

STAFF SUMMARY FOR AUGUST 4-5, 2015

5. DUNGENESS CRAB**Today's Item**Information Action

Authorization to publish notice of intent to amend recreational Dungeness crab and crab trap regulations.

Summary of Previous/Future Actions

- Original notice hearing Apr 8-9, 2015; Santa Rosa
- **Today's notice hearing Aug 4-5, 2015; Fortuna**
- Discussion/adoption hearing Oct 7-8, 2015; Los Angeles

Background

In Dec 2013, FGC considered requests from Coastside Fishing Club, the Golden Gate Fishermen's Association, and a commercial passenger fishing vessel (CPFV) captain, for modifications to Dungeness crab recreational fishery regulations. FGC directed these requests to be presented to the Dungeness Crab Task Force (DCTF) at its Apr 2014 meeting. DFW presented these requests to DCTF, resulting in the following recommendations:

1. Remove the language limiting CPFVs in Sonoma, Marin, San Francisco, San Mateo, Santa Cruz, and Monterey counties to the take of six Dungeness crab that are six inches in length or greater. This change will align statewide bag and size limits.
2. Require crab traps to have one destruct device of a single strand of untreated cotton twine size No. 120 or less that creates an unobstructed escape opening in the top or upper half of the trap of at least five inches in diameter when the destruct attachment material corrodes or fails. This change will help to ensure trapped organisms can escape from a lost trap.
3. Require crab traps to be affixed with a buoy and that each buoy shall be marked to identify the operator's GO ID number as stated on his/her sport fishing license. These changes will identify the owner of the trap for enforcement purposes since it is unlawful to disturb traps that belong to another person.
4. Prohibit all crab traps from being deployed in ocean waters seven days prior to the opening of the Dungeness crab season. This change would prevent crab traps from being in the water before the season starts, thus reducing illegal catch.
5. Add Santa Barbara County to clarify the location of Point Arguello, the southernmost landmark where crab traps and crab loop traps can be used in California.

Significant Public Comments

1. Support for DFW's proposal (Exhibit 5, page 11, and Exhibit 6).
2. Report from DCTF, providing its recommendation regarding the Coastside Fishing Club proposal (Exhibit 7)
3. Letter from Coastside Fishing Club, renewing its petition to revise recreational D. crab crab regulations and stating a willingness to defer certain items to simplify a rulemaking package (Exhibit 8)
4. A recommendation to eliminate the 60 crab trap limit for CPFVs (Exhibit 9).

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Recommendation

FGC staff: Authorize publication of the notice as recommended by DFW.

DFW: Authorize publication of the notice of proposed regulatory action.

Exhibits

1. DFW memo, received Jul 8, 2015
2. ISOR
3. Attachment A, analysis of catch records
4. Attachment B, meeting notes
5. Letter from Earthjustice and CBD, received Jun 26, 2015
6. Email from Craig Stone, received Jul 7, 2015
7. Report from the Dungeness Crab Task Force to DFW and FGC, dated May 9, 2014
8. Letter from Coastside Fishing Club, dated May 2, 2014
9. Email from Captain Tom Mattusch, received Nov 24, 2014
10. DFW presentation

Motion/Direction

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to amend subsection 29.80(c), et al. related to recreational Dungeness crab and crab traps regulations.

State of California
Department of Fish and Wildlife

Memorandum

Date: July 6, 2015

To: Sonke Mastrup
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director
Department of Fish and Wildlife



Subject: **Agenda Item for August 4-5, 2015, Fish and Game Commission Meeting Request for Notice Authorization Re: Recreational Dungeness Crab and Crab Traps Regulations**

The Department of Fish and Wildlife (Department) requests that the Fish and Game Commission (Commission) authorize publication of notice of its intent to consider amending subsections (c) and (e) of Section 29.80 and subsections (a)(3) and (a)(7) of Section 29.85 Title 14, California Code of Regulations (CCR).

Changes since April:

1. A discussion meeting between Department staff and CPFV operators who fish in the affected central California coastal counties was held in May 2015 to assess support for the proposal of uniform size and bag limits. Only nine of the 42 active operators that were solicited, based on landings recorded in the previous year from their daily fishing logs, chose to attend the meeting. On this particular issue overall support was mixed, with five that supported the proposal and four who did not. In addition, two operators expressed support and one did not, via email. Nine recreational anglers contacted the Department in May 2015 and most expressed support for uniform limits. In accordance with the original request from members of the sport fishing community, the Department recommends that the CPFV regulations requiring different bag and size limits in the central California coastal counties be eliminated from Section 29.85, Title 14, CCR, so that these limits are uniform throughout the state.
2. The phrase "owner" in the text and regulations was changed to "operator" to improve regulatory clarity.

Original Proposal:

The proposed regulatory changes include modifications to the regulatory text to make bag and size limits uniform statewide for California Commercial Passenger Fishing Vessels (CPFVs). Additional proposed amendments would require that sport crab traps contain a destruct device to prevent 'ghost fishing' by lost traps and that trap buoys display information identifying the crab trap owner to deter theft of crabs from traps.

The Department is also recommending a seven day waiting period prior to the start of the Dungeness crab recreational season for deploying crab traps. This would prevent crab traps, as specified in subsection (c) of Section 29.80, Title 14, CCR, from occupying fishing grounds for Dungeness crab under the guise of rock crab fishing before the season starts.

Lastly, the Department is proposing to clarify language in subsection (e) of Section 29.80, Title 14, CCR specifying that Point Arguello is located in Santa Barbara County.

If you have any questions or need additional information, please contact Dr. Craig Shuman, Regional Manager of the Marine Region, by telephone at (805) 568-0216. The public notice should identify Environmental Scientist, Christy Juhasz as the Department's point of contact for this rulemaking. She can be reached at (707) 576-2887 or by email at Christy.Juhasz@wildlife.ca.gov.

Attachment(s)

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to align size and bag limits statewide. Recreational fishing groups and constituents, including the Coastside Fishing Club, the Golden Gate Fishermen's Association, and one CPFV Captain, requested in December 2013 that differential limits be made uniform in order to eliminate unfairness to fishers aboard CPFVs in Central California coastal counties. The Commission directed these requests to be presented to the Dungeness Crab Task Force (DCTF) at its April 2014 meeting, in accordance with Fish and Game Code (FGC) subsection (c)(2) of Section 8276.4. The DCTF agreed that there should be uniform bag limits and minimum size limits for the recreational fishery throughout California, but deferred the decision on these specific limits to the Commission with input from the Department of Fish and Wildlife (Department) and the recreational constituency. At the direction of the Commission, the Department prepared draft proposed regulations that align CPFV size and bag limits in Central California coastal counties with the remainder of the recreational fishery.

The different regulations for the taking of Dungeness crab from CPFVs from Central California coastal counties originated in the early 1990s, based on commercial fishing interests concerned with what they thought was unfair competition from CPFVs employing fishing methods that closely resemble those methods employed by the commercial fishing fleet (i.e., crewmembers set and pull the traps, whose catch is then distributed to passengers aboard). While there is no catch allocation between sectors, fishing interests in the area negotiated a compromise to allow CPFVs to continue to catch Dungeness crab under a lower daily bag limit and higher minimum size limit. There was no biological rationale driving this difference, since the fishery was and is considered to be sustainable under the current management scheme with no set annual limits, quotas, or caps on catch.

The Department reviewed landings data for the commercial fleet in this region since the change was adopted, and reviewed recent recreational catch estimates (See Attachment A). Despite wide cyclical fluctuations in catch, the data indicate that recent recreational catch from Sonoma County south accounts for a very small percentage (~2-3%) of total recreational and commercial catch in the same area, and CPFV take represents an even smaller percent (~1%). In addition, average recent commercial catch from the past ten years in the same area has substantially increased over historic patterns from the previous ten years. While there is no resource allocation between sectors, the Department's analysis suggests that the increase in CPFV bag limit and decrease in minimum size limit would not significantly alter use patterns between sectors. That said, support amongst CPFV operators in the affected counties for the proposal for uniform bag and size limits appears to be mixed, based on a meeting hosted by Department staff in May 2015, although only nine of the 42 invited CPFV operators (identified as active based on daily fishing logs) attended (See Attachment B). Nonetheless, based on the Department's analysis, and the lack of biological

concern, the Department concurs with the recreational stakeholder groups that there is no justification to maintain different bag and minimum size limits for different sectors of the recreational fishery.

Crab trap destruct device:

Existing regulations prescribe that crabs may be taken with crab traps north of Point Arguello; traps must possess at least two circular openings of 4.25 inches in diameter, to allow smaller crabs and organisms to escape. While current commercial fishing regulations require a destruct device on commercial crab traps, recreational crab trap regulations do not.

The proposed regulation would add a requirement that every crab trap shall include one destruct device. The Coastside Fishing Club requested that a destruct device be required on recreational crab traps to prevent 'ghost fishing' by lost traps.

The Department proposes that each trap possess a destruct device similar to commercial crab traps. Traps used by recreational crabbers are very similar in style to commercial crab traps but are not required to have a destruct device to prevent 'ghost fishing'. The requirement that commercial traps used to take finfish, mollusks or crustaceans be equipped with at least one trap destruct device is described in Section 9003, FGC, and Section 180.2, Title 14, CCR. The device on commercial crab traps must be made of cotton twine, No. 120 or less, used to replace several meshes in the trap. If the trap is lost at sea, the cotton will decompose, and any marine life trapped inside can escape out of the opening created. Adding this requirement to recreational fished crab traps would ensure that all traps used to fish crabs in California ocean waters would be equipped with a destruct device.

Marking of crab trap buoys:

Existing regulations require that traps and buoys used by commercial fishermen and CPFVs targeting Dungeness crab are required to be labeled as prescribed (subsection (b) of Section 9006, FGC, Section 132.1, Title 14, CCR, and subsection (a)(5) of Section 29.85, Title 14, CCR). Recreational crab trap regulations do not include such a requirement.

The proposed regulation would add a requirement that every crab trap shall be affixed to a buoy that is legibly marked to identify the operator by a unique identification number, specifically the operator's GO ID (i.e., the "Get Outdoors Identification number", a unique number issued by the Automatic License Data System (ALDS) that is permanently tied to an individual and located on their sport fishing license). The Coastside Fishing Club requested that trap buoys be required to display the contact information of

the crab trap operator to deter theft of crabs from traps.

Traps used by commercial fishermen are required to be labeled appropriately according to the type of trap being used. Trap buoys in the Dungeness crab commercial fishery are labelled with the commercial fisher's license or L number as stated in subsection (b) of Section 9006, FGC. In addition, regulations provide for unique identification on buoy trap tags (Section 132.1, Title 14, CCR). Regulations also require CPFVs to label their crab traps and buoys used for taking Dungeness crab with their commercial boat registration number (subsection (a)(5) of Section 29.85, Title 14, CCR). These requirements are in place to not only identify the operator of the trap for enforcement purposes, since it is unlawful to disturb traps that belong to another person, but to potentially contact the operator if the trap becomes abandoned or derelict and is later recovered. A similar requirement for recreational crab trap buoys to contain the operator's GO ID number as listed on his/her sport fishing license would also serve the same purpose.

Trap deployment prior to season:

Existing regulations provide for a crab season that is year-round, except for Dungeness crab, which may only be taken during an open season starting the first Saturday in November and extending through July 30 in Del Norte, Humboldt and Mendocino counties, and through June 30 in all other counties. Existing regulations specify that crab traps may only be used north of Point Arguello, in Santa Barbara County. The proposed regulation would establish a seven day waiting period prior to the opening date of the Dungeness crab season, during which crab traps cannot be deployed or used. This would prevent crab traps under subsection (c) of Section 29.80, Title 14, CCR, from occupying fishing grounds for Dungeness crab before the season starts.

This seven-day suspension of trap deployment would eliminate the potential for covert fishing of Dungeness crab under the guise of rock crab fishing before the start of the season. In the week prior to the recreational Dungeness crab opener, there is a large influx of traps placed by some individuals in ocean waters that are allegedly targeting rock crab, which have a year round open season of take. However, most of these traps are actually being used to take and hold Dungeness crab before the season opens since they are placed in Dungeness crab habitat and not in areas where rock crab catch would be expected. These traps are typically not serviced by their operators until after the season starts and are effectively fishing for Dungeness crabs in the meantime. When the traps are pulled and inspected by enforcement prior to the season opener, they are mainly occupied by Dungeness crab and very rarely by rock crab. Imposing a seven day waiting period where crab traps cannot be deployed or used prior to the opening date of the Dungeness crab season would prohibit this illegal

fishing behavior and create a more fair and orderly fishery, whereby crab traps targeting Dungeness crab cannot be deployed until the first Saturday of November. Since recreational crab traps can only be deployed north of Point Arguello, Santa Barbara County, *ipso facto* this regulation would apply to all areas of the California coast north of this landmark.

The Department evaluated the potential effect this may have on the rock crab fishery, and has concluded this will not impact the fishery. This seven-day moratorium of using crab traps would not prevent rock crab fishing using hoop nets or crab loop traps, also known as snares. In addition, the timing of the proposed waiting period, to occur in late October or early November, is not considered an optimal fishing time for rock crab. The rock crab recreational fishery is open year-round and there are many other opportunities to fish using crab traps the other 51 weeks of the year, especially during the summertime.

Change for clarity

Subsection (e) of Section 29.80, Title 14, CCR, identifies Point Arguello, but does not specify the county in which it is located. The proposed regulation would add Santa Barbara County as the county in which Point Arguello is located, for purposes of public understanding and clarity, and for consistency with its inclusion in subsection (b) of Section 29.80 regarding hoop net use.

Effective dates for proposed regulations:

The following Title 14, CCR, regulation changes are proposed to become effective prior to the start of the 2015-16 Dungeness crab season (i.e., November 7, 2015, the first Saturday in November):

- Remove bag and minimum size exception language in subsections (a)(3) and (a)(7) of Section 29.85 that currently limits CPFVs in Sonoma, Marin, San Francisco, San Mateo, Santa Cruz, and Monterey counties to the take of six Dungeness crab that are 6 inches in carapace width or greater.
- Add Santa Barbara County as the location of Point Arguello under subsection (e) of Section 29.80.

Rationale: The Department intends to request an expedited review in order for CPFV regulation changes to become effective by start of the 2015-16 Dungeness crab season. The Department will inform the CPFV operators (numbering <50) in the Central California coastal counties directly regarding the effective date once determined.

The following Title 14, CCR, regulation changes would specify an effective

date of August 1, 2016, which immediately follows the close of the 2015-16 Dungeness crab season:

- Add language to subsection (c) of Section 29.80 that requires, as of August 1, 2016, crab traps to have one destruct device of a single strand of untreated cotton twine size No. 120 or less that creates an unobstructed escape opening in the top or upper half of the trap of at least five inches in diameter when the destruct attachment material corrodes or fails.
- Add language to subsection (c) of Section 29.80 that requires, as of August 1, 2016, every crab trap to be marked with a buoy and that each buoy shall be legibly marked to identify the operator's GO ID number as found on his/her sport fishing license.
- Add language to subsection (c) of Section 29.80 that prohibits, as of August 1, 2016, crab traps from being deployed in ocean waters seven days prior to the opening of the Dungeness crab season.

Rationale: A later effective date of August 1, 2016, following the close of the 2015-16 Dungeness crab season, is proposed in order to provide adequate notice to affected recreational crab fishermen, as these changes affect a larger constituency, are more restrictive than CPFV changes, and require action on the part of fishermen. Notification and public awareness would be supported by inclusion of the changes and their effective dates in the recreational fishing regulations booklet prior to implementation.

Benefits of the Regulation

The Commission anticipates benefits to the State's environment and the health and welfare of California residents. The proposed regulation changes are intended to provide increased fishing opportunity, reduce incidences of derelict trap gear continuing to fish, deter crab theft and promote a more orderly fishery by eliminating the potential for covert fishing of Dungeness crab under the guise of rock crab fishing before the start of the season. The Commission anticipates benefits to the environment by the sustainable management of California's Dungeness crab resources.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 202, 205, 215, & 220, Fish and Game Code.

Reference: Sections 200, 202, 205, 206, 215, & 220, Fish and Game Code.

(c) Specific Technology or Equipment Required by Regulatory Change:

None.

(d) Identification of Reports or Documents Supporting Regulation Change:

Attachment A. Department of Fish and Wildlife Review of Commercial Dungeness Crab Landings Trends and Recent Recreational Catch Trends in Central California Coastal Counties (July 2015)

(e) Public Discussions of Proposed Regulations Prior to Notice publication:

April 22-23, 2014 Dungeness Crab Task Force (DCTF) meeting: The DCTF discussed the Coastside Fishing Club proposals at the request of the Commission, and in accordance with subsection (c)(2) of Section 8276.4, FGC. The final meeting summary can be accessed at this link, starting on page 11:

http://www.opc.ca.gov/webmaster/media_library/2009/04/DCTF_FINAL_SummaryApr22-23Meeting_06162014.pdf

August 6, 2014 Commission meeting: The Commission and public discussed the proposal submitted by the Coastside Fishing Club and reviewed by the DCTF recommendations concerning the proposal. Video tape of this discussion can be accessed at

<http://www.cal-span.org/cgi-bin/archive.php?owner=CFG&date=2014-08-06&player=silverlight>.

April 8-9, 2015 Commission meeting: A public discussion regarding the proposed regulations was held at the Commission's April 2015 meeting in Santa Rosa. Video tape of this discussion can be accessed at

<http://www.cal-span.org/cgi-bin/archive.php?owner=CFG&date=2015-04-08&player=silverlight>.

May 19, 2015 Department meeting with CPFV operators: Additional discussions were held between the Department and CPFV operators in the affected coastal counties. See Attachment B.

June 10-11, 2015 Commission meeting: A brief update and Commission direction regarding the rulemaking schedule was provided at the June 2015 Commission meeting in Mammoth Lakes. Video tape of this discussion can be accessed at

[http://www.cal-span.org/cgi-bin/archive.php?owner=CFG&date=2015-06-10&player=jwplayer&captions=\(Agenda Item 16D\)](http://www.cal-span.org/cgi-bin/archive.php?owner=CFG&date=2015-06-10&player=jwplayer&captions=(Agenda%20Item%2016D)).

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

1. Size limit. This proposal would increase the minimum size limit for recreational Dungeness crab to 6.25 inches to match the commercial size limit. The arguments in favor of this change centered on a desire for consistent regulations between the commercial and sport fisheries and a concern that the current sport size limit of 5.75 inches is too low to maintain the resource. The minimum size limit for both fisheries was the same, at 6.25 inches, until 1990 when the lower sport fishery size limit of 5.75 inches was adopted. This regulation provided increased fishing opportunity for recreational crab anglers, especially with the increased effort on fishing grounds following the start of the commercial season while still excluding a portion of the reproductive resource of Dungeness crab that are between this size limit and 4 inches, the approximate minimum size at maturity.

This proposal was rejected primarily because reasons for adopting the lower sport size limit in 1990 are still valid: 1) It provides added opportunity for sport fishers to catch and retain crab that have not yet recruited to the more efficient and extensive commercial fishery; 2) The sport minimum size limit is greater than the size at reproductive maturity and there is no biological or fishery need to increase the size limit; and 3) The sport fishery catch is minimal compared to catch overall, estimated to be about 2-3% of the total crab catch, based on preliminary CRFS sampling data.

2. Pre-season trap deployment. This proposal would allow CPFVs to set their traps prior to the start of the season. The arguments in favor center on consistency with commercial regulations and safety. Commercial fishermen have a 64 hour pre-set in northern California (north of the Sonoma/Mendocino county line) and an 18 hour pre-set in central California. Some CPFV operators like to set traps in advance of the opening day so that their first trip on opening day with passengers allows them to pull fished traps. Currently, under existing regulations, CPFVs either set gear on opening day at or after 12:01 AM, then return to pick up passengers at daybreak, or alternatively, take gear and passengers out at the same time. There are safety concerns that setting gear in the night time hours during late-fall ocean conditions is hazardous and having crab gear on board with passengers may reach overcapacity limits on vessels.

This proposal was rejected because of fairness and consistency issues it would generate, by only CPFVs being allowed while private sport boats would not be allowed to pre-set. Either way, the alternative would be undermining the Department proposal to remove all trap gear from the water seven days prior to opening day to avoid fishing prior to the

opener, and would undermine the intent of the current Dungeness crab fishing season set to begin the first Saturday of November. The setting of baited gear is considered fishing prior to the opening day, which would be inconsistent with other sport fisheries and confusing to the public.

Six of the nine central California CPFV operators at the May 19, 2015 discussion meeting (see Appendix A) voted for a 42 hour pre-set, which is much longer than the 18 hour pre-set for commercial fishermen in central California. Furthermore, in light of the significant increase in whale entanglement events in crab trap gear over recent years, the Department, NOAA and the commercial crab industry have initiated discussions on how to reduce encounters in the future. A regulation that increases the length of trap deployment in any of our fisheries at this time is not considered a prudent approach to abating this issue while options are being explored. Regarding the safety argument, it has been and continues to be the responsibility of the CPFV operators to conduct their operations safely and follow United States Coast Guard safety and capacity regulations.

3. Opening day start time. This proposal by some CPFV operators would change the start time from 12:01 AM to 12:00 PM on opening day. The discussion focused on safety and operating during daylight hours.

This proposal was rejected because the traditional 12:01 AM opening allows more flexibility for a start time any time after, including the ability to wait until 12:00 PM to operate. It would also unfairly impact private boat and shore based fishermen who currently enjoy the earlier opening time.

4. CPFV trap limit. This proposal would increase the CPFV trap limit above the current limit of 60 traps. The argument originating from CPFV operators is that if the current proposal to increase the CPFV individual bag limit from six to ten is accepted, then more traps will be needed to catch the new bag limit for customers.

The trap limit was discussed at a May 19, 2015 meeting with CPFV operators (see Appendix A). No mutually acceptable limit was identified, but all in attendance were in support of removing the regulation in subsection (a)(4) of Section 29.85, Title 14, CCR, that caps the maximum number of traps a CPFV can use to take Dungeness crab at 60. This proposal was rejected, in light of the significant increase in whale entanglement events in crab trap gear over recent years, which are currently under discussion between the Department, NOAA and the commercial crab industry. Discussions are focusing on how to reduce encounters in the future; and a regulation that increases the number of

traps in any of our fisheries at this time is not considered a prudent approach to abating this issue while solutions are being explored. However, the need for this alternative can be tracked if the new bag limit is adopted; if it appears that more traps are needed by a significant number of CPFV operators, the Department can reconsider the issue.

(b) No Change Alternative:

1. Recreational fishers aboard CPFVs from Sonoma, Marin, San Francisco, San Mateo, Santa Cruz and Monterey counties will continue to be limited to take only six Dungeness crab that are 6 inches or greater in carapace width unlike other fishers on CPFVs in other counties or not on board CPFVs in the same counties, who enjoy a larger bag limit and lower size limit.
2. Crab traps used in the recreational fishery that are derelict will continue to fish for crabs and other organisms that will become trapped inside with no means to escape.
3. There will continue to be no means to enforce subsection (a)(3) of Section 29.80, Title 14, CCR, that states that it is unlawful to disturb, move or damage any trap that belongs to another person since no identification of the trap operator is required on traps or buoys used for the recreational take of Dungeness crab.
4. Crab traps illegally targeting Dungeness crab out of season will continue to be deployed sometimes up to a week before the recreational season begins, giving some fishers an unfair advantage before the start of the Dungeness crab season and creating a disorderly fishery opening.
5. The geographic location of Point Arguello, which is identified in subsection (e) of Section 29.80 regarding crab trap areas, will not be clarified as being located in Santa Barbara County, as it is identified under subsection (b) of Section 29.80 regarding hoop net use.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective as and less burdensome to the affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action is expected to have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, including the Ability of California Businesses to Compete with Businesses in Other States:

Costs to comply with new trap and buoy requirements are anticipated to be nominal, and the proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Costs to comply with new trap and buoy requirements are anticipated to be nominal, and the proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California. The proposed regulation changes are intended to provide increased fishing opportunity and potential increase in business aboard CPFVs in affected county areas, reduce incidences of derelict trap gear continuing to fish, deter crab theft, and promote a more orderly fishery at the start of the Dungeness crab season.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a Dungeness crab recreational fishery encourages consumption of a nutritious food.

The Commission anticipates benefits to the environment by the sustainable management of California's Dungeness crab resources.

The Commission does not anticipate any non-monetary benefits to worker safety.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

- (e) Nondiscretionary Costs/Savings to Local Agencies:

None.

- (f) Programs mandated on Local Agencies or School Districts:

None.

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code:

None.

- (h) Effect on Housing Costs:

None.

VII. Economic Impact Assessment:

The economic impact of the proposed regulatory changes for the Dungeness crab recreational fishery can be estimated by tracking any resulting changes in fishing effort, defined as trapping trips and length of stay in the coastal fishery areas. Direct expenditures ripple through the economy, as receiving businesses buy intermediate goods from suppliers who then spend that revenue again. Business spending on wages is received by workers who then spend that income, some of which goes to local businesses.

The proposed changes to the recreational Dungeness crab regulations are to make the current Dungeness crab daily bag limits and size limits uniform statewide; to require that recreational crab traps contain a destruct device to prevent 'ghost fishing' by lost traps; and that trap buoys have the contact information of the crab trap operator to assist enforcement when checking that anglers' traps are in compliance and as a measure to deter theft of crabs from traps. Additionally, a seven day waiting period for deploying crab traps is proposed prior to the start of the Dungeness crab recreational season. These

proposed regulatory changes are intended to provide increased fishing opportunity aboard CPFVs, less incidences of derelict trap gear continuing to fish, deter crab theft and promote a more orderly fishery at the start of the Dungeness crab season.

These regulatory changes are not anticipated to directly affect the level of trapping activity and thus are anticipated to be economically neutral. The proposed changes are consistent with existing scientifically-based regulations related to minimum size and season length, which maintain sustainable populations of Dungeness crab to ensure their continued existence and future Dungeness crab recreational fishing opportunities. Sustainability of Dungeness crab resources will also benefit from the reduction in “ghost fishing” due to the proposed regulations. Providing for sustainable Dungeness crab fishing in turn supports businesses that contribute to the fishery economy, such as: recreational fishing business owners, boat owners, tackle store owners, boat manufacturers, vendors of food, bait, fuel and lodging, and others that provide goods or services to those that recreationally pursue Dungeness crab off California.

Effects of the Regulation on the Creation or Elimination of Jobs within the State

The cumulative effects of the changes statewide are estimated to be neutral to the creation or elimination of jobs in California. No significant changes in fishing effort and recreational fishing expenditures to businesses are expected as a direct result of the proposed regulation changes.

Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses within the State

The cumulative effects of the changes statewide are expected to be neutral to the creation or elimination of businesses in California. No significant changes in fishing effort and recreational fishing expenditures to businesses are expected as a direct result of the proposed regulation changes.

Effects of the Regulation on the Expansion of Businesses Currently Doing Business within the State

The cumulative effects of the changes statewide are expected to be neutral to the expansion of businesses currently doing business in California. No significant changes in fishing effort and recreational fishing expenditures to businesses are expected as a direct result of the proposed regulation changes.

Benefits of the Regulation to the Health and Welfare of California Residents

Providing sustainable fishing bag limits that preserve ongoing opportunities for Dungeness crab trapping encourages recreation, which can have a positive impact on the health and welfare of California residents. Dungeness crab taken in

the recreational fishery and later consumed may have positive human health benefits.

Benefits of the Regulation to Worker Safety

The proposed regulations are not anticipated to impact worker safety conditions.

Benefits of the Regulation to the State's Environment

It is the policy of this State to encourage the conservation, maintenance, and utilization of living marine resources under the jurisdiction and influence of the State for the benefit of all citizens (Section 1700, FGC). Benefits of the proposed management actions include increased fishing opportunity, along with the continuation of the reasonable and sustainable management of recreational Dungeness crab resources.

DRAFT

Informative Digest/Policy Statement Overview

Under existing law, Dungeness crab may be taken for recreational purposes with a sport fishing license subject to regulations prescribed by the Fish and Game Commission (Commission). Current regulations specify seasons, size limits, bag and possession limits, closed fishing areas, and gear restrictions.

Recreational fishing groups and constituents, including the Coastside Fishing Club, the Golden Gate Fishermen's Association, and one CPFV Captain, sent letters to the Department of Fish and Wildlife (Department) and the Commission requesting several changes to Dungeness crab recreational fishery regulations. They proposed making the current Dungeness crab daily bag limits and size limits uniform statewide at ten crab that are a minimum of 5.75 inches carapace width, in order to eliminate the unfairness to fishers aboard Commercial Passenger Fishing Vessels (CPFVs) in Sonoma, Marin, San Francisco, San Mateo, Santa Cruz, and Monterey counties, who are only allowed to take six crab that are 6 inches or greater under current regulations. The Department has reviewed landings data for the commercial fleet in this region for the past ten seasons and recent recreational catch estimates. While there is no resource allocation between sectors, the data suggest that the increase in CPFV bag limit and decrease in minimum size limit would not significantly alter use patterns between sectors, and that maintaining different bag and size limit for CPFVs in these counties is not warranted. Therefore the Department is proposing that the separate CPFV regulatory language be removed.

The Coastside Fishing Club also requested that recreational crab traps be required to contain a destruct device to prevent 'ghost fishing' by lost traps, and that the trap buoys must contain the contact information of the crab trap operator to deter theft of crabs from traps. The Department is proposing that each crab trap possess a destruct device similar to commercial crab traps, and that each crab trap buoy must display the trap owner's GO ID number located on his/her sport fishing license.

Lastly, the Department proposes a seven day waiting period prior to the start of the Dungeness crab recreational season for deploying crab traps. This would prohibit the covert targeting of Dungeness crab under the guise of rock crab fishing before the start of the season.

In addition to these changes, the Department is proposing to add clarifying language to subsection (e) of Section 29.80, Title 14, CCR, specifying that Point Arguello is located in Santa Barbara County.

The following Title 14, CCR, regulation changes are proposed to become effective prior to the start of the 2015-16 Dungeness crab season (i.e., November 7, 2015, the first Saturday in November):

- Remove the bag and minimum size exception language in subsections (a)(3) and (a)(7) of Section 29.85 that limits CPFVs in Sonoma, Marin, San Francisco, San Mateo, Santa Cruz, and Monterey counties to the take of six Dungeness crab that

are 6 inches in carapace width or greater.

- Add Santa Barbara County as the location of Point Arguello under subsection (e) of Section 29.80.

The following Title 14, CCR, regulation changes would specify an effective date of August 1, 2016, which immediately follows the close of the 2015-16 Dungeness crab season:

- Add language to subsection (c) of Section 29.80 that requires, as of August 1, 2016, crab traps to have one destruct device of a single strand of untreated cotton twine size No. 120 or less that creates an unobstructed escape opening in the top or upper half of the trap of at least five inches in diameter when the destruct attachment material corrodes or fails.
- Add language to subsection (c) of Section 29.80 that requires, as of August 1, 2016, every crab trap to be marked with a buoy and that each buoy shall be legibly marked to identify the operator's GO ID number as found on his/her sport fishing license.
- Add language to subsection (c) of Section 29.80 that prohibits, as of August 1, 2016, crab traps from being deployed in ocean waters seven days prior to the opening of the Dungeness crab season.

Benefits of the Regulation

The Commission anticipates benefits to the State's environment and the health and welfare of California residents. The proposed regulation changes are intended to provide increased fishing opportunity, reduce incidences of derelict trap gear continuing to fish, deter crab theft and promote a more orderly fishery at the start of the Dungeness crab season, and eliminate unfairness and unnecessary complexity in the bag and size limit regulations. The Commission anticipates benefits to the environment by the sustainable management of California's Dungeness crab resources.

Consistency with State or Federal Regulations

The proposed regulations are neither inconsistent nor incompatible with existing state regulations. Section 20, Article IV, of the State Constitution specifies that the Legislature may delegate to the Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to regulate the recreational take of Dungeness crab, specifically the size and bag limits and means of taking (FGC sections 200 and 205). The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has searched the CCR and finds no other state agency regulations pertaining to the recreational take of Dungeness crab and the use of crab traps while recreational fishing.

Regulatory Language

Amend Section 29.80, Title 14, CCR, as follows:

§29.80. GEAR RESTRICTIONS.

... [No changes to subsections (a) and (b)]

(c) Crab traps:

~~(e)(1)~~ Crab traps shall have at least two rigid circular openings of not less than four and one-quarter inches inside diameter so constructed that the lowest portion of each opening is no lower than five inches from the top of the trap.

(2) Starting August 1, 2016, crab traps shall contain at least one destruct device of a single strand of untreated cotton twine size No. 120 or less that creates an unobstructed escape opening in the top or upper half of the trap of at least five inches in diameter when the destruct attachment material corrodes or fails.

(3) Starting August 1, 2016, every crab trap except those used under authority of subsection 29.85(a)(5) of these regulations shall be marked with a buoy. Each buoy shall be legibly marked to identify the operator's GO ID number as stated on his/her sport fishing license.

(4) Starting August 1, 2016, crab traps shall not be deployed and used in ocean waters seven days prior to the opening of the Dungeness crab season.

... [No changes to subsection (d)]

(e) Crab trap areas: Crab traps, including crab loop traps, may be used north of Point Arguello, Santa Barbara County, to take all species of crabs (see regulations for take of Dungeness crabs in traps from commercial passenger fishing vessels in Section 29.85, Title 14, CCR of these regulations).

... [No changes to subsections (f) through (j)]

Note: Authority cited: Sections 200, 202, 205, 215 and 220, Fish and Game Code.

Reference: Sections 200, 202, 205, 206, 215 and 220, Fish and Game Code.

Amend Section 29.85, Title 14, CCR, as follows:

§29.85. CRABS.

... [No changes to subsections (a)(1) and (a)(2)]

(a)(3) Limit: ~~Ten, except in Sonoma, Marin, San Francisco, San Mateo, Santa Cruz, and Monterey counties, when fishing aboard a commercial passenger fishing vessel required to be licensed pursuant to Section 7881 and/or Section 7920, Fish and Game Code, the limit is six.~~

... [No changes to subsections (a)(4) through (a)(6)]

(a)(7) Minimum size: Five and three-quarter inches measured by the shortest distance through the body from edge of shell to edge of shell directly in front of and

~~excluding the points (lateral spines); except in Sonoma, Marin, San Francisco, San Mateo, Santa Cruz, and Monterey counties, when fishing aboard a commercial passenger fishing vessel required to be licensed pursuant to Section 7881 and/or Section 7920, Fish and Game Code, the minimum size is six inches measured by the shortest distance through the body from edge of shell to edge of shell directly in front of and excluding the points (lateral spines).~~

... [No changes to subsections (b) through (d)]

Note: Authority cited: Sections 200, 202, 205 and 220, Fish and Game Code.
Reference: Sections 200, 202, 205, 206 and 220, Fish and Game Code.

DRAFT

Department of Fish and Wildlife Review of
Commercial Dungeness Crab Landings Trends and Recent Recreational
Catch Trends in Central California Coastal Counties
July 2015

The Department of Fish and Wildlife (Department) has reviewed Dungeness crab landings data for the commercial fleet in Central California coastal counties over the past 20 years, and reviewed recent recreational catch estimates from this region.

The Department has maintained records of seasonal commercial catch for over 100 years. Historically, catches have been cyclical but, despite wide fluctuations in catch on decadal time scales, the commercial fishery appears sustainable under the current management scheme in that no long term crashes have been observed over this time period. During the past ten seasons (from 2004-05 to 2013-14), average commercial Dungeness crab landings were 7.9 million pounds from Sonoma County south. This represents a more than threefold increase from the previous ten seasons (1994-95 to 2003-04), where average landings were 2.6 million pounds.

Data for the recreational fishery is much more limited. Commercial Passenger Fishing Vessel (CPFV) catch data are derived from catch reported by CPFVs on their daily logs, and no estimates of catch from anglers aboard private vessels or who fish from shore are available. Recently, the California Recreational Fishery Survey (CRFS) effort was used to estimate recreational Dungeness crab catch at the start of the 2013-14 and 2014-15 fishing season for the geographical portion of the fishery in CRFS District 4 (Sonoma, Marin, San Francisco, and San Mateo counties) during the month of November (2013 and 2014), which is the month of highest angler effort. These preliminary catch estimates accounted for about 2-3% of the total combined recreational and commercial catch for the area during the same time period, and catch from CPFVs was <1% of the total combined catch for both November 2013 and 2014. Although the recreational data does not include catch from Santa Cruz and Monterey counties, the increasing trend in commercial landings and the small proportion of recreational catch compared to these landings suggests that a similar trend would apply if estimates were added for Santa Cruz and Monterey counties. Therefore, the Department concludes that the proposed increase in CPFV bag limit from 6 to 10 crab, and reduction in minimum size limit from 6 inches to 5.75 inches in Central California coastal counties (from Sonoma to Monterey counties), would be unlikely to significantly alter catch patterns between sectors of the fishery in this area.

Attachment B. Notes on Department Meeting with Commercial Passenger Fishing Vessel (CPFV) Operators in Greater Bay Area on Proposed Changes to Recreational Dungeness Crab Regulations

Location: Santa Rosa Marine Department Office

Date: May 19, 2015

Time: 5:30-7:00pm

CDFW Staff attended:

Christy Juhasz, Environmental Scientist, Marine Region

Bob Puccinelli, Captain, Law Enforcement Division

CPFV operators in affected area (Sonoma to Monterey counties) were invited via mailed Department letter that was sent to those operators who had log books showing Dungeness crab caught in the last year at ports in affected area.

Nine recreational anglers contacted me via email and four of these anglers identified themselves as current or past CPFV operators, but did not attend the meeting. One of these anglers identified as a CPFV captain supported status quo on the issue of statewide uniform bag and size limits (parity). All other anglers supported parity for the daily bag limit only. Of these anglers, most expressed that they wanted parity for the size limit as well to increase consistency in the regulations, but did not specify which limit they prefer. One angler contacted me via the phone and supported uniform bag limits of ten crab per day.

Nine CPFV operators attended meeting and were given a short presentation by C. Juhasz on the background and proposed regulations package:

1. Uniform daily bag and size limits at 10 crab/day and 5.75 inches minimum size limit
2. Marking buoys on crab traps from private vessels with GO ID number
3. Destruct device
4. Seven day moratorium on deploying crab traps prior to start of Dungeness crab season
5. Clarify location of Point Arguello in Santa Barbara County

CPFV operators found no issue with items #2-5.

-One person commented that the benefit of this seven day moratorium could be that enforcement would be able to pick up derelict gear in water just prior to start of season

CPFV operators were concerned with item #1, so the following votes were taken on this issue and related issues that were also suggested:

1. Uniform daily bag and size limits or parity:
 - a) Parity: make daily bag limit and size limit for CPFVs in Bay Area to be 10 crab/day at a minimum of 5.75 inches.
Support: 5 votes
No Support/Status quo (no change): 4 votes

-issues brought up to support this was that fishery has limited or incomplete data and better science is needed to support increasing daily bag limit and increasing take of smaller sized Dungeness crab

-size of 5.75" is too small for harvesting because crabs generally do not have enough meat at this size

-FYI, the Department utilized CRFS data to estimate recreational take limited to Sonoma and San Mateo counties for the months of November and December in 2013 & 2014 and presented this data at the meeting. Take home result is that monthly recreational catch accounts for only 2-3% of total take when compared with commercial take

b) Parity at 10 daily bag limit, and what is your preference of minimum size limit?:

6 inches: 3 votes

5.75 inches: 5 votes

Neutral: 1 vote

-neutral vote had issue with increasing limits to 6 inches for anglers that are pier fishing where crab sizes are generally smaller

-one person in support of 5.75 inches preferred having a wider range between commercial size limit of 6.25 inches and said increasing to 6 inches would shorten that range

2. If daily bag limit were to increase, then the 60 crab trap limit would be inadequate for large CPFV vessels versus smaller vessels like six-packs and CPFV operators. It was suggested repealing the 60 trap limit on CPFVs if daily bag limit increase is adopted

Support: 9 votes

No support: 0 votes

3. CPFV operators suggested limiting the number of traps deployed by private vessels, and enforcement personnel explained that this would only be enforceable if buoys are labelled using the operator's GO ID number. CPFV operators alternatively suggested using the vessel's CF number to label buoys.

a) Set trap limit on private recreational vessels if GO ID number is used to label buoys

Support: 1 vote

No support: 7 votes

Neutral: 1 vote

- Issue is that limiting individuals using GO ID would not necessarily reduce total number of traps used by private vessels, since each fisherman aboard would have his own trap limit.

b) Set trap limit on private recreational vessels if CF vessel number is used to label buoys

Support: 8 votes

No support: 0 votes

Neutral: 1 vote

1. What limits for private vessels would you consider?

20 trap limit: 5 votes

30 trap limit: 2 votes

40 trap limit: 1 vote

Neutral: 1 vote

4. Although CPFV operators supported the seven day moratorium on deploying crab traps they suggested that a pre-soak period of time be instituted similar to the commercial fishery (current limits are 18hr for District 10/Central CA and 64hr for Northern CA) and the recreational season begins the first Saturday of November.

a) Institute a Pre-soak period?

Support: 9 votes

No Support: 0 votes

-Safety concerns regarding running gear in inclement weather as well as safety about running gear while carrying passengers as there are stability and weight capacity issues (potentially enforced by Coast Guard requirements)

b) What time periods for a pre-soak do you prefer?

24 hours translates to 12:01am, Friday before season starts: 1 vote

42 hours translates to 6:01am, Thursday before season starts: 6 votes

64 hours translates to 8:01am, Wednesday before season starts: 2 votes

June 26, 2015

Mr. Charlton H. Bonham, Director
Department of Fish and Wildlife
1416 9th Street, 12th Floor
Sacramento, CA 95814

Re: Reducing whale entanglements in California pot and trap gear fisheries

Dear Mr. Bonham:

On behalf of the Center for Biological Diversity, Earthjustice, and their members and supporters, we are writing to thank you for the progress that has been made since our April 28, 2015, request for action to prevent whale entanglements in state-managed fixed-gear fisheries, namely the Dungeness crab, spot prawn, and spiny lobster fisheries. We hope to continue conversations with your agency, the Commission, other state bodies, and the Dungeness Crab Task Force to develop and implement long-term strategies to reduce entanglement risk.

We are following up on the request you made during our phone call on May 1, 2015, to provide suggestions specific to the Dungeness crab fishery that can help reduce the risk of entanglements before the start of the next fishing season, in late 2015. In response, we have reviewed measures that have been implemented to reduce whale entanglements in other fisheries, including the New England lobster fishery and the West Coast groundfish pot fishery, as well as scientific literature, and have begun to discuss the utility and effectiveness of various measures with representatives of government agencies, industry, and other non-governmental organizations. Based on this research, we believe a range of measures would be effective in reducing the risk of whale entanglement. These measures would address important issues such as data collection to determine where whale entanglements are occurring, as well as identifying ways to directly reduce the risk of entanglement. Some, such as improved reporting and the initiation of pilot programs, represent key steps in developing the information necessary to implement effective measures and reduce the risk of entanglement in the longer term. We recognize that a successful, complete program to reduce whale entanglements will be a long-term effort.

The Legislature has declared that the protection and conservation of fish and wildlife resources of the State are of utmost public interest and that conservation is a proper State responsibility.¹ Taking measures to ensure that trap and pot fisheries do not entangle large whales would further demonstrate California's leadership in wildlife management and protection; be legally consistent with federal laws prohibiting take of marine mammals and endangered species; and improve data collection and fisheries management. In that context, we ask you to consider adopting the effective and immediate measures to curb whale entanglements outlined below.

¹ Fish & G. Code § 1600.

Background

Management of all California fisheries is complex and resource-intensive, but especially so in the Dungeness crab fishery, which spans both state and federal waters.² In California, Fish and Game Code sections 8275-8284 delegate authority to the Department to manage the fishery only with respect to specific activities, such as to open and close the fishing season in certain districts and to administer the permitting system for the restricted access fishery.³ As a result, implementation of some fundamental changes to reduce entanglement risk will ultimately require statutory amendments and thus will have to wait until the 2016 state legislative year. Nevertheless there are steps that the Department and Commission can initiate right away.

We are aware that the State is interested in addressing the risk of whale entanglement in all State-managed fisheries. To that end, we recommend that the Department consider measures for all State fisheries known to entangle whales. We also recognize that establishing such measures in multiple fisheries will take time and there is benefit to starting efforts in the Dungeness fishery, which has already expressed a willingness to engage in proactive efforts to reduce entanglements. In terms of tailoring measures specific to the Dungeness fishery, we provide below a few suggestions that could be accomplished before the start of the next fishing season. The Department may not be able to implement all of these measures in a short timeframe, but ideally the variety of options for the Department's consideration will begin a conversation about how to move forward.

- Continue current efforts to increase accountability for lost traps;
- Require logbooks to improve information collection;
- Implement a program for using vessel monitoring systems to track vessel movements and locations where gear is deployed;
- Implement a pilot program in the 2015-16 season to test a two-trap per buoy line gear configuration to reduce entanglement risk;
- Support the Fish and Game Commission in developing a tag program for recreational fisheries; and
- Apply for authorized take of endangered marine mammals for Dungeness crab, spot prawn, and spiny lobster fisheries.

In the sections below, we outline possible measures that the Department could implement in the near term and long term in order to reduce whale entanglements in Dungeness crab gear, many of which could also be useful to address other types of pot and trap gear. As noted below, some of the near-term measures we support are already underway. Other near-term measures could be implemented under the Department's existing authority and would provide key steps for developing longer-term measures to address whale entanglements. Finally, we outline

² The federal Magnuson-Stevens Fishery Conservation and Management Act assigns authority to the States of Washington, Oregon, and California to govern Dungeness crab fishing in waters 200 nautical miles from shore, with the authority expiring September 30, 2016. 16 U.S.C. § 1856 note.

³ See, e.g., Fish & G. Code §§ 8276.2, 8276.5, 8277, 8280.2-8280.3.

suggestions for measures that we believe the Department should consider implementing in the 2016-17 season and beyond.

Near-Term Actions

1. Continue current efforts to increase accountability for lost traps.

In response to industry and regulator demand, the Dungeness crab fishery has in place or has discussed several ways to increase accountability for lost traps, specifically: (a) tending pots at least once every 96 hours; (b) eliminating the in-season tag replacement regulations; and (c) establishing a program to retrieve lost gear. These efforts and requirements that are already in place or underway could be critical to reducing whale entanglement risk. We urge you to consider supporting, expanding, and enhancing implementation of these regulations and programs.⁴

a. Support requirements for pots to be tended at least once every 96 hours and not abandoned.

We recognize the Department's ongoing, concerted efforts to monitor and enforce current requirements, and particularly appreciate the hard work being done by the Department's Law Enforcement Division. Recognizing that hard work, we offer the following ideas with the aim of maximizing the effectiveness of the Department's limited resources.

Current regulations require Dungeness crab traps to be raised, cleaned, serviced and emptied every 96 hours.⁵ Regularly checking the pots can reduce the chance that an entanglement will go unnoticed. If an entangled whale is at the site where the pot was deployed, checking on the pot gives an opportunity for the fisherman to alert disentanglement teams.

Introducing new technology may assist in monitoring trap tending and provide assurance to trap owners that only the owner is pulling his or her traps. Recent projects in New England have tested placing radio-frequency identification devices (RFIDs) on lines and or traps, which allows a device on board the vessel to register each time the trap comes over the side.⁶ Use of RFIDs could make it easier for enforcement officers to monitor how often traps are being tended, as well as deter vessels from pulling traps that do not belong to the vessel owner.

⁴ *Id.* § 850 (granting authority to the Director to employ or appoint people to carry out duties required by law); *id.* § 1000 (requiring fund expenditure as necessary for collection and diffusion of statistics and information pertaining to conservation and protection of mammals and fish).

⁵ Fish & G. Code § 9004.

⁶ La Valley, K. et al., 2010. *An Automated RFID and GPS Fixed Gear Identification System for Onboard Realtime Data Collection*, [http://www.greateratlantic.fisheries.noaa.gov/whaletrp/trt/meetings/Mid-Atlantic_Southeast_ALWTRT_Materials/IFAW_UNH_finalreport%20\(3-8-2010\).pdf](http://www.greateratlantic.fisheries.noaa.gov/whaletrp/trt/meetings/Mid-Atlantic_Southeast_ALWTRT_Materials/IFAW_UNH_finalreport%20(3-8-2010).pdf); Patton, J. and D. Cromhout, 2011. *NOAA RFID Fishing Line Tagging*, [http://www.greateratlantic.fisheries.noaa.gov/prot_res/GrantsResearchProjects/reports/NOAA_Taggingv1_7%20\(12-20-2011\).pdf](http://www.greateratlantic.fisheries.noaa.gov/prot_res/GrantsResearchProjects/reports/NOAA_Taggingv1_7%20(12-20-2011).pdf)

In addition to requiring checking on the pots at regular intervals, the Fish and Game Code requires that “no trap shall be abandoned in the waters of this state.”⁷ When a fisherman realizes the pot is lost, recording the area and time it was lost can help identify areas where gear loss is higher. With a real-time system in place that shows within a week when a trap is missing, finding and recovering lost traps by other vessels on the water nearby could begin immediately. As an example, currently recreational fishermen have been helpful in identifying locations of abandoned fishing pots for retrieval by commercial fishermen at the end of the season. A real-time system could assist in identifying and recovering lost traps during the season as well.

Finally, encouraging and providing incentives for fishermen to report entanglement can put extra eyes in areas where entanglements typically go unnoticed. Most reports of entangled whales come from on-water observations near large cities, where boating activity is higher. Commercial fishermen report two percent of total whale entanglements.⁸ While this could reflect the proportion of commercial vessels on the water, the low number suggests there might be ways to encourage reports from commercial vessels to result in quantifiable improvement in whale rescue. This could involve facilitating educational workshops between fishermen and whale disentanglement volunteers, in which fishermen learn how to report entanglements and what information to collect in order to file the most helpful report, and fishermen educate disentanglement volunteers regarding how to identify fishing gear.

b. Amend regulations to eliminate ability to replace lost tags in-season and increase the fees for each replacement tag.

In order to increase accountability for lost traps, the Department could amend regulations to eliminate in-season replacement of buoy tags⁹ (except in extreme circumstances) and increase the fee for replacement trap tags.

As background, in 2013 the Department issued regulations under authority delegated by the Legislature to establish a Dungeness crab trap limit program.¹⁰ The Fish and Game Code specified that “permit holders may replace lost tags by application to the department and payment of a fee not to exceed the reasonable costs incurred by the department.”¹¹ For a fee of \$1.00, the regulations currently allow in-season replacement buoy tags.¹² At the end of the season, the in-season replacement tags must be returned to the Department in exchange for between-season replacement buoy tags.¹³

⁷ Fish & G. Code § 9004.

⁸ NOAA Fisheries, Whale Entanglements Off California Fact Sheet, http://farallones.noaa.gov/manage/pdf/sac/13_05/whale_entanglement_fact_sheet.pdf (stranding network members and government report most entanglements, at 27% and 17% respectively, with recreational boats, private citizens, scientists, whale watching boats and fishery observers reporting a greater percent than commercial fishermen).

⁹ 14 C.C.R. § 132.4.

¹⁰ *Id.* § 8276.5.

¹¹ *Id.* § 8276.5(a)(5).

¹² 14 C.C.R. § 132.4.

¹³ *Id.*

First, in order to both simplify the process of replacement buoy tags and encourage fishermen to keep track of gear, the Department should amend the current tag replacement regulations to eliminate in-season replacement. The Dungeness Crab Task Force has expressed concerns with in-season tag replacement creating potential loopholes in the trap permit system.¹⁴ Eliminating in-season replacement therefore could solve several problems at once. Similarly, Washington Department of Fish and Wildlife recently reduced the number of replacement tags issued to each license owner and is considering further reductions or eliminating the program altogether.¹⁵ Eliminating replacement tags would provide incentives for fishermen to maintain and tend traps and buoys, close potential loopholes in tracking tag limits, and reduce regulatory burden on the Department.

Second, the Department should set the cost of the replacement trap tag fee to an amount that covers the reasonable cost of lost gear and tags.¹⁶ As noted by the Legislature in enacting sections 710 - 711 of the Fish and Game Code, the Department has been unable to adequately meet its regulatory mandates due in part to a lack of funding, which has “prevented proper planning and manpower allocation” to carry out its “public trust responsibilities” and “additional responsibilities placed on the department by the Legislature.”¹⁷ As a result, the Department is burdened with “the inability . . . to effectively provide all of the programs and activities required under this code and to manage the wildlife resources held in trust by the department for the people of the state.”¹⁸ Collecting fees adequate to account for the full costs of the fishery, including monitoring and enforcement, provides the foundation for a sustainable fishery.

c. Encourage retrieval of lost or abandoned gear.

Lost or abandoned gear poses risks not only to whales, but also other marine life. Traps that are lost or abandoned – i.e., left in the water without being tended at a minimum every 96 hours – pose navigational hazards for large whales on their annual migrations. It can also interfere with safe navigation by other vessels.

The California Fish and Game code provides authority to the Department and fishermen to alleviate this problem by retrieving traps.¹⁹ First, the Fish and Game Code declares that any trap used without a buoy or in violation of the Code or regulations is a public nuisance and can

¹⁴ Dungeness Crab Task Force, *Initial recommendations from the California Dungeness Crab Task Force as requested in SB 369 (Fish and Game Code 8276.4)*, January 15, 2015, at 6, http://www.fgc.ca.gov/meetings/2015/Feb/Exhibits/16_1_Report_Dungeness_Crab_Task_Force_Jan2015_Final.pdf.

¹⁵ Washington Department of Fish and Wildlife, *Industry Notice: Change to the Replacement Buoy Tag Program for 2014-2015 Season and Beyond*, <http://www.psmfc.org/crab/2014-2015%20files/WARreplacementBuoyTags%2012.10.14.pdf>.

¹⁶ Fish & G. Code § 8276.5(a)(5). Current regulations set the replacement tag fee at \$1.00. 14 C.C.R. § 132.4(a), (b).

¹⁷ Fish & G. Code § 710.

¹⁸ *Id.* § 710.5.

¹⁹ Fish & G. Code §§ 9007, 9008.

be removed from State waters by any person authorized to enforce the Code.²⁰ Second, any Dungeness crab permitted vessel may retrieve from the ocean crab traps of another permitted Dungeness crab vessel that were lost, damaged, abandoned, or otherwise derelict.²¹ From July 16 through October 31, an unlimited number of Dungeness crab traps may be retrieved per fishing trip and in other times, no more than six may be retrieved per trip except with a Department waiver.²² Third, the Department, in consultation with the Dungeness Crab Task Force, shall develop regulations as necessary to provide for retrieval of lost or abandoned commercial crab traps.²³ In order to reduce risk to whales, the Department and Commission should take steps to reduce lost and abandoned commercial and recreational pots and traps.

The Dungeness Crab Task Force has already recommended an industry designed, funded, and implemented lost gear retrieval program that works in cooperation with the Department.²⁴ According to the Task Force, the “Lost Fishing Gear Recovery Project (<http://www.seadocsociety.org/california-lost-fishing-gear-removal-project/>), which is run by the SeaDoc Society in partnership with Humboldt State University, has been working to retrieve lost Dungeness crab traps near the ports of Eureka, Trinidad, and Crescent City” and has enjoyed “widespread support” from the industry.²⁵ We understand that this program is underway and on the agenda for the tentative DCTF meeting in October. We support this effort and encourage you to work with the DCTF to ensure that any necessary changes to the Fish and Game Code or the California Code of Regulations are proposed as soon as possible, no later than spring 2016.

2. Improve information collection through use of vessel monitoring systems (VMS) and electronic logbooks.

First, fishery-wide use of vessel monitoring systems (VMS) would offer multiple benefits for management. VMS are widely used (and required) in federally managed fisheries. As such, the technology has been demonstrated to be practicable and useful for monitoring, enforcement, and aiding voluntary efforts to move fishing gear away from areas where whales are congregating. It would greatly boost the ability of enforcement personnel to ensure that vessels are observing seasonal closures, and staying out of closed areas or marine protected areas. It would also provide useful data on the locations of vessels and gear that could be compared to known migratory pathways of whales or congregations of whales. That information could be used to inform fishermen of any increased risk of entanglement so that fishermen could avoid or remove their gear from those areas. The information would also be very useful for identifying any consistent trends in whale entanglements and developing measures to address them.

²⁰ *Id.*

²¹ 14 C.C.R. § 132.2(a)(2).

²² *Id.*

²³ Fish & G. Code § 9002.5(a).

²⁴ Dungeness Crab Task Force, *Initial recommendations from the California Dungeness Crab Task Force as requested in SB 369 (Fish and Game Code 8276.4)*, January 15, 2015, at 7, http://www.fgc.ca.gov/meetings/2015/Feb/Exhibits/16_1_Report_Dungeness_Crab_Task_Force_Jan2015_Final.pdf.

²⁵ *Id.* at 7.

Second, electronic logbooks allow efficient, standardized reporting of the locations where gear is deployed and collected as well as catch composition and other information useful for fishery management. They would be particularly useful in the context of reducing whale entanglements when used to record the locations where gear is set and collected, how much gear is set, lost gear (including gear type, location of the loss, and if lost from the vessel or at sea), and lost gear that is later retrieved. Submission of electronic logbooks that are linked to a VMS system would greatly improve data collection. Without logbooks, the only available proxy of total fishing effort is landed catch, which provides very limited information about spatial distribution of effort.

Logbooks currently in existence or under development can provide a template for development of a Dungeness crab fishery form. California regulations state that if required by the Department, each commercial fisherman permitted to use traps must complete and submit a log of fishing operations on a form provided by the Department.²⁶ Currently California requires a logbook in the spot prawn pot and spiny lobster trap fisheries, which could provide useful in development for a Dungeness crab form.²⁷ Another example can be found in the Washington Dungeness fishery, which requires a logbook entry form that collects information on depth, pots fished, pots lost, soak time, and lost gear recovered.²⁸

Efforts to implement logbooks are underway in federal fisheries as well. First, the Pacific Fishery Management Council recommended that mandatory logbooks be required for all federal fixed gear fisheries to be implemented in 2009-2010.²⁹ At that time, management measures like trawl rationalization took precedence over logbook requirements, which have not been implemented. Second, NMFS completed an Endangered Species Act consultation in 2012 on the effects of the West Coast groundfish pot fishery and provided a set of recommendations to reduce entanglements.³⁰ The biological opinion required that fishery managers:

- Create electronic monitoring and logbook reporting measures that require or recommend fishers to document effort and lost gear;
- Develop a database to track fishing effort, locations, and lost fixed gear (the biological opinion provided an example database);
- Summarize data on lost gear to evaluate the magnitude of gear loss and factors that may influence loss (specific areas, times of year, etc.); and

²⁶ 14 C.C.R. § 180(d).

²⁷ Fish & G. Code §8026; 14 C.C.R. §§190, 195; *see* California Department of Fish and Wildlife, California Fishing Regulations Commercial Digest 2014-2015, at 11 (“Currently, logbooks are required in the sea urchin, sea cucumber, lobster, gill net, trawl, live bait, shrimp, prawn, market squid, swordfish, and harpoon fisheries.”); *but see* 14 C.C.R. § 180(d) (referencing a Daily Sablefish Trap Log).

²⁸ WAC 220-52-041, <http://wdfw.wa.gov/fishing/commercial/crab/coastal/logbook.html>.

²⁹ Final Environmental Impact Statement, *Proposed Acceptable Biological Catch and Optimum Yield Specifications and Management Measures For the 2009-2010 Pacific Coast Groundfish Fishery*, January 2009, at 140, http://www.pcouncil.org/wp-content/uploads/0910GF_SpexFEIS.pdf.

³⁰ NMFS, Dec. 7, 2012. Endangered Species Act (ESA) Section 7(a)(2) Biological Opinion and Section 7(a)(2) "Not Likely to Adversely Affect" Determination Continuing Operation of the Pacific Coast Groundfish Fishery, PCTS Number: NWR-2012-876.

- Summarize fish-gear fishing effort and locations to support overlap analysis with large whale migrations or aggregations.

To our knowledge, these terms and conditions that require logbooks have not yet been implemented. Currently, however, observers in the West Coast groundfish pot fishery record the type and amount of lost gear, derelict gear observed at sea, and starting in 2015, lost gear that is later retrieved, and enter all of that information into a database.³¹

Finally, the Council reiterated its support for logbooks at its June 2015 meeting, recommending that NMFS initiate the process to implement a logbook requirement for all commercial groundfish fisheries.³² These efforts by both the Council and NMFS confirm that logbooks are necessary for responsible fishery management and that they can be an important part of reducing whale entanglements.

The Department currently has authority to establish such a program for all fisheries. The Department has a general duty to gather and prepare data on commercial fisheries, “showing particularly the extent of the fisheries.”³³ The Commission has authority to require a complete and accurate record of fishing activities, in a form prescribed by the Department.³⁴

We recommend that the Department establish a pilot program to test the use of VMS and electronic logbooks within the Dungeness crab fishery during the 2015-2016 season. We understand that some vessels in the fishery may already be fitted with VMS technology and therefore may be able to participate in such a program without incurring additional cost for VMS installation. We further recommend that the information from that pilot program be used to develop a fishery-wide VMS and electronic logbook program for the 2016-2017 season and beyond.

3. Implement pilot program in 2015-16 season to test a two-trap per buoy line gear configuration as a means to reduce entanglements.

We encourage the Department to implement experimental gear programs to develop fishing methods that have potential to minimize entanglements with whales. One idea that holds promise for directly reducing the risk of entanglements is to configure gear so that two traps are connected to each buoy line instead of only one, as current regulations require. This configuration would significantly reduce the number of vertical lines in the water, and thus reduce the chances of a whale becoming entangled in buoy lines. The Department could assist the development of alternative fishing gear due to the need to protect marine mammals.³⁵ Experimental fishing permits issued by the Department are limited to not more than one year and

³¹ D4 Supp Att Draft Bycatch Report, dated May 22, 2015, at 29-30.

³² Pacific Fishery Management Council, Decision Summary Document, June 12-16, 2015, at 2, <http://www.pcouncil.org/wp-content/uploads/2015/06/0615decisions.pdf>.

³³ Fish & G. Code § 8010.

³⁴ *Id.* § 8026; 14 C.C.R. § 190.

³⁵ Fish & G. Code § 8606.

may authorize use of new types of commercial gear and new methods of using existing gear.³⁶ We recommend that the Department facilitate and/or administer an experimental program during the 2015-16 season to test the effectiveness and practicability of a two-trap per line gear configuration, including developing data collection methods and criteria for evaluating the success of the gear.

4. Apply for authorized take of endangered marine mammals for Dungeness crab, spot prawn, and spiny lobster fisheries.

We are pleased to hear that California will request authorization for takes of endangered marine mammals in state fisheries. The MMPA and ESA incorporate important safeguards for endangered marine mammals that fisheries incidentally take. We continue to believe that securing MMPA authorization is important to protect both animals and fishermen, since these fisheries are otherwise subject to penalties for the incidental taking of marine mammals. Ideally, such a request would include information necessary for NMFS to evaluate the state fisheries' effect on endangered marine mammals, such as a description of the fisheries, including when and where they operate, any available measures of fishing effort, and whether any monitoring or mitigation measures exist. Please let us know when California will request authorization and the expected timeframe for NMFS's consideration.

Longer-Term Measures

1. Analyze and recommend measures to the State Legislature for adoption in 2016.

We are optimistic that organizations such as the Ocean Protection Council and the Dungeness Crab Task Force are taking steps to meet and develop a process by which to create recommendations for the Legislature to address long-term solutions for the issue of whale entanglements, possibly including authorization for an independent review of Dungeness management and increasing landing fees to improve resources available for management. We urge you to continue to participate in and encourage these conversations, especially by providing scientific and management information uniquely known to the Department.

Two operational- or administrative-type analyses could help improve management of the Dungeness crab fishery: (1) an independent study of management and enforcement in the Dungeness crab fishery and (2) evaluation of the costs and benefits of increasing landing fees. First, an independent study could help to answer some of the questions raised in the past about balancing management flexibility with Legislature control. The difference in management processes among California, Oregon, and Washington has highlighted some issues where more responsive management in California could be beneficial. Second, an analysis of whether to increase landing tax rates or fees could inform the Legislature of the costs and benefits of the current system. California is unique among the west coast states in requiring a tax that is not tied

³⁶ *Id.* § 8606.

to the ex-vessel price or landing fee.³⁷ The California landing tax for Dungeness crab, which has not changed since 1994, is \$0.0019 per pound.³⁸ Increasing this amount by tying it to ex-vessel price could increase funds for management, regulation, and oversight of fishing activities by the California Department of Fish and Wildlife.

Finally, two fishery-specific changes should be considered to reduce whale entanglement: requiring two traps per buoy to reduce the amount of vertical line that whales can encounter, based on the results of the experiment(s) recommended above, and requiring that lines be marked according to fishery so that the origins of entangling ropes can be identified.

In some entanglement incidents, traps or buoys have become detached from the entangling lines and therefore identification is missing. This poses a problem because the loss of the identification means a loss of information, such as the type of gear, owner of the gear, and where the gear was set. The California Fish and Game Code requires that every commercial trap used to take fish or crustaceans is marked with a buoy that identifies the fishery.³⁹ Adding identifying marks to the lines attached to buoys and traps will provide more information and accountability when traps and buoys are accidentally detached.⁴⁰

While gear marking does not reduce immediate entanglement risks to whales, we encourage a simple, color-coded, regional gear marking scheme for all pot and trap fisheries in California. Planning a comprehensive system rather than incremental marking requirements will promote equity among fisheries and efficiency for individual fishermen to adapt to one new system. An effective gear marking system can and should achieve collection of robust data to identify where whales are entangled, by which fishery and gear part. This information is critical to effective fisheries management.

Unique gear marks – color combinations, size, and frequency – should be designated for areas near expected whale entanglement hotspots in order to ascertain where whales are entangled. NMFS has developed a model identifying areas where large whales are more likely to encounter gear.⁴¹ The results of the model were confirmed by locations of entanglements, providing justification for treating areas of higher predicted occurrence differently than areas of lower entanglement risk. The model could be improved with better data on fishing effort, but the best available science should be used as the basis for different line marks based on risk of

³⁷ California Dungeness Crab Task Force, *Dungeness crab landing tax rates in California, Oregon, and Washington*,

http://www.opc.ca.gov/webmaster/ftp/project_pages/dctf/DC_Landing_Tax_Rates_CA_OR&WA.pdf.

³⁸ Fish & G. Code § 8051.

³⁹ Fish & G. Code § 9006.

⁴⁰ The Department has general authority to regulate gear marking and is responsible for enforcement and administration of the regulations for commercial fisheries in state and federal waters. *Id.* §§ 878, 7857, 8280.4, 9006.

⁴¹ Saez, L., D. Lawson, M. DeAngelis, E. Petras, S. Wilkin, and C. Fahy. 2013. Understanding the co-occurrence of large whales and commercial fixed gear fisheries off the west coast of the United States. U.S. Department of Commerce Technical Memorandum, NOAA-TM-NMFS-SWR-044, 102 p.

entanglement. Although entanglements may still occur in areas whenever at least one whale and some fishing gear are in the same location, unique line marks could help inform the Department on areas to prioritize for further work.

2. Implement a tag program for recreational fisheries.

We recognize the Department's ongoing, concerted efforts to monitor recreational fishing effort, and encourage that work to continue. This spring, the Department made a presentation with a proposal to require crab trap buoys that identify the owner with their GO ID number, i.e. their sportfishing license number, to be implemented in the 2016-2017 season.⁴² We support this effort and encourage you to implement the program on that proposed timeline.

Monitoring of the recreational Dungeness crab fishery is important to create reliable estimates of catch and effort,⁴³ and thereby allow a measure of risk of interactions between recreational pots and large whales. Because the Commission regulates the recreational Dungeness fishery,⁴⁴ we appreciate the Department's taking the first steps to proposed and encourage collection of the information necessary to evaluate the risk of recreational traps entangling whales.

As you know, the Legislature has also expressed interest in exploring management measures for the recreational fishery.⁴⁵ The Legislature mandated that the Dungeness Crab Task Force "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."⁴⁶ The Department's proposed requirement for placing GO ID numbers on crab trap buoys is a terrific first step.

3. Analyze possible time-area closures or dynamic management areas to reduce entanglement risk in areas where large numbers of whales congregate.

Avoiding overlap between fishing gear and concentrations of whales is a reliable way to reduce the risk of entanglements. We encourage you to work with scientists at NMFS, the OPC, DCTF, and others to gather data on gear locations and whale entanglements, oceanographic conditions that influence whale movements, and other relevant information to analyze likely "hotspots" or conditions (such as concentrations of food) that could lead to whales congregating in a particular area. Identifying these locations and conditions would provide an opportunity for fishermen to voluntarily avoid areas where the risk of entangling a whale is relatively high. If

⁴² Christy Juhasz, Environmental Scientist, Department of Fish & Wildlife, Apr. 8, 2015. *Notice of Proposed Regulation Changes to Recreational Dungeness Crab Fishery and Crab Trap Requirements for seasons: 2015-2016 & 2016-17.*

⁴³ California Ocean Science Trust, *Rapid Assessment for Selected California Fisheries*, August 2013, at 55-56.

⁴⁴ Fish & G. Code § 200 (delegating to the Commission the power to regulate the taking or possession of fish, excluding the taking for commercial purposes).

⁴⁵ *See id.* § 8276.4(c).

⁴⁶ *Id.* § 8276.4(c)(3).

necessary, it would also provide information necessary to establish any regulatory time-area closures.

Conclusion

We greatly appreciate your willingness to find ways to address the increase in whale entanglements in fishing gear as quickly as possible. We look forward to working with you to develop and implement near-term measures, with a particular focus on identifying key steps toward developing effective long-term measures that both reduce the risk of whale entanglements and improve overall fishery management. We appreciate your consideration of these ideas.

Sincerely,



Catherine W. Kilduff, M.S., J.D.
Staff Attorney
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1411 K St. NW, Suite 1300
Washington, DC 20005
202-780-8862
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Andrea A. Treece
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Earthjustice
50 California Street, Suite 500
San Francisco, CA 94111
415-217-2000
atreece@earthjustice.org

CC: Mr. Jack Baylis, President, California Fish and Game Commission

From: [REDACTED]
To: [FGC](#)
Subject: Re: Cancelled: Marine Resources Committee meeting - July 8, 2015
Date: Tuesday, July 07, 2015 6:48:25 PM

To California Fish and Game Commission

My name is Craig Stone, I am a concerned and upset licensed fisherman. I buy a fishing license every year and have do so for quite some time. I go fishing both in the rivers and streams, usually fishing off the banks of the waterways. I do not own a boat, or have the money to buy or store one. I annually go on chartered boats to fish and crab on the ocean. I heard that the commission was going to bring the bag limit for crabs up to 10 crabs per licensed fisherman on chartered boats. Next I hear that one chartered captain was at a meeting and stated that he doesn't want the limit raised to the 10 limit. He was not speaking for anyone but himself. I have talked to many fisherman who are in the same situation as me, they want to limit raised to 10 also. This area that has the lower limit is the only area on the coast with this low limit. There is no reason for having a lower limit in any area along the coast.. I would hope that the commission would reconsider and raise the limit to 10 as anyone who owns his boat can get their limit at 10, they pay the same price of a fishing license as we who use chartered boats. It doesn't seem fair that because we, who cannot afford to buy and store a fishing vessel, should not have the same 10 bag limit as people who have the money to buy their own boats. Thank you

On Friday, June 19, 2015 4:03 PM, California Fish and Game Commission <fgc@fgc.ca.gov> wrote:



FGC_Logo



Wildlife Heritage and Conservation
Since 1870

Greetings fish and wildlife stakeholder,

The California Fish and Game Commission's Marine Resources Committee meeting scheduled for Wednesday, July 8, 2015, has been cancelled.

We apologize for any inconvenience. Please contact staff at (916) 653-4899 or fgc@fgc.ca.gov with any questions.

Sincerely,

Caren Woodson
California Fish and Game Commission

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California Fish and Game Commission | 1416 Ninth Street, Suite 1320 | Sacramento | CA | 95814

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~California Dungeness Crab Task Force~

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

REPORT

TO: California Department of Fish and Wildlife, Charlton Bonham, Director
California Fish and Game Commission, Michael Sutton, President

CC: California Department of Fish and Wildlife, Craig Shuman, Marine Region Director
California Fish and Game Commission, Sonke Mastrup, Executive Director
California Ocean Protection Council, Catherine Kuhlman, Executive Director
Joint Committee on Fisheries and Aquaculture, Wesley Chesbro, Chair
Joint Committee on Fisheries and Aquaculture, Noreen Evans, Vice Chair

FROM: California Dungeness Crab Task Force

DATE: May 9, 2014

RE: California Dungeness Crab Task Force Review of Coastside Fishing Club Proposal
to Modify Recreational Dungeness Crab Regulations

ATTACHMENT: (1) Coastside Fishing Club Proposal Requesting Changes to the Recreational
Dungeness Crab Regulations- October, 9 2013

During its April 22-23, 2014 meeting in Ukiah, CA, the California Dungeness Crab Task Force (DCTF) discussed and addressed a proposal by the Coastside Fishing Club regarding changes to the Dungeness crab recreational fishery (see attached). The California Department of Fish and Wildlife (CDFW) requested the DCTF review and offer feedback on Coastside Fishing Club's proposal to help inform the state's deliberations on the issues pertaining to the recreational Dungeness crab fishery. This report provides a summary of the recommendations that emerged during DCTF deliberations on the Coastside Fishing Club proposal.

The DCTF values its strong working relationship with CDFW and the California Fish and Game Commission (the Commission), and looks forward to continuing to work in partnership with the Commission and CDFW staff on all issues related to the management of the California Dungeness crab fishery. The DCTF welcomes future requests from CDFW and the Commission to review and provide recommendations on recreational Dungeness crab issues.

Additional information, including a detailed summary from the DCTF's April 22-23, 2014 meeting, will be available on the DCTF webpage: <http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>.

DCTF BACKGROUND

The DCTF was established pursuant to Senate Bills 1690 (Wiggins, 2008) and 369 (Evans, 2011). The California Ocean Protection Council (OPC) is designated as the body responsible for establishing and administering the DCTF. The DCTF is directed to review and evaluate Dungeness crab fishery management measures, including the newly implemented trap limit program for California permits, and provide its recommendations to the Joint Committee on Fisheries and Aquaculture, CDFW, and the Commission. Pursuant to SB 369, the DCTF will make initial recommendations by January 15, 2015 and final recommendations by January 15, 2017.

As mandated in SB 369, The DCTF is composed of 27 members including seventeen (17) 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 (CPFV) interests, two (2) members representing nongovernmental organization interests, one (1) member from Sea Grant, and two (2) members from CDFW. Additional information about the history of the DCTF is available on the DCTF webpage: <http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>.

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

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

COASTSIDE FISHING CLUB REQUEST

In its October 9, 2013 proposal to the Commission, Coastside Fishing Club requested the following:

1. Prohibit retention of female crabs (presently legal in the sport fishery).
2. Require use of "rotten cotton"* on traps (not presently required).
3. Require that pots be labeled with the owner's name and contact information.
4. Prohibit pulling pots (not your own) without the owner's written permission. □
5. Conforming the 10-crab limit to all sport anglers. Presently, there is an exception for recreational anglers on commercial passenger fishing vessels (CPFVs) in five California counties, who are limited to six crab.
6. Conforming the 5.75" minimum size throughout the recreational fishery. Presently, crab on CPFVs operating in five California counties have a minimum size of 6".

As outlined in the attached document, the Coastside Fishing Club contends that the proposed regulations are necessary for "resource conservation, equity among recreational license holders, and discouraging the theft of crab from lawfully set recreational traps" (pg. 1). Many of the proposed regulations are consistent with commercial regulations, including requests 1, 2, 3, and 4. Requests 5 and 6 vary somewhat from the commercial fishery in their details, but are similar in that they request uniform take restrictions throughout

* All commercial Dungeness crab traps are required to have a biodegradable trap destruction "device that destructs rapidly enough to facilitate escape of a substantial proportion of all species confined in the trap from any trap that cannot be raised" (Fish and Game Code Section 9003). The Coastside Fishing Club proposal requests the same or a similar regulation of the recreational Dungeness crab fishery.

California. In the commercial fishery, size and sex restrictions are uniform throughout California.

DCTF VOTES AND ANALYSIS

The recommendations below represent agreements of the DCTF members (per voting protocols defined in the DCTF Charter); 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 DCTF meetings, the language of some recommendations has been adjusted to improve clarity. The verbatim language from the meeting is available on the DCTF webpage as part of the April 22-23 DCTF meeting summary for reference. Some recommendations are grouped together for clarity. Explanatory notes are provided below recommendations, when necessary.

DCTF Recommendations to CDFW and the Commission Regarding the October 9, 2013 Coastside Fishing Club Proposal

Recommendation 1- Per the Commission’s direction, the DCTF has discussed the Coastside Fishing Club’s proposal (dated October 9, 2013). The DCTF feels strongly that these issues need to be vetted through and decided on by the Commission with input from CDFW and members of the recreational fishing fleet.

The DCTF agrees that there should be a uniform bag limit and minimum size for the recreational fishery throughout California. However, at this time, the DCTF agrees that the Commission should decide the details of these issues with input from CDFW and members of the recreational fleet.

The DCTF looks forward to discussing future recreational fishery issues.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
21	0	0	0	1

NOTES:

Currently, CPFVs operating south of Sonoma County are allowed a bag limit of 6 crabs per person at a minimum size limit of 6”, while CPFVs operating in the north may retain up to 10 crabs at a minimum size of 5.75”. The DCTF agrees there should be a uniform bag limit and minimum size for all CPFVs operating throughout California. However, the DCTF agrees the Commission should decide the details of those regulations with input from the recreational fleet and CDFW. The DCTF looks forward to continuing discussing issues related to the recreational fishery and welcomes future requests from CDFW and the Commission to review and provide recommendations on recreational Dungeness crab issues.

CONCLUSION

The DCTF looks forward to keeping CDFW and the Commission informed of all current and future work conducted by the DCTF. For more information on DCTF discussions and additional detail and context for the votes above, see the April 22-23, 2014 meeting summary on the DCTF webpage: <http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>



Coastside Fishing Club

P.O. Box 5928
Napa, CA 94581

October 9, 2013

BY HAND DELIVERY

President Michael Sutton
California Fish and Game Commission
1416 Ninth Street, Suite 1320
Sacramento, CA 95814

Dear President Sutton:

Coastside Fishing Club asks that the Fish & Game Commission make changes to regulations governing the take of Dungeness crab by recreational anglers. The requested changes are:

1. Prohibit retention of females (presently legal in the sport fishery).
2. Require use of "rotten cotton" on traps (not presently required).
3. Require that pots be labeled with the owner's name and contact information.
4. Prohibit pulling pots (not your own) without the owner's written permission.
5. Conforming the 10-crab limit to all sport anglers. Presently, there is an exception for recreational anglers on commercial passenger fishing vessels (CPFVs) in five California counties, who are limited to six crab.
6. Conforming the 5.75" minimum size throughout the recreational fishery. Presently, crab on CPFVs operating in five California counties have a minimum size of 6".

These requests further three important goals: resource conservation, equity among recreational license holders, and discouraging the theft of crab from lawfully set recreational traps. Coastside brought these suggestions to the Department of Fish and Wildlife in this past August with the anticipation that the changes could be evaluated and adopted, as the Commission sees fit, by the start of the recreational Dungeness crab season in November 2014.

While the recreational crab fishery is small in comparison to the commercial fishery, it must nevertheless be prosecuted responsibly. Prohibiting the take of females and requiring the use of “rotten cotton,” as in the commercial fishery, will benefit the fishery, even if marginally owing to the small size of the recreational fishery. It may be reasonable to make an accommodation for shore and pier anglers whose access to the resource is limited.

There exists an odd discontinuity as it relates to recreational anglers using the services of CPFV operators. The statewide daily bag limit is ten Dungeness crab for recreational anglers regardless of fishing platform: private boat, CPFV, pier or shore. Section 29.85(a)(3), Title 14, CCR. However, there is a special exception for recreational fishing aboard a CPFV in five California counties: Sonoma, Marin, San Francisco, San Mateo, Santa Cruz, and Monterey. Moreover, there is a special minimum size for such crab of 6.0” rather than 5.75” as proscribed generally for recreational take.

These discriminatory exceptions do not apply in the balance of the State and there is no resource protection justification in view of the already small take under recreational regulations. Indeed, these exceptions arose to address a “resource allocation issue” between recreational and commercial crabbers and purportedly resulted from a “compromise between commercial, CPFV and private angler interests.” See [*Public Proposed Changes to Marine Sport Fishing Regulations For the 2006 Triennial Process, and Department Recommendations For Acceptance Or Denial Of Those Changes*](#), Basis for Department Recommendation in response to Comment No. 34 (requesting uniform 10 crab recreational limit), September 8, 2006 (the “2006 Process”).

Coastside objects on two grounds to the Department’s 2006 justification for disparate treatment of CPFVs. First, it is not within the Department’s purview to address resource allocations between the commercial and recreational sectors. By all accounts, the Dungeness crab fishery is healthy and abundant and the recreational take is small. The resource is not constrained by Total Allowable Catch. In any event, this public trust resource belongs in the first instance to California’s citizens who are permitted direct access through regulations promulgated by the Commission.

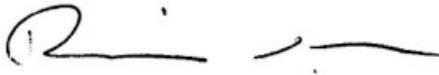
Second, no heed should be paid to the closed-door “compromise” leading to these discriminatory regulations. Private boat anglers were never represented. Many if not most of the larger CPFV operators become commercial crabbers when that season opens. Their “compromise” with commercial crabbers is meaningless. There is no evidence that such a “compromise” was reached in an open, public process. Moreover, CPFV operators serving the recreational public – as opposed to CPFV participating in the commercial fishery – object to this discriminatory treatment.

Finally, Coastside asks that steps be taken to combat the theft and disturbance of recreational crab traps. During the 2006 Process, the Department acknowledged concerns about trap tampering and supported regulatory changes, albeit not quite as far as Coastside proposes here. See Comment Nos. 7, 8, 20, 23, 33 and 38. Unfortunately, the Department has not followed through with regulations to protect the integrity of traps used by recreational crabbers. Pulling and emptying another's crab trap is a rampant problem without any enforcement solution. Therefore, Coastside turns to the Commission.

It has been suggested that the statutory Dungeness Crab Task Force (DCTF) play a role in the amendment of recreational crabbing regulations. The voting membership of the DCTF is almost exclusively comprised of commercial interests. Of the 22 voting members, only two represent recreational anglers. There is one CPFV representative. The balance are commercial crabbers and processors. It is not a representative body. Indeed, there is an inherent conflict of interest since commercial interests seek to restrain recreational crabbing in order to address a perceived allocation issue.

Coastside believes that there exists adequate time for the Commission to carefully consider Coastside's requests and act in time for the 2014 opening of the recreational Dungeness crab season.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Richard Ross', with a stylized flourish at the end.

Richard Ross
President, Coastside Fishing Club

cc: Charlton Bonham (by hand delivery)
Craig Shumann (by email Craig.Shuman@wildlife.ca.gov)
Peter Kalvass (by email Peter.Kalvass@wildlife.ca.gov)
Dungeness Crab Task Force (by email rachelle@strategicearth.com)



Coastside Fishing Club

P.O. Box 5928
Napa, CA 94581

May 2, 2014

BY EMAIL: fgc@fgc.ca.gov

President Michael Sutton
California Fish and Game Commission
1416 Ninth Street, Suite 1320
Sacramento, CA 95814

Re: Renewed Petition for Changes in Dungeness Crab Regulations

Dear President Sutton:

In 2013, Coastside Fishing Club petitioned the Commission to make certain changes to regulations governing the recreational take of Dungeness crab. This was discussed at the Commission's November and December meetings. The Department persuaded the Commission that Coastside's requests ought to be vetted before the Dungeness Crab Task Force (DCTF), a body comprised almost exclusively of commercial crabbing interests.

The DCTF met in April, voted on Coastside's proposed changes, and unanimously adopted the following language:

- Per the Commission's direction, the DCTF has discussed the Coastside Fishing Club proposal. The DCTF feels strongly that these issues need to be vetted through and decided on by the Commission with input from CDFW and members of the sport fleet.

The DCTF also voted unanimously that the current two-tiered recreational bag limits and minimum sizes should end:

- The DCTF agrees that there should be a uniform bag limit and minimum size for the sport fishery throughout California. However, the details of this should be decided on by the Commission with input from CDFW and the sport fleet.

Accordingly, Coastside renews its petition to the Commission to revise regulations governing the recreational take of Dungeness crab. However, in order to simplify the task before the Department and Commission, Coastside is willing to defer certain items in its 2013 petition:

Change Request in Original Petition	Comment
1. Prohibit retention of females	May be deferred. The Department stated at the DCTF meeting that it does not believe that eliminating recreational take of females would appreciably benefit the resource. Few are now taken in the sport fishery and a new prohibition would create enforcement issues. Angler education may be the preferred approach.
2. Require use of "rotten cotton" on traps	May be deferred. The Department stated at the DCTF meeting that it does not believe that requiring escape devices would appreciably benefit the resource. A new prohibition would create enforcement issues. Angler education may be preferred approach.
3. Require that pots be labeled with the owner's name and contact information	May be deferred. While the Department stated that it generally agrees with the need to label pots and/or buoys, there was disagreement with Coastside's specific approach. Additional discussions are needed between the Department and stakeholders.
4. Prohibit pulling pots (not your own) without the owner's written permission.	Already in regulations per the Department.
5. Conforming the 10-crab limit to all sport anglers.	Requires Commission action

6. Conforming the 5.75" **Requires Commission action**
minimum size
throughout the
recreational fishery.

In order for these changes to be considered on this year's regulatory calendar, and therefore be effective for the November 2015 Dungeness crab season, Coastside understands that they must be placed on the Commission's June agenda. The changes to regulatory language are minimal, requiring only the striking of unfair language previously added to create a two-tiered regulatory structure. The deleted language never served any resource conservation goal, only acting to penalize recreational anglers in the six-county area without their own boats.

~~14 CCR Section 29.85 (a)(3) Limit: Ten, except in Sonoma, Marin, San Francisco, San Mateo, Santa Cruz, and Monterey counties, when fishing aboard a commercial passenger fishing vessel required to be licensed pursuant to Section 7881 and/or Section 7920, Fish and Game Code, the limit is six.~~

~~14 CCR Section 29.85 (a)(7) Minimum size: Five and three-quarter inches measured by the shortest distance through the body from edge of shell to edge of shell directly in front of and excluding the points (lateral spines); except in Sonoma, Marin, San Francisco, San Mateo, Santa Cruz, and Monterey counties, when fishing aboard a commercial passenger fishing vessel required to be licensed pursuant to Section 7881 and/or Section 7920, Fish and Game Code, the minimum size is six inches measured by the shortest distance through the body from edge of shell to edge of shell directly in front of and excluding the points (lateral spines).~~

The Department estimates recreational exploitation of the Dungeness crab resource at 2% or less. The resource is healthy with commercial exploitation not limited by total allowable catch. The requested changes will allow recreational license holders on party boats from Sonoma County south to enjoy the Dungeness crab resource in the same measure as those on party boats above Sonoma County or on private boats throughout the State. Coastside previously reached out to the Department on April 24, but has not yet received a response. See April 24, 2014 letter to Director Bonham, attached to this letter.

As requested by the Department, Coastside's proposal has been publicly vetted by the DCTF, which reached a unanimous conclusion. Providing a single, statewide recreational bag limit and minimum size cannot be the subject of genuine controversy. The removal of this unfair language is long overdue and should not be delayed further.

Very truly yours,

A handwritten signature in black ink that reads "Marc Gorelnik". The signature is written in a cursive, flowing style.

Marc Gorelnik, Coastside Fishing Club

Attachment: Coastside's April 24, 2014 letter to Director Bonham

cc: Commissioner Jack Baylis
Commissioner Jim Kellogg
Commissioner Richard Rogers
Commissioner Jacque Hostler-Carmesin
Executive Director Sonke Mastrup (via email: Sonke.Mastrup@fgc.ca.gov)



Coastside Fishing Club

P.O. Box 5928
Napa, CA 94581

April 24, 2014

VIA HAND DELIVERY

Mr. Charlton H. Bonham
Director
California Department of Fish and Wildlife
1416 Ninth Street , 12th Floor
Sacramento, CA 95814

Re: Action Needed to Place Sport Crab Regulations on Commission's June Calendar

Dear Director Bonham:

In 2013, the Coastside Fishing Club petitioned the California Fish and Game Commission to revise regulations for the recreational take of Dungeness crab. The Department persuaded the Commission that the proposed changes needed to be run through the Dungeness Crab Task Force (DCTF). The DCTF has 23 voting members, almost entirely from the commercial crabbing industry. There are two representatives of recreational license holders. Department staff and others serve as non-voting members and advisors.

At its meeting held April 22 and 23, 2014, the DCTF voted unanimously to return Coastside's proposal to the Commission:

- Per the Commission's direction, the DCTF has discussed the Coastside Fishing Club proposal. The DCTF feels strongly that these issues need to be vetted through and decided on by the Commission with input from CDFW and members of the sport fleet.

The DCTF also voted unanimously that the current two-tiered recreational bag limits and minimum sizes should end:

- The DCTF agrees that there should be a uniform bag limit and minimum size for the sport fishery throughout California. However, the details of this should be decided on by the Commission with input from CDFW and the sport fleet.

Currently, there is a different and more restrictive bag limit and minimum size applied to anglers on a commercial passenger fishing vessel (CPFV) from Sonoma to Monterey Counties. These restrictions do not apply to CPFVs north of Sonoma County or to private boaters statewide. There is no resource protection issue whatsoever to justify these varying regulations, which should be eliminated.

Coastside understands that the Commission is prepared to take action on Coastside's proposal provided, however, that the Department requests the matter be placed on the agenda for the Commission's June meeting. This would permit the proposal to be included on the regulatory calendar in August.

Even if the Department and Commission timely act on Coastside's proposal, it will be over a year, November 2015, until the changes take effect. Delaying action, however, would further delay the changes to November 2016 or later.

Coastside Fishing Club thanks the Department for its efforts at the DCTF. We look forward to seeing this matter placed on the Commission's June agenda.

Respectfully submitted,



Marc Gorelnik
Coastside Fishing Club
gorelnik@gmail.com

cc: California Fish and Game Commission

From: [Mastrup, Sonke@FGC](mailto:Mastrup.Sonke@FGC)
To: FGC; [Shuman, Craig@Wildlife](mailto:Shuman.Craig@Wildlife); [Farrell, Bob@Wildlife](mailto:Farrell.Bob@Wildlife); [Barnes, Tom@Wildlife](mailto:Barnes.Tom@Wildlife)
Subject: FW: Crab on Charter boats
Date: Monday, November 24, 2014 10:59:49 AM

fyi

From: Tom Mattusch [REDACTED]
Sent: Monday, November 24, 2014 10:27 AM
To: Mastrup, Sonke@FGC
Subject: Crab on Charter boats

Mr. Sonke Mastrup,
Executive Director FGC

Director Mastrup,

As recreational Dungeness crab limits are discussed and revised regarding angler possession limits on CPFV (charterboats) I wanted to make sure the limitation on 60 pots was eliminated.

Regards,

Capt Tom Mattusch
Huli Cat
[REDACTED]



**Notice of Proposed
Regulation Changes to
Recreational Dungeness Crab Fishery
and Crab Trap Requirements**

**Fish and Game Commission Meeting:
August 4, 2015
Fortuna**

**Presented by:
Christy Juhasz,
Environmental Scientist,
Marine Region**



Background: Petition to Change Dungeness Crab Regulations

Dec 2013 petition:

- Remove different size and bag limit on CPFVs in central CA
- Add other recreational requirements (trap destruct device, pulling traps, retaining female crabs)



Coastside Fishing Club
P.O. Box 5928
Napa, CA 94581

October 9, 2013

BY HAND DELIVERY

President Michael Sutton
California Fish and Game Commission
1416 Ninth Street, Suite 1320
Sacramento, CA 95814

Dear President Sutton:

Coastside Fishing Club asks that the Fish & Game Commission make changes to regulations governing the take of Dungeness crab by recreational anglers. The requested changes are:

1. Prohibit retention of females (presently legal in the sport fishery).
2. Require use of "rotten cotton" on traps (not presently required).
3. Require that pots be labeled with the owner's name and contact information.
4. Prohibit pulling pots (not your own) without the owner's written permission.
5. Conforming the 10-crab limit to all sport anglers. Presently, there is an exception for recreational anglers on commercial passenger fishing vessels (CPFVs) in five California counties, who are limited to six crab.
6. Conforming the 5.75" minimum size throughout the recreational fishery. Presently, crab on CPFVs operating in five California counties have a minimum size of 6".



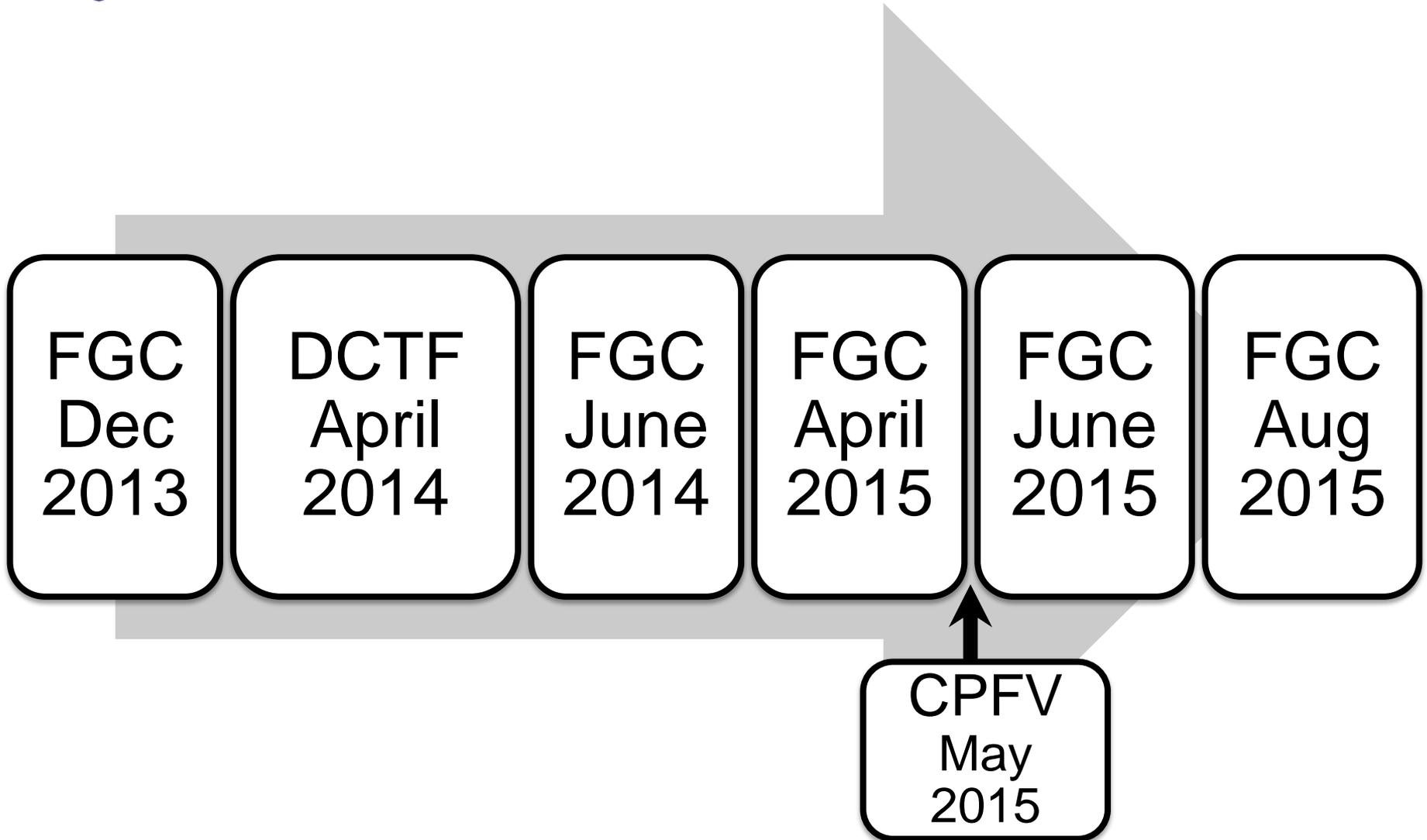
Review by Dungeness Crab Task Force

- Commission referred request to DCTF
- April 2014: DCTF agreed with uniform sport bag and size limits statewide

www.opc.ca.gov/2009/04/dungeness-crab-task-force



Public Meetings Timeline





Proposed Changes (by 2015-16 season*)

- Dungeness crab bag and size limits:
 - Remove different limits for CPFVs (Sonoma-Monterey) (currently 6 crab @ ≥ 6 inches)
 - This will align limits statewide (10 crab @ $\geq 5 \frac{3}{4}$ inches)
- Technical fix: Clarify location of Point Arguello as “Santa Barbara County”

* *Pending request to OAL for expedited review*



Proposed Changes (after 2015-16 season)

Effective August 1, 2016:

- Crab traps must have destruct device
- Crab trap buoys must be marked with operator's unique "GO ID" number
- Prohibit crab traps from being deployed in ocean waters seven (7) days before Dungeness crab season



Summary: Request Commission Authorization to Publish Notice

- For 2015-16 season:
 - Align Dungeness crab bag and size limits statewide
 - Technical fix
- After 2015-16 season (effective August 1, 2016):
 - Trap destruct devices
 - Marking crab trap buoys
 - No crab traps for 7 days before Dungeness crab season



Rulemaking Calendar

Action	Date	Location
Notice	Aug 4, 2015 <i>(Today)</i>	Fortuna
Discussion/ Adoption	Oct 7, 2015	Los Angeles
Dungeness season opens	Nov 7, 2015	Statewide



THANK YOU

Christy Juhasz
Environmental Scientist
California Department of Fish & Wildlife
Christy.Juhasz@wildlife.ca.gov
(707) 576-2887