

**Oregon Department of Agriculture and Oregon Department of Fish and  
Wildlife  
Dungeness crab and biotoxin Rules Advisory Committee  
June 20, 2017 – Meeting Notes**

**Advisory committee members present:**

Justin Yager, Fisherman  
John Corbin, ODCC Chair  
Mike Lane, Fisherman  
Dave Wright, Pacific Shrimp  
Robert Browning, Fisherman  
Brian Nolte, Fisherman  
Scott Kastengren, Ilwaco Landing/Fisherman

**Others present:**

Kelly Corbett, ODFW  
Terry Fasel, ODA  
Stephanie Page, ODA  
Caren Braby, ODFW  
Judy Dowell, ODA  
Frank Barcellos, ODA  
Alex Manderson, ODA  
Hugh Link, ODCC  
Troy Buell, ODFW  
Kelly Laviolette, F/V Solstice, Kelly's Brighton Marina  
Janice Laviolette, F/V Solstice, Kelly's Brighton Marina  
Brian Ahlers, OSU

**Introductions, Committee Purpose and Scope**

Everyone introduced themselves. Stephanie Page reviewed the purpose and scope of the committee's work, which is to advise ODA on administrative rules and discuss strategies that can be further pursued/developed to both support traceability and ensure that evisceration can be effectively used as a management tool. She explained that committee members were chosen to represent different ports and communities along the coast, as well as various sectors of the crab industry. Committee members were also chosen because of their commitments to circle back with their communities about the strategies discussed in the advisory committee.

**Review of the 2016-2017 season**

Caren Braby and Stephanie Page presented background information about domoic acid, described the agencies' roles in monitoring and taking management actions based on DA levels, and reviewed the 2016-2017 crab season's delayed opening and in-season closure.

- Past practice has been for 1 clean crab test prior to opening of the season; since the season is closed all preseason testing requires special trips which are combined with gathering crab for meat quality assessment when possible.
- Has anyone verified that cooking crab does not cause DA to leach into the cooking water? Meeting attendees were not aware of any research into this area. While the cooking water is changed between batches, groups of crab are cooked together in pots.
- A member of the public asked about the rationale for closing bays/estuaries based on DA levels in ocean crab, committee members commented that crab likely move between bays and ocean so this policy makes sense.
- One committee member asked about the origins of the DA standards (20 ppm in meat and 30 ppm in viscera). Stephanie Page confirmed these are set federally by the Food and Drug Administration. The committee then discussed standards in other countries, pointing out that the standard is 20ppm in any part of the crab in Canada and China.
- One committee member asked if we can have an evisceration order as the standard management response, at least until a 2<sup>nd</sup> round of results is obtained. Stephanie Page responded maybe, that type of recommendation is why the committee was formed and there will be more discussion of it in the afternoon and at the next meeting.

### **Overview of commercial sale of Dungeness crab**

Alex Manderson and Kelly Corbett reviewed several key definitions that ODA and ODFW apply to the regulation of commercial crab harvest and sale.

- Wholesale fish dealer and limited fish seller – these are defined in ODFW rules and are the 2 types of first receivers of crab. All first receivers of commercially caught crab in Oregon are licensed by ODFW as one of these.
- Alex explained that 2 agencies deal with retail establishments in Oregon. ODA regulates establishments that predominantly sell food for later consumption, while Oregon Health Authority (OHA) has authority over establishments where the food is predominantly sold for onsite/immediate consumption.
- Hazard Analysis and Critical Control Points (HACCP) establishments – typically wholesaling their products. Processing crab and selling it to other, retail establishments. Generally HACCP establishments are not also retail establishments, but this can happen. ODA licensed retailers generally do not have HACCP plans and are not able to wholesale crab. No records to look at, it is just a retail store where people can purchase crab.

Kelly Corbett displayed a flow chart showing the agencies' understanding of the Dungeness crab market chain.

- Starting point – fishing vessel. First receivers are the Oregon wholesale fish dealers, OR limited fish sellers, or receivers in CA or WA. 91% of landings in 2015-2016 went to ODA licensed establishments (processing and retail); the rest went through either limited fish sellers, out of state, or directly to end consumers.
- Out of the crab that did not go to ODA licensed establishments, about 93% of that went to 5 live buyers.

Committee members discussed the market chain information and raised several questions about traceability following the sample result above 30 ppm in crab viscera which was gathered on January 25, 2017. How did ODA reach out to the non-ODA licensed facilities? And did CA and WA respond consistently? Is CA/WA crab coming into Oregon tracked? Should everyone be licensed by ODA in order to track live crab? Or could a notice be put out when we have issues in a specific area? Protects whoever is buying there and it also protects the market. Can we limit non-ODA licensed firms from buying crab from affected zones? Can an evisceration order be put in place in a zone that has increasing viscera results since some processors elected to eviscerate anyway?

Kelly asked if committee members saw any gaps in the flow chart of the crab market pathways. Members acknowledged that landings went into other states but commented that all we can do is focus on Oregon and what we have authority to do here and communicate with the other states as soon as we know we have an issue. She displayed a slide summarizing landings through ODA licensed buyers verse non-ODA licensed buyers in 2015-2016 and to-date 2016-17 seasons.

Question – are limited fish sellers considered “first receivers” for the purposes of recordkeeping? Limited fish sellers are required to submit all landings on fish tickets.

### **DRAFT rule document**

Stephanie Page briefly described the difference between laws and rules, the purpose of rulemaking, and the rulemaking process, including the importance of working with an advisory committee. She then reviewed each section of the draft rule with the committee.

Committee members asked if the introductory paragraph could be re-worded to include language about no documented cases of domoic acid illness from crab. If not in the rule language, at least consider for future news releases etc. so that people are aware. ODA will work on some revised draft language for the committee to consider.

Committee members asked about recourse that ODA has if the new rules aren't followed. ODA responded that if cases were made, there is the potential for both

civil penalties (including up to 10K fine) and criminal penalties including jail time; especially if documented illnesses from harvesters/buyers not following new rules. ODFW also stated that during the 2017 closure/evisceration order, ODFW rules required anyone buying crab from the affected area to process crab in accordance with ODA rules, so under a similar permanent rule, anyone not following the ODA rules would also be in violation of ODFW rules and so penalties for violating fish and wildlife laws might also be applied.

One committee member expressed concern about the potential to close the Dungeness crab fishery if samples from an area with elevated DA in razor clams weren't obtained for four weeks (section 4(a) of the draft rule). ODA explained that it is problematic to have more than four weeks between samples when there are indications of DA in the environment. The committee generally supported that provisions of the rule, commenting that it provides strong motivation to obtain samples and that four weeks is a reasonable time frame.

There were also questions about the rules applying to the recreational fishery and it was clarified that the DRAFT rules apply to the commercial fishery and recreational rules are separate due differences of these two sectors of the fishery.

Several committee members commented it would be helpful to notify the crab processors if we are continuing to do the testing beyond the opening of the season. Work it into the playbook so that we are notified when crab will be tested. It is really helpful to know what date the samples are gathered. Can help prevent the need for a recall. Would it work to put it on the web site? Agencies responded that testing plans and dates could likely be posted on a website as soon as they are known.

**- Working Lunch -**

### **Making biotoxin events work best for everyone**

Kelly Corbett presented slides with maps of some possible options of biotoxin zones. Currently, Oregon is one catch area (area 50). The purpose of establishing the zones is to facilitate traceability and ensure crab from an area with a biotoxin problem can be tracked to ensure they are eviscerated. ODA and ODFW want feedback on these options and how to get input on zones from the broader industry.

Option 1 – 6 biotoxin zones using the current preseason test stations.  
Considerations – minimizes affected areas based on sample sites, equal sample sites per area, splits more traditional fishing grounds, and lines are less established (especially south coast).

Option 2 – 4 areas by major geographic features. Considerations – more conservative for crab movement and small sample sizes, splits less traditional port

fishing grounds, unequal test stations per area, and less flexible; potential to close more area than necessary.

Committee members discussed the zone options and the considerations associated with smaller versus larger zones. The smaller the zones we get, the more strategic we can be in the areas that we close. The bigger the zones, the more harvest that will be affected and will be a more blunt approach, however more conservative for food safety. ODA commented that if zones are very small, there is high potential for several adjacent zones to be closed in order to ensure adequate public health protection. In addition, if results at or above 30 ppm in viscera came from crab harvested near the edge of a zone, the adjacent zone may also need to be closed or have an evisceration order.

Committee members discussed the ability to transport crab on vessels through closed biotoxin zones, with most agreeing that this needs to be taken into consideration when developing zones. The main concern is the possibility of isolating fishing grounds from traditional ports of landing for those grounds. ODFW commented on the importance of maintaining the ability to enforce closures if transport through closed zones is allowed in the future.

Committee members discussed whether the zone boundaries can be flexible in order to build buffers around a problem and/or make the least disruptive decision given the circumstances. The challenge with movable lines is with maintaining traceability and understanding which zone harvested crab have come from in order to ensure that they are eviscerated in case of a biotoxin issue, especially for crab that have been harvested between the last clean test and the detection in which case the issue is not known at the time of harvest. There was also discussion on whether sampling transects should be adjusted if zone lines are established, and Caren Braby confirmed that transects may be moved by Oregon with a 30-day notice prior to preseason testing within the Tri-State protocol appendix.

ODFW will work on putting the 2 zone options presented at the meeting on the web site and possibly another option so that RAC members can discuss within their ports and constituents.

Committee members asked if “fair start” is applied when there are delays in opening the season due to biotoxins. ODFW stated that they have considered biotoxin delays the same as meat quality delays in terms of fair start, as discussed at Tri-State this past year, and that if the committee were to recommend readdressing that policy, it would be done through Tri-State.

ODA and ODFW put forward three options for changes to ODFW rules that might help improve traceability, and asked for feedback on these or suggestions for other options. The three agency options were:

- Add new harvest area codes associated with defined biotoxin zones to fish tickets

- Add harvest date and area of harvest to required transport/shipping records
- Require all entities selling crab to keep records (including harvest date and area of harvest) of who they sell crab to before the ultimate consumer

Committee members considered these options and had some discussion of how they might work in practice, but did not make any recommendations regarding implementation of one or more of them during the meeting.

Several committee members expressed interest in requiring electronic log books to improve traceability. There has been some resistance to the idea in the past, but several committee members stated they believed that electronic log books would be needed at some point. Caren Braby responded that this is a long-term solution and would need significant support and work from industry and ODFW to implement. She indicated that a recommendation from the committee to support e-logs would be helpful for gaining support to move towards e-logs for the crab fishery.

The committee also discussed other traceability strategies. Several members expressed interest in requiring all dealers of crab to get an ODA Food Safety license. Stephanie Page explained that this would require a law change, but that ODA is willing to pursue that in partnership with the industry. This option will involve a lot of reaching out to industry members (with emphasis on buyers who are not currently licensed) in order to facilitate a successful pathway for legislation and should be considered a long-term strategy to help with traceability. Committee members recognized the need to also be thinking about strategies to help with traceability in the short-term (next season).

The meeting adjourned at 2 pm and committee members suggested scheduling a longer meeting next time to make sure we have enough time to discuss everything on the agenda. The agencies will work to get requested information available online to help committee members discuss the ideas and options presented today with their communities.

### **Next steps**

The next advisory committee meeting is on July 20, 2017 in Coos Bay, meeting room TBD. Committee members will discuss agenda items left over from the June 20, 2017 meeting, discuss the draft ODA rule one more time after gathering additional feedback from their communities, review a list of short-term and long-term options to support traceability discussed at the June 20, 2017 meeting, discuss biotoxin zone options and the feedback RAC members have heard from other industry members on all of these items.

ODFW will post draft maps online and has already posted the draft ODA rule online on the Oregon Dungeness crab web site:

[http://www.dfw.state.or.us/MRP/shellfish/commercial/crab/domoic\\_acid.asp](http://www.dfw.state.or.us/MRP/shellfish/commercial/crab/domoic_acid.asp)

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