

Coastal Commercial Dungeness Crab Rules - (Briefing/Public Hearing)

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Summary Sheet

Meeting dates: December 12, 2014, Commission Meeting

Agenda item: Coastal Commercial Dungeness Crab Rules – (Decision)

Presenter(s): Heather Reed, Coastal Marine Policy Coordinator and;
Mike Cenci, Deputy Chief

Background summary:

Revisions to coastal commercial Dungeness crab regulations are needed to; improve the intent and enforceability of existing rules; minimize lost or derelict crab gear; improve safety for the coastal Dungeness crab fishery; and to and allow for a consistent season opening with Oregon.

- **Streamline the season opening date (WAC 220-52-045).** Current regulations specify that the coastal Dungeness crab fishery will open on December 1. However, the season opening is often delayed to meet State-Tribal harvest management agreements or if pre-season testing indicates that crab have not fully recovered from the molt period creating a need to close the season by emergency rule. The proposed change would streamline the regulatory process by specifying that the season is closed except as provided by emergency rule.
 - **Modify replacement buoy tag periods and limits (WAC 220-52-042).** Buoy tags are used to enforce pot limit regulations. Current regulations that describe the process and timeline for fishermen to receive tags to replace those lost during the season are specific to a December 1 season opening date. Proposed changes would remove the link to a December 1 season opening and instead allow fishermen to obtain replacement tags 15 days after the season is opened. In addition, WDFW is recommending reducing the overall number of replacement tags issued to each license owner from 15 percent to 10 percent of the total amount of buoy tags issued according to each license owner's pot limit (300 or 500).
 - **Modify logbook requirements (WAC 220-52-041).** As currently written, this rule omits the requirement for crab caught off Oregon from being required to be recorded in a logbook when those crab are landed in Washington, which can be as much as 1 million pounds per season. A revision to the current rules is needed to eliminate the omission and ensure a complete record of catch. In addition to providing important spatial data for Dungeness crab management, logbook data can be a useful tool for WDFW enforcement officers, the proposed changes could improve the enforceability of other crab regulations that are tied to area fished (e.g., pot limits).
 - **Establish a gear tending requirement (WAC 220-52-045).** Currently, throughout the commercial coastal Dungeness crab season, fishers can leave their gear in the ocean without any restrictions as to how often the gear needs to be fished. New regulations are needed to require that crab gear is tended periodically during the summer (May 1 – September 15). The proposed regulation will provide a mechanism for WDFW enforcement officers to cite the operator when crab gear is left in the ocean unattended for more than 21 days without making a landing. The change will minimize the opportunity for unattended gear to be unlawfully fished by fishermen other than the legal owner or operator and minimize the potential for unattended gear to become lost or abandoned, often termed derelict gear.
 - **Extend pre-season gear set period (WAC 220-52-045).** Coastwide coordination of the commercial Dungeness crab fishery is facilitated by the Tri-State Dungeness Crab Committee (the Committee) which is convened through the Pacific States Marine Fisheries Commission. The Committee met this spring and agreed to revise the pre-season gear set period in Washington and Oregon. This change will extend the pre-season gear set period from 64 hours to 73 hours prior to the season opening so that commercial fishermen will be retrieving their gear in daylight hours rather than in the dark. ODFW is in the process of revising their regulations to reflect the Committee decision. This change will improve safety, enhance enforceability and provide for a coordinated season opening for the Washington and Oregon commercial Dungeness crab fishery.
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Policy issue(s) you are bringing to the Commission for consideration:

These proposed rule changes are necessary to streamline, correct and improve the intent and enforceability of existing rules. To facilitate these changes Department staff proposes revisions to WAC 220-52-041, WAC 220-52-042, and WAC 220-52-045 and creating a new section in WAC 220-52-045.

Public involvement process used and what you learned:

WDFW has an active Dungeness crab Advisory Board appointed by the Director. These changes have been discussed with the Advisory Board and WDFW staff have met with a larger ad hoc group of industry representative and discussed many of these issues.

WDFW staff held a public hearing and accepted written comment through November 25, 2014 to collect input on the proposed changes. There were no attendees at the public hearing.

Public comment was received from one individual via email (Attachment 1). The comments and WDFW responses are summarized in Attachment.

Action requested:

Adoption of the changes to coastal Dungeness crab regulations as proposed by Department staff.

Draft motion language:

I move that the Fish and Wildlife Commission adopt the proposed changes to WAC 220-52-041, WAC 220-52-042, and WAC 220-52-045 as proposed by Department staff.

Justification for Commission action:

This action would improve safety for the coastal Dungeness crab fishery, improve the intent and enforceability of existing rules and allow for a consistent season opening with Oregon. Approving a new rule to implement a summer gear tending requirement would increase the enforceability of rules intended to prohibit fishing another person's gear and minimize derelict crab gear.

Communications Plan:

License owners were notified of the proposed rule changes and the opportunity to provide comment to Department staff and during a public hearing held on November 25, 2014. A direct mailing to coastal Dungeness crab license owners will provide notification of the Commission's final action. Notification will also be available via the Washington State Register and agency website.

Form revised 12/5/12

From: Doug Davis <craby@comcast.net>
Sent: Wednesday, November 12, 2014 6:11 PM
To: Reed, Heather J (DFW)
Subject: proposed changes

in response to your letter dated nov 6th regarding the proposed changes in regulations.

if you are going to leave the opening date and or time open then i would ask that the closing date be open as well.

buoy tags are a waist and do very little to help regulate the number of pots used by an individual. i have wondered why more pots are allowed during a season. it does little to curb the number of abandoned traps.

i fail to see the use of log books. :) that said in a small operation the operator is on deck and has to stop the operation to fill them in. in rough seas this can create unsafe conditions. again with a small operation a gps is not always available, pot or crab count is very difficult and weather can be prohibitive in filling forms.

telling us how often we must fish our gear no matter how often is over reaching. any time i have seen a soak that long a breakdown, crew shortage or family emergency was involved. i believe this would target those that are at the time vulnerable. it also targets only the late season which in essence targets the small boats/operations. in my years of fishing i noticed that if a thief was messing with me it was in the short soak pots so i am not understanding the justification. did not see a way a responsible skipper can notify wdfw that a problem has occurred and are in need of an exemption. maybe a way to deal with this is (old school) allow someone else to fish gear for them.

after all the years i am of the thought that a pot set time is the wrong approach and creates not only a dangerous situation but a regulatory mess. if the season is open it should be open. i do feel that if we have a pot set time we should have a same amount of time after the season is closed to get the pots in before they are taken by the state and given away.

of all of these i would like to see cost benefit analysis.

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Amending Coastal Commercial Dungeness crab Rules
December 12-13, 2014 Fish and Wildlife Commission Meeting – Action
Public Comment—WDFW Response

The following comments were provided via email to WDFW staff by one individual. A response to each comment is included.

Public comment via email: *If you are going to leave the opening date and or time open then I would ask that the closing date be open as well.*

WDFW Response: The season opening date is still targeted for December 1. While the actual date isn't specified in Washington Administrative Code (WAC), the Tri-State Dungeness Crab Committee pre-season testing protocols are specifically designed to have meat recovery results completed and final decisions on the opening of the crab season completed with sufficient notification for a December 1 season opening including the gear pre-set period.

Public comment via email: *Buoy tags are a waist and do very little to help regulate the number of pots used by an individual. I have wondered why more pots are allowed during a season. It does little to curb the number of abandoned traps.*

WDFW Response: The purpose of buoy tags is to enable WDFW enforcement officers to determine if a licensed fisher is fishing more pots than allowed (300 or 500) without having to count every single pot. When pot limits were first implemented, industry members were not in support of buoy tags as an enforcement tool. After a couple of years, industry came to WDFW asking for a buoy tag program address abuse of the pot limit. Since implementation of the pot limit, there has been an ongoing debate regarding the need for replacement tags. In recent years, there has been increasing interest in discussing the replacement tag program and specifically in reducing replacement tags and possibly eliminating them all together. The reduction in the amount of replacement tags proposed here is considered a first step as WDFW staff seeks additional input on eliminating replacement tags in the future. Moving the date that fishermen are eligible to obtain replacement tags to 15 days after the season opens will provide additional time for fishermen to look for pots before determining they are lost and obtaining replacement tags.

Public comment via email: *I fail to see the use of log books. That said in a small operation the operator is on deck and has to stop the operation to fill them in. In rough seas this can create unsafe conditions. Again with a small operation a gps is not always available, pot or crab count is very difficult and weather can be prohibitive in filling forms.*

WDFW Response: Logbooks have been a valuable tool for WDFW crab managers and policy staff. Logbooks were initially developed to help identify state licensed crab catch in areas co-managed with coastal treaty tribes and provided finer scale data than is available on fish tickets. This data is particularly useful where the Quileute and Makah Tribe's Usual and Accustomed fishing areas (U&A) overlap. Logbook data has also been compiled to show the extent of fishing effort and areas of high fishing concentration for the coastal Dungeness crab fishery. This information has been extremely important in the state's process of developing a coastal marine spatial plan and management of sediment disposal from coastal dredging. WDFW staff will continue to work with individual fishermen to address issues with completing logbooks.

Public comment via email: *Telling us how often we must fish our gear no matter how often is over reaching. Any time I have seen a soak that long a breakdown, crew shortage or family emergency was involved. I believe this would target those that are at the time vulnerable. It also targets only the late season which in essence targets the small boats/operations. In my years of fishing I noticed that if a thief was messing with me it was in the short soak pots so I am not understanding the justification. Did not see a way a responsible skipper can notify wdfw that a problem has occurred and are in need of an exemption. Maybe a way to deal with this is (old school) allow someone else to fish gear for them.*

WDFW Response: Staff has been working with industry advisors on the specifics of this rule for some time. The proposed rule focuses on the May through September period based on input from the Coastal Dungeness crab Advisory Board. Rather than be in place the entire season, the shorter time period reflects the time when the issue of someone fishing another person's gear (which is unlawful) is the greatest and is also intended to avoid periods where weather can be prohibitive. WDFW enforcement officers were engaged in the discussion on this proposed rule and understand that unavoidable issues arise during the season. As with any unexpected problem that might have enforcement implications, the rule of thumb has been to contact enforcement staff directly. The phone number of the WDFW Marine Enforcement Sergeant is included in the majority of letters and notices sent to license owners.

Public comment via email: *After all the years I am of the thought that a pot set time is the wrong approach and creates not only a dangerous situation but a regulatory mess. If the season is open it should be open. I do feel that if we have a pot set time we should have a same amount of time after the season is closed to get the pots in before they are taken by the state and given away.*

WDFW Response: A pre-season gear set period is intended to provide for a safe season opening. Adjusting the gear set period from 64 hour to 73 hours gives more time for a vessel to set gear before the season is open and also results in the season opening in daylight hours. This

can improve safety if the weather is poor and improve enforceability of the season opening. The pace of the fishery at the end of the season is much slower than it is at the beginning and the weather is typically much better in September than it is in December or January.

Public comment via email: Of all of these I would like to see cost benefit analysis.

WDFW Response: Included with this proposed rule is a Small Business Economic Impact Statement that shows that there should not be any additional costs to small businesses resulting from these proposed changes.