DIVISION 005
Commercial Shellfish and Marine Invertebrate Fisheries

635-005-0225
Organization
(1) This Division is organized into the following major shellfish and invertebrate fishery sections:
   (a) Clam and Intertidal Section, including the following fisheries:
       (A) Marine Snail and Abalone Fishery;
       (B) Piddock Fishery;
       (C) Bay Clam Dive Fishery; and
       (D) Intertidal Animal, Mussel and Clam Commercial Fisheries.
   (b) Crab Section, including the following fisheries:
       (A) Ocean Dungeness Crab Fishery;
       (B) Bay and Estuary Dungeness Crab Fishery; and
       (C) Red Rock, Box, Tanner and other Crab Fisheries.
   (c) Shrimp Section, including the following fisheries:
       (A) Pink Shrimp Fishery;
       (B) Spot and Coonstripe Shrimp Fisheries; and
       (C) Brine Shrimp Fishery.
   (d) Other Shellfish and Marine Invertebrates Section, including the following fisheries:
       (A) Weathervane Scallop Fishery;
       (B) Sea Urchin Fishery;
       (C) Crayfish Fishery;
       (D) Oyster Fishery;
       (E) Squid Fishery; and
       (F) Octopus Fishery.
   (2) Administrative rules OAR 635-005-0230 through OAR 635-004-0275 are general regulations, in addition to
       and not in lieu of regulations contained within the fishery sections listed in section (1) of this rule.
   (3) Finfish fishery regulations are located in OAR Chapter 635, Division 004.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0230
Licensing Requirements
In addition to the regulations contained in this Division, fishers should consult regulations contained in OAR
Chapter 635, Division 006 and Oregon Revised Statutes Chapter 508 for licensing requirements and fee
information.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0235
Authority of Enforcement in Fishery Conservation Zone and Exclusive Economic Zone
(1) Pursuant to ORS 506.750 through ORS 506.755, regulations including but not limited to inspection of catch,
methods fishing, gear restrictions, seasons, closures and restricted areas are applicable in the Fishery
Conservation Zone (0-50 miles offshore of Oregon), and federal commercial fishing regulations are applicable in
the Exclusive Economic Zone (3-200 miles offshore of the United States).
(2) For the purposes of this rule, “Fishery Conservation Zone” means the zone between the mean high water
mark of tidally influenced bodies of water of the state of Oregon to 50 nautical miles offshore of Oregon.

Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12
Definitions
As used in Division 005 regulations:
(1) “Animals living intertidally on the bottom” means any benthic animal with a natural range that includes intertidal areas, regardless of where harvest occurs, and includes but is not limited to, starfish, sea urchins, sea cucumbers, snails, bivalves, worms, coelenterates, and crabs except Dungeness crab.
(2) "Bait" means food fish not harvested for human consumption.
(3) "Board" means the Commercial Fishery Permit Board.
(4) "Buy" includes offer to buy, barter, exchange or trade.
(5) "Catastrophic loss" means direct loss of non-deployed gear in the event of a vessel being destroyed due to fire, capsizing, or sinking. Documentation of a catastrophic loss may include any information the Department considers appropriate, such as fire department or US Coast Guard reports.
(6) "Commercial landing cap" means the total landed catch of a given species, or species group, that may be taken in a single calendar year in Oregon commercial fisheries.
(7) "Commercial purposes" means taking food fish with any gear unlawful for angling, or taking or possessing food fish in excess of the limits permitted for personal use, or taking, fishing for, handling, processing, or otherwise disposing of or dealing in food fish with the intent of disposing of such food fish or parts thereof for profit, or by sale, barter or trade, in commercial channels, as specified in ORS 506.006.
(8) "Commission" means the State Fish and Wildlife Commission created by ORS 496.090.
(9) "Crab pot" means any portable, enclosed device used to take crab with one or more gates or entrances that allows crab restricted entry and exit, and has a line attached to surface floats.
(10) "Crab ring" means any fishing device used to take crab that allows crab unrestricted entry or exit while fishing, and has a line attached to surface floats.
(11) "Department" means the State Department of Fish and Wildlife.
(12) "Derelict Dungeness crab gear" means Dungeness crab gear which was lost, forgotten, damaged, abandoned or otherwise deserted.
(13) "Director" means the Director of the Oregon Department of Fish and Wildlife appointed pursuant to ORS 496.112.
(14) "Dive gear" means gear used while a fisher is submerged underwater in order to take food fish, and includes but is not limited to one or more of the following equipment: SCUBA or other surface supplied air source (hookah gear), dive mask, snorkel, air cylinders, weight belt, wetsuit and fins.
(15) "Dungeness crab gear" means crab pots, crab rings or a combination thereof used for taking Dungeness crab.
(16) "Exclusive Economic Zone" means the zone between 3-200 nautical miles offshore of the United States.
(17) "Fishing gear" means, as specified in ORS 506.006, any appliance or device intended for or capable of being used to take food fish for commercial purposes, and includes:
   (a) "Fixed gear" means longline, trap or pot, set net, and stationary hook-and-line gears;
   (b) "Gillnet" has the meaning as set forth in OAR 635-042-0010;
   (c) "Hook-and-line" means one or more hooks attached to one or more lines;
   (d) "Lampara net" means a surrounding or seine net with the sections of netting made and joined to create bagging, and is hauled with purse rings;
   (e) "Longline" means a stationary buoyed, and anchored groundline with hooks attached;
   (f) "Mesh size" means the opening between opposing knots. Minimum mesh size means the smallest distance allowed between the inside of one knot to the inside of the opposing knot regardless of twine size;
   (g) "Pot or trap" means a portable, enclosed device with one or more gates or entrances and one or more lines attached to surface floats;
   (h) "Purse seine" means an encircling net that may be closed by a purse line threaded through the bottom of the net. Purse seine gear includes ring net, drum purse seine, and lampara nets;
   (i) "Seine" means any non-fixed net other than a trawl or gillnet and includes all types of purse seines;
   (j) "Setline" means a bottom longline used in rivers and estuaries for targeting white sturgeon;
   (k) "Set net" means a stationary, buoyed and anchored gillnet or trammel net which takes fish commonly by gilling and is not free to move or drift with the current or tide;
   (l) "Spear" means a sharp, pointed, or barbed instrument on a shaft;
   (m) "Trammel net" means a gillnet made with two or more walls joined to a common float line;
   (n) "Trawl gear" means a cone or funnel-shaped net which is towed or drawn through the water by one or two
vessels, and includes but is not limited to beam trawl, bobbin or roller trawl, bottom trawl, pelagic trawl and Danish and Scottish seine gear;

(o) “Troll” means fishing gear that consists of 1 or more lines that drag hooks with bait or lures behind a moving fishing vessel, and which lines are affixed to the vessel and are not disengaged from the vessel at any time during the fishing operation; and

(p) “Vertical hook and line” means a line attached to the vessel or to a surface buoy vertically suspended to the bottom by a weight or anchor, with hooks attached between its surface and bottom end.

(18) “Fishing trip” means a dock-to-dock transit during which fishing for commercial purposes occurs, and is followed by a landing.

(19) “Food Fish” means any animal over which the State Fish and Wildlife Commission has jurisdiction pursuant to ORS 506.036.

(20) “Groundfish” means all species of ocean food fish defined as groundfish in the Pacific Coast Groundfish Fishery Management Plan and in the Federal Groundfish Regulations, Title 50, Part 660 (See OAR 635-004-0240).

(21) “Intertidal” means the area in Oregon coastal bays, estuaries, and beaches between mean extreme low water and mean extreme high water boundaries.

(22) “Land, Landed or Landing” means either of the following:

(a) For fisheries where food fish were taken by use of a vessel, “land, landed or landing” means to begin transfer of food fish from a vessel. Once transfer begins, all food fish on board the vessel are counted as part of that landing, except anchovies being held live on a vessel for the purpose of using for bait in that vessel's commercial fishing operation; and

(b) For fisheries where food fish were taken without use of any vessel, “land, landed or landing” means to begin transfer of food fish from a harvester to a wholesale fish dealer, wholesale fish bait dealer, or food fish canner, under which the following provisions apply:

(A) When the harvester and the wholesale fish dealer, wholesale fish bait dealer, or food fish canner are the same person or entity, transfer occurs when the food fish arrive at the licensed premises of the wholesale fish dealer, wholesale fish bait dealer, or food fish canner; and

(B) Once transfer begins, all food fish from the harvest area are counted as part of that landing.

(23) “Length” or “Overall Length” of a vessel means the manufacturer’s specification of overall length, United States Coast Guard or Marine Board registered length documentation stating overall length or overall length as surveyed by a certified marine surveyor. In determining overall length, marine surveyors shall measure in a straight line parallel to the keel from the foremost part of the vessel to the aftermost part, excluding sheer and excluding bow sprits, boomkins, rudders aft of the transom, outboard motor brackets, or transom extensions as in a dive step or platform.

(24) “Ocean Dungeness Crab fishing season” means the period normally from December 1 of one year through August 14 of the next year and is specific to the ocean Dungeness crab fishery. In periods where a season delay occurs, “ocean Dungeness crab fishing season” means from the date the fishery opens to the following August 14.

(25) “Oyster” includes oysters, oyster seed, oyster cultch, and oyster shell.

(26) “Pacific Ocean” means all water seaward of the end of the jetty or jetties of any river, bay, or tidal area, except the Columbia River boundary with the Pacific Ocean is as specified in OAR 635-003-0005, or all water seaward of the extension of the shoreline high watermark across the river, bay, or tidal area where no jetties exist.

(27) “Permit holder” means a person or entity that owns an individual permit or owns the vessel to which a vessel permit is attached. A lessee of a permit is not a permit holder.

(28) "Possession" means holding any food fish, shellfish or parts thereof in a person's custody or control.

(29) "Process or Processing" means fresh packaging requiring freezing of food fish, or any part thereof, or any type of smoking, reducing, loining, steaking, pickling or filleting. Cooking crab is not considered processing.

(30) “Replacement vessel” is a vessel purchased to replace a Limited Entry permitted vessel which has been lost due to fire, capsizing, sinking or other event.

(31) “Resident” means an actual bona fide resident of this state for at least one year, as specified in ORS 508.285.

(32) “Salmon” means all anadromous species of salmon, including but not limited to:

(a) Oncorhynchus gorbuscha, commonly known as humpback, humpies or pink salmon.

(b) Oncorhynchus keta, commonly known as chum or dog salmon.

(c) Oncorhynchus kisutch, commonly known as coho or silver salmon.

(d) Oncorhynchus nerka, commonly known as sockeye, red or blueback salmon.
(e) Oncorhynchus tshawytscha, commonly known as Chinook salmon.

(33) “Security interest” means an interest in a vessel or permit granted by the owner of the vessel or permit to a third party under a security agreement, pursuant to ORS chapter 79, another state’s laws enacted to implement Article 9 of the Uniform Commercial Code or equivalent federal statutory provisions for federally documented vessels.

(34) “Sell” includes to offer or possess for sale, barter, exchange or trade.

(35) “Shared Ecosystem Component Species” means those ecosystem component species shared between all of the Pacific Fishery Management Council’s Fishery Management Plans which occur in the Pacific Ocean off Oregon and include:

- Mesopelagic fishes of the families Myctophidae, Bathylagidae, Paralepididae, and Gonostomatidae;
- Pacific sand lance (Ammodytes hexapterus);
- Pacific saury (Cololabis saira);
- Silversides of the family Atherinopsidae;
- Smelts of the family Osmeridae; and
- Pelagic squids of the families Cranchiidae, Gonatidae, Histiotethidae, Octopoteuthidae, Ommastrephidae except Humboldt squid (Dosidicus gigas), Onychoteuthidae, and Thysanoteuthidae.

(36) “Shellfish Sanitation Certificate” means a license required by Oregon Department of Agriculture to engage in business of harvesting, distributing or processing of oysters, clams, mussels and scallops for human consumption.

(37) “Special Regulation Marine Areas” means specific areas described in OAR 635-039-0090 and the “Oregon Sport Fishing Regulations,” which includes all Marine Gardens, Subtidal Research Reserves, Intertidal Research Reserves, Habitat Refuges, and other areas closed to designated activities.

(38) “Take” means fish for, hunt, pursue, catch, capture or kill or attempt to fish for, hunt, pursue, catch, capture or kill.

(39) “Transport” means transport by any means, and includes offer or receive for transportation.

(40) “Trip limit” means the total amount of fish that may be taken and retained, possessed, or landed per vessel from a single fishing trip or cumulatively per unit of time. A vessel which has landed its cumulative or daily limit may continue to fish on the limit for the next legal period as long as the fish are not landed until the next period. Trip limits may be:

- “Bi-monthly cumulative trip limit” means the maximum amount of fish that may taken and retained, possessed or landed per vessel in specified bi-monthly periods. There is no limit on the number of landings or trips in each period, and periods apply to calendar months. The specified periods are as follows:
  - (A) Period 1: January through February;
  - (B) Period 2: March through April;
  - (C) Period 3: May through June;
  - (D) Period 4: July through August;
  - (E) Period 5: September through October; and
  - (F) Period 6: November through December.
- “Daily trip limit” means the maximum amount of shellfish that may be taken and retained, possessed or landed per vessel in 24 consecutive hours, starting at 00:01 hours local time;
- “Monthly trip limit” means the maximum amount of fish that may be taken and retained, possessed or landed per vessel during the first day through the last day of any calendar month.
- “Weekly trip limit” means the maximum amount of fish that may be taken and retained, possessed or landed per vessel during the first day through the last day of any calendar month.

- “Unlawful to buy” means that it is unlawful to buy, knowing or having reasonable cause to believe that the fish have been illegally taken or transported within this state, or unlawfully imported or otherwise unlawfully brought into this state.

(42) “Unlawful to buy” means that it is unlawful to buy, knowing or having reasonable cause to believe that the fish have been illegally taken or transported within this state, or unlawfully imported or otherwise unlawfully brought into this state.

(43) “Vessel” means any floating craft, powered, towed, rowed or otherwise propelled which is used for landing or taking food fish for commercial purposes.

(44) “Vessel operator” means the person onboard a fishing vessel who is responsible for leading a fishing vessel in fishing or transit operations, and who signs the corresponding fish ticket from that fishing trip. A vessel operator may be a vessel owner or permit holder or both, individual hired to operate a vessel, or lessee of a vessel, permit
or both. Although more than one person may physically operate a vessel during a fishing trip or transit, there may only be one person identified as a vessel operator (commonly referred to as a captain or skipper) on a fishing vessel during any one fishing trip or transit.

(45) "Vessel owner" means any ownership interest in a vessel, including interests arising from partnerships, corporations, limited liability corporations, or limited liability partnerships. A vessel owner does not include a leasehold interest.

(46) "Waters of this state" means all waters over which the State of Oregon has jurisdiction, or joint or other jurisdiction with any other state or government, including waters of the Pacific Ocean and all bays, inlets, lakes, rivers and streams within or forming the boundaries of this state.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 506.306
Hist.: Adopted: 9-2-16, f. 12-7-16, ef. 1-1-17

635-005-0245
Commercial Shellfish And Intertidal Animal Harvest Permit Required
(1) It is unlawful to take, land or possess animals living intertidally on the bottom for commercial purposes without first obtaining a Commercial Shellfish And Intertidal Animal Harvest Permit issued by the Department pursuant to ORS 508.116. Permit holders are required to comply with the conditions contained on their permit.
(2) A Commercial Shellfish And Intertidal Animal Harvest Permit is in addition to, and not in lieu of a commercial fishing license, bait fishing license or boat license required by ORS 508.235, ORS 508.312 and ORS 508.260.
(3) A Commercial Shellfish And Intertidal Animal Harvest Permit is not required to take, land or possess shellfish legally taken in a fishery already requiring a separate permit, or the Bay and Estuary Dungeness crab fishery.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 508.116
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0250
Commercial Shellfish and Invertebrate Fishery Permit Fee
(1) The annual fee for the Commercial Shellfish And Intertidal Animal Harvest Permit is $125.00 (plus a $2.00 license agent fee) for Resident applicants. The annual fee for Nonresident applicants is $175.00 (plus a $2.00 license agent fee).
(2) Commercial Shellfish And Intertidal Animal Harvest Permits are only available at the Astoria, Newport and Charleston Department field offices.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Other Auth.: Senate Bill 247 (2015)
Stats. Implemented: ORS 506.109, 506.129 & 508.116
Hist.: Adopted 10-9-15, f. 10-14-15, ef. 1-1-16

635-005-0255
Additional License Requirement
Each harvester, distributor or processor of oysters, clams, mussels and scallops intended for human consumption must obtain a Shellfish Sanitation Certificate from the Oregon Department of Agriculture pursuant to ORS 622.080.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129 & 622.080
Stats. Implemented: ORS 506.109, 506.129 & 622.080
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0260
Closed Seasons and Areas
(1) It is unlawful to take for commercial purposes, the following from Special Regulation Marine Areas described
in the “Oregon Sport Fishing Regulations:"
   (a) Shellfish and invertebrates in designated Marine Garden areas;
   (b) Shellfish and invertebrates in designated Intertidal and Subtidal Research Reserves;
   (c) Fish, shellfish and invertebrates in designated Habitat Refuges; or
   (d) Fish, shellfish and invertebrates from 1000 feet around and including Pyramid Rock from May 1 through August 31.
(2) It is unlawful to move any vessel within 500 feet of the main rocks in Three Arch Rocks National Wildlife Refuge from May 1 through September 15.
(3) The following areas have additional closures and prohibitions as specified in ORS Chapter 511, and fishers should consult these regulations before fishing in these areas:
   (a) Coastal Streams Areas;
   (b) Columbia River Area;
   (c) Rogue River Area;
   (d) Curry County Area;
   (e) Coos, Douglas and Lane County Areas;
   (f) Nestucca, Netarts and Tillamook Bay Areas; and
   (g) Willamette River Area.
(4) Marine Reserves and Marine Protected Areas within Oregon’s Territorial Sea have been established and fishers should consult regulations in OAR Division 012 regarding fishing and transit restrictions.

635-005-0263
Restrictions on Shared Ecosystem Component Species Applicable to All Commercial Fisheries
(1) Shared Ecosystem Component Species, as defined in OAR 635-004-0215, in the Pacific Ocean off Oregon are jointly managed by the state of Oregon and the federal government through the Pacific Fishery Management Council process. Therefore, the Code of Federal Regulations, Part 660, Subpart B, (October 1, 2016 ed.) is incorporated into Oregon Administrative Rule by reference. The Code of Federal Regulations provides federal requirements, including but not limited to prohibitions on directed fishing and at-sea processing for these species. For the purposes of this rule, directed fishing is defined as:
   (a) Landing Shared Ecosystem Component Species without landing any other species;
   (b) Landing more than 10 metric tons of Shared Ecosystem Component Species in aggregate from any fishing trip; or
   (c) Landing more than 30 metric tons of Shared Ecosystem Component Species in aggregate within a calendar year.
(2) The geographic scope of those federal regulations cited in section (1) of this rule is hereby extended to the waters of this state from the head of tide of inland waters to three nautical miles offshore in the Pacific Ocean, except the Columbia River as defined in OAR 635-003-0005, and apply to fishing trips conducted from vessels entirely within these waters.
(3) The Commission may adopt additional or modified regulations that are more conservative than federal regulations, in which case Oregon Administrative Rule takes precedence. See OAR 635-005-0230 through 635-005-0275 and 635-004-0545 for additions or modifications to federal forage fish regulations.
[Publications: Publications referenced are available from the Department.]

635-005-0265
General Bait Restrictions
It is unlawful to use lamprey as bait in any commercial fishery.
635-005-0270
Same Trip Recreational and Commercial Fishing – When Unlawful

(1) It is unlawful for a vessel licensed pursuant to ORS 508.260 to be used to fish recreationally and commercially on the same fishing trip.

(2) Recreational fishing gear is legal to use in commercial fisheries provided it complies with the provisions specified in OAR 635-005-0275.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 506.306
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0275
Commercial Shellfish and Marine Invertebrates Fishing Gear

(1) This regulation lists a complete set of legal gear types and associated general restrictions to take shellfish and marine invertebrates in the fisheries specified in this Division. However, most individual fisheries listed in this Division are restrained additionally by supplemental regulations specific to those fisheries. Fishers should consult the specific section of the fishery they are interested in for additional regulations.

(2) It is unlawful to possess, deploy, haul, or carry on board a fishing vessel any fishing gear not listed in section (3) of this rule, or fishing gear not in compliance with the restrictions listed in section (4) of this rule, unless such gear is the gear of another vessel that has been retrieved at sea and made inoperable or stowed in a manner not capable of being fished. The disposal at sea of such gear is prohibited by Annex V of the International Convention for the Prevention of Pollution From Ships, 1973 (Annex V of MARPOL 73/78).

(3) It is unlawful to take shellfish and invertebrates for commercial purposes by any means except:
   (a) Hook-and-line gear, including, but not limited to handline, pole-and-line, reel-and-line and pole-reel-and-line;
   (b) Longlines and vertical hook and lines are permitted in the ocean;
   (c) Pots or traps (including pot longline gear) are permitted in the ocean;
   (d) Rings;
   (e) Dipnets of hoop or A-frame design;
   (f) Seines are permitted in the ocean;
   (g) Trawl gear is permitted in the ocean;
      (A) Trawl gear shall not be used with any other gear type on a single fishing trip.
   (h) Set nets are allowed with an experimental gear permit pursuant to OAR 635-006-0020;
   (i) Spear is permitted in the ocean;
   (j) Dive gear; or
   (k) By hand or hand powered methods including shovel, rake, and abalone iron.

(4) Longline, vertical hook-and-line and pot gear other than Dungeness crab gear and crayfish pots or ring nets which is fixed or anchored to the bottom or drifting unattached to the vessel have the following restrictions:
   (a) Gear shall not be left unattended for more than seven days;
   (b) Pot longline gear shall be marked at the surface and at each terminal end with a pole, flag, light, radar reflector, and a buoy showing clear identification of the owner or operator;
   (c) Pot gear used for other than Dungeness crab, hagfish and spot or coonstripe shrimp shall have biodegradable escape panels constructed with #21 or smaller, untreated cotton twine in such manner that an opening at least eight inches in diameter will result when the twine deteriorates.

(5) A buoy used to mark gear under subsection (3)(b) of this rule must be marked with a number clearly identifying the owner or operator of the vessel. The number may be either:
   (a) If required by applicable state law, the vessel’s number, the commercial fishing license number, or buoy brand number; or
   (b) The vessel documentation number issued by the U.S. Coast Guard, or, for an undocumented vessel, the vessel registration number issued by the state.
635-005-0280
Organization of Clam and Intertidal Rules
Administrative rules contained in OAR 635-005-0285 and OAR 635-005-0290 shall apply to all fisheries in the Clam and Intertidal section, and are in addition to and not in lieu of Division 005 General Regulations contained in OAR 635-005-0225 through OAR 635-005-0275. The Clam and Intertidal Section includes regulations for the Marine Snail and Abalone, Piddock, Bay Clam Dive and Intertidal Animal, Mussel and Clam Commercial Fisheries.

635-005-0285
Additional License Requirement
It is unlawful to take, distribute or process oysters, clams, mussels and scallops intended for human consumption without first obtaining a Shellfish Sanitation Certificate specified in OAR 635-005-0255.

635-005-0290 (See Temp Rule Below Effective 7-1-19 thru 12-28-19)
Closed Seasons and Areas
It is unlawful to take for commercial purposes:
(1) Gaper clams from January 1 through June 30, except under a limited entry Bay Clam Dive Permit (OAR 635-005-0310) an incidental catch of one gaper clam per eight butter clams, or 25 pounds of gaper clams per 100 pounds of butter clams, whichever allows the greater gaper clam incidental catch.
(2) Razor clams from July 15 through September 30 in the area north of Tillamook Head in Clatsop County.
(3) Any clams from:
   (a) Little Nestucca Bay;
   (b) Big Nestucca Bay;
   (c) Netarts Bay, except cockles may be taken in an area west of and including the main channel, north of the northern boundary line for the Shellfish Preserve (Latitude 45°23.68'N), and south of Latitude 45°24.71'N, near the informational kiosk;
   (d) Salmon River and Bay;
   (e) Siletz River and Bay; or
   (f) All state parks south of Tillamook Head.
(4) Bay clams in Tillamook Bay from the following areas:
   (a) The "Ghost Hole" from the floating toilet site south to Sandstone Point and 500 feet westward from the Highway 101 shoreline;
   (b) The area east of a line connecting the Coast Guard tower on the north jetty, buoy marker 13, and Hobsonville Point; or
   (c) The area above mean lower low water near Kincheloe Point.
(5) Subtidal cockle clams in Netarts Bay.
(6) Subtidal bay clams in Coos Bay from the following areas:
   (a) In depths shallower than 10 feet from mean lower low water; or
   (b) The area of South Slough south of the Charleston bridge.
(7) Any clams from the Shellfish Preserve in Yaquina Bay, Lincoln County, which is the tideflat on the north side of the wood piling breakwater, south of the troller's basin. The legal description is as follows: Beginning at a point 1,181.24 feet south and 430.55 feet east of the meander corner of Sections 8 and 9, T11S, R11W, W.M., said point being a flashing red beacon on the southeastern end of the U.S. Army Engineers wood piling breakwater,
thence northwesterly along said breakwater to a point being a flashing white beacon on the northwestern end of said breakwater located 583.46 feet south and 2,082.62 feet west of the above meander corner, thence southeasterly along the extreme low water line of the sand pit lying on the north side of the said breakwater to the point of beginning, said tideland being 7.2 acres, more or less, at mean low water line.

(8) Any clams from the Shellfish Preserve in Netarts Bay beginning from the quarter corner of Section 17, 20, T2S, R10W, thence north 10 degrees 14 feet west 200 feet to point of beginning, thence west approximately 6,250 feet to the west meander line of Netarts Bay, thence north 1,000 feet, thence east about 6,250 feet, thence south along the meander line to the point of beginning, except any privately owned tidelands within the described area are excluded from the closure.

(9) Any shellfish from Special Regulation Marine Areas as described in OAR 635-005-0260.

(10) Clams or mussels from a health closure area closed for biotoxins. "Health closure area" means an area closed to the public due to health risks of consuming shellfish from the area, and "Biotoxin" means naturally occurring shellfish toxins monitored by the Oregon Department of Agriculture.

(11) Any shellfish taken for human consumption from an area designated as restricted by the Oregon Department of Agriculture. Fishers should call the Oregon Department of Agriculture Shellfish Safety Hotline at 1-800-448-2474, the Oregon Department of Agriculture Food Safety Division at 1-503-986-4720 or visit the Oregon Department of Agriculture website at www.oregon.gov/ODA to confirm the area of intended harvest is open before harvesting shellfish.

(12) Littleneck clams (*Leukoma staminea*).

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 9-4-15, f. 12-9-15, ef. 1-1-16

635-005-0290
Temp. Rule Effective 7-1-19 thru 12-28-19

Closed Seasons and Areas
It is unlawful to take for commercial purposes:

(1) Gaper clams from January 1 through June 30, except under a limited entry Bay Clam Dive Permit (OAR 635-005-0310) an incidental catch of one gaper clam per eight butter clams, or 25 pounds of gaper clams per 100 pounds of butter clams, whichever allows the greater gaper clam incidental catch.

(2) Razor clams from July 15 through September 30 in the area north of Tillamook Head in Clatsop County.

(3) Any clams from:
   (a) Little Nestucca Bay;
   (b) Big Nestucca Bay;
   (c) Netarts Bay, except cockles may be taken in an area west of and including the main channel, north of the northern boundary line for the Shellfish Preserve (Latitude 45°23.68'N), and south of Latitude 45°24.71'N, near the informational kiosk;
   (d) Salmon River and Bay;
   (e) Siletz River and Bay; or
   (f) All state parks south of Tillamook Head.

(4) Bay clams in Tillamook Bay from the following areas:
   (a) The "Ghost Hole" from the floating toilet site south to Sandstone Point and 500 feet westward from the Highway 101 shoreline;
   (b) The area east of a line connecting the Coast Guard tower on the north jetty, buoy marker 13, and Hobsonville Point; or
   (c) The area above mean lower low water near Kincheloe Point.

(5) Subtidal cockle clams in Netarts Bay.

(6) Subtidal bay clams in Coos Bay from the following areas:
   (a) In depths shallower than 10 feet from mean lower low water; or
   (b) The area of South Slough south of the Charleston bridge.

(7) Any clams from the Shellfish Preserve in Yaquina Bay, Lincoln County, which is the tideland on the north side of the wood piling breakwater, south of the troller's basin. The legal description is as follows: Beginning at a point 1,181.24 feet south and 430.55 feet east of the meander corner of Sections 8 and 9, T11S, R11W, W.M., said point being a flashing red beacon on the southeastern end of the U.S. Army Engineers wood piling breakwater, thence northwesterly along said breakwater to a point being a flashing white beacon on the northwestern end of said breakwater located 583.46 feet south and 2,082.62 feet west of the above meander corner, thence...
southeasterly along the extreme low water line of the sand pit lying on the north side of the said breakwater to the point of beginning, said tideland being 7.2 acres, more or less, at mean low water line.  

(8) Any clams from the Shellfish Preserve in Netarts Bay beginning from the quarter corner of Section 17, 20, T2S, R10W, thence north 10 degrees 14 feet west 200 feet to point of beginning, thence west approximately 6,250 feet to the west meander line of Netarts Bay, thence north 1,000 feet, thence east about 6,250 feet, thence south along the meander line to the point of beginning, except any privately owned tidelands within the described area are excluded from the closure.  

(9) Any shellfish from Special Regulation Marine Areas as described in OAR 635-005-0260.  

(10) Clams or mussels from a health closure area closed for biotoxins. "Health closure area" means an area closed to the public due to health risks of consuming shellfish from the area, and "Biotoxin" means naturally occurring shellfish toxins monitored by the Oregon Department of Agriculture.  

(11) Any shellfish taken for human consumption from an area designated as restricted by the Oregon Department of Agriculture. Fishers should call the Oregon Department of Agriculture Shellfish Safety Hotline at 1-800-448-2474, the Oregon Department of Agriculture Food Safety Division at 1-503-986-4720 or visit the Oregon Department of Agriculture website at www.oregon.gov/ODA to confirm the area of intended harvest is open before harvesting shellfish.  

(12) Littleneck clams (*Leukoma staminea*).  

(13) Any subtidal clams from Yaquina Bay, except from the designated harvest area.  The area is north of the navigation channel and extends eastward from the western end of the commercial boat basin breakwater.  Harvest is not allowed from any areas south of the northern navigational channel boundary.  Harvest is not allowed in depths shallower than 10 feet below mean lower low water.  

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129  
Stats. Implemented: ORS 506.109 & 506.129  
Hist.: Adopted 6-28-19, f. 6-28-19, ef. 7-1-19  

635-005-0295  
**Marine Snail Fishery Prohibited**  
(1) It is **unlawful** to take any marine snail species of the class gastropoda, including all abalone species, for commercial purposes except that a commercial aquaculture facility may take abalone for use as broodstock under the terms and conditions specified in a permit issued by the Department.  

(2) Application for such a permit shall be in writing and shall include the following:  
   (a) A description of the commercial aquaculture facility;  
   (b) The methods for collecting and returning broodstock abalone to and from the wild;  
   (c) The methods for checking abalone and imported kelp food for pathogens or exotic fauna;  
   (d) The procedures for isolating and culturing abalone to prevent contamination of wild abalone stock; and  
   (e) Any other information as the Department may require.  

(3) Permit applications shall be mailed to: Marine Resources Program Office, Department of Fish and Wildlife, 2040 SE Marine Science Drive, Newport, OR, 97365.  

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129  
Stats. Implemented: ORS 506.109, 506.129 & 506.306  
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12  

635-005-0300  
**Piddock (Rock Oyster) Fishery Prohibited**  
It is **unlawful** to take piddocks for commercial purposes.  

Stats. Implemented: ORS 506.129  
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12
635-005-0305
Bay Clam Dive Fishery Defined
"Bay clam dive fishery" means the commercial fishery for bay clams (including: cockle clams, Clinocardium nuttallii; butter clams, Saxidomus gigantea; gaper clams, Tresus capax; and softshell clams, Mya arenaria) from subtidal areas in Oregon estuaries using dive gear.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 9-4-15, f. 12-9-15, ef. 1-1-16

635-005-0310
Requirement for Bay Clam Dive Permit
(1) It is unlawful in the bay clam dive fishery to:
   (a) Take, land or possess bay clams for commercial purposes, using dive gear, from subtidal areas in any Oregon estuary north of Heceta Head without first obtaining a coast-wide Bay Clam Dive Permit issued pursuant to OAR 635-005-0315 through OAR 635-005-0340.
   (b) Take, land or possess bay clams for commercial purposes, using dive gear, from subtidal areas in Oregon estuaries south of Heceta Head without first obtaining either a coast-wide Bay Clam Dive Permit or a south-coast Bay Clam Dive Permit issued pursuant to OAR 635-005-0315 through OAR 635-005-0340.
   (c) For a wholesaler dealer, canner or buyer to buy or receive bay clams taken in the bay clam dive fishery from a vessel or person not issued the permit required by subsections (1)(a) or (1)(b) of this rule.
   (d) To take bay clams where more than two divers operating from any one vessel were in the water at the same time or where more than three persons without Bay Clam Dive Permits, excluding persons authorized by the Department for the performance of official duties, were on board any vessel while harvesting, possessing, or transporting bay clams.
   (e) To take clams except under the terms and conditions specified in the permit. Permits may be issued to mechanically harvest clams in subtidal areas by means of water jet or other hand or handpowered tool. Application for such a permit must be written and include a description of the specific areas where mechanical taking is proposed and such other information as the Director shall require.
   (A) Applications should be mailed to: Marine Resources Program Office, Department of Fish and Wildlife, 2040 SE Marine Science Drive, Newport, OR 97365.
(2) The Department shall not issue more than ten coast-wide permits required by subsection (1)(a) of this rule and five south-coast permits required by subsection (1)(b) of this rule.
(3) Permits may be issued to individuals or to vessels, designated at the beginning of the year. Designation shall not change during the year.
(4) The Bay Clam Dive Permit required by section (1) of this rule is in addition to and not in lieu of either:
   (a) The commercial fishing license required by ORS 508.235; or
   (b) The commercial bait fishing license required by ORS 508.312.
(5) No vessel may hold more than one Oregon Bay Clam Dive Permit at any one time.
(6) If Bay Clam Dive Permits are issued on an individual basis, no individual may hold more than one Oregon Bay Clam Dive Permit at any one time.
(7) Unless otherwise provided, Bay Clam Dive Permits must be purchased by January 31 of the year the permit is sought for renewal.
(8) No Bay Clam Dive Permit shall be transferred without the vessel lien holder's written permission.
(9) Applications for Bay Clam Dive Permits shall be in such form and contain such information as the Department may prescribe. Proof of length of a vessel may be required at the time of application.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 506.306
Hist.: Adopted 9-4-15, f. 12-9-15, ef. 1-1-16

635-005-0315
Bay Clam Dive Permit Fee
(1) The annual fee for a Resident Bay Clam Dive Permit is $125.00 (plus a $2.00 license agent fee) for applicants.
(2) The annual fee for a Nonresident Bay Clam Dive Permit is $175.00 (plus a $2.00 license agent fee) for
applicants.
(3) A fee of $100.00 shall be charged for each transfer of participation rights under OAR 635-005-0340.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Other Auth.: Senate Bill 247 (2015)
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 10-9-15, f. 10-14-15, ef. 1-1-16

635-005-0320
Eligibility Requirements for a Bay Clam Dive Permit
(1) An individual licensed as a commercial harvester under ORS 508.235 or ORS 508.312 or a vessel is eligible to obtain a Bay Clam Dive Permit required by OAR 635-005-0310:
   (a) For a South Coast Bay Clam Dive Permit for the year 2006, if a South Coast Bay Clam Dive Permit was issued to the individual or vessel under the Developmental Fisheries Program in 2005 and lawfully made five landings consisting of at least 100 pounds each landing or an annual total of 2,500 pounds of bay clams, using dive gear in Oregon in 2005;
   (b) For a Coast Wide Bay Clam Dive Permit for the year 2006, if a Coast Wide Bay Clam Dive Permit was issued to the individual or vessel under the Developmental Fisheries Program in 2005 and lawfully made five landings consisting of at least 100 pounds each landing or an annual total of 2,500 pounds of bay clams, using dive gear in Oregon in 2005.
   (c) After 2006, by renewal of the previous years’ permit and satisfaction of the requirements in OAR 635-005-0330; or
   (d) Through the lottery if a lottery is held in accordance with OAR-005-0335.
(2) In making determinations regarding issuance or renewal of any limited entry permit, the Department and the Commercial Fishery Permit Board may consider as evidence of permit qualifications or requirements Department records and such receipts, accounts, contracts and other business records of private parties as the Department or the Board considers reliable evidence of the qualifications or requirements in question.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 5-10-13, f. & ef. 5-13-13

635-005-0325
Review of Denials - Bay Clam Dive Permit
(1) An individual whose application for issuance, renewal or transfer of a Bay Clam Dive Permit established pursuant to OAR 635-005-0310, OAR 635-005-0330 and OAR 635-005-0340 is denied may make written request to the Board for review of the denial. The review provided in this section is in lieu of any such review by the Department or the Commission. The request shall be in such form and shall contain such information as the Board considers appropriate.
(2) The Board shall review a denial of an application for issuance, renewal or request to transfer a permit according to the applicable provisions of ORS chapter 183. Orders issued by the Board are not subject to review by the Commission, but may be appealed as provided in ORS 183.480 to 183.500. The Board may waive requirements for renewal of permit if the Board finds strict adherence to the requirements were not met as a result of undue hardship as defined in OAR 635-005-0240.
(3) A party must petition for Board review of the hearing officer's proposed order within 30 days of service of the proposed order if the party wants the proposed order changed. A party must identify what parts of the proposed order it objects to, and refer to parts of the administrative record and legal authority supporting its position.
(4) The Board may delegate to the Department its authority to waive requirements for renewal of Bay Clam Dive Permits in such specific instances as the Board sets forth in a Letter of Delegation to the Department.
(5) The bay clam dive fishery requires a $125.00 non-refundable application fee for Board review. However, if the Board grants the applicant’s request, the non-refundable fee shall apply toward the permit fee.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12
635-005-0330
Renewal of Bay Clam Dive Permit
(1) Bay Clam Dive Permits may be renewed the following year:
(a) By submitting to the Department a $125.00 fee for a resident permit or a $175.00 fee for a nonresident permit (plus a $2.00 license agent fee) and a complete application date-stamped or postmarked by January 31 of the year for which renewal is sought;
(b) The permittee shall have lawfully made five landings consisting of at least 100 pounds each landing or an annual total of 2,500 pounds of bay clams, using dive gear in Oregon in the prior calendar year;
(c) If all logbooks required under OAR 635-005-0345 were submitted by the application deadline for renewal of a Bay Clam Dive Permit; and
(d) If a Bay Clam Dive Permit is transferred under OAR 635-005-0340(2), annual landing requirements for permit renewal in subsection (1)(b) of this rule are waived in the year the transfer occurred.
(2) An application for renewal of a Bay Clam Dive Permit shall be considered complete if it is legible, has all information requested in 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 January 31 of the permit year sought, the individual shall not be considered to have applied for renewal in a timely manner.
(3) It is the responsibility of the permittee to ensure that 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.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Other Auth.: Senate Bill 247 (2015)
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 10-9-15, f. 10-14-15, ef. 1-1-16

635-005-0335
Lottery for Limited Entry Bay Clam Dive Permits
(1) If the number of Bay Clam Dive Permits issued in accordance with OAR 635-005-0310 falls below ten for coast-wide permits or five for south-coast permits, the Department may issue Bay Clam Dive Permits by a lottery system. However, as a result of any such lottery, the total number of Bay Clam Dive Permits issued shall not exceed ten for coast-wide permits or five for south-coast permits;
(2) Each applicant for a permit lottery shall complete the application form prescribed by the Department.
(3) Application for vessel permits shall only be accepted for vessels, which, in the judgment of the Department, are capable of operating the gear necessary to legally participate in the fishery. Vessels of a size or design incapable of harvesting the permitted species are not eligible for the lottery.
(4) Only one application per vessel or individual may be submitted for each permit fishery lottery.
(5) Any application which is not legible, has incomplete information, or is postmarked after the deadline shall not be entered in the lottery. Applications for all permits shall be accepted at the Salem headquarters office of the Department, and shall be postmarked or date stamped no later than March 31 of the year for which the permit is issued.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0340
Transferability of Bay Clam Dive Permits
(1) Any transfer of a Bay Clam Dive Permit without the written consent of each person holding a security interest in such vessel is void.
(2) Permits may be transferred as follows:
(a) The permittee may request the Department to transfer, to a replacement vessel that is owned by the same person that owns the vessel to which the Bay Clam Dive Permit was originally issued, a Bay Clam Dive Permit up to two times per calendar year;
(b) In the event of the death of a Bay Clam Dive Permit holder, the permit of the deceased may be issued to an immediate family member upon request, validated by the Department’s receipt of a copy of the death
certificate and the original permit. “Immediate family member” means a Bay Clam Dive Permit holder’s spouse, domestic partner, children, father, mother, brother, sister, stepchildren, and grandchildren; or

(c) The Department may authorize transfer of a Bay Clam Dive Permit for up to 90 days upon petition by the permittee on the form provided by the Department due to a medical condition.

(A) The Department's decision to allow a transfer shall be based on a finding that the current permit holder is unable to participate in the fishery due to injury or illness which prevents diving, based on medical evidence submitted by the permit holder, and such other evidence the Department considers reliable.

(B) At the end of the transfer period, the Department may reinstate the Bay Clam Dive Permit to the original permit holder or to a new transferee, provided that the original permit holder again submits medical evidence documenting that the injury or illness continues to prevent their return to diving.

(C) There is a two-year limit on the eligibility of each individual permit for medical transfer status, beginning with the start date of the first medical transfer of that permit and ending two years from that date.

(D) If the Department, after review of a denial by the Board, allows a transfer, the original Bay Clam Dive Permit holder shall give written notice to the Department of the name, address and telephone number of the transferee. The original permit holder may, at any time during the transfer period specified in subsection (1)(c) of this rule, request the Department reinstate the permit back to their possession. Such transfer requires 30 days written notice to the Department. In any event, upon expiration of the transfer period specified in subsection (1)(c) of this rule, or upon cancellation of a transfer due to lack of medical evidence of continuing inability to dive, the permit shall revert automatically to the original permit holder, unless the transfer is renewed, as provided in subsection (1)(c) of this rule.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0345
Logbook Required - Bay Clam Dive Permit
(1) The Department shall make available a logbook to each licensed commercial fisher or commercial fishing vessel which holds a valid Bay Clam Dive Fishery Permit.
(2) Each permit holder is responsible for maintaining the logbook in an accurate and truthful manner and in accordance with the instructions contained therein.
(3) Upon request of an authorized representative of the Department or the Oregon State Police, each permit holder shall permit examination and transcription of information of such logbook.
(4) Upon request of an authorized representative of the Department, each permit holder shall surrender a legible copy of such logbook.
(5) Information so received by the Department shall be considered confidential.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0350
Cockle Clam Size Limit
The minimum legal size of cockle clams taken for commercial purposes under a Bay Clam Dive Permit (OAR 635-005-0310) in Tillamook Bay is 2-3/4 inches at the greatest dimension, and 2-1/4 inches at the greatest dimension in all other bays. It is unlawful to possess any cockle clams taken for commercial purposes under a Bay Clam Dive Permit which are less than the minimum legal size.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 506.306
Hist.: Adopted 9-4-15, f. 12-9-15, ef. 1-1-16

635-005-0355 (See below: Temporary Rule effective 7-14-19 thru 12-31-19)
Bay Clam Dive Catch Limits
(1) In Tillamook Bay, the commercial landing caps for clams harvested by the bay clam dive fishery are 185,000
pounds for cockles, 235,000 pounds for gaper clams, and 225,000 pounds for butter clams.

(2) When any of the commercial clam landing caps specified in section (1) of this rule are reached, the commercial clam fishery for that species in that particular estuary will close for the remainder of the calendar year.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 9-4-15, f. 12-9-15, ef. 1-1-16

635-005-0355
Temp. Rule effective 7-14-19 thru 12-31-19
Catch Limits

(1) In Tillamook Bay, the commercial landing cap for clams harvested by the bay clam dive fishery are 185,000 pounds for cockles, 235,000 pounds for gaper clams, and 225,000 pounds for butter clams.
(2) When any of the commercial clam landing caps specified in sections (1) of this rule are reached, the commercial cockle clam fishery in that particular estuary will close for the remainder of the calendar year.
(3) The Tillamook Bay cockle dive fishery is closed effective 12:01 a.m. Friday, April 5, 2019 due to the anticipated attainment of the 185,000 pound landing cap.
(4) The Tillamook Bay gaper clam dive fishery is closed effective 12:01 a.m. Sunday, July 14, 2019 due to the anticipated attainment of the 235,000 pound landing cap.
(5) In Yaquina Bay, the commercial landing cap for gaper clams harvested by the bay clam dive fishery is 20,000 pounds.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 7-11-19, f. 7-11-19, ef. 7-14-19
6-28-19, f. 6-28-19, ef. 7-1-19

635-005-0360
Subtidal Clams for Bait
Clams harvested or at any time intended for sale as bait in the bay clam dive fishery are subject to the requirements of OAR 635-005-0390.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0365
Intertidal Animal, Mussel and Clam Commercial Fisheries Defined
"Intertidal Animal, Mussel, and Clam Fisheries" means the commercial fisheries for any animal living intertidally on the bottom.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0370
Commercial Shellfish and Intertidal Animal Harvest Permit Required
It is unlawful to take, land or possess animals living intertidally on the bottom for commercial purposes without first obtaining a Commercial Shellfish And Intertidal Animal Harvest Permit issued by the Department pursuant to OAR 635-005-0245 and OAR 635-005-0250.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129, 506.306 & 508.116
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12
635-005-0375
Logbook Required - Commercial Shellfish and Intertidal Animal Harvest
(1) The Department shall make available a logbook to each licensed commercial fisher who holds a valid Commercial Shellfish And Intertidal Animal Harvest Permit.
(2) Each permit holder is responsible for maintaining the logbook in an accurate and truthful manner and in accordance with the instructions contained therein.
(3) Upon request of an authorized representative of the Department or the Oregon State Police, each permit holder shall permit examination and transcription of information of such logbook.
(4) Upon request of an authorized representative of the Department, each permit holder shall surrender a legible copy of such logbook.
(5) Information so received by the Department shall be considered confidential.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0380
Fishing Gear for Commercial Harvest of Mussels and Razor Clams
It is unlawful in intertidal commercial fisheries to:
(1) Take mussels for commercial purposes by any means other than hand or a hand-powered tool.
(2) Take razor clams for commercial purposes by any means other than by hand or by shovel.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 506.306
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0385
Commercial Harvest of Mussels and Razor Clams - Size Limit
(1) There is no size limit for mussels taken for commercial purposes.
(2) The minimum legal size of razor clams taken for commercial purposes is 3-3/4 inches from tip to tip of the shell. It is unlawful to possess any razor clams taken for commercial purposes which are less than the minimum legal size.
All undersized razor clams must be immediately returned to the hole from which they were dug with the hinge oriented towards the ocean.
(3) The minimum legal size of intertidal cockles taken for commercial purposes in Tillamook Bay and Netarts Bay is 2-3/4 inches at the greatest dimension. It is unlawful to possess any cockles taken for commercial purposes which are less than the minimum legal size.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 506.306
Hist.: Adopted 9-4-15, f. 12-9-15, ef. 1-1-16

635-005-0387 (See below: Temporary Rule effective 6-20-19 thru 12-31-19)
Commercial Harvest of Mussels and Razor Clams - Catch Limits
(1) In Netarts Bay, the commercial landing cap for cockles harvested by the intertidal fishery is 22,000 pounds.
(2) When the commercial cockle landing cap specified in section (1) of this rule is reached, the intertidal cockle fishery in Netarts Bay will close for the remainder of the calendar year.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 9-4-15, f. 12-9-15, ef. 1-1-16
635-005-0387
Temp. Rule effective 6-20-19 thru 12-18-19
Catch Limits
(1) In Netarts Bay, the commercial landing cap for cockle clams harvested by the bay clam fishery is 22,000 pounds.
(2) When the commercial cockle clam landing caps specified in section (1) of this rule is reached, the intertidal cockle fishery in Netarts Bay will close for the remainder of the calendar year.
(3) The Netarts Bay clam fishery is closed effective 12:01 a.m. Thursday, June 20, 2019 due to the attainment of the 22,000 pound landing cap.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-14-19, f. 6-18-19, ef. 6-21-19

635-005-0390
Clams and Mussels for Bait
(1) Clams and mussels taken as bait must be visibly dyed with a Department approved dye.
(2) Dyeing must occur before leaving the harvest area, before being transported by vehicle, or before the time of docking of the vessel used in harvesting.
(3) Clams and mussels taken for bait may not be possessed aboard a vessel while clams and mussels for human consumption are on board. Upon leaving the vessel or the harvest area, clams and mussels taken as bait may not be mixed with clams and mussels taken for human consumption.
(4) Prior to sale, clams or mussels taken from restricted areas and live boxed must be stored in a restricted area pending sale. "Restricted area" means an area closed or prohibited to commercial harvest of shellfish by the Oregon Department of Agriculture for the harvest of clams, mussels or other shellfish for human consumption by commercial shellfish harvesters, and "live boxed" means any type of container used to hold or store shellfish in the water.
(5) Clams or mussels taken for human consumption and later sold as bait must be dyed at the time of sale to a wholesale fish dealer or wholesale fish bait dealer.
(6) Clams and mussels harvested for bait must be sold to a wholesale fish dealer or wholesale fish bait dealer within 48 hours of end of harvest.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0395
Organization of Rules for Commercial Crab Fisheries
The Crab Section includes regulations for the ocean Dungeness, Bay and Estuary Dungeness and Red Rock, Box, Tanner and Other Crab Fisheries.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0400
Ocean Dungeness Crab Fishery Defined
"Ocean Dungeness crab fishery" means all fishing for Dungeness crab (Cancer magister) in the Pacific Ocean and Columbia River for commercial purposes.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12
635-005-0405
Requirement for Ocean Dungeness Crab Permit

(1) It is unlawful to take, land or possess Dungeness crab from the ocean Dungeness crab fishery without first obtaining an Ocean Dungeness Crab Permit issued pursuant to ORS 508.931 or 508.941. An Ocean Dungeness Crab Permit is not required for vessels that are engaged solely in setting gear for a permitted vessel and which do not retrieve, retain or possess Dungeness crab.

(2) It is unlawful for a wholesaler, canner, or buyer to buy or receive Dungeness crab taken in the ocean Dungeness crab fishery from a vessel for which the permit required by this rule has not been issued.

(3) If the Commission establishes a vessel crab pot limitation or allocation system beyond the 2002-03 ocean Dungeness crab season, August 14, 2001 is the control date for eligibility criteria related to past participation in the ocean fishery.

(4) A Single Delivery License shall not be substituted for an Ocean Dungeness Crab Permit. Once a vessel has obtained an Ocean Dungeness Crab Permit, Dungeness crab may be landed by the vessel using a combination of an Ocean Dungeness Crab Permit and a Single Delivery License in lieu of a commercial fishing and boat license. However, crab may not be landed more than twice in any one ocean Dungeness crab fishing season using Single Delivery Licenses.

(5) Effective December 1, 2006, the amount of Dungeness crab gear allocated to a permit required under section (1) above will be determined as follows:

(a) The allocation will be based on documented landings of ocean Dungeness crab into Oregon, Washington (excluding landings from the Puget Sound Fishery), or California, using valid Oregon fish receiving tickets, or equivalent valid documents from the states of Washington or California, from December 1, 1995 through August 14, 2001;

(b) The Dungeness crab gear allocation will be the highest number of pots and rings in aggregate the vessel qualifies for during the six qualifying seasons, December 1 of one year through September 15 of the next year (except through August 14, in 2001);

(c) A Dungeness crab gear allocation of 200 shall be assigned to a permit with landings less than 15,020 pounds in the 1995 to 1996 season, and 4,010 pounds in the 1996 to 1997 season, and 5,170 pounds in the 1997 to 1998 season, and 7,083 pounds in the 1998 to 1999 season, and 13,160 pounds in the 1999 to 2000 season, and 8,940 pounds in the 2000 to 2001 season;

(d) A Dungeness crab gear allocation of 300 shall be assigned to a permit with minimum landings of 15,020 pounds in the 1995 to 1996 season, or 4,010 pounds in the 1996 to 1997 season, or 5,170 pounds in the 1997 to 1998 season, or 7,083 pounds in the 1998 to 1999 season, or 13,160 pounds in the 1999 to 2000 season, or 8,940 pounds in the 2000 to 2001 season; and

(e) A Dungeness crab gear allocation of 500 shall be assigned to a permit with minimum landings of 89,020 pounds in the 1995 to 1996 season, or 35,180 pounds in the 1996 to 1997 season, or 39,350 pounds in the 1997 to 1998 season, or 49,450 pounds in the 1998 to 1999 season, or 78,400 pounds in the 1999 to 2000 season, or 37,030 pounds in the 2000 to 2001 season.

(6) The Ocean Dungeness Crab Permit required by section (1) of this rule is in addition to and not in lieu of the commercial fishing and boat license required by ORS 508.235 and ORS 508.260.

(7) No vessel may hold more than one Ocean Dungeness Crab Permit at any one time.

(8) Unless otherwise provided, Ocean Dungeness Crab Permits must be purchased by December 31 of the year the permit is sought for renewal.

(9) Applications for Ocean Dungeness Crab Permits shall be in such form and contain such information as the Department may prescribe. Proof of length of a vessel may be required at the time of application.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129, 506.306, 508.926 & 508.931
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

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635-005-0410
Ocean Dungeness Crab Permit Fee

(1) The annual fee for a Resident Ocean Dungeness Crab Permit is $200.00 (plus a $2.00 license agent fee) for resident applicants and $250.00 (plus a $2.00 license agent fee) for non-resident applicants. See ORS 508.941.

(2) A fee of $100.00 shall be charged for each transfer of participation rights under OAR 635-005-0440. See ORS 508.936.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
635-005-0415
Eligibility Requirements for a Ocean Dungeness Crab Permit
(1) Vessels or vessel owners must meet eligibility requirements for an Ocean Dungeness Crab Permit pursuant to ORS 508.931.
(2) An individual licensed under ORS 508.235 or a commercial licensed vessel under ORS 509.260, except as otherwise stated in section 3 of this rule, is eligible to obtain an Ocean Dungeness Crab Permit required by OAR 635-005-0405 by renewal of the previous year's permit as specified in OAR 635-005-0430. For the purposes of eligibility for an Ocean Dungeness Crab Permit, a vessel which received a license waiver issued pursuant to ORS 508.808 shall be considered as having possessed a boat license for that year.
(3) ORS 508.931 and ORS 508.941 require that the vessel be previously licensed in accordance with ORS 508.260 for the purposes of initial eligibility for an Ocean Dungeness Crab Permit. "Initial eligibility for vessels to participate" for the purposes of application for an Ocean Dungeness Crab Permit pursuant to ORS 508.931, means eligibility of a vessel on which to make permit application is confined to vessels which have never obtained an initial permit. A Single Delivery License shall not be substituted for a boat license for this purpose.
(4) In making determinations regarding issuance or renewal of any limited entry permit, the Department and the Commercial Fishery Permit Board may consider as evidence of permit qualifications or requirements Department records and such receipts, accounts, contracts and other business records of private parties as the Department or the Board considers reliable evidence of the qualifications or requirements in question.

635-005-0420
Revocation and Refusal to Issue Ocean Dungeness Crab Permits
The Commercial Fishery Permit Board may revoke and refuse subsequent issuance of an Ocean Dungeness Crab Permit pursuant to ORS 508.485 and ORS 508.490.

635-005-0425
Review of Denials - Ocean Dungeness Crab Permit
(1) An individual whose application for issuance, renewal or transfer of an Ocean Dungeness Crab Permit established pursuant to OAR 635-005-0405, OAR 635-005-0430 and OAR 635-005-0440 is denied, may make written request to the Board for review of the denial. The procedure for requesting review and the applicable standard of review of denial of an Ocean Dungeness Crab Permit shall be pursuant to ORS 508.941.
(2) For the ocean Dungeness crab fishery, a permit holder may request review of the Department's initial Dungeness crab gear allocation, the Department's denial of replacement of lost buoy tags, or denial of permit renewal by doing so in writing to the Commercial Fishery Permit Board. The Board may:
   (a) Adjust the amount of Dungeness crab gear allocated to a permit:
      (A) Based on additional landings documentation supplied by permit holder according to criteria under OAR 635-005-0405(5); or
      (B) Based on circumstances during the qualifying seasons described in OAR 635-005-0405(5), a Dungeness crab gear allocation may be increased by one tier as described under 635-005-0405(5) as a result of undue hardship as defined in OAR 635-005-0240.
   (b) Approve replacement of lost buoy tags due to a catastrophic loss as defined in OAR 635-005-0240.
   (c) Waive the permit renewal date requirement if the Board finds that strict adherence to this requirement was not met as a result of undue hardship as defined in OAR 635-005-0240.
(3) The Board may delegate to the Department its authority to waive requirements for renewal of Ocean
Dungeness Crab Permits in such specific instances as the Board sets forth in a Letter of Delegation to the Department.

(4) The ocean Dungeness crab fishery requires a $125.00 non-refundable application fee for Board review. However, if the Board grants the applicant’s request, the non-refundable fee shall apply toward the permit fee.

(5) Orders issued by the Board are not subject to review by the Commission, but may be appealed as provided in ORS 183.480 to ORS 183.550.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 508.941
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0430
Renewal of Limited Entry Ocean Dungeness Crab Permit

(1) An individual who obtained a limited entry Ocean Dungeness Crab Permit may renew the permit pursuant to ORS 508.941 by submitting to the Department a $200.00 (plus a $2.00 license agent fee) for resident applicants and a $250.00 fee (plus a $2.00 license agent fee) for non-resident applicants and a complete application date-stamped or postmarked by December 31 of the year for which renewal is sought.

(2) An application for renewal of an Ocean Dungeness Crab Permit shall be considered complete if it is legible, has all information requested in 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 December 31 of the permit year sought, the individual shall not be considered to have applied for renewal in a timely manner.

(3) It is the responsibility of the permittee 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 may not be grounds for treating the application as having been filed in a timely and complete manner.

(4) A permit which is not renewed by December 31 lapses, and shall not be renewed for subsequent years.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Other Auth.: Senate Bill 247 (2015)
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 10-9-15, f. 10-14-15, ef. 1-1-16

635-005-0435
Lottery for Limited Entry Ocean Dungeness Crab Permits

There is no lottery system for the issuance of Ocean Dungeness Crab Permits.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0440
Transferability of Ocean Dungeness Crab Permits

(1) Any transfer of a permit away from a vessel without the written consent of each person holding a security interest in such vessel is void.

(2) Ocean Dungeness Crab Permit holders may transfer a permit:
(a) Pursuant to ORS 508.936; and
(b) Once in an 18-month period, provided the vessel holding the permit has landed at least 500 pounds of ocean Dungeness crab into Oregon in each of two ocean Dungeness crab fishing seasons in the last five ocean Dungeness crab fishing seasons, which includes landings made during any season open at the time of application. However, the Board may waive the landing requirement as well as the 18-month waiting period for transfers, if the Board finds strict adherence to this requirement was not met by the individual seeking to transfer a permit as a result of undue hardship as defined in OAR 635-005-0240. The Board also may delegate to the Department its authority to waive these requirements in such specific instances as the Board sets forth in a Letter of Delegation to the Department.

(3) An Ocean Dungeness Crab Permit is transferable:
(a) To another vessel; or
(b) To the purchaser of the vessel when the vessel is sold.

(4) The vessel to which an Ocean Dungeness Crab Permit is transferred:

(a) Shall not be more than 10 feet longer than the vessel which held the permit on January 1, 2006, except that a permit transferred to a vessel that is more than 10 feet shorter than the vessel for which the permit was held on January 1, 2013, may subsequently be transferred to a vessel of a length equal to or less than the length of the vessel for which the permit was held on January 1, 2013;

(b) Shall not be more than 99 feet in length; and

(c) Shall not be more than 26 feet in length if the Ocean Dungeness Crab Permit was obtained as a result of qualifying under subsection (1)(e) of ORS 508.931.

(5) For the purpose of subsection (4)(a) of this rule, the Commercial Fishery Permit Board may waive the vessel length restriction if it finds that strict adherence to this requirement was not met as a result of undue hardship as defined in OAR 635-005-0240.

(6) In the event a vessel is destroyed due to fire, capsizing, sinking or other event, the vessel owner has up to two years to transfer the Ocean Dungeness Crab Permit to a replacement vessel.

(7) Ocean Dungeness Crab Permit transfers are suspended during split season openings as pursuant to OAR 635-005-0465(2).

(8) In the event a buyer fails to complete a purchase agreement for a vessel permit, the seller is eligible for a temporary transfer of the vessel permit back to the seller, if a preliminary injunction is issued by a circuit court requiring the State Department of Fish and Wildlife to allow the seller to continue to operate a vessel in the fishery during the pendency of the proceeding. An order granting a preliminary injunction under this section must include a finding that allowing the seller to continue to operate a vessel in the fishery will not cause excessive harvest pressure on the fishery resource.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 12-8-17, f. 12-12-17, ef. 1-1-18

635-005-0445
Logbook Required - Ocean Dungeness Crab Fishery

(1) The Department shall make available a logbook to each licensed commercial fishing vessel which holds a valid Ocean Dungeness Crab Permit.

(2) The permit holder is responsible for maintaining the logbook in an accurate and truthful manner and in accordance with the instructions contained therein.

(3) Upon request of an authorized representative of the Department or the Oregon State Police, each permit holder shall permit examination and transcription of information of such logbook.

(4) Upon request of an authorized representative of the Department, each permit holder shall surrender a legible copy of such logbook.

(5) Information so received by the Department shall be considered confidential.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0450
Vessel Length Modification in Ocean Dungeness Crab Fishery

No vessel holding an Ocean Dungeness Crab Permit may be modified to increase its length by more than 10 feet during any 60-month period. If a permitted vessel is modified, the owner shall promptly notify the Department and the 60-month period shall begin on the date the Department receives notification.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 508.936
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12
635-005-0455
License Limitation
In the event that a license limitation measure is adopted by the Commission, August 14, 1991, shall be used as the eligibility date for participation in the Dungeness crab fishery.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 506.931
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0460
Harvest Areas - Dungeness Crab Fishery
Oregon Dungeness crab permits are valid only in Oregon state waters and the Pacific Ocean in federal waters south of an east-west line extending westward at 46° 15' 00" North Latitude (Oregon/Washington border) and north of an east-west line at 42° 00' 00" North Latitude (Oregon/California border).

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0465 (See below: Temporary Rule effective 5-10-19 thru 8-15-19)
Closed Season in Pacific Ocean and Columbia River
(1) It is unlawful to take, land or possess Dungeness crab for commercial purposes from the Pacific Ocean or Columbia River from August 15 through December 1, 08:59 AM.

(2) The season opening for the commercial Ocean Dungeness crab fishery may be delayed in one or more fishing zones based on the results of crab quality testing. The Pre-season Testing Protocol for the Tri-State Coastal Dungeness crab Commercial Fishery (hereafter, “Tri-State Protocol”) specifies the process for establishing fishing zones (section VI) and coordinating the opening of the fishery in Washington, Oregon, and California north of Point Arena (sections IV and V). Therefore, the following sections of the Tri-State Protocol (Revised July 2014) are hereby incorporated into Oregon Administrative Rule by reference:
   (a) Section IV – Season Opening Criteria.
   (b) Section V – Test Fishing and Process for Setting the Season Opening Date.
   (c) Section VI – Procedure for Establishing Fishing Zones.

In the event that crab quality tests do not meet the criteria for opening the season on December 1, the Director shall adopt temporary rules delaying the season in accordance with the Tri-State Protocol.

(3) It is unlawful to land, receive or buy, Dungeness crab in the first thirty days of the ocean Dungeness crab fishery from a vessel that has not been certified by officials of the State of Oregon, Washington, or California to have been free of Dungeness crab before fishing in the ocean Dungeness crab fishery. In the event the area between Gray’s Harbor, Washington and Point Arena, California is divided into zones with different season opening dates, the ocean Dungeness crab fishery refers to the fishery in that zone for the purposes of this rule.

(4) In the event the area between Gray's Harbor, Washington and Point Arena, California is divided into zones with different season opening dates, the transfer of a permit from one vessel to another is suspended from the earliest season opening date through thirty days after the latest season opening date, except in the event a vessel is unintentionally destroyed due to fire, capsizing, sinking, or other event.

(5) Upon a determination by the Department that catch in Oregon's ocean Dungeness crab fishery after May 31 is greater than ten percent of the catch in the previous December 1 through May 31 period, the Director shall adopt a temporary rule closing the commercial season until the following December 1.

Stat. Auth.: ORS 506.036, 506.109, 506.119 and 506.129
Stats. Implemented: ORS 506.109 and 506.129
Hist.: Adopted 9-4-15, f. & ef. 10-29-15
(2) Take, landing, or possession of Dungeness crab from the area from Cape Blanco (42° 50’ N. Lat.) southward to the Oregon/California border (42° 00’ N. Lat.) is allowed only as consistent with OAR 603-025-0423. Take, landing, or possession of Dungeness crab from the area south of the Oregon/California (42° 00’ N. Lat.) border is allowed only as consistent with OAR 603-025-0422.

(3) The season opening for the commercial Ocean Dungeness crab fishery may be delayed in one or more fishing zones based on the results of crab quality or biotoxin testing. The Pre-season Testing Protocol for the Tri-State Coastal Dungeness crab Commercial Fishery (hereafter, “Tri-State Protocol”) specifies the process for establishing fishing zones (section VI) and coordinating the opening of the fishery in Washington, Oregon, and California north of Point Arena (sections IV and V). Therefore, the following sections of the Tri-State Protocol (Revised July 2014) are hereby incorporated into Oregon Administrative Rule by reference:
   (a) Section IV – Season Opening Criteria.
   (b) Section V – Test Fishing and Process for Setting the Season Opening Date.
   (c) Section VI – Procedure for Establishing Fishing Zones.

In the event that crab quality tests do not meet the criteria for opening the season on December 1, the Director shall adopt temporary rules delaying the season in accordance with the Tri-State Protocol.

(4) It is unlawful to land, receive or buy, Dungeness crab in the first thirty days of the ocean Dungeness crab fishery from a vessel that has not been certified by officials of the State of Oregon, Washington, or California to have been free of Dungeness crab before fishing in the ocean Dungeness crab fishery. In the event the area between Gray’s Harbor, Washington and Point Arena, California is divided into zones with different season opening dates, the ocean Dungeness crab fishery refers to the fishery in that zone for the purposes of this rule.

(5) In the event the area between Gray’s Harbor, Washington and Point Arena, California is divided into zones with different season opening dates, the transfer of a permit from one vessel to another is suspended from the earliest season opening date through thirty days after the latest season opening date, except in the event a vessel is unintentionally destroyed due to fire, capsizing, sinking, or other event. 

(6) Upon a determination by the Department that catch in Oregon’s ocean Dungeness crab fishery after May 31 is greater than ten percent of the catch in the previous December 1 through May 31 period, the Director shall adopt a temporary rule closing the commercial season until the following December 1.

Stat. Auth.: ORS 506.036, 506.109, 506.119 and 506.129
Stats. Implemented: ORS 506.109 and 506.129
Hist.: Adopted 5-10-19, f. 5-10-19 ef. Upon filing

635-005-0470
Dungeness Crab Fishery Possession and Landing Limits
(1) It is unlawful, from the second Monday in June through August 14, for any permitted ocean Dungeness crab vessel to take, land or possess more than 1,200 pounds of Dungeness crab per week from the Pacific Ocean and Columbia River. “Week” means the period beginning 12:01 a.m. local time Monday through 12 midnight Sunday.

(2) Commercial fishers must retain copies of fish landing receipts for a minimum of 90 days on board vessels landing Dungeness crab under the cumulative catch limit described in section (1) of this rule. The receipts must be available for inspection by authorized enforcement officials and by employees of the Department. Legal landing receipts are defined in OAR 635-005-0240.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 506.306
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0475
Dungeness Crab Gear Specifications
It is unlawful for commercial purposes to:
(1) Take crab by any means other than crab pots or crab rings as defined in OAR 635-005-0240.
(2) Possess on a vessel, use, control, or operate any crab pot which is greater than thirteen cubic feet in volume, calculated using external dimensions.
(3) Possess on a vessel, use, control, or operate any crab pot which does not include a minimum of two circular escape ports of at least 4-1/4 inches inside diameter, located on the top or side of the crab pot. If escape ports are placed on the side of the crab pot, they shall be located in the upper half of the pot.
(4) Possess on a vessel, use, control, or operate any crab pot which does not have a release mechanism.
Acceptable release mechanisms are:
(a) A single loop of untreated cotton not heavier than 120 thread size between crab pot lid tiedown hooks and the tiedown straps; or
(b) Any modification of the wire mesh on the top or upper half of the side of the crab pot, secured with a single strand of untreated cotton not heavier than 120 thread size, which, when removed, will create a minimum opening of at least 5 inches in diameter and will meet the following:
   (A) The minimum opening may have not more than a single wire mesh (described as a "V") that protrudes into the opening provided that mesh extends into the opening a distance of not more than 2.5 inches, as measured from the perimeter of the opening along either edge of the protruding wire mesh, to serve as an anchor for the securing cotton. The panel containing the opening and the wire mesh acting as an anchor for the securing cotton must be constructed of a single wire no greater than 0.050 inches in diameter.
   (B) Cotton must not be wrapped multiple times around wire mesh and may use no more than one knot securing the wire mesh at each end.

635-005-0480
Dungeness Crab Buoy Tag and Gear Marking Requirements
It is unlawful for commercial purposes to:
(1) Use commercial Dungeness crab gear in the Columbia River or Pacific Ocean unless the gear is individually marked with a surface buoy bearing, in a visible, legible and permanent manner, the brand of the owner and the Department buoy tag, provided that:
   (a) The brand is a number registered with and approved by the Department;
   (b) Only unique buoy brand shall be registered to any one permitted vessel;
   (c) All Dungeness crab gear fished by a permitted vessel must use only the Oregon buoy brand number registered to that vessel in the area off of Oregon;
   (d) The Department shall issue crab buoy tags to the owner of each commercial crab permit in the amount determined by OAR 635-005-0405(5);
   (e) All buoy tags eligible to a permit holder must be purchased from the Department at cost and attached to the gear prior to setting gear;
   (f) Buoys attached to Dungeness crab gear must have the buoy tag securely attached to the buoy closest to the gear at the end away from the buoy line; and
   (g) Additional buoy tags to replace lost tags will be issued by the Department as follows:
      (A) As of the first business day after 30 days following the season opening in the area fished, up to ten percent of the tags initially issued for that season; or
      (B) For a catastrophic loss, as defined in ORS 635-005-0240; or
      (C) If the Director finds that the loss of buoy tags was:
         (i) Due to an extraordinary event;
         (ii) The loss was minimized with the exercise of reasonable diligence; and
         (iii) Reasonable efforts were taken to recover lost buoy tags and associated fishing gear.
   (D) Upon receipt of the declaration of loss required by subsection (1)(g)(E) of this rule, and a request for replacement tags under sub subsection (1)(g)(C) of this rule, the Director or the Director’s designee may provide an opportunity for the permit holder requesting the replacement tags to describe why the buoy tag loss meets the criteria for replacement under subsection (1)(g)(C) of this rule. The Director or the Director’s designee shall provide the Director’s order to the permit holder and to the Department’s License Services. The permit holder may appeal the Director’s findings to the Fishery Permit Review Board under OAR 635-005-0425.
   (E) Permit holders (or their alternative designated on the buoy tag order form) must obtain, complete, and sign a declaration of loss under penalty of perjury in the presence of an authorized Department employee. The declaration shall state the number of buoy tags lost, the location and date where lost gear or tags were last observed, and the presumed cause of the loss.
(2) Possess on a vessel, use, control, or operate any Dungeness crab gear which does not have a tag affixed to the individual pot or ring identifying the gear as belonging to that vessel, a surface buoy bearing the Department buoy brand registered to that vessel, and a Department buoy tag issued by the Department to that vessel, as pursuant to ORS 509.415, except:
(a) To set gear as allowed under OAR 635-005-0405; or
(b) Under a waiver granted by the Department to allow one time retrieval of permitted Dungeness crab gear to shore by another crab permitted vessel provided that:
   (A) The vessel is incapacitated due to major mechanical failure or destroyed due to fire, capsizing, or sinking;
   (B) Circumstances beyond the control of the permit holder as defined by undue hardship in OAR 635-005-0240;
   (C) A Request must be in writing and a waiver approved and issued prior to retrieval; and
   (D) A copy of the waiver must be on board the vessel making the retrieval (Contact Department of Fish and Wildlife Licensing Services, Salem for guidelines).
(c) Under a waiver granted by the Department to allow one time change of buoy tags associated with a Dungeness crab permit transfer under OAR 635-005-0440 provided that:
   (A) A request must be in writing and a waiver approved and issued prior to change of buoy tags; and
   (B) A copy of the waiver must be on board the vessel making the change of buoy tags (Contact Department of Fish and Wildlife Licensing Services, Salem for guidelines).
(d) When retrieving derelict Dungeness crab gear as pursuant to OAR 635-005-0490 or 635-005-0491;
(e) A vessel may transit through the Columbia River and the Pacific Ocean adjacent to Oregon while possessing Dungeness crab gear not bearing Oregon buoy tags or Oregon buoy branded surface buoys, provided that the vessel is authorized and en route to participate or returning from participating in the Dungeness crab fishery of an adjacent state; or
(f) When operating crab rings in bays or estuaries, only a tag affixed to the individual ring is required.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 8-1-14, f. 8-5-14, ef. 8-15-14

635-005-0485 (See temp rule below effective 7-3-19 thru 8-31-19)
Dungeness Crab Gear Prohibitions
It is unlawful for commercial purposes to:
(1) Place, operate, or leave Dungeness crab gear in the Pacific Ocean, Columbia River or in any bay or estuary during the closed season, except that in only the Pacific Ocean and Columbia River, Dungeness crab gear may be placed no more than 73 hours immediately prior to the date the Dungeness crab season opens. In addition, unbaited Dungeness crab gear with open release mechanisms may be left in the Pacific Ocean (not including the Columbia River) for a period not to exceed 14 days following the closure of the Dungeness crab season.
(2) Have Dungeness crab gear deployed in the Pacific Ocean or Columbia River more than 14 days without making a landing of Dungeness crab.
(3) Remove, damage, or otherwise tamper with crab buoy, pot or ring tags except:
   (a) When lawfully applying or removing tags on the vessel's buoys, pots or rings; or
   (b) When lawfully removing tags on crab gear retrieved under a Post-Season Derelict Gear Permit pursuant to OAR 635-005-0491 and after the gear has been registered by state officials.
(4) Attach one crab pot or ring to another crab pot or ring by a common groundline or any other means that connects Dungeness crab gear together.
(5) Take crabs for commercial purposes by crab pots from any bay or estuary except the Columbia River.
(6) Take or fish for Dungeness crab for commercial purposes in the Columbia River or Pacific Ocean adjacent to the state of Oregon unless a Dungeness crab gear allocation has been issued to the permit required under OAR 635-005-0405(5).
(7) Deploy or fish more Dungeness crab gear than the number of pots and rings in aggregate assigned by the Dungeness Crab Pot Allocation Certificate or to use any vessel other than the vessel designated on the Dungeness Crab Pot Allocation Certificate, except to set gear as allowed under OAR 635-005-0405.

Stat. Auth.: ORS 506.036, 506.109, 506.119 and 506.129
Stats. Implemented: ORS 506.109 and 506.129
Hist.: Adopted 9-4-15, f. & ef. 10-29-15

635-005-0485
Temp. Rule effective 7-3-19 thru 8-31-19
Dungeness Crab Gear Prohibitions
It is unlawful for commercial purposes to:

1. Place, operate, or leave Dungeness crab gear in the Pacific Ocean, Columbia River or in any bay or estuary during the closed season, except that in only the Pacific Ocean and Columbia River, Dungeness crab gear may be placed no more than 73 hours immediately prior to the date the Dungeness crab season opens.
2. Have Dungeness crab gear deployed in the Pacific Ocean or Columbia River more than 14 days without making a landing of Dungeness crab.
3. Remove, damage, or otherwise tamper with crab buoy, pot or ring tags except:
   (a) When lawfully applying or removing tags on the vessel's buoys, pots or rings; or
   (b) When lawfully removing tags on crab gear retrieved under a Post-Season Derelict Gear Permit pursuant to OAR 635-005-0491 and after the gear has been registered by state officials.
4. Attach one crab pot or ring to another crab pot or ring by a common groundline or any other means that connects Dungeness crab gear together.
5. Take crabs for commercial purposes by crab pots from any bay or estuary except the Columbia River.
6. Take or fish for Dungeness crab for commercial purposes in the Columbia River or Pacific Ocean adjacent to the state of Oregon unless a Dungeness crab gear allocation has been issued to the permit required under OAR 635-005-0405(5).
7. Deploy or fish more Dungeness crab gear than the number of pots and rings in aggregate assigned by the Dungeness Crab Pot Allocation Certificate or to use any vessel other than the vessel designated on the Dungeness Crab Pot Allocation Certificate, except to set gear as allowed under OAR 635-005-0405.

Derelict Dungeness Crab Gear

Derelict Dungeness crab gear may be retrieved from the ocean, including the Columbia River, and transported to shore provided that:

1. The retrieving vessel holds a valid boat license, issued pursuant to ORS 508.260, and the captain and crew of that vessel hold valid commercial fishing license(s), issued pursuant to ORS 508.235.
2. The number of derelict Dungeness crab gear which may be retrieved per trip are as follows:
   (a) From the opening of the ocean Dungeness crab fishery in the area where retrieval takes place until the second Monday in June of the same ocean Dungeness crab season: 25 derelict pots and rings in aggregate;
   (b) From the second Monday in June through August 28: 50 derelict pots and rings in aggregate;
   (c) August 29 through October 31: an unlimited number of derelict pots and rings may be retrieved.
3. Upon retrieval from the ocean or Columbia River, the Dungeness crab gear must be un-baited.
4. Crab from the retrieved Dungeness crab gear shall not be retained, except crab of legal size and sex may be retained by vessels holding a valid Dungeness crab permit, at such times and in such areas that Dungeness crab may otherwise be legally taken for commercial purposes.
5. Immediately upon retrieval of Dungeness crab gear, the retrieving vessel operator must document in the retrieving vessel’s logbook the date and time of pot or ring retrieval, number of retrieved crab pots or rings in aggregate, location of retrieval, and retrieved Dungeness crab gear owner identification information.
6. Any retrieved Dungeness crab gear must be transported to shore during the same fishing trip that retrieval took place.

Temp. Rule effective 7-3-19 thru 8-31-19

Derelict Dungeness Crab Gear

Derelict Dungeness crab gear may be retrieved from the ocean, including the Columbia River, and transported to shore provided that:

1. The retrieving vessel holds a valid boat license, issued pursuant to ORS 508.260, and the captain and crew of that vessel hold valid commercial fishing license(s), issued pursuant to ORS 508.235.
(2) The number of derelict Dungeness crab gear which may be retrieved per trip are as follows:
   (a) From the opening of the ocean Dungeness crab fishery in the area where retrieval takes place until the second Monday in June of the same ocean Dungeness crab season: 25 derelict pots and rings in aggregate;
   (b) From the second Monday in June through August 14: 50 derelict pots and rings in aggregate;
   (c) August 15 through October 31: an unlimited number of derelict pots and rings may be retrieved.
(3) Upon retrieval from the ocean or Columbia River, the Dungeness crab gear must be un-baited.
(4) Crab from the retrieved Dungeness crab gear shall not be retained, except crab of legal size and sex may be retained by vessels holding a valid Dungeness crab permit, at such times and in such areas that Dungeness crab may otherwise be legally taken for commercial purposes.
(5) Immediately upon retrieval of Dungeness crab gear, the retrieving vessel operator must document in the retrieving vessel’s logbook the date and time of pot or ring retrieval, number of retrieved crab pots or rings in aggregate, location of retrieval, and retrieved Dungeness crab gear owner identification information.
(6) Any retrieved Dungeness crab gear must be transported to shore during the same fishing trip that retrieval took place.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 506.306
Hist.: Adopted 7-3-19, f. 7-3-19, ef. 7-3-19

635-005-0491
Post-season Derelict Gear Recovery Permits
(1) Fifteen days after the close of ocean commercial crab season, the Department may grant Post-Season Derelict Gear Recovery Permits to commercial vessels, licensed pursuant to ORS 508.260, to recover Dungeness crab gear that remains in the ocean.
(2) It is unlawful to fail to follow the provisions of a Post-Season Derelict Gear Recovery Permit.
(3) The Director or Director’s designee may grant emergency exemptions from the gear recovery program for Dungeness crab gear that was unable to be removed from the ocean prior to fifteen days after the end of the season as a result of undue hardship as defined in OAR 635-005-0240. Requests for exemptions must be submitted to the Marine Resources Program, Newport by August 29 of each year.
(4) The provisions of ORS 98.005, 98.015, 98.025 and 98.302 to 98.436 do not apply to crab pots removed from the ocean under the provisions of a Post-Season Derelict Gear Recovery Permit.
(5) Dungeness crab gear retrieved under the authority of a Post-Season Derelict Gear Recovery Permit and not subject to emergency exemption under section (3) of this rule may be disposed of at the permit holder’s discretion after documenting retrieval of the gear in accordance with permit conditions.

Stat. Auth.: ORS 506.036, 506.109, 506.119 and 506.129
Stats. Implemented: ORS 506.109, 506.129 and 506.306
Hist.: Adopted 9-4-15, f. & ef. 10-29-15

635-005-0495
Size and Sex of Pacific Ocean Dungeness Crab
(1) It is unlawful to take, land or possess for commercial purposes:
   (a) Female Dungeness crab; or
   (b) Male Dungeness crab less than 6-1/4 inches measured the shortest distance through the body of the crab from edge of shell to edge of shell from directly in front of the tenth anterolateral spine.
(2) Any undersized or female Dungeness crab taken from the Pacific Ocean must be released within 15 minutes of capture unharmed into the Pacific Ocean at the point of capture.
(3) It is unlawful to possess or transport Dungeness crab that have been mutilated prior to landing so that the size or sex cannot be determined.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 506.306
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12
635-005-0500
Bay and Estuary Dungeness Crab Fishery Defined
“Bay and Estuary Dungeness crab fishery” means all fishing for Dungeness crab (Cancer magister) for commercial purposes in Oregon bays and estuaries, except the Columbia River.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0505
Closed Season in Bays and Estuaries
(1) For the purposes of the Bay and Estuary Dungeness Crab Fishery, the Columbia River is considered the Pacific Ocean and is closed to all commercial harvest of Dungeness crab without a valid Ocean Dungeness Crab Permit pursuant to OAR 635-005-0405 and during the times specified in OAR 635-005-0465.
(2) It is unlawful to take, land or possess Dungeness crab for commercial purposes from any bay or estuary other than the Columbia River so taken:
   (a) From January 1 through Labor Day;
   (b) During December, if the adjacent ocean area is closed as provided in 635-005-0465;
   (c) From midnight Friday through midnight Sunday of any week; and
   (d) On all legal state and federal holidays.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 506.306
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0510
Fishing Gear In Bays and Estuaries
In all bays and estuaries other than the Columbia river, it is unlawful for commercial purposes to:
(1) Take, land or possess Dungeness crab with any gear other than crab rings.
(2) Operate more than 15 individual crab rings from any one fishing vessel.
(3) Possess, use, control, or operate on a vessel any crab ring which does not have a tag identifying it as belonging to that vessel.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0515
Size and Sex of Bay and Estuary Dungeness Crab
(1) It is unlawful to take, land or possess for commercial purposes:
   (a) Female Dungeness crab; or
   (b) Male Dungeness crab less than 6-1/4 inches measured the shortest distance through the body of the crab from edge of shell to edge of shell from directly in front of the tenth anterolateral spine.
(2) Any undersized or female Dungeness crab taken from a bay must be released immediately unharmed into the fishing area and not brought to the dock.
(3) It is unlawful to possess or transport Dungeness crab that have been mutilated prior to landing so that the size or sex cannot be determined.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 506.306
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12
635-005-0520
Red Rock, Box, Tanner, and Other Crab Fisheries Defined
“Red Rock, Box, Tanner and Other Crab fisheries" means all fishing for red rock crab (Cancer productus) in Oregon estuaries and the Pacific Ocean for commercial purposes, and all fishing for box crab (Lopholithodes foraminatus) Tanner crab (Chinoecetes tanneri), Oregon hair crab (Paralomis multispina) and scarlet king crab (Lithodes couesi) in the Pacific Ocean for commercial purposes.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0525
Permits Required for Red Rock Crab and Box Crab
(1) It is unlawful to take, land or possess red rock crab from bays and estuaries without first obtaining a Commercial Shellfish And Intertidal Animal Harvest Permit pursuant to OAR 635-005-0245 and OAR 635-005-0250.
(2) It is unlawful to take, land or possess red rock crab or box crab the Pacific Ocean without first obtaining an Ocean Dungeness Crab Permit pursuant to OAR 635-005-0405.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129, 506.306, 508.116 & 508.926
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0530
Tanner and Box Crab Taken in Trawl Nets
Notwithstanding OAR 635-005-0540, the Department may issue permits to land Tanner and box crab taken as incidental catch in trawl nets outside Oregon waters.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0535
Closed Season - Red Rock, Box, Tanner, and Other Crab Fisheries
(1) It is unlawful to take, land or possess 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.
(2) It is unlawful to retain red rock and box crab when the Dungeness crab fishery is closed pursuant to OAR 635-005-0465.
(3) It is unlawful to take, land or possess red rock crab in Oregon bays or estuaries when the Dungeness crab fishery is closed pursuant to OAR 635-005-0505.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 506.306
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0540
Fishing Gear - Tanner, Oregon Hair and Scarlet King Crab
(1) Except as provided in OAR 635-005-0530, it is unlawful to take Tanner, Oregon hair and scarlet king crab for commercial purposes except by crab rings, crab pots, and crab pot longline gear. Crab pots and crab pot longline gear must comply with the provisions contained in OAR 635-005-0275. “Crab pot longline gear” means a stationary and buoyed groundline with one or more crab pots or traps attached, with a line attached to surface floats and is used for the taking of only Tanner, Oregon hair or scarlet king crab.
(2) Except as provided in OAR 635-005-0530, it is unlawful to take red rock and box crab for commercial purposes except by crab rings and crab pots. Crab rings and crab pots must comply with the provisions contained
in OAR 635-005-0480 and OAR 635-005-0485.

(a) It is unlawful to take, land or possess red rock crab for commercial purposes from any bay or estuary with any gear other than crab rings.

(b) A maximum of 15 individual crab rings may be used from any one fishing vessel in any bay or estuary red rock crab fishery.

(3) When fishing for Tanner, Oregon hair and scarlet king crab, all buoys must be inscribed with an annual identification buoy number issued by the Department. No other brand number is allowed on the buoy.

(4) It is unlawful to possess, use, control, or operate on a vessel any crab pot, crab ring or crab longline gear which does not have a tag identifying it as belonging to that vessel.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 506.306
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0545
Fishing Area - Tanner, Oregon Hair and Scarlet King Crab
It is unlawful to take Tanner, Oregon hair and scarlet king crab from the Pacific Ocean shoreward of the 40 fathom contour line as defined in the Code of Federal Regulations Title 50, Section 660.71(k).

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 506.306
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0550
Size and Sex - Tanner, Oregon Hair and Scarlet King Crab
There are no size or sex restrictions for the taking of red rock, box, Tanner, Oregon Hair and scarlet king crab. However, these crab shall not be mutilated before landing so that species cannot be determined.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0555
Incidental Catch Limits
All groundfish, Dungeness crab and salmon, as defined in OAR 635-005-0240, taken in any commercial Tanner, Oregon hair and scarlet king crab fishery must be returned to the water immediately.

(2) All groundfish and salmon, as defined in OAR 635-005-0240, taken in any commercial red rock or box crab fishery must be returned to the water immediately.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0560
Tanner Crab Notification of Activity
(1) All Tanner crab fishers must provide, to Department offices and processing plants on the list provided by the Marine Resources Program office in Newport, a Notice of Intent to set gear at least one week in advance of any gear being set. A Notice of Intent to set gear must include: the vessel name; general area of expected fishing activity; and dates of expected fishing activity.

(2) Once fishing gear has been placed in the water, all Tanner crab fishers must provide to Department offices and processing plants on the list provided by the Marine Resources Program office in Newport, a Notice of Location of set gear within 24 hours. A Notice of Location of set gear must include: the vessel name; exact location of gear (depth and latitude/longitude or loran); and dates of intended fishing activity. If individual strings of gear are more than one mile from each other, the ends of each string must be identified. If individual strings of
gear are less than one mile from each other, the block of gear may be identified. If gear is moved more than 5 miles, a new Notice of Location of set gear must be distributed.

(3) If more than 5 pots are lost in any one location, a Notice of Lost Gear must be sent to the Department's Marine Resources Program office in Newport within 24 hours. A Notice of Lost Gear must include: the vessel name; a best estimate of location of lost gear (depth, latitude and longitude or loran); and the amount of gear lost.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0565
Logbook Required - Red Rock, Box, Tanner, and Other Crab Fisheries
(1) The Department shall make available a logbook to each licensed commercial fishing vessel used to take any of the species outlined in OAR 635-005-0520.
(2) The vessel operator of such vessel is responsible for maintaining the logbook in an accurate and truthful manner and in accordance with the instructions contained therein.
(3) Upon request of an authorized representative of the Department or the Oregon State Police, the vessel operator shall permit examination and transcription of information of such logbook.
(4) Upon request of an authorized representative of the Department, the vessel operator shall surrender a legible copy of such logbook.
(5) Information so received by the Department shall be considered confidential.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0570
Organization of Shrimp Fishery Rules
The Shrimp Section includes regulations for the Pink Shrimp, Spot and Coonstripe Shrimp, and Brine Shrimp fisheries.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0575
Pink Shrimp Fishery Defined
“Pink shrimp fishery” means the commercial fishery targeting smooth pink or ocean shrimp (Pandalus jordani) in the Pacific Ocean.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0580
Requirement for Pink Shrimp Permit
(1) It is unlawful to take, land or possess pink shrimp for commercial purposes without first obtaining a Pink Shrimp Permit pursuant to ORS 508.880 and ORS 508.883.
(2) It is unlawful for a wholesaler, canner, or buyer to buy or receive pink shrimp taken in the pink shrimp fishery from a vessel for which the permit required by this rule has not been issued.
(3) The Pink Shrimp Permit required by section (1) of this rule is in addition to and not in lieu of the commercial fishing and boat license required by ORS 508.235 and ORS 508.260.
(4) No vessel may hold more than one Pink Shrimp Permit at any one time.
(5) Unless otherwise provided, Pink Shrimp Permits must be purchased by December 31 of the year the permit is

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12
sought for renewal.
(6) Applications for Pink Shrimp Permits shall be in such form and contain such information as the Department may prescribe. Proof of length of vessel may be required at the time of application.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129, 506.306 & 508.880
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0585
Pink Shrimp Permit Fee
(1) The annual fee for a Pink Shrimp Permit is $200.00 (plus a $2.00 license agent fee) for resident applicants and $250.00 (plus a $2.00 license agent fee) for non-resident applicants. See ORS 508.901.
(2) A fee of $100.00 shall be charged for each transfer of participation rights under OAR 635-005-0615. See ORS 508.907.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Other Auth.: Senate Bill 247 (2015)
Stats. Implemented: ORS 506.109, 506.129 & 508.901
Hist.: Adopted 10-9-15, f. 10-14-15, ef. 1-1-16

635-005-0590
Eligibility Requirements for a Pink Shrimp Permit
(1) An individual or a commercial licensed vessel under ORS 508.260 is eligible to obtain a Pink Shrimp Permit required by OAR 635-005-0580:
   (a) By renewal of the previous year’s permit as specified in OAR 635-005-0605; or
   (b) Through the lottery if a lottery is held in accordance with OAR 635-005-0610.
(2) In making determinations regarding issuance or renewal of any limited entry permit, the Department and the Commercial Fishery Permit Board may consider as evidence of permit qualifications or requirements Department records and such receipts, accounts, contracts and other business records of private parties as the Department or the Board considers reliable evidence of the qualifications or requirements in question.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 508.886
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0595
Revocation and Refusal to Issue Pink Shrimp Permits
The Commercial Fishery Permit Board may revoke and refuse subsequent issuance of a Pink Shrimp Permit pursuant to ORS 508.898.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 508.898
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0600
Review of Denials - Pink Shrimp Permits
(1) An individual whose application for issuance, renewal or transfer of a Pink Shrimp Permit established pursuant to OAR 635-005-0580, OAR 635-005-0605 or OAR 635-005-0615 is denied may make written request to the Board for review of the denial. The procedure for requesting review and the applicable standard of review of denial for a Pink Shrimp Permit shall be as pursuant to ORS 508.910.
(2) The Board may delegate to the Department its authority to waive requirements for renewal of permits in all fisheries in such specific instances as the Board sets forth in a Letter of Delegation to the Department.
(3) A $125.00 non-refundable application fee for Board review will be charged. However, if the Board grants the applicant’s request, the non-refundable fee shall apply toward the permit fee.
(4) Orders issued by the Board are not subject to review by the Commission, but may be appealed as provided in ORS 183.480 to ORS 183.550.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 508.910
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0605
Renewal of Pink Shrimp Permit
(1) Pink Shrimp Permits may be renewed the following year by submitting to the Department a $200.00 fee (plus a $2.00 license agent fee) for resident applicants and a $250.00 fee (plus a $2.00 license agent fee) for non-resident applicants and a complete application date-stamped or postmarked by December 31 of the year the permit is sought for renewal.
(2) An application for renewal of a Pink Shrimp Permit shall be considered complete if it is legible, has all information requested in 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 December 31 of the permit year sought, the individual shall not be considered to have applied for renewal in a timely manner.
(3) It is the responsibility of the permittee to ensure that 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.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Other Auth.: Senate Bill 247 (2015)
Stats. Implemented: ORS 506.109, 506.129 & 508.892
Hist.: Adopted 10-9-15, f. 10-14-15, ef. 1-1-16

635-005-0610
Lottery for Limited Entry Pink Shrimp Permits
(1) If the number of Pink Shrimp Permits issued in accordance with ORS 508.892 falls below 150, the Department may issue Pink Shrimp Permits by a lottery system pursuant to ORS 508.904. However, the total number of Pink Shrimp Permits issued shall not exceed 150.
(2) Each applicant for a permit lottery shall complete the application form prescribed by the Department.
(3) Application for vessel permits shall only be accepted for vessels which, in the judgment of the Department, are capable of operating the gear necessary to legally participate in the fishery. Vessels of a size or design incapable of harvesting the permitted species are not eligible for the lottery.
(4) Only one application per vessel may be submitted for each permit fishery lottery.
(5) Any application which is not legible, has incomplete information, or is postmarked after the deadline shall not be entered in the lottery. Applications for all permits will be accepted at the Salem headquarters office of the Department, and shall be postmarked or date stamped no later than March 31 of the year for which the permit is issued.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0615
Transferability of Pink Shrimp Permits
(1) Any transfer of a Pink Shrimp Permit away from a vessel without the written consent of each person holding a security interest in such vessel is void. Pink Shrimp Permit holders may transfer a permit pursuant to ORS 508.907.
(2) In the event a buyer fails to complete a purchase agreement for a vessel permit, the seller is eligible for a temporary transfer of the vessel permit back to the seller, if a preliminary injunction is issued by a circuit court requiring the State Department of Fish and Wildlife to allow the seller to continue to operate a vessel in the fishery during the pendency of the proceeding. An order granting a preliminary injunction under this section must include
a finding that allowing the seller to continue to operate a vessel in the fishery will not cause excessive harvest pressure on the fishery resource.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 508.907
Hist.: Adopted 12-8-17, f. 12-12-17, ef. 1-1-18

635-005-0620
Logbook Required - Pink Shrimp Fishery

(1) The Department shall make available a logbook to each licensed commercial fishing vessel which holds a valid Pink Shrimp Permit.
(2) Each permit holder or vessel operator is responsible for maintaining the logbook in an accurate and truthful manner and in accordance with the instructions contained therein.
(3) Upon request of an authorized representative of the Department or the Oregon State Police, the permit holder shall permit examination and transcription of information of such logbook.
(4) Upon request of an authorized representative of the Department, the permit holder shall surrender a legible copy of such logbook.
(5) Information so received by the Department shall be considered confidential.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0625
Closed Season – Pacific Ocean Pink Shrimp Fishery

(1) It is unlawful to take, land, or possess pink shrimp from the Pacific Ocean from November 1 of any year through March 31 of the following year.
(2) Notwithstanding the provisions of section (1) of this rule, it is lawful to possess pink shrimp taken from the Pacific Ocean during the period November 1 of any year through March 31 of the following year, if such shrimp were taken north of 48°30' north latitude (U.S.-Canada border).

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 506.306
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0630
Fishing Gear - Pink Shrimp Fishery

(1) It is unlawful to take pink shrimp for commercial purposes by any means other than trawl net or pots.
(2) It is unlawful to fish with trawl gear for pink shrimp for commercial purposes unless an approved rigid-grate bycatch reduction device is used in each net. A rigid-grate bycatch reduction device uses a rigid panel of narrowly spaced bars to guide fish out of an escape hole in front of the panel, generally in the top of the net. The panel may be hinged to facilitate rolling over a net reel. An approved rigid-grate bycatch reduction device must meet the following criteria:
   (a) The exterior circumference of the rigid panel must fit completely within the interior circumference of the trawl net, such that there is no space between the panel and the net that will allow a 110 mm sphere to pass beyond the panel, into the terminal area of the codend;
   (b) None of the openings between the bars in the rigid panel may exceed 0.75 inches.
   (c) The escape hole must, when spread open, expose a hole of at least 100 square inches; and
   (d) The escape hole must be forward of the rigid panel and must begin within four meshes of the furthest aft point of attachment of the rigid panel to the net.
(3) It is unlawful to fish with trawl gear for pink shrimp for commercial purposes unless footrope lighting devices that have been approved by the Department are used in each net. A list of approved footrope lighting devices is available from the Department. Footrope lighting devices must meet the following criteria:
   (a) Lighting devices must be operational;
(b) Lighting devices must be securely attached within 6 inches of the forward leading edge of the bottom panel of trawl netting; and
(c) Each trawl net must have a minimum of five lighting devices, spaced 4 feet apart in the central 16 feet of each net.
(4) All bycatch reduction devices, codends, and footrope lighting devices used for trawl fishing for pink shrimp must be readily accessible and made available for inspection at the request of an authorized agent of the state. No trawl gear may be removed from the vessel prior to offloading of shrimp.
(5) It is unlawful to modify bycatch reduction devices or footrope lighting devices in any way that interferes with their ability to allow fish to escape from the trawl.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 506.306
History; Adopted 1-19-18, filed 1-23-18, ef. 1-23-18

635-005-0635
Mesh Restriction
It is unlawful to land shrimp taken south of the Oregon-California border with nets having a mesh size of less than 1-3/8 inches between knots.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 506.306
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0640
Incidental Catch Limit
(1) It is unlawful for a commercial fishing vessel taking shrimp for commercial purposes to land an incidental catch of groundfish in excess of 500 pounds per day, multiplied by the number of days of the fishing trip, not to exceed 1,500 total pounds of groundfish for the fishing trip.
(2) In addition to section (1) of this rule, the following sublimits also apply and are counted toward the daily and fishing trip limits:
   (a) Lingcod: 300 pounds per month; and
   (b) Sablefish: 2,000 pounds per month.
(3) The amount of groundfish landed described in sections (1) and (2) of this rule shall not exceed the amount of pink shrimp landed on any single fishing trip.
(4) It is unlawful to have on board a commercial fishing vessel taking pink shrimp for commercial purposes any canary rockfish, yelloweye rockfish, and any species of thornyhead.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 506.306
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0645
Maximum Count Per Pound
(1) It is unlawful to possess or land pink shrimp from any one trip or landing which exceeds an average count of 160 whole shrimp per pound. This rule shall not apply to landings or possession of less than 3,000 pounds of pink shrimp.
(2) To determine average count per pound when a landing exceeds 3,000 pounds of shrimp, one sample must be taken from each one thousand pounds up to a maximum requirement of 20 samples. The sampling unit shall consist of at least one pound of whole unbroken shrimp.
(3) For the purpose of determining count per pound "whole shrimp" and "whole unbroken shrimp" are defined as shrimp in which the body is substantially intact, including an identifiable carapace, abdomen, and telson (tail). It is not intended to require shrimp to have an unbroken rostrum, complete set of legs, antennae, or other appendages.
635-005-0650
Spot and Coonstripe Shrimp Fishery Defined
“Spot and coonstripe shrimp fisheries” means the commercial fisheries for spot shrimp (*Pandalus platyceros*) and coonstripe shrimp (*Pandalus danae*) in the Pacific Ocean.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 506.306
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0655
Closed Season - Spot and Coonstripe Shrimp
There is no closed season for the taking of spot or coonstripe shrimp.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0660
Fishing Gear - Spot and Coonstripe Shrimp
(1) It is unlawful to take spot or coonstripe shrimp for commercial purposes by any means other than pots or traps, except spot or coonstripe shrimp may be taken incidentally by trawls legal for the taking of pink shrimp during open pink shrimp seasons or trawls legal for the taking of groundfish when the established seasons for those species are open.
(2) Pots or traps used to take spot or coonstripe shrimp must comply with the following provisions:
(a) Pots or traps must have entrance tunnels no smaller than 1.5 inches at the narrowest point and no larger than 3.0 inches at the widest point;
(b) No triggers of any kind may be used on the inside of entrance tunnels; and
(c) Pots or traps must have with at least one escape panel constructed with #21 or smaller untreated cotton in such manner than an opening of at least five inches in diameter will result when the twine deteriorates.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 506.306
Hist.: Adopted 5-10-13, f. & ef. 5-13-13

635-005-0665
Fishing Area - Spot and Coonstripe Shrimp
(1) It is unlawful to take, land or possess spot or coonstripe shrimp from areas other than the Pacific Ocean.
(2) It is unlawful to land or possess spot shrimp taken from the Pacific Ocean north of the Oregon/Washington border (46°15.00’ North Latitude) without the licenses and permits required to commercially fish for spot shrimp within the state waters of Washington.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 506.306
Hist.: Adopted 5-10-13, f. & ef. 5-13-13

635-005-0670
Incidental Catch Limit
Provisions under 635-005-0640 for the possession of incidental catch apply to the taking of spot and coonstripe shrimp.
635-005-0675
Logbook Required - Spot and Coonstripe Shrimp
(1) The Department shall make available a logbook to each licensed commercial fishing vessel used to take any of the species specified in OAR 635-005-0650.
(2) The vessel operator of such vessel is responsible for maintaining the logbook in an accurate and truthful manner and in accordance with the instructions contained therein.
(3) Upon request of an authorized representative of the Department or the Oregon State Police, the vessel operator shall permit examination and transcription of information of such logbook.
(4) Upon request of an authorized representative of the Department, the vessel operator shall surrender a legible copy of such logbook.
(5) Information so received by the Department shall be considered confidential.

635-005-0680
Brine Shrimp Fishery Defined
"Brine shrimp fishery" means the commercial fishery for adult brine shrimp (Artemia spp.) from Lake Abert (Lake County).

635-005-0685
Requirement for Brine Shrimp Permit
(1) It is unlawful to take, land or possess brine shrimp for commercial purposes without first obtaining a Brine Shrimp Permit issued pursuant to OAR 635-005-0690 through OAR 635-005-0715.
(2) It is unlawful for a wholesaler, canner, or buyer to buy or receive brine shrimp taken in the brine shrimp fishery from a person for which the permit required by this rule has not been issued.
(3) The Department may issue no more than three permits required by section (1) of this rule.
(4) The Brine Shrimp Permit required by section (1) of this rule is in addition to and not in lieu of the commercial fishing and boat license required by ORS 508.235 and ORS 508.260.
(5) No individual may hold more than one Brine Shrimp Permit at any one time.
(6) Unless otherwise provided, Brine Shrimp Permits must be purchased by January 31 of the year the permit is sought for renewal.
(7) Applications for Brine Shrimp Permits shall be in such form and contain such information as the Department may prescribe. Proof of length of a vessel may be required at the time of application.
635-005-0695
Eligibility Requirements for a Brine Shrimp Permit
(1) A commercial fisher licensed under ORS 508.235 is eligible to obtain the permit required by OAR 635-005-0685:
   (a) By renewal of previous year’s permit; or
   (b) Through the lottery if a lottery is held in accordance with OAR 635-005-0710.
(2) In making determinations regarding issuance or renewal of any limited entry permit, the Department and the Commercial Fishery Board may consider as evidence of permit qualifications or requirements Department records and such receipts, accounts, contracts and other business records of private parties as the Department or the Board considers reliable evidence of the qualifications or requirements in question.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0700
Review of Denials - Brine Shrimp Permit
(1) An individual whose application for issuance, renewal or transfer of a Brine Shrimp Permit established pursuant to OAR 635-005-0685, OAR 635-005-0705 and OAR 635-005-0715 is denied may make written request to the Board for review of the denial. The review provided in this subsection is in lieu of any such review by the Department or the Commission. The request shall be in such form and shall contain such information as the Board considers appropriate.
(2) The Board shall review a denial of an application for issuance, renewal or request to transfer a permit according to the applicable provisions of ORS chapter 183. Orders issued by the Board are not subject to review by the Commission, but may be appealed as provided in ORS 183.480 to 183.500. The Board may waive requirements for renewal of permit if the Board finds strict adherence to the requirements were not met as a result of undue hardship as defined in OAR 635-005-0240.
(3) A party must petition for Board review of the hearing officer's proposed order within 30 days of service of the proposed order if the party wants the proposed order changed. A party must identify what parts of the proposed order it objects to, and refer to parts of the administrative record and legal authority supporting its position.
(4) The Board may delegate to the Department its authority to waive requirements for renewal of Brine Shrimp Permits in such specific instances as the Board sets forth in a Letter of Delegation to the Department.
(5) For those fisheries requiring a $125.00 application fee for Board review, the fee is non-refundable. However, if the Board grants the applicant’s request, the non-refundable fee shall apply toward the permit fee.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0705
Renewal of Brine Shrimp Permit
(1) Brine Shrimp Permits may be renewed the following year:
   (a) By submitting to the Department a $100.00 fee (plus a $2.00 license agent fee) and a complete application date-stamped or postmarked by January 31 of the year for which renewal is sought; and
   (b) The permittee shall have lawfully landed 5,000 pounds of brine shrimp in Oregon in the prior year.
(2) An application for renewal of a Brine Shrimp Permit shall be considered complete if it is legible, has all information requested in 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 December 31 of the permit year sought, the individual may not be considered to have applied for renewal in a timely manner.
(3) It is the responsibility of the permittee to ensure that 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 may not be grounds for treating the application as having been filed in a timely and complete manner.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0710
Lottery for Limited Entry Brine Shrimp Permits
(1) If the number of Brine Shrimp Permits issued in accordance with OAR 635-005-0685 falls below three, the Department in the next succeeding calendar year may issue permits by a lottery system. However, as a result of any such lottery, the total number of permits issued may not exceed three.
(2) Each applicant for a permit lottery shall complete the application form prescribed by the Department.
(3) Only one application per vessel may be submitted for each permit fishery lottery.
(4) Any application which is not legible, has incomplete information, or is postmarked after the deadline will not be entered in the lottery. Applications for all permits will be accepted at the Salem headquarters office of the Department, and shall be postmarked or date stamped no later than March 31 of the year for which the permit is issued.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0715
Transferability of Brine Shrimp Permits
Brine Shrimp Permits are transferable.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0720
Organization of Other Shellfish and Marine Invertebrate Rules
The Other Shellfish and Marine Invertebrate Section includes regulations for the Weathervane Scallop, Sea Urchin, Crayfish, Oyster, Squid, Octopus and other minor shellfish and invertebrate fisheries.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0725
Weathervane Scallop Fishery Defined
“Weathervane scallop fishery” means the commercial fishery for weathervane scallops (*Patinopecten caurinus*) in the Pacific Ocean.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0730
Additional License Requirement
It is unlawful to take, distribute or process oysters, clams, mussels and weathervane scallops intended for human consumption without first obtaining a Shellfish Sanitation Certificate as specified in OAR 635-005-0255.
635-005-0735
Requirement for Weathervane Scallop Permit
(1) It is unlawful to take, land or possess weathervane scallops without first obtaining a Weathervane Scallop Permit issued pursuant to ORS 508.840 and ORS 508.843.
(2) It is unlawful for a wholesaler, canner, or buyer to buy or receive weathervane scallops taken in the weathervane scallop fishery from a vessel for which the permit required by this rule has not been issued.
(3) A Weathervane Scallop Permit required by section (1) of this rule is in addition to and not in lieu of the commercial fishing and boat license required by ORS 508.235 and ORS 508.260.
(4) No vessel may hold more than one Weathervane Scallop Permit at any one time.
(5) Unless otherwise provided, Weathervane Scallop Permits must be purchased by December 31 of the year the permit is sought for renewal.
(6) Applications for Weathervane Scallop Permits shall be in such form and contain such information as the Department may prescribe. Proof of length of a vessel may be required at the time of application.

635-005-0740
Weathervane Scallop Permit Fee
(1) The annual fee for a Weathervane Scallop Permit is $125.00 (plus a $2.00 license agent fee) for resident applicants and $175.00 (plus a $2.00 license agent fee) for non-resident applicants. See ORS 508.858.
(2) A fee of $100.00 shall be charged for each transfer of participation rights under OAR 635-005-0770. See ORS 508.864.

635-005-0745
Eligibility Requirements for a Weathervane Scallop Permit
(1) An individual licensed under ORS 508.235 or a commercial licensed vessel under ORS 509.260 is eligible to obtain a Weathervane Scallop Permit required by OAR 635-005-0735:
   (a) By renewal of the previous year’s permit as specified in OAR 635-005-0760; or
   (b) Through the lottery if a lottery is held in accordance with OAR 635-005-0765.
(2) In making determinations regarding issuance or renewal of any limited entry permit, the Department and the Commercial Fishery Permit Board may consider as evidence of permit qualifications or requirements Department records and such receipts, accounts, contracts and other business records of private parties as the Department or the Board considers reliable evidence of the qualifications or requirements in question.

635-005-0750
Revocation and Refusal to Issue Weathervane Scallop Permits
The Commercial Fishery Permit Board may revoke and refuse subsequent issuance of a Weathervane Scallop Permit pursuant to ORS 508.855.
635-005-0755
Review of Denials - Weathervane Scallop Permit
(1) An individual whose application for issuance, renewal or transfer of a Weathervane Scallop Permit established pursuant to OAR 635-005-0735, OAR 635-005-0760 and OAR 635-005-0770 is denied may make written request to the Board for review of the denial. The procedure for requesting review and the applicable standard of review of denial for a Weathervane Scallop Permit shall be as pursuant to ORS 508.867.
(2) The Board may delegate to the Department its authority to waive requirements for renewal of permits in all fisheries in such specific instances as the Board sets forth in a Letter of Delegation to the Department.
(3) For those fisheries requiring a $125.00 application fee for Board review, the fee is non-refundable. However, if the Board grants the applicant’s request, the non-refundable fee shall apply toward the permit fee.
(4) Orders issued by the Board are not subject to review by the Commission, but may be appealed as provided in ORS 183.480 to ORS 183.550.

635-005-0760
Renewal of Weathervane Scallop Permit
(1) Weathervane Scallop Permits may be renewed the following year by submitting to the Department a $125.00 fee (plus a $2.00 license agent fee) for resident applicants and a $175.00 fee (plus a $2.00 license agent fee) for non-resident applicants and a complete application date-stamped or postmarked by December 31 of the year the permit is sought for renewal.
(2) An application for renewal of a Weathervane Scallop Permit shall be considered complete if it is legible, has all information requested in 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 December 31 of the permit year sought, the individual shall not be considered to have applied for renewal in a timely manner.
(3) It is the responsibility of the permittee to ensure that 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 may not be grounds for treating the application as having been filed in a timely and complete manner.

635-005-0765
Lottery for Limited Entry Weathervane Scallop Permits
(1) If the number of Weathervane Scallop Permits issued in accordance with ORS 508.849 falls below 25, the Department in the next succeeding calendar year may issue Weathervane Scallop Permits by a lottery system pursuant to ORS 508.861. However, the total number of Weathervane Scallop Permits issued shall not exceed 25.
(2) Each applicant for a permit lottery shall complete the application form prescribed by the Department.
(3) Application for vessel permits shall only be accepted for vessels, which, in the judgment of the Department, are capable of operating the gear necessary to legally participate in the fishery. Vessels of a size or design incapable of harvesting the permitted species are not eligible for the lottery.
(4) Only one application per vessel may be submitted for each permit fishery lottery.
(5) Any application which is not legible, has incomplete information, or is postmarked after the deadline shall not be entered in the lottery. Applications for all permits will be accepted at the Salem headquarters office of the Department, and shall be postmarked or date stamped no later than March 31 of the year for which the permit is issued.
635-005-0770
Transferability of Weathervane Scallop Permits
(1) Any transfer of a Weathervane Scallop Permit away from a vessel without the written consent of each person holding a security interest in such vessel is void. Weathervane Scallop Permit holders may transfer a permit pursuant to ORS 508.864.
(2) In the event a buyer fails to complete a purchase agreement for a vessel permit, the seller is eligible for a temporary transfer of the vessel permit back to the seller, if a preliminary injunction is issued by a circuit court requiring the State Department of Fish and Wildlife to allow the seller to continue to operate a vessel in the fishery during the pendency of the proceeding. An order granting a preliminary injunction under this section must include a finding that allowing the seller to continue to operate a vessel in the fishery will not cause excessive harvest pressure on the fishery resource.

635-005-0775
Logbook Required - Weathervane Scallop Fishery
(1) The Department shall make available a logbook to each licensed commercial fishing vessel which holds a valid Weathervane Scallop Permit.
(2) The vessel operator of such vessel is responsible for maintaining the logbook in an accurate and truthful manner and in accordance with the instructions contained therein.
(3) Upon request of an authorized representative of the Department or the Oregon State Police, the vessel operator shall permit examination and transcription of information of such logbook.
(4) Upon request of an authorized representative of the Department, the vessel operator shall surrender a legible copy of such logbook.
(5) Information so received by the Department shall be considered confidential.

635-005-0780
Closed Season - Weathervane Scallop Fishery
There is no closed season on weathervane scallops taken for commercial purposes.

635-005-0785
Fishing Gear - Weathervane Scallop Fishery
It is unlawful to take weathervane scallops for commercial purposes by any means other than trawl gear having 3-inch or larger mesh throughout.
Sea Urchin and Sea Cucumber Fisheries Defined
“Sea urchin and sea cucumber fishery” means the commercial fisheries for red sea urchins (Mesocentrotus franciscanus), purple sea urchins (Strongylocentrotus purpuratus) and California sea cucumbers (Parastichopus californicus).

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129
Stats. Implemented: ORS 506.109, 506.129
Hist.: Adopted 3-18-16, f. 3-23-16, ef. 4-1-16

Requirement for Sea Urchin and Sea Cucumber Permit
(1) It is unlawful to take, land or possess sea urchins or California sea cucumbers for commercial purposes without first obtaining a Sea Urchin and Sea Cucumber Permit issued pursuant to OAR 635-005-0800 through OAR 635-005-0830.
(2) It is unlawful for a wholesaler, canner, or buyer to buy or receive sea urchins or sea cucumbers taken in the sea urchin and sea cucumber fishery from a person for which the permit required by section (1) of this rule has not been issued.
(3) A Sea Urchin and Sea Cucumber Permit required by section (1) of this rule is in addition to and not in lieu of the commercial fishing and boat license required by ORS 508.235 and ORS 508.260.
(4) No individual may hold more than one Sea Urchin and Sea Cucumber Permit at any one time.
(5) Unless otherwise provided, Sea Urchin and Sea Cucumber Permits must be purchased by December 31 of the year the permit is sought for renewal.
(6) Applications for Sea Urchin and Sea Cucumber Permits shall be in such form and contain such information as the Department may prescribe.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129
Stats. Implemented: ORS 506.109, 506.129, 506.306, 508.760
Hist.: Adopted 3-18-16, f. 3-23-16, ef. 4-1-16

Sea Urchin and Sea Cucumber Permit Fee
(1) The annual fee for a Sea Urchin and Sea Cucumber Permit is $125.00 (plus a $2.00 license agent fee) for resident applicants and $175.00 (plus a $2.00 license agent fee) for non-resident applicants. See ORS 508.760.
(2) A fee of $100.00 shall be charged for each transfer of participation rights under OAR 635-005-0830. See ORS 508.760.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129
Other Auth.: Oregon Senate Bill 247 (2015)
Stats. Implemented: ORS 506.109, 506.129, 508.760
Hist.: Adopted 3-18-16, f. 3-23-16, ef. 4-1-16

Eligibility Requirements for a Sea Urchin and Sea Cucumber Permit
(1) An individual licensed as a commercial fisher under ORS 508.235 is eligible to obtain a Sea Urchin and Sea Cucumber Permit required by OAR 635-005-0795:
   (a) By renewal of the previous year’s permit; or
   (b) Through the lottery if a lottery is held in accordance with OAR 635-005-0825.
(2) In making determinations regarding issuance or renewal of any limited entry permit, the Department and the Commercial Fishery Permit Board may consider as evidence of permit qualifications or requirements Department records and such receipts, accounts, contracts and other business records of private parties as the Department or the Board considers reliable evidence of the qualifications or requirements in question.
635-005-0810
Revocation and Refusal to Issue Sea Urchin and Sea Cucumber Permits
The Commercial Fishery Permit Board may revoke and refuse subsequent issuance of a Sea Urchin and Sea Cucumber Permit pursuant to ORS 508.485 and ORS 508.490.

635-005-0815
Review of Denials - Sea Urchin and Sea Cucumber Permits
(1) An individual whose application for issuance, renewal or transfer of a Sea Urchin and Sea Cucumber Permit established pursuant to OAR 635-005-0795, OAR 635-005-0820 and OAR 635-005-0830 is denied may make written request to the Board for review of the denial. The procedure for requesting review and the applicable standard of review of denial for a Sea Urchin and Sea Cucumber Permit shall be as pursuant to ORS 508.760. For the Sea Urchin and Sea Cucumber fishery, the Board may waive requirements for renewal of permits if the Board finds that strict adherence to these requirements were not met as a result of undue hardship as defined in OAR 635-005-0240.
(2) The Board may delegate to the Department its authority to waive requirements for renewal of permits in all fisheries in such specific instances as the Board sets forth in a Letter of Delegation to the Department.
(3) For those fisheries requiring a $125.00 application fee for Board review, the fee is non-refundable. However, if the Board grants the applicant’s request, the non-refundable fee shall apply toward the permit fee.
(4) Orders issued by the Board are not subject to review by the Commission, but may be appealed as provided in ORS 183.480 to ORS 183.550.

635-005-0820
Renewal of Sea Urchin and Sea Cucumber Permits
(1) Sea Urchin and Sea Cucumber Permits may be renewed the following year:
   (a) By submitting to the Department a $125.00 fee (plus a $2.00 license agent fee) for resident applicants and a $175.00 fee (plus a $2.00 license agent fee) for non-resident applicants and a complete application date-stamped or postmarked by January 31 of the year for which renewal is sought; and
   (b) The permittee shall have annually lawfully landed 5,000 pounds of sea urchins or 500 pounds of California sea cucumbers in Oregon. If a permittee obtained a permit later than January of the prior year (because the permit was obtained through the lottery, or as a result of the Commercial Fishery Permit Board actions or surrender of a permit by a permit holder), the permittee shall not be required to make the landing requirement by the following January. Instead, at the next renewal thereafter, the permittee shall be required to demonstrate that the landing requirement was fulfilled during the first full year (twelve-month period) in which the permit was held.
(2) An application for renewal of a Sea Urchin and Sea Cucumber Permit shall be considered complete if it is legible, has all information requested in 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 January 31 of the permit year sought, the individual shall not be considered to have applied for renewal in a timely manner.
(3) It is the responsibility of the permittee to ensure that 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.
Lottery for Limited Entry Sea Urchin and Sea Cucumber Permits

(1) If the total number of Sea Urchin and Sea Cucumber Permits which have been renewed, and for which an appeal is pending with the Commercial Fishery Permit Board and awarded through a prior lottery, is less than 12, a lottery shall be held on the 4th Friday in April. However, as a result of any such lottery, the total number of permits issued shall not exceed 12.

(2) An individual must be 18 years of age or older and furnish proof of age to be eligible for the lottery.

(3) An individual shall not already hold a valid Sea Urchin and Sea Cucumber Permit, however, an individual whose permit is at issue in a pending Sea Urchin and Sea Cucumber Permit Board proceeding or before a court of law may participate in the lottery.

(4) If a permittee whose permit is at issue either before the Sea Urchin and Sea Cucumber Permit Board or a court of law is awarded another permit through the lottery and thereafter prevails before the Board or in court, the permittee shall immediately surrender one of the Sea Urchin and Sea Cucumber Permits to any Department office, so that only one valid permit is held.

(5) An individual who qualifies to participate in the lottery shall send a complete lottery application to the Department, date-stamped or postmarked no later than April 15 of the year for which the permit is to be issued. An individual shall not submit more than one application to participate in the lottery. For successful applicants, the application fee shall apply toward the permit fee of $125.00 (plus a $2.00 license agent fee) for resident applicants and $175.00 fee (plus a $2.00 license agent fee) for nonresident applicants.

(6) The names of lottery applicants shall be drawn to obtain the available permits. All other names of lottery applicants shall be drawn and placed on an alternate list in the order in which they were drawn, and shall be issued permits during the next 24 months as they may become available through Permit Board actions or surrender of permits by a permit holder.

(7) An individual whose name is drawn in the lottery shall thereafter apply on the prescribed form, to the Department to obtain a permit. Such application must be received by the Department within 30 days of the date the notification was mailed to the successful applicant following the lottery.

(8) Any individual who fails to apply for the lottery permit within 30 days shall forfeit such permit. The permit shall then be made available to the first name on the alternate list, and shall be applied for in accordance with section (7) of this rule.

(9) If all permits are not issued by renewal or through the lottery, permits thereafter may be issued on a first come first served basis up to the total number of permits allowed. All applications shall be mailed to the Department and priority shall be based on postmark or date-stamped date.

(10) The Commission may suspend the lottery for up to two years based upon its assessment of the condition of the resource and recommendations of the Sea Urchin and Sea Cucumber Permit Review Board.

(11) Each applicant for a permit lottery shall complete the application form prescribed by the Department.

(12) Only one application per vessel may be submitted for each permit fishery lottery.

(13) Any application which is not legible, has incomplete information, or is postmarked after the deadline shall not be entered in the lottery. Applications for all permits will be accepted at the Salem headquarters office of the Department, and shall be postmarked or date stamped no later than March 31 of the year for which the permit is issued.

Transferability of Sea Urchin and Sea Cucumber Permits

(1) Any transfer of a Sea Urchin and Sea Cucumber Permit without the written consent of each person holding a security interest in such vessel is void. The following rules apply to transfer of Sea Urchin and Sea Cucumber Permits:
(2) The Department shall approve the transfer of any permit to any purchaser of the permit, provided that not more than one sale or transfer of the permit occurs within that calendar year;
(3) No Sea Urchin and Sea Cucumber Permit issued to an individual through the lottery after 1998 may be transferred to another individual until a cumulative total of 20,000 pounds of sea urchins, or 2,000 pounds of California sea cucumbers have been landed on commercial fish receiving tickets by the individual issued the permit through the lottery.
(4) In the event a buyer fails to complete a purchase agreement for a vessel permit, the seller is eligible for a temporary transfer of the vessel permit back to the seller, if a preliminary injunction is issued by a circuit court requiring the State Department of Fish and Wildlife to allow the seller to continue to operate a vessel in the fishery during the pendency of the proceeding. An order granting a preliminary injunction under this section must include a finding that allowing the seller to continue to operate a vessel in the fishery will not cause excessive harvest pressure on the fishery resource.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129
Stats. Implemented: ORS 506.109, 506.129, 508.762
Hist.: Adopted 12-8-17, f.12-12-17, ef. 1-1-18

635-005-0835
Logbook Required - Sea Urchin and Sea Cucumber Fisheries
(1) The Department shall make available a logbook to each licensed commercial fisher who holds a valid Sea Urchin and Sea Cucumber Permit.
(2) Each permit holder is responsible for maintaining the logbook in an accurate and truthful manner and in accordance with the instructions contained therein.
(3) Upon request of an authorized representative of the Department or the Oregon State Police, the permit holder shall permit examination and transcription of information of such logbook.
(4) Upon request of an authorized representative of the Department, the permit holder shall surrender a legible copy of such logbook.
(5) Information so received by the Department shall be considered confidential.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129
Stats. Implemented: ORS 506.109, 506.129
Hist.: Adopted 3-18-16, f. 3-23-16, ef. 4-1-16

635-005-0840
Closed Seasons and Areas - Sea Urchin and Sea Cucumber Fisheries
It is unlawful for commercial purposes to take, land or possess sea urchins or California sea cucumbers:
(1) Which have been taken in water depths shallower than ten feet below mean lower low water.
(2) Within the following areas:
   (a) From Orford Reef, described as the area encompassed by parallels of Latitude 42°46’N and 42°49’N from May 1 through October 31;
   (b) Within 1,000 feet of Pyramid Rock on Rogue Reef described by the area encompassed by parallels of Latitude 42°26.4’N and 42°26.9’N and by meridians of Longitude 124°28.4’W and 124°27.8’W, or within the rectangle marked by corner buoys from May 1 through August 31; or
   (c) The Special Regulation Marine Areas described in OAR 635-005-0260.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129
Stats. Implemented: ORS 506.109, 506.129, 506.306
Hist.: Adopted 3-18-16, f. 3-23-16, ef. 4-1-16

635-005-0845
Prohibitions - Sea Urchin and Sea Cucumber Fisheries
(1) It is unlawful for commercial purposes to take, land or possess sea urchins or California sea cucumbers:
   (a) Where more than two divers were in the water off any one vessel at the same time;
   (b) Where more than two persons without permits, excluding persons authorized by the Department for the performance of official duties, were on board any vessel while harvesting, possessing, or transporting sea urchins
or California sea cucumbers;

(c) Unless the vessel displays the vessel's federal document or Marine Board numbers on a weather deck so as to be visible from above. The number shall contrast with the background and be in block Arabic numerals at least 18 inches high for vessels over 65 feet in length and at least ten inches high for vessels 65 feet or less. The operator of the vessel shall keep the identifying markings clearly legible and in good repair, and shall ensure that no part of the vessel, its rigging, or its fishing gear obstructs the view of the vessel number from an enforcement vessel or aircraft.

(2) For each trip, any permit holder shall clearly identify and keep separate until processed all sea urchins or California sea cucumbers taken by that permit holder.

(3) Notwithstanding any other provision in these regulations, no person other than the holder of a current Sea Urchin and Sea Cucumber Permit issued by the Department is allowed to dive in the water to take sea urchins or California sea cucumbers or to otherwise assist, while submerged, in the harvest of sea urchins or California sea cucumbers.

(4) Use of any gas mixture other than atmospheric air for diving is prohibited when taking sea urchins or California sea cucumbers. Tanks containing gas mixtures other than atmospheric air and capable of being used for diving may not be aboard vessels while operating under a Sea Urchin and Sea Cucumber Permit, except that tanks of oxygen may be aboard vessels for emergency use above water.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129
Stats. Implemented: ORS 506.109, 506.129, 506.306
Hist.: Adopted 3-18-16, f. 3-23-16, ef. 4-1-16

635-005-0850
Size and Catch Limits - Sea Urchin Fishery
Size and catch limits in the sea urchin fishery are as follows:

(1) It is unlawful to take, land or possess for commercial purposes, more than 50 sea urchins (purple and red combined) per permit holder, per day, per trip between two and three and one-half inches in diameter (shell diameter - not including spines), except as provided in section (2) of this rule for purple sea urchins. There is no limit on the number of red sea urchins less than two inches or greater than three and one-half inches in shell diameter.

(2) A holder of a current sea urchin permit may take more than 50 purple sea urchins between two inches and three and one-half inches in diameter, provided the permit holder obtains a Special Commercial Purple Sea Urchin Permit available at the Charleston ODFW Field Office. The Department may attach terms and conditions to any special commercial permit including, but not limited to, on-board observers, area or time limits, and preharvest dive surveys of urchin beds.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129 & 508.760
Stats. Implemented: ORS 506.109, 506.129 & 506.306
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0855
Crayfish Fishery Defined
“Crayfish fishery” means the commercial fishing for crayfish species (Pacifastacus sp) in waters of this state.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0860
Closed Season - Crayfish Fishery
It is unlawful to take crayfish for commercial purposes from November 1 of any year through March 31 of the following year.
Fishing Gear - Crayfish Fishery

It is *unlawful* to take crayfish for commercial purposes by any means other than crayfish pots or ring nets.

Size Limit - Crayfish Fishery

It is *unlawful* to take for commercial purposes crayfish which are less than 3-5/8 inches long. Crayfish will be measured from the tip of the bony spike extending between and beyond the eyes (acumen) to the distal edge of the last bony plate in the tail (telson). Any undersized crayfish taken must be immediately returned unharmed to the water.

Protection of Females - Crayfish Fishery

Any crayfish taken with eggs attached must be returned immediately unharmed to the water. Possession of crayfish with eggs attached is prohibited.

Identification of Gear - Crayfish Fishery

All vessels, traps, buoys, liveboxes, holding pens, boxes, bags, or other containers used to take, hold, or transport crayfish must be labeled with an identification number issued by the Department.

Closed Area - Crayfish Fishery

It is *unlawful* to take, land or possess crayfish for commercial purposes from Malheur Reservoir (Malheur County), South Twin Lake (Deschutes County), and the Williamson River (Klamath County).

Oyster Fishery Defined

“Oyster fishery” means the commercial cultivation of oysters (*Crassostrea* spp.) in waters of this state.
Additional License Requirement – Shellfish Sanitation Certificate

It is unlawful to take, distribute or process oysters, clams, mussels and scallops intended for human consumption without first obtaining a Shellfish Sanitation Certificate issued pursuant to OAR 635-005-0255.

Oyster Import Applications and Permit

(1) It is unlawful for any person to import oysters into this state for the purpose of planting or to plant the same in the waters of this state without first having obtained a permit to do so from the Director.

(2) Such application shall be in the form of a letter and shall include the following information: maximum quantity to be imported, name of exporter, the approximate time the shipment will be made, and the name of the person or agency that will inspect the seed including a notarized certification from such person or agency at the time the oysters are inspected, declaring them to the best of his knowledge free from disease, infestation pests, and other substances which might endanger shellfish in the waters of this state.

(3) The Director shall issue a permit to import oysters for planting in the waters of this state when it has been established to his satisfaction that a qualified person or agency will inspect the oysters and certify them as being free of disease, infestation pests, and other substances which might endanger shellfish in the waters of this state.

Prohibited Activities in Restricted Shellfish Areas

(1) All waters, tidelands, and oyster handling facilities operated in conjunction with said water and tidelands are defined as a restricted shellfish area.

(2) It is unlawful for any person to move or transfer from a restricted shellfish area any oysters, any marine organisms or other material whatsoever adversely affecting oysters, without first obtaining written permission from the Director.

Oyster Seasons and Gear

It is unlawful to take oysters for either personal use or commercial purposes from natural oyster beds located on unoccupied state lands.
635-005-0915  
**Squid Fishery Defined**

“Squid fishery” means the commercial fisheries for squid species in the orders Myopsida, Oegopsida and Sepioidea, including, but not limited to market squid (*Loligo opalescens*) and Humboldt squid (*Dosidicus gigas*). Some squid species classified within these orders are managed as Shared Ecosystem Component Species, for which directed fishing is prohibited. See OAR 635-005-0263 and the Code of Federal Regulations, Part 660, Subpart B for regulations applicable to Shared Ecosystem Component Species.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129  
Stats. Implemented: ORS 506.109 & 506.129  
Hist.: Adopted: 9-2-16, f. 12-7-16, ef. 1-1-17

635-005-0920  
**Market Squid Fishery**

Market squid (*Loligo opalescens*) are federally managed by the Coastal Pelagic Species Fishery Management Plan, and are subject to all federal regulations adopted by reference in OAR 635-004-0375.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129  
Stats. Implemented: ORS 506.109 & 506.129  
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0925  
**Market Squid Harvest Guideline**

Prior to reaching a harvest of 4.5 million pounds of squid, with not more than 3 million pounds taken north or south of Heceta Head, the Commission will hold a public hearing to evaluate the fishery.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129  
Stats. Implemented: ORS 506.109 & 506.129  
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0930  
**Logbook Required - Squid Fishery**

(1) The Department shall make available a logbook to each licensed commercial fishing vessel from which any species of squid are taken, regardless of gear.  
(2) The vessel operator of such vessel is responsible for maintaining the logbook in an accurate and truthful manner and in accordance with the instructions contained therein.  
(3) Upon request of an authorized representative of the Department or the Oregon State Police, the vessel operator shall permit examination and transcription of information of such logbook.  
(4) Upon request from an authorized representative of the Department, the vessel operator shall surrender a legible copy of such logbook.  
(5) Information so received by the Department shall be considered confidential.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129  
Stats. Implemented: ORS 506.109 & 506.129  
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0931  
**Fishing Gear - Squid Fishery**

It is unlawful for a vessel to pump market squid onboard directly from the pursed seine of another vessel unless squid so received make up no more than 20% of the weight of each landing and the vessel receiving squid in such manner:

(1) Has lawfully deployed purse seine gear during the current year and pumped resultant catch onboard the same vessel for delivery to a port of landing or fish dealer in Oregon;
(2) Possesses onboard, in working order, legal seine gear capable of catching market squid including but not limited to seine net, skiff, and pumping gear; and
(3) Documents the vessel that made the set, any other vessel pumping squid from the pursed seine, and information on catch and location in the logbook required under OAR 635-004-0376.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129
Stats. Implemented: ORS 506.109, 506.129
Hist.: Adopted 6-10-16, f. & ef. 6-13-16

635-005-0932
Bycatch Restrictions - Squid Fishery
For vessels using purse seine gear to take market squid, all groundfish and salmon, as defined by OAR 635-004-0215, must be returned to the water immediately. Every effort must be made to dipnet salmon out of the seine net before they go through a pump system.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129
Stats. Implemented: ORS 506.109, 506.129
Hist.: Adopted 6-10-16, f. & ef. 6-13-16

635-005-0933
No Reduction Fishery Allowed - Squid Fishery
No more than 10%, by weight, of a market squid landing may be used for the purposes of conversion into fish flour, fish meal, fish scrap, fertilizer, fish oil, other fishery products or by-products for purposes other than human consumption or fishing bait. Exceptions to this limit may be granted due to unforeseen circumstances with written authorization by the Director to avoid wastage of fish.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129
Stats. Implemented: ORS 506.109, 506.129
Hist.: Adopted 6-10-16, f. & ef. 6-13-16

635-005-0935
Octopus Fishery Defined
“Octopus fishery” means the commercial fisheries for octopus species in the order Octopoda, including, but not limited to the Pacific giant octopus (Enteroctopus dofleini) and East Pacific red octopus (Octopus rubescens) in the Pacific Ocean.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

635-005-0940
Logbook Required - Octopus Fishery
(1) The Department shall make available a logbook to each licensed commercial fishing vessel from which any species of octopus are taken, regardless of gear.
(2) The vessel operator of such vessel is responsible for maintaining the logbook in an accurate and truthful manner and in accordance with the instructions contained therein.
(3) Upon request of an authorized representative of the Department or the Oregon State Police, the vessel operator shall permit examination and transcription of information of such logbook.
(4) Upon request of an authorized representative of the Department, the vessel operator shall surrender a legible copy of such logbook.
(5) Information so received by the Department shall be considered confidential.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12