



## ~California Dungeness Crab Task Force~

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

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### REPORT

TO: Joint Committee on Fisheries and Aquaculture, Mike McGuire, Chair  
California Fish and Game Commission, Eric Sklar, 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  
Tom Weseloh, Joint Committee on Fisheries and Aquaculture, Chief Consultant

FROM: California Dungeness Crab Task Force

DATE: December 9, 2020

RE: October 2020 recommendations from the California Dungeness Crab Task Force as requested by Fish and Game Code 8276.4

APPENDICES:

- (1) [Dungeness Crab Task Force Background and Operations](#)
- (2) [DCTF Charter - Updated October 2020](#)
- (3) [DCTF Summary from October 21-22, 2020](#)
- (4) [DCTF's public comment response to CDFW's Notice of Proposed Rulemaking: Risk Assessment Mitigation Program \(RAMP\): Commercial Dungeness Crab Fishery, submitted June 29, 2020](#)
- (5) [California Department of Fish and Wildlife: Guidance for Testing Trap Fishing Gear Modifications](#)
- (6) [December 10, 2019 DCTF Report: October 2019 recommendations from the California Dungeness Crab Task Force as directed by Fish and Game Code 8276.4](#)
- (7) [CDFW Presentation: 2020 CDFW Updates to the Dungeness Crab Task Force](#)
- (8) [Update on Biotxin Management in the California Commercial Dungeness Crab Fishery](#)
- (9) [Proposed Regulatory Language: Section 29.80, Title 14 CCR](#)
- (10) [DCTF Membership List, updated October 22, 2020](#)

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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 future Dungeness crab fishery management. The report includes an update on the DCTF's activities since October 2019, and more specifically, recommendations related to regulations related to the issue of marine life entanglements, biotoxin management areas, and general Dungeness crab fishery legislative and regulatory requests. 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 DCTF history, 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 October 21-22, 2020. The recommendations represent agreements of DCTF members (as per voting protocols defined in the DCTF Charter ([Appendix 2](#))<sup>1</sup>); 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 is included in [Appendix 3](#) for reference. Some recommendations are grouped together for clarity. Explanatory notes are provided below recommendations when necessary.

## **DCTF RECOMMENDATIONS- October 21-22, 2020**

### **Marine Life Entanglements in Dungeness Crab Fishing Gear**

CDFW published a Notice of Proposed Action to add Section 132.8 to Title 14, California Code of Regulations (also referred to as the Risk Assessment and Mitigation Program (RAMP) regulations) in May 2020. This was in response to CDFW’s efforts to mitigate marine life entanglements in California commercial Dungeness crab fishing gear. Following a public comment period in which the DCTF provided recommendations ([Appendix 4](#)), revisions to the proposed regulations were made and adopted in late October 2020. Recommendations 1-3 are directly related to CDFW’s efforts to address marine life entanglements in Dungeness crab fishing gear, and more specifically the implementation of the RAMP regulations.

**Recommendation 1:** The DCTF recommends CDFW work with state and federal agencies (i.e., the National Oceanic and Atmospheric Administration (NOAA)) to streamline electronic monitoring requirements (e.g., vessel monitoring systems (VMS), loggers, automatic identification system (AIS)) so fishermen are only required to use one system or device.

Vote of all DCTF Members (ex officio Members abstained; vacant seats not included in tally):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
14	3	0	0	2

Notes:

The RAMP regulations mandate that electronic monitoring tools be employed in the commercial Dungeness crab fishery by the 2023-24 fishing season. Electronic monitoring tools will also be required when operating under a depth restriction or when using alternative gear.<sup>2</sup> The regulations do not stipulate which electronic monitoring device should be used, but do outline that the device must be “capable of tracking and recording vessel location using GPS coordinates at a frequency of no less than once a minute during fishing operations.” Many of the vessels that participate in federal fisheries (e.g., groundfish) are required to use

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<sup>1</sup> 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 the required 15-vote majority to be forwarded to the Legislature, CDFW, and Commission.

<sup>2</sup> Alternative gear is CDFW-approved gear types that differ from the traditional single line-buoy trap set up.

VMS when fishing. CDFW confirmed during the October 2020 DCTF meeting that VMS will not be approved by the state for the purposes outlined in Section 132.8 Title 14, CCR due to inaccessibility and coordination obstacles with NOAA and the costs to the fleet for increasing the ping rate. To help reduce costs and other maintenance burdens to the fleet, the DCTF recommended CDFW coordinate with federal agencies to require a single electronic monitoring device to support monitoring and enforcement across all state and federal fisheries. The DCTF appreciates the logistical and regulatory issues associated with this kind of coordination and understands that it may not be addressed by the 2023 deadline outlined in the regulations.

**Recommendation 2:** The DCTF supports CDFW working with the California Dungeness Crab Fishing Gear Working Group (Working Group), OPC, and others to identify and acquire funding to purchase electronic monitoring system for the California commercial Dungeness crab fleet by the 2023-24 season once a system has been identified by CDFW.

Vote of all DCTF Members (ex officio Members abstained; vacant seats not included in tally):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
10	7	0	0	2

Notes:

As outlined in Recommendation 1, the RAMP regulations mandate that every California commercial fishing Dungeness crab vessel have an electronic monitoring system by the 2023-24 fishing season. Some fishermen already have a VMS as required by the federal fisheries in which they engage. Additional electronic monitoring systems would pose additional costs to operate in the commercial Dungeness crab fishery. The commercial Dungeness crab fleet has faced a great deal of economic hardship over the past five years as a result of shortened fishing seasons due to domoic acid delays, marine life entanglement delays, early season closures, and market impacts from COVID-19. Opportunities to reduce the financial burden on the fleet would be of great value to the industry. The Working Group continues to investigate and test electronic monitoring systems, including a solar logger pilot project that is currently underway. The DCTF would appreciate CDFW, the Working Group, the OPC, and others to continue to investigate options for electronic monitoring systems and funding opportunities to offset costs to the fleet.

**Recommendation 3:** The DCTF recommends Commission, CDFW, and other relevant agencies prioritize developing a simple, flexible approach to testing alternative gear types to help reduce entanglements without activating the risk thresholds outlined in Section 132.8 Title 14, CCR, subsection c. This could involve:

- CDFW Law Enforcement Division reviewing existing gear setting regulations to identify options for increased flexibility;
- The Commission prioritizing the review and adoption of new Experimental Fishing Permit (EFP) regulations;
- CDFW and individual fishermen collaboratively advancing other testing opportunities; and
- Identifying Legislative solutions to facilitate regulatory needs to allow more alternative gear testing, as applicable.

Options and opportunities for testing alternative gear should be publicly available in a timely manner so that alternative gear options can be tested and approved by CDFW in time for Spring 2021. The DCTF requests CDFW Law Enforcement Division to also explore opportunities for fishermen to be able to retain and sell crab caught during testing (in season) to offset costs (e.g., fuel, lost fishing time).

Vote of all DCTF Members (ex officio Members abstained; vacant seats not included in tally):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
12	3	0	0	4

Notes:

The DCTF sees alternative gear testing and authorization, as mentioned in the RAMP regulations, as a high priority. Alternative gear is intended to mitigate the issue of marine life entanglements while also allowing fishermen to continue fishing starting as early as spring 2021. CDFW has developed some guidance for testing alternative gear ([Appendix 5](#)), but some fishermen have expressed concern that their attempts to test alternative gear have not been advanced by fisheries managers in a timely manner and would appreciate more flexibility in testing options. This could include allowing testing of gear at the earliest stages of development, flexibility to test gear outside the season, or permitting the sale of crab caught when testing in-season.

The DCTF is concerned there is a disincentive to test gear, especially during the summer months when whales are in the area, because if a marine life entanglement occurs as a result of alternative gear testing, it could negatively impact the fishery resulting in a closure or other management response. Because the intent of alternative gear testing is conservation focused with the goal of mitigating marine life entanglements, the DCTF recommends fishery managers identify options for testing gear (e.g., an Experimental Fishing Permit) that would not activate the risk thresholds outlined in Section 132.8 Title 14, CCR, subsection c.

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### **Domoic Acid and the Dungeness Crab Fishery**

Since the 2015-16 commercial fishing season, elevated levels of domoic acid have threatened delays in the commercial California Dungeness season opener. The California Department of Public Health (CDPH), Office of Environmental Health Hazard Assessment (OEHHA), and CDFW are continuing to work collaboratively to ensure orderly, timely openers that also consider public safety. At the October 2020 DCTF meeting, the agencies shared a map of proposed biotoxin management areas that will be utilized in the event of a domoic acid closure/delay for the DCTF's review.

**Recommendation 4:** DCTF recommends CDFW, CDPH, OEHHA eliminate the proposed line at the north jetty at Humboldt Bay and create a larger area (combined area) with boundaries at Reading Rock and 40°10'.

Vote of all DCTF Members (ex officio Members abstained; vacant seats not included in tally):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
10	6	1	0	2

Notes:

In their December 10, 2019 report ([Appendix 6](#)), the DCTF expressed support for biotoxin management areas in concept. Biotoxin management areas are intended to provide more predictability in potential delays or closures due to domoic acid, and to help fishermen better plan for the upcoming season. Biotoxin management areas are a tool employed in other states (Oregon and Washington) to manage sampling and domoic acid delays. During the October 2020 DCTF meeting, CDFW presented biotoxin management areas that were developed in coordination with CDPH, and OEHHA ([Appendix 7](#) and [Appendix 8](#)). The DCTF recommends removing biotoxin management area CA - area B as presented to avoid bifurcating the Eureka port. The southern line currently proposed at the Humboldt Bay North Jetty (40°46.15') would pose significant challenges for fishermen being able to land in Eureka if the area north of this line were to be closed due to elevated levels of domoic acid. Additionally, merging areas B and C would allow for the Eel River collection site to be included in a biotoxin management area with the three Humboldt County collection sites to the north (LP Eureka, Trinidad Head, and Lagoons). Removing the line at the Humboldt jetty would simplify management and testing, while also simplifying fishermen's ability to fish in Humboldt. Note: Following the October 21-22, 2020 DCTF meeting, the health agencies approved this recommendation

and updated the biotoxin management areas as shown in [Appendix 8](#).

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### **General Dungeness Crab Fishery Management**

Fish and Game Code 8276.4 mandates that the DCTF discuss refining commercial Dungeness crab management. The DCTF identified relevant regulatory and legislative needs. Recommendations 5 and 6 directly relate to resolving issues the industry has been faced in recent years.

**Recommendation 5:** The DCTF recommends allowing commercial fishermen to transit and/or land in any closed or delayed area when a vessel uses an electronic monitoring tool/ping rate approved by CDFW (e.g., logger, AIS). This would apply to delays as a result of elevated levels of domoic acid, elevated entanglement risk (RAMP), and poor quality (as defined by the Tri-state agreement).

Vote of all DCTF Members (ex officio Members abstained; vacant seats not included in tally):

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

Notes:

Fish and Game Code §8276.3 specifies that under a quality delay, a vessel shall not take or land crab in the Northern Management Area. Under area delays/closures due to RAMP or public health risks due to domoic acid, the Director has the authority to issue a declaration to specify that take, possession and/or landing of Dungeness crab are prohibited in these areas. In the last 5 years, there have been a variety of delays and closures outside the traditional management area boundaries due to elevated levels of domoic acid, elevated risk of marine life entanglements, and poor crab quality. This has resulted in areas of various sizes, including smaller areas directly in front of a port of landing, being closed throughout the coast. As a result of domoic acid closures, there have been a variety of instances of fishermen being unable to transit through closed areas with product onboard and/or land in their homeport. Amending the Fish and Game code or updating future declarations from the CDFW Director to allow transiting and landing in a closed area would reduce the costs, time, and effort associated with traveling to other ports to land their crab. It would also help support port infrastructure by allowing the crab to be landed locally. The requirement of an electronic monitoring system would allow CDFW to confirm that fishermen are not taking crab from a closed area.

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**Recommendation 6:** The DCTF recommends amending FGC §9004 (the 96-hour gear servicing requirement) to a 9-day soak time, in alignment with the proposed Section 29.80 Title 14, CCR for the California recreational Dungeness crab fishery, currently under review by the Commission.

Vote of all DCTF Members (ex officio Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
16	1	0	0	2

Notes:

The DCTF expressed concerns about Fish and Game Code §9004, especially later in the season when it is not financially viable to service gear every 96 hours (4 days). Since the draft recreational Dungeness crab fishing regulations under review by the Commission ([Appendix 9](#)) mandate a nine-day servicing requirement, the DCTF believes the commercial Dungeness crab fishery's regulations should be updated to align with the recreational fishery. While the DCTF sees this issue as a priority, if this recommendation would draw opposition and prevent other or current recommendations from legislatively advancing, the DCTF would like this recommendation withdrawn and considered in future legislative efforts.

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## **DCTF NEXT STEPS**

As dictated by Fish and Game Code §8276.4, the DCTF will deliver a 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.