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Attachment 2

ARCHIVES DIVISION
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NOTICE OF PROPOSED RULEMAKING INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 635
DEPARTMENT OF FISH AND WILDLIFE

FILED

08/18/2021 3:42 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: 2021-2022 Oregon Dungeness Crab Fishery Management Plan (FMP) Implementing Rules

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/15/2021 5:00 PM

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.

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4034 Fairview Industrial Dr SE
Salem, OR 97302

Filed By:
Michelle Tate
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 10/15/2021

TIME: 8:00 AM - 5:00 PM

OFFICER: Oregon Fish and Wildlife
Commission

ADDRESS: Oregon Department of Fish
and Wildlife

4034 Fairview Industrial Dr SE
Salem, OR 97302

SPECIAL INSTRUCTIONS:

Note: Because of the rapidly changing situation with COVID-19, all or portions of this hearing may be conducted electronically. Information will be posted on our website at <https://www.dfw.state.or.us/agency/commission/minutes>

NEED FOR THE RULE(S):

These rules are needed to implement 2021-2022 Oregon Dungeness Crab Fishery Management Plan (FMP) management measures that are not already in rule. The FMP largely describes current resource management goals, harvest policy, and management measures that are already adopted in Oregon Revised Statutes (ORS) or Oregon Administrative Rules (OAR). However, a small number of additional management measures need to be adopted in rule for full implementation of the FMP.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

1. Staff report prepared for the Oregon Fish and Wildlife Commission hearing on 10/15/2021.

A copy of the rules and the other documents relied upon for this rulemaking [the above document(s)] are available from the Oregon Department of Fish and Wildlife, Wildlife Division, 4034 Fairview Industrial Drive SE, Salem, Oregon 97302-1142, between the hours of 8:00 a.m. and 4:00 p.m., on normal working days, Monday through Friday.

FISCAL AND ECONOMIC IMPACT:

No major fiscal and economic impacts are expected from these rule changes. There may be minor effects that could result from proposed implementation measures, these possible impacts are described here in the subsequent sections in greater detail.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

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

(a) Oregon Department of Fish and Wildlife (ODFW) and Oregon State Police (OSP) could experience slight fiscal impacts, as some FMP implementation measures may result in adjustments to staff time allotted to specific activities. These effects are not expected to significantly affect the net number staff and many changes allow for increased productivity and flexibility. While some of the impacts can be quantified, all staff time impacts cannot be estimated in monetary terms, a written summary of the expected effects to each agency is provided below.

Impacts to ODFW: Implementation of one of the proposed measures is expected to result in a relatively minor fiscal impact to ODFW operating costs. The commercial bay crab logbook requirement will provide ODFW information, but there would also be a cost to implement and administer this measure. ODFW would be providing logbooks to crab fishermen. Implementing this measure will require ODFW to print and distribute logbooks, along with entering and evaluating collected data. The cost for printing the logbooks is estimated at \$750-\$1,000, which is an ongoing cost expected to occur once every 2-3 years when logbooks are printed. No additional staffing is expected to be necessary, as data entry and analysis would be completed by existing ODFW staff. The opportunity cost of the time for staff to perform data entry and assessment is approximately \$6,470 per year.

Impacts to OSP: Several proposed measures may affect OSP enforcement activities and costs. There are three measures that have the potential decrease enforcement costs and one measure that may make enforcement more difficult. The net impact of all measures is difficult to quantify, future enforcement activities are hard to predict. The revision of the bottom contact gear (fixed gear; longlines, fish pots, crab pots) definition in Marine Reserves and Marine Protected Areas (MPAs) to include surface gear (i.e., surface buoys inside these areas would be a violation), is expected to simplify enforcement regarding Dungeness crab gear. Currently, one cannot see where the actual bottom gear (i.e., crab pot) is relative to the Marine Reserve/MPA Border(s), so adding a surface gear definition will make this rule easier to enforce. Over the long term this may reduce enforcement costs with Marine Reserves, but ODFW does not have a method to

estimate this impact at this time. Enforcement transparency will also be increased by clarification of the current rules to explicitly prohibit permittees from landings after May 1, when they have chosen not to opt-in to the late-season buoy tag program. Another measure that is expected to result in a reduction of time spend for both OSP and ODFW is the one-week extension of late-season buoy tag attachment, allowing late-season buoy tag attachment up to three weeks before May 1. This would reduce the time spend managing situations where late season crab fishermen are unable to attach all late-season tags in the existing two-week window due to inclement weather, currents, or other extenuating circumstances. The proposed updates to the Harvest Area map (providing finer scale areas in Washington) and the Oregon Department of Agriculture (ODA) references to rules that address evisceration zones in other states may increase OSP enforcement costs as it is more difficult to enforce an allowance to land crab for evisceration compared to an outright prohibition. It is currently not possible to estimate this cost as the use of evisceration zones in other states is rare and very unpredictable in nature.

(b) There are no expected direct economic impacts to local governments. It should be noted that port communities could potentially be affected by indirect economic effects of the measures. However, no major changes from the current levels of these agencies' operations or expenditures are expected.

(c) The general public are not expected to experience any major direct economic impacts as a result of this proposed rulemaking. There is the potential for economic impacts to participants in the Oregon commercial Dungeness crab fishery and for other related businesses that the fishery supports. Impacts include compliance cost effects to commercial bay crab fishery participants who will be required to fill out and submit a logbook to ODFW. Two of the proposed implementation measures have the potential for a positive economic impact. The late-season buoy tag extension allows those participating in the late-season more flexibility, as giving participants an additional week to the window to attach late-season tags could potentially result in fewer trips. The measure that addresses evisceration zones, allowing the landing of crab from an area in another state that is under an evisceration order to be landed into Oregon for evisceration, will likely result in a positive economic benefit for Oregon crab fishermen and processors. This measure in effect allows landing of crab that otherwise would have been landed in the state of origin instead of Oregon. It is currently not possible to estimate the size of this economic benefit as evisceration zones are unpredictable and depend on the productivity of crabbing in a highly dynamic zone.

While resource management policies can be viewed as reducing positive economic impacts in the short run, the management through conservation is intended to perpetuate fishery resources at optimal levels in the long run. Failure to manage harvests would result in adverse economic impacts in the future. The proposed regulations attempt to strike a balance between harvest opportunity and maintaining population levels to provide future fishery and ecosystem benefits.

(2)(a) The type of businesses subject to these rules are those directly engaged in the Oregon commercial Dungeness crab fishery and other fixed gear fishermen who choose to fish close to Marine Reserves and MPAs. The five-season average of vessels participating in the commercial Dungeness crab fishery is 346 vessels per season. The number of businesses that actively participate in this fishery each year varies.

Wholesale fish dealers, retailers, and restaurants are also subject to rules, specifically biotoxin rules, due to tracking requirements if they purchase crab from an out-of-state evisceration zone. Through a review of fish tickets, it is

estimated that on average there were 70 fish dealer licenses that purchased crab in Oregon per season over the last five seasons. ODFW is not able to estimate the exact number of retailers and restaurants affected at this time.

(b) Those participating in the commercial bay Dungeness crab fishery will be required to keep participation records. ODFW will provide logbooks to participants free of charge. There will be new recordkeeping compliance costs associated with the amount of time it takes for an individual to log participation activity and operation location. It is estimated the amount of time needed for participants to complete logbooks will be approximately 5-10 minutes per landing. Logbook recordkeeping has been a requirement for most harvesting vessels that participate in Oregon based fisheries, so this is already common practice within the industry.

Wholesale fish dealers, retailers, and restaurants that are purveyors of Dungeness crab will be required to track crab originating from Washington state to more refined harvest areas than under current permanent rule. However, this requirement was in place via temporary rule for the 2020-2021 season, so most affected businesses have already adopted this practice and no new recordkeeping compliance costs are anticipated.

(c) Late-season Dungeness crab fishery participants may have the potential to reduce operation and labor costs associated with attaching late-season buoy tags to their gear, as they will now have an additional week in the attachment window to complete this task. This may allow vessels to make fewer trips to sea and as a result reduce fuel and crew labor costs.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The type of businesses subject to these rules are those directly engaged in the Oregon commercial Dungeness crab fishery and other fixed gear fishermen who choose to fish close to Marine Reserves and MPAs. The five-season average of vessels participating in the commercial Dungeness crab fishery is 346 vessels per season. The number of businesses that actively participate in this fishery each year varies.

Wholesale fish dealers, retailers, and restaurants are also subject to rules, specifically biotoxin rules, due to tracking requirements if they purchase crab from an out-of-state evisceration zone. Through a review of fish tickets, it is estimated that on average there were 70 fish dealer licenses that purchased crab in Oregon per season over the last five seasons. ODFW is not able to estimate the exact number of retailers and restaurants affected at this time.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

ODFW relied on the standing advisory committees mentioned above, public meetings, individual contacts, consultation with Oregon State Police, and ODFW data to understand and describe the effects of these rules on businesses and the public.

RULES PROPOSED:

635-005-0466, 635-005-0480, 635-005-0502, 635-006-0210, 635-012-0030

AMEND: 635-005-0466

RULE SUMMARY: These rules will implement the 2021-2022 Oregon Dungeness Crab Fishery Management Plan (FMP) by adopting the few FMP management measures that are not already in rule, which are:

- A commercial bay crab logbook requirement,
- Provisions to allow landing of crab for evisceration if they are from an area of elevated biotoxins in another state,
- Prohibition of landing crab by those not participating in the late season tag program,
- An extension of the time allowed to attach late-season buoy tags, and
- A change to the definition of fishing gear relative to Marine Reserves to include surface buoys.

Housekeeping and technical corrections to the regulations are also included.

CHANGES TO RULE:

635-005-0466

Dungeness Crab Closure or Evisceration Requirement Based on Biotoxin Testing

(1) For the purposes of this rule, unless context requires otherwise, the following definitions apply:¶

(a) "Biotoxin management zone" means one or more harvest areas that due to test results the Oregon Department of Agriculture, in order to protect public health from domoic acid or other biotoxin concerns, has so designated in accordance with OAR 603-025-0410.¶

(b) "Harvest area" means a section of waters of this state or the Pacific Ocean off Oregon delineated for crab traceability purposes in accordance with OAR 635-006-0201.¶

(2) During any open commercial Dungeness crab season, if a biotoxin management zone is designated due to a single crab sample result at or above 20 parts per million (ppm) in the meat, it is unlawful to:¶

(a) Land Dungeness crab taken for commercial purposes from or into a harvest area within a biotoxin management zone that an affected crab sample was taken from starting at 12:01 a.m. on the date of harvest of the affected sample; and¶

(b) Land crab taken for commercial purposes from any harvest area within a biotoxin management zone where all crab samples were below 20 ppm in the meat unless the conditions set forth in OAR 603-025-0410(6) are met, starting at 12:01 a.m. on the date that test results are issued.¶

¶

(3) During any open commercial Dungeness crab season, it is unlawful to land Dungeness crab taken for commercial purposes from any biotoxin management zone that was so designated due to a single crab sample result at or above 30 ppm in the viscera and below 20 ppm in the meat unless the conditions set forth in OAR 603-025-0410(6) are met, starting from:¶

(a) 12:01 a.m. on the date of harvest of the crab sample that was at or above 30 ppm in the viscera and below 20 ppm in the meat, if the landed Dungeness crab taken for commercial purposes was taken from a harvest area where such result was taken; or¶

(b) 12:01 a.m. on the date that test results are issued, if the Dungeness crab taken for commercial purposes was not taken from a harvest area where a crab sample result was at or above 30 ppm in the viscera and below 20 ppm in the meat.¶

(4) Unless the conditions set forth in OAR [603-025-INSERT REFERENCE WHEN AVAILABLE] are met, it is unlawful to land crab taken for commercial purposes that:¶

(a) Is not harvested in the waters of this state or the Pacific Ocean off Oregon; and¶

(b) Is harvested from an area in which crab viscera samples that were tested under the authority of the responsible state agency showed domoic acid levels of 30 ppm or higher.

Statutory/Other Authority: ORS 506.036, ORS 506.109, ORS 506.119, ORS 506.129

Statutes/Other Implemented: ORS 506.109, ORS 506.129

AMEND: 635-005-0480

RULE SUMMARY: These rules will implement the 2021-2022 Oregon Dungeness Crab Fishery Management Plan (FMP) by adopting the few FMP management measures that are not already in rule, which are:

- A commercial bay crab logbook requirement,
- Provisions to allow landing of crab for evisceration if they are from an area of elevated biotoxins in another state,
- Prohibition of landing crab by those not participating in the late season tag program,
- An extension of the time allowed to attach late-season buoy tags, and
- A change to the definition of fishing gear relative to Marine Reserves to include surface buoys.

Housekeeping and technical corrections to the regulations are also included.

CHANGES TO RULE:

635-005-0480

Dungeness Crab Buoy Tag and Gear Marking Requirements ¶¶

It is unlawful for commercial purposes to:¶¶

(1) Use commercial Dungeness crab gear in the Columbia River or Pacific Ocean unless the gear is individually marked with a surface buoy bearing, in a visible, legible and permanent manner, the buoy brand and buoy color(s) of the owner, and the Department buoy tag, provided that:¶¶

(a) The buoy brand consists of letters and/or numbers, and the buoy brand and buoy color or color combination are registered with and approved by the Department; The buoy color or color combination shall be submitted to the Department as a color photograph for registration;¶¶

(b) Only one unique buoy brand and one buoy color or color combination shall be registered to any one permitted vessel;¶¶

(c) All Dungeness crab gear fished by a permitted vessel must use only the Oregon buoy brand number and at least one buoy with the buoy color or color combination registered to that vessel in the area off of Oregon;¶¶

(d) The Department shall issue crab buoy tags to the owner of each commercial crab permit in the amount determined by OAR 635-005-0405(5);¶¶

(e) All buoy tags eligible to a permit holder must be purchased from the Department at cost and attached to the gear prior to setting gear;¶¶

(f) Buoys attached to Dungeness crab gear must have the buoy tag securely attached to the buoy closest to the gear at the end away from the buoy line; and¶¶

(g) Additional buoy tags to replace lost tags will be issued by the Department as follows:¶¶

(A) For a catastrophic loss, as defined in OARS 635-005-0240; or¶¶

(B) If the Director finds that the loss of buoy tags was:¶¶

(i) Due to an extraordinary event;¶¶

(ii) The loss was minimized with the exercise of reasonable diligence; and¶¶

(iii) Reasonable efforts were taken to recover lost buoy tags and associated fishing gear.¶¶

(C) Upon receipt of the declaration of loss required by subsection (1)(g)(D) of this rule, and a request for replacement tags under ~~sub~~-subsection (1)(g)(B) of this rule, the Director or the Director's designee may provide an opportunity for the permit holder requesting the replacement tags to describe why the buoy tag loss meets the criteria for replacement under subsection (1)(g)(B) of this rule. The Director or the Director's designee shall provide the Director's order to the permit holder and to the Department's License Services. The permit holder may appeal the Director's findings to the Fishery Permit Review Board under OAR 635-005-0425.¶¶

(D) Permit holders (or their alternative designated on the buoy tag order form) must obtain, complete, and sign a declaration of loss under penalty of perjury in the presence of an authorized Department employee. The declaration shall state the number of buoy tags lost, the location and date where lost gear or tags were last

observed, and the presumed cause of the loss.¶¶

(2) Possess on a vessel, use, control, or operate any Dungeness crab gear which does not have a tag affixed to the individual pot or ring identifying the gear as belonging to that vessel, a surface buoy bearing the Department buoy brand registered to that vessel, and a Department buoy tag issued by the Department to that vessel, as pursuant to ORS 509.415, except:¶¶

(a) To set gear as allowed under OAR 635-005-0405; or¶¶

(b) Under a waiver granted by the Department to allow one time retrieval of permitted Dungeness crab gear to shore by another crab permitted vessel provided that:¶¶

(A) The vessel is incapacitated due to major mechanical failure or destroyed due to fire, capsizing, or sinking;¶¶

(B) Circumstances beyond the control of the permit holder as defined by undue hardship in OAR 635-005-0240 occurred;¶¶

(C) A Request must be in writing and a waiver approved and issued prior to retrieval; and¶¶

(D) A copy of the waiver must be on board the vessel making the retrieval (Contact Department of Fish and Wildlife Licensing Services, Salem for guidelines).¶¶

(c) Under a waiver granted by the Department to allow one time change of buoy tags associated with a Dungeness crab permit transfer under OAR 635-005-0440 provided that:¶¶

(A) A request must be in writing and a waiver approved and issued prior to change of buoy tags; and¶¶

(B) A copy of the waiver must be on board the vessel making the change of buoy tags (Contact Department of Fish and Wildlife Licensing Services, Salem for guidelines).¶¶

(d)-Under a waiver granted by the Department to allow one time retrieval of permitted Dungeness crab gear to shore by another crab permitted vessel from August 1 through August 14 provided that:¶¶

(A) A Request must be in writing and a waiver approved and issued prior to retrieval; and¶¶

(B) A copy of the waiver must be on board the vessel making the retrieval (Contact Department of Fish and Wildlife Licensing Services, Salem for guidelines).¶¶

(e) When retrieving derelict Dungeness crab gear as pursuant to OAR 635-005-0490 or 635-005-0491;¶¶

(f) A vessel may transit through the Columbia River and the Pacific Ocean adjacent to Oregon while possessing Dungeness crab gear not bearing Oregon buoy tags or Oregon buoy branded surface buoys, provided that the vessel is authorized and en route to participate or returning from participating in the Dungeness crab fishery of an adjacent state; or¶¶

(g) When operating crab rings in bays or estuaries, only a tag affixed to the individual ring is required.¶¶

(3) Use commercial Dungeness crab gear in the Columbia River or Pacific Ocean with a line mark that is required for any state or federal fishery, other than the Oregon Dungeness crab fishery, operating in the U.S. West Coast EEZ, or the state waters of Washington, Oregon, or California.¶¶

(4) Effective for calendar years 2021 through 2023, from May 1 through August 14, possess on a vessel, use, control, or operate commercial Dungeness crab gear in the Columbia River or Pacific Ocean unless the gear is individually marked with a secondary Department buoy tag issued by the Department to that vessel in addition to the buoy tag required under section (1) of this rule, provided that:¶¶

(a) The primary buoy tag shall remain attached as required per section (1) of this rule;¶¶

(b) The secondary buoy tag shall be securely attached to the buoy closest to the gear at the end away from the buoy line;¶¶

(c) The Department shall issue secondary buoy tags to the owner of each commercial crab permit in the amount requested by the permit owner, not to exceed the amount determined by OAR 635-005-0405(10);¶¶

(d) Secondary buoy tags must be purchased from the Department at cost and attached to the gear as of the effective date but no earlier than ~~two weeks before the effective date~~ April 10;¶¶

(e) The exceptions found in sections (2)(b) through (2)(g) of this rule also apply to this section; and¶¶

(f) Any commercial Dungeness crab gear found in the ocean or Columbia River without a secondary buoy tag during the effective dates of this section shall be considered derelict and may be retrieved per OAR 635-005-0490;¶¶

(5) Effective for calendar years 2021 through 2023, from May 1 through August 14, land Dungeness crab into

Oregon for commercial purposes unless secondary buoy tags have been purchased from the Department for the Oregon commercial crab permit under which the landing vessel is operating

Statutory/Other Authority: ORS 506.036, ORS 506.109, ORS 506.119, ORS 506.129

Statutes/Other Implemented: ORS 506.109, ORS 506.129

ADOPT: 635-005-0502

RULE SUMMARY: These rules will implement the 2021-2022 Oregon Dungeness Crab Fishery Management Plan (FMP) by adopting the few FMP management measures that are not already in rule, which are:

- A commercial bay crab logbook requirement,
- Provisions to allow landing of crab for evisceration if they are from an area of elevated biotoxins in another state,
- Prohibition of landing crab by those not participating in the late season tag program,
- An extension of the time allowed to attach late-season buoy tags, and
- A change to the definition of fishing gear relative to Marine Reserves to include surface buoys.

Housekeeping and technical corrections to the regulations are also included.

CHANGES TO RULE:

635-005-0502

Logbook Required - Bay and Estuary Dungeness Crab Fishery

(1) The Department shall make available a logbook to each licensed commercial fishing vessel used to take Dungeness crab from Oregon Bays and Estuaries.¶

(2) The vessel operator of such vessel is responsible for maintaining the logbook in an accurate and truthful manner and in accordance with the instructions contained therein.¶

(3) Upon request of an authorized representative of the Department or the Oregon State Police, the vessel operator shall permit examination and transcription of information of such logbook.¶

(4) Upon request of an authorized representative of the Department, the vessel operator shall surrender a legible copy of such logbook.¶

(5) Information so received by the Department shall be considered confidential.

Statutory/Other Authority: ORS 506.036, ORS 506.109, 506.119, 506.129

Statutes/Other Implemented: ORS 506.109, 506.129

AMEND: 635-006-0210

RULE SUMMARY: These rules will implement the 2021-2022 Oregon Dungeness Crab Fishery Management Plan (FMP) by adopting the few FMP management measures that are not already in rule, which are:

- A commercial bay crab logbook requirement,
- Provisions to allow landing of crab for evisceration if they are from an area of elevated biotoxins in another state,
- Prohibition of landing crab by those not participating in the late season tag program,
- An extension of the time allowed to attach late-season buoy tags, and
- A change to the definition of fishing gear relative to Marine Reserves to include surface buoys.

Housekeeping and technical corrections to the regulations are also included.

CHANGES TO RULE:

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 fisher or commercial bait 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 the original dock ticket is attached to the completed dealer copy of the Fish Receiving Ticket and kept on file for inspection by the Director, the Director's authorized agent, or by the Oregon State Police. Fish dealers shall be required to account for all Fish Receiving Tickets received from the Department. Fish Receiving Tickets shall be issued in numerical sequence.~~¶

~~(2) Fish Receiving Tickets 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; "Dungeness crab" means all Dungeness crab products whether live, cooked, or processed.~~¶

~~(2) For all Dungeness crab received the records required by OAR 635-006-0200 shall include the following additional information:~~¶

~~(a) Date(s) of landing; and~~¶

~~(b) His or her name from whom purchase is made. If not landed from a vessel, then his or her commercial license number shall be added. If received from a Columbia River treaty Indian, his or her tribal affiliation and enrollment number as shown on the official identification card.~~¶

~~(3) All retail fish dealers, wholesale fish dealers, buyers, limited fish sellers, food fish canners, and shellfish canners shall keep a record of all Dungeness crab sold to any person or business other than the ultimate consumer associated with the landing or portion of landing, which shall be provided by the vessel operator to the preparer of the fish ticket.~~¶

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

~~(e) For groundfish harvested in the limited entry fixed gear fishery, the federal limited entry fixed gear permit number, and shellfish canners shall keep a record of all Dungeness crab sold to any person or business other than the ultimate consumer associated with the landing or portion of landing, which shall be provided by the vessel operator to the preparer of the fish ticket;~~¶

~~(f) Port of first landing. The port of first landing will be, For the purposes of this rule, ultimate consumer does not include restaurants. This recorded as where a vessel initially crosses from the Pacific Ocean to inland waters, or is physically removed from the Pacific Ocean, for the purposes shall include:~~¶

~~(a) Date of sale;~~¶

~~(b) Date(s) of landing a fishing trip;~~¶

~~(c) Fishing gear used by the fisher; Amount of pounds sold;~~¶

~~(d) For salmon, zone or area of primary catch and for Dungeness crab, all harvest areas as defined by OAR 635-~~

006-0201 from which The name and phone number of the persons or businesses to whom Dungeness crab were taken; sold; and

(ie) Species or species group; Harvest area(s) as determined by the Department, of food fish or shellfish received;

(j) Pounds of each species or species group, as determined by the Department, received;

(A) Pounds must be determined and reported based on condition of the fish when landed, either dressed or round. Dressed pounds may only be used for species with a conversion factor listed at OAR 635-006-0215(3)(g). Measures must be taken using a certified scale.

(B) Pounds shall include those fish or shellfish with no commercial value.

(k) For Columbia River sturgeon the exact number of fish received and the actual round weight of that number of fish;

(l) Price paid per pound for each species received;

(m) Signature of the individual preparing the Fish Receiving Ticket; Harvest areas are defined by latitudinal boundaries found on the Dungeness Crab Harvest Area Map located at http://www.dfw.state.or.us/MRP/shellfish/commercial/crab/commercial_crab_harvest_areas.asp (dated 10/15/2021), and that document is hereby incorporated into this rule by reference.

(n) Signature of the vessel operator making the landing;

(o) Species name, pounds and value of fish retained by fisher for take home use.

(3) Except as provided it is unlawful for records required in by OAR 635-006-0212 and OAR 635-006-0213, 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, 4034 Fairview Industrial Drive SE, Salem, OR 97302 or through the Pacific States Marine Fisheries Commission West Coast E-Ticket system or as required by Title 50 of the Code of Federal Regulations, part 660 Subpart C. All fish dealer amendments must be conducted in the same system in which the ticket was initially submitted.

(4) For Columbia River non-treaty mainstem and Select Area commercial fisheries downstream of Bonneville Dam, each licensed wholesale fish dealer, wholesale fish bait dealer, limited fish seller, and food fish canner must submit fish receiving tickets electronically through the Pacific States Marine Fisheries Commission (PSMFC) West Coast E-Ticket System for all salmon, sturgeon, smelt and shad landed. Electronic fish tickets (e-tickets) must be submitted within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours. All fish dealer amendments to electronic fish tickets must be conducted in the same system in which the tickets were initially submitted.

(5) For the Ocean and Bay harvest areas from which Dungeness crab were originally taken and comingled prior to the repackaging.

(6) Dungeness crab taken from different harvest areas may be comingled by any entity required to keep harvest area records by section (1) or (2) of this rule as long as records from the time of comingled forward include every harvest area from which the comingled Dungeness Crab Fisheries, as defined in OAR 635-005-0400 and OAR 635-005-0400, each licensed wholesale fish dealer, wholesale fish bait dealer, limited fish seller, and food fish canner must submit fish receiving tickets electronically through the Pacific States Marine Fisheries Commission (PSMFC) West Coast E-Ticket System for all were taken.

(7) The records required in this rule shall be:

(a) Subject to inspection by the Director, the Director's authorized agent, the Oregon Department of Agriculture, or the Oregon State Police;

(b) Prepared and available at the time Dungeness crab landed. Electronic fish tickets (e-tickets) must be submitted within one working day are transferred to the premises of the buyer, regardless of the date of landing. All fish dealer amendments to electronic fish tickets must be conducted in the same system in which the tickets were

initially submitted.¶¶

~~(6) 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 Tickets 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~~ther sold or not;¶¶

(c) 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 (7)(a) of this rule. Notice of the physical location is to be provided to the Department.¶¶

(d) Written in the English language.

Statutory/Other Authority: ORS ~~496.138, 496.146, 496.162, 506.036, 506.109, 506.119, 506.129, 508.406, 508.530, 508.535~~

Statutes/Other Implemented: ORS 506.109, 506.119, 506.129, ~~508.025~~406, ~~508.045~~30, 508.535~~0~~

AMEND: 635-012-0030

RULE SUMMARY: These rules will implement the 2021-2022 Oregon Dungeness Crab Fishery Management Plan (FMP) by adopting the few FMP management measures that are not already in rule, which are:

- A commercial bay crab logbook requirement,
- Provisions to allow landing of crab for evisceration if they are from an area of elevated biotoxins in another state,
- Prohibition of landing crab by those not participating in the late season tag program,
- An extension of the time allowed to attach late-season buoy tags, and
- A change to the definition of fishing gear relative to Marine Reserves to include surface buoys.

Housekeeping and technical corrections to the regulations are also included.

CHANGES TO RULE:

635-012-0030

Definitions ¶¶

For the purposes of OAR 635, Division 012 the following definitions apply:¶¶

- (1) "Bank" means from the mainland or island shore or from docks physically attached to the shore.¶¶
- (2) "Commission" means the Oregon Fish and Wildlife Commission.¶¶
- (3) "Department" means the Oregon Department of Fish and Wildlife.¶¶
- (4) "Fish species" means any animal over which the Commission has jurisdiction, pursuant to ORS 506.036.¶¶
- (5) "Fishing gear" means any appliance or device intended for or capable of being used to take fish species, including surface buoys of bottom contact gear.¶¶
- (6) "Groundfish" has the meaning given in OAR 635-004-0215.¶¶
- (7) "Hook-and-line" has the meaning given in OAR 635-004-0215.¶¶
- (8) "Net gear" means any type of fishing gear defined in OAR 635-004-0215 that employs a net.¶¶
- (9) "Take" means to fish for, hunt, pursue, catch, capture or kill or attempt to fish for, hunt, pursue, catch, capture or kill, and includes attracting any squid by light.¶¶
- (10) "Trawl gear" has the meaning given in OAR 635-004-0215.¶¶
- (11) "Troll" has the meaning given in OAR 635-004-0215.¶¶
- (12) "Wildlife species" means all wild birds, amphibians, reptiles, and wild mammals.

Statutory/Other Authority: ORS 506.119, 506.129

Statutes/Other Implemented: ORS 196.540-, 196.542, 196.545, 196.550, 196.555, SB 1510 (2012)