



# Oregon Fish and Wildlife Commission

August 9, 2002



## SUBJECT

OREGON COMMERCIAL DUNGENESS CRAB FISHERY -  
Pot Limitation for the 2002-03 Fishery

## PRINCIPAL STAFF PERSON

Rod Kaiser

PHONE: (541) 867-4741

## COMMISSION ACTION REQUESTED

The staff presents three proposals by the Crab Fishermen Advisory Committee (FAC), Oregon crab industry, and ODFW related to establishing a pot limitation for the Oregon ocean commercial crab fishery for the 2002-03 season fishery. We propose administrative rules for: (1) a one-year pot limitation in the 2002-03 ocean commercial crab fishery (2) set a control date for past participation in the fishery of August 14, 2001, in the event a long-term Dungeness crab pot limitation system is developed for the Oregon commercial ocean Dungeness crab fishery beyond the 2002-03 season, and (3) amend the current rule on crab vessel hold inspections to include a declaration of the number of pots to be fished by a vessel operator prior to fishing.

## DOCUMENTS ATTACHED

1. Agenda Item Summary
2. Staff Report
3. Letter and ballot to all Oregon crab Limited Entry Permit Holders on Pot Limits
4. Draft Administrative Rules
5. Public Comments

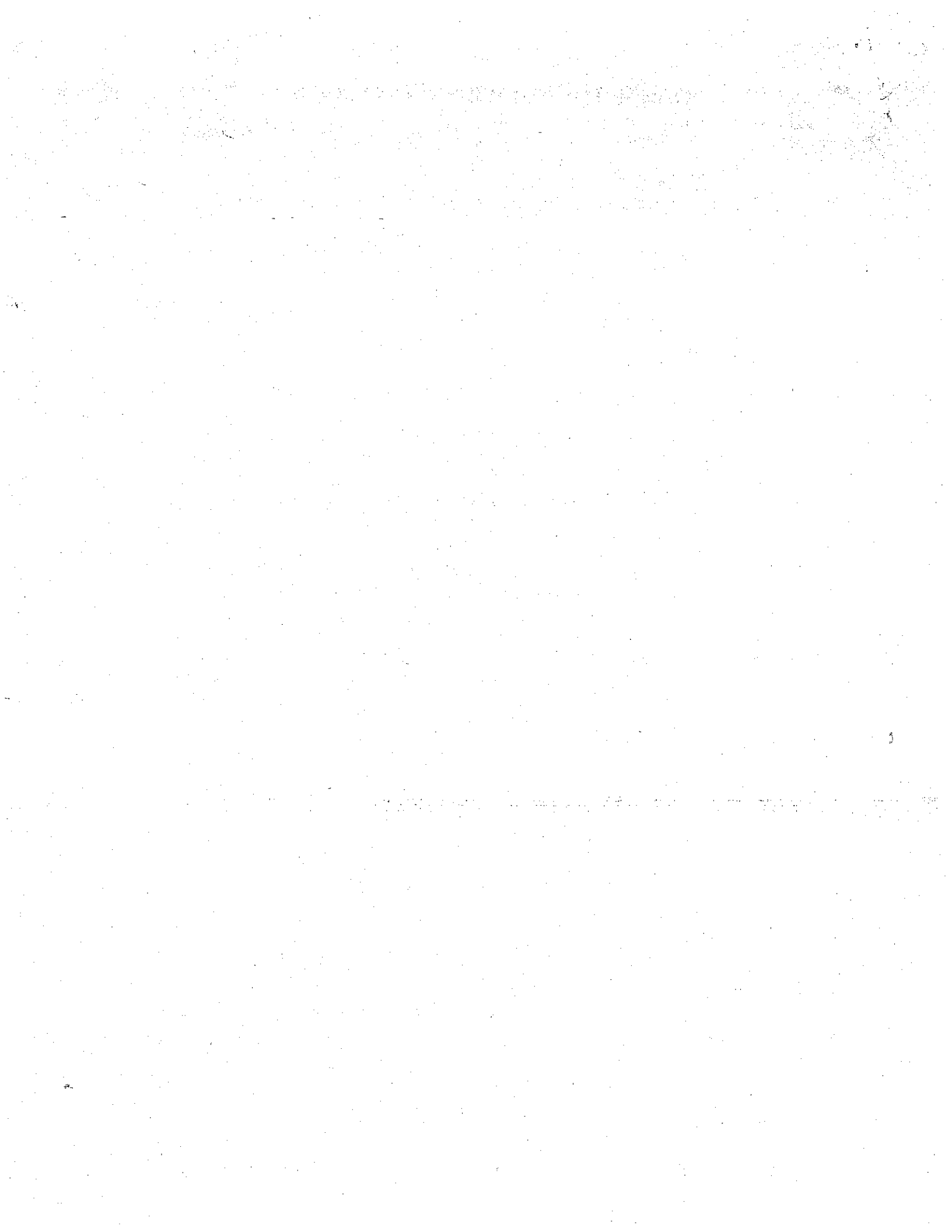
## RELATED STATUTES

ORS 506.119, 506.129, 508.921 to 508.941

## RELATED RULES

635-006-1015

<i>Read and Approved by:</i>	
Division Director	<p>REDACTED FOR PRIVACY REDACTED FOR PRIVACY REDACTED FOR PRIVACY</p> <p>_____ Date <u>7/26/02</u></p>
Attorney General	<p>REDACTED FOR PRIVACY</p> <p>_____ Date <u>7/26/02</u></p>
Director	<p>REDACTED FOR PRIVACY REDACTED FOR PRIVACY</p> <p>_____ Date <u>07-26-02</u></p>



## Agenda Item Summary

### BACKGROUND

1. This report recaps current information presented to the Commission at their July 2002 meeting that discussed Oregon's ocean commercial crab fishery and proposes rules related to establishing a crab pot limitation for the commercial fishery for the 2002-03 season; a one year pot limit system.
2. Several factors have increased the urgency and desire to address the pot limit issue: (1) severely reduced opportunity in Alaska fisheries and the West Coast groundfish disaster off WA/OR/CA and related effort and gear transfers to the crab fishery, (2) significant increase in pots for active Oregon crab vessels, (4) reduced economic value as more pots and catch made in shorter "derby-type" fishery; 80-85 percent of total season catch landed in first two months of 8 ½ month fishery, and (5) continued capitalization of vessels and pots to fishery.
3. Washington implemented their pot limitation system starting with the 1999-00 season directly affecting Oregon's fishermen, especially those actively fishing at the OR/WA border (Columbia River area).
4. Industry is concerned over the rapid increase of pot gear in the Oregon fishery; staff has estimated pot usage for the past three season increasing to between 140,000 and 150,000 pots (not counting Washington pots fished off Oregon in "open" waters), compared to just over 100,000 pots in 1994, just prior to vessel limited entry in 1995.
5. Three issues proposed for Commission consideration to begin to address these issues are:
  1. Pot limitation for the 2002-03 season only, while a long-term option is developed in the next few months. Limitation for 2002-03 fishery will reduce escalation of pots in the fishery.
  2. Establish a control date for eligibility criteria (participation in fishery) as part of any future pot limit system beyond 2002-03.
  3. Amend current vessel hold inspection rule to include requirement of vessel operator to state ("declare") the number of pots being fished.

### PUBLIC INVOLVEMENT

- Five Oregon Dungeness Crab Commodity Commission meetings with fishermen attending: February and June 2001; February, April, and June 2002.
- Winter 2001: ODFW mailed questionnaire on pot limits to all Oregon crab limited entry license holders.
- Winter-Spring 2001: Crab fishermen in Oregon coastal ports select representatives to activate the Oregon Crab Fishermen Advisory Committee. Initial committee assembled in late Spring 2001.
- Six Crab Fishermen Advisory Committee meetings on pot limits between September 2001 and May 2002.
- Coastal Port Meetings: Five port meetings held and facilitated by staff and local crab advisors at coastal ports in October-November 2001.

- Multiple local port meetings of fishermen and advisors.
- Several mailings by ODFW to all Oregon limited entry holders with Advisory Committee minutes and information on issues.
- July 2002: Mailing and ballot to all crab licensees to vote on FAC pot limit proposal. Voting in progress. Results available August 1.

## ISSUE 1

Adopt a one-year pot limit program for the Oregon Ocean Commercial Dungeness Crab Fishery, 2002-03 season.

### ANALYSIS

- Vessel receives a pot allocation based on pot "declaration history", 1995-96 through 2000-01 seasons *or* based on a table of the same six season pot averages for similar sized vessels in data base if no declaration history exists for a vessel. In both methods, individual pot declaration history or vessel length averages, are calculated *less* the high pot declaration year for all vessel pot data in database, thus lowering the potential for addition of significant increase in gear for 2002-03 season.
- Staff believes, assuming no significant new vessel effort and related increased "new" pots in fishery, a small decrease (1-10 percent) in pot use, as all vessel allocations are based on a multi-year average number of pots, not the higher pot numbers observed in recent 2-3 years.
- New entrants into fishery and their gear use will be limited to the longer six year average pots for similar size vessels, not the maximum they potentially could bring into fishery.
- A "pot allocation certificate" (PAC) will be issued to each vessel.
- A "review process" through ODFW may create an allocation adjustment based on documented changes in vessel pot declaration history, vessel length, or past (multiple) permit ownership.

### OPTIONS

- A. Amend OARs to describe and adopt a pot limitation for 2002-03 season.
- B. Status quo. No pot limitation for 2002-03 fishery.

### STAFF RECOMMENDATION

Option A.

## ISSUE 2

Establish August 14, 2001 as a qualification control date for eligibility criteria related to past participation in the ocean commercial fishery.

### ANALYSIS

- Approved by the Crab Fishermen Advisory Committee in a 14 to 3 vote to forward to Commission for consideration.
- Gives active limited entry permits/vessels in fishery a preference for future pot limit allocations.

**OPTIONS**

- A. Establish a control date on past participation for future pot allocations beyond 2002-03 season.
- B. Status quo. No control date criteria established.

**STAFF  
RECOMMENDATION**

Option A.

**ISSUE 3**

Require vessel operator to declare pots to be fished prior to fishing each year.

**ANALYSIS**

- Historic estimates of pots active in fishery are rough estimates.
- Estimates in last decade based on actual contact with vessel operators during preseason vessel hold inspection when pot declaration requested by ODFW or OSP inspectors.
- Inspections contact and gather gear information on about 80 percent of active vessels. Staff expands for other 20 percent based on average gear use for similar sized vessels with declarations.

**OPTIONS**

- A. Add a pot declaration requirement to all vessels inspected in preseason hold inspection process, and remaining noninspected vessels prior to fishing.
- B. Status quo. No required pot declarations.

**STAFF  
RECOMMENDATION**

Option A.

<b>DRAFT MOTION</b>	I move to amend OAR 635-006-1015 as proposed by staff to create a pot limitation for the 2002-03 Oregon commercial crab fishery, create an August 14, 2001 participation control date for future pot limitation, and require a pot declaration for all vessels prior to fishing.
<b>EFFECTIVE DATE</b>	Upon Filing



**OREGON COMMERCIAL DUNGENESS CRAB FISHERY**

**One Year Pot Gear Limitation Plan  
For the  
Ocean Commercial 2002-03 Fishery**

**A Report  
to  
Oregon Fish and Wildlife Commission**

**Portland, Oregon**

**August 9, 2002**

**Prepared by**

**Oregon Department of Fish and Wildlife  
Fish Division  
Marine Resources Program  
Newport, Oregon**

**OREGON COMMERCIAL DUNGENESS CRAB FISHERY  
ONE YEAR POT GEAR LIMITATION PLAN  
FOR THE 2002-03 OCEAN COMMERCIAL FISHERY**

**Oregon Department of Fish and Wildlife  
Staff Report**

**Prepared for Oregon Fish and Wildlife Commission**

**August 9, 2002**

**Corvallis, Oregon**

**INTRODUCTION**

This report presents a proposal for a one-year pot limitation system for the ocean commercial crab fishery pot limit system for the 2002-03 season. It is a proposal developed by the Oregon crab industry based on their desire to address the rapid and continuing increase of pots in the ocean fishery. The Oregon Department of Fish and Wildlife (ODFW) and Marine Resources Program (MRP) staff have been working directly with industry and through the industry-formed Oregon Crab Fishermen Advisory Committee (FAC) for more than a year to discuss and evaluate this, and other problems, related to gear issues and options to deal with them. Staff was directed by the Commission at their October 2000 meeting to begin a "dialogue" with industry to define the pot limit issue and elements of a potential crab pot limitation system for the Oregon fishery. Staff has reported back to the Commission on several occasions since that time on the progress of these discussions.

At a May 2002 meeting of the FAC in Newport, advisors voted 15 to 2 (with 1 abstention) to propose to the Oregon crab industry and Oregon Fish and Wildlife Commission, a one year pot limitation system for the 2002-03 fishery. This one season plan is proposed on criteria using a vessel's pot declaration history or vessel length if no Oregon declaration history exists. Its intent is to: (1) reduce the unrestricted expansion of new gear into the Oregon fishery during the 2002-03 season, and (2) provide an interim system while the crab advisory committee continues work on a long term pot limit solution in the next few months.

As this report is being prepared in early July, a letter has been prepared by the Committee Co-Chairs (Rod Kaiser, MRP and Lt. David Cleary, Oregon State Police) and staff, and sent to all Oregon crab limited entry license holders defining the 2002-03 proposal (attached). It asks each permit holder to vote on the proposal by a ballot enclosed with the letter. The results of that vote will be summarized in late July and presented to the Commission at the August meeting.

Two other related pot limit issues are discussed in this report and proposed by FAC and staff for Commission review: (1) establishment of a control date of August 15, 2001 for eligibility criteria related to past participation in the ocean fishery when considering any future pot



limitation system beyond the proposed 2002-03 moratorium, and (2) during the preseason hold inspection process or before the vessel begins fishing, require a crab vessel operator to declare the number of pots being fished.

## BACKGROUND

### Pot Limitation - A Recent Perspective and Rationale

Oregon has discussed pot limits, and the development of a limitation system for the Oregon ocean Dungeness crab fishery over several decades. In 1971-72, for example, a survey of Oregon's crab vessel owners indicated that 89 percent favored a gear control program in the fishery, based on a 79 percent response rate. In 2001, ODFW again surveyed all Dungeness crab limited entry (LE) license holders as part of the present discussion of this issue and as directed by the Commission. Again, based on a 64 percent response rate to a questionnaire, 87 percent indicated support for a pot limitation of some type.

The issue of pot limits in the crab fishery continues to grow in importance, and urgency, in the last four years for several reasons. These include:

1. Implementation of an ocean Washington pot limit system in 1999 and a sizable increase of several thousand pots from the "pot limited" Washington fishery being fished in "open" waters off northern Oregon during the past three seasons.
2. Significant increases in pot levels for individual Oregon vessels currently active in the fishery.
3. Anticipated vessel effort transfer (with more pots in the fishery) resulting from significant lost opportunity for Oregon vessels in Alaska fisheries and West Coast groundfish fisheries. This is particularly urgent as a result of proposals by the Pacific Fishery Management Council (PFMC) and National Marine Fisheries Service (NMFS) for 2003 season options that call for a near shutdown for many groundfish fisheries off Oregon and other West Coast states. With further restrictions in groundfish, the Dungeness crab fishery becomes Oregon's most single valuable ocean commercial fishery.
4. Reduced economic value as more gear is utilized and more of the catch is made in a shorter "derby-type" fishery. For example, the percentage of Oregon landings during the first two months (December-January) of a 8-½ month season (December-mid August) during the early 1990s prior to vessel limited entry averaged about 74 percent compared to the most recent five seasons (1996-97 through 2001-02, projected) where a range of 80 to 85 percent of total season catch is landed (Figure 1 and Table 1).

Other issues are also important to the crab industry and fishermen. These include, but are not limited to: (1) over-capitalization of vessels and pots in all West Coast crab fisheries, (2) economic destabilization in many other fisheries, (3) localized gear concentration problems as fishers add more and more gear to "remain competitive", (4) safety concerns, and (5) concern over larger capacity vessels and "industrialization" of the Oregon crab fishery.

## **Gear Use in the Oregon Fishery**

Pot gear has increased significantly at various time-periods in the Oregon ocean fishery (Figure 2). Prior to the early 1970s, pot use is estimated to have remained at less than 50,000 pots in all years. In the short period between the early 1970s and the 1978-79 season, gear use doubled, reaching 100,000 pots. From about 1980 until the start of vessel limited entry in Oregon (1995), gear use fluctuated widely, but generally increased to over 100,000 pots about half of the time. Despite the stabilizing effect from implementing the crab vessel LE program in 1995, a new and major gear escalation phase is in progress in the fishery.

In general, with the start of vessel limited entry, active vessel effort per season was reduced and stabilized, but pot use has continued to increase to higher levels (Figure 3). For example, in the early 1990s, prior to the start of the vessel limited entry, vessel effort ranged from about 350-425 active vessels each season fishing approximately 100,000 pots per season, on average. With the implementation of vessel limited entry, the number of active vessels was reduced and stabilized to about 325 vessels yearly. Gear use, however, increased from slightly more than 100,000 pots to about 140,000-150,000 pots in the most recent three seasons, an increase of 40-50 percent in seven fishing seasons since the 1995-96 season. When viewed from the perspective of recent lower historic gear levels, this represents another significant escalation phase in pots for the Oregon fishery since 1995, despite a sizable reduction in vessel effort.

These estimates do not include added pots deployed in Oregon's "open" waters since 1999 by Washington fishermen who operate under a pot limitation system in the Washington ocean crab fishery or other pots normally fished historically by either Washington or California in Oregon offshore federal waters where crab are delivered back to their home state.

## **POT LIMITATION SCOPING PROCESS**

Under the general guidance from the Commission, staff and the Oregon crab industry have entered into a series of discussions on pot limitation issues over the past year and a half. Most of the early effort (first half of 2001) was directed towards soliciting opinions and responses on questions related to pot limit issues via a fleet-wide survey, while at the same time, staff developed a comprehensive technical report on the fishery (September 2001). This report profiled the fishing fleet's characteristics and activities. It also contained a preliminary evaluation of various pot limitation approaches and the impact of these approaches on current gear use levels. The availability of this combined information was the basis of developing a common knowledge and understanding among both staff and industry membership as to how the Oregon crab fishery has actually operated in recent years and provided a span of possible ways to approach development of a pot limitation system for Oregon. The formation of an Oregon Crab Fishermen Advisory Committee (FAC) with representatives from all coastal areas and/or ports in September 2001, provided a stable forum for these discussions. Details of this dialogue have been reviewed with the Commission in recent progress reports (October 2001 and July 2002).

## **Industry and Public Information and Review Process**

The public information process has included a series of supporting informational and technical documents, public port meetings with local fishermen and crab advisors, multiple FAC meetings with staff and public, numerous smaller discussions with fishery participants, and direct mailings to all Oregon LE permit holders.

An updated summary of these activities are noted below.

1. Mail Survey Questionnaire: Mailed to industry in January 2001. A preliminary report sent to license holders in March 2001; final report in September 2001. A total of 259 license holders responded (64%) from the 404 questionnaires mailed. Eighty-seven percent across all ports and vessel size categories supported some kind of pot limitation and stated that Oregon should move ahead to develop options.
2. Creation of Crab Advisory Committee: Developed during February and March, 2001. Staff worked with Oregon coastal port crab fishermen to coordinate selection of port representatives for the Advisory Committee. Fishermen selected 20 port representatives. The ODFW added two crab association presidents that represent large memberships and two processors bringing the total voting membership of the committee to 24. One other nonvoting advisor--a crab fisherman from Washington, ODFW, and OSP staff also support the committee process. Committee membership is geographically split evenly from Newport north, and Florence south. Port representation by "vessel" size approximates the active fleet. Rod Kaiser, Assistant Manager of the MRP and Lt. David Cleary, Oregon State Police, co-chair FAC meetings.
3. Staff Technical Report: In September 2001, staff completed a technical report on the Oregon crab fishery, emphasizing a profile of fleet catch and pot usage in recent years since limited entry (1995), and a discussion of pot limitation approaches with sample pot limit options developed for several approaches suggested by the fisherman survey. The report was updated in April 2002.
4. Public Process:
  - Six Crab Fishermen Advisory Committee Meetings: September 2001 - May 2002
  - Five Port meetings with MRP staff, port advisors and fishers during October-November 2001.
  - Numerous crab advisors meetings with local fishers from their local port areas.
  - Multiple direct mailings to all Oregon LE permit license holders on meeting discussions and announcement of upcoming meeting,
  - July 2002 -- Direct mailing to all Oregon LE license holders explaining FAC pot limit proposal for the 2002-03 season including a ballot to vote on this issue (see Attachment ).
  - Staff progress reports to Commission in October 2001 and again in July 2002.

## **A Proposal for Pot Limitation in 2002-03 Season**

The FAC has defined some of the elements that will form the basis for a long term approach and definition for developing a pot limit system for Oregon. The Committee could not complete this process in time to bring a final option to the Commission in time for the 2002-03 season. In its

place, the FAC voted at their May 7 meeting, to propose a limited one-year Oregon ocean crab fishery pot limitation system to both the crab industry and Commission for review. This option is intended to be in place for one season only and would disappear at the end of the 2002-03 season. The goal of this pot limitation would be to:

- (1) Discourage speculation and gear increases in the 2002-03 fishery.
- (2) Allow permit-holders to maintain an average number of pots used over the past six seasons since the start of limited entry in 1995.
- (3) Set an initial pot limit system in place and provide the FAC, staff, and industry time to finish a long-term option prior to the 2003-04 season.

## STAFF ANALYSIS OF ISSUES AND OPTIONS

### Issue 1. Adopt a one-year pot limitation program for the Oregon ocean commercial Dungeness crab fishery, 2002-03 fishing season.

#### Background

The Oregon ocean commercial crab fishery is a state managed fishery, but is linked to specific amendments of the Magnuson-Stevens Fishery Conservation and Management Act that provide the three West coast states interim management authority to oversee and enforce laws and regulations governing harvesting and processing of Dungeness crab in federal waters off each of the three states. Oregon implemented a state level vessel limited entry system in 1995. Similar vessel limited entry programs exist in the other West Coast states. No gear limitation exists for pots fished in the state fisheries of Oregon and California, but was implemented in the Washington ocean fishery in 1999 and earlier in Puget Sound. The FAC and staff are jointly proposing a one-year pot limitation system in the Oregon ocean commercial Dungeness crab fishery for the 2002-03 fishing season. This proposal is presented for consideration as a one-year limitation system. This approach will reduce the speculation and continuous increase of pots being added to the fishery in recent years since LE in 1995, until a final pot limit system can be worked out in the next few months.

#### Options

##### Option A (*Preferred*):

The staff and FAC recommend the pot limitation option summarized in Table 2 and 3 below, for the 2002-03 fishing season.

##### Option B

(Status quo). No crab pot limit system for the Oregon ocean commercial fishery for the 2002-03 season. Pot gear is not currently restricted.

#### Analysis

Under Option A proposed by the FAC, it is estimated that about two thirds of Oregon's LE permitted vessels will receive a pot allocation based on the pot declaration history method. One third will receive an allocation based on the alternative method based on the average pots fished by vessels the same length during the six-year base period. Total pot levels for many vessel size groups are anticipated to be slightly reduced (1-10 percent) as both the pot history declaration method and the vessel length pot average method use average pots less the *high year* of pots used. This assumes factors such as current vessel effort are stable without a large influx of effort. The main goal of this proposal is to reduce speculation among both active and new fishers to increase gear levels in the 2002-03 season. For example, new entrants into the fishery

will be allocated gear based on a six-year historical average (1995-96 through 2000-01 seasons) of all past active vessels and not at some maximum level based on their ability to purchase and utilize gear. It is a reality in this proposal that some participants will have unique allocation concerns that may not be completely addressed by the proposal. The proposal, however, sets up a "review process" to evaluate these concerns and attempts to address them.

In the final analysis, this proposal is a one-year process to reduce the high rate of gear expansion in the fishery and to alert new entrants that pot limitation is a likely potential in the near future.

**Table 2.** A proposal for pot limitation in the Oregon ocean commercial Dungeness crab fishery for the 2002-03 season.

1. A pot limitation is proposed for the 2002-03 Oregon ocean commercial Dungeness crab fishery. A pot allocation would be described for each vessel *for the 2002-03 season only*.
2. A vessel's pot allocation would be based on the pot declaration history of each vessel's permit history over the past six seasons; 1995-96 (since start of Oregon crab limited entry) through 2000-01. If no permit declaration history exists, a vessel's pot allocation would be calculated based on the average pots declared for all vessels of similar overall length during that six-year period (details in item 4 below and in Table 3).
3. Each permitted vessel expecting to fish off Oregon will receive a "pot allocation certificate" (PAC) showing the pot allocation for the 2002-03 fishing season.
4. This proposal, if adopted as an Oregon Administrative Rule by the Oregon Fish and Wildlife Commission, is proposed for one year only. Specifically, November 28, 2002 (to include the pre-season soak period) through August 14, 2003. Any vessel pot allocation for the 2002-03 season does not extend to, nor have any status in, any future Oregon pot limit option adopted beyond the 2002-03 season. No vessel permit holder should have any expectation of being able to carry this allocation forward into any future pot limitation program. The proposed rule would be written to end ("sunset") on August 14, 2003. If no further action is taken beyond the 2002-03 season, no further limitation system would be in effect.
5. To calculate a single vessel's pot allocation, the following procedure is proposed:
  - The "pot declaration history" for each Oregon limited entry permit is calculated for the period of 1995-96 through 2000-01 fishing seasons (six seasons), *less the "high year" pot declaration*. For example, if a permit has six years of pot declarations, the high year is dropped and the remaining five years are averaged to determine the 2002-03 season allocation for a vessel. If a permit has less than three pot declaration years, a pot average cannot be calculated after dropping the "high" year, as only one or zero years remain. In this case, a permit's pot allocation is based on the collective pot declaration average for a group of similar sized vessels inspected and declaring pots during the combined six-year period of 1995-96 through 2000-01 (see table 3).
  - A vessel with an Oregon pot declaration average, based on three or more years, has the option to use either that average for the 2002-03 season, *or* the vessel length average from the "vessel length-pot average" table, whichever is higher.
  - The vessel inspection and pot declaration list is maintained by the MRP and is the official list.

- The option proposes that for vessels receiving an allocation by the vessel length average method, all vessels equal or greater than 60 feet, be averaged together into a single maximum allocation tier as the number of vessels for various size groups above 60 feet are small and the number of pots fluctuates up and down for various groups.
  - Any “new” vessel entering the Oregon fishery after August 14, 2001 (the committee’s proposed cut-off date for any future allocation based on participation) with a current and valid permit or a permit that has never fished since the start of limited entry, would receive an allocation based solely on their documented vessel length as listed in the current ODFW Dungeness crab permit list.
  - Each limited entry permit will receive a pot allocation certificate (PAC) for the 2002-03 season.
  - No vessel may hold and fish more than one pot declaration certificate.
  - No vessel’s pot allocation may be transferred, traded, sold, or leased away from the vessel to which it is allocated for the 2002-03 season.
  - An individual Oregon Dungeness crab limited entry permit holder whose vessel is assigned a PAC for the 2002-03 season would be able to request, in writing, a review of the allocation from ODFW based on criteria related to: (1) a documented change in vessel length, (2) documented correction in the vessel’s pot declaration history, and (3) the existence of prior permit ownership in the “pot declaration base period” where pots were declared at a substantially lower level.

**Table 3.** Oregon ocean commercial Dungeness crab pot declaration made by vessels for the 1995-96 through 2000-01 season, by vessel size group. For each vessel length group, the overall average pots for all declarations and a pot average based on these declarations *less* the high year declaration for all vessels is shown. Vessels with fewer than three declarations during the six-year period would be assigned a pot allocation based on vessel length pot declaration averages in this table. Vessels equal or greater than 60 feet are grouped as one category due to small number of vessels per length category and variable pot averages.

Vessel Length Category (ft)	Average Pots (technical report)	Average minus Highest Declaration
< 25	137	110
25-29	211	171
30-34	287	268
35-39	319	289
40-44	399	374
45-49	467	428
50-54	470	460
55-59	573	555
≥ 60	669	651

**Issue 2.** Establish August 14, 2001 as a qualification control date for eligibility criteria related to past participation in the ocean crab fishery.

### **Background**

The development of most entry limitation systems contains a qualification or "window" period to both reduce effort from current levels and moderate gear expansion from future entrants into the fishery. Use of a "participation history" requirement does not eliminate existing or new fishers from entering the fishery as other criteria not requiring past participation can also be used.

The Oregon crab industry actively supports the concept of a control date as part of a larger discussion of any potential pot limit system for the Oregon fishery. The FAC discussed the control date issue at their October 16, 2001 meeting at Newport. They voted 14 to 3 in support of a control date for any potential pot limitation system for Oregon.

### **Options**

#### **Option A. (Preferred):**

The staff supports the FAC option to establish August 14, 2001 as a qualification control date for eligibility criteria related to past participation in the ocean crab fishery. The FAC proposed criteria does not mean that a new vessel entering the fishery after that date would not receive a pot allocation. It means that its pot allocation would be based on other criteria to be used. This proposal is intended to be part of a pot limitation option beyond the 2002-03 season. It does not affect any allocation made for the 2002-03 season.

#### **Option B:**

(Status quo). Do not establish control date criteria for past participation to any future pot limitation program.

### **Analysis**

The August 14, 2001 control date gives a preference for future pot limit allocations to limited entry permit holders with a history of catch or participation prior to that date. At the same time, it also creates another class of permitted fishermen who enter the fishery after the control date. This group, while retaining a valid limited entry permit would be allocated pots based on partially or wholly different eligibility criteria.



**Issue 3.** Require a crab vessel operator to declare the maximum number of pots he intends to fish prior to fishing each year in the ocean commercial fishery

### **Background**

The crab industry and staff request amending the current rule relating to the crab vessel hold inspection process. Current regulations require a vessel operator to certify that a vessel's hold is empty of crab as of November 30 each year (i.e.: prior to the start of the fishing season). The proposed change would require the vessel operator to declare the maximum number of pots to be fished at the start of the current season on the hold inspection declaration form. By signing the hold inspection and pot declaration document, the vessel operator "certifies" the number of pots they are fishing. In the event that pot limitation is not proposed by the Oregon crab industry or is not adopted by the Commission, the vessel inspection/declaration form would become the official tank inspection and "pots fished" certification document. It would provide a better yearly estimate of gear in the fishery. This regulation would apply to Oregon instate inspections only.

### **Options**

#### **Option A: (Preferred)**

Under this option, each vessel operator intending to participate in the fishery, and based in an Oregon port, would be required to "declare" the number of pots he/she intends to fish prior to fishing Dungeness crab in the ocean fishery.

#### **Option B:**

(Status Quo). Adopt no required pot use declaration in the fishery. The pot declaration process would continue as it is now, a "volunteered estimate" from the vessel operator or crew member.

### **Analysis**

The ODFW and/or OSP staffs have collected pot effort data in the Oregon ocean commercial crab fishery for several decades using various methods to make an "estimate" of total pots in the fishery. Hold inspection forms are available from the early 1990s and represent a hold inspection database representing about 80 percent, or more, of the fleet yearly. Most of these inspections slips have pot declaration information on them as the inspector asks for the information. The ODFW staff expands the pot use estimate by assessing for all other active vessels that land crab, but are not inspected. Post season, staff separate the noninspected vessels into vessel length categories and use a multi-season estimate from other similar size vessels, then make a complete estimate of the active pot gear in use for that season.

Figure 1. Seasonal percent distribution of landings in the Oregon ocean commercial Dungeness crab fishery for the 1987-88 through 2001-02 fishing seasons, with comparison to the average for 1976-77 - 1978-79 seasons. Data for the summer of 2002 is projected, 2001-02 data is preliminary and incomplete.

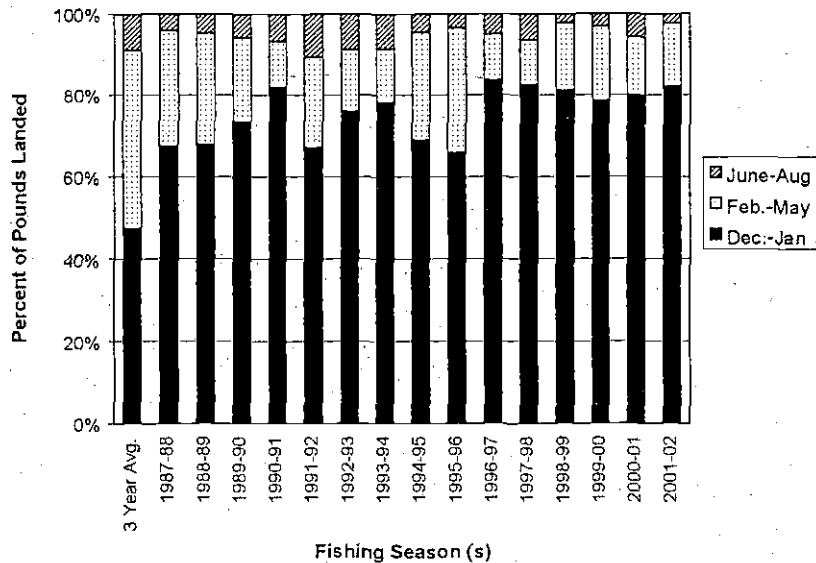


Table 1. Oregon ocean Dungeness crab landings by fishing season (in pounds) and percent of total catch for selected months for a 3-season average (1976-77 through 1978-79) and 1987-88 through 2001-02 seasons. Summer of 2002 is projected.

Season	Dec.-Jan.	%Catch	Feb.-May	% Catch	Aug/Sep	%Catch	Total
Year Avg.	6,840,918	48%	6,261,063	44%	1,235,426	9%	14,337,407
1987-88	5,836,900	67%	2,462,922	28%	350,009	4%	8,649,831
1988-89	7,582,072	68%	3,056,399	27%	526,380	5%	11,164,851
1989-90	6,794,917	74%	1,898,631	21%	541,859	6%	9,235,407
1990-91	6,763,334	82%	928,965	11%	554,203	7%	8,246,502
1991-92	5,071,816	67%	1,673,329	22%	809,322	11%	7,554,467
1992-93	8,270,857	76%	1,640,821	15%	956,540	9%	10,868,218
1993-94	8,021,208	78%	1,334,892	13%	885,060	9%	10,241,160
1994-95	10,392,225	69%	3,977,585	26%	681,977	5%	15,051,787
1995-96	11,649,204	66%	5,426,937	31%	601,866	3%	17,678,007
1996-97	5,901,345	84%	784,964	11%	356,824	5%	7,043,133
1997-98	5,855,281	83%	776,952	11%	449,661	6%	7,081,894
1998-99	7,408,164	81%	1,502,929	16%	202,421	2%	9,113,514
1999-00	12,338,408	79%	2,842,159	18%	497,487	3%	15,678,054
2000-01	5,905,897	80%	1,050,012	14%	429,433	6%	7,385,342
2001-02	10,703,404	82%	2,038,399	16%	300,000	2%	13,041,803
6-yr. Avg:	8,537,386	78%	2,060,336	19%	405,385	4%	11,003,107

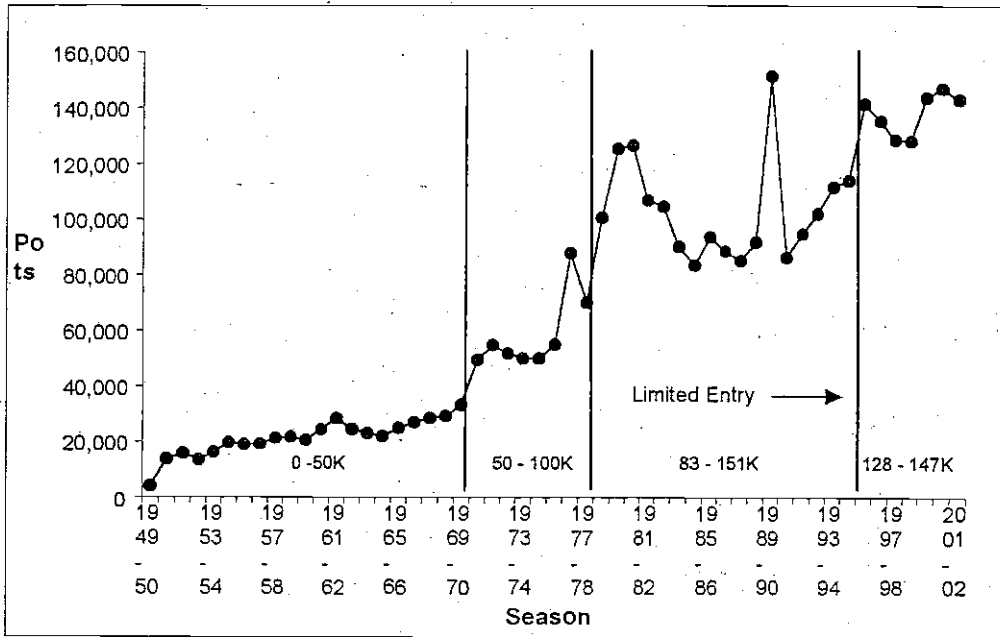


Figure 2. Estimated number of pots fished in the Oregon ocean commercial Dungeness crab fishery, 1949-50 through 2001-02 seasons. Vertical bars indicate landmark pot estimate values.

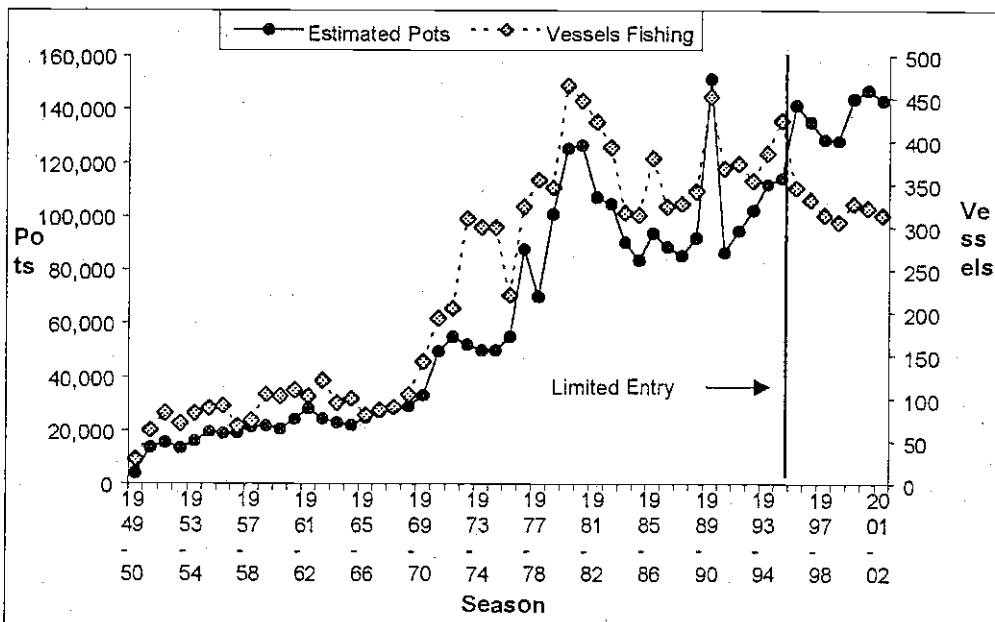
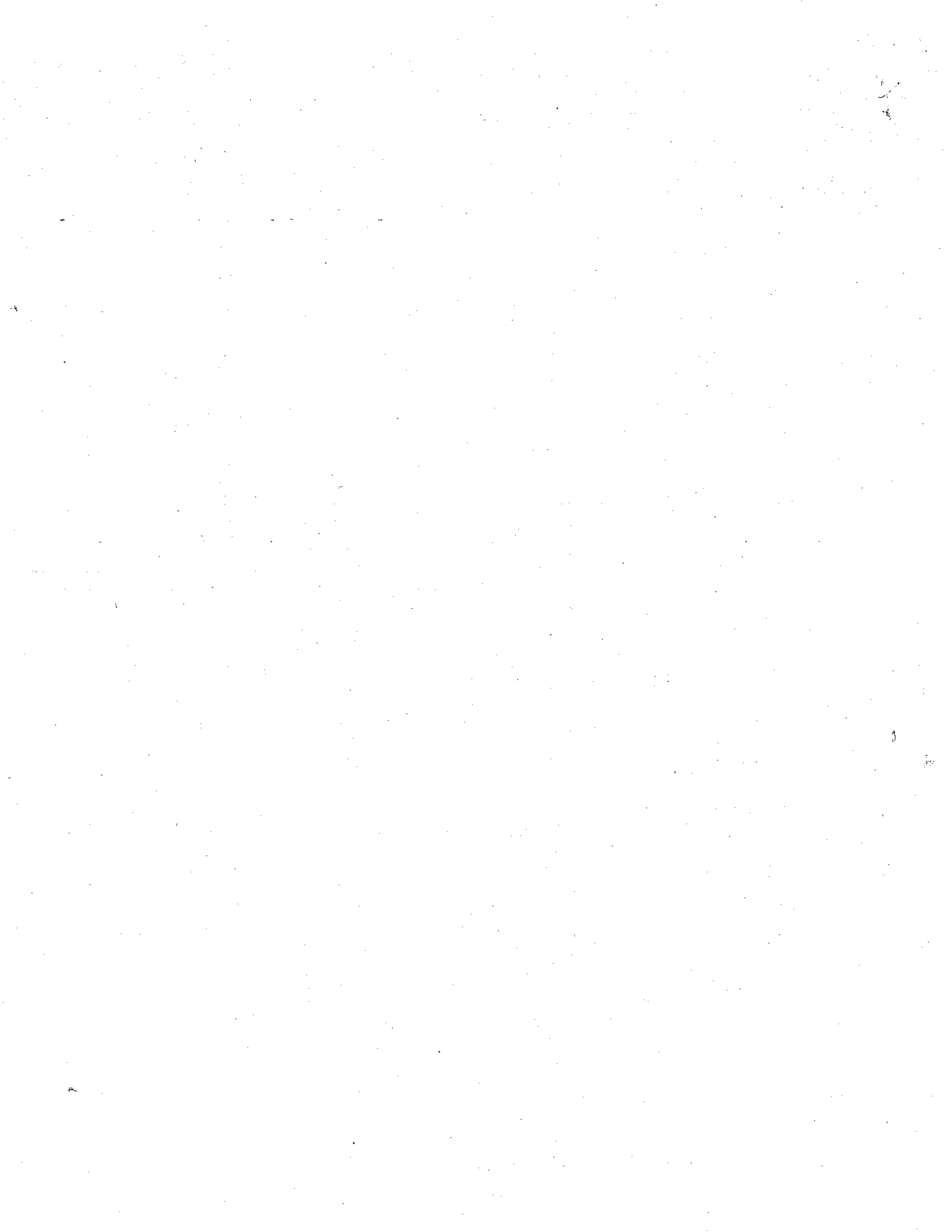


Figure 3. Estimated number of pots fished and the number of active vessels in the Oregon ocean commercial Dungeness crab fishery, 1949-50 through 2001-02 seasons.



**Date:** July 8, 2002

**To:** Oregon Crab Fisherman Limited Entry Permit License Holders

**From:** Rod Kaiser, ODFW Marine Resources Program & Lt. David Cleary, Oregon State Police  
Co-Chairs of the Oregon Crab Fishermen Advisory Committee

**Subject:** Pot Limitation "Moratorium" for 2002-03 Oregon Ocean Crab Season Pot Limitation

At the May meeting of the Oregon Dungeness Crab Fishermen Advisory Committee (FAC) at Newport, advisors voted 15 to 2 (with 1 abstention) to propose to the Oregon crab industry and Oregon Fish and Wildlife Commission, a **one year pot limitation system for the 2002-03 Oregon ocean commercial crab season only**. This plan is proposed on criteria that use a vessel's pot declaration history or vessel length if no Oregon declaration history exists. Its intent is to: (1) reduce the unrestricted expansion of new gear into the Oregon fishery during the 2002-03 season, and (2) provide an interim pot limitation while the advisory committee continues work on a long term pot limit solution in the next few months.

The enclosed material describes how this one-year pot limitation and individual vessel pot allocation process would work. Also, the staff including each of your vessel(s) current "hold inspection" pot declaration data on file with ODFW for review. It gives you a "draft" of the information and what a pot allocation could be for your vessel(s) and permits(s). The pot declaration information has been reviewed and updated over the past month, but is still considered draft information.

The FAC and staff ask each permit holder to review the proposal and respond on the enclosed ballot, whether they would support such a proposal for the 2002-03 season. If a simple majority of those responding support the proposal, ODFW staff will present this option to the Oregon Fish and Wildlife Commission for discussion, and public testimony, at the Commission's August 9 meeting at Corvallis Oregon. Please return the enclosed ballot in the self addressed envelope provided, by July 31 to the ODFW Newport office.

### **Other Issues**

The Committee has addressed two other issues in past meetings related to a control date for past participation in the fishery and a better accounting of actual gear being fished. Both issues have generally been discussed at both fall 2001 port meetings and at past crab advisory meetings. They are again summarized and discussed below for your information. Staff expects to discuss and address these issues at the August Commission meeting.

1. **Participation Control Date:** A commercial crab fishery control, date of August 14, 2001 (end of 2000-01 season) is proposed by the FAC for any future pot limitation system requiring past participation. This does not mean that a fisherman entering the fishery after

that date would not receive a pot allocation. It means that a vessel's pot allocation after that would be based on other criteria established. This proposal is intended to be part of a pot limitation option beyond the 2002-03 season; it does not affect any allocation made for the 2002-03 season. A proposed rule would read: "In the event the Commission establishes a vessel crab pot limitation or allocation system in the Oregon ocean commercial Dungeness crab fishery beyond the 2002-03 ocean crab season, August 14, 2001 is the control date established for eligibility criteria related to past participation in the ocean fishery." This proposal was proposed and adopted 14 to 3, by the FAC their October 2001 meeting.

**Considerations:** The control date of August 14, 2001 gives a preference for future pot limit allocations to fishermen (vessels) with a "history" of catch or participation prior to that date. At the same time, it also creates another class of fishermen (vessels) who enter the fishery after the control date. This group of valid limited entry permit holders would have to be allocated pots based on partially or wholly different eligibility criteria.

- 2. Count Crab Pots Prior to Fishing or Modify the Hold Inspection Process to Include a Pot Declaration:** Advisors, and many fishermen at port meetings, have discussed the need for a better assessment of actual pots fished in the Oregon ocean crab fishery. Several suggestions were made including a complete "physical inspection" of gear coast wide prior to the season (fishing), require a signed affidavit from the vessel operator that certifies a true accounting of gear to be fished, or a change in the current administrative rule, that presently requires a "hold inspection" for vessels during the first 30 days of the season, among others.

The ODFW and Oregon state Police (OSP) staffs do not have the ability to directly count, or coordinate, a coast wide physical inventory of gear each year. An "certification" could be added to the crab vessel hold inspection language to require a pot declaration of the number of posts to be fished, as part of the vessel hold inspection certification. Current regulations require a vessel operator to certify only that a vessel's hold is empty of crab. A proposed change to the current rule (regulation) would add a pot certification requirement to the current hold inspection. Staff is evaluating implementing this as a temporary rule for the 2002-03 season, pending a final outcome of the pot limitation issue.

Sincerely,

Lt. David M. Cleary, Fishery Section  
Oregon State Police

Rodney J. Kaiser, Marine Resources Program  
Oregon Department of Fish & Wildlife

Co-Chairs to the Oregon Crab Fisherman Advisory Committee

## CRAB ADVISORY COMMITTEE POT LIMIT PROPOSAL FOR 2002-03 SEASON

Below is the Oregon Crab Advisory Committee's pot limitation proposal for the 2002-03 fishery as proposed at their May 7 meeting. It is presented for review to Oregon crab limited entry permit holders. The proposal's main elements as described would constitute much of the language to be proposed as an Oregon Administrative rule for Oregon Fish and Wildlife Commission consideration at their August 9, 2002 meeting in Corvallis. This is a one-year pot limit system for the Oregon 2002-03 ocean commercial fishery. If the Commission adopted an ODFW "Oregon Administrative Rule" it would be stated for the 2002-03 season only, by specifying starting and ending dates.

**Please note the enclosed ballot to vote on whether you support or do not support the following approach for the 2002-03 season; a one-year pot limitation and vessel pot allocation process.**

### THE PROPOSAL

1. A pot limitation is proposed for the 2002-03 Oregon ocean commercial Dungeness crab fishery. A pot allocation would be described for each vessel *for the 2002-03 season only*.
2. A vessel's pot allocation would be based on the pot declaration history of each vessel's permit history over the past six seasons; 1995-96 (since start of Oregon crab limited entry) through 2000-01. If no permit declaration history exists, a vessel's pot allocation would be calculated based on the average pots declared for all vessels of similar overall length during that six year period (details in item 4 below and in Table 1).
3. Each permitted vessel expecting to fish off Oregon will receive a "pot allocation certificate" (PAC) showing the pot allocation for the 2002-03 fishing season.
4. This proposal, if adopted as an Oregon Administrative Rule by the Oregon Fish and Wildlife Commission, is proposed for one year only! Specifically, November 28, 2002 (to include the pre-season soak period) through August 14, 2003. Any vessel pot allocation for the 2002-03 season does not extend to, nor have any status in, any future Oregon pot limit option adopted beyond the 2002-03 season. No vessel permit holder should have any expectation of being able to carry this allocation forward into any future pot limitation program. The proposed rule would be written to end ("sunset") on August 14, 2003. If no further action is taken beyond the 2002-03 season no further limitation system would be in effect.
5. To calculate a vessel's pot allocation, the following procedure is proposed:
  - The "pot declaration history" for each Oregon limited entry permit is calculated for the period of 1995-96 through 2000-01 fishing seasons (six seasons), *less the "high year" pot declaration*. For example, if a permit has six years of pot declarations, the high year is dropped and the remaining five years are averaged to determine the 2002-03 season allocation for a vessel. If a permit has less than three pot declaration years, an average cannot be calculated after dropping the "high" year, as only one or zero years remain. In this case, a permit's pot allocation is based on the collective pot declaration average for a group of similar sized vessels inspected and declaring pots during the combined six year period of 1995-96 through 2000-01 (see table below).

- A vessel with an Oregon pot declaration average, based on three or more years, has the option to use either that average for the 2002-03 season, *or* the vessel length average from the “vessel length-pot average” table, whichever is higher.
- The vessel inspection and pot declaration list is maintained by the ODFW, Marine Resources Program and is the official list.
- The option proposes that for vessels receiving an allocation by the vessel length average method, all vessels equal or greater than 60 feet, be averaged together into a single maximum allocation tier as the number of vessels for various size groups above 60 feet are small and the number of pots fluctuates up and down for various groups.
- Any “new” vessel entering the Oregon fishery after August 14, 2001 (the committee’s proposed cut-off date for any future allocation based on participation) with a current and valid permit or a permit that has never fished since the start of limited entry, would receive an allocation based solely on their documented vessel length as listed in the ODFW Dungeness crab permit list.
- Each limited entry permit will receive a pot allocation certificate (PAC) for the 2002-03 season.
- No vessel may hold and fish more than one pot declaration certificate
- No vessel’s pot allocation may be transferred, traded, sold, or leased away from the vessel to which it is allocated for the 2002-03 season.
- An individual Oregon Dungeness crab limited entry permit holder whose vessel is assigned a PAC for the 2002-03 season would be able to request, in writing, a review of the allocation based on: (1) a documented change in vessel length, (2) documented correction in the vessel’s pot declaration history, and (3) a severe hardship due to past permit ownership where pot declarations were substantially different.

**Table 1.** Oregon ocean commercial Dungeness crab pot declaration made by vessel for the 1995-96 through 2000-01 season, by vessel size group. For each vessel length group, the overall average pots for all declarations and a pot average based on these declarations *less* the high year declaration for all vessels is shown. Vessels with fewer than three declarations during the six-year period would be assigned a pot allocation based on vessel length pot declaration averages in this table. Vessels equal or greater than 60 feet are grouped as one category due to small number of vessels per length category and variable pot averages.

Vessel Length Category (ft)	Average Pots (technical report)	Average minus Highest Declaration
< 25	137	110
25-29	211	171
30-34	287	268
35-39	319	289
40-44	399	374
45-49	467	428
50-54	470	460
55-59	573	555
≥ 60	669	651



**A PROPOSAL FOR POT LIMITATION  
For The  
OREGON OCEAN COMMERCIAL  
DUNGENESS CRAB FISHERY**

***2002-03 SEASON ONLY***

**--BALLOT--**

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**Question:** As an Oregon Dungeness crab limited entry permit holder, would you support the Oregon Crab Advisory Committee's proposal to limit the number of pots to be fished, by each vessel, in Oregon's 2002-03 fishing season (ONE YEAR ONLY) based on either a vessel's pot declaration history for the period 1995-96 through 2000-01 or average pots determined by vessel length if no pot history exists, as described in the attached proposal?

**PLEASE CIRCLE ONE BELOW**

**YES**

**NO**

**NOTE:** Place ballot in SASE provided and return to the ODFW Marine Resources Program office at Newport by July 31, 2002.

**If a simple majority (50% or more) of the ballots cast do not support the proposal, it will not be taken to the Oregon Fish & Wildlife Commission's August 2002 meeting for consideration.**

## Oregon Commercial Ocean Dungeness Crab Pot Declaration History Compiled by the Oregon Department of Fish and Wildlife

Listed below are the number of pots declared during vessel hold inspections (1995-96 through 2000-01) for your Oregon limited entry permitted vessel(s). The numbers are preliminary. Values in bold represent declarations made by other vessels (same permit), bold & italicized values = Washington inspection declarations and entries showing the word "blank" indicate that the vessel was inspected, but number of pots was left blank. Declared pot averages were obtained by deleting the highest declaration and calculating the average. Vessels with fewer than 3 recorded declarations have an 'A', indicating that the vessel length average would be used. Lengths are as recorded on ODFW Dungeness crab limited entry permit list.

*(This page would include information specific to permit and vessel pot history)*

## DIVISION 006

**COMMERCIAL FISHERIES  
COMMERCIAL GEAR; LICENSES, POUNDAGE  
FEES,  
RECORDS AND REPORTS**

635-006-1015

**Requirement for Permit**

(1) The following provide general requirements for permits:

- (a) Gillnet salmon - see ORS 508.775;
- (b) Troll salmon - see ORS 508.801 and 508.828;
- (c) Shrimp - see ORS 508.880 and 508.883;
- (d) Scallop - see ORS 508.840 and 508.843;
- (e) Roe-herring:

(A) It is *unlawful* for an individual to operate a vessel in the Yaquina Bay roe-herring fishery without first obtaining a vessel permit issued pursuant to OAR 635-006-1035 through 635-006-1095;

(B) It is *unlawful* for a wholesaler, canner or buyer to buy or receive roe-herring taken in the Yaquina Bay roe-herring fishery from a vessel for which the permit required by section (1)(e) of this rule has not been issued.

(f) Sea Urchin:

(A) It is *unlawful* for an individual to take or attempt to take sea urchins for commercial purposes without first obtaining a permit issued pursuant to OAR 635-006-1035 through 635-006-1095;

(B) It is *unlawful* for a wholesaler, canner, or buyer to buy or receive sea urchins taken in the sea urchin fishery from a person for which the permit required by section (1)(f) of this rule has not been issued.

(g) Ocean Dungeness crab:

(A) Except as provided under the reciprocity provisions of [section 6 (3)]ORS 508.941(3), it is *unlawful* for an individual to operate a vessel in the ocean Dungeness crab fishery without first obtaining a vessel permit issued pursuant to ORS 508.931 or 508.941. A Dungeness crab vessel permit is not required for vessels that are engaged solely in setting gear for a permitted vessel and which do not retrieve, retain or possess Dungeness crab.

(B) Between 8:00 a.m., November 28, 2002 and 12 midnight, August 14, 2003, it is unlawful for an individual to operate a vessel in the ocean Dungeness crab fishery in Oregon state territorial (0-3 nautical miles) and federal Exclusive Economic Zone (EEZ; 3-200 nautical miles) waters adjacent to Oregon without first obtaining a vessel pot allocation certificate (PAC) pursuant to OAR 635-006-1016.

(C) A single delivery license may not be substituted for an ocean Dungeness crab permit. Once a vessel has obtained an ocean Dungeness crab permit, Dungeness crab may be landed by the vessel using a combination of an ocean Dungeness crab permit and a single delivery permit in lieu of a commercial fishing and boat license. However, crab may not be landed more than twice in any one crab season using single delivery permits.

(h) Developmental Fisheries: See ORS 506.450 through ORS 506.465 and OAR 635-006-0800 through 635-006-0950.

(1) July 1, 2001 is the control date to establish eligibility criteria for the purpose of future limited entry programs for the commercial groundfish fishery.

(2) The permits required by section (1) of this rule are in addition to and not in lieu of the commercial fishing and boat license required by ORS 508.235 and 508.260.

(3) No vessel may hold more than one vessel permit for a given fishery at any one time.

(4) Unless otherwise provided, vessel permits must be purchased by December 31 of the license year.

(5) No vessel permit may be transferred away from a vessel without the lien holder's written permission.

(6) Applications for permits shall be in such form and contain such information as the Department may prescribe. Proof of length of a vessel may be required at the time of application.

Stat. Auth.: ORS 506.119  
Stats. Implemented: ORS 506.109, 506.129, and 508.921 through 508.941  
Hist.:

635-006-1016

Crab Vessel Pot Allocation Certificates

(1) The Department will issue a pot allocation certificate (PAC) to each Oregon crab limited entry permit license, or to an equivalent Washington or California Dungeness crab fishery limited entry license, before the start of the 2002-03 season.

The crab vessel pot allocation certificate will establish the total number of pots that may be used by each limited entry permit and vessel in the Oregon fishery. A vessel's pot allocation will be based on either:

(a) a permit's Oregon "pot declaration" history, as declared by the vessel operator at the time of the pre-season vessel hold inspection process for the 1995-96 through 2000-01 seasons (base period) and that is calculated by averaging pots when two or more pot declaration years are available, after excluding the high pot declaration year, or

(b) an allocation determined from a table of "vessel pot averages" calculated from all vessels of similar length declaring pots in the Oregon fishery during the base period.

(2) If a vessel's pot allocation is based on the vessel limited entry permit pot declaration history, the vessel's limited entry license holder may use either that pot declaration average or a pot average based on that vessel's registered length, whichever is greater.

(3) Vessels entering the fishery for the first time after the 2000-01 season and vessels from Oregon, Washington, and California without an Oregon pot declaration history will receive an allocation based on the "vessel pot averages" table for vessels of similar length.

(4) The Department will establish and maintain an official pot declaration list, by vessel and crab limited entry permit number, and a table of average pots per vessel length category based on all pot declaration receipts on file for the base period.

(5) No vessel may fish more than one assigned pot allocation for the 2002-03 season.

(6) No vessel PAC may be transferred, traded, sold, or leased away from the vessel to which it is allocated for the 2002-03 season.

(7) A Dungeness crab limited entry permit holder whose vessel is assigned a PAC for the 2002-03 season may request a review of the allocation as follows:

(a) Concerning vessel length. The Department may allow a higher allocation if it finds documented changes in registered overall length of the vessel supported by manufacture's specifications for the vessel, or a change in the documented length based on a U.S. Coast Guard or certified marine survey. Requests for changes in vessel length with supporting documentation must be received by the Department's Licensing Services at P.O. Box 59, Portland, Oregon 97207, no later than 60 days after the date the Department issued the PAC.

(b) Concerning pot declaration history or prior permit ownership. The Department may allow a higher allocation based on a correction in the vessel's pot declaration history or special circumstances created by prior (multiple) permit ownership in the base period when the pot declaration history is used to calculate an allocation. If prior ownership creates an allocation for a current permit and vessel owner based on the pot declaration history that is 30 percent or more below the 2000-01 pot declaration level, an allocation will be set at 80 percent of the 2000-01 declaration level shown on the Department's official list. Requests for review of pot declaration history or prior ownership must be sent in

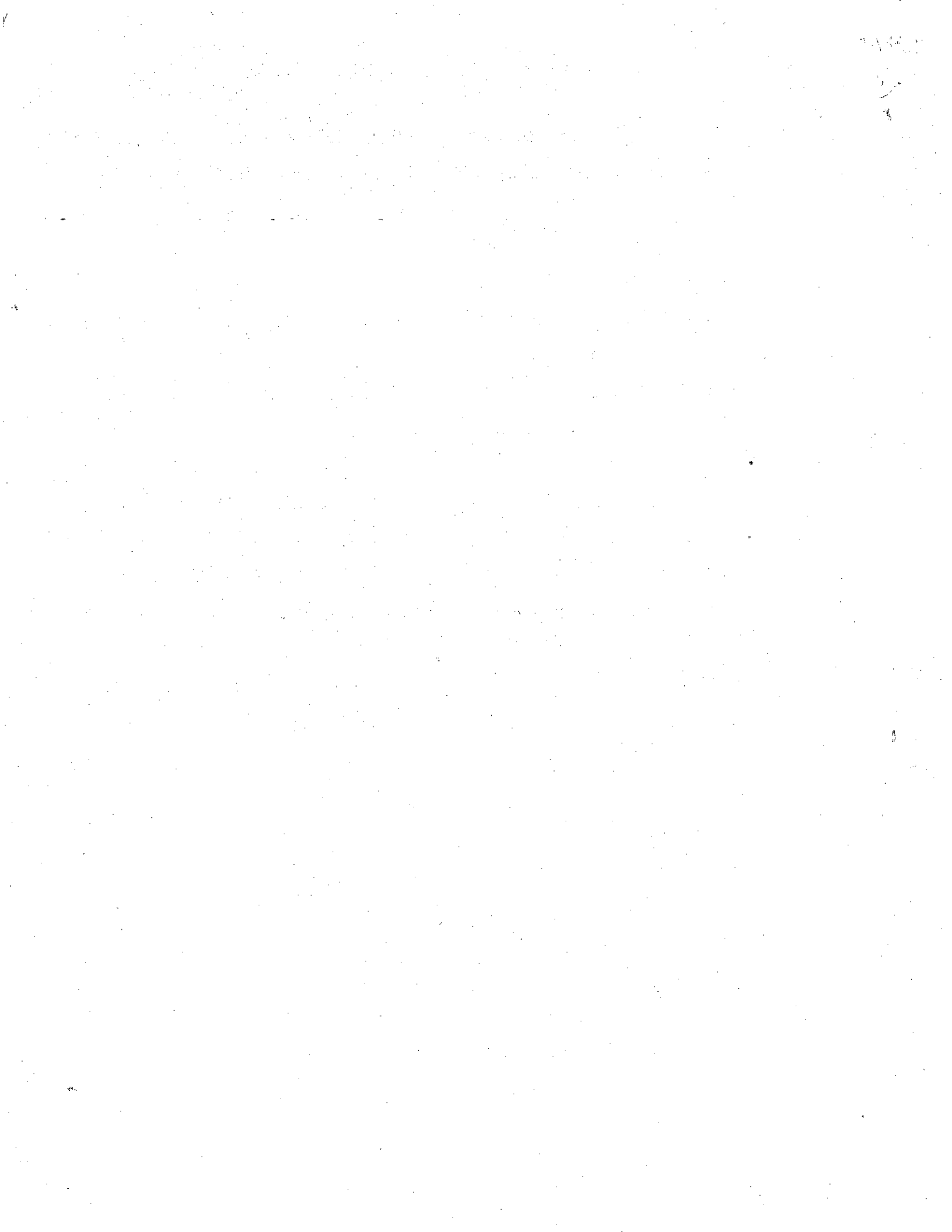
writing to the Department's Marine Resources Program, 2040 SE Marine Science Dr., Newport, OR 97365, no later than 60 days after the date the Department issued the PAC.

(8) If the Commission establishes a vessel crab pot limitation or allocation system beyond the 2002-03 ocean crab season, August 14, 2001 is the control date for eligibility criteria related to past participation in the ocean fishery.

(9) In addition to certifying that the vessel is free of crab on November 30 each year, as required by OAR 635-005-0045(1), each vessel operator must declare and certify on the Oregon hold inspection certification form the maximum number of pots that will be used in that season's fishery before fishing.

(10) Applications for PACs must be in such form and contain such information as the Department may prescribe. Proof of length of a vessel may be required at the time of application.

Stat. Auth.: ORS 506.119  
Stats. Implemented: ORS 506.109, 506.129, and 508.921  
through 508.941  
Hist.:



**NO PUBLIC  
COMMENTS**

**AS OF**

**7/26/02**

