

OFFICE OF THE SECRETARY OF STATE

LAVONNE GRIFFIN-VALADE  
SECRETARY OF STATE

CHERYL MYERS  
DEPUTY SECRETARY OF STATE  
AND TRIBAL LIAISON



Attachment 2

ARCHIVES DIVISION  
STEPHANIE CLARK  
DIRECTOR

800 SUMMER STREET NE  
SALEM, OR 97310  
503-373-0701

**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 635  
DEPARTMENT OF FISH AND WILDLIFE

**FILED**  
07/16/2024 4:16 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Marine Life Entanglement Fishery Identification Measures and Other Commercial Crab Regulations

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/13/2024 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.*

CONTACT: Steven Emerson  
503-947-6233  
Steven.C.Emerson@odfw.oregon.gov

4034 Fairview Industrial Dr SE  
Salem, OR 97302

Filed By:  
Steven Emerson  
Rules Coordinator

HEARING(S)

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

DATE: 09/13/2024

TIME: 8:00 AM - 5:00 PM

OFFICER: Steven Emerson

IN-PERSON HEARING DETAILS

ADDRESS: Fort Dalles Readiness Center, 402 E Scenic Dr., The Dalles, OR 97058

SPECIAL INSTRUCTIONS:

This hearing will be conducted as a hybrid meeting, providing an opportunity to give testimony either in person or virtually. Additional information regarding participation will be posted on our website at [www.dfw.state.or.us/agency/commission/minutes/](http://www.dfw.state.or.us/agency/commission/minutes/). The meeting can be viewed at [www.youtube.com/user/IEODFW](http://www.youtube.com/user/IEODFW). Any changes to the meeting format (to virtual only if emergency arises) will be posted to our website as soon as possible.

NEED FOR THE RULE(S)

Line marking requirements and prohibitions are needed to improve attribution of gear involved in marine life entanglements to a specific fishery. ESA-listed marine life entanglements in commercial Dungeness crab fishing gear across the West Coast (including gear set in Oregon waters) increased starting in 2014. Only half of entanglements observed on the West Coast can be attributed to a specific fishery and, of those, Dungeness crab gear is involved in 59%. Attributing entangling gear to a fishery is important to ensure management measures designed to reduce entanglement risk are effective and targeted. These requirements are critical to ODFW's strategy for monitoring marine life entanglements under the Conservation Plan and Incidental Take Permit application that are in development for reducing whale and turtle entanglement in ocean commercial Dungeness crab gear.

Allowing vessels to transit and deliver crab into closed areas is needed to increase operational efficiency and safety for vessels, particularly when there are different season opening dates among areas. Exempting vessels under state contract from derelict gear retrieval limits is needed to increase the amount of derelict gear that is retrieved under

state-sponsored programs, which reduces ghost fishing and risk of marine life entanglement. Adoption of the revised Tri-State Pre-season Testing Protocol is needed to ensure a coordinated and consistent approach for testing crab to inform season opening decisions is followed across the Tri-State area (Point Arena, CA to Washington-Canada border).

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#### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

1. Staff report prepared for the Oregon Fish and Wildlife Commission hearing on 09/13/2024.
2. Revised Pre-Season Testing Protocol for the Tri-State Coastal Dungeness Crab Commercial Fishery (July 2024)

A copy of the proposed new rule and rule amendments and the other documents relied upon for this rulemaking [the above document(s)] are available from the Oregon Department of Fish and Wildlife, Fish Division, 4034 Fairview Industrial Drive SE, Salem, Oregon 97302-1142. Contact Steve Emerson at 503-947-6233 or Steven.C.Emerson@odfw.oregon.gov to view by appointment between the hours of 8:00 a.m. and 4:00 p.m., on normal working days, Monday through Friday.

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#### STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The Department has solicited input from representatives of underrepresented communities likely to be affected on whether the proposed rule will have a fiscal impact on the community, the extent of the fiscal impact, and whether the rules will have significant impact on underrepresented communities. <https://www.dfw.state.or.us/OARs/index.asp>

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#### FISCAL AND ECONOMIC IMPACT:

These proposed rules will result in economic and fiscal impacts as described below. They are expected to maintain fishery activity, result in moderate economic impacts, and avoid unnecessarily broad fishery restrictions in the future by helping to accurately attribute marine life entanglements to specific fisheries, thereby ensuring management is effective and targeted.

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#### 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 Oregon Department of Fish and Wildlife (ODFW) and Oregon State Police (OSP) could experience fiscal impacts, as implementation and enforcement of these rules will require staff time. While the impacts of these additional measures on staff time are difficult to estimate, they are not expected to be significant enough to require additional new staff. These measures are not expected to impact ODFW revenue from ad-valorem or permit fees.

These proposed rules are not expected to economically affect local governments directly. However, Port Authorities in closed areas could be affected by indirect or induced economic effects of the measures. Port Authorities may derive revenues from the provision of moorage for commercial fishing and from the provision of facilities for the unloading of catches. We do not have precise information on how much the rule allowing for commercial crab vessels to transit and deliver crab into certain closed areas will affect the units of local government in a fiscal sense.

These proposed rules will economically affect all active ocean commercial Dungeness crab fishing businesses and most commercial marine supply businesses in Oregon. In particular, line marking requirements will require the purchase of new line and the use of labor to change out or temporarily mark existing lines. The rules have been developed with intent to offset these costs in a number of ways. The strategies for cost offsetting include delaying implementation of the requirements until the 2025-26 season and rolling out a phased implementation of requirements starting with

surface gear only and then vertical line. This delayed implementation and transition time allows businesses to replace existing line with marked (rule compliant) line as the existing line wears out from use. The rules also allow for temporary marks (paint or tape) to be used during the transition period in lieu of purchasing all new line immediately, which may be a less costly alternative for some businesses. The rules have been strategically designed to require line marking on the portions of line most frequently documented to be involved in marine entanglements, with the intent to further mitigate costs to commercial fishers. Line marking prohibitions are not expected to economically affect participants in other recreational or commercial fisheries since line in specified colors is not yet widely available and ODFW believes there is little to none currently in use. Line marking requirements may have small and short-term positive economic impacts on marine supply businesses, to the extent that crab fishing businesses purchase new line sooner than they otherwise would have.

Closed area transit and derelict gear exemption rules are expected to result in small positive economic impacts on both crab fishing businesses that take advantage of them, and fish dealers that purchase crab and operate in closed areas.

Adopting the revised Tri-State Protocol is not expected to result in measurable economic impacts on businesses.

(2) (a) There are 421 current commercial Dungeness crab permittees that will be subject to the rules. It is likely that most if not all fishing businesses meet the definition of a small business. However, some small businesses own multiple permits and vessels, and 366 permitted vessels participate in the fishery each season on average. Therefore, less than 310 small businesses of this type are expected to be affected any given season.

Marine supply businesses may be affected by line marking requirements and closed area transit rules. Other small businesses that provide goods and services to commercial Dungeness crab fishers, such as gas stations, tackle shops, food stores, and lodging facilities have the potential to be indirectly affected. The number of these businesses that have fewer than 50 employees cannot be determined with the data available to the Department.

Fish dealers that purchase crab from fishing vessels may be affected by rules allowing transit and delivery into closed areas, as they will be able to purchase crab directly from vessels equipped with electronic monitoring devices even when their facilities are in a closed area. However, since closed areas are dynamic and variable year to year, it is impossible to estimate the number of dealers affected.

(b) Fishing businesses that wish to transit and deliver crab into closed areas must register with ODFW each season by filling out an online form, and report by online form or phone each time they enter a closed area. ODFW expects registration to take less than 30 minutes per vessel and reports to take less than 10 minutes per occurrence. However, the total number of vessels and occurrences per season cannot be estimated due to the dynamic and variable nature of closed areas during the season opening process.

Captains of vessels under state contract must apply for a waiver with ODFW to be exempt from limits on derelict gear recovery. ODFW expects waiver requests to take less than 15 minutes per vessel. The total number of waiver applications cannot be estimated because state sponsored programs to recover derelict gear are not permanently funded and may be sponsored by different state entities.

No other compliance costs related to reporting, recordkeeping and administrative activities are anticipated.

(c) There will be additional costs associated with permittees required to purchase Oregon required black-and-yellow line. Utilizing current pricing of a mid-range and commonly sold crab line, costs to permittees are estimated to be \$27 per pot. By pot tier this equates to an estimated cost for a 200 pot-tier permit of \$5,429, for a 300 pot-tier permit of

\$8,143 and for a 500 pot-tier permit of \$13,572. ODFW is proposing a phased implementation of this line-marking requirement, beginning with requirement of the surface line marking by the 2025-26 crab season (1 season out) and the top main line marking by the 2029-30 (5 seasons out). By delaying surface line marking requirements until the 2025-26 season and allowing for a phased implementation, the rules intend to mitigate and spread the cost of compliance throughout several seasons. Crab line has a usable life span of about 5-15 years, and phased implementation will allow for natural attrition of some portion of line throughout these seasons, which could be replaced by the required line with little or no additional cost.

There will be labor and supplies costs for businesses that choose to apply and maintain solid marks on existing line during the transition period. Paint or tape are expected to be the most common methods to apply solid marks. These marking techniques may be less expensive than purchasing new line, though costs are expected to vary depending on the labor and supplies used.

There will be moderate labor costs associated with permittees modifying the surface gear and top portion of their main line to comply with the line marking requirement. These labor costs will vary by pot tier, and additional labor costs relative to gear work that is already done each season are unknown. Phased implementation will allow labor costs to be spread over several seasons.

There may be minor to moderate labor costs associated with switching lines to participate in other fisheries. The Washington coastal Dungeness crab fishery is currently the only West Coast fishery that has a line marking requirement, and that requirement only applies to line within one fathom (six feet) of the main buoy and the pot. Since crab gear is typically rigged so that short sections of line can be added or removed as gear is moved to different depths, it is unlikely that any Oregon crab permittees who also fish in Washington and California would need to purchase all new line to comply with a line marking requirement, rather they could comply by purchasing only new top and surface line. Other West Coast fisheries will likely implement line marking requirements in the future, which could result in additional costs at that time.

No other professional services, equipment and supplies, or labor costs are anticipated.

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

Line marking requirements have been discussed from 2019-2024 at three public meetings, four meetings of the Oregon Dungeness Crab Advisory Committee (ODCAC), three meetings of the Oregon Entanglement Advisory Committee (OEAC), and three meetings of the Tri-State Committee. Representatives of small businesses were involved in all these meetings, and ODFW modified the proposed requirements several times throughout this process to accommodate operational and logistical needs of small businesses. Closed area transit and derelict gear allowances were also discussed at public meetings in which representatives of small businesses participated. Revisions to the Tri-State Protocol were discussed at ODCAC and OEAC meetings in 2024 and agreed to at a Tri-State Committee meeting all of which involved representatives of small businesses.

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

Extensive public meetings, advisory committee meetings, and one-on-one discussions were held to develop these proposed rules, and proposed requirements were modified several times throughout the process to accommodate operational and logistical needs of regulated entities.

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RULES PROPOSED:

635-004-0235, 635-005-0275, 635-005-0446, 635-005-0465, 635-005-0480, 635-005-0490, 635-039-0090

RULE SUMMARY: These rule amendments propose the required use of multi-colored yellow-and-black line (i.e., marked line) in certain parts of commercial Dungeness crab fishing gear to help identify the fishery origin of line involved in marine life entanglements. The proposed rule amendments specify how much of this line must be used, which part of the gear it must be used for, timeframes to transition to the required line, and that sets of "solid marks" (e.g., made with paint or tape) may be used for a defined transition period. The proposed rule amendments prohibit specific multi-colored line or line marks that are required in any West Coast fishery from being used in other commercial and recreational fisheries to prevent attributing line to the wrong fishery. Other commercial crab regulations include a proposed new rule and minor rule amendments to:

- Allow commercial crab vessels to transit and deliver crab into certain closed areas if such vessels carry active vessel monitoring devices.
- Enable ODFW to issue waivers exempting vessels under state contract from derelict gear retrieval limits.
- Adopt minor changes to the season opening protocol agreed to by the Tri-State Dungeness Crab Committee.

The Commission may decide to adopt staff recommended proposed rule and rule amendments as proposed in attachment 3, or the Commission may decide to modify the proposed rules or not adopt some or any of the proposed rule amendments.

#### CHANGES TO RULE:

#### 635-004-0235 Fishing Gear

(1) This regulation lists a complete set of legal gear types and associated general restrictions to take ocean food fish and Pacific halibut in the fisheries specified in this Division. However, most individual fishery sections in this Division contain additional gear regulations specific to those fisheries. Fishers should consult the specific section of the fishery they are interested in for additional regulations.

(2) It is unlawful to possess, deploy, haul, or carry on board a fishing vessel any fishing gear not listed in section (3) of this rule, or fishing gear not in compliance with the restrictions listed in section (4) of this rule, unless such gear is the gear of another vessel that has been retrieved at sea and made inoperable or stowed in a manner not capable of being fished. The disposal at sea of such gear is prohibited by Annex V of the International Convention for the Prevention of Pollution From Ships, 1973 (Annex V of MARPOL 73/78).

(3) It is unlawful to take food fish for commercial purposes by any means except:

(a) Hook-and-line gear, including, but not limited to handline, pole-and-line, reel-and-line and pole-reel-and-line;

(b) Longlines and vertical hook and lines are permitted in the ocean;

(c) Pots or traps are permitted in the ocean;

(d) Dipnets of hoop or A-frame design;

(e) Troll gear is permitted in the ocean;

(f) Seines are permitted in the ocean for ocean food fish other than groundfish and for the taking of herring, sardine, and anchovy from the following inland waters:

(A) Columbia River westerly of the U.S. Highway 101 Astoria Bridge across the Columbia River;

(B) Tillamook Bay;

(C) Yaquina Bay;

(D) Alsea Bay;

(E) Winchester Bay; and

(F) Coos Bay.

(g) Trawl gear is permitted in the ocean for ocean food fish;

(A) Trawl gear may not be used with any other gear type on a single fishing trip.

(B) Trawl gear must meet the specifications specified in the Code of Federal Regulations Title 50, Section 660.130.

(h) Set nets with an experimental gear permit pursuant to OAR 635-006-0020; or

(i) Spear.

(4) Longline, vertical hook-and-line and pot gear which is fixed or anchored to the bottom or drifting unattached to the vessel have the following restrictions:

(a) Gear shall not be left unattended for more than seven days;

(b) Longline and pot gear shall be marked at the surface at each terminal end with a pole, flag, light, radar reflector,

and a buoy showing clear identification of the owner or vessel operator;¶

(c) Vertical hook-and-line gear that is closely tended may be marked only with a single buoy of sufficient size to float the gear. "Closely tended" means that a vessel is within visual sighting distance or within 1/4 nautical mile as determined by electronic navigational equipment, of its vertical hook-and-line gear; and¶

(d) Pot gear used for other than Dungeness crab, hagfish or spot or coonstripe shrimp shall have biodegradable escape panels constructed with #21 or smaller, untreated cotton twine in such manner that an opening of at least eight inches in diameter will result when the twine deteriorates.¶

(5) Fixed gear, other than crayfish pots or ring nets, must be marked with a surface buoy bearing, in a visible, legible and permanent manner, a number clearly identifying the owner or vessel operator. The number may be either:¶

(a) If required by applicable state law, the vessel's number, the commercial fishing license number, or buoy brand number; or¶

(b) The vessel documentation number issued by the U.S. Coast Guard, or, for an undocumented vessel, the vessel registration number issued by the state.¶

(6) It is unlawful to use fixed gear that has on any part of the gear line marks or multi-colored line required for any state or federal fishery operating in the U.S. West Coast EEZ or in the state waters of Washington, Oregon, or California, other than the fishery the gear is being used in.

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

Statutes/Other Implemented: ORS 506.109, ORS 506.129, ~~ORS 506.306~~

RULE SUMMARY: These rule amendments propose the required use of multi-colored yellow-and-black line (i.e., marked line) in certain parts of commercial Dungeness crab fishing gear to help identify the fishery origin of line involved in marine life entanglements. The proposed rule amendments specify how much of this line must be used, which part of the gear it must be used for, timeframes to transition to the required line, and that sets of "solid marks" (e.g., made with paint or tape) may be used for a defined transition period. The proposed rule amendments prohibit specific multi-colored line or line marks that are required in any West Coast fishery from being used in other commercial and recreational fisheries to prevent attributing line to the wrong fishery. Other commercial crab regulations include a proposed new rule and minor rule amendments to:

- Allow commercial crab vessels to transit and deliver crab into certain closed areas if such vessels carry active vessel monitoring devices.
- Enable ODFW to issue waivers exempting vessels under state contract from derelict gear retrieval limits.
- Adopt minor changes to the season opening protocol agreed to by the Tri-State Dungeness Crab Committee.

The Commission may decide to adopt staff recommended proposed rule and rule amendments as proposed in attachment 3, or the Commission may decide to modify the proposed rules or not adopt some or any of the proposed rule amendments.

#### CHANGES TO RULE:

##### 635-005-0275

##### Commercial Shellfish and Marine Invertebrates Fishing Gear ¶¶

(1) This regulation lists a complete set of legal gear types and associated general restrictions to take shellfish and marine invertebrates in the fisheries specified in this Division. However, most individual fisheries listed in this Division are restrained additionally by supplemental regulations specific to those fisheries. Fishers should consult the specific section of the fishery they are interested in for additional regulations.¶¶

(2) It is unlawful to possess, deploy, haul, or carry on board a fishing vessel any fishing gear not listed in section (3) of this rule, or fishing gear not in compliance with the restrictions listed in section (4) of this rule, unless such gear is the gear of another vessel that has been retrieved at sea and made inoperable or stowed in a manner not capable of being fished. The disposal at sea of such gear is prohibited by Annex V of the International Convention for the Prevention of Pollution From Ships, 1973 (Annex V of MARPOL 73/78).¶¶

(3) It is unlawful to take shellfish and invertebrates for commercial purposes by any means except:¶¶

(a) Hook-and-line gear, including, but not limited to handline, pole-and-line, reel-and-line and pole-reel-and-line;¶¶

(b) Longlines and vertical hook and lines are permitted in the ocean;¶¶

(c) Pots or traps (including pot longline gear) are permitted in the ocean;¶¶

(d) Rings;¶¶

(e) Dipnets of hoop or A-frame design;¶¶

(f) Seines are permitted in the ocean;¶¶

(g) Trawl gear is permitted in the ocean;¶¶

(h) Trawl gear shall not be used with any other gear type on a single fishing trip.¶¶

(i) Set nets are allowed with an experimental gear permit pursuant to OAR 635-006-0020;¶¶

(j) Spear is permitted in the ocean;¶¶

(k) Dive gear; or¶¶

(l) By hand or hand powered methods including shovel, rake, and abalone iron.¶¶

(4) Longline, vertical hook-and-line and pot gear other than Dungeness crab gear and crayfish pots or ring nets which is fixed or anchored to the bottom or drifting unattached to the vessel have the following restrictions:¶¶

(a) Gear shall not be left unattended for more than seven days;¶¶

(b) Pot longline gear shall be marked at the surface and at each terminal end with a pole, flag, light, radar reflector, and a buoy showing clear identification of the owner or operator;¶¶

(c) Pot gear used for other than Dungeness crab, hagfish or spot or coonstripe shrimp shall have biodegradable escape panels constructed with #21 or smaller, untreated cotton twine in such manner that an opening at least eight inches in diameter will result when the twine deteriorates.¶¶

(5) Fixed gear, other than crayfish pots or ring nets, must be marked with a surface buoy bearing, in a visible, legible and permanent manner, a number clearly identifying the owner or operator of the vessel. The number may be either:¶¶

(a) If required by applicable state law, the vessel's number, the commercial fishing license number, or buoy brand number; or¶

(b) The vessel documentation number issued by the U.S. Coast Guard, or, for an undocumented vessel, the vessel registration number issued by the state.¶

(6) It is unlawful to use fixed gear that has on any part of the gear line marks or multi-colored line required for any state or federal fishery operating in the U.S. West Coast EEZ or in the state waters of Washington, Oregon, or California, other than the fishery the gear is being used in.

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

Statutes/Other Implemented: ORS 506.109, ORS 506.129, ~~ORS 506.306~~



RULE SUMMARY: These rule amendments propose the required use of multi-colored yellow-and-black line (i.e., marked line) in certain parts of commercial Dungeness crab fishing gear to help identify the fishery origin of line involved in marine life entanglements. The proposed rule amendments specify how much of this line must be used, which part of the gear it must be used for, timeframes to transition to the required line, and that sets of "solid marks" (e.g., made with paint or tape) may be used for a defined transition period. The proposed rule amendments prohibit specific multi-colored line or line marks that are required in any West Coast fishery from being used in other commercial and recreational fisheries to prevent attributing line to the wrong fishery. Other commercial crab regulations include a proposed new rule and minor rule amendments to:

- Allow commercial crab vessels to transit and deliver crab into certain closed areas if such vessels carry active vessel monitoring devices.
- Enable ODFW to issue waivers exempting vessels under state contract from derelict gear retrieval limits.
- Adopt minor changes to the season opening protocol agreed to by the Tri-State Dungeness Crab Committee.

The Commission may decide to adopt staff recommended proposed rule and rule amendments as proposed in attachment 3, or the Commission may decide to modify the proposed rules or not adopt some or any of the proposed rule amendments.

CHANGES TO RULE:

635-005-0446

Electronic Monitoring

Vessels with an authorized Electronic Monitoring system may possess, or possess and land, Dungeness crab in an area that is otherwise closed to take of Dungeness crab for commercial purposes. Electronic Monitoring is not required to transit Marine Reserves per OAR 635-012-0050 or Marine Protected Areas per 635-012-0070, or to transit and land crab into Biototoxin Management Zones designated by the Oregon Department of Agriculture. An authorized Electronic Monitoring system must meet all the following conditions:¶

(1) The vessel must:¶

(a) Possess and use an activated Vessel Monitoring System (VMS) that is type-approved by the National Marine Fisheries Service (NMFS) Office of Law Enforcement (OLE), and comply with all requirements per the Code of Federal Regulations, Title 50:¶

(A) Chapter IV, Part 660, Subpart C, Section 660.14;¶

(B) Chapter IV, Part 660, Subpart K, Section 660.712 or 660.713;¶

(C) Chapter III, Part 300, Section 300.26; or¶

(b) Possess and use an activated Electronic Monitoring (EM) system that transmits data to an EM service provider no later than the end of each fishing trip, and:¶

(A) The EM service provider must receive transmissions and provide automated data access to the Pacific States Marine Fisheries Commission (PSMFC) in a format consistent with PSMFC specifications where it is available to ODFW and Oregon State Police (OSP) for management and enforcement; and¶

(B) The vessel operator must ensure the EM system is maintained in good working order; make the EM system available for inspection by ODFW, OSP, or the U.S. Coast Guard; ensure the EM signal is not interfered with, disabled, or destroyed and is operated according to service provider instructions; and pay all service provider charges to ensure continuous operation of the EM system.¶

(2) The VMS or EM system required by section (1) of this rule must transmit vessel location and speed at least once every 60 minutes.¶

(3) The vessel must maintain continuous transit through the closed area until reaching the port of landing designated under section (4) or (5) of this rule. For the purposes of this rule, continuous transit means that the vessel crosses an area closed to take of Dungeness crab for commercial purposes on a heading as nearly as practicable to a direct route, consistent with navigational safety, while maintaining expeditious headway throughout the transit without loitering or delay.¶

(4) The vessel must be registered with the Department at least 72 hours prior to entering a closed area by completing the online form at

[https://www.dfw.state.or.us/MRP/shellfish/commercial/crab/Closed\\_Area\\_Transit\\_Info.asp](https://www.dfw.state.or.us/MRP/shellfish/commercial/crab/Closed_Area_Transit_Info.asp).¶

(5) The vessel must make a declaration prior to each time the vessel enters a closed area by submitting an online form at [https://www.dfw.state.or.us/MRP/shellfish/commercial/crab/Closed\\_Area\\_Transit\\_Info.asp](https://www.dfw.state.or.us/MRP/shellfish/commercial/crab/Closed_Area_Transit_Info.asp) or by calling 541-857-2522 and giving the following information:¶

(a) Vessel name:¶

(b) Estimated date and time the vessel will enter closed area:¶

(c) Estimated date and time the vessel will leave the closed area; and¶

(d) Any changes from registration information required in section (4)(b)-(4)(f).

Statutory/Other Authority: ORS 506.119, ORS 506.129

Statutes/Other Implemented: ORS 506.109, ORS 506.129

AMEND: 635-005-0465

RULE SUMMARY: These rule amendments propose the required use of multi-colored yellow-and-black line (i.e., marked line) in certain parts of commercial Dungeness crab fishing gear to help identify the fishery origin of line involved in marine life entanglements. The proposed rule amendments specify how much of this line must be used, which part of the gear it must be used for, timeframes to transition to the required line, and that sets of "solid marks" (e.g., made with paint or tape) may be used for a defined transition period. The proposed rule amendments prohibit specific multi-colored line or line marks that are required in any West Coast fishery from being used in other commercial and recreational fisheries to prevent attributing line to the wrong fishery. Other commercial crab regulations include a proposed new rule and minor rule amendments to:

- Allow commercial crab vessels to transit and deliver crab into certain closed areas if such vessels carry active vessel monitoring devices.
- Enable ODFW to issue waivers exempting vessels under state contract from derelict gear retrieval limits.
- Adopt minor changes to the season opening protocol agreed to by the Tri-State Dungeness Crab Committee.

The Commission may decide to adopt staff recommended proposed rule and rule amendments as proposed in attachment 3, or the Commission may decide to modify the proposed rules or not adopt some or any of the proposed rule amendments.

CHANGES TO RULE:

635-005-0465

Closed Season in Pacific Ocean and Columbia River

(1) It is unlawful to take, land or possess Dungeness crab for commercial purposes from the Pacific Ocean or Columbia River from August 15 through December 1, 08:59 AM.¶

(2) The season opening for the commercial Ocean Dungeness crab fishery may be delayed in one or more fishing zones based on the results of crab quality testing. The Pre-season Testing Protocol for the Tri-State Coastal Dungeness crab Commercial Fishery (hereafter, "Tri-State Protocol") specifies the process for establishing fishing zones (section VI) and coordinating the opening of the fishery in Washington, Oregon, and California north of Point Arena (sections IV and V). Therefore, the following sections of the Tri-State Protocol (~~May~~ July 2020) are hereby incorporated into Oregon Administrative Rule by reference:¶

(a) Section IV - Season Opening Criteria.¶

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

(c) Section VI - Procedure for Establishing Fishing Zones. As used in the Tri-State Protocol "fishing" means any operation of Dungeness crab fishing gear to take, possess on board, or land Dungeness crab for commercial purposes, except setting Dungeness crab gear for another vessel as allowed per OAR 635-005-0405(1). In the event that crab quality tests do not meet the criteria for opening the season on December 1, the Director shall adopt temporary rules delaying the season in accordance with the Tri-State Protocol.¶

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

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

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

¶

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

Statutory/Other Authority: ~~ORS 506.036, ORS 506.109, ORS 506.119, ORS 506.121~~ ORS 506.119

Statutes/Other Implemented: ORS 506.109, ORS 506.129

AMEND: 635-005-0480

RULE SUMMARY: These rule amendments propose the required use of multi-colored yellow-and-black line (i.e., marked line) in certain parts of commercial Dungeness crab fishing gear to help identify the fishery origin of line involved in marine life entanglements. The proposed rule amendments specify how much of this line must be used, which part of the gear it must be used for, timeframes to transition to the required line, and that sets of "solid marks" (e.g., made with paint or tape) may be used for a defined transition period. The proposed rule amendments prohibit specific multi-colored line or line marks that are required in any West Coast fishery from being used in other commercial and recreational fisheries to prevent attributing line to the wrong fishery. Other commercial crab regulations include a proposed new rule and minor rule amendments to:

- Allow commercial crab vessels to transit and deliver crab into certain closed areas if such vessels carry active vessel monitoring devices.
- Enable ODFW to issue waivers exempting vessels under state contract from derelict gear retrieval limits.
- Adopt minor changes to the season opening protocol agreed to by the Tri-State Dungeness Crab Committee.

The Commission may decide to adopt staff recommended proposed rule and rule amendments as proposed in attachment 3, or the Commission may decide to modify the proposed rules or not adopt some or any of the proposed rule amendments.

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 issued for the current season, 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~~Except for replacement buoy tags, all other 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 OAR 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 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 for the current season, 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.¶~~

(c) Under a waiver granted by the Department to allow the activities described in this subsection. Waiver requests must be in writing and a waiver must be approved and issued prior to conducting the activity. A copy of the waiver must be on board the vessel conducting the activity. A waiver may be granted by the Department to allow for a:¶

(A) One time change of buoy tags for gear deployed at sea associated with a Dungeness crab permit transfer under OAR 635-005-0440;¶

(B) One time change of buoy tags to another vessel's tags for gear deployed at sea. The vessel making the change must be either the vessel that the deployed buoy tags are assigned to or the vessel that the new tags are assigned to;¶

(C) One time change of buoy tags at sea to different crab pots or rings owned by the same vessel making the change. The vessel making the change must be the vessel the buoy tags are assigned to, and gear must be transported to shore on the same fishing trip;¶

(D) One time attachment of late season tags to gear deployed at sea by a vessel other than the vessel the buoy tags are assigned to; or¶

(E) One time retrieval of permitted Dungeness crab gear to shore by another crab permitted vessel from August 1 through August 14.¶

~~(d) Waivers for activities described in subsection (2)(c) of this rule may be issued by the Department provided that a:¶~~

~~(A) Request must be in writing and a waiver approved and issued prior to conducting the activity; and¶~~

~~(B) Copy of the waiver must be on board the vessel conducting the activity (Contact Department of Fish and Wildlife Licensing Services, Salem for guidelines).¶~~

~~(c) 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) 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 for the current season 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;¶~~

~~(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 from May 21 through August 14 shall be considered derelict and may be retrieved per OAR 635-005-0490;¶~~

~~(5) 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, except vessels that do not have any Dungeness crab gear deployed between 46° 15' 00" North Latitude (Oregon/Washington border) and 42° 00' 00" North Latitude (Oregon/California border) may land crab legally taken from another state into the ports of Astoria or Brookings, Oregon.¶

(5) Use Dungeness crab gear with line other than dual-colored yellow and black line, with the majority of strands colored yellow and at least 1/3 of strands colored black, as follows:¶

(a) Effective December 1, 2025:¶

(A) For all line used between any two buoys, except buoy gangions that are less than four feet long may be any color. A buoy gangion is defined as line that passes through, and is affixed to, the buoy forming loops on each end of the buoy. The length of a buoy gangion is measured in a straight line between the opposing loop ends:¶

(B) For gear with a single buoy or no line other than buoy gangions of less than four feet connecting multiple buoys, for all line within six feet of the attachment point of the buoy closest to the pot or ring, extending toward the crab pot or ring; and¶

(b) Effective December 1, 2028, for all line within 90 feet of the attachment point of the buoy closest to the crab pot or ring extending toward the crab pot or ring, except when less than 120 feet of line is used, up to 30 feet of line closest to the crab pot or ring may be any color. Less than 90 feet of line may be used if all line more than 30 feet from crab pot or ring meets the dual-colored yellow and black line specification; and¶

(c) Effective December 1, 2025, or December 1, 2028, as applicable, and through August 14, 2033, line with solid yellow and black marks meeting the following specifications may be substituted for dual-colored yellow and black line required by this rule:¶

(A) Each set of marks shall cover the entire length and circumference of at least four feet of line with at least two feet yellow within six inches of at least two feet black; and¶

(B) Marks shall be regularly serviced and maintained in a condition to readily identify the line marking scheme of yellow and black; and¶

(C) Effective December 1, 2025:¶

(i) Line between any two buoys must have at least one set of marks; and¶

(ii) For gear with a single buoy or no line other than buoy gangions of less than four feet connecting multiple buoys, line must have one set of marks within six feet of the buoy; and¶

(D) Effective December 1, 2028, the 90 feet of line measured from the attachment point of the buoy closest to the crab pot or ring extending toward the crab pot or ring must have at least three marks. Marks shall be distributed such that one mark is near each end and one mark is near the middle of this 90-foot section of line.

Statutory/Other Authority: ~~ORS 506.036, ORS 506.109, ORS 506.119, ORS 506.129~~119, ORS 506.306

Statutes/Other Implemented: ORS 506.109, ORS 506.129

AMEND: 635-005-0490

RULE SUMMARY: These rule amendments propose the required use of multi-colored yellow-and-black line (i.e., marked line) in certain parts of commercial Dungeness crab fishing gear to help identify the fishery origin of line involved in marine life entanglements. The proposed rule amendments specify how much of this line must be used, which part of the gear it must be used for, timeframes to transition to the required line, and that sets of "solid marks" (e.g., made with paint or tape) may be used for a defined transition period. The proposed rule amendments prohibit specific multi-colored line or line marks that are required in any West Coast fishery from being used in other commercial and recreational fisheries to prevent attributing line to the wrong fishery. Other commercial crab regulations include a proposed new rule and minor rule amendments to:

- Allow commercial crab vessels to transit and deliver crab into certain closed areas if such vessels carry active vessel monitoring devices.
- Enable ODFW to issue waivers exempting vessels under state contract from derelict gear retrieval limits.
- Adopt minor changes to the season opening protocol agreed to by the Tri-State Dungeness Crab Committee.

The Commission may decide to adopt staff recommended proposed rule and rule amendments as proposed in attachment 3, or the Commission may decide to modify the proposed rules or not adopt some or any of the proposed rule amendments.

CHANGES TO RULE:

635-005-0490

#### Derelict Dungeness Crab Gear ¶¶

Derelict Dungeness crab gear may be retrieved from the ocean, including the Columbia River, and transported to shore provided that:¶¶

- (1) The retrieving vessel holds a valid boat license, issued pursuant to ORS 508.260, and the captain and crew of that vessel hold valid commercial fishing license(s), issued pursuant to ORS 508.235.¶¶
- (2) The number of derelict Dungeness crab gear which may be retrieved per trip are as follows:¶¶
  - (a) From the opening of the ocean Dungeness crab fishery in the area where retrieval takes place until the second Monday in June of the same ocean Dungeness crab season: 25 derelict pots and rings in aggregate;¶¶
  - (b) From the second Monday in June through August 14: 50 derelict pots and rings in aggregate;¶¶
  - (c) August 15 through October 31: an unlimited number of derelict pots and rings may be retrieved;¶¶
  - (d) Under a waiver granted by the Department, the amount of derelict gear specified on the waiver provided that:¶¶
    - (A) The vessel is operating under a state contract to recover derelict gear;¶¶
    - (B) A waiver request is submitted to the Department in writing;¶¶
    - (C) The waiver is approved and issued prior to retrieval efforts;¶¶
    - (D) A copy of the waiver is on board the vessel during all gear recovery activities; and¶¶
    - (E) The vessel operator complies with all terms and conditions of the waiver.¶¶
- (3) Upon retrieval from the ocean or Columbia River, the Dungeness crab gear must be un-baited.¶¶
- (4) Crab from the retrieved Dungeness crab gear shall not be retained, except crab of legal size and sex may be retained by vessels holding a valid Dungeness crab permit, from the starting date through August 14 of each Dungeness crab season. Crab shall not be retained from Dungeness crab gear that is retrieved from within the boundaries of a marine reserve under any circumstances (OAR 635-012-0050).¶¶
- (5) Immediately upon retrieval of Dungeness crab gear, the retrieving vessel operator must document in the retrieving vessel's logbook the date and time of pot or ring retrieval, number of retrieved crab pots or rings in aggregate, location of retrieval, and retrieved Dungeness crab gear owner identification information.¶¶
- (6) Any retrieved Dungeness crab gear must be transported to shore during the same fishing trip that retrieval took place.

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

Statutes/Other Implemented: ORS 506.129, ORS 506.109

AMEND: 635-039-0090

RULE SUMMARY: These rule amendments propose the required use of multi-colored yellow-and-black line (i.e., marked line) in certain parts of commercial Dungeness crab fishing gear to help identify the fishery origin of line involved in marine life entanglements. The proposed rule amendments specify how much of this line must be used, which part of the gear it must be used for, timeframes to transition to the required line, and that sets of "solid marks" (e.g., made with paint or tape) may be used for a defined transition period. The proposed rule amendments prohibit specific multi-colored line or line marks that are required in any West Coast fishery from being used in other commercial and recreational fisheries to prevent attributing line to the wrong fishery. Other commercial crab regulations include a proposed new rule and minor rule amendments to:

- Allow commercial crab vessels to transit and deliver crab into certain closed areas if such vessels carry active vessel monitoring devices.
- Enable ODFW to issue waivers exempting vessels under state contract from derelict gear retrieval limits.
- Adopt minor changes to the season opening protocol agreed to by the Tri-State Dungeness Crab Committee.

The Commission may decide to adopt staff recommended proposed rule and rule amendments as proposed in attachment 3, or the Commission may decide to modify the proposed rules or not adopt some or any of the proposed rule amendments.

CHANGES TO RULE:

635-039-0090

Inclusions and Modifications ¶¶

(1) The current annual Oregon Sport Fishing Regulations provide requirements for sport fisheries for marine fish, shellfish, and marine invertebrates in the Pacific Ocean, coastal bays, and beaches, commonly referred to as the Marine Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the current annual Oregon Sport Fishing Regulations.¶¶

(2) For the purposes of this rule, a "sport harvest guideline" is defined as a specified numerical harvest objective that is not a quota. Attainment of a harvest guideline does not automatically close a fishery. Upon attainment of a sport harvest guideline, the Department shall initiate consultation to determine if additional regulatory actions are necessary to achieve management objectives. The following sport harvest guidelines include the combined landings and other fishery related mortality by the Oregon sport fishery in a single calendar year:¶¶

- (a) Black rockfish, 389.1 metric tons;¶¶
- (b) Blue rockfish and deacon rockfish combined: 66.7 metric tons;¶¶
- (c) Other Nearshore Rockfish combined: 15.2 metric tons;¶¶
- (d) Cabezon, 17.6 metric tons; and¶¶
- (e) Greenling, 32.6 metric tons.¶¶

(3) For the purposes of this rule, "Other nearshore rockfish" means the following rockfish species: black and yellow (*Sebastes chrysomelas*); brown (*S. auriculatus*); calico (*S. dalli*); China (*S. nebulosus*); copper (*S. caurinus*); gopher (*S. carnatus*); grass (*S. rastrelliger*); kelp (*S. atrovirens*); olive (*S. serranoides*); quillback (*S. maliger*); and treefish (*S. serriceps*).¶¶

(4) In addition to the regulations for Marine Fish in the current annual Oregon Sport Fishing Regulations, the following apply for the sport fishery in the Marine Zone:¶¶

- (a) Lingcod (including green colored lingcod): 2 fish daily bag limit.¶¶
- (b) All rockfish ("sea bass" "snapper"), greenling ("sea trout"), cabezon, skates, and other marine fish species not listed in the current annual Oregon Sport Fishing Regulations in the Marine Zone, located under the category of Finfish Species, General Marine Species: 5 fish daily bag limit in aggregate (total sum or number), of which no more than one may be a cabezon, when retention of cabezon is allowed. Retention of the following species is prohibited:¶¶
  - (A) Yelloweye rockfish;¶¶
  - (B) Cabezon from January 1 through June 30; and¶¶
  - (C) Quillback rockfish.¶¶
- (c) Flatfish (flounder, sole, sanddabs, turbot, and all halibut species except Pacific halibut): 25 fish daily bag limit in aggregate (total sum or number).¶¶
- (d) Except as specified in subsection (4)(d)(A), retention of all marine fish listed under the category of Finfish Species, General Marine Species, except Pacific cod, sablefish, flatfish, herring, anchovy, smelt, sardine, striped



bass, hybrid bass, and offshore pelagic species (excluding leopard shark and soupfin shark), is prohibited when Pacific halibut is retained on the vessel during open days for the all-depth sport fishery for Pacific halibut when the sport fishery for general marine species (other than flatfish species) is closed outside of the 40 fathom curve as specified in subsection (4)(f).¶

(A) Persons must also consult all publications referenced in OAR 635-039-0080 to determine all rules applicable to the taking of Pacific halibut.¶

(B) When the all-depth sport fishery for Pacific halibut is open and the sport fishery for general marine species (other than flatfish species) is closed outside of the 40-fathom curve as specified in subsection (4)(f), fishing with long-leader gear is allowed on the same trip as all-depth halibut fishing as follows:¶

(i) When rockfish are onboard the vessel, anglers are only allowed to retain the species listed under subsection (4)(h)(A) and must use longleader gear as defined in subsection (4)(e)(F);¶

(ii) Pacific cod, sablefish, flatfish, herring, anchovy, smelt, sardine, striped bass, hybrid bass, and offshore pelagic species (excluding leopard shark and soupfin shark) may be retained while all-depth halibut fishing, prior to retaining any rockfish species;¶

(iii) It is not required to separate all-depth halibut fishing from long-leader fishing by returning to the dock and offloading fish. A long-leader fishing trip must be separated from any other fishing trip where groundfish are retained by returning to the dock and offloading fish; and¶

(iv) All other requirements and prohibitions contained within subsection (4)(h) apply.¶

(e) Harvest methods and other specifications for marine fish in subsections (4)(a), (4)(b) and (4)(c) including the following:¶

(A) Minimum length for lingcod, 22 inches.¶

(B) Minimum length for cabezon, 16 inches.¶

(C) May be taken by angling, hand, bow and arrow, spear, gaff hook, snag hook and herring jigs.¶

(D) Mutilating the fish so the size or species cannot be determined prior to landing or transporting mutilated fish across state waters is prohibited.¶

(E) When angling for groundfish or Pacific halibut in the Pacific Ocean or when in possession of groundfish or Pacific halibut, all watercraft shall have a functional descending device on board and shall use a descending device when releasing any rockfish outside of the 30-fathom curve (defined by latitude and longitude) as shown in Title 50 Code of Federal Regulations Part 660 Section 71. Upon request, a descending device shall be presented for inspection by any person authorized to enforce the wildlife laws or a representative of the Department. In this subsection, "descending device" means a device capable of returning a rockfish back to a depth of at least 100 feet to assist the fish in recompression and to improve the fish's chance of survival.¶

(F) Long-leader gear means fishing gear with the following: one fishing line, deployed with a sinker and no more than three hooks, with a minimum of 30 feet (9.14 meters) between the sinker and the lowest hook, and a non-compressible float attached to the line above the hooks. The hooks can only be equipped with artificial lures or molded soft plastic or rubber imitations of worms, eggs, insects, bait fish, crayfish, etc. 5 inches or less in length and/or artificial flies. Natural bait may not be used.¶

(f) Sport fisheries for species in subsections (4)(a), (4)(b) and (4)(c) and including leopard shark and soupfin shark are open January 1 through December 31, twenty-four hours per day, except as provided in subsections 4(b) and (4)(d). A 20-fathom, 25-fathom, 30-fathom, or 40-fathom curve, as shown in Title 50 Code of Federal Regulations Part 660 Section 71 may be implemented as the management line for depth-based inseason modifications as necessary. In addition, the following management lines may be used to set area-specific regulations for inseason action only:¶

(A) Cape Lookout (45°20'30" N latitude); and¶

(B) Cape Blanco (42°50'20" N latitude).¶

(g) The Stonewall Bank Yelloweye Rockfish Conservation Area (YRCA) is defined by coordinates specified in Title 50 Code of Federal Regulations Part 660 Section 70 (October 1, 2018 ed.). Within the YRCA, it is unlawful to fish for, take, or retain species listed in subsections (4)(a), (4)(b) and (4)(c) of this rule, leopard shark, soupfin shark, and Pacific halibut using recreational fishing gear. A vessel engaged in recreational fishing within the YRCA is prohibited from possessing any species listed in subsections (4)(a), (4)(b) and (4)(c) of this rule, leopard shark, soupfin shark, and Pacific halibut. Recreational fishing vessels in possession of species listed in subsections (4)(a), (4)(b) and (4)(c) and including leopard shark, soupfin shark, and Pacific halibut may transit the YRCA without fishing gear in the water.¶

(h) On any fishing trip where fishing with long-leader gear (as defined in subsection (4)(e)(F)) occurs seaward of the 40-fathom curve (defined by latitude and longitude) as shown in Title 50 Code of Federal Regulations Part 660 Section 71, the following apply:¶

(A) It is unlawful to retain any species in the Groundfish Group other than yellowtail rockfish (*Sebastes flavidus*), widow rockfish (*S. entomelas*), canary rockfish (*S. pinniger*), deacon rockfish (*S. diaconus*), blue rockfish (*S. mystinus*), redstripe rockfish (*S. proriger*), greenstriped rockfish (*S. elongatus*), chilipepper rockfish (*S. goodei*),

bocaccio rockfish (*S. paucispinis*), or silvergray rockfish (*S. brevispinis*);¶

(B) The daily bag limit is 12 fish in aggregate for the species listed in section (4)(h)(A);¶

(C) A long-leader fishing trip must be separated from any other fishing trip where groundfish are retained by returning to the dock and offloading fish, except as specified in subsection (4)(d)(B)(iii);¶

(D) It is unlawful for an angler who retained fish on a long-leader fishing trip to retain more than 10 fish in aggregate of the species listed in subsection (4)(b) in the same day;¶

(E) It is unlawful to fish for any species in the Groundfish Group, including those listed in subsection (4)(h)(A), inside of the 40-fathom curve or with gear that is not long-leader gear as defined in subsection (4)(e)(F); and¶

(F) Federal rules governing the long-leader fishery will supersede these rules to the extent of any inconsistency, including the definition of long-leader gear.¶

(i) Take of abalone is prohibited.¶

(j) It is unlawful to use recreational trap, pot, or ring gear that has on any part of the gear line marks or multi-colored line required for any state or federal fishery operating in the U.S. West Coast EEZ or in the state waters of Washington, Oregon, or California, other than the fishery the gear is being used in.

Statutory/Other Authority: ORS 496.138, ORS 496.146

Statutes/Other Implemented: ORS 496.162