



Oregon Administrative Rules Oregon Department of Fish and Wildlife

635-004-0025

Closed Season

There is no closed season or area for the taking of ocean food fish for commercial purposes except:

(1) As provided in these rules or in the Code of Federal Regulations, Title 50 Part 660, subpart G.
(2) It is *unlawful* at all times to take Ocean food fish for commercial purposes from Oregon coastal bays, the Oregon estuary waters of the Columbia River, or from man-made structures, that extend from coastal bays, or within 200 yards of any man-made structure. This closure does not apply to:

- (a) Ocean food fish taken in specific fisheries established by rule;
- (b) Ocean food fish taken to be sold or used for scientific or educational purposes, or for live public display; or to
- (c) Pacific herring, Pacific sardine (pilchard), anchovies, smelt, candlefish, and shad that are taken by hook-and-line and sold as bait.

(d) Pacific herring, Pacific sardine (pilchard), anchovies, smelt, candlefish, and shad that are taken by beach seine in the Umpqua estuary and sold as bait.

(3) All species other than those whose harvest is authorized under subsection (2) above, must be immediately returned to the water unharmed.

~~(3)~~**(4)** It is *unlawful* to take surfperch for commercial purposes from the Pacific Ocean from August 1 through September 30.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.129

635-004-0042 (New Rule)

Inland Waters Anchovy Fishery

(1) Anchovies may be harvested by commercial vessels in Tillamook, Yaquina, Winchester, and Coos Bays to be used as live bait in commercial fishing operations by the catching vessel from July 1 through October 31.

(2) Any vessel engaged in the commercial taking of anchovies must obtain a license as described in 635-006-0140 or 635-006-0160.

(3) Any person engaged in or assisting in the taking of anchovies from the waters of this state must possess a commercial fishing license as described in OAR 635-006-0145 or OAR 635-006-0160.

(4) It is *unlawful* to use any fishing gear or method of harvest for the taking of anchovy other than:

(a) Purse seine with a maximum length of 50 fathoms (300 feet), defined as the maximum distance from the first to last pursing rings on the purse line;

(b) Lampara net; or

(c) Hook and line "jigging."

Attachment 6

(5) All species other than anchovies, taken in operation of gear authorized by this rule, must be returned to the water immediately unharmed.

(6) The Department shall provide a logbook to each individual permitted by this rule to harvest anchovies to be used as live bait. Each permit holder is responsible for maintaining the logbook in accordance with



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the instructions contained therein and shall, up on request of an authorized representative of the Department, permit examination and transcription of information from such logbook.

(7) Fishers intending to fish as described above must notify Oregon State Police 12 hours prior to fishing by calling 1-800-452-7888. Notification shall include vessel name and number, fishing location, and estimated time of activity.

Stat. Auth.: ORS 506.119

Stats Implemented: ORS 506.109 and 506.129

635-006-0001

Definitions

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

- (1) "Commercial fishing license" means 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) "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.
- (5) "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.
- (6) "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 fishers at locations other than the licensed premises of the wholesale fish dealer or food fish canner.
- (7) "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 fishers.
- (8) "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.
- (9) "Harvester" means any person legally authorized to take food fish for commercial purposes.
- (10) "Import" means to transport into Oregon from outside the State of Oregon.
- (11) "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, **except anchovies being held live on a vessel for the purpose of using for bait in that vessel's commercial fishing operation.**
- (12) "Landing fees" means all fees due to the Department based on the pounds of fish or value of fish landed.



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- (13) "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 the fisher to sell any species of food fish, taken in lawful activity directly from his or her boat, pursuant to ORS 508.550.
- (14) "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 the fisher to sell any species of food fish, taken in lawful activity directly from his or her boat or at locations away from the boat.
- (15) "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.
- (16) "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.
- (17) "Possession" means holding any food fish, shellfish or parts thereof in a person's custody or control.
- (18) "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.)
- (19) "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.
- (20) "Purchase" means to obtain by paying money or its equivalent, trade, or barter.
- (21) "Receive" or "Receiving" means to take or come into possession of.
- (22) "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.
- (23) "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.
- (24) "Retain" means to keep in possession or use.
- (25) "Shellfish canner" means a wholesale fish dealer who cans only shellfish in hermetically sealed containers whereby no further preservation, artificial or otherwise, is required.
- (26) "Transport" means, for purposes of OAR 635-006-0165, to move the food fish after landing.
- (27) "Ultimate consumer" means the party that utilizes the product as food, including restaurants.
- (28) "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



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- (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.
- (29) "Wholesale fish bait dealer" means a person who buys food fish or shellfish, or parts thereof, from a licensed commercial fisher, licensed commercial bait fisher, or licensed angler, and sells or uses such food fish or shellfish for bait, scientific or educational purposes, or live public display.
- (30) "Wholesale fish dealer" means a person who:
- (a) Buys food fish or shellfish from a commercial 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.

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

635-006-0160

Bait Fishing License

A bait fishing license is issued in accordance with ORS 508.312 of the commercial fishing laws and is required for any individual taking or assisting in the taking of food fish or shellfish for sale to a fish bait dealer **or for use as bait in a commercial fishing operation.** It is *unlawful* to take any food fish or shellfish under this license for human consumption purposes.

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

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 fishers or commercial bait fishers authorized to land his or her 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



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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 section (3) of this rule.

(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 Fish Receiving Tickets, assigned to the secondary dealer by the Department, all landing information in accordance with OAR 635-006-0210, with the exception of price;

(D) To obtain fisher signature on the Fish Receiving 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 Fish Receiving 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 Fish Receiving 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

(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 Fish Receiving Ticket before being removed from the receiving facility and prior to processing;



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(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 operators 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.

(6)(a) Wholesale fish bait dealers landing less than 5,000 pounds daily of species defined in OAR 635-004-0025 subsections (2)(c) and (2)(d) may request the Department allow an estimate of the net weight of fish caught on a Fish Receiving Ticket.

(b) The Department may issue a written approval of requests made under subsection (6)(a) of this rule if the permittee uses a minimum sampling method or equivalent method to estimate the net weight, provided such method is acceptable to the Department.

(c) Those wholesale fish bait dealers authorized to use a sampling procedure approved under subsection (6)(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