



~California Dungeness Crab Task Force~

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

June 29, 2020

CA Department of Fish and Wildlife
Attn: Ryan Bartling, Sr. Environmental Scientist
3637 Westwind Blvd
Santa Rosa, CA 95403

Submitted online via: WhaleSafeFisheries@wildlife.ca.gov

RE: The DCTF's public comment response to CDFW's Notice of Proposed Rulemaking: Risk Assessment Mitigation Program (RAMP): Commercial Dungeness Crab Fishery

Dear Director Bonham,

The following comments are submitted on behalf of the California Dungeness Crab Task Force (DCTF) in response to the California Department of Fish and Wildlife's (CDFW) Notice of Proposed Rulemaking: Risk Assessment Mitigation Program (RAMP): Commercial Dungeness Crab Fishery (to add Section 132.8, Title 14, CCR). In addition to directing comments to CDFW, the DCTF has made a funding request to the Ocean Protection Council (OPC) to help advance the RAMP's data-related goals.

The DCTF appreciated the opportunity to collectively review the proposed regulations with CDFW staff and values its ongoing working relationship with CDFW and the OPC. **For more information on DCTF discussions regarding the proposed rulemaking and additional detail and context for the votes below, the June 17, 2020 meeting summary will be available shortly on the DCTF webpage:** <http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>.

BACKGROUND

The DCTF was established pursuant to Fish and Game Code Section 8276.4. The DCTF is directed to review and evaluate Dungeness crab fishery management measures and provide recommendations to the Joint Committee on Fisheries and Aquaculture, CDFW, and the Commission. 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/>.

A public meeting was held on June 17, 2020 to discuss the proposed RAMP rulemaking. CDFW staff gave a presentation outlining the complexities of the proposed rulemaking and responded to clarifying questions. The DCTF reviewed and discussed the proposed RAMP rulemaking with CDFW and OPC staff, and developed a series of recommendations to be submitted as public comment in response to the proposed rules.

DCTF Votes and Analysis

The following represent agreements of the DCTF (per voting protocols defined in the [DCTF Charter](#)). In some cases, the guidance language is not verbatim from when the votes were taken and have been adjusted to improve clarity. Explanatory notes are provided, when necessary. This document was reviewed by the DCTF to confirm the accuracy and framing of comments below prior to submission.

PUBLIC COMMENTS FROM THE DCTF: PROPOSED RAMP RULEMAKING

Below are recommendations from the DCTF for CDFW and OPC's consideration. While the recommendations were voted on collectively for efficiency during the meeting, the DCTF would like CDFW to consider the merits of each recommendation individually. The results of the vote on the full suite of recommendations is as follows:

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
15	0	0	0	5

Data Collection and Funding

The DCTF recommends CDFW actively utilize the commercial Dungeness crab fishing fleet to collect data to inform the RAMP and augment CDFW's available data sources. The California Coastal Crab Association (CCCA) will liaise with CDFW to develop a framework for data collection.

The DCTF recommends that OPC allocate \$500,000 to support the commercial Dungeness crab fleet's data collection efforts to inform the RAMP.

RATIONALE: The proposed RAMP regulations, specifically California Code of Regulations (CCR) Title 14 §132.8(c)(2)(A), outline scenarios where unavailable data would result in management actions that impact the fleet (e.g., delays, closures, etc.). The DCTF believes that the commercial Dungeness crab fleet could add research capacity throughout the year to augment data currently available to the state. The funding to support data collection would be utilized for reasonable expenses including, but not limited to, vessel expenses, time to collect data, etc. Jon Gonzalez, CCCA, will work with CDFW and the OPC to develop a pathway forward for this effort.

Alternative Gear

The DCTF supports the development of alternative gears that will extend fishing opportunities as outlined in CCR Title 14 §132.8(h). The DCTF recommends the industry play a direct role in designing and testing alternative gears that may be approved by CDFW based on best fishing principles.

RATIONALE: Involvement of commercial fishermen in the development and testing of alternative gear is important to make sure the gear is fishable, economically feasible, etc.

Amend Electronic Monitoring Tools Requirements

The DCTF recommends amending CCR Title 14 §132.8(g)(2) to reflect the capabilities of currently utilized electronic monitoring systems that have been approved by the National Marine Fisheries Service (NMFS) in the Electronic Code of Federal Regulations, Title 50, Chapter VI, Part 660¹ to inform fleet dynamics under certain management actions and to ensure the tool is accessible to the broader fleet.

RATIONALE: VMS and other tools that are currently required by other fisheries are not capable of tracking and recording vessel locations at a frequency of one minute during fishing operations. VMS, AIS, and other systems that have been well-established and effective in managing fisheries for the last 15 years should be prioritized. Otherwise, electronic monitoring tools will be costly for the fleet to implement. The DCTF suggests CDFW utilize the same standards employed by NMFS.

¹ https://www.ecfr.gov/cgi-bin/text-idx?SID=342c0377346fd4f3e264af882e377ee1&node=50:13.0.1.1.1&rgn=div5#se50.13.660_113 and <https://www.federalregister.gov/documents/2020/06/11/2020-11011/magnuson-stevens-act-provisions-fisheries-off-west-coast-states-vessel-movement-monitoring-and>

Amend the Outcomes Associated with the Humpback Whale Impact Scores

The DCTF recommends amending CCR Title 14 §132.8(c)(1)(B)(1) such that if the impact score for Humpback whales is 3 or more, the Director “may” close the remainder of the fishing season rather than “will/shall.”

RATIONALE: The amendment would allow the Director more flexibility should conditions (e.g., changes in oceanographic conditions, fishing dynamics, etc.) indicate that a stateside closure is unnecessary and not warranted.

Amend Actions When Insufficient Data

The DCTF recommends amending CCR Title 14 §132.8(c)(2)(B) such that if data is unavailable to inform the RAMP risk assessment, the fishery remains open until data is available to inform otherwise.

RATIONALE: During the 2019-20 commercial Dungeness crab season, there was frequently limited or no available data to inform risk assessments in the Northern Management Area² (NMA). As of June 17, the NMA has remained open and there have been no entanglements reported. A closure of the NMA due to limited/no data would have resulted in an unnecessary statewide closure with widespread economic impacts to the fleet while having no/limited impact on the risk of marine life entanglements. Additionally, during the 2015-16 season, the season with the highest reported entanglements on record, there were few confirmed reports from the NMA.³

Timely Evaluation of Entanglements

The DCTF recommends CDFW and NMFS expedite their review, evaluation, and scoring of entanglements, both during and outside of the season

RATIONALE: Data associated with confirmed entanglements is a critical component of the RAMP regulations that could have large impacts on the commercial Dungeness crab fishing season. An expedited process to review and confirm forensic details will ensure an accurate final scoring in a timely manner, which in turn will potentially prevent unnecessary closures during the season while also allowing the fleet to begin the season with a full understanding of the status of entanglements.

Modification of Zones

The DCTF recommends amending CCR Title 14 §132.8(a)(4)(C)(7) as follows:

- Stop Zone 5 at Pt. Conception and create a new zone from Pt. Conception to the California-Mexico border.
- Reduce the size of Zone 6 so that a smaller area/portion of the fleet would be negatively impacted as a result of the presence of one Pacific leatherback sea turtle in the area.
- Reduce the size of the zones to extend the offshore distance the aerial surveys used to monitor the area rather than out to 200nm.

RATIONALE:

- Since commercial Dungeness crab fishing does not occur south of Pt. Conception, it does not make sense to include that area in Zone 5 to manage the fishery to reduce marine life entanglements. If this change isn't made, fishermen who fish in Zone 5 north of Pt. Conception could be unfairly impacted by marine life concentrations south of Pt. Conception, an area that is completely separate from and unrelated to Dungeness crab fishing.
- The area in Zone 6 covers most of District 10 and the presence of a single Pacific leatherback

² The Northern Management Area is the area from the Mendocino-Sonoma County Line to the California-Oregon border.

³ <https://www.fisheries.noaa.gov/webdam/download/97733256>

sea turtle would result in a closure of the entire Zone resulting in large impacts to the fleet. The DCTF recommends CDFW break up Zone 6 to reduce fleet impacts and better reflect the smaller areas where Pacific leatherback sea turtles forage based on tracking data.

- Since aerial and vessel surveys used to inform the RAMP do not extend to the 200nm boundary proposed within each Zone, the DCTF recommends the Zone boundaries be moved further in-shore to cover the same areas where data will be collected and available.

Sunset Regulations for Humpback Whales

The DCTF recommends the portions of CCR Title 14 §132.8 related to Humpback whales sunset when the species is delisted from the Endangered Species Act (ESA). The DCTF understands the incidental take permit and regulations regarding other ESA species will need to continue.

RATIONALE: The DCTF understands the need to have the appropriate regulations in place to obtain an incidental take permit. However, these regulations will pose a hardship on the fleet and when they are no longer necessary (i.e., due to Humpback whales being delisted) the DCTF recommends amending the regulations to reflect the updated status of Humpback whales.

Sincerely,
The California Dungeness Crab Task Force

EC: CA Ocean Protection Council, Mark Gold, Executive Director
CA Department of Fish and Wildlife, Craig Shuman, Marine Regional Manager
CA Ocean Protection Council, Jenn Eckerle, Deputy Director
Joint Committee on Fisheries and Aquaculture, Mike McGuire, Chair California Fish and Game Commission, Eric Sklar, President
CA Dungeness Crab Fishing Gear Working Group

ENCLOSURE: DCTF June 17, 2020 Meeting Attendance List

DCTF June 17, 2020 Meeting Attendance List*

Jim Anderson, Half Moon Bay, Low Tier
John Barnett, San Francisco, High Tier
Geoff Bettencourt, Half Moon Bay, High Tier
Bill Blue, Half Moon Bay South, High Tier
George Bradshaw, Crescent City, Tier Not Specified
Mark Capra, Sport Fishing
Larry Collins, San Francisco, Low Tier
Mike Cunningham, Eureka, High Tier
Vince Doyle, Fort Bragg, High Tier
Keith Gilmore, Alternate for Ron Blodgett, Bodega Bay, Lower Tier
David Haddad, Crescent City, Low Tier
Scott Hockett, Fort Bragg, Low Tier
Harrison Ibach, Alternate for David Helliwell, Eureka, Low Tier
Christy Juhasz, CA Dept. of Fish & Wildlife
Chris Lawson, Bodega Bay, High Tier
Kate Kauer, The Nature Conservancy, Nongovernmental Organization
Ben Platt, Alternate for Gerry Hemmingsen, Crescent City, High Tier
Carrie Pomeroy, CA Sea Grant
Zach Rotwein, Trinidad, Tier Not Specified
Todd Whaley, Nonresident, Tier Not Specified

ABSENT

Tom Hart, South of Half Moon Bay, Low Tier
Rick Powers, Commercial Passenger Fishing Vessel
Mel Wickliffe, Processor
Jim Yarnall, Sport Fishing, non-voting
Vacant seat, Processor
Vacant seat, Nongovernmental Organization

CA DEPARTMENT OF FISH AND WILDLIFE

Ryan Bartling, CA Dept. of Fish & Wildlife
Joanna Grebel, CA Dept. of Fish & Wildlife
Sonke Mastrup, CA Dept. of Fish & Wildlife
Cpt. Bob Puccinelli, CA Dept. of Fish & Wildlife

OTHER

Tom Weseloh, Liaison to the Joint Committee on Fisheries and Aquaculture

DCTF ADMINISTRATIVE TEAM PRESENT

Paige Berube, Ocean Protection Council
Rachelle Fisher, Strategic Earth Consulting
Carolyn Kraft, Strategic Earth Consulting
Kelly Sayce, Strategic Earth Consulting

**This list does not include Members of the public who were also present.*