

## **UPDATED** Amended Informative Digest/Policy Statement Overview

Under current regulations, retrieval of commercial Dungeness crab traps associated with other vessels is only allowed under specific circumstances (Section 132.2, Title 14, CCR). Following the close of the commercial Dungeness crab season, it is unlawful for traps to remain in ocean waters (Fish and Game Code Section 8276(d)). There are currently limited incentives for eligible fishermen to retrieve such gear, and regulations do not specify a mechanism by which individuals can be reimbursed for costs incurred during the retrieval of lost or abandoned trap gear.

The proposed regulation would amend Section 132.2 to clarify that vessels operating under the authority of the Trap Gear Retrieval Program or a waiver issued by the Department do not need to hold a Dungeness crab vessel permit, which is otherwise required to retrieve Dungeness crab trap gear.

The additional amendment to Section 132.2 specifies that retrieval activities must be conducted by Dungeness crab permitted vessels unless specifically authorized by the Department, either under a waiver or under the program authorized by Section 132.7.

The proposed regulation would also add Section 132.7 to Title 14, CCR to create a program under which qualified individuals can retrieve lost or abandoned commercial Dungeness crab traps, and the accompanying surface lines and buoys, and be reimbursed for costs incurred during retrieval operations. Permitting a broader range of individuals to retrieve trap gear is a necessary step to reduce the risk of whale entanglement with trap gear and the navigational and aesthetic impacts of persistent marine debris. The following is a summary of the new and amended regulations proposed in Section 132.7:

- Define commercial Dungeness crab traps that are left in ocean waters after the close of the season to be lost or abandoned and subject to retrieval by permitted individuals
- Define applicants for a Retrieval Permit as charitable organizations, sport or commercial fisherman associations, or government entity in California
- Specify the form upon which interested entities will apply for a Retrieval Permit (DFW 1078, New 01/23/19) and subsequently amend that permit (DFW 1078a, New 01/23/19)
- Specify minimum requirements for Designated Retrievers who are authorized to conduct retrieval operations
- Specify the period during which gear retrieval operations may be conducted, and that gear located in an area where take of Dungeness crab by trap is prohibited may not be retrieved without authorization from CDFW Law Enforcement Division
- Specify a logbook form (DFW 1059, New 01/23/19) upon which Designated Retrievers and Retrieval Permittees will document trap retrieval operations and whether a Responsible Vessel Permitholder has paid a Retriever Trap Fee for their retrieved gear

- Specify the Department authority to inspect vessels and facilities to ensure compliance
- Establish criteria for suspension or revocation of a Retrieval Permit
- Establish timelines for contact, title transfer, and disposition of retrieved traps
- Establish a per-trap fee the Department will pay to a Retrieval Permittee if a Responsible Vessel Permitholder does not pay the Retriever Trap Fee
- Levy a per-trap fee for all Responsible Vessel Permitholders who do not pay the Retriever Trap Fee, and allow the Department to suspend renewal or transfer of the Dungeness crab vessel permit until all owed fees are paid

Amending Section 705 will set the Lost or Abandoned Trap Gear Retrieval Permit Application, Lost or Abandoned Trap Gear Retrieval Permit Amendment, and Lost or Abandoned Department Trap Gear fees. The Application and Amendment fees are necessary to recover Department costs to process and oversee activities authorized by a Retrieval Permit. The Department Trap Fee would be paid by a Dungeness crab vessel permittee to recover Department costs associated with non-payment of the Retriever Trap Fee.

The proposed regulations will encourage removal of lost or abandoned Dungeness crab trap gear and therefore reduce the risk of marine life entanglement, improve the aesthetics of coastal waters, and remove navigation hazards from ocean waters. In addition, the amount of the freely-negotiated Retriever Trap Fee paid to the Retrieval Permittee is expected to be less than the market price of purchasing new traps and associated surface gear (lines and buoys). Thus, the program is also expected to benefit the Dungeness crab fishing fleet by reducing costs from replacing lost gear.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated the Department authority to implement a commercial Dungeness crab trap gear retrieval program (Section 9002.5 of the Fish and Game Code). The Department has reviewed existing regulations in Title 14 of the California Code of Regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing State regulations.

#### **UPDATE: 15-DAY CONTINUATION NOTICE, ADOPTION**

##### **Amendments to the Addition of Section 132.7, Title 14, CCR:**

- **Subsection (c)(1)(B) was amended to specify that only fishing associations with a written charter or a governing board will qualify for a Retrieval Permit.**
  - **These changes clarify that only private agencies with adequate administrative capabilities and facilities to oversee an abandoned gear retrieval operation are to be granted Retrieval Permits.**
- **Subsection (c)(1)(C) changes “government entity” to “local agency or district.”**

- **These changes clarify that only public agencies with adequate administrative capabilities and facilities to oversee an abandoned gear retrieval operation are to be granted Retrieval Permits.**
- **Corrections were made to the regulatory text references to form date (New 8/14/19), name, and their availability online.**

**Forms DFW 1078, DFW 1078a, DFW 1059**

- **Certification of information provided on the forms to the Department must be correct and true under penalty of perjury.**
- **Added language to the forms to clarify the provisions of Section 132.7 (c)(1)(B) and (C).**
- **Corrections were made to the zip codes of the Department offices.**
- **Form dates were changed to clarify the date of amendment New 8/14/19.**
- **Corrected the word “may” to “will” on form DFW 1059.**

**Following the close of the 15-day continuation notice period, the Department adopted the originally proposed text of Section 705, the amended text of Section 132.2 (as described in the second 45-day notice), and the addition of Section 132.7 (as described in the 15-day continuation notice). The Department also adopted forms DFW 1059 (New 8/14/19), DFW 1078 (New 8/14/19), and DFW 1078a (New 8/14/19), incorporated by reference in Section 132.7, as described in the 15-day continuation notice.**

There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.