The California Dungeness crab commercial fishery is managed by the Department pursuant to California Fish and Game Code Section 8275 *et seq*, which requires the fishery to use a 3-S management strategy (sex, size, and season). Commercial harvest is restricted to male crabs, greater than 6.25 inches carapace (body) width, from mid-November through the end of June (Central Management Area⁵) and December 1 through July 15 (Northern Management Area). The 3-S management strategy is generally considered to be successful in maintaining the crab population because males have the opportunity to mate several times before reaching legal size, females are protected from commercial harvest, and the fishing season avoids both the soft-shell and primary breeding period. The California Fish and Game Code specifies the opening of the season for the Central Management Area (the area between in Sonoma-Mendocino county line and the Mexican border) as November 15 and the Northern Management Area (the area between in Sonoma-Mendocino county line and the Oregon border) as December 1.⁶ Additionally, in 1995 a limited entry program⁷ was implemented to limit the total number of permits in the fishery. In 2016-17, there were 558 permits, of which 467 were active and

¹ Hackett, Steven, D. King, D. Hansen and E. Price. 2009. *The Economic Structure of California's Commercial Fisheries*. Technical Report . California Department of Fish and Game, Sacramento.

<http://www.dfg.ca.gov/marine/economicstructure.asp>

² The Dungeness crab fishery is an important contributor to the economy of several port communities such as Crescent City (Pomeroy, C., et al. 2010. Pomeroy, C., et al. (2011). *California's North Coast Fishing Communities: Historical Perspective and Recent Trends*. California Sea Grant Technical Report T-072,. La Jolla, CA: 350p.

<http://www.csgc.ucsd.edu/EXTENSION/ADVISORS/Pomeroy.html>

³ Ex-vessel value is the amount paid to fishermen when they land (deliver) their catch to buyers the docks.

⁴ Pers. communication C. Juhasz, California Department of Fish and Wildlife.

http://www.opc.ca.gov/webmaster/ftp/project_pages/dctf/meeting-6/dctfp-eval-presentation.pdf

⁵ The Central Management Area refers to all coastal districts south of the Mendocino/Sonoma County Line to the Mexican border.

⁶ Preseason crab quality testing is used to predict the meat recovery rate prior to the season opener. A recovery rate of 25% is required for the December 1 season opener in the Northern Management Area. If this standard is not met, testing is repeated at specific time intervals until this recovery rate is achieved, with the fishery opening no later than January 15, regardless of test results at that time. Requirements for preseason testing do not apply in the Central Management Area.

⁷ A limited entry program is a management strategy that restricts the number of participants in a fishery.

91 were inactive (or “latent”⁸ referring to those permits (vessels) with landings of less than 200lbs in the previous season).

In contrast to the commercial fishery, the Dungeness crab recreational fishery is managed by the Commission, with measures such as a specified season, daily bag limits, and minimum size requirements. The specifics of the regulations vary by region and by sport fishing mode (i.e. private vessel versus shore-based fishing versus CPFVs). CPFVs are the only sport fishing mode that has a trap limit program.

Tri-State Coastal Dungeness Crab Committee & West Coast Management of the Fishery

In 1996, the Tri-State Dungeness Crab Agreement was established through a MOU between the Pacific States Marine Fisheries Commission (PSMFC) and Washington, Oregon, and California to facilitate communication and cooperation between the states in managing their Dungeness crab fisheries (see [Appendix 4](#) for MOU). Most notably, this agreement established preseason crab quality testing from the Washington-British Columbia border to the Mendocino/Sonoma County Line in California. Through the Tri-State Coastal Dungeness Crab Committee the three states have discussed and aligned management of Dungeness crab fisheries in their respective states including coordinating fair start clauses⁹ and season openers to the extent possible.

The Oregon and Washington Dungeness crab fisheries are also high-value fisheries. In contrast to the California commercial fishery, where management authority resides with the Legislature, the Oregon and Washington commercial fisheries for Dungeness crab are managed by their respective Fish and Wildlife Commissions. Historically, Oregon and Washington fisheries have experienced trends similar to those in the California fishery, including the presence of inactive permits, large numbers of traps in the water, and a derby dynamic that causes a large proportion of a fishery’s landings to be made in a short period at the beginning of the season with landings declining sharply thereafter. In an effort to address these issues and distribute fishing throughout the season, the Washington Department of Fish and Wildlife (WDFW) established a tiered Dungeness crab trap limit system in 1999. The Oregon Department of Fish and Wildlife (ODFW) followed suit in 2006 by establishing a trap limit program modeled after Washington’s system. At a 2009 DCTF meeting, WDFW and ODFW staff explained that while the trap limit programs have capped the amount of gear in the water, there is no evidence of a significant reduction in the derby dynamic of the fishery.

Current Management Issues

In recent years, the California Dungeness crab fishery has faced a number of new challenges that have required the DCTF to re-evaluate the fishery’s management.

Domoic Acid, Economic Hardships: The 2015-16 and 2016-17 fishing seasons were delayed due to elevated levels of domoic acid in California Dungeness crab samples. As a result of the 2015-2016 delay, fishery participants and fishing communities experienced substantial financial hardship, prompting the National Oceanographic and Atmospheric Administration (NOAA) to declare a federal fishery disaster in early 2017¹⁰. The Department reported nearly 50% of the five-year average was landed during the 2015-16 Dungeness crab fishing season. Many commercial fishermen,

⁸ The Department does not use the term “latent” permit(s) formally. The definition of latent was developed by the DCTF.

⁹ Fair start provisions mandate that anyone fishing in the Central Management area must wait 30 days after the delayed northern opener (i.e. Northern Management area, Oregon, or Washington) to fish in those northern waters.

¹⁰ NOAA Press Release. *Commerce Secretary Pritzker declares fisheries disasters for nine West Coast species*. 18 Jan 2017. <http://www.noaa.gov/news/commerce-secretary-pritzker-declares-fisheries-disasters-for-nine-west-coast-species>

including DCTF members, indicated that despite the moderate landings, markets never recovered, adding to the hardship experienced by the fishery.

Domoic Acid, Fishing Pressure: Recent elevated levels of domoic acid have also resulted in changes to traditional season openers. During the 2015-16 and 2016-17 fishing seasons, instead of opening by management areas (see section titled “*California Management of the Fishery*”), smaller areas were opened as they were deemed “safe” by the California Department of Public Health (CDPH) and the Office of Environmental Health Hazard Assessment (OEHHA). Feedback from the fleet indicated that these “partial” openers caused confusion about how to implement fair start clauses (see Recommendation 8) and hindered some fishermen’s ability to make business decisions about when and where to fish. Some fishermen also indicated that these smaller area openers placed additional fishing pressure on those smaller areas.

Whale Entanglements: The National Marine Fisheries Service (NMFS) indicated a record number of whales entangled in West Coast Dungeness crab fishing gear¹¹. As a result, the Department, in collaboration with NMFS and the OPC convened a Working Group¹² in 2014 involving commercial fishermen (including two DCTF Members), environmental organizations, whale researchers, and state and federal agencies to help address this issue ([Appendix 12](#)). The Working Group has made progress over the past two years and is piloting a risk assessment and mitigation program during the 2017-18 fishing season (see [Appendix 13](#) and Recommendation 14). The Center for Biological Diversity filed a lawsuit on October 3, 2017 against the Department regarding entanglements in California Dungeness crab fishing gear. While 2017 entanglements were lower than historic highs in 2015 and 2016, there is general industry agreement that steps need to be taken to reduce whale entanglements in Dungeness crab fishing gear and address circumstances when entanglement risk is elevated.

Sunsetting Fish and Game Code: A number of Fish and Game code sections specific to the management of the commercial California Dungeness crab fishery will sunset in 2019. During the October 16-18, 2017 meeting, the DCTF focused its efforts on identifying the sunseting code sections that should be reauthorized, eliminated, or amended to support the Legislature’s fishery management efforts (see Recommendations 2-9).

Members of the Dungeness crab industry continue to address these issues and others as they arise (e.g., lost fishing gear recovery program, commercial Dungeness crab trap limit program, etc). The fishery consists of a diverse group of individuals, communities, viewpoints, and opinions regarding the management goals and objectives for the California Dungeness crab fishery generally vary by production level, vessel size, and homeport location.^{13,14} This makes it challenging at times for fishery participants to reach agreements. Nonetheless, the DCTF continues to reach agreements and forward recommendations to fisheries managers and those with decision-making authority. The DCTF looks forward to continuing this work and informing

¹¹ NOAA. 2016 *West Coast Entanglement Summary*. March 2017.

http://www.westcoast.fisheries.noaa.gov/publications/protected_species/marine_mammals/cetaceans/wcr_2016_whale_entanglements_3-26-17_final.pdf

¹² For more information about the Dungeness Crab Fishing Gear Working Group visit <http://www.opc.ca.gov/whale-entanglement-working-group/>

¹³ Dewees, C.M. et al. 2004. Racing for crabs: Cost and management options evaluated in Dungeness crab fishery. *California Agriculture*. Vol. 58(4): 186-193.

¹⁴ Pomeroy, C., et al. 2010. California's North Coast Fishing Communities: Historical Perspective and Recent Trends. California Sea Grant Technical Report T-072. La Jolla, CA: 350p.
<http://www-csgc.ucsd.edu/EXTENSION/ADVISORS/Pomeroy.html>.

the Legislature, the Department, and the Commission on the outcomes of their discussions regarding the issues above and others as they arise.

DCTF PROCESS AND PROCEDURES

The DCTF's operating and voting procedures are described in [SB 369](#) and the [DCTF Charter](#). SB 369 mandated the DCTF be composed of 27 members, including 17 members representing commercial fishing interests, two members representing sport fishing interests, two members representing crab processing interests, one member representing commercial passenger fishing vessel (CPFV) interests, two members representing nongovernmental organization interests, one member representing Sea Grant, and two members representing the Department.

The DCTF Charter was developed and ratified by the DCTF in September 2009 and amended in March 2012 and April 2014. The DCTF Charter establishes ground rules, member roles, and voting procedures for the group. In keeping with those procedures and in response to the Legislature's request for management recommendations, the DCTF Charter states that, "a proposed recommendation that receives an affirmative vote of at least 15 of the voting members of the DCTF may be transmitted ... [and] shall be considered to be the consensus of the task force, and shall be considered to be evidence of consensus in the Dungeness crab industry." The following voting protocol, described in the DCTF Charter, was used to conduct straw polls and final voting on DCTF recommendations:

- **Thumbs Down:** I do not agree with the proposal. I feel the need to block its adoption and propose an alternative.
- **Thumbs Sideways:** I can accept the proposal although I do not necessarily support it.
- **Thumbs Up:** I think this proposal is the best choice of the options available to us.
- **Abstention:** At times, a pending decision may be infeasible for a Member to weigh in on.

Thumbs up and thumbs sideways are *both* counted as affirmative votes in determining whether a recommendation has the required 15-vote majority.

DCTF VOTES AND ANALYSIS

The following recommendations were developed by the DCTF over the course of one meeting held on October 16-18, 2017. The recommendations represent agreements of DCTF members (as per voting protocols defined in the DCTF Charter ([Appendix 6](#)); however, in some cases they are not the *verbatim* language used when the votes were taken. Because of the iterative nature of the conversations at the DCTF meetings, the language of some of the recommendations has been adjusted to improve clarity. The verbatim language, together with the voting record is included in [Appendix 7](#) for reference. Some recommendations are grouped together for clarity. Explanatory notes are provided below recommendations when necessary.

DCTF RECOMMENDATIONS- October 16-18, 2017

Sunsetting Fish and Game Code: General

A number of Fish and Game code sections related to the Dungeness crab fishery will be inoperative as of April 1, 2019 and repealed as of January 1, 2020. As the Legislature is considering these code sections, the

DCTF provided recommendations that are intended to serve as guidance on the code sections to reauthorize, repeal, or amend.

Recommendation 1- The DCTF recommends reauthorizing all sunseting code sections without changes, except as specified in the following DCTF recommendation and as outlined in Recommendations 2-9 in this report.

- The sunset date on Fish and Game code sections including, but not limited to, 8276.2, 8276.3, 8276.4, 8276.5, 8279.1, 8280.2, 8280.3, 8280.4, 8280.6, and 9002.5, should be extended to 2029.
- Fish and Game Code Sections 8280.1 and 8280.5 should be eliminated as they may no longer be relevant since the limited entry program has been in place for two decades.
- Additional actions related to sunseting code sections taken by the DCTF during its October 2017 meeting are recommended to be updated as outlined in additional votes below.

The DCTF will continue its charge to review Dungeness crab fishery regulations and will continue to recommend modifications to those sections as need arises.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
19	1	0	0	2

NOTES:

In order to maintain law and order in the California Dungeness crab fishery, the DCTF requests the Legislature reauthorize all Fish and Game code sections and extend their sunset date ten years, with some exceptions. Fish and Game Code Sections 8280.1 and 8280.5, which relate to the implementation of the limited entry program that has been in place for more than two decades, should be repealed in order to clean up the code as they may no longer be needed. The DCTF recommends the Legislative Counsel provide legal perspective on whether this change would result in any unforeseen impacts prior to their deletion. Fish and Game code sections 8280.2, 8280.4, and 8280.6 should be reauthorized without change. Those code sections discussed in subsequent recommendations in this report including 8276.2, 8276.3, 8276.4, 8276.5, 8279.1, 8280.3, and 9002.5 would benefit from amendments to update and improve clarity as described in the subsequent recommendations.

Sunsetting Fish and Game Code: Vessel Length

SB 369 mandates that the DCTF discuss refining commercial Dungeness crab management.

Recommendation 2 attempts to address regulatory clarification needs identified by the Department prior to reauthorize the sunseting Fish and Game code.

Recommendation 2- The DCTF recommends clarifying the definition of “length overall” in Fish and Game Code section 8280.3 to be defined as the horizontal distance between the forward-most and aft-most points on the hull. Attachments fixed to the stern and bow are not included in this measurement.

In an effort to establish consistent Department records of the measurement of all vessels in the commercial Dungeness crab fleet, the DCTF recommends all permitholders submit a recent vessel

survey with the standard definition of “length overall” as defined above to the Department by March 31, 2020. In cases where a survey indicates a smaller vessel than is documented on the permit, the previously documented length would be maintained on that permit. Should an individual choose not to submit a survey by March 31, 2020 the original vessel length on file will be assumed to be the “length overall” and all future transfers and sales associated with the permit will be based on that measurement.

The DCTF also recommends that a survey by a licensed marine surveyor be required at the time of a vessel sale as well as at the time of permit transfer. Vessels associated with a permit should continue to only be allowed a one-time increase of a maximum of five feet in length (per Fish and Game code section 8280.3(e)) for permit transfers and vessel sales.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
18	1	0	0	3

NOTES:

Fish and Game code section 8280.3 restricts the size vessel that a permit may be transferred to based on the documented size of the vessel in 1995 (when limited entry was implemented in the fishery). Conversations with the Department have indicated issues with this regulation, as a standardized measurement of vessel length was not provided on all permits at the time the law was enacted. Complicating things further is the fact that permit transfers now require all vessels to be measured using a “length overall” measurement (per Fish and Game code section 8280.3). However, there is nothing in the Fish and Game code defining what the “length overall” measurement is, leaving the interpretation up to the surveyor measuring the vessel.

Despite the complications associated with this regulation, the DCTF generally believes vessel length restrictions are necessary to maintain the structure of the fleet and reduce the risk of overcapitalization. In an attempt to address the Department’s need for a standard definition of “length overall”, the DCTF recommends adding the definition described in the above recommendation to the Fish and Game code. To address the Department’s need to establish standardized vessel length measurements on all permits, the DCTF recommends all permitholders submit updated documentation on their vessels prior to March 31, 2020. In the event that a permitholder does not update their documentation, the length on file will be assumed to be the vessel’s “length overall.” All future transfers and sales will be based on the 2020 documented length.

Fish and Game code section 8280.3 restricts vessel length changes for permit transfers, but is silent on vessel length changes for permit sales when the same vessel is part of the sale. The practice of lengthening a vessel beyond the allowed, one-time 5 ft increase and then offering that vessel for sale without a vessel-to-vessel permit transfer involved is called sponsoning. As long as a permit is not being transferred, there is nothing in the regulations that prohibits a permitholder from infinitely lengthening or sponsoning the permitted vessel. The DCTF generally believes this lack of specificity is in conflict with the intent to restrict vessel lengths on permit transfers and recommends the same restrictions be placed on vessels during permit sales to eliminate the practice of sponsoning.

Sunseting Fish and Game Code: Continuation of the DCTF

As the 2019 sunset of the DCTF approaches, the DCTF discussed the need for a permanent advisory committee (as also mandated in SB 369) and recommendations to improve the organization’s structure and

function. Recommendations 3-7 reflect the outcomes of the discussion about this topic. Additional recommendations on this topic were included in the January 2017 report ([Appendix 3](#)) and are included on page 14 of this report.

Recommendation 3- The DCTF recommends extending Fish and Game Code sections 8276.4 and 8276.5. The DCTF recommends authorizing the allocation of \$150,000 dollars per year from the Dungeness Crab Account to the OPC to support the administration and facilitation of the DCTF through 2029.

The DCTF recommends the Department provide the DCTF with an annual review of the Dungeness Crab Account.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
19	0	1	0	2

NOTES:

In the January 2016 report ([Appendix 2](#)), the DCTF expressed support for reauthorizing and continuing the DCTF beyond 2019. In keeping with the DCTF's current function, this body would continue to act as a platform for the industry to collaborate and work with managers, regulators, and decision-makers on Dungeness crab fishery management issues. To fund the DCTF beyond 2019, the DCTF recommends amending Fish and Game code 8276.4 to allocate \$150,000 per year from the Dungeness Crab Account (see Fish and Game code section 8276.5) to support the organization's activities. The DCTF believes \$150,000 per year will allow the body to continue operating in a fashion that allows it to address its priorities (see January 2017: Recommendation 4, page 14 of this report and [Appendix 3](#)).

The DCTF believes the request to use funds from the Dungeness Crab Account is reasonable considering an October 2015 presentation from the Department indicating a large surplus in the Dungeness Crab Account at that time.¹⁵ Since that presentation, the Department has indicated that expenses to operate the commercial trap limit program are close to the annual allocation of the Account. An updated detailed accounting of the uses of the fund had not been provided to the DCTF since October 2016¹⁶ and were not available at the DCTF's 2017 meeting. The DCTF appreciates that the Department must use the Account to cover costs to administer the commercial Dungeness crab trap limit program and continues to recommend full vetting and annual reporting of the use of Dungeness Crab Account as required by Fish and Game Code Section 8276.5(a) to ensure transparency of the account's use (see January 2017: Recommendation 1, page 15 below and [Appendix 3](#)). The Department has indicated plans to allocate approximately \$70,000 from the account to cover the DCTF's operating costs from January 2018 until it sunsets in 2019. During the drafting of this report following the DCTF's meeting, the Department shared the latest accounting through FY 2016-17, which indicates a balance of \$2.8 million.¹⁷ This recommendation is further informed by the fact that a hold

¹⁵ California Department of Fish and Wildlife. 2015. Updates Summary of Fishery Landings 2014-15 Season & 19 Monitoring Evaluation Dungeness Crab Trap Limit Program (DCTLP). Presentation to the California Dungeness Crab Task Force. Ukiah, CA. October 2015. http://www.opc.ca.gov/webmaster/ftp/project_pages/dctf/meeting-5/CDFWData_DCTF%20Meeting_Oct262015-2.pdf

¹⁶ Juhasz, C., and C. Pomeroy. 2016. Preliminary Evaluation of the Dungeness Crab Trap Limit Program (DCTLP). Presentation to the California Dungeness Crab Task Force. Ukiah, CA. October 2016. http://www.opc.ca.gov/webmaster/ftp/project_pages/dctf/meeting-6/dctlp-eval-presentation-updated.pdf

¹⁷ CDFW Trap Limit Program Department Accounting, December 5 2017
<http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=152063&inline>

for \$517,225 was placed on the Dungeness Crab Account (Fish and Game Code Section 8276.5) as a result of AB 164 ([Appendix 14](#)) to cover the costs of a lawsuit (Marilley v. McCammon). Since a judge ruled in favor of the Department on the lawsuit¹⁸ and the funds are no longer needed to settle the litigation, the hold should be released leaving at least a \$517,225 surplus in the account, which could be used to support the DCTF for at least three years.

Since 2009, the OPC has provided financial and administrative support to the DCTF that has afforded the DCTF both neutrality and legitimacy that otherwise might be difficult to establish and maintain without the OPC's support. For these reasons, the DCTF would like the OPC to consider continuing to play a non-fiscally supportive administrative role beyond 2019. Although reestablishing the DCTF under the Department of Food and Agriculture has been considered, the DCTF believes the current framework provided by the OPC is ideal. The DCTF understands OPC will not provide any financial support and the DCTF recommends that the OPC be allocated and authorized to use \$150,000 per year from the Dungeness Crab Account to finance a contract or grant that would support DCTF meetings, facilitation, elections, and other organizational needs.

Recommendation 4- The DCTF recommends amending Fish and Game Code section 8276.4(a)(7) to change the commercial fishing representation on the DCTF as follows:

(7) Seventeen members representing commercial fishery interests, elected by licensed persons possessing valid Dungeness crab permits in their respective ports and production levels, as follows:

- (A) Three members from Crescent City.
- (B) One member from Trinidad.
- (C) Two members from Eureka.
- (D) Two members from Fort Bragg.
- (E) Two members from Bodega Bay.
- (F) Two members from San Francisco.
- (G) Two members from Half Moon Bay.
- (H) Two members from ports south of Half Moon Bay.
- (I) One member who has a valid California nonresident crab permit.

All commercial fishing representation would have voting authority.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
9	9	2	0	2

NOTES:

The DCTF recommends amending the commercial fishing representation on the DCTF to be more reflective of the fleet and fishing dynamics. As this recommendation is written, the total number of commercial fishing seats remains unchanged from the current DCTF, however one seat is removed from Crescent City and one seat is added to the ports south of Half Moon Bay.

¹⁸ Koppel, Glenn. "Marilley v. Bonham." *American Bar Association*, 8 Mar. 2017, <https://apps.americanbar.org/ababoard/blog/blogpost.cfm?threadid=33774&catid=14923>

Recommendation 5- The DCTF recommends amending Fish and Game Code section 8276.4(a) to adjust the membership of the commercial DCTF members as follows:

- Elections for DCTF Members shall occur in each port every three years to allow for fresh perspectives to serve on the body. DCTF elections shall be staggered/rotating across ports to maintain institutional knowledge. *Details to appoint alternates are included in Recommendation 6.*
- For ports with one representative, elected members and their alternates will represent all permitholders in that port regardless of landings history (i.e., one representative will represent all production levels).
- For ports with two representatives, elected members and their alternates will represent both the upper and lower production levels (i.e., one upper production level representative and one low production level representative).
- For ports with three representatives, two elected members and their alternates will represent both the upper and lower production levels. A third elected member will represent all permitholders in that port regardless of landings history (i.e., one will represent low production levels, one will represent high production levels, and one will represent all production levels).
- Upper and lower production levels shall be calculated as the average of all permits in a port who landed a minimum of 25,000 pounds of crab during the five years prior to each election cycle.
- Elections will be coordinated by the Department and/or OPC with support from a contracted DCTF Administrative team.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
16	2	2	0	2

NOTES:

Regular and consistent elections are key to encouraging opportunities for fresh perspectives on the DCTF. Additionally, establishing alternating election cycles will uphold and maintain the institutional knowledge of the DCTF. All permitholders, regardless of landings history should have an opportunity to participate in elections and potentially be a nominee. Each port will elect at least one commercial fishing member, with some ports electing two or three. Production levels are based on each permit's landing history and are unique to each port. To calculate high and low production, an average is taken of all permits based in a port who landed more than 25,000 pounds during the five years prior to each election cycle (i.e., the five year period would be re-calculated for each election). Permits that fall above the average are in the high production level and permits who fall below the average are in the low production level (even if the permit has zero landings). Recommendation 5 provides clarifications that will help ensure that Recommendation 4, which changes the structure of the DCTF, can be implemented as intended by the DCTF.

Recommendation 6- The DCTF recommends amending Fish and Game Code section 8276.4 to clarify how DCTF member alternates and replacements are identified as follows:

- A DCTF member will choose his/her alternate in the event he/she is unable to attend a DCTF meeting.
- In the event that a DCTF member is unable to fulfill his/her duty on the DCTF for a full three-year term, a replacement will be selected by the DCTF member until a new election can be held.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
20	0	0	0	2

NOTES:

The DCTF intends for alternates and replacements to be in the same port and production tier as the elected member. The DCTF Administrative Team will work with the Department to ensure alternates and replacements follow this intent. Fish and Game Code section 8276.4 currently permits the use of alternates on the DCTF, but is silent on the process for selecting alternates. The code is also silent on the process for replacing DCTF members between elections. Recommendation 6 seeks to add clarity to the code.

Recommendation 7- The DCTF recommends amending Fish and Game Code section 8276.4(b) to adjust the structure of the non-commercial DCTF members as follows:

- (1) Two members representing sport fishing interests: one voting and one non-voting.
- (2) Two members representing crab processing interests with voting authority.
- (3) One member representing commercial passenger fishing vessel interests with voting authority.
- (4) Two nonvoting members representing non-governmental organization interests.
- (5) One nonvoting representative of California Sea Grant.
- (6) Two nonvoting members representing the California Department of Fish and Wildlife.

Members representing sport fishing interests, crab processing interests, commercial passenger fishing vessel interests, and nongovernmental organization interest will be appointed by the OPC chair following a public solicitation for nominations. The Department and Sea Grant will select their own representatives.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
16	4	0	0	2

NOTES:

Recommendation 7 modifies Fish and Game Code section 8276.4 to change the two voting sport fishing members to one voting and one nonvoting member. The DCTF generally believes that the sport fishing, crab processing, commercial passenger fishing vessel, non-governmental organization, Sea Grant, and Department perspectives are important to inform DCTF discussions. However, since the DCTF's primary focus is the commercial fishery, the DCTF believes there should be fewer sport fishing votes.

Fish and Game Code section 8276.4 is silent on the process for seating the noncommercial fishing members. Recommendation 7 seeks to add clarity to the code to reduce challenges to identifying non-commercial DCTF member seats.

Sunsetting Fish and Game Code: Season Delays and Fair Start

In response to the sunseting of the 2019 Fish and Game code, the DCTF discussed the need to clarify regulations associated with season delays and “fair start” clauses due to experiences over the last two seasons associated with domoic acid delays (see pages 3-4).

Recommendation 8- Following a delay for health and safety issues such as elevated levels of domoic acid, and once an area is deemed “safe” by the California Department of Public Health and the Office of Environmental Health Hazard Assessment, the DCTF supports opening areas as they are deemed safe. The DCTF recommends amending Fish and Game code section 8279.1 so that 30-day fair start provisions are applied to any type of health/safety delay for any size area (e.g. if the fishery is opened in areas smaller than a district, each area would be subject to the fair start provisions) for both management areas.

DCTF recommends the Director gives three days’ notice that a preset will begin unless the preset will land on a state or federal holiday, December 24, Thanksgiving eve, or New Year's Eve. In these cases, the preset will begin the day after the holiday.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
13	3	2	1	3

NOTES:

The 2015-16 and 2016-17 Dungeness crab fishing seasons experienced unprecedented delays due to elevated levels of domoic acid in crabs. The delays caused the Department to reevaluate how to implement existing fishery regulations that were originally developed for delays specific to crab market quality (i.e. how much meat is in the crabs’ shells), rather than for public health issues.

Although existing law requires the Department to open areas to fishing as soon as CDPH and OEHHA deem them “safe,” fishermen expressed concern about opening the Dungeness crab fishery in this fashion since it causes fishing pressure to be compressed into smaller areas. The 30-day fair start provisions outlined in Fish and Game code section 8279.1 create incentives to reduce the impacts of effort shifts by preventing an individual from fishing a newly opened area for 30 days if he/she had been fishing an area that opened earlier. However, Fish and Game code section 8279.1 only applies to the district level such that when a portion of a district is delayed, the 30 days begin after the first part of the district opener, creating shorter wait times, or no wait times at all, for portion(s) of the district ([Appendix 15](#)). The DCTF believes this can add unnecessary pressure in small areas and amending the code so that a fair start applies to any size area would help reduce this pressure.

Since the Department tends to open the fishery within 24 hours of receiving the go-ahead from CDPH and OEHHA, fishermen have expressed concerns about their safety and ability to make informed business decisions when given such a short timeframe to open. The DCTF recommends the Director be given the ability to give three days notice before fishermen are allowed to set their gear with the ability to extend the

notice by one day if the preset falls on a holiday. Such an amendment will help ensure more orderly commercial Dungeness crab fishery openers.

Sunseting Fish and Game Code: Lost Fishing Gear Recovery Program

In January 2015, the DCTF recommended the development of a lost fishing gear recovery program, which informed the development of SB1287 ([Appendix 10](#)). Although the program will sunset in 2019, barring a legislative amendment, the Department is continuing to develop the program and discussing options for its implementation in partnership with the DCTF and fishing industry. The following recommendation is based on those discussions with the Department.

Recommendation 9- The DCTF looks forward to working with the Department to implement the lost fishing gear recovery program outlined in Fish and Game code 9002.5 and would like to recommend the following adjustment to help reduce Department costs: require that when permits are renewed, permitholders are informed that the Department will share their contact, license, and permit information with a 3rd party entity that will be supporting local retrieval efforts. The 3rd party entity will maintain the confidentiality of the information and use it to locate the owner of recovered gear to facilitate its return to the owner.

If this recommendation is not lawful, the DCTF recommends the Department enter into a confidentiality agreement with the 3rd party entity that will be supporting local retrieval efforts to enable it to share contact information of permitholders to assist in efforts to locate owners of the recovered gear.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
18	2	0	0	2

NOTES:

The DCTF continues to support SB 1287/Fish and Game code 9002.5 ([Appendix 10](#)) and generally sees the lost fishing gear recovery program outlined in the bill as an important step in addressing and minimizing potential negative gear interactions including whale entanglements, ghost fishing, gear loss, navigational hazards, etc. The DCTF recommends the sunset of Fish and Game code 9002.5 be extended to 2029. During the October 16-18, 2017 DCTF meeting, the Department provided an update on their interpretation of SB1287 ([Appendix 8](#)). The DCTF believes it is important to minimize Department involvements in the program to reduce costs. They believe the program can be run by 3rd party entities with limited support from the Department such that the Department is only involved in the program to issue permits to the 3rd party organizations to run the program and to enforce the program's stipulations when commercial fishermen are in violation of the program by not paying for their recovered gear. A major hurdle in allowing the 3rd party entities to run the program is the fact that permitholders' contact information is confidential. This means that if a recovered trap is missing the legally required contact information in the trap, the 3rd party entity has no way to cross-reference the license number on the buoy to contact the trap owner. While the Department has offered to take responsibility for this effort, the DCTF believes the contact and license information of all individuals involved in the commercial Dungeness crab fishery should be confidentially shared with the 3rd party entities involved in running the recovery programs. This will help to reduce the cost of the program and minimize the Department's involvement at early stages of the gear recovery process. If this information is shared with the 3rd party entity (or entities) running the program, then the only need for involving the

Department in the program will be to issue permits to retrieve lost gear after the season and address those individuals who are not in compliance with the program (i.e., do not pay the fees associated with their recovered traps).

Whale Entanglement in Dungeness Crab Gear Concerns

Whale entanglements in California Dungeness crab fishing gear has been identified as a high priority issue by the industry. This situation creates a risk for marine mammals and threatens the stability of the fishery and coastal fishing communities, both of which the public values. The ensuing recommendation is directly related to DCTF discussions about the efforts being made by the California Dungeness Crab Fishing Gear Working Group to address this issue ([Appendix 12](#)).

Recommendation 10- The DCTF supports the California Dungeness Crab Fishing Gear Working Group's (Working Group) efforts to address the issue of whale entanglements in California Dungeness crab fishing gear. This includes the piloting of a draft Risk Assessment and Mitigation Program (RAMP) and the recommendation that the Department work with other fixed gear fisheries to establish standardized marking of surface gear.

Fishing ports are committed to supporting Working Group representatives to continue their participation on the body. The DCTF supports the Working Group continuing its activities and looks forward to learning more as efforts progress.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
18	1	1	0	2

NOTES:

The Working Group is working to develop solutions to support thriving whale populations along the West Coast and a thriving and profitable Dungeness crab fishery. Over the past year, the Working Group developed an updated Best Fishing Practices Guide ([Appendix 11](#)), began piloting a number of gear modifications and electronic reporting tools, supported new whale research, provided a recommendation on requiring improved gear marking, and developed a pilot for a draft Risk Assessment Mitigation Program (RAMP) that will be tested during the 2017-18 fishing season. The draft RAMP seeks to work collaboratively with experts (fishermen, researchers, NGOs, etc.) to identify and assess elevated levels of entanglement risk and determine the need for management options to reduce risk of entanglement. The Working Group will pilot the draft RAMP during the 2017-18 fishing season to evaluate its structure and function, including the implementation of the tools and process for assessing circumstances where entanglement risk is likely to be elevated and, as needed, identify possible voluntary management measures for the Director's consideration. The Working Group will also consider what legislative support may be suitable/helpful with certain aspects of the RAMP moving beyond the pilot, including providing needed authority to respond to RAMP recommendations.

The DCTF agrees that the issue of whale entanglements in the Dungeness crab fishery is an important, priority for the fleet to address and supports the efforts of the Working Group. DCTF members have indicated that many of their ports have supported Working Group participants' travel to attend Working Group meetings and will continue that commitment to ensure this issue is addressed and fishermen continue to have a role in developing strategies to address this issue.

Outstanding DCTF Recommendations (re: Continuation of the DCTF)

As a reminder, the DCTF provided a number of recommendations in the January 2017 report ([Appendix 2](#)) that have yet to be considered or addressed by the appropriate regulatory bodies and are related to the recommendations above regarding the continuation of the DCTF. The DCTF requests that regulators consider including these recommendations if any related legislation or regulatory packages are introduced in 2018. The recommendations below have been paraphrased to highlight those details that are still outstanding. The original language and associated rationale are available in [Appendix 2](#).

January 2017: Recommendation 3- The DCTF may also investigate legislative options to pursue long-term funding through access to the Dungeness Crab Account to support the DCTF or an industry-representative organization beyond 2019.

January 2017: Recommendation 4- The DCTF identified the following priorities of a future industry-representative organization:

- Inform fisheries management;
- Be responsive to high profile and policy issues;
- Serve as a conduit of information to/from the fleet to the Legislature, Department, and Commission;
- Identify industry research priorities; and
- Serve as a source for public relations efforts related to industry issues.

At this time, the DCTF is not interested in a future industry-representative organization addressing commodity marketing or pricing as part of its charge.

January 2017: Recommendation 5- The DCTF continues to see value in the DCTF or a similar industry-representative body. The DCTF supports the continued use of a 2/3 voting structure.

DCTF NEXT STEPS

Completion of the January 15, 2015, January 15, 2016, and January 13, 2017 reports fulfill the mandates of SB 369. However, as explained in the recommendations in this report, the DCTF does not sunset until 2019 and generally believes there is value in extending the DCTF to continue to support California Dungeness crab fishery management. The Department has stated that continued funding of the DCTF will be available in early 2018 through the 2019 sunset and a recommendation has been made in this report on opportunities to fund the DCTF beyond 2019 should Fish and Game code section 8276.4 be extended.

The DCTF looks forward to using 2018 through early 2019 to continue to discuss priority issues including the ones in this report and may forward recommendations related to improvements to the California commercial Dungeness crab trap limit program, clarifications to Title 14 regulations related to in-season gear recovery, extended preset periods to improve safety of the fishery, and other priorities that may arise. All future meetings and business by the DCTF will continue to be done in compliance with all pertinent laws and regulations.

Senate Bill No. 369

CHAPTER 335

An act to amend Sections 8276.2, 8276.3, 8279.1, 8280.1, 8280.2, 8280.3, 8280.4, 8280.5, and 8280.6 of, and to add and repeal Sections 8276.4 and 8276.5 of, the Fish and Game Code, relating to commercial fishing.

[Approved by Governor September 26, 2011. Filed with
Secretary of State September 26, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 369, Evans. Dungeness crab.

(1) Existing law regulates the Dungeness crab fishery and, among other things, permits the Director of Fish and Game to delay the opening of the fishery in specified situations and regulates the taking of crab during those delays. Existing law sets forth the qualifications for a Dungeness crab vessel permit, and provides that no person shall use a vessel to take, possess, or land Dungeness crab for commercial purposes without a Dungeness crab vessel permit. Existing law sets forth requirements for the issuance, transfer, and revocation of a vessel permit, and prescribes fees for each permit or permit transfer. Under existing law, the holder of a Dungeness crab vessel permit, upon approval by the Department of Fish and Game, is authorized to temporarily transfer the permit to a replacement vessel for a period of up to 6 months during the current permit year, if the permitted vessel is seriously damaged, suffers major mechanical breakdown, or is lost or destroyed. Existing law requires the director to convene a Dungeness crab review panel for the purpose of reviewing applications for vessel permits and permit transfers, if the department makes a specified determination. Existing law provides that those provisions shall become inoperative on April 1, 2012, and, as of January 1, 2013, are repealed.

This bill would extend the operation of those provisions until April 1, 2019, and would repeal those provisions on January 1, 2020.

The bill would subject a person who fishes without a Dungeness crab vessel permit, or who uses a Dungeness crab vessel permit to fish illegally on a vessel other than the permitted one, to specified penalties. The bill would authorize a person to whom a Dungeness crab vessel permit is issued to retain the permit, and to transfer the permit to another vessel owned by that person, during a period of 2 years, in the event that the vessel for which the permit was originally issued is lost, destroyed, or seriously damaged, subject to approval by the department. The bill would require a permit retained under these circumstances to be revoked if it is not transferred to a replacement vessel within the 2-year period.

The bill would require the director to adopt a program, by March 31, 2013, for Dungeness crab trap limits for all California permits. The director

would be required to make specified allocations of crab trap tags. The program would require participants to pay a \$5 crab trap tag fee and a \$1,000 crab trap limit fee, as provided. The bill would create the Dungeness Crab Account in the Fish and Game Preservation Fund, and would require the fees collected to be deposited in that account. The money in the account would be available, upon appropriation by the Legislature, for administering and enforcing the program. The bill would require the imposition of specified penalties for a violation of the program requirements. The bill would create a Dungeness crab task force to make recommendations relating to the program, and meet other requirements, as provided. These provisions would become inoperative on April 1, 2019, and would be repealed on January 1, 2020.

(2) Existing law authorizes the director to authorize one or more operators of commercial fishing vessels to take and land a limited number of Dungeness crab in November of each year for the purpose of quality testing according to a testing program and prohibits the sale of crab taken pursuant to the testing program, except for edible crabmeat, which may be used for charitable purposes.

This bill would remove that exception for edible crabmeat used for charitable purposes.

(3) Under existing law, except as expressly provided otherwise, any violation of the Fish and Game Code, or of any rule, regulation, or order made or adopted under the code, is a misdemeanor.

Because this bill would extend the operation of the Dungeness crab vessel permit program and thereby the crimes imposed for a violation of those provisions, and impose additional requirements the violation of which may be crimes, the bill would create a state-mandated local program by creating new crimes.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 8276.2 of the Fish and Game Code is amended to read:

8276.2. (a) The director may order a delay in the opening of the Dungeness crab fishery after December 1 in Districts 6, 7, 8, and 9 in any year. The delay in the opening shall not be later than January 15 of any year.

(b) On or about November 1 of each year, the director may authorize one or more operators of commercial fishing vessels to take and land a limited number of Dungeness crab for the purpose of quality testing according to a testing program conducted by, or on behalf of, the Pacific States Marine Fisheries Commission or an entity approved by the department.

The department shall not approve a testing program unless it is funded by the entity authorized to conduct the testing program. Crab taken pursuant to this section shall not be sold.

(c) The director shall order the opening of the Dungeness crab season in Districts 6, 7, 8, and 9 on December 1 if the quality tests authorized in subdivision (b) indicate the Dungeness crabs are not soft-shelled or low quality. The entity authorized to conduct the approved testing program may test, or cause to be tested, crabs taken for quality and soft shells pursuant to the approved testing program. If the tests are conducted on or about November 1 and result in a finding that Dungeness crabs are soft-shelled or low quality, the director shall authorize a second test to be conducted on or about November 15 pursuant to the approved testing program. If the second test results in a finding that Dungeness crabs are soft-shelled or low quality, the director may order the season opening delayed for a period of 15 days and may authorize a third test to be conducted on or about December 1. If the third test results in a finding that Dungeness crabs remain soft-shelled or of low quality, the director may order the season opening delayed for a period of an additional 15 days and authorize a fourth test to be conducted. This procedure may continue to be followed, except that tests shall not be conducted after January 1 for that season, and the season opening shall not be delayed by the director later than January 15.

(d) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 8276.3 of the Fish and Game Code is amended to read:

8276.3. (a) If there is any delay ordered by the director pursuant to Section 8276.2 in the opening of the Dungeness crab fishery in Districts 6, 7, 8, and 9, a vessel shall not take or land crab within Districts 6, 7, 8, and 9 during any closure.

(b) If there is any delay in the opening of the Dungeness crab season pursuant to Section 8276.2, the opening date in Districts 6, 7, 8, and 9 shall be preceded by a 36 hour gear setting period, as ordered by the director.

(c) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 8276.4 is added to the Fish and Game Code, to read:

8276.4. (a) The Ocean Protection Council shall make a grant, upon appropriation of funding by the Legislature, for the development and administration of a Dungeness crab task force. The membership of the Dungeness crab task force shall be comprised of all of the following:

- (1) Two members representing sport fishing interests.
- (2) Two members representing crab processing interests.
- (3) One member representing commercial passenger fishing vessel interests.

(4) Two nonvoting members representing nongovernmental organization interests.

(5) One nonvoting representative of Sea Grant.

(6) Two nonvoting members representing the department.

(7) Seventeen members representing commercial fishery interests, elected by licensed persons possessing valid Dungeness crab permits in their respective ports and production levels, as follows:

(A) Four members from Crescent City.

(B) One member from Trinidad.

(C) Two members from Eureka.

(D) Two members from Fort Bragg.

(E) Two members from Bodega Bay.

(F) Two members from San Francisco.

(G) Two members from Half Moon Bay.

(H) One member from ports south of Half Moon Bay.

(I) One member who has a valid California nonresident crab permit.

(b) For ports with more than one representative, elected members and their alternates shall represent both the upper and lower, and in some cases middle, production levels. Production levels shall be based on the average landing during the previous five years, of valid crab permitholders who landed a minimum of 25,000 pounds of crab during the same period.

(c) The Dungeness crab task force shall do all of the following:

(1) Review and evaluate the Dungeness crab management measures described in Section 8276.5, with initial recommendations to the Joint Committee on Fisheries and Aquaculture, the department, and the commission, no later than January 15, 2015, and final recommendations to those entities no later than January 15, 2017.

(2) Make recommendations by January 15, 2015, on all of the following: the need for a permanent Dungeness crab advisory committee, the economic impact of the program described in Section 8276.5 on permitholders of different tiers and the economies of different ports, the cost of the program to the department, including enforcement costs, the viability of a buyout program for the permitholders described in subparagraph (G) of paragraph (1) of subdivision (a) of Section 8276.5, refining sport and commercial Dungeness crab management, and the need for statutory changes to accomplish task force objectives.

(3) In considering Dungeness crab management options, prioritize the review of pot limit restriction options, current and future sport and commercial fishery effort, season modifications, essential fishery information needs, and short- and long-term objectives for improved management.

(d) The task force may establish subcommittees of specific user groups from the task force membership to focus on issues specific to sport fishing, commercial harvest, or crab processing. The subcommittees shall report their recommendations, if any, to the task force.

(e) The Ocean Protection Council may include in a grant funding to cover department staffing costs, as well as travel costs for task force participants as specified in paragraph (6) of subdivision (a).

(f) Except as otherwise provided in Section 8276.5, a recommendation shall be forwarded to the Joint Committee on Fisheries and Aquaculture, the department, and the commission upon an affirmative vote of at least two-thirds of the task force members.

(g) Eligibility to take crab in state waters and offshore for commercial purposes may be subject to restrictions, including, but not limited to, restrictions on the number of traps utilized by that person, if either of the following occurs:

(1) A person holds a California Dungeness crab permit with California landings of less than 5,000 pounds between November 15, 2003, and July 15, 2008, inclusive, as reported in California landings receipts.

(2) A person has purchased a Dungeness crab permit on or after July 15, 2008, from a permitholder whose California landings were less than 5,000 pounds between November 15, 2003, and July 15, 2008, inclusive, as reported in California landings receipts.

(h) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Section 8276.5 is added to the Fish and Game Code, to read:

8276.5. (a) In consultation with the Dungeness crab task force, or its appointed representatives, the director shall adopt a program, by March 31, 2013, for Dungeness crab trap limits for all California permits. Unless the director finds that there is consensus in the Dungeness crab industry that modifications to the following requirements are more desirable, with evidence of consensus, including, but not limited to, the record of the Dungeness crab task force, the program shall include all of the following requirements:

(1) The program shall contain seven tiers of Dungeness crab trap limits based on California landings receipts under California permits between November 15, 2003, and July 15, 2008, as follows:

(A) The 55 California permits with the highest California landings shall receive a maximum allocation of 500 trap tags.

(B) The 55 California permits with the next highest California landings to those in subparagraph (A) shall receive a maximum allocation of 450 trap tags.

(C) The 55 California permits with the next highest California landings to those in subparagraph (B) shall receive a maximum allocation of 400 trap tags.

(D) The 55 California permits with the next highest California landings to those in subparagraph (C) shall receive a maximum allocation of 350 trap tags.

(E) The 55 California permits with the next highest California landings to those in subparagraph (D) shall receive a maximum allocation of 300 trap tags.

(F) The remaining California permits with the next highest California landings to those in subparagraph (E), which are not described in paragraph

(1) or (2) of subdivision (h) of Section 8276.4, shall receive a maximum allocation of 250 trap tags.

(G) The California permits described in paragraphs (1) and (2) of subdivision (g) of Section 8276.4 shall receive a maximum allocation of 175 tags. The tags in this tier shall not be transferable for the first two years of the program.

(2) Notwithstanding paragraph (1), the director shall not remove a permitholder from a tier described in paragraph (1), if after an allocation is made pursuant to paragraph (1) an appeal pursuant to paragraph (6) places a permitholder in a tier different than the original allocation.

(3) Participants in the program shall meet all of the following requirements:

(A) Pay a biennial fee for each trap tag issued pursuant to this section to pay the pro rata share of costs of the program, including, but not limited to, informing permitholders of the program, collecting fees, acquiring and sending trap tags to permitholders, paying for a portion of enforcement costs, and monitoring the results of the program. The fee shall not exceed five dollars (\$5) per trap, per two-year period. All of the trap tags allocated to each permit pursuant to subdivision (a) shall be purchased by the permitholder or the permit shall be void.

(B) Purchase a biennial crab trap limit permit of not more than one thousand dollars (\$1,000) per two-year period to pay for the department's reasonable regulatory costs.

(C) Not lease a crab trap tag, and transfer a tag only as part of a transaction to purchase a California permitted crab vessel.

(D) A Dungeness crab trap that is fished shall contain a trap tag that is fastened to the main buoy, and an additional tag provided by the permitholder attached to the trap. The department shall mandate the information that is required to appear on both buoy and trap tags.

(4) The department shall annually provide an accounting of all costs associated with the crab trap limit program. Excess funds collected by the department shall be used to reduce the cost of the crab trap limit permit fee or tag fee in subsequent years of the program.

(5) Permitholders may replace lost tags by application to the department and payment of a fee not to exceed the reasonable costs incurred by the department. The department may waive or reduce a fee in the case of catastrophic loss of tags.

(6) An individual may submit an appeal of a trap tag allocation received pursuant to this section, by March 31, 2014, to the director on a permit-by-permit basis for the purpose of revising upward or downward any trap tag allocation based on evidence that a permit's California landings during the period between November 15, 2003, and July 15, 2008, inclusive, were reduced as a result of unusual circumstances and that these circumstances constitute an unfair hardship, taking into account the overall California landings history as indicated by landing receipts associated with the permit. The director shall initiate the appeal process within 12 months of receiving an appeal request. The appeal shall be heard and decided by

an administrative law judge of the Office of Administrative Hearings, whose decision shall constitute the final administrative decision. An individual requesting an appeal shall pay all expenses, including a nonrefundable filing fee, as determined by the department, to pay for the department's reasonable costs associated with the appeal process described in this paragraph.

(b) (1) In addition to criminal penalties authorized by law, a violation of the requirements of the program created pursuant to this section shall be subject to the following civil penalties:

(A) Conviction of a first offense shall result in a fine of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000) per illegal trap or fraudulent tag.

(B) Conviction of a second offense shall result in a fine of not less than five hundred dollars (\$500) and not more than two thousand five hundred dollars (\$2,500) per illegal trap or fraudulent tag, and the permit may be suspended for one year.

(C) Conviction of a third offense shall result in a fine of not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) per illegal trap or fraudulent tag, and the permit may be permanently revoked.

(2) The severity of a penalty within the ranges described in this subdivision shall be based on a determination whether the violation was willful or negligent and other factors.

(3) The portion of monetary judgments for noncompliance that are paid to the department shall be deposited in the Dungeness Crab Account created pursuant to subdivision (e).

(c) For the purposes of this section, a proposed recommendation that receives an affirmative vote of at least 15 of the non-ex officio members of the Dungeness crab task force may be transmitted to the director or the Legislature as a recommendation, shall be considered to be the consensus of the task force, and shall be considered to be evidence of consensus in the Dungeness crab industry. Any proposed recommendation that does not receive a vote sufficient to authorize transmittal to the director or Legislature as a recommendation shall be evidence of a lack of consensus by the Dungeness crab task force, and shall be considered to be evidence of a lack of consensus in the crab industry.

(d) (1) The director shall submit a proposed program pursuant to this section to the Dungeness crab task force for review, and shall not implement the program until the task force has had 60 days or more to review the proposed program and recommend any proposed changes. The director may implement the program earlier than 60 days after it is submitted to the Dungeness crab task force for review, if recommended by the task force.

(2) After the program is implemented pursuant to paragraph (1), the director may modify the program, if consistent with the requirements of this section, after consultation with the Dungeness crab task force or its representatives and after the task force has had 60 days or more to review the proposed modifications and recommend any proposed changes. The director may implement the modifications earlier than 60 days after it is

sent to the Dungeness crab task force for review, if recommended by the task force.

(e) The Dungeness Crab Account is hereby established in the Fish and Game Preservation Fund and the fees collected pursuant to this section shall be deposited in that account. The money in the account shall be used by the department, upon appropriation by the Legislature, for administering and enforcing the program.

(f) For purposes of meeting the necessary expenses of initial organization and operation of the program until fees may be collected, or other funding sources may be received, the department may borrow money as needed for these expenses from the council. The borrowed money shall be repaid within one year from the fees collected or other funding sources received. The council shall give high priority to providing funds or services to the department, in addition to loans, to assist in the development of the program, including, but not limited to, the costs of convening the Dungeness crab task force, environmental review, and the department's costs of attending meetings with task force members.

(g) (1) It is the intent of the Legislature that the department, the council, and the Dungeness crab task force work with the Pacific States Marine Fisheries Commission and the Tri-state Dungeness Crab Commission to resolve any issues pertaining to moving the fair start line south to the border of California and Mexico.

(2) For the purposes of this subdivision, the resolution of issues pertaining to the fair start line shall be limited to assessing the positive and negative implications of including District 10 in the tri-state agreement, including working with the Tri-state Dungeness Crab Commission to amend Oregon and Washington laws to include District 10 in the regular season fair start clause, and discussion of providing different rules for District 10 with regard to preseason quality testing.

(h) For purposes of this section, "council" means the Ocean Protection Council established pursuant to Section 35600 of the Public Resources Code.

(i) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 8279.1 of the Fish and Game Code is amended to read:

8279.1. (a) A person shall not take, possess onboard, or land Dungeness crab for commercial purposes from any vessel in ocean waters in District 6, 7, 8, or 9 for 30 days after the opening of the Dungeness crab fishing season in California, if both of the following events have occurred:

(1) The opening of the season has been delayed pursuant to state law in California.

(2) The person has taken, possessed onboard, or landed Dungeness crab for commercial purposes, from ocean waters outside of District 6, 7, 8, or 9, prior to the opening of the season in those districts.

(b) A person shall not take, possess onboard, or land Dungeness crab for commercial purposes from any vessel in ocean waters south of the border between Oregon and California for 30 days after the opening of the Dungeness crab fishing season in California, if both of the following events have occurred:

(1) The opening of the season has been delayed pursuant to state law in California.

(2) The person has taken, possessed onboard, or landed Dungeness crab for commercial purposes in Oregon or Washington prior to the opening of the season in California.

(c) A person shall not take, possess onboard, or land Dungeness crab for commercial purposes from any vessel in ocean waters north of the border between Oregon and California for 30 days after the opening of the Dungeness crab fishing season in Oregon or Washington, if both of the following events have occurred:

(1) The opening of the season has been delayed in Oregon or Washington.

(2) The person has taken, possessed onboard, or landed Dungeness crab for commercial purposes in California prior to the opening of the season in ocean waters off Oregon or Washington.

(d) A person shall not take, possess onboard, or land Dungeness crab for commercial purposes from any vessel in ocean waters off Washington, Oregon, or California for 30 days after the opening of the Dungeness crab fishing season in California, Oregon, or Washington, if both of the following events have occurred:

(1) The opening of the season has been delayed in Washington, Oregon, or California.

(2) The person has taken, possessed onboard, or landed Dungeness crab for commercial purposes in either of the two other states prior to the delayed opening in the ocean waters off any one of the three states.

(e) A violation of this section does not constitute a misdemeanor. Pursuant to Section 7857, the commission shall revoke the Dungeness crab vessel permit held by any person who violates this section.

(f) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 6. Section 8280.1 of the Fish and Game Code is amended to read:

8280.1. (a) A person shall not use a vessel to take, possess, or land Dungeness crab for commercial purposes using Dungeness crab traps authorized pursuant to Section 9011, unless the owner of that vessel has a Dungeness crab vessel permit for that vessel that has not been suspended or revoked.

(b) A Dungeness crab vessel permit may be issued only to the following persons for use on qualifying vessels:

(1) A person, who has a commercial fishing license issued pursuant to Section 7852 or Article 7 (commencing with Section 8030) of Chapter 1 that has not been suspended or revoked, who is the owner of a commercial

fishing vessel that has been registered with the department pursuant to Section 7881 in each of the 1991–92, 1992–93, and 1993–94 permit years and a minimum of four landings in each of three Dungeness crab seasons in the period from November 1, 1984, to April 1, 1994, have been made from that vessel. This paragraph includes any person purchasing a vessel qualifying pursuant to this paragraph.

(2) A person who has a commercial fishing license issued pursuant to Section 7852 or Article 7 (commencing with Section 8030) of Chapter 1 that has not been suspended or revoked, who is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 in each of the 1991–92, 1992–93, and 1993–94 permit years and a minimum of four landings in one of the Dungeness crab seasons in the period from November 1, 1984, to April 1, 1994, have been made from that vessel in this state as documented by landing receipts delivered to the department pursuant to Section 8046, who the department finds to have been unable, due to illness or injury or any other hardship, to make a minimum of four landings in each of two of the previous three Dungeness crab seasons, and who, in good faith, intended to participate in the Dungeness crab fishery in those seasons.

(3) A person who has a commercial fishing license issued pursuant to Section 7852 that has not been suspended or revoked, who meets the requirements of Section 8101, and who, notwithstanding Section 8101, is, at the time of application, the owner of a fishing vessel that is not equipped for trawling with a net and that has been registered pursuant to Section 7881 in each of the 1991–92, 1992–93, and 1993–94 permit years. Not more than one Dungeness crab vessel permit shall be issued to any person qualifying under Section 8101 and all permits issued under Section 8101, notwithstanding subdivision (b) of Section 8280.3, shall be nontransferable. A person qualifying for a permit under this paragraph shall have participated in the Dungeness crab fishery on or before March 31, 1994, as documented by landing receipts that were prepared in that person's name for not less than four landings of Dungeness crab taken in a crab trap in a Dungeness crab season and were delivered to the department pursuant to Section 8046. A person shall not be issued a permit under this paragraph if that person has been issued a permit under any other provision of this section for another vessel. For purposes of Section 8101, "participated in the fishery" means made not less than four landings of Dungeness crab taken by traps in that person's name in one Dungeness crab season. The department shall separately identify permits issued pursuant to this paragraph and those permits shall become immediately null and void upon the death of the permittee. The department shall not issue or renew any permit under this paragraph to a person if the person failed to meet the participation requirements of four landings in one season prior to April 1, 1994, or has been issued a Dungeness crab permit for a vessel under any other paragraph of this subdivision.

(4) A person who has a commercial fishing license issued pursuant to Section 7852 that has not been suspended or revoked, who meets one of the following conditions:

(A) The person held a Dungeness crab permit issued pursuant to Section 8280 as it read on April 1, 1994, and participated in the Dungeness crab fishery between November 1, 1984, and April 1, 1994, and is the owner of a vessel that has been registered with the department in each of the 1991–92, 1992–93, and 1993–94 permit years but did not make landings or the department records do not indicate a minimum of four landings per season for three Dungeness crab seasons from that vessel or in that person’s name because of a partnership or other working arrangement where the person was working aboard another vessel engaged in the Dungeness crab fishery in California.

(B) The person held a Dungeness crab permit issued under Section 8280 as it read on April 1, 1994, and is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 in each of the 1991–92, 1992–93, and 1993–94 permit years and from which a minimum of four landings utilizing traps were made in at least one Dungeness crab season in the period between November 1, 1984, and April 1, 1994, and from which either four landings were made utilizing traps or landings in excess of 10,000 pounds were made utilizing traps in each of two other Dungeness crab seasons in that same period, as documented by landing receipts.

(C) The person held a Dungeness crab vessel permit issued under Section 8280 as it read on April 1, 1994, or was an officer in a California corporation that was licensed pursuant to Article 7 (commencing with Section 8030) of Chapter 1 as of April 1, 1994, and began construction or reconstruction of a vessel on or before January 1, 1992, for the purpose of engaging in the Dungeness crab fishery, including the purchase of equipment and gear to engage in that fishery in California. A person may be issued a permit under this condition only if the person intended in good faith to participate in the California Dungeness crab fishery, a denial of a permit would create a financial hardship on that person, and, for purposes of determining financial hardship, the applicant is a nonresident and cannot participate with his or her vessel or vessels in the Dungeness crab fishery of another state because of that state’s limited entry or moratorium on the issuance of permits for the taking of Dungeness crab.

(5) A person who has a commercial fishing license issued pursuant to Section 7852 that has not been suspended or revoked, who held a Dungeness crab permit issued under Section 8280 as it read on April 1, 1994, who made a minimum of four landings of Dungeness crab taken by traps in each of three Dungeness crab seasons in the period from November 1, 1984, to April 1, 1994, in his or her name in this state from a vessel owned by that person, as documented by landing receipts, who, between April 1, 1991, and January 1, 1995, purchased, contracted to purchase, or constructed a vessel, not otherwise qualifying pursuant to paragraph (1), (2), or (4), who has continuously owned that vessel since its purchase or construction, and

who either (A) has used that vessel for the taking of Dungeness crab in this state on or before March 31, 1995, as documented by one or more landing receipts delivered to the department pursuant to Section 8046, or (B) intended in good faith, based on evidence that the department and the review panel may require, including investment in crab gear, to enter that vessel in this state's Dungeness crab fishery not later than December 1, 1995. Not more than one permit may be issued to any one person under this paragraph.

(6) A person who held a Dungeness crab permit issued under Section 8280 as it read on April 1, 1994, who made a minimum of four landings utilizing traps in this state in each of three Dungeness crab seasons in the period between November 1, 1984, and April 1, 1994, in his or her name from a vessel operated by that person as documented by landing receipts, who currently does not own a vessel in his or her name, and who has not sold or transferred a vessel otherwise qualifying for a permit under this section. A permit may be issued under this paragraph for a vessel not greater in size than the vessel from which the previous landings were made, and, in no event, for a vessel of more than 60 feet in overall length, to be placed on a vessel that the person purchases or contracts for construction on or before April 1, 1996. A permit issued under this paragraph shall be nontransferable and shall not be used for a vessel not owned by that person, and shall be revoked if the person (A) fails to renew the permit or annually renew his or her commercial fishing license issued pursuant to Section 7852 or (B) is or becomes the owner of another vessel permitted to operate in the Dungeness crab fishery pursuant to this section.

(c) The department may require affidavits offered under penalty of perjury from persons applying for permits under subdivision (b) or from witnesses corroborating the statements of a person applying for a Dungeness crab vessel permit. Affidavits offered under penalty of perjury shall be required of an applicant if the department cannot locate records required to qualify under subdivision (b).

(d) A person shall not be issued a Dungeness crab vessel permit under this section for any vessel unless that person has a valid commercial fishing license issued pursuant to Section 7852 that has not been suspended or revoked.

(e) Notwithstanding Section 7852.2 or subdivision (e) of Section 8280.2, the department may issue a Dungeness crab vessel permit that has not been applied for by the application deadline if the department finds that the failure to apply was a result of a mistake or hardship, as established by evidence the department may require, the late application is made not later than October 15, 1995, and payment is made by the applicant of a late fee of two hundred fifty dollars (\$250) in addition to all other fees for the permit.

(f) The department may waive the requirement that a person own a commercial fishing vessel that has been registered with the department pursuant to Section 7881 in each of the 1991–92, 1992–93, and 1993–94 permit years for one of those required years under this section only if the vessel was registered and used in the California Dungeness crab fishery during the registration year immediately prior to the year for which the

waiver is sought and was registered and used in the California Dungeness crab fishery after the year for which the waiver is sought and if the reason for the failure to register in the year for which the waiver is sought was due to a death, illness, or injury, or other hardship, as determined by the review panel, that prevented the vessel from being registered and operated in the fishery for that registration year.

(g) (1) If any person submits false information for the purposes of obtaining a Dungeness crab vessel permit under this section, the department shall revoke that permit, if issued, revoke the person's commercial fishing license that was issued pursuant to Section 7850 for a period of not less than five years, and revoke the commercial boat registration for a period of not less than five years of any vessel registered to that person pursuant to Section 7881 of which that person is the owner.

(2) In addition to criminal penalties authorized by law, a person who fishes without a Dungeness crab vessel permit, or who uses a Dungeness crab vessel permit to fish illegally on another vessel other than the permitted one, shall be subject to a fine not more than twenty thousand dollars (\$20,000) and, at the discretion of the department, revocation of the person's fishing license for a period not to exceed five years and revocation of the commercial boat registration license for a period not to exceed five years.

(h) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 8280.2 of the Fish and Game Code is amended to read:

8280.2. (a) The owner of a Dungeness crab vessel, for purposes of this section, may include a person with a bona fide contract for the purchase of a vessel who otherwise meets all other qualifications for a Dungeness crab vessel permit. If a contract is found to be fraudulent or written or entered into for the purposes of circumventing qualification criteria for the issuance of a permit, the applicant shall be permanently ineligible for a Dungeness crab vessel permit.

(b) A Dungeness crab vessel permit shall be issued only to the person owning the vessel at the time of application for that permit. A person shall not be issued more than one permit for each vessel owned by that person and qualifying for a permit pursuant to Section 8280.1.

(c) A Dungeness crab vessel permit shall be issued only to the owner of a vessel taking crab by traps. A permit shall not be issued to the owner of a vessel using trawl or other nets unless the owner of that vessel qualifies for a permit pursuant to paragraph (1) of subdivision (b) of Section 8280.1. A trawl or other net vessel authorized under this code to take Dungeness crab incidental to the taking of fish in trawl or other nets shall not be required to possess a Dungeness crab vessel permit.

(d) Dungeness crab vessel permits shall not be combined or otherwise aggregated for the purpose of replacing smaller vessels in the fishery with a larger vessel, and a permit shall not be divided or otherwise separated for

the purpose of replacing a vessel in the fishery with two or more smaller vessels.

(e) Applications for renewal of all Dungeness crab vessel permits shall be received by the department, or, if mailed, postmarked, by April 30 of each year. In order for a vessel to retain eligibility, a permit shall be obtained each year subsequent to the initial permit year and the vessel shall be registered pursuant to Section 7881. The vessel owner shall have a valid commercial fishing license issued to that person pursuant to Section 7852 that has not been suspended or revoked. Minimum landings of Dungeness crab shall not be required annually to be eligible for a Dungeness crab vessel permit.

(f) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 8. Section 8280.3 of the Fish and Game Code is amended to read:

8280.3. (a) Notwithstanding Article 9 (commencing with Section 8100) of Chapter 1 and except as provided in this section, a Dungeness crab vessel permit shall not be transferred.

(b) The owner of a vessel to whom a Dungeness crab vessel permit has been issued shall transfer the permit for the use of that vessel upon the sale of the vessel by the permitholder to the person purchasing the vessel. Thereafter, upon notice to the department, the person purchasing the vessel may use the vessel for the taking and landing of Dungeness crab for any and all of the unexpired portion of the permit year, and that person is eligible for a permit pursuant to Section 8280.1 for the use of that vessel in subsequent years. The person purchasing the vessel shall not transfer the permit for use of that vessel in the Dungeness crab fishery to another replacement vessel during the same permit year.

(c) The owner of a vessel to whom the Dungeness crab vessel permit has been issued may transfer the permit to a replacement vessel of equivalent capacity, except as specified in this section. Thereafter, upon notice to the department and payment of the transfer fee specified in Section 8280.6, the replacement vessel may be used for the taking and landing of Dungeness crab for any and all of the unexpired portion of the permit year and that person is eligible for a permit pursuant to Section 8280.1 for the use of that replacement vessel in subsequent years.

(d) The owner of a permitted vessel may transfer the permit to a vessel of greater capacity that was owned by that person on or before November 15, 1995, not to exceed 10 feet longer in length overall than the vessel for which the permit was originally issued or to a vessel of greater capacity purchased after November 15, 1995, not to exceed 5 feet longer in length overall than the vessel for which the permit was originally issued.

(e) The department, upon recommendation of the Dungeness crab review panel, may authorize the owner of a permitted vessel to transfer the permit to a replacement vessel that was owned by that person on or before April 1, 1996, that does not fish with trawl nets that is greater than five feet longer

in length overall than the vessel for which the permit was originally issued, if all of the following conditions are satisfied:

(1) A vessel of a larger size is essential to the owner for participation in another fishery other than a trawl net fishery.

(2) The owner held a permit on or before January 1, 1995, for the fishery for which a larger vessel is needed and has participated in that fishery.

(3) The permit for the vessel from which the permit is to be transferred qualified pursuant to paragraph (1) of subdivision (b) of Section 8280.1.

(4) The vessel to which the permit is to be transferred does not exceed 20 feet longer in length overall than the vessel for which the permit was originally issued and the vessel to which the permit is to be transferred does not exceed 60 feet in overall length.

(f) A transfer of a permit to a larger vessel shall not be allowed more than one time. If a permit is transferred to a larger vessel, any Dungeness crab vessel permit for that permit year or any subsequent permit years for that larger vessel shall not be transferred to another larger vessel. The department shall not thereafter issue a Dungeness crab vessel permit for the use of the original vessel from which the permit was transferred, except that the original vessel may be used to take or land Dungeness crab after that transfer if its use is authorized pursuant to another Dungeness crab vessel permit subsequently transferred to that vessel pursuant to this paragraph.

(g) (1) Upon the written approval of the department, the owner of a vessel to whom the Dungeness crab vessel permit has been issued may temporarily transfer the permit to another replacement vessel, for which use in the Dungeness crab fishery is not permitted pursuant to this section or Section 8280.1, for a period of not more than six months during the current permit year if the vessel for which the permit was issued is seriously damaged, suffers major mechanical breakdown, or is lost or destroyed, as determined by the department, upon approval of the director. The owner of the vessel shall submit proof that the department may reasonably require to establish the existence of the conditions of this paragraph. Upon approval by the director, the owner of a lost or destroyed vessel granted a six-month temporary transfer under this section may be granted an additional six-month extension of the temporary transfer.

(2) Notwithstanding subdivision (e) of Section 8280.2, in the event of loss or destruction of a vessel for which a Dungeness crab vessel permit was issued, or serious damage that renders the vessel inoperable, and upon written approval of the department, the owner of the vessel to whom the permit was issued may retain the permit and may transfer the permit to another vessel during the period of two years after the loss or damage of the vessel for which the permit was originally issued. The owner of the lost or damaged vessel shall submit proof that the department may reasonably require to establish the loss or damage of the vessel. If the permit is not transferred to another vessel owned by the person to whom the vessel permit was originally issued within two years of the loss or damage, the permit shall be revoked.

(h) Upon written approval of the department, the owner of a vessel to whom the Dungeness crab vessel permit has been issued may retain that permit upon the sale of that permitted vessel for the purpose of transferring the permit to another vessel to be purchased by that individual within one year of the time of sale of the vessel for which the permit was originally issued if the requirements of this section are satisfied, including the payment of transfer fees. If the permit is not transferred to a new vessel owned by the person to whom the vessel permit was originally issued within one year of the sale of the vessel for which it was originally issued, or if the person does not retain ownership of the new vessel to which the permit is transferred for a period of not less than one year, the permit shall be revoked.

(i) In the event of the death or incapacity of a permitholder, the permit shall be transferred, upon application, to the heirs or assigns, or to the working partner, of the permitholder, together with the transfer of the vessel for which the permit was issued, and the new owner may continue to operate the vessel under the permit, renew the permit, or transfer the permit upon sale of the vessel pursuant to subdivision (b).

(j) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 9. Section 8280.4 of the Fish and Game Code is amended to read:

8280.4. (a) The commission may revoke the commercial fishing license issued pursuant to Section 7852 of any person owning a fishing vessel engaging in the taking or landing of Dungeness crab by traps for which that person has not obtained a Dungeness crab vessel permit, and the commission may revoke the registration, issued pursuant to Section 7881, for that vessel.

(b) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 10. Section 8280.5 of the Fish and Game Code is amended to read:

8280.5. (a) The director shall convene a Dungeness crab review panel for the purpose of reviewing applications for Dungeness crab vessel permits pursuant to paragraphs (2) and (4) of subdivision (b) of Section 8280.1 and applications for permit transfers pursuant to Section 8280.3 if the department determines that the additional review and advice of the panel will be helpful in deciding whether to issue a permit or approve a transfer.

(b) The panel shall consist of one nonvoting representative of the department and three public voting members selected by the director to represent the Dungeness crab fishing industry. One public member shall be licensed pursuant to Article 7 (commencing with Section 8030) of Chapter 1 and active in Dungeness crab processing in this state. Two public members shall be licensed pursuant to Section 7852, one from Sonoma County or a county south of Sonoma County, and one from Mendocino County or a county north of Mendocino County, and active in the taking and landing of Dungeness crab in this state. The public members shall be reimbursed for

their necessary and proper expenses to participate on the panel. A public member shall serve on the panel for not more than four consecutive years.

(c) The panel may conduct its review of applications referred to it by mail or teleconference.

(d) The panel shall review each application for a permit or permit transfer referred to it by the department and shall consider all oral and written evidence presented by the applicant that is pertinent to the application under review. If the panel recommends issuance of a permit or approval of the transfer, the department may issue a Dungeness crab vessel permit pursuant to Section 8280.1 or approve a permit transfer pursuant to Section 8280.3.

(e) All appeals of denials of Dungeness crab vessel permits shall be made to the commission and may be heard by the commission if the appeal of denial is filed in writing with the commission not later than 90 days from the date of a permit denial. The commission may order the department to issue a permit upon appeal if the commission finds that the appellant qualified for a permit under this chapter.

(f) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 11. Section 8280.6 of the Fish and Game Code is amended to read:

8280.6. (a) The department shall charge a fee for each Dungeness crab vessel permit of two hundred dollars (\$200) for a resident of California and four hundred dollars (\$400) for a nonresident of California, for the reasonable regulatory costs of the department.

(b) The department shall charge a nonrefundable fee of two hundred dollars (\$200) for each transfer of a permit authorized pursuant to subdivision (c), (h), or (i) of Section 8280.3, for the reasonable regulatory costs of the department.

(c) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



~California Dungeness Crab Task Force~

<http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

REPORT

TO: Joint Committee on Fisheries and Aquaculture, Mike McGuire, Chair
Joint Committee on Fisheries and Aquaculture, Jim Wood, Vice Chair
California Fish and Game Commission, Mike Yaun, Interim Director
California Department of Fish and Wildlife, Charlton Bonham, Director

CC: California Ocean Protection Council, Catherine Kuhlman, Executive Director
California Fish and Game Commission, Susan Ashcraft, Marine Advisor
Pacific States Marine Fisheries Commission, Dave Colpo, Sr. Program Manager

FROM: California Dungeness Crab Task Force

DATE: January 15, 2016

RE: Initial recommendations from the California Dungeness Crab Task Force as requested in SB 369 (Fish and Game Code 8276.4)

APPENDICES: (1) [Senate Bill 369](#)
(2) [January 15, 2015 Report](#)
(3) [Tri-State Dungeness Crab Commission Memorandum of Understanding \(MOU\)](#)
(4) [DCTF Membership List](#)
(5) [DCTF Charter](#)
(6) [Summary of DCTF Votes from October 26-27, 2015 meeting](#)
(7) [DCTF Meeting Summary from October 26-27, 2015](#)
(8) [Whale Entanglement Discussion- August 20, 2015](#)
(9) [Whale Entanglement Working Group Meeting Summary- September 21, 2015](#)
(10) [Whale Entanglement Working Group Meeting Summary- October 8, 2015](#)
(11) [Press Release: California Dungeness Crab Fishermen Take Proactive Steps to Reduce Risk of Whale Entanglements – 11/17/2015](#)
(12) [DCTF Executive Committee Guidance Memo Regarding Domoic Acid Levels in Dungeness Crab \(November 9, 2015\)](#)
(13) [DCTF Executive Committee Guidance Memo Regarding Domoic Acid Levels in Dungeness Crab \(January 11, 2015\)](#)

This report provides recommendations from the California Dungeness Crab Task Force (DCTF) to the Joint Committee on Fisheries and Aquaculture (the Legislature), the California Department of Fish and Wildlife (the Department), and the Fish and Game Commission (the Commission) to inform future Dungeness crab fishery management changes. This interim report has been developed in an effort to update the Legislature, the Department, and the Commission of the DCTF's progress, and highlight anticipated recommendations that may be included in a final legislatively mandated report to be delivered to the Legislature on or before January 15, 2017. This work was completed pursuant to Senate Bill (SB) 369 (Evans, 2011) ([Appendix 1](#)). The work of the DCTF is supported by the California Coastal Protection Fund of 2006 as authorized by the California Ocean Protection Council (OPC).

Additional information, including additional previous reports and meeting summaries offering details on the development of the recommendations provided in this report, is available on the DCTF webpage: <http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

BACKGROUND

The California Dungeness crab industry is a valuable state resource. Dungeness crab is one of the most productive fisheries in California^{1,2} with an average ex-vessel value³ of approximately \$48.3 million per calendar year.⁴ This is in large part due to strong demand by consumers, including international markets. The Dungeness crab industry is interested in maintaining the health of the fishery to safeguard its economic health and to preserve the fishing communities that rely on the resource.

SB 1690 and SB 369

In an effort to alleviate concerns about the California fishery and create a forum for the industry to resolve Dungeness crab fishery issues, SB 1690 was passed in September 2008 and provided for the establishment of a DCTF that was representative of the diverse fishery interests. SB 1690 (which added Section 8276.4 to the California Fish and Game Code) directed the California Ocean Protection Council (OPC) to establish and administer the DCTF, and directed the DCTF to review and evaluate the Dungeness crab fishery and make management recommendations to the Legislature, the Commission, and the Department. The DCTF ceased to exist on January 1, 2011 per SB 1690's sunset clause, but was reestablished later the same year by SB 369 (2011-2012 Reg. Sess), which again tasked the OPC with developing and administering the DCTF. SB 369 mandated the DCTF be composed of 27 members, including 17 members representing commercial fishing interests, two members representing sport fishing interests, two members representing crab processing interests, one member representing commercial passenger fishing vessel (CPFV) interests, two members representing nongovernmental organization interests, one member representing Sea Grant, and two members representing the Department. SB 369 also established an industry designed seven-tier commercial Dungeness crab trap limit program, which the Department is responsible for developing and implementing in consultation with the DCTF.

The work of the DCTF is to be carried out during the course of several public meetings held in California between March 2012 and January 2017. The DCTF's primary goal is to make recommendations on the commercial tiered trap limit program and other Dungeness crab fishery management measures by January 15, 2017, as described in Fish and Game Code Section 8276.5. The OPC has authorized approximately \$215,000 from the California Coastal Protection Fund of 2006 to support the DCTF through 2017.

California Management of the Fishery

The California Dungeness crab commercial fishery is managed by the Department pursuant to California Fish and Game Code Section 8275 *et seq*, which requires the fishery be managed using a 3-S management strategy (sex, size, and season). Commercial harvest is restricted to male crabs, greater than 6.25 inches carapace (body) width, from mid-November through the end of June (Southern Management Area⁵) or December 1 through July 15 (Northern Management Area). The 3-S management strategy is considered to be successful in maintaining the crab population because males have the opportunity to mate several times before reaching legal size, females are protected from commercial harvest, and the fishing season avoids both

¹ Hackett, Steven, D. King, D. Hansen and E. Price. 2009. *The Economic Structure of California's Commercial Fisheries*. Technical Report . California Department of Fish and Game, Sacramento.

<http://www.dfg.ca.gov/marine/economicstructure.asp>

² The Dungeness crab fishery is an important contributor to the economy of small port communities such as Crescent City

³ Ex-vessel value is the amount paid to fishermen when they land (deliver) their catch to buyers the docks.

⁴ California Department of Fish and Wildlife. 2015. *Updates Summary of Fishery Landings 2014-2015 Season and Monitoring Evaluation Dungeness Crab Trap Limit Program (DCTLTP)*. Presentation to the California Dungeness Crab Task Force. Ukiah, CA. October 2015. http://www.opc.ca.gov/webmaster/ftp/project_pages/dctf/meeting-5/CDFWData_DCTF%20Meeting_Oct262015-2.pdf

⁵ The Southern Management Area refers to all coastal districts south of the Mendocino/Sonoma County Line to the Mexican border.

the soft-shell and primary breeding period. The California Fish and Game Code designates the opening of the season for the Southern Management Area (November 15) and the Northern Management Area (December 1). In the Northern Management Area, the code delegates the authority to delay the season opening to the Director of the Department if crabs are soft-shelled or do not pass preseason crab quality testing.⁶ Additionally, in 1995 a limited entry program⁷ was implemented that served to limit the total number of permits in the fishery. In 2014, there were 563 permits, of which 461 were active and 102 were inactive (or “latent”⁸ referring to those permits (vessels) with landings of less than 200lbs in the previous season).

In contrast to the commercial fishery, the Dungeness crab recreational fishery is managed by the Commission, with measures such as a specified season, daily bag limits, and minimum size requirements. The specifics of the regulations vary by region and by sport fishing mode (i.e. private vessel versus shore-based fishing versus CPFVs). CPFVs are the only sport fishing mode that has a trap limit.

Tri-State Coastal Dungeness Crab Committee & West Coast Management of the Fishery

In 1996, the Tri-State Dungeness Crab Agreement was established through a MOU between the Pacific States Marine Fisheries Commission (PSMFC) and Washington, Oregon, and California to facilitate communication and cooperation between the states in managing their Dungeness crab fisheries (see [Appendix 3](#) for MOU). Most notably, this agreement established preseason crab testing from the Washington-British Columbia border to the Mendocino/Sonoma County Line in California. Through the Tri-State Coastal Dungeness Crab Committee these three states have discussed and aligned management of Dungeness crab in their respective states including coordinating fair start clauses⁹ and season openers.

The Oregon and Washington Dungeness crab fisheries are also high-value fisheries. In contrast to the California commercial fishery, where management authority resides with the Legislature, the Oregon and Washington commercial fisheries for Dungeness crab are managed by their respective Fish and Wildlife Commissions. Historically, Oregon and Washington fisheries have experienced trends similar to those in the California fishery, including the presence of inactive permits, increased gear in the water, and a derby dynamic that causes a large proportion of a fishery’s landings to be made in a short period at the beginning of the season with landings declining sharply thereafter. In an effort to correct these issues and distribute fishing throughout the season, the Washington Department of Fish and Wildlife (WDFW) established a tiered Dungeness crab trap limit system in 1999. The Oregon Department of Fish and Wildlife (ODFW) followed suit in 2006 by establishing a trap limit program modeled after Washington’s system. At a 2009 DCTF meeting, WDFW and ODFW staff explained that while the trap limit programs have capped the amount of gear in the water, there is no evidence of a significant reduction in the derby dynamic of the fishery.

Current Management Issues

A variety of issues and topics impacting the management of the fishery have been identified by the DCTF and members of the commercial fishery, including:

⁶ Preseason crab quality testing is used to predict the meat recovery rate prior to the season opener. A recovery rate of 25% is required for the December 1 season opener in the Northern Management Area. If this standard is not met, testing is repeated within specific time intervals until the quality test passes. Regardless of the results of testing, the Northern Management Area will open no later than January 15. Requirements for preseason testing do not apply in the Southern Management Area.

⁷ A limited entry program is a management strategy that restricts the number of participants in a fishery.

⁸ The Department does not use the term “latent” permit(s) formally. The definition of latent was developed by the DCTF.

⁹ Fair start provisions require fishermen to commit to fishing in a single management area (i.e., Northern or Southern) for 30 days prior to fishing in another management area under delayed management conditions.

Domoic Acid: In September 2015, following testing by the California Department of Public Health (CDPH) in coordination with the Department and the Office of Environmental Health Hazard Assessment (OEHHA), the state discovered that California Dungeness crab contained high levels of domoic acid. The first public discussion of this issue was had during the October 26-27, 2015 DCTF meeting. Since the extent of the issue was not fully realized at that time, no formal recommendations were made on the topic, and the DCTF requested its subcommittee (the Executive Committee¹⁰) continue to address the topic. Following the DCTF's initial discussion, the Director of the Department and the Commission agreed to delay the commercial and recreational Dungeness crab fisheries until further notice. The Executive Committee has been working with the Department to advise on this issue and is committed to providing timely guidance and insight to the state of California as it navigates these unprecedented circumstances and the uncertainty of the fishery opener (See [Appendices 12](#) and [13](#)). The Executive Committee and DCTF will continue discussing this topic as it continues to be relevant.

Lost Gear Recovery Program: Over the last two seasons, voluntary lost fishing gear recovery programs have been operating throughout the state of California. The SeaDoc Society in partnership with Humboldt State University¹¹ as well as the Half Moon Bay Seafood Marketing Association in partnership with the Nature Conservancy have both administered programs that have resulted in the recovery of hundreds of lost and abandoned traps.¹² The commercial and recreational Dungeness crab fishing community has greeted these projects with widespread support and requested that the programs extend across the geographic range of the fishery. Despite the value these programs have provided the industry, they are not self-sustaining and require outside funding to function. In the January 2015 DCTF report, there was unanimous agreement that developing a long-term, statewide, fiscally sustainable program to recover lost fishing gear is a necessary action of the commercial Dungeness crab fishing industry to continue operating as a responsible, sustainable fishery. Additionally, the fishing community generally sees such a program as a valuable first step in addressing and minimizing potential negative gear interactions including whale entanglements, ghost fishing, etc.

Whale Entanglements: The National Marine Fisheries Service (NMFS) has indicated that the number of whales entangled in fixed-gear fisheries along the West Coast has increased over the last few years. The largest portion of the identifiable gear involved in these entanglements is from the Dungeness crab fishery. As a result, the Department, in collaboration with NMFS and OPC, hosted a public information session on August 20, 2015 to exchange information and ideas related to the topic of whale entanglements off California ([Appendix 8](#)). Following the public meeting, a Working Group composed of commercial fishermen (including two DCTF Members), environmental organizations, and state and federal agencies was established to explore ways to reduce the risk of entanglements with Dungeness crab fishing gear ([Appendices 9](#) and [10](#)). The DCTF has been, and will continue working in cooperation with the Working Group to ensure that each body's efforts complement one another ([Appendix 11](#)).

¹⁰ The Executive Committee is a subcommittee of the DCTF, and is composed of one commercial DCTF Member from Morro Bay, Half Moon Bay, San Francisco, Fort Bragg, Eureka, and Crescent City, as well as a crab processor. There are no recreational, CPFV, or NGO representatives on the Executive Committee. The Executive Committee cannot make decisions on behalf of the full DCTF, but can provide guidance and develop proposals for the full DCTF's review and consideration.

¹¹ <http://www.seadocsociety.org/california-lost-fishing-gear-removal-project/>

¹² Renzullo, Jennifer. 2015. *2014 Crab Gear Retrieval Program Final Report*. Submitted to the California Dungeness Crab Task Force Executive Committee. http://www.opc.ca.gov/webmaster/ftp/project_pages/dctf/ec-meeting-10/2014-Crab-Gear-Retrieval-Program-Final-Report-DCTF-EC.pdf

Commercial Dungeness crab trap limit program: Prior to the 2013-2014 commercial Dungeness crab season, some fishermen were concerned about the increase in the numbers of traps used each season in an effort to maximize crab landings. To help address this issue and cap fishing capacity, a commercial Dungeness crab trap limit program was successfully implemented in the 2013-2014 commercial season pursuant to SB 369. The design of this program was based on 2010 recommendations from the DCTF. The seven-tier trap limit program allows each permit holder to fish a specified number of traps based on the permit's historical landings. However, some fishermen believe a trap limit program will have a limited effect on capping fishing capacity. The DCTF will continue to evaluate the trap limit program and provide the Legislature, the Department, and the Commission with feedback on the industry's experiences with the program as directed by SB 369.

Latent capacity: The DCTF has discussed the "latent capacity" in the fishery, or the number of inactive permits in the fishery. Some believe the Dungeness crab fishery's latent capacity could threaten the economic viability of the fishery in the long-term. Currently there are approximately 102 inactive (or "latent") Dungeness crab commercial fishing permits in California, constituting approximately 18% of the fleet. Some members of the industry have questioned the future sustainability of the fishery should latent permits become activate, since these permits represent unexploited fishing potential. As Dungeness crab is a high value fishery, some fishermen believe this is a very real possibility. In contrast, some industry members believe latent permits offer new entrants a more affordable entry-point to buy into the fishery. Debate continues on whether the latent capacity of the fishery should be addressed by the DCTF, fishery managers, and those with decision-making authority, including the California Legislature, the Department, and the Commission.

Fleet mobility: Throughout a typical fishing season, there is a bidirectional movement of fishermen and gear along the California coast. Fishermen throughout the West Coast travel to fish in the Southern Management Area where the fishery opens November 15 (two weeks prior to the Northern Management Area opener) to take advantage of consumer demand for Dungeness crab during the Thanksgiving and Christmas holidays. Once the Northern Management Area opens (December 1 or later depending on crab quality), a portion of the fishing effort typically shifts to north of the Mendocino/Sonoma County Line. Non-resident vessels from Oregon and Washington confound this shift by fishing in California prior to their respective state openers. Some fishermen based in the Southern Management Area believe the early opener, and subsequent shift of effort to the south, has created an unfair playing field (i.e., encourages concentration of effort locally with potentially negative implications, including overcrowding fishing grounds, shortening the season, and flooding the market with product). On the other hand, some fishermen from the Northern Management Area believe fishermen from the south have the same opportunities for travel and that the shift is fair.

Members of the Dungeness crab industry continue to attempt to address these issues and others as they arise. The fishery consists of a diverse group of individuals, communities, viewpoints, and opinions regarding the management goals and objectives for the California Dungeness crab fishery generally vary by production level, vessel size, and homeport location.^{13,14} This makes it challenging at times for fishery participants to reach agreements. Nonetheless, the DCTF continues to reach agreements and forward recommendations to fisheries managers and those with decision-making authority. The DCTF looks forward to continuing this work and updating the Legislature, the Department, and the Commission on the outcomes of their discussions regarding the issues above, and others as they arise.

¹³ Dewees, C.M. et al. 2004. Racing for crabs: Cost and management options evaluated in Dungeness crab fishery. California Agriculture. Vol. 58(4): 186-193.

¹⁴ Pomeroy, C., et al. (2011). California's North Coast Fishing Communities: Historical Perspective and Recent Trends. California Sea Grant Technical Report T-072. La Jolla, CA: 350p. <http://www-csgc.ucsd.edu/EXTENSION/ADVISORS/Pomeroy.html>.

DCTF PROCESS AND PROCEDURES

Together, [SB 369](#) and the [DCTF Charter](#) describe the DCTF's operating and voting procedures. The DCTF Charter was developed and ratified by the DCTF in September 2009 and amended in March 2012 and April 2014. The DCTF Charter establishes ground rules, member roles, and voting procedures for the group. In keeping with those procedures for the Legislature's request for management recommendations, the DCTF Charter states that, "a proposed recommendation that receives an affirmative vote of at least 15 of the non-ex officio members of the DCTF may be transmitted ... [and] shall be considered to be the consensus of the task force, and shall be considered to be evidence of consensus in the Dungeness crab industry." The following voting protocol, described in the DCTF Charter, was used to conduct straw polls and final voting on the Committee's proposals to the DCTF:

- **Thumbs Down:** I do not agree with the proposal. I feel the need to block its adoption and propose an alternative.
- **Thumbs Sideways:** I can accept the proposal although I do not necessarily support it.
- **Thumbs Up:** I think this proposal is the best choice of the options available to us.
- **Abstention:** At times, a pending decision may be infeasible for a Member to weigh in on.

Thumbs up and thumbs sideways are *both* counted as affirmative votes to determine a 15-member majority on a recommendation.

DCTF VOTES AND ANALYSIS

The following recommendations were developed by the DCTF over the course of one meeting in 2015, held on October 26-27. The recommendations represent agreements of DCTF members (as per voting protocols defined in the DCTF Charter ([Appendix 5](#)); however, in some cases they are not the *verbatim* language from when the votes were taken. Because of the iterative nature of the conversations at the DCTF meetings, the language of some of the recommendations has been adjusted to improve clarity. The verbatim language, together with the voting record from both meetings is included Appendices [6](#) and [7](#) for reference. Some recommendations may be grouped together for clarity. Explanatory notes are provided below recommendations, when necessary.

Commercial Dungeness Crab Trap Limit Program

SB 369 mandated the DCTF "prioritize the review of pot limit restriction options." The ensuing recommendation is directly related to the commercial Dungeness crab trap limit program.

Recommendation 1- The DCTF recommends reducing/reevaluating the \$1,000 biannual crab trap limit permit fee. This recommendation is a result of the Department accounting indicating a large surplus of funds collected from the California commercial Dungeness crab trap limit program as established by Fish and Game Code Section 8276.5.

Vote of all DCTF Members (ex officio Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
14	3	0	0	5

NOTES:

At the time of this report, the Department's annual accounting to the DCTF indicates a \$1.4 million surplus that has been collected from fees associated with the California commercial Dungeness crab trap limit program. The DCTF is confident that the surplus more than adequately covers the Department's "reasonable regulatory costs." The DCTF will work with the Department to determine the actual costs to run the commercial trap limit program before providing a recommendation to adjust the biannual permit fee. The DCTF will provide an informed recommendation on or before January 2017 detailing how to potentially reduce the permit fees. Additionally, the DCTF will recommend appropriate ways to use the surplus funds, which may include providing start up funds for a lost fishing gear recovery program and/or supporting the DCTF beyond 2017, etc.

Whale Entanglement in Dungeness Crab Gear Concerns

Recently, whale entanglements in Dungeness crab fishing gear has been brought to the attention of the fishing community and environmental groups as a high priority issue. The ensuing recommendation is directly related to the whale-fishing gear interactions.

Recommendation 2- The Dungeness Crab Fishing Gear Working Group is charged with developing short-term strategies and long-term options to reduce the risk of whale entanglements in Dungeness crab fishing gear, beginning in the 2015-16 fishing season. The DCTF supports the initial recommendations and approaches recommended by the Working Group ([Appendix 10](#)). The DCTF requests the Working Group also consider the following:

- Expand entanglement response trainings coast-wide, and include both recreational and commercial fishermen.
- Increase communication and coordination between fishermen and federal agencies leading the whale entanglement response teams along the entire West Coast (including Oregon, Washington, and Alaska) to support more comprehensive collaboration when addressing whale entanglement concerns.

Vote of all DCTF Members (ex officio Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
19	0	0	0	3

NOTES:

At the October 8, 2015 meeting, the Dungeness Crab Gear Working Group agreed to a number of next steps and recommendations ([Appendix 10](#)). The DCTF supports the Working Group's efforts to date, and provided additional suggestions to further enhance their activities. To complement these efforts, the DCTF drafted a press release ([Appendix 11](#)) to address the issue of whale entanglements and provide information on how the industry is responding to the issue. Additionally, various DCTF Members and interested members of the public who attended the October 26-27, 2015 DCTF meeting signed up to participate in pilot projects and other testing efforts the Working Group will be implementing during the 2015-16 fishing season.

Lost Fishing Gear Recovery Program

The ensuing recommendation is a follow up to Recommendation 6 in the January 2015 report ([Appendix 2](#)).

Recommendation 3- The DCTF recommends the establishment of a statewide, industry funded lost fishing gear recovery program that contains the following elements:

- Dungeness crab permitholder obtains a permit from the Department to retrieve gear after season ends.
- Retrieval period begins and ends as per Section 132.2(a) Title 14, CCR.
- Retrieved gear must be delivered to the Department by retrieval boat/crew.
- Fees (e.g., paying boat, covering Department storage and administrative costs, scrapping traps, etc.) will be added to Title 14, CCR.
- Owners will be notified and the gear will be impounded. Details about notification process and timeframe for holding [TBD].
- Owners are responsible for retrieval, impound, and disposal fees. If owner does not pay fees, owner cannot renew permit until fees have been paid.
- The DCTF supports the Department issuing citations in addition to fees for recovery of gear, which would require better coordination between those fishermen retrieving gear and the Department's Law Enforcement Division.¹⁵
- The industry does not tolerate strings of gear in the ocean after the season closes. This program is a successful way to retrieve traps from the ocean, as there will be less stray gear because owners take it upon themselves to remove it.

Vote of all DCTF Members (ex officio Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
14	3	1	0	4

NOTES:

Lost and abandoned fishing gear has been identified as a problem by the DCTF and the Dungeness crab industry. This gear poses a navigational hazard to boats and can often entangle actively fished gear resulting in more lost gear. Additionally, in light of recent concerns surrounding whale entanglements in Dungeness crab fishing gear, the DCTF views a lost fishing gear recovery program as an important step in helping to reduce whale entanglements.

[Recommendation 6 in the January 15, 2015](#) DCTF report identifies unanimous support for an industry designed, funded, and implemented lost gear retrieval program that works in cooperation with the Department. During the October 2015 DCTF meeting, the DCTF continued to express a need for a mandatory program that requires individuals to pay for their lost gear to financially support the program, as well as discourage intentional abandonment of gear. The DCTF believes this kind of program will only be successful with full Department support. The DCTF and its Executive Committee worked with the SeaDoc Society's CA Lost Fishing Gear Recovery Project (<http://www.seadocsociety.org/california-lost-fishing-gear-removal-project/>), as well as the Department's Law Enforcement Division and Marine Region to initiate the development of a framework for a potential program over the course four public meetings in 2015 (April 20, August 14, September 2, and October 26-27). Further discussion is needed with the Department regarding associated costs and capacity, along with other program specifics, to support administration of a new program. The DCTF looks forward to continuing to work in partnership with the Department, and sharing additional updates and recommendations with the Legislature, the Department, and the Commission on or before January 2017.

¹⁵ The DCTF understands there are responsible fishermen who may lose gear in the process of doing business. The strong penalties identified here are intended for repeat violators and those who continue to deliberately abandon gear.

Continuation of the DCTF

SB369 mandates the DCTF will discuss the need for a permanent advisory committee. The recommendations below reflect the outcomes of this initial discussion.

Recommendation 4- The DCTF sees value in continuing to inform the management of the Dungeness crab fishery in partnership with the Department. There are benefits in maintaining an organizational body beyond 2017, however updates/adjustments to the operating structure of the current DCTF (including, but not limited to, the DCTF's composition, process for appointing alternates, process for replacing members, etc.) may need to be reconsidered. The DCTF looks forward to providing a recommendation on the future, long-term structure of the DCTF on or before January 2017.

Vote of all DCTF Members (ex officio Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
11	7	0	0	4

NOTES:

The DCTF has provided a valuable platform for the industry to collaborate and work with managers, regulators, and decision-makers on Dungeness crab fishery management issues. The DCTF believes that it is important for the Dungeness crab industry to continue to have a voice in the management of the fishery. DCTF Members will continue to investigate how to improve the DCTF's operational structure to ensure membership is representative of the fleet and to address concerns about the DCTF's composition, process for appointing alternates, process for replacing members, etc. The details concerning the structure and function of a future body have yet to be decided. The DCTF and its Executive Committee will continue discussing the topic with the intention of providing recommendations to the Legislature, the Department, and the Commission on or before January 2017.

Recommendation 5- The DCTF would like OPC to consider continuing to administer the DCTF beyond 2017. Excess funds from the commercial Dungeness crab trap limit program or other sources could be used to pay for related expenses beyond 2017, such as DCTF administrative costs, including OPC staff time.

Vote of all DCTF Members (ex officio Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
16	2	0	0	4

NOTES:

Although SB369 states the DCTF will exist through 2019, OPC will not provide funds to support the DCTF beyond January 2017. The DCTF appreciates the financial and administrative support provided by the OPC since 2009. Additionally, the DCTF recognizes that the OPC's current affiliation with the DCTF lends the DCTF both neutrality and legitimacy that otherwise might be difficult to reestablish and maintain. For these reasons, the DCTF would like the OPC to consider continuing to play a non-fiscally supportive administrative role. Although reestablishing the body under the Department of Food and Agriculture has been considered, the DCTF believes the current framework provided by the OPC is ideal. The DCTF understands OPC will not provide future financial support and the DCTF is investigating alternative funding sources to finance DCTF meetings, facilitation, and OPC's administrative overhead (e.g. the surplus of the commercial Dungeness crab trap limit program, etc.). The DCTF would appreciate OPC's thoughtful consideration of this recommendation, and welcomes the opportunity to discuss it in further detail.

General Fishery Management Approaches

SB369 mandates that the DCTF will discuss refining commercial Dungeness crab management. The recommendation below reflects the results of the discussion.

Recommendation 6- The DCTF does NOT support modifying the 96-hour rule. This includes, but is not limited to, eliminating the 96-hour rule, extending the timeframe to service gear, and/or allowing waivers for those unable to service their gear within the 96 hour timeframe as mandated by Fish and Game Code Section 9004.

Vote of all DCTF Members (ex officio Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
0	6	9	3	4

NOTES:

A commercial Dungeness crab fisherman asked the DCTF to recommend the elimination or modification of Fish and Game Code Section 9004, expressing concerns that the law does not allow flexibility when a vessel is broken down. The DCTF discussed the section code, and the Department Enforcement confirmed that Title 14 regulations contain provisions for waivers for another fisherman to retrieve an individual's gear when they are unable to service it within 96 hours. In such cases, any Dungeness crab in the trap(s) may not be landed. The DCTF agreed that in light of many of the issues facing the fishery, including whale entanglements, eliminating the 96-hour rule would be inappropriate at this time. The DCTF did acknowledge that it might be necessary to more thoroughly address the waiver process, including the ability for individuals to land the Dungeness crab in their traps when someone else pulls their gear. The DCTF agreed the 96-hour rule should not be modified, but would revisit the discussion of waivers at a future meeting so they can thoughtfully address the topic to reduce potential loopholes.

Outstanding DCTF Recommendations

As a reminder, the DCTF provided a number of recommendations in the January 2015 report ([Appendix 2](#)) that have yet to be considered or addressed by the appropriate regulatory bodies. The DCTF requests that regulators consider including these recommendations if any related legislation or regulatory packages are introduced in 2016,.

January 2015: Recommendation 2- Allow buoy tag fee waiver for permitholders who are unable to fish due to mandatory military service. The waiver must be requested when the permit is renewed and there is no limit on how many times a permitholder can seek the waiver. A permitholder cannot purchase tags mid-season and start fishing. If a permitholder decides to not fish one year and wants to fish the next year, the permitholder will need to pay tag fees for two full years. No discounting or prorating fees.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
17	1	1	0	3

NOTES:

The DCTF agreed there are times when a permitholder faces a hardship and is unable to fish. In many cases, there are options available to ensure permitholders can support their businesses even when they are unable to fish (e.g. emergency transfers, leasing a permit/vessel). Still, the DCTF agreed that individuals who are faced

with military service should be allowed a waiver on their buoy tag fees. They also agreed that since the buoy tags are 2-year tags, it would be much simpler and cleaner if these permitholders were required to purchase their tags at the 2-year price rather than allowing these individuals to purchase pro-rated tags.

January 2015: Recommendation 5- The DCTF recommends amending 132.1 CCR T-14 to add section 3- Vessels may transit waters south of 42.00°N with traps buoy tagged with either a valid Oregon or Washington buoy tag, provided no crab species are aboard the vessel and no traps shall be deployed in waters south of 42.00°N without a valid CA buoy tag.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
13	3	0	3	3

NOTES:

Various permitholders have expressed concern that the California Code of Regulations (CCR) does not have provisions to allow vessels to transit California waters with only Oregon- or Washington-tagged traps onboard. Per 132.1 CCR T-14 California resident permitholders who also hold Oregon and/or Washington Dungeness crab commercial permits have no legal means to transport their traps to other states to fish. Furthermore, these regulations state that a permitholder is in violation if there are more than six (6) traps onboard without a valid California trap tag. The DCTF feels recommendation 5 would be sufficient to resolve this issue so fishermen may legally fish in multiple states.

January 2015: Recommendation 9- The DCTF recommends changing all references to “a/the person” in Fish and Game Code 8279.1 (a)-(d) to “any Dungeness crab permitted vessel”.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
7	11	1	0	3

NOTES:

California law prohibits commercial Dungeness crab permitholders from fishing in multiple management areas for 30 days when one management area opens for fishing after another under delayed conditions (also referred to as a “fair-start”). As written, the Fish and Game Code uses “a person” to refer to any permitholder, including any entity that is legally connected to the permitholder including a company, business, or employee/crew member. Therefore, if a company or individual owns multiple permits/vessels, all vessels owned by that company/individual are required to operate as a single entity. For example, if one of the company’s/individual’s vessels is subject to a 30-day fair start delay then **all** other vessels owned by the company/individual are also subject to this delay. The DCTF agreed that this restriction was unfair to individuals who operate vessels on behalf of a company, individuals who own multiple vessels, and crewmembers that choose to assist permitholders in multiple management areas. The DCTF agreed that changing all references of “a/the person” to “any Dungeness crab permitted vessel” would address these issues.



~California Dungeness Crab Task Force~

<http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

REPORT

TO: Joint Committee on Fisheries and Aquaculture, Mike McGuire, Chair
Joint Committee on Fisheries and Aquaculture, Jim Wood, Vice Chair
California Fish and Game Commission, Eric Sklar, Chair
California Department of Fish and Wildlife, Charlton Bonham, Director

CC: California Ocean Protection Council, Deborah Halberstadt, Executive Director
California Fish and Game Commission, Valerie Termini, Executive Director
California Fish and Game Commission, Susan Ashcraft, Marine Advisor
California Department of Fish and Wildlife, Craig Shuman, Marine Region Manager
Pacific States Marine Fisheries Commission, Dave Colpo, Sr. Program Manager

FROM: California Dungeness Crab Task Force

DATE: January 13, 2017

RE: Final recommendations from the California Dungeness Crab Task Force as requested in SB 369 (Fish and Game Code 8276.4)

APPENDICES:

- (1) [Senate Bill 369](#)
- (2) [January 15, 2015 Report](#)
- (3) [January 15, 2016 Interim Report](#)
- (4) [Tri-State Dungeness Crab Commission Memorandum of Understanding \(MOU\)](#)
- (5) [DCTF Membership List](#)
- (6) [DCTF Charter](#)
- (7) [Summary of DCTF Votes from October 25-26, 2016 meeting](#)
- (8) [DCTF Meeting Summary from October 25-26, 2016 meeting](#)
- (9) [CDFW Dungeness Crab Trap Limit Program Accounting, September 2016](#)
- (10) [Frequently Asked Questions: Harmful Algal Blooms and California Fisheries](#)
- (11) [Ocean Science Trust Report: Framing the Scientific Opportunities on Harmful Algal Blooms and California Fisheries: Scientific Insights, Recommendations and Guidance for California](#)
- (12) [Senate Bill 1287](#)
- (13) [Dungeness Crab Fishing Gear Working Group Meeting Summary – September 21-22, 2016](#)
- (14) [Dungeness Crab Fishing Gear Working Group 2016-17 Best Practices](#)
- (15) [Dungeness Crab Fishing Gear Working Group: 2016 Working Group Recommendations and Next Steps – October 24, 2016](#)
- (16) [Assembly Bill 164](#)
- (17) [October 25, 2016 Presentation to the DCTF: Preliminary Evaluation of the Dungeness Crab Trap Limit Program](#)

This is the final report of the California Dungeness Crab Task Force (DCTF) as mandated by Senate Bill (SB) 369 (Evans, 2011) ([Appendix 1](#)). Recommendations included in this report are directed to the Joint Committee on Fisheries and Aquaculture (the Legislature), the California Department of Fish and Wildlife (the Department), and the Fish and Game Commission (the Commission) to inform future Dungeness crab fishery management actions. SB 369 requires the DCTF to submit final recommendations by January 15, 2017 – the following report fulfills that requirement. The work of the DCTF is supported by the California Coastal Protection Fund of 2006 as authorized by the California Ocean Protection Council (OPC) until March 2017. The DCTF may obtain additional resources to support their continued efforts until the SB369

sunset in 2019. Additional recommendations by the DCTF may be submitted to the Legislature, Department, and Commission to continue to advise on Dungeness crab fishery management issues through 2019.

Additional information, including additional previous reports and meeting summaries offering details on the development of the recommendations provided in this report, is available on the DCTF webpage: <http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

BACKGROUND

The California Dungeness crab industry is a valuable state resource. Dungeness crab is one of the most productive fisheries in California^{1,2} with an average ex-vessel value³ of approximately \$39.1 million per calendar year.⁴ This is in large part due to strong demand by consumers, including international markets. The Dungeness crab industry is interested in maintaining the health of the fishery to safeguard its economic health and to preserve the California fishing communities that rely on the resource.

SB 1690 and SB 369

In an effort to alleviate concerns about the California fishery and create a forum for the industry to resolve Dungeness crab fishery issues, SB 1690 was passed in September 2008 and provided for the establishment of a DCTF that was representative of the diverse interests in the fishery. SB 1690 (which added Section 8276.4 to the California Fish and Game Code) directed the California Ocean Protection Council (OPC) to establish and administer the DCTF, and directed the DCTF to review and evaluate the Dungeness crab fishery and make management recommendations to the Legislature, the Commission, and the Department. The DCTF ceased to exist on January 1, 2011 per SB 1690's sunset clause, but was reestablished later the same year by SB 369 (2011-2012 Reg. Sess), which again tasked the OPC with developing and administering the DCTF. SB 369 mandated the DCTF be composed of 27 members, including 17 members representing commercial fishing interests, two members representing sport fishing interests, two members representing crab processing interests, one member representing commercial passenger fishing vessel (CPFV) interests, two members representing nongovernmental organization interests, one member representing Sea Grant, and two members representing the Department. SB 369 also established an industry-designed seven-tier commercial Dungeness crab trap limit program, which the Department was responsible for developing and implementing in consultation with the DCTF.

The work of the DCTF was to be carried out during the course of several public meetings held in California between March 2012 and January 2017. The DCTF's primary goal is to make recommendations on the commercial tiered trap limit program and other Dungeness crab fishery management measures by January 15, 2017, as described in Fish and Game Code Section 8276.5. The OPC authorized approximately \$215,000 from the California Coastal Protection Fund of 2006 to support the DCTF through January 2017.

Since SB 369 does not sunset until 2019, the DCTF may find funding to support their continued efforts until that date (see Recommendation 2 for additional details).

¹ Hackett, Steven, D. King, D. Hansen and E. Price. 2009. *The Economic Structure of California's Commercial Fisheries*. Technical Report . California Department of Fish and Game, Sacramento. <http://www.dfg.ca.gov/marine/economicstructure.asp>

² The Dungeness crab fishery is an important contributor to the economy of small port communities such as Crescent City (Pomeroy, C., et al. 2011. Pomeroy, C., et al. (2011). *California's North Coast Fishing Communities: Historical Perspective and Recent Trends*. California Sea Grant Technical Report T-072,. La Jolla, CA: 350p. <http://www-csgc.ucsd.edu/EXTENSION/ADVISORS/Pomeroy.html>)

³ Ex-vessel value is the amount paid to fishermen when they land (deliver) their catch to buyers the docks.

⁴ Juhasz, C, and C. Pomeroy. 2016. *Preliminary Evaluation of the Dungeness Crab Trap Limit Program*. Presentation to the California Dungeness Crab Task Force. Ukiah, CA. October 2016. http://www.opc.ca.gov/webmaster/ftp/project_pages/dctf/meeting-6/dctfp-eval-presentation.pdf

California Management of the Fishery

The California Dungeness crab commercial fishery is managed by the Department pursuant to California Fish and Game Code Section 8275 *et seq.*, which requires the fishery be managed using a 3-S management strategy (sex, size, and season). Commercial harvest is restricted to male crabs, greater than 6.25 inches carapace (body) width, from mid-November through the end of June (Southern Management Area⁵) and December 1 through July 15 (Northern Management Area). The 3-S management strategy is generally considered to be successful in maintaining the crab population because males have the opportunity to mate several times before reaching legal size, females are protected from commercial harvest, and the fishing season avoids both the soft-shell and primary breeding period. The California Fish and Game Code designates the opening of the season for the Southern Management Area (November 15) and the Northern Management Area (December 1). In the Northern Management Area, the code delegates the authority to delay the season opening to the Director of the Department if crabs are soft-shelled or do not pass preseason crab quality testing.⁶ Additionally, in 1995 a limited entry program⁷ was implemented to limit the total number of permits in the fishery. In 2015-16, there were 561 permits, of which 405 were active and 102 were inactive (or “latent”⁸ referring to those permits (vessels) with landings of less than 200lbs in the previous season).

In contrast to the commercial fishery, the Dungeness crab recreational fishery is managed by the Commission, with measures such as a specified season, daily bag limits, and minimum size requirements. The specifics of the regulations vary by region and by sport fishing mode (i.e. private vessel versus shore-based fishing versus CPFVs). CPFVs are the only sport fishing mode that has a trap limit program.

Tri-State Coastal Dungeness Crab Committee & West Coast Management of the Fishery

In 1996, the Tri-State Dungeness Crab Agreement was established through a MOU between the Pacific States Marine Fisheries Commission (PSMFC) and Washington, Oregon, and California to facilitate communication and cooperation between the states in managing their Dungeness crab fisheries (see [Appendix 4](#) for MOU). Most notably, this agreement established preseason crab quality testing from the Washington-British Columbia border to the Mendocino/Sonoma County Line in California. Through the Tri-State Coastal Dungeness Crab Committee these three states have discussed and aligned management of Dungeness crab in their respective states including coordinating fair start clauses⁹ and season openers to the extent possible.

The Oregon and Washington Dungeness crab fisheries are also high-value fisheries. In contrast to the California commercial fishery, where management authority resides with the Legislature, the Oregon and Washington commercial fisheries for Dungeness crab are managed by their respective Fish and Wildlife Commissions. Historically, Oregon and Washington fisheries have experienced trends similar to those in the California fishery, including the presence of inactive permits, large numbers of traps in the water, and a derby dynamic that causes a large proportion of a fishery’s landings to be made in a short period at the beginning of the season with landings declining sharply thereafter. In an effort to address these issues and distribute

⁵ The Southern Management Area refers to all coastal districts south of the Mendocino/Sonoma County Line to the Mexican border.

⁶ Preseason crab quality testing is used to predict the meat recovery rate prior to the season opener. A recovery rate of 25% is required for the December 1 season opener in the Northern Management Area. If this standard is not met, testing is repeated within specific time intervals until the quality test passes. Regardless of the results of testing, the Northern Management Area will open no later than January 15. Requirements for preseason testing do not apply in the Southern Management Area.

⁷ A limited entry program is a management strategy that restricts the number of participants in a fishery.

⁸ The Department does not use the term “latent” permit(s) formally. The definition of latent was developed by the DCTF.

⁹ Fair start provisions require fishermen to commit to fishing in a single management area (i.e., Northern or Southern) for 30 days prior to fishing in another management area under delayed management conditions.

fishing throughout the season, the Washington Department of Fish and Wildlife (WDFW) established a tiered Dungeness crab trap limit system in 1999. The Oregon Department of Fish and Wildlife (ODFW) followed suit in 2006 by establishing a trap limit program modeled after Washington's system. At a 2009 DCTF meeting, WDFW and ODFW staff explained that while the trap limit programs have capped the amount of gear in the water, there is no evidence of a significant reduction in the derby dynamic of the fishery.

Current Management Issues

A variety of issues and topics impacting the management of the fishery have been identified by the DCTF and members of the commercial fishery, including:

Future of the DCTF or industry-representative organization: Following submission of the January 2017 legislatively mandated report, the OPC will no longer fund the DCTF. Since the DCTF does not sunset in statute until 2019, there is an opportunity for industry to play a lead role in self-funding the DCTF or another organizational body to continue to inform Dungeness crab fishery management, be responsive to timely policy issues, act as an information bridge to/from the fleet to the Legislature, Department and Commission, identify research priorities for the fishery, and serve as a public relations resource on general Dungeness crab industry issues in general. Based on discussions leading up to and during the October 2016 DCTF meeting with the DCTF, the DCTF Executive Committee¹⁰, other industry representatives, and interested members of the public, there is general agreement of the value of an industry-representative organization. As a result, the DCTF developed four recommendations to address this topic and identify a path forward (see Recommendations 3, 4, 5, and 6 for additional details).

Dungeness Crab Account: Pursuant Fish and Game Code 8276.5(a)(4)) revenue generated by the Dungeness Crab Commercial Trap Limit Program is deposited into a dedicated Dungeness Crab Account. The Department is mandated to provide an annual reporting of the Account. In previous years, a surplus of approximately \$1.4M was generated as a result of underuse of the Dungeness Crab Account.¹¹ However, in October 2016 the Department reported ([Appendix 9](#)) the costs associated with the program are beginning to catch up with revenue generated. This has included the Law Enforcement Division's (LED) more recent increased use of the Account. Additionally, a large portion of the surplus associated with the Account was directed by Assembly Bill 164 ([Appendix 16](#)) to pay for litigation not directly related to the commercial Dungeness Crab Trap Limit Program. The industry and the DCTF understood that the Dungeness Crab Account was intended to be used solely for the purpose of implementing the trap limit program and have expressed concern about the use of the Account by LED and AB 164. During its October 2016 DCTF meeting, the DCTF developed recommendations were developed to clarify how the Dungeness Crab Account should be used (see Recommendation 1 for additional details).

Domoic Acid: Due to elevated levels of domoic acid in California Dungeness crab pre-season samples, the Director of the Department and the Commission delayed the commercial and recreational Dungeness crab fisheries in November 2015 following guidance from California Department of Public Health (CDPH) and the Department and the Office of Environmental Health Hazard Assessment (OEHHA). The delay persisted well into the regular 2015-2016 Dungeness crab season with the recreational and commercial fisheries delayed in the Southern Management Area until mid-

¹⁰ The Executive Committee is a subcommittee of the DCTF, and is composed of one commercial DCTF member from Morro Bay, Half Moon Bay, San Francisco, Fort Bragg, Eureka, and Crescent City, as well as a crab processor. There are no recreational, CPFV, or NGO representatives on the Executive Committee although they may participate as members of the public. The Executive Committee cannot make decisions on behalf of the full DCTF, but can provide guidance and develop proposals for the full DCTF's review and consideration.

¹¹ California Department of Fish and Wildlife. 2015. *Updates Summary of Fishery Landings 2014-15 Season & Monitoring Evaluation Dungeness Crab Trap Limit Program (DCTLP)*. Presentation to the California Dungeness Crab Task Force. Ukiah, CA. October 2015. http://www.opc.ca.gov/webmaster/ftp/project_pages/dctf/meeting-5/CDFWData_DCTF%20Meeting_Oct262015-2.pdf

March 2016. In the Northern Management Area, the recreational fishery was opened in areas as CDPH and OEHHA deemed them “safe” beginning in April 2016. Conversely, the commercial fishery continued to remain closed in the north until early May 2016 at the request of many commercial fishermen, including the Executive Committee, who preferred to maintain area openers by traditional management areas as possible. By May 23, 2016, the Dungeness crab fishery was open statewide.

During this unprecedented delay, questions were raised by industry, the Department, the Legislature, and others seeking to better understand testing protocols, procedures for legally and equitably opening an area once deemed “safe” by CDPH and OEHHA, how fair start provisions apply if areas are opened outside traditional Management Areas, etc. Industry members also expressed concerns about the late season opener and its potential impact on the resource and other issues. For example, with effort unusually high in the spring months when Dungeness crabs typically are soft and molting, is there increased handling mortality? Additionally, what is the impact of higher than normal concentrations of fishing gear in the 2015-2016 spring months and high concentrations of whales? In an effort to begin to address some of these questions and strengthen the state’s scientific understanding of harmful algal blooms and domoic acid, a number of reports have been made available to decision makers and the public (Appendices [10](#) and [11](#)).

As a result of the 2015-2016 delay due to elevated domoic acid levels, fishery participants and communities expressed substantial financial hardship, prompting the California Governor to make a federal fishery disaster request for \$130 million in February 2016¹². Despite these hardships, in August 2016, the Department reported nearly 50% of the five-year average was landed during the 2015-16 Dungeness crab fishing season. Many commercial fishermen, including DCTF members, indicated that despite the decent landings, markets never recovered, adding to the continued hardship felt by the fishery.

At the October 2016 DCTF meeting, the DCTF, CDFW, CDPH, and OEEHA discussed the upcoming 2016-17 fishing season. The DCTF provided informal guidance related to opening of closed areas under an advisory (see [Appendix 8](#)), and directed the Executive Committee to be available to the Department, CDPH, and OEEHA to provide continued guidance as needed. On November 5, 2016 the recreational fishery opened statewide under an advisory warning anglers not to consume the viscera. On November 15, the Department announced the opening of the commercial fishery for most of the Southern Management Area. However, an area from Point Reyes to the Mendocino-Sonoma County border remained closed based on guidance from CDPH and OEHHA due to Dungeness crab found above the federal action levels.¹³ On December 1, much of the Northern Management Area opened while a few areas remain closed due to elevated levels of domoic acid. The Executive Committee and DCTF will continue discussing this topic as it remains relevant and may provide guidance to the state, as appropriate.

California Lost Fishing Gear Recovery Program: Since 2014, voluntary lost fishing gear recovery programs have been operating throughout the state of California. The SeaDoc Society in partnership with Humboldt State University¹⁴ as well as the Half Moon Bay Seafood Marketing Association (HMBSMA) in partnership with The Nature Conservancy have administered programs that have resulted in the recovery of hundreds of lost and abandoned traps.¹⁵ The commercial and recreational Dungeness crab fishing communities have generally greeted these programs with widespread support

¹² CDFW Press Release, February 9, 2016. *State Seeks Federal Disaster Declarations for Commercial Crab Fishing*. <https://cdfgnews.wordpress.com/2016/02/09/state-seeks-federal-disaster-declarations-for-commercial-crab-fishing/>

¹³ The area between Point Reyes and Salt Point was opened December 3. As of the drafting of this report, the area between Salt Point and the Humboldt Jetty remain closed.

¹⁴ <http://www.seadocsociety.org/california-lost-fishing-gear-removal-project/>

¹⁵ Renzullo, J. 2015. *2014 Crab Gear Retrieval Program Final Report*. Submitted to the California Dungeness Crab Task Force Executive Committee. http://www.opc.ca.gov/webmaster/ftp/project_pages/dctf/ec-meeting-10/2014-Crab-Gear-Retrieval-Program-Final-Report-DCTF-EC.pdf

and requested that the programs extend across the geographic range of the fishery. In the January 2016 DCTF interim report ([Appendix 3](#)), the DCTF broadly supported the establishment of a statewide, industry-funded lost gear recovery program. Based on the recommendations provided by the DCTF to the Joint Committee on Fisheries and Aquaculture, SB 1287 ([Appendix 3](#)) was passed and is anticipated to go into effect during the 2017-2018 fishing season. This program only pertains to the commercial fishery; a program for the recreational fishery would have to be established through a Commission-led process. Members of the fishing community generally see the program as an important first step in addressing and minimizing potential negative gear interactions including whale entanglements, ghost fishing, gear loss, navigational hazards, etc. The DCTF provided guidance to the Department on the implementation and development of the program outlined in SB1287 (see Recommendation 7 for additional details).

Whale Entanglements: The National Marine Fisheries Service (NMFS) has indicated the number of whales entangled in fixed fishing gear along the West Coast has increased over the last few years. The largest portion of the identifiable gear involved in these entanglements is from the West Coast Dungeness crab fishery. As a result, the Department, in collaboration with NMFS and OPC has convened a Working Group¹⁶ composed of commercial fishermen (including two DCTF Members), environmental organizations, and state and federal agencies to help address this issue. Since the DCTF's October 2015 meeting, the Working Group has had two in-person meetings and numerous conference calls resulting in the development of a 2016-17 Guide for Best Fishing Practices Guide ([Appendix 14](#)) and a Recommendations and Next Steps Memo ([Appendix 15](#)). During the October 2016 DCTF meeting, the DCTF continued to express support for the Working Group's efforts (see Recommendations 8 and 9 for more details) and will continue working in cooperation with the Working Group to ensure that each body's efforts complement and inform the other's.

Commercial Dungeness crab trap limit program: Prior to the 2013-2014 commercial Dungeness crab season, some fishermen were concerned about the increase in the numbers of traps used each season in an effort to maximize crab landings. To help address this issue and cap fishing capacity, a commercial Dungeness crab trap limit program was implemented in the 2013-2014 commercial season pursuant to SB 369. The design of this program was based on 2010 recommendations from the DCTF. The seven-tier trap limit program allows each permit holder to fish a specified number of traps based on the permit's historical landings. During its October 2016 meeting, the DCTF, in partnership with Department Biologist Christy Juhasz and Dr. Carrie Pomeroy, California Sea Grant and non-voting DCTF Member, evaluated the trap limit program and provided feedback on the industry's experiences with the program as directed by SB 369 (see Recommendation 2 for more details). It is important to note the preliminary nature of the evaluation conducted due to the short timeframe since the implementation of the trap limit program and the highly unusual 2015-16 season due to elevated levels of domoic acid.

Latent capacity: The DCTF has discussed the "latent capacity" in the fishery, or the number of inactive permits in the fishery. Some believe the Dungeness crab fishery's latent capacity could threaten the economic viability of the fishery in the long-term. Currently there are approximately 102 inactive (or "latent") Dungeness crab commercial fishing permits in California, constituting approximately 18% of the fleet. Some members of the industry have questioned the future sustainability of the fishery should latent permits become active, since these permits represent unexploited fishing potential. In contrast, others believe latent permits offer new entrants a more affordable entry-point to buy into the fishery. Debate continues on whether the latent capacity of the fishery should be addressed by the DCTF, fishery managers, and others with decision-making authority. Although no formal recommendations were made on this topic, it continues to be addressed at DCTF meetings and influence recommendations on related topics (e.g. the commercial Dungeness Crab Trap Limit Program).

¹⁶ For more information about the Dungeness Crab Fishing Gear Working Group visit <http://www.opc.ca.gov/whale-entanglement-working-group/>

Members of the Dungeness crab industry continue to attempt to address these issues and others as they arise (e.g., fair start, fleet mobility). The fishery consists of a diverse group of individuals, communities, viewpoints, and opinions regarding the management goals and objectives for the California Dungeness crab fishery generally vary by production level, vessel size, and homeport location.^{17,18} This makes it challenging at times for fishery participants to reach agreements. Nonetheless, the DCTF continues to reach agreements and forward recommendations to fisheries managers and those with decision-making authority. The DCTF looks forward to continuing this work and updating the Legislature, the Department, and the Commission on the outcomes of their discussions regarding the issues above and others as they arise.

DCTF PROCESS AND PROCEDURES

Together, [SB 369](#) and the [DCTF Charter](#) describe the DCTF's operating and voting procedures. The DCTF Charter was developed and ratified by the DCTF in September 2009 and amended in March 2012 and April 2014. The DCTF Charter establishes ground rules, member roles, and voting procedures for the group. In keeping with those procedures and in response to the Legislature's request for management recommendations, the DCTF Charter states that, "a proposed recommendation that receives an affirmative vote of at least 15 of the non-ex officio members of the DCTF may be transmitted ... [and] shall be considered to be the consensus of the task force, and shall be considered to be evidence of consensus in the Dungeness crab industry." The following voting protocol, described in the DCTF Charter, was used to conduct straw polls and final voting on DCTF recommendations:

- **Thumbs Down:** I do not agree with the proposal. I feel the need to block its adoption and propose an alternative.
- **Thumbs Sideways:** I can accept the proposal although I do not necessarily support it.
- **Thumbs Up:** I think this proposal is the best choice of the options available to us.
- **Abstention:** At times, a pending decision may be infeasible for a Member to weigh in on.

Thumbs up and thumbs sideways are *both* counted as affirmative votes in determining whether a recommendation has the required 15-vote majority.

DCTF VOTES AND ANALYSIS

The following recommendations were developed by the DCTF over the course of one meeting held on October 25-26, 2016. The recommendations represent agreements of DCTF members (as per voting protocols defined in the DCTF Charter ([Appendix 6](#)); however, in some cases they are not the *verbatim* language used when the votes were taken. Because of the iterative nature of the conversations at the DCTF meetings, the language of some of the recommendations has been adjusted to improve clarity. The verbatim language, together with the voting record is included [Appendix 8](#) for reference. Some recommendations are grouped together for clarity. Explanatory notes are provided below recommendations, when necessary.

Commercial Dungeness Crab Trap Limit Program

SB 369 mandated the DCTF "prioritize the review of pot limit restriction options." The ensuing recommendation is directly related to the commercial Dungeness crab trap limit program.

Recommendation 1- The DCTF recommends the Dungeness Crab Account, established pursuant to Fish and Game Code Section 8276.5, only be used for expenses that are specific to the Commercial Dungeness Crab Trap Limit Program and above and beyond normal administration of the commercial

¹⁷ Dewees, C.M. et al. 2004. Racing for crabs: Cost and management options evaluated in Dungeness crab fishery. California Agriculture. Vol. 58(4): 186-193.

¹⁸ Pomeroy, C., et al. (2011). California's North Coast Fishing Communities: Historical Perspective and Recent Trends. California Sea Grant Technical Report T-072,. La Jolla, CA: 350p. <http://www-csgc.ucsd.edu/EXTENSION/ADVISORS/Pomeroy.html>.

Dungeness crab program. Specifically, the use of Dungeness Crab Account funds should be prioritized to:

- Support an industry-representative organization;
- Reduce fees to fishermen (as described in Fish and Game Code Section 8276.5(a)); and
- Cover the Department's costs associated with implementation of the Commercial Dungeness Crab Trap Limit Program, including LED.

The DCTF would like to be informed of all current and anticipated uses of the Dungeness Crab Account funds.

The DCTF recommends full vetting and annual reporting of the use of Dungeness Crab Account as required by Fish and Game Code Section 8276.5(a) to ensure transparency of the account's use. The DCTF recommends an annual Dungeness Crab Account budget planning conversation to be held between the Department and the DCTF to ensure use of the account align with actual and anticipated programmatic costs.

The DCTF requests a detailed accounting of the Department's Law Enforcement Division's (LED) use of the Dungeness Crab Account, including current and projected costs for additional enforcement operations as a result of the Commercial Dungeness Crab Trap Limit Program beyond regular Dungeness crab fishery enforcement activities.

The DCTF recommends the \$517,225 appropriated from the Dungeness Crab Account (Fish and Game Code Section 8276.5) as a result of AB 164 ([Appendix 16](#)) be drawn from a more appropriate funding source. Utilizing the fund to support the lawsuit referenced in AB 164 (*Marilley v. McCammon*) would violate the intended use of the Dungeness Crab Account. The lawsuit referenced in AB 164 is based on Dungeness crab vessel permit and commercial license fees—fees that are deposited to the Fish and Game Preservation Fund, not the Dungeness Crab Account. There is no direct connection between the fees referenced in the litigation and the Dungeness Crab Account. Additionally, there is no direct connection to the focus of the litigation and the Commercial Dungeness Crab Trap Limit Program, which was established years after the lawsuit was filed.

Vote of all DCTF Members (ex officio Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
16	4	0	0	2

NOTES:

Currently, Fish and Game Code Section 8276.2 is vague in identifying how funds in the Dungeness Crab Account should be expended. Clarifying the intent of the Dungeness Crab Account will help ensure the funds are used in a manner that reflects the priorities of the industry, including those priorities beyond the implementation of the Commercial Dungeness Crab Trap Limit Program. This guidance and specificity is also intended to help reduce potential abuses of the Account and ensure the funds are not used for other Department and state activities (e.g., retrieving lost/abandoned gear, enforcing marine protected areas, administering recreational fishing violations, unrelated litigation, etc.). The DCTF is committed to working with the Legislature, Department, and LED to review and discuss budget plans for and annual accounting of the Dungeness Crab Account in detail to ensure the Account is used in accordance with its original intent and updated priorities of the fleet. This will help industry gain a more comprehensive understanding of costs associated with implementing the Commercial Dungeness Crab Trap Limit Program separately from other Department/LED activities not directly related to the program. The DCTF looks forward to continuing to work in collaboration with the Department to develop more detailed tracking and reporting methods for the account and to further break down Dungeness crab-related costs, especially those related to enforcement efforts.

The DCTF is greatly concerned about the lack of transparency associated with the passage of AB 164 and the inappropriate appropriation of funds from the Dungeness Crab Account for this purpose. The lawsuit referenced in AB 164 (*Marilley v. McCammon*) was not related to the Dungeness Crab Trap Limit Program, which was established after the lawsuit was filed and use of the Account to pay for the litigation violates the spirit and intent of establishing the Account. The DCTF's recommendation to redirect the \$517,225 appropriated from the Dungeness Crab Account to a more appropriate funding source will ensure the intent and purpose of the account is upheld. Additionally, the DCTF's recommendations for further clarifying how funds should be allocated will help ensure this type of misappropriation of funds does not happen again.

Recommendation 2- The Commercial Dungeness Crab Trap Limit Program (Fish and Game Code 8276.5) is working overall. The DCTF recommends extending the sunset date of the Commercial Dungeness Crab Trap Limit Program from 2019 through 2029.

The Commercial Dungeness Crab Trap Limit Program should not be modified at this time. The DCTF brainstormed a list of potential adjustments to Commercial Dungeness Crab Trap Limit Program (Fish and Game Code 8276.5) for the commercial Dungeness crab fishing fleet's consideration ([Appendix 8](#)). This list of ideas should continue to be discussed by the DCTF and its constituents prior to recommending any changes to the Commercial Dungeness Crab Trap Limit Program.

The DCTF recommends the periodic review and evaluation of the Commercial Dungeness Crab Trap Limit Program to be conducted by the DCTF. The DCTF will forward any future recommendations for potential adjustments to the Commercial Dungeness Crab Trap Limit Program to the Legislature, Department, and Commission.

Vote of all DCTF Members (ex officio Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
18	2	0	0	2

NOTES:

Pursuant to SB 369, the DCTF is charged with evaluating the commercial Dungeness crab trap limit program and providing final recommendations of any changes to the program on or before January 15, 2017. Recommendations related to the program were provided to the Legislature as part of the DCTF's January 15, 2016 interim report ([Appendix 3](#)) and previous reports. Many of these recommendations have been addressed, however, the recommendation in the January 2016 requested the state's review of the Commercial Dungeness Crab Trap Limit Program's fee structure (i.e. the need for the \$1,000 biannual permit fee) and a formal review of the Dungeness Crab Account. Aside from the recommendations related to fees and the use of the Dungeness Crab Account, during the October 2016 meeting, the DCTF agreed that no additional modifications are needed for the program at this time. The DCTF looks forward to discussing concerns and ideas identified during the meeting, such as identifying pathways to support upward mobility from lower to higher tiers while maintaining the profitability of the fishery, and potentially providing recommendations for changes to address these issues in the future.

Recognizing SB369, under which includes the Dungeness Crab Trap Limit Program sunsets in 2019, the DCTF confirms that the commercial Dungeness Crab Trap Limit Program has been effective in reaching its goals and would like to see it continue through 2029. This extended timeframe will allow the industry to continue to evaluate the success of the program and make recommendations to managers for additional changes to its implementation, as needed.

These recommendations are supported by background provided by a presentation ([Appendix 17](#)) developed by Dr. Carrie Pomeroy, California Sea Grant and non-voting DCTF Member, and the Christy Juhasz,

California Department of Fish and Wildlife. The presentation included a review and evaluation of the Commercial Dungeness Crab Trap Limit Program based on existing data collected by the Department (e.g., landings data) and interpretations provided by the DCTF and members of the public.

Continuation of the DCTF

SB369 mandates that the DCTF will discuss the need for a permanent advisory committee. The recommendations below reflect the outcomes of this initial discussion about this topic.

Recommendation 3- The DCTF requests that bridge funding be granted by The Nature Conservancy with matching funds by industry (e.g. port associations and processors) to support the immediate funding needs for the DCTF to function beyond January 2017 until the DCTF identifies short- and longer-term funding sources to support an industry-representative organization.

The DCTF recommends the Department and the Ocean Protection Council pursue options to allocate funding from the Dungeness Crab Account (Fish and Game Code 8276.5) in the short-term (i.e., through 2019).

The DCTF may also investigate legislative options to pursue long-term funding through access to the Dungeness Crab Account to support the DCTF or an industry-representative organization beyond 2019.

Vote of all DCTF Members (ex officio Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
15	4	0	1	2

NOTES:

Following submission of this report, OPC will no longer provide funding to support the DCTF. Since SB369 sunsets in 2019, the DCTF will need additional funding to support its efforts until 2019 (and potentially beyond).

At the October 2015 DCTF meeting, CDFW indicated approximately there was of surplus of approximately \$1.4M in the Dungeness Crab Account.^{19 20} Over the past year the DCTF has considered and generally agreed that the surplus is appropriate for use to support the DCTF's continued efforts (see Recommendation 1) since the Account was based on a DCTF recommendation. However, as outlined by SB 369, the revenue generated by the Dungeness Crab Account is solely intended to be used to implement the Commercial Dungeness Crab Trap Limit Program. Any uses of the Account beyond that purpose, would need to be authorized by the Legislature. Recognizing that the DCTF has identified priorities for the use of the Dungeness Crab Account (see Recommendation 1) and there is an immediate need for funding to support the administration of the DCTF, the DCTF would like the Legislature and the Department to consider authorizing the use of the Dungeness Crab Account to support the DCTF. The DCTF Administrative Team will work with the Department, OPC, and the Legislature to explore options (legislative and non-legislative) to allocate funding from the Dungeness Crab Account to support the DCTF through 2019. Use of the Account may also include supporting the DCTF or another industry-representative organization beyond

¹⁹ California Department of Fish and Wildlife. 2015. *Updates Summary of Fishery Landings 2014-15 Season & Monitoring Evaluation Dungeness Crab Trap Limit Program (DCTLTP)*. Presentation to the California Dungeness Crab Task Force. Ukiah, CA. October 2015. http://www.opc.ca.gov/webmaster/ftp/project_pages/dctf/meeting-5/CDFWData_DCTF%20Meeting_Oct262015-2.pdf

²⁰ This amount may no longer be available based on updated 2016 accounting, see Recommendation 1 for more information.

2019. Since this process will take a few months, the DCTF also identified a need to secure funding to serve as a bridge between when OPC funding ceases and Dungeness Crab Account Funds become available.

The DCTF has identified a need to continue discussions through 2017 to refine or update its organizational structure and function (e.g., make-up of the body, voting structure), identify associated short- and longer-term administrative costs, hold new elections, etc. (see Recommendation 5). Bridge funding will be needed to support those discussions until a long-term funding source can be secured. During the October 2016 DCTF meeting, Tom Dempsey, Senior Fisheries Project Director at The Nature Conservancy, recognized the critical role the DCTF plays in informing fisheries managers and offered to provide interim funding to support the immediate needs of the DCTF. Funds will be supplemented by voluntary donations from industry.

Recommendation 4- The DCTF identified the following priorities of a future industry-representative organization:

- Inform fisheries management;
- Be responsive to high profile and policy issues;
- Serve as a conduit of information to/from the fleet to the Legislature, Department, and Commission;
- Identify industry research priorities; and
- Serve as a source for public relations efforts related to industry issues.

At this time, the DCTF is not interested in a future industry-representative organization addressing commodity marketing or pricing as part of its charge.

Vote of all DCTF Members (ex officio Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
18	2	0	0	2

NOTES:

SB 369 identifies the function and charge of the DCTF, including the composition of the body, its voting structure, and its role in reviewing and evaluating Dungeness crab management measures including the Commercial Dungeness Crab Trap Limit Program. In addition to this charge, the DCTF's primary role was to evaluate the Commercial Dungeness Crab Trap Limit Program. However, since the adoption of SB 369 the DCTF has played key roles beyond its initial charge, including informing the management of the fishery in a timely fashion by responding to pressing issues, and acting as a conduit of information to/from the fleet. Looking beyond January 2017, the DCTF is interested in building on the successes and lessons learned from the past eight years while playing a larger role than that which they were originally envisioned. This will have the DCTF serving in a role to identify industry research priorities and to continue serving as a source for public relations efforts related to industry issues. The DCTF hopes to fill this role through 2019 and would like to see the DCTF, or a new industry-representative body, maintain this role beyond 2019.

There continues to be discussion about the DCTF or a future industry-representative body address the industry's marketing needs within the Joint Committee on Fisheries and Aquaculture and by a few fishing families and organizations. However, the DCTF does not see value in the creation of a marketing commission or in the DCTF or a future industry-representative organization being engaged in price-negotiations or traditional marketing as part of its charge.

Recommendation 5- The DCTF continues to see value in the DCTF or a similar industry-representative body. The DCTF continues to discuss updates/adjustments to the operating structure of the current DCTF (including, but not limited to, the DCTF's composition, process for appointing

alternates, process for replacing members, etc.) and a future foundational structure outside SB 369 (beyond 2019). The DCTF supports the continued use of a 2/3 voting structure.

DCTF Members will take proposed structure options back to their constituents for further discussion. A final decision on this structure will be made on or before November 15, 2017.

Vote of all DCTF Members (ex officio Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
19	1	0	0	2

NOTES:

The current membership of the DCTF as outlined in Fish and Game Code Section 8276.4 (a) was intended to be reflective of the composition the commercial fleet including the number of active permit holders and level of production at each port in 2008. Since the DCTF was originally established, fleet dynamics have changed such that there have been increased landings in the Southern Management Area in recent years rather than in the Northern Management Area, as experienced historically. As a result, various DCTF Members and members of the public have expressed interest in revisiting the composition of the DCTF to ensure this industry-representative body is reflective of the current makeup of the fleet. While additional discussion is needed by the DCTF, there was general agreement for including processors, sport and Commercial Passenger Fishing Vessel representatives, advisors/nonvoting seats for California Sea Grant scientists, the Department, the Legislature, and nongovernmental organizations. However, the distribution of commercial fishing seats, replacement of DCTF Members, the process for selection of alternates, etc. are still areas of contention requiring further discussion before a formal recommendation can be made. As noted in Recommendation 3, the DCTF intends to utilize the bridge funding provided by The Nature Conservancy and industry to finalize recommendations related to its organizational structure and function (e.g., make-up of the body, voting structure) with input and guidance from their constituents.

The DCTF supports maintaining the 2/3 voting structure to ensure DCTF recommendations represent the majority of the body and not the views of a single management area.

Recommendation 6- The DCTF supports new elections of commercial fishing representatives as soon as feasible (i.e., funding dependent). The DCTF recommends an election every 3 years among permit holders to ensure fresh perspectives are added to the organization, while also maintaining institutional knowledge. Alternates would be requested to attend all DCTF meetings. The details of how elections will be carried out will be determined at a later date.

Vote of all DCTF Members (ex officio Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
14	6	0	0	2

NOTES:

The current DCTF is comprised of members who were originally elected in 2008. Over the years, various members have stepped down from the DCTF for a variety of personal and professional reasons. Without funding available to conduct elections coordinated by a 3rd party neutral, those seats were filled by alternates selected by the outgoing DCTF Members as indicated in the DCTF charter ([Appendix 6](#)). The DCTF sees value in holding regular elections to better account for attrition in membership and also allow new representatives and fresh perspectives to be involved in the DCTF. The DCTF recommends 3-year election cycle to provide enough time to support relationship building among Members while also maintaining the

institutional knowledge needed to keep the body moving forward. As funding becomes available, an election in the near-term will be prioritized. The process for how the election will be carried out (e.g. by port associations or a single, neutral 3rd-party) will be determined in upcoming DCTF discussions.

Lost Fishing Gear Recovery Program

The ensuing recommendation is a follow up to Recommendation 6 in the January 2015 report ([Appendix 2](#)).

Recommendation 7- The DCTF developed an initial list of considerations to inform the Department's development of a program to implement the lost fishing gear recovery program outlined in SB 1287. As part of a brainstorm the DCTF identified a number of priority areas that the program should:

- be scalable to be responsive to regional needs and the type(s) of gear pulled;
- involve entities in addition to the Department of Fish and Wildlife (e.g., port associations) to help implement the program, reduce costs, and improve efficiency, including developing electronic ways to monitor traps collected and designing a centralized database for tracking gear; and
- consider a provision to account for catastrophic loss and hardship on an individual or case-by-case basis.

The DCTF recommends gear recovery fees charged to the permit holder should not exceed the market value price of a complete new crab trap (i.e., including lines and buoys). The DCTF recommends a working group comprised of industry representatives be identified to be available to work with the Department to continue to develop the details of the program.

The Department has agreed to present and provide a program outline for the industry's review that will be shared with an industry-representative body (if it exists) and/or via port associations, the current DCTF public email list, Pacific Coast Federation of Fishermen's Associations (PCFFA), social media, etc. prior to implementation of the program.

Vote of all DCTF Members (ex officio Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
15	5	0	0	2

NOTES:

Lost and abandoned fishing gear has been identified as a problem by the DCTF and the Dungeness crab industry. This gear poses a navigational hazard and can entangle actively fished gear resulting in more lost gear. Additionally, in light of recent concerns surrounding whale entanglements in Dungeness crab fishing gear, the DCTF views a lost fishing gear recovery program as an important step in helping to reduce whale entanglements.

[Recommendation 6 in the DCTF's January 15, 2015](#) report and Recommendation 3 in the DCTF's January 2016 interim report ([Appendix 3](#)) led to the development of the recently passed Senate Bill 1287 ([Appendix 12](#)) which outlines a statewide lost fishing gear recovery program. This program will focus on the commercial fishery and will benefit from collaborative efforts between the Department and the fleet, including port associations, to be successful. Since the bill lacks specificity on the details of the program, the DCTF identified a number of initial recommendations for the Department's consideration as it begins to design the program. Tailoring the program for local port area needs, utilizing outside entities can help ensure the program is cost-effective, and focusing the punitive measures on the repeat and/or blatant violators (e.g., those who leave large strings of gear in the water after the season) should be the Department's focus of the program's design. Additionally, although the Department will set the fees associated with the program, the DCTF believes it would be unreasonable to require fishermen to pay more than the cost of a new trap for the

recovered gear. Fees should be reasonable and not exceed the fair market value of a new trap including buoys and lines.

The DCTF looks forward to continuing to work with the Department to refine and fine-tune the program over the coming months, including reviewing a draft program outline from the Department in advance of the program's implementation.

Whale Entanglement in Dungeness Crab Gear Concerns

Recently, whale entanglements in Dungeness crab fishing gear has been brought to the attention of the fishing community and environmental groups as a high priority issue. The ensuing recommendation is directly related to the whale-fishing gear interactions.

Recommendation 8- The DCTF supports the recommendations and next steps outlined in the [California Dungeness Crab Fishing Gear Working Group's October 24, 2016 memo](#).

The DCTF also supports the [2016-2017 Best Fishing Practices Guide](#) developed by the California Dungeness Crab Fishing Gear Working Group as a first step towards addressing the risk of whale entanglements in Dungeness crab fishing gear.

Vote of all DCTF Members (ex officio Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
19	1	0	0	2

NOTES:

In September 2016, the Dungeness Crab Gear Working Group developed a series of recommendations and next steps ([Appendix 13](#)), including the development of a 2016-17 Best Fishing Practices Guide ([Appendix 14](#)). The DCTF supports these products and the Working Group's ongoing efforts as important first steps towards reducing the risk of whale entanglements in Dungeness Crab fishing gear. The DCTF looks forward to continuing to review other Working Group products and ensuring a collaborative working relationship between the two organizations.

Recommendation 9- The DCTF supports the Department printing the buoy tags (associated with the Dungeness crab trap limit program tags) on both sides for one (1) trap tag cycle. The California Dungeness Crab Fishing Gear Working Group has discussed printing both sides of the Department-issued buoy tag as a strategy that may improve identification of the type of gear on entangled whales. The DCTF is interested in understanding whether this step is effective in helping the National Marine Fisheries Service and others gather better information on whale entanglements before the fleet takes additional steps to invest in this option for the long-term.

Vote of all DCTF Members (ex officio Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
9	10	1	0	2

NOTES:

The DCTF is committed to supporting the efforts of the Dungeness Crab Fishing Gear Working Group, including ways to improve reporting and identify the source of the entanglement. The Working Group is exploring the idea of printing both sides of the CDFW-issued trap tags. Printing both sides of the Department issued buoy tags would cost an additional \$70,000 every two-years, using funds from the Dungeness Crab Account and would not result in additional fees to fishermen since the fee of \$5/tag is established in statute (Fish and Game Code 8276.5(a)). The DCTF sees value in allocating Dungeness Crab Account funds to print double-sided tags for the 2017-18 fishing season. DCTF Members would like to see an evaluation developed by the Working Group following the 2017-18 fishing season to determine if the printing of tags on both sides has helped to improve reporting and/or reduced the risk of whale entanglements. It will be at that time that the DCTF will consider continuing to fund this effort and/or other funding needs the Working Group may have.

**MEMORANDUM OF UNDERSTANDING REGARDING MANAGEMENT
OF THE PACIFIC COAST DUNGENESS CRAB FISHERY¹**

The Directors of the fishery agencies of California, Oregon, and Washington recognize that a need exists for interstate cooperation in management of the Pacific Coast Dungeness crab fishery in general, and specifically in dealing with adjustments of the fishing season.

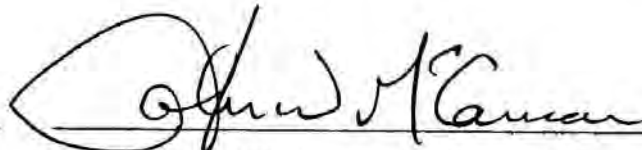
Therefore, the Directors of the aforementioned agencies declare it to be their intent to take mutually supportive actions to further the management and maximize the sound economic and biological utilization of the crab resource when appropriately requested by the Director of one of the other three cooperating state agencies.

With regard to the incidence of soft shelled crab at the beginning of the winter season, the Directors endorse the recommendations agreed to by the state agency representatives of the Tri-State Dungeness Crab Committee and agree to take whatever measures necessary to implement its provisions.

Should any state agency decide that it cannot act within the provisions of this agreement, or is unable to meet its financial obligations under this agreement, the Directors agree to provide at least 30 days advance notice to the remaining parties of the agency's intent.

10/2/07

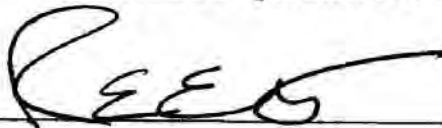
Date



John McCamman, Acting Director
California Department of Fish and Game

10/18/07

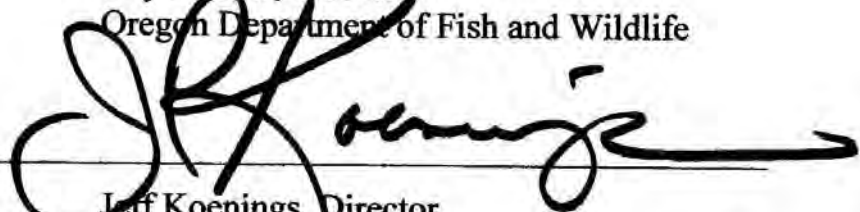
Date



Roy Elicker, Director
Oregon Department of Fish and Wildlife

11/13/07

Date



Jeff Koenings, Director
Washington Department of Fish and Wildlife

¹ Supersedes the memorandum dated April 1996; last modified August 24, 2007

**Dungeness Crab Task Force Members
(Updated December 2017)**

Commercial Fishing Representatives

First Name	Last Name	Port	Production Level
Todd	Whaley	Non-Resident	Not-Specified
Brett	Fahning	Crescent City	Upper
Gerry	Hemmingsen	Crescent City	Upper
Ricardo	de Solenni	Crescent City	Lower
Mark	Horner	Crescent City	Lower
Mike	Zamboni	Trinidad	Not-Specified
Mike	Cunningham	Eureka	Upper
David	Helliwell	Eureka	Lower
Vince	Doyle	Fort Bragg	Upper
Tony	Cannia	Fort Bragg	Lower
Chris	Lawson	Bodega Bay	Upper
Keith	Gilmore	Bodega Bay	Lower
John	Atkinson Jr	San Francisco	Upper
Larry	Collins	San Francisco	Lower
Geoff	Bettencourt	Half Moon Bay	Upper
Jim	Anderson	Half Moon Bay	Lower
Bill	Blue	South of Half Moon Bay	Not-Specified

Appointed Representatives

First Name	Last Name	Interest Group
Bill	Carvalho	Crab Processing
Mel	Wickliffe	Crab Processing
Marc	Gorelnik	Sport Fishing
Jim	Yarnall	Sport Fishing
Roger	Thomas	Commercial Passenger Fishing Vessel
David	Crabbe	Nongovernmental Organization (non-voting)
Vacant		Nongovernmental Organization (non-voting)
Carrie	Pomeroy	California Sea Grant (non-voting)
Christy	Juhasz	California Department of Fish and Wildlife (non-voting)
Bob	Puccinelli	California Department of Fish and Wildlife (non-voting)



~California Dungeness Crab Task Force~

<http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

Charter

Adopted September 8, 2009

Revised March 12, 2012

Guiding Principles

The Members of the Dungeness crab task force (DCTF) unanimously agree with the following:

1. All Members will attempt to achieve outcomes that serve the best interest of the entire Dungeness crab industry while mitigating negative impacts to his/her respective interests;
2. All Members will maintain an open mind, and consider all perspectives before voting on a DCTF recommendation;
3. All participants of the previous Dungeness Crab Steering Committee serving on the DCTF unanimously recall that the Committee intended for the five (5) Members representing non-governmental organizational interests, Sea Grant and the Department of Fish and Game to be non-voting Members.
4. Current non-voting Members of the DCTF unanimously agree to abstain during voting on DCTF recommendations to the Legislature (as described below).

Section 1. Background

Senate Bill (SB) 1690 (2007 - 2008 Reg. Sess.), sponsored by the office of California State Senator Patricia Wiggins, was designed so that a broad set of stakeholder interests representing major crab ports throughout the state could evaluate current management measures and provide recommendations on future management of the Dungeness crab fishery. The bill was signed into law by Governor Schwarzenegger in September 2008 and designated the development and establishment of a DCTF. The DCTF was reestablished by Senate Bill (SB) 369 (2011 - 2012 Reg. Sess.), which was sponsored by the office of California State Senator Noreen Evans and signed into law by Governor Jerry Brown. The work of the DCTF is expected to be carried out during the course of several public meetings held throughout the state. DCTF meetings will take place between March 2012 and January 2017, with the goal of reviewing the Department of Fish and Game's proposed trap limit program by May 1, 2012 and making recommendations on Dungeness crab management measures by January 15, 2015 and January 15, 2017.

Elected and appointed DCTF Members as required by SB 369 are identified in Table 1.



~California Dungeness Crab Task Force~

<http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

Table 1. Membership of the Dungeness crab task force

Elected Commercial Fishing Members			
Representative	Port	Production level	Vessel
David Bennett	Crescent City	Lower	
Lee Wilson	Crescent City	Lower	F/V Gold Coast
Brett Fahning	Crescent City	Upper	F/V Rogue
Gerry Hemmingsen	Crescent City	Upper	F/V Pollux
Mike Zamboni	Trinidad	Not-specified	F/V Lucky 50
Don Standley	Eureka	Lower	F/V Terry S
Michael Cunningham	Eureka	Upper	F/V Sally K
TBD	Fort Bragg	Lower	
Vince Doyle	Fort Bragg	Upper	F/V Verna Jean
Chuck Cappotto	Bodega Bay	Lower	
Chris Lawson	Bodega Bay	Upper	F/V Seaward
Lawrence Collins	San Francisco	Lower	F/V Autumn Gale
John Atkinson	San Francisco	Upper	F/V New Rayann
Jim Anderson	Half Moon Bay	Lower	F/V Alliane
Geoff Bettencourt	Half Moon Bay	Upper	F/V Moriah Lee
William "Bill" Blue	South of Half Moon Bay	Not-specified	F/V Morning Light
Todd Whaley	Non-resident	Not-specified	

Appointed Members	
Representative	Interest group
Marc Gorelnik	Sport Fishing
Jim Yarnall	Sport Fishing
Bill Carvalho	Crab Processing
Paul Johnson	Crab Processing
Roger Thomas	Commercial Passenger Fishing Vessel – F/V Salty Lady
Rich Young	Non-voting - Non-governmental organization (Crescent City Harbormaster)
David Crabbe	Non-voting - Non-governmental organization
Carrie Pomeroy	Non-voting - Sea Grant
Bob Farrell	Non-voting - Department of Fish and Game
Christy Juhasz	Non-voting - Department of Fish and Game

Section 2. Task Force Purpose, Deliverables, Timeline, and Process

Task Force Purpose

According to SB 369, the DCTF shall, among other things, do the following:

1. Review and evaluate Dungeness crab management measures described in Fish and Game Code section 8276.5 with the objective of making initial recommendations to the Joint Committee on Fisheries and Aquaculture, the Department of Fish and Game (DFG), and the Fish and Game Commission no later than January 15, 2015, and final recommendations no later than January 15, 2017.
2. Make recommendations on the need for a permanent Dungeness crab advisory committee, the economic impact of the program described in Section 8276.5 on permitholders of different tiers and the economies of different ports, the cost of the program to the department, including enforcement costs, the viability of a buyout program for



~California Dungeness Crab Task Force~

<http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

the permit holders described in subparagraph (G) of paragraph (1) of subdivision (a) of Section 8276.5, refining sport and commercial Dungeness crab management, and the need for statutory changes to accomplish task force objectives by January 15, 2015.³ In considering Dungeness crab management options, prioritize the review of pot limit restriction options, harvest allocation, current and future sport and commercial fishery effort, season modifications, essential fishery information needs, and short- and long- term objectives for improved management.

4. Establish subcommittees of specific user groups from the task force Membership, if needed, to focus on issues specific to sport fishing, commercial harvest, or crab processing. The subcommittees shall report his/her recommendations, if any, to the task force.

5. Forward recommendations to the Joint Committee on Fisheries and Aquaculture, the department, and the commission upon an affirmative vote of at least two-thirds of the task force Members (DCTF voting procedures are discussed below).

6. Review and make recommendations to the legislature on a proposed Dungeness crab trap limit program for all California permits to be submitted to the DCTF by the Director of the Department of Fish and Game. The DCTF shall make recommendations within 60 days of receipt of the proposed program. Only recommendations that have a consensus vote of at least 15 voting members shall be transmitted to the Director and the Legislature. Transmitted recommendations that have less than the required 15 votes will be regarded as a lack of consensus in the crab industry.

Meeting Task Force Deliverables

The Administrative Team will coordinate with OPC, and directly engage the DCTF in a phased approach to meet the aforementioned legislatively mandated deliverables. Following the last meetings in 2014 and 2016, reports will be drafted by the Administrative Team. Drafts of these reports are expected to be distributed to DCTF Members for review and comment in late December 2014 and December 2016. Final reports will be written and forwarded to regulators and the legislature by January 15, 2015 and January 15, 2017. This timeline is subject to change.

Legal compliance

All work of the DCTF will be in compliance with the Bagley-Keene Open Meeting Act of 2004. The Administrative Team, participating state agencies, and DCTF Members are expected to maintain familiarity and compliance with all aspects of the act as it applies to the work of the DCTF.

Section 3. DCTF Organization, and Roles and Responsibilities

SB 369 required the composition of the DCTF to include 27 Members representing the following interests: seventeen (17) elected Members representing commercial fishing interests; two (2) Members representing sport fishing interests; two (2) Members representing crab processing interests; one (1) Member representing commercial passenger fishing vessel (CPFVs) interests; two (2) Members representing nongovernmental organization (NGO) interests; one (1) representative of Sea Grant; and two (2) representatives of the DFG. (See Table 1. Membership of the Dungeness crab task force)



~California Dungeness Crab Task Force~

<http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

- 3.1.1. DCTF Members- Collectively, Members of the DCTF will provide recommendations on Dungeness crab management issues and topics including, but not necessarily limited to, those listed in SB 369, as well as the content of the final report. Members have responsibilities to:
 - 3.1.1.1 Identify, assess, and review: meeting topics, DCTF informational needs, and sources of information that are relevant and appropriate to DCTF discussions and recommendations, and draft and final DCTF deliverables;
- 3.1.2 Be fully engaged in DCTF activities;
- 3.1.3 Arrive at each meeting prepared to discuss agenda items. This includes reviewing materials and information distributed in advance of the meeting;
- 3.1.4 Represent the perspectives and interests of his/her respective constituencies and or organizations. Be available to his/her constituencies and/or organizational colleagues between DCTF meetings. Keep his/her organizations and/or constituents informed about the DCTF process, discussions, and recommendations through various means of networking and interaction, as appropriate;
- 3.1.5 Negotiate with other DCTF Members to evaluate and decide among various alternatives;
- 3.1.6 Serve on topic or geographic-specific Workgroups (as allowed by the legislation – See below for further description);
- 3.1.7 Work in partnership with an Alternate Member (Alternate) (see below for further description) including but not limited to providing regular updates of DCTF activities, including Alternates in discussions and consideration of pending DCTF recommendations and decisions, ensuring that the Alternate is prepared to represent the perspective of the organization and/or constituency at a DCTF meeting or Workgroup Meeting; and
- 3.1.8 Attend each meeting (as feasible) and notify the Administrative Team as soon as possible if they can not attend.

In the event that an elected commercial fisherman Member must step down, or chooses to step down from DCTF, that Member's service will be provided by an Alternate (see Section 3.2). The Alternate will fulfill all the elected Member's responsibilities, as consistent with the Member's perspective on any voting issues. The Administrative Team will confirm shared perspective between the Alternate and the elected Member and will report and memorialize this during a DCTF decision process.

In the event that an appointed Member must step down, or chooses to step down from DCTF service, that Member must be replaced by his/her Alternate (if one exists).



~California Dungeness Crab Task Force~

<http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

3.2 Alternates

DCTF Members **representing commercial fishing interests** will identify an Alternate due to his/her respective busy schedules, the frequency of DCTF meetings, and the critical importance of ensuring commercial fishing representation at all meetings. Each commercial fishing Member will propose his/her own Alternate. Members will notify the Administrative team in writing once an Alternate has been selected. The Administrative Team will forward a list of selected Alternates to the entire DCTF and OPC. Criteria for the selection of an Alternate will include, but not be limited to the following:

- 3.2.1 Only one Alternate will be selected for each elected Member position;
- 3.2.2 The Alternate is based out of the same port that the primary Member was elected to represent;
- 3.2.3 For commercial fishing representatives, the Alternate is a permit holder and represents the same production tier as the primary Member was elected for;
- 3.2.4 The Alternate demonstrated previous interest or experience in seeking involvement and/or participation with the DCTF;
- 3.2.5 The Alternate demonstrates a willingness to serve on the DCTF and meet the roles and responsibilities of the primary Member, outlined in section 3.1;
- 3.2.6 The Alternate demonstrates a commitment to coordinate with other stakeholders in his/her respective port as outlined in section 3.1; and
- 3.2.7 The Alternate is willing to vote on behalf of the Member.

The role of an Alternate is to attend meetings that his/her respective DCTF Member cannot attend, participate on his/her respective DCTF Member's behalf, work collaboratively with his/her respective Member as well as other DCTF Members to provide recommendations/make decisions/vote on agenda items only, and negotiate on behalf of his/her respective DCTF Member and stakeholders when the Member can not be present. When an Alternate must miss a meeting, they will notify his/her Member, the Administrative Team and OPC staff as soon as possible before a meeting. The DCTF will not spend meeting time to provide background on any agenda items (historical data/information) for an Alternate, since Alternates are expected to be fully educated by his/her respective DCTF Member and/or the Administration Team prior to the meeting they are attending.

The Alternate is willing to vote on behalf of the Member to be fully educated by his/her respective DCTF Member and/or the Administrative Team prior to the meeting they are attending. The Alternate is encouraged to attend as many DCTF meetings as possible, including those attended by his/her DCTF Member, and to visit the DCTF website for meeting summaries and background.

DCTF Members **representing noncommercial fishing interests** (including those representing sport fishing interests, crab processing interests, commercial passenger fishing vessel interests, non-governmental organization interests, Sea Grant, and the DFG) are strongly encouraged to identify Alternates for reasons identical to those listed above for



~California Dungeness Crab Task Force~

<http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

commercial representatives. Non-commercial fishing interest Alternates will fulfill the same roles and responsibilities as listed above in Section 3.2 for commercial Alternates.

3.3 DCTF Workgroups

Workgroups will be created as needed to address specific tasks or issues, and to enable the DCTF to address the management topics mandated in SB 369 in an efficient and time sensitive manner. Workgroups will consist only of Members and their Alternates (as needed and appropriate). In the event that an Alternate and Member are present at the same meeting, their perspective will constitute a "single voice" in discussions. In such events, Alternates will observe rather than participate and will not get an additional voice by virtue of being present. The Administrative Team will provide advice for appropriate Membership and final Memberships will be determined by a Member's and/or Alternate's willingness and availability to volunteer. Workgroup Membership will not be determined by formal DCTF voting procedures. Decisions for Member participation may be influenced by a Member's particular areas of expertise relevant to a given Workgroup topic, and/or Members that express a particular need to have input on a Workgroup's topic. All Workgroup meetings will be in compliance with the Bagley-Keene Open Meeting Act of 2004. In cases where a Workgroup will meet outside of full DCTF meetings (and away from facilitation support), a Workgroup may select a chair to guide his/her process and ensure the group meets roles, responsibilities and deadlines for tasks.

3.4 Caucuses

During DCTF discussions, it may be desirable to convene representatives of similar interests for candid and frank assessments of various proposals. Caucus conversations may occur during or apart from DCTF meetings and may include a member of the Administrative Team. All Caucus meetings will be in compliance with the Bagley-Keene Open Meeting Act of 2004.

Section 4. Decision Making and Voting Procedures

This section describes the decision-making procedures the DCTF will use, including methods mandated by SB 369 and additional consensus methods that may be used to enhance recommendations which might otherwise be limited to majority rule outcomes. As mandated by SB 369, *"Except as otherwise provided in Section 8276.5, a recommendation shall be forwarded to the Joint Committee on Fisheries and Aquaculture, the Department of Fish and Game, and the Fish and Game Commission upon an affirmative vote of at least two-thirds of the task force Members"*. **This means that the DCTF must forward a recommendation if 2/3 or more of the Members support it, or if 15 Members support it (excluding non-voting members).** This does not prohibit the DCTF from also forwarding recommendations with less than a 2/3 majority vote. Therefore, any vote of 15 or more DCTF Members constitutes a mandatory recommendation.

4.1 Decision Types

The DCTF will make two types of decisions:

1. **Administrative Decisions:** administrative decisions are about the daily activities of the DCTF (including but not limited to: logistics, meeting dates and times, agenda revisions, schedules, etc.)



~California Dungeness Crab Task Force~

<http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

2. Fishery Management Recommendations: recommendations about the Dungeness crab fishery management (including but not limited to topics mandated by SB 369 and other topics that the DCTF chooses to address).

The DCTF agrees that all administrative decisions will be made on a simple majority vote of all Members present, including non-voting members, at a given meeting (including full DCTF meetings and DCTF Workgroup meetings). Administrative decisions will not require, and will not include sending recommendations with less than 2/3 majority vote.

The DCTF agrees that all fishery management recommendations about the Dungeness crab fishery will be made using a range of procedures that will include methods mandated by SB 369 and additional consensus methods (described below). It is understood that for all fishery management recommendations, the DFG Members and other non-voting Members will abstain during voting procedures. DFG leadership has determined it is impracticable for DFG to vote on items that they may be expected to enforce at a later date. DFG will be an active participant in discussions and potential straw polls (described below)

4.2 Consensus Discussion/Decision Procedures

The DCTF will seek mutually acceptable and beneficial conclusions whenever possible. In that context, the DCTF consensus process is based on principles of “consensus with accountability”. Consensus with accountability requires all Members to try to reach consensus while at all times supporting and expressing his/her self-interest. In the event a Member must reject a proposal, that Member must provide a counter proposal that legitimately attempts to achieve his/her interest, and the interests of the other Members.

In seeking consensus on an interim or final recommendation, Members will voice his/her opinions with specific proposals along the way, rather than waiting until a final recommendation has been developed. At all times, Members will ensure that they are providing input on a decision commensurate to his/her prescribed role and constituency regarding the Dungeness crab industry. The basic sequential decision process will be as follows:

4.3 Straw Polls

The DCTF will use straw polls to assess the degree of preliminary support for an idea before it is submitted as a formal proposal for final consideration by the DCTF. Members may indicate only tentative approval for a preliminary proposal without fully committing to its support. Straw Polls will potentially include subsequent work by the DCTF to revise the text of a recommendation and to prepare it for a final vote through either consensus or majority rule procedures (see below).

4.4 Draft and Final Decisions

The DCTF will use the following three levels to indicate a Member's degree of approval and support for any proposal or decision being considered and to determine the degree of consensus.



~California Dungeness Crab Task Force~

<http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

- Thumbs Down: I do not agree with the proposal. I feel the need to block its adoption and propose an alternative.
- Thumbs Sideways: I can accept the proposal although I do not necessarily support it.
- Thumbs Up: I think this proposal is the best choice of the options available to us.
- Abstention: At times, a pending decision may be infeasible for a Member to weigh in on. Examples could include but not be limited to: a Member cannot get a consensus of his/her constituents and therefore cannot offer a proposal or opinion; and other similar conditions.

The goal is for all Members to be in the 'Thumbs Up' or Thumbs Sideways' levels of agreement. The DCTF will be considered to have reached consensus if all Members are at those two levels. If any Member is at a 'Thumbs Down' level, that Member must provide a counter proposal that legitimately attempts to achieve his/her interest and the interests of the other Members. The DCTF will stop and evaluate how best to proceed. Members that abstain from particular proposals are encouraged to explain why abstention is in his/her best interest.

In the event of disagreements, the DCTF, in consultation with the Administrative Team, will decide how best to move forward. For example, additional discussion may be needed to help understand unresolved concerns before proceeding further; or the group may benefit from creating additional options; or the question may be set aside and addressed at a later time. Discussions to reach resolution may take place with the full DCTF or the Administrative Team may request smaller groups (such as Workgroups, interest-based Caucuses, or individual Members) to draft proposal language during or between DCTF meetings.

4.5 Majority Rule Decision Procedures

In the event that consensus decision methods are not feasible and/or consensus cannot be achieved, majority decision-making procedures defined in SB 396 (and as interpreted by the DCTF) will supersede all other decision methods.

In the context of agreements and understandings described in the Guiding Principles, the following procedures will be used:

1. For all DCTF recommendations, Straw Polls (as described above) will be used to develop initial ideas and draft text for recommendations;
2. When a draft recommendation is ready for a vote by the DCTF, the recommendation will first be voted on by all Members; non-voting members will abstain;
3. Following the initial vote, and presuming a 2/3rds majority and/or at least 15 voting Members, (as described in #2 above), a non-binding poll will be conducted to determine the opinion of the non-voting member. This will be included in the recommendations provided to the legislature.
4. Outcomes from voting procedures will be memorialized in the project record and in meeting summaries. In a 2/3 majority, or at least 15 voting Members is reached in a vote



~California Dungeness Crab Task Force~

<http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

(excluding non-voting members), that recommendation will be forwarded to the Legislature and other parties as mandated in SB 369.

5. Minimum required attendance for a vote to take place is 15 voting Members (excluding non-voting members). All other majority recommendation rules will apply if 15 or more voting Members are present.

Regarding decision documents prepared by/for the DCTF, all documents will be identified as DRAFT until a final ratification on the particular document has been made by the DCTF. If a decision document receives the necessary 2/3 majority vote or better, it will be formally revised and referred to as a FINAL document.

Section 5. Communication Protocols

5.1 DCTF Member communication

DCTF Members and his/her Alternates serve as conduits for two-way information with his/her constituencies and organizations. Constituents wanting to provide input to the process are encouraged to provide his/her concerns and suggestions to his/her individual Members on the DCTF. Members will make an effort to communicate regularly with his/her constituencies and colleagues to keep them informed about the process and the issues under discussion.

Members are not prohibited from speaking with the media, but must indicate that they are providing his/her individual perspectives and are not speaking for the DCTF. Participants should neither characterize the positions and views of any other Member nor should they ascribe motives or intentions to the statements or actions of other Members.

5.2 Information Publication

Materials will be prepared/provided on a regular basis to support the DCTF process. A DCTF webpage (<http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>) and an email list-serve have been set up to aid in the dissemination of these materials. Materials prepared/provided for the DCTF may include the following materials and general schedules for development and distribution:

5.2.1 A list of DCTF Members has been made available to the public on the DCTF webpage that includes participant name and represented interest(s). Should an interested party have focused comments for a DCTF Member, the individual(s) will be encouraged to work through OPC staff and the Administrative Team to convey the comments to the appropriate DCTF Member(s);

5.2.2 Preliminary draft materials are for discussion purposes and will be made available prior to each meeting;

5.2.3 Meeting agendas will be made available to DCTF Members and the public ten (10) days prior to each meeting; agendas sent to the public will include the name and contact information of DCTF Members for respective ports.

Section 6. Charter Amendments

DCTF Members may amend this Charter by following the same decision-making guidelines set



~California Dungeness Crab Task Force~

<http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

forth in Section 4. Amendments may be proposed by DCTF Members during a DCTF meeting. The proposal will be agendaized for discussion and possible action at the next DCTF meeting.

Section 7. Ground Rules

All DCTF Members, OPC, the Administrative Team, and public participants of a meeting agree (subject to availability) to:

1. Arrive promptly to all meetings and be prepared for the meeting agenda;
2. Stay for the duration of the entire meeting and inform the Administrative Team in advance if this is not possible;
3. Turn cell phones to silent;
4. Minimize actions that could be distracting to discussions. If meeting attendee behavior becomes distracting to DCTF Members, those Members should speak with the Administrative Team to intervene;
5. Participate in a problem-solving approach based on respectful and constructive discussion, where the interests of all participants and the public are considered in developing proposals and recommendations;
6. Listen for understanding and openly discuss issues with others who hold diverse views; acknowledge and seek clarification of others' perspectives; and verify assumptions when necessary.



~California Dungeness Crab Task Force~

<http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

Abridged Summary of California Dungeness Crab Task Force Votes October 16-18, 2017 DCTF Meeting

This document provides a summary of action items and associated votes taken by the California Dungeness Crab Task Force (DCTF) at its October 16-18, 2017 meeting. Any vote marked as “approved” will be forwarded as a recommendation in the DCTF ’s report to the Joint Committee on Fisheries and Aquaculture (Legislature), the Fish and Game Commission (Commission), and Department of Fish and Wildlife (CDFW) no later than January 15, 2018.

The following voting protocol, described in the [DCTF Charter](#), was used to conduct straw polls and final voting:

Thumbs Down: I do not agree with the proposal. I feel the need to block its adoption and propose an alternative.

Thumbs Sideways: I can accept the proposal although I do not necessarily support it.

Thumbs Up: I think this proposal is the best choice of the options available to us.

Abstention: At times, a pending decision may be infeasible for a Member to weigh in on. Examples could include but not be limited to: a Member cannot get a consensus of his/her constituents and therefore cannot offer a proposal or opinion; and other similar conditions.

For additional information about the October 16-18, 2017 meeting, please refer to the meeting summary at: <http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

DCTF Votes

Note: A list of DCTF Members and Alternates present at the meeting is available on Page 9

ACTION: *Consideration and possible adoption of recommendation(s) related to the commercial Dungeness crab trap limit program including, but not limited to, monitoring and evaluation of the commercial Dungeness crab trap limit program, management of the Dungeness Crab Account, issuing of trap tags, etc.*

See below related to the Dungeness Crab Task Force.

ACTION: *Consideration and possible adoption of recommendation(s) related to Fish and Game code sections including, but not limited to, those related to limited entry, crab quality testing, etc.*



~California Dungeness Crab Task Force~

<http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

APPROVED: The DCTF recommends reauthorizing all sunseting code sections without changes except as specified in these DCTF recommendations.

- The sunset date on Fish and Game code sections including, but not limited to 8276.2, 8276.3, 8276.4, 8276.5, 8279.1, 8280.2, 8280.3, 8280.4, 8280.6, and 9002.5, should be extended to 2029.
- Fish and Game Code Sections 8280.1 and 8280.5 should be eliminated as they may no longer be relevant since the limited entry program has been in place for two decades.
- Additional actions related to sunseting code sections taken by the DCTF during its October 2017 meeting are recommended to be updated as outlined in additional votes below.

The DCTF will continue its charge to review Dungeness crab fishery regulations and will continue to recommend modifications to those sections as need arises.

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
19	1	0	0	2

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up (19): Anderson, Atkinson, Beardon, Blue, Bradshaw, Cannia, Caito, Capra, Collins, Cunningham, Doyle, Gilmore, Goucher, Helliwell, Hemmingsen, Lawson, McHenry, Nolte, O'Donnell

Thumbs sideways (1): Powers

Thumbs down (0): None

Abstain (0): None

Absent (2): Vacant Processor, Yarnell

ACTION: *Consideration and possible adoption of recommendation(s) related to clarifying, amending, or eliminating Fish and Game code sections related to permit transfers and vessel lengths including, but not limited to, permit transfers, standardizing and documenting vessel lengths, policies on the lengthening/widening of vessels, etc.*

APPROVED: The DCTF recommends clarifying the definition of “length overall” in Fish and Game Code section 8280.3 to be defined as the horizontal distance between the forward-most and after-most points on the hull and attachments fixed to the stern and bow are not measured.

In an effort to establish consistent records of the measurement of all vessels in the commercial Dungeness crab fleet for CDFW, the DCTF recommends all permit holders submit a recent vessel survey with the standard definition of “length overall” to CDFW by March 31, 2020. In cases where a survey indicates a smaller vessel than is documented on the permit, the previously documented length would be maintained on that permit. Should an individual choose not to submit a survey by March 31, 2020 the original vessel length on file will be assumed to be the “length overall” and all future transfers and sales associated with the permit will be based on that measurement.



~California Dungeness Crab Task Force~

<http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

The DCTF also recommends that a survey by a licensed marine surveyor be required at the time of a permit transfer as well as at the time of a vessel sale. Vessels associated with a permit should continue to only be allowed a one-time increase of a maximum of five feet in length.

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
18	1	0	0	3

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up (18): Anderson, Atkinson, Beardon, Blue, Bradshaw, Caito, Cannia, Capra, Collins, Cunningham, Goucher, Helliwell, Hemmingsen, Lawson, McHenry, Nolte, O'Donnell, Powers

Thumbs sideways (1): Gilmore

Thumbs down (0): None

Abstain (0): None

Absent (3): Doyle, Vacant Processor, Yarnell

ACTION: *Consideration and possible adoption of recommendation(s) to establish a long-term Dungeness crab industry-representative organization, including, but not limited to, the organization's incorporation status, structure, funding, other operational considerations, etc.*

APPROVED: The DCTF recommends extending Fish and Game Code section 8276.4. The DCTF supports the Ocean Protection Council (OPC) administering the DCTF and recommends authorizing the allocation of \$150,000 dollars per year from the Dungeness Crab Account to the OPC to support the administration and facilitation of the DCTF through 2029.

The DCTF recommends the California Department of Fish and Wildlife (CDFW) provide the DCTF with an annual review of the Dungeness crab account.

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
19	0	1	0	2

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up (19): Anderson, Atkinson, Beardon, Blue, Bradshaw, Caito, Capra, Collins, Cunningham, Doyle, Gilmore, Goucher, Helliwell, Hemmingsen, Lawson, McHenry, Nolte, O'Donnell, Powers

Thumbs sideways (0): None

Thumbs down (1): Cannia

Abstain (0): None

Absent (2): Vacant Processor, Yarnell



~California Dungeness Crab Task Force~

<http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

APPROVED: The DCTF recommends amending Fish and Game Code section 8276.4(a)(7) to change the commercial fishing representation as follows:

(7) Seventeen members representing commercial fishery interests, elected by licensed persons possessing valid Dungeness crab permits in their respective ports and production levels, as follows:

- (A) Three members from Crescent City.
- (B) One member from Trinidad.
- (C) Two members from Eureka.
- (D) Two members from Fort Bragg.
- (E) Two members from Bodega Bay.
- (F) Two members from San Francisco.
- (G) Two members from Half Moon Bay.
- (H) Two members from ports south of Half Moon Bay.
- (I) One member who has a valid California nonresident crab permit.

All commercial fishing representation would have voting authority.

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
9	9	2	0	2

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up (9): Beardon, Blue, Caito, Cannia, Gilmore, Goucher, Helliwell, Lawson, O'Donnell,

Thumbs sideways (9): Anderson, Atkinson, Bradshaw, Capra, Collins, Cunningham, Hemmingsen, McHenry, Powers

Thumbs down (2): Doyle, Nolte,

Abstain (0): None

Absent (2): Vacant Processor, Yarnell

APPROVED: The DCTF recommends amending Fish and Game Code section 8276.4(a) to adjust the membership of the DCTF as follows:

- Elections for DCTF Members shall occur in each port every three years to allow for fresh perspectives to serve on the body. DCTF elections shall be staggered/rotating across ports to maintain institutional knowledge. *Details to appoint alternates are included in a subsequent recommendation.*
- For ports with one representative, elected members and their alternates will represent all permitholders in that port regardless of landings history.
- For ports with two representatives, elected members and their alternates will represent both the upper and lower production levels.



~California Dungeness Crab Task Force~

<http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

- For ports with three representatives, two elected members and their alternates will represent both the upper and lower production levels. A third elected member will represent all permit holders in that port regardless of landings history.
- Upper and lower production levels shall be calculated as the average of all permits in a port who landed a minimum of 25,000 pounds of crab during the five years prior to each election.
- Elections will be coordinated by CDFW and/or OPC with support from a contracted DCTF Administrative team.

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
16	2	2	0	2

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up (16): Anderson, Atkinson, Beardon, Blue, Bradshaw, Caito, Capra, Collins, Doyle, Gilmore, Goucher, Helliwell, Hemmingsen, McHenry, Nolte, O'Donnell

Thumbs sideways (2): Lawson, Powers

Thumbs down (2): Cannia, Cunningham

Abstain (0): None

Absent (2): Vacant Processor, Yarnell

APPROVED: The DCTF recommends amending Fish and Game Code section 8276.4 to clarify how DCTF member alternates and replacements are identified as follows:

- A DCTF member will choose their alternate in the event they are unable to attend a DCTF meeting.
- In the event that a DCTF member is unable to fulfill his/her duty on the DCTF for a full three-year term, a replacement will be selected by the DCTF member until a new election can be held.

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
20	0	0	0	2

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up (20): Anderson, Atkinson, Beardon, Blue, Bradshaw, Caito, Cannia, Capra, Collins, Cunningham, Doyle, Gilmore, Goucher, Helliwell, Hemmingsen, Lawson, McHenry, Nolte, O'Donnell, Powers

Thumbs sideways (0): None

Thumbs down (0): None

Abstain (0): None

Absent (2): Vacant Processor, Yarnell



~California Dungeness Crab Task Force~

<http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

APPROVED: The DCTF recommends amending Fish and Game Code section 8276.4(b) to adjust the structure of the DCTF as follows:

- (1) Two members representing sport fishing interests: one voting and one non-voting.
- (2) Two members representing crab processing interests with voting authority.
- (3) One member representing commercial passenger fishing vessel interests with voting authority.
- (4) Two nonvoting members representing non-governmental organization interests.
- (5) One nonvoting representative of Sea Grant.
- (6) Two nonvoting members representing the California Department of Fish and Wildlife.

Members representing sport fishing interests, crab processing interests, commercial passenger fishing vessel interests, and nongovernmental organization interest will be appointed by the OPC chair following a public solicitation for nominations. CDFW and Sea Grant will select their own representatives.

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
16	4	0	0	2

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up (16): Atkinson, Beardon, Blue, Bradshaw, Caito, Cannia, Capra, Collins, Cunningham, Doyle, Goucher, Hemmingsen, Lawson, Nolte, O'Donnell, Powers

Thumbs sideways (4): Anderson, Gilmore, Helliwell, McHenry

Thumbs down (0): None

Abstain (0): None

Absent (2): Vacant Processor, Yarnell

ACTION: *Consideration and possible adoption of recommendation(s) related to clarifying and amending Fish and Game code sections related to 30-day fair start clauses, presoak periods, openers following a public health delay, etc.*

APPROVED: Following a delay for health and safety issues such as domoic acid, and once an area is deemed "safe" by the California Department of Public Health and the Office of Environmental Health Hazard Assessment, the DCTF supports opening each area as it is deemed safe. The DCTF recommends amending Fish and Game code section 8279.1 so that 30-day fair start provisions are applied to any type of health/safety delay for any size area (e.g. if the fishery is opened in areas smaller than a district, each area would be subject to the fair start provisions) for all management areas.



~California Dungeness Crab Task Force~

<http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

DCTF recommends the Director gives three days' notice that a preset will begin unless the preset will land on a state or federal holiday, December 24, Thanksgiving eve, or New Year's Eve. In these cases, the preset will begin the day after the holiday.

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
13	3	2	1	3

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up (13): Anderson, Atkinson, Beardon, Bradshaw, Caito, Cannia, Capra, Collins, Goucher, Helliwell, Hemmingsen, Lawson, McHenry

Thumbs sideways (3): Blue, Cunningham, O'Donnell

Thumbs down (2): Doyle, Nolte

Abstain (1): Powers

Absent (3): Gilmore, Vacant Processor, Yarnell

NOT APPROVED: The DCTF recommends amending Fish and Game code section 8283 to change the Central Management Area's presoak period from 18 hours to 64 hours. The DCTF recommends amending Fish and Game code section 8283 to change the Northern Management Area presoak period from 64 hours to 72 hours to be consistent with OR/WA.

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
10	3	4	3	2

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up (10): Atkinson, Beardon, Blue, Bradshaw, Cannia, Collins, Cunningham, Gilmore, Helliwell, Lawson

Thumbs sideways (3): Anderson, Caito, Goucher

Thumbs down (4): Doyle, McHenry, Nolte, O'Donnell

Abstain (3): Capra, Hemmingsen, Powers

Absent (2): Vacant Processor, Yarnell

ACTION: *Consideration and possible adoption of recommendation(s) to provide guidance to CDFW and others to inform the development of the California Dungeness crab lost fishing gear recovery program.*

APPROVED: The DCTF looks forward to working with CDFW to implement the lost fishing gear recovery program outlined in Fish and Game code 9002.5 and would like to recommend the following adjustment to help reduce CDFW costs: require that when permits are renewed permit holders are informed that CDFW will share their contact, license, and permit information with a 3rd party entity that will be supporting local retrieval efforts. The 3rd party entity will maintain the confidentiality of the information and use it to locate the owner of recovered gear.



~California Dungeness Crab Task Force~

<http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

If this recommendation is not lawful, the DCTF recommends CDFW enter into confidentiality agreement with the 3rd party entity that will be supporting local retrieval efforts to share contact information of permitholders to assist in efforts to locate owners of the recovered gear.

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
18	2	0	0	2

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up (18): Anderson, Atkinson, Beardon, Blue, Bradshaw, Caito, Cannia, Capra, Collins, Cunningham, Doyle, Gilmore, Goucher, Hemmingsen, Lawson, McHenry, Nolte, O'Donnell

Thumbs sideways (2): Helliwell, Powers

Thumbs down (0): None

Abstain (0): None

Absent (2): Vacant Processor, Yarnell

ACTION: *Consideration and possible support for the Dungeness Crab Fishing Gear Working Group's efforts to-date and 2017-18 Working Group recommendations/next steps. Guidance on ideas for the Working Group's consideration and other items may also be provided.*

APPROVED: The DCTF supports the California Dungeness Crab Fishing Gear Working Group's efforts to address the issue of whale entanglements in Dungeness crab fishing gear including the piloting of a draft Risk Assessment and Mitigation Program (RAMP) and the recommendation that all fixed fishing gear establish standardized marking at the surface.

Fishing ports are committed to supporting Working Group representatives to continue their participation on the body. The DCTF supports the Working Group continuing its efforts and looks forward to learning more as those efforts progress.

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
18	1	1	0	2

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up (18): Anderson, Beardon, Blue, Bradshaw, Caito, Capra, Collins, Cunningham, Doyle, Gilmore, Goucher, Helliwell, Hemmingsen, Lawson, McHenry, Nolte, O'Donnell, Powers

Thumbs sideways (1): Atkinson

Thumbs down (1): Cannia

Abstain (0): None

Absent (2): Vacant Processor, Yarnell



~California Dungeness Crab Task Force~

<http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

DCTF Members and Alternates Present — October 16-18, 2017

Jim Anderson, Half Moon Bay, Low Tier
John Atkinson, Jr., San Francisco, High Tier
John Beardon, Alternate for Mark Horner, Crescent City, Low Tier
Bill Blue, Half Moon Bay South
George Bradshaw, Alternate for Ricardo De Solenni, Crescent City, Low Tier
Joe Caito, Alternate for Bill Carvalho, Crab Processor
Tony Cannia, Fort Bragg, Low Tier
Mark Capra, Alternate for Marc Gorelnik, Sport Fishing
Larry Collins, San Francisco, Low Tier
Mike Cunningham, Eureka, High Tier
Vince Doyle, Fort Bragg, High Tier
Keith Gilmore, Alternate for Ron Blodgett, Fort Bragg, Low Tier
Craig Goucher, Alternate for Mike Zamboni, Trinidad
David Helliwell, Eureka, Low Tier
Gerry Hemmingsen, Crescent City, High Tier
Christy Juhasz, CA Dept. of Fish & Wildlife
Chris Lawson, Bodega Bay, High Tier
Porter McHenry, Alternate for Geoff Bettencourt, Half Moon Bay, High Tier
Brian Nolte, Alternate for Todd Whaley, Nonresident
Matthew O'Donnell, Alternate for Brett Fahning, Crescent City, High Tier
Carrie Pomeroy, CA Sea Grant
Rick Powers, Alternate for Roger Thomas, Commercial Passenger Fishing Vessel
Cpt. Bob Puccinelli, CA Dept. of Fish & Wildlife

DCTF Members and Alternates Absent

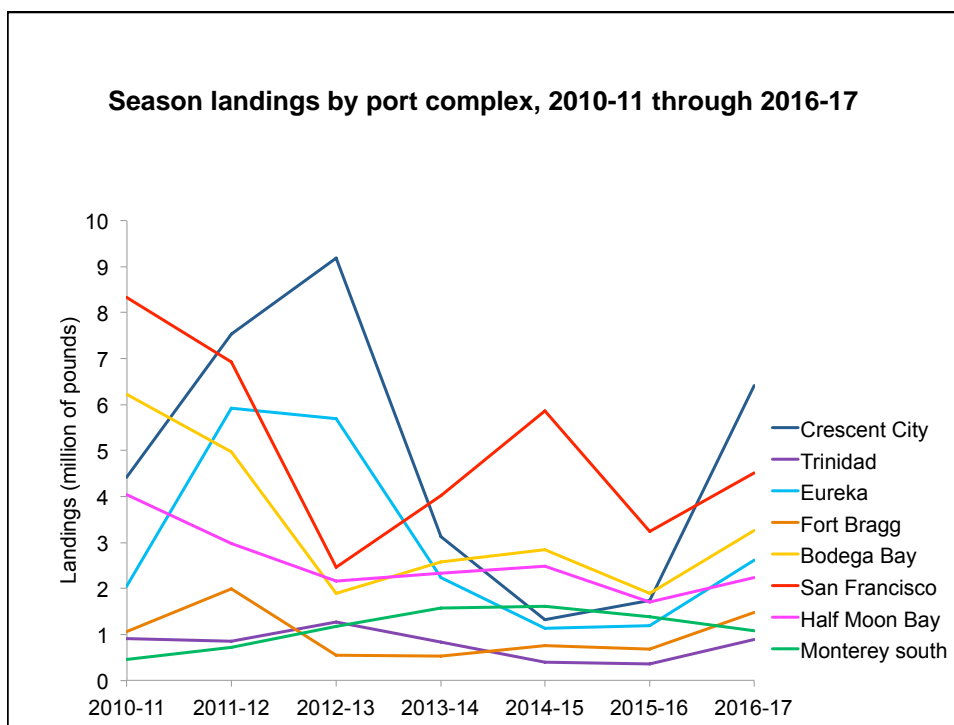
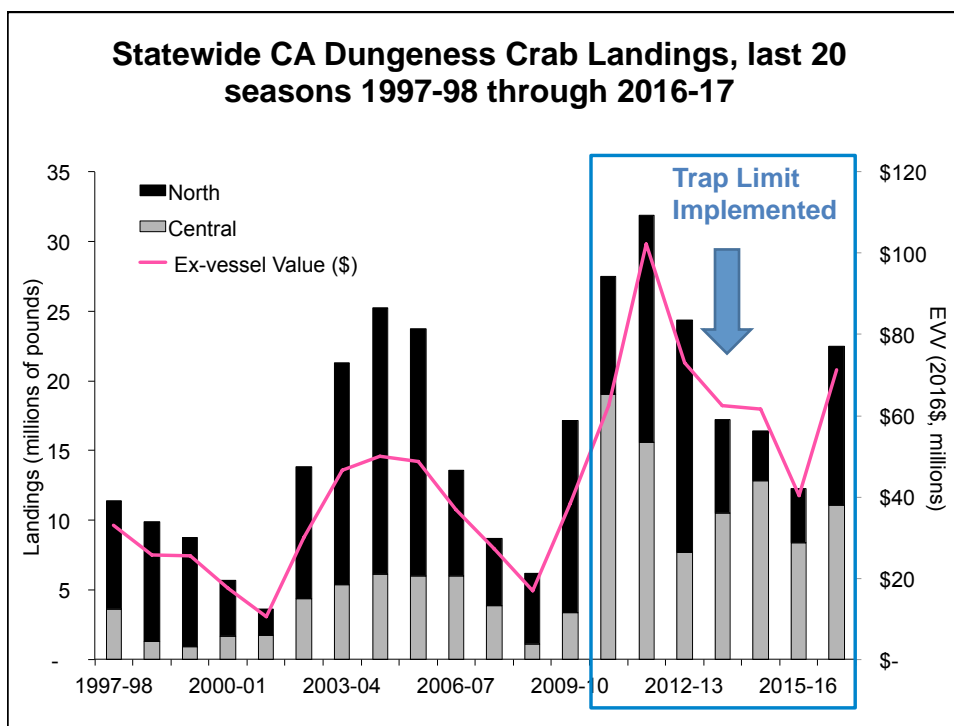
David Crabbe, Nongovernmental Organization
Jim Yarnall, Sport Fishing
Vacant Seat, Crab Processor
Vacant Seat, Nongovernmental Organization



CA Dungeness Crab Commercial Fishery Updates

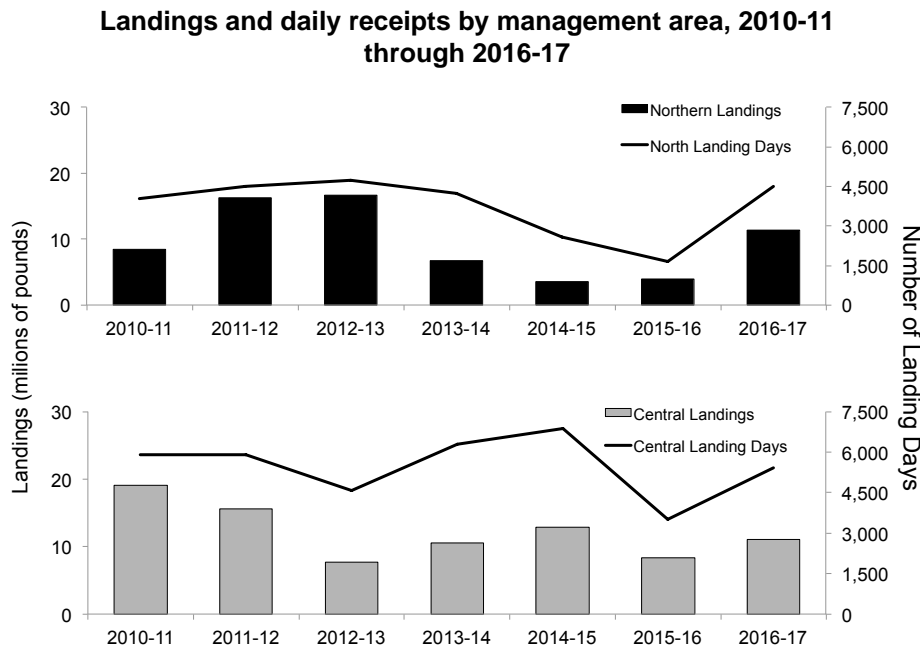
- 2016-17 Season update
- Trap limit evaluation continued, (w/some slides provided as supplemental info.)
- Domoic acid delays:
 - Shorter seasons, later start dates & areas that don't open on traditional lines
 - Concentration of fishing activity occurs later* & potentially in smaller areas

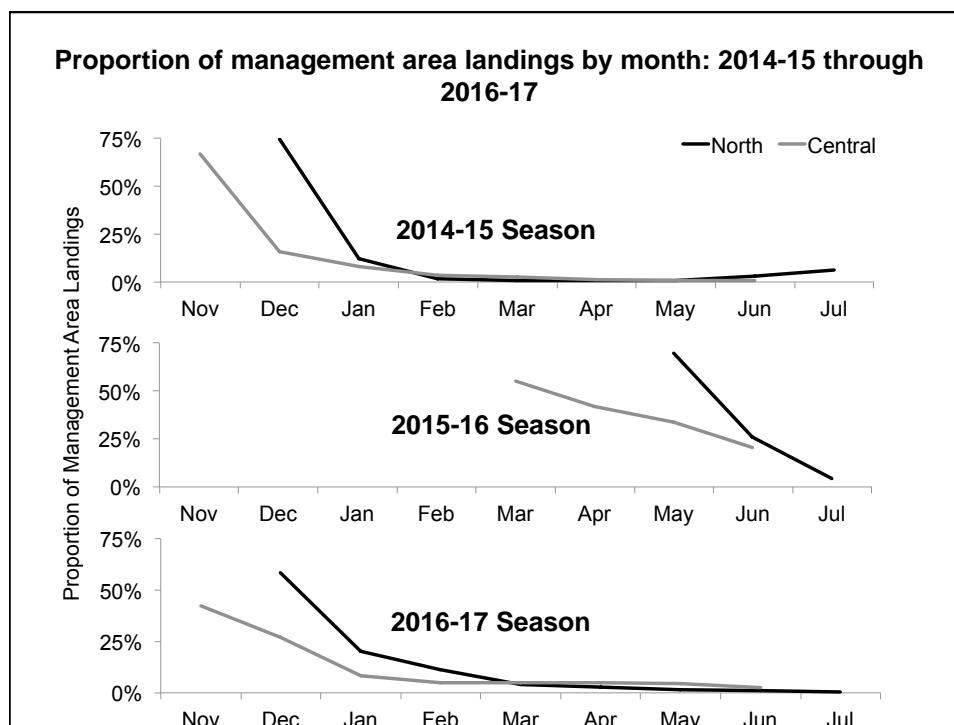
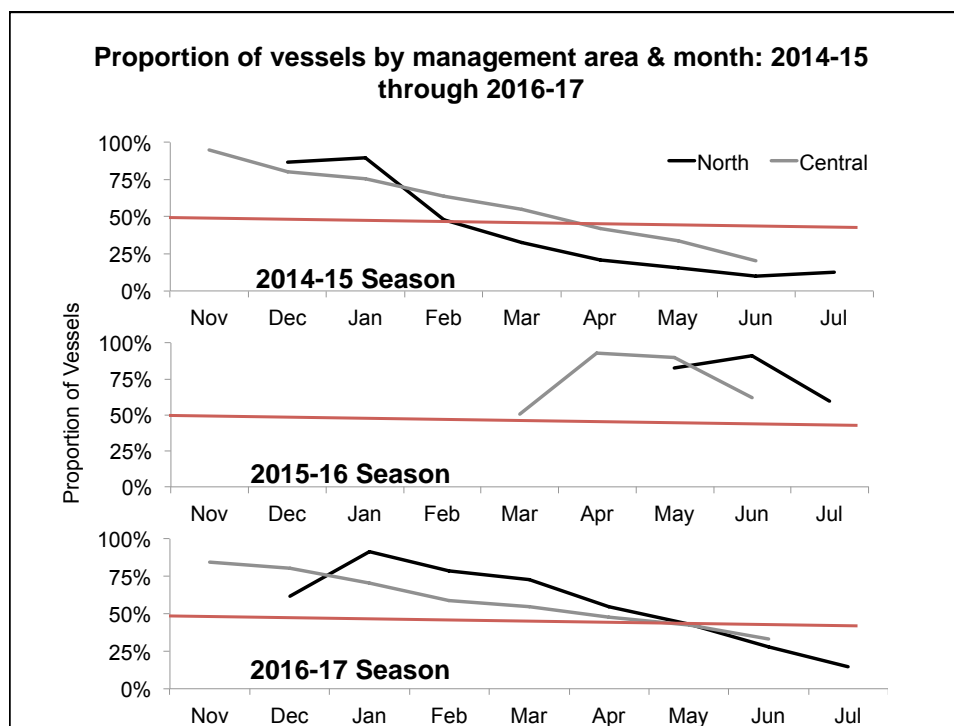
*Delays due to preseason quality testing occur until Jan 15



Landings & permit activity, 2010-11 through 2016-17

Season	Pounds Landed (millions)	Total Permits	Total Active Permits	Percent Active
Pre-Implementation				
2010-11	27.5	576	412	71.5%
2011-12	31.9	570	435	76.3%
2012-13	24.4	570	447	78.4%
Post-Implementation				
2013-14	17.2	568	453	79.8%
2014-15	16.4	563	461	81.9%
2015-16	12.3	561	407	72.5%
2016-17	22.4	558	467	83.7%





Trap Limit Evaluation Summary Presentation from October 2016 meeting:

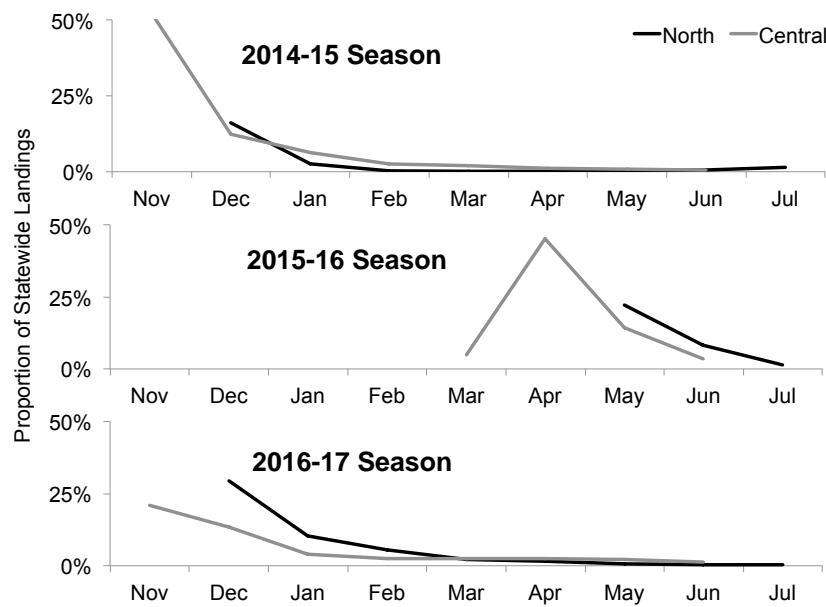
Google:

“DCTF Evaluation Presentation 2016”

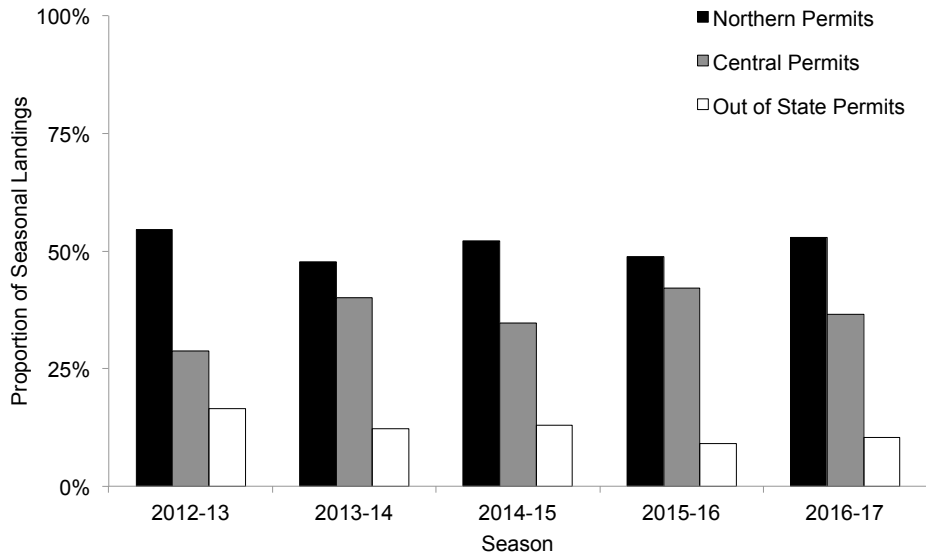
URL:

[http://www.opc.ca.gov/webmaster/ftp/
project_pages/dctf/meeting-6/dctfp-eval-
presentation-updated.pdf](http://www.opc.ca.gov/webmaster/ftp/project_pages/dctf/meeting-6/dctfp-eval-presentation-updated.pdf)

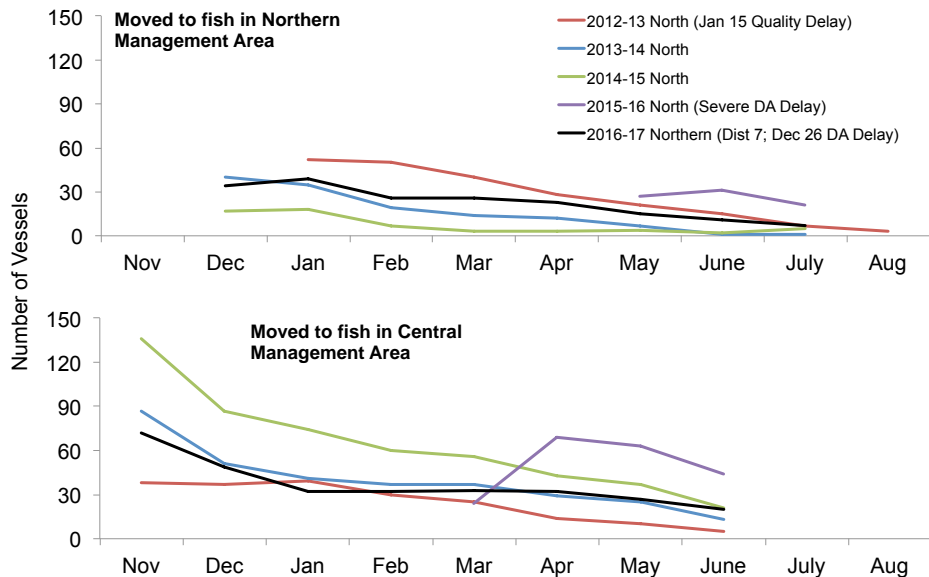
Proportion of statewide landings by month: 2014-15 through 2016-17



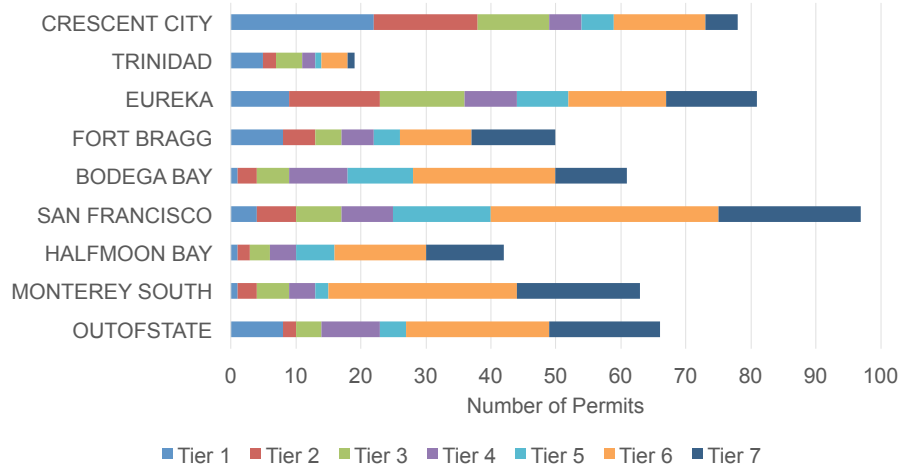
Supplemental: Proportion of landings made by permits from each home port area, 2012-13 through 2016-17



Supplemental: Vessels that fished outside homeport management area, 2012-13 through 2016-17



Number of Permits by Port & Tier



Supplemental: Trap Limit Program – In-Season Replacement Tags Purchased

Season	# of Permits Requesting	Total In-season Replacement Tags	% traps fished	% Fleet	10% Tags	5-10 % Tags	<5% Tags
2013-14	64	1,633	1%	11%	43	7	14
2014-15	44	1,424	<1%	8%	17	21	6
2015-16	24	850	<1%	4%	20	4	0
2016-17	50	1,586	1%	9%	37	9	4

**Supplemental: 2016-17 Season:
Tier/Permit Activity**

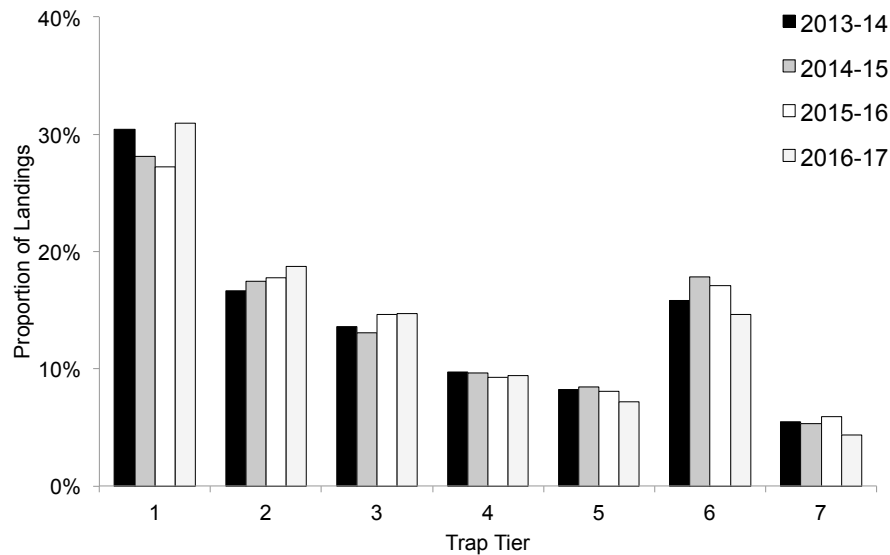
- **558 total permits**
- **467 permits made at least one landing**
- **84% active**

Tier Number	Total Permits	Permits Active
1	59	55
2	54	53
3	57	50
4	54	45
5	55	51
6	166	146
7	113	67

Supplemental: Total Potential Traps

Tier Number	Total Permits	Permits Active 2016-17 Season
1	59	55
2	54	53
3	57	50
4	54	45
5	55	51
6	166	146
7	113	67
Total Potential Traps	173,325	150,625

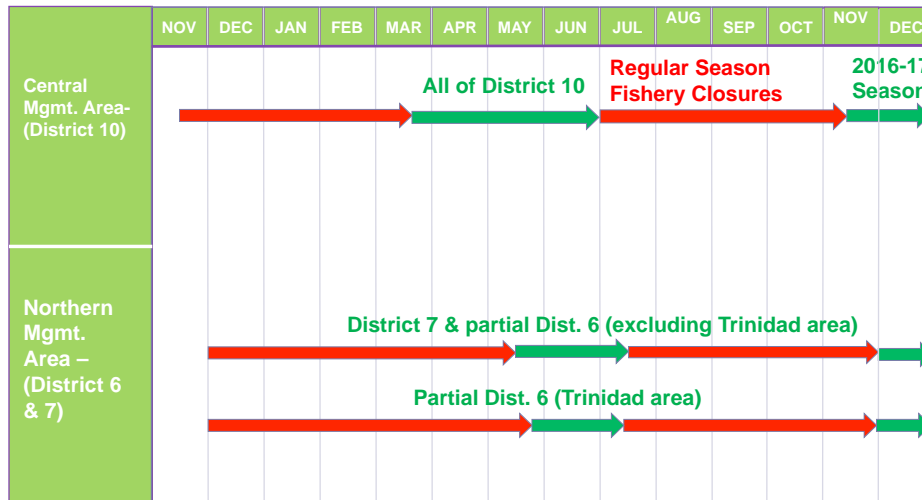
Supplemental: Proportion of landings by tier, 2013-14 through 2016-17



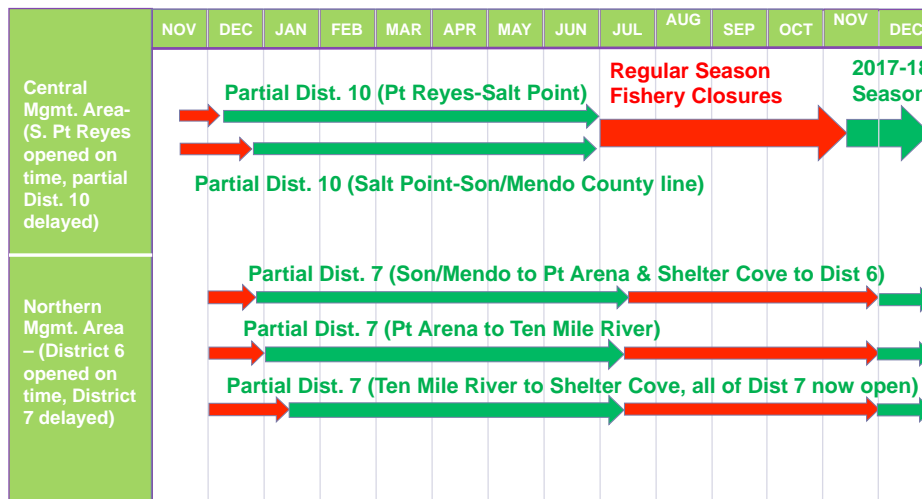
Supplemental: Season Opener Dates, 2015-16 & 2016-17 Seasons

2015-16 Season Area	Open Date	2016-17 Season Area	Open Date	2016-17 Season Area	Open Date
Central Delay: S of Sonoma County, (all of Dist. 10)	3/26/16	Central: S of Pt Reyes, (partial Dist. 10)	11/15/16	North Delay: N of Shelter Cove to Dist. 6, (partial Dist. 7)	12/26/16
North Delay: Mendocino & Del Norte counties (partial Dist. 6 & 7)	5/12/16	North: Dist. 6 only	12/1/16	North Delay: N of Pt Arena to Ten Mile River, (partial Dist. 7)	12/29/16
North Delay: Humboldt County excluding Trinidad (partial Dist. 6, all of Dist. 7)	5/12/16	Central Delay: N of Pt. Reyes to Salt Pt. (partial Dist. 10)	12/3/16	North Delay: N of Ten Mile River to Shelter Cove (all Dist. 7 open)	1/16/17
North Delay: Trinidad area (all of Dist. 6)	5/26/16	Central Delay: N of Salt Pt. to Sonoma / Mendocino County line (all Dist. 10 open)	12/24/16		
		Central Delay: N of Sonoma / Mendocino County line to Pt Arena (partial Dist. 7)	12/26/16		

Timeline of commercial Dungeness crab 2015-16 season domoic acid delays



Timeline of commercial Dungeness crab 2016-17 season domoic acid delays



[Home](#)[Bill Information](#)[California Law](#)[Publications](#)[Other Resources](#)[My Subscriptions](#)[My Favorites](#)

SB-1287 Fishing. (2015-2016)

SHARE THIS:



Senate Bill No. 1287

CHAPTER 542

An act to amend Sections 5654, 8276.5, 8279.1, and 9002.5 of, and to amend and renumber Section 7715 of, the Fish and Game Code, and to amend Section 131052 of the Health and Safety Code, relating to fishing.

[Approved by Governor September 23, 2016. Filed with Secretary of State September 23, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1287, McGuire. Fishing.

(1) Existing law authorizes the Director of Fish and Wildlife to order the closure of any waters or otherwise restrict the taking under a commercial fishing license in state waters of any species of fish if the Director of Environmental Health Hazard Assessment, in consultation with the State Public Health Officer, determines that the species or subspecies of fish is likely to pose a human health risk from high levels of toxic substances. The closure or restriction is required to be adopted by emergency regulation, as specified. Under existing law, any violation of the Fish and Game Code, or of any rule, regulation, or order made or adopted under the code, is generally a misdemeanor.

This bill would expand this authority to all fishing. The bill would require the Director of Fish and Wildlife, after ordering the closure of any waters or restricting the taking of any species of fish, to notify the Fish and Game Commission and request that the commission schedule a public discussion of the closure or restriction at its next scheduled full meeting. The bill would remove the requirement that the closure or restriction be adopted by emergency regulation and would instead exempt a closure or restriction from the Administrative Procedure Act. By expanding the scope of a crime, this bill would impose a state-mandated local program.

(2) Existing law regulates the Dungeness crab fishery and requires the Director of Fish and Wildlife to adopt a program for Dungeness crab trap limits for all California permits. The program requires participants to pay a \$5 crab trap tag fee and a \$1,000 crab trap limit fee on a biennial basis, as provided, and requires a Dungeness crab trap that is fished to contain a trap tag that is fastened to the main buoy, and an additional tag attached to the trap. Existing law makes the program inoperative on April 1, 2019.

This bill would require the department to issue a waiver from the biennial crab trap tag fee to a participant who is unable to fish due to mandatory military service, as provided. The bill would authorize a vessel to transit state waters with Dungeness crab traps that are not marked in the above-described manner if the traps contain either valid Oregon or Washington tags, no crab is onboard the vessel, and the traps are not deployed in state waters.

(3) Existing law prohibits a person from using any vessel to take Dungeness crab for commercial purposes without a Dungeness crab vessel permit. Existing law prohibits a person from taking Dungeness crab for commercial purposes from a vessel in specified ocean waters for 30 days after the opening of the Dungeness

crab fishing season if the opening of the season has been delayed in those waters and that person has taken, possessed, or landed Dungeness crab in other specified waters prior to that opening. Existing law requires the Fish and Game Commission to revoke the Dungeness crab vessel permit of any person who violates these provisions. Existing law makes these provisions inoperative on April 1, 2019.

This bill would limit the 30-day start prohibition to a situation in which a person uses the same vessel that was used to take Dungeness crab in specified waters before the delayed opening of the season in the areas subject to the prohibition.

(4) Existing law regulating commercial fishing traps makes it unlawful, except as specified, to willfully or recklessly disturb, move, or damage any trap that belongs to another person and that is marked with a buoy identification number. Existing law, until April 1, 2019, authorizes the department, in consultation with the Dungeness crab task force, to develop regulations as necessary to provide for the retrieval of lost or abandoned commercial crab traps.

This bill would require the department, as part of the above-described regulations, to establish a retrieval permit program that would grant a person who obtains a retrieval permit the authority to retrieve during the closed season of the Dungeness crab commercial fishery lost or abandoned Dungeness crab traps belonging to another person and to receive compensation for that retrieval on a per trap basis. The bill would require the department to establish a fee to be charged to a Dungeness crab vessel permit holder for each trap belonging to the permit holder that is retrieved through the program. The bill would prohibit the department from renewing a Dungeness crab vessel permit until any fee imposed pursuant to the program has been paid.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(6) This bill would incorporate additional changes in Section 131052 of the Health and Safety Code, proposed by SB 1473, to be operative only if SB 1473 and this bill are chaptered and become effective on or before January 1, 2017, and this bill is chaptered last.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) The Dungeness crab task force supports the Department of Fish and Wildlife issuing citations for abandoning traps in the ocean and for fishing during the closed season of the Dungeness crab commercial fishery in addition to charging fees for the retrieval of Dungeness crab traps pursuant to the program established by this act.

(2) The commercial Dungeness crab fishing industry does not tolerate strings of gear left in the ocean after the season closes. The program established by this act will provide an incentive to retrieve traps from the ocean.

(3) Establishing this program will help reduce the risk of whale entanglements in commercial Dungeness crab fishing gear.

(4) The program established pursuant to this act should be efficient and cost effective, and should utilize entities in addition to the Department of Fish and Wildlife, including nongovernmental organizations, to help implement the program.

(b) This act shall be known and may be cited as the Whale Protection and Crab Gear Retrieval Act.

SEC. 2. Section 5654 of the Fish and Game Code is amended to read:

5654. (a) (1) Notwithstanding Section 5523 and except as provided in paragraph (2), the director, within 24 hours of notification of a spill or discharge, as those terms are defined in Section 8670.3 of the Government Code, where any fishing, including all commercial, recreational, and nonlicensed subsistence fishing, may take place, or where aquaculture operations are taking place, shall close to the take of all fish and shellfish all waters in the vicinity of the spill or discharge or where the spilled or discharged material has spread, or is likely to spread. In determining where a spill or discharge is likely to spread, the director shall consult with the Administrator of the Office of Spill Prevention and Response. At the time of closure, the department shall make

all reasonable efforts to notify the public of the closure, including notification to commercial and recreational fishing organizations, and posting of warnings on public piers and other locations where subsistence fishing is known to occur. The department shall coordinate, when possible, with local and regional agencies and organizations to expedite public notification.

(2) Closure pursuant to paragraph (1) is not required if, within 24 hours of notification of a spill or discharge, the Office of Environmental Health Hazard Assessment finds that a public health threat does not or is unlikely to exist.

(b) Within 48 hours of notification of a spill or discharge subject to subdivision (a), the director, in consultation with the Office of Environmental Health Hazard Assessment, shall make an assessment and determine all of the following:

(1) The danger posed to the public from fishing in the area where the spill or discharge occurred or spread, and the danger of consuming fish taken in the area where the spill or discharge occurred or spread.

(2) Whether the areas closed for the take of fish or shellfish should be expanded to prevent any potential take or consumption of any fish or shellfish that may have been contaminated by the spill or discharge.

(3) The likely period for maintaining a closure on the take of fish and shellfish in order to prevent any possible contaminated fish or shellfish from being taken or consumed or other threats to human health.

(c) Within 48 hours after receiving notification of a spill or discharge subject to subdivision (a), or as soon as is feasible, the director, in consultation with the Office of Environmental Health Hazard Assessment, shall assess and determine the potential danger from consuming fish that have been contained in a recirculating seawater tank onboard a vessel that may become contaminated by the vessel's movement through an area where the spill or discharge occurred or spread.

(d) If the director finds in his or her assessment pursuant to subdivision (b) that there is no significant risk to the public or to the fisheries, the director may immediately reopen the closed area and waive the testing requirements of subdivisions (e) and (f).

(e) Except under the conditions specified in subdivision (d), after complying with subdivisions (a) and (b), the director, in consultation with the Office of Environmental Health Hazard Assessment, but in no event more than seven days from the notification of the spill or discharge, shall order expedited tests of fish and shellfish that would have been open for take for commercial, recreational, or subsistence purposes in the closed area if not for the closure, to determine the levels of contamination, if any, and whether the fish or shellfish is safe for human consumption.

(f) (1) Within 24 hours of receiving a notification from the Office of Environmental Health Hazard Assessment that no threat to human health exists from the spill or discharge or that no contaminant from the spill or discharge is present that could contaminate fish or shellfish, the director shall reopen the areas closed pursuant to this section. The director may maintain a closure in any remaining portion of the closed area where the Office of Environmental Health Hazard Assessment finds contamination from the spill or discharge persists that may adversely affect human health.

(2) The director, in consultation with the commission, may also maintain a closure in any remaining portion of the closed area where commercial fishing or aquaculture occurs and where the department determines, pursuant to this paragraph, that contamination from the spill or discharge persists that may cause the waste of commercial fish or shellfish as regulated by Section 7701.

(g) To the extent feasible, the director shall consult with representatives of commercial and recreational fishing associations and subsistence fishing communities regarding the extent and duration of a closure, testing protocols, and findings. If a spill or discharge occurs within the lands governed by a Native American tribe or affects waters flowing through tribal lands, or tribal fisheries, the director shall consult with the affected tribal governments.

(h) The director shall seek full reimbursement from the responsible party or parties for the spill or discharge for all reasonable costs incurred by the department in carrying out this section, including, but not limited to, all testing.

SEC. 3. Section 7715 of the Fish and Game Code is amended and renumbered to read:

5523. (a) (1) If the Director of Environmental Health Hazard Assessment, in consultation with the State Public Health Officer, determines, based on thorough and adequate scientific evidence, that any species or subspecies of fish is likely to pose a human health risk from high levels of toxic substances, the Director of Fish and Wildlife may order the closure of any waters or otherwise restrict the taking in state waters of that species.

(2) After the Director of Fish and Wildlife orders the closure of any waters or restricts the taking of any species of fish pursuant to paragraph (1), he or she shall notify the commission and request that the commission schedule a public discussion of the closure or restriction at its next scheduled full commission meeting.

(b) (1) When the Director of Environmental Health Hazard Assessment, in consultation with the State Public Health Officer, determines that a health risk no longer exists, the Director of Environmental Health Hazard Assessment shall notify the Director of Fish and Wildlife and shall request that any waters closed pursuant to subdivision (a) be reopened for fishing and any restrictions imposed pursuant to subdivision (a) be lifted.

(2) Upon receiving the notification and request pursuant to paragraph (1), the Director of Fish and Wildlife shall open any waters closed pursuant to subdivision (a) and lift any restrictions imposed pursuant to subdivision (a) in a manner that promotes a fair and orderly fishery.

(c) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to actions taken pursuant to this section.

SEC. 4. Section 8276.5 of the Fish and Game Code is amended to read:

8276.5. (a) In consultation with the Dungeness crab task force, or its appointed representatives, the director shall adopt a program, by March 31, 2013, for Dungeness crab trap limits for all California permits. Unless the director finds that there is consensus in the Dungeness crab industry that modifications to the following requirements are more desirable, with evidence of consensus, including, but not limited to, the record of the Dungeness crab task force, the program shall include all of the following requirements:

(1) The program shall contain seven tiers of Dungeness crab trap limits based on California landings receipts under California permits between November 15, 2003, and July 15, 2008, as follows:

(A) The 55 California permits with the highest California landings shall receive a maximum allocation of 500 trap tags.

(B) The 55 California permits with the next highest California landings to those in subparagraph (A) shall receive a maximum allocation of 450 trap tags.

(C) The 55 California permits with the next highest California landings to those in subparagraph (B) shall receive a maximum allocation of 400 trap tags.

(D) The 55 California permits with the next highest California landings to those in subparagraph (C) shall receive a maximum allocation of 350 trap tags.

(E) The 55 California permits with the next highest California landings to those in subparagraph (D) shall receive a maximum allocation of 300 trap tags.

(F) The remaining California permits with the next highest California landings to those in subparagraph (E), which are not described in paragraph (1) or (2) of subdivision (g) of Section 8276.4, shall receive a maximum allocation of 250 trap tags.

(G) The California permits described in paragraphs (1) and (2) of subdivision (g) of Section 8276.4 shall receive a maximum allocation of 175 tags. The tags in this tier shall not be transferable for the first two years of the program.

(2) Notwithstanding paragraph (1), the director shall not remove a permit holder from a tier described in paragraph (1), if, after an allocation is made pursuant to paragraph (1), an appeal pursuant to paragraph (8) places a permit holder in a tier different than the original allocation.

(3) Participants in the program shall meet all of the following requirements:

(A) Unless a participant receives a waiver pursuant to paragraph (4), pay a biennial fee for each trap tag issued pursuant to this section to pay the pro rata share of costs of the program, including, but not limited to, informing permit holders of the program, collecting fees, acquiring and sending trap tags to permit holders, paying for a

portion of enforcement costs, and monitoring the results of the program. The fee shall not exceed five dollars (\$5) per trap, per two-year period. All of the trap tags allocated to each permit pursuant to subdivision (a) shall be purchased by the permitholder or the permit shall be void.

(B) Purchase a biennial crab trap limit permit of not more than one thousand dollars (\$1,000) per two-year period to pay for the department's reasonable regulatory costs.

(C) Not lease a crab trap tag, and transfer a tag only as part of a transaction to purchase a California permitted crab vessel.

(D) A Dungeness crab trap that is fished shall contain a trap tag that is fastened to the main buoy, and an additional tag provided by the permitholder attached to the trap. The department shall mandate the information that is required to appear on both buoy and trap tags.

(4) The department shall issue a participant a waiver from the biennial fee for each trap tag described in subparagraph (A) of paragraph (3) if the participant is unable to fish due to mandatory military service and the participant submits a request for a waiver to the department at the same time that the participant renews the permit issued pursuant to subparagraph (B) of paragraph (3). A participant who receives a waiver pursuant to this paragraph shall not apply to the department to fish for Dungeness crab during the first year of the waiver, but may apply to fish for Dungeness crab during the second year of the waiver if the participant pays the full cost of the biennial fee for each trap tag. The department shall not limit the number of times a participant may request a waiver.

(5) Notwithstanding subparagraph (D) of paragraph (3), a vessel may transit state waters with Dungeness crab traps that are not tagged pursuant to subparagraph (D) of paragraph (3) if the traps contain either a valid Oregon or Washington trap tag, no crab species are onboard the vessel, and the traps are not deployed in state waters.

(6) The department shall annually provide an accounting of all costs associated with the crab trap limit program. The department shall use excess funds collected to reduce the cost of the crab trap limit permit fee or tag fee in subsequent years of the program.

(7) Permitholders may replace lost tags by application to the department and payment of a fee not to exceed the reasonable costs incurred by the department. The department may waive or reduce a fee in the case of catastrophic loss of tags.

(8) (A) Any Dungeness crab permitholder may submit to the director an appeal of a trap tag allocation received pursuant to this section, by March 31, 2014, on a permit-by-permit basis for the purpose of revising upward or downward any trap tag allocation. Any appeal to revise upward a trap tag allocation shall be based on evidence that a permit's California landings during the period between November 15, 2003, and July 15, 2008, inclusive, were reduced as a result of unusual circumstances and that these circumstances constitute an unfair hardship, taking into account the overall California landings history as indicated by landing receipts associated with the permit. The director shall initiate the appeal process within 12 months of receiving an appeal request. The appeal shall be heard and decided by an administrative law judge of the Office of Administrative Hearings, whose decision shall constitute the final administrative decision. Except as provided in subparagraph (B), any Dungeness crab permitholder requesting an appeal to revise upward the permitholder's trap tag allocation shall pay all expenses, including a nonrefundable filing fee, as determined by the department, to pay for the department's reasonable costs associated with the appeal process described in this paragraph.

(B) Any Dungeness crab permitholder requesting an appeal may apply to the administrative law judge for a waiver of the appeal fees. In making the determination, the administrative law judge may only consider medical hardship or military service occurring during the tier qualifying window period of November 15, 2003, through July 15, 2008.

(C) An appeal to revise downward a trap tag allocation shall be decided by the department.

(b) (1) In addition to criminal penalties authorized by law, a violation of the requirements of the program created pursuant to this section shall be subject to the following civil penalties:

(A) Conviction of a first offense shall result in a fine of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000) per illegal trap or fraudulent tag.

(B) Conviction of a second offense shall result in a fine of not less than five hundred dollars (\$500) and not more than two thousand five hundred dollars (\$2,500) per illegal trap or fraudulent tag, and the permit may be

suspended for one year.

(C) Conviction of a third offense shall result in a fine of not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) per illegal trap or fraudulent tag, and the permit may be permanently revoked.

(2) The severity of a penalty within the ranges described in this subdivision shall be based on a determination whether the violation was willful or negligent and other factors.

(3) The portion of monetary judgments for noncompliance that are paid to the department shall be deposited in the Dungeness Crab Account created pursuant to subdivision (e).

(c) For the purposes of this section, a proposed recommendation that receives an affirmative vote of at least 15 of the non-ex officio members of the Dungeness crab task force may be transmitted to the director or the Legislature as a recommendation, shall be considered to be the consensus of the task force, and shall be considered to be evidence of consensus in the Dungeness crab industry. Any proposed recommendation that does not receive a vote sufficient to authorize transmittal to the director or Legislature as a recommendation shall be evidence of a lack of consensus by the Dungeness crab task force, and shall be considered to be evidence of a lack of consensus in the crab industry.

(d) (1) The director shall submit a proposed program pursuant to this section to the Dungeness crab task force for review, and shall not implement the program until the task force has had 60 days or more to review the proposed program and recommend any proposed changes. The director may implement the program earlier than 60 days after it is submitted to the Dungeness crab task force for review, if recommended by the task force.

(2) After the program is implemented pursuant to paragraph (1), the director may modify the program, if consistent with the requirements of this section, after consultation with the Dungeness crab task force or its representatives and after the task force has had 60 days or more to review the proposed modifications and recommend any proposed changes. The director may implement the modifications earlier than 60 days after it is sent to the Dungeness crab task force for review, if recommended by the task force.

(e) The Dungeness Crab Account is hereby established in the Fish and Game Preservation Fund and the fees collected pursuant to this section shall be deposited in that account. The money in the account shall be used by the department, upon appropriation by the Legislature, for administering and enforcing the program.

(f) For purposes of meeting the necessary expenses of initial organization and operation of the program until fees may be collected, or other funding sources may be received, the department may borrow money as needed for these expenses from the council. The borrowed money shall be repaid within one year from the fees collected or other funding sources received. The council shall give high priority to providing funds or services to the department, in addition to loans, to assist in the development of the program, including, but not limited to, the costs of convening the Dungeness crab task force, environmental review, and the department's costs of attending meetings with task force members.

(g) (1) It is the intent of the Legislature that the department, the council, and the Dungeness crab task force work with the Pacific States Marine Fisheries Commission and the Tri-state Dungeness Crab Commission to resolve any issues pertaining to moving the fair start line south to the border of California and Mexico.

(2) For the purposes of this subdivision, the resolution of issues pertaining to the fair start line shall be limited to assessing the positive and negative implications of including District 10 in the tri-state agreement, including working with the Tri-state Dungeness Crab Commission to amend Oregon and Washington laws to include District 10 in the regular season fair start clause, and discussion of providing different rules for District 10 with regard to preseason quality testing.

(h) For purposes of this section, "council" means the Ocean Protection Council established pursuant to Section 35600 of the Public Resources Code.

(i) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 8279.1 of the Fish and Game Code is amended to read:

8279.1. (a) A person shall not take, possess onboard, or land Dungeness crab for commercial purposes from a vessel in ocean waters in District 6, 7, 8, or 9 for 30 days after the opening of the Dungeness crab fishing season in California, if both of the following events have occurred:

(1) The opening of the season has been delayed pursuant to state law in California.

(2) The same vessel was used to take, possess onboard, or land Dungeness crab for commercial purposes, from ocean waters outside of District 6, 7, 8, or 9, prior to the opening of the season in those districts.

(b) A person shall not take, possess onboard, or land Dungeness crab for commercial purposes from a vessel in ocean waters south of the border between Oregon and California for 30 days after the opening of the Dungeness crab fishing season in California, if both of the following events have occurred:

(1) The opening of the season has been delayed pursuant to state law in California.

(2) The same vessel was used to take, possess onboard, or land Dungeness crab for commercial purposes in Oregon or Washington prior to the opening of the season in California.

(c) A person shall not take, possess onboard, or land Dungeness crab for commercial purposes from a vessel in ocean waters north of the border between Oregon and California for 30 days after the opening of the Dungeness crab fishing season in Oregon or Washington, if both of the following events have occurred:

(1) The opening of the season has been delayed in Oregon or Washington.

(2) The same vessel was used to take, possess onboard, or land Dungeness crab for commercial purposes in California prior to the opening of the season in ocean waters off Oregon or Washington.

(d) A person shall not take, possess onboard, or land Dungeness crab for commercial purposes from a vessel in ocean waters off Washington, Oregon, or California for 30 days after the opening of the Dungeness crab fishing season in California, Oregon, or Washington, if both of the following events have occurred:

(1) The opening of the season has been delayed in Washington, Oregon, or California.

(2) The same vessel was used to take, possess onboard, or land Dungeness crab for commercial purposes in either of the two other states prior to the delayed opening in the ocean waters off any one of the three states.

(e) A violation of this section does not constitute a misdemeanor. Pursuant to Section 7857, the commission shall revoke the Dungeness crab vessel permit that was issued for use on the vessel that was used in violation of this section.

(f) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 6. Section 9002.5 of the Fish and Game Code is amended to read:

9002.5. (a) Notwithstanding Section 9002, the department, in consultation with the Dungeness crab task force, shall develop regulations as necessary to provide for the retrieval of lost or abandoned commercial crab traps.

(b) (1) As part of the regulations adopted pursuant to subdivision (a), the department shall establish a retrieval permit program that facilitates the removal of lost or abandoned crab gear in an efficient and cost-effective manner consistent with all of the following:

(A) The department shall establish a retrieval permit that grants a person who obtains a retrieval permit the authority to retrieve during the closed season of the Dungeness crab commercial fishery lost or abandoned Dungeness crab traps belonging to another person and to receive compensation for that retrieval on a per trap basis from the revenue generated by the fee established pursuant to subparagraph (B).

(B) The department shall establish a fee to be charged to a Dungeness crab vessel permitholder for each trap belonging to the permitholder that is retrieved through the program. The department shall set the fee at a level sufficient to cover the reasonable regulatory costs associated with the program and to provide reasonable compensation to a retrieval permitholder on a per trap basis. The reasonable regulatory costs associated with the program include, but are not limited to, administrative costs, storage costs, and costs associated with disposing unusable traps or traps whose owner cannot be identified.

(C) The department may use entities in addition to the department, including, but not limited to, nongovernmental organizations, to help implement the program.

(D) A Dungeness crab trap shall not be returned to the owner of the trap until the owner has paid the fee established pursuant to subparagraph (B).

(E) The department shall not renew a Dungeness crab vessel permit until any fee imposed pursuant to subparagraph (B) has been paid.

(2) The department may adopt additional requirements necessary to implement the program described in this subdivision.

(3) The department shall submit the proposed program developed pursuant to this subdivision to the Dungeness crab task force for review, and shall not implement the program until the task force has had 60 days or more to review the proposed program and recommend any proposed changes. The director may implement the program earlier than 60 days after it is submitted to the Dungeness crab task force for review, if recommended by the task force.

(c) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 131052 of the Health and Safety Code is amended to read:

131052. In implementing the transfer of jurisdiction pursuant to this article, the State Department of Public Health succeeds to and is vested with all the statutory duties, powers, purposes, responsibilities, and jurisdiction of the former State Department of Health Services as they relate to public health as provided for or referred to in all of the following provisions of law:

(1) Sections 550, 555, 650, 680, 1241, 1658, 2221.1, 2248.5, 2249, 2259, 2259.5, 2541.3, 2585, 2728, 3527, 4017, 4027, 4037, 4191, 19059.5, 19120, 22950, 22973.2, and 22974.8 of the Business and Professions Code.

(2) Sections 56.17, 1812.508, and 1812.543 of the Civil Code.

(3) Sections 8286, 8803, 17613, 32064, 32065, 32066, 32241, 49030, 49405, 49414, 49423.5, 49452.6, 49460, 49464, 49565, 49565.8, 49531.1, 56836.165, and 76403 of the Education Code.

(4) Sections 405, 6021, 6026, 18963, 30852, 41302, and 78486 of the Food and Agricultural Code.

(5) Sections 307, 355, 422, 7572, 7574, 8706, 8817, and 8909 of the Family Code.

(6) Sections 217.6, 1507, 1786, 4011, 5523, 5671, 5674, 5700, 5701, 5701.5, and 15700 of the Fish and Game Code.

(7) Sections 855, 51010, and 551017.1 of the Government Code. For purposes of subdivision (s) of Section 6254 of the Government Code, the term "State Department of Health Services" is hereby deemed to refer to the State Department of Public Health.

(8) (A) Sections 475, 1180.6, 1418.1, 1422.1, 1428.2, 1457, 1505, 1507.1, 1507.5, 1570.7, 1599.2, 1599.60, 1599.75, 1599.87, 2002, 2804, 11362.7, 11776, 11839.21, 11839.23, 11839.24, 11839.25, 11839.26, 11839.27, 11839.28, 11839.29, 11839.30, 11839.31, 11839.32, 11839.33, 11839.34, 17920.10, 17961, 18897.2, 24185, 24186, 24187, 24275, 26101, 26122, 26134, 26155, 26200, and 26203.

(B) Chapters 1, 2, 2.05, 2.3, 2.35, 2.4, 3.3, 3.9, 3.93, 3.95, 4, 4.1, 4.5, 5, 6, 6.5, 8, 8.3, 8.5, 8.6, 9, and 11 of Division 2.

(C) Articles 2 and 4 of Chapter 2, Chapter 3, and Chapter 4 of Part 1, Part 2 and Part 3 of Division 101.

(D) Division 102, including Sections 102230 and 102231.

(E) Division 103, including Sections 104145, 104181, 104182, 104182.5, 104187, 104191, 104192, 104193, 104316, 104317, 104318, 104319, 104320, 104321, 104324.2, 104324.25, 104350, 105191, 105251, 105255, 105280, 105340, and 105430.

(F) Division 104, including Sections 106615, 106675, 106770, 108115, 108855, 109282, 109910, 109915, 112155, 112500, 112650, 113355, 114460, 114475, 114650, 114710, 114850, 114855, 114985, 115061, 115261, 115340, 115736, 115880, 115885, 115915, 116064, 116183, 116270, 116365.5, 116366, 116375, 116610, 116751, 116760.20, 116825, 117100, 117924, and 119300.

(G) Division 105, including Sections 120262, 120381, 120395, 120440, 120480, 120956, 120966, 121155, 121285, 121340, 121349.1, 121480, 122410, and 122420.

(H) Part 1, Part 2 excluding Articles 5, 5.5, 6, and 6.5 of Chapter 3, Part 3 and Part 5 excluding Articles 1 and 2 of Chapter 2, Part 7, and Part 8 of Division 106.

(9) Sections 799.03, 10123.35, 10123.5, 10123.55, 10123.10, 10123.184, and 11520 of the Insurance Code.

(10) Sections 50.8, 142.3, 144.5, 144.7, 147.2, 4600.6, 6307.1, 6359, 6712, 9009, and 9022 of the Labor Code.

(11) Sections 4018.1, 5008.1, 7501, 7502, 7510, 7511, 7515, 7518, 7530, 7550, 7553, 7575, 7576, 11010, 11174.34, and 13990 of the Penal Code.

(12) Section 4806 of the Probate Code.

(13) Sections 15027, 25912, 28004, 30950, 41781.1, 42830, 43210, 43308, 44103, and 71081 of the Public Resources Code.

(14) Section 10405 of the Public Contract Code.

(15) Sections 883, 1507, and 7718 of the Public Utilities Code.

(16) Sections 18833, 18838, 18845.2, 18846.2, 18847.2, 18863, 30461.6, 43010.1, and 43011.1 of the Revenue and Taxation Code.

(17) Section 11020 of the Unemployment Insurance Code.

(18) Sections 22511.55, 23158, 27366, and 33000 of the Vehicle Code.

(19) Sections 5326.9, 5328, 5328.15, 14132, 16902, and 16909, and Division 24 of the Welfare and Institutions Code. Payment for services provided under the Family Planning, Access, Care, and Treatment (Family PACT) Waiver Program pursuant to subdivision (aa) of Section 14132 and Division 24 shall be made through the State Department of Health Care Services. The State Department of Public Health and the State Department of Health Care Services may enter into an interagency agreement for the administration of those payments. This paragraph, to the extent that it applies to the Family PACT Waiver Program, shall become inoperative on June 30, 2012.

(20) Sections 13176, 13177.5, 13178, 13193, 13390, 13392, 13392.5, 13393.5, 13395.5, 13396.7, 13521, 13522, 13523, 13528, 13529, 13529.2, 13550, 13552.4, 13552.8, 13553, 13553.1, 13554, 13554.2, 13816, 13819, 13820, 13823, 13824, 13825, 13827, 13830, 13834, 13835, 13836, 13837, 13858, 13861, 13862, 13864, 13868, 13868.1, 13868.3, 13868.5, 13882, 13885, 13886, 13887, 13891, 13892, 13895.1, 13895.6, 13895.9, 13896, 13896.3, 13896.4, 13896.5, 13897, 13897.4, 13897.5, 13897.6, 13898, 14011, 14012, 14015, 14016, 14017, 14019, 14022, 14025, 14026, 14027, and 14029 of the Water Code.

SEC. 7.5. Section 131052 of the Health and Safety Code is amended to read:

131052. In implementing the transfer of jurisdiction pursuant to this article, the State Department of Public Health succeeds to and is vested with all the statutory duties, powers, purposes, responsibilities, and jurisdiction of the former State Department of Health Services as they relate to public health as provided for or referred to in all of the following provisions of law:

(1) Sections 550, 555, 650, 680, 1241, 1658, 2221.1, 2248.5, 2249, 2259, 2259.5, 2541.3, 2585, 2728, 3527, 4017, 4027, 4037, 4191, 19059.5, 19120, 22950, 22973.2, and 22974.8 of the Business and Professions Code.

(2) Sections 56.17, 1812.508, and 1812.543 of the Civil Code.

(3) Sections 8286, 8803, 17613, 32064, 32065, 32066, 32241, 49030, 49405, 49414, 49423.5, 49452.6, 49460, 49464, 49565, 49565.8, 49531.1, 56836.165, and 76403 of the Education Code.

- (4) Sections 405, 6021, 6026, 18963, 30852, 41302, and 78486 of the Food and Agricultural Code.
- (5) Sections 307, 355, 422, 7572, 7574, 8706, 8817, and 8909 of the Family Code.
- (6) Sections 1786, 4011, 5523, 5671, 5674, 5700, 5701, 5701.5, 7115, and 15700 of the Fish and Game Code.
- (7) Sections 855, 51010, and 551017.1 of the Government Code. For purposes of subdivision (s) of Section 6254 of the Government Code, the term "State Department of Health Services" is hereby deemed to refer to the State Department of Public Health.
- (8) (A) Sections 475, 1180.6, 1418.1, 1422.1, 1428.2, 1457, 1505, 1507.1, 1507.5, 1570.7, 1599.2, 1599.60, 1599.75, 1599.87, 2002, 2804, 11362.7, 11776, 11839.21, 11839.23, 11839.24, 11839.25, 11839.26, 11839.27, 11839.28, 11839.29, 11839.30, 11839.31, 11839.32, 11839.33, 11839.34, 17920.10, 17961, 18897.2, 24185, 24186, 24187, 24275, 26101, 26122, 26134, 26155, 26200, and 26203.
- (B) Chapters 1, 2, 2.05, 2.3, 2.35, 2.4, 3.3, 3.9, 3.93, 3.95, 4, 4.1, 4.5, 5, 6, 6.5, 8, 8.3, 8.5, 8.6, 9, and 11 of Division 2.
- (C) Articles 2 and 4 of Chapter 2, Chapter 3, and Chapter 4 of Part 1, Part 2 and Part 3 of Division 101.
- (D) Division 102, including Sections 102230 and 102231.
- (E) Division 103, including Sections 104145, 104181, 104182, 104182.5, 104187, 104191, 104192, 104193, 104316, 104317, 104318, 104319, 104320, 104321, 104324.2, 104324.25, 104350, 105191, 105251, 105255, 105280, 105340, and 105430.
- (F) Division 104, including Sections 106615, 106675, 106770, 108115, 108855, 109282, 109910, 109915, 112155, 112500, 112650, 113355, 114460, 114475, 114650, 114710, 114850, 114855, 114985, 115061, 115261, 115340, 115736, 115880, 115885, 115915, 116064, 116183, 116270, 116365.5, 116366, 116375, 116610, 116751, 116760.20, 116825, 117100, 117924, and 119300.
- (G) Division 105, including Sections 120262, 120381, 120395, 120440, 120480, 120956, 120966, 121155, 121285, 121340, 121349.1, 121480, 122410, and 122420.
- (H) Part 1, Part 2 excluding Articles 5, 5.5, 6, and 6.5 of Chapter 3, Part 3 and Part 5 excluding Articles 1 and 2 of Chapter 2, Part 7, and Part 8 of Division 106.
- (9) Sections 799.03, 10123.35, 10123.5, 10123.55, 10123.10, 10123.184, and 11520 of the Insurance Code.
- (10) Sections 50.8, 142.3, 144.5, 144.7, 147.2, 4600.6, 6307.1, 6359, 6712, 9009, and 9022 of the Labor Code.
- (11) Sections 4018.1, 5008.1, 7501, 7502, 7510, 7511, 7515, 7518, 7530, 7550, 7553, 7575, 7576, 11010, 11174.34, and 13990 of the Penal Code.
- (12) Section 4806 of the Probate Code.
- (13) Sections 15027, 25912, 28004, 30950, 41781.1, 42830, 43210, 43308, 44103, and 71081 of the Public Resources Code.
- (14) Section 10405 of the Public Contract Code.
- (15) Sections 883, 1507, and 7718 of the Public Utilities Code.
- (16) Sections 18833, 18838, 18845.2, 18846.2, 18847.2, 18863, 30461.6, 43010.1, and 43011.1 of the Revenue and Taxation Code.
- (17) Section 11020 of the Unemployment Insurance Code.
- (18) Sections 22511.55, 23158, 27366, and 33000 of the Vehicle Code.
- (19) Sections 5326.9, 5328, 5328.15, 14132, 16902, and 16909, and Division 24 of the Welfare and Institutions Code. Payment for services provided under the Family Planning, Access, Care, and Treatment (Family PACT) Waiver Program pursuant to subdivision (aa) of Section 14132 and Division 24 shall be made through the State Department of Health Care Services. The State Department of Public Health and the State Department of Health Care Services may enter into an interagency agreement for the administration of those payments. This

paragraph, to the extent that it applies to the Family PACT Waiver Program, shall become inoperative on June 30, 2012.

(20) Sections 13176, 13177.5, 13178, 13193, 13390, 13392, 13392.5, 13393.5, 13395.5, 13396.7, 13521, 13522, 13523, 13528, 13529, 13529.2, 13550, 13552.4, 13552.8, 13553, 13553.1, 13554, 13554.2, 13816, 13819, 13820, 13823, 13824, 13825, 13827, 13830, 13834, 13835, 13836, 13837, 13858, 13861, 13862, 13864, 13868, 13868.1, 13868.3, 13868.5, 13882, 13885, 13886, 13887, 13891, 13892, 13895.1, 13895.6, 13895.9, 13896, 13896.3, 13896.4, 13896.5, 13897, 13897.4, 13897.5, 13897.6, 13898, 14011, 14012, 14015, 14016, 14017, 14019, 14022, 14025, 14026, 14027, and 14029 of the Water Code.

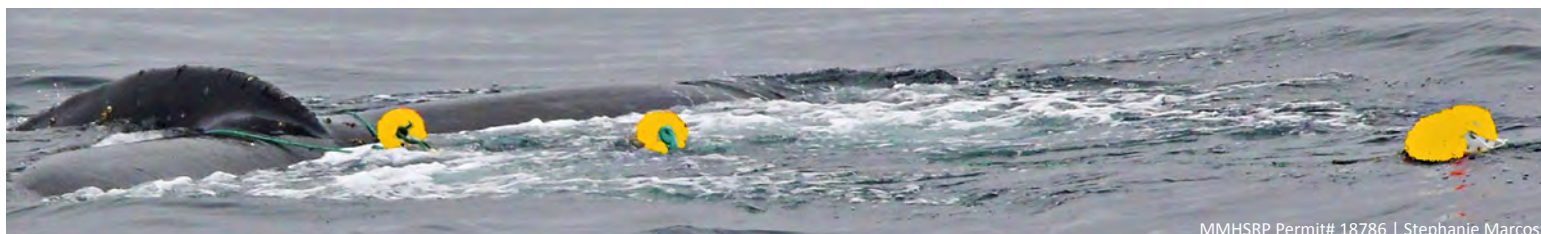
SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 9. Section 7.5 of this bill incorporates amendments to Section 131052 of the Health and Safety Code proposed by both this bill and Senate Bill 1473. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 131052 of the Health and Safety Code, and (3) this bill is enacted after Senate Bill 1473, in which case Section 7 of this bill shall not become operative.

2017-18 Best Practices Guide to Minimize Whale Entanglement Risk

Support for Best Practices

National Marine Fisheries Service (NMFS) has confirmed significant increases in large whale entanglements over the last few years, and specifically in California Dungeness crab fishing gear. This situation threatens the stability of the fishery and coastal fishing communities. In response, a Working Group has developed this Best Practices Guide to highlight voluntary actions believed to be an important step towards reducing whale entanglements.



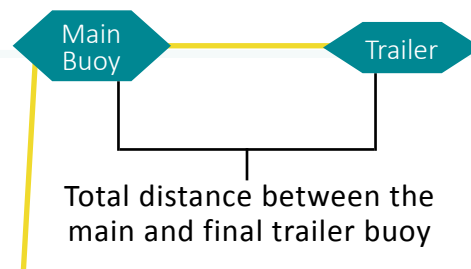
MMHSRP Permit# 18786 | Stephanie Marcos

BEST PRACTICES

- **No excess lines should be floating at the surface.** Floating line should only be between the main buoy and trailer.
- **When changing set location across depths, adjust the length of trap lines** by adjusting shots (i.e., measured length of line) to maintain taut vertical lines.
- **Avoid setting gear in the vicinity of whales** whenever possible.
- **Maintain gear to ensure lines and buoys are in good working condition** and will not break under natural conditions causing gear to become lost or irretrievable. Lost gear contributes to marine debris and increases risk of whale entanglements.
- **All gear should be clearly marked** consistent with applicable regulation. All gear should be maintained so markings are clearly legible to facilitate correct identification of the origins of the gear involved in entanglements.
- **Use the minimum amount of scope** required to compensate for tides, currents and weather. Whales are more likely to become entangled with slack lines, which can potentially create a “floating snare”.
- **Remove all fishing gear by the end of the season** when gear is no longer allowed in the water.

BUOY SET-UP BEST PRACTICES

SURFACE



RECREATIONAL

shortest as possible,
max of 2 fathoms (12ft)
at any depth

COMMERCIAL

Inside 30 fathoms

shortest as possible,
max of 3 fathoms (18ft)

30-50 fathoms

shortest as possible,
max of 4 fathoms (24ft)

Outside 50 fathoms

shortest as possible,
max of 5 fathoms (30ft)

Minimize # of buoys in set up—no more than 1 trailer buoy inside 30 fathoms

Keep line between trap and main buoy running vertical and taut



1 fathom= 6 feet

Excess Slack Surface Line and Whale Entanglements

Ocean users, including members of the fishing community, are seeing a shift in fishing practices towards increased surface line and the use of multiple surface buoys. During a review of documented entanglements from recent years, fishermen, disentanglement responders, and others see a potential connection between slack surface line and the number of trailer buoys contributing to whale entanglements.

Efforts to evaluate the effectiveness of these voluntary recommendations in reducing the risk of whale entanglements will be made to inform future recommendations and/or management action. These best practices, together with investigating the co-occurrence (or overlap) between whale and fishing effort, are steps the Working Group is taking to address this challenging and complex issue.

For more information about the California Dungeness Crab Fishing Gear Working Group, including a fact sheet, background materials, meeting summaries, recommendations memos, and key resources like this Best Practices Guide, visit opc.ca.gov/whale-entanglement-working-group.

Taking these important, proactive steps to voluntarily reduce slack surface line will help to provide continued opportunities to harvest crab and maintain the fleet's access to the resource.



Reporting Entangled Whales

Report entangled whales **IMMEDIATELY** to the NMFS whale entanglement response hotline at **1-877-SOS-WHALE (1-877-767-9425)** or hail the U.S. Coast Guard on Channel 16. If possible, stand by for responders.

Photographing Entangled Whales (>100 yards away)

WHALE: side view of dorsal fin (or hump); flukes (especially if underside is raised); head; any part of the body where gear may be present.

ENTANGLEMENT: buoy(s); tags; lines on the body; trailing lines (including distance from whale); netting (if present); other gear if present.

20150516Mn NOAA MMHSRP Permit# 18786

Respond Promptly if Contacted by NMFS or CDFW

If you are contacted by NMFS, California Department of Fish and Wildlife (CDFW), or any other government agency regarding a whale entangled in your gear please respond and provide as much information as possible about your fishing gear and practices. Gaining a better understanding of where, when, and how entanglements are occurring is essential in working to prevent entanglements in the future.

If you have suggestions for reducing entanglements in fishing gear, contact Dan Lawson, NMFS Protected Resources Division, at Dan.Lawson@noaa.gov or 562-980-3209.

The Best Practices Guide was developed by the California Dungeness Crab Fishing Gear Working Group.





Dungeness Crab Fishing Gear Working Group

Working Collaboratively to Reduce the Risk of Whale Entanglement in the California Dungeness Crab Fishery

The California Dungeness Crab Fishing Gear Working Group is a collaboration among multiple diverse stakeholder groups who have come together to tackle the challenge of reducing the risk of whale entanglements in Dungeness crab fishing gear. This group strives to find solutions that support thriving whale populations along the West Coast and a thriving and profitable Dungeness crab fishery.

THE ISSUE OF WHALE ENTANGLEMENTS IN FISHING GEAR

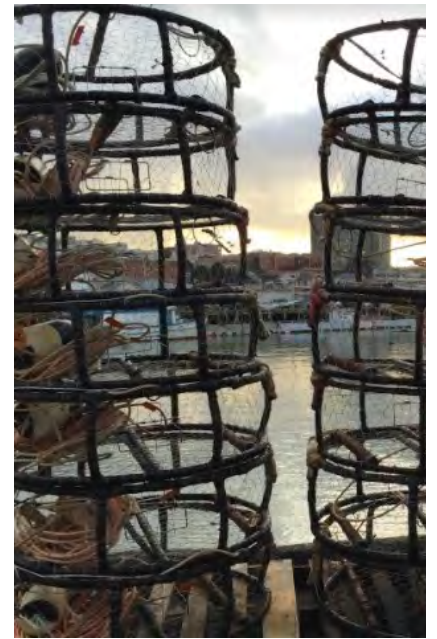
Variable, dynamic ocean conditions are impacting California's valuable natural resources, human populations, and marine life. Recently, oceanographic and biological changes due to warmer water off the West Coast have led to delays and closures of commercial and recreational fishing seasons, altering the dynamics of fishing activity. At the same time, growing whale populations and shifts in their feeding patterns have resulted in an increased risk of whales interacting with fishing gear. In recent years, reports of whales entangled in fishing gear off California have been higher as compared to the historical number of reports since NOAA Fisheries started keeping records in 1982. A variety of factors may contribute to the increase in the number of reported entanglements, including changes in the distribution and abundance of whales, changes in fishing effort, and an increase in public awareness and reporting. Although there are many unknowns, multiple fisheries have been identified as entangling whales, including the Dungeness crab fisheries on the California coast. This creates social, environmental and regulatory challenges. It also creates risk for marine mammals and threatens the stability and viability of an important fishery and coastal fishing communities dependent on this fishery. State and federal agencies, fishermen, environmental organizations and scientists have been responsive to this issue and are working collaboratively to identify and implement solutions.

THE FORMATION OF THE DUNGENESS CRAB FISHING GEAR WORKING GROUP

In response to the recent spike in whale entanglements, the California Department of Fish and Wildlife (CDFW), in partnership with National Marine Fisheries Service (NMFS) and the California Ocean Protection Council (OPC), convened the Dungeness Crab Fishing Gear Working Group (the Working Group) to tackle the challenge of reducing the risk of whale entanglements in the California Dungeness crab fishery.



Photo Courtesy of Jakara Hubbard



Established in September 2015, the 20-member Working Group is a unique coalition of diverse stakeholders, including commercial and recreational fishermen, environmental organization representatives, members of the whale entanglement response network, and state and federal agencies. All experts in their field, these individuals have voluntarily come to the Working Group with the common goal of supporting thriving whale populations along the West Coast and a thriving and profitable Dungeness crab fishery. Scientists, legislative staff, and gear manufacturers also participate in Working Group meetings to support and inform discussions. Since its creation, the Working Group has met seven times, and participants are committed to identifying solutions to this complex issue.

Members of the Working Group are committed to identifying solutions to the entanglement challenge. Participants have been responsive to the issue and have volunteered their time and expertise to work collaboratively towards feasible, tangible solutions. The Dungeness Crab Fishing Gear Working Group is a prime example of constituents with diverse expertise and interests uniting for a shared goal.

SUPPORTING COLLABORATIVE PROJECTS

The Working Group is currently working on the following activities: (1) supporting the implementation of collaborative projects to collect new information and synthesize existing information to enhance our understanding of whale distribution and fishing dynamics, and to test gear modifications; (2) developing effective communications materials and conducting outreach, such as the development and sharing of a Best Practices Guide. It is important to have the support of the Dungeness crab fleet, state legislators, and all stakeholders to advance these projects and to address the whale entanglement issue.

- **Whale forage distribution research:** Researchers from the UC Santa Cruz and the Southwest Fisheries Science Center are leading a project to: organize historical data, including existing ocean condition data, prey distribution patterns, and whale sightings; create maps of existing data relative to historical entanglement patterns; and evaluate capabilities to forecast whale distributions.



- **Disentanglement Trainings:** NMFS, in partnership with California Whale Rescue, The Nature Conservancy (TNC), and the Working Group, are training commercial and recreational fishermen in whale entanglement response.
- **Gear modification:** A federally funded Bycatch Reduction Engineering Program project is underway where scientists, in collaboration with fishermen, evaluate the line profiles and load strengths of different types of fishing line, as well as the visual contrast of different line types/colors in the water column.
- **Whale and crab gear distribution surveys:** The Working Group has worked in partnership with the National Marine Sanctuaries, Point Blue Conservation Science, NMFS, Oceana, and LightHawk to conduct a series of aerial and cruise vessel surveys to document the distribution of whales and crab fishing gear.
- **Electronic reporting tool research:** Fishing participants are working with CDFW and TNC to conduct a series of pilot projects on different types of data loggers, with a focus on solar loggers and TNC's eCatch, to gain a more comprehensive understanding of fishing dynamics.

LOOKING AHEAD: CONTINUED COLLABORATION

In addition to collaborative research projects and the Best Practices Guide, the Working Group also looks forward to piloting a draft voluntary risk assessment and mitigation program in the upcoming 2017-2018 Dungeness crab fishing season. Throughout 2017 and into 2018, the Working Group will continue to support implementation of collaborative projects and communications; provide guidance and recommendations to the California Dungeness crab fishing industry, the Dungeness Crab Task Force, and the state of California about how to reduce the risk of whale entanglements; and identify measures to address the entanglement issue.



Best Practices Guide to Minimize Whale Entanglement Risk

The Working Group developed several voluntary "best practices" focused on recommendations for surface gear set up for the 2017-18 fishing season, including improved buoy setup, reduced slack surface line, and limited number of trailer buoys. More than 2,250 copies of the resulting Best Practices Guide are being shared widely with fishing associations, local gear stores, fishing harbors, and by CDFW Enforcement, the US Coast Guard, and the California Recreational Fishing Survey surveyors, as well as online distribution via CDFW and recreational fishing clubs.

Draft Risk Assessment and Mitigation Program (RAMP): Voluntary Pilot, 2017-18 CA Dungeness Crab Fishing Season California Dungeness Crab Fishing Gear Working Group

Since September 2015, the California Dungeness Crab Fishing Gear Working Group (Working Group) has been taking steps to actively identify and be responsive to elevated risks of whale entanglements in California Dungeness crab fishing gear. This unique coalition of diverse stakeholders—which includes commercial and recreational fishermen, environmental organization representatives, members of the whale entanglement response network and state and federal agencies—is committed to developing solutions that support thriving whale populations along the West Coast and a thriving and profitable Dungeness crab fishery. *For a Fact Sheet about the Working Group and other background information, visit <http://www.opc.ca.gov/whale-entanglement-working-group/>.*

Working Towards Solutions: A Collaborative Approach to Reducing Whale Entanglement Risk

For the past two years, the Working Group has been working to better understand the issue of entanglements and to identify methods to mitigate entanglement risk. In May 2017, the group identified the need for a process that could help identify circumstances that can elevate risk and develop pathways to addressing these situations. The Working Group has considered an approach that is rooted in best fishing practices and is flexible to be responsive to elevated entanglement risk. Involving a range of experts — agencies, fishermen, researchers, and others—who will work collaboratively to evaluate risk, identify information needs, and assess the need for voluntary and/or (longer-term) mandatory management options that could be recommended to California Department of Fish and Wildlife (CDFW) is key to the program's success.

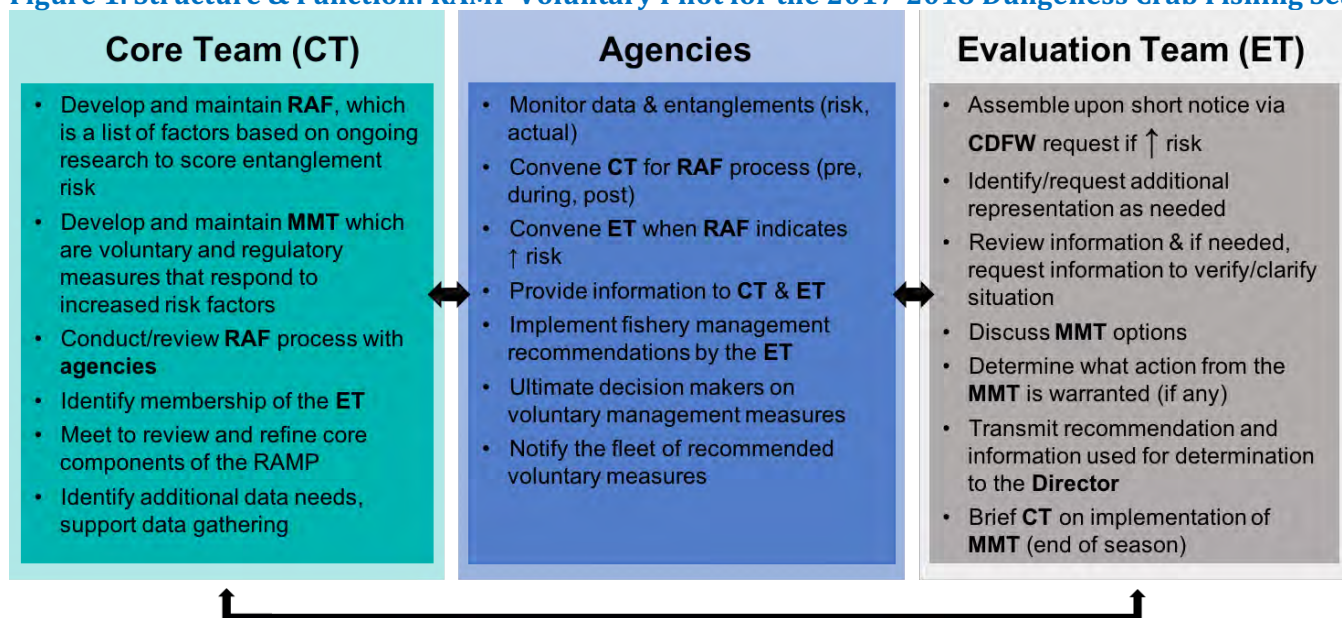
The Whale Entanglement Risk Assessment and Mitigation Program, or RAMP

The Working Group has developed a draft Risk Assessment and Mitigation Program (RAMP) to support the state in working collaboratively with experts (fishermen, researchers, NGOs, etc.) to identify and assess elevated levels of entanglement risk and determine the need for management options to reduce risk of entanglement.

Roles & Responsibilities

The draft RAMP involves three groups: a core team (CT), evaluation team (ET), and agencies. The core team and the agencies will meet three times per year to track relative entanglement risk (preseason (October), mid-season (Feb/Mar), and late season (May/June)). The evaluation team will only be convened under elevated risk conditions. During the 2017-18 RAMP pilot, the Working Group will serve as both the core and evaluation teams. CDFW, the National Marine Fisheries Service (NMFS), and the Ocean Protection Council (OPC) will coordinate as the group of state and federal agencies in the pilot RAMP. Figure 1 outlines the key roles and responsibilities of each group, and illustrates the high degree of coordination that will occur between all of the groups.

Figure 1. Structure & Function: RAMP Voluntary Pilot for the 2017-2018 Dungeness Crab Fishing Season

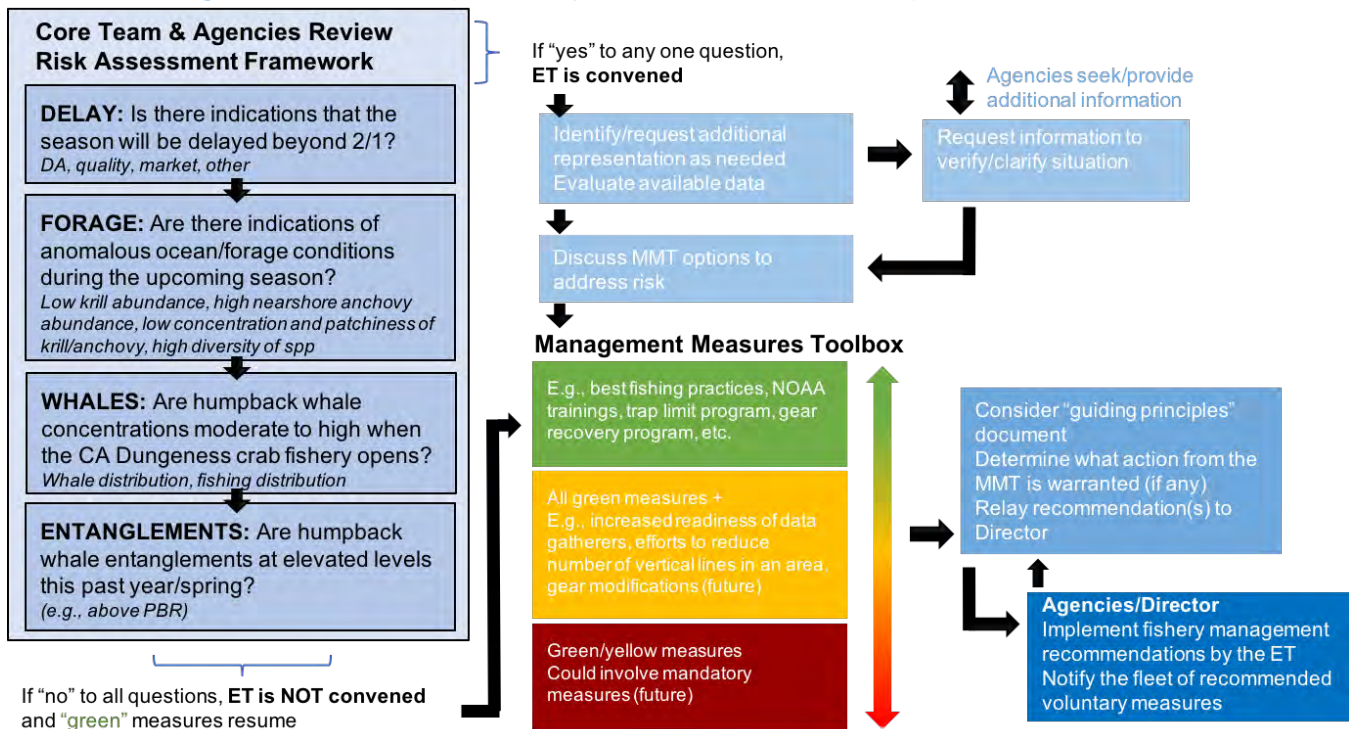


CT: Core Team; ET: Evaluation Team; **RAF**: Risk Assessment Framework; **MMT**: Management Measures Toolbox

Risk Assessment & Management Tools

Two tools will be involved in evaluating and responding to elevated risk: a risk assessment framework (RAF) and a management measures toolbox (MMT) (see Figure 2). The RAF will not act as a decision-making tool, but rather be used by the core team and agencies to indicate if an evaluation team needs to be convened due to elevated risk. The MMT will be developed by the core team and agencies for the evaluation team's use. Figure 2 illustrates the factors and questions the RAF will focus on during the RAMP pilot, together with the steps the evaluation team will take if convened. Included are examples of different management options that could be included in the MMT.

Figure 2. Risk Assessment Framework Factors and Questions, and Evaluation Team Process to Consider Possible Management Measures (voluntary for 2017-18 RAMP Pilot)



A number of guiding principles have been developed to support the evaluation team in their application of the MMT, such as all management measures will be fact-based and science driven, negative economic impacts to fishermen will be minimized and disproportionate impacts on a subset of the fleet avoided, and recommendations will identify a clear process for evaluating compliance and when/how fishermen are able to re-establish regular fishing practices. *A full summary of guiding principles are available on page 3 of this document.*

2017-18 Pilot: Seeking Fleet Input

The draft RAMP is in its beginning stages of development. The voluntary pilot will provide an opportunity to test out the draft RAMP's structure and function, explore aspects of the RAMP that could benefit from legislative support, and to learn what may need to be adjusted and fine-tuned, including the program's working assumptions and guiding principles.

During the RAMP pilot, commercial and recreational fishermen and others involved in the California Dungeness crab fishing industry are invited to review the draft RAMP approach and provide feedback on all aspects of the program. Ideas on how to improve the Working Group's approach to assessing risk, considerations for possible management measures, and suggestions related to new technologies are welcomed and encouraged. Additionally, the Working Group is planning to hold a select number of meetings in 2018 at port locations in an effort to share information and address questions.

Information learned during the 2017-18 pilot phase will be shared with CDFW, NMFS, OPC, Fish and Game Commission, Joint Committee on Fisheries and Aquaculture, and California Dungeness Crab Task Force in summer/fall 2018.

For more information about the Working Group's efforts and the 2017-18 RAMP pilot, including opportunities to provide feedback and share your expertise, visit <http://www.opc.ca.gov/whale-entanglement-working-group/> or contact the Working Group at info@cawhalegroup.com.

**Draft RAMP Guiding Principles
Voluntary Pilot, 2017-18 CA Dungeness Crab Fishing Season
California Dungeness Crab Fishing Gear Working Group**

The Working Group supports thriving whale populations along the West Coast, and a thriving and profitable Dungeness crab fishery. Our charge is to:

- Provide guidance and recommendations to the California Dungeness crab fishing industry, including the DCTF, to avoid/minimize entanglements and identify measures or experiments that can be developed or implemented by the fishing community to address the entanglement issue;
- Collaboratively inform and guide the state of California (CDFW, OPC, Fish and Game Commission, and the Legislature) in addressing key information gaps and/or measures to reduce the risks of entanglements in Dungeness crab fishing gear; and
- Guide whale entanglement reduction efforts by establishing priorities for the Working Group, and help inform other entities seeking to address the issue of whale entanglements in California.

The following draft principles/characteristics have been developed to help guide the Working Group (which will act as the Evaluation Team during the 2017-18 RAMP pilot) under circumstances where the risk assessment framework (RAF) indicates an elevated risk for entanglements. These guiding principles will be used when the Working Group reviews the management measures toolbox (MMT) and considers possible management measures. These guiding principles will be evaluated during the 2017-18 RAMP pilot, and may be further updated based on lessons learned by the Working Group and input from the fleet and others.

Management Options/Measures

- The Working Group is working to identify and recommend management measures that can effectively reduce whale entanglements in CA Dungeness crab fishing gear.
- Management measures will be fact-based and science driven and will be updated as new information becomes available.
- Management measures will be scalable and any application should be narrowly focused in geographic area and time frame. Management measures will be consistently applied and will be enforceable.
- Management measures will be adaptable and additional management measures may be included as identified by the Evaluation Team and reviewed and confirmed by the Core Team.
- Management measures will aim to minimize negative economic impacts to fishermen and avoid disproportionate impacts on a subset of the fleet. Where possible, mitigation options will be considered, including identifying alternative harvesting opportunities for impacted fishermen.
- Management measures will be evaluated and measured across a number of stages, including effectiveness of communication out to the fleet; level of understanding of the communication; and level of response to management measure.
- Once a management measure has been identified, a clear process for evaluating its implementation and identifying when/how fishermen are able to re-establish regular fishing practices in as short a timeframe as possible will be developed.
- Annual evaluation of the management options list will be conducted so the suite of options can be refined based on experiences and lessons learned. As appropriate, lessons learned will be shared with other CA fixed-gear fisheries for review and consideration.

**Draft Risk Assessment Framework (RAF) Assumptions
Voluntary Pilot, 2017-18 CA Dungeness Crab Fishing Season
California Dungeness Crab Fishing Gear Working Group**

The 2017-18 RAMP pilot will be conducted under the following working assumptions:

CA Dungeness Crab Fishery: the pilot will include both commercial and recreational fishing.

State-managed Fisheries: the pilot will focus on state-managed fisheries only. There is expressed interest to work with the PFMC in the near future.

Voluntary: the RAMP will be a voluntary program during the 2017-18 season. It is anticipated core components of the program will become mandatory in future seasons.

Management Action: the RAMP Framework is designed to indicate a need for more focused attention on the issue of whale entanglements in a fishery/area by an interdisciplinary team. No management measures are prescribed by the framework.

Spatial Scale: data will be considered at the statewide level at the start of the fishing season, with certain factors focusing on regional (north/south) and/or port level information as the fishing season progresses.

Seasonal: the RAMP Framework will consider factors across a seasonal calendar/scale.

Marine Mammals: the pilot will focus on humpback whales. The intention is for information gathered during the pilot to be applicable to other whales (e.g., blues) and other endangered marine animals (e.g., leatherback turtles). There has been some expressed interest to expand beyond humpbacks following the pilot phase (blues, greys, turtles, etc.), with a request to have experts on those species available to help inform the Working Group's efforts. In July, the Working Group requested CDFW and NMFS to discuss how both agencies intend to consider turtles in the short and longer term.

Historical "norm": the RAMP Framework scoring baseline is based on historical "norms", with the intention to highlight/focus attention (i.e., raise the flag) under anomalous conditions.

Entanglements:

- The Working Group has identified the following as priorities for tracking entanglements:
 - Any entanglements in CA Dungeness crab fishing gear
 - Any entanglements observed/occurring in CA waters, regardless of fishing gear type
- Entanglements are measures of actual risk, rather than expected risk
- Entanglements will be considered in terms of patterns (e.g., multiple entanglements over a defined period of time)
- Scoring is based on verified entanglements
- Certain entanglement circumstances can mobilize team discussions without other factors in play

Assembly Bill No. 164

CHAPTER 394

An act relating to the payment of claims against the state, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 1, 2015. Filed with
Secretary of State October 1, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 164, Gomez. Claims against the state: payment.

Existing law establishes a procedure for the state to pay claims against the state.

This bill would appropriate funds for the payment of specific claims against the state and require any appropriated funds in excess of the amount required to pay those claims to revert to the fund or account from which the funds were appropriated, as specified.

This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. (a) The sum of two million two hundred seventeen thousand two hundred fifty-five dollars (\$2,217,255) is hereby appropriated from the General Fund to be allocated in accordance with the following schedule:

(1) The sum of one million seven hundred thousand dollars (\$1,700,000) to the Department of Justice to pay the settlement in *Humphries v. County of Los Angeles, et al.*, (United States District Court, Case No. SACV 03-0697 JVS MANx). Any funds appropriated in excess of the amounts required for the payment of this claim shall revert to the General Fund.

(2) The sum of five hundred seventeen thousand two hundred fifty-five dollars (\$517,255) to the Department of Justice to pay the settlement in *Marilley v. McCamman* (United States District Court, Northern District of California, Case No. 11-cv-2418-DMR). Any funds appropriated in excess of the amounts required for the payment of this claim shall revert to the General Fund.

(b) The sum of five hundred seventeen thousand two hundred fifty-five dollars (\$517,255) is hereby appropriated from the Dungeness Crab Account within the Fish and Game Preservation Fund to the Department of Justice to pay the settlement in *Marilley v. McCamman* (United States District

Court, Northern District of California, Case No. 11-cv-2418-DMR). Any funds appropriated in excess of the amounts required for the payment of this claim shall revert to the Dungeness Crab Account.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to pay claims against the state and end hardship to claimants as quickly as possible, it is necessary that this bill go into immediate effect.



Issued: November 16, 2017; Updated: January 2, 2018

Commercial Dungeness Crab Fishery - Frequently Asked Questions

Q: How does low crab quality delay the opening of the Dungeness crab season?

A: Fish and Game Code section 8276.2 describes how a season delay occurs when crab quality testing indicates low crab quality due to soft-shell conditions. The Tri-State Dungeness Crab Committee has established a testing protocol that sets guidelines for the meat recovery criteria, timing of each round of testing and locations for testing. Currently, if any California port in District 6, 7, 8, or 9 results in meat recovery criteria of less than 25% (rounded to nearest whole integer), the Director may order a delay in the opening of the Dungeness crab fishery after December 1 in Districts 6, 7, 8, and 9. This constitutes the fishery north of the Sonoma/Mendocino county line to the California/Oregon border.

Q: How does the California fishing season open after a delay due to crab quality?

A: If the season opening is delayed due to crab quality, it is prohibited to take or land Dungeness crab north of the Sonoma/Mendocino county line to the California/Oregon border until the Director orders the opening of the season. (Fish & G. Code, § 8276.3, subd. (a).) Depending on the results after each round of testing, the Director will either open the fishery or continue to delay the season in 15-day increments until January 15, the latest a season can be delayed due to crab quality. Crab quality testing results at all testing locations must reach the requisite crab meat recovery criteria of at least 25% (rounded to nearest whole integer) for all ports to consider opening of the fishing season prior to January 15. A delay due to crab quality triggers the fair start provisions for the entire area north of the Sonoma/Mendocino county line to the California/Oregon border as outlined in Fish and Game Code section 8279.1. For example, if a vessel takes, possesses onboard, or lands Dungeness crab south of the Sonoma/Mendocino county line prior to a delayed northern opener, that vessel must wait 30 days after the area north of the Sonoma/Mendocino county line opens to take, possess onboard, or land Dungeness crab in the northern area.

Q: What changes were implemented to the fair start provisions of Fish and Game Code section 8279.1 as of January 1, 2017?

A: Previously, the fair start provisions applied to any person who took, possessed onboard, or landed Dungeness crab for commercial purposes. The newly updated code section now prohibits a vessel from taking, possessing onboard, or landing Dungeness crab for commercial purposes for 30 days after the season first opens under delay conditions (e.g., quality or domoic acid) if that same vessel was used to take, possess onboard, or land Dungeness crab for commercial purposes prior to that season opening. Individual crewmembers are not beholden to fair start and can take a job on a vessel that will begin participating in the fishery once the season opens without risking a

violation of section 8279.1. Also, if a person owns multiple vessels, any vessel that did not take, possess onboard, or land Dungeness crab prior to the start of the fishing season under delayed conditions, can begin participating when the season first opens regardless of the activities of the other vessels that person owns.

Q: How do health advisories for domoic acid affect quality delays in California and how would the fair start provisions of Fish and Game Code section 8279.1 apply if there are both quality delays and domoic acid delays?

A: Once the Director determines that the northern management area can open due to crab quality, any area subject to health advisories (e.g., domoic acid) issued by the California Department of Public Health may continue to be delayed beyond January 15 pursuant to Fish and Game Code section 5523. Under section 8279.1, if an entire fishing district continues to be delayed beyond the delayed quality season opener due to a health advisory, then the 30-day fair start period would begin on the date when any part of that fishing district opens after the health advisory for that district is lifted. If a portion of a district continues to be delayed due to a health advisory, while the rest of the district opens, a 30-day fair start period would begin from the date when any portion of the district first opened to fishing.

Q: How will Fish and Game Code section 8279.1 apply to the state of Washington and Oregon if there is a quality delay?

A: Under section 8279.1, subdivisions (c) and (d), the 30-day fair start period is triggered if there is a delay in the opening of the season in Washington or Oregon. If the December 1 start date in Washington or Oregon is delayed due to crab quality, then the fair start provision will apply. Any vessel that took, possessed onboard, or landed Dungeness crab for commercial purposes in California prior to the opening of the general commercial season in Washington or Oregon must wait the 30-day fair start period before participating in the fishery in Washington or Oregon, respectively. The fishery in Washington will be considered as open on the first day in which any area of Washington is open for general, non-tribal commercial fishing, and the fishery in Oregon will be considered as open on the first day in which any area of Oregon is open for commercial fishing.

Q: How does an opening of the season in the Puget Sound in Washington affect application of Fish and Game Code section 8279.1?

A: California law does not distinguish between the Puget Sound and the rest of the Washington Dungeness crab fishery. If the Puget Sound is the first area of Washington to open to general, non-tribal commercial fishing, that would be considered the opening of the fishery in Washington for the purposes of 8279.1.

From: Kelly Sayce
Sent: Wednesday, January 10, 2018 2:19 PM
To: FGC
Cc: Termini, Valerie@FGC; Ashcraft, Susan@FGC; Rachelle Fisher
Subject: Dungeness Crab Fishing Gear Working Group - 2017-18 Recommendations Memo
Attachments: CAWhaleWorkingGroup_2017-18RecommendationsMemo_January2018.pdf

Dear President Sklar,

The California Dungeness Crab Fishing Gear Working Group (Working Group) is pleased to submit the following updates and recommendations to reduce the risk of whale entanglements in California Dungeness crab fishing gear (see attached). This document provides information about the Risk Assessment and Mitigation Program (RAMP) that is currently being piloted by the Working Group, along with two recommendations.

The Working Group supports thriving whale populations along the West Coast and a thriving and profitable commercial and recreational Dungeness crab fishery. This diverse, collaborative group is comprised of commercial and recreational fishermen, environmental organization representatives, members of the disentanglement network and state and federal agencies. Established in September 2015, the Working Group's charge is to:

- Provide guidance and recommendations to the California Dungeness crab fishing industry, including the Dungeness Crab Task Force (DCTF), about how to avoid/minimize whale entanglements and identify measures or experiments that can be developed or implemented by the fishing community to address the entanglement issue;
- Collaboratively inform and guide the state of California (CDFW, OPC, Fish and Game Commission, and the Legislature) in addressing key information gaps and/or measures to reduce the risks of entanglements in Dungeness crab fishing gear; and
- Guide whale entanglement reduction efforts by establishing priorities for the Working Group, and help inform other entities seeking to address the issue of whale entanglements in California.

Additional information about the Working Group and its products is available online ([here](#)). Please do not hesitate to contact Kelly Sayce at 310-738-2665 or kelly@strategicearth.com, with any questions about the Working Group and its efforts.

Happy New Year,
Kelly Sayce and Rachelle Fisher
Working Group Administrative Team

--

Kelly Sayce, MAS
Principal
Strategic Earth Consulting

CALIFORNIA DUNGENESS CRAB FISHING GEAR WORKING GROUP

RECOMMENDATIONS MEMO

TO: California Department of Fish and Wildlife, Charlton Bonham, Director
Joint Committee on Fisheries and Aquaculture, Mike McGuire, Chair
California Fish and Game Commission, Eric Sklar, President
Pacific Fishery Management Council, Philip Anderson, Chair

CC: National Marine Fisheries, Protected Resources Division, Penny Ruvelas, Long Beach Branch Chief
California Ocean Protection Council, Deborah Halberstadt, Executive Director
California Fish and Game Commission, Valerie Termini, Executive Director
California Fish and Game Commission, Susan Ashcraft, Marine Advisor
Pacific Fishery Management Council, Chuck Tracy, Executive Director
National Marine Sanctuaries, West Coast Regional Office, Lisa Wooninck, Policy Coordinator
Pacific States Marine Fisheries Commission, Dave Colpo, Senior Program Manager
California Dungeness Crab Task Force (DCTF), DCTF Administrative Team

FROM: California Dungeness Crab Fishing Gear Working Group

DATE: January 10, 2018

RE: 2017-18 updates and recommendations to reduce whale entanglements

APPENDICES: [Risk Assessment and Mitigation Program \(RAMP\) Overview](#)
[RAMP Pilot October 26 & November 6, 2017 Convenings Update](#)
[RAMP Pilot November 30, 2017 Convening Status Update](#)
[CA Dungeness Crab Fishing Gear Working Group Fact Sheet](#)
[2017-18 Best Fishing Practices Guide](#)

Since September 2015, the California Dungeness Crab Fishing Gear Working Group (Working Group), a diverse multi-stakeholder group, has been taking steps to identify and reduce risk of whale entanglements. The Working Group met on May 16-17, July 18-19, and September 27-28 to continue developing solutions to support thriving whale populations along the West Coast and a thriving and profitable Dungeness crab fishery.

Draft Risk Assessment and Mitigation Program (RAMP): In May 2017, the group identified the need for a process that could help identify circumstances that can elevate risk and develop pathways to addressing these situations. The Working Group has considered an approach that is rooted in best fishing practices and is flexible to be responsive to elevated entanglement risk. Involving a range of experts — agencies, fishermen, researchers, representatives from environmental organizations (NGOs), and others—who will work collaboratively to evaluate risk, identify information needs, and assess the need for voluntary and/or (longer-term) mandatory management options that could be recommended to CDFW is key to the program's success. The Working Group has developed a draft Risk Assessment and Mitigation Program (RAMP) to support the state in working with experts (fishermen, researchers, NGOs, etc.) to identify and assess elevated levels of entanglement risk and determine the need for management options to reduce risk of entanglement.

2017-2018 RAMP Pilot: The Working Group agreed to pilot the draft RAMP during the 2017-18 Dungeness crab fishing season. All aspects of the draft RAMP are voluntary during this pilot phase and apply to both recreational and commercial fishing. The voluntary pilot is providing an opportunity to test the draft RAMP's structure and function, explore aspects that would require legislative support or formal rulemaking, and to learn what may need to be adjusted and fine-tuned, including the program's working assumptions and guiding principles. During the RAMP pilot, commercial and recreational fishermen and others involved in the California Dungeness crab fishing industry are invited to review the draft RAMP approach and provide feedback on all aspects of the program. Ideas on how to improve the Working Group's approach to assessing risk, considerations for possible management measures, and suggestions related to new technologies are welcomed and encouraged. Additionally, the Working Group is planning to hold a select number of meetings in 2018 at port locations in an effort to share information and address questions.

Information learned during the 2017-18 pilot phase will be shared with CDFW, NMFS, OPC, Fish and Game Commission, Joint Committee on Fisheries and Aquaculture, and California Dungeness Crab Task Force in summer/fall 2018. Feedback and inquiries can be sent to info@cawhalegroup.com or call 707-832-4088.

RECOMMENDATIONS

The following recommendations were identified by the California Dungeness Crab Fishing Gear Working Group (Working Group) over the course of three meetings in 2017. This information is intended to help inform decision makers and those interested in this issue, including other fixed gear fisheries. The recommendations are also supported by the California Dungeness Crab Task Force (DCTF) (see December 2017 Legislative Report ([here](#))). The administration of the Working Group is supported by the California Ocean Protection Council (OPC) and The Nature Conservancy (TNC), with in-kind contributions from the California Department of Fish and Wildlife (CDFW) and the National Marine Fisheries Service (NMFS).

Recommendation #1. Establish Standardized Gear-marking for all California Fixed-Gear Fisheries: Over 50% of whale entanglements reported to NMFS have been classified as "unknown" gear type, making it challenging to gather information about the origins of entanglements (e.g., fishery, gear set-up, timing, etc.) and work to reduce entanglement risk. In response to this, the Working Group recommends that CDFW and the Pacific Fishery Management Council (PFMC), in partnership with the Legislature, work with other fixed-gear fisheries and fisheries known to be involved in whale entanglements to establish standardized gear marking. The Working Group recommends gear markings focus on surface gear, which may be more visible if involved in an entanglement. The Working Group understands that managers may need to be flexible and adaptive when developing standardized gear marking to work through any complexities that may arise. The Working Group encourages CDFW, in partnership with NMFS, to identify gear marking options expeditiously.

Recommendation #2. Secure Long-term Funding to Support RAMP Implementation: The Working Group acknowledges the need to seek additional long-term funding to support RAMP implementation to reduce entanglements risk, including the development of potential management measures. This will sustain RAMP coordination and operations, fund research and data gathering to inform the risk assessment process, and support future research and development. Informed by the RAMP pilot, the Working Group recommends that CDFW and the Legislature encourage the state to secure long-term funding to support all aspects of RAMP implementation.

The Working Group looks forward to continuing to engage with the Joint Committee on Fisheries and Aquaculture (the Legislature), CDFW, the California Fish and Game Commission, DCTF, and others to inform Working Group discussions and share Working Group outputs. The Working Group welcomes the opportunity to have direct communications at any time about the draft RAMP and continues to be committed to work in partnership with CDFW and the Legislature to provide recommendations to reduce whale entanglement risk.

Draft Risk Assessment and Mitigation Program (RAMP): Voluntary Pilot, 2017-18 CA Dungeness Crab Fishing Season California Dungeness Crab Fishing Gear Working Group

Since September 2015, the California Dungeness Crab Fishing Gear Working Group (Working Group) has been taking steps to actively identify and be responsive to elevated risks of whale entanglements in California Dungeness crab fishing gear. This unique coalition of diverse stakeholders—which includes commercial and recreational fishermen, environmental organization representatives, members of the whale entanglement response network and state and federal agencies—is committed to developing solutions that support thriving whale populations along the West Coast and a thriving and profitable Dungeness crab fishery. *For a Fact Sheet about the Working Group and other background information, visit <http://www.opc.ca.gov/whale-entanglement-working-group/>.*

Working Towards Solutions: A Collaborative Approach to Reducing Whale Entanglement Risk

For the past two years, the Working Group has been working to better understand the issue of entanglements and to identify methods to mitigate entanglement risk. In May 2017, the group identified the need for a process that could help identify circumstances that can elevate risk and develop pathways to addressing these situations. The Working Group has considered an approach that is rooted in best fishing practices and is flexible to be responsive to elevated entanglement risk. Involving a range of experts — agencies, fishermen, researchers, and others—who will work collaboratively to evaluate risk, identify information needs, and assess the need for voluntary and/or (longer-term) mandatory management options that could be recommended to California Department of Fish and Wildlife (CDFW) is key to the program's success.

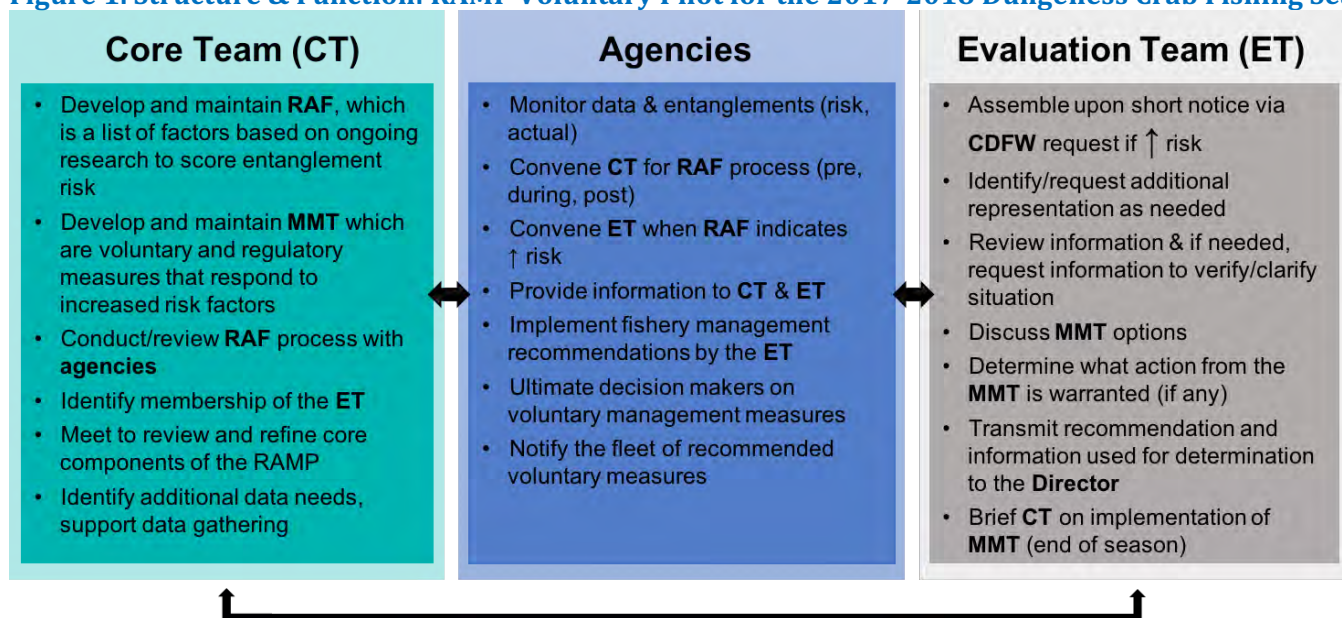
The Whale Entanglement Risk Assessment and Mitigation Program, or RAMP

The Working Group has developed a draft Risk Assessment and Mitigation Program (RAMP) to support the state in working collaboratively with experts (fishermen, researchers, NGOs, etc.) to identify and assess elevated levels of entanglement risk and determine the need for management options to reduce risk of entanglement.

Roles & Responsibilities

The draft RAMP involves three groups: a core team (CT), evaluation team (ET), and agencies. The core team and the agencies will meet three times per year to track relative entanglement risk (preseason (October), mid-season (Feb/Mar), and late season (May/June)). The evaluation team will only be convened under elevated risk conditions. During the 2017-18 RAMP pilot, the Working Group will serve as both the core and evaluation teams. CDFW, the National Marine Fisheries Service (NMFS), and the Ocean Protection Council (OPC) will coordinate as the group of state and federal agencies in the pilot RAMP. Figure 1 outlines the key roles and responsibilities of each group, and illustrates the high degree of coordination that will occur between all of the groups.

Figure 1. Structure & Function: RAMP Voluntary Pilot for the 2017-2018 Dungeness Crab Fishing Season

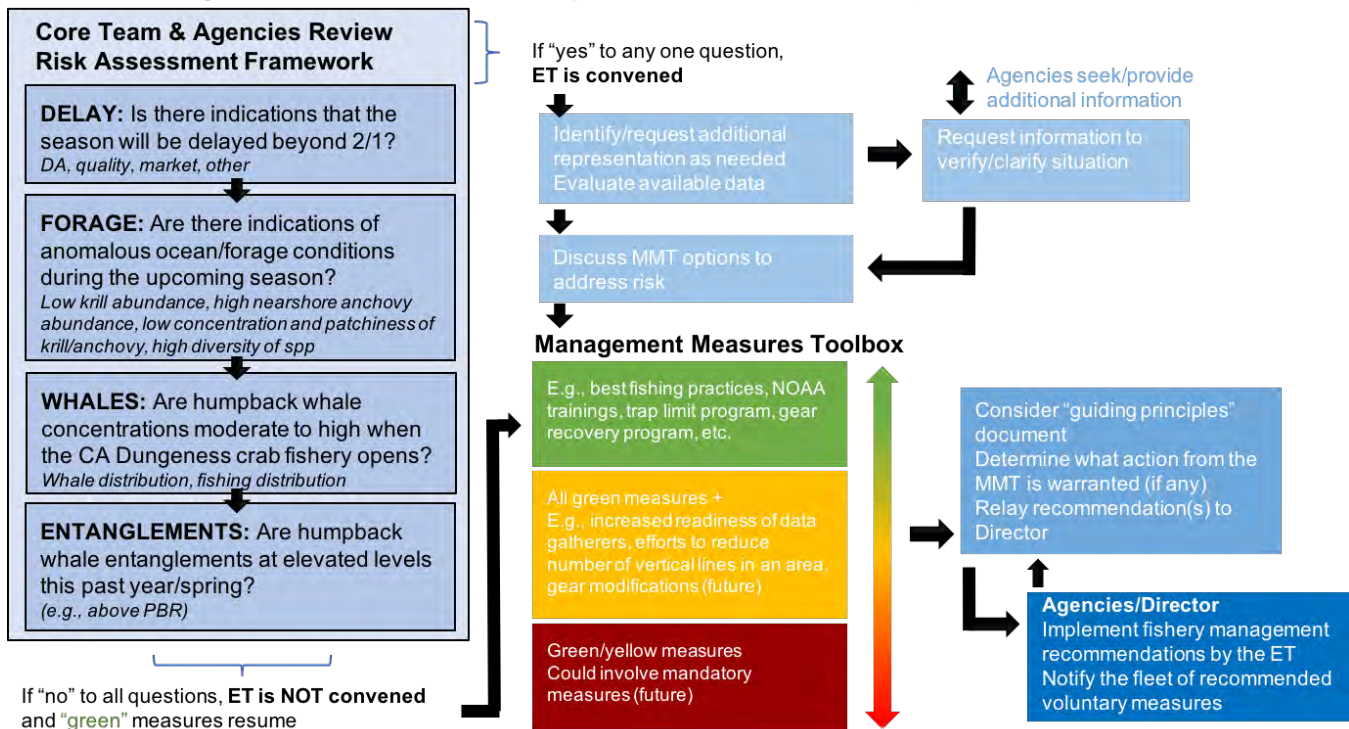


CT: Core Team; ET: Evaluation Team; **RAF**: Risk Assessment Framework; **MMT**: Management Measures Toolbox

Risk Assessment & Management Tools

Two tools will be involved in evaluating and responding to elevated risk: a risk assessment framework (RAF) and a management measures toolbox (MMT) (see Figure 2). The RAF will not act as a decision-making tool, but rather be used by the core team and agencies to indicate if an evaluation team needs to be convened due to elevated risk. The MMT will be developed by the core team and agencies for the evaluation team's use. Figure 2 illustrates the factors and questions the RAF will focus on during the RAMP pilot, together with the steps the evaluation team will take if convened. Included are examples of different management options that could be included in the MMT.

Figure 2. Risk Assessment Framework Factors and Questions, and Evaluation Team Process to Consider Possible Management Measures (voluntary for 2017-18 RAMP Pilot)



A number of guiding principles have been developed to support the evaluation team in their application of the MMT, such as all management measures will be fact-based and science driven, negative economic impacts to fishermen will be minimized and disproportionate impacts on a subset of the fleet avoided, and recommendations will identify a clear process for evaluating compliance and when/how fishermen are able to re-establish regular fishing practices. *A full summary of guiding principles are available on page 3 of this document.*

2017-18 Pilot: Seeking Fleet Input

The draft RAMP is in its beginning stages of development. The voluntary pilot will provide an opportunity to test out the draft RAMP's structure and function, explore aspects of the RAMP that could benefit from legislative support, and to learn what may need to be adjusted and fine-tuned, including the program's working assumptions and guiding principles.

During the RAMP pilot, commercial and recreational fishermen and others involved in the California Dungeness crab fishing industry are invited to review the draft RAMP approach and provide feedback on all aspects of the program. Ideas on how to improve the Working Group's approach to assessing risk, considerations for possible management measures, and suggestions related to new technologies are welcomed and encouraged. Additionally, the Working Group is planning to hold a select number of meetings in 2018 at port locations in an effort to share information and address questions.

Information learned during the 2017-18 pilot phase will be shared with CDFW, NMFS, OPC, Fish and Game Commission, Joint Committee on Fisheries and Aquaculture, and California Dungeness Crab Task Force in summer/fall 2018.

For more information about the Working Group's efforts and the 2017-18 RAMP pilot, including opportunities to provide feedback and share your expertise, visit <http://www.opc.ca.gov/whale-entanglement-working-group/> or contact the Working Group at info@cawhalegroup.com.

**Draft RAMP Guiding Principles
Voluntary Pilot, 2017-18 CA Dungeness Crab Fishing Season
California Dungeness Crab Fishing Gear Working Group**

The Working Group supports thriving whale populations along the West Coast, and a thriving and profitable Dungeness crab fishery. Our charge is to:

- Provide guidance and recommendations to the California Dungeness crab fishing industry, including the DCTF, to avoid/minimize entanglements and identify measures or experiments that can be developed or implemented by the fishing community to address the entanglement issue;
- Collaboratively inform and guide the state of California (CDFW, OPC, Fish and Game Commission, and the Legislature) in addressing key information gaps and/or measures to reduce the risks of entanglements in Dungeness crab fishing gear; and
- Guide whale entanglement reduction efforts by establishing priorities for the Working Group, and help inform other entities seeking to address the issue of whale entanglements in California.

The following draft principles/characteristics have been developed to help guide the Working Group (which will act as the Evaluation Team during the 2017-18 RAMP pilot) under circumstances where the risk assessment framework (RAF) indicates an elevated risk for entanglements. These guiding principles will be used when the Working Group reviews the management measures toolbox (MMT) and considers possible management measures. These guiding principles will be evaluated during the 2017-18 RAMP pilot, and may be further updated based on lessons learned by the Working Group and input from the fleet and others.

Management Options/Measures

- The Working Group is working to identify and recommend management measures that can effectively reduce whale entanglements in CA Dungeness crab fishing gear.
- Management measures will be fact-based and science driven and will be updated as new information becomes available.
- Management measures will be scalable and any application should be narrowly focused in geographic area and time frame. Management measures will be consistently applied and will be enforceable.
- Management measures will be adaptable and additional management measures may be included as identified by the Evaluation Team and reviewed and confirmed by the Core Team.
- Management measures will aim to minimize negative economic impacts to fishermen and avoid disproportionate impacts on a subset of the fleet. Where possible, mitigation options will be considered, including identifying alternative harvesting opportunities for impacted fishermen.
- Management measures will be evaluated and measured across a number of stages, including effectiveness of communication out to the fleet; level of understanding of the communication; and level of response to management measure.
- Once a management measure has been identified, a clear process for evaluating its implementation and identifying when/how fishermen are able to re-establish regular fishing practices in as short a timeframe as possible will be developed.
- Annual evaluation of the management options list will be conducted so the suite of options can be refined based on experiences and lessons learned. As appropriate, lessons learned will be shared with other CA fixed-gear fisheries for review and consideration.

**Draft Risk Assessment Framework (RAF) Assumptions
Voluntary Pilot, 2017-18 CA Dungeness Crab Fishing Season
California Dungeness Crab Fishing Gear Working Group**

The 2017-18 RAMP pilot will be conducted under the following working assumptions:

CA Dungeness Crab Fishery: the pilot will include both commercial and recreational fishing.

State-managed Fisheries: the pilot will focus on state-managed fisheries only. There is expressed interest to work with the PFMC in the near future.

Voluntary: the RAMP will be a voluntary program during the 2017-18 season. It is anticipated core components of the program will become mandatory in future seasons.

Management Action: the RAMP Framework is designed to indicate a need for more focused attention on the issue of whale entanglements in a fishery/area by an interdisciplinary team. No management measures are prescribed by the framework.

Spatial Scale: data will be considered at the statewide level at the start of the fishing season, with certain factors focusing on regional (north/south) and/or port level information as the fishing season progresses.

Seasonal: the RAMP Framework will consider factors across a seasonal calendar/scale.

Marine Mammals: the pilot will focus on humpback whales. The intention is for information gathered during the pilot to be applicable to other whales (e.g., blues) and other endangered marine animals (e.g., leatherback turtles). There has been some expressed interest to expand beyond humpbacks following the pilot phase (blues, greys, turtles, etc.), with a request to have experts on those species available to help inform the Working Group's efforts. In July, the Working Group requested CDFW and NMFS to discuss how both agencies intend to consider turtles in the short and longer term.

Historical "norm": the RAMP Framework scoring baseline is based on historical "norms", with the intention to highlight/focus attention (i.e., raise the flag) under anomalous conditions.

Entanglements:

- The Working Group has identified the following as priorities for tracking entanglements:
 - Any entanglements in CA Dungeness crab fishing gear
 - Any entanglements observed/occurring in CA waters, regardless of fishing gear type
- Entanglements are measures of actual risk, rather than expected risk
- Entanglements will be considered in terms of patterns (e.g., multiple entanglements over a defined period of time)
- Scoring is based on verified entanglements
- Certain entanglement circumstances can mobilize team discussions without other factors in play

CALIFORNIA DUNGENESS CRAB FISHING GEAR WORKING GROUP

October 26 & November 6, 2017 Convenings

Whale Concentrations at Moderate Risk

2017-18 Whale Entanglement Risk Assessment & Mitigation Program (RAMP) Pilot

The California Dungeness Crab Fishing Gear Working Group (Working Group) convened on October 26 and November 6, 2017, to discuss the relative risk of whale entanglements as the 2017-18 California Dungeness crab fishing season approaches. Four priority factors—season delay, forage/ocean conditions, whale concentrations, and rate of entanglements—were evaluated and a preseason risk level was identified for each:

- Whale concentrations: **Moderate**
- Entanglements: **Low**
- Forage/ocean conditions: **Low**
- Season delay: **Low**

More information about the scoring of each factor is available ([here](#)) and additional information about the reason for the “moderate” whale concentration score is detailed below.

Whale Concentrations, Moderate

As of November 3, 2017, the 7-day composite running average of whale sightings in the Monterey Bay area (used to track humpback whales’ seasonal migration and anticipated departure from California feeding grounds) is between 5 to 20 whales. For the 2017-18 RAMP pilot, the Working Group identified this average concentration as “moderate”, suggesting that humpback whales have not moved off their traditional feeding grounds as of early November.

As a next step, the Working Group (operating as an evaluation team) has initiated a data gathering exercise to continue the compilation and analysis of available data on whale concentrations (data sources include Monterey Bay Whale Watch, the Applied California Current Ecosystem Studies (ACCESS), and Oceanic Society). Additionally, an aerial survey will be conducted in the Southern Management Area by Working Group science advisors in the first few weeks following the opener (weather dependent). Efforts are being made to consider relationships between whale concentration information and the other priority factors.

To minimize the potential for whale entanglements in the 2017-18 Dungeness crab fishing season, the commercial fleet and recreational fishing community are requested to consult and follow the recommendations outlined in the [2017-18 Best Practices Guide](#), with specific attention to the setup of surface gear. Fishermen should be on alert and avoid fishing in areas where there are groups of feeding whales and/or schools of anchovy.

The California Department of Fish and Wildlife, National Marine Fisheries Service (NMFS), and Working Group advisors will collaboratively track these factors and watch for any changes in risk throughout the 2017-18 fishing season. The Working Group will continue to work with agencies and researchers to evaluate, and be responsive to, the relative risk of entanglements. Unless there are additional indications of elevated risk identified in the near-term, group is scheduled to reconvene in early March to conduct a mid-season risk assessment.

Additional updates on the status of whale concentrations, along with updates on the other three factors, will be shared via the [DCTF email list](#), the [Working Group webpage](#), and [CDFW’s Dungeness crab webpage](#). For more information about the Working Group’s efforts and the 2017-18 RAMP pilot, including opportunities to provide feedback and share your expertise, visit <http://www.opc.ca.gov/whale-entanglement-working-group> or contact the Working Group at info@cawhalegroup.com.

CALIFORNIA DUNGENESS CRAB FISHING GEAR WORKING GROUP

November 30, 2017 Convening

Status Update: 2017-18 Risk Assessment and Mitigation Program (RAMP) Pilot

The California Dungeness Crab Fishing Gear Working Group (Working Group) convened on November 30, 2017 to continue to evaluate the relative risk of whale entanglements as part of the 2017-18 Risk Assessment and Mitigation Program (RAMP) Pilot ([click here](#) for more information about the RAMP). In an effort to maintain open lines of communication, and as a follow up to the preseason update shared with commercial and recreational fishermen on November 10, 2017, the Working Group has provided the following update:

- High concentrations of humpback and blue whales are being observed, particularly off of Monterey Canyon and the Gulf of the Farallones. Online sites such as [Whale Alert](#) and [Happy Whale](#) can provide current information on whale sightings in these areas.
- The Working Group is working with fishermen, members of the whale watch community, and whale researchers to gain a more comprehensive understanding of the positions of whales relative to the positions of fishing activities through a range of data collection pilot projects and requests to the whale watch community to better understand depths at which whales are spotted.

Fishermen are encouraged to share observations of whale activity to help inform the Working Group's efforts. Text 310-738-2665 or email info@cawhalegroup.com.

To minimize the potential for whale entanglements in the 2017-18 Dungeness crab fishing season, the commercial fleet and recreational fishing community are requested to consult and follow the recommendations outlined in the [2017-18 Best Practices Guide](#), with specific attention to the setup of surface gear. Fishermen should be on alert and avoid fishing in areas where there are groups of feeding whales and/or schools of anchovy.

The California Department of Fish and Wildlife, National Marine Fisheries Service, and Working Group advisors will continue to work collaboratively and watch for any changes in risk throughout the 2017-18 fishing season. The Working Group is working with agencies and researchers to evaluate, and be responsive to, the relative risk of entanglements.

This update will be share via the [DCTF email list](#), the [Working Group webpage](#), and [CDFW's Dungeness crab webpage](#). For more information about the Working Group's efforts and the 2017-18 RAMP pilot, including opportunities to provide feedback and share your expertise, visit <http://www.opc.ca.gov/whale-entanglement-working-group> or contact the Working Group at info@cawhalegroup.com.



Dungeness Crab Fishing Gear Working Group

Working Collaboratively to Reduce the Risk of Whale Entanglement in the California Dungeness Crab Fishery

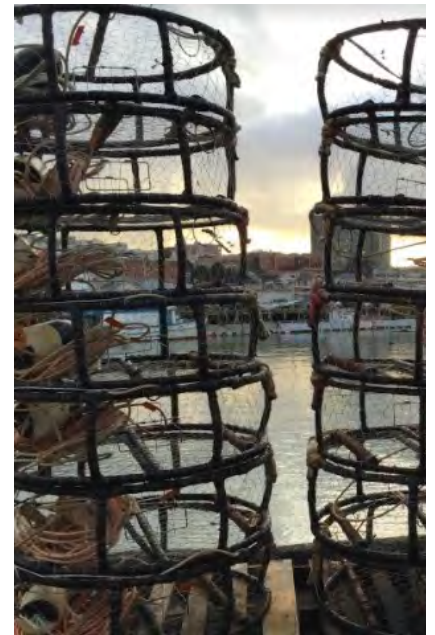
The California Dungeness Crab Fishing Gear Working Group is a collaboration among multiple diverse stakeholder groups who have come together to tackle the challenge of reducing the risk of whale entanglements in Dungeness crab fishing gear. This group strives to find solutions that support thriving whale populations along the West Coast and a thriving and profitable Dungeness crab fishery.

THE ISSUE OF WHALE ENTANGLEMENTS IN FISHING GEAR

Variable, dynamic ocean conditions are impacting California's valuable natural resources, human populations, and marine life. Recently, oceanographic and biological changes due to warmer water off the West Coast have led to delays and closures of commercial and recreational fishing seasons, altering the dynamics of fishing activity. At the same time, growing whale populations and shifts in their feeding patterns have resulted in an increased risk of whales interacting with fishing gear. In recent years, reports of whales entangled in fishing gear off California have been higher as compared to the historical number of reports since NOAA Fisheries started keeping records in 1982. A variety of factors may contribute to the increase in the number of reported entanglements, including changes in the distribution and abundance of whales, changes in fishing effort, and an increase in public awareness and reporting. Although there are many unknowns, multiple fisheries have been identified as entangling whales, including the Dungeness crab fisheries on the California coast. This creates social, environmental and regulatory challenges. It also creates risk for marine mammals and threatens the stability and viability of an important fishery and coastal fishing communities dependent on this fishery. State and federal agencies, fishermen, environmental organizations and scientists have been responsive to this issue and are working collaboratively to identify and implement solutions.

THE FORMATION OF THE DUNGENESS CRAB FISHING GEAR WORKING GROUP

In response to the recent spike in whale entanglements, the California Department of Fish and Wildlife (CDFW), in partnership with National Marine Fisheries Service (NMFS) and the California Ocean Protection Council (OPC), convened the Dungeness Crab Fishing Gear Working Group (the Working Group) to tackle the challenge of reducing the risk of whale entanglements in the California Dungeness crab fishery.



Established in September 2015, the 20-member Working Group is a unique coalition of diverse stakeholders, including commercial and recreational fishermen, environmental organization representatives, members of the whale entanglement response network, and state and federal agencies. All experts in their field, these individuals have voluntarily come to the Working Group with the common goal of supporting thriving whale populations along the West Coast and a thriving and profitable Dungeness crab fishery. Scientists, legislative staff, and gear manufacturers also participate in Working Group meetings to support and inform discussions. Since its creation, the Working Group has met seven times, and participants are committed to identifying solutions to this complex issue.

Members of the Working Group are committed to identifying solutions to the entanglement challenge. Participants have been responsive to the issue and have volunteered their time and expertise to work collaboratively towards feasible, tangible solutions. The Dungeness Crab Fishing Gear Working Group is a prime example of constituents with diverse expertise and interests uniting for a shared goal.

SUPPORTING COLLABORATIVE PROJECTS

The Working Group is currently working on the following activities: (1) supporting the implementation of collaborative projects to collect new information and synthesize existing information to enhance our understanding of whale distribution and fishing dynamics, and to test gear modifications; (2) developing effective communications materials and conducting outreach, such as the development and sharing of a Best Practices Guide. It is important to have the support of the Dungeness crab fleet, state legislators, and all stakeholders to advance these projects and to address the whale entanglement issue.

- **Whale forage distribution research:** Researchers from the UC Santa Cruz and the Southwest Fisheries Science Center are leading a project to: organize historical data, including existing ocean condition data, prey distribution patterns, and whale sightings; create maps of existing data relative to historical entanglement patterns; and evaluate capabilities to forecast whale distributions.



- **Disentanglement Trainings:** NMFS, in partnership with California Whale Rescue, The Nature Conservancy (TNC), and the Working Group, are training commercial and recreational fishermen in whale entanglement response.
- **Gear modification:** A federally funded Bycatch Reduction Engineering Program project is underway where scientists, in collaboration with fishermen, evaluate the line profiles and load strengths of different types of fishing line, as well as the visual contrast of different line types/colors in the water column.
- **Whale and crab gear distribution surveys:** The Working Group has worked in partnership with the National Marine Sanctuaries, Point Blue Conservation Science, NMFS, Oceana, and LightHawk to conduct a series of aerial and cruise vessel surveys to document the distribution of whales and crab fishing gear.
- **Electronic reporting tool research:** Fishing participants are working with CDFW and TNC to conduct a series of pilot projects on different types of data loggers, with a focus on solar loggers and TNC's eCatch, to gain a more comprehensive understanding of fishing dynamics.

LOOKING AHEAD: CONTINUED COLLABORATION

In addition to collaborative research projects and the Best Practices Guide, the Working Group also looks forward to piloting a draft voluntary risk assessment and mitigation program in the upcoming 2017-2018 Dungeness crab fishing season. Throughout 2017 and into 2018, the Working Group will continue to support implementation of collaborative projects and communications; provide guidance and recommendations to the California Dungeness crab fishing industry, the Dungeness Crab Task Force, and the state of California about how to reduce the risk of whale entanglements; and identify measures to address the entanglement issue.



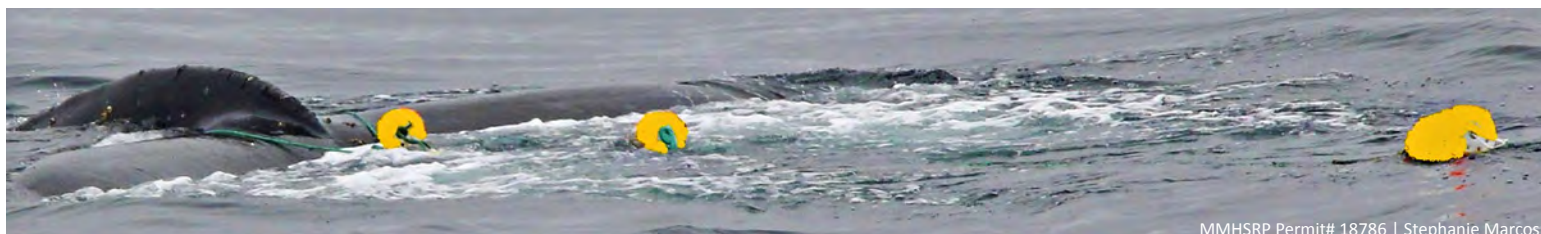
Best Practices Guide to Minimize Whale Entanglement Risk

The Working Group developed several voluntary “best practices” focused on recommendations for surface gear set up for the 2017-18 fishing season, including improved buoy setup, reduced slack surface line, and limited number of trailer buoys. More than 2,250 copies of the resulting Best Practices Guide are being shared widely with fishing associations, local gear stores, fishing harbors, and by CDFW Enforcement, the US Coast Guard, and the California Recreational Fishing Survey surveyors, as well as online distribution via CDFW and recreational fishing clubs.

2017-18 Best Practices Guide to Minimize Whale Entanglement Risk

Support for Best Practices

National Marine Fisheries Service (NMFS) has confirmed significant increases in large whale entanglements over the last few years, and specifically in California Dungeness crab fishing gear. This situation threatens the stability of the fishery and coastal fishing communities. In response, a Working Group has developed this Best Practices Guide to highlight voluntary actions believed to be an important step towards reducing whale entanglements.



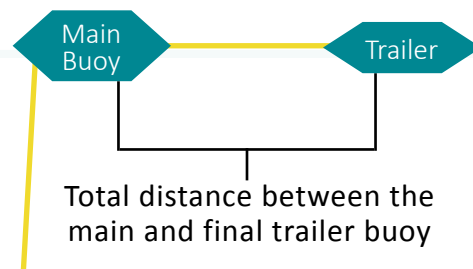
MMHSRP Permit# 18786 | Stephanie Marcos

BEST PRACTICES

- **No excess lines should be floating at the surface.** Floating line should only be between the main buoy and trailer.
- **When changing set location across depths, adjust the length of trap lines** by adjusting shots (i.e., measured length of line) to maintain taut vertical lines.
- **Avoid setting gear in the vicinity of whales** whenever possible.
- **Maintain gear to ensure lines and buoys are in good working condition** and will not break under natural conditions causing gear to become lost or irretrievable. Lost gear contributes to marine debris and increases risk of whale entanglements.
- **All gear should be clearly marked** consistent with applicable regulation. All gear should be maintained so markings are clearly legible to facilitate correct identification of the origins of the gear involved in entanglements.
- **Use the minimum amount of scope** required to compensate for tides, currents and weather. Whales are more likely to become entangled with slack lines, which can potentially create a “floating snare”.
- **Remove all fishing gear by the end of the season** when gear is no longer allowed in the water.

BUOY SET-UP BEST PRACTICES

SURFACE



RECREATIONAL

shortest as possible,
max of 2 fathoms (12ft)
at any depth

COMMERCIAL

Inside 30 fathoms

shortest as possible,
max of 3 fathoms (18ft)

30-50 fathoms

shortest as possible,
max of 4 fathoms (24ft)

Outside 50 fathoms

shortest as possible,
max of 5 fathoms (30ft)

Minimize # of buoys in set up—no more than 1 trailer buoy inside 30 fathoms

Keep line between trap and main buoy running vertical and taut



1 fathom= 6 feet

Excess Slack Surface Line and Whale Entanglements

Ocean users, including members of the fishing community, are seeing a shift in fishing practices towards increased surface line and the use of multiple surface buoys. During a review of documented entanglements from recent years, fishermen, disentanglement responders, and others see a potential connection between slack surface line and the number of trailer buoys contributing to whale entanglements.

Efforts to evaluate the effectiveness of these voluntary recommendations in reducing the risk of whale entanglements will be made to inform future recommendations and/or management action. These best practices, together with investigating the co-occurrence (or overlap) between whale and fishing effort, are steps the Working Group is taking to address this challenging and complex issue.

For more information about the California Dungeness Crab Fishing Gear Working Group, including a fact sheet, background materials, meeting summaries, recommendations memos, and key resources like this Best Practices Guide, visit opc.ca.gov/whale-entanglement-working-group.

Taking these important, proactive steps to voluntarily reduce slack surface line will help to provide continued opportunities to harvest crab and maintain the fleet's access to the resource.



Reporting Entangled Whales

Report entangled whales **IMMEDIATELY** to the NMFS whale entanglement response hotline at **1-877-SOS-WHALE (1-877-767-9425)** or hail the U.S. Coast Guard on Channel 16. If possible, stand by for responders.

Photographing Entangled Whales (>100 yards away)

WHALE: side view of dorsal fin (or hump); flukes (especially if underside is raised); head; any part of the body where gear may be present.

ENTANGLEMENT: buoy(s); tags; lines on the body; trailing lines (including distance from whale); netting (if present); other gear if present.

20150516Mn NOAA MMHSRP Permit# 18786

Respond Promptly if Contacted by NMFS or CDFW

If you are contacted by NMFS, California Department of Fish and Wildlife (CDFW), or any other government agency regarding a whale entangled in your gear please respond and provide as much information as possible about your fishing gear and practices. Gaining a better understanding of where, when, and how entanglements are occurring is essential in working to prevent entanglements in the future.

If you have suggestions for reducing entanglements in fishing gear, contact Dan Lawson, NMFS Protected Resources Division, at Dan.Lawson@noaa.gov or 562-980-3209.

The Best Practices Guide was developed by the California Dungeness Crab Fishing Gear Working Group.

