

Agenda Item Summary

BACKGROUND

Recent fishery landings and new stock assessment data indicate that adjustments are needed at this time to the rules that regulate commercial harvest of bay clams from Tillamook Bay and Netarts Bay. The current rules have been in existence since 1995, and they are no longer optimal for the multiple purposes of conservation of bay clam populations or sustained harvest by recreational and commercial clam diggers. Over the past several years, concern has been raised by stakeholders about resource issues including: (1) increased commercial harvest of bay clams; (2) reduced numbers of cockles available to recreational clambers and unnecessary commercial by-catch mortality of undersized gaper clams; (3) uncertainty regarding location of areas that are open and closed to commercial clamming; (4) direct conflict among sport and commercial user-groups about harvests of cockles; and (5) declines in populations of native littleneck clams. To address these issues, we have identified five specific proposed adjustments to the commercial landing quotas, minimum sizes, allowable harvest areas, and species taken as an integrated and cohesive package of shellfish management actions.

PUBLIC INVOLVEMENT

Five public meetings were held in Tillamook and Netarts over 2011-2015. ODFW staff presented information about ongoing bay clam stock assessment work, the status of bay clam fisheries monitoring, and options for management of the commercial and recreational fisheries. Each meeting was well publicized, well attended, and provided a good venue for sharing information and documenting public opinion. Early meetings focused on historical information, research and management goals, and plans for future studies. Three meetings in 2013 and 2014 summarized the stock assessment data and how the information may be used in future management decisions. The most recent meeting (May of 2015) included staff presentation of five specific proposals for changes to the commercial bay clam fishery. Feedback received during and after the meeting was used to refine and modify the proposals. Public participation was good (15 to 43 people) at all of the meetings and many stakeholders shared their opinions representing concerns from both commercial and recreational perspectives. Beyond the scope of formal meetings, ODFW staff members regularly respond to questions and comments regarding many aspects of bay clamming. The range of positions and opinions is broad but generally focused on a few key issues; the allocation between sport and commercial harvest, historical vs. current stock status, and the need for more monitoring and enforcement.

Detailed notes on public attendees and their comments, input and questions are available as Attachment 6.

ISSUE 1

INCREASE ANNUAL LANDING LIMITS FOR BAY CLAMS HARVESTED BY DIVE FISHERY

ANALYSIS

New ODFW Shellfish and Estuarine Assessment of Coastal Oregon (SEACOR) stock assessment data indicate that substantial numbers and biomass of bay clams occur in the intertidal and sub-tidal zones of Tillamook Bay. Fishery data indicate a recent trend toward reaching the allowable dive quota for cockles earlier in the year in Tillamook Bay. The progressively earlier harvest poses problems for management of the fisheries for cockles and other species of bay clams. For Tillamook Bay, we propose to increase the annual dive quota for cockles to 185,000 lbs, and to establish new dive quotas of 235,000 lbs for gaper clams and 225,000 lbs for butter clams. These proposed commercial landing caps are conservative and are based on the lower 95% confidence interval of the bay-wide estimate of biomass for the sub-tidal populations (10% of lower 95% CI stock biomass for cockles and gaper clams; 5% of lower 95% CI stock biomass for butter clams).

OPTIONS

1. No action (status quo)
2. Adopt staff recommendations
3. Amend staff recommendations

STAFF RECOMMENDATION

Option 2.

ISSUE 2

ADJUSTMENT OF MINIMUM SIZES FOR BAY CLAMS HARVESTED BY DIVE FISHERY

ANALYSIS

The existing minimum shell size limit for commercial harvest of cockles (2.25") by the dive fishery falls well below the current median size for the cockle population in the sub-tidal zones of Tillamook Bay (2.62"). There is currently no size limit for cockles harvested by commercial diggers from the intertidal zone. Commercial harvest of the smaller cockles is problematic because the small clams do not have a sufficient opportunity for reproduction, and the smaller clams overlap substantially with the shell size of cockles taken by recreational diggers. The existing minimum shell size limit for the commercial harvest of gaper clams (4") is also problematic because the median size for the sub-tidal population is currently 3.6". Commercial dive clambers currently report high levels of by-catch mortality for gaper clams harvested from Tillamook Bay because many gaper clams are slightly undersized (< 4") and they do not survive when they are unearthed and left in the harvest area. We propose to increase the minimum legal size for the commercial harvest of cockle clams in the sub-tidal zone from 2.25 to 2.75" in shell length, and to establish an identical minimum size for cockles harvested from the intertidal zone. We also propose to eliminate the minimum size for gaper clams harvested by commercial diggers in the intertidal and sub-tidal zones of Tillamook Bay.

OPTIONS

- 1. No action (status quo)
- 2. Adopt staff recommendations
- 3. Amend staff recommendations

**STAFF
RECOMMENDATION**

Option 2.

ISSUE 3

CLARIFICATION AND EXPANSION OF COMMERCIAL PROHIBITED AREA IN TILLAMOOK BAY

ANALYSIS

Uncertainty exists regarding the location and spatial extent of the area where commercial clamming is currently allowed and prohibited in Tillamook Bay. It is not clear to all clammers whether the sub-tidal and intertidal area immediately south of the Garibaldi Marina and near the mouth of Miami Cove is open or closed to commercial clamming. We propose to adjust the description and size of the commercial closure area by adding a specific reference to Hobsonville Point which is a well-known local landmark and prominent geographic feature along the shoreline of Tillamook Bay. Extension of the commercial closure line from Buoy 13 to Hobsonville Point will result in expansion of the commercial closure area toward the east by about 180 acres (73 acres sub-tidal and 107 acres intertidal).

OPTIONS

- 1. No action (status quo)
- 2. Adopt staff recommendations
- 3. Amend staff recommendations

**STAFF
RECOMMENDATION**

Option 2.

ISSUE 4

ESTABLISH DESIGNATED COMMERCIAL HARVEST AREA AND ADJUSTMENT OF ANNUAL LANDING LIMITS FOR COCKLES IN NETARTS BAY

ANALYSIS

Commercial harvest of cockles has increased recently in Netarts Bay. The elevated level of commercial harvest in 2014 represents a substantial (22X) increase in landings in comparison with 2012 and 2013, and a 3.4X increase above the 7-year average (2008-2014). This sudden increase in commercial harvest activity has prompted the need to re-evaluate the management measures that regulate commercial harvest activities in Netarts Bay. Concerns have been raised by the public, recreational and commercial clammers, Tillamook County Commissioners, and other stakeholders about management and sustainability of clam harvests in Netarts Bay. To address these concerns, we propose to restrict commercial harvests to a 548 ac designated commercial harvest area, establish an annual landing limit of 22,000 lbs for the intertidal zone, and prohibit commercial harvest of cockles from the sub-tidal zone.

Commercial harvest of cockles is currently prohibited only within the 230 ac Netarts Shellfish Preserve which represents 10% of Netarts Bay. This proposal will increase the area where commercial harvest is prohibited to about 76% of Netarts Bay.

OPTIONS

1. No action (status quo)
2. Adopt staff recommendations
3. Amend staff recommendations

**STAFF
RECOMMENDATION**

Option 2.

ISSUE 5

**STATEWIDE PROHIBITION ON COMMERCIAL HARVEST OF
NATIVE LITTLENECK CLAMS**

ANALYSIS

Recent concern has been raised about regional-level declines in native littleneck clam populations throughout the Pacific Northwest. Declines in the populations of native littleneck clams have been specifically noted in southeast AK, BC, WA (Puget Sound), and OR, and the decline was documented beginning in 2006-2008. The reason for the widespread decline is not known, and the reduction in populations has been attributed to harvest pressure, competition with expanding populations of non-native Manila clams, predation by non-native drills (snails), ocean acidification, and/or other factors. New ODFW SEACOR stock assessment surveys indicate that the biomass and densities of native littleneck clams are currently low in Coos Bay, Yaquina Bay, Tillamook Bay, and Netarts Bay. Native littleneck clams are not currently harvested by the commercial bay clam fishery in Oregon. As a precautionary measure we propose to prohibit commercial harvest of native littleneck clams statewide at this time when the populations are reduced and commercial harvest is nonexistent.

OPTIONS

1. No action (status quo)
2. Adopt staff recommendations
3. Amend staff recommendations

**STAFF
RECOMMENDATION**

Option 2.

ISSUE 6

**BAY CLAM DIVE FISHERY HOUSEKEEPING: INCREASE
NUMBER OF PERSONS ALLOWED ABOARD VESSEL DURING
COMMERCIAL DIVE FISHERY OPERATIONS**

ANALYSIS

Concern has been raised about safety aboard small boats during commercial dive harvest of bay clams. When the current rules were adopted, it inadvertently became unlawful to have more than two unpermitted persons on any permitted dive boat. As a measure to increase safety aboard the vessels and allow a boat tender to be on a boat while two divers are in the water, we propose to increase the number of

persons that may be allowed on a dive boat without bay clam dive permits to three.

OPTIONS

1. No action (status quo)
2. Adopt staff recommendations
3. Amend staff recommendations

**STAFF
RECOMMENDATION**

Option 2.

DRAFT MOTION

I move to amend OAR Chapter 635, Divisions 005 (0290, 0305, 0310, 0350, 0355, 0385) as proposed by staff, and approve the staff recommended proposals for modification of rules regarding commercial harvest of bay clams.

EFFECTIVE DATE

January 1, 2016

ISSUE 7

COMMERCIAL DUNGENESS CRAB HOUSEKEEPING

ANALYSIS

On August, 1, 2014 the Commission considered four management issues related to the commercial Dungeness crab fishery that resulted in adoption of a number of regulatory modifications. A few housekeeping changes are needed to correct rules adopted at that time to align them with the intended changes of the Commission. They are as follows:

- 1) The Commission adopted regulations intended to lengthen the commercial Dungeness crab fishery's presoak period prior to opening the fishery from 64 hours to 73 hours to facilitate a gear retrieval start time of 9:00 a.m. on December 1. Modifications to OAR 635-005-0465 and 635-005-0485 (Attachment 4), are needed to correct the rules. Both of these modifications were implemented through temporary rule for the start of the 2014-15 crab season.
- 2) The Commission adopted regulations implementing a new Post-Season Permitted Derelict Gear Recovery Program pursuant to recently passed legislation, HB 3262. Since the programs implementation legislative council informed staff that the OAR adopted in August, 2014 failed to accurately cite the full series of applicable personal property laws as intended through HB 3262. Modifications to OAR 635-005-0491 (Attachment 4), are needed to correct the rules.

There was substantial public outreach by Department staff for these rule

modifications leading up to the August 1, 2014 Commission meeting, described in the Agenda Item Summary for Exhibit F for that meeting (http://www.dfw.state.or.us/agency/commission/minutes/14/08_august/index.asp.)

OPTIONS

1. No action (status quo)
2. Amend OAR 635-005-0465, 635-005-0485 and 635-005-0491 as proposed by staff in Attachment 3.
3. Amend staff recommendations

**STAFF
RECOMMENDATION**

Option 2.

DRAFT MOTION	I move to amend OAR 635-005-0465, 635-005-0485 and 635-005-0491 as proposed by staff, and approve the recommended housekeeping changes to the rules regarding commercial Dungeness crabbing.
EFFECTIVE DATE	Upon filing