

## STAFF SUMMARY FOR NOVEMBER 5, 2015

**2. EMERGENCY CLOSURE****Today's Item**Information Action 

Adoption of proposed emergency regulation to delay opening the recreational Dungeness crab fishery and close the rock crab fishery due to elevated levels of domoic acid.

**Summary of Previous/Future Actions (N/A)****Background**

Current regulations for recreational take of crab specify seasons, size limits, bag and possession limits, closed fishing areas, and gear restrictions. The Dungeness crab season is scheduled to open on Saturday, November 7, 2015. The rock crab season is currently open year-round.

The California Department of Fish and Wildlife (Department) has detected a massive toxic bloom of the marine diatom *Pseudo-nitzschia* resulting in significant impacts to coastal resources and marine life. Some *Pseudo-nitzschia* species produce a potent neurotoxin, known as domoic acid, which can accumulate in shellfish, other invertebrates, and sometimes fish, leading to illness and death in a variety of birds and mammals. Recent test results have shown persistently high levels of domoic acid in Dungeness crab and rock crab, which have been caught along the California coastline.

Domoic acid levels in recent samples have exceeded the State's action level for the crabs' body meat as well as the viscera, commonly referred to as crab butter, and therefore pose a significant risk to the public if they are consumed, as determined by the California Department of Public Health (CDPH). As a result, the Office of Environmental Health Hazard Assessment (OEHHA), in consultation with CDPH, has recommended the fisheries be closed. The Department, CDPH, OEHHA, and the Ocean Protection Council are coordinating efforts to monitor toxicity levels and ensure public safety.

**Significant Public Comments**

Staff will provide a verbal report on comments received by 5:00 p.m. on Nov 4, 2015.

**Recommendation**

**FGC staff:** Adopt the proposed emergency regulations to protect public health.

**Exhibits**

1. Statement of Proposed Emergency Regulatory Action
2. CDPH Issues Warning about Dungeness and Rock Crabs Caught in Waters Along Central and Northern California Coast, CDPH News Release, dated Nov. 3, 2015.
3. Domoic Acid Threat to Public Safety, OEHHA Memo, received Nov. 3, 2015.

**Motion/Direction**

Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission determines, pursuant to sections 11125.5(b) and 11349.6 of the Government Code, that an emergency

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situations exists. The emergency situation clearly poses a danger of such an immediate serious harm that delaying action to allow public comment would be inconsistent with the public interest.

The Commission further determines, pursuant to Section 11125.5(b)(1) of the Government Code, that ingesting crabs with high levels of domoic acid is a matter upon which urgent action is necessary to avoid severely impairing public health and safety and therefore holds this meeting without complying with the 10-day notice requirement of Section 11125 of the Government Code or the 48-hour notice requirement of Section 11125.4 of the Government Code.

The Commission further determines, pursuant to Section 240 of the Fish and Game Code, that adoption of this regulation is necessary for the immediate protection of public health and safety from ingesting elevated levels of poisonous domoic acid detected in recent samples of Dungeness and rock crab.

Therefore, the Commission adopts the proposed emergency changes to Section 29.85, Title 14, related to closure of the recreational Dungeness crab and rock crab fisheries for the immediate preservation of public health.