



**Oregon Administrative Rules
Oregon Department of Fish and Wildlife**

COMMERCIAL FISHERIES

DIVISION 005

COMMERCIAL SHELLFISH AND MARINE INVERTEBRATE FISHERIES

Clam and Intertidal Section

635-005-0290

Closed Seasons and Areas

It is *unlawful* to take for commercial purposes:

(1) Gaper clams from January 1 through June 30, except under a limited entry Bay Clam Dive Permit (OAR 635-005-0310) an incidental catch of one gaper clam per eight butter clams, or 25 pounds of gaper clams per 100 pounds of butter clams, whichever allows the greater gaper clam incidental catch.

(2) Razor clams from July 15 through September 30 in the area north of Tillamook Head in Clatsop County.

(3) Any clams from:

(a) Little Nestucca Bay;

(b) Big Nestucca Bay;

(c) Netarts Bay, except cockles may be taken in an area west of and including the main channel, north of the northern boundary line for the Shellfish Preserve (Latitude 45°23.68'N), and south of Latitude 45°24.71'N, near the informational kiosk;

(d) Salmon River and Bay;

(e) Siletz River and Bay; or

(f) All state parks south of Tillamook Head.

(4) Bay clams in Tillamook Bay from the following areas:

(a) The "Ghost Hole" from the floating toilet site south to Sandstone Point and 500 feet westward from the Highway 101 shoreline;

(b) The area east of a line connecting the Coast Guard tower on the north jetty, ~~and~~ buoy marker 13, and Hobsonville Point; or

(c) The area above mean lower low water near Kincheloe Point.

(5) Subtidal cockle clams in Netarts Bay ~~from the following areas:~~

~~(a) An area extending 500 feet to the north adjacent to the Shellfish Preserve and across the entire width of the bay; or~~

~~(b) The area above mean lower low water].~~

(6) Subtidal bay clams in Coos Bay from the following areas:

(a) In depths shallower than 10 feet from mean lower low water; or

(b) The area of South Slough south of the Charleston bridge.

(7) Any clams from the Shellfish Preserve in Yaquina Bay, Lincoln County, which is the tideflat on the north side of the wood piling breakwater, south of the troller's basin. The legal description is as follows: Beginning at a point 1,181.24 feet south and 430.55 feet east of the meander corner of Sections 8 and 9, T11S, R11W, W.M., said point being a flashing red beacon on the southeastern end of the U.S. Army Engineers wood piling breakwater,



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39 thence northwesterly along said breakwater to a point being a flashing white beacon on the northwestern end of
40 said breakwater located 583.46 feet south and 2,082.62 feet west of the above meander corner, thence
41 southeasterly along the extreme low water line of the sand pit lying on the north side of the said breakwater to the
42 point of beginning, said tideland being 7.2 acres, more or less, at mean low water line.;

43 (8) Any clams from the Shellfish Preserve in Netarts Bay beginning from the quarter corner of Section 17, 20, T2S,
44 R10W, thence north 10 degrees 14 feet west 200 feet to point of beginning, thence west approximately 6,250 feet
45 to the west meander line of Netarts Bay, thence north 1,000 feet, thence east about 6,250 feet, thence south along
46 the meander line to the point of beginning, except any privately owned tidelands within the described area are
47 excluded from the closure.

48 (9) Any shellfish from Special Regulation Marine Areas as described in OAR 635-005-0260.

49 (10) Clams or mussels from a health closure area closed for biotoxins. "Health closure area" means an area
50 closed to the public due to health risks of consuming shellfish from the area, and "Biototoxin" means naturally
51 occurring shellfish toxins monitored by the Oregon Department of Agriculture.

52 (11) Any shellfish taken for human consumption from an area designated as restricted by the Oregon Department
53 of Agriculture. Fishers should call the Oregon Department of Agriculture Shellfish Safety Hotline at 1-800-448-
54 2474, the Oregon Department of Agriculture Food Safety Division at 1-503-986-4720 or visit the Oregon
55 Department of Agriculture website at www.oregon.gov/ODA to confirm the area of intended harvest is open before
56 harvesting shellfish.

57 **(12) Littleneck clams (*Leukoma staminea*).**

58 Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129

59 Stats. Implemented: ORS 506.109 & 506.129

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61

Bay Clam Dive Fishery

62 **635-005-0305**

63 **Fishery Defined**

64 "Bay clam dive fishery" means the commercial fishery for bay clams (including: cockle clams, *Clinocardium*
65 *nuttallii*; butter clams, *Saxidomus gigantea*; gaper clams, *Tresus capax*; [native littleneck clams, *Protothaca*
66 *staminea*;-]and softshell clams, *Mya arenaria*) from subtidal areas in Oregon estuaries using dive gear.

67 Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129

68 Stats. Implemented: ORS 506.109 & 506.129

69

70 **635-005-0310**

71 **Requirement for Bay Clam Dive Permit**

72 (1) It is *unlawful* in the bay clam dive fishery to:

73 (a) Take, land or possess bay clams for commercial purposes, using dive gear, from subtidal areas in any
74 Oregon estuary north of Heceta Head without first obtaining a coast-wide Bay Clam Dive Permit issued pursuant
75 to OAR 635-005-0315 through OAR 635-005-0340.;

76 (b) Take, land or possess bay clams for commercial purposes, using dive gear, from subtidal areas in Oregon
77 estuaries south of Heceta Head without first obtaining either a coast-wide Bay Clam Dive Permit or a south-coast
78 Bay Clam Dive Permit issued pursuant to OAR 635-005-0315 through OAR 635-005-0340.;



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79 (c) For a wholesaler dealer, canner or buyer to buy or receive bay clams taken in the bay clam dive fishery
80 from a vessel or person not issued the permit required by subsections (1)(a) or (1)(b) of this rule.

81 (d) To take bay clams where more than two divers operating from any one vessel were in the water at the
82 same time or where more than ~~three~~^{two} persons without Bay Clam Dive Permits, excluding persons authorized
83 by the Department for the performance of official duties, were on board any vessel while harvesting, possessing,
84 or transporting bay clams.

85 (e) To take clams except under the terms and conditions specified in the permit. Permits may be issued to
86 mechanically harvest clams in subtidal areas by means of water jet or other hand or handpowered tool. Application
87 for such a permit must be written and include a description of the specific areas where mechanical taking is
88 proposed and such other information as the Director shall require.

89 (A) Applications should be mailed to: Marine Resources Program Office, Department of Fish and Wildlife,
90 2040 SE Marine Science Drive, Newport, OR 97365.

91 (2) The Department shall not issue more than ten coast-wide permits required by subsection (1)(a) of this rule and
92 five south-coast permits required by subsection (1)(b) of this rule.

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

95 (4) The Bay Clam Dive Permit required by section (1) of this rule is in addition to and not in lieu of either:

96 (a) The commercial fishing license required by ORS 508.235; or

97 (b) The commercial bait fishing license required by ORS 508.312.

98 (5) No vessel may hold more than one Oregon Bay Clam Dive Permit at any one time.

99 (6) If Bay Clam Dive Permits are issued on an individual basis, no individual may hold more than one Oregon Bay
100 Clam Dive Permit at any one time.

101 (7) Unless otherwise provided, Bay Clam Dive Permits must be purchased by January 31 of the year the permit is
102 sought for renewal.

103 (8) No Bay Clam Dive Permit shall be transferred without the vessel lien holder's written permission.

104 (9) Applications for Bay Clam Dive Permits shall be in such form and contain such information as the Department
105 may prescribe. Proof of length of a vessel may be required at the time of application.

106 Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129

107 Stats. Implemented: ORS 506.109, 506.129 & 506.306

108

109 **635-005-0350**

110 **Size Limit**

111 ~~[(4)]~~The minimum legal size of cockle clams taken for commercial purposes under a Bay Clam Dive Permit (OAR
112 635-005-0310) in Tillamook Bay is 2-3/4~~[2-4/4]~~ inches at the greatest dimension, and 2-1/4 inches at the
113 greatest dimension in all other bays. It is *unlawful* to possess any cockle clams taken for commercial purposes
114 under a Bay Clam Dive Permit which are less than the minimum legal size.

115 ~~[(2)]~~The minimum legal size of gaper clams taken for commercial purposes under a Bay Clam Dive Permit (OAR
116 635-005-0310) is 4 inches at the greatest dimension. It is *unlawful* to possess any gaper clams taken for
117 commercial purposes under a Bay Clam Dive Permit which are less than the minimum legal size.]



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118 Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
119 Stats. Implemented: ORS 506.109, 506.129 & 506.306
120

121 **635-005-0355**

122 **Catch Limits**

123 [~~(1) In Netarts Bay, the commercial landing cap for cockle clams harvested by the bay clam dive fishery is 8,000~~
124 ~~pounds.]~~

125 (1)(2) In Tillamook Bay, the commercial landing caps for cockle clams harvested by the bay clam dive fishery
126 are 185,000 pounds for cockles, 235,000 pounds for gaper clams, and 225,000 pounds for butter clams~~is~~
127 ~~90,000 pounds].~~

128 (2)(3) When any of the commercial cockle clam landing caps specified in section (1) and (2) of this rule are
129 reached, the commercial cockle clam fishery for that species in that particular estuary will close for the
130 remainder of the~~that~~ calendar year.

131 Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
132 Stats. Implemented: ORS 506.109 & 506.129
133

134 **Intertidal Animal, Mussel and Clam Commercial Fisheries**

135 **635-005-0385**

136 **Size Limit**

137 (1) There is no size limit for mussels taken for commercial purposes.

138 (2) The minimum legal size of razor clams taken for commercial purposes is 3-3/4 inches from tip to tip of the
139 shell. It is *unlawful* to possess any razor clams taken for commercial purposes which are less than the minimum
140 legal size.

141 ~~(a)~~ All undersized razor clams must be immediately returned to the hole from which they were dug with the hinge
142 oriented towards the ocean.

143 (3) The minimum legal size of intertidal cockles taken for commercial purposes in Tillamook Bay and
144 Netarts Bay is 2-3/4 inches at the greatest dimension. It is unlawful to possess any cockles taken for
145 commercial purposes which are less than the minimum legal size.

146 Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
147 Stats. Implemented: ORS 506.109, 506.129 & 506.306
148

149 **635-005-0387 (New Rule)**

150 **Catch Limits**

151 (1) In Netarts Bay, the commercial landing cap for cockles harvested by the intertidal fishery is 22,000
152 pounds.

153 (2) When the commercial cockle landing cap specified in section (1) of this rule is reached, the intertidal
154 cockle fishery in Netarts Bay will close for the remainder of the calendar year.

155 Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
156 Stats. Implemented: ORS 506.109 & 506.129
157



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Ocean Dungeness Crab Fishery

158

159 **635-005-0465**

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

161 (1) It is *unlawful* to take, land or possess Dungeness crab for commercial purposes from the Pacific Ocean or
162 Columbia River from August 15 through December 1~~[November 30]~~, 08:59 AM.

163 (2) The season opening for the commercial Ocean Dungeness crab fishery may be delayed in one or more fishing
164 zones based on the results of crab quality testing. The Pre-season Testing Protocol for the Tri-State Coastal
165 Dungeness crab Commercial Fishery (hereafter, "Tri-State Protocol") specifies the process for establishing fishing
166 zones (section VI) and coordinating the opening of the fishery in Washington, Oregon, and California north of
167 Point Arena (sections IV and V). Therefore, the following sections of the Tri-State Protocol (Revised July 2014) are
168 hereby incorporated into Oregon Administrative Rule by reference:

169 (a) Section IV – Season Opening Criteria.

170 (b) Section V – Test Fishing and Process for Setting the Season Opening Date.

171 (c) Section VI – Procedure for Establishing Fishing Zones.

172 In the event that crab quality tests do not meet the criteria for opening the season on December 1, the Director
173 shall adopt temporary rules delaying the season in accordance with the Tri-State Protocol.

174 (3) It is *unlawful* to land, receive or buy, Dungeness crab in the first thirty days of the ocean Dungeness crab
175 fishery from a vessel that has not been certified by officials of the State of Oregon, Washington, or California to
176 have been free of Dungeness crab before fishing in the ocean Dungeness crab fishery. In the event the area
177 between Gray's Harbor, Washington and Point Arena, California is divided into zones with different season
178 opening dates, the ocean Dungeness crab fishery refers to the fishery in that zone for the purposes of this rule.

179 (4) In the event the area between Gray's Harbor, Washington and Point Arena, California is divided into zones with
180 different season opening dates, the transfer of a permit from one vessel to another is suspended from the earliest
181 season opening date through thirty days after the latest season opening date, except in the event a vessel is
182 unintentionally destroyed due to fire, capsizing, sinking, or other event.

183 (5) Upon a determination by the Department that catch in Oregon's ocean Dungeness crab fishery after May 31 is
184 greater than ten percent of the catch in the previous December 1 through May 31 period, the Director shall adopt a
185 temporary rule closing the commercial season until the following December 1.

186 Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129

187 Stats. Implemented: ORS 506.109 & 506.129

188

189 **635-005-0485**

190 **Dungeness Crab Gear Prohibitions**

191 It is *unlawful* for commercial purposes to:

192 (1) Place, operate, or leave Dungeness crab gear in the Pacific Ocean, Columbia River or in any bay or estuary
193 during the closed season, except:

194 [(a)] In only the Pacific Ocean and Columbia River, Dungeness crab gear may be placed no more than 73~~[64]~~

195 hours immediately prior to the date the Dungeness crab season opens. In addition, unbaited Dungeness crab gear
196 with open release mechanisms may be left in the Pacific Ocean (not including the Columbia River) for a period not



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- 197 to exceed 14 days following the closure of the Dungeness crab season.
198 (2) Have Dungeness crab gear deployed in the Pacific Ocean or Columbia River more than 14 days without
199 making a landing of Dungeness crab.
200 (3) Remove, damage, or otherwise tamper with crab buoy, pot or ring tags except:
201 (a) When lawfully applying or removing tags on the vessel's buoys, pots or rings; or
202 (b) When lawfully removing tags on crab gear retrieved under a Post-Season Derelict Gear Permit pursuant to
203 OAR 635-005-0491 and after the gear has been registered by state officials.
204 (4) Attach one crab pot or ring to another crab pot or ring by a common groundline or any other means that
205 connects Dungeness crab gear together.
206 (5) Take crabs for commercial purposes by crab pots from any bay or estuary except the Columbia River.
207 (6) Take or fish for Dungeness crab for commercial purposes in the Columbia River or Pacific Ocean adjacent to
208 the state of Oregon unless a Dungeness crab gear allocation has been issued to the permit required under OAR
209 635-005-0405(5).
210 (7) Deploy or fish more Dungeness crab gear than the number of pots and rings in aggregate assigned by the
211 Dungeness Crab Pot Allocation Certificate or to use any vessel other than the vessel designated on the
212 Dungeness Crab Pot Allocation Certificate, except to set gear as allowed under OAR 635-005-0405.
213 Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
214 Stats. Implemented: ORS 506.109 & 506.129
215

216 **635-005-0491**

217 **Post-season Derelict Gear Recovery Permits**

- 218 (1) Fifteen days after the close of ocean commercial crab season, the Department may grant Post-Season
219 Derelict Gear Recovery Permits **to commercial vessels, licensed**[for boats, issued] pursuant to ORS 508.260,
220 [~~commercial vessels~~]to recover Dungeness crab gear that remains in the ocean.
221 (2) It is unlawful to fail to follow the provisions of a Post-Season Derelict Gear Recovery Permit.
222 (3) The Director or Director's designee may grant emergency exemptions from the gear recovery program for
223 Dungeness crab gear that was unable to be removed from the ocean prior to fifteen days after the end of the
224 season as a result of undue hardship as defined in OAR 635-005-0240. Requests for exemptions must be
225 submitted to the Marine Resources Program, Newport by August 29 of each year.
226 (4) The provisions of ORS 98.005, 98.015, 98.025 and **98.302 to** 98.436 do not apply to crab pots removed from
227 the ocean under the provisions of **a** Post-Season Derelict Gear Recovery Permit.
228 (5) Dungeness crab gear retrieved under the authority of a Post-Season Derelict Gear Recovery Permit and not
229 subject to emergency exemption under section (3) of this rule may be disposed of at the permit holder's discretion
230 after documenting retrieval of the gear in accordance with permit conditions.
231 Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
232 Stats. Implemented: ORS 506.109, 506.129 & 506.306
233