



Oregon Fish and Wildlife Commission

Date: October 23, 1998

EXHIBIT **H**

SUBJECT Developmental Fisheries

PRINCIPAL STAFF PERSON Jean McCrae **PHONE:** 503-867-4741

COMMISSION ACTION REQUESTED

- Amend Developmental Fisheries Program rules

DOCUMENTS INCLUDED

1. Agenda Item Summary
2. Developmental Fishery Permit Board Members
3. Hearing Notice
4. Staff Report
5. Draft Rules
6. Correspondence, if any received

RELATED STATUTES ORS 506.450 - 506.465

RELATED RULES OAR 635-006-0800 through 635-006-0950

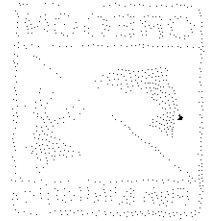
Read and Approved by:

Division Chief REDACTED FOR PRIVACY **Date** 9/29/98

Attorney General REDACTED FOR PRIVACY REDACTED FOR PRIVACY **Date** 10/6/98

Director REDACTED FOR PRIVACY REDACTED FOR PRIVACY **Date** 10/7/98

Agenda Item Summary



BACKGROUND

- This item is a review of the Developmental Fishery Program for 1998 as well as proposed rule changes in the harvest program for some developmental fishery species and requirements for permit applications.

PUBLIC INVOLVEMENT

The Developmental Fishery Board held 3 meetings in 1998. Details of Board Activities are contained in the staff report. These meetings were "public meetings" and subject to the Oregon Public Meetings Law.

ISSUES, ANALYSIS, OPTIONS AND STAFF RECOMMENDATIONS, ISSUES 1 THRU 7

See Outline of Staff Report

DRAFT MOTION

I move to amend OAR 635-005-0064, 635-006-0850 AND 635-006-0910, as proposed by staff (with the following changes...).

EFFECTIVE DATE

January 1, 1999

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 Jennell Hoehne			Administrative Rules Chapter Number (503) 872-5272, Ext. 5447
Rules Coordinator 2501 SW First Avenue; P. O. Box 59, Portland, OR 97207			Telephone
Address Bay City Hall			
10-23-98	8:00 a.m.	5525 B Street, Bay City, Oregon	
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 <input checked="" type="checkbox"/> No <input type="checkbox"/>

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.

ORS 506.119

Stat. Auth.: ORS

Other Authority

ORS 506.109, 506.450-506.465

Stats. Implemented: ORS

RULE SUMMARY

The proposed rules amend the harvest program for selected developmental fisheries species.

REDACTED FOR PRIVACY
REDACTED FOR PRIVACY

October 23, 1998

Last Day for Public Comment

9/15/98
Authorized Signer and Date

*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 a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.

ARC 920 - 1997

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,
)	Principal Documents Relied Upon,
)	Statement of Fiscal Impact

Statutory Authority: ORS 506.119

Other Authority:

Statutes Implemented: ORS 506.109 and 506.450 through 506.465

Need for the Rule(s):

The rules are needed to amend the harvest program for selected developmental fisheries species consistent with the implementing statutes.

Documents Relied Upon:

Staff Report for Oregon Fish and Wildlife Commission Meeting of October 23, 1998.

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

Fiscal and Economic Impact:

See Attached

Administrative Rule Advisory Committee consulted?: Yes, these rules were reviewed by the Developmental Fisheries Board on May 11 and August 25, 1998.

If not, why?:

REDACTED FOR PRIVACY
REDACTED FOR PRIVACY
REDACTED FOR PRIVACY.

Authorized Signer and Date

9/15/98

Economic Impact Statement for the October 23, 1998 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:

- 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 adoption of these rules.
- b. No units of local government are expected to be affected by these rules. No significant changes from the current levels of any local agencies' operations or expenditures are expected as a result of the adoption of these rules.
- c. The public could be affected by the adoption of these rules: 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, ODFW staff proposes seven items be considered.
 - (1) Require purchase of appropriate commercial license before accepting applications for permits. As a way to reduce speculation in permits, staff is recommending that permit applicants be required to first obtain their vessel license (or individual fishing license in the case of permits to individuals) before applying for a permit. Most in-state applicants and out-of-state applicants who traditionally land fish in Oregon are already participating in other Oregon fisheries, and will be purchasing their Oregon licenses whether they get a permit or not. Therefore, we expect no negative impact on these harvesters.
 - (2) Remove the north/south split of permits for squid, spot prawns and sea cucumbers after the permit lottery has been completed. This would make it possible for harvesters who are otherwise confined to the north coast to apply for and potentially harvest in the south coast area, provided permits were available after the permit lottery. We expect this could have modest, positive effects on harvests.
 - (3) Add five bay clam permits specifically for the south coast. This would make it possible to increase the number of potential harvesters who take clams with dive gear on the south coast only. We expect this could have modest, positive effects on clam harvests.
 - (4) Allow box crab fishing from November 1 through November 15. This is expected have positive effects on box crab harvests and no adverse effects on harvests of Dungeness Crab.
 - (5) Allow swordfish permits and annual landings (for meeting permit renewal requirements) to run from February 1 through January 31 of the next year. If an Oregon permit holder does not meet the renewal requirements by December 31, he can not deliver into Oregon during the month of January. If permits were good from February 1 through January 31 of the next year, permit holders could deliver into Oregon in January rather than take their catch to California. This could have a positive effect on Oregon landings.
 - (6) Allow limited retention of thresher shark taken incidentally in the swordfish fishery. Oregon may have lost some swordfish deliveries in the past three years when boats fishing off our south coast have elected to land their catch of swordfish and incidental threshers in Crescent City, California, rather than discard the threshers and come into an Oregon port. Vessels can also land into Washington which has no gill net prohibitions for either swordfish or thresher sharks. Because these sharks are presently being caught and discarded dead, we do not believe this proposal would result in any added fishing mortality for thresher sharks. Some additional positive impacts for Oregon harvesters and processors could result if the proposal is adopted.

(7) Waive renewal requirement for brine shrimp cysts, squid and one swordfish holder. Because the conditions of Lake Abert have not been favorable for harvesting cysts, staff recommends the renewal landing requirement be waived this year. Also, due to lack of availability of squid staff recommends waiver of the renewal requirement for squid permits for one year. These waivers should cause no adverse fiscal or economic impact. Staff also recommends waiver (for one year only) of the renewal requirement for one swordfish permit holder who has invested \$35,000 to \$40,000 in gear, and indicates an economic need to fish for swordfish next year. Adoption of this waiver is expected to allow the permit holder to utilize the gear next year as planned, and to make sufficient landings to reach the renewal requirements.

Overall, the 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 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 BOARD

(as of August 1, 1997)

Licensed commercial fisher, operating vessel less than 60 Feet (two positions)

- Stan Schones, 1483 Old River Rd, NE, Siletz, Oregon 97380, (541) 444-2620.
- Jerome Grant, PO Box 411, Siletz, Oregon 97380, (541) 444-7405.

Licensed commercial fisher, operating vessel greater than 60 Feet (two positions)

- Gerald Gunnari, PO Box 5435, Charleston, Oregon 97420, (541) 269-2352.
- Linda Brown, PO Box 968, Brookings, Oregon 97415, (541) 469-8890.

Commercial fishing interest in general (one position)

- Leonard VanCurler, 4772 Treewood Ct., Florence, Oregon 97439, (541) 997-8109.

Person employed by a fish processor having fewer than 50 employees (one position)

- Bill Schreiber, Smith Pacific Shrimp Co., PO Box 738, Garibaldi, Oregon 97118.

Person employed by a fish processor having more than 50 employees (one position)

- Scott Adams, Hallmark Fisheries, PO Box 5390, Charleston, Oregon 97420, (541) 888-3254.

Oregon Department of Fish and Wildlife employee

- Jim Golden, 2040 SE Marine Science Dr., Newport, Oregon 97365, (541) 867-4741.

Oregon Department of Agriculture employee

- Dalton Hobbs, World Trade Center, 121 SW Salmon, Suite 240, Portland, Oregon 97204-2987, (503) 229-6734.

Ex Officio

- Frank Dulcich, The Pacific Group, 3220 SW 1st Ave., Portland, Oregon 97201, (503) 226-2200.
- Joe Easley, Oregon Trawl Commission, PO Box 569, Astoria, Oregon 97103, (503) 325-3384.
- Paul Heikkila, OSU Sea Grant Marine Extension Program, Coos County Courthouse Annex, 290 North Central, Coquille, Oregon 97391, (541) 396-3121, Ext. 240.
- Tom Shafer, Oregon Salmon Disaster Outreach Program, 13408 Alsea Hwy, Tidewater, Oregon 97390, (541) 528-7451.

Facilitator

- Onno Husing, Oregon Coastal Zone Management Association, PO Box 1033, Newport, Oregon 97365, (541) 265-8918.

Developmental Fisheries Program Staff Report

Summary of Staff Report

ODFW staff is providing a review of the Developmental Fishery Program for 1998 and asking the Commission to adopt regulation changes in the harvest program for some developmental fishery species and requirements for permit applications.

Key elements and conclusions from the staff report are:

- One hundred and eighty-seven permits for the harvest of developmental fishery species have been issued in 1998, through September 15. Most landings of developmental fishery species have been as by-catch in other fisheries.
- ODFW staff observed and collected data from the experimental clam dredge fishery and continued to collect and analyze data on brine shrimp from Lake Abert.
- The Developmental Fishery Board considered requests to: change requirements for permit applications; remove the north/south split; add additional bay clam permits; allow box crab fishing during November closure; allow thresher shark by-catch in the swordfish fishery; and waive the renewal requirements for the brine shrimp cyst and squid fisheries and one swordfish permit. The Board will also pursue a legislative bill to allow an increase in the permit fees for out-of-state applicants.
- The ODFW staff and Board recommend changes: in the requirements for applications; in the north/south split for permits; in the harvest programs for bay clams, box crab, and swordfish; and to waive renewal requirements for the brine shrimp cyst and squid fisheries and one swordfish permit.

Outline of Staff Report

- I. Introduction Page 5
- II. Annual Report of Developmental Fisheries Activities Page 5
 - Summarizes permits and landing activities of developmental fishery species.
 - Summarizes research and management activities of developmental fishery program.
- III. Staff Analysis of Issues and Options - Recommendations Page 8
 - Summarizes harvest programs and recent activities.
 - Summarizes conclusion of the evaluation of effects.

*Issue 1:
Require purchase of appropriate commercial license before accepting applications for permits.*

Option A *(preferred)* The Board and staff recommend the Commission adopt rules requiring that applicants for developmental fishery permits obtain their vessel license (or individual fishing license in the case of permits to individuals) before applying for the permit.

Option B: No action: status quo, commercial license is not required before applying for a permit.

*Issue 2:
Remove north/south split of permits after permits have been issued through lottery.*

Option A *(preferred)* The Board and staff recommend the Commission adopt rules removing the north/south split for issuing permits after permits have been issued through the lottery.

Option B: No action: status quo, the north/south split for issuing permits remains for the entire year.

*Issue 3:
Add five bay clam permits for south coast areas only.*

Option A: *(preferred)* The Board and staff recommend the Commission adopt rules adding five bay clam permits which could be used only in south coast areas.

Option B: No action: status quo, a total of 10 permits, used state-wide.

• *Issue 4.*

Allow box crab fishing from November 1 through November 15.

- Option A: *(preferred)* The Board and staff recommend the Commission adopt rules allowing the harvest of crab from November 1 - 15 under a Developmental Fisheries permit.
- Option B: No action: status quo, harvest of crab not allowed from November 1- 15.

• *Issue 5.*

Allow swordfish permits and annual landings to run from February 1 through January 31 of next year.

- Option A *(preferred)* The Board and staff recommend the Commission adopt rules to allow swordfish permits to be valid and the annual landing requirements run from February 1 through January 31 of the next year.
- Option B: No action: status quo, swordfish permits and annual landing run from January 1 through December 31 of each year.

• *Issue 6.*

Allow retention of thresher shark in swordfish fishery.

- Option A: *(preferred)* The Board and staff recommend the Commission allow the issuance of experimental gear permits to allow the retention of thresher shark in the swordfish fishery at a ratio of one thresher shark for every two swordfish taken.
- Option B: No action: status quo, no by-catch of thresher shark allowed under swordfish permits.

• *Issue 7.*

Waive renewal requirement for brine shrimp cysts, squid, and one swordfish permit holder.

- Option A *(preferred)* The Board and staff recommend the Commission waive the renewal requirements for the brine shrimp cyst fishery, the squid fishery, and one swordfish permit for this year only.

Option B: No action: status quo, permit holders must meet landing requirements to renew the permits.

Oregon Administrative Rules Page 15

Appendix A. Experimental Clam Dredge - Progress report Page 20

I. Introduction

The public hearing on October 23 is the annual review of the Developmental Fisheries Program. At the hearing, ODFW staff will: 1) describe the activities of the Developmental Fisheries Program in 1998; and 2) recommend changes to the harvest programs for some developmental fishery species and requirements for permit applications.

II. Annual Report of Developmental Fisheries Activities

Permits

ODFW staff has issued 187 permits for the harvest of developmental fisheries species through September 15, 1998 (Table 1). Of the more than 145 permits issued in 1997, 37 met the landing requirements for renewal for 1998 (almost double from the previous year). The permits for five fisheries (bay clams, spot prawns, coonstripe shrimp, squid, and brine shrimp) were issued through a lottery as there were more applicants than available permits by the filing deadline. All available permits were issued for seven fisheries or areas.

Landings

Landings of developmental fisheries species through August, 1998 are summarized in Table 2. The majority of the landings of developmental species were taken as by-catch in other fisheries. The landing fees for species in all categories have generated approximately \$11,500 into the developmental fisheries fund in 1998, through August.

Research

OCEAN CLAMS

An experimental gear permit was issued to the F/V Lady Rosemary to use dredge gear to harvest clams off the Oregon coast. During June and July, over 200 tows were made between the Columbia River and below Cape Blanco searching for commercially viable clam beds. The main species of interest was razor clams, but other clams such as cockles and gapers were also explored. Staff made two ride-along trips observing the operation of the gear and by-catch. An underwater video camera was installed on the dredge to observe the habitat. Few commercially viable beds were found. The project generated some public concern regarding the effects of the gear on the habitat and other resources, especially Dungeness crab. Appendix A is a progress report summarizing the work done with the clam dredge in 1998.

BRINE SHRIMP

Staff continues to collect brine shrimp and water data from Lake Abert. The level of the lake continues to increase and has a relatively low salinity (42-52 ppt). Average density estimates of shrimp range from 600 to 68,000 shrimp/m³ based on samples analyzed to date.

MACKEREL

Finfish staff continues to collect stomach samples from mackerel to determine the role of mackerel in salmon predation. So far, no salmon have been found in mackerel stomachs.

Table 1. 1998 Developmental Fishery Permits (as of 9/15/98).

	Permits Allowed	Permits Issued	Renewals from 1997
Pacific hagfish	25	3	
blue shark	10		
swordfish	10 other 20 longline	10*	2
northern anchovy & Pacific herring	15	12	
Pacific sardine & Pacific saury	15	10	
Pacific sandfish	10		
smelt	20		
Pacific pomfret	10		
slender sole	10		
box crab	25	14	4
Oregon hair crab & scarlet king crab & grooved tanner crab	10	4	
spot shrimp	6 (3N/3S) trawl 10 (5N/5S) other	3* / 3* 5* / 5*	3 / 1 2 /
coonstriped shrimp & sidestripe shrimp	10	10*	2
cockle clams	5	1	1
bay clams	10	10*	7
giant octopus	10	9	3
California market squid	30 (15N/15S) trawl	17* / 17*	1 / 6
other squid spp.	30 (15N/15S) other	24* / 15*	4 /
fragile urchin	6 trawl 6 other		
sea cucumber	6 (3N/3S) trawl 10 (5N/5S) diver 10 (5N/5S) other	3* / 3* 1 / 2	
marine snails	10	2	
brine shrimp	3 adults 1 cysts	3* 1*	1 1
	total	187	37

* all available permits issued

N/S -- permits issued geographically by home port,
split at Heceta Head, 50% N, 50% S

Table 2. Landings of developmental fisheries species, by category, through August, 1998

Category A	Pounds	Category B	Pounds	Category C	Pounds
Pacific hagfish	1,648	salmon shark	-	spiny dogfish	260,030
blue shark	2,008	black hagfish	-	soupin shark	2,245
swordfish	-	Eelpouts	-	skate	384,177
northern anchovy	-	skilfish	-	American shad	183,556
Pacific herring	157,916	carp	-	Pacific cod	139,560
Pacific sardine	1,720	yellow perch	-	Pacific flatnose	-
Pacific saury	-	brown bullhead	-	Pacific grenadier	406,597
Pacific sandfish	-	northern squawfish	-	cabezon	38,693
smelt	7,568			sculpins	7
Pacific pomfret	-	euphausiids (krill)	-	kelp greenling	19,319
slender sole	-	Pacific sand crab	-	jack mackerel &	
		freshwater mussels	-	Pacific mackerel	1,093,143
box crab	333			greenstriped rockfish	
Oregon hair crab	-			redstripe rockfish	
scarlet king crab	-			shortbelly rockfish	
grooved tanner crab	-			sharpchin rockfish	
spot shrimp	104,681			splitnose rockfish	
coonstriped shrimp	100			Pacific sanddab	247,511
sidestripe shrimp	-			butter sole	6,598
butter clams	17,072			English sole	839,249
cockle clams	11,975			rex sole	416,349
gaper clams	1,134			rock sole	11,159
littleneck clams	3,347			sand sole	87,687
softshell clams	798			lemon sole	4,660
giant octopus	7,579			spotted ratfish	0
California market squid	18,140			wolf-eel	4,275
other squid spp.	-			walleye pollock	16
fragile urchin	-				
sea cucumber	-			red rock crab	1,995
marine snails	-			purple sea urchins	-
brine shrimp	10,200			crayfish	36,881

Board Activities

The Developmental Fishery Board held three meetings in 1998. The first meeting was a conference call to consider a request to increase the number of squid permits. The Board recommended and the Commission approved an increase of 15 squid permits for 1998.

At their regular meeting in May, the Board considered requests to waive renewal requirements for the brine shrimp cyst fishery, add additional bay clam permits for south coast harvesters, allow box crab fishing during the November closure, allow the retention of thresher shark in the swordfish fishery, and change the annual dates for swordfish landings. The Board also considered a request to add live fish to the Developmental species list but took no action.

At their third meeting in August, the Board considered requests to change requirements for applications, review the north/south split for issuing permits, and reviewed renewal requirements for all species.

The Board intends to ask a legislator to sponsor a bill for the 1999 Legislative session to increase the permit fees for out-of-state applicants to \$200. The Board also intends to consider developing guidelines for future requests for waivers of renewal requirements.

III. Staff Analysis of Issues and Options - Recommendations

The following discusses staff recommendations. The full text of proposed rule changes is attached beginning on Page 15.

Background of Permit fees.

Presently, anyone may apply for a developmental fishery permit by submitting the \$75 fee with the application. If they are unsuccessful in obtaining a permit through the lottery, the money is refunded (except a \$10 application fee).

*Issue 1:
Require purchase of appropriate commercial license before accepting applications for permits.*

In 1998, there was a considerable amount of interest for squid permits. Many individuals speculated that because of el-nino, there would be a large squid fishery in Oregon similar to the fishery that occurred after the el-nino in the early 1980's. Initially, only three of the 30 possible permits for seine gear were issued to Oregon vessels. Because several Oregon vessels with historical squid landings did not initially get a permit, the Commission allowed additional permits to be issued to allow Oregon vessels to participate in the squid fishery for 1998.

In an effort to reduce future speculation by out-of-state applicants, the Board will be asking a legislator to sponsor a bill to increase the permit fee for out-of-state applicants to \$200. If approved, the fee increase would not take affect until 2000.

As another way to reduce speculation, the Board is recommending that permit applicants be required to first obtain their vessel license (or individual fishing license in the case of permits to individuals) before applying for a permit. Most in-state applicants are already participating in other Oregon fisheries and will be purchasing their Oregon licenses whether they get a permit or not.

Option A: (*preferred*) The Board and staff recommends the Commission adopt rules requiring that applicants for developmental fishery permits obtain their vessel license (or individual fishing license in the case of permits to individuals) before applying for the permit.

Option B: No action: status quo, commercial license is not required before applying for a permit.

Background of north/south split to issue permits.

Currently, there is a north/south split for issuing permits for spot prawns, squid, and sea cucumbers. The split does not limit where a vessel may fish, it limits how the permits are issued; 50% to vessels with home ports on the north coast and 50% to vessels with home ports on the south coast. The intent of the split is to prevent the concentration of permits issued in one area.

*Issue 2:
Remove north/south split of permits after permits have been issued through lottery.*

In 1998, there was enough interest in squid seine permits where they were issued through a lottery for the north coast area, but not for the south coast area. The remainder of the south coast permits were eventually issued, but all to out-of-state applicants because the in-state applicants on the north coast could not apply for them.

The Board and staff is recommending once the lottery is completed, the north/south split for spot prawns, squid, and sea cucumbers be removed and permits made available to any applicant regardless of home port.

Option A: *(preferred)* The Board and staff recommend the Commission adopt rules removing the north/south split for issuing permits after permits have been issued through the lottery.

Option B: No action: status quo, the north/south split for issuing permits remains for the entire year.

Background of Commercial Bay Clam Fishery

HARVEST PROGRAM AND PERMIT ACTIVITIES

There are ten permits available for the harvest of bay clams with the use of dive gear. In 1998, seven of the permits were renewed from the previous year.

*Issue 3:
Add five bay clam permits for south coast areas only.*

Since bay clams were put on the Developmental Fisheries list, only one or two individuals from south coast areas have, annually, received a permit and no landings have been made with dive gear from south coast estuaries. Several individuals from the south coast feel their fisheries are being unintentionally limited due to the larger number of permits and applicants from north coast areas. In 1997, the Board considered a request to issue all bay clam permits geographically, but did not make a recommendation.

The Board and staff are recommending five permits be added for the harvest of bay clams with dive gear; however, to prevent further increase in permits to north coast areas, these five permits would be limited to harvesting in south coast areas only (south of Heceta Head).

Option A: (*preferred*): The Board and staff recommend the Commission adopt rules adding five bay clam permits which could be used only in south coast areas.

Option B: No action: status quo, a total of 10 permits, used state-wide.

Background of Commercial Box Crab Fishery

OAR 635-005-0064 prohibits harvest of box/Tanner crab from November 1 to the opening of the next Dungeness crab season. The November closure of all ocean crabbing was put into place in 1994 (Before Developmental Fisheries permits were established) to discourage the illegal use of crab gear prior to the Dungeness crab opener. At the time of the discussions, no crab pot landings of any ocean crab species had been recorded in the month of November.

• *Issue 4*

Allow box crab fishing from November 1 through November 15.

In 1997, several box crab permit holders expressed that the time between pink shrimp and Dungeness seasons is a prime time to explore other fisheries. Experimental gear permits were issued to box crab permit holders in 1997 to allow fishing for box crab from November 1 - 15. Prior to issuing the experimental gear permits, we contacted most members of the Dungeness Crab Commodity Commission for feed back and heard no concerns. We also received no complaints from any Dungeness crabbers.

The Board and staff are recommending box crab fishing be allowed from November 1 - 15.

Option A: (*preferred*) The Board and staff recommend the Commission adopt rules allowing the harvest of crab from November 1 - 15 under a Developmental Fisheries permit.

Option B: No action: status quo, harvest of crab not allowed from November 1- 15.

Background of Commercial Swordfish Fishery

HARVEST PROGRAM AND PERMIT ACTIVITIES

Ten permits are available for the harvest of swordfish with gillnet gear. For the first two years, permits were issued through the lottery. For 1997 and 1998, all ten permits were issued, but not through the lottery. Landing of swordfish into Oregon for 1995-1997 have been 5,530 lb, 35,417 lb, and 12,729 lb, respectively. These landings don't reflect a new fishery. Swordfish have long been gillnetted off Oregon, but were always taken to California where delivery was legal.

• *Issue 5*

Allow swordfish permits and annual landings to run from February 1 through January 31 of next year.

The majority of the swordfish fishery occurs in the fall and winter, from October through January. If an Oregon permit holder does not meet the renewal requirements by December 31, he can not deliver into Oregon during the month of January because of the February 1 application deadline. If permits were good from February 1 through January 31 of the next year, the permit holder could deliver into Oregon in January and possibly meet the renewal requirements for the permit.

The Board and staff recommend the swordfish permits be valid and the annual landing requirements run from February 1 through January 31 of the next year.

Option A: (*preferred*) The Board and staff recommend the Commission adopt rules to allow swordfish permits to be valid and the annual landing requirements run from February 1 through January 31 of the next year.

Option B: No action: status quo, swordfish permits and annual landing run from January 1 through December 31 of each year.

• *Issue 6.*

Allow retention of thresher shark in swordfish fishery.

Oregon fishers have requested to allow the retention of thresher sharks taken incidentally in the swordfish fishery. Delivery of threshers is legal in California, where landings have been 350,000 - 400,000 lb in recent years. Oregon fishers contend Oregon has lost some swordfish deliveries in the past three years when boats fishing off our south coast have elected to take their catch of swordfish and incidental threshers to Crescent City, CA rather than discard the threshers and come into an Oregon port. Vessels can also land into Washington which has no gill net prohibitions for either swordfish or thresher sharks. The alternative is that these sharks are presently being caught and would be discarded dead; we do not believe this proposal would result in any added fishing mortality for thresher sharks.

The by-catch of marine mammals and birds has long been a concern of any gillnet fishery. In recent years, the swordfish fishery has been operating on a take reduction plan under the National Marine Fisheries Service (NMFS) to reduce by-catch. With modifications in the gear such as the use of pingers, the total by-catch rate has reduce in recent years. NMFS does not feel the retention of thresher sharks for Oregon vessels would increase the by-catch of marine mammals or birds.

OAR 635-04-110 prohibits the commercial take of thresher sharks with gillnets. We would issue an Experimental Gear Permit (along with the Developmental Fishery Permit) to allow the retention of a small number of thresher sharks taken incidentally while swordfish fishing. The retention would be allowed at a ratio of one thresher shark for every two swordfish to prevent any targeting of thresher sharks. Staff has contacted California, Washington, and PSMFC and none have any objections with issuing this permit.

Option A: (*preferred*) The Board and staff recommend the Commission allow the issuance of experimental gear permits to allow the retention of thresher shark in the swordfish fishery at a ratio of one thresher shark for every two swordfish taken.

Option B: No action: status quo, no by-catch of thresher shark allowed under swordfish permits.

Background of Renewal Requirements

The Board has had several discussions regarding renewal requirements; how to allow for more turnover of permits when they are not being used and also how to allow other criteria (e.g. fishing conditions, searching effort, or investment) for renewal. Next spring, the Board will consider draft guidelines for future requests to waive renewal requirements. For this year, the Board is recommending waiving the renewal requirements for the brine shrimp cyst fishery, the squid fishery, and one swordfish permit for this year only.

COMMERCIAL BRINE SHRIMP FISHERY

Harvest Program and Permit Activities

There are four permits for the harvest of brine shrimp; one for harvest of cysts and three for harvest of adults. The season for cyst harvest is January 1 through March 31 and, beginning in 1998, November 1 through December 31. The season for adult harvest is May 1 through August 31. Landings are limited to 50,000 lb annually for each permit. The renewal requirement for each fishery is a total of 5,000 pounds.

The renewal requirements for the one cyst permit were waived from last year and one adult permit was renewed. Seven applications were received for the two available adult permits. A lottery was held on February 5th to issue the permits.

For the second year, there was no harvest of cysts. One adult harvester was active this summer, making sufficient landings to renew the permit.

COMMERCIAL SQUID FISHERY

Harvest Program and Permit Activities

A total of 60 developmental fishery permits are available for harvesting squid, 30 for seine gear and 30 for trawl gear. In the last three years, no more than 32 permits were issued in any year. This year, there was a considerable amount of speculation because of past increases in activities during and after el-nino events. Because several Oregon vessels with historical squid landings did not initially get a permit, the Commission allowed 15 additional permits to be issued to allow Oregon vessels to participate in the squid fishery for 1998; 13 of the permits were actually issued.

A total of 17,130 pounds of squid has been landed this year, through July. One permit holder made enough landings to meet the renewal requirements.

*Issue 7:
Waive renewal requirement for brine shrimp cysts, squid, and one swordfish permit holder.*

Brine Shrimp

Between mid October, 1997 and mid March, 1998, the cyst permit holder and/or staff collected eight samples of cysts from Lake Abert. All samples contained over 85% hatched/broken cysts. Salinity ranged from 43 - 52 ppt. The water level of the Lake has risen over the last three years to a level near the average for the last 30 years (Figure 1), decreasing the salinity of the water. It appears, low salinities cause the cysts to sink to the bottom where they are not available for harvest and stimulates them to hatch early in the year. To reach salinities which would float cysts and keep them from hatching so quickly (perhaps 90 ppt or more), the level of the lake may need to drop below a level of 4250 ft.

Because the conditions of the lake are have not been favorable for harvesting cysts, the Board and staff recommend the renewal requirements for the cyst permit be waived for this year.

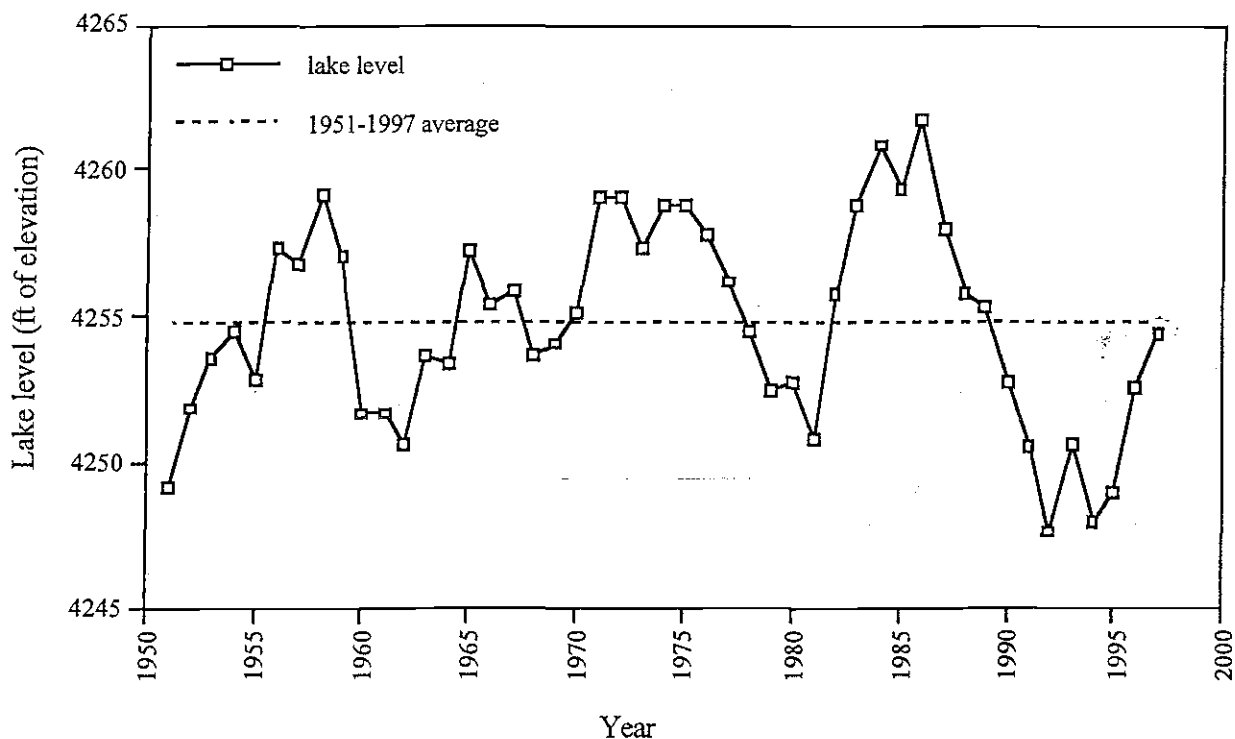


Figure 1. Water level of Lake Abert, Oregon, 1951-1997 (level taken as close as possible to October each year by Lakeview watermaster).

Squid

There was considerable effort in locating spawning schools of squid, but few were found. There were reports of egg cases in deeper water out of reach of squid gear. Only one permit holder made enough landings to meet the renewal requirements. Six other permitted vessels made small landings, but not enough for renewal.

Due to the lack of availability of squid, the Board and staff recommend to waive the renewal requirements for all squid permits for this year only.

Swordfish

One swordfish permit holder has requested to waive the renewal requirements for his permit. This is the first year he has had a permit and has made considerable investment in gear (\$35-40,000) during this year. He feels his time, investment, and effort should be considered in renewal requirements and wants to make sure he is able to utilize the investment next year.

The Board and staff recommend the waiver of renewal requirements for this permit for this year only.

Option A: *(preferred)* The Board and staff recommend the Commission waive the renewal requirements for the brine shrimp cyst fishery, the squid fishery, and one swordfish permit for this year only.

Option B: No action: status quo, permit holders must meet landing requirements to renew the permits.





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Red Rock, Box and Tanner Crab Fisheries

Developmental Fisheries Program

Closed Season

635-005-0064 It is *unlawful* to take red rock, box, Tanner, Oregon hair, and scarlet king crab from the Pacific Ocean from November 1 until the opening of the next ocean Dungeness crab season in that area, except box crab may be taken November 1-November 15 when authorized under a Developmental Fisheries Species Permit (OAR 635-006-0900).

Stat. Auth.: ORS 506.119 and 506.129

Stats. Implemented:

Hist.: Adopted 10-23-98, ef. Upon Filing

Developmental Fisheries Species List

635-006-0850 (1) The Developmental Fisheries Species List, Category "A," is 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



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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 15 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. 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 (OAR 635-006-0900(3)(6))**;

(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



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(*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;

(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 (OAR 635-006-0900(3)(6));**

(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, **until after the date of the lottery (OAR 635-006-0900(3)(6));**

(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 and one permit to harvest eggs. Applicants for the egg permit must have prior experience harvesting brine shrimp.

(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) Skiffish (*Erilepis zonifer*);

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

(b) INVERTEBRATES

(A) Euphausiids (krill) (family Euphausiidae);

(B) Pacific sand crab (*Emerita analoga*);

(C) Freshwater mussels (families Margaritifera, Anodonta, Gonidea, and Corbicula).



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(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*).

Stats. Implemented: ORS 506.129 and 506.450 through 506.465

Hist.: Adopted 10-23-98, ef. Upon Filing

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

635-006-0910 (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;

(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



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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



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

(b) 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;

(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 January 1, 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.

(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 and 506.450 through 506.465

Hist.: Adopted 10-23-98, ef. Upon Filing

APPENDIX A. Experimental Clam Dredge - Progress Report

Experimental Clam Dredge Progress Report

Jean McCrae
Oregon Dept. of Fish and Wildlife

Paul Daniels
Owner, F/V Lady Rosemary

August, 1998

An experimental gear permit was issued to the FV Lady Rosemary to use dredge gear to harvest clams off the Oregon coast. The main species of interest was razor clams, but other clams such as cockles and gapers were also explored.

Primary objectives of the work were to (1) survey the nearshore Oregon coast for commercial quantities of clams and (2) determine effectiveness of a modified hydraulic dredge to harvest razor, gaper, and cockle clams.

Gear

The gear used was a modified east coast-type hydraulic clam dredge (Figure 1). It weighed 4,000 pounds, had a 5 ft wide variable-depth cutting edge, and an 8 inch manifold. The manifold was initially operated with 21, $\frac{3}{4}$ inch nipples, which were later changed to $\frac{1}{2}$ inch nipples. The bottom and sides of the dredge were covered with $\frac{1}{2}$ inch diameter rods, spaced 2 inches apart. The codend bag was 7 ft long, constructed of 3 $\frac{1}{2}$ inch nylon web netting. The dredge was towed with at a 2:1 scope, with a 2 inch diameter polypropylene rope. The dredge was set and retrieved with a $\frac{5}{8}$ inch wire cable by the vessel's hydraulic system.

A diesel engine supplied a 400 hp centrifugal pump capable of supplying 4,000 gallons per minute at 90 psi. A 10 inch diameter, 25 ft overboard suction line was connected to a foot valve. Up to 600 feet of 8 inch inside diameter hose connected the pump and dredge.

The first two trips were observed by ODFW staff. During one trip, an underwater video camera was installed on the forward part of the dredge to observe the habitat and the operation of the dredge.

Results

During June and July, 1998, 265 tows were made between the Columbia River and below Cape Blanco (Figure 2). Depths of tows ranged from 1 to 57 fm with an average of 15 fm. Speed, time, and psi varied considerably since operators were trying to find the best combination for efficient operation of the gear. Tows ranged in time from 3 to 154 minutes in length with an average of 20.7 minutes. Initially, tows were done at 2-3 knots. However, after the tow speed was dropped to 1 knot, operators noticed the by-catch of crab dropped to nearly zero.

The most common by-catch was sand dollars (*Dendraster excentricus*), both live animals and empty tests, in depths of 4 - 16 fm. It appeared, catches in individual tows were either mostly tests or mostly live animals. Perhaps empty tests get washed out into "graveyard" areas after the animals die.

Initially, some Dungeness crab were caught as by-catch; first days tows averaged 1.2 Dungeness crab/tow. However, after the speed of the tows was dropped to 1 knot, the by-catch was reduced to essentially zero. Over 90% of the observed crab were whole and uninjured. Other miscellaneous by-catch consisted of peanut worms, sea stars, sculpins, and small skates.

This project generated some public concern. Several letters were written and many phone calls were answered. Most of the concerns dealt with the effects of this type of gear on the habitat and other species, especially Dungeness crab. Some people were concerned the gear will "be blasting everything out of the sandy bottom" or will "seriously jeopardize the existing Dungeness population."

Summary / Recommendations

It may be questionable as to whether this type of gear will be effective for the harvest of razor clams in the ocean for several reasons. First, densities of clams in the ocean were lower than expected. Most clams were widely scattered and few commercially viable concentrations were found. Second, because the areas of high density of Pacific razors that were found were in such shallow water, this type of gear could only be worked when the ocean is relative flat and calm. The number of days available for the right conditions is limited. And third, there was a considerable amount of breakage to the thinner shelled razor clams. Modifications to the operation of the gear or different technology need to be developed to reduce the breakage.

If commercial activity is pursued further, the effects of gear on habitat and other resources needs to be explored further to address public concerns. The area in which Pacific razor clams were found is a very high energy area with considerable turn-over of the substrate on a seasonal basis. We expect any significant lasting effects of dredge gear in this type of habitat would be minimal. The effects of the gear in deeper more stable habitats needs to be explored further.



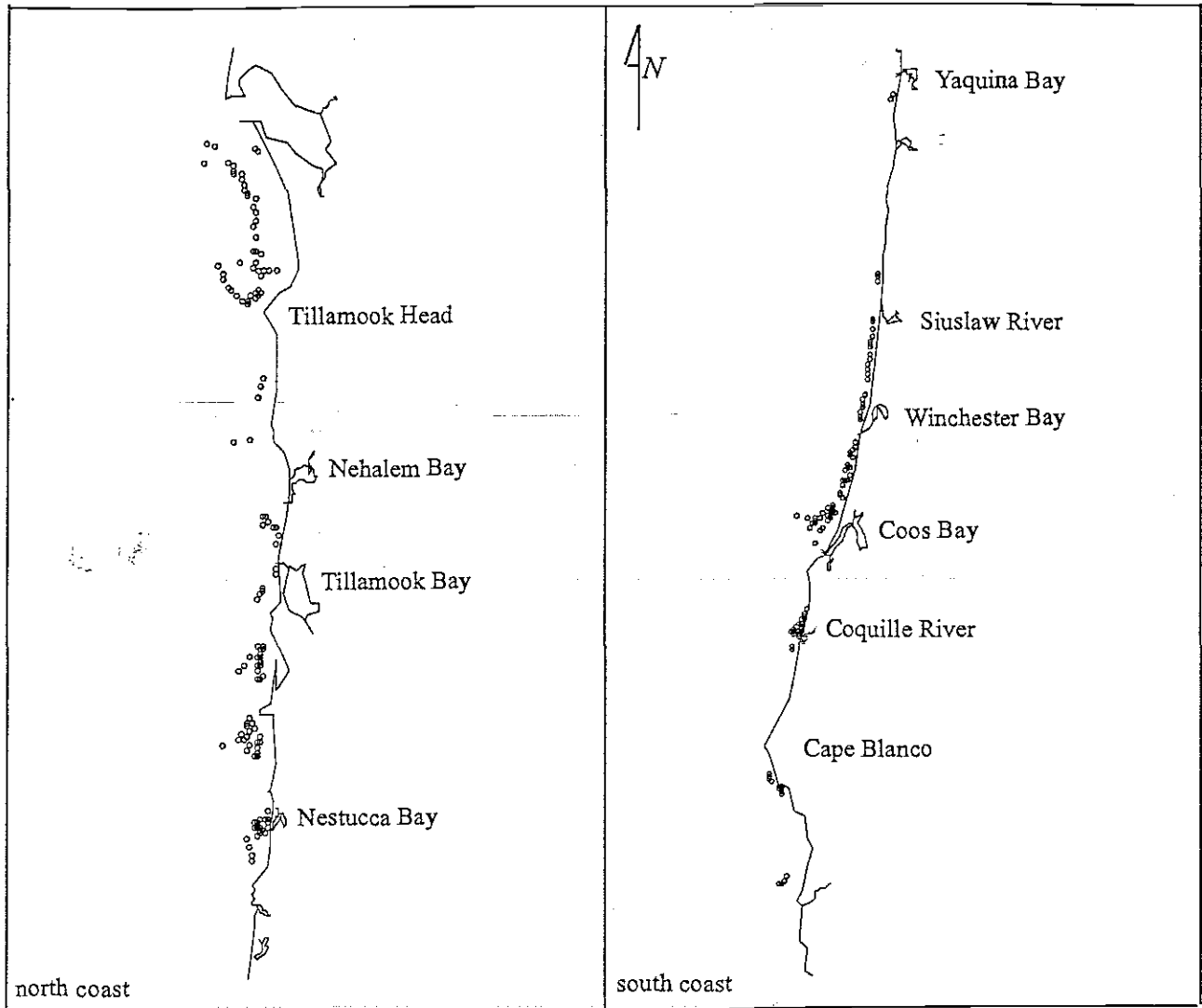


Figure 2. Location of clam dredge tows, June through July, 1998.

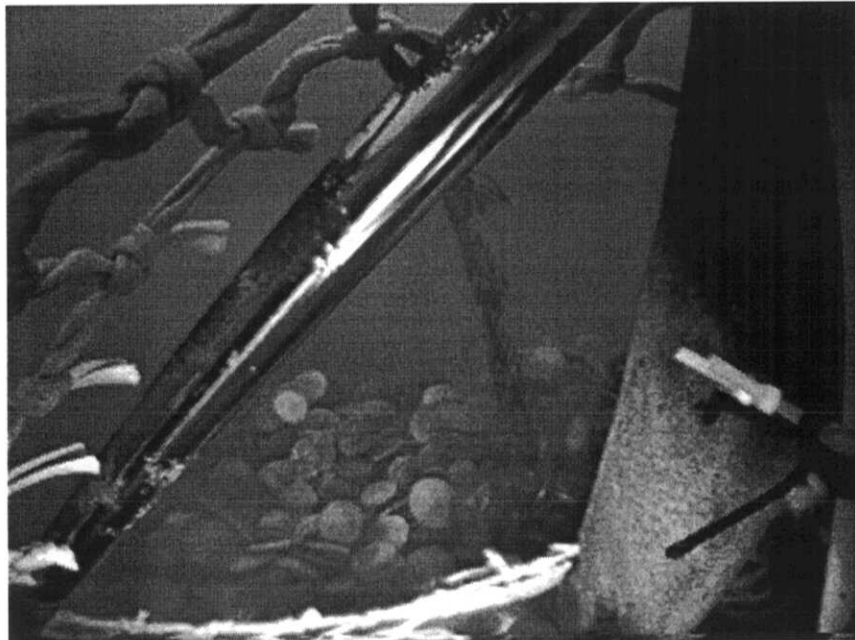


Figure 3. Sand dollars in front of clam dredge.