



# Summary of Agenda Item

**Title:** Sport Harvest of Abalone

**Date of Meeting:** October 25, 1995 **Exhibit #** \_\_\_\_\_

**Principal Staff Person:** Jim Golden **Phone:** 503-867-4741

*Read and Approved by:*

**Division Chief:** REDACTED FOR PRIVACY **Date:** 9/22/95

**Attorney General:** REDACTED FOR PRIVACY **Date:** 10/02/95

**Director:** REDACTED FOR PRIVACY **Date:** 9/22/95

**Description of Item:**

Two Options:

- (1) Prohibit the taking of abalone; or
- (2)
  - Proposes to change daily catch and possession limit for abalone from 3 to 1; and,
  - Requires free permit.

**Public Involvement Process:**

Discussions with sport abalone divers and retail sport operators.

**Supplemental Information Attached:** Yes X No \_\_\_\_\_

**Hearing Notice:** Yes X No \_\_\_\_\_



## Summary of Agenda Item - page 2

**Relationship to:**

Oregon revised statute - ORS # 492.162

Oregon administrative rule - OAR # 635-039-0090

**Options available to Commission:**

1. Adopt amended rule to prohibit taking of abalone.
2. Adopt amended rule to reduce catch and possession limit from 3 to 1 and require permit.
3. Reject proposal to change rules.

**Option recommended:** Option 1

**Draft Motion:**

I move to amend OAR 635-039-0090 to prohibit the taking of abalone.

NOTICE OF PROPOSED RULEMAKING HEARING

(Statement of Need and Fiscal Impact must accompany this form.)

Oregon Department of Fish and Wildlife

Fish Division

(AGENCY NAME)

(DIVISION)

OAR CHAPTER 635

DATE: 10-25-95 TIME: 8:00 a.m. LOCATION: Red Lion Inn, 1313 N. Bayshore Drive, Coos Bay, OR 97420

HEARINGS OFFICER(s): STATUTORY AUTHORITY: ORS 496.138 and 496.146; OTHER AUTHORITY: STATUTES IMPLEMENTED: ORS 496.162

ADOPT:

AMEND: Chapter 635, Divisions 011 and 039

REPEAL:

RENUMBR TO: (Prior approval from Secretary of State REQUIRED)

AMEND & RENUMBR TO: (Prior approval from Secretary of State REQUIRED)

- Checkboxes for hearing notice type and auxiliary aids availability.

SUMMARY: Consider amendments to the sport fishing regulations as they pertain to taking of abalone.

LAST DATE FOR COMMENT: 10-25-95

RULES COORDINATOR: Jan Ragni (Agency)

ADDRESS: Oregon Department of Fish and Wildlife, P. O. Box 59, Portland, OR 97207

TELEPHONE: (503) 229-5400, Ext. 305

Interested persons may comment on the proposed rules orally or in writing at the hearing. Written comments will also be considered if received by the date indicated above.

REDACTED FOR PRIVACY

Signature

Date: Sept 14, 1995

STATEMENT OF NEED AND FISCAL IMPACT

Before the Fish and Wildlife Commission

Chapter No.

635

In the matter of amendment of	)	Statutory Authority, Statement of Need,
OAR Chapter 635, Division 011 and 039,	)	
relating to the sport harvest of abalone	)	Principal Documents Relied Upon and
	)	
	)	Statement of Fiscal Impact
	)	

1. Citation of statutory authority: ORS 496.138 and 496.146

2. Statutes being implemented: ORS 496.162

3. Need for the rules:

The rules are needed to further restrict the harvest of abalone from Oregon waters to ensure that adequate escapement is allowed for reproduction needs to sustain the population.

4. Documents relied upon:

Staff report prepared for the October 25, 1995, hearing.

The above document is available for public inspection in the Department of Fish and Wildlife, Fish Division, Third Floor, 2501 SW 1st Avenue, Portland, Oregon, between 8:00 a.m. and 4:30 p.m., on normal working days, Monday through Friday.

5. Fiscal and economic impact:

See attached.

6. Advisory Committee Used: Ad hoc committee of sports abalone divers and retail sport shop operators.

If not, why:

REDACTED FOR PRIVACY

Sept 14, 1995  
Date

\_\_\_\_\_  
Signature

Fiscal and Economic Impact Statement for the October 25, 1995 Hearing  
in the Matter of the Amendment of Rules Relating to Abalone Sport Fishing Regulations

Fiscal and economic impact: The proposed rules will affect state agencies, units of local government and the public, respectively, as discussed below. An amendment to reduce the daily catch limit and possession limit for recreational harvest of abalone will be considered. Another amendment to restrict the method of harvest to free diving (without SCUBA gear) may also be considered.

A. The only state agency which should be affected by adoption of these rules is the Oregon Department of Fish and Wildlife. No significant changes from the current levels of the department's operations or expenditures are expected as a result of the adoption of these rules.

B. No units of local government are expected to be affected by these rules. No significant changes from the current levels of any local agencies' operations or expenditures are expected as a result of the adoption of these rules.

C. The public could be affected by the adoption of these rules: Preliminary assessments of Oregon's abalone stocks suggest that the population abundance is extremely low, and that the remaining abalone are relatively old and large. A reduced bag limit would help reduce harvest of surviving abalone, and would also help prevent depletion as broodstock development and enhancement efforts continue. Abalone meat and shell (particularly from large specimens) has a high value in commercial markets. The staff suspects that legally (and illegally) sport caught abalone from Oregon waters are being illegally sold in California. A reduction in the bag and possession limit would probably reduce the potential profit from selling sport caught abalone outside the state, and hence reduce the total harvest of abalone. The reduced bag limit would also make it easier to identify cases where enforcement actions are warranted.

Restriction of the method of harvest to free diving only would also be expected to reduce recreational harvest. We do not have information that would enable us to anticipate whether and how much such a restriction would discourage legitimate sport harvesters from participating in recreational SCUBA diving or fishing activities. A significant reduction in recreational activity levels could have an adverse impact on businesses that cater to recreational divers. We do not have sufficient information to project the probability or extent of any such adverse impact.

Although these rules relating to abalone sport fishing regulations can be viewed as reducing positive economic impacts in the short run, conservation through the regulation of seasons and other factors (such as catch limits) is intended to perpetuate Oregon's fishery resources at optimal levels in the long run. Failure to restrict harvests of fish to allow escapement for reproduction would result in severe adverse economic effects in the future. The proposed regulations attempt to strike a balance which will provide optimal recreational fishing opportunity subject to the need to sustain abalone population levels and to maintain future benefits.

The rules are believed to be fully compatible with legislative direction on the goals of fish and wildlife management in Oregon.

All businesses affected by these rules are believed to be "small business."

## Abalone Catch Limit Reduction

### Proposal

- The current regulation limits the daily catch of abalone to three, with an 8 inch minimum shell size. The possession limit is three abalone.

### Option 1

- The proposed regulation would prohibit harvest of abalone, except as permitted by the Department to obtain broodstock for an abalone recovery and enhancement program.

### Option 2

- The proposed regulation would reduce the daily catch limit and possession limit to one abalone with an 8-inch minimum shell size. A mandatory free permit would be required to harvest abalone. Sport harvesters would be required to report catch, effort, and other biological data identified by ODFW staff.

\* one per  
day, 5  
per year

### Background & Rationale

- Preliminary assessments of Oregon's abalone stocks suggest that the population abundance is extremely low. Most remaining abalone are older than 20 years and large, with few sublegal animals observed.
- The biology of abalone reproduction requires colonies of closely spaced mature animals for successful spawning. Staff has observed no such colonies, although some may exist in a few isolated areas.
- Abalone meat and shell has a high value, and the shells over 9 inches are considered trophies. We have reason to suspect that abalone taken under the guise of sport harvest are being sold illegally in California.

## Background and Rationale (Continued)

- The lack of a shellfish license, the generous sport limit, and the large size of Oregon's abalone are too great an incentive for those selling abalone illegally.
- The Commission adopted rules March 1995 permitting the taking of wild abalone for use as broodstock for research, commercial aquaculture, and replenishment of depleted populations of wild abalone.
- Since then, ODFW staff in cooperation with Oregon State University have been capturing wild abalone for broodstock development. An abalone seeding program will be developed to establish breeding colonies. Animals are mature at about 3 inches, and planted abalone would be protected for many years of spawning prior to attaining the 8-inch size limit.
- A reduced bag limit would reduce harvest of an entire group of survivors, and would help prevent depletion as broodstock development and enhancement efforts continue.
- A free permit, requiring reporting of catch and size of animals taken, will help with stock assessment and will identify those participating in the fishery.
- Prohibiting harvest of abalone, except for obtaining broodstock, would be the more conservative approach. It would allow staff additional time to survey the abalone resource and to develop an enhancement program. It would minimize or eliminate depletion of remaining wild red abalone.
- Option 2 would allow a minimal amount of harvest.

## **PROPOSAL FOR MODIFIED SPORT FISHING REGULATION**

The staff recommends Option 1. This recommendation is in response to a conservation crisis. Abalone meat and shell has a high value and the shells of animals over 9 inches are considered trophies. We have reason to suspect that abalone are being taken from Oregon waters under the guise of sport harvesting and are being sold illegally in California. Staff inspection of abalone areas in the last two years indicate a depleted population. The rule is required to conserve the resource and take the incentive out of sport harvesting for an illegal market trade.

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# OREGON ADMINISTRATIVE RULES

OREGON DEPARTMENT OF FISH AND WILDLIFE

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Note: [ ] means proposed to be deleted

Bold means proposed to be added.

## OPTION 1

### Inclusions and Modifications

635-039-0090 (1) The “1996 Oregon Sport Fishing Regulations” provide requirements for sport fisheries for marine fish, shellfish, and marine invertebrates in the Pacific Ocean, coastal bays, and beaches, commonly referred to as the Marine Zone. However, additional regulations may be promulgated subsequently, and these supersede, to the extent of any inconsistency, the “1996 Oregon Sport Fishing Regulations.” This rule contains requirements which modify the “1996 Oregon Sport Fishing Regulations” pertaining to the Marine Zone.

(2) The taking of abalone is prohibited.

Stat. Auth.: ORS 496.138, 496.146 and 506.119

Stats. Implemented: ORS 496.162 and 506.129

Hist.: Adopted 10-25-95, ef. 1-1-96



# OREGON ADMINISTRATIVE RULES

OREGON DEPARTMENT OF FISH AND WILDLIFE

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## OPTION 2

### Inclusions and Modifications

635-039-0090 **(1)** The “1996 Oregon Sport Fishing Regulations” provide requirements for sport fisheries for marine fish, shellfish, and marine invertebrates in the Pacific Ocean, coastal bays, and beaches, commonly referred to as the Marine Zone. However, additional regulations may be promulgated subsequently, and these supersede, to the extent of any inconsistency, the “1996 Oregon Sport Fishing Regulations.” This rule contains requirements which modify the “1996 Oregon Sport Fishing Regulations” pertaining to the Marine Zone.

**(2) The daily catch and possession limit is one abalone. Prior to taking any abalone a free harvest permit shall be obtained from the Oregon Department of Fish and Wildlife, 2040 SE Marine Science Drive, Newport, Oregon, 97365.**

- 1 U. 2/20/95

CERTIFICATE AND ORDER  
FOR FILING  
**PERMANENT**  
ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of PERMANENT rule(s) adopted on<sup>1</sup> October 25, 1995  
by the Oregon Fish and Wildlife Commission (Date)  
(Department) (Division)

to become effective<sup>2</sup> January 1, 1996  
Date  
The matter having come before the Oregon Fish and Wildlife Commission after  
Department Division

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of intended Action published in Secretary of State's Bulletin: NO  YES  Date Published: October 1, 1995

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken: (List INDIVIDUAL Rule Number(s) on appropriate Lines below).

ADOPTED<sup>3,4,6,7</sup>: \_\_\_\_\_

AMENDED<sup>4,6,7</sup>: OAR 635-011-0105

REPEALED<sup>4</sup>: \_\_\_\_\_

RENUM. TO<sup>3,4,6,7,8</sup>: \_\_\_\_\_

AMENDED & RENUM. TO<sup>3,4,6,7,8</sup>: \_\_\_\_\_

as Administrative Rules of the Oregon Department of Fish and Wildlife  
Department Division

DATED this 15th day of November, 19 95

REDACTED FOR PRIVACY

BY<sup>6</sup>: \_\_\_\_\_

Title: Sped. Asst. Fish Div (Authorized Signer)

STATUTORY AUTHORITY: ORS 496.138 and 496.146 ; or

OTHER AUTHORITY: \_\_\_\_\_

STATUTES BEING IMPLEMENTED: ORS 496.162

SUMMARY:

Require a free harvest permit for sport harvest of abalone.

For Further Information Contact:  
RULES COORDINATOR<sup>5</sup>: Jan Ragni Phone: 503-229-5400, Ext. 305

- Instructions:
- <sup>1</sup>Date must be prior to or same day as filing - not subsequent to filing date.
  - <sup>2</sup>Date must be upon filing or any later specified date.
  - <sup>3</sup>Numbers being assigned must be preapproved by Secretary of State's office, Archives Division, Administrative Rules Section.
  - <sup>4</sup>Enter each rule number affected INDIVIDUALLY (i.e., 000-000-0000, 000-000-0000, & 000-000-0000. Do not use series or parts of rules).
  - <sup>5</sup>Required to be on file with Secretary of State's office, Archives Division, Administrative Rules Section.
  - <sup>6</sup>Attach the FULL TEXT of each rule number being affected. Do not attach text of rules not affected.
  - <sup>7</sup>Following the text of each rule attached, insert the numbers of the statutes being implemented.
  - <sup>8</sup>Enter renumbers as follows: (old number)000-000-0000 to 000-000-0000 (new number).

STATEMENT OF NEED AND FISCAL IMPACT  
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If not, why:

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# OREGON ADMINISTRATIVE RULES

OREGON DEPARTMENT OF FISH AND WILDLIFE

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## Licenses, Tags, and Permits

635-011-0105 (1) License Requirements: A valid angling license is required in possession of all persons 14 years or over to angle for or take any fish for personal use, except when taking smelt. Oregon residents on their own land, or on land owned by a member of their immediate family and upon which they reside, are exempt from this requirement.

(2) Salmon-Steelhead Tag Requirements: When angling for salmon or steelhead, all anglers regardless of age must have a valid unfilled salmon-steelhead tag or daily angling license in possession. Only one salmon-steelhead tag may be purchased per year. This tag shall be returned to ODFW upon expiration. The purchase of the original tag entitles the angler to take up to 40 adult salmon or steelhead during the year.

(3) Sturgeon Tag Requirements:

(a) When angling for sturgeon (except in the Snake River), all anglers regardless of age must have a valid unfilled sturgeon tag or daily angling license in possession. An angler may obtain or possess only one sturgeon tag per year;

(b) On the Snake River where no consumptive fishery is authorized a sturgeon tag is not required to angle for sturgeon.

(4) Halibut Tag Requirements: When angling for halibut, all anglers regardless of age must have a valid unfilled halibut tag or daily angling license in possession. An angler may purchase only one halibut tag per year.

(5) Recording Catch on Tag: Upon landing an adult salmon, steelhead, halibut, or legal size sturgeon which is retained, the angler who landed the fish must *immediately* record on his or her tag or daily license the following information: code for species caught; code for stream, lake,



# OREGON ADMINISTRATIVE RULES

OREGON DEPARTMENT OF FISH AND WILDLIFE

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or ocean port; sturgeon length in inches; month and day of catch. Fish must be recorded in consecutive order on tag. Except as provided otherwise, not more than six fish may be recorded on either a salmon-steelhead tag or sturgeon tag in seven consecutive days. It is *unlawful* to alter entries on tag or to possess an altered tag.

(6) **Walking Disability Permit:** Licensed anglers possessing a Blind Angling or Wheelchair Angling license, or a Walking Disability permit (issued prior to 1988) may angle from an anchored boat in rivers where angling from a floating device is otherwise prohibited.

(7) **Disabled Clam Digger Permit:** A person may assist a disabled clam digger, provided:

(a) Both diggers have their own containers for clams;

(b) The disabled clam digger is within 100 feet of the assistant while the assistant is digging; and

(c) The disabled clam digger has either a valid disabled clam digger permit, a disabled veteran's angling license, a disabled person angling license, or a blind angler license, all of which are issued by Oregon Department of Fish and Wildlife in possession on the clam beds:

(A) Persons wishing to qualify for a disabled clam digger permit must be:

(i) A person who has severely limited mobility because of paralysis or the loss of use of some or all of the person's legs or arms;

(ii) A person who is affected by loss of vision or substantial loss of visual acuity or visual field beyond correction; or

(iii) A person who has any other disability that prevents the person from walking without the use of an assistive device, or that causes the person to be unable to walk more than 200 feet, including but not necessarily limited to:



# OREGON ADMINISTRATIVE RULES

OREGON DEPARTMENT OF FISH AND WILDLIFE

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- (I) Chronic heart condition;
- (II) Emphysema;
- (III) Arthritis;
- (IV) Rheumatism; or
- (V) Ulcerative colitis or related chronic bowel disorder.

(B) Persons wishing to qualify for a disabled clam digger permit must provide written certification from a licensed physician. A licensed physician must certify that the person is disabled, as defined above. If the disability is temporary, the physician also must give the date the person is no longer expected to need the disabled clam digger permit. Physicians who are authorized to certify disabled clammers are: Doctors of medicine, Osteopaths, Podiatrists, Chiropractors and Naturopaths.

(d) The person assisting the disabled clam digger permit holder has a copy of the permit in possession on the clam beds.

**(8) Abalone Harvest Permit: Prior to taking any abalone a free harvest permit shall be obtained from the Oregon Department of Fish and Wildlife (ODFW), at either 2040 SE Marine Science Drive, Newport, Oregon, 97365, or 4475 Boat Basin Boulevard, Charleston, Oregon, 97420. Harvest of abalone is to be reported to ODFW in the manner stipulated on the harvest permit.**

Stat. Auth.: ORS 496.138, 496.146 and 506.119

Stats. Implemented: ORS 496.162 and 506.129

Hist.: Adopted 10-25-95, ef. 1-1-96





# OREGON ADMINISTRATIVE RULES

OREGON DEPARTMENT OF FISH AND WILDLIFE

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# OREGON ADMINISTRATIVE RULES

OREGON DEPARTMENT OF FISH AND WILDLIFE

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(iii) A person who has any other disability that prevents the person from walking without the use of an assistive device, or that causes the person to be unable to walk more than 200 feet, including but not necessarily limited to:

- (I) Chronic heart condition;
- (II) Emphysema;
- (III) Arthritis;
- (IV) Rheumatism; or
- (V) Ulcerative colitis or related chronic bowel disorder.

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