

*J. Golden
Newport*



Summary of Agenda Item

Title: Commercial Dungeness Crab Fishery

Date of Meeting: October 21, 1992 Exhibit #

Principal Staff Person: Jim Golden Phone: 867-4741

Read and Approved By:

Division Chief: REDACTED FOR PRIVACY Date: 9-29-92
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Attorney General: REDACTED FOR PRIVACY Date: 10-1-92

Director: REDACTED FOR PRIVACY Date: 10-2-92
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Description of Item:

See attached.

Public Involvement Process:

Tri-State Dungeness Crab Committee meetings; survey questionnaire; and, town hall meetings in Charleston, Newport, Astoria, and Brookings.

Supplemental Information Attached: Yes X No

Hearing Notice & Fiscal Impact Statement Attached: Yes X No

Description of Item:

The Dungeness crab issues have been separated into four parts.

Issues 1 and 3 address ways to deal with the presence of softshell crab by delaying the season opening in areas where preseason sampling indicates the presence of a set percentage of softshell crabs, and by early closure of the season when catch after May 31 exceeds 10% of December-May catch.

Issue 2 is further separated into two parts addressing the Tri-state committee's recommendation for a limited entry system for the Dungeness crab fishery, and an industry proposal to adopt a temporary license moratorium in Oregon.

Issue 4 is a report on domoic acid, a marine shellfish toxin, and the Department's work with Health Division to coordinate sampling of Dungeness crab.



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Relationship to:

Oregon revised statute - ORS # 506.119 and 506.129

Oregon administrative rule - OAR # Chapter 635, Division 05

Options available to Commission:

See attached.

Option recommended: _____

- Issues 1 and 3 - Adopt staff recommendation to give Director authority to amend season dates and area closures.
- Issue 2 - Continue study of a license moratorium for Oregon. Reaffirm August 14, 1991, eligibility date for any license limitation system.

Draft motion:

- 1) I move to amend OAR 635-05-045 to delegate authority to the Director to close the summer fishery and delay the winter opener as proposed by staff.
- 2) I move to recommend continued participation in the development of a limited entry for Dungeness crab and to reaffirm the Commission's previous action establishing an August 14, 1991, cutoff date for a license limitation system that may be adopted.

Options available to Commission:

- Issue 1**
- ☞ Adopt staff recommendation to give the Director authority to delay season opening and establish area closures.
 - ☞ No action.
- Issue 2**
- ☞ Support a tri-state limited entry system and continue study of a license moratorium for Oregon. Reaffirm August 14, 1991, cutoff.
 - ☞ Adopt a license moratorium.
- Issue 3**
- ☞ Adopt the staff recommendation (Option A) to close after May 31 if 10% of December through May catch is achieved.
 - ☞ Adopt alternative restrictive measures (Options B through F).
 - ☞ Maintain status quo.
- Issue 4**
- ☞ Information only.

NOTICE OF PROPOSED RULEMAKING HEARING

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

AGENCY: Oregon Department of Fish and Wildlife
(Department) (Division)

The above named agency gives notice of hearing.

HEARINGS TO BE HELD:

Date: Oct. 21, 1992 Time: *TBA Location: Oregon Department of Fish and Wildlife
Commission Room
2501 SW First Avenue
Portland, OR 97201

Hearings Officer(s): *An agenda will be available 10 days prior to the meeting
and is available by writing or calling the address below.

Pursuant to the statutory authority of ORS 506.119 and 506.129 or
Chapter(s) _____, Oregon Laws 19____ or
House Bill(s) _____ or Senate Bill(s) _____, 19____ Legislature

the following action is proposed:

ADOPT: _____

AMEND: Chapter 635, Division 05

REPEAL: _____

☐ Prior Notice Given; Hearing Requested by Interested Persons ☒ No Prior Notice Given

SUMMARY:

Amend rules regulating the commercial Dungeness crab fishery including measures to adjust timing of the season, prevent gear conflicts with other fisheries, and establishing a license moratorium.

Interested persons may comment on the proposed rules orally or in writing at the hearing. Written comments received by Oct. 14, 1992 will also be considered. Written comments should be sent to and copies of the proposed rulemaking may be obtained from:

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

ATTN: Kay Brown
(503) 229-5400 ext 354

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Signature

Date

9-14-92

BEFORE THE FISH AND WILDLIFE COMMISSION
OF THE
STATE OF OREGON

In the matter of the amendment of) STATUTORY AUTHORITY, STATEMENT OF
rules relating to commercial) NEED, PRINCIPAL DOCUMENTS RELIED
Dungeness crab fishery) UPON, AND STATEMENT OF FISCAL IMPACT

1. Citation of statutory authority: ORS 506.119 and 506.129.

2. Need for the rules: The rules are needed to adopt commercial crab regulations which are consistent with neighboring states, adjust timing of the season, reduce the amount of ocean conflict with other fisheries, and establish a license moratorium. The rules are intended to assure all fishermen have a fair opportunity to share in the harvest and enhance the state's ability to enforce regulations designed to protect the resource.

3. Documents, reports and studies relied upon in proposing the amendment: Staff report prepared for October 21, 1992, Commission hearing.

The above is available for public inspection at the Department of Fish and Wildlife, 2501 SW 1st Avenue, Portland, Oregon, during regular business hours, 8:00 a.m. to 4:30 p.m., Monday through Friday.

4. Fiscal and economic impact: See attached.

Dated: September 14, 1992

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Randy Fisher
Director

**Economic Impact Statement for the October 21, 1992 Hearing
on the Amendment of Rules Relating to
the Management of the Commercial Dungeness Crab Fishery**

Fiscal and economic impact: The proposed rules will affect state agencies, units of local government and the public, respectively, as discussed below. The proposed amendments may include rules to:

- (1) Adjust the timing of the season due to concerns over soft shells, domoic acid and consistency.
- (2) Establish a license moratorium.
- (3) Reduce gear conflicts with other ocean fisheries.

a. State agencies which could be affected by rules relating to crab management regulations are the Oregon Department of Fish and Wildlife (ODFW) and the Oregon State Police (OSP). However, no major changes from the current levels of these agencies' operations or expenditures are expected as a result of these particular rules. Establishment of a license moratorium system in the commercial crab fishery could increase management costs. There would be additional cost to identify vessels which could qualify for a limited license or permit, and (to a lesser extent) for issuing annual licenses or permits to qualified vessels.

b. Units of local government which could be affected by these regulations include port authorities and county governments. Port authorities and county governments may derive revenues and experience costs related to the provision of moorage. However, no significant changes are expected as a result of these rules.

c. The public is affected by these rules:

(1) In calendar year 1989 over 11.6 million pounds of ocean caught crab were landed in Oregon and had an average ex-vessel price of \$1.16 per pound. For 1990, nearly 9.5 million pounds were landed at an ex-vessel price of \$1.53 per pound. Overall landings for 1991 dropped to 4.8 million pounds at an average price of \$1.53; however, prices dropped to \$1.23 per pound in December. Preliminary data for calendar year 1992 as of this writing indicates an average price of \$1.26 per pound for January through August. These numbers reflect the per unit effect on harvest level revenues which would be associated with increases or decreases in ocean crab harvests.

The estimated impact on state level total personal income (direct, indirect and induced) per pound of ocean caught crab harvested and processed in Oregon was about \$3.07 in 1989. A preliminary estimate of the 1990 total personal income impact per pound is about \$3.70 per pound. A very rough estimate of the income impact per pound for 1992 is about \$3.25 per pound. These estimates represent a reasonable range of per unit effect on

state level total personal income which would be associated with increases or decreases in ocean crab harvests.

Any additional restrictions placed on season length, area or amount of gear could be expected to have some negative impact on specific harvesters revenues and community personal income to the extent that catches were not correspondingly higher in the opening part of the next season (usually in December). There may be a relatively more negative effect on harvesters that tend to depend more on the summer fishery than the winter fishery, e.g., smaller boats vs. larger boats. We do not have enough information to predict the differential responses of different harvesters to the regulations.

In recent years a relatively low proportion of the ocean crab catch has been made in July and August. There may be some positive effects on the other fisheries (troll salmon and inshore trawling for flatfish) which have experienced the conflicts with crab gear. It is not possible to specify quantitatively what the positive or negative effects on revenues or income would be, however.

(2) Because there are already more than enough harvesters to fully exploit the harvestable surpluses of ocean crab, the establishment of a license moratorium would not be expected to have an effect on the total level of catch or associated harvest-level revenues or personal income. Implementation of such a system would have the effect of discouraging new entrants to the crab fleet, because the potential new entrant would have to obtain a crab fishery permit or license by purchasing it from an existing permit holder. This may not be a negative aspect either from the perspective of the existing fleet or in terms of economic efficiency, but it would increase the costs of getting into the crab fishery for new entrants and it might reduce purchases of gear from those businesses which sell crab gear. The potential magnitude of this impact is not quantifiable, because we have no data which would suggest how many new or existing commercial fishing operations would be affected.

Although the rules relating to crab season management can be viewed as potentially restricting harvesting and processing opportunities in the short run, conservation through the use of fishing seasons and other regulations is intended to maintain the quality and quantity of the product landed in the long run and hence the economic benefits to harvesters and processors of crab, and the general economy. The proposed regulations are intended to strike a balance which will sustain present and future benefits, while maintaining an orderly fishery and reasonable equity among existing harvesters.

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

Closed Season

635-05-045 (1) It is unlawful to take Dungeness crab for commercial purposes from the Pacific Ocean or Columbia River from August 15 through November 30.

(2) It is unlawful to take Dungeness crab for commercial purposes from any bay or estuary, except the Columbia River:

- (a) From January 1 through Labor Day;
- (b) From midnight Friday through midnight Sunday of any week; and
- (c) On all legal state and federal holidays.

(3) It is unlawful prior to January 1 to land or to receive, or to buy, Dungeness crab from a vessel that has not been certified by officials of the State of Oregon, Washington, or California to have been free of Dungeness crab on November 30.

(4) Upon a determination by the Department that preseason sampling indicates the consistent presence of more than 50% grade II and III (softshell) crab in the samples, the Fish and Wildlife Director may adopt a temporary rule delaying the opening date of the commercial crab season in affected areas until additional sampling indicates meat recovery is 23% or is projected to be 23% by the opening date.

(5) Upon a determination by the Department that catch in the Pacific Ocean of Dungeness crab after May 31 is greater than 10% of the catch in the previous December 1 through May 31 period, the Fish and Wildlife Director shall adopt a temporary rule closing the commercial season until the following December 1. Adopted 10-21-92, ef. 11-1-92

October 1992

STAFF REPORT ON COMMERCIAL DUNGENESS CRAB FISHERIES

Executive Summary

The public hearing on October 21 is a comprehensive review of the commercial crab fishery. At the hearing ODFW staff will: 1) recommend adoption of rules to delegate authority to the director to delay seasons due to softshell crab conditions; 2) request continued authorization to analyze options for a limited entry system for Dungeness crab in cooperation with Washington, California and the Pacific States Marine Fisheries Commission and request reaffirmation by the Commission of its earlier decision to use August 14, 1991 as a cutoff date, should a license limitation system be adopted; 3) recommend opposition to an industry proposal which would adopt a license moratorium in advance of a limited entry system; and 4) recommend the Commission delegate authority to the Director to close summer crab seasons when more than 10% of the December through May catch has been exceeded. In addition to recommendations on the crab fishery, the staff will provide an update on Domoic Acid.

Oregon Dungeness Crab Fishery History and Status

- o The Oregon fishery for Dungeness crab dates back to before 1889. The modern era began shortly after World War II when the landings reached 10 million pounds and then began fluctuating, with a long term average annual catch of approximately 9 million pounds (Demory, 1990).
- o The most significant change in recent decades is the greater increase in effort in the fishery. Larger modern boats and large increases in numbers of pots have compressed the majority of the annual landings into a two month period (Demory, 1990).
- o Effort shifts from one area on the West Coast to another have become common. Some of the largest operations will deploy 700 or more pots (as many as 1,600) for the December 1 opener, make several very large deliveries and then leave the fishery in as little as three weeks.
- o The number of Oregon crab boats in the 1989-90 season (December 1 through August 14) was the second highest on record at 378, and the estimated 150,000 pots was an all-time high. The annual catch for that season was 9.3 million pounds.
- o The 20 year average annual catch in Oregon is 8.4 million pounds. The escalation in effort coastwide has led to most of the issues facing industry and managers today.

Recent and Upcoming Activities

- o In October of 1991, the Commission reviewed progress made by Tri-State Dungeness Crab Committee formed to resolve Washington, Oregon, and California issues. The Commission took action to establish

August 14, 1991, as a cut-off date for future eligibility in any license limitation plan that might be developed for Dungeness crab. The Commission will be asked at this meeting to reaffirm this policy decision.

- o The Tri-state Dungeness Crab Committee continued to meet during the 1991-92 season, and reached a consensus on establishing softshell condition sampling and delay procedures for the season opener (Attachment 1).
- o Staff will be working in cooperation with industry and other state and federal agencies to begin pre-season testing for domoic acid in Dungeness crab, which lead to a season delay at the beginning of the 1991-92 season.
- o The public involvement process for these issues included Tri-state Committee meetings and survey questionnaire as well as a series of coastal meetings sponsored by the Department (Attachment 3).

Issues and Options

- o ISSUE 1 - Presence of softshell crab at the beginning of the season.
 - Option A (preferred): Delegate authority to the Director to implement a season opener delay when appropriate.
 - Option B: No action
- o ISSUE 2A - Tri-state limited entry study.
 - Option A (preferred): Authorize ODFW, in cooperation with Washington, California and PSMFC, to analyze options for a limited entry system. Reaffirm August 14, 1991 as eligibility date for any license limitation system.
 - Option B: No action
- o ISSUE 2B - Oregon license moratorium beginning in 1992.
 - Option A: Oppose industry request for moratorium.
 - Option B: Consider an industry request to implement a license moratorium beginning December 1, 1992.
- o ISSUE 3 - Sorting softshell crab in the summer crab fishery.
 - Option A: (Preferred) Limit landings after May 31 to 10% of December through May catch.
 - Option B: Sample for crab condition, close season or areas when softshell crab are present
 - Option C: Close late season ocean crab fishery.
 - Option D: Limit landings after June 15 to a fixed percentage of December through May catch.
 - Option E: Limit fishing gear during the summer, reduce gear conflicts and protect softshell crab.
 - Option F: Status Quo
- o ISSUE 4 - Report on Domoic Acid

The following describes in detail the issues, options and staff recommendations.

RECOMMENDATIONS: ANALYSIS OF ISSUES AND OPTIONS

ISSUE 1: Presence of softshell crab at the beginning of the season

ACTION: Staff recommends Commission adoption of the attached rule implementing a season opener delay to be carried out by the director when necessary.

About once or twice each decade, crab off Washington and northern Oregon molt later than normal and do not reach acceptable quality in time for the coastwide opening of December 1. If, during these few years, the fishery is opened on December 1, then an unacceptable amount of sorting at sea and landing of poor quality crab occurs, harmful to both the resource and market. The Tri-state Committee developed the proposed solution which will prevent effort shifting and poor use of the resource. The Committee's recommendation was to postpone the season only during those occasional years when a problem with softshell crab exists.

Area closure and delay of the fishery would occur if pre-season sampling indicated the consistent presence of more than 50% grade II and III (softshell). Additional sampling would be conducted to establish a boundary for closure of the northern area. Once the northern limits of the open area was determined, fishermen would have to declare, which area they were going to fish. Having so declared, they would be prohibited from fishing the undeclared area for 30 days after the opening of the second (delayed) area. A season opening will not be delayed less than 15 days nor longer than 45 days. The season opening date would be set when additional sampling indicated that meat recovery was estimated to be 23% or projected to achieve 23% by the opening date (refer to Attachment 1).

Because crab experienced an early molt this year, we do not anticipate delaying the 1992-93 season due to softshell crab. This would provide staff sufficient time to work with industry representatives along the north coast to establish workable boundaries.

With this proposed rule, product quality would be insured and effort shifting and associated social and economic impacts would be minimized. Disadvantages would be delay in income and the potential for lost markets. Tri-state Committee members reached a consensus on this issue and most testifying during the 1992 townhall meetings were in favor or not opposed to the proposed rule. If implemented, the test fishery to determine the north-south line would have some fiscal impact on Shellfish Program.

ISSUE 2A): Tri-state limited entry study.

ACTION : Continue Tri-state Committee study of limited entry.

Staff recommends committing Department resources in cooperation with Pacific States Marine Fisheries Commission, Washington, and California to analyze options for a limited entry system for the ocean Dungeness crab fishery.

The Pacific Fishery Management Council approved a limited entry plan for the groundfish fishery, which will be implemented in 1994. Because some current participants will be displaced by the groundfish limited entry plan, there could be a surge of new entrants into the Dungeness fishery, one of the few remaining open access fisheries. Other west coast fisheries are also experiencing reductions, causing boats to look for new alternatives. More than sufficient effort already exists to harvest all of the available resource in the ocean Dungeness crab fishery.

The Tri-state Committee's majority opinion was that a limitation on the number of vessels participating in the tri-state fishery is needed and recommends that the crab fishing industry in each of the three states should pursue legislation which limits eligibility in the tri-state fishery, only to those crabbers (or vessels) which participated in the fishery prior to May 30, 1991.

Issues to be dealt with under a study on limited entry include eligibility requirements, desired fleet size and profile, how to treat owners of vessels under construction, etc. The Pacific Fishery Management Council staff and Limited Entry Advisory and Drafting Committees spent several years addressing these and other issues during the development of Amendment 6 (Limited Entry) to the Fishery Management Plan for Pacific Coast Groundfish. Staff is prepared to assist in such an analysis and funding will be available from Pacific Staff Marine Fisheries Commission.

A clear signal needs to be sent to potential new entrants into the ocean Dungeness crab fishery, that they may be excluded under the limited entry system if they had not participated on or before August 14, 1992. A re-affirmation by the Commission would help discourage investment during the interim period while a limited entry plan is developed.

ISSUE 2B): Oregon license moratorium beginning in 1992.

ACTION: Oppose an Oregon license moratorium, effective 12/01/92.

California recently adopted legislation establishing a moratorium on the number of licenses issued for the Dungeness crab fishery. The legislation awaits their governor's signature. Any individual who had not landed crab commercially between August 5, 1982 and August 5, 1992 would not be eligible for a crab permit in the future.

Most vessel owners attending Department sponsored townhall meetings favored adopting an immediate license moratorium similar to California's. This would be an interim measure while the Tri-state

Committee conducts a PSMFC sponsored study on limited entry. Under the industry proposal, only past vessel owners would be eligible for a license to fish for Dungeness crab during the upcoming season which begins December 1, 1992.

Staff is opposed to establishing a license moratorium at this time. We are concerned that an inadequately designed and reviewed moratorium proposal may result in excessive litigation. There has been insufficient time to develop details of a license moratorium including eligibility criteria, renewal and transferability provisions and create a permit review board. Should the Commission adopt a license moratorium, staff may not be able to draft and implement rules necessary by the December 1, 1992 opener.

Industry representatives intended that this proposal be designed to have no immediate effect on any past participant in the ocean Dungeness crab fishery. The benefits of this option would be to discourage additional new participants into the fishery, thus capping effort.

ISSUE 3 **Sorting softshell crab in the summer crab fishery.**

ACTION: **Staff recommends Option A (below), which would give the Director authority to close the summer fishery when landings after May 31 reach 10 percent of the December 1 through May 31 catch.**

The coastal population of mature male Dungeness crab typically molts around the summer months - late spring to early fall. Crab are soft from six weeks to two months or more. The timing of the molt as well as the distribution of soft-shelled crab seems to vary considerably both by area and by year. Most of the pre-molt male crab are harvested prior to the summer. Summer fishing can involve a high handling rate of softshells resulting in significant mortality and at times, marketing of softshell crab or selling on a recovery basis.

For many years, the crab season ended on September 15. Catch and effort typically tapered off during the last three months of the fishery, averaging less than 5% of the annual catch total. In 1982 and 1983, 31 and 28% of the annual catch was landed after June 1. Most of the volume of crab landed was in poor condition, resulting in some outright wastage of the resource and a probable depression of future catches due to handling mortalities. With broad industry support, the season was shortened in 1985 to August 14. From 1985 to 1991, landings after June 1 have totalled from 3 to 7% of the annual harvest. In recent years the market for picked-out Dungeness crab meat has been depressed. Much of this market in the ^{summer months} past was supplied by lower quality crab.

In the past four seasons, higher prices for crab and reduced salmon troll opportunities lead to an increase in effort late in the ocean crab season. The 1990-91 catch from June 1, 1991 through August 14, 1991 was about 7% of the season total but effort was nearly 17% of annual effort. Effort increased during the summer of 1992 and catch increased to 11% of the season total (Attachment 2, Figures 2-4). For the Oregon fishery, late season effort can result in a high sorting

rate of softshell crabs during the peak of the molting period. The molting period is typically a month or more later in northern Oregon than in the rest of the state, mirroring the situation at the beginning of the season. There is inadequate data to define the range of molting times by geographic area in Oregon.

Staff sampled crab at-sea during the 1991-92 season and made 11 trips between May 15 and August 12, 1992 between Newport and Charleston (Attachment 2). The pilot study found that an average of 77% of legal males caught were condition II or III, and that the percentage of softshell crab increased as the summer progressed (Attachment 2, Figure 1). Markets seemed to be highly selective for hardshell crab in most cases, and in some crabbers had difficulty obtaining markets. Thus, a significant amount of handling and sorting was required to land suitable product. While most buyers maintained a high quality standard, crabs sampled in the marketplace were still noticeably inferior (softer) than winter crab, which is typical of summer crab production. Crab condition varied along the coast, and staff was not able to commit the resources to sample coastwide. Staff submitted a proposal for Saltonstall-Kennedy funds to study the molt cycle on a more comprehensive basis, and initiate handling mortality studies.

The Tri-state Dungeness Crab Committee members agree that "recovery fishing" on softshell crabs should be stopped. Differences in the other two states' regulations apparently help control this potential loss in economic yield. Sampling programs in Washington are used to enforce rules prohibiting landing of softshell crab in that state. Softshell regulations based on sampling may be expensive and difficult to enforce due to the problem of legally defining a "softshell" crab. California closes their season July 15, eliminating the late summer fishery there, and trawling is prohibited inside of three miles.

Despite numerous concerns on this issue, no Oregon consensus solution has been developed. In the 1991 questionnaire results and 1992 townhall meetings, a slight majority of the Oregon industry favored the option of closing the season earlier. A strong majority rejected the ideas of trip limits and/or depth restrictions. Those fishing during the summer months feel that restrictions during the summer would unfairly allocate more catch to larger boats fishing the season opener. Many of these individuals would favor a year-round season, or trip limits in combination with quality control regulations, to spread the catch out and make it available to more participants. Those not fishing during the summer feel that if there is either significant handling mortality, or reduced product quality, the season should be restricted or shortened. Coastwide, responses from the three-state 1991 questionnaire included numerous write-in ideas. These included 30 individuals favoring closing the fishery earlier in the summer. Others suggested pot limits during the summer, shortening the season south of Cascade Head, and legally defining a softshell crab. Some also expressed concerns over increased trawler activity on the summer crab grounds if the season were shortened and petitioners recommended elimination of trawling within 50 fathoms.

OPTIONS FOR ISSUE 3:

A. Limit landings after May 31 to 10 percent of December through May catch.

This option would place a quota or harvest guideline on the summer fishery. The season would close as soon as the quota was achieved. If the quota was not reached, the season would close August 15.

Positive benefits would be limits which would minimize damage to softshell crab but still allow a summer fishery. This option should be easy to enforce and would require less staff time to monitor crab condition in the summer.

Disadvantages would be a variable end to the season, and establishing a fixed quota may lead to an 'Olympic' summer fishery or increased effort.

B. Sample for crab condition, close season and/or areas when softshell crab are present.

Under this option, the Director would be given authority to close the season in an area where catch rates were high and crab condition was poor. The following guidelines would be used: If projected catch for the June 1-August 14 period exceeded 10% of the seasons catch, and upon finding consistent samples with more than 50% grade II and III (softshell) crab in an area, the crab season would be closed. This proposal would insure high quality crab while minimizing handling losses. The majority of fishermen support closing the fishery when softshell crab predominate on the grounds. The disadvantages would be effort shifting due to changes in seasons and areas. The sampling program would be an additional cost to the Shellfish Program, or require reprogramming of existing tasks. If charter money was not available, staff would have to depend on industry cooperation to conduct at-sea sampling.

C. Close late season ocean crab fishery.

Prohibit commercial harvest of Dungeness crab in Pacific ocean and Columbia River July 15 through November 30 each year.

A slight majority statewide favored this option in a 1991 survey. Many felt that trawler impacts need to be addressed at the same time. This option does not address geographic differences in crab condition, a concern expressed at the 1992 townhall meetings.

Positive benefits would be ease of enforcement. Damage to softshell crabs and recovery fishing would be reduced. Gear conflicts would be reduced. The loss of catch during the last month is a small percentage of the season's total catch.

The negative aspects of this option would be a reduction of fresh crab on the market during the peak of tourist and restaurant season. This option, while simple, would also close areas where there is little or no softshell crab problem during the summer months. Some crabbers would have no alternative fishery to participate in.

D. Restrictive trip limit during the summer, reduce gear conflicts and protect softshell crab.

Limit commercial harvest of Dungeness crab in the Pacific Ocean and Columbia River to one per trip per week of 750 pounds.

Gear conflicts would be reduced, handling of soft crab might be reduced, and fresh crab would still be available for summer markets under this proposal. Voluntary cooperation during the 1991-92 season reduced some of the conflict seen during 1990-91. A restraint on summer effort would aid in keeping gear conflicts and damage to softshell crab at a minimum. A 750 pound per week trip limit may not permit sufficient landings to cover operational costs in some areas, however. There was little industry support for this option at townhall meetings.

E. Limit fishing gear during the summer, reduce gear conflicts and protect softshell crab.

Effective June 15, limit the number of pots to 200 per boat. This proposal would provide a disincentive for increased effort and would attempt to maintain lower summer time harvest levels. Benefits would be reduced gear conflicts, reduction of handling mortality on softshell crab, and provision for a fishery to supply summer markets. Some disadvantages are the rule may be difficult to enforce, and effort could continue to increase by the addition of more boats. In some areas, vessel operators may not be able to crab due to operational costs which might be too high the amount of crab landed. This option did not receive strong support at the 1992 townhall meetings.

F. status quo.

Most of those from Charleston and Brookings want to see some change in regulating the summer fishery. Status quo was not an acceptable option to them. Those fishing out of northern ports favored status quo or test fishing to determine crab condition.

Issue 4. Report on Domoic Acid

Last season was disrupted with a temporary closure due to the presence of a marine shellfish toxin, domoic acid, in the viscera of crab. Subsequent testing showed safe levels in the meat, and the season was re-opened when gut levels declined. A health advisory warning people not to eat the viscera was issued by the Department of Agriculture and U.S. Food and Drug Administration.

Department staff met September 9, 1992 with the Department of Agriculture, Health Division, U.S. Food and Drug Administration and National Marine Fisheries Service to discuss sampling plans for domoic acid. Staff made a commitment to coordinate pre-season sampling of Dungeness crab with Health Division sampling of razor clams, and to initiate sampling the end of September on a monthly basis. If levels of domoic acid in crab increase, sampling efforts will be intensified. Staff is still waiting for final criteria from health officials on levels of domoic acid which would require a season delay.

References

Anonymous. 1992. Amendment 6 (limited entry) to the fishery management plan for Pacific Coast groundfish including supplemental environmental impact statement and regulatory impact review. Pacific Fishery Management Council, Portland, Oregon.

Demory, Darrell. 1990. History and status of the Oregon Dungeness crab fishery. Oregon Department of Fish and Wildlife. 12 pp.

Closed Season

635-05-045 (1) It is unlawful to take Dungeness crab for commercial purposes from the Pacific Ocean or Columbia River from August 15 through November 30.

(2) It is unlawful to take Dungeness crab for commercial purposes from any bay or estuary, except the Columbia River:

- (a) From January 1 through Labor Day;
- (b) From midnight Friday through midnight Sunday of any week; and
- (c) On all legal state and federal holidays.

(3) It is unlawful prior to January 1 to land or to receive, or to buy, Dungeness crab from a vessel that has not been certified by officials of the State of Oregon, Washington, or California to have been free of Dungeness crab on November 30.

(4) Upon a determination by the Department that preseason sampling indicates the consistent presence of more than 50% grade II and III (softshell) crab in the samples, the Fish and Wildlife Director may adopt a temporary rule delaying the opening date of the commercial crab season in affected areas until additional sampling indicates meat recovery is 23% or is projected to be 23% by the opening date.

(5) Upon a determination by the Department that catch in the Pacific Ocean of Dungeness crab after May 31 is greater than 10% of the catch in the previous December 1 through May 31 period, the Fish and Wildlife Director shall adopt a temporary rule closing the commercial season until the following December 1. Adopted 10-21-92, ef. 11-1-92

Attachment 1: Tri-state Dungeness Crab Committee proposed procedures for test fishing soft-shell crab

I. Test fishery procedure:

- a. Washington will conduct test fishing for crab condition only (not crab abundance) on or about October 20 as follows:

- 1) Crab pots will be "soaked" for 2 days at approximately 18 stations at depths of 12 to 32 fathoms. The sampling goal is to grade 100 legal-sized crab at each of the 18 stations. This will normally require that 8 pots be set at each station. The stations are spread over two test fishery zones.
- 2) Catch (number of crab) per pot will not be recorded or disclosed; in addition, it will be requested of non-agency personnel aboard the test fishing vessel that this information not be divulged. Otherwise, industry observers are encouraged to be aboard the vessel.

The state fishery agencies believe that this information (catch per pot) is usually of little or no value in estimating crab abundance. The Committee recognizes that there is a widespread perception within the industry that test fishing results affect fishing effort distribution and possibly ex-vessel price negotiations, and wishes to avoid unwarranted controversy.

- 3) Sub-samples of approximately 500 pounds from each of the two Washington test fisheries will be taken for meat recovery (pick out) testing. Processing procedure is as follows:

- A) Grade III crab will not be included in the sample;
- B) Crab will have all legs and be otherwise undamaged;
- C) Crab will be weighed "green" after draining for a least 2 hours (green weight);
- D) Cooking will be in fresh water for 12 minutes;
- E) Crab will be picked out and the meat weighed (picked weight);
- F) Crab meat will be brined (90% brine), cleaned, rinsed, and weighed (packed weight);
- G) Packed weight is divided by drained green weight to calculate the meat recovery percentage.

NOTE: This standardized procedure is estimated to give a meat recovery value which is 3 percentage points higher than that obtained by most processors.

II. Decision on need for further test fishing:

- a. No further test fishing will be needed if the results of Washington's first test fishery indicate crab will be in acceptable condition by December 1. The coastwide season opening date will be set uniformly as December 1.

- b. A second test fishery will be conducted if the results of the first test fishery indicate 50% or more of the legal-sized crab are in grades II and III. (50% is based on a sampling date of October 20.)
- c. If "b" occurs, Oregon will begin test fishing as soon as possible after receiving notification from Washington of test fishing results.
- d. Oregon will conduct the test fishery to determine the southern-most extent of the soft-shell area in the zone between the Columbia River and Cascade Head.
- e. Washington and Oregon will conduct a second test fishery approximately 20 days after Washington's first test fishery. The target date for the second test fishery is November 10.
- f. It is anticipated that a decision on whether or not the season will be opened on December 1 can be made following the second test fishery. However, a third test fishery may be needed. If so, test fishing will be conducted on about November 20.

NOTE: A season opening will not be delayed less than 15 days nor longer than 45 days.

- III. **If the season is delayed**, the actual date of the season opening will be determined by meat recovery testing. The meat recovery percentage criterion for opening the season is 23%. The season opening date will be set when it can be determined with reasonable certainty that this criterion will be met. (NOTES: As mentioned earlier, the standardized procedure is estimated to give a meat recovery value which is 3 percentage points higher than that obtained by most processors. Until more data on the rate of meat recovery improvement is collected, a rate of 0.5% per week will be used to project the season opening date.)

IV. **If the season is delayed**, fishing zones will be established.

- a. The entire California, Oregon, and Washington fishing grounds will be divided into two zones - northern and southern. The boundary between the zones will take into account the existence of traditional fishing patterns.
- b. Fishers may elect to fish in either zone. However, a fisher electing to fish in the southern zone (opening on December 1) may not fish in the northern zone until 30 days after the northern zone has opened. The fisher must declare his intention on the pre-season vessel/hold inspection, or using the method specified by his state management authority.
- c. A 64-hour gear-setting period will be allowed before the season opening date.

Attachment 2: Results of the 1992 Summer crab condition pilot study and characterization of the summer crab fishery, 1977-1992

Between 15 May 1992 and 12 August 1992, 7 ODFW biologists conducted ride-alongs on 11 commercial crab trips. The ports represented in the pilot study were: Newport, Florence, Winchester Bay and Charleston. A total of 2456 pots were fished of which 711 pots were sampled for crab condition. We examined 7422 crabs in the study.

RESULTS

SEX RATIO

LEGAL MALES	51% OF TOTAL, 84% OF MALES
SUB-LEGAL MALES	10% OF TOTAL, 16% OF MALES
FEMALES	39% OF TOTAL

CONDITION (LEGAL MALES)

CONDITION 1	23%
CONDITION 2	47%
CONDITION 3	30%

The estimated retention rate of males caught that were retained for sale is 35%.

PERCENTAGE OF LEGAL MALES BY CONDITION, 1992

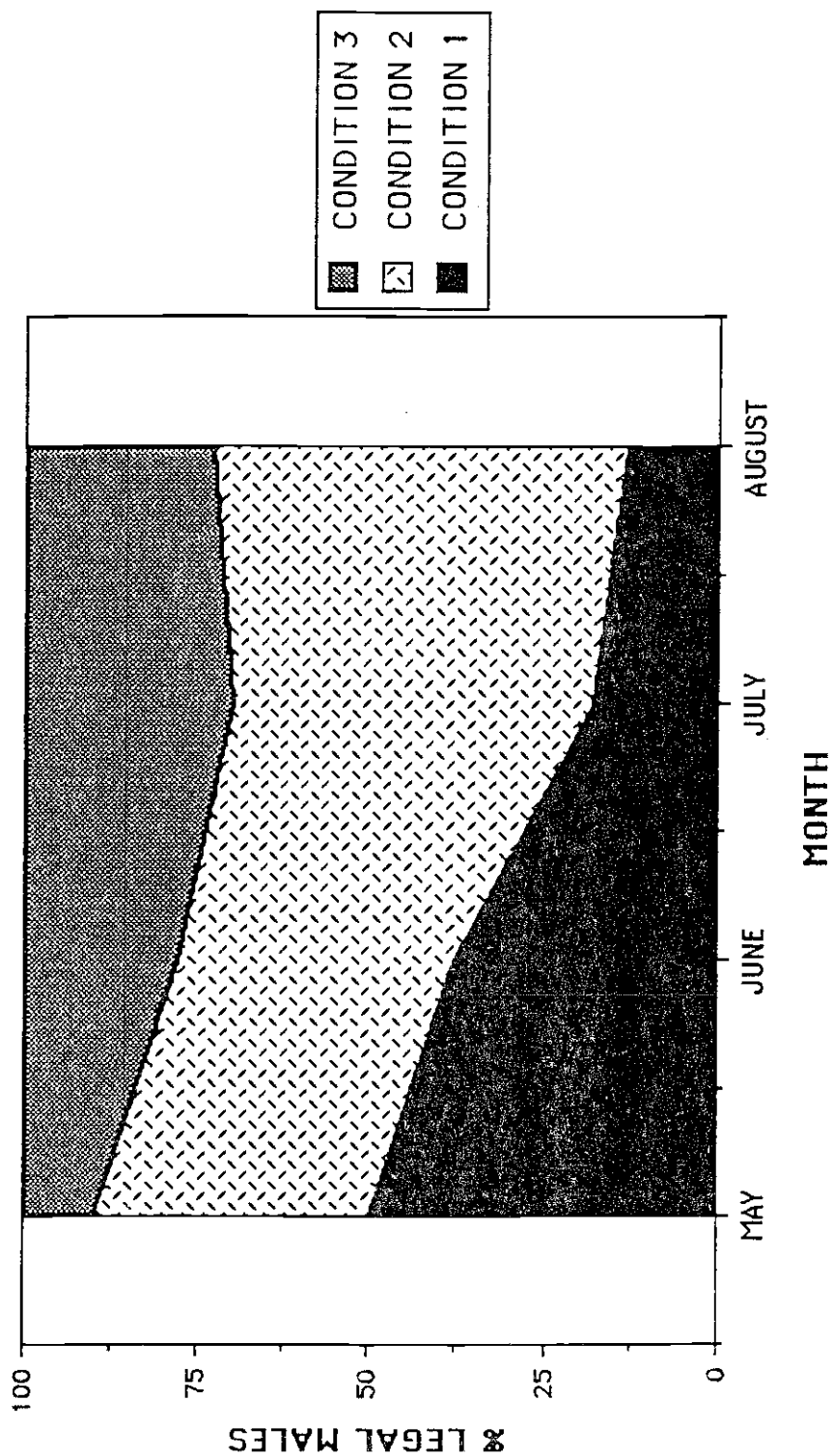


FIGURE 1

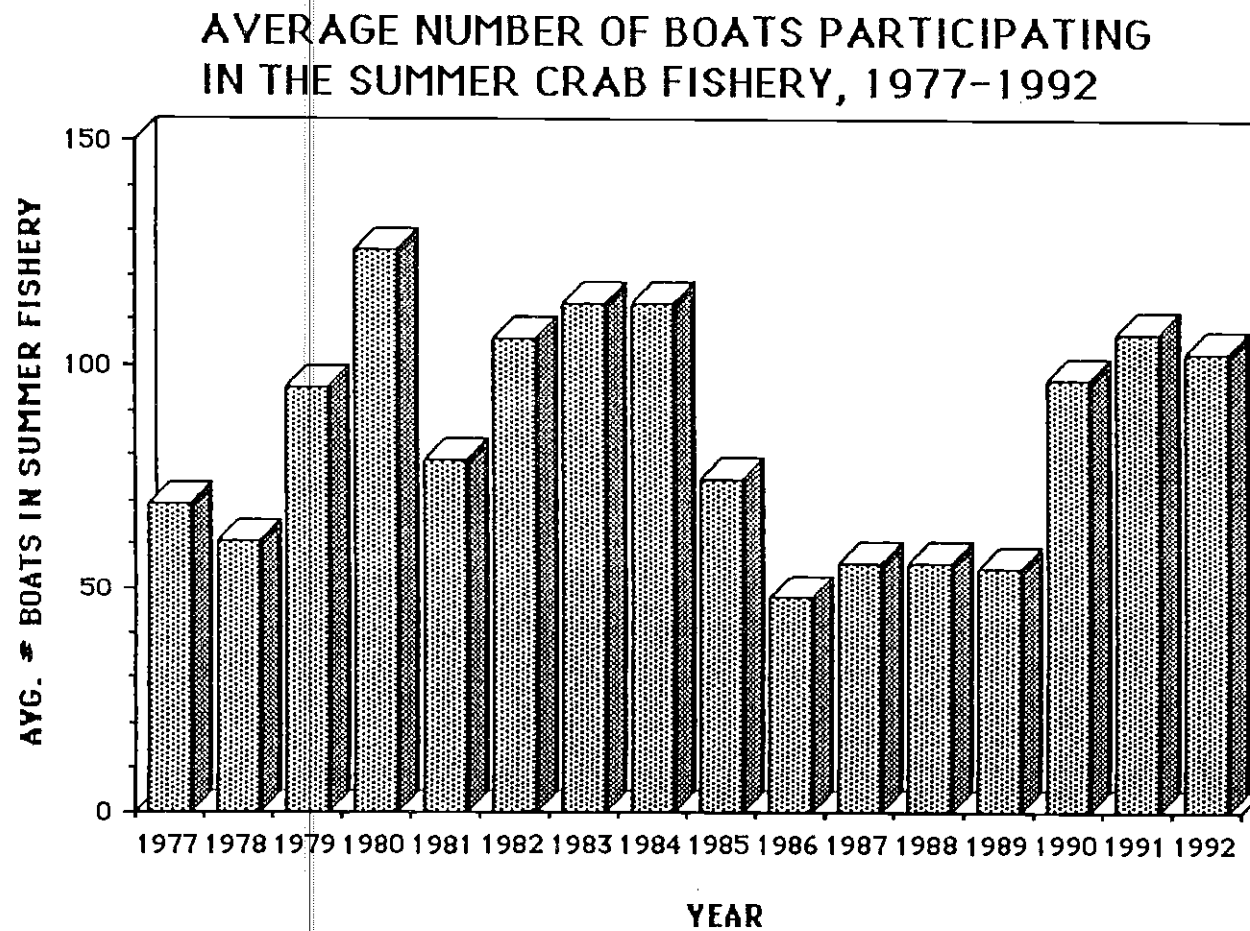


FIGURE 2

CRAB LANDINGS (lbs.) FROM THE SUMMER FISHERY, 1977-1992

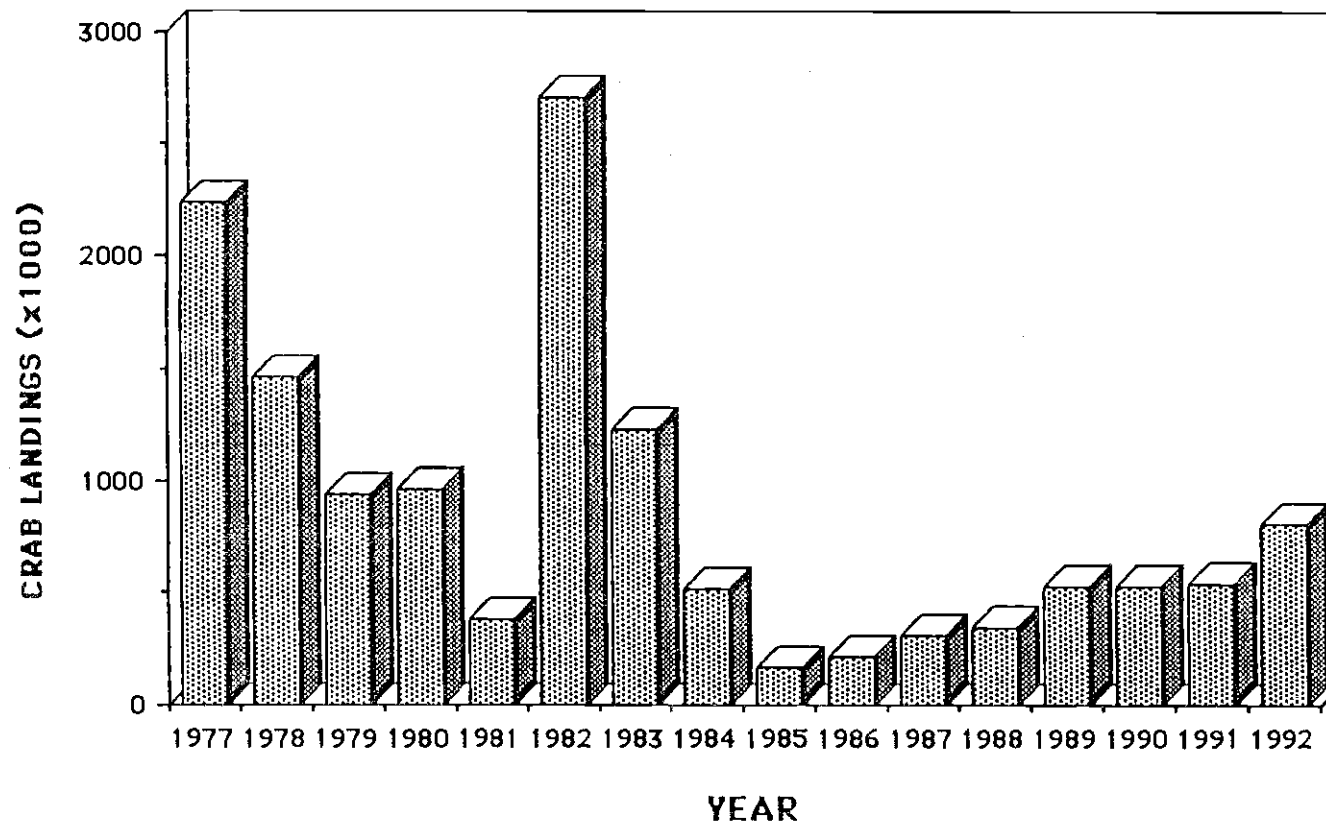


FIGURE 3

COMPARISON OF ANNUAL CRAB LANDINGS AND LANDINGS FROM THE SUMMER FISHERY

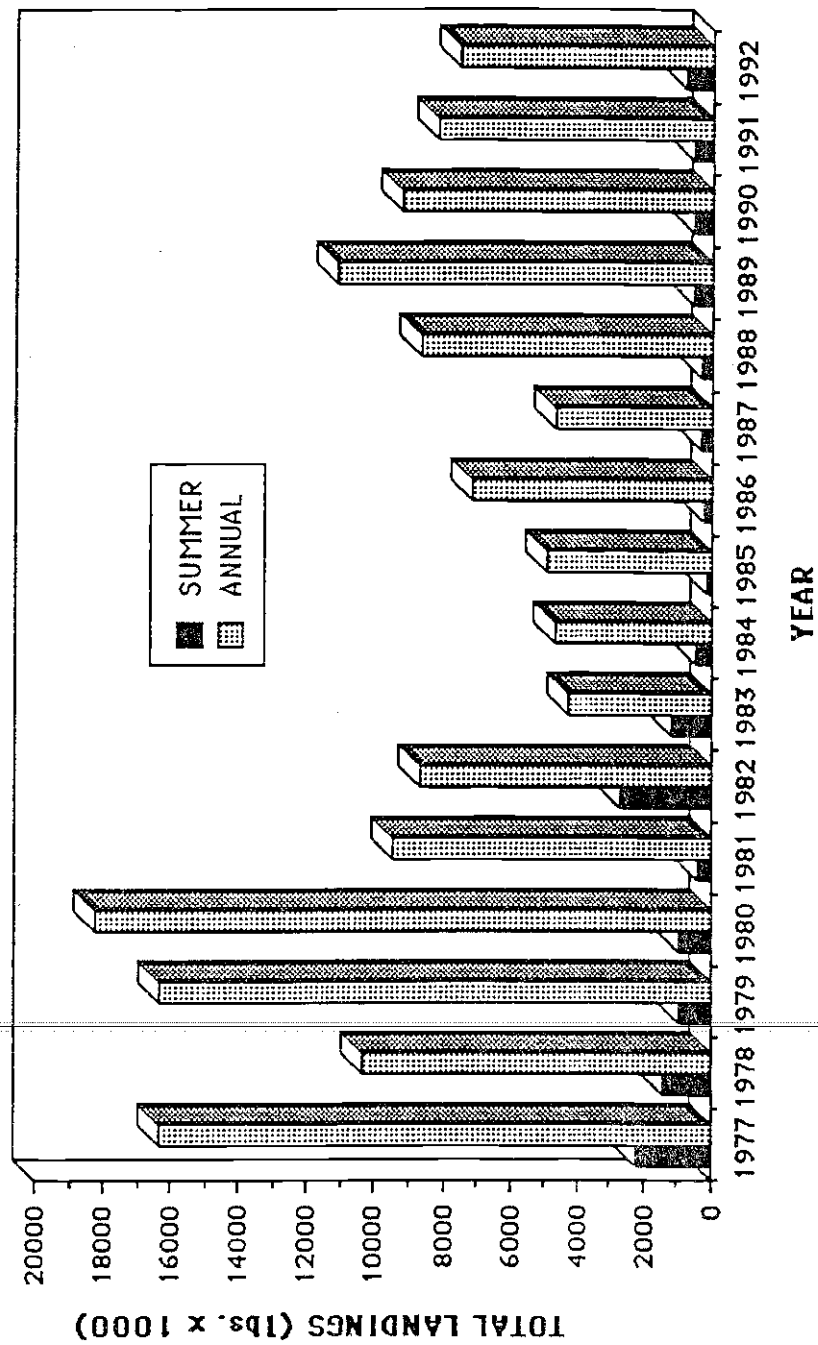


FIGURE 4

PERCENTAGE OF THE OREGON ANNUAL CRAB HARVEST
TAKEN IN THE SUMMER FISHERY, 1977-1992

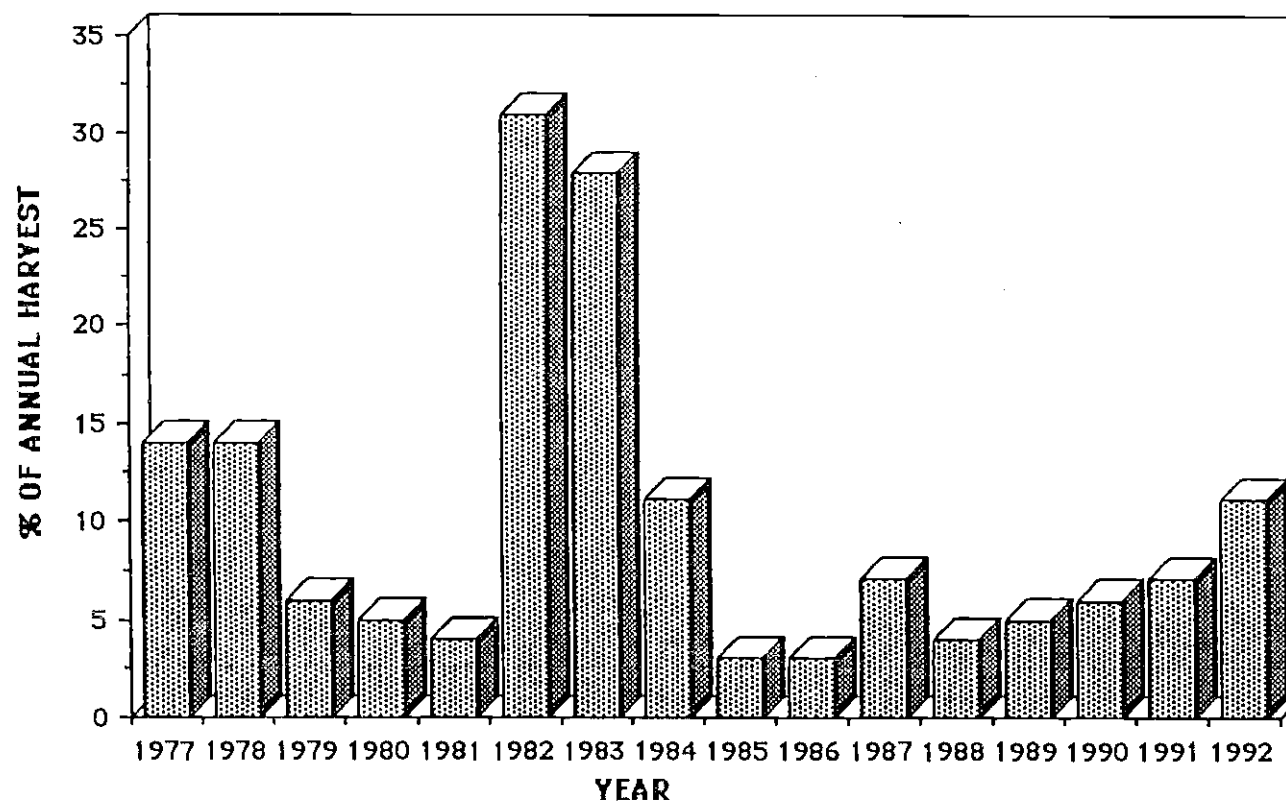


FIGURE 5

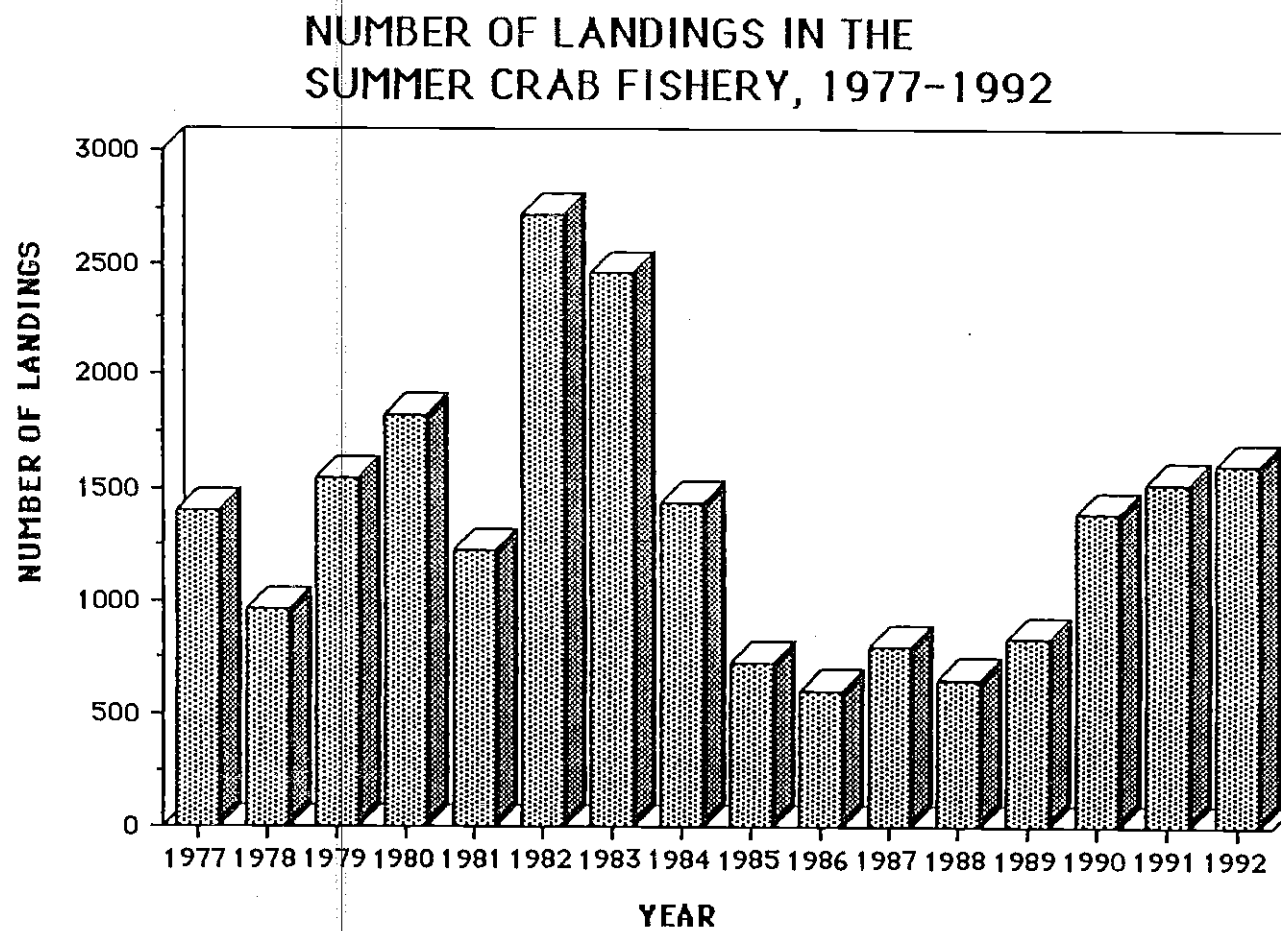


FIGURE 6

Attachment 3: Results of the public input process

A. Oregon townhall meetings

Meetings were held at Charleston, Newport, Astoria and Brookings on September 8, 9, 10 and 14, 1992, respectively. Fisherman and processor attendance was 26 in Charleston, 19 in Newport, 4 in Astoria and 19 in Brookings. Summarized below, by issue, are the comments received.

1. *Softshell Crab, beginning of season.*

This issue and the proposed tri-state solution have been known to industry for almost a year. No opposition to the tri-state solution was voiced at Charleston, Astoria or Brookings. At Newport, there was no opposition but a concern that the possible dividing lines be equitably drawn, well before the first delay scenario is encountered. Also, there was some concern that the maximum delay period should be longer than 45 days if necessary.

2. *Tri-state limited entry; Oregon moratorium.*

These issues generated extensive discussion. A large majority of crabbers continue to support limited entry. The biggest concern is that any limited entry scheme must allow Oregon boats to fish inside three miles off California and Washington, even if each state ultimately prohibits landings by out-of-state boats. The Brookings and Astoria fishermen were particularly concerned, as major portions of their historic fishing grounds are outside of Oregon's jurisdiction. Several fishermen in Brookings were concerned over any provision (limited entry or moratorium) which qualifies boats based on capital investment. They cited examples of abuse in other fishery effort limitation programs.

The majority of attendees favored a moratorium on new crab vessels. Charleston and Brookings fishermen were concerned that the probable California moratorium could shift new boats into Oregon waters this winter. In all ports, the fundamental concept of only preventing new participants (boats) was favored as a guideline for crafting a relatively simple moratorium. At all meetings, questions were raised regarding fairness to Oregon fishermen who might want to or plan to enter the fishery in the future. In several ports there was a concern over attracting and retaining qualified crewmen, whose interest in working on a crab boat is often tied to the goal of someday owning a crab boat.

Many fishermen were concerned over transfer and capital investment clauses in a moratorium proposal. Transfers by currently active crab boats were favored, generally without length restrictions. Some sort of restrictions over permit transfers were favored by most for: a) vessels currently not crabbing, b) those which had qualified under a capital investment clause. Concerns were expressed that the bay crab fishery might attract new participants over the next several years, since it would be the only open

crab fishery remaining unless included in a separate moratorium.

Votes on a moratorium, effective Dec. 1, 1992, were as follows:

Charleston:	13 in favor	3 opposed
Newport:	10 in favor	6 opposed
Astoria:	3 in favor	0 opposed
Brookings:	10 in favor	2 opposed
<u>Combined total:</u>	<u>36 in favor</u>	<u>11 opposed</u>

3. Summer crab fishery

This issue provided the greatest diversity of opinions. Fishermen at the two northern ports favored status quo or test fishing to determine an earlier closure, while only one fisherman favored status quo at the two southern ports. In Charleston, opinions were split between earlier closure, summer pot limits, test fishing for closure and reopening, and imposing a softshell landing regulation. In Brookings, an earlier closing date was the unanimous choice. Few fishermen favored splitting the coast for an earlier closure only in the southern part. In Newport however, status quo was favored until better data was available on handling mortality and the molt cycle. The concept of test fishing for earlier closure was supported, but other management options were not. In Astoria the discussion centered on the need to provide crab fishing opportunity for as long as possible, and closing the fishery early should be tied to consideration of an earlier reopening. One fisherman favored a year-round season.

Additional comments were received on a variety of issues as the subject of fishery impacts on yield were discussed. At all meetings staff was requested to document impacts of nearshore trawlers on the crab resource. Many comments expressed the need to stop the landing of softshell crabs. Fishermen focused on the need for a sport crab survey to document the bay fisheries, the poor utilization and handling of crabs by sportsmen, and questioned the need for the smaller size and 12 crab bag limits. Estuarine habitat protection and seal predation were also emphasized at Charleston. Almost all commercial fishermen are opposed to the sport harvest of female crabs in bays. The state's ability to pay for and enforce any pot limit proposal was questioned. A request was made for staff to investigate best-handling practices for releasing unmarketable crabs.

B) Preliminary Tri-State Dungeness Crab Committee questionnaire results:

Response rate (as of September 24, 1992):

State	Returns	Did not Return	Returned Undelivered	Total Sent
CA	325 (32%)	634	50	1009
OR	176 (29%)	396	42	614
WA	127 (35%)	202	29	358

Question 1: Are you in favor of limited entry ?

State	Yes	No	Total
CA	199 (61%)	126 (39%)	325
OR	122 (70%)	53 (30%)	175
WA	110 (87%)	16 (13%)	126

Question 2: What type of limited entry. **1-state** (landings in a state qualifies boat to land in that state) or **3-state** (landings in one state qualifies boat to land in all three states) ?

State	1-State	3-State	Total
CA	191 (62%)	116 (38%)	307
OR	84 (50%)	84 (50%)	168
WA	99 (80%)	25 (20%)	124



EXECUTIVE DIRECTOR
GUY N. THORNBURGH

BROWN
xc Bohn
Coenen
J. Golden
9-1-92
PV

PACIFIC STATES MARINE FISHERIES COMMISSION

2501 S.W. FIRST AVENUE, SUITE 200, PORTLAND, OREGON 97201
PHONE (503) 326-7025 FAX (503) 326-7033

August 21, 1992

Randy Fisher, Director
Oregon Department of Fish and Wildlife
PO Box 59
Portland, OR 97207

RECEIVED

AUG 24 1992

O.D.F.W. MAIL DEPT.

Dear Director Fisher:

The Tri-State Dungeness Crab Committee has made considerable progress in recent months at addressing several matters of concern to the industry. Agreement has been reached on the contentious issue of soft-shelled crab at the beginning of the season. *Consequently, we seek your support and assistance in achieving the coastwide regulatory action necessary to implement our proposed solution.*

Background

The harvest of soft-shell crab subjects the Dungeness crab population to handling at a sensitive stage of its life cycle, while the sale of soft-shell crabs introduces product of poor quality into our markets. Molting and the subsequent soft-shell condition is a phenomenon that generally occurs later in the more northerly waters of our area. While fishing seasons are generally designed to avoid the molt, annual variations can change the timing of the molt to coincide with open fishing seasons in some years. Late molting can be expected to occur unpredictably in Washington and northern Oregon one or two years out of ten. These timing differences make it imperative that management strategies in the three states be coordinated. We recognize that local delays in the season opening date to accommodate late molting could have severe reallocative effects unless fishermen in those northern areas are allowed to participate in an opening free from the competition of fishermen who have participated in earlier season openings further south.

Proposed Solution

We support continuation of the effective Washington Department of Fisheries (WDF) soft-shell testing program that occurs before the scheduled fishery opening date (See the attached proposal for standardized test fishing procedures that is based on the WDF program.)

In those years in which this testing indicates that the December 1 opening date would result in a fishery on molting and/or soft-shell crab, we endorse a delay of the opening in Washington waters for fifteen (15) to forty-five (45) days. Further, in those years in which WDF testing

indicates the need for a delayed opening, we propose comparable testing by your department in northern Oregon waters, from the Columbia River to Cascade Head, to determine the southern extent of the soft-shell condition. We recommend that Oregon delay the fishery opening comparably to Washington in those northern Oregon waters where crab are in the soft-shell condition. The southern boundary of the delayed-opening area will be determined by the Oregon test results, plus input from affected fishermen. The boundary will in no case be further south than Cascade Head..

We recommend that in those few years in which the opening of the Dungeness crab fishery in Washington and northern Oregon is delayed due to soft-shell conditions, fishermen who have participated in the earlier season opening be precluded from fishing in Washington and northern Oregon waters for thirty (30) days after the delayed opening date. In these years fishermen in Washington and Oregon will be required to declare, probably at the time of hold inspection, whether they plan to begin fishing north or south of the soft-shell closure line.

In California waters, molting and soft-shell conditions are unlikely to affect the opening of the winter fishery. The cooperation of California authorities is needed, however, to ensure compliance with this agreement on a coastwide basis. Accordingly, during years when the opening of the Dungeness crab fishery in Washington and northern Oregon is delayed due to soft-shell conditions, we request that California require fishermen to declare whether they plan to begin fishing north or south of the delayed-opening line. We ask California to then make these declarations available to authorities in Washington and Oregon before the delayed northern area opening. We strongly recommend that California initiate a program of pre-fishing hold inspections comparable to those performed in Washington and Oregon; the declarations could become a part of that hold inspection program.

This solution was difficult for us because further regulations, particularly ones that "draw lines in the ocean", are contrary to the current appeal of this coastwide fishery. This fishery has required minimal regulation over the past several decades. However, the circumstances of Washington's unilateral postponement of the 1989 fishery were too overwhelming to preclude a revised program for the future. As a tri-state fishery, our proposed solution will only work if all three states promulgate compatible regulatory mechanisms to assure that every vessel participates within the structure of this proposal. We are committed to working with the rest of our industry to achieve this new program. We now seek your commitment to help us implement it.

In addition to the soft-shell issue at the beginning of the season, the Committee also remains deeply concerned about soft-shell conditions that may occur in Oregon waters before the scheduled end of the season (August 15). We will continue to discuss this issue, but also request that your department commit to working with the Oregon industry to address this issue in a timely manner.

Respectfully,
The Tri-State Crab Committee

Encl.

THE TRI-STATE DUNGENESS CRAB COMMITTEE

CALIFORNIA

Mike Cunningham
Eureka, CA

Tom Glakeler
Bodega Bay, CA

Tom Leshner
McKinleville, CA

Duncan MacLean
El Granada, CA

Ken Nelson
Eureka, CA

Tom Timmers
Crescent City, CA

OREGON

Mark Charlton
Warrenton, OR

Bob Eder
Newport, OR

Al Gann
Warrenton, OR

Rick Goché
Coos Bay, OR

Jerry Hampel
Charleston, OR

Paul Heikkila
Coquille, OR

Ken Martinson
Newport, OR

Spence Moore
Harbor, OR

Joe Speir
Brookings, OR

WASHINGTON

Leif Andersen
Westport, WA

Richard N. Sheldon
Ocean Park, WA

Ernie Summers
Grayland, WA

TRI-STATE DUNGENESS CRAB COMMITTEE
PROPOSED PROCEDURES FOR TEST FISHING SOFT-SHELL CRAB

I. Test fishery procedure:

- a. Washington will conduct test fishing for crab condition only (not crab abundance) on or about October 20 as follows:

- 1) Crab pots will be "soaked" for 2 days at approximately 18 stations at depths of 12 to 32 fathoms. The sampling goal is to grade 100 legal-sized crab at each of the 18 stations. This will normally require that 8 pots be set at each station. The stations are spread over two test fishery zones.
- 2) Catch (number of crab) per pot will not be recorded or disclosed; in addition, it will be requested of non-agency personnel aboard the test fishing vessel that this information not be divulged. Otherwise, industry observers are encouraged to be aboard the vessel.

The state fishery agencies believe that this information (catch per pot) is usually of little or no value in estimating crab abundance. The Committee recognizes that there is a widespread perception within the industry that test fishing results affect fishing effort distribution and possibly ex-vessel price negotiations, and wishes to avoid unwarranted controversy.

- 3) Sub-samples of approximately 500 pounds from each of the two Washington test fisheries will be taken for meat recovery (pick out) testing. Processing procedure is as follows:
 - A) Grade III crab will not be included in the sample;
 - B) Crab will have all legs and be otherwise undamaged;
 - C) Crab will be weighed "green" after draining for at least 2 hours (green weight);
 - D) Cooking will be in fresh water for 12 minutes;
 - E) Crab will be picked out and the meat weighed (picked weight);
 - F) Crab meat will be brined (90% brine), cleaned, rinsed, and weighed (packed weight);
 - G) Packed weight is divided by drained green weight to calculate the meat recovery percentage.

NOTE: This standardized procedure is estimated to give a meat recovery value which is 3 percentage points higher than that obtained by most processors.

II. Decision on need for further test fishing:

- a. No further test fishing will be needed if the results of Washington's first test fishery indicate crab will be in acceptable condition by December 1. The coastwide season opening date will be set uniformly as December 1.

- b. A second test fishery will be conducted if the results of the first test fishery indicate 50% or more of the legal-sized crab are in grades II and III. (50% is based on a sampling date of October 20.)
- c. If "b" occurs, Oregon will begin test fishing as soon as possible after receiving notification from Washington of test fishing results.
- d. Oregon will conduct the test fishery to determine the southern-most extent of the soft-shell area in the zone between the Columbia River and Cascade Head.
- e. Washington and Oregon will conduct a second test fishery approximately 20 days after Washington's first test fishery. The target date for the second test fishery is November 10.
- f. It is anticipated that a decision on whether or not the season will be opened on December 1 can be made following the second test fishery. However, a third test fishery may be needed. If so, test fishing will be conducted on about November 20.

NOTE: A season opening will not be delayed less than 15 days nor longer than 45 days.

III. **If the season is delayed**, the actual date of the season opening will be determined by meat recovery testing. The meat recovery percentage criterion for opening the season is 23%. The season opening date will be set when it can be determined with reasonable certainty that this criterion will be met. (NOTES: As mentioned earlier, the standardized procedure is estimated to give a meat recovery value which is 3 percentage points higher than that obtained by most processors. Until more data on the rate of meat recovery improvement is collected, a rate of 0.5% per week will be used to project the season opening date.)

IV. **If the season is delayed**, fishing zones will be established.

- a. The entire California, Oregon, and Washington fishing grounds will be divided into two zones - northern and southern. The boundary between the zones will take into account the existence of traditional fishing patterns.
- b. Fishers may elect to fish in either zone. However, a fisher electing to fish in the southern zone (opening on December 1) may not fish in the northern zone until 30 days after the northern zone has opened. The fisher must declare his intention on the pre-season vessel/hold inspection, or using the method specified by his state management authority.
- c. A 64-hour gear-setting period will be allowed before the season opening date.

September 8, 1992



DEPARTMENT OF
FISH AND
WILDLIFE

Mr. Johnnie Brown
1255 S 12th
Coos Bay, OR 97420

Dear Mr. Brown:

Your petitions relating to commercial crab fishing have been received. Normally when the Commission receives a petition, they have 30 days in which to respond as to whether or not they will schedule rule-making on the issue or whether they have denied the petition. In this instance, the Commission is already scheduled to consider issues relating to commercial crab fishing on October 21, 1992. The information you have submitted will be provided to the Commission in advance of that hearing.

In addition, the Oregon Department of Fish and Wildlife staff will be conducting public hearings September 8, 9 and 10 in coastal communities to solicit comments on issues relating to the commercial crab seasons. I encourage you to attend one of these public meetings and the Oregon Fish and Wildlife Commission meeting on October 21 so that your views may be fully considered.

Sincerely,

REDACTED FOR PRIVACY
REDACTED FOR PRIVACY
REDACTED FOR PRIVACY

/ Kay Brown
Special Assistant
Fish Division

bw
c Commissioners
Randy Fisher
Jim Golden
Burnie Bohn

WP



2501 SW First Avenue
PO Box 59
Portland, OR 97207
(503) 229-5400

SUMMARY OF PETITIONS TO O.D.F. & W.

Having been active for over forty years as an Oregon crab fisherman, I feel any one who is engaged in making their living in the production of crabs, knows there are too many boats and too many pots now and there is an ever increasing influx to the crab industry.

They also know the only rational solution is to reduce effort and spread out the production to avoid early season glut and to obtain fair prices for everyone engaged in the industry.

In view of these problems, we are asking, by Petition to the O.D.F. & W., for help and relief so there may be a sustainable, and profitable season for the most amount of Oregon's' crab producer.

These Petitions ask for

- 1. limited weekly production per vessel,*
- 2. prohibits use of nets inside 50 fathom,*
- 3. change in open season,*
- 4. a strong limited entry program,*
- 5. pot limits of 300 traps per vessel.*

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REDACTED FOR PRIVACY

*Reviewed
N.B.
CDP*

IN OREGON DEPARTMENT OF FISH AND WILDLIFE

IN THE MATTER OF OAR

PETITION TO ADOPT RULE
#

I

1. The undersigned, Johnnie Brown, is a commercially licensed crabber and an interested person who may petition this agency to adopt, amend, or appeal a rule.

II

2. Petitioner hereby proposes to amend OAR 635-05-040 and set forth hereafter the language and conditions of the limited entry program for the Oregon crab fishing industry.

3. At the proper time when given the enforcement authority by the Oregon legislature set forth in the proposed amendment the O.D.F. & W. will upon request from the vessel owner, license for crab any vessel meeting the OAR 635-05-040 requirements and/or being under construction or refurbished for the purpose of crab fishing prior to September, 1991, except any vessel not engaged in the crab fishing between December 31, 1988 and September, 1991, will not be eligible for a license in crab.

Vessel owners will have 90 days from date of execution of this rule to apply for license.

O.D.F. & W. will implement a buy back program to reduce the number of licenses for Oregon crab to two hundred (200) by an assessment of one percent (1%) of dollar value landed as long as needed to reduce the number of licenses to two hundred (200).

If an owner for whatever reason is retired from the crab industry, he or his estate will be paid a sum to be negotiated in a fair manner by a committee of five persons delegated by O.D.F. & W., two from O.D.F. & W., two fishermen and one processor. If an owner does not apply for his license for a period of 90 days when due, the license will be terminated permanently (during the buy back period).

When the number of licenses is reduced to two hundred (200) this buy back program will cease to exist. The vessel owners will have the right, to keep, sell, or barter their crab licenses on the open market.

4. Most interested persons will agree that the crab fishing industry is sick, disoriented, and in dire need of a good management program. It is recognized that the existing number of boats and pots are not necessary to catch the available crab in the Oregon coastal waters. If there is to be a viable crab industry, we must have action.

5. The name and address of the petitioner is: Johnnie Brown, 1255 South 12th Street, Coos Bay, OR 97420: Phone (503) 269-7840.

6. Attached hereto and by this reference incorporated as Exhibit "A" are the names and addresses of other persons known by the petitioner to be interested in and supportive of this proposed amendment to the existing rule.

7. The petitioner has no knowledge of any persons who may have a particular interest in the proposed rule adoption, except those licensed fishermen, vessels, processors, wholesalers, retailers or association which may be affected by the rule, or whose interests and identities are a matter of records with the Department.

Dated this 1 day of June, 1992

REDACTED FOR PRIVACY


 Johnnie Brown
1255 South 12th Street
Coos Bay, OR 97420
(503) 269-7840

EXHIBIT "A"

Names, addresses, occupation and personal signatures of other persons or entities known by petitioner to support the rule amendment proposed in the preceding petition to amend rule.

NAME: REDACTED FOR PRIVACY
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EXHIBIT "A"

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2

IN OREGON DEPARTMENT OF FISH AND WILDLIFE

IN THE MATTER OF OAR

PETITION TO ADOPT RULE
#

I

1. The undersigned, Johnnie Brown, is a commercially licensed crabber and an interested person who may petition this agency to adopt, amend, or appeal a rule.

II

2. Petitioner hereby proposes to amend OAR 635-05-045 (1) as set forth hereinafter, by showing the existing rule, with the matter proposed to be deleted enclosed in brackets, and proposed additions shown by underlining as follows:

(1) It is unlawful to take dungeness crab for commercial purposes from the Pacific Ocean or Columbia River (August 15 through November 30) July 1 through November 30.

3. Of utmost importance is the elimination of abuse the crab receive while molting during the summer months. This should be tied to the issue of eliminating draggers from beach areas inside fifty (50) fathoms. If the draggers are still there, we are better off with the pots there too.

Particular benefit would accrue to the crab industry as the production of soft crabs not ready for market would be ended. Soft crab lead to lower prices and poor quality product in the market place. All of those crabs now being marketed during "soft" periods would then be available during the winter and spring when in prime market condition to command many more returns of dollars both for fishermen and processors.

4. The name and address of the petitioner is: Johnnie Brown, 1255 South 12th Street, Coos Bay, OR 97420: Phone (503) 269-7840.

5. Attached hereto and by this reference incorporated as Exhibit "A" are the names and addresses of other persons known by the petitioner to be interested in and supportive of this proposed amendment to the existing rule.

6. The petitioner has no knowledge of any persons who may have a particular interest in the proposed rule adoption, except those licensed fishermen, vessels, processors, wholesalers, retailers or association which may be affected by the rule, or whose interests and identities are a matter of records with the Department.

Dated this 1 day of June, 1992

REDACTED FOR PRIVACY

Johnnie Brown
1255 South 12th Street
Coos Bay, OR 97420
(503) 269-7840

EXHIBIT "A"

Names, addresses, occupation and personal signatures of other persons or entities known by petitioner to support the rule amendment proposed in the preceding petition to amend rule.

NAME: REDACTED FOR PRIVACY
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IN OREGON DEPARTMENT OF FISH AND WILDLIFE

IN THE MATTER OF OAR

} PETITION TO ADOPT RULE
#

I

1. The undersigned, Johnnie Brown, is a commercially licensed crabber and an interested person who may petition this agency to adopt, amend, or appeal a rule.

II

2. Petitioner hereby proposes to adopt OAR rules as set forth hereinafter.

3. It is unlawful to engage in any kind of fishing by use of nets inside of fifty (50) fathoms of water at any time.

The use of nets during the molting season of crab must be stopped to protect the industry. We need to protect the "nursery ground" for many species of fish - not just crab.

Fishermen have the ability to catch the fish with traps or hook and line if they want to.

4. The name and address of the petitioner is: Johnnie Brown, 1255 South 12th Street, Coos Bay, OR 97420: Phone (503) 269-7840.

5. Attached hereto and by this reference incorporated as Exhibit "A" are the names and addresses of other persons known by the petitioner to be interested in and supportive of this proposed amendment to the existing rule.

6. The petitioner has no knowledge of any persons who may have a particular interest in the proposed rule adoption, except those licensed fishermen, vessels, processors, wholesalers, retailers or association which may be affected by the rule, or whose interests and identities are a matter of records with the Department.

Dated this 1 day of June, 1992

REDACTED FOR PRIVACY

Johnnie Brown
1255 South 12th Street
Coos Bay, OR 97420
(503) 269-7840

EXHIBIT "A"

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IN OREGON DEPARTMENT OF FISH AND WILDLIFE

IN THE MATTER OF OAR

}
} PETITION TO ADOPT RULE
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I

1. The undersigned, Johnnie Brown, is a commercially licensed crabber and an interested person who may petition this agency to adopt, amend, or appeal a rule.

II

2. Petitioner hereby proposes to adopt OAR rules as set forth hereinafter:

3. The reason for this OAR Rule is to set a weekly production limit of crab per license (1 license per vessel) of 5,250 pounds per week. The first week beginning December 1 through the first Sunday following and from Monday through Sunday of each week for the duration of the crab season as set by the O.D.F. & W. No vessel may have more than 5,300 pounds of crab in their possession at any one time during each weekly period and none after delivery of their weekly limit. If a qualified emergency exists, a vessel may have two limits in possession or go out for a second one if necessary providing the owner of a second license is on the vessel working or upon written consent if the owner is sick or injured preventing his ability to work.

Qualified emergencies are:

- a. Breakdown of vessel,
- b. Bad weather and breaking bar,
- c. Accident or sickness.

This rule will allow the production of crab to proceed in an orderly manner over the duration of the season by eliminating the usual December glut and low crab prices.

This is a very necessary and desirable process due to the existing state of affairs within the industry, especially the crab and salmon fishermen.

4. No vessel may engage in the production of crab while engaged in the production of any other specie of fish or shellfish.

5. Any one violation of this rule will be punishable as follows:

- a. First offense; loss of weekly catch or product on board, whichever is greater. If not caught until product is sold and gone, then an equal fine. However, if the violations exceeds 10,000 pounds, there shall be permanent suspension on first violation.

- b. Second offense; loss of license for a period of one season (7 months).
- c. Third offense; permanent suspension of license.

6. The name and address of the petitioner is: Johnnie Brown, 1255 South 12th Street, Coos Bay, OR 97420: Phone (503) 269-7840.

7. Attached hereto and by this reference incorporated as Exhibit "A" are the names and addresses of other persons known by the petitioner to be interested in and supportive of this proposed amendment to the existing rule.

8. The petitioner has no knowledge of any persons who may have a particular interest in the proposed rule adoption, except those licensed fishermen, vessels, processors, wholesalers, retailers or association which may be affected by the rule, or whose interests and identities are a matter of records with the Department.

Dated this 1 day of June, 1992

REDACTED FOR PRIVACY
REDACTED FOR PRIVACY.

Johnnie Brown
1255 South 12th Street
Coos Bay, OR 97420
(503) 269-7840

EXHIBIT "A"

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IN THE MATTER OF OAR

)
) PETITION TO ADOPT RULE
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1

1. The undersigned, Johnnie Brown, is a commercially licensed crabber and an interested person who may petition this agency to adopt, amend, or appeal a rule.

11

2. Petitioner hereby proposes to adopt OAR rules as set forth hereinafter.

3. The reason for this OAR rule is to limit each and every vessel participating in dungeness crab fishing in Oregon waters to the use of 300 crab traps.

- A. At no time shall any vessel have more than 300 crab traps in Oregon waters at one time, except there shall be a 2% cushion in the event of lost seals due to ocean conditions,
- B. Each vessel shall be issued 300 seals to be attached to the buoy of each trap,
- C. In the event of lost seals, the pots or pot minus the seal shall be returned to port and the O.D.F.W. shall replace it, or them.

4. No fishermen shall be discriminated against because of tonnage, length, or type of vessel in the use of the maximum number of pots. Each owner and their crew should have every opportunity to maximize production when their ability or ocean conditions allow it so they may profit and acquire any new or larger vessel at their own discretion for more profit, work ease and safety.

5. The adoption of this OAR rule will also address the only real and rational reduction of effort by the crab fleet in that, it will at least in part, spread out the production and landing of crab during the winter and in part reduce the December glut, poor prices to fishermen, and the processors' frustration.

6. Any vessel having a third conviction of violation shall forfeit the right to participate in the crab industry permanently.

- A. Except the right of appeal shall exist if just cause of extreme circumstances can be verified.

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7. The name and address of the Petitioner is: Johnnie Brown,
1255 S. 12th St., Coos Bay, OR 97420, phone: 269-7840.

8. Attached hereto and by this reference incorporated as Exhibit "A"
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9. The Petitioner has no knowledge of any persons who may have a
particular interest in the proposed rule adoption, except those
licensed fishermen, vessels, processors, wholesalers, retailers of
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identities are a matter of record with the Department.

Dated this 31 day of Aug, 1992.

REDACTED FOR PRIVACY

Johnnie Brown
1255 S. 12th St.
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