



Oregon Fish and Wildlife Commission
December, 14, 2001

EXHIBIT H

SUBJECT Developmental Fishery Program

PRINCIPAL STAFF PERSON Jim Golden and Jean McCrae Phone: (541) 867-4741

COMMISSION ACTION REQUESTED The Commission will consider regulation changes as recommended by the Developmental Fisheries Board.

- DOCUMENTS ATTACHED: 1. Agenda Item Summary, 2. Hearing Notice and Fiscal Impact Statement, 3. Staff Report (Issue 1 and 2), 4. Draft Administrative Rules, 5. Staff Report (Issue 3), 6. Public Comments

RELATED STATUTES ORS 506.109, 506.119, 506.129, and 506.450 through 506.465

RELATED RULES OAR Chapter 635, Divisions 005 and 006

Read and Approved by: Division Director, Attorney General, Director. Includes redacted signatures and dates: 11-28-01, 11/28/01, 11/29/01.

Agenda Item Summary

BACKGROUND

ORS 506.450-.465 creates a Developmental Fisheries Board, appointed by the Commission, which makes recommendations to the Commission regarding changes to the Developmental Fisheries Program. For this hearing, the Developmental Fisheries Board recommends changes to the harvest program for bay clams and to the permit transfer provisions.

PUBLIC INVOLVEMENT

- The Developmental Fisheries Board held meetings on October 2 and November 6, 2001. The issues outlined in the staff report were discussed at these meetings. These meetings were "public meetings" and subject to the Oregon Meetings Law.

ISSUE 1

Allow harvest of gaper clams during January through June.

ANALYSIS

Currently, commercial harvest of gaper clams is allowed from July 1 through December 31. Commercial harvesters requested consideration of an incidental harvest allowance for gaper clams during the closed season because gaper clams are dislodged in the process of harvesting butter clams and do not survive, therefore, it is a waste to not harvest them.

OPTIONS

1. Allow year round harvesting of gaper clams.
2. Allow incidental catch while harvesting butter clams.
3. Make no change.

STAFF RECOMMENDATION

Option 2.

ISSUE 2

Allow transfer of permit in the event of death of permit holder.

ANALYSIS

Currently, developmental fishery permits are not transferable to another person; except, they may be transferred to another vessel owned or controlled by the permit holder up to two times annually. The Board recommends allowing this transfer to protect family businesses in the event of the death of a permit holder.

OPTIONS

1. Allow transfer of permit in the event of death of permit holder.
2. Make no change.

STAFF RECOMMENDATION

Option 1.

ISSUE 3

Information update on nearshore fisheries management plan.

ANALYSIS

The Developmental Fisheries Board did not have a quorum at the time the nearshore fisheries management plan was reviewed. Additional options need to be explored based on public input. A Developmental Fisheries Board meeting will be arranged to discuss options for creating a nearshore Developmental Fisheries species list and plan.

OPTIONS

No action at this time.

DRAFT MOTION

I move to amend OAR 635-006-0810, 635-006-0850, and 635-006-0910, as proposed by staff, to allow an incidental harvest of gaper clams under a Developmental Fisheries Permit during January through June, and to allow the transfer of a developmental fisheries permit to a family member in the event of the death of a permit holder.

EFFECTIVE DATE

Upon filing.

Secretary of State

NOTICE OF PROPOSED RULEMAKING HEARING*

A Statement of Need and Fiscal Impact accompanies this form.

Oregon Department of Fish and Wildlife (ODFW) - Fish Division

635

Agency and Division

Administrative Rules Chapter Number

Mike Lueck

(503) 872-5272, Ext. 5447

Rules Coordinator

Telephone

2501 SW First Avenue; P. O. Box 59; Portland, OR 97207

Address

Fish and Wildlife
Commission

12/14/01

8:00 a.m.

Portland, OR

Hearing Date

Time

Location

Hearings Officer

Hearing Date

Time

Location

Hearings Officer

Hearing Date

Time

Location

Hearings Officer

Are auxiliary aids for persons with disabilities available upon advance request?

Yes

No

RULEMAKING ACTION

ADOPT:

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND:

OAR 635-006-0800 through 635-006-0950

REPEAL:

Renumber: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

Amend and Renumber: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

Stat. Auth.: ORS 506.109 and 506.119

Other Authority

Stats. Implemented: ORS 506.129, 506.450, 506.455, 506.460, and 506.465

RULE SUMMARY

Amend rules to add nearshore marine fin-fish species to the Developmental Fisheries list in Category A and establish a permit system; and establish an incidental catch allowance for gaper clams during the closed season.

December 14, 2001

Last Day for Public Comment

REDACTED FOR PRIVACY
REDACTED FOR PRIVACY

10/15/01

Authorized Signer and Date
Sharon Bird

*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Department of Fish and Wildlife - Fish Division

635

Agency and Division

Administrative Rules Chapter Number

In the Matter of amendment of)	Statutory Authority,
OAR Chapter 635, Division 006)	Statutes Implemented,
Relating to Developmental Fisheries)	Statement of Need,
Program)	Principal Documents Relied Upon,
)	Statement of Fiscal Impact

Statutory Authority: ORS 506.109 and 506.119

Other Authority:

Statutes Implemented: ORS 506.129, 506.450, 506.455, 506.460 and 506.465

Need for the Rule(s):

The rules are needed to add several near-shore marine fin-fish species to the Developmental Fisheries list in Category A and establish a permit system for them. Rules are also needed to establish an incidental catch allowance for gaper clams during the closed season.

Documents Relied Upon:

Staff report for Oregon Fish and Wildlife Commission Meeting of December 14, 2001.

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

Fiscal and Economic Impact:

Please see attached.

Administrative Rule Advisory Committee consulted?: The Developmental Fishery Board met and considered requests to add species to the developmental fisheries list and to change the harvest programs for developmental fisheries species.

If not, why?:

REDACTED FOR PRIVACY
REDACTED FOR PRIVACY
REDACTED FOR PRIVACY

10/15/01

Authorized Signer and Date

Sharon Bird

Economic Impact Statement for the December 14, 2001 Hearing in the Matter of the
Amendment of Rules Relating to the Developmental Fisheries Program

Fiscal and economic impact: The proposed rules will affect state agencies, units of local government and the public, respectively, as discussed below. The amendment is needed to add several near-shore marine fin-fish species to category A of the developmental fisheries list, and to establish a permit system for their harvest. Rules are also needed to establish an incidental catch allowance for gaper clams during the closed season.

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

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

c. The public could be affected by the adoption of these rules: The existing statute and rules require adoption of a list of developmental fisheries species, and the establishment or maintenance of limited entry harvest systems for the associated developmental fisheries. For this hearing, one of the things that ODFW staff proposes is to allow a limited incidental take of gaper clams during the period of the year when directed harvest is not allowed.

A more complex set of changes involves the addition of certain species of near-shore marine fin-fish to the developmental species list along with the establishment of a permit system for vessels to participate in the harvest of these species. Rules are needed to establish a control date for a possible future limited entry system for the existing open access groundfish fisheries.

Adoption of rules pertaining to limited entry programs for commercial fisheries could have an economic impact on those individuals who may wish to participate in the fisheries. Provisions associated with limited entry systems that pertain to eligibility requirements, impose control dates for eligibility, or otherwise restrict flexibility with regard to entry into a fishery may reduce fishing revenues or future permit value for potential entrants who may not qualify if the provisions are adopted.

About 250 vessels are participating in the near shore open access groundfish fishery annually. It is not possible with available information and understanding of possible behavioral responses to estimate exactly how the otherwise potentially eligible vessels who may not meet a control date deadline or other eligibility criteria will be affected. The establishment of a control date will be considered by the Commission at the November 16, 2001 hearing. The economic effects on each individual operation will also depend on the vessel's current levels of cost and revenue, the access rights and opportunity to participate in other fisheries, and other conditions specific to individual circumstances.

Overall, the developmental fisheries rules are expected to produce positive economic effects for the public and small business both in the short run and in the long run. Rules relating to limited entry can be viewed as imposing additional costs (in the form of permit fees) on harvesters in the short run, and potentially excluding some harvesters who might not qualify for or apply for limited entry permits soon enough. However, in the long run, implementation of the rules are expected to yield positive economic effects by controlling

the development of fisheries, so the fisheries are sustainable in the long run. This is intended to help prevent the typical cycle in fisheries of boom (as a virgin fish stock is fished down to maximum sustainable yield levels) and bust (when the stock becomes incapable of sustaining yields at the initial exploitation level).

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

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

NOTICE OF PROPOSED RULEMAKING HEARING*

A Statement of Need and Fiscal Impact accompanies this form.

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Are auxiliary aids for persons with disabilities available upon advance request?

Yes

No

RULEMAKING ACTION

ADOPT:

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND: OAR 635-006-0800 through 635-006-0950

REPEAL:

Renumber: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

Amend and Renumber: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

Stat. Auth.: ORS 506.109 and 506.119

Other Authority

Stats. Implemented: ORS 506.129, 506.450, 506.455, 506.460, and 506.465

RULE SUMMARY

Amend rules to allow transfer of developmental fisheries permits in case of the death of a permit holder.

REDACTED FOR PRIVACY
REDACTED FOR PRIVACY

December 14, 2001

Last Day for Public Comment

Authorized Signer and Date

Sharon M. Bird

10/31/01

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)	Statement of Fiscal Impact

Statutory Authority: ORS 506.109 and 506.119

Other Authority:

Statutes Implemented: ORS 506.129, 506.450, 506.455, 506.460, and 506.465

Need for the Rule(s):

The rules are needed to allow a transfer of a developmental fisheries permit in the case of the death of a permit holder.

Documents Relied Upon:

Staff report for Oregon Fish and Wildlife Commission Meeting of December 14, 2001

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

Fiscal and Economic Impact:

Please see attached.

Administrative Rule Advisory Committee consulted?: The Developmental Fishery Board met and considered a request to allow a transfer of a developmental fisheries permit in the case of the death of a permit holder.

If not, why?:

REDACTED FOR PRIVACY
REDACTED FOR PRIVACY

10/31/01

Authorized Signer and Date

Sharon M. Bird

Economic Impact Statement for the December 14, 2001 Hearing in the Matter of the
Amendment of Rules Relating to the Developmental Fisheries Program

Fiscal and economic impact: The proposed rules will affect state agencies, units of local government and the public, respectively, as discussed below. The amendment is needed to allow transfer of developmental fisheries permits in case of the death of a permit holder.

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

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

c. The public could be affected by the adoption of these rules: The existing statute and rules require adoption of a list of developmental fisheries species, and the establishment or maintenance of limited entry harvest systems for the associated developmental fisheries. This amendment is being considered in response to a public concern about the transfer of a developmental fisheries permit in the case of the death of a permit holder.

Adoption of rules pertaining to limited entry programs for commercial fisheries could have an economic impact on those individuals who currently participate or may wish to participate in the fisheries in the future. Provisions associated with limited entry systems that pertain to eligibility requirements, control dates for eligibility, permit transfers, or that otherwise affect flexibility with regard to participation in a developmental fishery may reduce fishing revenues or future permit value for current and potential permit holders.

This particular amendment addresses the issue of permit transferability in the case of the death of a permit holder. If permit transfer is not allowed in this situation, members of the decedent's family or business associates would be adversely affected by an inability to continue participation in the fishery. This would not only have an adverse effect on these parties, but also would have a negative impact on other businesses who are supply or receive product from the fishing operation.

Overall, the developmental fisheries rules are expected to produce positive economic effects for the public and small business both in the short run and in the long run. Rules relating to limited entry can be viewed as imposing additional costs (in the form of permit fees and restrictions) on harvesters in the short run, and potentially excluding some harvesters who might not qualify for or apply for limited entry permits soon enough. However, in the long run, implementation of the rules are expected to yield positive economic effects by controlling the development of fisheries, so the fisheries are sustainable in the long run. This is intended to help prevent the typical cycle in fisheries of boom (as a virgin fish stock is fished down to maximum sustainable yield levels) and bust (when the stock becomes incapable of sustaining yields at the initial exploitation level).

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

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

**Developmental Fisheries Program
Staff Report**

**Prepared for Oregon Fish and Wildlife Commission
December 14, 2001 Portland, Oregon**

Summary of Staff Report

ODFW staff is submitting recommendations by the Developmental Fisheries Board for the Commission to adopt regulation changes that would establish an incidental catch allowance for gaper clams during the closed season and to allow the transfer of a permit in the event of the death of the permit holder. The Developmental Fisheries Board was not able to hold a quorum for the entire day at its November 6th meeting. A proposed list of nearshore species and criteria to establish a Developmental Fisheries Program for nearshore species were discussed but the Board took no action at the meeting.

Key elements and conclusions from the staff report are:

- The Developmental Fisheries Board discussed leasing requirements for permit transfers, transfers of a permit in the event of the death of the permit holder, and steps to remove species from the developmental species list. The Board also considered a request to allow an incidental catch of gaper clams during the close season or allow a year-round fishery and discussed possibilities of future clam surveys.
- The ODFW staff and Board recommend establishing an incidental catch allowance for gaper clams during the closed season and to allow the transfer of a permit in the event of the death of the permit holder.
- Staff gave an informational update on the management plan for nearshore fisheries including a proposed list of species and criteria that might be used to qualify individuals for permit application based on vessel landing histories and the July 1, 2001 control date adopted by the OFWC on October 19, 2001.
- Staff recommends additional public meeting process, consideration of a wider range of options for creating the program, and more details describing the program before recommending action items before the Commission. Staff recommends reviewing a revised staff report at the next Developmental Fisheries Board meeting.

Outline of Staff Report (Section 1 – Clams and Permit Transfers)

I. IntroductionPage 3

II. Staff Analysis of Issues and Options - Recommendations Page 3

• *Issue 1*

Allow harvest of gaper clams during January through June.

- Option A Allow a year round harvest season for gaper clams.
- Option B (*preferred*) The Board and staff recommend the Commission adopt rules to establish an incidental catch allowance of 25 lbs of gaper clams of per 100 lb of butter clams during January through June.
- Option C No action: status quo, gaper clams can not be harvested from January through June.

• *Issue 2*

Allow transfer of permit in the event of death of permit holder.

- Option A (*preferred*) The Board and staff recommend the Commission adopt rules to allow the transfer of a permit in the event of the death of the permit holder.
- Option B No action: Transfer not allowed.

Oregon Administrative RulesPage 8

Outline of Staff Report (Section 2 – Nearshore Management Plan)

• *Issue: See attached Report*

No Action Information only.

I. Introduction

For public hearing on December 14, staff will forward a recommendation from the Developmental Fisheries Board to establish an incidental catch allowance for gaper clams during the closed season for gaper clams.

II. Staff Analysis of Issues and Options - Recommendations

The following discusses staff recommendations. The full text of proposed rule changes is found in Attachment 4.

Issue 1

Allow harvest of gaper clams during January through June.

Background

Commercial harvest of gaper clams is currently allowed from July 1 through December 31. The closed season of January through June has been in place since the 1940s to protect the spawning season and to provide the greatest meat yield per clam.

Issue

Commercial harvesters requested to the Commission allow an incidental harvest of gaper clams during the closed season. Their concern is they disturb and dislodge gaper clams in the process of harvesting butter clams and since the gaper clams do not survive once they have been dislodged, it is a waste to not harvest them. Since the initial request, harvesters are in the process of developing potential markets for gaper clams and feel they need a larger quantity, year round, to keep the markets going so requested a year round season for that reason also.

Analysis

Clam densities and biomass were surveyed in all estuaries in the 1970s. Selected areas in Tillamook, Yaquina and Coos bays were updated in the 1980s. Since then, selected areas were surveyed in Tillamook Bay in 1996. Study sites in this last study were selected in areas where initial rapid assessment surveys found the greatest concentrations of all species of clams.

Overall Biomass Data

In the three subtidal areas surveyed in Tillamook Bay in 1996, the total biomass and average density of gapers was estimated to be 558,681 lb and 3.8 gapers/ m² (Table 1). This gives an average of 4.1 pounds of gapers /m². In the same three subtidal areas, the total biomass and average density of butter clams was estimated to be 2,020,375 lb and 37.8 butters/ m² for an average of 15 pounds of butter clams /m². Therefore, for every 15 pounds of butters harvested, an average of 4.1 pounds of gapers could be disturbed in the process; or for every 100 pounds of butters, 27.3 pounds of gapers.

Individual sample data in the same survey show there are areas with high numbers of butter clams and no gaper clams (Figure 1). There are also areas with gapers and no butter clams and areas with a mix of the two species. In all the samples that contained clams (63%), the average ratio (by weight) of gaper clams to butter clams was 0.268 (or 26.8 lb of gapers for every 100 lb of butters).

Table 1. Gaper and butter clam densities and biomass from 1996 surveys in Tillamook Bay.

	subtidal area surveyed m ²	average clam density m ²	total biomass lbs	average lb/m ²
gaper clams	135,000	3.75	558,681	4.1
butter clams	135,000	37.78	2,020,375	15.0

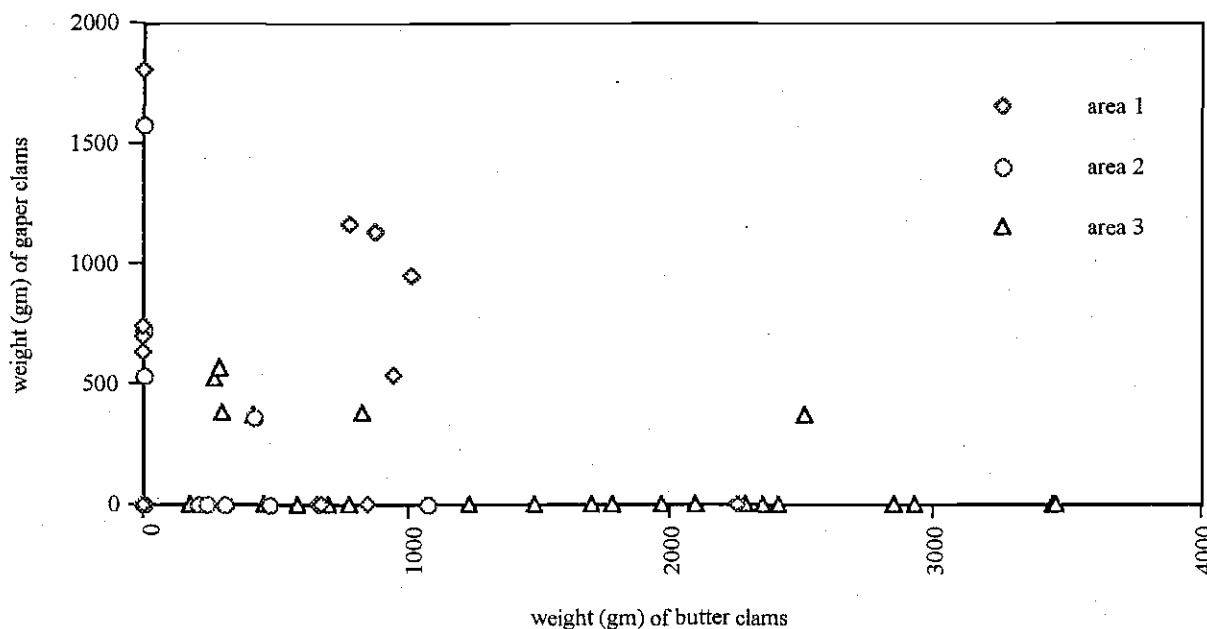


Figure 1. Weight (gm) of gaper clams per weight of butter clams by sample.

Options

Option A. Allow year round harvesting of gaper clams.

Gaper clams appear to spawn every year, but recruitment into juvenile clams is often sporadic. Surveys have shown that large areas in an estuary can go for years without successful recruitment. Reasons for this sporadic recruitment have not been identified.

The major spawning season for gaper clams in Oregon is January through April. Other bay clam species spawn from spring through summer. The timing of spawning could make the gaper an important food source for planktivores during a period when other zooplankton are much reduced. This relation needs to be explored.

The sporadic nature of gaper recruitment and timing of spawning may warrant some protection of the spawning season.

Part of the rationale for the closed season was for maximum meat yield. At the time of the experimental fishery in the mid-1970s, the major market interests were for food grade product. More currently, major market interests are for bait/animal food; meat yield may not be as important a factor for determining an appropriate season.

The survey conducted in Tillamook Bay in 1996 focused on three subtidal and four intertidal areas with high clam densities. The survey cost \$120,000 and took four full time employees six months to complete. Previous surveys were conducted in Tillamook and Coos Bay in the mid 1980s. Other estuaries have not been surveyed since the mid 1970s. Staff is reluctant to support (and the Board did not recommend) a year-round gaper season, especially for all estuaries, until updated surveys can be conducted and the sporadic nature of gaper recruitment can be better understood. Presently, staff does not have funding to conduct necessary surveys, but is exploring procedures for cooperative surveys to be done by the industry.

Option B. Allow incidental catch of gaper clams while harvesting butter clams during closed season.

Survey data shows there are areas with high numbers of butter clams and no gaper clams. The total abundance of these high-density butter areas and how predictably and readily divers can locate these areas is not known.

Gaper clams older than two years lose the ability to re-burrow. Clams dislodged during harvest operations for butter clams will not re-bury themselves and would become vulnerable to predation especially from crabs and sea stars. The mortality of clams manually re-buried is unknown, but presumed to be high. An incidental catch allowance would utilize those clams that would otherwise die, but would need to be small enough if targeting on gapers was not desired.

In 2000, 15,903 lb of butter clams were harvested from Tillamook Bay in January through June (the closed gaper season). An incidental catch allowance of 25 lb of gaper clams for every 100 lb of butter clams could have allowed up to 3,976 lb of gaper clams to be harvested. The total gaper clam harvest from Tillamook Bay in July through December, 2000 was 3,125 lb. Table 2 illustrates the potential incidental harvest of gaper clams under other catch ratios, given landings for the past five years.

The Board supported option 2 (allowing an incidental catch) to protect the recruitment of clams but encouraged gathering the data to look at a year round season in the future. The Board and staff recommend allowing an incidental catch of gaper clams during January through June of 25 pounds of gapers for each 100 pounds of butter clams landed.

Option C. Status quo - no change.

Gapers can not be harvested January through June.

Table 2. Pounds of butter and gaper clams harvested and potential incidental harvest of gaper clams under various harvest ratios for Tillamook Bay landings, 1996-2000.

	1996	1997	1998	1999	2000
Pounds of butter clams harvested - Jan.-June	615	4,639	15,366	19,197	15,903
Pounds of gaper clams harvested - June-Dec.	2,005	4,226	2,494	3,474	3,125
Pounds of gaper clams potentially landed under incidental harvest ratio of: lb gapers / lb butters					
25/100	154	1,160	3,842	4,799	3,976
20/100	123	928	3,073	3,839	3,181
15/100	92	696	2,305	2,880	2,385
10/100	62	464	1,537	1,920	1,590
5/100	31	232	768	960	795

Option A: (*preferred*) The Board and staff recommend the Commission adopt rules to establish an incidental catch allowance of 25 lbs of gaper clams of per 100 lb of butter clams during January through June.

Option B: Allow a year round harvest season for gaper clams.

Option C: No action: status quo, gaper clams can not be harvested from January through June.

• *Issue 2*

Allow transfer of permit in the event of death of permit holder.

Background

Currently, developmental fishery permits are not transferable to another person; except, they may be transferred to another vessel owned or controlled by the permit holder up to two times annually.

Issue

The Board has had extensive discussions in the last several meetings regarding moving a developmental fishery into its own limited entry system. One of the reasons given for wanting to move in that direction was the desire to make the permits transferable so a family business would not be lost in the event of the death of a permit holder. The Board felt this circumstance

Option A: (*preferred*) The Board and staff recommend the Commission adopt rules to allow the transfer of a permit in the event of the death of the permit holder.

Option B: No action: transfer not allowed.

DIVISION 006

COMMERCIAL FISHERIES

COMMERCIAL GEAR; LICENSES, POUNDAGE

FEES,

RECORDS AND REPORTS

Developmental Fisheries Program

635-006-0810

Definitions

For the purposes of OAR[’s] 635-006-0820 through 635-006-0950 the following definitions shall apply:

(1) "Actively managed" means federal management under a limited entry system according to the provision of a fishery management plan.

(2) "Board" means the Developmental Fisheries Board appointed by the Commission.

(3) "Commission" means the Oregon Fish and Wildlife Commission.

(4) "Department" means the Oregon Department of Fish and Wildlife.

(5) "Developed fishery" means a fishery where the level of participation, catch, and effort indicate the fishery has approached optimum sustained yield and/or there is sufficient biological information, information on harvest methods, gear types, and markets to develop a long-term management plan for the species.

(6) "Developmental fisheries species" means food fish species adopted by the Commission to be managed under the Developmental Fisheries Program.

(7) "Director" means the Director of the Oregon Department of Fish and Wildlife.

(8) "Domestic partner" means an individual who, together with a permit holder has formed a partnership in which both:

(a) Are at least 18 years of age;

(b) share a close personal relationship and are responsible for each other's welfare;

(c) are each other's sole domestic partner;

(d) are not married to anyone and neither has had another domestic partner or a spouse within in the previous six months;

(e) are not related by blood closer than would bar marriage under ORS 106.020;

(f) have shared a household for at least six months;
and

(g) are jointly financially responsible for basic living expenses, including expenses for food, shelter, and maintaining a household.

(9) "Immediate family" means a permit holder's spouse, domestic partner, children, father, mother, brother, sister, stepchildren, and grandchildren.

([8]10) "Maximum sustainable yield" (MSY) means an estimate of the largest average annual catch or yield that can be taken over a significant period of time from each stock under prevailing ecological and environmental conditions.

([9]11) "Underutilized species" means a food fish species that is not presently harvested in significant quantities due to poor markets or inadequate gear development or may be caught but not utilized due to poor markets.

([10]12) "Optimum sustained yield" (OSY) means the desired catch level of a fishery that will provide the greatest overall benefit to the state taking into account economic, social, and ecological considerations that will maintain a level of population that insures the long-term productivity of the stock and does not impair its ability to sustain itself into the future.

([11]13) "Overfishing" means a level or rate of fishing mortality that jeopardizes the long-term capacity of a stock or stock complex to produce MSY.

Stat. Auth.: ORS 506.109, 506.119 and 506.450 through 506.465
Stats. Implemented: ORS
Hist.:

635-006-0850

Developmental Fisheries Species List

(1) The Developmental Fisheries species, permit and gear restrictions, and landing requirements for renewal of Category A permits are as follows:

(a) FISH

(A) Pacific hagfish (*Eptatretus stouti*) fishery has a qualifying and annual renewal requirement of five landings. There are 25 permits for harvest of which there are no trawl permits;

(B) Blue shark (*Prionace glauca*) fishery has a qualifying and annual renewal requirement of either five landings consisting of at least 500 pounds each landing or one landing consisting of at least 5000 pounds. There are 10 permits for harvest of which there are no high seas drift net permits and no large mesh gill net permits. No permit is needed for hand lines or hand harvest. Experimental gear permits may be required;

(C) Swordfish (*Xiphias gladius*) fishery has a qualifying and annual renewal requirement of either five landings consisting of at least 500 pounds each landing or one landing consisting of at least 5000 pounds. Permits are valid for and renewal requirements are calculated from February 1 through January 31 of the following year. There are 20 permits for harvest by floating longline and 10 permits for harvest by other gear. Specially adapted drift/gill net may be permitted. Experimental gear permits may be required. Five single-delivery permits will be issued to those who applied by annual filing date, but did not receive a Developmental Fishery Permit. Gill net gear must conform to California gear restrictions;

(D) Northern anchovy (*Engraulis mordax*) and Pacific herring (*Clupea pallasii*) fishery has a qualifying and annual renewal requirement of either five landings consisting of at least 500 pounds each landing or one landing consisting of at least 5000 pounds. There are 15 permits for ocean harvest. Specially adapted small mesh drift/gill net may be permitted. No permit is needed for hand lines or hand harvest. Experimental gear permits may be required;

(E) Pacific sardine (*Sardinops sagax*) and Pacific saury (*Cololabis saira*) fishery has a qualifying and annual renewal requirement of either five landings consisting of at least 500 pounds each landing or one landing consisting of at least 5000 pounds. There are 20 permits for ocean harvest. Specially adapted small mesh drift/gill net may be permitted. Experimental gear permits may be required;

(F) Pacific sandfish (*Trichodon trichodon*) fishery has a qualifying and annual renewal requirement of five landings. There are 10 permits for harvest of which there are no dredging permits and no trawl permits, however, limited numbers of experimental gear permits may be issued for trawl harvest. Permits are area specific. Experimental gear permits may be required. No permit is needed for hand lines or hand harvest;

(G) Eulachon (*Thaleichthys pacificus*), whitebait smelt (*Allosmerus elongatus*), night smelt (*Spirinchus starksi*), longfin smelt (*Spirinchus thaleichthys*) and surf smelt (*Hypomesus pretiosus*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 20 permits for ocean harvest of which there are no trawl permits, however, limited numbers of experimental gear permits may be issued for trawl harvest. Specially adapted small mesh drift/gill net may be permitted. No permit is needed for hand lines or hand harvest. Experimental gear permits may be required;

(H) Pacific pomfret (*Brama japonica*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 10

permits for harvest. Experimental gear permits may be required;

(I) Slender sole (*Eopsetta exilis*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 10 permits for harvest. Experimental gear permits may be required.

(b) INVERTEBRATES

(A) Box crab (*Lopholithodes foraminatus*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 25 permits for harvest with pots only;

(B) Grooved tanner crab (*Chionoecetes tanneri*), Oregon hair crab (*Paralomis multispina*) and scarlet king crab (*Lithodes couesi*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 10 permits for harvest with pots only;

(C) Spot prawn (*Pandalus platyceros*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds (round weight) each landing or one landing consisting of at least 1000 pounds. There are six permits for harvest by trawl gear and 10 permits for harvest by other gear. Permits are area specific. Experimental gear permits may be required. Permits are issued geographically, split at Heceta Head with 50 percent issued north and 50 percent issued south of Heceta Head, until after the date of the lottery;

(D) Coonstripe shrimp (*Pandalus danae*) and sidestripe shrimp (*Pandalopsis dispar*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds (round weight) each landing. There are 10 permits for harvest by pot gear;

(E) Ocean cockle clams (*Clinocardium nuttallii*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are five permits for ocean harvest only. No permit is needed for hand lines or hand harvest. Experimental gear permits may be required;

(F) Bay clams including cockle clams (*Clinocardium nuttallii*), butter clams (*Saxidomus giganteus*), gaper clams (*Tresus capax, nuttallii*), native littleneck clams (*Protothaca staminea*), and softshell clams (*Mya arenaria*) fishery has no qualifying and annual renewal requirements for intertidal hand harvest, an unlimited number of permits, and a \$25 permit fee. There are 11 permits (individual or vessel) for subtidal dive harvest, effective March 18, 1997-December 31, 1997, and 10 permits thereafter for statewide harvest and five permits for harvest south of Heceta Head. Qualifying requirements are either five landings consisting of at least 200 pounds each landing or an annual total of 2500 pounds for one calendar year during the qualifying period of January 1, 1990 through October 16, 1995. Annual renewal requirements are either five landings consisting of at least 100 pounds each landing or an annual total of 2500 pounds[;]. An incidental catch of 25 pounds of gaper clams per 100 pounds of butter clams (as specified under

permit specifications) is allowed during the closed season notwithstanding OAR 635-005-0020;

(G) Giant octopus (*Octopus dofleini*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 10 permits for harvest using octopus pots only;

(H) California market squid (*Loligo opalescens*) and other squid (several species) fishery has a qualifying and annual renewal requirement of either five landings consisting of at least 500 pounds each landing or one landing consisting of at least 5000 pounds. There are 30 permits for harvest using trawl gear and 30 permits for harvest using other gear types. Experimental gear permits may be required. Permits are issued geographically, split at Heceta Head with 50 percent issued north and 50 percent issued south of Heceta Head, until after the date of the lottery;

(I) Fragile urchin (*Allocentrotus fragilis*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 500 pounds each landing. There are six permits for harvest using trawl gear and six permits for harvest using other gear. Experimental gear permits may be required. Permits are issued geographically, split at Heceta Head with 50 percent issued north and 50 percent issued south of Heceta Head;

(J) Sea cucumber (*Parastichopus* spp.) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are six permits for harvest using trawl gear, 10 permits for harvest by

diver, and 10 permits for harvest by other gear.

Experimental gear permits may be required. Permits are issued geographically, split at Heceta Head with 50 percent issued north and 50 percent issued south of Heceta Head, until after the date of the lottery;

(K) Marine snails (various species) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 10 permits for subtidal harvest only;

(L) Brine shrimp (*Artemia* spp.) fishery has a qualifying and annual renewal requirement of at least 5000 pounds landed. There are three permits to harvest adults.

(M) Flat abalone (*Haliotis walallensis*) fishery has a single permit authorized, a 3,000 pound annual quota limit, an annual renewal requirement of 10 landings of at least 20 pounds each landing, a 4-1/2 inch minimum size, a May-October season, taken from nonintertidal areas with an abalone iron, and such additional permit conditions as the Director deems appropriate as required by OAR 635-006-870 and OAR 635-006-0880.

(2) The Developmental Fisheries Species List, Category "B," is as follows:

(a) FISH

- (A) Salmon shark (*Lamna ditropis*);
- (B) Carp (*Cyprinus carpio*);
- (C) Black hagfish (*Eptatretus deani*);
- (D) Yellow perch (*Perca flavescens*);
- (E) Eelpouts (family Zoarcidae);
- (F) Brown bullhead (*Ameiurus nebulosus*);

(G) Skilfish (*Erilepis zonifer*);

(H) Northern squawfish (*Ptychocheilus oregonensis*).

(b) INVERTEBRATES

- (A) Euphausids (krill) (family Euphausiidae);
- (B) Pacific sand crab (*Emerita analoga*);
- (C) Freshwater mussels (families Margaritifera, Anodonta, Gonidea, and Corbicula).

(3) The Developmental Fisheries Species List, Category "C," is as follows:

(a) FISH

- (A) Spiny dogfish (*Squalus acanthias*);
- (B) Soupfin shark (*Galeorhinus zyopterus*);
- (C) Skate (family Rajidae);
- (D) American shad (*Alosa sapidissima*);
- (E) Pacific cod (*Gadus macrocephalus*);
- (F) Pacific flatnose (*Antimora microlepis*);
- (G) Pacific grenadier (*Coryphaenoides acrolepis*);
- (H) Cabezon (*Scorpaenichthys marmoratus*);
- (I) Sculpins (family Cottidae);
- (J) Kelp greenling (*Hexagrammos decagrammus*);
- (K) Jack mackerel (*Trachurus symmetricus*);
- (L) Chub (Pacific) mackerel (*Scomber japonicus*);
- (M) Greenstriped rockfish (*Sebastes elongatus*);
- (N) Redstripe rockfish (*Sebastes proriger*);
- (O) Shortbelly rockfish (*Sebastes jordani*);
- (P) Sharpchin rockfish (*Sebastes zacentrus*);
- (Q) Splitnose rockfish (*Sebastes diploproa*);
- (R) Pacific sanddab (*Citharichthys sordidus*);
- (S) Butter sole (*Pleuronectes isolepis*);

- (T) English sole (*Pleuronectes vetulus*);
- (U) Rex sole (*Errex zechirus*);
- (V) Rock sole (*Pleuronectes bilineatus*);
- (W) Sand sole (*Psettichthys melanostictus*);
- (X) Curlfin (lemon) sole (*Pleuronichthys decurrens*);
- (Y) Spotted ratfish (*Hydrolagus colliei*);
- (Z) Wolf-eel (*Anarrhichthys ocellatus*);
- (AA) Walleye pollock (*Theragra chalcogramma*).

(b) INVERTEBRATES

- (A) Red rock crab (*Cancer productus*);
- (B) Purple sea urchins (*Strongylocentrotus purpuratus*);
- (C) Crayfish (*Pacifastacus leniusculus*).

Stat. Auth.: ORS 506.109 and 506.119

Stats. Implemented: ORS 506.129, 506.450, 506.455,
506.460, and 506.465

Hist.:

635-006-0910

**Procedures for Issuance, Transfer and Renewal of
Developmental Fisheries Species Permits**

(1) Applications:

- (a) An applicant for a permit must submit a complete application in writing accompanied by an annual fee of up to \$75. The application shall include the species of fish to be taken, the method and gear proposed to be used, and the area from which the Developmental Fisheries Species are to be taken, and other information as the Department may require;
- (b) Complete applications must be received postmarked or date-stamped by January 1 of the year of issue for new

species added to the developmental fishery list in OAR 635-006-0850, and thereafter by the annual filing date of February 1 of the year of issue, except applications for box crab permits must be postmarked or date-stamped by January 1 of the year of issue;

(c) An application shall be considered complete if it is legible, has all information requested on the form, and is accompanied by the required fee in full. Any application which is not complete shall be returned and, unless it is thereafter resubmitted and deemed complete by the filing date, the individual shall not be considered to have applied in a timely manner;

(d) Before applying for a permit, an applicant must first have obtained the appropriate vessel license (or individual license if permit is issued to individual) for the year the permit will be issued.

(2) Number of permits allowed:

(a) An individual shall not submit more than one application, per permittee, for each developmental fishery species gear category;

(b) No permittee who holds a valid developmental fisheries permit may apply for any additional permits for the same species gear category. A valid developmental fisheries permit is a permit which is neither at issue in a pending Permit Review Board proceedings nor before a court of law;

(c) If a permittee, who holds a permit at issue either before the Permit Review Board or a court of law, is awarded another permit for the same species gear category through the lottery and thereafter prevails before the Permit

Review Board or in court, the permittee shall immediately surrender one of the permits to any Department office, so that only one valid permit per species gear category is held.

(3) Issuance of permits:

(a) If the number of applications received by the filing date is less than the number of permits available, all applicants who have submitted complete applications shall be issued a permit within 14 days of the filing date.

(A) Any remaining permits shall be issued on a first-come, first-served basis, within 14 days of receipt of each completed application, until the maximum number of permits is issued. Priority shall be based on postmark or date-stamped date;

(B) The names of applicants who did not receive a permit shall be placed on an alternates list, in the order they are received, until the next annual filing date. Applicants whose names are placed on the alternates list shall be refunded their permit fee minus a \$10 application fee. Permits which become available before the end of the year shall be made available to the alternates list, in the order listed. The applicant shall be notified of an available permit and shall resubmit a complete application and permit fee within 30 days of the date the notification is mailed. The permit shall be issued within 14 days of receipt of the resubmitted application and fee. If an alternate fails to apply, he shall forfeit the permit and the permit shall then be made available to the next name on the alternates list.

(b) If the number of applications received by the filing date is greater than the number of permits available, the

Department shall determine first how many applications there are with preference points as accrued under OAR 635-006-0915, except for new species that have qualification restrictions set forth in OAR 635-006-0850. Evidence of landings must be supplied by the applicant and submitted with the application.

(A) If the number of these applicants does not exceed the number of permits, they shall be given all available permits and any remaining applicants shall be placed in a lottery;

(B) If the number of applicants who have preference points exceeds the number of permits, then these applicants only shall be placed in a lottery, and grouped by the number of preference points they have accrued for each species gear category. Applicants with the highest number of preference points for each species gear category will be drawn first. Applicants having the highest number of preference points per species gear category will be drawn next. This permit issuance process will continue through descending numbers of preference points until all the available permits have been issued, unless all qualified applicants with preference points have been issued permits prior to that point. Permits shall be issued within 14 days of the lottery;

(C) In addition, remaining applicants (who do not have preference points) shall be placed in a lottery and their names shall be drawn;

(D) The Department then shall prepare an alternates list, in which applicants who have preference points are listed first (in the order drawn), and thereafter remaining

applicants are listed, in the order in which they were drawn. All applicants whose names are placed on the alternates list shall be refunded their permit fee minus a \$10 application fee. Any permits available before the end of the year shall be made available to the first name on the alternates list. The applicant shall be notified of an available permit and shall resubmit a complete application and permit fee within 30 days of the date the notification is mailed. The permit shall be issued within 14 days of receipt of the resubmitted application and fee. If an alternate fails to apply for the lottery permit within 30 days, he shall forfeit such permit and the permit shall then be made available to the next name on the alternates list.

(c) Permits may be made available before the end of the year by a permittee voluntarily turning in a permit.

(4) Persons to whom permits are issued: Permits shall be issued to either a vessel or an individual person when hand harvest methods are used. The permit holder is the owner or controller of the vessel or the individual person when hand harvest methods are used.

(5) Transfer of permits: Permits for Developmental Fisheries Species are not transferable to another person or entity; provided however that permits may be transferred to another vessel owned or controlled by the permit holder up to two times annually.

(a) In the event of the death of a permit holder, the permit of the deceased may be issued to a family member as defined by OAR 635-006-0810. Permit transfer shall require a copy of the death certificate and the original

permit, and must be requested by the family member to the deceased which shall be presumed by possession of the permit and death certificate.

([a]b) To transfer a permit, a permittee shall first apply on a form provided by the Department and shall include a \$25 transfer fee;

([b]c) No transfer shall be considered effective until the permittee has received approval from the Department and an updated permit.

(6) Renewal of permits:

(a) Permits may be renewed by submission, to the Department, of the appropriate fee and a complete application date-stamped or postmarked before January 1 of the year for which renewal is sought, except renewal applications for box crab permits must be postmarked or date-stamped before December 1 of the year prior to which renewal is sought;

(b) An application for renewal shall be considered complete if it is legible and has all information requested on the form and is accompanied by the required fee in full. Any application which is not complete shall be returned, and unless it is thereafter resubmitted and deemed complete before the deadline listed in (6)(a) above, the individual shall not be considered to have applied for renewal in a timely manner;

(c) It is the responsibility of the permit holder to ensure an application is complete and is filed in a timely manner. Failure of the Department to return an application for incompleteness or of an individual to receive a returned

application shall not be grounds for treating the application as having been filed in a timely and complete manner;

(d) In addition to timely and complete filing to renew a permit, a permittee must annually lawfully land the required pounds and/or landings listed in OAR 635-006-0850.

However, if a permittee obtained a permit later than July 1 of the prior year, the permittee shall not be required to make the annual landing requirement by the following January.

Instead, at the next renewal thereafter, the permittee shall be required to demonstrate the annual landing requirement was fulfilled during the first full year in which the permit was held.

(e) Landings made by one vessel can not be used for qualification to renew more than one permit per permit category in any given year.

(7) Authority of Director: Consistent with OAR 635-006-0810 through 635-006-0950, the Director is authorized to issue Developmental Fisheries Permits under the authority of ORS 506.460.

Stat. Auth.: ORS 506.109 and 506.119

Stats. Implemented: ORS 506.129, 506.450, 506.460 and

506.465

Hist.:

DRAFT 11-06-01

INTERIM MANAGEMENT PLAN FOR OREGON'S NEARSHORE FISHERIES

Oregon Department of Fish and Wildlife
2040 SE Marine Science Drive
Newport, OR 97365

November 6, 2001

DRAFT 11-16-01

I. Background

The need for a plan has emerged as a consequence of the groundfish crisis along with increased pressure on nearshore species by commercial and recreational users.

Developing first in California, the live fish fishery began in earnest in Oregon in 1997. The high value paid (in excess of \$5.00 per pound for some species) for live fish has provided incentive for open access and limited entry fishers to pursue the nearshore complex of groundfish even though trip limits for rockfish and lingcod have been reduced significantly. Some species (cabezon, and kelp greenling) do not have trip limits at present, are not managed as separate optimum yield (OY) species, and thus are vulnerable to overfishing.

In 2000, Oregon had 94 boats which made 1,856 deliveries to 13 dealers of about 182,000 lb of live fish. Fresh-dead fish is always a harvest component within this fishery as not all of the fish destined for the live market survive. The live fish fishery has doubled in size since 1997 and continues to grow. At least 64 vessels and 21 dealers are active this year as of April 2001. Fish are caught with open access hook-and-line, limited entry longline, pot gear, and a variety of other hook gears. The number of commercial hook and line or open access effort directed towards groundfish has been fairly stable at around 250 boats. The increase in effort toward live fish reflects a combination of long-time fishers switching over to value added fisheries and new entrants into the open access fishery. Some of the longer term participants were recently excluded from fishing on the continental shelf due to recent restrictions to protect canary rockfish. In addition, some limited entry fixed gear fishers also participate in the nearshore fisheries using a mix of hook-and-line, longline, and pot gears. Limited entry fishers who fish for groundfish with traditional open access gears have their catch credited against limited entry allocations. So far, allocations have only addressed sablefish and rockfish.

Few of Oregon's nearshore species have separate quotas or OYs under the federal Groundfish Fishery Management Plan. No trip limits exist for cabezon and greenling. As a consequence, increased fishing effort directed at highly valued nearshore species may lead to local depletion of reefs, overfishing, and user conflicts.

On October 19, 2001, the Fish and Wildlife Commission took action to establish a control date for use in future limited entry programs that might be developed for groundfish species. Staff presents a Developmental Fisheries Program for several nearshore species of groundfish and other marine species that would establish a permit system for accessing these species.

II. Developmental Fisheries Program for Nearshore Species

As was indicated above, federal management does not break out most of the nearshore species for separate management measures including optimum yields (OYs), seasons, size limits, or trip limits. This present situation allows expanding harvest on species that have little or no stock assessment information. Therefore, some conservation measures are needed to protect nearshore groundfish species while more information is gathered and stock assessments developed.

Several ideas for nearshore management were discussed before, during, and subsequent to the nearshore fisheries forum in Bandon on April 26th. Staff have revised some of the ideas and outline the following straw proposals. The concept of limited entry for the open access fishery or for nearshore species has been a topic of discussion within the Pacific Fishery Management Council and Bandon forums. This particular topic is dealt with separately in a subsequent section.

Proposed Oregon Nearshore Species for the Developmental Fisheries Program:

The proposed Oregon list focuses on those nearshore species that do not have a separate OY under the groundfish FMP live predominately within the territorial seas, or are not contained within the FMP. Black and blue rockfish are not included for two reasons. Black rockfish are managed with a separate OY under the groundfish FMP. Blue rockfish are caught also caught coincidentally with black rockfish and are often times taken outside of the territorial seas. For the time being, we excluded other species associated with the nearshore soft bottom habitats such as flatfish and skates.

Table 1: Focal Species for Oregon nearshore fishery management. Common name, species name, and federal management designation listed below each family name.

Family Cottidae

Buffalo sculpin <i>Enophrys bison</i>	N/A
Red Irish Lord , <i>Hemilepidotus hemilepidotus</i>	N/A
Brown Irish lord <i>Hemilepidotus spinosus</i>	N/A
Cabezon, <i>Scorpaenichthys marmoratus</i>	Other Fish

Family Hexagrammidae

Kelp greenling <i>Hexagrammos decagrammus</i>	Other Fish
Rock greenling <i>Hexagrammos lagocephalus</i>	N/A

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Whitespotted greenling *Hexagrammos stelleri* N/A

Painted greenling *Oxylebius pictu* N/A

Family Scorpaenidae

Kelp rockfish *Sebastes atrovirens* Minor Nearshore Rockfish

Brown rockfish *Sebastes auriculatus* Minor Nearshore Rockfish

Gopher rockfish *Sebastes carnatus* Minor Nearshore Rockfish

Copper rockfish *Sebastes caurinus* Minor Nearshore Rockfish

Black & Yellow rockfish *Sebastes chrysomelas* Minor Nearshore Rockfish

Calico rockfish *Sebastes dalli* Minor Nearshore Rockfish

Quillback rockfish *Sebastes maliger* Minor Nearshore Rockfish

Vermilion rockfish *Sebastes miniatus* Minor Nearshore Rockfish

China rockfish *Sebastes nebulosis* Minor Nearshore Rockfish

Tiger rockfish *Sebastes nigrocinctus* Minor Nearshore Rockfish

Grass rockfish *Sebastes rastrelliger* Minor Nearshore Rockfish

Olive rockfish *Sebastes serranoides* Minor Nearshore Rockfish

Treefish *Sebastes serriceps* Minor Nearshore Rockfish

Family Embiotocidae

Barred surfperch *Amphistichus argenteu* N/A

Calico surfperch *Amphistichus koelz* N/A

Redtail surfperch *Amphistichus rhodoterus* N/A

Kelp perch *Brachyistius frenatus* N/A

Shiner perch *Cymatogaster aggregata* N/A

Striped perch *Embiota lateralis* N/A

Spotfin surfperch *Hyperprosopon anale* N/A

Walleye surfperch *Hperprosopon argenteum* N/A

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Silver surfperch <i>Hperprosopon ellipticum</i>	N/A
Sharnose surfperch <i>Phanerodon atripes</i>	N/A
White surfperch <i>Phanerodon furcatus</i>	N/A
Pile perch <i>Rhacochilus vacca</i>	N/A

Qualification Criteria for Initial Permit Issuance:

The PFMC's Groundfish Strategic Plan calls for more than a 50% reduction in capacity across all sectors. Staff proposes landing requirements prior to the July 1, 2001 control date established by the Commission to identify a list of qualified applicants for a Developmental Fisheries Permit for the above species. Live fish landings have been recorded since 1997. Many of the species recommended above are landed primarily as live fish (Figure 1). Using a landing requirement associated with total pounds of live fish reported on the fish ticket is a good proxy for fishing activity directed towards these species. One of the characteristics of our nearshore fishery is the high degree of turnover in the fishery. A high percentage of the boats have either entered recently or only participated in one or two years historically (Figure 2). Staff recommends trying to capture those participants currently in the active fleet who have a higher dependency on live fish for their income, as indicated by a minimum annual landing history. A total of 161 boats made landings from 1999 through June 30th of 2001 (Table 2). Staff recommends total fleet size be reduced at least 50%.

Staff considered both the annual number of landings and pounds landed of live fish to develop initial qualification criteria based on the July 1, 2001 control date. Vessel participation was summarized by open access and limited entry participation grouped by annual landed catch of live fish <500 lb, between 500 and 999 lb, and 1,000 lb and greater (Table 2 and Table 3). Since average number of trips was around three for the < 500 lb category, between 5 to 10 for the middle category, greater than 25 trips for the highest category, staff did not feel that adding an option to consider the number of landings was necessary for a selection criteria. Staff suggests two options based on landing criteria for identifying the core group of participants eligible for future Developmental Fisheries permits:

Option 1 (staff preferred): Applicants for a nearshore Developmental Fisheries Permit must have landed at least 1,000 lb of live fish per year in at least one year between January 1, 1999 and June 30, 2001.

Under this option, there would be 68 boats qualifying – 18 limited entry and 50 open access vessels. This option would be consistent with more than a 50% reduction in fleet size during the qualifying period. Current fleet size landing live fish in 2001 is approximately 47 boats.

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It would eliminate 12 limited entry and 81 open access potential applicants who failed to meet the landing criteria. Fleet size may need to be adjusted in the future based on additional information collected during the Developmental Fishery Program. Additional management measures may be required to protect the resource and insure viability of the fishery.

Option 2: Applicants for a nearshore Developmental Fisheries Permit must have landed at least 500 lb of live fish per year in at least one year between January 1, 1999 and June 30, 2001.

Under this option, 80 boats would qualify – 20 limited entry and 70 open access vessels. This represents 50% reduction in the total number of vessels participating from 1999 through June 30, 2001. The number of qualifying vessels would be approximately 50%. It would eliminate 10 limited entry and 71 open access potential applicants who failed to meet the landing criteria. If this option were chosen, staff recommends downsizing the fleet to fewer than 80 vessels through attrition of permit holders who failed to meet renewal requirements. Fleet size may need to be adjusted in the future depending based on additional information collected during the Developmental Fishery Program. Additional management measures may be required to protect the resources and insure viability of the fishery.

Renewal Requirements

Applicants receiving permits for 2002 would need to land at least 1,000 lb of Developmental Fisheries nearshore species to qualify the permit for renewal. Staff recommends no lottery for permits until the number of participants falls below 50, or staff is able to complete stock assessments on the species making up the majority of the nearshore catch and recommend appropriate effort levels.

Gear Restrictions

Legal gears may be used to catch nearshore live fish.

Incidental Catch Allowance

Vessels without a Developmental Fisheries permit for nearshore species may land up to 50 lb of nearshore Developmental Fisheries species as bycatch, if the non-nearshore species comprise more than 50% of the catch and are caught with legal gear.

Area Restrictions:

At the Bandon Forum, recreational users supported limiting commercial access in nearshore reef areas adjacent to Bandon. It was suggested this could be done either by rule or by gentlemen's agreement. Figure 3 shows the distribution of catch by port for both recreational and commercial nearshore fisheries. There is currently a separation of areas of intense commercial activity from areas of higher recreational activity. Capping commercial harvest within areas of high recreational use will minimize impacts on existing

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commercial use and reduce future user conflicts. The following option suggests expanding the restricted fishing area to just south of Bandon, and applying the 200 pound 65 fish restriction and adding a restriction for nearshore species.

Option 1: The following trip limit applies to black rockfish and nearshore species taken with all commercial gear except trawl:

- (1) It is unlawful to take or retain more than 200 pounds of black rockfish and nearshore species or 65 fish, whichever is greater, per vessel from a single fishing trip within one of the following areas:
 - (a) Tillamook Head (45° 56' 45" N. latitude) to Cape Lookout (45° 20' 15" N. Latitude);
 - (b) Cascade Head (45° 03' 50" N. latitude) to Cape Perpetua (44° 18' N. latitude);
 - (c) From a point (43° 30' N. latitude), approximately 8 1/2 nautical miles north of the Coos Bay north jetty to a point (43° 03' N. latitude) adjacent to the mouth of Fourmile Cr.
 - (d) Mack Arch (42° 13' 40" N. latitude) to Oregon-California border 42° N. latitude).
- (2) A Developmental Fisheries permit is required to take, land, or possess nearshore species unless as taken as bycatch.

Option 2: The following trip limit applies to black rockfish and nearshore species taken with all commercial gear except trawl:

- (1) It is unlawful to take or retain more than 200 pounds black rockfish or 65 fish, whichever is greater, and no more than 50 pounds of nearshore species, per vessel from a single fishing trip within one of the following areas:
 - (a) Tillamook Head (45° 56' 45" N. latitude) to Cape Lookout (45° 20' 15" N. Latitude);
 - (b) Cascade Head (45° 03' 50" N. latitude) to Cape Perpetua (44° 18' N. latitude);
 - (c) From a point (43° 30' N. latitude), approximately 8 1/2 nautical miles north of the Coos Bay north jetty to a point (43° 03' N. latitude) adjacent to the mouth of Fourmile Cr.
 - (d) Mack Arch (42° 13' 40" N. latitude) to Oregon-California border 42° N. latitude).

Option 3: Status Quo.

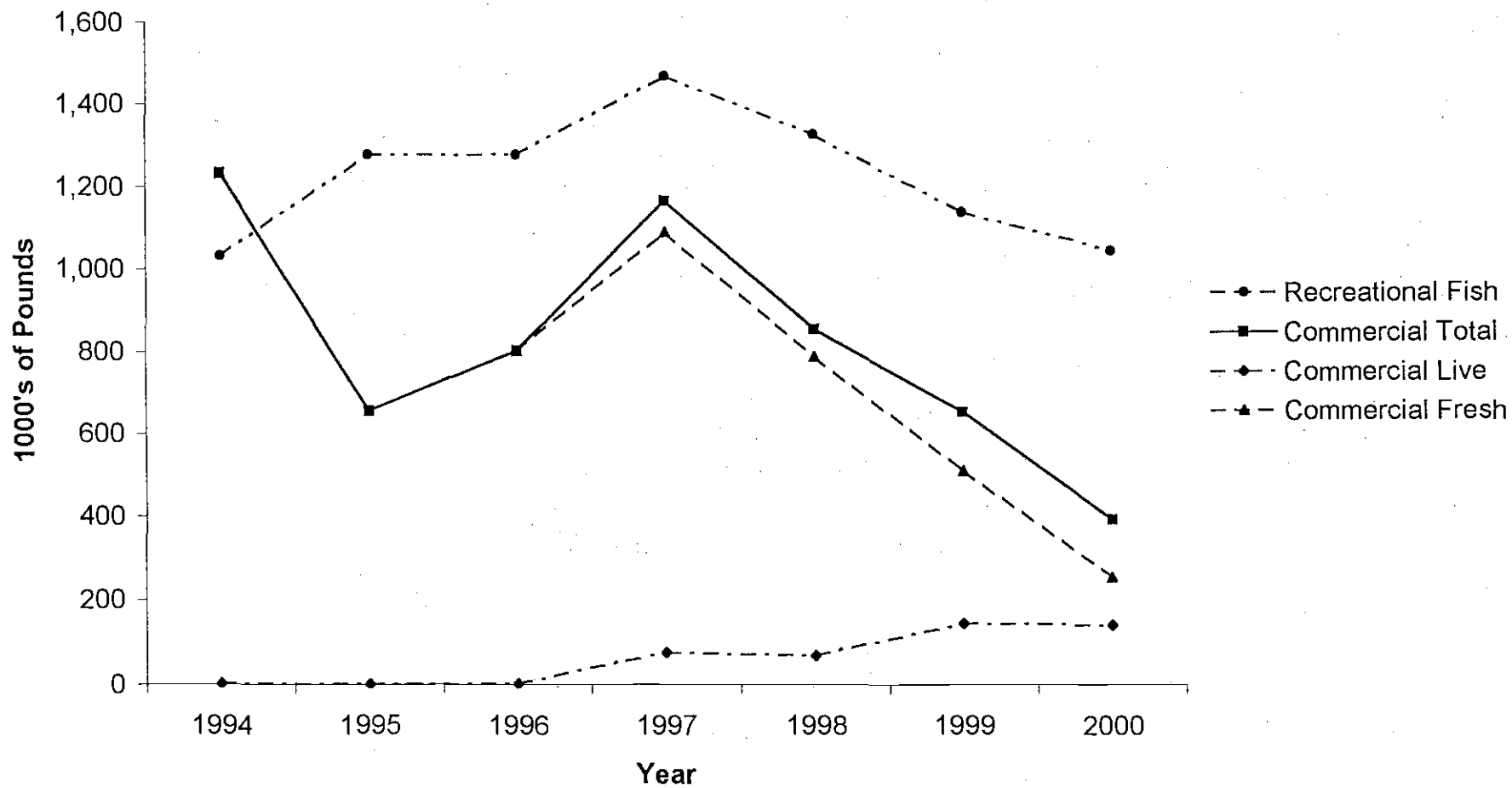
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III. Recommendations

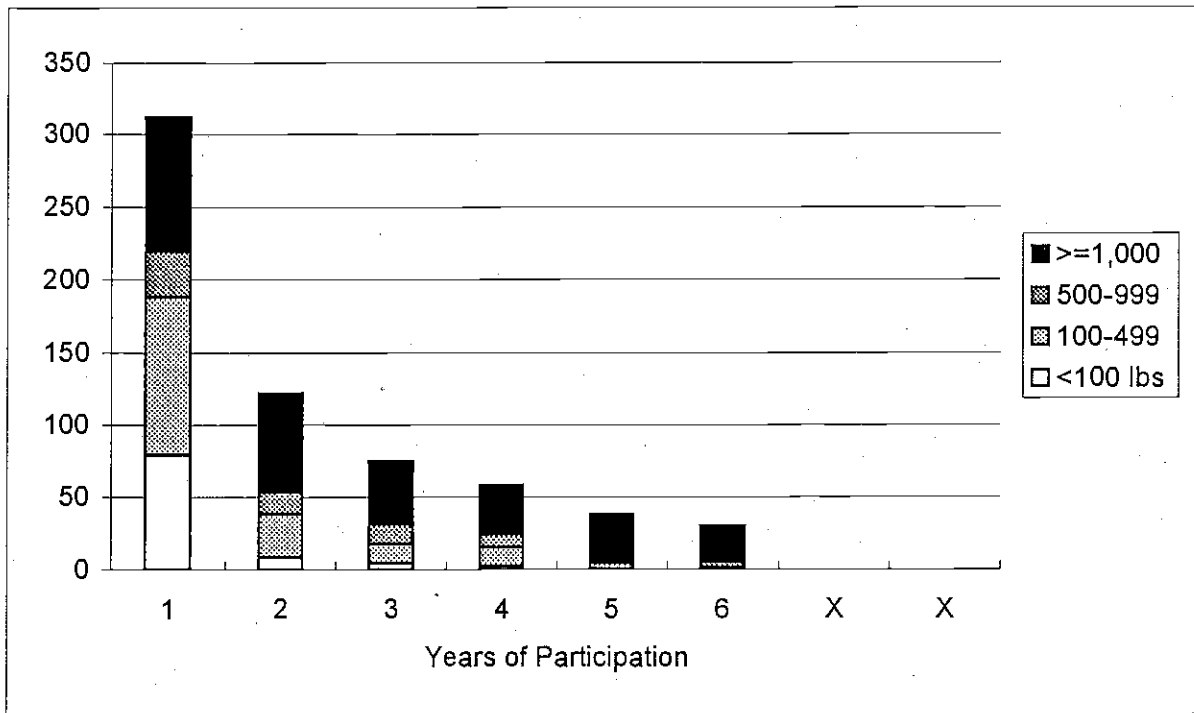
A quorum was not present when the staff report was presented to the Developmental Fisheries Board meeting on November 6, 2001. There was not a consensus among board members and public present at the meeting on the options presented. There were concerns expressed that the program was either too exclusive or not exclusive enough. Some board members and public wanted additional details that might help define the program. Staff felt there was sufficient direction to do the following:

- Better define the problem of over-capacity and resource concerns, and set goals for the fishery. There is public debate over whether or not we should create a larger group of part-time fishers or a smaller group of fishers who concentrate on nearshore species for a major part of their income.
- Create a broader set of options for developing landing history criteria that may be used to establish a pool of qualified applicants for initial permit application. One suggestion was to go back further in time to capture past participants in the fishery while reducing the numbers of more recent participants. Another option would be more liberal – to capture both past and more recent participants licensed before the control date, but did not meet the proposed landing criteria. Some at the meeting felt that the permit system should only be applied to the south coast.
- Staff will add details to address issues such as 1) whether permits should be issued to vessels or individuals; 2) renewal requirements; 3) by-catch concerns.
- Continue to collect comments and recommendations from the public and review an updated draft of the plan at a future Developmental Fisheries Board meeting in Bandon or Port Orford, fall of 2001.
- Staff recommends implementing parts of the plan before summer of 2002 when the nearshore fishery is most active.

Figure 1. Oregon Commercial -vs- Estimated Recreational Catches
Hook and Line Landing Trends



No. open access boats landing groundfish with fixed gear - 1994-November 5, 1999.
 Period 1



No. open access boats landing groundfish with fixed gear - 1994-July 1, 2001.
 Period 2

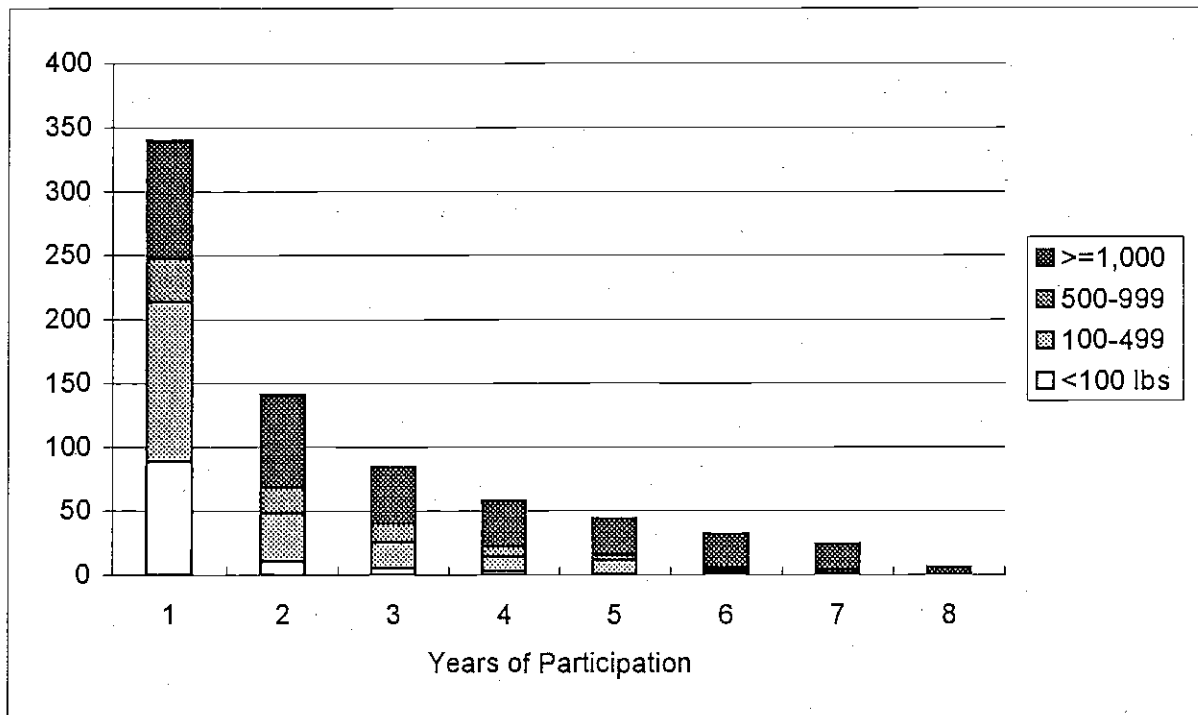


Figure 2.

Table 2
Vessel Counts and Landing Characteristics for Vessels Participating in Live Groundfish Fishery During an Analysis Period

Characteristic	Number of Years Participating During Analysis Period									Total		
	1			2			3			LE	OA	Total
	LE	OA	Total	LE	OA	Total	LE	OA	Total	LE	OA	Total
Vessel Counts by Live Groundfish Landing Volume Categories												
<500 pounds	7	60	67	2	9	11	1	2	3	10	71	81
500-999 pounds	1	5	6	0	4	4	1	1	2	2	10	12
>=1,000 pounds	3	10	13	2	15	17	13	25	38	18	50	68
Total	11	75	86	4	28	32	15	28	43	30	131	161
Sum of Landing Volume for All Landing Volume Categories												
Live groundfish	12,138	31,465	43,603	5,535	61,629	67,164	164,104	292,319	456,423	181,777	385,413	567,190
Other groundfish	405,589	80,492	486,081	376,607	87,010	463,617	897,322	283,299	1,180,621	1,679,518	450,801	2,130,319
All species	1,232,801	1,637,844	2,870,645	1,065,840	502,939	1,568,779	2,138,492	1,329,496	3,467,988	4,437,133	3,470,279	7,907,412
Sum of Landing Volume for Vessels With Live Groundfish Landings Greater Than 500 Pounds												
Live groundfish	10,579	24,581	35,160	4,545	59,684	64,229	164,018	290,796	454,814	179,142	375,061	554,203
Other groundfish	221,608	34,615	256,223	267,248	73,146	340,394	819,548	282,644	1,102,192	1,308,404	390,405	1,698,809
All species	667,944	79,659	747,603	854,263	399,116	1,253,379	1,924,106	1,320,022	3,244,128	3,446,313	1,798,797	5,245,110

- Notes:
1. The analysis period is 1999, 2000, and 2001 through July 1, 2001.
 2. Excludes vessels with identification of "NONE" or beginning with "ZZ." There were several "ZZ" referenced vessels that delivered northern rockfish during each period year. "ZZ" type vessels are generally vessels delivering under treaty Indian allocations.
 3. Vessels are included if they made at least one live groundfish fishery landing in Oregon. Landings for these vessels include deliveries to oth states.
 4. Live groundfish fishery is defined to be PFMC groundfish species plus specified miscellaneous and non-PFMC groundfish fish species with a disposition code for "landed live for eventual human consumption." The miscellaneous species were selected to include those that had greater than 500 pounds landing volume in any year during the analysis period. For Oregon, this includes landings of greenling. Greenling is a PFMC managed species, but is coded for Oregon landings as a miscellaneous fish in the PacFIN database.
 5. LE criteria are vessels having a federal limited entry permit, inclusive of all endorsements, in any year of the period.
 6. Landings exclude non-EEZ catch area, tribal allocations, violations, overages, etc.
 7. Landing volume categories for vessel counts are the maximum of the round pounds landed during any of the analysis period years.

Data Extraction: PacFIN September 2001, Years 1999 - partial 2001 (through July 1)

Filter: Vessels that landed any amount of live, EEZ groundfish in Oregon (AGID=O; disposition=F; species summary1=1 or SPID=MSC2, WEEL, or MISC; PERMID="OA" or "LE" (except for misc. species); DRVID<>"NONE" or "ZZ..")

Analysis Date: October 26, 2001

Table 3
Vessel Trips for Landings in Live Groundfish Fishery by Volume Categories During an Analysis Period

Live Groundfish Species	1999			2000			2001p		
	Count	Trip Sum	Trip Average	Count	Trip Sum	Trip Average	Count	Trip Sum	Trip Average
Vessels Landing <500 Pounds of Live Groundfish									
Cabazon	24	79	3.3	42	167	4.0	26	62	2.4
Miscellaneous fish	27	102	3.8	31	150	4.8	22	67	3.0
Lingcod	25	73	2.9	23	60	2.6	13	29	2.2
Nor. unsp. nearshore rockfish	0	0		32	119	3.7	22	45	2.0
Unsp. rockfish	30	105	3.5	0	0		0	0	
Vessels Landing 500-999 Pounds of Live Groundfish									
Cabazon	6	53	8.8	6	85	14.2	11	127	11.5
Miscellaneous fish	5	54	10.8	5	84	16.8	11	129	11.7
Lingcod	7	28	4.0	4	24	6.0	11	59	5.4
Nor. unsp. nearshore rockfish	0	0		6	94	15.7	11	118	10.7
Unsp. rockfish	6	53	8.8	0	0		0	0	
Vessels Landing >=1,000 Pounds of Live Groundfish									
Cabazon	40	1,311	32.8	40	1,356	33.9	42	1,196	28.5
Miscellaneous fish	39	1,476	37.8	39	1,418	36.4	42	1,298	30.9
Lingcod	40	798	20.0	36	513	14.3	39	493	12.6
Nor. unsp. nearshore rockfish	0	0		39	1,322	33.9	42	1,212	28.9
Unsp. rockfish	40	1,505	37.6	0	0		0	0	

- Notes: 1. The analysis period is 1999, 2000, and 2001 through July 1, 2001.
2. Excludes vessels with identification of "NONE" or beginning with "ZZ." There were several "ZZ" referenced vessels that delivered northern rockfish during each period year. "ZZ" type vessels are generally vessels delivering under treaty Indian allocations.
3. Table 1 notes defining live groundfish fishery apply to this table.
4. Trips cannot be summed across species because multiple species can be landed in one trip.
5. A trip is estimated by a fish ticket. This can be an overcount, because more than one ticket can be issued per delivery.

Data Extraction: PacFIN September 2001, Years 1999 - partial 2001 (through July 1)

Filter: Vessels that landed any amount of live, EEZ groundfish in Oregon (AGID=O; disposition=F; species summary1=1 or SPID=MSC2, WEEL, or MISC; PERMID="OA" or "LE" (except for misc. species) ; DRVID<>"NONE" or "ZZ..")

Analysis Date: October 26, 2001

