

Secretary of State

**NOTICE OF PROPOSED RULEMAKING HEARING\***

A Statement of Need and Fiscal Impact accompanies this form.

|   |                                     |
|---|-------------------------------------|
| Oregon Department of Fish and Wildlife, Fish Division | 635                                 |
| Agency and Division                                   | Administrative Rules Chapter Number |
| Therese Kucera  | (503) 947-6033                      |
| Rules Coordinator                                     | Telephone                           |
| 3406 Cherry Avenue NE, Salem, OR 97303                |                                     |
| Address   |                                     |

**RULE CAPTION**

Adopt and Modify Commercial Dungeness Crab Fishery Gear Rules

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

|                |            |  |                                     |
|----------------|------------|--|-------------------------------------|
| August 6, 2010 | 08:00 a.m. | Commission Room<br>Oregon Dept. of Fish & Wildlife<br>3406 Cherry Avenue NE<br>Salem, OR 97103 | Oregon Fish and Wildlife Commission |
| Hearing Date   | Time       | Location   | Hearings Officer                    |

*Auxiliary aids for persons with disabilities are available upon advance request.***RULEMAKING ACTION**

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

**ADOPT:** OAR Chapter 635, Division 005 and 006 as determined justified.**AMEND:** OAR Chapter 635, Division 005 and 006 as determined justified.**REPEAL:** OAR Chapter 635, Division 005 and 006 as determined justified.**RENUMBER:****AMEND & RENUMBER:**

Stat. Auth.: ORS 506.119

Other Auth.:

Stats. Implemented: ORS 506.109 and 506.129

**RULE SUMMARY**

These rules are for commercial Dungeness crab fishing gear requirements for implementation during the 2010-2011 season, beginning December 1, 2010.

Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

August 6, 2010

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

  
Signature

Lance Thomson  
Printed name

June 14, 2010  
Date

\* Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

**STATEMENT OF NEED AND FISCAL IMPACT**

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Department of Fish and Wildlife, Fish Division

635

Agency and Division

Administrative Rules Chapter Number

In the Matter of: Amendment of OAR Chapter 635, Divisions 005 and 006, related to ocean commercial Dungeness crab fishery gear requirements.

Rule Caption: (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

Adopt and Modify Commercial Dungeness Crab Fishery Gear Rules.

Statutory Authority: ORS 506.119

Other Authority:

Stats. Implemented: ORS 506.109 and 506.129

Need for the Rule(s):

These rules are needed to modify commercial Dungeness crab fishing gear requirements for implementation during the 2010-2011 season, beginning December 1, 2010.

Documents Relied Upon, and where they are available:

1. Staff report for the Oregon Fish and Wildlife Commission meeting of August 6, 2010.

The above documents are available for public inspection in the Department of Fish and Wildlife, Fish Division, Third Floor, 3406 Cherry Avenue NE, Salem, Oregon, between 8:00 a.m. and 4:00 p.m., on normal working days, Monday through Friday.

Fiscal and Economic Impact, including Statement of Cost of Compliance: See attached.

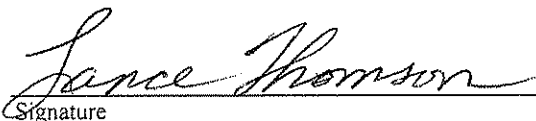
How were small businesses involved in the development of this rule?

The commercial Dungeness crab fleet was noticed of a potential rule change in gear requirements during the 2009 Commercial Dungeness Crab Summit, and subsequent mailing to all permit holders (11/13/09). The Oregon Dungeness Crab Advisory Committee met on May 6, 2010 to review language jointly proposed by staff and Oregon State Police. The proposed language revisions are scheduled to be sent to all permit holders in June 2010, in preparation for the August 6 Fish and Wildlife Commission meeting. Small businesses participated in all of these meetings.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The alternatives for rule changes were developed by Department staff in conjunction with Oregon State Police and the Oregon Dungeness Crab Commission and vetted through the Oregon Dungeness Crab Advisory Committee on May 6, 2010.

  
Signature

Lance Thomson  
Printed name

June 14, 2010  
Date

## **Fiscal and Economic Impact Statement for the August 6, 2010 Hearing In the Matter of Rules Relating to Commercial Crab Pot Release Mechanisms**

Fiscal and economic impact: Rule changes are being proposed to modify requirements relating to commercial Dungeness crab fishery pot regulations for release mechanisms. In the event that a crab pot is lost or is left on the bottom of the ocean, the release mechanisms on the pot are designed to free the crabs over time so the pot does not continue fishing while unattended. The proposed rules will affect state agencies, units of local government, and the public, respectively, as discussed below:

A. The only state agency that would be affected by adoption of these rules is the Oregon Department of Fish and Wildlife (ODFW) and the Oregon State Police (OSP) for enforcement costs. No significant changes to the expenditures or revenues to these agencies are anticipated as a result of this rule change.

B. No units of local government are expected to be affected by these rules. No significant changes from the current levels of any local agencies' operations or expenditures are expected as a result of the adoption of these rules.

C. The public could be affected by the adoption of these rules. If changes are required for the crab pots that are not already in place, labor and materials costs could apply to comply with rules. ODFW is proposing that we eliminate the option of using degradable metal hooks for the lid release mechanism. This method is not widely used by industry. The use of degradable cotton in the lid release mechanism will remain an option. There is an alternative release mechanism that is made in the wire mesh of the pot itself. If using this mesh release mechanism, there must be an opening in the top or upper half of the pot at least 5 inches in diameter. Rules that require a 5 inch opening are already in place, but changes are being made to clarify the rule and prevent misinterpretation. Costs to comply with any rule changes could include labor and materials for businesses fishing for crab. The magnitude of these costs depends on how many crab pots in the fleet currently comply and costs of labor and materials to modify the pots. Information is therefore not available on the size of these costs to crab fishing businesses.

Most businesses affected by these rules are believed to be "small business."

The rules are believed to be fully compatible with legislative direction on the goals of wildlife management in Oregon.

We do not believe that a less intrusive or less costly alternative adaptation to only small business is consistent with the purpose of the rule.

