

Agenda Item Summary

BACKGROUND

The Developmental Fisheries (Devo) Program received insufficient funding from the legislature to continue a staffed and functioning program in the 2009-2011 biennium. Due to the funding shortfalls, the Devo program will be suspended until funding is restored. This means all programmatic activities will be suspended including permitting, Developmental Fisheries Board (Board) meetings, fishery sampling and assessments, logbook analysis and fishery independent research projects. This exhibit proposes options for implementing the suspension of the program including adopting and amending rules for regulating each of the currently permitted fisheries and making housekeeping/technical provisions to safeguard Devo resources, in the absence of an active monitoring system.

During 2009, the five fisheries permitted through the Devo program were swordfish, box crab, anchovy/herring, spot prawn and hagfish. When developing options for each of these fisheries, staff and the Board struggled with balancing retention of fishing opportunities and protection of the resource, in the absence of sufficient funding to actively monitor any of the fisheries.

Oregon Administrative Rule (OAR) 635-006-0820 describes that the Oregon Fish and Wildlife Commission (Commission) shall, in consultation with the Board, annually adopt the list of food fish species that are to be considered developmental. The Commission has the authority to add or remove a species from the list and when a species is removed from the list, shall establish an alternate management plan or terminate it as a commercial species.

There are three categories of species managed under the Devo program:

- Category A contains species not currently managed under a state or federal management plan but managed by the Oregon Department of Fish and Wildlife (department) through a limited number of permits that allow harvest with permit and gear limitations and are considered economically viable
- Category B species are not currently managed under a state or federal management plan, do not require a permit for harvest and have not been shown to be economically viable
- Category C species are currently managed under a state or federal management plan that has established permit and/or gear limitations

The Commission also has the authority to reduce the number of permits for a particular species due to reduced catch per unit effort. In addition, an emergency suspension of permits by the department's Director in

consultation with the Board may be due to a “resource emergency.”

Options that have been discussed for each of the five fisheries vary, but mostly center around three major themes: 1) move the species off the Category A list to another list; 2) create a limited entry permit, effectively moving the species out of the Devo program; and 3) create a two year Devo permit. Benefits associated with moving the species to the Category B or Category C list include providing maximum opportunity for anyone wanting to join a fishery; however, the ability to control effort is greatly diminished. Creating a limited entry permit system for any of the fisheries will require development of eligibility criteria, which is challenging due to either high turn over of participants or lack of participation by permit holders, and determination of appropriate permit levels. Creating a two year Devo permit would retain the current control over effort in the fishery; however the administrative burden is still relatively high.

Additionally, the exhibit proposes housekeeping/technical provisions for implementing the suspension of the program including removal of marine snails and smelt and continues mandating logbooks for all three categories of Devo species.

Lastly, the exhibit provides the 2009 annual review of the program which includes a summary report of the complete re-evaluation of the program. With Limited Duration funding for the 2007-9 biennium, staff completed a survey of current and past Board and permit holders, reconstructed the advisory board, designed and implemented assessment projects for the Pacific hagfish and spot prawn fisheries, actively monitored permitted fisheries and conducted an at-sea fishery independent research project on Pacific hagfish.

PUBLIC INVOLVEMENT

Multiple Board meetings were held during 2009. In addition, a public meeting was held in Newport on August 4, 2009 to discuss program suspension and options for each of the Devo permitted fisheries.

ISSUE 1

SWORDFISH

ANALYSIS

The Devo Program has permitted the swordfish (*Xiphias gladius*) fishery from 1995-2009. Through 2003 the fishery was limited to 20 floating longline permits and ten other gear permits. Beginning in 2004, longline gear became a federally prohibited gear type for the targeting of all Highly Migratory Species (HMS). An experimental gear permit is required to fish with ‘other gear’ and the fishery has an annual permit renewal requirement of either five landings of at least 500 pounds or one landing of at least 5,000 pounds.

The only ‘other gear’ attempted for swordfish harvest has been drift gillnets (DGN). Other than with a Devo permit, the use of DGN gear is prohibited by state rule. During the past five years a total of six swordfish permits have been issued. There has been one targeted landing of

swordfish in the past nine years and no incidental landings recorded (see Attachment 5 for additional historic landings information).

The option being considered by staff proposes to move swordfish from the Category A to the Category C list because swordfish are federally managed under the Pacific Fisheries Management Council's (PFMC) HMS fishery management plan. While this option further restricts the DGN swordfish fishery by prohibiting the gear type, the opportunity to fish for swordfish is retained through the Experimental Gear Permit (EGP) process. Currently, when a Devo permit is issued, an EGP is also issued. Under this option, only an EGP would be needed to fish for swordfish. The EGP's would maintain the same regulations as the current swordfish permit. Staff recommends limiting the number of EGP permits issued for the use of DGN gear to target swordfish to five annually.

The Board and staff recommend moving swordfish from Category A to Category C because of low interest, minimal landings and the ability to retain a precautionary fishing opportunity.

OPTIONS

1. Amend rules to move swordfish from Category A to Category C of the Devo Species List as proposed by staff in Attachment 3 (635-006-0850(2)(a)(Z)) and limit the number of DGN EGP's to no more than five annually (635-004-0100 and 635-006-0020(2)(a)).

STAFF RECOMMENDATION

Adopt Option 1.

ISSUE 2

BOX CRAB

ANALYSIS

Box crab (*Lopholithodes foraminatus*) was added to the Devo Species List in 1995 as a pot gear only fishery. The fishery is limited to a total of 25 permits and an annual renewal requirement of five landings of at least 100 pounds each landing. An additional requirement was added in 2007 for fishermen to also hold a valid Dungeness crab permit in order to harvest box crab.

In the past five years an average of three box crab permits were issued each year and only one permit has been issued in 2009. Additionally, targeted landings of box crab in recent years have been very minimal (see Attachment 5).

The Board and staff recommend moving box crab from Category A to Category B due to low interest in the fishery, minimal landings, and current regulations linking the box crab fishery to the Dungeness crab fishery.

OPTIONS

1. Amend rules to move box crab from Category A to Category B of the Devo Species List as proposed by staff in Attachment 3 (635-006-0850(1)(b)(N)).

**STAFF
RECOMMENDATION**

Adopt Option 1.

ISSUE 3

NORTHERN ANCHOVY AND PACIFIC HERRING

ANALYSIS

The Devo Program permits the ocean Northern anchovy (*Engraulis mordax*) and Pacific herring (*Clupea pallasii*) fisheries with a combined permit. These fisheries are currently limited to a total of 15 permits and have an annual renewal requirement of one landing consisting of at least 5,000 pounds.

Permits issued and total pounds landed of both species have been highly variable through the years. Most years there are very minimal targeted landings of either species. However, due to a recent decline in allowable harvest in the relatively high value sardine fishery, some fishermen began more targeted exploration into the anchovy fishery. In 2007 and 2008 an average of 291,401 pounds was harvested each year (see Attachment 5).

Option 1 proposes moving anchovy to the Category C list because it is federally managed under the Coastal Pelagic Species (CPS) fishery management plan. This option also proposes moving herring to the Category B list because it is not managed under any other state or federal management plan.

The Board and staff support Option 1 due to low interest in the fishery, minimal targeted landings of both species and the reassurance that anchovy is annually monitored through the federal process.

OPTIONS

1. Amend rules to move Northern anchovy from Category A to Category C and Pacific herring from Category A to Category B of the Devo Species List as proposed by staff in Attachment 3 (OAR 635-006-0850(1)(a)(N) and (2)(a)(AA)).

**STAFF
RECOMMENDATION**

Adopt Option 1.

ISSUE 4

SPOT PRAWN

ANALYSIS

Spot prawns (*Pandalus platyceros*) were added to the Devo Species List in 1995 as a pot and trawl fishery. The fishery became a pot only fishery beginning in 2003 and is limited to ten permits. The fishery has an annual renewal requirement of any number of landings totaling 500 pounds. Permits are initially issued geographically, with 50 percent issued north and 50 percent issued south of Heceta Head.

Each year the spot prawn fishery has been fully subscribed. Most years

more applications are received than permits available and a lottery is held to award the available permits. However, during this same time period relatively few permit holders have actively made landings, indicating that permits are purchased for speculative reasons. From 2003-2009 there have been a total of 34 different permit holders and six of them made landings. An annual average of two harvesters land a total of 3,600 pounds (Attachment 5).

Option 1 proposes moving spot prawns to the Category B list because they are not managed under a state or federal management plan.

Staff recommends Option 1 based on minimal targeted landings and the speculative nature of the fishery.

OPTIONS

1. Amend rules to move spot prawn from Category A to Category B of the Devo Species List as proposed by staff in Attachment 3 (OAR 635-006-0850(1)(b)(H)).

STAFF RECOMMENDATION

Adopt option 1.

ISSUE 5

HAGFISH

ANALYSIS

Pacific hagfish (*Eptatretus stouti*) was added to the Devo Species List in 1995. Annually there are 25 permits for harvest of which there are no trawl permits. The fishery currently has an annual renewal requirement of a total of 25,000 landed pounds. New hagfish permits are valid for 120 days from date of issue, unless total landings of 5,000 pounds are made, in which case the permit is valid for the remainder of the year.

Permits issued and total pounds landed have been variable through the years. In 2008, interest in permits spiked and there was a 2-month waiting list of seven names, when all 25 permits had been issued. Landings also peaked in 2008, when harvest activity increased substantially to a record total of approximately 1.6 million pounds. In 2009, only seven harvesters have been active and have landed less than 0.5 million pounds (see Attachment 5 for additional landings information).

Staff supports moving hagfish onto the category B list and does not feel the development and implementation of a Limited Entry program for hagfish is feasible or warranted at this time due to both the history of the fishery and suspension of the Devo program. Due to the increase in interest and effort in 2008, staff is recommending additional provisions which add both a harvest guideline and a gear limitation as suggested by the majority of the Board.

Staff proposes setting the harvest guideline for hagfish at 1.6 million pounds. If the fishery approaches the harvest guideline, staff will host a public meeting to review the management of the fishery. This is a precautionary measure to account for the lack of an active Devo program

that ensures the fishery is reviewed if landings approach the 2008 record levels.

Additionally, staff is proposing limiting the amount of gear to be fished at any one time by a single vessel to 200 buckets or barrels (collectively referred to as traps), fished individually or on a common groundline. This is a precautionary measure to address potential gear conflicts and establish fishery sideboards in the absence of an active management program. Both California and Washington currently have gear limitations in place for their hagfish fisheries. California limits the number of traps to 500 Korean style (small cylindrical tube) or 200 bucket style traps and does not allow the use of the larger barrel gear. Washington limits each vessel to 100 traps total, but does not specify gear type.

Through discard sampling of hagfish from both types of gear (buckets and barrels), staff concluded there was no significant difference in discard rates of smaller hagfish. Thus, staff is not recommending restricting the fleet to a certain gear type at this time. Limiting the number of traps to 200 will have no affect on the majority of the fleet that uses the larger barrel gear.

OPTIONS

1. Amend rules to move hagfish from Category A to Category B of the Devo Species List and as proposed by staff in Attachment 3 (OAR 635-006-0850(1)(a)(N)).
2. Amend rules to move hagfish from Category A to Category B of the Devo Species List and attach harvest guideline and gear limitations as proposed by staff in Attachment 3 (OAR 635-006-0850(1)(a)(N), 635-004-0066 and 635-004-0068.

STAFF RECOMMENDATION

Adopt Option 2.

ISSUE 6

PROHIBIT HARVEST OF MARINE SNAILS

ANALYSIS

“Marine snails” are Mollusks in the class Gastropoda, an extensive group with at least 40,000 species worldwide. Species from this class are found in every habitat type of Oregon’s marine and estuarine systems. Very few marine snail fisheries have succeeded outside of Oregon and those that have are the result of intensive collaboration between managers and fishers to develop species specific management plans with relatively complicated harvest strategies. In Oregon, the only marine snail fishery that has been active in recent years is that for abalone, which was determined to be unsustainable and was subsequently closed in 2008.

Worldwide, three harvest methods for marine snails are common: (1) intertidal hand harvest, (2) dive fishing and (3) pot fishing. The first two of these methods have repeatedly resulted in localized depletions, presumably due to high-efficiency harvest and low reproduction rates. The effects of the third method, pot fishing, are less well known as these

fisheries have been less frequently attempted. Pot fishing certain species groups (*Neptunea sp.*, *Nucella sp.*, *Fusitriton oregonensis*) of marine snails in Oregon was the original intention of this developmental fishery (McCrae pers. comm.10/2009). Since 2003, Oregon marine snail fisheries other than abalone have been completely inactive with no permits issued from 2003-2008 or documented landings through October, 2009. Prior to 2003, landings averaged less than 100 pounds/year, indicating a very low level of interest in the fishery. Marine snails are listed on the Devo Species Category B list because they are not currently managed under a state or federal management plan.

Staff supports Option 1, which removes marine snails from the Devo Species List, effectively closing commercial marine snail fisheries until mechanisms can be developed to afford staff time to develop and actively manage these fisheries.

OPTIONS

1. Prohibit the commercial harvest of all marine snails by removing them from the Developmental Species List as proposed by staff in Attachment 3 (OAR 635-006-0850(1)(b)(H)).
2. Status quo.

STAFF RECOMMENDATION

Option 1.

ISSUE 7

PROHIBIT COMMERCIAL HARVEST OF SMELT IN THE PACIFIC OCEAN

ANALYSIS

There are five species of smelt on the Devo Category B list: eulachon (*Thaleichthys pacificus*), whitebait smelt (*Allosmerus elongatus*), night smelt (*Spirinchus starksi*), longfin smelt (*Spirinchus thaleichthys*) and surf smelt (*Hypomesus pretiosus*). Of these five species of smelt, eulachon is the only species that supports targeted fisheries for commercial, recreational and subsistence purposes. In Oregon, the majority of these fisheries occur in the main stem and tributaries of the Columbia River.

Due to the decline of eulachon populations in the early 1990's, tribal entities initially petitioned for eulachon to be listed as threatened under the Endangered Species Act (ESA) in 1999. In response, Oregon and Washington jointly developed a Eulachon Management Plan to provide research and management guidance, of which the majority focused on the fisheries originating on the Columbia River. The southern distinct population segment (DPS) of eulachon (*Thaleichthys pacificus*) was proposed to be listed as a threatened species under the ESA in March of 2009. The southern DPS of eulachon consists of populations spawning in rivers from British Columbia to northern California. The "core populations" for eulachon include the Columbia and Fraser rivers. There are no targeted ocean fisheries for any of the smelt species; however they are taken at low levels as bycatch in the pink shrimp trawl fishery.

Given the proposed ESA listing of eulachon, staff recommends removing this species from the Devo Species List as a precautionary measure to prohibit any potential future interest in the commercial harvest of ocean eulachon. Additionally, staff is recommending the removal of the remaining four species of smelt from the list due to the vast biological unknowns of each of the species, the ecological importance of all smelt species as forage fish, and the proposed ESA listing of a closely related species. Staff considers these list changes precautionary in nature and as having minimal economic effect.

OPTIONS

1. Prohibit the commercial harvest of all smelt species in the Pacific Ocean by removing from the Devo Species List as proposed by staff in Attachment 3 (OAR 635-006-0850(2)(a)(K) and 635-004-0070).
2. Prohibit the commercial harvest of just the eulachon smelt species in the Pacific Ocean by removing from the Devo Species List.
3. Status quo.

**STAFF
RECOMMENDATION**

Option 1.

ISSUE 8

**ANNUAL REVIEW OF THE DEVO PROGRAM –
INFORMATIONAL ONLY**

ANALYSIS

Refer to Attachment 4 for the annual review of the Devo Program.

DRAFT MOTION	I move to adopt the recommended changes to the Developmental Fisheries Species List and the other associated regulations as proposed by staff in Attachment 3.
EFFECTIVE DATE	January 1, 2010