

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING HEARING\***  
 A Statement of Need and Fiscal Impact accompanies this form

<b>FILED</b>
10-14-14 2:32 PM
ARCHIVES DIVISION
SECRETARY OF STATE

Department of Fish and Wildlife	635
Agency and Division	Administrative Rules Chapter Number
Therese Kucera	(503) 947-6033
Rules Coordinator	Telephone
Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302	
Address	

**RULE CAPTION**

Siletz Tribe Special Gathering Permit for Clams.

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

Hearing Date	Time	Location	Hearings Officer
12-5-14	8:00 a.m.	Oregon Fish and Wildlife Commission Room, 4034 Fairview Industrial	Oregon Fish and Wildlife

**RULEMAKING ACTION**

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

**ADOPT:**

OAR Chapter 635, Division 041 as determined justified.

**AMEND:**

OAR Chapter 635, Division 041 as determined justified.

**REPEAL:**

**RENUMBER:** Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

**AMEND AND RENUMBER:** Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

**Statutory Authority:**

ORS 497.075

**Other Authority:****Statutes Implemented:**

ORS 497.075

**RULE SUMMARY**

The Oregon Department of Fish and Wildlife (Department) has worked with the Confederated Tribes of the Siletz Indians of Oregon (Siletz Tribe) for many years (since 1980) to provide opportunity for tribal harvest of mussels, rock oysters, and sea anemones through a special gathering permit for ceremonial and subsistence purposes. Under a new Memorandum of Understanding (MOU), the State will annually issue a Special Gathering Permit for Clams to the Siletz Tribe. Tribal members may gather clams any time the Department authorizes non-commercial clam harvest that includes Lincoln County. The MOU stipulates the Siletz Tribal members engage in harvest with no waste, have in possession their Tribal Gathering License while gathering clams, use hands or hand tools, and allow Department employees or enforcement officers to inspect Tribal Gathering License, gear and catch upon request.

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

12-05-2014 Close of Business	Therese Kucera	Teri.Kucera@state.or.us
Last Day (m/d/yyyy) and Time for public comment	Rules Coordinator Name	Email Address

\*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation.

Secretary of State  
**STATEMENT OF NEED AND FISCAL IMPACT**  
A Notice of Proposed Rulemaking Hearing accompanies this form.

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Department of Fish and Wildlife

635

Agency and Division

Administrative Rules Chapter Number

Siletz Tribe Special Gathering Permit for Clams.

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

In the Matter of:

[ See attached document. ]

**Statutory Authority:**

ORS 497.075

**Other Authority:**

**Statutes Implemented:**

ORS 497.075

**Need for the Rule(s):**

[ See attached document. ]

**Documents Relied Upon, and where they are available:**

[ See attached document. ]

**Fiscal and Economic Impact:**

[ See attached document. ]

**Statement of Cost of Compliance:**

**1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):**

[ See attached document. ]

**2. Cost of compliance effect on small business (ORS 183.336):**

**a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:**

[ See attached document. ]

**b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:**

[ See attached document. ]

**c. Equipment, supplies, labor and increased administration required for compliance:**

[ See attached document. ]

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

Not involved. No small businesses are directly subject to the rule. Small businesses that could be affected by the rule are commercial shellfish harvesters active in Lincoln County (163 licenses issued in Oregon in 2013) and those businesses that provide goods and services to recreational shellfishers. Those may include shellfishing outfitters, food and beverage stores, gasoline stations, sporting goods stores, general merchandise stores, accommodation businesses, food services and drinking places.

**Administrative Rule Advisory Committee consulted?: No**

**If not, why?:**

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

12-05-2014 Close of Business

Therese Kucera

Teri.Kucera@state.or.us

Last Day (m/d/yyyy) and Time  
for public comment

Printed Name

Email Address

**Economic Impact Statement for the December 5, 2014 Hearing  
In the Matter of Rules Relating to the Siletz Tribe  
Special Gathering Permit for Clams**

The Oregon Department of Fish and Wildlife (Department) has worked with the Confederated Tribes of the Siletz Indians of Oregon (Siletz Tribe) for many years (since 1980) to provide opportunity for tribal harvest of mussels, rock oysters, and sea anemones through a special gathering permit for ceremonial and subsistence purposes. Under a new Memorandum of Understanding (MOU), the State will annually issue a Special Gathering Permit for Clams to the Siletz Tribe. Tribal members may gather clams any times that ODFW authorizes non-commercial clam harvest that include Lincoln County. The MOU stipulates the Siletz Tribal members engage in harvest with no waste, have in possession their Tribal Gathering License while gathering clams, use hands or hand tools, and allow ODFW employees or peace officers to inspect Tribal Gathering License, gear and catch upon request.

**Statement of Cost of Compliance**

**1. Impact on state agencies, units of local government and the public  
(ORS 183.335(2)(b)(E)):**

The proposed rules will affect state agencies, units of local government, and the public, respectively, as discussed below:

A. State agencies that could be affected by these rules are the Oregon Department of Fish and Wildlife (ODFW) and the Oregon State Police (OSP). The Siletz Tribe Natural Resource Committee issued about 100 permits in 2013 for the collection of shellfish in Lincoln County. Consequently, the impact on lost shellfish license revenue, recreational or commercial, is expected to be minimal. OSP enforcement efforts would essentially be unchanged. 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. It is possible that the Siletz Tribe harvest could affect recreational harvest at specific locations in Lincoln County where the tribe is active in the collection of clams. However, significant impacts on recreational clamming opportunity are not anticipated. Likewise, Tribal harvests may have limited impacts on clam populations in specific areas that are used for commercial clam harvests, but the overall commercial industry is not likely to be impacted since commercial clam harvest in Lincoln County is generally low.

**2. Cost of compliance effect on small business (ORS 183.336):**

**a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:**

No small businesses are directly subject to the rule. Small businesses that could be affected by the rule are commercial shellfish harvesters active in Lincoln County (163 licenses issued in Oregon in 2013) and those businesses that provide goods and services to recreational shellfishers. Those may include shellfishing outfitters, food and beverage stores, gasoline stations, sporting goods stores, general merchandise stores, accommodation businesses, food services and drinking places.

**b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:**

No significant changes in these costs are expected for the small businesses subject to the rule.

**c. Equipment, supplies, labor and increased administration required for compliance:**

No significant changes in these costs are expected for the small businesses subject to the rule.

The rules are believed to be fully compatible with legislative direction on the goals of fish and 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.