



Issued: November 9, 2018; Updated: December 3, 2018

## 2018-19 Commercial Dungeness Crab Fishery - Frequently Asked Questions

**Q: If my vessel waited for the delayed area to open, then can I set gear in the newly opened area AND the already opened area that was not under delay during the gear set period?**

A: No, the gear set period only applies to the newly opened area. By setting gear in the already opened area that was not under delay you would be considered as taking crab in that area in advance of the opening of a delayed area. That would then trigger fair start for the newly opened area, and the 30 day wait period would apply. However, you can begin to set gear in the already opened area at 12:01 am on the first day when the delayed area opens.

**Q: What changes were implemented to California's fair start provision, Fish and Game Code section 8279.1, for the upcoming 2018-19 season?**

A: The recent passage of an urgency bill, [SB1310](#), updated [section 8279.1](#) of the Fish and Game Code. The two main changes were (1) to remove the different categories of fair start as applied to certain districts or states and replace with a single section applying fair start to any area of ocean that is subject to a delay in the season opener; and (2) to define a delay to include only quality- or health-related delays. A vessel that participated in the commercial Dungeness crab fishery prior to the opening of a delayed area is subject to fair start and has to wait 30 days from the date of the opening before it can take, possess onboard, or land crab in the delayed area.

**Q: How will Fish and Game Code section 8279.1 apply to areas of California that are delayed due to domoic acid?**

A: Any areas in California that are delayed for commercial Dungeness crab fishing due to domoic acid are subject to fair start. If the delayed area includes a port of landing, not only is the area closed to fishing, but landing and transiting in possession of Dungeness crab by a vessel in the area is also prohibited.

**Q: How are fish businesses in ports adjacent to closed or delayed waters affected by the delay?**

A: Although a vessel is prohibited from landing Dungeness crab in a port included in closed or delayed areas, a fish business can still land crab that are brought to the business by land under a Fish Transportation Receipt.

**Q: Once an area is cleared for domoic acid how will the Department notify the fleet?**

A: Pursuant to Fish and Game Code [section 5523](#), following a recommendation by state health agencies that any area closed to Dungeness crab fishing may be reopened, the Director may provide a 72-hour notice to the fleet before the start of the gear setting period. Gear setting periods are the same time periods that are applied to the respective management areas scheduled season start dates under Fish and Game Code section 8283, which is 18 hours south of Sonoma/Mendocino county line and 64 hours north of this line.

If following the 72-hour notice, the gear setting period begins on any of the following dates in 2018: November 21, November 22, November 23, December 24, December 25, December 31; or January 1, 2019, the director may delay opening those waters for the additional time that is necessary to begin the gear setting period on the following day.

The Director issues a declaration to open an area (and close/delay areas) and this information will be disseminated through the posting of a press release. The Department will also provide the information to the Dungeness Crab Task Force and request it be sent out over their email listserv.

**Q: How does participating in Puget Sound, Washington's Dungeness crab fishery affect application of Fish and Game Code section 8279.1?**

A: Based on the updated language in section 8279.1 specifically referencing the tri-state program, the Department does not consider the Puget Sound to be an ocean water subject to fair start. Participating in the Puget Sound fishery would not trigger the fair start provisions.

**Q: Will commercial fishing in any area of Washington start the 30-day clock in Washington if there is delay in Washington due to quality or domoic acid?**

A: The updated fair start provision now treats every discrete area as a separate delayed area when the delay is due to tri-state quality testing or a risk to human health (i.e. domoic acid). When any delayed areas in Washington open to fishing, a vessel that participated in the commercial Dungeness crab fishery prior to the opening of the delayed area in Washington is subject to fair start and has to wait 30 days from the date of the opening before it can possess, take onboard, or land crab in the delayed area.

**Q: How does the California fair start provision treat tribal delays in Washington state?**

A: Under the updated section 8279.1, the tribal fishing period does not qualify as a delay in the start of the opening of the commercial Dungeness crab fishing season. Only a delay based on the tri-state quality testing program or to prevent a human health risk would trigger the 30-day fair start period.

**Q: If there are delayed areas in Oregon due to either quality testing or domoic acid testing, how will California's fair start apply to this area?**

A: Similar to Washington, the updated fair start provision now treats every discrete area that is delayed due to tri-state quality testing or a risk to human health (i.e. domoic acid) as separate delayed areas. When any delayed areas in Oregon open to fishing, a vessel that participated in the commercial Dungeness crab fishery prior to the opening of the delayed area in Oregon is subject to fair start and has to wait 30 days from the date of the opening before it can possess, take onboard, or land crab in the delayed area.

**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 meat recovery from any California port in District 6, 7, 8, or 9 is 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 applies the fair start provision 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 opener north of the county line, that vessel must wait 30 days after the delayed area north of the Sonoma/Mendocino county line opens to take, possess onboard, or land Dungeness crab in the northern area.