



~California Dungeness Crab Task Force~

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

REPORT

TO: Joint Committee on Fisheries and Aquaculture, Mike McGuire, Chair
California Fish and Game Commission, Peter Silva, President
California Department of Fish and Wildlife, Charlton Bonham, Director

CC: California Ocean Protection Council, Mark Gold, Executive Director
California Fish and Game Commission, Melissa Miller-Henson, Executive Director
California Fish and Game Commission, Susan Ashcraft, Marine Advisor
California Department of Fish and Wildlife, Craig Shuman, Marine Region Manager
Pacific States Marine Fisheries Commission, Dave Colpo, Sr. Program Manager
Joint Committee on Fisheries and Aquaculture, Tom Weseloh, Chief Consultant

FROM: California Dungeness Crab Task Force

DATE: April 1, 2021

RE: March 2021 recommendations from the California Dungeness Crab Task Force

APPENDICES: (1) [Dungeness Crab Task Force Background and Operations](#)
(2) [DCTF Charter - Updated March 2021](#)
(3) [Senate Bill 80](#)
(4) [Assembly Bill 534](#)
(5) [DCTF Letter of Support for SB 80](#)
(6) [DCTF Letter of Opposition for AB 534](#)
(7) [December 10, 2019 DCTF Report: October 2019 recommendations from the California Dungeness Crab Task Force as directed by Fish and Game Code 8276.4](#)
(8) [December 9, 2020 DCTF Report: October 2020 recommendations from the California Dungeness Crab Task Force as directed by Fish and Game Code 8276.4](#)
(8) [DCTF Membership List, updated March 2021](#)

This report provides recommendations from the California Dungeness Crab Task Force (DCTF) to the Joint Committee on Fisheries and Aquaculture (the Legislature), the California Department of Fish and Wildlife (CDFW), and the Fish and Game Commission (the Commission) to inform Dungeness crab fishery management. The report includes recommendations to inform current legislation and existing regulations related to the DCTF's voting structure, permit transfers, the ability to sell crab with an in-season waiver, and fair start. The DCTF is grateful for the opportunity to continue this work and inform the Legislature, CDFW, and the Commission regarding the industry's priority issues.

The DCTF's work was completed pursuant to Fish and Game Code §8276.4 with financial support as directed by Fish and Game Code §8276.5. For additional background details and DCTF operations, please see [Appendix 1](#).

Additional information, including previous reports and meeting summaries with 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/>.

DCTF VOTES AND ANALYSIS

The following recommendations were developed by the DCTF over the course of one meeting held on March 17-18, 2021. The recommendations represent agreements of DCTF members (as per voting protocols defined in the DCTF Charter ([Appendix 2](#))¹); however, in some cases they are not the *verbatim* language used 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 additional context, together with the voting record will be included in the meeting summary, which will be posted on the DCTF’s webpage when it is available. Explanatory notes are provided below recommendations when necessary.

DCTF RECOMMENDATIONS- March 17-18, 2021

Voting Structure

The DCTF voting structure outlined in FGC §8276.4 and §8276.5 are not in agreement since changes were made in the number of voting DCTF members by Senate Bill (SB) 1310 (2018-2019). This has caused confusion in how to interpret the intent of the code sections. Recommendation 1 would help resolve issues and clearly define how the DCTF forwards recommendations.

Recommendation 1: The DCTF recommends amending FGC §8276.4 and §8276.5 to be in agreement so that a recommendation from the DCTF is forwarded to the Joint Committee of Fisheries and Aquaculture, CDFW, and the Commission upon an affirmative vote of at least $\frac{2}{3}$ of the voting DCTF members.

Vote of all DCTF Members (non-voting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
14	3	3	0	1

Notes:

In FGC §8276.4, it states that: “*Except as otherwise provided in Section 8276.5, a recommendation shall be forwarded to the Joint Committee on Fisheries and Aquaculture, the department, and the commission upon an affirmative vote of at least two-thirds of the task force members.*” With 21 voting Members on the DCTF, 14 affirmatives would be needed to forward a recommendation. However, FGC §8276.5 states: “*For the purposes of this section, a proposed recommendation that receives an affirmative vote of at least 15 of the non-ex officio members of the Dungeness crab task force may be transmitted.*” To reduce confusion and clarify the DCTF voting requirements, an update to FGC §8276.5 to reflect an expectation of at least a $\frac{2}{3}$ affirmative vote of voting members is necessary to forward a recommendation. Removing the references to a specific number of voting members to forward a recommendation would reduce the need to revisit this provision in the future regardless of changes in the number of voting DCTF Members.

Permit Transfers

The DCTF addressed a March 2021 amendment to Senate Bill 80 ([Appendix 3](#)) for changes to FGC §8280.3 in an effort to provide guidance to the bill author, Senator Mike McGuire, and the broader Legislature.

¹ As part of the DCTF’s voting procedures, thumbs up and thumbs sideways are *both* counted as affirmative votes in determining whether a recommendation has at least $\frac{2}{3}$ affirmative vote required to be forwarded to the Joint Committee on Fisheries and Aquaculture, CDFW, and Commission.

Recommendation 2: The DCTF supports the current proposed changes to FGC §8280.3 as amended on March 5, 2021 in SB 80 (2021-2022).

Vote of all DCTF Members (non-voting Members abstained):

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

Notes:

FGC §8280.3(i) requires that when a permit is transferred, the previous owner must remain on the permit for a minimum of one year following the transfer. This provision has caused issues with distributing disaster relief funds (e.g., the previous owner is entitled to the relief payment even though they did not fish the permit) and has sparked concerns about liability. The DCTF supports removing this provision from FGC §8280.3(i) as it is currently written in SB 80 (2021-2022) as amended on March 5, 2021.

Retrieving gear with an in-season waiver.

The DCTF discussed tools to incentivize gear to be quickly removed from the ocean when a permit holder obtains a waiver for another vessel to retrieve their gear as a result of a breakdown, health issue, or other hardship.

Recommendation 3: The DCTF supports tools to remove gear that is not actively being fished from the ocean as soon as possible. To do this, DCTF requests CDFW revisit the waiver process (as mandated in 14 CCR §132.2(b)) to address the following:

- CDFW should allow the crab recovered from the gear that is being stacked to be retained and sold to help incentivize gear retrieval.
- The gear owner should be responsible for any violations associated with the gear while it is being stacked and the individual retrieving the gear should not be held liable.
- The individual retrieving the gear via a waiver should be allowed to service their own gear on the same trip(s) as when they are stacking the gear for which the waiver was obtained.
- In an effort to reduce the amount of time it takes to obtain a waiver, tools to expedite the waiver process should be explored, including, but not limited to utilizing text messages/phone calls as well as looking to other waiver-issuing models that work well for fishermen (e.g., NOAA’s waiver declaration hotline).

The DCTF welcomes CDFW to continue to discuss tools and incentives as outlined in this recommendation while also identifying mechanisms to reduce loopholes and maintaining enforceability of existing regulations. The DCTF requests CDFW report back to DCTF on updates to the waiver process (14 CCR §132.2(b)) at a future DCTF meeting.

Vote of all DCTF Members (non-voting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
18	1	0	1	1

Notes:

The DCTF believes that allowing fishermen to sell the crab that is recovered when stacking the gear of a broken down vessel (as allowed by 14 CCR §132.2(b)) would help incentivize the removal of unserviced gear from the ocean as soon as possible. The additional bullets outlined in the recommendation are intended to improve incentives to pull the gear of a broken down vessel, which is a high priority especially in the context of marine life entanglements. Additionally, DCTF Members indicated that the time it takes to obtain a waiver can be lengthy and they suggested looking to models like the NOAA declaration hotline to expedite

the waiver approval process. Appreciating all the complexities associated with granting a waiver, enforcing the stacking of the gear, etc., the DCTF hopes CDFW will consider this guidance and looks forward to learning about updates to this process at a future DCTF meeting.

Fair Start

In light of the season delays associated with the new Risk Assessment and Mitigation Program (RAMP) (14 CCR §132.8), the DCTF discussed the need for fair start provisions similar to those outlined in FGC §8279.1 for season delays resulting from the Tri-State Quality Testing Program or a risk to human health.

Recommendation 4: The DCTF recommends updating FGC §8279.1 so that “fair start” will apply to all commercial Dungeness crab season delays associated with the RAMP program under the authority FGC §8276.1 with supporting regulations found in §132.8 Title 14, CCR.

Vote of all DCTF Members (non-voting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
13	4	3	0	1

Notes:

The 2020-2021 season was the first time the RAMP program was employed and the commercial Dungeness crab season was delayed as a result of elevated entanglement risk. When the season opened, fishermen were not constrained to specific areas as they would have been if the delay was the result of the Tri-State Quality Testing Program or a risk to human health. While some fishermen are opposed to fair start provisions, others believe it increases fishing opportunities. The DCTF would like the implementation of fair start regulations to be consistent regardless of the cause of the delay in the commercial Dungeness crab season.

NOTABLE MENTION

DCTF Discussion of Active Legislation - SB 80 and AB 534

In addition to the recommendations above, the DCTF also voted to send responses to SB 80 ([Appendix 3](#)) and AB 534 ([Appendix 4](#)).

Administrative Vote - Senate Bill 80:

The DCTF voted to develop a letter of support for SB 80 ([Appendix 5](#)). The letter expresses gratitude to the bill authors for including recommendations from the DCTF’s October 2019 ([Appendix 7](#)) and October 2020 ([Appendix 8](#)) reports. The letter also acknowledges Recommendation 2 (re: support for amendments to FGC §8280.3). The DCTF requested the bill authors consider the recommendations in this March 2021 report and Recommendation 6 from the October 2020 report regarding updating gear servicing requirements. The DCTF acknowledged their support for SB 80 is not contingent on any of the DCTF’s recommended changes to SB 80.

Vote of all DCTF Members (non-voting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
10	9	1	0	1

Administrative Vote - Assembly Bill 534:

The DCTF voted unanimously to develop a letter of opposition for AB 534 ([Appendix 6](#)). The letter highlights that AB 534 will jeopardize the safety, economic viability, and productivity of California’s

Dungeness crab industry and could result in adverse impacts to the marine ecosystem and the health and wellbeing of marine life. The authors and proponents of AB 534 have failed to engage with the Dungeness crab fishing industry and align with ongoing multi-stakeholder efforts to innovate alternative gear, missing the opportunity to work collaboratively to address the important issue of reducing marine life entanglements. The DCTF includes examples of work that industry has done in partnership with CDFW, OPC, and others to address this issue. Since entanglements have greatly decreased, the mandate for “ropeless” fishing gear does not reflect the improving nature of the issue. Problems with the bill include the high cost of the gear, concerns about gear loss, and the fact that it would limit further innovation to address entanglement issues. The DCTF highlights that the RAMP program is already in place to manage entanglements and that more data on whale populations is needed to understand fishing and other (e.g., ship strikes) impacts to whale mortality. The DCTF and industry welcome gear testing to identify appropriate and cost-effective solutions to marine life entanglements and wish to be engaged in the design, development, and testing of all alternative gear-types.

Vote of all DCTF Members (non-voting Members abstained):

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

DCTF NEXT STEPS

The DCTF plans to meet again in October 2021 to address other high priority topics. As dictated by Fish and Game Code §8276.4, the DCTF will deliver a new report no later than January 15, 2022, and every third year thereafter. In an effort to ensure that recommendations are shared in a timely fashion and the appropriate entities are able to act on those recommendations while they are relevant, the DCTF anticipates sharing a report following each annual DCTF meeting, as appropriate. The DCTF looks forward to being responsive to the needs of the Dungeness crab industry and fisheries managers to discuss priority issues including those outlined in this report, and other priorities that may arise.