



COMMERCIAL FISHERIES  
DIVISION 004

**635-004-0170**

**Incidental Catch in Other Fisheries**

A person may operate a vessel in the black rockfish / blue rockfish / nearshore fishery without a permit required by OAR 635-006-1015(1)(j) if the person:

(1) For only one landing per day, lands no more than 15 pounds of black rockfish, blue rockfish, **other** nearshore fish, **as defined in ORS 506.011**, or a combination of black rockfish, blue rockfish or **other** nearshore fish and if the black rockfish, blue rockfish and **other** nearshore fish:

(a) Make up 25 percent or less of the total poundage of the landing; and

(b) Are landed with fishing gear that is legal to use in the fishery in which the black rockfish, blue rockfish or nearshore fish are landed;

(2) Operates a vessel in the ocean troll salmon fishery pursuant to ORS 508.801 to 508.825 and the person lands black rockfish, blue rockfish or a combination of black rockfish and blue rockfish in the same landing in which the person lands a salmon under the permit required by ORS 508.801 to 508.825. The black rockfish or blue rockfish landed under this paragraph must be landed dead. A person who lands black rockfish and blue rockfish under this paragraph may land up 100 pounds of black rockfish, blue rockfish or a combination of black rockfish and blue rockfish per landing.

(3) Lands no more than 15 pounds per vessel of black rockfish, blue rockfish, or a combination of black rockfish and blue rockfish per trip, after the total amount of black rockfish and blue rockfish combined landed in the salmon troll fishery reaches 3000 pounds in any calendar year, except as provided in subsection (4).

(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 or a combination of black rockfish and blue rockfish per calendar year and if the black rockfish and blue rockfish:

(a) Make up 25 percent or less of the total poundage of each landing; and

(b) Are landed dead; or

(5) Is a nonprofit aquarium or has contracted with a nonprofit aquarium to land black rockfish, blue rockfish or nearshore fish for the purpose of displaying or conducting research on the black rockfish, blue rockfish or nearshore fish.

(6) Does not exceed daily, weekly, or period limits as established in OAR 635-004-0033.

Stat. Auth.: ORS 506.109, ORS 506.119

Stats. Implemented: ORS 506.129, ORS 506.450 to ORS 506.465

Hist.:

**635-004-0020**

**Definitions**

As used in [these] **Division 004** regulations, unless the context requires otherwise:

(1) "At-sea processing" means processing that takes place on a vessel or other platform that floats and is capable of being moved from one location to another whether shoreside or on the water.

(2) "DTS complex" includes Dover sole (*Microstomus pacificus*), thornyhead (*Sebastolobus* spp.), and trawl-caught sablefish (blackcod, *Anoplopoma fimbria*).

(3) "Exclusive economic zone" means the zone between 3-200 nautical miles offshore of the United States.

(4) "Fishing gear" includes:

(a) "Beam trawl" means a trawl which is held open by a fixed beam frame;

(b) "Bobbin trawl" means the same as roller trawl, and is a type of bottom trawl;

(c) "Bottom trawl" means a trawl in which the otter boards or the footrope of the net contact the seabed, and includes Danish and Scottish seine gear. It also includes pair trawls fished on the bottom. Any trawl not meeting the requirements for pelagic trawls described in OAR 635-004-0040(5) is a bottom trawl;

(d) "Chafing gear" means webbing or other material attached to the codend of a trawl net to protect the codend from wear;

(e) "Codend" shall be defined as the last 50 mesh length constituting the terminal, closed end of a trawl. The meshes shall be counted forward of the pursing tackle which terminates the codend;

(f) "Double-ply mesh" or "Double-bar mesh" means two lengths of twine tied into a single knot;

(g) "Double-walled codend" means a codend constructed of two walls of webbing;

(h) "Fixed gear" means longline, trap or pot, setnet, and stationary hook-and-line gears;



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- (i) "Gill net" has the meaning as set forth in OAR 635-042-0010;
- (j) "Hook-and-line" means one or more hooks attached to one or more lines;
- (k) "Large footrope trawl gear" is a bottom trawl net with a footrope diameter larger than 8 inches (20 cm) (including rollers, bobbins or other material encircling or tied along the length of the footrope).
- (l) "Longline" means a stationary buoyed, and anchored groundline with hooks attached;
- (m) "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;
- (n) "Nontrawl gear" means all legal commercial groundfish gear other than trawl gear;
- (o) "Pelagic trawl" (midwater or off-bottom) means a trawl in which the otter boards may be in contact with the seabed but the footrope of the net remains above the seabed. It includes pair trawls if fished in midwater. A pelagic trawl has no rollers or bobbins on the net;
- (p) "Pot or trap" means a portable, enclosed device with one or more gates or entrances and one or more lines attached to surface floats;
- (q) "Roller trawl" or "bobbin trawl" are identical, and mean a trawl net with footropes equipped with rollers or bobbins made of wood, steel, rubber, plastic, or other hard material which protects the net and footrope during fishing on the seabed. A roller trawl is a type of bottom trawl;
- (r) "Seine" means any nonfixed net other than a trawl net or gill net;
- (s) "Selective flatfish trawl gear" is a type of small footrope trawl gear. The selective flatfish trawl net must be a two-seamed net with no more than two riblines, excluding the codend. The breastline may not be longer than 3 ft (0.92 m) in length. There may be no floats along the center third of the headrope or attached to the top panel except on the riblines. The footrope must be shorter than 105 ft (32.26 m) in length. The headrope must be at least 30% longer in length than the footrope. An explanatory diagram of a selective flatfish trawl net is provided as Figure 1 of Part 660, Subpart G in Title 50 Code of Federal Regulations.
- (t) "Set net" means a stationary, buoyed and anchored gill net or trammel net;
- (u) "Single-walled codend" means a codend constructed of a single wall of webbing knitted with single or double-ply mesh;
- (v) "Small footrope trawl gear" is a bottom trawl net with a footrope diameter of 8 inches (20 cm) or smaller (including rollers, bobbins or other material encircling or tied along the length of the footrope). Other lines or ropes that run parallel to the footrope must not be augmented with material encircling or tied along their length such that they have a diameter larger than 8 inches (20 cm). For enforcement purposes, the footrope will be measured in a straight line from the outside edge to the opposite outside edge at the widest part on any individual part, including any individual disk, roller, bobbin, or any other device.
- (w) "Trammel net" means a gill net made with two or more walls joined to a common float line;
- (x) "Trawl net" means a cone or funnel-shaped net which is towed or drawn through the water by one or two vessels. Trawl nets are used both on bottom and off bottom. They may be fished with or without trawl doors. They may employ warps or cables to herd fish. Trawl nets are restricted to beam trawl, bobbin or roller trawl, bottom trawl and pelagic trawl;
- (y) "Trawl riblines" means heavy rope or lines that run down the sides, top, or underside of a trawl net from the mouth of the net to the terminal end of the codend to strengthen the net during fishing;
- (z) "Troll" [~~has the meaning as set forth in OAR 635-003-0010~~]**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;**
- (aa) "Vertical hook and line (Portuguese longline)" 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.
- (5) "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, Parts 660 and 663.
- (6) "Inland waters" means all waters of the state except the Pacific Ocean.
- (7) "Land, landed, or landing" means to begin transfer of fish from a fishing vessel. Once transfer begins, all fish aboard the vessel are counted as part of the landing.
- (8) "Length, total" 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.
- (9) "Board" means the Developmental Fisheries Board appointed by the Commission.**
- (10) "Commission" means the Oregon Fish and Wildlife Commission.**
- (11) "Department" means the Oregon Department of Fish and Wildlife.**
- (12) "Developed fishery" means a fishery where the level of participation, catch, and effort indicate the fishery has approached optimum sustained yield and/or there is sufficient biological information.**



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**information on harvest methods, gear types, and markets to develop a long-term management plan for the species.**

**(13) "Developmental fisheries species" means food fish species adopted by the Commission to be managed under the Developmental Fisheries Program.**

**(14) "Director" means the Director of the Oregon Department of Fish and Wildlife.**

([9]15) Management lines include:

- (a) "Cape Arago" means a line extending due west at 43 degrees 20 minutes 50 seconds north latitude;
- (b) "Cape Blanco" means a line extending due west at 42 degrees 50 minutes 00 seconds north latitude;
- (c) "Cape Falcon" means a line extending due west at 45 degrees 46 minutes 00 seconds north latitude;
- (d) "Cape Lookout" means a line extending due west at 45 degrees 20 minutes 15 seconds north latitude;
- (e) "Cascade Head" means a line extending due west at 45 degrees 03 minutes 50 seconds north latitude;
- (f) "Heceta Head" means a line extending due west at 44 degrees 08 minutes 18 seconds north latitude;
- (g) "Humbog Mountain" means a line extending due west at 42 degrees 40 minutes 30 seconds north latitude;
- (h) "Mack Arch" means a line extending due west at 42 degrees 13 minutes 40 seconds north latitude.

([40]16) "Ocean food fish" includes all saltwater species of food fish except salmon, halibut, and shellfish whether found in fresh or salt water.

([44]17) "Pacific Ocean" means all water seaward of the end of the jetty or jetties of any river, bay, or tidal area, except in the Columbia River the Pacific Ocean has the definition prescribed 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.

([42]18) "Rockfish" includes:

- (a) aurora rockfish, *Sebastes aurora*;
- (b) bank rockfish, *S. rufus*;
- (c) black rockfish, *S. melanops*;
- (d) black and yellow rockfish, *S. chrysomelas*;
- (e) blackgill rockfish, *S. melanostomus*;
- (f) Blue rockfish, *S. mystinus*;
- (g) bocaccio, *S. paucispinis*;
- (h) bronzespotted rockfish, *S. gilli*;
- (i) brown rockfish, *S. auriculatus*;
- (j) calico rockfish, *S. dalli*;
- (k) California scorpionfish, *Scorpaena quttata*;
- (l) canary rockfish, *Sebastes pinniger*;
- (m) chilipepper, *S. goodei*;
- (n) China rockfish, *S. nebulosus*;
- (o) copper rockfish, *S. caurinus*;
- (p) cowcod, *S. levis*;
- (q) darkblotched rockfish, *S. crameri*;
- (r) dusty rockfish, *S. ciliatus*;
- (s) flag rockfish, *S. rubrivinctus*;
- (t) gopher rockfish, *S. carnatus*;
- (u) grass rockfish, *S. rastrelliger*;
- (v) greenblotched rockfish, *S. rosenblatti*;
- (w) greenspotted rockfish, *S. chlorostictus*;
- (x) greenstriped rockfish, *S. elongatus*;
- (y) harlequin rockfish, *S. variegatus*;
- (z) honeycomb rockfish, *S. umbrosus*;
- (aa) kelp rockfish, *S. atrovirens*;
- (bb) longspine thornyhead, *Sebastolobus altivelis*;
- (cc) Mexican rockfish, *Sebastes macdonaldi*;
- (dd) olive rockfish, *S. serranoides*;
- (ee) Pacific ocean perch, *S. alutus*;
- (ff) pink rockfish, *S. eos*;
- (gg) quillback rockfish, *S. maliger*;
- (hh) redbanded rockfish, *S. babcocki*;
- (ii) redstripe rockfish, *S. proriger*;
- (jj) rosethorn rockfish, *S. helvomaculatus*;



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- (kk) rosy rockfish, *S. rosaceus*;
- (ll) roughey rockfish, *S. aleutianus*;
- (mm) sharpchin rockfish, *S. zacentrus*;
- (nn) shortbelly rockfish, *S. jordani*;
- (oo) shortraker rockfish, *S. borealis*;
- (pp) shortspine thornyhead, *Sebastolobus alascanus*;
- (qq) silvergray rockfish, *Sebastes brevispinis*;
- (rr) speckled rockfish, *S. ovalis*;
- (ss) splitnose rockfish, *S. diploproa*;
- (tt) squarespot rockfish, *S. hopkinsi*;
- (uu) starry rockfish, *S. constellatus*;
- (vv) stripetail rockfish, *S. saxicola*;
- (ww) tiger rockfish, *S. nigrocinctus*;
- (xx) treefish, *S. serriceps*;
- (yy) vermilion rockfish, *S. miniatus*;
- (zz) widow rockfish, *S. entomelas*;
- (aaa) yelloweye rockfish, *S. ruberrimus*;
- (bbb) yellowmouth rockfish, *S. reedi*.

[43]19 "Sebastes complex" means all rockfish managed by the **Pacific Coast Groundfish Fishery Management Plan** except Pacific ocean perch (*Sebastes alutus*), widow rockfish (*S. entomelas*), shortbelly rockfish (*S. jordani*), and thornyhead (*Sebastolobus* spp.). The *Sebastes* complex includes yellowtail rockfish (*Sebastes flavidus*).

[44]20 "Shore-based (shoreside) processors" means any facility where fish will be processed which is fixed permanently to land.

[45]21 "Tender" means any vessel that buys or obtains fish directly from a catching vessel and transports it to a port of landing or fish dealer.

[46]22 "Trip limit" means the total allowable amount of a groundfish species or species complex, by weight, or by percentage of fish on board, that may be taken and retained, possessed, or landed per vessel from a single fishing trip. 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:

(a) "Daily trip limit" means the maximum amount that may be taken and retained, possessed, or landed per vessel in 24 consecutive hours, starting at 0001 hours local time. Only one landing of groundfish may be made in that 24-hour period;

(b) "Cumulative trip limit" means the maximum amount that may be taken and retained, possessed, or landed per vessel in a specified period of time, without a limit on the number of landings or trips. Cumulative trip limits apply to calendar months.

Stat. Auth.: ORS 496.138 and 506.119

Stats. Implemented: ORS 496.162 and 506.129

Hist.: Adopted

### 635-004-0060

#### Fishing Gear

(1) It is *unlawful* to take shad for commercial purposes by any means other than:

(a) Gill nets or setnets of a mesh size not less than five inches nor more than 6-1/2 inches in the Coos, Coquille, and Siuslaw Rivers, except that in Coos Bay, the use of any setnet downstream of a straight line from the red blinking light on the south bank at the east end of the Marshfield Channel to the green blinking light at the east end of the Marshfield Channel just off the northwesterly end of Bull Island, and a straight line from the same green blinking light across the northernmost tip of Bull Island to the east bank of Cooston Channel is prohibited;

(b) Gill nets having a mesh size of not less than six inches nor more than 6-3/4 inches in the Umpqua River;

(c) Gill nets or setnets of a mesh size not less than six inches nor more than 6-3/4 inches in the Smith River, a tributary of the Umpqua.

(2) "Gill net" includes drift net or floater net and means a mesh net which takes fish commonly by gilling, having cork and lead lines and which is in a position to drift with the tide or current at all times in the waters in which it is being fished.



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(3) It is *unlawful* for a gill net in whole or in part to be anchored, tied, staked, fixed, or attached to the bottom, shore, or a beached boat; left unattended at any time it is in operation; attended by more than one boat while being fished; or for more than one gill net to be fished from a licensed commercial fishing boat at any one time.

(4) There shall be sufficient buoyancy in the corks and/or floats on the cork line of any gill net so that said net shall be free to drift with the current. None of the lines used thereon shall be of metal or of any metallic substance or material. The lead or weight on the lead line of any gill net shall not exceed two pounds in total weight on any one fathom, measurement to be taken along the cork line of said net. However, should extra or additional weight appear necessary or make practical the operation of any such net, permission to use in excess of two pounds-weight per fathom of net may be granted by the Commission to any duly licensed gill net ~~fisherman~~fisher upon written application which includes an adequate justification for the additional leads or weights of any kind attached to any part of such net except as herein provided.

(5) "Setnet" means a net which takes fish commonly by gilling and which in operation is set or anchored in a fixed position to a specific location and is not free to move or drift with the current or tide.

(6) Before a ~~fisherman~~fisher may fish a setnet at any one location, ~~he~~the fisher must first register the site by providing a written description of the site location to the Department of Fish and Wildlife, Southwest Regional Office, 4192 N. Umpqua Highway, Roseburg, OR 97470.

(7) It is *unlawful* for a:

(a) Setnet or gill net which is constructed of material having a breaking strength greater than 24 pounds pull on any single mesh to be used during the 1977 coastal rivers shad season;

(b) Setnet or gill net which is constructed of material having a breaking strength greater than ten pounds pull on any single mesh to be used beginning with the 1978 coastal rivers shad season;

(c) Setnet to be used which exceeds 300 feet in length;

(d) Setnet or any part or portion thereof to be set or operated within a distance of 150 feet from any other setnet or any part or portion thereof including the monument or marker to which attached;

(e) Setnet to be set or operated in such a manner that the portion of the setnet at right angles to the thread of the bay or river is at any time longer than one-third the measured distance across the bay or river. This distance to be measured from bank to bank at mean low water;

(f) Commercial ~~fisherman~~fisher to register and operate more than six setnet sites at any one time;

(g) Commercial ~~fisherman~~fisher to fish a setnet at a site which ~~he~~the fisher has not registered with the Department of Fish and Wildlife;

(h) Commercial ~~fisherman~~fisher to fish a setnet at a site which is not clearly marked with his commercial fishing license number on a substantial post or monument created for that purpose on the bank of the river or upon a buoy securely anchored on the site location.

(8) The size of mesh of any gill net or setnet is determined by placing any three meshes of such net, while wet from soaking in water for not less than an hour, under ten pounds vertical tension and then measuring while under such tension the distance between the inside of the knot of the middle mesh to the outside of the opposite vertical knot of the middle mesh.

Stat. Auth.: ORS 506.119 and 506.129

Stats. Implemented:

Hist.:

### 635-004-0135

#### Declaration

(1) The vessel operator of any vessel participating in the far offshore fishery intending to land fish or fish products in Oregon shall notify the Department of any such fishing trip at least 48 hours prior to leaving port by writing to the Oregon Department of Fish and Wildlife, Building #3, Marine Science Drive, Newport, OR 97365, or by calling 503-867-4741 during regular business hours Monday through Friday. Such declaration shall include the area to be fished and the intended port of landing, including the identification of the processor to whom delivery will be made.

(2) In addition, 24 hours or more prior to landing, the vessel operator shall notify the Department, at the telephone number listed above, during regular business hours, or the Oregon State Police at other times, telephone number ~~503-238-8434~~1(800)452-7888, of the following:

(a) Vessel name and documentation number;

(b) Estimated time of arrival;

(c) Port of landing;

(d) Processor's location; and



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(e) Estimated weight of fish on board.

Stat. Auth.: ORS 496.138, 496.162, 506.119 and 506.129

Stats. Implemented:

Hist.:



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COMMERCIAL FISHERIES  
DIVISION 005  
COMMERCIAL SHELLFISH FISHERY

General

635-005-0001

**Clams and Mussels for Bait**

(1) As used in [this] **Division 005** [section] **regulations**:

- (a) "bait" means clams or mussels not harvested for human consumption;
  - (b) "biotoxin" means naturally occurring shellfish toxins monitored by the Oregon Department of Agriculture;
  - (c) "health closure area" means an area closed to the public due to health risks of consuming shellfish from the area;
  - (d) "live boxed" means any type of container used to hold or store clams/mussels in the water;
  - (e) "open area" means an area approved by the Oregon Department of Agriculture for the harvest of clams or mussels for human consumption;
  - (f) "restricted area" means an area closed or prohibited to commercial harvest of shellfish by the Oregon Department of Agriculture for the harvest of clams or mussels for human consumption by commercial shellfish harvesters.
  - (g) "shellfish sanitation certificate" means a license required by Oregon Department of Agriculture to engage in business of harvesting shellfish for human consumption;
- (2) It is *unlawful* to take clams or mussels for any commercial purpose from a health closure area closed for biotoxins.
- (3) It is *unlawful* for any person to sell shellfish for human consumption:
- (a) taken from an area designated as restricted by the Oregon Department of Agriculture; or
  - (b) taken without a shellfish sanitation certificate from the Oregon Department of Agriculture.
- (4) Clams and mussels taken as bait must be visibly dyed with a Department of Fish and Wildlife-approved dye;
- (a) Dyeing must occur before leaving the harvest area, before being transported by vehicle, or before the time of docking of the vessel used in harvesting;
  - (b) Clams and mussels taken for bait may not be possessed aboard a vessel while clams and mussels for human consumption are on board. Upon leaving the vessel or the harvest area, clams and mussels taken as bait may not be mixed with clams and mussels taken for human consumption.
  - (c) Prior to sale, clams or mussels taken from restricted areas and live boxed must be stored in a restricted area pending sale.
  - (d) Clams or mussels taken for human consumption and later sold as bait must be dyed at the time of sale to a bait dealer.

**(5) "Board" means the Developmental Fisheries Board appointed by the Commission.**

**(6) "Commission" means the Oregon Fish and Wildlife Commission.**

**(7) "Department" means the Oregon Department of Fish and Wildlife.**

**(8) "Director" means the Director of the Oregon Department of Fish and Wildlife.**

Stat. Auth.: ORS 506.109, 506.119 and 506.129

Stats. Implemented: ORS 506.129

Hist.: Adopted 6-7-02, f. & cert. ef. 6-14-02

635-005-0045

**Closed Season in Pacific Ocean and Columbia River**

- (1) In addition to any closures described in Section 3, it is *unlawful* to take, land or possess Dungeness crab for commercial purposes from the Pacific Ocean or Columbia River from August 15 through November 30.
- (2) It is *unlawful* prior to January 1 to land or to receive, or to buy, Dungeness crab from a vessel that has not been certified by officials of the State of Oregon, Washington, or California to have been free of Dungeness crab on November 30, except as provided in section (3)(b) of this rule.
- (3) Delay of Season Openings:
  - (a) The Northern Zone is bounded on the north by Gray's Harbor (at Oyehut) and on the south by Cascade Head, Oregon: Upon a determination by the Department that preseason sampling indicates the consistent presence of more than 50 percent Grade II and III (softshell) crab in the samples, the Fish and Wildlife Director, in consultation with the Washington Department of Fish and Wildlife, may adopt a temporary rule delaying the opening date of



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the commercial crab season in all or part of the Northern Zone area until additional sampling indicates meat recovery is 23 percent or is projected to be 23 percent by the opening date.

(b) The Southern Zone is bounded on the north by Cascade Head and on the south by Point Arena: Upon a determination by the Department that preseason sampling indicates meat recovery is projected to be less than 25 percent by December 1 in the Oregon portion of the Southern Zone, the Fish and Wildlife Director shall delay the opening date of the commercial crab fishery in all or part of the Oregon portion of the zone for 15 days and re-open December 16.

(4) In the event the season in the Northern Zone or Southern Zone is delayed, the following applies:

(a) The Director shall adopt rules identifying the boundary between, or within, the Northern and Southern zones. The boundary between or within the zones shall take into account the existence of traditional fishing patterns;

(b) If the opening date for a season is delayed for either zone, or part of a zone, ~~fishermen~~ **fishers** electing to fish in a zone or part of a zone with a December 1 opening date may not fish in an area with the delayed opening date within the first 30 days of the delayed opening date;

(c) For the first 30 days of a fishing zone season, vessels electing to fish a zone shall be certified by officials of the State of Oregon, Washington or California to have been free of Dungeness crab on the day immediately prior to the opening day of the selected fishing zone. At the time of vessel inspection, the vessel operator shall certify the vessel has not been used to take crab in the selected fishing zone.

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

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.129

Hist.: Adopted

### 635-005-0047

#### Possession and Landing Limits

(1) It is *unlawful*, from the second Monday in June through August 14, for any permitted ocean Dungeness crab vessel to take, land or possess more than 1200 pounds of Dungeness crab per week from the Pacific Ocean and Columbia River.

(2) Landing Dungeness crab legally taken from the Pacific Ocean and Columbia River is allowed in Oregon with a valid Oregon Dungeness crab permit.

(3) Commercial fishers must retain copies of fish landing receipts for a minimum of 90 days on board vessels landing Dungeness crab under the cumulative catch limit described in section (1) of this rule. The receipts must be available for inspection by authorized enforcement officials and by employees of Oregon Department of Fish and Wildlife (ODFW). Legal landing receipts are defined in section (4).

(4) For purposes of this rule, the following definitions apply:

(a) "Landing" and "Land" means to begin transfer of Dungeness crab from a fishing vessel. Once transfer begins, all Dungeness crab aboard the vessel are counted as part of the landing;

(b) "Landing receipt" means either an ODFW-issued Fish Receiving Ticket or a fish dealer dock ticket identified with a fish dealer's logo or letterhead and that must include the following:

(A) Fish dealer's name and dealer license number;

(B) Date of ~~receipt~~ **landing** of the Dungeness crab;

(C) Name of fisher from whom the Dungeness crab were purchased;

(D) Vessel name, vessel license number, and the federal document or State Marine Board number of the vessel from which catch was made;

(E) Port name of landing;

(F) Fishing gear used by the fisher;

(G) Gross pounds of Dungeness crab received and price paid per pound; and

(H) Signature of both the fisher making the landing and the individual preparing the dock ticket.

(c) "Week" means the period beginning 12:01 a.m. local time Monday through 12 midnight Sunday.

Stat. Auth.: ORS 506.109, ORS 506.119 and ORS 506.129

Stats. Implemented: ORS 506.129

Hist.:





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### 635-005-0048

#### Reporting Requirements

All commercial ~~fisherman~~**fisher** landing Dungeness crab must report the area of primary catch to the dealer at the time of landing.

Stat. Auth.: ORS 506.119 and ORS 506.129

Stats. Implemented: ORS 506.129

Hist.:

### 635-005-0063

#### Tanner and Box Crab Taken in Trawl Nets

Notwithstanding OAR 635-005-0065, permits may be issued to land Tanner crab and box crabs taken as incidental catch in trawl nets outside Oregon waters.

Stat. Auth.: ORS 506.119 and 506.129

Stats. Implemented: ORS 506.129

Hist.: FWC 30-1985, f. 6-27-85, ef. 7-1-85

### 635-005-0064

#### Closed Season

(1) Except as authorized under a Developmental Fisheries Species Permit (OAR 635-006-0900), it is *unlawful* to take Tanner, Oregon hair, and scarlet king crab from the Pacific Ocean from November 1 until the opening of the next ocean Dungeness crab season in that area.

(2) It is *unlawful* to retain red rock and box crab when the Dungeness crab fishery is closed (635-005-0045).

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109, 506.129 and 506.450 through 506.465

Hist.: Adopted 1-11-08, f. & cert. ef. 1-23-08

### 635-005-0065

#### Fishing Gear

(1) Except as provided in OAR 635-005-0063, it is unlawful to take, Tanner, Oregon hair, and scarlet king crab for commercial purposes except by **crab** rings, **crab** pots, and crab **pot** longline gear. **Crab [R]rings** are defined as any fishing device that allows crab unrestricted entry or exit while fishing. **Crab [P]pots[;]** and crab **pot** longline gear must comply with the provisions contained in OAR 635-004-0035.

(2) Except as provided in OAR 635-005-0063, it is unlawful to take red rock and box crab for commercial purposes except by **crab** rings and **crab** pots~~[-gear]~~. **Crab [R]rings** and **crab** pots ~~[gear]~~ must comply with the provisions contained in OAR 635-005-0055.

Stat. Auth.: ORS 506.119 and 506.129

Stats. Implemented: ORS 506.129

Hist.:

### 635-005-0066

#### Fishing Area

It is *unlawful* to take Tanner, Oregon hair, and scarlet king crab from the Pacific Ocean shoreward of the 40 fathom contour line.

Stat. Auth.: ORS 506.119 and 506.129

Stats. Implemented: ORS 506.129

Hist.: Adopted 1-11-08, f. & cert. ef. 1-23-08



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### 635-005-0067

#### Size and Sex

There are no size or sex restrictions for the taking of red rock, box and Tanner crab; however, these crab may not be mutilated before landing so that species cannot be determined.

Stat. Auth.: ORS 506.119 and 506.129

Stats. Implemented: ORS 506.129

Hist.: FWC 30-1985, f. 6-27-85, ef. 7-1-85

### 635-005-0090

#### Closed Season

(1) It is *unlawful* to take intertidal animals and mussels for commercial purposes without first obtaining a permit issued by the Department of Fish and Wildlife of Oregon.

(2) Commercial permits will not be issued to other than licensed commercial or bait ~~fishermen~~fishers.

(3) Application for a permit may be submitted by letter or on the appropriate Department of Fish and Wildlife form. Letter applications must include the following:

- (a) Name and address of applicant;
- (b) Commercial or bait fishing license number of applicant;
- (c) Species to be collected;
- (d) Collecting period;
- (e) Collecting areas.

(4) Applications should be mailed to: Marine Regional Office, Oregon Department of Fish and Wildlife, Marine Science Drive Bldg. No. 3, Newport, Oregon 97365.

Stat. Auth.: ORS 506.119 and 506.129

Stats. Implemented: ORS 506.129

Hist.:



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### DIVISION 006

#### COMMERCIAL FISHERIES COMMERCIAL GEAR; LICENSES, POUNDAGE FEES, RECORDS AND REPORTS

##### 635-006-0001

##### Definitions

For the purposes of OAR 635-006-0001 through 635-006-1210:

- (1) "Commercial fishing license" means ~~[these things]~~ the commercial fishing licenses required by ORS 508.235 and, for purposes of the Limited Fish Seller Permit, includes an Albacore Tuna Landing License.
- (2) "Fair market value" shall be based on the market price of food fish or shellfish at the same time and place that the fish are landed, or the price established in OAR 635-006-0232 when the market price cannot be determined. For species not listed in OAR 635-006-0232, fair market value shall be based on the average price per pound paid to law enforcement officials for any fish or shellfish confiscated from persons landing legal overages, or the average ex-vessel price per pound paid for that species in that port during the month in which the overage occurred, whichever is greater. Unless otherwise noted, the fair market value is the price per pound and is based on round weight.
- (3) "Fish buyer" means an individual employed by a wholesale fish dealer or food fish canner to purchase or receive food fish or shellfish from commercial ~~[fishermen]~~ fishers at locations other than the licensed premises of the wholesale fish dealer or food fish canner.
- (4) "Fish-buying station" means a location other than the licensed premises of a wholesale fish dealer or food fish canner at which such wholesale fish dealer or food fish canner purchases or receives food fish or shellfish from commercial ~~[fishermen]~~ fishers.
- (5) "Food fish canner" means a wholesale fish dealer who cans food fish including shellfish in hermetically sealed containers whereby no further preservation, artificial or otherwise, is required.
- (6) "Harvester" means any person legally authorized to take food fish for commercial purposes.
- (7) "Import" means to transport into Oregon from outside the State of Oregon.
- (8) "Land" or "landing" means to begin transfer of fish from a fishing vessel. Once transfer begins, all fish aboard the vessel are counted as part of the landing.
- (9) "Landing fees" means all fees due to the Department based on the pounds of fish or value of fish landed.
- (10) "Limited fish seller" means any person who holds a valid Oregon commercial fishing license and who has obtained an annual limited fish seller permit which enables ~~[him/her]~~ the fisher to sell any species of food fish, taken in lawful activity directly from ~~[his/her]~~ the fisher's boat, pursuant to ORS 508.550.
- (11) "Limited fish seller – nontreaty Columbia River Gillnet Salmon Vessel Permit fishery" means a person who holds a valid Oregon commercial fishing license, a Columbia River Gillnet Salmon Vessel Permit, and who has obtained an annual limited fish seller permit which enables ~~[him/her]~~ the fisher to sell any species of food fish, taken in lawful activity directly from ~~[his/her]~~ the fisher's boat or at locations away from the boat.
- (12) "Nonreporting fish dealer" means a wholesale fish dealer or fish bait dealer who buys food fish exclusively from other wholesale fish dealers or bait dealers.
- (13) "Overage" means any landing or portion of a landing that exceeds groundfish trip limits. Groundfish trip limits are approved by Pacific Fisheries Management Council and implemented by the National Marine Fisheries Service.
- (14) "Possession" means holding any food fish, shellfish or parts thereof in a person's custody or control.
- (15) "Processing" means smoking, reducing, loining, steaking, pickling, filleting, or fresh packaging requiring freezing of food fish, or any part thereof. (Does not include cooking crab.)
- (16) "Processor" means a person who buys fresh food fish from a licensed commercial fisher or a wholesale fish dealer and processes food fish for sale through retail outlets or for sale to the ultimate consumer.
- (17) "Purchase" means to obtain by paying money or its equivalent, trade, or barter.
- (18) "Receive" or "Receiving" means to take or come into possession of.
- (19) "Retail fish bait dealer" means a person who buys fresh food fish or shellfish from a wholesale fish dealer or wholesale fish bait dealer, and sells to the ultimate consumer for use as bait.
- (20) "Retail fish dealer" means a person who buys fresh food fish or shellfish from wholesale fish dealers, undertakes limited processing activity (limited to loining of tuna, filleting, smoking, steaking, or pickling food fish or shellfish), and sells only to the ultimate consumer.
- (21) "Retain" means to keep in possession or use.



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(22) "Shellfish canner" means a wholesale fish dealer who cans only shellfish in hermetically sealed containers whereby no further preservation, artificial or otherwise, is required.

(23) "Transport" means, for purposes of OAR 635-006-0165, to move the food fish after landing.

(24) "Ultimate consumer" means the party that utilizes the product as food, including restaurants.

(25) "Value" means the monetary value of the food fish, or parts thereof, including eggs and other by-products, at the point of landing as usually determined by the first exchange between the harvester and the first purchaser. In addition:

(a) Value is typically the amount of money which the first purchaser pays at the time and place that the fish are off-loaded from a vessel, or brought to shore if there is no vessel involved in harvesting, before any reductions or deductions in the amount of money as a result of the dealer furnishing ice, fuel, food or other commodities; and

(b) Value includes bonuses and other payments based directly on the quantity or quality of food fish exchanged, regardless of the time of payment of such bonuses or other payments; and

(c) Value includes any payments based on the proportion or percentage of processed products recovered from the food fish landed in the round or other form; and

(d) Value for food fish not sold by the harvester is the value received for comparable fish sold to a wholesale fish dealer at the same time and place that the fish are landed; and

(e) Value for food fish purchased from a harvester, by the harvester when acting as a wholesale fish dealer, is the price that is or would be paid to any other harvester for the same fish; and

(f) Value for food fish sold by a limited fish seller is the retail price received by the harvester from the first purchaser; and

(g) Value for food fish imported from out of state but not previously taxed out of state is the price paid for the fish by the first Oregon purchaser.

(26) "Wholesale fish bait dealer" means a person who buys food fish or shellfish, or parts thereof, from a licensed commercial ~~fisherman~~**fisher**, licensed commercial bait ~~fisherman~~**fisher**, or licensed angler, and sells or uses such food fish or shellfish for bait, scientific or educational purposes, or live public display.

(27) "Wholesale fish dealer" means a person who:

(a) Buys food fish or shellfish from a commercial ~~fisherman~~**fisher**; or

(b) Processes food fish or shellfish or any part thereof; or

(c) Sells food fish or shellfish to retail dealers or other wholesale fish dealers.

**(28) "Board" means the Developmental Fisheries Board appointed by the Commission.**

**(29) "Commission" means the Oregon Fish and Wildlife Commission.**

**(30) "Department" means the Oregon Department of Fish and Wildlife.**

**(31) "Director" means the Director of the Oregon Department of Fish and Wildlife.**

Stat. Auth.: ORS 506.119 and 513.020

Stats. Implemented: ORS 506.129, 508.025, 508.040, 508.550

Hist.:

### 635-006-0132

#### Limited Fish Seller Permit

(1) The permit referred to in ORS 508.550 shall be available to commercial ~~fishermen~~**fishers** who hold a valid commercial fishing license, including albacore tuna landing license, and who sell the catch off ~~his/her~~**their** own vessel, or a vessel operated by ~~him/her~~**the fisher**.

(2) It is *unlawful* under this permit to sell any food fish or shellfish from a vessel which were not taken by that vessel.

(3) Prior to selling food fish from their vessel, the holder of a Limited Fish Seller Permit must notify the ~~Oregon~~ Department ~~of Fish and Wildlife~~ of the estimated number of food fish on board the vessel and the location where sales are to take place. Completion of a fish ticket prior to selling with the estimated number of fish on board and completion of the Limited Fish Seller Permit application which identifies location from which the sales occur constitutes the required notice. Change in location of sales from that reported in the Limited Fish Seller Permit application must be reported to ~~Oregon~~**the** Department~~of Fish and Wildlife~~.

(4) Dressed fish must have an established dressed to round weight conversion factor.

(5) After the sale of and reporting of whole or dressed food fish, a limited fish seller may conduct or allow limited processing on his/her boat (limited to loining or filleting) of food fish or any part thereof for the ultimate consumer.

~~[Dressed fish must have an established dressed to round weight conversion factor.]~~



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Stat. Auth.: ORS 506.119 and 513.020  
Stats. Implemented: ORS 506.129, 508.025, 508.040 and 508.550  
Hist.:

**635-006-0133**

**Limited Fish Seller Permit – Non-Treaty Columbia River Gillnet Salmon Vessel Permit Fishery Pilot Program**

- (1) The permit referred to in ORS 508.550 and as authorized by HB3094 (2003) shall be available to commercial ~~[fishermen]~~ **fishers** who hold a valid commercial fishing license and a Columbia River Gillnet Salmon Vessel Permit (Columbia River Gillnet Permit) and who sell the catch off ~~[his/her]~~ **the fisher's** own vessel, or a vessel operated by ~~[him/her]~~ **the fisher** or at locations away from the vessel.
- (2) It is *unlawful* under this permit to sell any food fish or shellfish from a vessel or at locations away from the vessel which were not taken by the licensed vessel.
- (3) Prior to selling food fish away from their vessel, the holder of a Limited Fish Seller Permit and a Columbia River Gillnet Permit must complete and forward a fish receiving ticket at the time of landing in accordance with OAR 635-006-0210 and 635-006-0212 and must notify the ~~[Oregon]~~ Department ~~[of Fish and Wildlife]~~ of the location where sales are to take place. Compliance with these rules prior to selling and completion of the Limited Fish Seller Permit application which identifies location from which the sales occur and port of landing constitutes the required notice. Change in location of sales from that reported on the Limited Fish Seller Permit application must be reported to **the** ~~[Oregon]~~ Department ~~[of Fish and Wildlife]~~.
- (4) The permittee may designate other persons to sell fish at locations away from the vessel that were taken by the licensed vessel. The designees must carry a copy of the permit during sales. A copy of the fish receiving ticket or a signed statement pursuant to ORS 509.110 must accompany the permittee and designees while transporting and selling fish. The permittee will also designate on the fish ticket or sworn statement the location the fish are to be sold.
- (5) After the sale of and reporting of whole or dressed food fish, a limited fish seller may conduct or allow limited processing (limited to loining or filleting) of food fish or any part thereof for the ultimate consumer.
- (6) Activities conducted pursuant to this permit must be in accordance with the state Department of Agriculture licensing and food safety regulations.
- (7) This authority expires January 2, 2008.

Stat. Auth.: ORS 506.119 and 513.020  
Stats. Implemented: 506.129, 508.025, 508.040, 508.550, HB3094 (2003)  
Hist.:

**635-006-0145**

**Commercial Fishing License**

- (1) A commercial fishing license is issued in accordance with ORS 508.035 and 508.235 of the commercial fishing laws and is required for each individual who for commercial purposes:
  - (a) Takes or assists in the taking of any food fish or shellfish from the waters or land of this state;
  - (b) Operates or assists in the operation of any boat or fishing gear for the taking of food fish in the waters of this state; or
  - (c) Lands food fish from the waters of the Pacific Ocean at any point in this state.
- (2) A commercial fishing license shall be in the possession of the licensee when engaged in the taking or landing of food fish or shellfish when taken for commercial purposes.
- (3) It is *unlawful* for a licensed commercial ~~[fisherman]~~ **fisher** to keep any food fish or shellfish taken under such license for personal use.

Stat. Auth.: ORS 506.109, 506.119 and 506.129  
Stats. Implemented: ORS 506.109, 506.119 and 506.129  
Hist.:

**635-006-0150**

**Single Delivery License**

- (1) The single delivery license is issued in accordance with ORS 508.035 for a one-time landing of food fish and is in lieu of the commercial fishing and boat license described in OAR 635-006-014 0 and 635-006-0145. Where



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"commercial fishing license" is used in ORS 508.235 and "boat license" is used in ORS 508.260, this license may be substituted.

(2) In the absence of a commercial fishing and boat license, it is *unlawful* to engage in the taking or landing of food fish in waters of this state without a single delivery license.

(3) No food fish shall be removed from a boat requiring a single delivery license until the fee for such license is received and such license has been issued by an authorized agent of the Department~~[of Fish and Wildlife]~~. The license shall be on board the boat and available for inspection by the Oregon State Police or a representative of the Department~~[of Fish and Wildlife]~~ whenever food fish are being unloaded.

(4) Single delivery licenses shall be forfeited upon landing to the wholesale fish dealer, who shall attach the license document to the appropriate fish ticket. Vessels taking fish outside of state waters may substitute the license fee at the time of landing for the license document.

(5) Vessels operating under a single delivery license must comply with OAR 635-006-0140(7), when requested by the Department.

Stat. Auth.: ORS 506.119, 506.129, 508.235 and 508.260

Stats. Implemented: ORS 508

Hist.:

### 635-006-0165

#### Commercial ~~[Fisherman]~~Fisher Transportation Report

(1) It is *unlawful* for any commercial ~~[fisherman]~~fisher or any other person to transport food fish or shellfish in this state without first preparing and having in possession a written transportation report, invoice, or memorandum. The transportation report, invoice, or memorandum shall include the following:

(a) Date;

(b) Name and address of person from whom food fish or shellfish were received. If being transported by a commercial ~~[fisherman]~~fisher or received from a commercial ~~[fisherman]~~fisher, include ~~[his/her]~~the fisher's commercial fishing license number;

(c) Name and address of the Oregon licensed Wholesale Fish Dealer or Oregon licensed Fish Bait Dealer where the food fish or shellfish are being delivered;

(d) The number of each species of food fish or shellfish, their weight or estimated weight in pounds.

(2) The food fish or shellfish shall be transported within 48 hours to an Oregon licensed Wholesale Fish Dealer or Oregon licensed Fish Bait Dealer and reported on a Fish Receiving Ticket within 48 hours of arriving in port.

(3) The transportation report, invoice, or memorandum shall be prepared prior to any food fish or shellfish being removed from the boat of original taking or prior to transporting away from the point of initial landing. For clams, the report shall be prepared prior to leaving the beach or clam digging area. For food fish or shellfish transported into Oregon from another state, the report shall be prepared prior to entering the State of Oregon. A bill of lading or freight bill required for common carriers is acceptable in lieu of a transportation report.

(4) The transportation report, invoice, or memorandum shall be retained by the commercial ~~[fisherman]~~fisher or person transporting the food fish including shellfish for a period of six months and is subject to inspection by the Director, ~~[his/her]~~the Director's authorized agent, or by the Oregon State Police at any time during that period.

(5) This section does not apply to retail fish dealers, retail bait fish dealers, wholesale fish dealers, food fish canners, shellfish canners, and wholesale fish bait dealers when required to keep records in accordance with OAR 635-006-0205 and ORS 508.535.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.129

Hist.:

### 635-006-0200

#### Required Records

(1) All retail fish dealers, retail and wholesale fish bait dealers, wholesale fish dealers, buyers, food fish canners and shellfish canners shall keep a record of all food fish and shellfish received whether from a ~~[fisherman]~~fisher or from other fish dealers. This record shall include the quantity in pounds of each species of food fish or shellfish received, the date received, price paid per pound, and the name and address of the person from whom such food fish or shellfish were received. If received from a ~~[fisherman]~~fisher, ~~[his/her]~~the fisher's commercial fishing license number shall be used in lieu of an address and the fishing gear used in taking shall also be required. If received from a treaty Indian, ~~[his/her]~~the fisher's tribal affiliation and enrollment number as shown on official



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identification card issued by the U.S. Department of Interior, Bureau of Indian Affairs, or tribal government shall be used in lieu of an address or commercial fishing license.

(2) This record is:

- (a) Subject to inspection by the Director, the Director's authorized agent, or the **Oregon** State Police;
- (b) To be prepared and available at the time food fish or shellfish are received at the premises of the fish dealer regardless of whether purchased or not;
- (c) To be retained for a period not less than three years, at a location within Oregon where the record is to be available for inspection as designated in section (2)(a) of this rule. Notice of the physical location is to be provided to **[Oregon]the Department[~~of Fish and Wildlife~~]**.

Stat. Auth.: ORS 506.109, 506.119, 506.129, 508.406, 508.530 and 508.535

Stats. Implemented: ORS 506.109, 506.119, 506.129, 508.406, 508.530 and 508.535

Hist.:

### 635-006-0205

#### Required Reports

(1) Every licensed wholesale fish dealer, wholesale fish bait dealer, food fish canner, and shellfish canner shall report all food fish or shellfish received from commercial **[fishermen]fishers** or commercial bait **[fishermen]fishers** authorized to land **[his/her]the** catch in Oregon or received from a fish dealer from another state in which no tax or fee is levied and collected on the food fish or shellfish.

(2) As used in these regulations, any licensed wholesale fish dealer, fish buying station, fish buyer, bait dealer or canner whose licensed premises includes a receiving or docking facility for unloading the catch from a commercial fishing vessel shall be considered as the receiver and purchaser and shall have the responsibility for weighing the catch, reporting, and paying landing fees on such catch. The aforementioned premises shall only be licensed by one wholesale dealer, fish buying station, fish buyer, bait dealer or canner at one given time, except as provided in (3), below.

(3) Notwithstanding section (2) of this rule, upon receipt and approval by the Department of a Memorandum of Understanding in a form provided by the Department and signed by both parties, a licensed wholesale fish dealer or canner (identified as primary dealer) whose licensed premises includes a receiving or docking facility for unloading the catch from a commercial fishing vessel may act as an agent for another licensed wholesale fish dealer or canner (identified as secondary dealer).

(a) Through the Memorandum of Understanding the primary dealer agrees:

- (A) To unload fish or shellfish products at their licensed receiving or buying dock from fishing vessels who are providing catch to the secondary dealer as per prior agreement and arrangement with the secondary dealer;
- (B) To confirm that the landing is legal and the species are legal;
- (C) To accurately report on **[f]Fish Receiving [t]Tickets**, assigned to the secondary dealer **[t]** by the Department, all landing information in accordance with OAR 635-006-0210, with the exception of price;
- (D) To obtain **[fisherman]fisher** signature on the **[f]Fish Receiving [t]Ticket** reporting such catch or if necessary, a dock ticket for net-caught groundfish in accordance with OAR 635-006-0211;
- (E) To, upon transfer of the landed product from the primary dealer to the secondary dealer, provide the **[f]Fish Receiving [t]Ticket** record of the landing to the secondary dealer; and
- (F) To retain a record of the required landing information of such catches.

(b) In addition through the Memorandum of Understanding, the secondary dealer agrees:

- (A) To obtain the appropriate buyer's license;
- (B) To complete the **[f]Fish Receiving [t]Ticket** that reports the transferred product landed at the receiving or buying dock of the primary dealer, by adding the species ex-vessel price;
- (C) To submit copies to the Department in accordance with OAR 635-006-0210(2); and
- (D) To submit to the Department a monthly remittance report and accompanying landing fees in accordance with OAR 635-006-0215.

(c) The Department may withdraw its approval of any Memorandum of Understanding effective seven calendar days from postmark of written notice, based on the failure to abide by any of the terms of the Memorandum of Understanding or violation of any provision of this rule. If the Department withdraws its approval, then section (2) of this rule shall be applicable.

(4) Two basic reports required for reporting the commercial catch of food fish and shellfish and the payment of landing fees due on such catch are:

- (a) The State of Oregon Fish Receiving Ticket; and



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(b) The Fish Dealer Monthly Remittance Report. These reports shall be submitted on forms supplied or approved by the Department and completed in accordance with OAR 635-006-0210 and 635-006-0215.

(5)(a) All pink shrimp unloaded at a receiving or docking facility of a wholesale fish dealer or shellfish canner shall be weighed and the net weight (pounds of raw shrimp landed) recorded on a [F]Fish [R]Receiving [T]Ticket before being removed from the receiving facility and prior to processing;

(b) Notwithstanding subsection (5)(a) of this rule, a minimum sampling method or equivalent method may be used to estimate the net weight provided such method is approved and authorized in writing by the Department;

(c) Those wholesale fish dealers or cannery authorized to use the sampling procedure in subsection (5)(b) of this rule are subject to inspection for accuracy by the Department or by the Oregon State Police, at any time. Authorization for use of a sampling procedure may be withdrawn if, in the judgment of the Department, the procedure employed is likely to be inaccurate.

Stat. Auth.: ORS 506.119 and 508.530

Stats. Implemented: ORS 506.129 and 508.535

Hist.:

### 635-006-0207

#### Limited Fish Seller Required Reports

(1) Every licensed Limited Fish Seller shall report all food fish or shellfish sold directly to consumers. Prior to making any sales of food fish or shellfish, Limited Fish Sellers shall notify the Department, by such means as the Department prescribes, the estimated number of food fish on board the boat and the location where the sale is to take place.

(2) Two reports required for reporting the commercial sale and the payment of landing fees due on such catch are:

(a) The State of Oregon Fish Receiving Ticket; and

(b) The Fish Dealer Monthly Remittance Report. These reports shall be submitted on forms supplied or approved by the Department and completed in accordance with OAR 635-006-0210 and 635-006-0215. In addition, a sequentially numbered receipt for each individual sale shall be issued to the purchaser at time of purchase, and to the [fisherman]fisher if fish are to be kept for personal use. This receipt shall include the date, species, weight in pounds, price, number of fish or shellfish, and vessel name. A copy shall be retained on the vessel for a period of six months and available for three years and is subject to inspection by the Oregon State Police or authorized Department employee.

Stat. Auth.: ORS 506.109, 506.119, 506.129 and ORS 802

Stats. Implemented: ORS 506.109, 506.119, 506.129 and ORS 802

Hist.:

### 635-006-0210

#### Fish Receiving Ticket - All Fish

(1) Except as provided in OAR 635-006-0211, for each purchase of food fish or shellfish by a licensed wholesale fish dealer, wholesale fish bait dealer, food fish canner, or shellfish canner from a commercial [fisherman]fisher or commercial bait [fisherman]fisher, the dealer or canner shall prepare **at the time of landing** a Fish Receiving Ticket, **or a separate document in lieu of a Fish Receiving Ticket provided this original dock ticket is attached to the completed dealer copy of the Fish Receiving Ticket subsequently submitted to ODFW**[at time of landing]. Fish [R]Receiving [T]ickets are prenumbered in books of 50 tickets. Fish dealers shall be required to account for all [F]Fish [R]Receiving [T]ickets received from the Department. Fish [R]Receiving [T]ickets shall be issued in numerical sequence. The [F]Fish [R]Receiving [T]icket shall include the following:

(a) Fish dealer's name and license number, including the buying station and location if the food fish or shellfish were received at any location other than the licensed premises of the fish dealer;

(b) Date of landing;

(c) [fisherman]Fisher's name from whom purchase is made. If not landed from a vessel, then [fisherman]the fisher's commercial license number shall be added. If received from a Columbia River treaty Indian, [his/her]their tribal affiliation and enrollment number as shown on the official identification card issued by the U.S. Department of Interior, Bureau of Indian Affairs, or tribal government, shall be used in lieu of an address or commercial fishing license;

(d) Boat name, boat license number, and federal document or State Marine Board number from which catch made;





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### **(e) Port of first landing**

(~~e~~**f**) Fishing gear used by the [~~fisherman~~]**fisher**;

(~~f~~**g**) For salmon and Dungeness crab, zone or area of primary catch;

(~~g~~**h**) Species of food fish or shellfish received;

(~~h~~**i**) Pounds of each species received:

(A) Pounds may be determined using any one of the following methods:

(i) Actual round weights based on certified scale measurements;

(ii) Actual round weights measured using a hopper scale;

(iii) Weights converted to round weight by multiplying the appropriate conversion weight listed in OAR 635-006-0215.

(B) Pounds shall include "weighbacks" by species. "Weighbacks" are those fish or shellfish with no commercial value.

(~~i~~**j**) For Columbia River sturgeon the exact number of fish received and the actual round weight of that number of fish;

(~~j~~**k**) Price paid per pound for each species received;

(~~k~~**l**) Signature of the individual preparing the [~~Fish~~ ~~Receiving~~ ~~Ticket~~];

(~~l~~**m**) Signature of the [~~fisherman~~]**fisher** making the landing;

(~~m~~**n**) Species name, pounds and value of fish retained by [~~fisherman~~]**fisher** for personal use.

(2) Except as provided in OAR 635-006-0212 and 0213, the original of each [~~Fish~~ ~~Receiving~~ ~~Ticket~~ covering food fish and shellfish received shall be forwarded within five working days of the date of landing to the Oregon Department of Fish and Wildlife, 3406 Cherry Avenue, NE, Salem, OR 97303.

(3) Wholesale fish bait dealers landing small quantities of food fish or shellfish may request authorization to combine multiple landings on one [~~Fish~~ ~~Receiving~~ ~~Ticket~~ and to deviate from the time in which **Fish Receiving** [~~Ticket~~]**s** are due to the Department. Such request shall be in writing, and written authorization from the Department shall be received by the wholesale fish bait dealer before any such deviations may occur.

Stat. Auth.: ORS 496.138, 496.146, 496.162, 506.119, 506.129, 508.530 and 508.535

Stats. Implemented: ORS 506.129, 508.025, 508.040 and 508.550

Hist.:

### **635-006-0211**

#### **Fish Receiving Ticket - Net Caught Groundfish**

For net-caught groundfish, at time of landing the following information may be recorded on a separate document in lieu of a Fish Receiving Ticket provided this original document (dock ticket) is attached to the completed dealer copy of the [~~Fish~~ ~~Receiving~~ ~~Ticket~~ subsequently submitted to ODFW:

(1) Date of landing.

(2) Boat name and federal document or State Marine Board number from which catch was made.

#### **(3) Port of first landing**

(~~3~~**4**) Pounds of fish by species:

(a) Pounds may be determined using any one of the following methods:

(A) Actual round weights based on certified scale measurements;

(B) Actual round weights measured using a hopper scale;

(C) Weights converted to round weight by multiplying the appropriate conversion weight listed in OAR 635-006-0215.

(b) Pounds shall include "weighbacks" by species. "Weighbacks" are those fish or shellfish with no commercial value.

(~~4~~**5**) Signature of [~~fisherman~~]**fisher** delivering the catch.

Stat. Auth.: ORS 506.119, 506.129, 508.530 and 508.535

Stats. Implemented: ORS 506.129, 508.025, 508.040, 508.550

Hist.:

### **635-006-0213**

#### **Fish Receiving Ticket - Limited Fish Seller Permit**

(1) For food fish or shellfish sold under a Limited Fish Seller Permit, the Limited Fish Seller shall complete daily entries of fish sold on a [~~Fish~~ ~~Receiving~~ ~~Ticket~~. [~~Fish~~ ~~Receiving~~ ~~Ticket~~s are prenumbered in books of 50 tickets. Limited Fish Sellers shall account for all [~~Fish~~ ~~Receiving~~ ~~Ticket~~s received from the Department. Fish



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[F]Receiving [t]Tickets shall be issued in numerical sequence. The [F]Fish [R]Receiving [t]Ticket shall include, for each day's sales:

- (a) Limited Fish Seller's name and license number;
(b) Date of sales;
(c) Boat name and federal document or State Marine Board number from which catch made;
(d) Port of first landing;
(e) Fishing gear used;
(f) Species of fish or shellfish sold;
(g) Quantity in pounds;
(h) Price received per pound;
(i) Signature of the individual preparing the fish ticket;
(j) Name of wholesale fish dealer to whom other food fish or shellfish were sold from the same fishing trip.
(k) For troll-caught salmon, [F]Fish [R]Receiving [t]Ticket shall show the number of days fished during the trip in which the salmon were caught.
(2) The original of each [F]Fish [R]Receiving [t]Ticket covering fish and shellfish sold per trip shall be forwarded within ten working days following the landing to the [Oregon] Department[~~of Fish and Wildlife~~].

Stat. Auth.: ORS 506.119, 506.129, 508.530, 508.535 and 508.550
Stats. Implemented: ORS 506.129, 508.025, 508.040, 508.550
Hist.:

635-006-0215
See Temp Rule ef. 7-10-08 thru 12-31-08
Monthly Remittance Report

- (1) A monthly report is required of all licensed:
(a) Wholesale fish dealers, wholesale fish bait dealers, food fish canners, or shellfish canners receiving food fish or shellfish from licensed commercial [fishermen]fishers or bait [fishermen]fishers;
(b) Limited fish sellers selling food fish or shellfish.
(2) Except as provided in OAR 635-006-0220, the report is required even though no food fish or shellfish are received or sold during the calendar month covered by the report.
(3) The following information shall be included on the report:
(a) Fish dealer's name, license number, and address;
(b) Calendar month of the report;
(c) Serial numbers of all [F]Fish [R]Receiving [t]Tickets issued during the month;
(d) Total pounds of all salmon and steelhead received or sold during the calendar month on which poundage fees are due. Salmon and steelhead may be reported as round weight, dressed head on or dressed head off;
(e) Total value of salmon and steelhead received or sold during the calendar month including fish eggs and parts;
(f) Total value of all other food fish and shellfish including eggs and parts;
(g) Total pounds in the round of all other species of food fish or shellfish received or sold during the calendar month on which taxes are due. The following listed species may be converted to round weight for the purposes of completing monthly reports, by multiplying the below-listed factor by the dressed weight of that species:
(A) Troll salmon:
(i) Gilled and gutted 1.15
(ii) Gilled, gutted, and headed 1.30
(B) Halibut:
(i) Gilled and gutted 1.15
(ii) Gilled, gutted, and headed 1.35
(C) Sablefish, gutted and headed 1.60
(D) Pacific whiting:
(i) Fillet 2.86
(ii) Headed and gutted 1.56
(iii) Surimi 6.25
(E) Razor Clams, shelled and cleaned. 2.0
(F) Scallops, shelled and cleaned 12.2
(G) Thresher shark 2.0
(H) Skates 2.6
(I) Lingcod:



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- (i) Gilled and gutted 1.1
- (ii) Gilled, gutted and headed 1.5
- (J) Spot prawn, tails 2.24
- (h) Total value of food fish landed in another state but not taxed by that state;
- (i) Total pounds in the round of all food fish landed in another state but not taxed by that state;
- (j) Total fees due - in accordance with ORS 508.505 the fees are the value of the food fish at the point of landing multiplied by the following rates:
  - (A) All salmon and steelhead, 3.15 percent;
  - (B) Effective January 1, 2005, all black rockfish, blue rockfish and nearshore fish (as defined by ORS 506.011), 5 percent.
  - (C) All other food fish and shellfish, 1.09 percent until the first Emergency Board hearing of 1993 and 1.25 percent, thereafter.
- (k) Signature of the individual completing the report.
- (4) The monthly report and all landing fees due shall be sent to the [Oregon] Department[ ~~of Fish and Wildlife~~] on or before the 20th of each month for the preceding calendar month. Landing fees are delinquent if not received or postmarked within 20 days after the end of the calendar month. A penalty charge of \$5 or five percent of the landing fees due, whichever is larger, shall be assessed along with a one percent per month interest charge on any delinquent landing fee payments.

Stat. Auth.: ORS 506.119 and 508.530

Stats. Implemented: ORS 506.129, 508.535 and 508.550

Hist.:

### 635-006-0225

#### **Purchase, Record, Report, and Sale of Steelhead Trout and Walleye from Treaty Indian Fisheries**

- (1) Steelhead trout and walleye lawfully taken by treaty Indians during commercial fishing seasons may be purchased by licensed wholesale fish dealers, canners, or buyers pursuant to restrictions set forth in sections (2) through (5) of this rule. In addition, steelhead trout and walleye taken lawfully by treaty Indians during commercial fishing seasons may be purchased and/or possessed by any individual pursuant to restrictions set forth in section (6) of this rule.
- (2) The wholesale fish dealer, canner, or buyer, shall at the time of purchase, enter the purchase of steelhead and walleye on a Department[ ~~of Fish and Wildlife~~] Columbia River Fish Receiving Ticket. Information required to be entered on the [F]Fish [R]Receiving [T]Ticket shall be the same as required by OAR 635-006-0210 and 635-006-0212 for each purchase of food fish.
- (3) The record keeping and reporting requirements for food fish as set forth in OAR 635-006-0200 through 635-006-0215 shall apply to all steelhead trout and walleye purchases.
- (4) In addition to the records required in connection with the purchase of steelhead trout, and walleye, a record of all sales of steelhead and walleye shall be maintained by licensed wholesale fish dealers, canners, or buyers for a period of three years and shall be subject to inspection by the Department, the Director's authorized agent or the Oregon State Police. Such record of sales shall include as a minimum:
  - (a) Name and address of each person to whom either steelhead or walleye are sold;
  - (b) Quantity in pounds of each sale identified as whole or round weight or dressed weight;
  - (c) Date of each delivery.
- (5) It is *unlawful* for any wholesale fish dealer, canner, or buyer in possession of legally purchased steelhead or walleye from treaty Indians to sell or distribute such fish in Oregon except to another wholesale fish dealer, canner, or buyer.
- (6) Steelhead trout and walleye taken lawfully by treaty Indians during commercial fishing seasons may be purchased from a treaty Indian and/or possessed by any individual so long as said fish are accompanied by a written document listing treaty Indian taker's name, tribal enrollment number, number of fish, approximate weight of each fish, date and location where taken, date of sale, and purchaser's name. It is *unlawful* for any individual other than a treaty Indian to sell steelhead trout or walleye. The provisions in this section (6) apply to individuals other than licensed wholesale fish dealers, canners and buyers.

Stat. Auth.: ORS 506.119, 508.530 and 509.031

Stats. Implemented: ORS 498.022, 506.129, 508.535 and 508.550

Hist.:



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### 635-006-0230

#### **When Possession of Steelhead or Walleye *Unlawful***

Except as otherwise provided by law or rule, it is *unlawful* for any person to have in possession either steelhead trout or walleye taken by any means other than by angling. **Notwithstanding OAR 635-006-0225, it is lawful for any wholesale fish dealer, canner, buyer or retailer to possess and sell, in Oregon, legally purchased steelhead trout or walleye taken from outside the Columbia River Basin, consistent with reporting requirements contained within OAR 635-006-0200.**

Stat. Auth.: ORS 496.138 and 509.031

Stats. Implemented: ORS 496.138 and 509.031

Hist.:

### 635-006-0235

#### **Revocation of and Refusal to Issue Commercial Fishing and Fish Dealer Licenses**

(1) Except as provided in section (2) of this rule in accordance with ORS 508.485 and 508.490, upon the third conviction or third forfeiture of bail within three years for violation of any of the Commercial Fishing Laws of the State of Oregon or for conviction in the State of Washington of an offense which was a violation of Columbia River Commercial fishing rules adopted pursuant to the Columbia River Compact, by any person, the Commission shall initiate contested case proceedings in accordance with the Administrative Procedures Act (ORS Chapter 183) to revoke, or refuse to issue, licenses issued under the Commercial Fishing Laws (ORS Chapters 506-513).

(2) Convictions or forfeiture of bail for exceeding trip limits in the groundfish trawl fishery, where the trip limit has not been exceeded by more than 15%, shall not be considered as a conviction or forfeiture of bail for purposes of section (1) of this rule.

(3) The Commission shall appoint a hearings officer to conduct the contested case hearing prescribed in section (1) of this rule.

(4) (a) In addition to the hearings officer, the Commission may appoint a three-member License Revocation Board to be present at the hearing and to make advisory recommendations to the Commission concerning revocation or refusal to issue a license to that person. **License Revocation** Boards shall consist of members representing the following fishing industries:

- (A) Troll salmon;
- (B) Gillnet salmon;
- (C) Groundfish and shrimp;
- (D) Crab;
- (E) All other commercial fisheries.

(b) Only members from the appropriate **License Revocation** [b]Board shall participate in hearings related to their subject area. The hearings officer shall notify the appropriate **License Revocation** [b]Board of the date, time and place of the hearing, and shall provide any other public notice required by ORS Chapter 183;

(c) At the hearing, the board may request the hearings officer call additional witnesses or seek additional evidence;

(d) At the conclusion of the hearing, the board shall prepare written recommendations concerning the disposition of the case, which the **License Revocation** [b]Board shall serve on all parties and forward to the Commission.

(5) A proposed order in the form prescribed by OAR 137-003-0070, including findings of fact and conclusions of law, shall be prepared by the hearings officer, served on all parties, and shall be forwarded to the Commission.

(6) In accordance with ORS Chapter 183, the Commission shall provide an opportunity to all parties to respond in writing within a period set by the Commission to the proposed order of the hearings officer and to the written recommendations submitted by the **License Revocation** [b]Board.

(7) In deciding whether to revoke or refuse to issue a license, the Commission shall consider:

- (a) The recommendation of the License Revocation Board;
- (b) The gravity of the most recent offense, including whether the offense was a felony and whether the offense involved a closed season, closed area, or *unlawful* gear;
- (c) The gravity of the other commercial fishing offenses of which the person has been convicted or forfeited bail;
- (d) The impact of the offense on the fisheries resources of the state or, where relevant, on the State of Washington, including consideration of the species involved;
- (e) Whether the person also has been convicted of or forfeited bail for violations of the Wildlife laws of the State of Oregon.



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Stat. Auth.: ORS 508.485, 508.490 and ORS Chapter 183  
Stats. Implemented: ORS 508.485 and 508.490  
Hist.:

### Columbia River Gillnet Salmon Vessel Fleet Reduction Program

#### 635-006-0412

##### Death of Eligible Permit Holder

- (1) In the event that an eligible permit holder dies subsequent to January 29, 1982, [~~his/her~~]**the fisher's** permit may then be purchased from the personal representative or executor administering the estate of the permit holder.
- (2) In the event that the permit holder's estate referred to in section (1) of this rule is closed:
- (a) The permit may be purchased from the permit holder's spouse;
  - (b) In the event that the permit holder is not survived by a spouse, the permit may be purchased from the permit holder's children.

Stat. Auth.: ORS 506.241  
Stats. Implemented: ORS 506.241  
Hist.:

#### 635-006-0425

##### Purchase of Permits

Permits shall first be purchased from Category A. Permits shall be purchased from Category B only after purchases approved by the Commission from Category A are selected.

- (1) Permits shall be purchased beginning with the lowest offer price.
- (2) Each subsequent permit purchase shall be made at the lowest remaining offer price.
- (3) In case of ties in otherwise qualified permit holders' offer prices, the Department will first purchase the permit of the permit holder with the greatest total pounds of salmon lawfully landed in Oregon from the Columbia River gill net salmon fishery for the period 1978 through 1985.
- (4) Any offer over \$1,000 shall be referred to the Commission for approval.
- (5) (a) Permits which are purchased shall be retired by the Department;
- (b) The transfer of the offered permit is effective upon written acceptance by the Department.
- (6) The Department shall purchase no more than one permit from each applicant.
- (7) The Department shall indicate on all application forms a deadline date after which no more program applications and offers to sell permits shall be accepted.
- (8) Any offer to sell a permit at the offer price selected by the applicant shall constitute a formal offer to sell the permit to the Department and may not be withdrawn until 120 days after the deadline date specified on the application form provided by the Department.
- (9) In determining the total salmon landings of an applicant, the Department may consider as evidence:
  - (a) Department records;
  - (b) Such information as the Department considers reliable evidence of the landings;
  - (c) An affidavit submitted by the permit holder concerning the quantity of salmon lawfully landed.
- (10) In determining program eligibility the Department may consider as evidence:
  - (a) Department records;
  - (b) Such information as the Department considers reliable evidence of eligibility;
  - (c) An affidavit submitted by the permit holder concerning [~~his/her~~]**the fisher's** eligibility.

Stat. Auth.: ORS 506.241  
Stats. Implemented: ORS 506.241  
Hist.:

#### 635-006-0810

##### Definitions

- (1) For the purposes of OAR 635-006-0820 through OAR 635-006-1210 the following definitions shall apply:



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(2) "Actively managed" means a fishery under a limited entry system according to the provision of a federal fishery management plan.

(3) "Bay clams" means cockle clams (*Clinocardium nuttallii*), butter clams (*Saxidomus giganteus*), gaper clams (*Tresus capax, nuttallii*), native littleneck clams (*Protothaca staminea*), and softshell clams (*Mya arenaria*).

~~[(4) "Board" means the Developmental Fisheries Board appointed by the Commission.]~~

~~[(5) "Commission" means the Oregon Fish and Wildlife Commission.]~~

~~[(6) "Department" means the Oregon Department of Fish and Wildlife.]~~

~~[(7)]~~ (4) "Developed fishery" means a fishery where the level of participation, catch, and effort indicate the fishery has approached optimum sustained yield and/or there is sufficient biological information, information on harvest methods, gear types, and markets to develop a long-term management plan for the species.

~~[(8)]~~ (5) "Developmental fisheries species" means food fish species adopted by the Commission to be managed under the Developmental Fisheries Program.

~~[(9) "Director" means the Director of the Oregon Department of Fish and Wildlife.]~~

~~[(10)]~~ (6) "Domestic partner" means an individual who, together with a permit holder has formed a partnership in which both:

(a) Are at least 18 years of age;

(b) Share a close personal relationship and are responsible for each other's welfare;

(c) Are each other's sole domestic partner;

(d) Are not married to anyone and neither has had another domestic partner or a spouse within in the previous six months;

(e) Are not related by blood closer than would bar marriage under ORS 106.020;

(f) Have shared a household for at least six months; and

(g) Are jointly financially responsible for basic living expenses, including expenses for food, shelter, and maintaining a household.

~~[(11)]~~ (7) "Immediate family" means a permit holder's spouse, domestic partner, children, father, mother, brother, sister, stepchildren, and grandchildren.

~~[(12)]~~ (8) "Maximum sustainable yield" (MSY) means an estimate of the largest average annual catch or yield that can be taken over a significant period of time from each stock under prevailing ecological and environmental conditions.

~~[(13)]~~ (9) "Underutilized species" means a food fish species or group of species that is not presently harvested in significant quantities due to poor markets or inadequate gear development or may be caught but not utilized due to poor markets.

~~[(14)]~~ (10) "Optimum sustained yield" (OSY) means the desired catch level of a fishery that will provide the greatest overall benefit to the state taking into account economic, social, and ecological considerations that will maintain a level of population that insures the long-term productivity of the stock and does not impair its ability to sustain itself into the future.

~~[(15)]~~ (11) "Overfishing" means a level or rate of fishing mortality that jeopardizes the long-term capacity of a stock or stock complex to produce MSY.

Stat. Auth.: ORS 506.109, ORS 506.119, ORS 506.450, ORS 506.455 and ORS 506.465

Stats. Implemented: ORS 596.129

Hist.:

### 635-006-1035

#### Eligibility Requirements for a Permit

Eligibility for a limited entry permit is as follows:

(1) Gillnet salmon - see ORS 508.784.

(2) Troll salmon - see ORS 508.810.

(3) Shrimp - see ORS 508.886 and 508.895.

(4) Scallop - see ORS 508.852.

(5) Roe-herring - The ODFW shall issue a permit as per ORS 508.765:

(a) By renewal of previous year's permit;

(b) Through the lottery if a lottery is held in accordance with OAR 635-006-1085.

(6) Sea Urchin - An individual licensed as a commercial ~~[fisherman]~~ **fisher** under ORS 508.235 is eligible to obtain the permit required by OAR 635-006-1015:

(a) By renewal of previous year's permit; or

(b) Through the lottery if a lottery is held in accordance with OAR 635-006-1085; or



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- (c) Through a duly authorized medical transfer of an existing permit in accordance with OAR 635-006-1095;
- (d) By combining three currently renewed permits into one new permit as provided in OAR 635-006-1095.
- (7) Ocean Dungeness crab:
  - (a) See ORS 508.931;
  - (b) For the purposes of eligibility for the ocean Dungeness crab fishery permit, a boat which received a license waiver issued pursuant to ORS 508.808 shall be considered as having possessed a boat license for that year;
  - (c) ORS 508.931 and ORS 508.941 require that the vessel be previously licensed in accordance with ORS 508.260 for the purposes of initial eligibility for an ocean Dungeness crab fishery permit. A single delivery license may not be substituted for a boat license for this purpose.
- (8) Black rockfish / blue rockfish / nearshore fishery - see ORS 508.947.
- (9) Brine Shrimp - A commercial ~~fisherman~~**fisher** licensed under ORS 508.235 is eligible to obtain the permit required by OAR 635-006-1015:
  - (a) By renewal of previous year's permit; or
  - (b) If issued a brine shrimp permit under the Developmental Fisheries Program prior to 2004.
- (10) Bay clam dive fishery - An individual licensed as a commercial harvester under ORS 508.235 or a vessel is eligible to obtain the permit required by OAR 635-006-1015:
  - (a) For a south coast bay clam dive permit for the year 2006, if a bay clam south-coast dive permit was issued to the individual or vessel under the Developmental Fisheries program (OAR 635-006-0900) in 2005 and lawfully made five landings consisting of at least 100 pounds each landing or an annual total of 2,500 pounds of bay clams, using dive gear in Oregon in 2005; or
  - (b) For a coast wide bay clam dive permit for the year 2006, if a bay clam coast-wide dive permit was issued to the individual or vessel under the Developmental Fisheries program (OAR 635-006-0900) in 2005 and lawfully made five landings consisting of at least 100 pounds each landing or an annual total of 2,500 pounds of bay clams, using dive gear in Oregon in 2005.
  - (c) After 2006, by renewal of the previous years' permit and satisfaction of the requirements in OAR 635-006-1075(1)(j).
- (11) Sardine fishery:
  - (a) An individual or entity is eligible to obtain the vessel permit required by OAR 635-006-1015:
    - (A) If issued a sardine permit under the Developmental Fisheries Program (OAR 635-006-0900) in 2005; and
    - (B) Lawfully made landings of sardines into Oregon in 2003 and 2004; and
    - (C) Lawfully landed:
      - (i) At least 1,500 mt or 35 deliveries in any one year from 2000 through 2004; or
      - (ii) A total of 100 deliveries of sardines into Oregon in 2000 through 2004.
  - (b) If the number of permits issued under section (11)(a) of this rule is less than 20, enough permits to reach a total of 20 may be issued under section (11)(c) of this rule to vessels in order of highest total number of deliveries during 2000-2004.
  - (c) An individual or entity is eligible to obtain the vessel permit under (11)(b) of this rule if the vessel for which applications is made:
    - (A) Was not issued a permit under section (11)(a) of this rule; and
    - (B) Lawfully made landings of sardines into Oregon in 2003 and 2004; and
    - (C) Lawfully landed:
      - (i) At least 1,500 mt or 35 deliveries in any one year from 2000 through 2004; or
      - (ii) A total of 100 deliveries of sardines into Oregon in 2000 through 2004
  - (d) In addition to those Sardine Fishery Permits previously issued by the Department in calendar year 2006, the ~~Oregon~~ Department ~~of Fish and Wildlife~~ shall issue a Sardine Fishery Permit to any individual or entity, if that individual or entity held a legally qualified Oregon Developmental Fisheries Permit for Sardines on August 1, 2005, provided that neither the individual or entity has been previously issued an Oregon Sardine Fishery Permit in 2006.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109

Hist.:

**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;



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- (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 [~~Oregon~~]Department[~~of Fish and Wildlife~~ (~~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 the Commercial Fishery 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 requirement 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:
- (A) Permits may be renewed for the following 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 the year preceding the calendar 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 Commercial Fishery Permit Board [~~(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 Commercial Fishery Permit Board and may be appealed as provided in ORS 183.480 through 183.550.
- (C) The[~~Oregon Fish and Wildlife~~] 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 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.:





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### COLUMBIA RIVER FISHERIES DIVISION 041

#### 635-041-0005

##### Applicability of Regulations

- (1) The right to fish in accordance with OAR 635-041-0005 through 635-041-0085 is restricted to those individuals possessing Indian treaty fishing rights pursuant to the Yakima Treaty (12 Stat. 951), the Warm Springs Treaty (12 Stat. 963), the Umatilla Treaty (12 Stat. 945), or the Nez Perce Treaty (12 Stat. 957).
- (2) The fishing activities authorized by the afore[-]mentioned treaties for the Columbia River and its tributaries above Bonneville Dam are hereinafter referred to as the Treaty Indian Fishery.
- (3) Nothing in these regulations shall prevent any individual having Indian treaty fishing rights from participating equally with other citizens in any other commercial fishery in Oregon so long as such individual complies with the commercial fishing laws and rules of the Commission applicable to such fishery.
- (4) The taking of fish from the Columbia River or its tributaries above Bonneville Dam for commercial purposes is prohibited except by the persons, during the times, with the fishing gear, and in the areas specified in OAR 635-041-0005 through 635-041-0085.
- (5) It is *unlawful* for any individual to take fish pursuant to the authority of any of the aforementioned treaties and OAR 635-041-0005 through 635-041-0085 who does not have in their[his] possession an Indian tribal identification card which identifies them [him] as a duly enrolled member of the Yakima, Warm Springs, Umatilla, or Nez Perce Tribe.

Stat. Auth.: ORS 183.325 and 506.119

Stats. Implemented: ORS 506.129 and 507.030

Hist.:

#### 635-041-0010

##### Definitions

In addition to the definitions provided in the commercial fishing laws and other rules of the Department, the following definitions shall apply to the Treaty Indian Fishery:

- (1) "Subsistence fishing" means taking fish for Indians' personal use, including the sale or exchange with other treaty Indians, but not sale or trade with non-Indians.
- (2) "Fishway" means any structure or facility made to facilitate or provide passage for fish over a natural or artificial barrier or obstruction.
- (3) "Commission" means the Oregon Fish and Wildlife Commission.
- (4) "Department" means the Oregon Department of Fish and Wildlife.
- (5) "Director" means the Director of the Oregon Department of Fish and Wildlife.

Stat. Auth.: ORS 183.325 and 506.119

Stats. Implemented: ORS 506.129 and 507.030

Hist.:

#### 635-041-0030

##### Subsistence Fishing Activities

- (1) It is *unlawful* to utilize any fish taken by subsistence fishing for other than subsistence purposes as defined in OAR 635-041-0010 with the exception of shad which may be sold commercially, and with the exception of [~~dip-net-caught~~]dip net caught fish from main stem Columbia and Klickitat River subsistence areas taken during open commercial fishing seasons.
- (2) Only sturgeon between 48-60" in overall length from between The Dalles and McNary dams and between 45-60" in overall length from between the Bonneville dam and The Dalles dam may be taken for subsistence purposes.

Stat. Auth.: ORS 183.325 and 506.119

Stats. Implemented: ORS 506.129 and 507.030

Hist.:



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### 635-041-0040

#### Ceremonial Fishing and Notice Requirement

- (1) It is *unlawful* for any Indian or group of Indians to conduct ceremonial fishing on the Columbia River or in Oregon Columbia River tributaries outside an Indian reservation without first providing at least two working days advanced written notification to the Director~~[-of the Department]~~ or ~~[his]~~ **the Director's** designee.
- (2) All notices must contain the following information:
  - (a) Name, place, and time of ceremony for which fish will be used;
  - (b) Name of individuals and helpers who will be fishing and transporting fish. Only these individuals will be allowed to fish on the occasion covered by the notice;
  - (c) Exact location(s) of fishing and the amount of gear to be used at each location;
  - (d) Exact beginning and ending dates of ceremonial fishing;
  - (e) The type of gear to be used in ceremonial fishing;
  - (f) Estimated number of fish needed for ceremony;
  - (g) If fish are to be stored prior to a ceremony, the location of storage must be identified. If they are not to be stored, it must be so indicated;
  - (h) The signature of the designated tribal official certified to the Department in advance.
- (3) It is *unlawful* to:
  - (a) Fish for ceremonial purposes with commercial fishing gear except in those areas where such fishing gear is authorized for commercial fishing;
  - (b) Engage in ceremonial fishing during any portion of a week within a commercial fishing season which is closed to commercial fishing;
  - (c) Sell or barter, offer for sale or barter, buy, or for a commercially licensed fish buyer or wholesale fish dealer to have in his possession fish taken for ceremonial purposes;
  - (d) Engage in ceremonial fishing unless done in compliance with all provisions contained in the advance notice to the states.
- (4) Any individual engaged in ceremonial fishing must have in his possession a signed copy or duplicate copy of the written tribal notification to the Director~~[-of the Department]~~ that such fishing was to be conducted.
- (5) Set nets and other commercial fishing gear shall be marked and identified at all times while fishing for ceremonial or other fishing purposes.
- (6) A record of the numbers of fish taken for ceremonial purposes will be made available to the Department by the designated tribal official who authorized ceremonial fishing. The report must be sent promptly upon conclusion of each ceremonial fishing activity.

Stat. Auth.: ORS 183.325 and 506.119

Stats. Implemented: ORS 506.129 and 507.030

Hist.:

### 635-041-0045

#### Closed Commercial Fishing Areas

Unless otherwise specified in this rule and OAR 635-041-0063, the following waters are closed to commercial fishing:

- (1) All Oregon tributaries of the Columbia River.
- (2) The Columbia River westerly and downstream of the Bridge of the Gods.
- (3) The Columbia River easterly and upstream of a line extending at a right angle across the thread of the river from a deadline marker one mile downstream of McNary Dam.
- (4) The Columbia River between a line extending at a right angle across the thread of the river from a deadline marker at the west end of 3-Mile Rapids located approximately 1.8 miles below ~~[the dam]~~**The Dalles Dam**, upstream to a line from a deadline marker on the Oregon shore located approximately 3/4 mile above The Dalles Dam **east** fishway exit, thence at a right angle to the thread of the river to a point in midriver, thence downstream to Light "1" on the Washington shore; except that dip nets, bag nets, and hoop nets are permitted during commercial salmon and shad fishing seasons at the Lone Pine Indian fishing site located immediately above The Dalles Interstate Bridge.
- (5) The Columbia River between a line extending at a right angle across the thread of the river from a deadline marker at Preachers Eddy light below the John Day Dam and a line approximately 4.3 miles upstream extending from a marker on the Oregon shore approximately one-half mile above the upper easterly bank of the mouth of



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the John Day River, Oregon, extending at a right angle across the thread of the river to a point in midriver, thence turning downstream to a marker located on the Washington shore approximately opposite the mouth of the John Day River.

(6) The Columbia River within areas at and adjacent to the mouths of the Deschutes River and the Umatilla River. The closed areas are along the Oregon side of the Columbia River and extend out to the midstream from a point one-half mile above the intersection of the upper bank of the tributary with the Columbia River to a point one mile downstream from the intersection of the lower bank of the tributary with the Columbia River. All such points are posted with deadline markers.

(7) The Columbia River within an area and adjacent to the mouth of the Big White Salmon River. The closed area is along the Washington side of the Columbia River and extends out to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".

(8) The Columbia River within an area at and adjacent to the mouth of Drano Lake (Little White Salmon River). The closed area is along the Washington side of the Columbia River and extends out to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately 1/2 mile upriver of the outlet of Drano Lake.

(9) The Columbia River within an area and adjacent to the mouth of the Wind River. The closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between markers located 1-1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

(10) The Columbia River within areas at and adjacent to the mouth of Hood River. The closed area is along the Oregon side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles downriver from the west bank at end of the breakwall at the west end of the Port of Hood River and 1/2 mile upriver from the east bank.

(11) The Columbia River within a radius of 150 feet of the Spring Creek Hatchery fishway, except that during the period of August 25-September 20 inclusive the closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between a marker located 1-1/2 miles downriver of the Spring Creek Hatchery fishway up to the downstream marker of the Big White Salmon sanctuary located approximately 1/2 mile upriver of the Spring Creek Hatchery fishway.

(12) Herman Creek upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

(13) The Columbia River within an area and adjacent to the mouth of the Klickitat River. The closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1-1/8 miles downstream from the west bank.

Stat. Auth.: ORS 183.325 and 506.119

Stats. Implemented: ORS 506.129 and 507.030

Hist.:

### 635-041-0060

#### Sturgeon Season

(1) Sturgeon may be taken for commercial purposes during commercial salmon, steelhead, sturgeon, or shad fishing seasons with the commercial fishing gear authorized for the taking of salmon, steelhead, sturgeon, or shad.

(2) Sturgeon must be delivered to wholesale fish dealers, canners, or fish buyers undressed (in the round).

(3) It is *unlawful* to:

(a) Take sturgeon from any setline with the intent of depriving the rightful owner of such sturgeon;

(b) Steal or otherwise molest or disturb any lawful fishing gear;

(c) Remove the head or tail of any sturgeon taken for commercial purposes prior to being received at the premises of a wholesale fish dealer or canner;

(d) Remove the head or tail of any sturgeon while in transit;

(e) Remove eggs from the body cavity of sturgeon until the fish is sold;

(f) Purchase from commercial [~~fishermen~~]**fishers** sturgeon eggs which have been removed from the body cavity prior to sale.

Stat. Auth.: ORS 496.118 and 506.119

Stats. Implemented: ORS 506.129 and 507.030

Hist.:



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### 635-041-0061

#### Sturgeon Size

- (1) **White** [S]sturgeon may be taken for commercial purposes by treaty Indian fishers during commercial fishing seasons in which sales of sturgeon are authorized.
- (2) Sales are limited to **white** sturgeon between 48-60" in overall length taken from between The Dalles and McNary dams and between 45-60" in overall length from between the Bonneville dam and The Dalles dam.
- (3) It is *unlawful* to mutilate or disfigure a sturgeon in any manner which extends or shortens its length to the legal limit, or to possess such sturgeon.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.129 and 507.030

Hist.:

### 635-041-0063

#### Sturgeon Setline Fishery

- (1) **White** [S]sturgeon may be taken by setline for commercial purposes from 12 Noon January 1 through 12 Noon January 31 in all of Zone 6.
  - (a) In The Dalles and John Day pools **white** sturgeon taken must be between 48-60 inches in length.
  - (b) In the Bonneville Pool **white** sturgeon taken must be between 45-60 inches in length.
  - (c) **White** [S]sturgeon taken as described in subsections (1)(a) and (1)(b) of this rule may be sold or kept for subsistence use.
- (2) Closed areas are set forth under OAR 635-041-0045.
- (3) During the **white** sturgeon setline season it shall be *unlawful* to:
  - (a) Operate any fishing gear other than setlines except as provided in OAR 635-041-0060;
  - (b) Operate any setline having more than 100 hooks;
  - (c) Use other than single hooks size 9/0 or larger;
  - (d) Operate any setline on which the buoy or marker does not have the tribal identification number of the individual operating the line clearly marked on it and which is attached in a manner that will not allow it to float visibly on the surface at all times.
- (4) Notwithstanding OAR 635-041-0045(6)-(11), it is lawful during the open season to fish for **white** sturgeon by means of set lines in the Columbia River within areas at and adjacent to the mouths of rivers.

Stat. Auth.: ORS 183.325 and 506.119

Stats. Implemented: ORS 506.129 and 507.030

Hist.:

### 635-041-0065

#### Winter Salmon Season

- (1) Salmon, steelhead, shad, **white** sturgeon, walleye and carp may be taken for commercial purposes from the Columbia River Treaty Indian Fishery, from 12 noon February 1 to 6:00 p.m. March 21.
- (2) There are no mesh size restrictions.
- (3) Closed areas as set forth in OAR 635-041-0045 remain in effect with the exception of Spring Creek Hatchery sanctuary.
- (4) **White** sturgeon between 48-60 inches in length in The Dalles and John Day pools and **white** sturgeon between 45-60 inches in the Bonneville Pool may be sold or kept for subsistence use.
- (5) Sale of platform and hook-and-line caught fish is allowed during open commercial fishing seasons.

Stat. Auth.: ORS 183.325 and 506.119

Stats. Implemented: ORS 506.129 and 507.030

Hist.:



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### CONFEDERATED TRIBES OF SILETZ INDIAN CULTURAL SALMON FISHERY

#### 635-041-0510

##### Applicability of Regulations

- (1) The right to fish in accordance with OAR 635-041-0500 through 635-041-0520 is restricted to those members of the Confederated Tribes of Siletz Indians of Oregon, referred to in Public Law 95-195, 91 Stat. 1415 (currently codified at 25 U.S.C.S. 711-711F), and all tribal members, present and future, and applies only to the cultural fishery described in the Agreement. All other fishing by tribal members must be in accordance with state laws or rules. The attached Agreement is hereby made a part of these rules.
- (2) The taking of salmon prescribed in the Agreement and by OAR 635-041-0500 through 635-041-0520 is prohibited except by persons, during times, with the fishing gear, and in the areas specified.
- (3) Tribal ~~fishermen~~ **fishers** must have a valid tribal license in their possession at all times when fishing pursuant to the Agreement.
- (4) Violation of any of the provisions of the Agreement or any of these rules is prohibited.

Stat. Auth.: ORS 496.138

Stats. Implemented: ORS 506.129 and 507.030

Hist.:

#### 635-041-0520

##### Cultural Fishery Seasons and Areas

- (1) Salmon may be taken for cultural fishery purposes from October 1 through November 30 in those areas described in the Agreement and more specifically:
  - (a) Euchre Creek Falls, a single falls located approximately between stream mile 2.8 and 3.0 in Section 11, T9S, R10W. Upstream boundary designated by an orange-painted 18-20 inch oval area located on the rock face on the right side of the stream approximately 94 feet above the base of the falls. The downstream boundary is designated by an orange-painted area on a large boulder on the left side of the stream approximately 280 feet below the base of the falls;
  - (b) Dewey Creek Falls, a series of three small falls located approximately between stream mile 0.4 and 0.5 in Section 8, T10S, R10W. The upstream boundary designated by an orange-colored 12 inch triangular piece of aluminum attached to an alder tree on the right side of the stream approximately 53 feet above the base of the upper falls. The downstream boundary designated by an orange-painted 18-20 inch area on a rock ledge on the right side of the stream approximately 290 feet below the base of the upper falls;
  - (c) Little Rock Creek, in portions flowing through the NE 1/4 and NW 1/4 of Section 7, T10S, R8W, W.M. on land owned by the Confederated Tribes of the Siletz Indians of Oregon. The upstream boundary is designated by a yellow Siletz Tribal marker at Survey Boundary Stake LS1901 located between Little Rock Creek and the Siletz-Nashville Road at approximately stream mile 0.9. The downstream boundary is designated by a yellow Siletz Tribal marker located on a fir Bearing Tree located between Little Rock Creek and the Siletz-Nashville Road at approximately stream mile 0.3;
  - (d) Within the cultural fishing site on Little Rock Creek, fishing is additionally regulated as follows:
    - (A) No fishing is allowed within an area 200 feet upstream or downstream of the fish trap operated by the ~~Oregon~~ Department ~~[of Fish and Wildlife]~~ and designated by Siletz Tribal markers;
    - (B) Fishing in the section of Little Rock Creek beginning at the Tribal marker 200 feet downstream from the ~~[ODFW]~~ **the Department** fish trap and extending downstream 300 feet to a Siletz Tribal marker must occur from platforms or other devices raised above the water surface. Such platforms or devices shall not extend more than one half the width of the stream.
- (2) Salmon may be taken for cultural fishery purposes from one hour before sunrise until one hour after sunset.
- (3) Salmon taken during the open season set forth in section (1) of this rule shall be tagged immediately upon landing by inserting one of the 200 salmon tags provided to the Confederated Tribe of Siletz by permanently affixing the tag around the lower jaw of the fish. It is *unlawful* to possess salmon taken during the open season set forth in section (1) of this rule which have not been so tagged.

Stat. Auth.: ORS 496.138

Stats. Implemented: ORS 506.129 and 507.030

Hist.:



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**635-041-0600**

**Confederated Tribes of the Grand Ronde Community of Oregon**

The [~~Oregon Fish and Wildlife~~] Commission adopts the "Agreement among the State of Oregon, the United States of America and the Confederated Tribes of the Grand Ronde Community of Oregon to permanently define tribal hunting, fishing, trapping, and animal gathering rights of the Tribe and its members" (see Exhibit 2), signed by the Commission Chairman, Don Barth, 11-29-86, and further provided that no angling license is required for Grand Ronde members when fishing from jetties and the surf in the Pacific Ocean within the Trask unit.



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Oregon Department of Fish and Wildlife

DIVISION 042

COLUMBIA RIVER COMMERCIAL  
FISHERY BELOW BONNEVILLE DAM

Commercial Fishing Area  
and Gear Restrictions

635-042-0001

**Management and Catch Reporting Areas**

Management and Catch Reporting Zones shall include those waters of the Columbia River defined as follows:

(1) Zone 1 is easterly of a line projected from the knuckle of the south jetty on the Oregon bank to the inshore end of the north jetty on the Washington bank, and westerly of a line projected from a beacon light at Grays Point on the Washington bank to the flashing 4-second red buoy "44" off the easterly tip of Tongue Point on the Oregon bank.

(2) Zone 2 is easterly of a line projected from a beacon light at Grays Point on the Washington bank to the flashing 4-second red buoy "44" off the easterly tip of Tongue Point on the Oregon bank, and westerly of a line projected from the 4-second flashing green light "81" on the Washington bank to a boundary marker on the easterly end of the Beaver Terminal Pier in Oregon, including all waters of Grays Bay, those waters of Deep River downstream of the Highway 4 Bridge, all waters of Seal Slough, those waters of Grays River downstream of a line projected between fishing boundary markers on both banks at the Leo Reisticka farm, and those waters of Elokomin Slough and Elokomin River downstream of the Highway 4 Bridge.

(3) Zone 3 is easterly of a line projected from the 4-second flashing green light "81" on the Washington bank to a boundary marker on the easterly end of the Beaver Terminal Pier in Oregon, and westerly of a line projected true west from the east or upstream bank of the Lewis River mouth in Washington.

(4) Zone 4 is easterly of a line projected true west from the east or upstream bank of the Lewis River in Washington, and westerly of a line projected true north from Rooster Rock on the Oregon bank, and those waters of Camas Slough downstream of the western most powerline crossing at the James River Mill.

(5) Zone 5 is easterly of a line projected true north from Rooster Rock on the Oregon bank, and westerly of a line projected from a deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse 1) in a straight line through the western tip of Pierce Island, to a deadline marker on the Washington bank at Beacon Rock.

(6) Area 2S is from a downstream boundary of a true north/south line through flashing red 4-second light "50" near the Oregon bank to an upstream boundary of a straight line from a deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse 1) [from a deadline marker on the Oregon bank to a deadline marker on the Washington bank, both such deadline markers located approximately four miles downstream from Bonneville Dam] through the western tip of Pierce Island, to a deadline marker on the Washington bank at Beacon Rock.

Stat. Auth.: ORS 183.325, 496.118 and 506.119

Stats. Implemented: ORS 506.129 and 507.030

Hist.:

635-042-0007

**[Columbia River Gill-Net Salmon Fishery]Definitions**

**(1)** For the purpose of Chapter 679, Oregon Laws 1979, "Columbia River ~~[gill-net]~~gill net salmon fishery" means commercial salmon ~~[gill-net]~~gill net fishing in the Columbia River below Bonneville Dam and all tributaries thereof, including Youngs Bay, wherein commercial salmon ~~[gill-net]~~gill net seasons are authorized by Department rules.

**(2) "Commission" means the Oregon Fish and Wildlife Commission.**

**(3) "Department" means the Oregon Department of Fish and Wildlife.**

**(4) "Director" means the Director of the Oregon Department of Fish and Wildlife.**

Stat. Auth.: ORS 183.325, 496.118 and 506.119

Stats. Implemented: ORS 506.129 and 507.030



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Hist.:

### 635-042-0022

#### Spring Chinook Gill Net and Tangle Net Fisheries

(1) Adipose fin-clipped Chinook salmon, sturgeon and shad may be taken by gill net or tangle net for commercial purposes from the mouth of the Columbia River upstream to Kelley Point (Zones 1-3 and part of Zone 4).

(a) Individual fishing periods will not exceed sixteen hours in length during small mesh fisheries and twenty-four hours in length during large mesh fisheries. Fishing periods may occur on Tuesdays and Thursdays, depending upon results from test fisheries or full fleet fisheries conducted prior to each specified weekday.

(b) White sturgeon possession and sales restrictions by each participating vessel will be determined inseason based on gear type and number of fish remaining on the fish guideline.

(2) An adipose fin clip salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. The adipose fin is the small fatty fin on salmonids located between the dorsal fin and tail.

(3) During the spring Chinook gill net fishery:

(a) It is *unlawful* to use a gill net having a mesh size less than 8 inches or more than 9-3/4 inches.

(b) Mesh size for the fishery is determined as described in OAR 635-042-0010(4).

(4) During the spring Chinook tangle net fishery:

(a) It is *unlawful* to use other than a single-wall multi-filament net. Monofilament tangle nets are not allowed. Maximum mesh size is 4-1/4 inches stretched taut.

(b) Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one vertical knot to the outside of the opposite vertical knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact.

(5) Nets shall not exceed 900 feet (150 fathoms) in length. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net.

(6) On tangle nets, an optional use of a steelhead excluder panel of mesh may be hung between the corkline and the 4-1/4 inch maximum mesh size tangle net. The excluder panel web must be a minimum mesh size of 12 inches when stretched taut under hand tension. Monofilament mesh is allowed for the excluder panel. The excluder panel (including any associated hangings) must be a minimum of 5 linear feet in depth and not exceed 10 linear feet in depth, as measured from the corkline to the upper margin of the tangle net mesh as the net hangs naturally from a taut corkline. Weedlines or droppers (bobber-type) may be used in place of the steelhead excluder panel. A weedline-type excluder means the net is suspended below the corkline by lines of no less than five feet in length between the corkline and the upper margin of the tangle net. A dropper-type excluder means the entire net is suspended below the surface of the water by lines of no less than five feet in length extending from individual surface floats to a submersed corkline. The corkline cannot be capable of floating the net in its entirety (including the leadline) independent of the attached floats. Weedlines or droppers must extend a minimum of 5 feet above the 4-1/4 inch maximum mesh size tangle net.

(a) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, may extend to a maximum length of 1,050 feet (175 fathoms).

(b) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, along with a red cork every 25 fathoms as required in (5) above, must have two red corks at each end of the net.

(7) There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline.

(8) There are no restrictions on the use of slackers or stringers to slacken the net vertically.

(9) Nets shall be fished for no longer than 45 minutes per set. The time of fishing is measured from when the first mesh of the net is deployed into the water until the last mesh of the net is fully retrieved from the water.

(10) It is *unlawful* for a net in whole or in part to be anchored, tied, staked, fixed, or attached to the bottom, shore, or a beached boat; left unattended at any time it is fished; or attended by more than one boat while being fished.

(11) It is *unlawful* to fish more than one net from a licensed commercial fishing boat at any one time.

(12) Nets fished from sunset to sunrise shall have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required.

(13) Non-legal sturgeon, nonadipose fin-clipped Chinook salmon, and steelhead must be released immediately with care and the least possible injury to the fish to the river without violence or into an operating recovery box.





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- (a) One operating recovery box with two chambers or two operating recovery boxes with one chamber each to aid survival of released fish must be on board each fishing vessel participating in the fishery. Recovery boxes shall be operating during any time that a net is being retrieved or picked.
- (b) All salmon and steelhead that are bleeding, in lethargic condition, or appearing dead must be placed in the recovery box for rehabilitation purposes prior to release to the river.
- (c) Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39-1/2 to 48 inches, the inside width measurement must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.
- (d) Each chamber of the recovery box must include an operating water pumping system capable of delivering a minimum flow of 16 gallons per minute not to exceed 20 gallons per minute of fresh river water into each chamber. The fisher must demonstrate to ~~[ODFW]the Department~~ and ~~[WDFW]Washington Department of Fish and Wildlife~~ employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.
- (e) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1-3/4 inches from the floor of the chamber.
- (f) Each chamber of the recovery box must include a water outlet that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber, on either the same or opposite end as the inlet.
- (g) All fish placed in recovery boxes must be released to the river prior to landing or docking.
- (14) At least one fisher on each boat engaged in the fishery must have in possession a valid certificate issued by a representative of the ~~[Oregon] Department [of Fish and Wildlife (ODFW)]~~ or the Washington Department of Fish and Wildlife ~~[(WDFW)]~~ that indicates the fisher had attended a one-day workshop hosted by ~~[ODFW]the Department~~ or ~~[WDFW]the Washington Department of Fish and Wildlife~~ to educate fishers on regulations and best methods for conduct of the fishery. No individual may obtain more than one tangle net certificate. The certificate must be displayed to ~~[ODFW]the Department~~ and ~~[WDFW]the Washington Department of Fish and Wildlife~~ employees, fish and wildlife enforcement officers, or other peace officers upon request.
- (15) Nothing in this section sets any precedent for any fishery after the 2006 spring Chinook fishery. The fact that an individual may hold a tangle net certificate in spring 2006 does not entitle the certificate holder to participate in any other fishery. If ~~[ODFW]the Department~~ authorizes a tangle net fishery in spring 2007 or at any other time, ~~[ODFW]the Department~~ may establish qualifications and requirements that are different from those established for 2006. In particular, ~~[ODFW]the Department~~ may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future tangle net fisheries.
- (16) As authorized by OAR-006-0140 owners or operators of commercial fishing vessels must cooperate with Department fishery observers, or observers collecting data for the Department, when asked by the Department to carry and accommodate an observer on fishing trips for observation and sampling during an open fishery.
- (17) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokom-B sanctuary, Abernathy Creek, Cowlitz River, Kalama-B sanctuary, and Lewis-B sanctuary are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.138, ORS 496.146, and 506.119

Stats. Implemented: ORS 496.162, ORS 506.129, and ORS 507.030

Hist.:

### 635-042-0110

#### See Temp Rule ef. 6-21-08 through 11-7-08

#### Gary Island to Bonneville Dam (Area 2S) Shad Season

- (1) Shad may be taken for commercial purposes from the area of the Columbia River described in section (2) daily from 3:00 p.m. to 10:00 p.m. during the following open fishing periods: Monday May 14, 2007 through Friday May 18, 2007; Monday May 21, 2007 through Friday May 25, 2007, Tuesday May 29, 2007 through Friday June 1, 2007; Monday June 4, 2007 through Friday June 8, 2007; Monday June 11, 2007 through Friday June 15, 2007 and Monday June 18, 2007 through Friday June 22, 2007.
- (2) The area of the Columbia River open to fishing is from a downstream boundary of a true north/south line through the flashing red 4-second Light "50" near the Oregon bank to an upstream boundary of a straight line from a deadline marker on the Oregon bank, through the western tip of Pierce Island, to a deadline marker on the Washington bank at Beacon Rock, both such deadline markers located approximately four miles downstream from Bonneville Dam.
- (3) It is *unlawful* to use a gill net having a mesh size less than 5-3/8 inches or more than 6-1/4 inches with a breaking strength greater than a 10-pound pull, or to use a gill net other than a single wall floater net, or to use a



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gill net having slackers, or to use a gill net of more than 150 fathoms in length or 40 meshes in depth. Rip lines are authorized spaced not closer than 20 corks apart.

(4) All salmon, steelhead, walleye and sturgeon taken in shad nets must be immediately returned unharmed to the water.