



DIVISION 005

COMMERCIAL SHELLFISH AND MARINE INVERTEBRATE FISHERIES

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.**~~[am]~~ 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.**~~[am]~~ 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.**~~[am]~~ 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.



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

36 Statutes/Other Implemented: ORS 506.109 & ORS 506.129

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38 **635-005-0480**

39 **Dungeness Crab Buoy Tag and Gear Marking Requirements**

40 It is unlawful for commercial purposes to:

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

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

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

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

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

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

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

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

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

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

61 (i) Due to an extraordinary event;

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

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

64 (C) Upon receipt of the declaration of loss required by subsection (1)(g)(D) of this rule, and a
65 request for replacement tags under subsection (1)(g)(B) of this rule, the Director or the Director's
66 designee may provide an opportunity for the permit holder requesting the replacement tags to
67 describe why the buoy tag loss meets the criteria for replacement under subsection (1)(g)(B) of



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68 this rule. The Director or the Director's designee shall provide the Director's order to the permit
69 holder and to the Department's License Services. The permit holder may appeal the Director's
70 findings to the Fishery Permit Review Board under OAR 635-005-0425.

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

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

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

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

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

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

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

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

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

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

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

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

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

99 (B) A copy of the waiver must be on board the vessel making the retrieval (Contact



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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 April 10~~[two weeks before the effective date]~~;

(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



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132 **operating.**

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

135 Statutes/Other Implemented: ORS 506.109 & ORS 506.129

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137 **635-005-0502**

138 **Logbook Required — Bay and Estuary Dungeness Crab Fishery**

139 **(1) The Department shall make available a logbook to each licensed commercial fishing vessel used**

140 **to take Dungeness crab from Oregon Bays and Estuaries.**

141 **(2) The vessel operator of such vessel is responsible for maintaining the logbook in an accurate and**

142 **truthful manner and in accordance with the instructions contained therein.**

143 **(3) Upon request of an authorized representative of the Department or the Oregon State Police, the**

144 **vessel operator shall permit examination and transcription of information of such logbook.**

145 **(4) Upon request of an authorized representative of the Department, the vessel operator shall**

146 **surrender a legible copy of such logbook.**

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

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149 **Statutory/Other Authority: ORS 506.036, 506.109, 506.119 & 506.129**

150 **Statutes/Other Implemented: ORS 506.109 & 506.129**

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DIVISION 006

153 **COMMERCIAL FISHERIES: GEAR, LICENSES, POUNDAGE FEES, RECORDS AND**

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REPORTS

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156 **635-006-0201**

157 **Required Records for Dungeness Crab Traceability**

158 (1) For the purposes of this rule, “Dungeness crab” means all Dungeness crab products whether live,

159 cooked, or processed.

160 (2) For all Dungeness crab received the records required by OAR 635-006-0200 shall include the

161 following additional information:

162 (a) Date(s) of landing; and

163 (b) Harvest area(s) as defined by the Department.

164 (3) All retail fish dealers, wholesale fish dealers, buyers, limited fish sellers, food fish canners, and

165 shellfish canners shall keep a record of all Dungeness crab sold to any person or business other than the

166 ultimate consumer. For the purposes of this rule, ultimate consumer does not include restaurants. This

167 record shall include:



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- 168 (a) Date of sale;
- 169 (b) Date(s) of landing;
- 170 (c) Amount of pounds sold;
- 171 (d) The name and phone number of the persons or businesses to whom Dungeness crab were sold; and
- 172 (e) Harvest area(s) as defined by the Department.
- 173 (4) Harvest areas are defined by latitudinal boundaries found on the Dungeness Crab Harvest Area Map
- 174 located at http://www.dfw.state.or.us/MRP/shellfish/commercial/crab/commercial_crab_harvest_areas.asp
- 175 **(dated 10/15/2021)**, and that document is hereby incorporated into this rule by reference.
- 176 (5) It is unlawful for records required by OAR 635-006-0200 to include any harvest area, individually or
- 177 within a range, other than those harvest areas from which Dungeness crab were taken unless the
- 178 Dungeness crab has been processed to remove the viscera. Notwithstanding the foregoing, in the event
- 179 that Dungeness crab from different harvest areas are comingled and subsequently separated for
- 180 repackaging, records for the repackaged Dungeness crab may include all harvest areas from which
- 181 Dungeness crab were originally taken and comingled prior to the repackaging.
- 182 (6) Dungeness crab taken from different harvest areas may be comingled by any entity required to keep
- 183 harvest area records by section (1) or (2) of this rule as long as records from the time of comingling
- 184 forward include every harvest area from which the comingled Dungeness crab were taken.
- 185 (7) The records required in this rule shall be:
- 186 (a) Subject to inspection by the Director, the Director's authorized agent, the Oregon Department
- 187 of Agriculture, or the Oregon State Police;
- 188 (b) Prepared and available at the time Dungeness crab are transferred to the premises of the buyer,
- 189 regardless of whether sold or not;
- 190 (c) Retained for a period not less than three years, at a location within Oregon where the record is
- 191 to be available for inspection as designated in section (7)(a) of this rule. Notice of the physical
- 192 location is to be provided to the Department.
- 193 (d) Written in the English language.

194 ~~[Publications: Publications referenced are available from the Department.]~~

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196 Statutory/Other Authority: ORS 506.109, 506.119, 506.129, 508.406, 508.530 & 508.535

197 Statutes/Other Implemented: ORS 506.109, 506.119, 506.129, 508.406, 508.530 & 508.535

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Division 012

MARINE RESERVES AND MARINE PROTECTED AREAS IN THE TERRITORIAL SEA

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 - 196.555 & SB 1510 (2012)