I certify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on 01/15/2016 by the
Department of Fish and Wildlife

<table>
<thead>
<tr>
<th>Agency and Division</th>
<th>Administrative Rules Chapter Number</th>
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<tbody>
<tr>
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To become effective Upon filing. Rulemaking Notice was published in the December 2015 Oregon Bulletin.

RULE CAPTION

Amendments to Rules for Commercial and Recreational Groundfish Fisheries.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND:


REPEAL:

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority:
ORS 496.138, 496.146, 496.162, 497.121, 506.036, 506.109, 506.119, 506.129.

Other Authority:

Statutes Implemented:
ORS 496.004, 496.009, 496.162, 506.109, 506.129, 506.306, 506.450 thru 506.465, 508.945.

RULE SUMMARY

These amended rules for marine recreational and commercial groundfish, including changes to species defined as groundfish based on the federal definition and the addition of the newly recognized species Deacon Rockfish. Housekeeping and technical corrections to the regulations were made to ensure rule consistency.

Michelle Tate  michelle.l.tate@state.or.us

Rules Coordinator Name  Email Address
Definitions

As used in Division 004 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. "Board" means the Commercial Fishery Permit Board.

3. "Buy" includes offer to buy, barter, exchange or trade.

4. "Coastal Pelagic Species" means all species of ocean food fish and shellfish defined as Coastal Pelagic Species in the Fishery Management Plan for U.S. West Coast Fisheries for Coastal Pelagic Species and in the Federal Coastal Pelagic Species Regulations, Title 50, Part 660, and include:
   (a) Jack mackerel (Trachurus symmetricus);
   (b) Jack smelt (Atherinopsis californiensis);
   (c) Krill (all species in order Euphausiacea);
   (d) Market squid (Loligo opalescens);
   (e) Northern anchovy (Engraulis mordax);
   (f) Pacific herring (Clupea harengus pallasi);
   (g) Pacific mackerel (Scomber japonicus); and
   (h) Pacific sardine (Sardinops sagax).

5. "Commercial harvest cap" means the total fishery-related mortality for a given species, or species group, that may occur in a single calendar year in Oregon commercial fisheries.

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. "Department" means the State Department of Fish and Wildlife.

10. "Director" means the Director of the Oregon Department of Fish and Wildlife appointed pursuant to ORS 496.112.

11. "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 pieces of equipment: SCUBA or other surface supplied air source (hookah gear), dive mask, snorkel, air cylinders, weight belt, wetsuit and fins.

12. "Exclusive Economic Zone" means the zone between 3-200 nautical miles offshore of the United States.

13. "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 net 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.
(14) "Fishing trip" means a period of time between landings when fishing is conducted.
(15) "Food Fish" means any animal over which the State Fish and Wildlife Commission has jurisdiction, pursuant to ORS 506.036.
(16) "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 and includes:
(a) All species of rockfish, thornyheads, and scorpionfish that occur off Washington, Oregon, or California (genera Sebastes, Scorpaena, Scorpaenodes, and Sebastolobus);
(b) All species of grenadiers in the family Macrouridae that occur off Washington, Oregon, or California, including but not limited to Giant grenadier, (Albatrossia pectoralis) and Pacific grenadier (Coryphaenoides acrolepis);
(c) All species of skates in the family Arhynchobatidae that occur off Washington, Oregon, or California, including but not limited to Aleutian skate (Bathyraja aleutica), Bering/sandpaper skate (B. interrupta), big skate (Raja binoculata), California skate (R. inornata), longnose skate (R. rhina), and roughtail/black skate (B. trachura);
(d) Arrowtooth flounder (Atheresthes stomias);
(e) Butter sole (Iosopsetta isolepis);
(f) Cabezon (Scorpaenichthys marmoratus);
(g) Curlfin sole (Pleuronichthys decurrens);
(h) Dover sole (Microstomus pacificus);
(i) English sole (Parophrys vetulus);
(j) Finescale codling (Antimora microlepis);
(k) Flathead sole (Hippoglossoides elassodon);
(l) Kelp greening (Hexagrammos decagrammus);
(m) Leopard shark (Triakis semifasciata);
(n) Lingcod (Ophiodon elongatus);
(o) Pacific cod (Gadus macrocephalus);
(p) Pacific sanddab (Citharichthys sordidus);
(q) Pacific whiting (Merluccius productus);
(r) Petrale sole (Eopsetta jordani);
(s) Ratfish (Hydrologus collii);
(t) Rex sole (Glyptocephalus zachiris);
(u) Rock sole (Lepidopsetta bilineata);
(v) Sablefish (Anoplopoma fimbria);
(w) Sand sole (Psettichthys melanostictus);
(x) Soupin shark (Galeorhinus zyopterus);
(y) Spiny dogfish (Squalus acanthias); and
(z) Starry flounder (Platichthys stellatus).
(17) "Harvest guideline" means a specified numerical harvest objective that is not a quota. Attainment of a harvest guideline does not automatically close a fishery.
(18) "Highly Migratory Species" means all species of ocean food fish defined as highly migratory species in the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species and in the Federal Highly Migratory Species Regulations, Title 50, Part 660, and includes:
(a) Bigeye thresher shark (Alopias superciliosus);
(b) Bigeye tuna (Thunnus obesus);
(c) Blue shark (Prionace glauca);
(d) Common thresher shark (Alopias vulpinus);
(e) Common Mola (Mola mola);
(f) Dorado (Coryphaena hippurus);
(g) Escolar (Lepidocybium flavobrunneum);
(h) Lancetfishes (Alepisauridae species);
(i) Louvar (Luvarus imperialis);
(j) North Pacific albacore tuna (Thunnus alalunga);
(k) Northern bluefin tuna (Thunnus thynnus);
(l) Pacific swordfish (Xiphias gladius);
(m) Pelagic sting ray (Dasyatis violacea);
(n) Pelagic thresher shark (Alopias pelagicus);
(o) Shortfin mako shark (Isurus oxyrinchus);
(p) Skipjack tuna (Katsuwonus pelamis);
(q) Striped marlin (Tetrapturus audax);
(r) Wahoo (Acanthocybium solandri); and
(s) Yellowfin tuna (Thunnus albacares).

(19) “Inland waters” means all waters of the state except the Pacific Ocean.
(20) “Intertidal” means the area in Oregon coastal bays, estuaries, and beaches between mean extreme low water and mean extreme high water boundaries.
(21) “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 aboard the vessel are counted as part of that landing, except:
      (A) Anchovies being held live on a vessel for the purpose of using for bait in that vessel’s commercial fishing operation; and
      (B) For vessels participating in the federal trawl rationalization program, the portion of catch that is intended to be delivered to Washington or California is not considered part of that landing.
   (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.
(22) “Length” or “Length Overall” 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 such as a dive step or platform.
(23) “Length, total” of a fish is measured from the tip of the snout (mouth closed) to the tip of the tail (pinched together) without mutilation of the fish or the use of additional force to extend the length.
(24) “Nearshore species” includes (See ORS 506.011):
   (a) Black and yellow rockfish (Sebastes chrysomelas);
   (b) Brown Irish lord (Hemilepidotus spinosus);
   (c) Brown rockfish (Sebastes auriculatus);
   (d) Buffalo sculpin (Enophrys bison);
   (e) Cabezon (Scorpaenichthys marmoratus);
   (f) Calico rockfish (Sebastes dalli);
   (g) China rockfish (S. nebulosus);
   (h) Copper rockfish (S. caurinus);
   (i) Gopher rockfish (S. carnatus);
   (j) Grass rockfish (S. rastrelliger);
   (k) Kelp greenling (Hexagrammos decagrammus);
   (l) Kelp rockfish (Sebastes atrovirens);
   (m) Olive rockfish (S. serranoides);
   (n) Painted greenling (Oxyeleius pictus);
   (o) Quillback rockfish (Sebastes maliger);
   (p) Red Irish lord (Hemilepidotus hemilepidotus);
   (q) Rock greenling (Hexagrammos lagocephalus);
   (r) Tiger rockfish (Sebastes nigrocinctus);
   (s) Treefish (S. serriceps);
   (t) Vermillion rockfish (S. miniatus); and
   (u) White spotted greenling (Hexagrammos stelleri).
(25) “Ocean food fish” means all saltwater species of food fish except salmon, halibut, and shellfish whether found
in fresh or salt water.
(26) "Other nearshore rockfish" includes:
   (a) Black and yellow rockfish (Sebastes chrysolemas);
   (b) Brown rockfish (S. auriculatus);
   (c) Calico rockfish (S. dalli);
   (d) China rockfish (S. nebulosus);
   (e) Copper rockfish (S. caurinus);
   (f) Gopher rockfish (S. carnatus);
   (g) Grass rockfish (S. rastrelliger);
   (h) Kelp rockfish (S. atrovirens);
   (i) Olive rockfish (S. serranoides);
   (j) Quillback rockfish (S. maliger); and
   (k) Treefish (S. serriceps).
(27) "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.
(28) "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.
(29) "Possession" means holding any food fish, shellfish or parts thereof in a person's custody or control.
(30) "Process or Processing" means fresh packaging requiring freezing of food fish, or any part thereof, or any type of smoking, reducing, loinning, steaking, pickling or filleting.
(31) "Resident" means an actual bona fide resident of this state for at least one year, as specified in ORS 508.285.
(32) "Rockfish" includes all species in the following genera:
   (a) Sebastes; and
   (b) Sebastolobus.
(33) "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.
(34) "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.
(35) "Sell" includes to offer or possess for sale, barter, exchange or trade.
(36) "Smelt" means all species in the family Osmeridae.
(37) "Take" means fish for, hunt, pursue, catch, capture or kill or attempt to fish for, hunt, pursue, catch, capture or kill.
(38) "Transport" means transport by any means, and includes offer or receive for transportation.
(39) "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:
   (a) "Bi-monthly cumulative trip limit" means the maximum amount of fish that may be 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.
   (b) "Daily trip limit" means the maximum amount of fish that may be taken and retained, possessed or landed per vessel in 24 consecutive hours, starting at 00:01 hours local time. Only one landing of groundfish may be made in that 24-hour period;
   (c) "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.
(d) “Weekly trip limit” means the maximum amount of fish that may be taken and retained, possessed or landed per vessel in seven (7) consecutive days, starting at 00:01 hours local time on Sunday and ending at 24:00 hours local time on Saturday. Weekly trip limits may not be accumulated during multiple week trips. If a calendar week falls within two different months or two different cumulative limit periods, a vessel is not entitled to two separate weekly limits during that week.

(40) “Undue hardship” means death, serious illness requiring extended care by a physician, permanent disability, or other circumstances beyond the individual’s control.

(41) “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) “Vessel” means any floating craft, powered, towed, rowed or otherwise propelled which is used for landing or taking food fish for commercial purposes, and has the same meaning as ‘boat’ as specified in ORS 506.006.

(43) “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.

(44) “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.

(45) “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.

(46) “Week” means the period beginning at 00:01 hours local time on Sunday and ending at 24:00 hours local time on the following Saturday.

Stat. Auth.: ORS 496.138, 506.036, 506.109, 506.119, 506.129
Stats. Implemented: ORS 496.162, 506.109, 506.129
Hist.: Adopted 1-15-16, f. & ef. 1-19-16

635-004-0275
Scope, Inclusion, and Modification of Rules
(1) The commercial groundfish fishery in the Pacific Ocean off Oregon is jointly managed by the state of Oregon and the federal government through the Pacific Fishery Management Council process. The Code of Federal Regulations provides federal requirements for this fishery, including but not limited to the time, place, and manner of taking groundfish. However, additional regulations may be promulgated subsequently by publication in the Federal Register, and these supersede, to the extent of any inconsistency, the Code of Federal Regulations. Therefore, the following publications are incorporated into Oregon Administrative Rule by reference:

(a) Code of Federal Regulations, Part 660, Subparts C, D, E and F (October 1, 2015 ed.) as amended;
(b) Federal Register Vol. 80, No. 46, dated March 10, 2015 (80 FR 12567);
(c) Federal Register Vol. 80, No. 222, dated November 18, 2015 (80 FR 71975);
(d) Federal Register Vol. 80, No. 239, dated December 14, 2015 (80 FR 77267).

(2) Persons must consult the federal regulations in addition to Division 004 to determine all applicable groundfish fishing requirements. Where federal regulations refer to the fishery management area, that area is extended from shore to three nautical miles from shore coterminous with the Exclusive Economic Zone.

(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 635-004-0205 through 635-004-0235 and 635-004-0280 through 635-004-0365 for additions or modifications to federal groundfish regulations.

[Publications: Publications referenced are available from the Department.]
Oregon Administrative Rules
Oregon Department of Fish and Wildlife

635-004-0295
Fishery Defined
"Black Rockfish / Blue Rockfish / Nearshore Fishery" means the commercial fishery for black rockfish (*Sebastes melanops*), blue rockfish (*Sebastes mystinus*), deacon rockfish (*Sebastes diaconus*) and nearshore species as defined in OAR 635-004-0215.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.129, 506.450 through 506.465
Hist.: Adopted 1-15-16, f. & ef. 1-19-16

635-004-0300
Requirement for Black Rockfish / Blue Rockfish / Nearshore Fishery Permit
(1) Except as provided in OAR 635-004-0360, it is unlawful to take, land or possess black rockfish, blue rockfish, or deacon rockfish without a Black Rockfish / Blue Rockfish Permit or black rockfish, blue rockfish, deacon rockfish, or nearshore species without a Black Rockfish / Blue Rockfish or Black Rockfish with a Nearshore Endorsement Permit pursuant to ORS 508.945.

(2) It is unlawful for a wholesaler, canner or buyer to buy or receive black rockfish, blue rockfish, deacon rockfish, or other nearshore species taken in the Black Rockfish / Blue Rockfish / Nearshore Fishery from a vessel for which the permit required by section (1) of this rule has not been issued.

(3) A Black Rockfish / Blue Rockfish / Nearshore Fishery Permit required by section (1) of this rule is in addition to and not in lieu of the commercial fishing and vessel license required by ORS 508.235 and ORS 508.260.

(4) No vessel may hold more than one Black Rockfish / Blue Rockfish / Nearshore Fishery Permit at any one time.

(5) Unless otherwise provided, Black Rockfish / Blue Rockfish / Nearshore Permits must be purchased by January 1 of the year the permit is sought for renewal.

(6) Applications for Black Rockfish / Blue Rockfish / Nearshore Fishery 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 & 508.945
Hist.: Adopted 1-15-16, f. & ef. 1-19-16

635-004-0340
Fishing Gear
(1) Except as provided in OAR 635-004-0360, it is unlawful to take Black Rockfish / Blue Rockfish / Nearshore Fishery species by any means other than:

   (a) Hook-and-line gear; or

   (b) Pot gear may be used if a Developmental Fisheries Permit for nearshore species using pot gear was issued in 2003. Pot gear shall be limited to a maximum of 35 pots.

(2) It is unlawful to take black rockfish, blue rockfish, deacon rockfish, or nearshore species using dive gear.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.129 & 506.306
Hist.: Adopted 1-15-16, f. & ef. 1-19-16

635-004-0350
Harvest Guidelines and Landing Caps
(1) Upon attainment of a harvest guideline in the Black Rockfish / Blue Rockfish / Nearshore Fishery, the Department shall initiate consultation to determine if additional regulatory actions are necessary to achieve management objectives.

(2) The following commercial harvest guidelines include the combined landings and other fishery related mortality by all Oregon commercial fisheries in a single calendar year:

   (a) Black rockfish: 139.2 metric tons;

   (b) Cabezon: 30.2 metric tons; and

   (c) Blue rockfish, deacon rockfish and other nearshore rockfish combined: 10.4 metric tons.

(3) The following commercial harvest guidelines include landings by all Oregon commercial fisheries in a single calendar year:

   Greenling, 23.4 metric tons.
Trip Limits

(1) The trip limits outlined in this rule are set at the beginning of each calendar year based on commercial harvest caps and projected fishing effort, and are subject to in-season adjustments and closures. Fishers should refer to Nearshore Commercial Fishery Industry Notices on the Marine Resources Program Commercial Fishing Rules and Regulations webpage for the most up-to-date information regarding trip limits and other regulations affecting the Nearshore Commercial Fishery.

(2) Vessels with a Black Rockfish / Blue Rockfish / Nearshore Fishery Permit, with or without a Nearshore Endorsement, may land no more than the following cumulative trip limits:

(a) Black rockfish:
   (A) 1200 pounds in period 1;
   (B) 1400 pounds in period 2;
   (C) 1700 pounds in period 3;
   (D) 1600 pounds in period 4;
   (E) 1400 pounds in period 5;
   (F) 1000 pounds in period 6; and

(b) 30 pounds of blue rockfish and deacon rockfish combined in each period.

(3) For all other nearshore species, vessels with a Black Rockfish / Blue Rockfish / Nearshore Fishery Permit with Nearshore Endorsement may land no more than the following cumulative trip limits in each period:

(a) 200 pounds of other nearshore rockfish combined;
(b) 1,500 pounds of cabezon; and
(c) 400 pounds of greenling species.

Incidental Catch in Other Fisheries

A vessel may land black rockfish, blue rockfish, and nearshore species without a permit or endorsement required by OAR 635-004-0300 if the vessel operator:

(1) For only one landing per day, lands no more than 15 pounds of a combination of black rockfish, blue rockfish, deacon rockfish and nearshore species, as defined in OAR 635-004-0215, and if the black rockfish, blue rockfish, deacon rockfish and nearshore species:
   (a) Make up 25 percent or less of the total poundage of the landing; and
   (b) Are taken with legal groundfish fishing gear.

(2) Operates a vessel that holds a valid Black Rockfish / Blue Rockfish Permit without a Nearshore Endorsement and:
   (a) For only one landing per day, lands no more than 15 pounds of nearshore species, as defined in OAR 635-004-0215;
   (b) The nearshore species make up 25 percent or less of the total poundage of the landing; and
   (c) The nearshore species are taken with gear that is legal to use in the Black Rockfish / Blue Rockfish / Nearshore Fishery.

(3) Operates a vessel in the ocean troll salmon fishery pursuant to ORS 508.801 to 508.825 and the vessel lands black rockfish, blue rockfish, deacon rockfish or a combination of black rockfish, blue rockfish, and deacon rockfish in the same landing in which the vessel lands a salmon under the permit required by ORS 508.801 to 508.825. The black rockfish, blue rockfish, and deacon rockfish landed under this subsection must be landed dead. A vessel that lands black rockfish, blue rockfish, or deacon rockfish under this section may land up to 100 pounds of black rockfish, blue rockfish, and deacon rockfish in aggregate, per landing. When the aggregate incidental catch of black rockfish, blue rockfish, and deacon rockfish in the salmon troll fishery reaches 3,000 pounds in a calendar year, a vessel that lands black rockfish, blue rockfish, or deacon rockfish under this section may not land more than 15 pounds of black rockfish, blue rockfish, and deacon rockfish in aggregate, per trip.

(4) Operates a vessel in the west coast groundfish trawl fishery pursuant to federal regulations and lands no more
than 1,000 pounds of black rockfish, blue rockfish, and deacon rockfish in aggregate per calendar year, and if the black rockfish, blue rockfish, and deacon rockfish:
   (a) Make up 25 percent or less of the total poundage of each landing; and
   (b) Are landed dead.
(5) Is a nonprofit aquarium or has contracted with a nonprofit aquarium to land black rockfish, blue rockfish, deacon rockfish or nearshore fish for the purpose of displaying or conducting research on the black rockfish, blue rockfish, deacon rockfish or nearshore fish.
(6) Does not exceed trip limits as established in OAR 635-004-0355 and OAR 635-004-0365.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129
Stats. Implemented: ORS 506.109, 506.129
Hist.: Adopted 1-15-16, f. & ef. 1-19-16

635-039-0080
Purpose and Scope
(1) The purpose of Division 039 is to provide for management of sport fisheries for marine fish, shellfish, and marine invertebrates in the Pacific Ocean, coastal bays, and beaches over which the State has jurisdiction.
(2) Division 039 incorporates into Oregon Administrative Rules, by reference:
   (a) The sport fishing regulations of the State, included in the document entitled 2016 Oregon Sport Fishing Regulations;
   (b) Title 50 of the Code of Federal Regulations, Part 300, Subpart E (October 1, 2015 ed.), as amended;
   (c) Title 50 of the Code of Federal Regulations, Part 660, Subpart G (October 1, 2015 ed.), as amended; and
   (d) Federal Register Vol. 80, No. 46, dated March 10, 2015 (80 FR 12567).
(3) Therefore, persons must consult all publications referenced in this rule in addition to Division 011 and Division 039 to determine all applicable sport fishing requirements for marine fish, shellfish and marine invertebrates.

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

Stat. Auth.: ORS 496.138, 496.146, 506.119
Stats. Implemented: ORS 496.162, 506.129
Hist.: Adopted 1-15-16, f. & ef. 1-19-16

635-039-0090
Inclusions and Modifications
(1) The 2016 Oregon Sport Fishing Regulations provide requirements for sport fisheries for marine fish, shellfish, and marine invertebrates in the Pacific Ocean, coastal bays, and beaches, commonly referred to as the Marine Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersedes the 2016 Oregon Sport Fishing Regulations.
(2) For the purposes of this rule, a "sport harvest guideline" is defined as a specified numerical harvest objective that is not a quota. Attainment of a harvest guideline does not automatically close a fishery. Upon attainment of a sport harvest guideline, the Department shall initiate consultation to determine if additional regulatory actions are necessary to achieve management objectives.
   (a) The following sport harvest guidelines include the combined landings and other fishery related mortality by the Oregon sport fishery in a single calendar year:
      (A) Black rockfish, 440.8 metric tons.
      (B) Cabezon, 16.8 metric tons.
      (C) Blue rockfish, deacon rockfish, and other nearshore rockfish combined, 26 metric tons.
   (b) The following sport harvest guidelines include total landings in the Oregon sport ocean boat fishery in a single calendar year: Greenling, 5.2 metric tons.
(3) For the purposes of this rule, "Other nearshore rockfish" means the following rockfish species: black and yellow (Sebastes chrysolmelas); brown (S. auriculatus); calico (S. dallii); China (S. nebulosus); copper (S. caurinus); gopher (S. carnatus); grass (S. rastrelliger); kelp (S. atrovirens); olive (S. serranoides); quillback (S. maliger); and treefish (S. serriceps).
(4) In addition to the regulations for Marine Fish in the 2016 Oregon Sport Fishing Regulations, the following apply for the sport fishery in the Marine Zone:
   (a) Lingcod (including green colored lingcod): 2 fish daily bag limit.
   (b) All rockfish ("sea bass" "snapper"), greenling ("sea trout"), cabezon, skates, and other marine fish species
not listed in the 2016 Oregon Sport Fishing Regulations in the Marine Zone, located under the category of Species Name, Marine Fish: 7 fish daily bag limit in aggregate (total sum or number), of which no more than three may be blue rockfish or deacon rockfish in aggregate, no more than one may be a canary rockfish, and no more than one may be a cabezon. Retention of the following species is prohibited:

(A) Yelloweye rockfish;
(B) China rockfish;
(C) Copper rockfish;
(D) Quillback rockfish; and
(E) Cabezon from January 1 through June 30.

(c) Flatfish (flounder, sole, sanddabs, turbot, and all halibut species except Pacific halibut): 25 fish daily bag limit in aggregate (total sum or number).

(d) Retention of all marine fish listed under the category of Species Name, Marine Fish, except Pacific cod, sablefish, flatfish, herring, anchovy, smelt, sardine, striped bass, hybrid bass, and offshore pelagic species (excluding leopard shark and soupfin shark), is prohibited when Pacific halibut is retained on the vessel during open days for the all-depth sport fishery for Pacific halibut north of Humbug Mountain. Persons must also consult all publications referenced in OAR 635-039-0080 to determine all rules applicable to the taking of Pacific halibut.

(e) Harvest methods and other specifications for marine fish in subsections (4)(a), (4)(b) and (4)(c) including the following:

(A) Minimum length for lingcod, 22 inches.
(B) Minimum length for cabezon, 16 inches.
(C) Minimum length for greenling, 10 inches.
(D) May be taken by angling, hand, bow and arrow, spear, gaff hook, snare hook and herring jigs.
(E) Mutilating the fish so the size or species cannot be determined prior to landing or transporting mutilated fish across state waters is prohibited.

(f) Sport fisheries for species in subsections (4)(a), (4)(b) and (4)(c) and including leopard shark and soupfin shark are open January 1 through December 31, twenty-four hours per day, except as provided in subsections (4)(a) and (4)(d), and ocean waters are closed for these species during April 1 through September 30, outside of the 30-fathom curve (defined by latitude and longitude) as shown on Title 50 Code of Federal Regulations Part 660 Section 71. A 20-fathom, 25-fathom, or 30-fathom curve, as shown on Title 50 Code of Federal Regulations Part 660 Section 71 may be implemented as the management line as in-season modifications necessitate. In addition, the following management lines may be used to set area specific regulations for inseason action only:

(A) Cape Lookout (45°20’30” N latitude); and
(B) Cape Blanco (42°50’20” N latitude).

(g) The Stonewall Bank Yelloweye Rockfish Conservation Area (YRCA) is defined by coordinates specified in Title 50 Code of Federal Regulations Part 660 Section 70 (October 1, 2015 ed.). Within the YRCA, it is unlawful to fish for, take, or retain species listed in subsections (4)(a), (4)(b) and (4)(c) of this rule, leopard shark, soupfin shark, and Pacific halibut using recreational fishing gear. A vessel engaged in recreational fishing within the YRCA is prohibited from possessing any species listed in subsections (4)(a), (4)(b) and (4)(c) of this rule, leopard shark, soupfin shark, and Pacific halibut. Recreational fishing vessels in possession of species listed in subsections (4)(a), (4)(b) and (4)(c) and including leopard shark, soupfin shark, and Pacific halibut may transit the YRCA without fishing gear in the water.

[Table 1, as referenced, is available from the Department]