



## CALIFORNIA OCEAN PROTECTION COUNCIL

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April 23, 2012

Charlton Bonham, Director  
California Department of Fish and Game  
1416 Ninth Street, 12<sup>th</sup> Floor  
Sacramento, CA 95814

Dear Mr. Bonham,

On behalf of the California Dungeness Crab Task Force (DCTF), I am pleased to submit the following report to inform the development of a commercial tiered trap limit program as specified in Senate Bill 369.

Pursuant to SB 369, the California Ocean Protection Council (OPC) is the designated body responsible for establishing and administering the DCTF. The DCTF is directed to review and evaluate the California Dungeness crab fishery with the objective of making recommendations to the Joint Committee on Fisheries and Aquaculture, the California Department of Fish and Game, and the Fish and Game Commission by January 15, 2015 and January 15, 2017. The DCTF is also charged reviewing the Department's proposed trap limit program and providing recommendations to the Director for any potential changes. The enclosed report contains such recommendations for your consideration.

Please feel free to contact Sheila Semans, (707) 397-1475 or [ssemans@scc.ca.gov](mailto:ssemans@scc.ca.gov) to obtain additional printed copies of the report. The report may also be downloaded on the DCTF webpage: <http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>

Sincerely,

A handwritten signature in blue ink, appearing to read 'Sam Schuchat', is written over a light blue horizontal line.

Sam Schuchat  
Ocean Protection Council Secretary  
State Coastal Conservancy

Cc: Assemblymember Wesley Chesbro  
Senator Noreen Evans  
John Laird, Ocean Protection Council Chair  
Daniel Richards, California Fish and Game Commission  
Sonke Mastrup, California Fish and Game Commission



## ~California Dungeness Crab Task Force~

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

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### REPORT

TO: California Department of Fish and Game, Charlton Bonham, Director

CC: Joint Committee on Fisheries and Aquaculture, Wesley Chesbro, Chair  
Joint Committee on Fisheries and Aquaculture, Noreen Evans, Vice Chair  
California Fish and Game Commission, Daniel Richards, President  
California Fish and Game Commission, Sonke Mastrup, Executive Director

FROM: California Dungeness Crab Task Force

DATE: April 27, 2012

RE: Recommendations from the California Dungeness Crab Task Force regarding regulations for the tiered trap limit program defined in SB 369

APPENDICES:

- (1) [Senate Bill 369](#)
- (2) [January 15, 2010 Report \(Report #1\)](#)
- (3) [March 31, 2010 Report \(Report #2\)](#)
- (4) [Tri-State Dungeness Crab Commission Memorandum of Understanding \(MOU\)](#)
- (5) [DCTF Membership List](#)
- (6) [DCTF Charter](#)
- (7) [Department Draft Regulations \(Version 1, March 8, 2012\)](#)
- (8) [Department Draft Regulations \(Version 2, March 30, 2012\)](#)
- (9) [Summary of DCTF Votes from March 12, 2012 meeting](#)
- (10) [Summary of DCTF Votes from April 2, 2012 meeting](#)
- (11) [Letter from Washington Department of Fish and Wildlife](#)

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This report provides recommendations from the Dungeness Crab Task Force (DCTF) to the California Department of Fish and Game (Department) that may inform the development of the commercial tiered trap limit program specified in Senate Bill 369 (Evan, 2011) (Appendix 1), and future Dungeness crab fishery management. This work was completed pursuant to SB 369. This legislation mandates the Director of the Department (Director) to provide a proposed trap limit program to the DCTF for its review and recommendations. SB 369 also requires the DCTF to conduct its review and submit recommendations within 60 days of receiving the proposed trap limit program – this report satisfies the requirement.

Throughout its tenure, the DCTF will develop additional reports to provide recommendations to the Department, Joint Committee on Fisheries and Aquaculture (Legislature), and the Fish and Game Commission (Commission). As mandated by SB 369, future recommendations on the commercial tiered trap limit program and other Dungeness crab fishery management measures as described in Fish and Game Code Section 8276.5 will be submitted by January 15, 2015 and January 17, 2017.

**Additional information, including meeting summaries offering details on the development of the recommendations provided in this report, is available on the DCTF webpage:**

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

## BACKGROUND

The California Dungeness crab industry is a valuable state resource that has an average ex-vessel value<sup>1</sup> of approximately \$24.4 million a year. With the reduction of the salmon fishery over the last few years, the collective demand of both fishermen and consumers appears to be shifting toward Dungeness crab. As a result, Dungeness crab is now one of the most profitable and productive fisheries in California.<sup>2,3</sup>

DCTF members have expressed concern that money used to mitigate lost fishing opportunities in the salmon fishery has been reinvested into the Dungeness crab fishery thereby increasing pressure in the Dungeness crab fishery. Consequently, there is a desire to ensure the health of the Dungeness crab resource, to ensure that it may be fished in perpetuity, and to seize the opportunity to improve the economic health of the fishing communities that rely on this valuable resource.

In recent years, there has been increased pressure for fishermen to fish more crab traps to increase an individual's potential catch, especially as opportunities in many other fisheries become limited. This is often referred to as the "race for crab." While there is no current verifiable estimate of the amount of gear in the water, it is generally thought that fishermen are fishing increasingly larger numbers of traps each season in an effort to land as much of the limited number of crabs available as possible. This issue of gear increases and excess fishing capacity is exacerbated by the potential for latent permit activation.

There are approximately 140 inactive, or "latent"<sup>4</sup>, Dungeness crab commercial fishing permits currently in California, which constitute approximately 23% of all permits. Latent permits represent unexploited fishing potential. As such, questions have been raised by members of the industry about the sustainability of the fishery into the future should latent permits become active. Prior to the enactment of SB 369, fishermen expressed concern that as latent permits become activated, more gear will be deployed each season. SB 369 provides that the eligibility of permit holders who have landed less than 5,000 pounds during the trap-determining time frame may be subject to restrictions, such as a limit on the number of traps allowed to fish and a prohibition on transferability for two years, but does not provide further specification. In addition, the data available (biological and fishery information) to inform management on this and other issues is significantly lacking.

Throughout the season, there is an obvious bidirectional regional movement of fishermen and gear, known as "effort shift," along the California coast. Fishermen from all over the West Coast choose to fish in district 10 during the two-week early opener window (November 15-December 1) to take advantage of consumer demand for Dungeness crab during the Thanksgiving and Christmas holiday seasons. Following the December 1 northern<sup>5</sup> opener, the concentration of effort shifts to the northern region and creates pressure on the northern extent of the fishery until catch tapers off later in the season. In addition to California resident vessels, dually permitted vessels from Oregon and Washington are confounding the effort shift in California by fishing in California prior to their state openers.

Members of the Dungeness crab industry have made several attempts to resolve these issues. However, the fishery consists of a diverse group of individuals, communities, and viewpoints. Opinions regarding the

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<sup>1</sup> Ex-vessel definition: Price received by fishermen for fish landed at the dock.

<sup>2</sup> Hackett, S.H. and King, D. 2009. The Economic Structure of California's Commercial Fisheries. Report Commissioned by the California Department of Fish and Game. [http://www.dfg.ca.gov/marine/eccf/eccf\\_report.pdf](http://www.dfg.ca.gov/marine/eccf/eccf_report.pdf)

<sup>3</sup> The Dungeness crab fishery is an important contributor to the economy of small port communities such as Crescent City

<sup>4</sup> Although there is currently no definition of latent permits used by the Department, the DCTF refers to a latent permit as one with few or no landings in recent years. The DCTF defines latent permits using a description in Fish and Game Code Section 8275.4(g)(1) and 8276.4(g)(2).

<sup>5</sup> "Northern" refers to the region north of district 10/Point Arena to the California-Oregon border.

management goals and objectives for the California Dungeness crab fishery generally vary by vessel size and homeport location<sup>6,7</sup> making it challenging for fishery participants to reach agreements.

## **CALIFORNIA MANAGEMENT OF THE FISHERY**

The California Dungeness crab commercial fishery is currently managed by the Department pursuant to Fish and Game Code Section 8275 *et seq.*, which requires that the fishery be managed by a 3-S (sex, size, and season) principle, and allows for commercial harvest of only male crabs, greater than 6.25 inches, from mid-November or the beginning of December until the end of June or mid-July. This management strategy is considered to be successful in maintaining the crab population because males have the opportunity to mate several times before reaching legal size, females are protected from commercial harvest, and the fishing season avoids the soft-shell and primary breeding period. The opening of the season for district 10 as well as districts 6, 7, 8, and 9 is designated by California Fish and Game Code. In districts 6, 7, 8, and 9, the code delegates the authority to delay the season opening to the Director if crabs are soft-shelled or low quality. Additionally, in 1995 a limited entry program<sup>8</sup> was implemented that served to limit the total number of permits in the fishery. Currently there are fewer than 600 permits: approximately 450 active and 140 latent.

In contrast to the commercial fishery, the California Dungeness crab sport fishery is managed by the Commission. The sport fishery is managed by season, daily bag limits, and size. These regulations vary by region and by sport fishing mode (i.e. private vessel versus commercial passenger fishing vessels (CPFV)).

## **WEST COAST MANAGEMENT OF THE FISHERY**

In 1996, the Tri-state Dungeness Crab Agreement was established through a MOU between Pacific States Marine Fisheries Commission (PSMFC) and Washington, Oregon, and California to facilitate communication and cooperation between the states in managing their Dungeness crab fisheries (see Appendix 4 for MOU). Most notably, this agreement established preseason crab testing<sup>9</sup> from the Washington-British Columbia border to Point Arena. Through the Tri-state committee, the three states have had the ability to discuss and align management of Dungeness crab in their respective states including coordinating fair start clauses.<sup>10</sup>

The Dungeness crab fisheries in Washington and Oregon are also high-value fisheries. In contrast to the California commercial fishery, the Fish and Wildlife Commissions in Oregon and Washington have management authority over the commercial Dungeness crab fishery (in contrast to California, where management authority rests with the legislature). Historically, both OR and WA experienced similar trends as the California fishery, including the presence of latent permits in the fishery, an increase of gear in the water, and a derby dynamic. In an effort to ameliorate these issues and distribute fishing throughout the

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<sup>6</sup> Dewees, C.M. et al. 2004. Racing for crabs: Cost and management options evaluated in Dungeness crab fishery. *California Agriculture*. Vol. 58(4): 186-193.

<sup>7</sup> Pomeroy, C., C. Thomson and M. Stevens. Crescent City Harbor Fishing Community Profile. In *California's North Coast Fishing Communities: A Historical Perspective and Recent Trends*. Santa Cruz, CA: California Sea Grant College Program, 2010, 1-55p.

<sup>8</sup> A limited entry program is a management scheme that restricts the number of permits in a fishery.

<sup>9</sup> The crab quality testing predicts the meat recovery rate by the December 1 season opener, from which the shell condition and quality are inferred.

<sup>10</sup> Fair start provisions require fishermen to commit to fishing only in a specific location for a period of time prior to being able to leave that region to go fish another area. For example, in Oregon, in the case of a delayed opening in Oregon or California, fishermen with permits in both states must commit to fishing in one zone only. If fishermen are committed to the zone that opens on December 1, they have to wait at least 30 days before they are allowed to fish in the zone that was delayed.

Dungeness crab commercial fishing season, the Washington Department of Fish and Wildlife (WDFW) established a tiered Dungeness crab trap limit system in 1999. The Oregon Department of Fish and Wildlife (ODFW) followed suit in 2006 by establishing a trap limit program modeled after Washington's system. WDFW and ODFW staff presented both trap limit models at past DCTF meetings, and explained that while these management efforts capped the amount of gear in the water, there is no evidence the trap limit programs significantly reduced the derby dynamic of the fishery. Discussions between WDFW and ODFW staff and the DCTF also highlighted these efforts have been met with mixed reviews by the Dungeness crab industry coastwide.

### **SB 1690 and SB 369**

In an effort to alleviate issues of concern in California and create a forum for the industry to resolve Dungeness crab fishery issues, SB 1690 was passed in September 2008 to establish a DCTF that was representative of the diverse fishery interests. SB 1690 (which added Section 8276.4 to the California Fish and Game Code) directed the California Ocean Protection Council (OPC) to establish and administer the DCTF, and directed the DCTF to review and evaluate the Dungeness crab fishery and make recommendations to the Legislature, the Commission, and the Department. The DCTF ceased to exist on January 1, 2011 per SB 1690's sunset clause, but was reestablished later the same year by SB 369 (2011-2012 Reg. Sess), which again tasked the OPC with developing and administering the DCTF. SB 369 mandated that the DCTF be composed of 25 members including 17 members representing commercial fishing interests, two members representing sport fishing interests, two members representing crab processing interests, one member representing CPFV interests, two members representing nongovernmental organization interests, one member representing Sea Grant, and two members representing the Department. SB 369 also established a seven-tier commercial Dungeness crab trap limit program. The Department is responsible for developing and implementing the program in consultation with the DCTF.

The work of the DCTF is expected to be carried out during the course of several public meetings held in California. DCTF meetings will take place between March 2012 and January 2017, with the goal of reviewing the Department's proposed trap limit program regulations by May 1, 2012 and making future recommendations on the tiered trap limit program and other Dungeness crab fishery management measures as described in Fish and Game Code Section 8276.5 by January 15, 2015 and January 15, 2017.

### **DCTF PROCESS AND PROCEDURES**

During its tenure under SB 1690, the DCTF convened meetings from May 2009 through February 2010 and voted on the recommendations included in two reports (Appendices 2 and 3). SB 369 states that "a proposed recommendation that receives an affirmative vote of at least 15 of the non-ex officio members of the DCTF may be transmitted to the director or the Legislature as a recommendation, shall be considered to be the consensus of the task force, and shall be considered to be evidence of consensus in the Dungeness crab industry." A DCTF Charter was developed and ratified by the DCTF in September 2009 and amended in March 2012. The charter established ground rules, member roles, and voting procedures for the group (see Appendix 6). The following voting protocol, described in the DCTF Charter, was used to conduct straw polls and final voting:

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

Thumbs up and thumbs sideways were *both* counted as affirmative votes to determine a 15 member majority on a recommendation. Recommendations that did not receive an affirmative vote of at least 15 members are not included in this report.

**DCTF VOTES AND ANALYSIS**

The recommendations below represent agreements of the DCTF members (as per voting protocols defined in the DCTF Charter (Appendix 6); however, in some cases they are not the *verbatim* language from when the votes were taken. Because of the iterative nature of the conversations at the DCTF meetings, the language of some of the recommendations has been adjusted to improve clarity. The verbatim language from the meeting is included Appendix 9 and 10 for reference. Some recommendations are grouped together for clarity. Explanatory notes are provided below recommendations, when necessary.

**Proposed Commercial Dungeness Crab Fishery Statewide Trap Limit Program Recommendations**

The Department submitted a proposed trap limit program pursuant to Fish and Game Code Section 8276.5 at two DCTF meetings (March 12 and April 2, 2012). The proposed program was provided to the DCTF in the form of draft Title 14 regulations (Appendix 7 and 8) for its consideration. The recommendations below are based on those draft Title 14 regulations.

**Recommendation 1-** All mentions of “licensed marine surveyor” throughout the proposed Title 14 regulations should be changed to “marine surveyor.”

*Vote of all DCTF Members (nonvoting Members abstained):*

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

NOTES:

The DCTF understands that a marine surveyor may operate in California without a license. For this reason, the DCTF indicated that it is unnecessary to require the use of only licensed marine surveyors to be in compliance with the law.

**Recommendation 2-** Dungeness crab trap tags supplied by the owner of the Dungeness crab trap should contain contact information sufficient to identify the vessel operating the trap. (Title 14 draft regulations, Section 132.1(a))

*Vote of all DCTF Members (nonvoting Members abstained):*

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

NOTES:

As specified in SB 369, a Department-issued tag (“buoy tag”) will be affixed to the buoy and another tag (“trap tag”) supplied by the permitholder will be attached to the trap. At the March 12 meeting, the DCTF discussed what kind of contact information each permitholder should be responsible for putting on the trap tags. The DCTF unanimously agreed that trap tags should contain “at least a contact phone number.” However, at the April 2 meeting, the group agreed that a more flexible approach is more appropriate. Since fishermen may rent or use someone else’s traps as part of their tier allocation, it is important to ensure that the vessel operating the trap is clearly specified. Therefore, at the April 2 meeting, the DCTF unanimously

agreed to Recommendation 2.

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**Recommendation 3-** Prohibit fishing of rock crab with traps on permitted commercial Dungeness crab fishing vessels 30 days prior to the commercial Dungeness crab presoak, or season opener, whichever comes first. (Title 14 draft regulations, Section 132.1(b)(3))

*Vote of all DCTF Members (nonvoting Members abstained):*

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
16	6	0	0	3

**NOTES:**

Fish and Game Code Section 8284 allows the commercial take of rock crab and Dungeness crab concurrently with commercial permits. Currently, there are no restrictions on the number of traps that can be used to fish rock crab. Additionally, there is no way to distinguish between a rock crab trap and a Dungeness crab trap. The DCTF expressed concern that dually permitted individuals may set large quantities of traps prior to the Dungeness crab season openers under the guise of commercial rock crab fishing. The DCTF recognizes that rock crab is an important commercial fishery in the southern extent of the Dungeness crab fishery that only takes Dungeness crab incidentally. Recommendation 3 is intended to eliminate loopholes that allow individuals to abuse the system by deploying excessive numbers of Dungeness crab traps prior to the Dungeness crab season openers. By limiting this restriction to 30 days prior to the commercial Dungeness crab presoak/season opener, the DCTF hopes to acknowledge and show support for those who make a living from the commercial take of rock crab.

Recommendation 10 (below) is intended as a supplement to this recommendation.

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**Recommendation 4-** The DCTF agrees that a Dungeness crab trap used in compliance with Fish and Game Code Section 8276.5 shall only be used for the commercial take of crab. Vessels with both a commercial passenger fishing vessel (CPFV) license and a Dungeness crab permit may only fish for Dungeness crab during the commercial Dungeness crab season. (Title 14 draft regulations, Section 132.1(b)(3) *et seq*)

*Vote of all DCTF Members (nonvoting Members abstained):*

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
20	1	0	0	1

**NOTES:**

Current regulations authorize vessels with a CPFV license and a commercial Dungeness crab permit to recreationally fish Dungeness crab during the recreational season opener, which is earlier than the commercial opener. This results in CPFV operators gaining early access to crab fishing areas, and the ability to “switch” traps by placing commercial tags on traps already deployed. The DCTF would like to eliminate such loopholes by ensuring CPFVs are only allowed to fish for Dungeness crab during the commercial Dungeness crab season. This will prevent CPFVs from deploying traps and fishing Dungeness crab before the commercial season opener/presoak.

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**Recommendation 5.** Allow six (6) traps (untagged or belonging to someone else) to be aboard vessel at any time without a waiver from the Department. These traps may only be transported and may not be redeployed.

(Title 14 draft regulations, Section 132.2)

*Vote of all DCTF Members (nonvoting Members abstained):*

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

NOTES:

During the normal course of business, circumstances may arise in the commercial fishery where a Dungeness crab trap and/or buoy tag is lost or when a derelict trap may need to be retrieved. This provision will allow for these incidences without penalizing commercial fishermen.

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**Recommendation 6-** The DCTF proposes the following language to Section 132.2, *Waiver for a Permitted Dungeness Crab Vessel to Retrieve Another Vessel's Dungeness Crab Traps* (Title 14):

- (a) No vessel shall possess, use, control, or operate any Dungeness crab trap without a Department issued buoy tag assigned to that vessel except as provided:
  - (1) To set gear as allowed under Section 8280.7 of the Fish and Game Code.
  - (2) To retrieve from the ocean and transport to shore commercial crab trap(s) which were lost, forgotten, damaged, abandoned or otherwise derelict; provided that:
    - (A) No more than six (6) such traps may be retrieved per trip.
    - (B) Crab from the retrieved trap(s) shall not be retained; and
    - (C) Immediately upon retrieval of trap(s), the retrieving vessel operator must document in the retrieving vessel's logbook the date and time of trap retrieval, number of retrieved crab traps, location of retrieval, and retrieved trap owner identification information; and
    - (D) Any retrieved crab trap(s) must be transported to shore during the same fishing trip that retrieval took place; or that:
    - (E) During July 16 through October 31, an unlimited number of such traps may be retrieved per trip and transported to shore during the same fishing trip; or
    - (F) Under a waiver granted by the Department to allow retrieval of permitted crab gear of more than six (6) traps to shore by another crab permitted vessel provided that:
      - (1) Vessel is incapacitated due to major mechanical failure or destroyed due to fire, capsizing, or sinking;
      - (2) Circumstances beyond the control of the permit holder created undue hardship.
      - (3) A request must be in writing to the Department's License and Revenue Branch and a waiver approved and issued prior to retrieval.
      - (4) A copy of the waiver must be on board the vessel making the retrieval.
      - (5) The waiver may include limitations such as time period to conduct retrieval, landing prohibitions or any other criteria the department deems necessary.

*Vote of all DCTF Members (nonvoting Members abstained):*

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
13	7	1	0	1



NOTES:

The DCTF supports a certain level of flexibility in the deployment and retrieval of another permitholders' gear. Hardships beyond an individual's control may arise which may require another vessel to retrieve or deploy gear. These provisions will allow: 1) an unpermitted vessel to deploy another permitholders' gear so long as there is no retrieval equipment on board (currently authorized under Fish and Game Code Section 8280.7); and 2) the Department to review instances where a waiver may be needed to retrieve another permitholders' gear on a case-by-case basis. Such regulations will help minimize loopholes so individuals are not fishing outside their trap tier allocation while also providing mechanisms to assist individuals with unforeseen circumstances or hardship. Lastly, the DCTF identified derelict or lost fishing gear as a problem in the fishery. This recommendation will help to ensure the retrieval of all gear in state waters following the close of each Dungeness crab season.

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**Recommendation 7-** The DCTF recommends the following procedures for lost Dungeness crab Department issued buoy tags (Title 14 draft regulations, Section 132.4(b)):

- All buoy tags shall be sequentially numbered;
- Temporary replacement tags may be purchased 30 days after the season opener. The Department will issue only as many replacement tags as are reported lost, not to exceed 10% of the permitholder's total allocation;
- At the end of the season permitholders must provide an accounting of buoy tag numbers in their possession, at which time permitholders may apply for replacement of all lost tags.

*Vote of all DCTF Members (nonvoting Members abstained):*

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

NOTES:

The DCTF's recommended approach to replacing lost buoy tags is adapted from the process currently in place for the state of Washington. Although the trap limit program operates biennially, the DCTF has approached tag replacement procedures on an annual basis, allowing permitholders to operate with a complete set of tags for each fishing season.

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**Recommendation 8-** The DCTF approves the Dungeness crab trap limit program draft regulations with the incorporation of Recommendations 1-7.

*Vote of all DCTF Members (nonvoting Members abstained):*

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
17	3	1	0	2

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**Supplemental Recommendations**

In addition to the recommendations directly related to the Department's proposed Title 14 regulations for the **Commercial Dungeness Crab Fishery Statewide Trap Limit Program**, the DCTF also made supplemental recommendations.

**Recommendation 9-** DCTF maintains that the original intent of the \$1,000 biennial permit fee in Fish and Game Code section 8276.5(a)(3)(B) was to sunset after two (2) years.

*Vote of all DCTF Members (nonvoting Members abstained):*

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

NOTES:

SB 369 mandates that permitholders are required to purchase a biennial trap limit permit of “not more than \$1,000” to fund the Department’s regulatory costs. During the March 12 and April 2 meetings, Department staff acknowledged Section 8276.5(a)(4) states: ‘The Department shall annually provide an accounting of all costs associated with the crab trap limit program. Excess funds collected by the department shall be used to reduce cost of the crab limit...fee in subsequent years of the program.’” However, DCTF Members who worked with the Legislature to develop SB 369 understood such fees would be in place to cover the first two years of the program’s start up costs, and then be decreased to better reflect the costs of the program. The DCTF would like to ensure the original intent of the \$1,000 fee is clear.

**Recommendation 10-** The Dungeness crab fishery would like to work with the rock crab commercial fishery to discuss overlapping issues.

*Vote of all DCTF Members (nonvoting Members abstained):*

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

NOTES:

As indicated in Recommendation 3 (above), since Dungeness crab and rock crab may be caught simultaneously, it is important that regulations set for one fishery do not hinder the operations of the other fishery. However, it is also important to make certain that potential loopholes are eliminated to prevent individuals from inappropriately exploiting either fishery. The Dungeness crab fishery welcomes the opportunity to work with the rock crab fishery to come to mutually agreeable solutions.

**Recommendation 11-** The California trap limit program should only consider California landings when calculating each permitholder’s trap allocation.

*Vote of all DCTF Members (nonvoting Members abstained):*

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
16	4	1	0	1

NOTES:

SB 369 indicates that trap allocation assignments will be based on California landings. However, a recent letter from the Washington Department of Fish and Wildlife (Appendix 11) requested that the state of California reconsider its position on out-of-state landings. During its March 12 and April 2 meetings, the DCTF heard public comment surrounding this issue and discussed it in detail. The DCTF maintains that unless it is determined to be illegal, only California landings should be considered when calculating trap tier allocations. Members indicated that commercial Dungeness crab landings in Oregon and Washington were generally higher than those in California. The DCTF does not want to displace California permitholders from higher trap allocation tiers in the California program.

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**Recommendation 12-** Ask the California Attorney General to read and assess the Magnuson-Stevens Fishery Conservation and Management Act (especially section 302) and determine whether the state of California can determine the rights of a California permit holder based solely on California landings without taking into consideration landings generated in other states using another states' permit. These rights may include, but are not limited to, tier assignments under a trap limit program.

*Vote of all DCTF Members (nonvoting Members abstained):*

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
11	8	2	0	1

NOTES: There was a question among the DCTF members as to whether California must consider landings made by fishermen fishing in other states, when those landings are made under a separate permit, when establishing California management criteria (e.g., if a California permitholder also fishes in Oregon (and/or Washington) with an Oregon (or Washington) permit, must the Oregon (and/or Washington) landing also be included when calculating that permitholder's cumulative landings for his/her California permit). This same recommendation was made in the DCTF's January 15, 2010 report (Appendix 2) and was not pursued by the State of California.