



Oregon
Kate Brown, Governor

Department of Agriculture
635 Capitol St NE
Salem, OR 97301-2532



Dear Oregon Dungeness crab industry member:

Oregon Department of Agriculture (ODA) and Oregon Department of Fish and Wildlife (ODFW) are taking applications for a rules advisory committee. The purpose of the committee is to advise the agencies on a process and rules to address future incidents of high domoic acid levels in Dungeness crab. The Oregon Dungeness Crab Commission (ODCC) is working with the agencies to set up the advisory committee process and select committee members.

We would like the committee members to represent diverse interests, including diverse regions along the Oregon Coast, small and large boats, different pot tiers and live and processed markets. Committee member responsibilities include:

- Participate in up to three, four-hour meetings on the Oregon Coast during the summer of 2017 (June 20, Newport; July 20, Coos Bay; August 15 (if needed), by phone).
- Remain in close communication with the industry sectors and geographic areas that you represent.
- Convey the feedback from your communities to the advisory committee, ODA and ODFW.

An application is enclosed. Committee applications must be received by May 10, 2017 to be considered for the advisory committee. ODA, ODFW, and ODCC will review the applications and select 10 to 12 advisory committee members. We will notify the committee members who have been selected in mid-May.

If you are interested in participating on the advisory committee, please complete the attached application and return it to spage@oda.state.or.us or Oregon Department of Agriculture Food Safety Program, 635 Capitol St NE, Salem OR 97301. If you have any questions about the advisory committee or the process of applying please contact one of us at the numbers below.

Thanks in advance for your interest.

Sincerely,

Stephanie Page, Director
Food Safety & Animal Health Programs
Oregon Department of Agriculture
(503) 986-4727

Caren E. Braby, PhD
Marine Resources Program Manager
Oregon Department of Fish and Wildlife
(541) 867-0300 x 226



Hearing Notice and Request for Comments

Subject: The Oregon Department of Agriculture (ODA) proposes to adopt new Oregon Administrative Rule (OARs) Chapter 603-025-0410. The proposed new rule outlines the process that ODA will use to monitor domoic acid levels in Dungeness Crab. The rule also describes the actions that ODA plans to take and the options that ODA plans to recommend to the Oregon Department of Fish and Wildlife (ODFW) if a domoic acid problem is found.

Public Hearing Time and Place: The hearing will begin with an information session. During the information session, ODA staff will review the proposed rule (see attachment 1 enclosed) and share recommendations from a Rules Advisory Committee (RAC) to improve communication and enhance traceability of crab. In addition, ODFW staff will present the RAC recommended crab harvest areas map and new crab records requirements (see attachments 2 and 3 enclosed) to support crab traceability. The formal public comment period will immediately follow the information session.

Date: September 26, 2017
Time: 4:00 pm
Room

Hatfield Marine Science Center
Oregon Department of Fish and Wildlife Conference
Room
2040 SE Marine Science Dr
Newport, OR 97365

The Issues: The proposed rule describes the monitoring process for domoic acid in Dungeness Crab and the possible harvest restriction options that the Oregon Department of Agriculture will adopt through temporary rule and recommend to the Oregon Department of Fish and Wildlife if domoic acid is detected above thresholds established by the US Food and Drug Administration (FDA). Domoic acid is a naturally occurring marine biotoxin that can cause serious public health impacts if ingested above established thresholds.

During the 2015-2016 and 2016-2017 commercial Dungeness Crab fishing seasons, domoic acid issues delayed the opening of the commercial crabbing season. During the 2016-2017 season, domoic acid was detected in crab viscera above the FDA-established threshold and ODA and ODFW adopted emergency rules to first close the area and then open the area with requirements to eviscerate all crab landed from the area. The agencies and the industry have pursued a permanent rulemaking process to provide greater transparency and clarity on the monitoring process and management options during future biotoxin events affecting the commercial Dungeness crab fishery.

Legal Basis for the Proposed Action: Oregon Revised Statutes 561.190, 616.215, 616.225, and 616.235. Copies of these documents are available upon request.

The Review Process: Interested persons may present written or oral comments on the proposed ODA crab biotoxin management rule, crab harvest areas and the ODFW crab records requirements at the hearing. Written comments received by the ODA Food Safety Program, Attn: Stephanie Page, 635 Capitol St NE, Salem, OR 97301 by 5:00 p.m on October 16, 2017 will also be considered. Department staff will review and consider all written comments and testimony before recommending a final rule for adoption to the ODA Director.

For More Information: For copies of the proposed ODA rules, Rules Advisory Committee recommendations on traceability, related documents, or further information on the public hearings, contact Stephanie Page at the Oregon Department of Agriculture, (503) 986-4727. The draft documents, along with a summary of the RAC recommendations,, are also available online at http://www.dfw.state.or.us/mrp/shellfish/commercial/crab/domoic_acid.asp.



Oregon

Kate Brown, Governor

Department of Fish and Wildlife

Marine Resources Program
2040 SE Marine Science Drive
Newport, OR 97365
(541) 867-4741
FAX (541) 867-0311
www.dfw.state.or.us/mrp/

November 07, 2017

Oregon Ocean Commercial Dungeness Crab Permit Holders and Interested Persons,



The Oregon Department of Fish and Wildlife (ODFW) has expanded **ODFW record keeping requirements for buying and selling Dungeness crab beginning this upcoming 2017-18 crab season.** This includes a requirement that each seafood business in the crab market chain maintain records of whom they have bought crab from (**1-back records**) and whom they have sold crab to (**1-forward records**). This information is essential to support and strengthen crab traceability through the market chain and the new requirements were recommended by the biotoxin Rules Advisory Committee (RAC) that was convened by the Oregon Department of Agriculture (ODA) this past summer and fall. See http://www.dfw.state.or.us/MRP/shellfish/commercial/crab/domoic_acid.asp for more detailed information on that process and additional recommendations, including complementary new ODA rules that clarify biotoxin testing procedures and potential management responses.

During this past winter's in-season domoic acid biotoxin event affecting the crab fishery, one of the key barriers to a timely management response was the lack of sufficient mechanisms to trace crab in the market chain. Traceability is needed to facilitate crab recalls, so that adulterated crab is returned to processing facilities for evisceration (if the viscera tests above the threshold but the meat tests below) or destruction (if the meat tests above the threshold). Traceability is also an important factor in the decision to allow evisceration and provide reasonable assurance that all crab from a declared Biotoxin Management Zone are eviscerated. The stronger the traceability framework, the faster the State can act to prevent illnesses.

In brief (with details below), ODFW's new record-keeping rules establish 12 new crab harvest areas and a 1-forward record-keeping requirement for all crab buyers and sellers, in addition to the existing 1-back record-keeping requirement. Harvest areas must be tracked on all records. These new and existing rules apply to all crab buyers and sellers up to but not including the ultimate consumer. A map identifying the new Dungeness Crab Harvest Areas is included in this mailer and can be found on our website here http://www.dfw.state.or.us/MRP/shellfish/commercial/crab/commercial_crab_harvest_area.s.asp. This rule (OAR 635-006-0201 <http://www.dfw.state.or.us/OARs/06.pdf>) was established as a temporary rule for the 2017-18 crab season and will be taken to the Oregon Fish and Wildlife Commission for permanent rule-making consideration this spring.

The records requirements include the following:

1. All retail fish dealers, wholesale fish dealers, buyers, food fish canners and shellfish canners (excluding restaurants) who receive or buy crab **must add the date of landing and harvest area of the crab purchased to their currently required records of who they buy or receive crab from; and**

2. All retail fish dealers, wholesale fish dealers, buyers, limited fish sellers, food fish canners and shellfish canners who receive or buy crab must keep records of **who they sell crab to** (including restaurants), prior to the ultimate consumer. Required information includes name and phone number of person or business to whom the crab are sold, date of sale, date of landing, amount of pounds sold, and area of harvest.
3. Records must be written in the English language and retained for a minimum of three years at a location in Oregon available for inspection by State officials.

The records requirements for all crab buyers and sellers are summarized in the table below.

I am a....	I am buying/receiving	I am selling
Retail Fish Dealer Wholesale Fish Dealer Buyer Food Fish Canner Shellfish Canner	<u>New Requirements</u> <ul style="list-style-type: none"> • Date(s) of landing • Harvest area(s) <u>Existing Requirements</u> <ul style="list-style-type: none"> • Name/Business received from • Date of sale • Amount sold (in pounds) • Price paid per pound 	<u>New Requirements</u> <ul style="list-style-type: none"> • Name/Business sold to • Date(s) of sale • Amount sold (in pounds) • Date(s) of landing • Harvest area(s) (*Required to keep records of sales to restaurants but not to other ultimate consumers.)
Restaurant / Public Consumer	No additional requirements	No additional requirements

Tracking the harvest area for all crab in the market chain is one of the most important aspects of these new requirements. While it will be up to each business to determine the best approach for their business model, the more detailed records are, the less impact any biotoxin related management action is likely to have on businesses. There is no prohibition on mixing of crab from different areas aboard a vessel, at a processing or receiving facility, or at any other point in the market chain. However, when crab from different harvest areas are mixed together, all applicable harvest areas must be included in the records for that lot of crab. If any crab in a mixed lot were harvested from a declared Biotoxin Management Zone, all the crab in that lot will subject to the same management measure (evisceration or destruction).

Enclosed is an example form for recording crab sales records (Dungeness Crab Sales Record Form), however it is not a requirement to use any specified form format for your record-keeping requirements.

Please contact us if you have any questions.

Kelly Corbett - ODFW
 Commercial Crab Project Leader
 541.867.0300 ext. 244

Troy Buell - ODFW
 State Fishery Manager
 541.867.0300 ext. 225



Oregon Department of Fish and Wildlife
Dungeness Crab Sales Record Form

***Note: all fields on this form are required to be filled out**

Business or person selling crab (sold by)

Name: _____

Dealer License number: _____

Address: _____

Phone number: _____

Business or person buying crab (sold to)

Name: _____

Phone number: _____

Crab Product Information

Date of sale: _____

Date(s) crab were landed: _____

Pounds of crab:

Crab harvest area(s): _____

*Note: If multiple harvest areas are listed for any given unit of crab product, and one or more of those areas is declared a Biotoxin Management Zone, all crab from the unit will be treated as if they were harvested from the Biotoxin Management Zone.

Notes/Comments:



Oregon

Kate Brown, Governor

Department of Fish and Wildlife

Marine Resources Program
2040 SE Marine Science Drive
Newport, OR 97365
(541) 867-4741
FAX (541) 867-0311
www.dfw.state.or.us/mrp/

March 14, 2018

Oregon Ocean Commercial Dungeness Crab Permit Holders, Processors, Buyers, and Interested Persons,



The Oregon Fish and Wildlife Commission (Commission) will consider adopting permanent rules for expanded record keeping requirements for buying and selling Dungeness crab in April. Expanded requirements have been in place via temporary rule since December 1, 2017. You may provide public comment on these rules by email to odfw.commission@coho2.dfw.state.or.us, mail to 4034 Fairview Industrial Drive SE, Salem, OR 97302, or in person at the Commission meeting:

Oregon Fish and Wildlife Commission Meeting
April 19-20, 2018
Clatsop County Fair and Expo Exhibit Hall
92937 Walluski Loop
Astoria, OR 97103

Dungeness crab harvest is an economic and cultural centerpiece in Oregon, a keystone for Oregon's popular seafood brand. Reliable and sustainable harvest is essential to maximizing the value of harvested crab to Oregon, and safe seafood management practices are essential for protecting public health. Elevated levels of the naturally occurring marine biotoxin domoic acid in crab viscera (guts) have resulted in season delays, closures, and/or evisceration (gutting) requirements in each of the last three seasons. The occurrence of domoic acid in Oregon's seafood has also been of great concern to the public, and has been the subject of several media articles on the topic. It is imperative that the State and the industry take decisive and complementary action to maximize the economic benefits of the crab fishery, while first and foremost assuring the public that there are sufficient mechanisms in place to protect public health.

Specifically, during the 2016-2017 season, domoic acid was detected in crab viscera above the Food and Drug Administration-established threshold. This was the first time that domoic acid exceeding the threshold had been detected during in-season testing. The Oregon Department of Agriculture (ODA) and Oregon Department of Fish and Wildlife (Department) adopted multiple emergency rules in rapid succession to first close the affected harvest area, then re-open with requirements to eviscerate (gut) all crab landed from the area.

After hearing broad industry concerns over these actions, the agencies and the industry have pursued a permanent rulemaking process to provide greater transparency and clarity on the monitoring process and management options during future biotoxin events affecting the commercial Dungeness crab fishery. An industry Rules Advisory Committee (RAC) was convened over the summer of 2017 to work collaboratively with the agencies to address industry concerns.

The RAC developed and recommended adoption of these record keeping requirements to support and strengthen the traceability framework for crab in the market chain. Traceability is an important factor in the decision to allow evisceration and provide reasonable assurance that all crab from an affected area are eviscerated. The stronger the traceability framework, the faster the State can act to prevent illnesses.

In brief, both the current temporary and proposed permanent rules establish 12 crab Harvest Areas off Oregon and require that each seafood business in the crab market chain maintain records of whom they have bought crab from (**1-back records**) and whom they have sold crab to (**1-forward records**) that include Harvest Area and date of landing amongst other information. The rules apply to all crab buyers and sellers **up to but not including the ultimate consumer.**

The Oregon Department of Fish and Wildlife is also considering recommending some important changes to the temporary rule for permanent adoption, and public comment on these and other proposals for modifications may be submitted to the commission as described above. These include:

- Adding Washington and California Harvest Areas to the Harvest Area map to clarify that the requirement applies to crab landed or imported from out-of-state.
- Clarifying that using a state-wide Harvest Area designation for Oregon will not comply with Harvest Area tracking requirements.
- Clarifying requirements for combining crab from multiple Harvest Areas. Listing multiple Harvest Areas would be allowed if crab from multiple areas were combined. For the first point of sale (first receiver), it would be **prohibited to list any Harvest Areas that crab were not harvested from** (i.e. the Harvest Areas could only be reported as a range if crab came from ALL Harvest Areas within that range). The initial list of areas could then be carried forward without modification to records of subsequent wholesalers or retailers purchasing that crab.

For the Notice of Proposed Rulemaking, including draft rule language (but without potential changes above) see “Record Keeping Requirements for Dungeness Crab” at: http://www.dfw.state.or.us/OARs/rules_proposed.asp.

A Department staff report on these recommendations to the Commission will be available by April 9, 2018 at: <http://www.dfw.state.or.us/agency/commission/minutes/>

For details on compliance with the temporary rule, including the Harvest Area map, see the November 7, 2017 industry notice associated with that action at: http://www.dfw.state.or.us/MRP/shellfish/commercial/crab/commercial_crab_harvest_areas.asp

The RAC also recommended adopting new ODA rules describing biotoxin testing protocols and management procedures (adopted November 2017), and several non-regulatory mechanisms to improve communication and transparency. For details, see: http://www.dfw.state.or.us/MRP/shellfish/commercial/crab/domoic_acid.asp

Please contact us if you have any questions.

Troy Buell – ODFW
State Fishery Manager
541.867.0300 ext. 225

Caren Braby – ODFW
Marine Resources Program Manager
541.867.0300 ext. 226



Oregon

Kate Brown, Governor

Department of Fish and Wildlife

Marine Resources Program
2040 SE Marine Science Drive
Newport, OR 97365
(541) 867-4741
FAX (541) 867-0311
www.dfw.state.or.us/mrp/

May 11, 2018

Oregon Ocean Commercial Dungeness Crab Permit Holders, Processors, Buyers, and Interested Persons,



The Oregon Fish and Wildlife Commission (Commission) adopted permanent rules (OAR 635-006-0201, <https://www.dfw.state.or.us/OARs/06.pdf>) for expanded record keeping requirements for buying and selling Dungeness crab in April. The permanent rules built upon the expanded requirements that have been in place via temporary rule since December 1, 2017. **The permanent rules will become effective on 5/29/18.**

The rules require that each seafood business in the crab market chain maintain records of whom they have bought crab from (1-back records) and whom they have sold crab to (1-forward records). This information is essential to support and strengthen crab traceability through the market chain and the new requirements were recommended by the biotoxin Rules Advisory Committee (RAC) that was convened by the Oregon Department of Agriculture (ODA) this past summer and fall. See http://www.dfw.state.or.us/MRP/shellfish/commercial/crab/domoic_acid.asp for more detailed information on that process and additional recommendations, including complementary new ODA rules that clarify biotoxin testing procedures and potential management responses.

The permanent records requirements include the following:

1. All retail fish dealers, wholesale fish dealers, buyers, food fish canners and shellfish canners (excluding restaurants) who receive or buy crab must add the date of landing and harvest area of the crab purchased to their currently required records of who they **buy or receive crab from**. For crab product on hand, these records must be available for inspection at the site where the crab product is held.
2. All retail fish dealers, wholesale fish dealers, buyers, limited fish sellers, food fish canners and shellfish canners who receive or buy crab must keep records of **who they sell crab to** (including restaurants), prior to the ultimate consumer. Required information includes name and phone number of person or business to whom the crab are sold, date of sale, date of landing, amount of pounds sold, and area of harvest.
3. Records must be prepared and available for inspection at the time that Dungeness crab are transferred to the premises of the buyer, written in the English language, and retained for a minimum of three years at a location in Oregon available for inspection by State officials.

Since the new record keeping requirements were initially implemented through temporary rule, the industry and agencies were able to “test drive” the traceability framework and identify potential unintended problems.

Based on that experience and feedback from industry, the Commission adopted a few modifications to the temporary rule recommended by the Department that provide clarity and reduce impacts to industry while ensuring that the rules meet the intent of area-specific traceability throughout the market chain. These include:

- Requiring **harvest area-specificity provisions apply to uneviscerated crab only**, which is the product form that presents the greatest public health risk. The state-wide Harvest Area designation for Oregon will not comply with Harvest Area tracking requirements for **uneviscerated crab**.
- Adding Washington and California Harvest Areas to the Harvest Area map to clarify that the requirement applies to crab landed or imported from out-of-state.
- Clarifying requirements for combining **uneviscerated crab** from multiple Harvest Areas. Listing multiple Harvest Areas will be allowed only if crab from multiple areas were combined. For the first point of sale (first receiver), it will be prohibited to list any Harvest Areas that crab were not harvested from (i.e. the Harvest Areas could be reported as a range only if the uneviscerated crab came from ALL Harvest Areas within that range). The initial list of areas could then be carried forward without modification to records of subsequent wholesalers or retailers purchasing that crab.

The permanent records requirements for all crab buyers and sellers and crab products are summarized in the table below.

I am a....	I am buying/receiving	I am selling
Retail Fish Dealer Wholesale Fish Dealer Buyer Food Fish Canner Shellfish Canner	<ul style="list-style-type: none"> • Date(s) of landing • Harvest area(s) * • Name/Business received from • Date of sale • Amount sold (in pounds) • Price paid per pound 	<ul style="list-style-type: none"> • Name/Business sold to • Date(s) of sale • Amount sold (in pounds) • Date(s) of landing • Harvest area(s) * <p><u>Includes sales to restaurants but does not apply to sales to individuals.</u></p>
Restaurant / Public Consumer	No additional requirements	No additional requirements

* The state-wide Harvest Area designation for Oregon will not comply with Harvest Area tracking requirements for **uneviscerated crab** but will comply for eviscerated crab products.

Please contact us if you have any questions.

Troy Buell – ODFW
 State Fishery Manager
 541.867.0300 ext. 225

Kelly Corbett – ODFW
 Commercial Crab Project Leader
 541.867.0300 ext. 244



May 5, 2017

Oregon Ocean Commercial Dungeness Crab Permit Holders and Interested Persons,

The Oregon Department of Fish and Wildlife, Oregon Sea Grant, and the Oregon Dungeness Crab Commission are sending you this letter to:

- Let you know about the increase in reported whale entanglements documented on the U.S. West Coast;
- Describe the new efforts that Oregon stakeholders are beginning to take to address this issue and how you might get involved; and
- Provide guidance on best fishery practices to use this season, as we work together to collaboratively address this issue for the long term.

RECENT HAPPENINGS

In the past three years, NOAA Fisheries has observed an increase in the number of reported whales entangled in fishing gear from fixed gear fisheries along the West Coast, primarily in Dungeness crab gear. In some cases, entanglement in fishing gear has led to serious injury and directly caused death of whales. A summary of recent entanglement information is included in this mailer and is available on NOAA Fisheries website:

http://www.westcoast.fisheries.noaa.gov/protected_species/marine_mammals/fisheries_interactions.html.

Last month, the Pacific States Marine Fish Commission (PSMFC) hosted a two-day workshop with industry, marine mammal experts, environmental organizations and state and federal fishery managers from along the entire west coast region to discuss the latest science in reducing entanglements. Discussions focused on generating and prioritizing ideas for new gear and fishing practices to minimize whale entanglement on the west coast. A summary of the discussion and all presentations from this workshop are posted on the PSMFC website at

<http://www.psmfc.org/crab/>.

UPCOMING WORKING GROUP FOR OREGON SOLUTIONS – SUMMER 2017

To continue the momentum generated by this regional workshop and address the issue directly, Oregon Sea Grant will be convening a collaborative whale entanglement working group in Oregon this year. The Oregon working group will coordinate with the California Dungeness

Crab Fishing Gear Working Group, which was convened in 2015 (<http://www.opc.ca.gov/whale-entanglement-working-group/>).

The Oregon working group objective is to gather Oregon stakeholders together to develop options for short- and long-term modifications to gear and fishery practices to reduce the risk of whale entanglements in Dungeness crab gear and other fixed gear. This will strengthen the ability of Oregon's Dungeness crab fishery to adapt and thrive under changing ecological and socioeconomic conditions. Additionally, the working group recommendations will ensure that the unique characteristics of Oregon's Dungeness crab fishery are represented in the West Coast regional efforts to reduce whale entanglements in fixed gear fisheries. The working group is seeking additional representatives from the recreational crab fishery and commercial fishermen based from areas of the coast outside of Astoria and Newport. If you are interested in learning more about the working group, and/or participating please contact Amanda Gladics Amanda.Gladics@oregonstate.edu (541) 503-325-8573 ext. 265.

WHAT CAN I DO NOW?

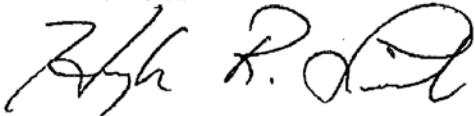
When you are participating in the Dungeness crab fishery (in other words, any time that you have crab pots in the ocean), we encourage you to help minimize the risk of entanglement by **reducing the amount of lines in the water** when possible and implementing best fishing practices. Specifically consider the following in-season best fishing practices:

- a. Remove all your gear as soon as you have completed your crab season. Do this as quickly and efficiently as possible (avoid "storing gear" in the ocean).
- b. Remove all your gear if your vessel is inoperable. If your vessel is unable to actively operate and you still have crab pots in the water please contact ODFW licensing 503-947-6116 about applying for a one-time retrieval waiver to allow another vessel to help get your pots out of the water as soon as possible.
- c. Retrieve derelict, lost or stray pots, in accordance with derelict gear recovery rules (OAR 635-005-0490), and make sure to record the information in your logbook according to the instructions. (See information on the post-season program, below).
 - Please remember that it is unlawful at this time to stop transit of the Rockfish Conservation Area (RCA), even to pick up derelict gear, when on a declared bottom trawl or fixed gear groundfish fishing trip.
- d. Implement best fishing practices in the configuration and deployment of gear; for example, minimize the amount of scope, floating line and trailer buoys as possible. The Oregon working group (mentioned above) plans to develop best fishing practices for Oregon, using the attached best practices guide and other materials as a starting point.
- e. Post-Season: Sign-up and participate in the permitted post-season derelict gear program to retrieve derelict and stray pots still in the ocean after the season ends. The details about how this program operates and the requirements to participate can be found at <http://www.dfw.state.or.us/MRP/shellfish/commercial/crab/psdgrp.asp>.

The Oregon Department of Fish and Wildlife, Oregon Dungeness Crab Commission, Oregon Sea Grant, and the Oregon Dungeness crab industry recognize that proactively addressing whale entanglements will contribute to potential benefits to whale populations and the greater resilience of the economically and culturally important crab fishery. Therefore, we are committed to working together to reduce the risk of whale entanglements in fixed gear fisheries in Oregon. We look forward to working with you to collaboratively address this problem.



Caren Braby, Marine Resources Program Manager, Oregon Department of Fish and Wildlife
541-867-4741



Hugh Link, Executive Director, Oregon Dungeness Crab Commission
541-267-5810



Shelby Walker, Director, Oregon Sea Grant
541-737-6200



Oregon

Kate Brown, Governor

Department of Fish and Wildlife

Marine Resources Program
2040 SE Marine Science Drive
Newport, OR 97365
(541) 867-4741
FAX (541) 867-0311
www.dfw.state.or.us/mrp/



September 10, 2018

Oregon Dungeness Crab Industry Participants and Interested Persons,

The Oregon Department of Fish and Wildlife (ODFW) is pleased to host four regional Dungeness crab public industry meetings to discuss and get your input on current management issues concerning the Commercial Dungeness crab fishery. The issues include: 1) changing ocean conditions, 2) Tri-State pre-season testing and season opening developments, 3) crab biotoxin management, and 4) reducing risk of whale entanglements in Dungeness crab gear. Additional details for each of the discussion topics are listed on the back side of this notice and a summary of the 2018 Tri-State meeting can be found on the Pacific States Marine Fish Commission's website at <http://www.psmfc.org/crab/>. Dates, times and locations of the public meetings are as follows:

Monday, October 8th – Brookings – 1PM-5PM

Chetco Community Public Library
405 Alder Street
Brookings, OR 97415

Tuesday, October 9th – Coos Bay – 9AM-1PM

Edgewater Inn Coos Bay
275 E Johnson Ave.
Coos Bay, OR 97420

Wednesday, October 10th – Newport – 9AM-1PM

Shilo Inn Hotel
536 SW Elizabeth St.
Newport, OR 97365

Thursday, October 11th – Astoria - 9AM-1PM

Holiday Inn Express
204 West Marine Drive
Astoria, OR 97103

We look forward to talking with you soon at a meeting near you! Please contact me if you have any questions.

Kelly Corbett
Commercial Crab Project Leader
541.867.0300 ext. 244



**Astoria
Holiday Inn Express
Oct. 11, 9AM-1PM**

We Want to Hear From You!

2018 Oregon Dungeness Crab Industry Meetings

**Newport
Shilo Inn Hotel
Oct. 10, 9AM-1PM**

Discussion Topics

Changing ocean conditions (15 mins)

- Current issues
- Need for increased flexibility and accountability
- Crab Marine Fishery Management Plan (MFMP)

Pre-season testing and season opening developments (45 mins)

- Formalizing consistency of Tri-State fair start provisions and pre-season testing processing guidelines
- Allowing more fishing zones with different opening dates
- Extending the latest possible season opening date from Jan 15 to Feb 1 for delayed openings due to crab quality

Crab biotoxin management (45 mins)

- Progress to-date within Oregon and Tri-State region
- New crab areas on fish tickets and proposal for mandatory electronic fish tickets for all crab landings

Reducing risk of whale entanglements in Dungeness crab gear (2 hrs)

- Summary of West Coast whale entanglements in fishing gear
- Whale entanglement working group progress
- Management alternatives to reduce risk of whale entanglements in Dungeness crab gear

**Coos Bay
Edgewater Inn
Oct. 9, 9AM-1PM**

**Brookings
Chetco Community Public Library
Oct. 8, 1PM-5PM**



Oregon

Kate Brown, Governor

Department of Fish and Wildlife
Marine Resources Program
2040 SE Marine Science Drive
Newport, OR 97365
(541) 867-4741
FAX (541) 867-0311
www.dfw.state.or.us/mrp/

April 12, 2019

Oregon Ocean Commercial Dungeness Crab Permit Holders,
Processors, Buyers, and Interested Persons:



The Oregon Department of Fish and Wildlife (ODFW) is sending you this notice to provide you with information regarding whale entanglements on the West Coast and updates on Oregon's efforts to mitigate risk of entanglements in our fixed gear fisheries.

BACKGROUND ON WHALE ENTANGLEMENTS

Since 2014, there has been an increase in the number of reported whales entangled in fishing gear from fixed gear fisheries along the West Coast, primarily in Dungeness crab gear. In some cases, entanglement in fishing gear has led to serious injury and directly caused death of whales. The most recent summary of entanglement information (through calendar year 2017) is available on NOAA Fisheries website:

http://www.westcoast.fisheries.noaa.gov/protected_species/marine_mammals/fisheries_interactions.html. A summary report including the 2018 entanglements will be posted here as well, once it is finalized.

Since 2017, Oregon Sea Grant has been convening a collaborative Oregon Whale Entanglement Working Group (OWEWG). The goal of the OWEWG is to gather Oregon stakeholders together to develop and recommend options for short- and long-term modifications to gear and fishery practices to reduce the risk of whale entanglements in Dungeness crab gear and other fixed gear fisheries.

Materials and proceedings of all of the meetings held to-date are on Sea Grant's website:

<https://seagrant.oregonstate.edu/outreach-and-engagement/Oregon-Whale-Entanglement-Working-Group>.

CALIFORNIA LAWSUIT SETTLED – RESULTS IN EARLY FISHERY CLOSURE

There has been a settlement in the lawsuit brought by Center for Biological Diversity against California Department of Fish and Wildlife (CDFW) over whale entanglements, as of two weeks ago. The lawsuit was filed on the basis that CDFW was causing the take of ESA-listed whales and sea turtles by permitting the Dungeness crab fishery to operate, without an approved Incidental Take Permit (ITP; see more information on ITPs below). A key element of the CDFW settlement agreement is a court-ordered requirement that the California Dungeness crab fishery close on April 15, 2019. This requirement is intended to remove crab gear from California waters, as the migratory ESA-listed species (primarily humpback and blue whales) have arrived along the West Coast for the spring and summer seasons. The settlement agreement measures may result in CA fishery closures earlier than April, in some areas or in some years. The full settlement agreement is located here:

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=166146&inline>.

OREGON EFFORTS TO MITIGATE – SHORT AND LONG-TERM

To reduce the risk of whale entanglements in Oregon, ODFW has been actively working with the OWEWG, researchers, industry, NOAA and the other states to learn about strategies and develop management measures. Whale entanglement risk is not a new issue for the crab industry; we have been distributing information about this growing problem for several years, most recently discussed at ODFW's fall 2018 public meetings and in our 2018 Annual Crab Newsletter, found here:

https://www.dfw.state.or.us/MRP/shellfish/commercial/crab/docs/Crab%20Newsletter_2018_final.pdf. Since the public meetings in fall 2018, ODFW has further developed our plans for recommending whale mitigation management measures in a phased rule-making approach to the Oregon Fish and Wildlife Commission (OFWC). Additionally, we have been in communication with NOAA to initiate the application process for an Oregon ITP, specific to Oregon's Dungeness crab fisheries. Lastly, we are working with researchers to gather better whale distribution data off Oregon.

MANAGEMENT MEASURES – PHASE 1 (2019)

In June (2019), we will brief our Oregon Fish and Wildlife Commission (OFWC) on the increase in whale entanglements, and Oregon's plans to address it. In September 2019, we will recommend the first of two whale mitigation rule-making packages to the OFWC, for implementation at the start of the 2019-20 crab season. This phase will include:

1. **Control date of August 15, 2018 for potential "late season" limited entry fishery** – to limit qualifying landings for any type of late season endorsement or limited entry fishery to landings before August 15, 2018, should an endorsement be needed at some point in the future.
2. **Mandatory electronic tickets for all crab landings, including harvest areas** – to improve timeliness of vessel harvest locations to inform crab effort and whale overlap throughout the season; additionally, this will be used for biotoxin management.
3. **Buoy color and pattern registration** – to improve our understanding of where and when entanglements occur.

Also for the season start, and complementary to the regulatory package above, you will notice we are moving to **double-sided buoy tags for the 2019-2020 season**, another mechanism to improve our understanding of entanglement events.

MANAGEMENT MEASURES – PHASE 2 (2020)

In 2020 (Feb/Mar), we will recommend the second of two whale mitigation rule-making packages to the OFWC, with an additional set of measures for implementation in-season, as early as spring 2020. At this time, we intend the regulatory package to include the management measures listed below, which would be applied to the **"late season" (the timing of which is yet to be defined) when feeding aggregations of whales are known to be more prevalent in waters off Oregon.** We will host industry public meetings during fall 2019, to describe our draft recommendations, and gather further input on how and when to implement these measures.

1. **"Late season" reduced pot limit** – to reduce the number of actively fished vertical lines that pose a risk of entanglement; this could be done by implementing a maximum number of pots per permit, a percentage reduction of pots per permit, or other measures.
2. **"Late season" buoy tag** – to enforce the reduced pot limit, facilitate earlier derelict gear clean up, and learn more about the timing of entanglements.
3. **Initiate "late season" derelict gear removal, once the regular season ends** – to reduce the amount of derelict vertical lines that pose a risk of entanglement. This measure will require legislative change.
4. **Eliminate the two-week gear clean-up period after the season ends** – to shorten the timeframe that vertical lines are in the water and pose a risk of entanglement.

MANAGEMENT MEASURES – FUTURE PHASES (timeline TBD)

As we continue to work on mitigating whale entanglement risks, there will likely be a need to consider additional measures. At this time, we think it is likely we will need to develop the following requirements:

1. **Near-real time vessel monitoring requirement** - to provide real-time vessel harvest locations to inform crab effort and whale distribution overlap throughout the season, as well as information to verify reporting of biotoxin management harvest areas.
2. **“Late season” limited entry** – to reduce the potential for effort increase that poses a risk of entanglement when feeding aggregations of whales are known to be more prevalent in waters off Oregon. Qualifying landings for this limited entry system would be set by the control date decision made by the OFWC in September 2019.

OREGON INCIDENTAL TAKE PERMIT (ITP) APPLICATION

Because Oregon’s Dungeness crab fishery is at risk of entangling ESA-listed species, and because an ITP is required for the incidental take of ESA-listed species, ODFW is applying for an ITP from NMFS. Earlier this year (March, 2019) we met with NMFS staff regarding the process and considerations for submitting an ITP application for the fishery. The key component of the ITP application is the development of a Habitat Conservation Plan (HCP), which outlines the management measures that the applicant (ODFW) will take to minimize and mitigate the authorized incidental take of ESA-listed whales by the crab fishery. The management measures we have outlined above will be part of the ODFW application to NMFS, however, there is no guarantee up-front that the ODFW management measures will be sufficient to address the “minimize and mitigate” requirements set by NMFS. NMFS will work with ODFW throughout the HCP process to come to agreement on the management measures included, at which point there will be a formal review and decision by NMFS. We have formalized our intent to apply for an ITP through a letter to NMFS which can be found here:

https://www.dfw.state.or.us/MRP/shellfish/commercial/crab/news_publications.asp. This will be an extended process that may take multiple years to complete; we will seek industry input and provide industry updates as this process proceeds. For more information on ITPs see: <https://www.fws.gov/endangered/permits/index.html>.

OREGON WHALE DISTRIBUTION RESEARCH

We are working in collaboration with Oregon State University’s Marine Mammal Institute on a project to better understand whale distribution, migration timing, and habitat use of whales off Oregon. This information will help us continue to make informed and discrete decisions about management of the crab fishery that maximize effectiveness of protecting whales while minimizing burdens to the industry. Details of this project can be found here <https://mmi.oregonstate.edu/gemm-lab/where-are-whales-oregon-waters>. The first six months of the project has been funded by the Oregon Dungeness Crab Commission (ODCC) and we are waiting to hear a determination of approval on a section 6 grant proposal to NOAA for additional funding of the project.

WHAT CAN I DO NOW?

In addition to supporting the activities that are described above to minimize and mitigate whale entanglement risk, there are concrete steps the crab fishery can take right now to protect whales from entanglements and thereby help maintain the viability of the fishery. Any time that you have crab pots in the ocean, we encourage you to **help minimize the risk of whale entanglements by:**

- a. **Reducing the amount of lines in the water** and remove all your gear as soon as you have completed your crab season. Do this as quickly and efficiently as possible (avoid “storing gear” in the ocean for any length of time). If your vessel is unable to actively operate and you still have crab pots in the water please contact ODFW licensing 503-947-6116 about

applying for a one-time retrieval waiver to allow another vessel to help get your pots out of the water as soon as possible.

- b. **Retrieve derelict, lost or stray pots**, in accordance with derelict gear recovery rules (OAR 635-005-0490), and make sure to record the information in your logbook according to the instructions. (See information on the post-season program, below).
 - Please remember that it is unlawful at this time to stop transit of the Rockfish Conservation Area (RCA), even to pick up derelict gear, when on a declared bottom trawl or fixed gear groundfish fishing trip.
- c. **Implement best fishing practices** in the configuration and deployment of gear as described in OWEWG best practices directive located here https://www.dfw.state.or.us/MRP/shellfish/commercial/crab/docs/owewg_2018-2019_bestpracticesdirective.pdf.
- d. **Sign-up and participate in the permitted post-season derelict gear program** to retrieve derelict and stray pots still in the ocean after the season ends. See details about how this program operates and the requirements to participate located here <http://www.dfw.state.or.us/MRP/shellfish/commercial/crab/psdgrp.asp>.
- e. **Help collect information about whales off Oregon** by documenting whales while you are out on the water. More information on a user-friendly phone apps to make it easier to document whale-sightings will be available on this website soon <https://mmi.oregonstate.edu/gemm-lab/where-are-whales-oregon-waters>.

ODFW is committed to making informed, deliberate and transparent decisions to mitigate the risk of whale entanglements with the Dungeness crab fishery. We believe in earnest the continued awareness, work, research and discussions towards addressing this issue on multiple fronts will strengthen the ability of Oregon's Dungeness crab fishery to adapt and thrive under changing ecological and socioeconomic conditions. We look forward to working with you collaboratively, to address this problem.

Caren Braby – ODFW
Marine Resource Program, Manager
541-867-0300 ext. 226

Troy Buell – ODFW
State Fishery Manager
541-867-0300 ext. 225

Kelly Corbett - ODFW
Commercial Crab Project Leader
541-867-0300 ext. 244



Oregon

Kate Brown, Governor

Department of Fish and Wildlife
Marine Resources Program
2040 SE Marine Science Drive
Newport, OR 97365
(541) 867-4741
FAX (541) 867-0311
www.dfw.state.or.us/mrp/

June 17, 2019

Oregon Ocean Commercial Dungeness Crab Permit Holders,
Processors, Buyers, and Interested Persons:



The Oregon Department of Fish and Wildlife (ODFW) is sending you this notice for the following purposes:

- I. Provide a summary of the 2019 Tri-State meeting.
- II. Provide updates on Oregon's planned approach to recommend state regulations to address whale entanglements in crab gear, following up from our industry notice sent on April 22 (see https://www.dfw.state.or.us/MRP/shellfish/commercial/crab/news_publications.asp).
- III. Get your input on near-term management changes concerning the commercial Dungeness crab fishery. **Feedback is requested by July 3, 2019 for these three items:**
 - a. Remove post-season gear removal period for 2019 (all gear out of water by 8/14)
 - b. Decrease meat recovery criteria from 25% to 24% (for 2019-2020 season)
 - c. ODCAC advisors – looking for new members for Newport
- IV. Incidental Take Permit – updates on process.

I. TRI-STATE MEETING SUMMARY

The ODFW participated in the Tri-State Dungeness Crab Committee (Tri-State) meeting on May 13-14, 2019, with Washington and California, to discuss crab management issues concerning the West Coast's commercial Dungeness crab fisheries. Discussions at this year's meeting centered around building flexibility into season opening protocols, information sharing and coordination of whale entanglements risk reduction measures in Dungeness crab gear and Incidental Take Permit (ITP) development, and striving for consistency in crab biotoxin management.

The three states agreed to modify the Tri-State protocol to allow two management measures that will allow more flexibility with season opening dates and areas, within the Tri-State region: 1) allow more than one line in the Tri-State area based on meat quality (currently, only one line is allowed), and 2) move the latest season opening date to February 1 from the current "drop dead" date of January 15, but only if meat quality is still less than 23% and there are no other concerns from managers or industry about delaying until Feb 1, such as elevated risk of whale entanglements or biotoxin events. The three states also agreed to consider a decrease in meat quality criterion from 25% to 24%, below Cascade Head. Because this issue was not identified for discussion prior to the Tri-State meeting, all three states committed to getting broader industry input and reaching a decision in time to implement for the 2019-2020 season opening if agreement can be reached. We ask for your input on the decrease from 25% to 24%, below.

In combination, these three measures will allow for earlier openings in smaller areas where crab quality is good. Once incorporated and signed, the protocol will be recommended for adoption into rule by the Oregon Fish and Wildlife Commission (OFWC) for implementation. While Oregon and Washington intend to implement changes for the 2019-20 season, implementation of some measures will take longer for California, because legislation is required. A complete summary of agreements made at the 2019 Tri-State meeting is on the Pacific States Marine Fish Commission's

website at <http://www.psmfc.org/crab/>. We would like to thank all of our industry representatives that participated and provided significant input at this year's Tri-State meeting.

II. UPDATES ON OREGON EFFORTS TO REDUCE RISK OF WHALE ENTANGLEMENTS

We briefed the OFWC at their June 6, 2019, meeting in Salem, including background information about whale entanglements on the West Coast, summary of existing regulations in Oregon that reduce entanglement risk, the Oregon Whale Entanglement Working Group's (OWEWG) preliminary recommendations, and ODFW's recommendation to implement regulations to further reduce risks in a phased approach. The full presentation is on our website at https://www.dfw.state.or.us/agency/commission/minutes/19/06_June/index.asp. The OWEWG's preliminary recommendations are on Sea Grant's website at <https://seagrant.oregonstate.edu/outreach-and-engagement/Oregon-Whale-Entanglement-Working-Group>.

ODFW's recommendations for **Phase I management measures** will be presented to the OFWC on September 13, in Gold Beach, and will include the measures described below.

- a. Informational measures – to learn more about whale entanglements, including where, when and gear type involved, and consistent with OWEWG preliminary recommendations, we will make recommendations on requirements for:
 - **Surface gear marking for fixed-gear single buoy fisheries, including sport and commercial sectors, in both bays and ocean; this would impact both crab sectors (bay commercial, ocean and bay sport crab);**
 - **Electronic tickets for all commercial crab landings; and**
 - **Buoy color and pattern registration for all commercial crab gear.**
- b. Reduce risk – prepare for potential measures to reduce the number of permits that can harvest crab in the “late season”; as recommended by the OWEWG, we will recommend that the OFWC prepare for potential future changes to Oregon's current limited entry system by:
 - **Setting a control date for a potential “late season” limited entry system.**

Please contact Marine staff at the phone numbers and emails below or the OFWC (odfw.commission@state.or.us) if you would like to submit public comment on any of these proposed measures.

You will also notice we are moving to **double-sided buoy tags starting in the 2019-20 season**, another mechanism to improve our understanding of entanglement events. The Oregon Dungeness Crab Commission has agreed to cover the additional printing costs for this year's purchase of tags (\$0.15 per tag) so the cost of your 2019-20 buoy tags will remain the same.

The focus of **Phase II management measures** is to help reduce risk of whale entanglements in crab gear by reducing the number of vertical lines in the water. To prepare for Phase II recommendations to the OFWC, the ODFW is hosting four regional **Dungeness crab public industry meetings** to solicit targeted input. In this series of meetings we want to discuss draft recommendations, and particularly how and when to reduce vertical lines in the water and any other measures you think might help reduce risk of whale entanglement. Please join us at one of these coastal meetings:

- Coos Bay – Thursday, Oct. 17
- Astoria – Tuesday, Oct. 22
- Brookings – Friday, Oct. 18
- Newport – Wednesday, Oct. 23

Following these public meetings, ODFW's recommendations for Phase II will be presented to OFWC in late winter/early spring (targeting Feb/Mar 2020). Some of the measures we plan to implement as

early as spring 2020. We intend the regulatory package to include measures for the “late season” (the timing of which is yet to be defined), when we see an increase in whale feeding aggregations off Oregon, and when entanglements are thought most likely to occur. Phase II measures include:

- **“Late season” pot limit reduction and separate seasonal buoy tag**
(NOTE: we intend that this would be limits across all pot tiers and permits, not by changing limited entry qualifications)
- **Initiation of a “late season” derelict gear removal program (will require legislative changes), and**
- **Elimination of the two-week gear clean-up period after the season ends (which would bring Oregon into consistency with WA and CA season-end regulations).**

III. FEEDBACK REQUESTED BY JULY 3, 2019

There are three near-term issues that we would like to hear input from you by July 3rd, 2019.

- 1. Removing the two-week post-season “clean-up” period for 2019** – In our April industry notice this was listed as a potential measure we would be proposing to the OFWC for implementation in the 2019-20 season; we have listed it above as a Phase II management measure. Since April, we have heard some industry support for moving ahead with this for 2018-2019, requiring all gear to be removed by the season-end date of August 14, 2019. This would reduce risk of whale entanglement in crab gear during those two weeks, and move up the onset of derelict gear recovery efforts. Let us know if you have any major concerns with implementing this change at the close of this season versus at the close of next season.
- 2. Decrease meat recovery criteria from 25% to 24%** – At this year’s Tri-State meeting, the California delegation asked Oregon and Washington to consider decreasing the meat recovery criteria from 25% to 24% for the northern California areas (item II.B in Tri-State summary). Currently, the meat recovery criteria for all areas south of Cascade Head is 25% (rounding permitted) and 23% (no rounding) north of Cascade Head. Decreasing the meat recovery criteria could allow the fishery to open earlier in some years; the intent of this measure is to reduce the overlap of peak whale aggregations and the greater number of crab pot vertical lines at the start of the season. Let us know if you prefer:
 - a. Lower meat recovery criteria to 24% in all northern California areas;
 - b. Lower meat recovery criteria to 24% in all Oregon and California areas south of Cascade Head; or
 - c. Status quo – 25% south of Cascade Head.
- 3. Oregon Dungeness Crab Advisory Committee (ODCAC) Newport Vacancies** – ODCAC was formed to foster industry input on ODFW’s management decisions, and represent Oregon at Tri-State meetings; the group is comprised of harvesters and processors from all of the major crabbing ports in Oregon. Participation is voluntary and we try to have representation of all sectors of the industry by including persons from all ports, pot limit tiers, vessel sizes, and a diversity of business plan types. **We also ask each ODCAC members to actively engage with the crab industry in their port, so they can best share the full diversity of perspectives.** A few changes in membership have occurred since March and we are specifically soliciting a couple of new advisors from the Newport area at this time. Current ODCAC and Tri-State advisors, are as follows (TR-Tri-State Representative, A-Alternate Tri-State Representative, and O-ODCAC advisor only):

Astoria	John Corbin (TR), Al Gann (A)
Garibaldi*	Emily Dunn (TR), Gary Motsinger (A)*
Newport	Bob Eder (TR), Al Pazar (O) , Pogy Lapham (O), Bob Spelbrink (A)
Charleston	Scott Hartzell (TR), Mike Lane (O), Rex Leach (A)
Port Orford*	Paul Garrett (TR), Aaron McKenzie (O)
Brookings	Bernie Lindley (O), Bill Manning (O), Joe Speir (TR), Todd Whaley (A)
Processors/Buyers	Scott Adams (O), Jerry Bates (O) , Susan Chambers (O), Doug Heater (O), Steve Fick (O), Mike Manning (O)
Oregon Dungeness Crab Commission	Hugh Link (O)

*New advisor since March, 2019

If you are interested in **actively participating on this committee and/or as a Tri-State representative and feel that your interests are not currently represented please contact us to discuss.**

IV. INCIDENTAL TAKE PERMIT (ITP) – UPDATES ON PROCESS

The Phase I and Phase II management measures described above will be included in ODFW’s ITP application to the National Marine Fisheries Service (NMFS). However, these management measures alone may not be sufficient to address the “minimize and mitigate” requirements set by NMFS to protect Endangered Species Act-listed species. Since April, we have continued to communicate with NMFS regarding the series of whale entanglement risk mitigation measures we are proposing and NMFS has continued to indicate that their plan is to work with us collaboratively throughout the process, including developing the management measures. Following submission of our ITP application, NMFS will initiate their formal review process and decide whether to issue the permit. As a result of the Tri-State agreement to increase coordination of the ITP process, NMFS and the Tri-State agencies are increasing regular communications about the process and are planning an ITP workshop in 2019.

At their May 2019 meeting, the Oregon Dungeness Crab Commission (ODCC) agreed to provide short-term financial assistance to help ODFW with the drafting of our ITP application documents and the associated analysis that will be required. With this financial commitment, we are hoping to secure additional capacity in the near future and align the timing of the drafting and submission of the ITP application with the other states, targeting the end of 2020. We greatly appreciate ODCC’s commitment to addressing whale entanglements.

In closing, there is a lot happening in the crab fishery right now. We look forward to hearing any feedback you may have on the near-term items listed above or other questions, comments or concerns about the management of the commercial Oregon Dungeness crab fishery.

Caren Braby
Program Manager
541-867-0300 ext. 226

Troy Buell
State Fishery Manager
541-867-0300 ext. 225

Kelly Corbett
Commercial Crab Project Leader
541-867-0300 ext. 244