

ISSUE 1

Options to Modify the Sardine Permit Renewal Date

635-006-1015

Requirement for Permit

(1) The following provide general requirements for permits:

- (a) Gillnet salmon - see ORS 508.775;
- (b) Troll salmon - see ORS 508.801 and 508.828;
- (c) Shrimp - see ORS 508.880 and 508.883;
- (d) Scallop - see ORS 508.840 and 508.843;
- (e) Roe-herring:

(A) It is *unlawful* for an individual to operate a vessel in the Yaquina Bay roe-herring fishery without first obtaining a vessel permit issued pursuant to OAR 635-006-1035 through 635-006-1095;

(B) It is *unlawful* for a wholesaler, canner or buyer to buy or receive roe-herring taken in the Yaquina Bay roe-herring fishery from a vessel for which the permit required by section (1)(e) of this rule has not been issued.

(f) Sea Urchin:

(A) It is *unlawful* for an individual to take or attempt to take sea urchins for commercial purposes without first obtaining a permit issued pursuant to OAR 635-006-1035 through 635-006-1095;

(B) It is *unlawful* for a wholesaler, canner, or buyer to buy or receive sea urchins taken in the sea urchin fishery from a person for which the permit required by section (1)(f) of this rule has not been issued.

(g) Ocean Dungeness crab:

(A) Except as provided under the reciprocity provisions of ORS 508.941(3), it is *unlawful* for an individual to operate a vessel in the ocean Dungeness crab fishery without first obtaining a vessel permit issued pursuant to ORS 508.931 or 508.941. A Dungeness crab vessel 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.

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

(C) In addition to certifying that the vessel is free of crab on November 30 each year, as required by OAR 635-005-0045(1), each vessel operator must declare and certify on the Oregon hold inspection certification form the maximum number of pots that will be used in that season's fishery before fishing.

(D) A single delivery license may 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 permit in lieu of a commercial fishing and boat license. However, crab may not be landed more than twice in any one crab season using single delivery permits.

(E) Effective December 1, 2006, the number of crab pots allocated to a permit required under section (A) above will be determined as follows:

(i) 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;

(ii) The crab pot allocation will be the highest number of pots 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);

(iii) A crab pot 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;

(iv) A crab pot 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

(v) A crab pot 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.

(h) Developmental Fisheries: See ORS 506.450 through ORS 506.465 and OAR 635-006-0800 through 635-006-0950.

(i) July 1, 2001 is the control date to establish eligibility criteria for the purpose of future limited entry programs for the commercial groundfish fishery.

(j) Black rockfish / blue rockfish / nearshore fishery -- see ORS 508.945.

(k) Brine Shrimp:

(A) It is *unlawful* to take or attempt to take brine shrimp for commercial purposes without first obtaining a brine shrimp fishery permit issued pursuant to OAR 635-006-1035 through OAR 635-006-1095;

(B) 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.

(C) The Department may issue no more than three permits required by section (1)(k) of this rule.

(l) Bay clam dive fishery:

(A) It is *unlawful*:

(i) To take or attempt to take bay clams, using dive gear, for commercial purposes from subtidal areas in any Oregon estuary without first obtaining a coast-wide bay clam dive fishery permit issued pursuant to OAR 635-006-1025 through OAR 635-006-1095;

(ii) To take or attempt to take bay clams, using dive gear, for commercial purposes from subtidal areas in Oregon estuaries south of Heceta Head without first obtaining a south-coast bay clam dive fishery permit issued pursuant to OAR 635-006-1025 through OAR 635-006-1095;

(iii) For a wholesaler, 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 this rule.

(iv) To take or attempt to take bay clams where more than two divers operating from any one boat were in the water at the same time or where more than two persons without permits, excluding persons authorized by the Department for the performance of official duties, were on board any boat while harvesting, possessing, or transporting bay clams.

(B) The Department may not issue more than ten coast-wide permits required by section (1)(l)(A)(i) of this rule and five south-coast permits required by (1)(l)(A)(ii) of this rule.

(C) Permits may be issued to individuals or to vessels, designated at the beginning of the year. Designation may not change during the year.

(m) Sardine fishery:

(A) It is *unlawful* for an individual to operate a vessel in the Sardine fishery without first obtaining a vessel permit issued pursuant to OAR 635-006-1035 through OAR 635-006-1095. The sardine fishery permit is not required for vessels to retain sardines as incidental catch in other fisheries.

(B) It is *unlawful* for a wholesaler, canner or buyer to buy or receive sardines taken in the Sardine fishery from a vessel for which the permit required by section (1)(m)(A) of this rule has not been issued.

(C) The Department may issue not more than 26 permits required by section (1)(m)(A) of this rule.

(D) The Sardine Advisory Group as defined under OAR 635-006-1065 may advise the Commission on increasing the number of permits, developing criteria for issuing the new permits, and other regulations concerning the sardine fishery.

(E) By January 1, 2008, vessels permitted under section (1)(m)(A) of this rule shall be operated or owned by the permit holder.

(2) The permits required by section (1) of this rule are in addition to and not in lieu of the commercial fishing and boat license required by ORS 508.235 and ORS 508.260.

(3) No vessel may hold more than one vessel permit for a given fishery at any one time.

(4) If permits are issued on an individual basis, no individual may hold more than one permit for a given fishery at any one time.

Option 1:

(5) Unless otherwise provided, permits must be purchased by ~~December 31~~**January 31** of the ~~license~~ year **the permit is sought for renewal.**

Option 2:

(5) Unless otherwise provided, permits must be purchased by December 31 of the ~~license~~-year **the permit is sought for renewal.**

- (6) No vessel permit may be transferred away from a vessel without the lien holder's written permission.
- (7) Applications for 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 506.119

Stats. Implemented: ORS 506.109, 506.129, and 508.921 through 508.941

Hist.: Adopted 10-12-07, f. & ef. 10-25-07

635-006-1075

Renewal of Permit

(1) An individual who obtained a limited entry permit may renew the permit as follows:

(a) Gillnet salmon - see ORS 508.781;

(b) Troll salmon - see ORS 508.807;

(c) Shrimp - see ORS 508.892;

(d) Scallop - see ORS 508.849;

(e) Roe-herring permit - Permits may be renewed by submission to the Department of a \$75 fee and a complete application;

(f) Sea Urchin permit:

(A) Permits may be renewed by submission to the Department of a \$75 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 annually lawfully landed 5,000 pounds of sea urchins 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 Permit Board actions or surrender of a permit by a permit holder), the permittee shall not be required to make the 5,000 pound landing by the following January. Instead, at the next renewal thereafter, the permittee shall be required to demonstrate that the 5,000 pound landing requirement was fulfilled during the first full year (twelve-month period) in which the permit was held.

(g) Ocean Dungeness crab permit - see ORS 508.941. A permit which is not renewed by December 31 lapses, and may not be renewed for subsequent years.

(h) Black rockfish / blue rockfish / nearshore fishery - see ORS 508.947.

(i) Brine Shrimp permit:

(A) Permits may be renewed by submission to the Department of a \$75 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.

(j) Bay clam dive fishery:

(A) Permits may be renewed by submitting to the Department a \$75 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 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) Logbooks required under OAR 635-006-1110 must be turned into an ODFW office by the application deadline for renewal of a permit.

(D) If a permit is transferred under OAR 635-006-1095(10)(d), annual renewal requirements are waived in the year the transfer occurred.

Option 1

(k) Sardine fishery:

~~[To renew a sardine permit:]~~

~~(A) [Only the permittee may renew a limited entry sardine permit. To renew a sardine p]Permits may be renewed~~ for the following year~~], the permittee must, by December 31 of the current year]:~~

~~(i) by submitting~~ a complete application to the Department ~~date-stamped or postmarked by January 31 of the year the permit is sought for renewal and;~~

~~(ii) submitting~~ the logbooks required under OAR 635-006-1110; and

~~(iii) the permitted vessel~~ must have lawfully landed into Oregon, ~~[during]preceding~~ the ~~calendar~~~~[current]~~ year ~~for which the permit is sought for renewal~~, either (I) a minimum of 10 landings of sardines of a least 5 metric tons each, or (II) landings of sardines having an aggregate ex-vessel price of at least \$40,000.

~~(B) The Commission may waive the landing requirements of section (A)(iii) of this rule if it finds that the failure to meet these requirements is due to the permit holder's illness or injury, or to circumstances~~

beyond the control of the permit holder. Final Orders shall be issued by the Commission and may be appealed as provided in ORS 183.480 through 183.550.

(C) The Commission may, at its discretion, waive the landing requirements of section (A)(iii) of this rule for all limited entry sardine permit holders due to unusual market conditions.

(2) An application for renewal in any limited entry fishery 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~~ **March 1 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 506.119

Stats. Implemented: ORS 506.109, 506.129, and 508.921 through 508.941

Hist.: Adopted 1-11-07; f. & ef. 1-12-07

Option 2

(k) Sardine fishery:

~~[To renew a sardine permit:]~~

~~(A) [Only the permittee may renew a limited entry sardine permit. To renew a sardine p]Permits may be renewed~~ for the following year~~, the permittee must, by December 31 of the current year]:~~

(i) ~~by submitting~~ a complete application to the Department **date-stamped or postmarked by December 31 of the year the permit is sought for renewal and;**

(ii) ~~submitting~~ the logbooks required under OAR 635-006-1110; and

(iii) **the permitted vessel** must have lawfully landed into Oregon, ~~[during]~~**preceding the calendar**~~[current]~~ year **for which the permit is sought for renewal**, either (I) a minimum of 10 landings of sardines of a least 5 metric tons each, or (II) landings of sardines having an aggregate ex-vessel price of at least \$40,000.

(B) The Commission may waive the landing requirements of section (A)(iii) of this rule if it finds that the failure to meet these requirements is due to the permit holder's illness or injury, or to circumstances beyond the control of the permit holder. Final Orders shall be issued by the Commission and may be appealed as provided in ORS 183.480 through 183.550.

(C) The Commission may, at its discretion, waive the landing requirements of section (A)(iii) of this rule for all limited entry sardine permit holders due to unusual market conditions.

(2) An application for renewal in any limited entry fishery 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~~ **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 506.119

Stats. Implemented: ORS 506.109, 506.129, and 508.921 through 508.941

Hist.: Adopted 1-11-07; f. & ef. 1-12-07

ISSUE 2

Senate Bill 241 Implementation

Transfer Limited Entry Fishery Permit Appeals to Commercial Fishery Permit Board.

635-006-0910 (For Developmental Fisheries Program)

Procedures for Issuance, Transfer and Renewal of Developmental Fisheries Species Permits

(1) Applications:

(a) An applicant for a permit must submit a complete application in writing accompanied by an annual fee of \$75. The application shall include the species of fish to be taken, the method and gear proposed to be used, and the area from which the Developmental Fisheries Species are to be taken, the vessel operator, and other information as the Department may require;

(b) Except as listed below, complete applications must be received postmarked or date-stamped by January 1 of the year of issue for new species added to the developmental fishery list in OAR 635-006-0850, and thereafter by the annual filing date of February 1 of the year of issue.

(A) Applications for box crab permits must be postmarked or date-stamped by January 1 of the year of issue; and

(B) Applications for new hagfish permits will be accepted on a first-come, first-serve basis.

(c) An application shall be considered complete if it is legible, has all information requested on 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 the filing date, the individual shall not be considered to have applied in a timely manner;

(d) Before applying for a permit, an applicant must first have obtained the appropriate vessel license (or individual license if permit is issued to individual) for the year the permit will be issued.

(e) Applications for new hagfish permits must include a business plan. The plan format is provided by ODFW. The business plan may include, but is not limited to, a description of vessels and gear currently owned or expected to purchase, identification of the market, and a letter of intent to buy from a processor.

(f) The vessel operator designated in subsection (a) above may change up to twice a year, with at least three work days' notice by the permit holder to ODFW, Newport office.

(2) Number of permits allowed:

(a) An individual shall not submit more than one application, per vessel (or per person for individual permits), for each developmental fishery species gear category;

(b) A permit holder who holds a valid developmental fisheries permit may not apply for any additional permits for the same vessel (or person for an individual permit) and species gear category unless the Department proposes to deny that permit;

(c) If a permit holder who holds a permit at issue either before the ~~[Commission]~~**Commercial Fishery Permit Board** or a court of law, is awarded another permit for the same species gear category through the lottery and thereafter prevails before the ~~[Commission]~~**Commercial Fishery Permit Board** or in court, the permit holder shall immediately surrender one of the permits to any Department office, so that only one valid permit per species gear category is held.

(3) Issuance of permits:

(a) Except for new hagfish permits, if the number of applications received by the filing date is less than the number of permits available, all applicants who have submitted complete applications shall be issued a permit within 14 days of the filing date.

(A) Any remaining permits shall be issued on a first-come, first-served basis, within 14 days of receipt of each completed application, until the maximum number of permits is issued. Priority shall be based on postmark or date-stamped date;

(B) The names of applicants who did not receive a permit shall be placed on an alternates list, in the order they are received, until the next annual filing date. Applicants whose names are placed on the alternates list shall be refunded their permit fee minus a \$10 application fee. Permits which become available before the end of the year shall be made available to the alternates list, in the order listed. The applicant shall be notified of an available permit and shall resubmit a complete application and permit fee within 30 days of the date the notification is mailed. The permit shall be issued within 14 days of receipt of the resubmitted application and fee. If an alternate fails to apply, he shall forfeit the permit and the permit shall then be made available to the next name on the alternates list.

(b) Except for new hagfish permits, if the number of applications received by the filing date is greater than the number of permits available, the Department shall determine first how many applications there are with preference points as accrued under OAR 635-006-0915, except for new species that have qualification restrictions set forth in OAR 635-006-0850. Evidence of landings must be supplied by the applicant and submitted with the application.

(A) If the number of these applicants does not exceed the number of permits, they shall be given all available permits and any remaining applicants shall be placed in a lottery;

(B) If the number of applicants who have preference points exceeds the number of permits, then these applicants only shall be placed in a lottery, and grouped by the number of preference points they have accrued for each species gear category. Applicants with the highest number of preference points for each species gear category will be drawn first. Applicants having the highest number of preference points per species gear category will be drawn next. This permit issuance process will continue through descending numbers of preference points until all the available permits have been issued, unless all qualified applicants with preference points have been issued permits prior to that point. Permits shall be issued within 14 days of the lottery;

(C) In addition, remaining applicants (who do not have preference points) shall be placed in a lottery and their names shall be drawn;

(D) The Department then shall prepare an alternates list, in which applicants who have preference points are listed first (in the order drawn), and thereafter remaining applicants are listed, in the order in which they were drawn. All applicants whose names are placed on the alternates list shall be refunded their permit fee minus a \$10 application fee. Any permits available before the end of the year shall be made available to the first name on the alternates list. The applicant shall be notified of an available permit and shall resubmit a complete application and permit fee within 30 days of the date the notification is mailed. The permit shall be issued within 14 days of receipt of the resubmitted application and fee. If an alternate fails to apply for the lottery permit within 30 days, he shall forfeit such permit and the permit shall then be made available to the next name on the alternates list.

(c) Permits may be made available before the end of the year by a permit holder voluntarily turning in a permit.

(d) A subcommittee of the Developmental Fishery Board shall evaluate the business plans submitted by hagfish fishery applicants to determine if the applicant is likely to actively prosecute the fishery. If more applicants submit acceptable business plans than there are available new permits, then the available permits will be distributed as otherwise specified in subsections (3)(a) and (b) of this rule.

(4) Persons to whom permits are issued: Permits shall be issued to an individual person or entity and assigned to a vessel, except when hand harvest methods are used. The permit holder is the owner or controller of the vessel or the individual person when hand harvest methods are used.

(5) Transfer of permits: Permits for Developmental Fisheries Species are not transferable to another person or entity; provided however that permits may be reassigned to another vessel owned or leased and controlled by the permit holder up to two times annually.

(a) In the event of the death of a permit holder, the permit of the deceased may be issued to an immediate family member as defined by OAR 635-006-0810. Permit transfer shall require a copy of the death certificate and the original permit, and must be requested by the family member to the deceased which shall be presumed by possession of the permit and death certificate.

(b) To reassign the vessel on a permit, a permit holder shall first apply on a form provided by the Department and shall include a \$25 fee;

(c) If the permit holder is not the registered owner of the vessel to which a permit is being reassigned, a copy of a signed lease agreement with the owner of the vessel must accompany the application. The lease agreement must show the permit holder will be in control of the daily activities of the vessel during the time of the lease.

(d) No reassignment shall be effective until the permit holder has received approval from the Department and an updated permit.

(e) If a permit is reassigned to a vessel under the ownership of other than the permit holder, the permit holder or designated vessel operator must be aboard the vessel during harvest activities under the permit.

(6) Renewal of permits:

(a) Permits may be renewed by submission, to the Department, of the appropriate fee and a complete application date-stamped or postmarked before January 1 of the year for which renewal is sought, except renewal applications for box crab permits must be postmarked or date-stamped before December 1 of the year prior to which renewal is sought;

(b) An application for renewal shall be considered complete if it is legible and has all information requested on 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 before the deadline listed in (6)(a) above, the individual shall not be considered to have applied for renewal in a timely manner;

(c) It is the responsibility of the permit holder 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 shall not be grounds for treating the application as having been filed in a timely and complete manner;

(d) In addition to timely and complete filing to renew a permit, a permit holder must annually lawfully land the required pounds and/or landings listed in OAR 635-006-0850. However, if a permit holder obtained a permit later than July 1 of the prior year, the permit holder shall not be required to make the annual landing requirement by the following January. Instead, at the next renewal thereafter, the permit holder shall be required to demonstrate the annual landing requirement was fulfilled during the first full year in which the permit was held.

(e) Landings made by one vessel can not be used for qualification to renew more than one permit per permit category in any given year.

(f) In addition to the above landing requirements, logbooks required under OAR 635-006-0890 must be turned into an ODFW office by the application deadline for renewal of a permit.

(7) Authority of Director: Consistent with OAR 635-006-0810 through 635-006-0950, the Director is authorized to issue Developmental Fisheries Permits under the authority of ORS 506.460.

Stat. Auth.: ORS 506.109 and ORS 506.119
Stats. Implemented: ORS 506.129 and ORS 506.450
Hist.: Adopted 11-04-05, ef. 1-1-06

Review of Denials (For Developmental Fisheries Program)

635-006-0930

(1) ~~[An individual whose application for issuance, renewal or transfer of the permit required by OAR 635-006-0900 is denied by the Department may, within 60 days of receipt of denial, make written request, to the Commission for a hearing for review of the denial. The request shall identify why the permit should be granted.]~~ **A person whose application for issuance, renewal, or transfer of a permit established pursuant to ORS 635-006-0910 is denied may make written request to the Commercial Fishery Permit Board for review of the denial. The review provided in this subsection is in lieu of any such review by the State Department of Fish and Wildlife or the State Fish and Wildlife Commission. The request shall be in such form and shall contain such information as the Board considers appropriate.**

(2) ~~[In accordance with any applicable provisions of ORS 183.310 to 183.550 for conduct of contested cases, a hearings officer shall review the proposed denial by the Department of an application for issuance, renewal or transfer of a permit. The Developmental Fisheries Board is designated as a party to the contested case.]~~ **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 permits if the Board finds that the individual failed to meet the requirements as the result of illness, accident or other circumstances beyond the individual's control.**

(3) A party must petition for **Board**~~Commission~~ 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 Commission may waive landing requirements for renewal of a permit if it finds that failure to meet those requirements was due to illness, injury, or circumstances beyond the control of the permit holder. Final Orders shall be issued by the Commission and may be appealed as provided in ORS 183.0480 to 183.550.]~~ **The Board may delegate to the department its authority to waive requirements for renewal of permits.**

Stat. Auth.: ORS 506.109, 506.119
Stats. Implemented: ORS 506.129, 506.450
Hist.: Adopted 12-10-04, filed 12-13-04 ef. 12-15-04

635-006-1065

Review of Denials

(1) ~~[Except for bay clam dive fishery and sardine fishery permits, an individual]~~Individuals whose application for issuance or renewal of a limited entry permit is denied by the Department may request review of the Department's decision by doing so in writing to the Commercial Fishery Permit Board. The procedure for requesting review and the applicable standard of review shall be as follows:

(a) Gillnet salmon - see ORS 508.796;

(b) Troll salmon - see ORS 508.825;

(c) Shrimp - see ORS 508.910;

(d) Scallop - see ORS 508.867;

(e) Roe-herring - see ORS 508.765. For the roe-herring fishery, the Board may waive requirements for permits if the Board finds that:

(A) The individual for personal or economic reasons chose to actively commercially fish the permit vessel in some other ocean fishery during the roe-herring season; or

(B) The Board finds that the individual failed to meet the requirements as the result of illness, accident or other circumstances beyond the individual's control.

(f) Sea Urchin - see ORS 508.760. For the sea urchin fishery, the Board may waive requirements for permits if the Board finds that failure to meet the requirements was due to illness, injury or circumstances beyond the control of the permittee;

(g) Ocean Dungeness crab - see ORS 508.941. For the Ocean Dungeness crab fishery, a permit holder may request review of the Department's initial crab pot allocation or the Department's denial of replacement of lost buoy tags by doing so in writing to the Commercial Fishery Permit Board. The Board may adjust the number of crab pots allocated to a permit or approve replacement of lost buoy tags as follows:

(A) The Board may adjust the number of crab pots allocated to a permit:

(i) Based on additional landings documentation supplied by permit holder according to criteria under OAR 635-006-1015(1)(g)(E); or

(ii) The crab pot allocation may be increased by one tier as described under OAR 635-006-1015(1)(g)(E) based on circumstances during the qualifying seasons described in OAR 635-006-1015(1)(g)(E) beyond the control of the permit holder which created undue hardship as defined by OAR 635-006-1095(7)(d).

(B) The Board may approve replacement of lost buoy tags due to a catastrophic loss as defined under OAR 635-005-0055(1)(6)(g)(B).

(h) Black rockfish / blue rockfish / nearshore fishery - see ORS 508.960.

(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 \$75 application fee for Board review, the fee is nonrefundable. However, if the Board grants the applicant's request, the nonrefundable 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.

(5) Bay clam dive fishery permit:

~~(a) [An individual whose application for issuance, renewal or transfer of a bay clam fishery permit is denied by the Department may, within 60 days of receipt of denial, make written request, to the Commission, for a hearing for review of the denial. The request shall identify why the permit should be granted.]~~**A person whose application for issuance, renewal, or transfer of a permit established pursuant to 635-006-1075 through 635-006-1095 is denied may make written request to the Commercial Fishery Permit Board for review of the denial. The review provided in this subsection is in lieu of any such review by the State Department of Fish and Wildlife or the State Fish and Wildlife Commission. The request shall be in such form and shall contain such information as the Board considers appropriate.**

~~(b) [In accordance with any applicable provisions of ORS 183.310 to ORS 183.550 for conduct of contested cases, a hearings officer shall review the proposed denial by the Department of an application for issuance, renewal or transfer of a permit.]~~**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 permits if the Board finds that the individual failed to meet the requirements as the result of illness, accident or other circumstances beyond the individual's control.

(c) A party must petition for **Board**~~[Commission]~~ 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.

(d) ~~[Final Orders shall be issued by the Commission and may be appealed as provided in ORS 183.480 to ORS 183.550.]~~**The board may delegate to the department its authority to waive requirements for renewal of permits.**

(6) Sardine fishery permit:

~~(a) [An individual whose application for issuance, renewal or transfer of a sardine fishery permit is denied by the Department may, within 60 days of receipt of denial, make written request, to the Commission, for a hearing for review of the denial. The request shall identify why the permit should be granted.]~~**A person whose application for issuance, renewal or transfer of a permit established pursuant to 635-006-1075 and 635-006-1095 is denied may make written request to the Commercial Fishery Permit Board for review of the denial. The review provided in this subsection is in lieu of any such review by the State Department of Fish and Wildlife or the State Fish and Wildlife Commission. The request shall be in such form and shall contain such information as the Board considers appropriate.**

~~(b) [In accordance with any applicable provisions of ORS 183.310 to 183.550 for conduct of contested cases, a hearing officer shall review the proposed denial by the Department of an application for issuance, renewal or transfer of a permit. The Sardine Advisory Board is designated as a party to the contested case.]~~**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 permits if the Board finds that the individual failed to meet the requirements as the result of illness, accident or other circumstances beyond the individual's control.**

(c) A party, including the Department, must petition for **Board**~~[Commission]~~ review of the hearing officer's proposed order within 30 days of service of the proposed order if the party wants to file an exception to the proposed order. 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.

(d) **The Board may delegate to the department its authority to waive requirements for renewal of permits.**

(e) The Sardine Advisory Group:

(A) Shall consist of members appointed by the Commission as follows:

(i) Three members shall be chosen to represent the sardine industry.

(ii) Two members shall be chosen to represent the public.

(B) Is subject to requirements of OAR 635-006-1200 sections (1) and (2).

(7) Brine shrimp fishery permit:

(a) A person whose application for issuance, renewal, or transfer of a permit established pursuant to 635-006-1075 through 635-006-1095 is denied may make written request to the Commercial Fishery Permit Board for review of the denial. The review provided in this subsection is in lieu of any such review by the State Department of Fish and Wildlife or the State Fish and Wildlife Commission. The request shall be in such form and shall contain such information as the Board considers appropriate.

(b) 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 permits if the Board finds that the individual failed to meet the requirements as the result of illness, accident or other circumstances beyond the individual's control.

(c) 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.

(d) The board may delegate to the department its authority to waive requirements for renewal of permits.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109

Hist.: Adopted 2-9-07, f. & ef. 2-14-07

635-006-1075

Renewal of Permit

(1) An individual who obtained a limited entry permit may renew the permit as follows:

(a) Gillnet salmon - see ORS 508.781;

(b) Troll salmon - see ORS 508.807;

(c) Shrimp - see ORS 508.892;

(d) Scallop - see ORS 508.849;

(e) Roe-herring permit - Permits may be renewed by submission to the Department of a \$75 fee and a complete application;

(f) Sea Urchin permit:

(A) Permits may be renewed by submission to the Department of a \$75 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 annually lawfully landed 5,000 pounds of sea urchins 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 Permit Board actions or surrender of a permit by a permit holder), the permittee shall not be required to make the 5,000 pound landing by the following January. Instead, at the next renewal thereafter, the permittee shall be required to demonstrate that the 5,000 pound landing requirement was fulfilled during the first full year (twelve-month period) in which the permit was held.

(g) Ocean Dungeness crab permit - see ORS 508.941. A permit which is not renewed by December 31 lapses, and may not be renewed for subsequent years.

(h) Black rockfish / blue rockfish / nearshore fishery - see ORS 508.947.

(i) Brine Shrimp permit:

(A) Permits may be renewed by submission to the Department of a \$75 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.

(j) Bay clam dive fishery:

(A) Permits may be renewed by submitting to the Department a \$75 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 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) Logbooks required under OAR 635-006-1110 must be turned into an ODFW office by the application deadline for renewal of a permit.

(D) If a permit is transferred under OAR 635-006-1095(10)(d), annual renewal requirements are waived in the year the transfer occurred.

(k) Sardine fishery:

To renew a sardine permit:

(A) Only the permittee may renew a limited entry sardine permit. To renew a sardine permit for the following year, the permittee must, by December 31 of the current year:

(i) submit a complete application to the Department;

(ii) submit the logbooks required under OAR 635-006-1110; and

(iii) must have lawfully landed into Oregon, during the current year, either (I) a minimum of 10 landings of sardines of a least 5 metric tons each, or (II) landings of sardines having an aggregate ex-vessel price of at least \$40,000.

(B) The ~~[Commission]~~**Commercial Fishery Permit Board** may waive the landing requirements of section (A)(iii) of this rule if it finds that the failure to meet these requirements is due to the permit holder's illness or injury, or to circumstances beyond the control of the permit holder. Final Orders shall be issued by the ~~[Commission]~~**Commercial Fishery Permit Board** and may be appealed as provided in ORS 183.480 through 183.550.

(C) The Commission may, at its discretion, waive the landing requirements of section (A)(iii) of this rule for all limited entry sardine permit holders due to unusual market conditions.

(2) An application for renewal in any limited entry fishery 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, 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 506.119

Stats. Implemented: ORS 506.109, 506.129, and 508.921 through 508.941

Hist.: Adopted 1-11-07; f. & ef. 1-12-07