

Agenda Item Summary

BACKGROUND

This exhibit requests the Commission to consider four separate management issues related to the commercial Dungeness crab fishery that have been brought forth by industry, implement recent legislation, or both: 1) regulations implementing a new post-season permitted derelict gear recovery program (pursuant to HB 3262); 2) regulations implementing recommendations of the Tri-State Dungeness Crab Committee; 3) regulations implementing recent legislative changes to permit provisions (pursuant to HB 4049); and 4) an informational report on a proposed Limit Reference Point policy.

PUBLIC INVOLVEMENT

The Department and the Oregon Dungeness Crab Commission co-hosted a series of three crab industry public meetings in April of 2014, held in the major crabbing ports of Brookings, Newport, and Astoria. The purpose of the meetings was to get industry input on a number of current management issues concerning the commercial Dungeness crab fishery which included 1) derelict gear permit program to 'harvest' gear at the end of the season, 2) a Limit Reference Point (LRP) and management response if the LRP is breached (consistent with recommendations from the Marine Stewardship Council certification process) and, 3) preseason testing and season start issues to prepare Department staff for Tri-state negotiations. Department staff also developed a web-based industry survey to augment industry feedback on all of the issues. A total of 30 crab industry members attended the meetings and 35 people took the survey, providing a substantial amount of industry input on each of the issues.

Department staff, along with five Oregon industry representatives, met with Washington and California delegations at a formal Tri-State Dungeness Crab Committee meeting in May, 2014.

In mid-June the Department sent a letter to all crab permit holders and crab buyers summarizing the outcomes from industry input and Tri-state meeting, and announcing our intention to bring these items before the Commission in August 2014 (Attachment 4).

ISSUE 1

POST-SEASON PERMITTED DERELICT GEAR RECOVERY PROGRAM

Since pot limits were implemented in 2006, an average of 113,000 commercial Dungeness crab pots per year have been fished off the Oregon Coast. Most often due to uncontrollable circumstances such as rough weather, ocean conditions, and kelp, crab pots are lost and can pose significant environmental and safety hazards for marine organisms, fishers, and other ocean users. Continued work to remove derelict gear reduces gear conflicts and navigation hazards to facilitate good relations with other fisheries and ocean users, helps reduce chances of marine mammal entanglements, and is ultimately imperative to the sustainability of the fishery.

Past efforts to address this problem include 1) management measures to limit effort and reduce lost gear and 2) targeted programs to recover derelict gear. Effort in the fishery has been limited by implementation of the limited entry permit program since 1995 and implementation of the pot limit program (the number of pots each permit is allowed to fish) since 2006. Other management measures that help reduce lost and derelict crab gear include: 14-day landing requirement, closed season, summer landing limits, in-season derelict gear retrieval allowances and (most recently) making allowances to keep the crab from retrieved gear to incentivize retrieval.

In recent years ODFW and ODCC have both worked with industry on targeted programs to remove derelict gear. Each of these programs has increased awareness within the fleet and brought in some derelict gear, but they have not proven to be sustainable solutions for on-going industry driven gear management.

To build upon these efforts, last year the ODCC worked in cooperation with industry on legislation (House Bill 3262) (Attachment 5) to allow the Oregon Fish and Wildlife Commission to authorize a permitted derelict gear recovery program for the post-season time period. Staff is recommending a program modeled after the derelict gear recovery program that has been in place in Washington state's coastal Dungeness crab fishery for multiple years, but modified through input from Oregon's crab industry. The bill exempts a certain subset of derelict crab pots from Oregon's personal property law (those that are left out in the ocean 15 days after the end of the season and that are retrieved through an approved recovery program). This exemption ultimately allows permitted gear retrievers to decide what to do with the retrieved pots (i.e. keep, sell, etc.), to incentivize derelict gear retrieval.

The proposed OARs would allow Department staff to issue permits to allow vessels to participate in the program. The permits would then further specify additional provisions for participation in the program (Attachment 6). Any commercially boat licensed vessel would be able to apply for a permit and an unlimited number of permits could be issued each year at no cost to applicants. Owners or operators of commercially licensed vessels could apply for a gear retrieval permit at any time throughout the season, but they would only be issued after Aug 29th each year and for a specified period (which may change during each year of the permit program). Staff is recommending that permitted gear-retrieval occur for approximately four weeks, starting in September. If there is strong justification to extend the program further, staff will consider extending the program into October, as resources allow.

To ensure that the program does not increase the risk of crab pot theft and occurs in a timely fashion, there will be requirements to document and check-in all gear retrieved under this program. These requirements (which will be specified on the issued permit) include: 1) a logbook for permitted

gear retrievers to document gear retrieved under this program, 2) retrieved gear will be registered and tagged by ODFW-approved staff, identifying it as a pot legally harvested in the program, 3) tagging will occur prior to the gear being removed from the vessel, and 4) the permitted vessels will be required to notify staff pre and post retrieval activities to allow staff time to arrange for meeting the vessels at the docks.

The proposed OARs also provide a mechanism for crab permit holders to have their gear exempted from the program should unforeseen circumstances arise that prevent them from retrieving their gear at the end of the season. The allowance for exemptions from the program was strongly supported by industry.

Lastly, there was some interest from industry as part of the program to require the gear retriever to offer to sell the gear back to the previous gear owner ('first right of refusal') before selling to someone else or modifying for their own use. The commercial crab program does not have the resources to make this an enforceable requirement of the program, however, staff worked with industry to develop a non-regulatory solution. Staff plans to have all completed post-recovery registration forms posted on ODFW's website to allow any previous gear owners interested in negotiating for their retrieved pots to contact retrieving vessels themselves.

OPTIONS

1. Adopt OAR 635-005-0491 and amend OAR 635-005-0480 and 635-005-0485 as proposed by staff in Attachment 3.
2. No action (status quo).

STAFF RECOMMENDATION

1. Option 1

ISSUE 2

SEASON START CHANGES

The commercial ocean Dungeness crab fishery off Oregon is managed in co-operation with the states of Washington and California through the Tri-state Dungeness Crab Committee (Tri-state Committee), which is convened by the Pacific States Marine Fisheries Commission (PSMFC). The Tri-state Committee adaptively manages a set of standardized pre-season testing protocols and season opening criteria known as the Pre-Season Testing Protocol for the Tri-State Coastal Dungeness Crab Commercial Fishery (Protocol), which was first adopted by the three states in 1993, in line with the intent of the Tri-State Memorandum of Understanding (Attachment 7).

Recent changes to Protocols were adopted at the 2011 and 2013 Tri-State Dungeness crab Committee meetings and implemented by the three states

during the 2011-2012 and 2013-2014 season setting process, respectively. In May 2014, the Tri-State Committee met to improve protocol function relative to the season-setting process, particularly relative to flexibility of pre-season testing schedules. The purpose of meeting was to discuss changes needed to strengthen confidence in pre-season testing process and season start decision making process, in meeting the overall Protocol objectives of opening on good quality crab while providing for an orderly start. To that end, the Committee agreed to a number of clarifications to the testing protocols and to altering the gear retrieval start time of the fishery in Oregon and Washington.

Protocol Changes

In combination with the changes to the Protocol in 2011 and 2013, these most recent changes increase the likelihood that the season will be delayed from the December 1 start. However, industry is willing to risk delaying the season start to avoid eroding consumer confidence in the product and ensure that industry will be able to market and sell Dungeness crab products at a premium both nationally and internationally. Product quality and consumer perception are extremely important to Oregon's Dungeness crab industry, and these changes to the Tri-state Protocol are strongly supported. The revised protocol (Attachment 8) includes the following changes:

- 1) Eliminates the possibility of a second November test to inform the first opening structure decision to clarify that there will be only one test used for each decision.
- 2) Clarifies that in the event of season delays the same approach of a single round of additional testing will be used before each decision to open or delay the season.
- 3) Eliminates the "10-day minimum" time period between rounds of pre-season tests.

Fishing Start Time

The ocean Dungeness crab currently has a regulatory 64 hour presoak that allows crab fisherman to set their gear three days prior to when any retrieval of gear is allowed. At both the 2013 and 2014 Tri-state meetings, there has been interest by industry advisors to consider modifying the gear retrieval start time of the fishery to avoid starting a derby style fishery at 12AM (for both safety and enforcement concerns). The later gear retrieval start time was strongly supported by the Oregon industry input in 2014. Industry input supported accomplishing this by lengthening the presoak period to start retrieving gear later in the morning of the third day of gear setting.

At the 2014 Tri-State meeting Oregon and Washington agreed to lengthen the presoak period prior to the fishery opening from 64 hours to 73 hours to facilitate a gear retrieval start time of 9AM. California did not support this change and will continue with their status quo 12AM gear retrieval start time. All three states agreed to maintain an 8AM gear set start time.

OPTIONS

- 1. Amend OAR 635-005-0465 as proposed by staff in Attachment 3.
- 2. No action (status quo).

**STAFF
RECOMMENDATION**

- 1. Option 1

ISSUE 3

IMPLEMENTATION OF HB4049

The 77th Oregon Legislative assembly passed House Bill 4049 during the 2014 regular session relating to ocean Dungeness crab permits. The bill makes the following two statutory changes:

- 1) Transfers the authority to revoke or suspend a limited entry Dungeness crab permit from the courts and the Oregon Fish and Wildlife Commission to the Commercial Fishery Permit Board. The Commercial Fisheries Permit Board will have some additional workload since they will be required to decide to suspend or revoke crab permits.
- 2) Allows for Dungeness crab permits that were transferred to a vessel shorter than ten feet than the vessel that held the permit on January 1, 2013 to be transferred back to a vessel that is equal to or smaller than the vessel that held the permit January 1, 2013.

The proposed modifications to OAR (Attachment 3), provide consistency with the statutory changes. There was no formal public outreach by Department staff for these modifications to statute.

OPTIONS

- 1. Amend OAR 635-005-0420 and 635-005-0440 as proposed by staff in Attachment 3.
- 2. No action (status quo).

**STAFF
RECOMMENDATION**

- 1. Option 1

ISSUE 4

**LIMIT REFERENCE POINT
(INFORMATIONAL ONLY)**

Reference points are measureable criteria that represent the state of a fishery or population, and are believed to be useful for management of an exploited stock. A Limit Reference Point (LRP) represents a state of the fishery, which is considered undesirable and which management should aim to avoid, or to recover from if reached. A management response is an action or set of actions that is specified by the managing agency in the event that a reference point is reached. In response to conditions set forth by the Marine Stewardship Council for continued certification of the Oregon commercial Dungeness crab fishery as sustainable, and as part of

the resource management goals for the Department, the Department has developed a harvest policy for the commercial Dungeness crab fishery which consists of a LRP and a suite of potential management actions (termed the Adaptive Management Response; AMR) to be taken should the LRP be reached.

We propose to implement this harvest policy by incorporating the LRP and AMR into the Department's Oregon Dungeness Crab Research and Monitoring Plan (Attachment 10), a public document that outlines the Department's current research and monitoring activities as well as information gaps for the Dungeness crab resource. The Department plans to evaluate the LRP annually, and if it is determined that the LRP has been reached, the Commission would be asked to adopt one or more management measures identified in the AMR until the it is determined that the stock is recovering. Definition of the proposed LRP and AMR are given in the draft Research and Monitoring Plan (Attachment 10, p 11-13) with rationale for LRP criteria and critical levels given in the a separate Department report, the Commercial Ocean Dungeness Crab Fishery Logbook CPUE Preliminary Assessment – 3rd iteration (Attachment 11, p 8-11).

OPTIONS

INFORMATIONAL ONLY

**STAFF
RECOMMENDATION**

NONE

DRAFT MOTION

I move to adopt staff recommendations for commercial crab fishery rule modifications, as shown in Attachment 3

EFFECTIVE DATE

August 15, 2014