AGENDA ITEM SUMMARY

BACKGROUND

In most years, the ocean and Columbia River commercial Dungeness crab fishery (hereafter "crab fishery") is Oregon's most valuable single-species commercial fishery, accounting for up to forty percent of the state's combined commercial ex-vessel value each year. The fishery operates in both state (0-3 nautical miles offshore) and federal (3-200 nautical miles offshore) waters, but management authority for the U.S. West Coast fishery is delegated to the states of Washington, Oregon, and California through specific provisions of the Magnuson-Stevens Fishery Conservation and Management Act. Management has been largely stable over the history of the fishery, consisting primarily of restrictions on size, sex, and season of harvest. Management of the crab fishery has been transformed in recent decades by several actions including: implementation of a limited-entry permit system that restricts the number of participating vessels; the Tri-State Pre-Season Testing Protocol which provides a standardized and consistent approach for coordinating the season opening across the Tri-State area based on crab meat recovery (i.e., meat yield); and pot limits that restrict the number of crab pots each permitted vessel can fish.

More recently, several management challenges related to changing ocean conditions have emerged across the entire U.S. West Coast fishery. Among these, increased interactions between protected marine species and fishing gear have led to an elevated level of marine life entanglement in commercial Dungeness crab gear, which the Oregon Department of Fish and Wildlife (hereafter "department") is working to address.

All whale populations in the United States are protected, assessed, and managed by the federal government under the Marine Mammal Protection Act (MMPA), and under the Endangered Species Act (ESA) for threatened or endangered populations. Interactions with fishing gear have been documented as one of the largest contributors to human-caused serious injury and mortality of large whales on the West Coast, including some that have been attributed by the National Marine Fisheries Service (NMFS) to West Coast and Oregon commercial Dungeness crab fisheries.

Entanglements of leatherback sea turtles in fishing gear are far less common than for whale species; however, three fishing gear interactions with leatherback sea turtles have been documented since 2015, which involved unidentified fishing gear, California commercial Dungeness crab fishery gear, and California rock crab fishery gear. No confirmed leatherback turtle interactions with Oregon crab fishery gear have been documented to date.

To reduce the risk of marine life entanglements in the crab fishery, the department began implementing risk reduction measures in 2019. Key measures included a 20% reduction in the pot limits across all ocean Dungeness crab permits, a requirement for an additional late-season buoy tag, and a prohibition on commercial crabbing outside of 40 fathoms, all starting on May 1 each season. These measures are foundational to the department's draft conservation plan (CP) that lays out a strategy to minimize and mitigate the incidental take (i.e., entanglement) of federally-protected humpback whales, blue whales, and leatherback sea turtles by the crab fishery off Oregon to the maximum extent practical. The CP is required to secure an incidental take permit (ITP) under section 10 of the Federal ESA.

Effective monitoring of entanglements is critical to implementing the CP and obtaining an ITP. In the recent entanglement record, only half of entanglements observed on the West Coast can be attributed to a specific fishery and, of those, a majority involve commercial Dungeness crab gear. Improved identification of entangling gear is necessary to accurately account for entanglements involving Oregon commercial crab gear relative to future permitted take levels. It is also important to improve identification of entangling gear to ensure that management measures designed to reduce entanglement risk are effective and targeted.

Line marking has been identified across the West Coast as a key method for improving gear identification when buoys, pots, or tags are not visible, identifiable, or present. The department has been working closely with the Washington and California Fish and Wildlife agencies (WDFW and CDFW, respectively), NMFS, and stakeholders on developing coordinated line marking requirements for the West Coast crab fisheries. This exhibit includes analysis and recommendations for a comprehensive line marking approach that will be implemented in phases to spread the cost of compliance over several seasons. This approach also includes prohibition of specific line marks or colored line that are required in any West Coast fishery from being used in other commercial and recreational fisheries to prevent attributing line to the wrong fishery. Details of the proposed regulatory measures are in the Analysis section below.

PUBLIC INVOLVEMENT

Department staff conducted extensive outreach with stakeholders in the development of the recommended regulatory changes, including:

Oregon Entanglement Advisory Committee – The department has a standing advisory body to provide broad input on entanglement risk reduction efforts in Oregon Dungeness crab gear and support department commitments detailed in the CP. The group includes representatives from the commercial crab industry (including different roles, ports, and business plans), recreational crab industry, conservation organizations, researchers, and other subject matter experts (e.g., gear, disentanglement, citizen science). The group also includes representatives from the Oregon State Police (OSP) and the Oregon Dungeness Crab Commission (ODCC), and staff from NMFS attend as policy advisors. The department convened three public meetings of this group (in October 2022, March 2023, and May 2024) in part to discuss these proposed measures.

Oregon Dungeness Crab Advisory Committee (ODCAC) – The department has a standing industry advisory body to foster input on commercial crab management. The group is comprised of harvesters and processors from the major crabbing ports in Oregon and meetings are open to the public. The department consulted this advisory group on four occasions (in December 2019, February 2020, April 2020, and April 2024) in part to discuss and solicit input on these proposed measures. The department has also contacted this group by email on several occasions requesting specific feedback related to fishing operations for consideration of these proposed measures.

Tri-State Dungeness Crab Committee – The Tri-State Dungeness Crab Committee is an industry-led group, comprised of crab industry members and state resource agency managers from Oregon, Washington, and California, who meet as needed (often annually) to provide a forum for coordinating management and resolving interstate issues. The group is facilitated by the Pacific State Marine Fisheries Commission (PSMFC). Department staff, along with five to six Oregon industry representatives, met with Washington and California delegations at three

Tri-State Committee meetings (in May 2019, 2020, and 2024) in part to discuss these proposed measures.

Public Meetings – In most years, the department holds a series of public meetings with the commercial Dungeness crab industry in coastal ports to discuss and solicit public input on prominent issues and potential regulatory or policy options to address them. Marine life entanglement and these proposed measures were a featured topic at three meeting series (in October 2019, October 2020, and October 2022).

Industry Surveys – In 2019, staff distributed a survey to solicit input on potential marine life entanglement risk reduction measures under consideration at public meetings. A total of 90 meeting participants submitted responses to the survey. In 2022, staff invited stakeholders to provide new or additional feedback through an online form about the marine life entanglement topics covered at that year's public meeting. A total of 29 individuals responded or reached out to staff with input related to these proposed measures.

Industry Notice – Department staff mailed an industry notice to all commercial crab permit holders and crab buyers in July 2023 providing updates and information about an upcoming regulatory exhibit to the Oregon Fish and Wildlife Commission (Commission) regarding entanglement risk reduction measures. In that notice, the department noted that staff would not be proposing a line marking requirement to the Commission in August 2023 as originally planned, but included an update on line marking development and draft regulatory language for public review.

Annual Crab Newsletter – Since 2007, department staff have produced an annual newsletter for the commercial Dungeness crab industry to share current information about the fishery, ongoing monitoring and research efforts, upcoming management changes, and current issues. In recent years, marine life entanglement has been prominently featured to raise industry awareness about the issue, the department's strategy, and methods for providing input. These proposed measures were briefly discussed in newsletters from 2020 and 2021 and described in more detail in 2022.

Commission Reports – Department staff have briefed the Commission many times on marine life entanglement in crab gear and efforts to address this issue since 2019. Briefings with information about line marking included:

- August 2020 – Director's report status update on marine life entanglement;
- September 2020 – Regulatory exhibit proposing primarily risk reduction measures and a prohibition on line marking required in other West Coast fisheries from being used in the Oregon commercial crab fishery;
- September 2021 – Informational briefing on the department's draft CP; and
- August 2023 – Regulatory exhibit proposing removal of sunset on main risk reduction measures.

Additional Public Involvement –

- Staff frequently communicate with stakeholders regarding various aspects of the proposed regulatory changes and have considered this input in developing recommendations.
- Staff provided updates on proposed regulations at ODCC meetings.
- In anticipation of the Commission consideration of the proposed rules, the department published notice of the proposed rulemaking (Attachment 2).
- In advance of this Commission meeting, staff provided information about these proposed changes and how to provide public comment in an industry notice mailed to all crab

permit holders and buyers, emailed to ODCAC and OEAC members, and posted on the department's website.

- The public had or will have an opportunity to provide comment prior to (in writing) or during (orally) the September Commission meeting.

ISSUE 1

Marine Life Entanglement Fishery Identification Measures

ANALYSIS

When an entanglement occurs, first-hand observers provide available information and documentation to NMFS. NMFS then evaluates information from the initial report, follow-up sightings, and entanglement response efforts against specific criteria to confirm an entanglement occurred, and attribute the gear involved to a specific fishery, if possible. While gear retrieval does occur for some cases, the majority of West Coast whale entanglements are confirmed through photo documentation (NMFS, 2022).

From 2013 through 2023, there were 348 whale entanglements confirmed off the West Coast. Just over half of these involved gear that could not be identified (n=177; 51%), while approximately 36% involved pot/trap gear (n=125), 12% involved nets (n=41), and ~1% involved other gear (n=5) (Figure 1).

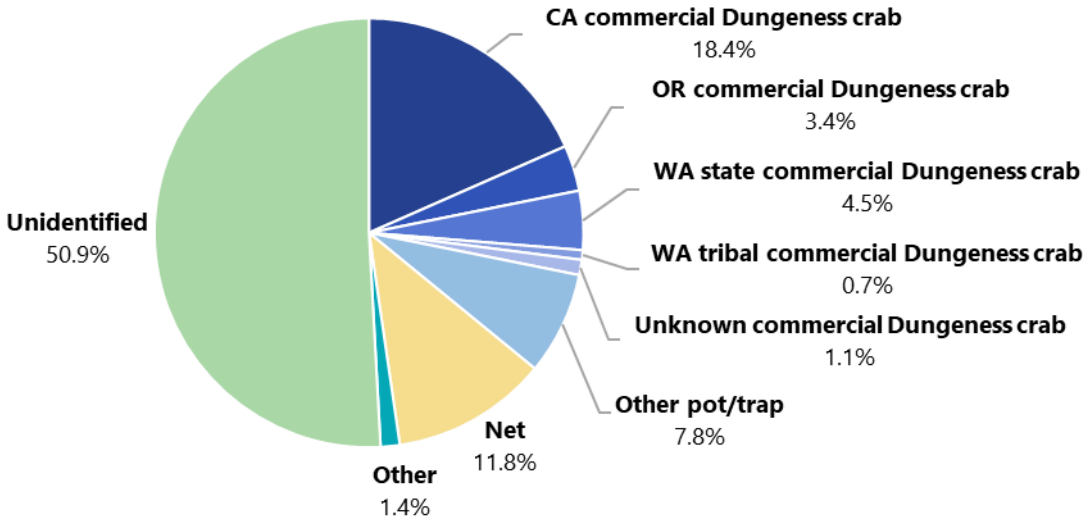

Figure 1. Percentage of West Coast confirmed whale entanglements (n=348) attributed to different general gear types from 2013-2023. Data provided by NMFS West Coast Region, January 2024.

Identification of the fishery source of entangling gear is essential for accurate incidental take accounting and tracking change over time. It also provides a basis for gleaning additional information about the origin of the entanglement (including gear owner, gear set location, and gear set timing) and the circumstances surrounding the event. Entanglements are relatively rare events and so detailed information that improves our understanding of how entanglements occur is important for refining management and more targeted decision making in the future.

A key approach to improving entangling gear attribution rates is to require lines to be marked, in addition to buoys and pots, in a way that identifies the specific fishery and/or state that it was used in. From 2013 to 2020, entanglement records indicate that lines without buoys were reported or documented in 28% (n=37) of the 132 confirmed whale entanglements that could not be identified to a specific fishery (NMFS, 2022). Marked line is intended to increase attribution rates when buoys or tags are absent, or information is inconclusive.

Line marking has been implemented in fixed gear fisheries on the U.S. East Coast (e.g., NMFS, 2021) and in Canada (e.g., DFO, 2020) to aid gear identification, and is planned for implementation in the federal groundfish fixed gear (pot and longline) fishery on the West Coast (PFMC, 2024). Line marking is also central to the monitoring strategies being developed in support of ESA ITP applications for the California and Washington commercial Dungeness crab fisheries. To that end, significant coordination has taken place among the three West Coast state fish and wildlife agencies to develop shared line marking goals and align proposals where possible.

Substantial public involvement and input contributed to the proposed line marking measures in this exhibit. In general, crab industry participants had significant concerns about the cost and burden of line marking, and were supportive of limiting the number and/or size of required marks, allowing for flexibility to use manufactured line or individually applied marks, and phasing in requirements with longer implementation times to account for natural attrition of line. Conservation groups were also generally supportive of allowing for manufactured line, but encouraged the department to expand the amount of line marked and expedite the implementation of requirements. Staff is recommending requirements that balance these interests by requiring sufficiently marked line to provide a high likelihood of being effective for identification, while being operationally and economically feasible for industry.

Additionally, at the request of the department, NMFS staff conducted a forensic analysis of the gear documented in recent entanglement reports. Analyses were designed to address questions from managers and industry about how to mark lines to both be effective at identifying the origins, as well as feasible for fishers to implement and maintain. Results of this analysis were used during development of the following proposed measures.

Line marking requirement

The department proposes the following series of line marking measures (OAR 635-005-0480):

- **Require dual-colored yellow and black line (i.e., marked line) for all line between two buoys (excluding buoy gangions) by the 2025-26 crab season;**
- **Require dual-colored yellow and black line for all line within 15 fathoms of the main buoy extending towards the crab pot by the 2028-29 season; and**
- **Allow sets of solid yellow and black marks to be substituted for dual-colored line through the end of the 2032-33 season.**

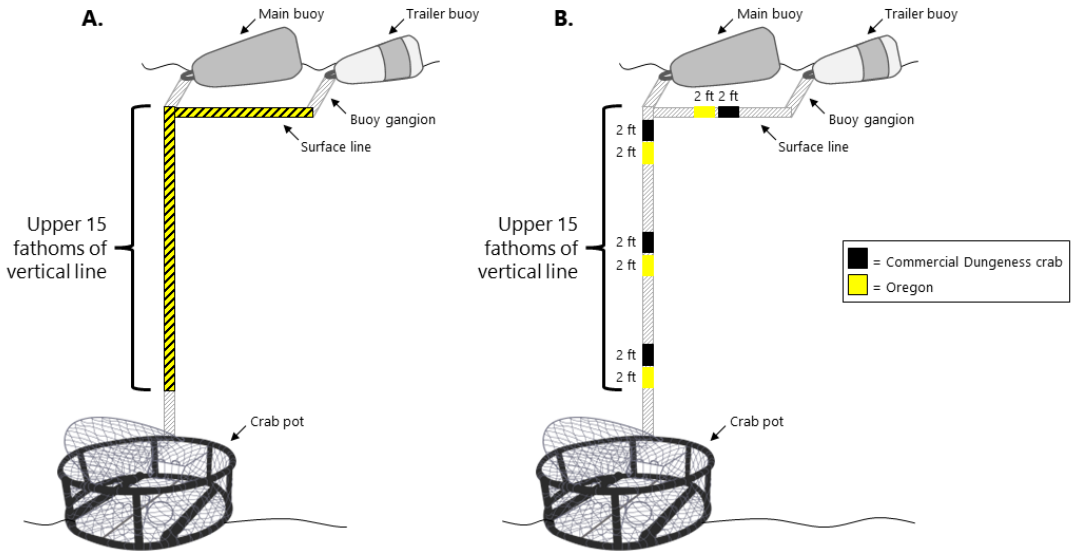

Figure 2. Schematic of proposed line marking measures, including (A) dual-colored yellow and black line for all line between two buoy (excluding buoy gangions) by the 2025-26 crab season, and within 15 fathoms of the main buoy extending towards the crab pot by the 2028-29 season; and (B) sets of solid yellow and black marks (one between any two buoys and three within 15 fathoms of the main buoy) allowed as a transitional marking method.

Color – Staff recommend requiring yellow and black marked line as part of a coordinated West Coast commercial crab fishery line marking scheme that utilizes contrasting colors to distinguish the state and fishery of origin. Oregon's crab fishery is delineated by yellow (for Oregon) and black (for the commercial crab fishery). Washington and California plan to implement similar dual-color line marking requirements in their crab fisheries using red and black for Washington and purple and black for California.

The colors selected by the three states avoid commonly used blue and green, while maintaining strong contrast between the state and fishery colors and ensuring state colors are distinguishable from one another. Entanglement records indicate that the majority of whale entanglements attributed to commercial Dungeness crab gear involved some blue/green line (71 % from 2013 to 2020). In comparison, 5% of those entanglements involved some yellow line. Two of the three documented leatherback sea turtle entanglements over this same period involved some blue line, while the third line color was not described (NMFS, 2022).

Placement – Staff recommend requiring marked line to be used at the surface during the initial phase (beginning in the 2025-26 season) of line marking. For gear with a single buoy or no surface line other than buoy gangions, all line within one fathom of the main buoy must be marked line during the initial phase. Staff further recommend requiring marked line to be used in the upper 15 fathoms of the main line during the second phase (beginning in the 2028-29 season).

From 2013 through 2020, the surface gear was available for potential identification of a line mark in 67% (n=64) of all confirmed whale entanglements involving pot/trap fishery gear. Of those same entanglements, the upper five fathoms of line was available in 56% (n=53) of cases.

All three leatherback sea turtle entanglements during this period involved line close to the buoys (NMFS, 2022). Therefore, this recommendation maximizes marking coverage in the critical surface and upper portions of the gear set. The middle of the vertical line (>5 fathoms away from surface gear) was also present in 28% (n=27) of whale entanglements with pot/trap gear from 2013 through 2020, indicating that there are instances where marks in the middle of the gear set could be helpful, including when the majority of the gear set is recovered or when the portion of the line being documented is unknown. NMFS summarized in their forensic analysis that "marking at least every few fathoms, especially in the 'top half' of the gear, would give you the highest chance to detect a line marking" (NMFS, 2022).

The upper 15 fathom main line marking requirement is a compromise between feedback from NMFS and conservation groups to maximize the amount of line marked and from industry to limit the extent of marking to address feasibility concerns. From the 2012-13 through 2020-21 seasons, having 15 fathoms of main line marked would have ensured that most gear (over 50% of pots pulled) had at least 30% of the vertical line marked during any given month of season (Figure 3).

Crab gear is commonly moved into shallower waters as the season progresses and within 40 fathoms after May 1 by regulation. Therefore, the proportion of line marked will increase throughout the season and be highest from May through August when humpback whales and other protected species are present in highest abundance in Oregon waters. As a result, line markings will be particularly useful for identifying gear during the portion of the season when interactions between these species and crab gear are most likely to occur.

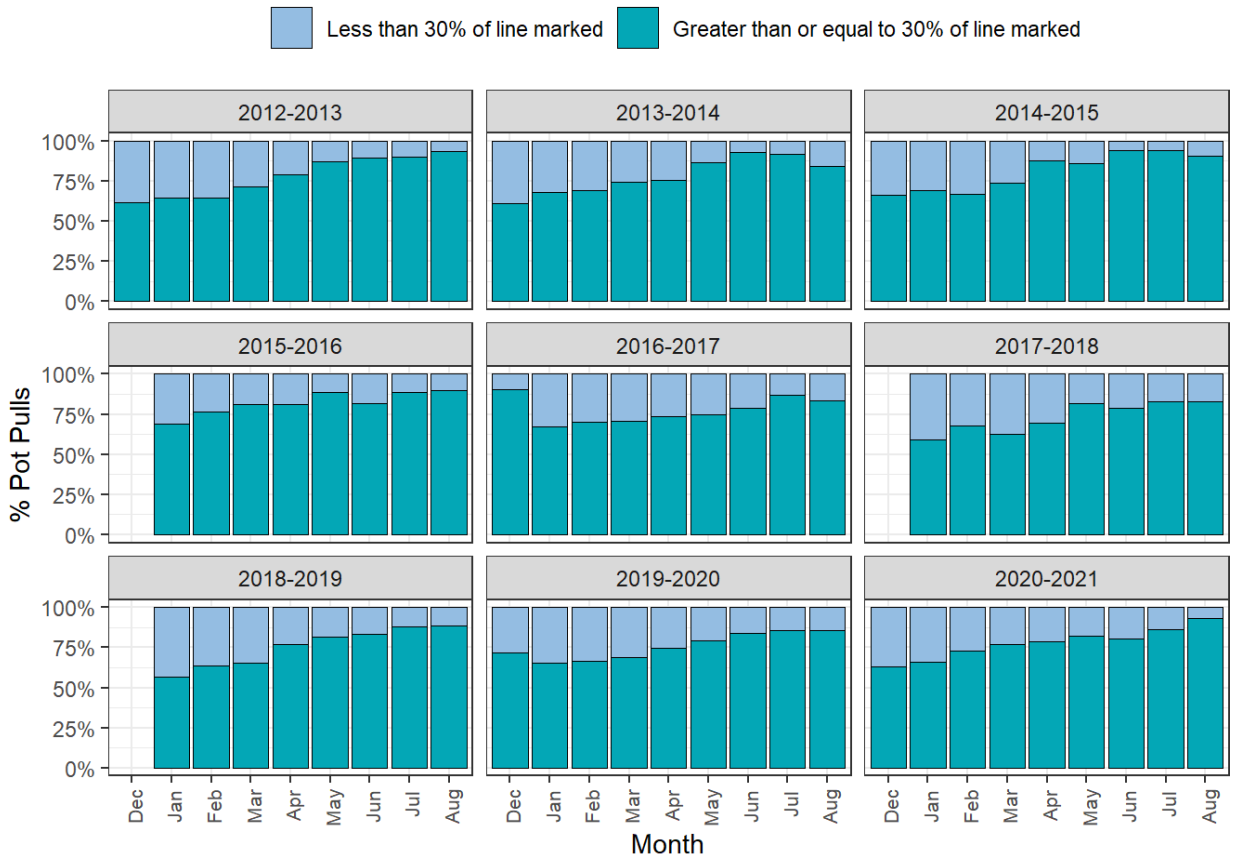

Figure 3. Percent of pot pulls with 30% or more of the vertical line marked by season and year from the 2012-23 through 2020-21 seasons, if 15 fathoms of the main line were required to be marked. Data are from department commercial crab logbooks.

Method – Staff recommend requiring manufactured line comprised of two contrasting colors interwoven into the line (Figure 4) because it provides clear and durable marking that is easy to see and identify (primarily in photographs), to maintain by crabbers, and to enforce on the water. The department heard strong support from a variety of stakeholders for using manufactured line for line marking. When implemented over a sufficient time (see below), manufactured line provides a less burdensome and more durable alternative to applying and maintaining solid marks. It also eases enforcement by being highly recognizable compared to other marking methods, and by covering the entirety of the line. NMFS field tested visibility of manufactured line in all three states' color combinations and found the lines ideal for distinguishing line marking on simulated whale body and tail entanglement events (NMFS, 2023).

Figure 4. Dual-colored yellow and black line, with the majority of strands colored yellow and at least 1/3 of strand colored black, consistent with proposed requirements.

Phased implementation and transitional solid marking method – Staff recommend phased implementation of line marking beginning with surface line at the start of the 2025-26 season followed by the upper portion of the main line at the start of the 2028-29 season. Additionally, staff recommend allowing for sets of solid marks to be used to temporarily mark existing lines, in lieu of purchasing new dual-colored line, through the end of the 2032-33 crab season. A set of solid marks must be visible and cover the entire length and circumference of the line so that there are at least two feet of yellow within six inches of at least two feet of black. During the initial phase (beginning in the 2025-26 season), there must be at least one set of marks between any two buoys, or in the upper one fathom of the main line if only a single buoy or if only buoy gangions are used. During the subsequent phase (beginning in the 2028-29 season), there must be three sets of marks placed within the upper 15 fathoms of the main line so that there is one at each end and one near the middle.

Line marking has the potential to be costly for industry by requiring the purchase of new line and the use of labor to change out or temporarily mark existing lines. These requirements are designed to offset some of these costs by delaying implementation of any marking requirements until the 2025-26 season, phasing in the marking requirements over time, and allowing for a transitional solid marking method. In doing so, businesses will have several seasons to transition to marked line in the manner that best fits their business and as their existing line wears out from normal use.

Shallow depth provision – Staff recommend including a provision in these measures to allow for the bottom five fathoms of the main line, closest to the pot, to be any color. In practice, this means that when less than 20 fathoms of line are used (usually at shallow depths), the amount of marked line may be less than 15 fathoms to maintain the flexibility to use any line on the bottom five fathoms. The department heard support from industry for maintaining this flexibility as it allows vessel crews to anticipate when the pot is getting close to the surface when running gear, which is important both for safety and operability. Input from advisors indicates it is uncommon to use less than 20 fathoms of line, regardless of depth, and staff expect that pots in shallow water will still have the majority (>50%) of the vertical line marked at any depth.

Line marking prohibition

Line marking initiatives are currently being pursued in several West Coast fixed gear fisheries. In January 2020, WDFW adopted a line marking requirement for their coastal Dungeness crab fishery, effective at the start of the 2020-21 crab season. This was the first line marking requirement on the West Coast. As a first step towards line marking in Oregon and in support of a coordinated West Coast approach, the Commission adopted a rule amendment in September 2020 that prohibits use of buoy lines in the Oregon crab fishery with markings that are required in another West Coast fishery (ODFW, 2020). WDFW mirrored this prohibition in Washington crab fishery regulations in October 2023 and CDFW is currently considering regulatory line mark prohibition language as part of their upcoming marine life entanglement Risk Assessment Management Program revisions.

Staff recommend expanding line marking prohibitions to all Oregon fixed gear fisheries, including but not limited to commercial groundfish, hagfish, spot prawn, and bay crab, and recreational crab fisheries. If adopted, this would mean that, once required at the start of the 2025-26 season, the Oregon crab fishery dual-colored line or solid marks could not be used in any of these other Oregon fixed gear fisheries. The expanded prohibition is needed to increase the probability of accurate gear identification in entanglement events and prevent attribution to the wrong fishery. It also provides important reciprocal regulations for coordinating line marking requirements within Oregon's fixed gear fisheries and across the West Coast.

REFERENCES

Fisheries and Oceans Canada (DFO). 2020. Update to the conditions of licences related to the mandatory colour scheme for gear marking in Eastern Canada. Notice to Fish Harvesters, 12 pp.

National Marine Fisheries Service (NMFS). 2021. Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan Regulations; Atlantic Coastal Fisheries Cooperative Management Act Provisions; American Lobster Fishery. 86 FR 51970, 55 pp.

National Marine Fisheries Service (NMFS). 2022. NMFS entanglements forensic line marking analysis. West Coast Region, Protected Resources Division, 17 pp.

National Marine Fisheries Service (NMFS). 2023. Line marking research: Collection of documentation from field research to determine visibility of pre-manufactured line marking gear. West Coast Region, Protected Resources Division, 20 pp.

Oregon Department of Fish and Wildlife (ODFW). 2020. Reducing risk of whale entanglement in commercial crab fishing gear. Oregon Fish and Wildlife Commission, 11 September 2020, Exhibit C. Marine Resources Program, 19 pp.

Pacific Fishery Management Council (PFMC). 2024. June 2024 decision summary document. Available at https://www.pcouncil.org/june-2024-decision-summary-document/#groundfish-management--toc-fdba46fb-40b2-4537-8593-1223e9d3b059.

OPTIONS

1. Adopt staff recommendations for marine life entanglement fishery identification measures as described in proposed rule amendments to OAR 635-004-0235, 635-005-0275, 635-039-0090 and 635-005-0480 (changes made in issue 2 as well), set forth in Attachment 3.
2. Make modifications to staff recommendations.
3. Status quo.

ISSUE 2

Commercial Crab Fishery Preseason Testing and Operational Efficiency Measures

BACKGROUND

This exhibit also proposes additional minor rule amendments and an additional new rule to improve season opening processes and operational efficiency within the commercial crab fishery. These include:

- Adopt minor changes to the Preseason Testing Protocol for the Tri-State Coastal Dungeness Crab Commercial Fishery (Tri-State Protocol) agreed to by the Tri-State Dungeness Crab Committee.
- Allow commercial crab vessels to transit and deliver crab into certain closed areas if they carry active vessel monitoring devices.
- Enable the department to issue waivers exempting vessels under state contract from derelict gear retrieval limits.

PUBLIC INVOLVEMENT

Department staff conducted outreach with stakeholders in the development of the additional minor rule amendments, including:

Oregon Dungeness Crab Advisory Committee (ODCAC) – The department has a standing industry advisory body to foster input on commercial crab management. The group is comprised of harvesters and processors from the major crabbing ports in Oregon and meetings are open to the public. During preseason discussions with ODCAC in 2022 and 2023 department staff discussed a VMS requirement for closed area transit and there was strong support for implementing through temporary regulation due to staggered partial area openings in both seasons. The department also consulted this group in April 2024 to solicit input on the proposed changes to the Protocol.

Tri-State Dungeness Crab Committee – The Tri-State Dungeness Crab Committee is an industry-led group, comprised of crab industry members and state resource agency managers from Oregon, Washington, and California, who meet as needed (often annually) to provide a forum for coordinating management and resolving interstate issues. The group is facilitated by the PSMFC. Department staff, along with six Oregon industry representatives, met with Washington and California delegations in May 2024 in part to discuss the proposed changes to the Tri-State Protocol.

Additional Outreach – Staff frequently communicate with stakeholders regarding various aspects of the proposed regulatory changes and have considered this input in developing recommendations. Staff provided updates on proposed regulations at ODCC meetings. In anticipation of the Commission consideration of the proposed rules, the department published notice of the proposed rulemaking (Attachment 2). In advance of this Commission meeting, staff provided information about these proposed changes and how to provide public comment in an

industry notice mailed to all crab permit holders and buyers, emailed to ODCAC and OEAC members, and posted on the department's website. The public had or will have an opportunity to provide comment prior to (in writing) or during (orally) the hearing that occurs at the Commission meeting.

ANALYSIS

Staff recommend minor rule amendments and an additional new rule to adopt changes to the preseason testing protocol and improve crab fishery operational efficiency. Details for each proposed amendment are described below.

Adopt Revised Tri-State Preseason Testing Protocol – The Tri-State Dungeness Crab Committee (Tri-State) met in May 2024 and agreed to several minor revisions to the preseason testing protocol. These changes include the following: adding information that will be posted with each round of testing results (sections II and III), describing how cooked test crab will be stored overnight if needed (section III), removing reference to 'two areas' to allow for multiple area openings (section V), and clarifying California's statutory restriction prohibiting delay until February 15 (section V). Tri-State also agreed that within the Oregon appendix to the protocol, an additional test station would be added in harvest area A and that meat recovery for crab from harvest areas C and D will be tested and reported separately. There was strong support from industry advisors for many of these changes at the department's May ODCAC meeting and strong support from industry representatives from all three states at the May Tri-State meeting. Staff recommend adopting the July 2024 revised Tri-State Pre-season Testing Protocol (Attachment 4) to ensure a coordinated and consistent approach for testing crab for season opening decisions is followed across the Tri-State area (Point Arena, CA to Washington-Canada border).

Allow Closed Area Transit – Due to low meat recovery and elevated biotoxins in certain areas, the department has started the past two crab seasons (2022-23 and 2023-24) in staggered geographic openings, in coordination with Tri-State managers in Washington and California. For both season openings, the department adopted a temporary rule to allow commercial crab vessels to transit and deliver crab into certain closed areas if they carry active vessel monitoring system (VMS). Vessels were required to pre-register with the department and declare each trip they intend to transit in and out of the closed area(s) to assist with tracking of vessels utilizing this allowance. Industry representatives on ODCAC strongly supported allowing closed area transit with a VMS requirement in preseason discussions in both years. Additionally, there has been no concerns raised to the department about the temporary allowances for closed area transit with a VMS requirement to-date. Staff recommend adopting permanent rules allowing vessels to transit and deliver crab into closed areas to increase operational efficiency and safety for vessels, particularly when there are different season opening dates among areas.

Enable Derelict Gear Waivers – The ODCC has funded an in-season derelict recovery program the past three years (2022-2024), targeting gear outside 40 fathoms and/or without late-season tags. This effort has involved chartering 4-6 vessels annually that have recovered 122-379 crab pots per year coastwide. Removing derelict gear reduces ghost fishing, navigation hazards, fishery gear conflicts, and risk of marine life entanglement. To support the program, the department adopted temporary rules to issue waivers exempting vessels under state contract from derelict gear retrieval limits. The waivers allowed contracted vessels to efficiently recover as

much derelict gear as they encounter per recovery trip. ODCC and the contracted vessel operators have supported issuance of the waivers in each year of the in-season derelict gear program and no concerns have been raised to the department about the waivers to date. Staff recommends adopting permanent rules to allow the department to issue waivers for any future contracted derelict gear programs.

OPTIONS

1. Adopt staff recommendations for commercial crab preseason testing and operational efficiency measures in the new proposed rule OAR 635-005-0446 and rule amendments to OAR 635-005-0465, 635-005-0490 and 635-005-0480 (changes made in issue 1 as well), set forth in Attachment 3.
2. Make modifications to staff recommendations.
3. Status quo.

STAFF RECOMMENDATION: ISSUE 1

Option 1: Adopt staff recommendations for marine life entanglement fishery identification measures as described in proposed rule amendments to OAR 635-004-0235, 635-005-0275, 635-039-0090 and 635-005-0480 (changes made in issue 2 as well), set forth in Attachment 3.

STAFF RECOMMENDATION: ISSUE 2

Option 1: Adopt staff recommendations commercial crab preseason testing and operational efficiency measures in the new proposed rule OAR 635-005-0446 and rule amendments to OAR 635-005-0465, 635-005-0490 and 635-005-0480 (changes made in issue 1 as well), set forth in Attachment 3.

DRAFT COMBINED MOTION:

I move to adopt the proposed rule and rule amendments as set forth in Attachment 3.

Effective Date: *Upon Filing (September 2024)*