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**TEMPORARY ADMINISTRATIVE ORDER**  
INCLUDING STATEMENT OF NEED & JUSTIFICATION  
**DFW 7-2026**  
CHAPTER 635  
**DEPARTMENT OF FISH AND WILDLIFE**

**FILED**  
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FILING CAPTION: Commercial Crab Late-Season Whale Entanglement Risk Reduction Measures Implementation Date

EFFECTIVE DATE: 02/16/2026 THROUGH 08/14/2026

AGENCY APPROVED DATE: 01/23/2026

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Filed By:  
Linda Spansel  
Rules Coordinator

**NEED FOR THE RULE(S):**

These rules are needed to further reduce the risk of whale entanglement in commercial crab gear. There have been elevated levels of ESA-listed marine life entanglements attributed by NMFS to commercial Dungeness crab fishing gear across the West Coast in recent years and a record number of whale entanglements attributed by NMFS to Oregon crab gear in 2024 and 2025. Recent studies (Derville et al. 2023) estimate that exposure to entanglement risk from crab gear peaks in April off Oregon and moving the implementation date for risk reductions measures to April 1 will reduce risk during this high exposure period. In addition, no entanglements have been attributed to Oregon crab gear with late-season buoy tags (required May 1-August 14 under permanent rule) since late-season risk reduction measures were first implemented in 2020, therefore risk reduction is likely needed earlier in the season to increase effectiveness.

**JUSTIFICATION OF TEMPORARY FILING:**

There is not adequate time to go through normal rulemaking proceedings to modify these rules in a timely manner because commercial crab fishers must order from the Department, receive, and attach late-season buoy tags to deployed gear, as well as move all deployed gear shallower than 40 fathoms, by April 1.

Failure to adopt these rules could cause serious prejudice to the public interest by not further reducing risk of whale entanglements attributed to Oregon commercial crab gear after record high encounters in 2024 and 2025.

**DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:**

1. Oregon Department of Fish and Wildlife Commercial Crab Fishing Fleet Advisory on 12/5/2025.
2. Derville et al., 2023. Exposure to whales to entanglement risk in Dungeness crab fishing gear in Oregon, USA, reveals distinct spatio-temporal and climatic patterns. *Biol. Conserv.* 281.  
<https://doi.org/10.1016/j.biocon.2023.109989>.

A copy of the rules and the other documents relied upon for this rulemaking [the above document(s)] are available from the Oregon Department of Fish and Wildlife, Fish Division, 4034 Fairview Industrial Drive SE, Salem, Oregon 97302-1142. Contact Linda Spansel at 503-947-6233 or linda.d.spansel@odfw.oregon.gov to view by appointment between

the hours of 8:00 a.m. and 4:00 p.m., on normal working days, Monday through Friday.

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**RULES:**

635-005-0405, 635-005-0460, 635-005-0480

**AMEND:** 635-005-0405

**RULE SUMMARY:** These amended rules will implement commercial crab late-season whale entanglement risk reduction measures including a 20% pot limit reduction, requirement for late-season buoy tags, and prohibition on fishing deeper than 40 fathoms on April 1 instead of May 1 to reduce the risk of whales becoming entangled in commercial crab fishing gear earlier in the season.

**CHANGES TO RULE:**

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.¶

(10) Notwithstanding section (5) of this rule, from ~~May~~April 1 through August 14 the amount of Dungeness crab gear allocated to a permit required under section (1) of this rule shall be reduced to 80 percent of the amount allocated under section (5) of this rule. A permit assigned a Dungeness crab gear allocation per section (5) of this rule of:¶

(a) 200 shall be assigned a Dungeness crab gear allocation of 160;¶

(b) 300 shall be assigned a Dungeness crab gear allocation of 240; or¶

(c) 500 shall be assigned a Dungeness crab gear allocation of 400.

Statutory/Other Authority: ORS 506.036, ORS 506.119, ORS 506.129

Statutes/Other Implemented: ORS 506.109, ORS 506.129, ORS 506.306, ORS 508.926, ORS 508.931

AMEND: 635-005-0460

RULE SUMMARY: These amended rules will implement commercial crab late-season whale entanglement risk reduction measures including a 20% pot limit reduction, requirement for late-season buoy tags, and prohibition on fishing deeper than 40 fathoms on April 1 instead of May 1 to reduce the risk of whales becoming entangled in commercial crab fishing gear earlier in the season.

CHANGES TO RULE:

635-005-0460

Harvest Areas - Dungeness Crab Fishery ¶¶

(1) 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).¶¶

(2) From ~~May~~April 1 through August 14 it is unlawful to place, operate, or leave commercial Dungeness crab gear seaward of the 40 fathom depth contour (defined by latitude and longitude) as shown in Title 50 Code of Federal Regulations Part 660 Section 71. Any commercial Dungeness crab gear found seaward of the 40 fathom depth contour from ~~May~~April 21 through August 14 shall be considered derelict and may be retrieved per 635-005-0490.

Statutory/Other Authority: ORS 506.036, ORS 506.119, ORS 506.129

Statutes/Other Implemented: ORS 506.129, ORS 506.109

AMEND: 635-005-0480

RULE SUMMARY: These amended rules will implement commercial crab late-season whale entanglement risk reduction measures including a 20% pot limit reduction, requirement for late-season buoy tags, and prohibition on fishing deeper than 40 fathoms on April 1 instead of May 1 to reduce the risk of whales becoming entangled in commercial crab fishing gear earlier in the season.

CHANGES TO RULE:

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 buoy brand and buoy color(s) of the owner, and the Department buoy tag issued for the current season, provided that:¶¶

(a) The buoy brand consists of letters and/or numbers, and the buoy brand and buoy color or color combination are registered with and approved by the Department; ¶[T]the buoy color or color combination shall be submitted to the Department as a color photograph for registration;¶¶

(b) Only one unique buoy brand and one buoy color or color combination 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 and at least one buoy with the buoy color or color combination 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) Except for replacement buoy tags, all other 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) For a catastrophic loss, as defined in OAR 635-005-0240; or¶¶

(B) 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.¶¶

(C) Upon receipt of the declaration of loss required by subsection (1)(g)(D) of this rule, and a request for replacement tags under subsection (1)(g)(B) 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)(B) 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.¶¶

(D) 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 for the current season, as pursuant to ORS 509.415, except:¶¶

(a) To set gear as allowed under OAR 635-005-0405;¶¶

(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 occurred;¶¶

(C) A Rrequest 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.¶¶

(c) Under a waiver granted by the Department to allow the activities described in this subsection. Waiver requests must be in writing and a waiver must be approved and issued prior to conducting the activity. A copy of the waiver

- must be on board the vessel conducting the activity. A waiver may be granted by the Department for a:
- (A) One time change of buoy tags for gear deployed at sea associated with a Dungeness crab permit transfer under OAR 635-005-0440;
  - (B) One time change of buoy tags to another vessel's tags for gear deployed at sea. The vessel making the change must be either the vessel that the deployed buoy tags are assigned to or the vessel that the new tags are assigned to;
  - (C) One time change of buoy tags at sea to different crab pots or rings owned by the same vessel making the change. The vessel making the change must be the vessel the buoy tags are assigned to, and gear must be transported to shore on the same fishing trip;
  - (D) One time attachment of late season tags to gear deployed at sea by a vessel other than the vessel the buoy tags are assigned to; or
  - (E) One time retrieval of permitted Dungeness crab gear to shore by another crab permitted vessel from August 1 through August 14.
- (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.
- (3) From ~~May~~April 1 through August 14, possess on a vessel, use, control, or operate commercial Dungeness crab gear in the Columbia River or Pacific Ocean unless the gear is individually marked with a secondary Department buoy tag issued by the Department to that vessel for the current season in addition to the buoy tag required under section (1) of this rule, provided that:
- (a) The primary buoy tag shall remain attached as required per section (1) of this rule;
  - (b) The secondary buoy tag shall be securely attached to the buoy closest to the gear at the end away from the buoy line;
  - (c) The Department shall issue secondary buoy tags to the owner of each commercial crab permit in the amount requested by the permit owner, not to exceed the amount determined by OAR 635-005-0405(10);
  - (d) Secondary buoy tags must be purchased from the Department at cost and attached to the gear as of the effective date but no earlier than ~~April~~March 10;
  - (e) The exceptions found in sections (2)(b) through (2)(g) of this rule also apply to this section; and
  - (f) Any commercial Dungeness crab gear found in the ocean or Columbia River without a secondary buoy tag from ~~May~~April 21 through August 14 shall be considered derelict and may be retrieved per OAR 635-005-0490;
- (4) From ~~May~~April 1 through August 14, land Dungeness crab into Oregon for commercial purposes unless secondary buoy tags have been purchased from the Department for the Oregon commercial crab permit under which the landing vessel is operating, except vessels that do not have any Dungeness crab gear deployed between 46° 15' 00" North Latitude (Oregon/Washington border) and 42° 00' 00" North Latitude (Oregon/California border) may land crab legally taken from another state into the ports of Astoria or Brookings, Oregon.
- (5) Use Dungeness crab gear with line other than dual-colored yellow and black line, with the majority of strands colored yellow and at least 1/3 of strands colored black, as follows:
- (a) Effective December 1, 2026:
    - (A) For all line used between any two buoys, except buoy gangions that are less than four feet long may be any color. A buoy gangion is defined as line that passes through, and is affixed to, the buoy forming loops on each end of the buoy. The length of a buoy gangion is measured in a straight line between the opposing loop ends;
    - (B) For gear with a single buoy or no line other than buoy gangions of less than four feet connecting multiple buoys, for all line within six feet of the attachment point of the buoy closest to the pot or ring, extending toward the crab pot or ring;
  - (b) Effective December 1, 2028, for all line within 90 feet of the attachment point of the buoy closest to the crab pot or ring extending toward the crab pot or ring, except up to 30 feet of line closest to the crab pot or ring may be any color;
  - (c) Effective December 1, 2026, or December 1, 2028, as applicable, and through August 14, 2033, line with solid yellow and black marks meeting the following specifications may be substituted for dual-colored yellow and black line required by this rule:
    - (A) Each set of marks shall cover the entire length and circumference of at least four feet of line with at least two feet yellow within six inches of at least two feet black;
    - (B) Marks shall be regularly serviced and maintained in a condition to readily identify the line marking scheme of yellow and black;
  - (C) Effective December 1, 2026:
    - (i) Line between any two buoys must have at least one set of marks; and

(ii) For gear with a single buoy or no line other than buoy gangions of less than four feet connecting multiple buoys, line must have one set of marks within six feet of the buoy; and¶

(D) Effective December 1, 2028, the 90 feet of line measured from the attachment point of the buoy closest to the crab pot or ring extending toward the crab pot or ring must have at least three sets of marks. Sets of marks shall be distributed such that one set of marks is near each end and one set of marks is near the middle of this 90-foot section of line.

Statutory/Other Authority: ORS 506.036, ORS 506.119

Statutes/Other Implemented: ORS 506.109, ORS 506.129