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NATURAL RESOURCE LOSSES

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Chapter 635 Department of Fish and Wildlife

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FISH AND WILDLIFE HABITAT MITIGATION POLICY

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CHEMICAL PROCESS MINING CONSOLIDATED APPLICATION AND PERMIT REVIEW STANDARDS

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DIVISION 500

FISH MANAGEMENT PLANS

Purpose

635-500-0002	Purpose
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Steelhead Management

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635-500-0015	Steelhead Habitat Protection Policy
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Warmwater Game Fish Management

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Trout Management

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635-500-0105	Management Guidelines
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Coastal Chinook Salmon Management

635-500-0130	Coastal Chinook Management Objectives
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Operating Principles and Objectives Applicable to All Willamette Subbasins

635-500-0205	Organization
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McKenzie Subbasin Fish Management Policies and Objectives

635-500-0266	Applicability
635-500-0267	Habitat
635-500-0268	Resident Trout and Whitefish
635-500-0269	Summer Steelhead
635-500-0270	Winter Steelhead
635-500-0271	Spring Chinook Salmon
635-500-0272	Fall Chinook
635-500-0273	Coho
635-500-0274	Mountain Whitefish
635-500-0275	Miscellaneous Species
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Malheur Basin Fish Management Policies and Objectives		Miscellaneous Provisions	
635-500-0285	Organization of Rules	635-500-0560	Angler Access
635-500-0290	Habitat	635-500-0565	Angling and Boating Law Enforcement
635-500-0295	Access	Yaquina River Basin Fish Management Operating Principles and Objectives	
635-500-0300	Crayfish		
635-500-0305	Malheur River Headwaters and Tributaries		
635-500-0310	Middle Fork Malheur River Above Warm Springs Reservoir and Main Stem South Fork Malheur River	635-500-0600	Organization of Rules
635-500-0315	Malheur River and North Fork Main Stem Reservoirs to Namorf Dam	Habitat	
635-500-0320	Lower Malheur River	635-500-0605	Habitat
635-500-0325	Reservoirs	Finfish	
Coos River Basin Fish Management Operating Principles and Objectives		635-500-0610	Chinook Salmon
		635-500-0615	Coho Salmon
		635-500-0620	Chum Salmon
635-500-0385	Organization of Rules	635-500-0625	Winter Steelhead
Habitat		635-500-0630	Cutthroat Trout
635-500-0390	Habitat	635-500-0635	White and Green Sturgeon
Finfish		635-500-0640	American Shad
635-500-0400	Fall Chinook Salmon	635-500-0645	Miscellaneous Freshwater and Anadromous Fish Species
635-500-0405	Spring Chinook Salmon	635-500-0650	Clams
635-500-0410	Coho Salmon	635-500-0655	Ghost and Mud Shrimp
635-500-0415	Chum Salmon	635-500-0660	Other Shellfish and Invertebrate Species
635-500-0420	Winter Steelhead	635-500-0665	Pacific Herring
635-500-0425	Cutthroat Trout	635-500-0670	Marine Fish Species
635-500-0430	Brook Trout	635-500-0675	Miscellaneous Estuarine and Marine Fish Species
635-500-0435	Striped Bass	635-500-0680	Dungeness Crab
635-500-0440	White and Green Sturgeon	Miscellaneous Provisions	
635-500-0445	American Shad	635-500-0685	Angler Access
635-500-0450	Miscellaneous Freshwater, Marine and Anadromous Fish	Mini-Management Plans Policies and Objectives	
Shellfish		635-500-0700	Clear Lake
635-500-0455	Dungeness Crab	635-500-0703	Diamond Lake
635-500-0460	Clams	635-500-0706	Hosmer Lake
635-500-0465	Ghost and Mud Shrimp	635-500-0709	Hyatt Lake
635-500-0470	Other Shellfish Species	635-500-0712	Lake Billy Chinook
Miscellaneous Provisions		635-500-0790	General Fish Management Policies
635-500-0475	Angler Access	635-500-0800	Habitat Objectives
635-500-0480	Angling Law Enforcement	Clackamas Subbasin Fish Management Operating Principles and Objectives	
Tenmile Lakes Basin Fish Management Operating Principles and Objectives		Habitat	
		635-500-0810	Habitat
		Finfish	
635-500-0500	Organization of Rules	635-500-0820	Winter Steelhead
Habitat		635-500-0830	Summer Steelhead
635-500-0505	Habitat	635-500-0840	Spring Chinook Salmon
Finfish		635-500-0850	Fall Chinook Salmon
635-500-0510	Coho Salmon	635-500-0860	Coho Salmon
635-500-0515	Winter Steelhead	635-500-0870	Warmwater and Miscellaneous Fish
635-500-0520	Cutthroat Trout	635-500-0880	Trout
635-500-0525	Rainbow Trout	635-500-0890	Whitefish
635-500-0530	Bluegill	Miscellaneous Provisions	
635-500-0535	Brown Bullhead	635-500-0900	Angler Access
635-500-0540	Largemouth Bass	Coast Fork Willamette Subbasin Fish Management Operating Principles and Objectives	
635-500-0545	Striped Bass x White Bass Hybrid		
635-500-0550	Miscellaneous Native Fish Species		
635-500-0555	Unauthorized Fish Species		

	Habitat	635-500-1210	Sturgeon
		635-500-1220	Trout and Whitefish
		635-500-1230	Warmwater Game Fish
635-500-0910	Habitat	635-500-1240	Oregon Chub
	Finfish	635-500-1250	Sand Rollers
		635-500-1260	Crayfish
635-500-0920	Trout	Miscellaneous Provisions	
635-500-0930	Warmwater Game Fish	635-500-1270	Angler Access
635-500-0940	Oregon Chub	Middle Fork Willamette Subbasin Fish Management Operating Principles and Objectives	
635-500-0950	Winter Steelhead		Habitat
635-500-0960	Spring Chinook Salmon	635-500-1280	Habitat
635-500-0970	Fall Chinook Salmon		Finfish
635-500-0980	Coho Salmon	635-500-1290	Spring Chinook Salmon
	Miscellaneous Provisions	635-500-1300	Summer Steelhead
635-500-0990	Angler Access	635-500-1310	Winter Steelhead
Coast Range Subbasin Fish Management Operating Principles and Objectives		635-500-1320	Trout and Whitefish
	Habitat	635-500-1330	Oregon Chub
635-500-1000	Habitat	635-500-1340	Warmwater Game Fish
	Finfish	635-500-1350	Fall Chinook Salmon
		Miscellaneous Provisions	
635-500-1010	Winter Steelhead	635-500-1360	Angler Access
635-500-1020	Coho Salmon	Molalla and Pudding Subbasins Fish Management Operating Principles and Objectives	
635-500-1030	Fall Chinook Salmon		Habitat
635-500-1040	Trout and Whitefish	635-500-1370	Habitat
635-500-1050	Warmwater Game Fish		Finfish
635-500-1060	Oregon Chub	635-500-1380	Winter Steelhead
635-500-1070	Sand Rollers	635-500-1390	Summer Steelhead
635-500-1080	Crayfish	635-500-1400	Coho Salmon
	Miscellaneous Provisions	635-500-1410	Spring Chinook Salmon
635-500-1090	Angler Access	635-500-1420	Fall Chinook Salmon
Long Tom Subbasin Fish Management Operating Principles and Objectives		635-500-1430	Trout and Whitefish
	Habitat	635-500-1440	Warmwater Game Fish
635-500-1100	Habitat	635-500-1450	Sand Rollers
	Finfish	635-500-1460	Crayfish
		Miscellaneous Provisions	
635-500-1110	Warmwater Game Fish	635-500-1470	Angler Access
635-500-1120	Trout	Santiam and Calapooia Subbasins Fish Management Operating Principles and Objectives	
635-500-1130	Coho Salmon		Habitat
	Miscellaneous Provisions	635-500-1480	Habitat
635-500-1140	Angler Access		Finfish
Mainstem Willamette Subbasin Fish Management Operating Principles and Objectives		635-500-1490	Winter Steelhead
	Habitat	635-500-1500	Summer Steelhead
635-500-1150	Habitat	635-500-1510	Coho Salmon
	Finfish	635-500-1520	Spring Chinook Salmon
635-500-1160	Winter Steelhead	635-500-1530	Fall Chinook Salmon
635-500-1170	Summer Steelhead	635-500-1540	Sockeye Salmon
635-500-1180	Spring Chinook Salmon	635-500-1550	Trout and Whitefish
635-500-1190	Fall Chinook Salmon	635-500-1560	Warmwater Game Fish
635-500-1200	Shad	635-500-1570	Oregon Chub
		635-500-1580	Sand Rollers
		635-500-1590	Crayfish

Miscellaneous Provisions

635-500-1600 Angler Access

Tualatin Subbasin Fish Management Operating Principles and Objectives

Habitat

635-500-1610 Habitat

Finfish

635-500-1620	Winter Steelhead
635-500-1630	Coho Salmon
635-500-1640	Warmwater and Miscellaneous Fish
635-500-1650	Trout

Miscellaneous Provisions

635-500-1660 Angler Access

Willamette Basin Fish Management Plan for Spring Chinook

McKenzie River Basin Fish Management Plan for Spring Chinook

635-500-1661 Operating Policy and Objectives

Clackamas River Basin Fish Management Plan for Spring Chinook

635-500-1662 Operating Policy and Objectives

Willamette River Basin Above the Mouth of the McKenzie River Fish Management Plan for Spring Chinook

635-500-1663 Operating Policy and Objectives

Mainstem Willamette River Basin Fish Management Plan for Spring Chinook

635-500-1664 Objectives

Molalla and Pudding River Basins Fish Management Plan for Spring Chinook

635-500-1665 Operating Policies and Objectives

Santiam and Calapooia River Basins Fish Management Plan for Spring Chinook

635-500-1666 Operating Policies and Objectives

Lahontan Subbasins Fish Management Policies and Objectives

635-500-1670	Applicability
635-500-1680	Organization of Rules
635-500-1690	General Priorities
635-500-1700	Habitat
635-500-1710	Trout
635-500-1720	Nongame Fish
635-500-1730	Angler Access

Crooked River and Metolius River Subbasins Fish Management

635-500-1800 Applicability
635-500-1810 Organization of Rules

Metolius River Subbasin

635-500-1820	Metolius River and Tributaries
635-500-1830	Blue and Suttle Lakes
635-500-1840	Cascade Mountain Lakes

Crooked River Subbasin

635-500-1850	Crooked River Subbasin
635-500-1860	Crooked River and its Tributaries Above Prineville Reservoir
635-500-1870	Crooked River and its Tributaries Below Prine- ville Reservoir
635-500-1880	Willow Creek
635-500-1890	Prineville Reservoir
635-500-1900	Ochoco Reservoir
635-500-1910	Haystack Reservoir
635-500-1920	Lake Billy Chinook
635-500-1930	Lake Simtustus
635-500-1940	Small Impoundments in the Crooked River Sub- basin

Lower Deschutes River Fish Management

Policies and Objectives

635-500-2000	Applicability
635-500-2010	Organization of Rules
635-500-2020	Habitat Management
635-500-2030	Cascade Mountain Lakes
635-500-2040	Small Ponds With Public Access
635-500-2050	Badger Lake
635-500-2060	Clear Lake
635-500-2070	Frog Lake
635-500-2080	Olallie Lake
635-500-2090	Pine Hollow Reservoir
635-500-3000	Rock Creek Reservoir
635-500-3010	Trout, Whitefish and Miscellaneous Species in Flowing Waters
635-500-3020	Indigenous Species
635-500-3030	Summer Steelhead
635-500-3040	Spring Chinook Salmon
635-500-3050	Fall Chinook Salmon
635-500-3060	Warmwater Gamefish
635-500-3070	Public access

Upper Deschutes River Fish Management

Policies and Objectives

635-500-3100	Applicability
635-500-3110	Organization of rules
635-500-3120	Deschutes River from Bend (North Canal Dam) to Lake Billy Chinook including the tributaries Tumalo and Squaw Creeks
635-500-3130	Deschutes River from Wickiup Dam to Bend (North Canal Dam) including the tributaries Fall and Spring Rivers
635-500-3140	Wickiup Reservoir and Tributaries including the Deschutes River up to Crane Prairie Dam
635-500-3150	Crane Prairie Reservoir and Tributaries including the Deschutes River up to Little Lava Lake
635-500-3160	Little Deschutes River and Tributaries
635-500-3170	Crescent Lake
635-500-3180	Summit Lake
635-500-3190	East Lake
635-500-3200	Paulina Lake
635-500-3210	Paulina Creek
635-500-3220	Davis Lake
635-500-3230	Odell Lake
635-500-3240	Odell, Ranger and Maklaks Creeks
635-500-3250	Lava Lake and Little Lava Lake

635-500-3260	Cultus Lake	635-500-4080	Pacific Lamprey
635-500-3270	Little Cultus Lake	635-500-4090	Crayfish
635-500-3280	Century Drive Lakes Isolated from the Deschutes River (Sparks, Devils, Elk, Hosmer, North Twin, and South Twin Lakes)	635-500-4100	Public Access
635-500-3290	Cascade Mountain Lakes	635-500-4300	Applicability
635-500-3300	Miscellaneous Waters (Three Creeks Lake, Little Three Creeks Lake, Shevlin Pond, Century Pond, Sprague Pit Pond, Firemens Pond)	635-500-4310	Organization of Rules
635-500-3400	Applicability	635-500-4320	Salmon River Basin, All Waters
635-500-3410	Organization of Rules	635-500-4330	Habitat Management
635-500-3420	Habitat	635-500-4340	Chum Salmon
635-500-3430	Winter Steelhead	635-500-4350	Fall Chinook
635-500-3440	Summer Steelhead	635-500-4360	Coho Salmon
635-500-3450	Coho	635-500-4370	Winter Steelhead
635-500-3460	Spring Chinook	635-500-4380	Cutthroat Trout
635-500-3470	Fall Chinook	635-500-4390	Pacific Lamprey
635-500-3480	Wild Trout Production	635-500-4400	Crayfish
635-500-3490	Trout - Cascade Mountain Lakes	635-500-4410	Public Access
635-500-3500	Trout - High Use Reservoirs and Small Ponds	635-500-4500	Applicability
635-500-3510	Warmwater and Other Miscellaneous Fish	635-500-4510	Organization of Rules
635-500-3520	Public Access	635-500-4520	Siletz River Basin, All Waters
Klamath River Basin Fish Management		635-500-4530	Habitat Management
Policies and Objectives		635-500-4540	Chum Salmon
635-500-3600	Applicability	635-500-4550	Fall Chinook
635-500-3610	Organization of Rules	635-500-4560	Spring Chinook
635-500-3620	Habitat Management	635-500-4570	Coho Salmon
635-500-3630	Klamath River Basin, All Waters	635-500-4580	Winter Steelhead
635-500-3640	Klamath River: State Line to Upper Klamath Lake, including Spencer Creek, Lake Ewauna and Link River, of the Klamath River Basin	635-500-4590	Summer Steelhead
635-500-3650	Various Lakes, Rivers, and Tributaries of the Klamath River Basin	635-500-4600	Cutthroat Salmon
635-500-3660	Williamson River, Above the Falls (RM 23) and Tributaries, of the Klamath River Basin	635-500-4610	White and Green Sturgeon
635-500-3670	Sycan River, Sprague River North and South Forks, Cascade Mountain Streams, and Various Creeks of the Klamath River Basin	635-500-4620	Pacific Lamprey
635-500-3680	Lost River and Tributaries	635-500-4630	Crayfish
635-500-3690	Fourmile Lake	635-500-4640	Public Access
635-500-3700	Lake of the Woods	635-500-4800	Applicability
635-500-3710	Miller Lake and Miller Creek	635-500-4810	Organization of Rules
635-500-3720	Cascade and Gearhart Mountain Lakes	635-500-4820	Alsea River Basin, All Waters
635-500-3730	Howard Prairie Reservoir	635-500-4830	Habitat Management
635-500-3740	Hyatt Lake	635-500-4840	Chum Salmon
635-500-3750	Little Hyatt Lake	635-500-4850	Fall Chinook
635-500-3760	Keene Creek Reservoir	635-500-4860	Spring Chinook
635-500-3770	Deadhorse Lake	635-500-4870	Coho Salmon
635-500-3780	Holbrook Reservoir	635-500-4880	Winter Steelhead
635-500-3790	Heart Lake	635-500-4890	Cutthroat Trout
635-500-3800	Big Swamp Reservoir	635-500-4900	White and Green Sturgeon
635-500-3810	Lofton Reservoir	635-500-4910	Pacific Lamprey
635-500-3820	J. C. Boyle Reservoir	635-500-4920	Crayfish
635-500-3830	Gerber Reservoir	635-500-4930	Public Access
635-500-3840	Willow Valley Reservoir	635-500-5000	Applicability
635-500-3850	Devil Lake	635-500-5010	Organization of Rules
635-500-3860	Campbell Reservoir	635-500-5020	Yachats River Basin, All Waters
635-500-3870	Bumpheads, Upper Midway, Dog Hollow, Round Valley, and Smith Reservoirs	635-500-5030	Habitat Management
635-500-3880	Angler Access	635-500-5040	Fall Chinook
635-500-4000	Applicability	635-500-5050	Chum Salmon
635-500-4010	Organization of Rules	635-500-5060	Coho Salmon
635-500-4020	Mid-Coast Small Ocean Tributary Streams, All Waters	635-500-5070	Winter Steelhead
635-500-4030	Habitat Management	635-500-5080	Cutthroat Salmon
635-500-4040	Fall Chinook	635-500-5090	Pacific Lamprey
635-500-4050	Coho Salmon	635-500-5100	Crayfish
635-500-4060	Winter Steelhead	635-500-5110	Public Access
635-500-4070	Cutthroat Trout	635-500-5200	Applicability
		635-500-5210	Organization of Rules
		635-500-5220	Siuslaw River Basin, All Waters
		635-500-5230	Habitat Management
		635-500-5240	Fall Chinook
		635-500-5250	Spring Chinook
		635-500-5260	Coho Salmon
		635-500-5270	Chum Salmon
		635-500-5280	Winter Steelhead
		635-500-5290	Cutthroat Trout
		635-500-5300	American Shad
		635-500-5310	White and Green Sturgeon
		635-500-5320	Pacific Lamprey
		635-500-5330	Crayfish
		635-500-5340	Public Access

ADMINISTRATION

DIVISION 1

PROCEDURAL RULES

635-001-0000**Notification of Interested Persons of Proposed Rules**

Prior to the adoption, amendment, or repeal of any permanent rule, the Department shall give notice of the proposed action:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least twenty-one (21) days prior to the effective date.

(2) By mailing a copy of the notice to persons on the Agency's mailing list established pursuant to ORS 183.335(7) at least 28 days before the effective date of the rule.

(3) By mailing or furnishing a copy of the notice to the Associated Press.

Stat. Auth.: ORS 183.335 & ORS 183.360

Stats. Implemented: ORS 183.335 & ORS 183.360

Hist.: FWC 35, f. & ef. 1-13-76, Renumbered from 630-001-0000; FWC 81-1994, f. & cert. ef. 10-26-94

635-001-0005**Model Rules of Procedure**

The Model Rules of Procedures under the Administrative Procedure Act, promulgated by the Attorney General and in effect January 1, 1996, are hereby adopted as the rules of procedures for the Department of Fish and Wildlife and the Commercial Fishery Permit Boards.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or the Department of Fish and Wildlife.]

Stat. Auth.: ORS 183.341

Stats. Implemented: ORS 183.341

Hist.: GC 86, f. 8-26-58; GC 249, f. & ef. 12-1-71; GC 266, f. 10-18-73, ef. 11-11-73; FWC 25, f. & ef. 11-28-75, Renumbered from 630-001-0005; FWC 8-1978, f. & ef. 3-7-78; FWC 3-1981, f. & ef. 1-21-81; FWC 2-1982, f. & ef. 1-11-82; FWC 64-1983, f. & ef. 11-17-83; FWC 21-1986, f. & ef. 6-20-86; FWC 112-1991, f. & cert. ef. 9-30-91; FWC 28-1992, f. & cert. ef. 4-22-92; FWC 8-1994, f. & cert. ef. 2-7-94

635-001-0007**Model Public Contract Rules**

The Model Public Contract Rules, promulgated by the Attorney General, are hereby adopted as the rules of procedures for the Department of Fish and Wildlife.

Stat. Auth.: ORS 496.138 & ORS 496.146

Stats. Implemented: ORS 496.138 & ORS 496.146

Hist.: FWC 27-1992, f. 4-22-92, cert. ef. 4-23-92

635-001-0010**Legal Notice Mailing List and Fee**

Any person requesting in writing to be placed on the mailing list (as required by subsection (6) of ORS 183.335) to receive copies of each Department of Fish and Wildlife notice of intended rule making action given pursuant to paragraph (a) of subsection (1) of ORS 183.335 and copies of each rule adopted, amended, or repealed as filed in the office of the Secretary of State pursuant to subsection (1) of ORS 183.355 shall be notified that prior to placement on such mailing list an annual fee of \$25 is required to be remitted in advance to defray the costs of mailing and maintenance of mailing lists under subsection (6) of ORS 183.335.

Stat. Auth.: ORS 183

Stats. Implemented: ORS 183

Hist.: FWC 24, f. 11-28-75, ef. 1-1-76, Renumbered from 630-001-0010

635-001-0025**Civil Damages**

(1) It is the policy of the Commission that the Director may institute suit for the recovery of damages for the unlawful taking or killing of wildlife pursuant to ORS 496.705.

(2) In deciding whether to institute suit against a person convicted of unlawfully taking or killing wildlife, the Director may consider, but is not limited to, the following criteria:

(a) Whether the person was convicted of unlawfully taking or killing more than one game or furbearing mammal;

(b) Whether the person was convicted of selling or wasting the wildlife, or parts thereof, unlawfully taken or killed;

(c) Whether the person convicted has also been convicted of any previous violations of the wildlife laws or regulations promulgated pursuant thereto;

(d) Whether the violation for which the person was convicted occurred outside any authorized season for the species taken or killed; and

(e) Whether the cumulative value, as established by ORS 496.705, of the wildlife unlawfully taken or killed is equal to or greater than \$100.

Stat. Auth.: ORS 496

Stats. Implemented: ORS 496

Hist.: FWC 15-1982, f. & ef. 3-5-82

635-001-0035**Sampling Data and Tag Recovery**

It is *unlawful* for any person licensed by the Department of Fish and Wildlife to fail to comply with the directions of authorized Department personnel related to the collection of sampling data or material from salmon or other food fish. It is also *unlawful* for any such person to fail to relinquish to the Department any part of a salmon or other food fish containing coded-wire tags, including but not limited to, the snouts of those salmon that are marked by having clipped adipose fins.

Stat. Auth.: ORS 496 & ORS 506

Stats. Implemented: ORS 496 & ORS 506

Hist.: FWC 26-1983(Temp), f. 6-30-83, ef. 7-1-83; FWC 20-1984, f. & ef. 5-11-84

635-001-0050**License Refunds**

Consistent with the authority to make refunds prescribed in ORS 293.445(2):

(1) License and tag refunds will be granted upon request only to a person furnishing satisfactory evidence to the Department that:

(a) More licenses or tags than necessary have been acquired;

(b) A higher fee than set by statute was paid for; or

(c) A license agency made an error.

(d) Death of a tag holder occurs before the opening of the season for which the tag was issued; only the tag fee shall be refunded. For the purpose of this rule the person in possession of the deceased's tag shall be presumed to be entitled to the refund.

(2) Where seasons have closed that affect a large number of license buyers and where other similar opportunities are not available, the Director may authorize a license refund for monies received by the state, which, in equity and good conscience, it is not entitled to.

(3) For the purpose of this rule in sections (4) and (5) of this rule, application fee is defined as that portion of the money paid for an application card representing the cost to administer the controlled hunt program; tag fee is defined as that portion of the money paid for an application card representing the value of a particular tag prior to the drawing.

(4) Application fee and tag fee refunds will be granted upon written request only to a person issued an application card in error by a license agency. The request must be accompanied by the license agency's written acknowledgement of error.

(5) Tag fee refunds will be granted upon written request only to a person that:

(a) Has requested a refund and is unsuccessful in or disqualified from the drawing (normal computer refund);

(b) Has an unused application card and returns the original application card to the Department;

(c) Has lost the original application card or it was destroyed or stolen. The original hunter receipt copy must be returned to the

Department. If both application card and receipt copy are lost, the Department will issue a refund only if the remittance copy is located;

(d) Has lost or never received a refund check or the check was destroyed or stolen. A signed affidavit form is required;

(e) Originally donated the tag fee, but requests a refund within 15 days of the drawing date.

Stat. Auth.: ORS 293.445

Stats. Implemented: ORS 293.445

Hist.: FWC 79-1985, f. & ef. 12-11-85; FWC 25-1987, f. & ef. 6-11-87; FWC 81-1994, f. & cert. ef. 10-26-94

635-001-0060

Tribal I.D. in Lieu of Licenses

In accordance with ORS 497.170, tribal identification cards may be issued in lieu of Department-issued free hunting and fishing licenses for Columbia River Treaty Tribe members.

Stat. Auth.: ORS 497

Stats. Implemented: ORS 497

Hist.: FWC 102-1987, f. 12-16-87, ef. 1-1-88

635-001-0100

Definition

For the purpose of ORS 498.279, “competition or contest in which prizes are offered” means any event where the total value of all cash or merchandise awards exceeds \$25.

Stat. Auth.: ORS 183, ORS 299 & ORS 496

Stats. Implemented: ORS 183, ORS 299 & ORS 496

Hist.: FWC 3-1982, f. & ef. 1-11-82; FWC 96-1987, f. & ef. 11-17-87

635-001-0105

Bass Fishing Tournaments

Black bass fishing tournaments as defined in ORS 498.279 which have 50 or more participants or 25 or more participating boats are subject to provisions of ORS 498.279. In addition, the following stipulations apply:

(1) A permit from ODFW is required. Sponsors must apply for permits at least 30 days prior to the event. Permits must be in possession of the sponsor or a designated representative at the tournament location, and must be shown to OSP or ODFW employees on request.

(2) Permit applications will be accepted beginning December 15 of each year, and will pertain only to the following calendar year. Requests originating by December 15 from the annual tournament scheduling workshop sponsored by the Oregon Bass Federation will be given priority so long as that workshop is open to all persons desiring to participate. All other requests will be processed in order of time of receipt at ODFW headquarters. If conflicting requests are received, the parties in conflict will have priority over subsequent applicants.

(3) Frequency of tournaments and participation in tournaments is limited as follows. Surface areas of tournament waters will be based on *Atlas of Oregon Lakes* (OSU Press, 1985 or subsequent editions). (See Table 1)

Table 1

Surface area	Maximum number of tournaments per calendar year	Maximum number of boats per tournament
Less than 900 acres	0	0
901-1,500 acres	4	50
1,501-5,000 acres	6	75
Greater than 5,000 acres	8	No Limit

(4) Participants are limited to ten bass per boat in possession or the prevailing bag limit, whichever is less.

(5) No bass may be retained by tournament sponsors or participants after a tournament ends.

(6) Bass must be released in scattered locations at least one mile from the weigh-in site or at locations designated by ODFW.

(7) Notwithstanding restrictions set forth in OAR 635-011-0110, 635-011-0120, and the Oregon Sport Fishing Regulations published annually, the following catch and possession restrictions apply to participants in bass fishing tournaments. Participants may continue to fish while holding a daily bag limit of bass in possession for the water being fished, as long as one bass is released immediately upon catching a fish which would exceed the angler’s daily bag limit if kept. The released bass may be either the bass just caught, or from the livewell. The daily catch limit may include more than three bass over 15 inches in length.

(8) The tournament director or a designee may exceed the bass possession limit for the purpose of transporting fish from the weigh-in site to release sites on the same water.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of agency.]

Stat. Auth.: ORS 498.118, ORS 496.138 & ORS 496.146

Stats. Implemented: ORS 498.279

Hist.: FWC 96-1987, f. & ef. 11-17-87; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96

Standards and Procedures Under the Wildlife Law Violator Compact

635-001-0200

Purpose

The purpose of these rules is to provide standards and procedures for license suspension and revocation required under the Wildlife Violator Compact (Compact), and to identify the Compact Administrator to the Board of Compact Administrators for the State of Oregon.

Stat. Auth.: ORS 496 & ORS 497

Stats. Implemented: ORS 496 & ORS 497

Hist.: FWC 43-1991, f. 5-1-91, cert. ef. 5-6-91

635-001-0205

Definitions

The Wildlife Violator Compact, ORS 496.715, defines “suspension” to include any revocation, denial or withdrawal of any or all license privileges. However, to insure consistency with other applicable law, the terms “revocation” and “suspension” as used in these rules shall have the following meaning:

(1) “Revocation” means to cancel, annul and make void for the entire remainder of the term of any license.

(2) “Suspension” means to temporarily discontinue and interrupt a license, but with an expectation that it may be reinstated upon the occurrence of a specific event, such as evidence of compliance with a citation.

Stat. Auth.: ORS 496 & ORS 497

Stats. Implemented: ORS 496 & ORS 497

Hist.: FWC 43-1991, f. 5-1-91, cert. ef. 5-6-91

635-001-0210

Standard for License Suspension or Revocation

(1)(a) Upon receipt of the following information from a party state to the Compact, the Director shall initiate license suspension proceedings in accordance with OAR 635-001-0215;

(b) That a person has failed to comply with the terms of a citation from the licensing authority of a party state. Such suspension shall remain in effect until the Director receives adequate evidence of compliance with the citation.

(2) Upon receipt of the following information from a party state to the Compact, the Commission may initiate license suspension or revocation proceedings as appropriate in accordance with OAR 635-001-0215:

(a) That a person has had his or her license privileges suspended or revoked in a party state for an offense which could have been the basis for suspension or revocation of license privileges in Oregon. Where the Commission chooses to suspend, such suspension shall remain in effect until the Commission receives adequate evidence of reinstatement of license privileges in the party state;

(b) That a person has been convicted in a party state of a misdemeanor or felony or forfeited bail, for an offense that could

have been the basis for revocation of license privileges had it occurred in Oregon and when bail in Oregon for the offense would have been \$50 or more;

(c) That an individual has been convicted in a party state of a crime which would be classed as a violation in Oregon; and that person has been convicted of previous violations in Oregon or of previous crimes in a party state that would be classed as a violation in Oregon.

Stat. Auth.: ORS 496 & ORS 497

Stats. Implemented: ORS 496 & ORS 497

Hist.: FWC 43-1991, f. 5-1-91, cert. ef. 5-6-91

635-001-0215

Procedures to Suspend or Revoke

(1) When the Director is notified of a failure to comply with the terms of a citation from the licensing authority of a party state, the Director shall initiate license suspension proceedings in accordance with this section.

(2) When the Commission has been notified of any of the conditions under OAR 635-001-0210(2), the Commission may initiate license suspension or revocation proceedings in accordance with this section.

(3) The person shall be notified in writing of the Director's or Commission's intention to suspend, revoke, or refuse to issue, licenses and tags, and shall be provided with an opportunity to request a hearing within 30 days of the date of mailing.

(4) If at the end of 30 days no response has been received, a final order shall be issued suspending, revoking or refusing to issue license privileges and mailed by certified mail to the person.

(5) If prior to 30 days from the date of mailing the person submits a request for a hearing, a hearing will occur. At the discretion of the Department, the case may be reviewed in writing upon stipulation by the licensee or a hearing may be scheduled before the hearings officer.

(6) Following the hearings officer's review, a proposed order in the form prescribed by OAR 137-003-0070, including findings of fact and conclusions of law, shall be prepared by the hearings officer, served on all parties, and shall be forwarded to the Director or Commission.

(7) In accordance with ORS Chapter 183, the Director or Commission shall provide an opportunity to all parties to respond in writing within 30 days to the proposed order of the hearings officer.

(8) A final order shall be reviewed and signed by the Director or Commission chair and all parties shall be provided a copy by certified mail.

Stat. Auth.: ORS 496 & ORS 497

Stats. Implemented: ORS 496 & ORS 497

Hist.: FWC 43-1991, f. 5-1-91, cert. ef. 5-6-91

635-001-0220

Compact Administrator

For the purposes of Article VII of the Wildlife Violator Compact referred to in ORS 496.750 the Administrative head of the Oregon State Police Game Enforcement unit, or his or her designee, shall be the Compact Administrator for the State of Oregon.

Stat. Auth.: ORS 496 & ORS 497

Stats. Implemented: ORS 496 & ORS 497

Hist.: FWC 43-1991, f. 5-1-91, cert. ef. 5-6-91

635-001-0230

Payment of R&E Revenues to Watershed Improvement Grant Fund

In accordance with Chapter 8, Oregon Laws 1997, \$1,000,000 of revenues from surcharges on recreational licenses deposited to the Restoration and Enhancement Fund shall be paid to the Watershed Improvement Grant Fund in accordance with the following schedule:

- (1) On or before June 30, 1998, \$400,000 to be transferred.
- (2) On or before January 1, 1999, \$200,000 to be transferred.
- (3) On or before June 30, 1999, \$400,000 to be transferred.

Stat. Auth.: Section 13, Chapter 8, 1997 Session Laws (HB 3700)

Stats. Implemented: Section 13, Chapter 8, 1997 Session Laws (HB 3700)

Hist.: FWC 55-1997, f. & cert. ef. 9-4-97

DIVISION 2

DISPOSAL OF WILDLIFE AND EQUIPMENT SEIZED OR OTHERWISE ACQUIRED

635-002-0005

Disposal of Edible Wildlife

Carcasses of edible wildlife, except black bear, shall be disposed of in the following manner:

(1) Donated to public and charitable institutions such as welfare organizations, churches, and others provided the receiving agency pays all storage and handling charges and does not sell the meat.

(2) Donated to persons determined to be eligible because of low income or medical reasons, provided the eligible person requests and accepts the carcass as delivered, consumes the meat at his/her place of residence, and does not offer it for sale.

(3) Donated to wildlife rehabilitators licensed by the Department provided those rehabilitators use the meat to feed sick, injured or orphaned wildlife and do not sell the meat.

(4) Donated to rendering plants, pet food manufacturers or disposed of as specified by personnel of the Department.

Stat. Auth.: ORS 183.545, ORS 183.550, ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162

Stats. Implemented: ORS 183.545, ORS 183.550, ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162

Hist.: 3WC 2, f. 12-19-73, ef. 1-11-74; FWC 135, f. & ef. 8-4-77, Renumbered from 630-025-0004, Renumbered from 635-020-0005; FWC 84-1984, f. & ef. 12-24-84; FWC 32-1991, f. & cert. ef. 3-25-91; FWC 36-1993, f. & cert. ef. 6-14-93

635-002-0007

Disposal of Black Bear Carcasses

Carcasses of black bear shall be disposed of in the following manner:

(1) Donated to wildlife rehabilitators licensed by the Department provided those rehabilitators use the meat to feed sick, injured or orphaned wildlife and do not sell the meat.

(2) Donated to persons determined to be eligible because of low income or medical reasons, provided the eligible persons sign a written release acknowledging the proper methods of preparation for human consumption, accepts the carcass as is, consume the meat at their place of residence and do not offer the meat for sale.

(3) Donated to persons or public or charitable institutions who request their name be placed on a waiting list maintained by the Department. These persons or public or charitable institutions will be notified on a first come, first serve basis and shall sign a written release acknowledging the proper methods of preparation for human consumption, accepts the carcass as is, consume the meat at their place of residence and not offer the meat for sale.

(4) Donated to rendering plants, pet food manufacturers or disposed of as specified by personnel of the Department.

Stat. Auth.: ORS 183.545, ORS 183.550, ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162

Stats. Implemented: ORS 183.545, ORS 183.550, ORS 496.012, ORS 496.138, ORS 496.146 & ORS 496.162

Hist.: FWC 84-1984, f. & ef. 12-24-84; FWC 32-1991, f. & cert. ef. 3-25-91; FWC 36-1993, f. & cert. ef. 6-14-93

635-002-0008

Disposition of Wildlife Taken on Damage

In accordance with ORS 498.012, any wildlife taken or damage shall be disposed of in the following manner:

(1) Any deer, elk, antelope, bighorn sheep or gamebird shall be salvaged and delivered to a location determined by the Department. Carcasses shall be disposed of as directed by OAR 635-002-

0005.

(2) Black bear taken on damage shall be disposed of in the following manner:

(a) The carcass shall be delivered to a location determined by the Department and disposed of as directed in OAR 635-002-0007;

(b) The hide, head, paws, claws, and gall bladder shall be salvaged and disposed of in a manner determined by the Department. Priority for disposition shall be for scientific, enforcement, or educational purposes.

(3) Any cougar taken when damaging livestock shall be disposed of in the following manner:

(a) The carcass and hide, including viscera, shall be delivered to the nearest Department field office;

(b) The Department may permit the landowner to retain the legally marked hide, including the skull of such cougar for personal use. Such skull and hide, including feet and claws, may not be sold or bartered;

(c) Such hide shall be marked with a possession tag which shall remain with the hide.

(4) Any red fox or bobcat shall be disposed of in a manner determined by the Department. Priority for disposition shall be for scientific, enforcement, or educational purposes.

Stat. Auth.: ORS 183 & ORS 496

Stats. Implemented: ORS 183 & ORS 496

Hist.: FWC 32-1991, f. & cert. ef. 3-25-91

635-002-0010

Disposal of Inedible Wildlife

Carcasses of inedible wildlife shall be disposed of in a manner directed by the Department including donations to rendering plants, pet food manufacturers, or zoos, provided the meat is not used for human consumption.

Stat. Auth.: ORS 183 & ORS 496

Stats. Implemented: ORS 183 & ORS 496

Hist.: 3WC 2, f. 12-19-73, ef. 1-11-74, Renumbered from 630-025-0005, Renumbered from 635-020-0010; FWC 32-1991, f. & cert. ef. 3-25-91

635-002-0012

Disposal of Wildlife or Wildlife Parts

Any wildlife or parts of wildlife acquired and not otherwise specifically directed elsewhere in this Division shall be disposed of as follows: Pelts or hides of furbearing and game mammals shall be disposed of in a manner determined by the Department including use for scientific, enforcement or educational purposes. Pelts or hides may be sold.

Stat. Auth.: ORS 183 & ORS 496

Stats. Implemented: ORS 183 & ORS 496

Hist.: FWC 32-1991, f. & cert. ef. 3-25-91

635-002-0020

Sale Price of Wildlife

The price of furbearing and other mammal pelts shall be established at public auction.

Stat. Auth.: ORS 183 & ORS 496

Stats. Implemented: ORS 183 & ORS 496

Hist.: 3WC 2, f. 12-19-73, ef. 1-11-74, Renumbered from 630-025-0007, Renumbered from 635-020-0020; FWC 32-1991, f. & cert. ef. 3-25-91

635-002-0025

Payment for Wildlife Sold

Payment must be made at the time of delivery by check or money order to the Oregon Department of Fish and Wildlife.

Stat. Auth.: ORS 183 & ORS 496

Stats. Implemented: ORS 183 & ORS 496

Hist.: 3WC 2, f. 12-19-73, ef. 1-11-74, Renumbered from 630-025-0008, Renumbered from 635-020-0025; FWC 32-1991, f. & cert. ef. 3-25-91

635-002-0030

Sale of Seized Fish or Shellfish

In accordance with ORS 506.690, all food fish and shellfish taken by or in possession of any person in violation of the com-

mercial fishing laws or regulations of the Commission shall be seized. To prevent spoilage, the fish so seized and not required as evidence shall be sold. The officer undertaking the sale shall, if reasonable and practical, obtain more than one bid price for the seized fish to insure the price paid is the market value of the fish at the time of seizure. Market value as used in subsection (3) of ORS 506.690 and this regulation means the price at fisherman or producer level. If it is not practical to sell seized fish to prevent spoilage, such fish may be provided for food purposes, free gratis to any state, county, or other public institution. Any food fish or shellfish seized and determined as unsuitable for human consumption may be destroyed.

Stat. Auth.: ORS 183 & ORS 496

Stats. Implemented: ORS 183 & ORS 496

Hist.: FC 246, f. 5-5-72, ef. 5-15-72, Renumbered from 625-030-0090, Renumbered from 635-020-0030

635-002-0035

Disposal or Sale of Forfeited Fishing Gear and Boats

(1) All property received by the Commission under order of forfeiture of any court shall be disposed of by public sale to the highest bidder. However, forfeited property in the custody of the Oregon State Police which is determined to have a value of less than the expense which would be incurred in such property's transfer to the Commission and subsequent sale, may be authorized for destruction.

(2) The State Police officer having custody of the forfeited property must request and receive approval of the property control officer of the Commission before the property may be destroyed.

Stat. Auth.: ORS 183 & ORS 496

Stats. Implemented: ORS 183 & ORS 496

Hist.: FC 246, f. 5-5-72, ef. 5-15-72, Renumbered from 625-030-0095, Renumbered from 635-020-0035

635-002-0100

When Salmon Eggs are Surplus

For the purposes of ORS 508.730, the following criteria shall be used in determining when all natural and artificial fish production needs of the state have been met:

(1) General limitations — Salmon eggs will not be declared surplus unless and until the capacities of all public hatchery facilities contributing fish for release in Oregon waters, including coastal streams and Columbia River and tributaries, have been filled, and approved rehabilitation and enhancement programs, including Salmon and Trout Enhancement Program, have been provided for. However, the Department recognizes that certain constraints may limit hatchery production to less than full capacity, including available finances, legislative direction, Commission policy, and status of stream/water body management plans. The Department may not be able to locate, determine, or accommodate all areas of need at any one time.

(2) Biological limitations — Biological factors which limit numbers of salmon eggs that can be utilized in meeting state needs are:

- (a) Fish carrying capacity of a given stream or water body;
- (b) Probability of disease transfer to naturally produced stocks;
- (c) Maintenance of genetic integrity or compatibility of stocks;
- (d) Impacts of other species of fish.

Stat. Auth.: ORS 183, ORS 506 & ORS 508

Stats. Implemented: ORS 183, ORS 506 & ORS 508

Hist.: FWC 4-1982, f. & ef. 1-11-82

COMMERCIAL FISHERIES

DIVISION 3

OCEAN COMMERCIAL SALMON FISHERY

General Rules

635-003-0003**Purpose and Scope**

(1) The purpose of Division 003 is to provide for management of commercial salmon fisheries off the Oregon Coast over which the state has jurisdiction.

(2) Division 003 incorporates into Oregon Administrative Rules, by reference, the annual ocean troll salmon specifications and management measures for 1998, included in the **Pacific Fishery Management Council Newsletter, Volume 22, Number 2, dated April 6-10, 1998**, and in addition to the extent they are consistent with these rules, **Code of Federal Regulations (CFR), Title 50, Part 660, Subpart H (61FR34572, July 2, 1996, as amended to incorporate the standards in the Newsletter)**. Therefore, persons must consult the **Newsletter** and **Federal Regulations** in addition to Division 003 to determine all applicable troll salmon fishing requirements. A copy of the **Newsletter** and the **Federal Regulations** may be obtained by contacting Kay Brown or Carolyn Porter at 503-872-5252.

(3) Where regulations refer to the fishery management area, that area is extended from shore to three nautical miles from shore coterminous with the Exclusive Economic Zone.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.129

Hist.: FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 25-1994, f. & cert. ef. 5-2-94; FWC 20-1996, f. & cert. ef. 4-29-96; DFW 34-1998, f. & cert. ef. 5-4-98

635-003-0004**Inclusions and Modifications**

(1) OAR 635-003-0005 through 635-003-0076 modify or are in addition to provisions contained in **Code of Federal Regulations, Title 50, Part 660, Subpart H**.

(2) The **Code of Federal Regulations (CFR), Title 50, Part 660, Subpart H**, provides requirements for commercial salmon fishing in the Pacific Ocean off the Oregon coast. However, additional regulations may be promulgated subsequently, and these supersede, to the extent of any inconsistency, the Code of Federal Regulations.

(3) This rule contains requirements which modify commercial salmon fishing regulations off the Oregon coast as follows:

(a) A triangular area extending from the green buoy approximately one-half mile offshore from the mouth of Tillamook Bay to points about three-quarter mile north of the north jetty and approximately one and one-quarter miles south of the south jetty, is closed to the commercial take of salmon April 15-30 and June 1-September 15;

(b) Sisters Rocks to Mack Arch – open for the commercial take of all salmon except coho effective August 1. During August 1-14, the open fishing days are August 1, 2, 5, 6, 9, 10, 13, and 14. Effective August 15, fishing is open seven days per week through the earlier of August 31 or attainment of the 1,400 chinook salmon catch quota.

(4) Vessels prevented by unsafe weather conditions or mechanical problems from meeting management area landing restrictions, must notify the U.S. Coast Guard and receive acknowledgement of such notification prior to leaving the area. Notification shall include the vessel name, port where delivery will be made, approximate number of salmon (by species) on board, and estimated time of arrival.

(5) Oregon/California border to Humboldt South Jetty:

(a) All fish taken in the September 1-September 30 federal government's ocean commercial fishery must be landed within this area;

(b) Vessels with fish on board taken from this area may request authorization to temporarily moor in Brookings, Oregon, prior to landing in California. Such vessels shall notify the Chetco River Coast Guard Station via VHF Channel 22A between the hours of 0500 and 2200. Proper notification shall include the ves-

sel name, number of fish on board, and estimated time of arrival.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.129

Hist.: FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 42-1991, f. 4-29-91, cert. ef. 5-1-91; FWC 25-1994, f. & cert. ef. 5-2-94; FWC 83-1994(Temp), f. 10-28-94, cert. ef. 11-1-94; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 40-1995(Temp), f. & cert. ef. 5-18-95; FWC 62-1995(Temp), f. 7-27-95, cert. ef. 7-28-95; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 26-1996(Temp), f. 5-16-96, cert. ef. 5-17-96; FWC 31-1996(Temp), f. & cert. ef. 6-4-96; FWC 19-1997(Temp), f. 3-17-97, cert. ef. 4-15-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 33-1997(Temp), f. & cert. ef. 5-28-97; FWC 44-1997(Temp), f. & cert. ef. 8-13-97; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 36-1998(Temp), f. 5-12-98, cert. ef. 5-13-98 thru 5-15-98; DFW 38-1998(Temp), f. & cert. ef. 5-15-98 thru 6-15-98; DFW 39-1998(Temp), f. 5-19-98, cert. ef. 5-20-98 thru 5-23-98; DFW 44-1998(Temp), f. 6-1-98, cert. ef. 6-2-98 thru 6-4-98; DFW 64-1998(Temp), f. 8-14-98, cert. ef. 8-15-98 thru 8-21-98; DFW 65-1998(Temp), f. & cert. ef. 8-21-98 thru 8-31-98

635-003-0005**Area**

As used in this Division, the Pacific Ocean includes that area of the Columbia River seaward of a straight line from the knuckle of the south jetty on the Oregon shore to the inshore end of the north jetty on the Washington shore.

Stat. Auth.: ORS 496 & ORS 506

Stats. Implemented: ORS 496 & ORS 506

Hist.: FC 241, f. 4-5-72, ef. 4-15-72, Renumbered from 625-010-0000; FWC 16-1978, f. & ef. 3-24-78, Renumbered from 635-036-0005

635-003-0074**Automatic Season Closures**

(1) Salmon harvest quotas for Oregon, which include fish caught in the Fishery Conservation Zone (3 - 200 mile) are set forth in **Federal Register Notice FR Doc. 92-0412-2112, filed May 1, 1992**, published pursuant to **50 CFR 661.20 49 FR 43685, October 31, 1984**.

(2) Upon a determination by the Regional Director of the National Marine Fisheries Service, after consulting with the states, of the date the catch is projected to reach the quotas set forth in section (1) of this rule, the Fish and Wildlife Director may file a temporary rule with the Secretary of State designating those dates when the season will close.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 496.138, ORS 496.162, ORS 506.119 & ORS 506.129

Stats. Implemented: ORS 496.138, ORS 496.162, ORS 506.119 & ORS 506.129

Hist.: FWC 16-1983, f. & ef. 4-29-83; FWC 17-1984, f. & ef. 4-30-84; FWC 20-1985, f. & ef. 5-1-85; FWC 13-1986, f. & ef. 5-1-86; FWC 19-1987, f. & ef. 5-5-87; FWC 27-1988, f. 4-29-88 (and amended 5-16-88), cert. ef. 5-1-88; FWC 33-1989, f. & cert. ef. 5-25-89; FWC 37-1990, f. & cert. ef. 5-1-90; FWC 39-1990(Temp), f. & cert. ef. 5-11-90; FWC 40-1990(Temp), f. & cert. ef. 5-18-90; FWC 42-1990(Temp), f. & cert. ef. 5-25-90; FWC 47-1990(Temp), f. 5-30-90, cert. ef. 5-31-90; FWC 48-1990(Temp), f. 6-7-90, cert. ef. 6-8-90; FWC 49-1990(Temp), f. 6-13-90, cert. ef. 6-14-90; FWC 73-1990(Temp), f. 7-31-90, cert. ef. 8-1-90; FWC 79-1990(Temp), f. 8-7-90, cert. ef. 8-8-90; FWC 85-1990(Temp), f. 8-24-90, cert. ef. 8-25-90; FWC 97-1990(Temp), f. 9-14-90, cert. ef. 9-15-90; FWC 99-1990(Temp), f. 9-17-90, cert. ef. 9-18-90; FWC 104-1990(Temp), f. 9-21-90, cert. ef. 9-22-90; FWC 106-1990(Temp), f. & cert. ef. 9-25-90; FWC 42-1991, f. 4-29-91, cert. ef. 5-1-91; FWC 72-1991(Temp), f. 7-11-91, cert. ef. 7-12-91; FWC 74-1991(Temp), f. 7-12-91, cert. ef. 7-15-91; FWC 76-1991(Temp), f. 7-29-91, cert. ef. 8-10-91; FWC 87-1991(Temp), f. 8-9-91, cert. ef. 8-10-91; FWC 93-1991, f. 8-30-91, cert. ef. 9-1-91; FWC 111-1991(Temp), f. & cert. ef. 9-30-91; FWC 31-1992, f. 4-29-92, cert. ef. 5-1-92; FWC 57-1992(Temp), f. 7-24-92, cert. ef. 7-25-92; FWC 63-1992(Temp), f. 7-30-92, cert. ef. 7-31-92; FWC 65-1992(Temp), f. & cert. ef. 8-6-92; FWC 66-1992(Temp), f. 8-7-92, cert. ef. 8-8-92; FWC 75-1992(Temp), f. 8-11-92, cert. ef. 8-12-92; FWC 77-1992(Temp), f. 8-19-92, cert. ef. 8-20-92; FWC 78-1992(Temp), f. & cert. ef. 8-25-92; FWC 53-1993(Temp), f. 8-31-93, cert. ef. 9-1-93; FWC 55-1993(Temp), f.

& cert. ef. 9-9-93; FWC 58-1993(Temp), f. 9-15-93, cert. ef. 9-16-93; FWC 28-1994(Temp), f. 5-19-94, cert. ef. 5-20-94

Pink Salmon

635-003-0076

U.S.-Canada Border to Cape Falcon, May/June All-Except-Coho Season

Vessels landing fish south of Cape Falcon from the U.S.-Canada border to Cape Falcon, May/June All-Except-Coho Commercial Salmon Season shall notify the Newport office of the Oregon Department of Fish and Wildlife between 8 a.m. and 5 p.m. on the day of landing or the following weekday if such landing occurs on a weekend or outside office hours. The notification shall include the name of the vessel, port where delivery will be made, and the number of chinook landed. Following any closure of this fishery, vessels must land and deliver the fish within 48 hours of the closure.

Stat. Auth.: ORS 496 & ORS 506

Stats. Implemented: ORS 496 & ORS 506

Hist.: FWC 37-1990, f. & cert. ef. 5-1-90; FWC 42-1991, f. 4-29-91, cert. ef. 5-1-91

Special Seasons

635-003-0085

Extended Commercial Seasons

In addition to the open seasons prescribed in OAR 635-003-0003 there are open seasons for chinook salmon as follows:

(1) Chetco River Ocean Terminal Area - from October 15 through the earlier of a 1,000 chinook quota or October 31 in the area described in section (1)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area south of Goat Island (N. Lat. 42°04'00") to approximately 1/4 mile south of the Whistle Buoy (N. Lat. 42°01'20") and seaward three nautical miles offshore;

(b) During the season described in this section (1) it is *unlawful* to take chinook salmon less than 26 inches in total length; it is *unlawful* to use barbed hooks or to fish more than four spreads per line; it is *unlawful* to make more than one landing of chinook per day; and it is *unlawful* to have in possession or to land more than 20 chinook per day taken in this fishery. Landings are restricted to Brookings.

(2) Elk River Ocean Terminal Area - from November 1 through November 30 in the area described in section (2)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area south of Cape Blanco (42°50'20" N. Lat.) and north of Humbug Mountain (42°40'30" N. Lat.) and seaward three nautical miles offshore;

(b) During the season described in this section (2), it is *unlawful* to take chinook salmon less than 26 inches in total length; it is *unlawful* to use barbed hooks or to fish more than four spreads per line; and landings are restricted to Port Orford.

(3) Tillamook Bay Ocean Terminal Area - from November 1 through November 15 in the area described in section (3)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area between Pyramid Rock (44°29'45" N. Lat.) and Twin Rocks (45°35'49" N. Lat.) and seaward three nautical miles offshore;

(b) During the season described in this section (3), it is *unlawful* to take chinook salmon less than 26 inches in total length and it is *unlawful* to use barbed hooks or fish more than four spreads per line.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.129

Hist.: FWC 48-1984(Temp), f. & ef. 8-31-84; 57-1984(Temp), f. & ef. 9-15-84; FWC 59-1986(Temp), f. & ef. 9-19-86; FWC 106-1992(Temp), f. 10-8-92, cert. ef. 10-24-92; FWC 111-1992(Temp), f. 10-26-92, cert. ef. 10-27-92; FWC 62-1993, f. & cert. ef. 10-1-93; FWC 56-1994, f. 8-30-94, cert. ef. 9-1-94; FWC 80-1994(Temp), f. 10-25-94, cert. ef. 10-26-94; FWC 82-1994(Temp), f. 10-28-94, cert. ef. 10-30-94; FWC 81-1995, f. 9-29-95, cert. ef.

10-1-95; FWC 85-1995(Temp), f. & cert. ef. 10-20-95; FWC 56-1996, f. 9-27-96, cert. ef. 10-1-96; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 66-1997(Temp), f. 10-24-97, cert. ef. 10-26-97; FWC 67-1997(Temp), f. 10-28-97, cert. ef. 10-29-97; DFW 34-1998, f. & cert. ef. 5-4-98

DIVISION 4

COMMERCIAL FISHERIES OTHER THAN SALMON OR SHELLFISH

Halibut Fishery

635-004-0005

Scope of Rules

This rule incorporates, by reference, Pacific Halibut Fishery Regulations of the International Pacific Halibut Commission (IPHC), included in **Title 50 of the Code of Federal Regulations (CFR), Part 300**, into Oregon Administrative Rules. Therefore, persons must consult this part of **50 CFR** and the **Pacific Halibut Fishery Regulations 1997** as published by IPHC in addition to these rules to determine all rules applicable to the taking of halibut. It is *unlawful* to take halibut for commercial purposes except as set by the International Pacific Halibut Commission and in accordance with a valid permit issued by the International Pacific Halibut Commission.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.129

Hist.: FC 241, f. 4-5-72, ef. 4-15-72, Renumbered from 625-010-0725, Renumbered from 635-036-0330; FWC 25-1989(Temp), f. & cert. ef. 4-5-89; FWC 51-1989, f. & cert. ef. 7-28-89; FWC 32-1990(Temp), f. & cert. ef. 4-4-90; FWC 67-1991, f. 6-25-91, cert. ef. 7-1-91; FWC 94-1995(Temp), f. 12-29-95, cert. ef. 1-1-96; FWC 9-1996, f. 3-5-96, cert. ef. 3-8-96; FWC 25-1997, f. 4-22-97, cert. ef. 5-1-97

Ocean Food Fish Fishery

635-004-0018

Scope of Rules

Division 004 incorporates into Oregon Administrative Rules, by reference, the annual groundfish specifications and management measures for 1998 included in the **Pacific Fishery Management Council Newsletter, volume 21, number 5, dated November 3-7, 1997**, and in addition to the extent they are consistent with these rules, **Code of Federal Regulations, Title 50 Part 660, Subpart G (61FR34570, July 2, 1996, as amended** to incorporate the standards in the **Newsletter**). Therefore, persons must consult the **Newsletter** and **Federal Regulations** in addition to Division 004 to determine all applicable groundfish fishing requirements. Where regulations refer to the fishery management area, that area is extended from shore to three nautical miles from shore coterminous with the Exclusive Economic Zone. A copy of the **Newsletter** and the **Federal Regulations** may be obtained by contacting Kay Brown or Carolyn Porter at 503-872-5252.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 496.138 & ORS 506.119

Stats. Implemented: ORS 496.162 & ORS 506.129

Hist.: FWC 141-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 71-1996, f. 12-26-96, cert. ef. 1-1-97; DFW 1-1998, f. & cert. ef. 1-9-98

635-004-0020

Definitions

As used in these regulations, unless the context requires otherwise:

(1) "At-sea processing" means processing that takes place on a vessel or other platform that floats and is capable of being moved from one location to another whether shoreside or on the water.

(2) "Cape Lookout" means a line extending due west at 45 degrees 20 minutes 15 seconds north latitude.

(3) "DTS complex" includes Dover sole (*Microstomus pacificus*), thornyhead (*Sebastolobus* spp.), and trawl-caught sablefish (blackcod, *Anoplopoma fimbria*).

(4) "Exclusive economic zone" means the zone between 3-200 nautical miles offshore of the United States.

(5) "Fishing gear" includes:

(a) "Beam trawl" means a trawl which is held open by a fixed beam frame;

(b) "Bobbin trawl" means the same as roller trawl, and is a type of bottom trawl;

(c) "Bottom trawl" means a trawl in which the otter boards or the footrope of the net contact the seabed, and includes Danish and Scottish seine gear. It also includes pair trawls fished on the bottom. Any trawl not meeting the requirements for pelagic trawls described in OAR 635-004-0040(5) is a bottom trawl;

(d) "Chafing gear" means webbing or other material attached to the codend of a trawl net to protect the codend from wear;

(e) "Codend" shall be defined as the last 50 mesh length constituting the terminal, closed end of a trawl. The meshes shall be counted forward of the pursing tackle which terminates the codend;

(f) "Double-ply mesh" or "Double-bar mesh" means two lengths of twine tied into a single knot;

(g) "Double-walled codend" means a codend constructed of two walls of webbing;

(h) "Fixed gear" means longline, trap or pot, setnet, and stationary hook-and-line gears;

(i) "Gill net" has the meaning as set forth in OAR 635-042-0010;

(j) "Hook-and-line" means one or more hooks attached to one or more lines;

(k) "Longline" means a stationary buoyed, and anchored groundline with hooks attached;

(l) "Mesh size" means the opening between opposing knots. Minimum mesh size means the smallest distance allowed between the inside of one knot to the inside of the opposing knot regardless of twine size;

(m) "Nontrawl gear" means all legal commercial groundfish gear other than trawl gear;

(n) "Pelagic trawl" (midwater or off-bottom) means a trawl in which the otter boards may be in contact with the seabed but the footrope of the net remains above the seabed. It includes pair trawls if fished in midwater. A pelagic trawl has no rollers or bobbins on the net;

(o) "Pot or trap" means a portable, enclosed device with one or more gates or entrances and one or more lines attached to surface floats;

(p) "Roller trawl" or "bobbin trawl" are identical, and mean a trawl net with footropes equipped with rollers or bobbins made of wood, steel, rubber, plastic, or other hard material which protects the net and footrope during fishing on the seabed. A roller trawl is a type of bottom trawl;

(q) "Seine" means any nonfixed net other than a trawl net or gill net;

(r) "Set net" means a stationary, buoyed and anchored gill net or trammel net;

(s) "Single-walled codend" means a codend constructed of a single wall of webbing knitted with single or double-ply mesh;

(t) "Trammel net" means a gill net made with two or more walls joined to a common float line;

(u) "Trawl net" means a cone or funnel-shaped net which is towed or drawn through the water by one or two vessels. Trawl nets are used both on bottom and off bottom. They may be fished with or without trawl doors. They may employ warps or cables to herd fish. Trawl nets are restricted to beam trawl, bobbin or roller trawl, bottom trawl and pelagic trawl;

(v) "Trawl riblines" means heavy rope or lines that run down the sides, top, or underside of a trawl net from the mouth of the net to the terminal end of the codend to strengthen the net during fishing;

(w) "Troll" has the meaning as set forth in OAR 635-003-0010;

(x) "Vertical hook and line (Portuguese longline)" means a line attached to the vessel or to a surface buoy vertically suspended to the bottom by a weight or anchor, with hooks attached between its surface and bottom end.

(6) "Groundfish" means all species of ocean food fish defined as groundfish in the **Pacific Coast Groundfish Fishery Management Plan** and in the **Federal Groundfish Regulations, Title 50, Parts 660 and 663**.

(7) "Inland waters" means all waters of the state except the Pacific Ocean.

(8) "Land, landed, or landing" means to begin transfer of fish from a fishing vessel. Once transfer begins, all fish aboard the vessel are counted as part of the landing.

(9) "Length, total" is measured from the tip of the snout (mouth closed) to the tip of the tail (pinched together) without mutilation of the fish or the use of additional force to extend the length.

(10) "Ocean food fish" includes all saltwater species of food fish except salmon, halibut, and shellfish whether found in fresh or salt water.

(11) "Pacific Ocean" means all water seaward of the end of the jetty or jetties of any river, bay, or tidal area, except in the Columbia River the Pacific Ocean has the definition prescribed in OAR 635-003-0005, or all water seaward of the extension of the shoreline high watermark across the river, bay, or tidal area where no jetties exist.

(12) "Rockfish" includes:

(a) aurora rockfish, *Sebastes aurora*;

(b) bank rockfish, *S. rufus*;

(c) black rockfish, *S. melanops*;

(d) black and yellow rockfish, *S. chrysomelas*;

(e) blackgill rockfish, *S. melanostomus*;

(f) Blue rockfish, *S. mystinus*;

(g) bocaccio, *S. paucispinis*;

(h) bronzespotted rockfish, *S. gilli*;

(i) brown rockfish, *S. auriculatus*;

(j) calico rockfish, *S. dalli*;

(k) California scorpionfish, *Scorpaena quttata*;

(l) canary rockfish, *Sebastes pinniger*;

(m) chilipepper, *S. goodei*;

(n) China rockfish, *S. nebulosus*;

(o) copper rockfish, *S. caurinus*;

(p) cowcod, *S. levis*;

(q) darkblotched rockfish, *S. crameri*;

(r) dusty rockfish, *S. ciliatus*;

(s) flag rockfish, *S. rubrivinctus*;

(t) gopher rockfish, *S. carnatus*;

(u) grass rockfish, *S. rastrelliger*;

(v) greenblotched rockfish, *S. rosenblatti*;

(w) greenspotted rockfish, *S. chlorostictus*;

(x) greenstriped rockfish, *S. elongatus*;

(y) harlequin rockfish, *S. variegatus*;

(z) honeycomb rockfish, *S. umbrosus*;

(aa) kelp rockfish, *S. atrovirens*;

(bb) longspine thornyhead, *Sebastolobus altivelis*;

(cc) Mexican rockfish, *Sebastes macdonaldi*;

(dd) olive rockfish, *S. serranoides*;

(ee) Pacific ocean perch, *S. alutus*;

(ff) pink rockfish, *S. eos*;

(gg) quillback rockfish, *S. maliger*;

(hh) redbanded rockfish, *S. babcocki*;

(ii) redstripe rockfish, *S. proriger*;

(jj) rosethorn rockfish, *S. helvomaculatus*;

(kk) rosy rockfish, *S. rosaceus*;

(ll) roughey rockfish, *S. aleutianus*;

(mm) sharpchin rockfish, *S. zacentrus*;

(nn) shortbelly rockfish, *S. jordani*;

(oo) shortraker rockfish, *S. borealis*;

(pp) shortspine thornyhead, *Sebastolobus alascanus*;

(qq) silvergray rockfish, *Sebastes brevispinis*;

- (rr) speckled rockfish, *S. ovalis*;
- (ss) splitnose rockfish, *S. diploproa*;
- (tt) squarespot rockfish, *S. hopkinsi*;
- (uu) starry rockfish, *S. constellatus*;
- (vv) striptail rockfish, *S. saxicola*;
- (ww) tiger rockfish, *S. nigrocinctus*;
- (xx) treefish, *S. serriceps*;
- (yy) vermilion rockfish, *S. miniatus*;
- (zz) widow rockfish, *S. entomelas*;
- (aaa) yelloweye rockfish, *S. ruberrimus*;
- (bbb) yellowmouth rockfish, *S. reedi*.

(13) "Sebastes complex" means all rockfish managed by the **Pacific Coast Groundfish Fishery Management Plan** except Pacific ocean perch (*Sebastes alutus*), widow rockfish (*S. entomelas*), shortbelly rockfish (*S. jordani*), and thornyhead (*Sebastes tolobus* spp.). The Sebastes complex includes yellowtail rockfish (*Sebastes flavidus*).

(14) "Shore-based (shoreside) processors" means any facility where fish will be processed which is fixed permanently to land.

(15) "Tender" means any vessel that buys or obtains fish directly from a catching vessel and transports it to a port of landing or fish dealer.

(16) "Trip limit" means the total allowable amount of a groundfish species or species complex, by weight, or by percentage of fish on board, that may be taken and retained, possessed, or landed per vessel from a single fishing trip. A vessel which has landed its cumulative or daily limit may continue to fish on the limit for the next legal period as long as the fish are not landed until the next period:

(a) "Daily trip limit" means the maximum amount that may be taken and retained, possessed, or landed per vessel in 24 consecutive hours, starting at 0001 hours local time. Only one landing of groundfish may be made in that 24-hour period;

(b) "Cumulative trip limit" means the maximum amount that may be taken and retained, possessed, or landed per vessel in a specified period of time, without a limit on the number of landings or trips. Cumulative trip limits apply to calendar months.

Stat. Auth.: ORS 496.138 & ORS 506.119

Stats. Implemented: ORS 496.162 & ORS 506.129

Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FWC 37, f. & ef. 1-23-76, Renumbered from 625-010-0545; FWC 49-1979, f. & ef. 11-1-79, Renumbered from 635-036-0270; FWC 10-1983, f. & ef. 3-1-83; FWC 1-1985(Temp), f. & ef. 1-4-85; FWC 5-1985, f. & ef. 2-19-85; FWC 17-1987(Temp), f. & ef. 5-7-87; FWC 103-1988, f. 12-29-88, cert. ef. 1-1-89; FWC 28-1989(Temp), f. 4-25-89, cert. ef. 4-26-89; FWC 130-1990, f. 12-31-90, cert. ef. 1-1-91; FWC 67-1991, f. 6-25-91, cert. ef. 7-1-91; FWC 21-1992(Temp), f. 4-7-92, cert. ef. 5-1-92; FWC 141-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 21-1992(Temp), f. 4-7-92, cert. ef. 5-1-92; FWC 36-1992, f. 5-26-92, cert. ef. 5-27-92; FWC 6-1993, f. 1-28-93, cert. ef. 2-1-93; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 45-1995, f. & cert. ef. 6-1-95; FWC 71-1996, f. 12-31-96, cert. ef. 1-1-97

635-004-0025

Closed Season

There is no closed season for the taking of ocean food fish for commercial purposes except as provided in these rules and in the **Code of Federal Regulations, Title 50 Parts 660 and 663**.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 496.138 & ORS 506.119

Stats. Implemented: ORS 496.162 & ORS 506.129

Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FWC 38, f. & ef. 1-23-76, Renumbered from 625-010-0550; FWC 8-1979, f. 3-1-79, ef. 3-2-79; FWC 9-1979(Temp), f. & ef. 3-5-79 through 3-31-79; FWC 50-1979, f. & ef. 11-1-79, Renumbered from 635-036-0275; FWC 95-1994, f. 12-28-95, cert. ef. 1-1-95; FWC 71-1996, f. 12-31-96, cert. ef. 1-1-97

635-004-0026

Pacific Ocean Herring Season

There is no closed season for the commercial taking of herring in the Pacific Ocean.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FWC 50-1979, f. & ef. 11-1-79

635-004-0027

Inland Waters Herring Season

There is no closed season for the commercial taking of herring in inland waters except:

(1) During the period January 1 through April 15 it is *unlawful* to take herring for commercial purposes without a permit issued by the Department.

(2) It is *unlawful* to violate any of the conditions of the permit issued under section (1) of this rule.

(3) In all inland waters except Yaquina Bay, herring taken during the period January 1 through April 15 may only be sold for use as bait.

(4) In Yaquina Bay:

(a) The open season for the taking of herring is February 1 through December 31;

(b) During the period February 1 through April 15 it is *unlawful* to:

(A) Fish commercially from midnight Friday through midnight Sunday with nets;

(B) Use a purse seine larger than 50 fathoms x 7 fathoms for the taking of herring.

Stat. Auth.: ORS 496 & ORS 506

Stats. Implemented: ORS 496 & ORS 506

Hist.: FWC 50-1979, f. & ef. 11-1-79; FWC 67-1980, f. & ef. 12-3-80; FWC 4-1983, f. 1-28-83, ef. 2-1-83; FWC 8-1983(Temp), f. & ef. 2-15-83; FWC 8-1984(Temp), f. & ef. 3-5-84; FWC 29-1984, f. & ef. 7-3-84; FWC 9-1985(Temp), f. & ef. 2-20-85; FWC 5-1986(Temp), f. & ef. 2-11-86; FWC 6-1989(Temp), f. 2-15-89, cert. ef. 2-16-89; FWC 18-1990(Temp), f. 2-23-90, cert. ef. 2-24-90; FWC 13-1991(Temp), f. & cert. ef. 2-22-91; FWC 21-1995(Temp), f. 3-7-95, cert. ef. 3-8-95; FWC 10-1996(Temp), f. & cert. ef. 3-5-96; FWC 14-1997(Temp), f. & cert. ef. 3-10-97

635-004-0029

Sorting Required

It is *unlawful* to fail to sort, prior to the first weighing after offloading, those groundfish species or species groups for which there is a trip limit, harvest guideline, or quota.

Stat. Auth.: ORS 496.138, ORS 496.162, ORS 506.109, ORS 506.119 & ORS 506.129

Stats. Implemented: ORS 496.138, ORS 496.162, ORS 506.109, ORS 506.119 & ORS 506.129

Hist.: FWC 123-1989, f. 12-19-89, cert. ef. 1-1-90; FWC 141-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 36-1992, f. 5-26-92, cert. ef. 5-27-92; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95

635-004-0033

Sebastes Complex Restrictions

(1) Unless a declaration form for *Sebastes* complex is properly filed with the Oregon Department of Fish and Wildlife (Department), the northern trip limit for *Sebastes* complex and the northern trip limit for yellowtail rockfish applies for the entire calendar month if a vessel transits through, fishes in, possesses or lands *Sebastes* complex or yellowtail rockfish north of Cape Lookout during that month. A vessel under a southern trip declaration may not fish north of Cape Lookout during the declared trip. Vessels are restricted to the northern trip limit if they fish both north and south of Cape Lookout during a declared trip.

(2) Declaration forms may be obtained from Department offices in Astoria, Newport, or Charleston. All declarations must be made prior to leaving port and may not be changed after leaving port on the declared trip. It is permissible to file declarations for succeeding trips before returning to port. To be properly filed, declarations must be filed by vessel operators using one of the following methods:

(a) Calling the Department's Marine Region Headquarters at (503)867-4741 or 867-0300 between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, or;

(b) Sending a facsimile of a fully completed and signed Department declaration form to the Department's Marine Region

Headquarters at (503)867-0311, or;

(c) Mailing a fully completed and signed Department declaration form to: Attention: Declaration Form, Oregon Department of Fish and Wildlife, 2040 SE Marine Science Drive, Newport, OR 97365.

(3)(a) Vessels participating in the ocean salmon troll fishery are exempted from the declaration requirements. Vessels participating in the pink shrimp fishery or Pacific whiting experimental permit fishery are exempted from declaration requirements unless during a calendar month the northern limit is exceeded and they transmit through, fish in or possess yellowtail rockfish north of Cape Lookout.

(b) The following chart may be used to determine if a declaration is necessary for each trip. North and south refer to the areas north and south of Cape Lookout, 45° 20'15" N. latitude.

TRIP COMBINATIONS

Depart Port	Fishing Area	Return Port	Declaration	Monthly Limit
South	South Only	South	None	Southern
South	North Only	South	Northern	Northern
South	South & North	South	Northern	Northern
South	South Only	North	Southern	Southern
South	North Only	North	None	Northern
South	South & North	North	Northern	Northern
North	North Only	North	None	Northern
North	South Only	North	Southern	Southern
North	North & South	North	None	Northern
North	North Only	South	None	Northern
North	South Only	South	Southern	Southern
North	North & South	South	None	Northern

(4) Records of cumulative catch shall be maintained as specified in OAR 635-004-0048. In addition, copies of declaration forms shall be maintained on board the vessel for a minimum of 90 days following the last day of the calendar month in which the trip occurred.

Stat. Auth.: ORS 506.109 & ORS 506.119

Stats. Implemented: ORS 506.129

Hist.: FWC 73-1982(Temp), f. & ef. 10-27-82; FWC 1-1983 (Temp), f. & ef. 1-6-83; FWC 10-1983, f. & ef. 3-1-83; FWC 23-1983(Temp), f. & ef. 6-14-83; FWC 41-1983(Temp), f. & ef. 9-6-83; FWC 3-1984 f. & ef. 1-26-84; FWC 18-1984 (Temp), f. 5-4-84, ef. 5-6-84; FWC 36-1984(Temp), f. 7-31-84, ef. 8-1-84; FWC 1-1985(Temp), f. & ef. 1-4-85; FWC 5-1985, f. & ef. 2-19-85; FWC 18-1985(Temp), f. 4-26-85, ef. 4-27-85; FWC 52-1985(Temp), f. 8-30-85, ef. 9-1-85; FWC 65-1985 (Temp), f. & ef. 10-4-85; FWC 82-1985, f. 12-16-85, ef. 1-1-86; FWC 50-1986(Temp), f. & ef. 8-29-86; FWC 81-1986, f. 12-31-86, ef. 1-1-87; FWC 57-1987(Temp), f. & ef. 7-24-87; FWC 104-1987, f. 12-18-87, ef. 1-1-88; FWC 97-1988(Temp), f. & cert. ef. 1-6-88; FWC 103-1988, f. 12-29-88, cert. ef. 1-1-89; FWC 49-1989(Temp), f. & cert. ef. 7-26-89; FWC 69-1990 (Temp), f. 7-24-90, cert. ef. 7-25-90; FWC 122-1990, f. 11-26-90, cert. ef. 11-29-90; FWC 130-1990, f. 12-31-90, cert. ef. 1-1-91; FWC 48-1991(Temp), f. & cert. ef. 5-3-91; FWC 82-1991(Temp), f. 7-30-91, cert. ef. 7-31-91; FWC 83-1991, f. 8-1-91, cert. ef. 7-31-91; FWC 58-1992(Temp), f. & cert. ef. 7-29-92; FWC 141-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 9-1992, f. 2-20-92, cert. ef. 2-21-92; FWC 58-1992(Temp), f. & cert. ef. 7-29-92; FWC 6-1993, f. 1-28-93, cert. ef. 2-1-93; FWC 10-1993, f. & cert. ef. 2-10-93; FWC 1-1994, f. & cert. ef. 1-14-94; FWC 32-1994, f. & cert. ef. 6-3-94; FWC 44-1994, f. 7-26-94, cert. ef. 8-1-94; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 45-1995, f. & cert. ef. 6-1-95; FWC 94-1995(Temp), f. 12-29-95, cert.

ef. 1-1-96; FWC 9-1996, f. 3-5-96, cert. ef. 3-8-96

635-004-0035

Fishing Gear

(1) It is *unlawful* to possess, deploy, haul, or carry on board a fishing vessel a set net, trap or pot, longline, or commercial vertical hook-and-line that is not in compliance with the gear restrictions listed in sections (2) and (3) 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)**.

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

(a) Handline, pole-and-line, or pole-reel-and-line;

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

(c) Pots or traps;

(d) Dip nets of hoop or A-frame design;

(e) Troll gear is permitted in the ocean from May 1 of any year through April 14 of the following year;

(f) Seines are permitted in the ocean for ocean food fish other than groundfish and for the taking of herring, sardine, smelt, 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;

(F) Coos Bay.

(g) Trawl nets (bottom and pelagic) are permitted in the ocean;

(h) Set nets (trammel nets and anchored gill nets) are permitted outside state waters for groundfish south of latitude 38 degrees N. (Pt. Reyes, CA). The use of set nets is prohibited in all areas of the Pacific Ocean north of latitude 38 degrees N. except when permitted by an experimental gear permit (OAR 635-006-0020) or except when permitted under the Developmental Fisheries Program (OAR 635-006-0800 through 635-006-0950);

(i) Spear.

(3) 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 each terminal surface end with a pole, flag, light, radar reflector, and a buoy showing clear identification of the owner or 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;

(d) Pot gear used for other than Dungeness crab and hagfish 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;

(e) Pot gear used for hagfish shall include a biodegradable escape exit of at least three inches in diameter constructed with 120 thread size or smaller, untreated cotton twine or mild steel not to exceed 1/4-inch (six mm) in diameter or other materials approved by the State Oregon Department of Fish and Wildlife Director. All other species of finfish and shellfish caught in hagfish pots authorized under this rule must be returned immediately to the water.

(4) A buoy used to mark fixed gear under paragraph (3)(b) of this rule must be marked with 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.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.129

Hist.: FC 246, f. 5-5-72, ef. 5-15-72, Renumbered from 625-010-0555; FWC 166, f. & ef. 12-23-77; FWC 34-1979, f. & ef. 8-22-79, Renumbered from 635-036-0280; FWC 10-1983, f. & ef. 3-1-83; FWC 103-1988, f. 12-29-88, cert. ef. 1-1-89; FWC 123-1989, f. 12-19-89, cert. ef. 1-1-90; FWC 112-1990, f. 10-3-90, cert. ef. 10-5-90; FWC 141-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 45-1995, f. & cert. ef. 6-1-95; FWC 51-1995, f. 6-16-95, cert. ef. 6-19-95; FWC 71-1996, f. 12-31-96, cert. ef. 1-1-97

635-004-0040

Trawl Net Restrictions

It is *unlawful* while trawling for ocean food fish to use gear not meeting the following specifications:

(1) Mesh size. Trawl nets may be used if they meet the minimum mesh sizes set forth below. The minimum sizes apply throughout the net. Minimum trawl mesh size requirements are met if a 20-gauge stainless steel wedge, 3.0 or 4.5 inches (7.62 or 11.43 cm) (depending on the gear being measured) less one thickness of the metal at the widest part, can be passed with thumb pressure only through 16 of 20 sets of two meshes each of wet mesh.

Minimum Trawl Mesh Size (In inches)¹ Subarea

Trawl

Type	Vancouver	Columbia	Eureka	Monterey	Conception
Bottom	4.5	4.5	4.5	4.5	4.5
Pelagic	3.0	3.0	3.0	3.0	3.0

¹Metric conversion: 3.0 inches = 7.62 centimeters; 4.5 inches = 11.43 centimeters.

(2) Chafing gear. Chafing gear may encircle no more than 50 percent of the net's circumference, except as provided in section (5) of this rule. No section of chafing gear may be longer than 50 meshes of the net to which it is attached. Except at the corners, the terminal end of each section of chafing gear must not be connected to the net. (The terminal end is the end farthest from the mouth of the net). Chafing gear must be attached outside any riblines and restraining straps. There is no limit on the number of sections of chafing gear on a net.

(3) Codends. Only single-walled codends may be used in any trawl. Double-walled codends are prohibited.

(4) Bottom, roller or bobbin trawls. A net used in a bottom, roller or bobbin trawl must have at least two continuous riblines sewn to the net and extending from the mouth of the trawl net to the terminal end of the codend, if the fishing vessel is simultaneously carrying aboard a net of less than 4.5 inch (11.43 cm) mesh size.

(5) Pelagic trawls. Pelagic trawl nets must have unprotected footropes at the trawl mouth, and must not have rollers, bobbins, tires, wheels, rubber discs, or any similar device anywhere in the net. Sweepelines, including the bottom leg of the bridle, must be bare. For at least 20 ft. (6.15m) immediately behind the footrope or headrope, bare ropes or mesh of 16-inch (40.6-cm) minimum mesh size must completely encircle the net. A band of mesh (a "skirt") may encircle the net under transfer cables, lifting or splitting straps (chokers), but must be: over riblines and restraining straps; the same mesh size and coincide knot-to-knot with the net to which it is attached; and no wider than 16 meshes.

Stat. Auth.: ORS 506.119 & ORS 506.129

Stats. Implemented: ORS 506.119 & ORS 506.129

Hist.: FC 246, f. 5-5-72, ef. 5-15-72, Renumbered from 625-010-0560, Renumbered from 635-036-0285; FWC 10-1983, f. & ef. 3-1-83; FWC 54-1985(Temp), f. & ef. 8-30-85; FWC 82-1985, f. 12-16-85, ef. 1-1-86; FWC 103-1988, f. 12-29-88, cert. ef. 1-1-89; FWC 112-1990, f. 10-3-90, cert. ef. 10-5-90; FWC 141-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 49-1995, f. 6-7-95,

cert. ef. 9-8-95

635-004-0048

Maintaining Records of Cumulative Catch

Vessels landing groundfish under a cumulative catch limit shall keep copies of fish landing receipts on board for inspection by authorized enforcement officials for a minimum of 90 days from date of delivery. Receipts shall be signed and dated by both the dealer representative and vessel captain. Fish landing receipts may be in the form of Oregon Department of Fish and Wildlife Fish Receiving Tickets; fish dealer "dock tickets" identified with official dealer logo's or other identifying letterhead; *or* official Fish Receiving Tickets from other states.

Stat. Auth.: ORS 496.138, ORS 496.162, ORS 506.109, ORS 506.119 & ORS 506.129

Stats. Implemented: ORS 496.138, ORS 496.162, ORS 506.109, ORS 506.119 & ORS 506.129

Hist.: FWC 141-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 36-1992, f. 5-26-92, cert. ef. 5-27-92; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95

635-004-0050

Logbook Required

The Department of Fish and Wildlife will provide a logbook to each licensed commercial fishing boat from which ocean food fish other than Dungeness Crab are taken by means of a trawl net (including a shrimp trawl net), longline, or pot. In addition, a logbook shall be provided to each licensed commercial fishing boat taking squid regardless of gear. The skipper of such boat shall be responsible for maintaining the logbook in accordance with the instructions contained therein and shall, upon request of an authorized representative of the Department of Fish and Wildlife, permit examination and transcription of information from such logbook. Information so received by the Department shall be considered as confidential.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FC 246, f. 5-5-72, ef. 5-15-72, Renumbered from 625-010-0570; FWC 34-1979, f. & ef. 8-22-79, Renumbered from 635-036-0295; FWC 15-1984, f. & ef. 4-5-84

635-004-0052

Squid Harvest Guideline

Prior to reaching a harvest of 4.5 million pounds of squid, with not more than 3 million pounds taken north or south of Heceta Head, the Commission will hold a public hearing to evaluate the fishery.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FWC 15-1984, f. & ef. 4-5-84

Coastal Rivers Shad Fishery

635-004-0055

Closed Season

It is *unlawful* to take shad for commercial purposes from the inland waters of this state other than the Columbia River except: Coquille, Siuslaw, Umpqua, and Smith River, a tributary of the Umpqua River, from 6 a.m. May 10 to 6 a.m. July 1 of each year in the area not otherwise closed by ORS 511.506.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FC 241, f. 4-5-72, ef. 4-15-72; FC 272(74-4), f. 3-20-74, ef. 4-11-74; FC 275(74-8)(Temp), f. & cert ef. 4-19-74, Renumbered from 625-010-0615, Renumbered from 635-036-0300; FC 275(74-8), f. 4-19-74, cert. ef. 5-11-74, Renumbered from 625-010-0615, Renumbered from 635-036-0300; FWC 77-1984, f. 11-28-84, ef. 12-1-84

635-004-0060

Fishing Gear

(1) It is *unlawful* to take shad for commercial purposes by any means other than:

(a) Gill nets or setnets of a mesh size not less than five inches

nor more than 6-1/2 inches in the Coos, Coquille, and Siuslaw Rivers, except that in Coos Bay, the use of any setnet downstream of a straight line from the red blinking light on the south bank at the east end of the Marshfield Channel to the green blinking light at the east end of the Marshfield Channel just off the north-westerly end of Bull Island, and a straight line from the same green blinking light across the northern-most tip of Bull Island to the east bank of Cooston Channel is prohibited;

(b) Gill nets having a mesh size of not less than six inches nor more than 6-3/4 inches in the Umpqua River;

(c) Gill nets or setnets of a mesh size not less than six inches nor more than 6-3/4 inches in the Smith River, a tributary of the Umpqua.

(2) "Gill net" includes drift net or floater net and means a mesh net which takes fish commonly by gilling, having cork and lead lines and which is in a position to drift with the tide or current at all times in the waters in which it is being fished.

(3) It is *unlawful* for a gill net in whole or in part to be anchored, tied, staked, fixed, or attached to the bottom, shore, or a beached boat; left unattended at any time it is in operation; attended by more than one boat while being fished; or for more than one gill net to be fished from a licensed commercial fishing boat at any one time.

(4) There shall be sufficient buoyancy in the corks and/or floats on the cork line of any gill net so that said net shall be free to drift with the current. None of the lines used thereon shall be of metal or of any metallic substance or material. The lead or weight on the lead line of any gill net shall not exceed two pounds in total weight on any one fathom, measurement to be taken along the cork line of said net. However, should extra or additional weight appear necessary or make practical the operation of any such net, permission to use in excess of two pounds-weight per fathom of net may be granted by the Commission to any duly licensed gill net fisherman upon written application which includes an adequate justification for the additional leads or weights of any kind attached to any part of such net except as herein provided.

(5) "Setnet" means a net which takes fish commonly by gilling and which in operation is set or anchored in a fixed position to a specific location and is not free to move or drift with the current or tide.

(6) Before a fisherman may fish a setnet at any one location, he must first register the site by providing a written description of the site location to the Department of Fish and Wildlife, Southwest Regional Office, 4192 N. Umpqua Highway, Roseburg, OR 97470.

(7) It is *unlawful* for a:

(a) Setnet or gill net which is constructed of material having a breaking strength greater than 24 pounds pull on any single mesh to be used during the 1977 coastal rivers shad season;

(b) Setnet or gill net which is constructed of material having a breaking strength greater than ten pounds pull on any single mesh to be used beginning with the 1978 coastal rivers shad season;

(c) Setnet to be used which exceeds 300 feet in length;

(d) Setnet or any part or portion thereof to be set or operated within a distance of 150 feet from any other setnet or any part or portion thereof including the monument or marker to which attached;

(e) Setnet to be set or operated in such a manner that the portion of the setnet at right angles to the thread of the bay or river is at any time longer than one-third the measured distance across the bay or river. This distance to be measured from bank to bank at mean low water;

(f) Commercial fisherman to register and operate more than six set net sites at any one time;

(g) Commercial fisherman to fish a setnet at a site which he has not registered with the Department of Fish and Wildlife;

(h) Commercial fisherman to fish a setnet at a site which is not clearly marked with his commercial fishing license number on a substantial post or monument created for that purpose on the bank of the river or upon a buoy securely anchored on the site location.

(8) The size of mesh of any gill net or setnet is determined by placing any three meshes of such net, while wet from soaking in water for not less than an hour, under ten pounds vertical tension and then measuring while under such tension the distance between the inside of the knot of the middle mesh to the outside of the opposite vertical knot of the middle mesh.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FC 241, f. 4-5-72, ef. 4-15-72; FC 272(74-4), f. 3-20-74, ef. 4-11-74; FC 287(74-22), f. 11-27-74, ef. 12-25-74; FWC 91, f. 2-23-77, ef. 3-1-77, Renumbered from 625-010-0620, Renumbered from 635-036-0305; FWC 27-1980, f. & ef. 6-23-80; FWC 77-1984, f. 11-28-84, ef. 12-1-84; FWC 8-1985 (Temp), f. & ef. 2-19-85; FWC 50-1989, f. 7-28-89, cert. ef. 7-31-89

635-004-0065

Incidental Catch of Salmon and Striped Bass

(1) It is *unlawful* to possess any salmon or striped bass taken as an incidental catch under OAR 635-004-0055 through 635-004-0060.

(2) Any person fishing with a gill net or setnet for shad under OAR 635-004-0055 through 635-004-0060 who upon lifting, drawing, taking up, or removing any such net from the water finds salmon or striped bass entangled or caught therein must immediately and carefully release and return the salmon or striped bass to the water.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FC 241, f. 4-5-72, ef. 4-15-72; FC 272(74-4), f. 3-20-74, ef. 4-11-74; FWC 52, f. & ef. 3-26-76, Renumbered from 625-010-0625, Renumbered from 635-036-0310; FWC 77-1984, f. 11-28-84, ef. 12-1-84; FWC 28-1988(Temp), f. & cert. ef. 4-29-88

Smelt Fishery

635-004-0070

Seasons

(1) Smelt may be taken for commercial purposes from the:

(a) Pacific Ocean at all times;

(b) Umpqua River at all times in those areas not closed to commercial fishing for shad;

(c) Sandy River at all times in the area below and west of the highway bridge at Troutdale, Oregon (U.S. 30 Alternate);

(d) Columbia River as described in OAR 635-042-0130.

(2) The taking of smelt for commercial purposes in areas and at times not specified in this rule is prohibited.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FC 241, f. 4-5-72, ef. 4-15-72; FC 290(75-3), f. 2-20-75, ef. 3-11-75, Renumbered from 625-0100-210; FWC 16-1979, f. & ef. 4-27-79, Renumbered from 635-036-0140; FWC 83-1985, f. 12-17-85, ef. 12-18-85

635-004-0075

Fishing Gear

It is unlawful to take smelt for commercial purposes from the:

(1) Pacific Ocean by any means other than fishing gear authorized for the taking of ocean food fish.

(2) Umpqua River by any means other than dip nets and gill nets of a mesh size no more than two inches nor more than 600 feet in length.

(3) Sandy River by any means other than dip nets.

(4) Columbia River by any means other than those described in OAR 635-042-0130.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FC 241, f. 4-5-72, ef. 4-15-72, Renumbered from 625-010-0215; FWC 16-1979, f. & ef. 4-27-79, Renumbered from 635-036-0145; FWC 83-1985, f. 12-17-85, ef. 12-18-85

Sturgeon Fishery

635-004-0080

Closures

It is *unlawful* to take sturgeon for commercial purposes except in the:

(1) Columbia River, in the areas and during the times open to the taking of salmon and/or sturgeon for commercial purposes.

(2) Coos, Coquille, and Siuslaw, in the areas and during the times open to the taking of shad for commercial purposes.

(3) Pacific Ocean at all times.

Stat. Auth.: ORS 506.119 & ORS 506.129

Stats. Implemented: ORS 506.119 & ORS 506.129

Hist.: FC 241, f. 4-5-72, ef. 4-15-72, Renumbered from 625-010-0120, Renumbered from 635-036-0110; FWC 1-1981, f. & ef. 1-19-81; FWC 23-1995, f. 3-29-95, cert. ef. 4-1-95

635-004-0085**Fishing Gear**

It is *unlawful* to take sturgeon for commercial purposes by any means other than the commercial fishing gear authorized in the fishing area in which the sturgeon are taken except setlines are permitted in the Columbia River for the taking of sturgeon.

Stat. Auth.: ORS 506.119 & ORS 506.129

Stats. Implemented: ORS 506.119 & ORS 506.129

Hist.: FC 241, f. 4-5-72, ef. 4-15-72, Renumbered from 625-010-0125, Renumbered from 635-036-0115

635-004-0090**Size Limit**

(1) Except as provided in OAR 635-007-0700 through 635-007-0720 it is *unlawful* to:

(a) Take from the waters of this state or to land sturgeon for commercial purposes less than 48 inches or more than 60 inches in length, except green sturgeon shall be no more than 66 inches in length;

(b) Remove the head or tail of any sturgeon taken from the waters of this state or landed for commercial purposes prior to being received at the premises of a wholesale fish dealer or canner;

(c) To possess, sell, or transport any whole sturgeon under four feet in length taken for commercial purposes in the waters of this state or the Pacific Ocean. Proof of possession, sale, or transportation of any dressed sturgeon under 28 inches in length exclusive of head and tail shall in itself create a permissible inference that the dressed sturgeon was under 48 inches in length at the time it was taken.

(2) Any person fishing with commercial fishing gear in the waters of this state who, on lifting, drawing, taking up or removing any such gear finds sturgeon entangled or caught therein which are not within the legal length limits set forth in section (1)(a) of this rule or during a season not open for sturgeon, shall immediately, with care and the least possible injury to the fish, disentangle, release and transfer the fish to the water without violence.

Stat. Auth.: ORS 506.119, ORS 506.129 & ORS 507.030

Stats. Implemented: ORS 496.162 & ORS 506.129

Hist.: FC 241, f. 4-5-72, ef. 4-15-72; Renumbered from 625-010-0130; Renumbered from 635-036-0120; FWC 39-1981, f. 10-30-81, ef. 1-1-81; FWC 33-1988, f. & cert. ef. 5-24-88; FWC 9-1994, f. 2-14-94, cert. ef. 2-15-94; FWC 23-1995, f. 3-29-95, cert. ef. 4-1-95; DFW 1-1998, f. & cert. ef. 1-9-98

Thresher Shark Fishery**635-004-0100****Thresher Shark Fishery**

Notwithstanding OAR 635-004-0035, gillnets may be used for the taking of thresher shark north of 42° N. latitude and west of 20 nautical miles from shore, only at such times as prescribed by OAR 635-004-0110.

Stat. Auth.: ORS 506 & ORS 508

Stats. Implemented: ORS 506 & ORS 508

Hist.: FWC 18-1987, f. & ef. 5-7-87; FWC 25-1988, f. 4-27-88, cert. ef. 5-13-88; FWC 31-1989, f. 5-4-89, cert. ef. 5-5-89

635-004-0110**Season**

It is *unlawful* to take thresher shark for commercial purposes with gillnets.

Stat. Auth.: ORS 506 & ORS 508

Stats. Implemented: ORS 506 & ORS 508

Hist.: FWC 34-1987(Temp), f. & ef. 6-25-87, FWC 5-1987(Temp), f. & ef. 7-13-87; FWC 61-1987(Temp), f. & ef. 8-3-87; FWC 25-1988, f. 4-27-88, cert. ef. 5-13-88; FWC 31-1989, f. 5-4-89, cert. ef. 5-5-89

Far Offshore Fishery**635-004-0125****Definition**

“Far Offshore Fishery” means a fishery where the fish are taken outside the United States 200-mile fishery conservation zone.

Stat. Auth.: ORS 496.138, ORS 496.162, ORS 506.119 & ORS 506.129

Stats. Implemented: ORS 496.138, ORS 496.162, ORS 506.119 & ORS 506.129

Hist.: FWC 109-1991(Temp), f. & cert. ef. 9-27-91; FWC 10-1992, f. 2-26-92, cert. ef. 2-27-92

635-004-0130**Commercial Vessel License — Right to Land Fish**

Fish taken in a far offshore fishery which may be lawfully imported into this state from a foreign nation or from another state, may be landed in this state, provided Oregon commercial fishing license requirements and the provisions contained in OAR 635-004-0135 through 635-004-0150 have been met.

Stat. Auth.: ORS 496.138, ORS 496.162, ORS 506.119 & ORS 506.129

Stats. Implemented: ORS 496.138, ORS 496.162, ORS 506.119 & ORS 506.129

Hist.: FWC 109-1991(Temp), f. & cert. ef. 9-27-91; FWC 10-1992, f. 2-26-92, cert. ef. 2-27-92

635-004-0135**Declaration**

(1) The vessel operator of any vessel participating in the far offshore fishery intending to land fish or fish products in Oregon shall notify the Department of any such fishing trip at least 48 hours prior to leaving port by writing to the Oregon Department of Fish and Wildlife, Building #3, Marine Science Drive, Newport, OR 97365, or by calling 503-867-4741 during regular business hours Monday through Friday. Such declaration shall include the area to be fished and the intended port of landing, including the identification of the processor to whom delivery will be made.

(2) In addition, 24 hours or more prior to landing, the vessel operator shall notify the Department, at the telephone number listed above, during regular business hours, or the Oregon State Police at other times, telephone number 503-238-8434, of the following:

- (a) Vessel name and documentation number;
- (b) Estimated time of arrival;
- (c) Port of landing;
- (d) Processor's location; and
- (e) Estimated weight of fish on board.

Stat. Auth.: ORS 496.138, ORS 496.162, ORS 506.119 & ORS 506.129

Stats. Implemented: ORS 496.138, ORS 496.162, ORS 506.119 & ORS 506.129

Hist.: FWC 109-1991(Temp), f. & cert. ef. 9-27-91; FWC 10-1992, f. 2-26-92, cert. ef. 2-27-92

635-004-0140**Compliance Evidence**

It shall be the responsibility of the vessel operator to maintain a navigation plotting record of any far offshore fishing trip, and such record shall be available for inspection by any person authorized to enforce the commercial fishing laws of Oregon. Such record shall be maintained for 30 days following any such fishing trip.

Stat. Auth.: ORS 496.138, ORS 496.162, ORS 506.119 & ORS 506.129

Stats. Implemented: ORS 496.138, ORS 496.162, ORS 506.119 & ORS 506.129
 Hist.: FWC 109-1991(Temp), f. & cert. ef. 9-27-91; FWC 10-1992, f. 2-26-92, cert. ef. 2-27-92

635-004-0145**Trip Limit**

Except for the licensing requirements provided in ORS 635-004-0130, there are no trip limits or landing restrictions for fish or fish products taken in the far offshore fishery.

Stat. Auth.: ORS 496.138, ORS 496.162, ORS 506.119 & ORS 506.129

Stats. Implemented: ORS 496.138, ORS 496.162, ORS 506.119 & ORS 506.129

Hist.: FWC 109-1991(Temp), f. & cert. ef. 9-27-91; FWC 10-1992, f. 2-26-92, cert. ef. 2-27-92

635-004-0150**Fishing Within 200 Mile Fishery Zone — When Unlawful**

It is *unlawful* for the operator of any vessel to fish in or land fish from the 200-mile fishery conservation zone or from state waters during any trip for which a declaration to participate in the far offshore fishery has been made.

Stat. Auth.: ORS 496.138, ORS 496.162, ORS 506.119 & ORS 506.129

Stats. Implemented: ORS 496.138, ORS 496.162, ORS 506.119 & ORS 506.129

Hist.: FWC 109-1991(Temp), f. & cert. ef. 9-27-91; FWC 10-1992, f. 2-26-92, cert. ef. 2-27-92

DIVISION 5**COMMERCIAL SHELLFISH FISHERY****General****635-005-0001****Clams and Mussels from Health Closure Areas**

(1) It is *unlawful* without prior authorization from the Oregon State Health Division for any person to sell shellfish for human consumption taken from an area designated as restricted or closed by the Oregon State Health Division.

(2) Clams and mussels taken from an area designated as restricted or closed by the Oregon State Health Division may be sold for bait, provided:

(a) They are visibly dyed with a Department approved dye;

(b) Dyeing must occur before leaving the restricted or closed area or before the time of docking of the vessel used in harvesting;

(c) Clams and mussels taken from restricted or closed areas may not be possessed aboard a vessel while clams and mussels from unrestricted areas are on board. Upon leaving the vessel or the digging area, clams and mussels taken from restricted or closed areas may not be mixed with clams and mussels from unrestricted areas. It will be presumed that any clams on board a vessel fishing in a restricted or closed area have been harvested in the restricted or closed area;

(d) Prior to sale, clams or mussels taken from restricted or closed areas and live boxed must be stored in a restricted or closed area pending sale.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FWC 30-1985, f. 6-27-85, ef. 7-1-85; FWC 137-1991(Temp), f. 12-20-91, cert. ef. 12-23-91; FWC 39-1992(Temp), f. & cert. ef. 6-19-92

635-005-0002**Sale of Clams and Mussels**

Clams and mussels shall be sold to a wholesale fish dealer or fish bait dealer within 48 hours of harvest or leaving the digging area, whichever comes last.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FWC 30-1985, f. 6-27-85, ef. 7-1-85

Abalone Fishery**635-005-0005****Prohibited**

(1) Except as provided in section (2) of this rule, it is *unlawful* to take abalone for commercial purposes.

(2) A commercial aquaculture facility may take abalone for use as broodstock under the terms and conditions specified in a permit issued by the Oregon Department of Fish and Wildlife. Application for such a permit shall be in writing and shall include a description of the commercial aquaculture facility, the methods for collecting and returning broodstock abalone to and from the wild, the methods for checking abalone and imported kelp food for pathogens or exotic fauna, the procedures for isolating and culturing abalone to prevent contamination of wild abalone stock and such other information as the Department may require. Permit applications shall be mailed to: Marine Regional Office, Department of Fish and Wildlife, 2040 SE Marine Science Drive, Newport, OR 97365.

Stat. Auth.: ORS 506.119 & ORS 506.129

Stats. Implemented: ORS 506.119 & ORS 506.129

Hist.: FC 241, f. 4-5-72, ef. 4-15-72, Renumbered from 625-010-0320, Renumbered from 635-036-0190; FWC 24-1995, f. 3-29-95, cert. ef. 4-1-95

Clam Fishery**Area Closure****635-005-0015****Closed to Commercial and Personal Use**

It is *unlawful* to take:

(1) Any clams from a research experimental clam culture area in that portion of Yaquina Bay, Lincoln County, which is the tideflat on the north side of the wood piling breakwater, south of the troller's basin. The legal description is as follows: Beginning at a point 1,181.24 feet south and 430.55 feet east of the meander corner of Sections 8 and 9, T11S, R11W, W.M., said point being a flashing red beacon on the southeastern end of the U.S. Army Engineers wood piling breakwater, thence northwesterly along said breakwater to a point being a flashing white beacon on the northwestern end of said breakwater located 583.46 feet south and 2,082.62 feet west of the above meander corner, thence southeasterly along the extreme low water line of the sand pit lying on the north side of the said breakwater to the point of beginning, said tideland being 7.2 acres, more or less, at mean low water line.

(2) Any clams from an experimental oyster and clam cultivation study area in that portion of Netarts Bay beginning from the quarter corner of Section 17, 20, T2S, R10W, thence north 10 degrees 14 feet west 200 feet to point of beginning, thence west approximately 6,250 feet to the west meander line of Netarts Bay, thence north 1,000 feet, thence east about 6,250 feet, thence south along the meander line to the point of beginning, except any privately owned tidelands within the described area are excluded from the closure.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FC 241, f. 4-5-72, ef. 4-15-72, Renumbered from 625-010-0060, Renumbered from 635-036-0085

635-005-0016**Permit and Logbook Required**

(1) It is *unlawful*:

(a) To take clams for commercial purposes without first obtaining a permit from the Department of Fish and Wildlife;

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

(2) Applications should be mailed to: Marine Regional

Office, Department of Fish and Wildlife, Marine Science Drive, Building No. 3, Newport, OR 97365.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FWC 30-1985, f. 6-27-85, ef. 7-1-85

635-005-0020

Closed Seasons and Areas

It is *unlawful* to take for commercial purposes:

- (1) Gaper clams from January 1 through June 30.
- (2) Razor clams from July 15 through August 31 in the area north of Tillamook Head in Clatsop County.

(3) Any clams from:

- (a) Little Nestucca Bay;
- (b) Big Nestucca Bay;
- (c) Netarts Bay, except cockles may be taken;
- (d) Salmon River and Bay;
- (e) Siletz River and Bay;
- (f) All state parks south of Tillamook Head.

Stat. Auth.: ORS 506.119 & ORS 506.129

Stats. Implemented: ORS 506.129

Hist.: FC 241, f. 4-5-72, ef. 4-15-72, Renumbered from 625-010-0065, Renumbered from 635-036-0090; FWC 30-1985, f. 6-27-85, ef. 7-1-85; FWC 137-1991(Temp), f. 12-20-91, cert. ef. 12-23-91; FWC 39-1992(Temp), f. & cert. ef. 6-19-92; FWC 94-1992(Temp), f. 9-18-92, cert. ef. 9-19-92; FWC 102-1992 (Temp), f. 10-1-92, cert. ef. 10-2-92; FWC 121-1992(Temp), f. & cert. ef. 11-9-92; DFW 30-1998(Temp), f. & cert. ef. 5-6-98 thru 10-23-98

635-005-0030

Size Limit

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

(2) There is no size limit on clams other than razor clams.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FC 241, f. 4-5-72, ef. 4-15-72; FC 255, f. 9-12-72, ef. 10-1-72, Renumbered from 625-10-075, Renumbered from 635-036-0100

635-005-0035

Additional License Requirement

The Oregon State Health Division requires a certificate of shellfish sanitation as a harvester from any individual taking clams for commercial purposes and a certificate of shellfish sanitation as a shucker from any individual cleaning clams prior to sale (ORS 622.080).

Stat. Auth.: ORS 622

Stats. Implemented: ORS 622

Hist.: FC 241, f. 4-5-72, ef. 4-15-72, Renumbered from 625-010-0080, Renumbered from 635-036-0105

Dungeness Crab Fishery

635-005-0040

License Limitation

In the event that a license limitation measure is adopted by the Commission, August 14, 1991, shall be used as the eligibility date for participation in the Dungeness crab fishery.

Stat. Auth.: ORS 506.119 & ORS 506.129

Stats. Implemented: ORS 506.119 & ORS 506.129

Hist.: FWC 124-1991, f. 10-23-91, cert. ef. 10-25-91

635-005-0045

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 November 30, or the date designated by the Director as provided in section (3), whichever is later.

(2) It is *unlawful* prior to January 1 to land or to receive, or to buy, Dungeness crab 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 on November 30, except as provided in section (3)(c).

(3) Upon a determination by the Department that preseason sampling indicates the consistent presence of more than 50% grade II and III (softshell) crab in the samples, the Fish and Wildlife Director may adopt a temporary rule delaying the opening date of the commercial crab season in affected zones North of Cascade Head until additional sampling indicates meat recovery is 23% or is projected to be 23% by the opening date. In the event the season in the Northern Zone is delayed, the following applies:

(a) The Director shall adopt rules identifying the boundary between the northern and southern fishing zones. The boundary between the zones shall take into account the existence of traditional fishing patterns;

(b) Commercial fishermen may elect to fish in either, but not both, zones. A commercial fisherman electing to fish in the southern zone (opening on December 1) shall not fish in the northern zone until 30 days after the northern zone has opened;

(c) For the first 30 days of the northern zone season, vessels electing to fish the northern zone shall be certified by officials of the state of Oregon, Washington or California to have been free of Dungeness crab on the day immediately prior to the opening day of the northern fishing zone. At the time of vessel inspection, the vessel operator shall certify the vessel has not been used to take crab in the southern fishing zone.

(4) Upon a determination by the Department that catch in the Pacific Ocean of Dungeness crab after May 31 is greater than 10% of the catch in the previous December 1 through May 31 period, the Fish and Wildlife Director shall adopt a temporary rule closing the commercial season until the following December 1.

(5) Effective July 1 through September 15 1998 it is unlawful to take, land or possess Dungeness crab taken in areas north of the Oregon/Washington border that are closed to the taking of Dungeness crab by Washington Administrative Code. This includes those waters west of a line drawn in sequence from south to north between the following coordinates:

- (a) Washington-Oregon border, 46°15.00'N, 124°10.00'W;
- (b) Seaview, 46°20.00'N, 124°10.00'W;
- (c) Willapa Bay entrance, 46°40.00'N, 124°10.00'W;
- (d) Grayland, 46°50.00'N, 124°11.00'W;
- (e) Ocean Shores, 47°00.00'N, 124°16.00'W;
- (f) Moclips, 47°15.00'N, 124°19.00'W;
- (g) Raft River, 47°27.00'N, 124°28.60'W;
- (h) Destruction Island, 47°40.10'N, 124°29.00'W;
- (i) Lapush, 47°55.00'N, 124°46.00'W;
- (j) Carol Island, 48°00.00'N, 124°49.50'W;
- (k) N. Lake Ozette, 48°07.60'N, 124°51.40'W;
- (l) Makah Bay, 48°20.00'N, 124°50.00'W;
- (m) Cape Flattery, Point on land.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.129

Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FC 285(74-20), f. 11-27-74, ef. 12-25-74; FC 293(75-6), f. 6-23-75, ef. 7-11-75; FWC 30, f. & ef. 11-28-75; FWC 132, f. & ef. 8-4-77; FWC 30-1985, f. 6-27-1985, ef. 7-1-85, Renumbered from 625-010-0155, Renumbered from 635-036-0125; FWC 56-1982, f. & ef. 8-27-82; FWC 13-1983, f. & ef. 3-24-83; FWC 39-1983(Temp), f. & ef. 8-31-83; FWC 11-1984, f. 3-30-84, ef. 9-16-84, except section (1) per FWC 45-1984, f. & ef. 8-30-84; FWC 30-1985, f. 6-27-85, ef. 7-1-85; FWC 78-1986(Temp), f. & ef. 12-1-86; FWC 36-1987, f. & ef. 7-1-87; FWC 97-1987(Temp), f. & ef. 11-17-87; FWC 102-1988, f. 11-29-88, cert. ef. 12-29-88; FWC 119-1989(Temp), f. 11-29-89, cert. ef. 12-1-89; FWC 135-1991(Temp), f. 12-10-91, cert. ef. 12-11-91; FWC 136-1991(Temp), f. & cert. ef. 12-19-91; FWC 112-1992, f. 10-26-92, cert. ef. 11-1-92; FWC 70-1993, f. 11-9-93, cert. ef. 11-11-93; FWC 88-1994(Temp), f. 11-30-94, cert. ef. 12-1-94; FWC 89-1994(Temp), f. & cert. ef. 12-1-94; FWC 89-1995(Temp), f. 11-28-95, cert. ef. 12-1-95; FWC 1-1996(Temp), f. 1-11-96, cert. ef. 1-13-96; DFW 51-1998(Temp), f. 6-29-98, cert. ef. 7-1-98 thru 9-15-98; DFW 54-1998(Temp), f. & cert. ef. 7-24-98 thru 9-15-98

635-005-0049

Closed Season in Bays and Estuaries

It is *unlawful* to take Dungeness crab for commercial purposes

es from any bay or estuary or to land or possess any Dungeness crab so taken:

- (1) From January 1 through Labor Day;
- (2) During December, if the adjacent ocean area is closed as provided in OAR 635-005-0045;
- (3) From midnight Friday through midnight Sunday of any week; and
- (4) On all legal state and federal holidays.

Stat. Auth.: ORS 506.119 & ORS 506.129

Stats. Implemented: ORS 506.119 & ORS 506.129

Hist.: FWC 70-1993, f. 11-9-93, cert. ef. 11-11-93

635-005-0055

Fishing Gear

It is *unlawful* to:

(1) Take crab for commercial purposes by any means other than crab rings or crab pots (ORS 509.415); a crab ring is any fishing device that allows crab unrestricted entry or exit while fishing.

(2) Use any crab pot which does not include a minimum of two circular escape ports of at least 4-1/4 inches inside diameter located on the top or side of the pot. If escape ports are placed on the side of the pot, they shall be located in the upper half of the pot.

(3) Use any crab pot which does not have a release mechanism. Acceptable release mechanisms are:

(a) Iron lid strap hooks constructed of iron or "mild" steel rod (not stainless steel) not to exceed 1/4-inch (6mm) in diameter;

(b) A single loop of untreated cotton or other natural fiber twine, or other twine approved by the Department not heavier than 120 thread size between pot lid tiedown hooks and the tiedown straps; or

(c) Any modification of the wire mesh on the top or side of the pot, secured with a single strand of 120 thread size untreated cotton, natural fiber, or other twine approved by the Department which, when removed, will create an opening of at least five inches in diameter.

(4) Place, operate, or leave crab rings or pots in the Pacific Ocean and Columbia River or in any bay or estuary during the closed season, except that in only the Pacific Ocean and Columbia River, rings or pots may be placed no more than 64 hours immediately prior to the date the Dungeness crab season opens. In addition, unbaited crab rings or pots with open release mechanisms may be left in the Pacific Ocean (not including the Columbia River) for a period not to exceed 14 days following the closure of the Dungeness crab season.

(5) Use commercial crab pots in the Columbia River or Pacific Ocean unless the pots are individually marked with a surface buoy bearing, in a visible and legible manner, the brand of the owner, provided that:

(a) The brand is a number registered with and approved by the Department;

(b) Authority to use branded gear by other than the hired captain fishing from the owner's boat shall be in writing by the pot owner, with the document to be available for inspection on demand by persons authorized to enforce the commercial fishing laws of this state.

(6) Use longline gear for Dungeness crab, except longline gear may be used for Dungeness crab outside 40 fathoms until August 15, 1997.

(a) Crab longline gear means commercial crab pots or traps that are attached together with a line;

(b) Each terminal end of crab longline gear shall be marked with a surface buoy in the manner outlined in subsections (5)(a) and (b) of this rule. Longline marker buoys shall be equipped with a pole and a flag, light, and radar reflector.

(7) Take crabs for commercial purposes by crab pots from any bay or estuary except the Columbia River.

(8) Operate more than 15 crab rings from any one fishing vessel in bays or estuaries, except the Columbia River.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109 & ORS 506.129

Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FC 285(74-20), f. 11-27-74, ef. 12-25-74, Renumbered from 625-010-0160; FWC 49-1978, f. & ef. 9-27-78, Renumbered from 635-036-0130; FWC 56-1982, f. & ef. 8-27-82; FWC 81-1982, f. & ef. 11-4-82; FWC 82-1982(Temp), f. & ef. 11-9-82; FWC 13-1983, f. & ef. 3-24-83; FWC 11-1984, f. 3-30-84, ef. 9-16-84, except section (5) per FWC 45-1984, f. & ef. 8-30-84; FWC 72-1984, f. & ef. 10-22-84; FWC 30-1985, f. 6-27-85, ef. 7-1-85; FWC 78-1986 (Temp), f. & ef. 12-1-86; FWC 97-1987(Temp), f. & ef. 11-17-87; FWC 102-1988, f. 11-29-88, cert. ef. 12-29-88; FWC 107-1990, f. & cert. ef. 10-1-90; FWC 70-1993, f. 11-9-93, cert. ef. 11-11-93; FWC 84-1994, f. 10-31-94, cert. ef. 12-1-94; FWC 68-1996(Temp), f. & cert. ef. 12-5-96; FWC 2-1997, f. 1-27-97, cert. ef. 2-1-97

635-005-0060

Size and Sex

(1) It is *unlawful* to take or possess for commercial purposes:

(a) Female Dungeness crab;

(b) Male Dungeness crab less than 6-1/4 inches measured the shortest distance through the body of the crab from edge of shell to edge of shell from directly in front of the tenth anterolateral spine.

(2) Any undersized or female Dungeness crab taken from the Pacific Ocean must be released within 15 minutes of capture unharmed into the Pacific Ocean at the point of capture. Any undersized or female Dungeness crab taken from a bay must be released immediately unharmed into the fishing area and not brought to the dock.

(3) It is *unlawful* to possess or transport Dungeness crab that have been mutilated prior to landing so that the size or sex cannot be determined.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FWC 56, f. & ef. 4-26-76; FWC 112, f. & ef. 5-11-77, Renumbered from 625-010-0165, Renumbered from 635-036-0135; FWC 78-1986(Temp), f. & ef. 12-1-86; FWC 97-1987(Temp), f. & ef. 11-17-87; FWC 102-1988, f. 11-29-88, cert. ef. 12-29-88

Red Rock, Box and Tanner Crab Fisheries

635-005-0063

Tanner and Box Crab Taken in Trawl Nets

Notwithstanding OAR 635-005-0065, permits may be issued to land Tanner crab and box crabs taken as incidental catch in trawl nets outside Oregon Waters.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FWC 12-1982, f. & ef. 2-16-82; FWC 17-1982, f. & ef. 3-22-82; FWC 30-1985, f. 6-27-85, ef. 7-1-85, Renumbered from 635-005-0056

635-005-0064

Closed Season

It is *unlawful* to take red rock, box, Tanner, Oregon hair, and scarlet king crab from the Pacific Ocean from November 1 until the opening of the next ocean Dungeness crab season in that area.

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

Stats. Implemented: ORS 506.109, ORS 506.119 & ORS 506.129

Hist.: FWC 12-1982, f. & ef. 2-16-82; FWC 17-1982, f. & ef. 3-22-82; FWC 30-1985, f. 6-27-85, ef. 7-1-85; FWC 84-1994, f. 10-31-94, cert. ef. 12-1-94

635-005-0065

Fishing Gear

Except as provided in OAR 635-005-0063, it is *unlawful* to take red rock, box, Tanner, Oregon hair, and scarlet king crab for commercial purposes except by rings, pots, and crab longline gear. Rings, pots, and crab longline gear must comply with the provisions contained in OAR 635-005-0055.

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

Stats. Implemented: ORS 506.109, ORS 506.119 & ORS 506.129

Hist.: FWC 30-1985, f. 6-27-85, ef. 7-1-85; FWC 84-1994, f. 10-31-94, cert. ef. 12-1-94

635-005-0066

Fishing Area

It is *unlawful* to take red rock, box, Tanner, Oregon hair, and scarlet king crab from the Pacific Ocean shoreward of the 40 fathom contour line.

Stat. Auth.: ORS 506.109, ORS 506.119 & ORS 506.129
 Stats. Implemented: ORS 506.109, ORS 506.119 & ORS 506.129
 Hist.: FWC 30-1985, f. 6-27-85, ef. 7-1-85; FWC 84-1994, f. 10-31-94, cert. ef. 12-1-94

635-005-0067

Size and Sex

There are no size or sex restrictions for the taking of red rock, box and Tanner crab; however, these crab may not be mutilated before landing so that species cannot be determined.

Stat. Auth.: ORS 506
 Stats. Implemented: ORS 506
 Hist.: FWC 30-1985, f. 6-27-85, ef. 7-1-85

Crayfish Fishery

635-005-0070

Closed Season

It is *unlawful* to take crayfish for commercial purposes from November 1 of any year through March 31 of the following year.

Stat. Auth.: ORS 506
 Stats. Implemented: ORS 506
 Hist.: FC 241, f. 4-5-72, ef. 4-15-72, Renumbered from 625-010-0365, Renumbered from 635-036-0225; FWC 22-1988, f. 3-21-88, cert. ef. 4-1-88

635-005-0075

Fishing Gear

It is *unlawful* to take crayfish for commercial purposes by any means other than crawfish pots or ring nets.

Stat. Auth.: ORS 506
 Stats. Implemented: ORS 506
 Hist.: FC 241, f. 4-5-72, ef. 4-15-72, Renumbered from 625-010-0370, Renumbered from 635-036-0230; FWC 22-1988, f. 3-21-88, cert. ef. 4-1-88

635-005-0080

Size Limit

It is *unlawful* to take for commercial purposes crayfish which are less than 3-5/8 inches long. Crayfish will be measured from the tip of the bony spike extending between and beyond the eyes (acumen) to the distal edge of the last bony plate in the tail (telson). Any undersized crayfish taken must be immediately returned unharmed to the water.

Stat. Auth.: ORS 506
 Stats. Implemented: ORS 506
 Hist.: FC 241, f. 4-5-72, ef. 4-15-72, Renumbered from 625-010-0375, Renumbered from 635-036-0235; FWC 22-1988, f. 3-21-88, cert. ef. 4-1-88

635-005-0082

Protection of Females

Any crayfish taken with eggs attached must be returned immediately unharmed to the water. Possession of crayfish with eggs attached is prohibited.

Stat. Auth.: ORS 506
 Stats. Implemented: ORS 506
 Hist.: FWC 22-1988, f. 3-21-88, cert. ef. 4-1-88

635-005-0084

Identification of Gear

All boats, traps, buoys, liveboxes, holding pens, boxes, bags, or other containers used to take, hold, or transport crayfish must be labeled with an identification number issued by the Oregon Department of Fish and Wildlife.

Stat. Auth.: ORS 506
 Stats. Implemented: ORS 506
 Hist.: FWC 22-1988, f. 3-21-88, cert. ef. 4-1-88

635-005-0085

Closed Area

It is *unlawful* to take crayfish for commercial purposes from

Malheur Reservoir (Malheur County), South Twin Lake (Deschutes County), and the Williamson River (Klamath County).

Stat. Auth.: ORS 506
 Stats. Implemented: ORS 506
 Hist.: FWC 33-1984, f. 7-25-84, ef. 8-1-84; FWC 9-1986, f. 3-26-86, ef. 3-30-86; FWC 22-1988, f. 3-21-88, cert. ef. 4-1-88; FWC 102-1989, f. 9-29-89, cert. ef. 10-1-89

Intertidal Animal and Mussel Fisheries

635-005-0090

Closed Season

(1) It is *unlawful* to take intertidal animals and mussels for commercial purposes without first obtaining a permit issued by the Department of Fish and Wildlife of Oregon.

(2) Commercial permits will not be issued to other than licensed commercial or bait fishermen.

(3) Application for a permit may be submitted by letter or on the appropriate Department of Fish and Wildlife form. Letter applications must include the following:

- (a) Name and address of applicant;
- (b) Commercial or bait fishing license number of applicant;
- (c) Species to be collected;
- (d) Collecting period;
- (e) Collecting areas.

(4) Applications should be mailed to: Marine Regional Office, Oregon Department of Fish and Wildlife, Marine Science Drive, Bldg. No. 3, Newport, Oregon 97365.

Stat. Auth.: ORS 506
 Stats. Implemented: ORS 506
 Hist.: FC 241, f. 4-5-72, ef. 4-15-72, Renumbered from 625-010-0650, Renumbered from 635-036-0315; FWC 20-1980, f. 4-25-80, ef. 4-28-80

635-005-0095

Collection Report

(1) A collection report form will be provided with each commercial intertidal animal permit issued by the Department of Fish and Wildlife. The collection report must be completed and returned to the Department of Fish and Wildlife by the permittee immediately upon expiration of the collection permit.

(2) No subsequent collection permit shall be issued to an individual who has not submitted a collection report for any prior collection permit.

Stat. Auth.: ORS 506
 Stats. Implemented: ORS 506
 Hist.: FC 241, f. 4-5-72, ef. 4-15-72, Renumbered from 625-010-0655, Renumbered from 635-036-0320; FWC 20-1980, f. 4-25-80, ef. 4-28-80

635-005-0100

Permit Areas

It is *unlawful* to take subtidal or intertidal marine invertebrates and shellfish (including mussels) for commercial purposes, other than as set forth in a collection permit issued by the Department of Fish and Wildlife, in the following areas described in OAR 635-039-0090 and the "Oregon Sport Fishing Regulations":

- (1) Boiler Bay.
- (2) Depoe Bay.
- (3) Harris Beach.
- (4) Haystack Rock.
- (5) Neptune State Park.
- (6) Sunset Bay — Cape Arago.
- (7) Yaquina Head;
- (8) Pirate Cove Research Reserve;
- (9) Gregory Point Research Reserve.

Stat. Auth.: ORS 506.119 & ORS 506.129
 Stats. Implemented: ORS 506.119 & ORS 506.129
 Hist.: FC 241, f. 4-5-72, ef. 4-15-72, Renumbered from 625-010-0660, Renumbered from 635-036-0325; FWC 20-1980, f. 4-25-80, ef. 4-28-80; FWC 25-1995, f. 3-29-95, cert. ef. 4-1-95

635-005-0115

Fishing Gear

It is *unlawful* to take mussels for commercial purposes by any means other than hand or a hand-powered tool.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FC 241, f. 4-5-72, ef. 4-15-72, Renumbered from 625-010-0420, Renumbered from 635-036-0245

635-005-0120

Size Limit

There is no size limit for mussels taken for commercial purposes.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FC 241, f. 4-5-72, ef. 4-15-72, Renumbered from 625-010-0425, Renumbered from 635-036-0250

Oysters

635-005-0130

Oysters Defined

The term oyster as used in these regulations includes oysters, oyster seed, oyster cultch, and oyster shell.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FC 140, f. 3-4-66, Renumbered from 625-010-0275, Renumbered from 635-036-0165

635-005-0135

Oyster Importation Prohibited Except by Permit

It is *unlawful* for any person to import oysters into this state for the purpose of planting or to plant the same in the waters of this state without first having obtained a permit to do so from the State Fisheries Director.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FC 140, f. 3-4-66, Renumbered from 625-010-0280, Renumbered from 635-036-0170

635-005-0140

Oyster Import Applications and Permit

(1) Any person before importing into this state any oysters for the purpose of planting shall first apply in writing to the State Fisheries Director for a permit to import the oysters. Such application shall be in the form of a letter and shall include the following information: Maximum quantity to be imported, name of exporter, the approximate time the shipment will be made, and the name of the person or agency that will inspect the seed including a notarized certification from such person or agency at the time the oysters are inspected, declaring them to the best of his knowledge free from disease, infestation pests, and other substances which might endanger shellfish in the waters of this state.

(2) The State Fisheries Director shall issue a permit to import oysters for planting in the waters of this state when it has been established to his satisfaction that a qualified person or agency will inspect the oysters and certify them as being free of disease, infestation pests, and other substances which might endanger shellfish in the waters of this state.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FC 140, f. 3-4-66; FWC 30-1985, f. 6-27-85, ef. 7-1-85, Renumbered from 625-010-0285, Renumbered from 635-036-0175

635-005-0145

Prohibited Activities in Restricted Shellfish Area

(1) Netarts Bay and all waters, tidelands, and oyster handling facilities operated in conjunction with said water and tidelands of Netarts Bay are defined as a restricted shellfish area.

(2) It shall be *unlawful* for any person to move or transfer from a restricted shellfish area any oysters, any marine organisms adversely affecting oysters, or other material whatsoever without first obtaining written permission from the State Fisheries Director.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FC 140, f. 3-4-66, Renumbered from 625-010-0290, Renumbered from 635-036-0180; FWC 30-1985, f. 6-27-85, ef. 7-1-85

635-005-0150

Oyster Seasons and Gear

It is *unlawful* to take oysters for either personal use or commercial purposes from natural oyster beds located on unoccupied state lands.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FC 143, f. 3-4-66, Renumbered from 625-010-0295, Renumbered from 635-036-0185; FWC 28-1982, f. & ef. 5-13-82

Piddock Fishery (Rock Oyster)

635-005-0160

Prohibited

It is *unlawful* to take piddocks for commercial purposes.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FC 241, f. 4-5-72, ef. 4-15-72; FWC 30-1985, f. 6-27-1985, ef. 7-1-85, Renumbered from 625-010-0465, Renumbered from 635-036-0255

Scallop Fishery

635-005-0170

Closed Season

There is no closed season on scallops taken for commercial purposes.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FC 241, f. 4-5-72, ef. 4-15-72, Renumbered from 625-010-0505, Renumbered from 635-036-0260

635-005-0175

Fishing Gear

It is *unlawful* to take scallops for commercial purposes by any means other than trawl net or dredge having three-inch or larger mesh or rings throughout. Rock scallops may be taken with an abalone iron.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FC 241, f. 4-5-72, ef. 4-15-72, Renumbered from 625-010-0510, Renumbered from 635-036-0265; FWC 24-1981(Temp), f. & ef. 7-1-81; FWC 27-1981, f. & ef. 8-14-81

Sea Urchin Fishery

635-005-0180

Sea Urchin Fishery

(1) It is *unlawful* for commercial purposes to take, land, or possess sea urchins:

(a) Without first obtaining a permit issued by the Department of Fish and Wildlife;

(b) Which have been taken in water depths less than ten feet below mean lower low water;

(c) Where more than two divers were in the water off any one boat at the same time;

(d) Where more than two persons without permits, excluding persons authorized by the Department for the performance of official duties, were on board any boat while harvesting, possessing, or transporting sea urchins;

(e) Within the following areas:

(A) From Orford Reef described as the area encompassed as parallels of Latitude 42°46'N and 42°49'N from May 1 through October 31;

(B) Within 1,000 feet of Pyramid Rock on Rogue Reef described by the area encompassed by parallels of Latitude 42°26.4'N and 42°26.9'N and by meridians of Longitude 124°28.4'W and 124° 27.8'W, or within the rectangle marked by

corner buoys from May 1 through August 31.

(f) Unless the vessel displays the vessel's federal document or Marine Board numbers on a weather deck so as to be visible from above. The number shall contrast with the background and be in block arabic numerals at least 18 inches high for vessels over 65 feet in length and at least ten inches high for vessels 65 feet or less. The operator of the vessel shall keep the identifying markings clearly legible and in good repair, and shall ensure that no part of the vessel, its rigging, or its fishing gear obstructs the view of the vessel number from an enforcement vessel or aircraft;

(g) More than 50 per permit holder per day per trip between two and three and one-half inches in diameter (shell diameter — not including spines), except as provided in section (2) of this rule for purple sea urchins. There is no limit on the number of sea urchins less than two inches or greater than three and one-half inches in diameter.

(2) Placement, maintenance and removal of the buoys referred to in paragraph (1)(e)(B) of this rule may be carried out cooperatively by the Department and volunteers from the sea urchin industry according to specifications set forth by memorandum of agreement with industry representatives or other interested parties.

(3) A holder of a current sea urchin permit may take more than 50 purple sea urchins between two inches and three and one-half inches in diameter, provided the permit holder obtains a special commercial sea urchin permit from the Department. Applications for a special commercial sea urchin permit shall be submitted on forms provided by the Department. The Department may attach terms and conditions to any special commercial permit including, but not limited to, onboard observers, area or time limits, and preharvest dive surveys of urchin beds.

(4) For each trip, any permit holder shall clearly identify and keep separate until processed all sea urchin taken by that permit holder.

(5) Notwithstanding any other provisions in these regulations, no person other than the holder of a current sea urchin permit issued by the Department is allowed to dive in the water to take or attempt to take sea urchins or to otherwise assist, while submerged, in the harvest of sea urchins.

Stat. Auth.: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 508.760

Stats. Implemented: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 508.760

Hist.: FWC 85-1987, f. 10-6-87, ef. 1-1-88; FWC 117-1989, f. 11-22-89, cert. ef. 12-1-89; FWC 50-1990, f. 6-15-90, cert. ef. 6-18-90; FWC 118-1990, f. 10-24-90, cert. ef. 10-22-90; FWC 12-1991, f. & cert. ef. 2-20-91; FWC 26-1992, f. 4-21-92, cert. ef. 4-22-92; FWC 96-1994, f. 12-28-94, cert. ef. 1-1-95

Pink Shrimp Fishery

635-005-0185

Closed Season

(1) It is *unlawful* to take, land, or possess pink shrimp from the Pacific Ocean from November 1 of any year through March 31 of the following year.

(2) Notwithstanding the provisions of section (1) of this rule, it is lawful to possess pink shrimp taken from the Pacific Ocean during the period November 1 of any year through March 31 of the following year, if such shrimp were taken north of 48°30' north latitude (Washington-Canada boundary).

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FC 241, f. 4-5-72, ef. 4-15-72; FC 256, f. 12-1-72, ef. 12-15-72; FWC 154(Temp), f. & ef. 10-12-77 through 2-8-78, Renumbered from 625-010-0240; FWC 167, f. & ef. 10-23-77; FWC 50-1978, f. & ef. 9-27-78; FWC 22-1979(Temp), f. 7-18-79, ef. 7-19-79; Suspended by FWC 30-1979(Temp), f. & ef. 8-16-79, Renumbered from 635-036-0150; FWC 24-1980 (Temp), f. & ef. 5-30-80; Suspended by FWC 34-1980(Temp), f. & ef. 7-1-80; FWC 57-1980(Temp), f. & ef. 10-3-80; FWC 59-1980(Temp), f. & ef. 10-21-80; FWC 36-1981(Temp), f. & ef. 9-22-81; FWC 19-1982, f. & ef. 3-22-82; FWC 30-1985, f. 6-27-85, ef. 7-1-85; FWC 94-1987(Temp), f. & ef. 10-30-87

635-005-0186

Mesh Restriction

It is *unlawful* to land shrimp taken south of the Oregon-California border with nets having a mesh size of less than 1-3/8 inches between knots.

Stat. Auth.: ORS 506.119 & ORS 506.129

Stats. Implemented: ORS 506.119 & ORS 506.129

Hist.: FWC 26-1982, f. & ef. 4-30-82; FWC 34-1982, f. & ef. 6-1-82; FWC 35-1995, f. 5-3-95, cert. ef. 5-5-95

635-005-0190

Fishing Gear

It is *unlawful* to take pink shrimp for commercial purposes by any means other than trawl net or pots.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FC 241, f. 4-5-72, ef. 4-15-72, Renumbered from 625-010-0245, Renumbered from 635-036-0155; FWC 30-1985, f. 6-27-85, ef. 7-1-85

635-005-0195

Incidental Catch Limit

It is *unlawful* to have on board a commercial fishing boat taking shrimp for commercial purposes an aggregate incidental catch of more than 250 Dover, English, or petrale sole less than 11 inches in length. It is *unlawful* for a commercial fishing boat taking shrimp for commercial purposes to land an incidental catch of ocean food fish in excess of 1,500 pounds per day accumulated over the trip. Pacific whiting, shortbelly rockfish, hagfish and arrowtooth flounder are excluded from the incidental landing restriction.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FC 241, f. 4-5-72, ef. 4-15-72, Renumbered from 625-010-0250, Renumbered from 635-036-0160; FWC 10-1983, f. & ef. 3-1-83; FWC 34-1983, f. & ef. 8-1-83; FWC 41-1983 (Temp), f. & ef. 9-6-83; FWC 42-1983(Temp), f. 9-9-83, ef. 9-10-83; FWC 112-90, f. 10-3-90, cert. ef. 10-5-90

635-005-0200

Maximum Count Per Pound

(1) It is *unlawful* to possess or land pink shrimp from any one trip or landing which exceeds an average count of 160 whole shrimp per pound. This rule shall not apply to landings or possession of less than 3,000 pounds of pink shrimp.

(2) To determine average count per pound when a landing exceeds 3,000 pounds of shrimp, one sample must be taken from each one thousand pounds up to a maximum requirement of 20 samples. The sampling unit shall consist of at least one pound of whole unbroken shrimp.

(3) For the purpose of determining count per pound "whole shrimp" and "whole unbroken shrimp" are defined as shrimp in which the body is substantially intact, including an identifiable carapace, abdomen, and telson (tail). It is not intended to require shrimp to have an unbroken rostrum, complete set of legs, antennae, or other appendages.

Stat. Auth.: ORS 506.119 & ORS 506.129

Stats. Implemented: ORS 506.119 & ORS 506.129

Hist.: FWC 34-1982, f. & ef. 6-1-82; FWC 30-1985, f. 6-27-85, ef. 7-1-85; FWC 70-1993, f. 11-9-93, cert. ef. 11-11-93

Spot, Sidestripe and Coonstripe Shrimp Fisheries

635-005-0205

Closed Season

There is no closed season for the taking of spot, sidestripe or coonstripe shrimp.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FWC 30-1985, f. 6-27-85, ef. 7-1-85

635-005-0210

Fishing Gear

It is *unlawful* to take spot, sidestripe or coonstripe shrimp for commercial purposes by any means other than pots or traps except

that trawls legal for the taking of pink shrimp may be used during open pink shrimp seasons and trawls legal for the taking of groundfish may be used when the established seasons for those species are open.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FWC 30-1985, f. 6-27-85, ef. 7-1-85; FWC 15-1986, f. & ef. 5-20-86

635-005-0215

Fishing Area

It is *unlawful* to take spot, sidestripe or coonstripe from areas other than the Pacific Ocean.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FWC 30-1985, f. 6-27-85, ef. 7-1-85

635-005-0220

Incidental Catch Limit

Provisions under OAR 635-005-0195 for the possession of incidental catch apply to the taking of spot, sidestripe and coonstripe shrimp.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FWC 30-1985, f. 6-27-85, ef. 7-1-85

DIVISION 6

COMMERCIAL GEAR; LICENSES, POUNDAGE FEES, RECORDS AND REPORTS

Definitions

635-006-0001

Definitions

For the purposes of OAR 635-006-0001 through 635-006-0235:

(1) "Fish Buyer" means an individual employed by a wholesale fish dealer or food fish canner to purchase or receive food fish or shellfish from commercial fishermen at locations other than the licensed premises of the wholesale fish dealer or food fish canner.

(2) "Fish-Buying Station" means a location other than the licensed premises of a wholesale fish dealer or food fish canner at which such wholesale fish dealer or food fish canner purchases or receives food fish or shellfish from commercial fishermen.

(3) "Food Fish Canner" means a person who:

(a) Buys food fish or shellfish from a commercial fisherman; or

(b) Cans food fish including shellfish in hermetically sealed containers whereby no further preservation, artificial or otherwise, is required; or

(c) Processes food fish or shellfish or any part thereof; or

(d) Sells food fish or shellfish to a retail dealer, wholesale, fish dealer, or other canners.

(4) "Harvester" means any person legally authorized to take food fish for commercial purposes.

(5) "Land" or "Landing" means to begin transfer of fish from a fishing vessel.

(6) "Landing Fees" means all fees due to the Department based on the pounds of fish or value of fish landed.

(7) "Limited Fish Seller" means any person who holds a valid Oregon commercial fishing license and who has obtained an annual limited fish seller permit which enables him/her to sell any species of food fish taken in unlawful activity directly from his/her boat, pursuant to ORS 508.550.

(8) "Nonreporting Fish Dealer" means a wholesale fish dealer or fish bait dealer who buys food fish exclusively from other wholesale fish dealers or bait dealers.

(9) "Retail Fish Bait Dealer" means a person who buys fresh food fish or shellfish from a wholesale fish dealer or wholesale fish bait dealer, and sells to the ultimate consumer for use as bait.

(10) "Retail Fish Dealer" means a person who buys fresh food fish or shellfish from wholesale fish dealers, undertakes no processing activity (cooking crab is not considered as a processing activity), and sells only to the ultimate consumer. In addition to private persons, restaurants are considered ultimate consumers.

(11) "Shellfish Canner" means a person who cans only shellfish in hermetically sealed containers whereby no further preservation, artificial or otherwise, is required.

(12) "Value" means the monetary value of the food fish, or parts thereof, including eggs and other by-products, at the point of landing as usually determined by the first exchange between the harvester and the first purchaser. In addition:

(a) Value is typically the amount of money which the first purchaser pays at the time and place that the fish are off-loaded from a vessel, or brought to shore if there is no vessel involved in harvesting, before any reductions or deductions in the amount of money as a result of the dealer furnishing ice, fuel, food or other commodities; and

(b) Value includes bonuses and other payments based directly on the quantity or quality of food fish exchanged, regardless of the time of payment of such bonuses or other payments; and

(c) Value includes any payments based on the proportion or percentage of processed products recovered from the food fish landed in the round or other form; and

(d) Value for food fish not sold by the harvester is the value received for comparable fish sold to a wholesale fish dealer at the same time and place that the fish are landed; and

(e) Value for food fish purchased from a harvester, by the harvester when acting as a wholesale fish dealer, is the price that is or would be paid to any other harvester for the same fish; and

(f) Value for food fish sold by a limited fish seller is the retail price received by the harvester from the first purchaser; and

(g) Value for food fish imported from out of state but not previously taxed out of state is the price paid for the fish by the first Oregon purchaser.

(13) "Wholesale Fish Bait Dealer" means a person who buys food fish or shellfish, or parts thereof, from a licensed commercial fisherman, licensed commercial bait fisherman, or licensed angler, and sells or uses such food fish or shellfish for bait, scientific or educational purposes, or live public display.

(14) "Wholesale Fish Dealer" means a person who:

(a) Buys food fish or shellfish from a commercial fisherman; or

(b) Processes food fish or shellfish or any part thereof; or

(c) Sells food fish or shellfish to retail dealers or other wholesale fish dealers.

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

Stats. Implemented: ORS 506.109, ORS 506.119 & ORS 506.129

Hist.: FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92

Fishing Gear Specifications and Operation

635-006-0005

Applicability of Regulation

It is *unlawful* for any individual to take or land food fish from the waters of this state or the Pacific Ocean with fishing gear which does not meet the specifications, or is not operated as provided or authorized by statute or Department of Fish and Wildlife regulations.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FC 136, f. 12-20-65, ef. 1-1-66, Renumbered from 625-020-0000,

Renumbered from 635-036-0350

635-006-0010

Possession of Unlawful Fishing Gear Prohibited

It is *unlawful* to have on board any commercial fishing boat while fishing or landing food fish, taken for commercial purposes, any fishing gear which is not authorized by statute or Department of Fish and Wildlife regulation for use in commercial fishing or which does not conform to the specifications established for such fishing gear.

Stat. Auth.: ORS 506
 Stats. Implemented: ORS 506
 Hist.: FC 136, f. 12-20-65, ef. 1-1-66, Renumbered from 625-020-0005,
 Renumbered from 635-036-0355

635-006-0015

Personal Use Fishing with Commercial Fishing Gear Prohibited

In accordance with ORS 508.240, it is *unlawful* to retain any species of food fish for personal use taken while fishing under a commercial fishing license. In addition, except as the Commission by rule may provide otherwise, it is *unlawful* to use commercial fishing gear to take any species of food fish for personal use.

Stat. Auth.: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 508.240
 Stats. Implemented: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 508.240
 Hist.: FC 136, f. 12-20-65, ef. 1-1-66, Renumbered from 625-020-0010,
 Renumbered from 635-036-0360; FWC 113-1992, f. 10-26-92, cert. ef. 10-28-92

635-006-0020

Experimental Fishing Gear Permit

(1) The Director is authorized to issue experimental fishing gear permits for the taking of food fish under the authority of ORS 508.106 provided the use of such fishing gear is not otherwise prohibited by the commercial fishing laws.

(2) Application for a permit shall be in writing accompanied by a fee of \$3 and shall include the species of fish to be taken, the method to be used, and the name and location of the body of water from which the food fish are to be taken.

(3) It is *unlawful* to use the experimental fishing gear in the waters of this state or the Pacific Ocean except under the terms and conditions specified in the permit.

Stat. Auth.: ORS 506.109, ORS 506.119 & ORS 506.129
 Stats. Implemented: ORS 506.109, ORS 506.119 & ORS 506.129
 Hist.: FC 203, f. 1-6-70, ef. 2-11-70, Renumbered from 625-020-0040; FWC 64-1978, f. & ef. 12-20-78, Renumbered from 635-036-0365; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92

Dealer Licenses

635-006-0100

Retail Fish Dealer

(1) No license is required of a retail fish dealer.

(2) It is *unlawful* for a retail fish dealer to have in possession any fresh food fish or shellfish received from other than a wholesale fish dealer.

Stat. Auth.: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 508
 Stats. Implemented: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 508
 Hist.: FC 246, f. 5-5-72, ef. 5-15-72, Renumbered from 625-040-0005,
 Renumbered from 635-036-0500; FWC 104-1988, f. 12-29-88, cert. ef. 1-1-89;
 FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92

635-006-0105

Wholesale Fish Dealer

A wholesale fish dealer license is required to perform any of the activities defined as a “wholesale fish dealer” under OAR 635-006-0001.

Stat. Auth.: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 508
 Stats. Implemented: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 508
 Hist.: FC 246, f. 5-5-72, ef. 5-15-72, Renumbered from 625-040-0010,
 Renumbered from 635-036-0505; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92

635-006-0110

Food Fish Canner

A food fish canner license is required to perform any of the activities defined as a “food fish canner” under OAR 635-006-0001. This license is in lieu of, and not in addition to, a wholesale fish dealer license.

Stat. Auth.: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 508
 Stats. Implemented: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 508
 Hist.: FC 246, f. 5-5-72, ef. 5-15-72, Renumbered from 625-040-0015,

Renumbered from 635-036-0510; FWC 104-1988, f. 12-29-88, cert. ef. 1-1-89;
 FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92

635-006-0115

Shellfish Canner

A shellfish canner license is required to perform the activities defined as a “shellfish canner” under OAR 635-006-0001. This license is in lieu of, and not in addition to, a wholesale fish dealer’s license.

Stat. Auth.: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 508
 Stats. Implemented: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 508
 Hist.: FC 246, f. 5-5-72, ef. 5-15-72, Renumbered from 625-040-0020,
 Renumbered from 635-036-0515; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92

635-006-0120

Fish Buyer

A fish buyer license is required to perform the activities defined as a “fish buyer” under OAR 635-006-0001. This license is in addition to the wholesale fish dealer, fish canner, or shellfish canner’s license.

Stat. Auth.: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 508
 Stats. Implemented: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 508
 Hist.: FC 246, f. 5-5-72, ef. 5-15-72, Renumbered from 625-040-0025,
 Renumbered from 635-036-0520; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92

635-006-0125

Fish-Buying Station

A fish buyer license is required at the location where the activities defined as a “fishbuying station” under OAR 635-006-0001 occurs. This license is in addition to the wholesale fish dealer, fish canner, or shellfish canner’s license.

Stat. Auth.: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 508
 Stats. Implemented: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 508
 Hist.: FC 246, f. 5-5-72, ef. 5-15-72, Renumbered from 625-040-0030,
 Renumbered from 635-036-0525; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92

635-006-0130

Wholesale Fish Bait Dealer

The sale of food fish or shellfish under a wholesale fish bait dealer’s license for any other purpose than use as bait, for scientific or educational purposes, or for live public display is prohibited.

Stat. Auth.: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 508
 Stats. Implemented: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 508
 Hist.: FC 246, f. 5-5-72, ef. 5-15-72, Renumbered from 625-040-0035,
 Renumbered from 635-036-0530; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92

635-006-0131

Retail Fish Bait Dealer

No license is required of a retail fish bait dealer.

Stat. Auth.: ORS 506.109, ORS 506.119 & ORS 506.129
 Stats. Implemented: ORS 506.109, ORS 506.119 & ORS 506.129
 Hist.: FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92

635-006-0132

Limited Fish Sellers Permit

(1) The permit referred to in ORS 508.550 shall be available to commercial fishermen who hold a valid commercial fishing license, including albacore tuna landing license, and who sell the catch off his/her own vessel, or a vessel operated by him/her, directly to the ultimate consumer.

(2) It is *unlawful* under this license to sell any food fish or shellfish from a vessel which were not taken by that vessel.

(3) A separate endorsement, limited to the first 40 applications, is required to sell salmon under the Limited Fish Seller Permit. Applications for salmon endorsements shall be mailed. If more than one application with the same postmark must be considered for the 40th permit, a drawing of those applications shall be held to determine which applicant will be issued an endorsement. The endorsement is valid for the calendar year for which it is issued. New applications shall be submitted for subsequent years and selections shall be made based on the application procedure described in this section.

Stat. Auth.: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 802
 Stats. Implemented: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 802
 Hist.: FWC 1-1986, f. & ef. 1-10-86; FWC 99-1987, f. & ef. 11-17-87; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92

635-006-0134

Bonding Requirements

In accordance with ORS 508.415 and 508.550, the minimum bond amount is \$25 for wholesale bait dealers; \$1,000 for wholesale fish dealers, fish canners, and shellfish canners; and \$200 for limited fish sellers. Bond amounts are determined by a total of the landing fees due for the three highest sales months of the previous year, and may be changed at the discretion of the Department. No bond is required of nonreporting fish dealers.

Stat. Auth.: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 802
 Stats. Implemented: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 802
 Hist.: FWC 1-1986, f. & ef. 1-10-86; FWC 99-1987, f. & ef. 11-17-87; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92

Fishing Licenses

635-006-0135

Alteration, Borrow, or Loan License *Unlawful*

It is *unlawful* for any person to alter, borrow, or loan any license issued by the Director.

Stat. Auth.: ORS 506.109, ORS 506.119 & ORS 506.129
 Stats. Implemented: ORS 506.109, ORS 506.119 & ORS 506.129
 Hist.: FC 246, f. 5-5-72, ef. 5-15-72, Renumbered from 625-040-0055, Renumbered from 635-036-0535; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92

635-006-0140

Boat License

(1) A boat license is issued in accordance with ORS 508.035 and 508.260 of the commercial fishing laws and is required for the owner or operator of any boat used in taking food fish or shellfish for commercial purposes, except for the taking of clams or crayfish.

(2) A pair of decals bearing the last two numbers of the year for which the license is issued is included with the license for placement on the licensed boat. The license year decals shall be affixed to the licensed boat in a conspicuous place on each side of the boat on the superstructure as near midship as practicable.

(3) In accordance with subsection (3) of ORS 508.260, the assigned identification number of each licensed commercial fishing boat shall be as follows:

(a) The federal document number (all vessels five registered net tons and over);

(b) The state vessel registration number (all vessels not having a federal document number).

(4) Licensed commercial fishing boats which are federally documented shall have the document identification number displayed on each side of the boat adjacent to the current year license decal in not less than three-inch high block numbers either placed on the boat or on an identification plate attached to the boat.

(5) Licensed commercial fishing boats which are state registered shall have their identification number displayed on each side of the bow as required by the appropriate laws or rules for displaying such number.

Stat. Auth.: ORS 506.109, ORS 506.119 & ORS 506.129
 Stats. Implemented: ORS 506.109, ORS 506.119 & ORS 506.129
 Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FWC 26, f. 11-28-75, ef. 1-1-76, Renumbered from 625-040-0060, Renumbered from 635-036-0540; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92

635-006-0145

Commercial Fishing License

(1) A commercial fishing license is issued in accordance with ORS 508.035 and 508.235 of the commercial fishing laws and is required for each individual who for commercial purposes:

(a) Takes or assists in the taking of any food fish or shellfish from the waters or land of this state;

(b) Operates or assists in the operation of any boat or fishing

gear for the taking of food fish in the waters of this state; or

(c) Lands food fish from the waters of the Pacific Ocean at any point in this state.

(2) A commercial fishing license shall be in the possession of the licensee when engaged in the taking or landing of food fish or shellfish when taken for commercial purposes.

(3) It is *unlawful* for a licensed commercial fisherman to keep any food fish or shellfish taken under such license for personal use.

Stat. Auth.: ORS 506.109, ORS 506.119 & ORS 506.129
 Stats. Implemented: ORS 506.109, ORS 506.119 & ORS 506.129
 Hist.: FC 246, f. 5-5-72, ef. 5-15-72, Renumbered from 625-040-0065, Renumbered from 635-036-0545; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92

635-006-0150

Single Delivery License

(1) The single delivery license is issued in accordance with ORS 508.035 for a one time landing of food fish and is in lieu of the commercial fishing and boat license described in OAR 635-006-0140 and 635-006-0145. Where "commercial fishing license" is used in ORS 508.235 and "boat license" is used in ORS 508.260, this license may be substituted.

(2) In the absence of a commercial fishing and boat license, it is *unlawful* to engage in the taking or landing of food fish in waters of this state without a single delivery license.

(3) No food fish shall be removed from a boat requiring a single delivery license until the fee for such license is received and such license has been issued by an authorized agent of the Department of Fish and Wildlife. The license shall be on board the boat and available for inspection by the State Police or a representative of the Department of Fish and Wildlife whenever food fish are being unloaded.

(4) Single delivery licenses shall be forfeited upon landing to the wholesale fish dealer, who shall attach the license document to the appropriate fish ticket. Vessels taking fish outside of state waters may substitute the license fee at the time of landing for the license document.

Stat. Auth.: ORS 508
 Stats. Implemented: ORS 508
 Hist.: FC 246, f. 5-5-72, ef. 5-15-72, Renumbered from 625-040-0085, Renumbered from 635-036-0550; FWC 81-1985, f. 12-16-85, ef. 1-1-86

635-006-0155

Juvenile Jig Line License

This license is issued in accordance with ORS 508.121 of the commercial fishing laws.

Stat. Auth.: ORS 508
 Stats. Implemented: ORS 508
 Hist.: FC 246, f. 5-5-72, ef. 5-15-72, Renumbered from 625-040-0090, Renumbered from 635-036-0555

635-006-0160

Bait Fishing License

A bait fishing license is issued in accordance with ORS 508.312 of the commercial fishing laws and is required for any individual taking or assisting in the taking of food fish or shellfish for sale to a fish bait dealer. It is *unlawful* to take any food fish or shellfish under this license for human consumption purposes.

Stat. Auth.: ORS 506.109, ORS 506.119 & ORS 506.129
 Stats. Implemented: ORS 506.109, ORS 506.119 & ORS 506.129
 Hist.: FC 246, f. 5-5-72, ef. 5-15-72, Renumbered from 625-040-0095, Renumbered from 635-036-0560; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92

635-006-0165

Commercial Fisherman Transportation Report

(1) It is *unlawful* for any commercial fisherman or any other person to transport food fish or shellfish in this state without first preparing and having in possession a written transportation report, invoice, or memorandum. The transportation report, invoice, or memorandum shall include the following:

- (a) Date;
- (b) Name and address of person from whom food fish or

shellfish were received. If being transported by a commercial fisherman or received from a commercial fisherman, include his/her commercial fishing license number;

(c) Name and address of person to whom food fish or shellfish are being delivered;

(d) The number of each species of food fish or shellfish, their weight or estimated weight in pounds.

(2) The transportation report, invoice, or memorandum shall be prepared prior to any food fish or shellfish being removed from the boat of original taking or prior to transporting away from the point of initial landing. For clams, the report shall be prepared prior to leaving the beach or clam digging area. For food fish or shellfish transported into Oregon from another state, the report shall be prepared prior to entering the State of Oregon. A bill of lading or freight bill required for common carriers is acceptable in lieu of a transportation report.

(3) The transportation report, invoice, or memorandum shall be retained by the commercial fisherman or person transporting the food fish for a period of six months and is subject to inspection by the Director, his/her authorized agent, or by the State Police at any time during that period.

(4) This section does not apply to retail fish dealers, retail bait fish dealers, wholesale fish dealers, food fish canners, shellfish canners, and wholesale fish bait dealers when required to keep records in accordance with OAR 635-006-0205 and ORS 508.535.

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

Stats. Implemented: ORS 506.109, ORS 506.119 & ORS 506.129

Hist.: FC 246, f. 5-5-72, ef. 5-15-72, Renumbered from 625-040-0100, Renumbered from 635-036-0565; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92

Fish Dealer Records and Reports

635-006-0200

Required Records

(1) All retail fish dealers, retail and wholesale fish bait dealers, wholesale fish dealers, buyers, food fish canners and shellfish canners shall keep a record of all food fish and shellfish received whether from a fisherman or from other fish dealers. This record shall include the quantity in pounds of each species of food fish or shellfish received, the date received, price paid per pound, and the name and address of the person from whom such food fish or shellfish were received. If received from a fisherman, his/her commercial fishing license number shall be used in lieu of an address and the fishing gear used in taking shall also be required. If received from a treaty Indian, his/her tribal affiliation and enrollment number as shown on official identification card issued by the U.S. Department of Interior, Bureau of Indian Affairs, or tribal government shall be used in lieu of an address or commercial fishing license.

(2) This record is:

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

(b) To be prepared and available at the time food fish or shellfish are received at the premises of the fish dealer regardless of whether purchased or not;

(c) To be 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 subsection (2)(a) of this rule. Notice of the physical location is to be provided to Oregon Department of Fish and Wildlife, Portland Headquarters office.

Stat. Auth.: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 508.406

Stats. Implemented: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 508.406

Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FWC 28, f. 11-28-75, ef. 1-1-76, Renumbered from 625-040-0125, Renumbered from 635-036-0570; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 68-1994, f. 9-28-94, cert. ef. 10-1-94

635-006-0205

Required Reports

(1) Every licensed wholesale fish dealer, wholesale fish bait dealer, food fish canner, and shellfish canner shall report all food

fish or shellfish received from commercial fishermen or commercial bait fishermen authorized to land his/her catch in Oregon or received from a fish dealer from another state in which no tax or fee is levied and collected on the food fish or shellfish.

(2) As used in these regulations, any licensed wholesale fish dealer or canner whose licensed premises includes a receiving or docking facility for unloading the catch from a commercial fishing vessel shall be considered as the receiver and purchaser and shall have the responsibility for weighing the catch, reporting, and paying landing fees on such catch. The aforementioned premises shall only be licensed by one wholesale dealer, bait dealer or canner at one given time, except as provided in section (3) of this rule.

(3) Notwithstanding section (2) of this rule, upon receipt and approval by the Department of a Memorandum of Understanding in a form provided by the Department and signed by both parties, a licensed wholesale fish dealer or canner (identified as primary dealer) whose licensed premises includes a receiving or docking facility for unloading the catch from a commercial fishing vessel may act as an agent for another licensed wholesale fish dealer or canner (identified as secondary dealer).

(a) Through the Memorandum of Understanding the primary dealer agrees:

(A) To unload fish or shellfish products at their licensed receiving or buying dock from fishing vessels who are providing catch to the secondary dealer as per prior agreement and arrangement with the secondary dealer;

(B) To confirm that the landing is legal and the species are legal;

(C) To accurately report on fish tickets, assigned to the secondary dealer by the Department, all landing information in accordance with OAR 635-006-0210, with the exception of price;

(D) To obtain fisherman signature on the fish ticket reporting such catch or if necessary, a dock ticket for net-caught groundfish in accordance with OAR 635-006-0211;

(E) To, upon transfer of the landed product from the primary dealer to the secondary dealer, provide the fish ticket record of the landing to the secondary dealer; and

(F) To retain a record of the required landing information of such catches.

(b) In addition through the Memorandum of Understanding, the secondary dealer agrees:

(A) To obtain the appropriate buyer's license;

(B) To complete the fish ticket that reports the transferred product landed at the receiving or buying dock of the primary dealer, by adding the species ex-vessel price;

(C) To submit copies to the Department in accordance with OAR 635-006-0210(2); and

(D) To submit to the Department a monthly remittance report and accompanying landing fees in accordance with OAR 635-006-0215.

(c) The Department may withdraw its approval of any Memorandum of Understanding effective seven calendar days from postmark of written notice, based on the failure to abide by any of the terms of the Memorandum of Understanding or violation of any provision of this rule. If the Department withdraws its approval, then section (2) of this rule shall be applicable.

(4) Two basic reports required for reporting the commercial catch of food fish and shellfish and the payment of landing fees due on such catch are:

(a) The State of Oregon Fish Receiving Ticket; and

(b) The Fish Dealer Monthly Remittance Report. These reports shall be submitted on forms supplied or approved by the Department and completed in accordance with OAR 635-006-0210 and 635-006-0215.

(5)(a) All pink shrimp unloaded at a receiving or docking facility of a wholesale fish dealer or shellfish canner shall be weighed and the net weight (pounds of raw shrimp landed) recorded on a fish receiving ticket before being removed from the receiving facility and prior to processing;

(b) Notwithstanding subsection (5)(a) of this rule, a minimum sampling method or equivalent method may be used to estimate the net weight provided such method is approved and autho-

rized in writing by the Department;

(c) Those wholesale fish dealers or canners authorized to use the sampling procedure in subsection (b) of this section are subject to inspection for accuracy by the Department or by the Oregon State Police, at any time. Authorization for use of a sampling procedure may be withdrawn if, in the judgment of the Department, the procedure employed is likely to be inaccurate.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.129, ORS 508.530 & ORS 508.535

Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FC 274(74-6), f. 3-20-74, ef. 4-11-74; FWC 28, f. 11-28-75, ef. 1-1-76, Renumbered from 625-040-0130, Renumbered from 635-036-0575; FWC 15-1981, f. 4-24-81, ef. 5-1-81; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 78-1993, f. & cert. ef. 12-6-93; FWC 23-1996, f. & cert. ef. 5-10-96

635-006-0207

Limited Fish Seller Required Reports

(1) Every licensed Limited Fish Seller shall report all food fish or shellfish sold directly to consumers. Prior to making any sales of food fish or shellfish, Limited Fish Sellers shall notify the Department, by such means as the Department prescribes, the estimated number of food fish on board the boat and the location where the sale is to take place.

(2) Two reports required for reporting the commercial sale and the payment of landing fees due on such catch are:

(a) The State of Oregon Fish Receiving Ticket; and

(b) The Fish Dealer Monthly Remittance Report. These reports shall be submitted on forms supplied or approved by the Department and completed in accordance with OAR 635-006-0210 and 635-006-0215. In addition, a sequentially numbered receipt for each individual sale shall be issued to the purchaser at time of purchase, and to the fisherman if fish are to be kept for personal use. This receipt shall include the date, species, weight in pounds, price, number of fish or shellfish, and vessel name. A copy shall be retained on the vessel for a period of six months and available for three years and is subject to inspection by the Oregon State Police or authorized Department employee.

Stat. Auth.: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 802

Stats. Implemented: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 802

Hist.: FWC 1-1986, f. & ef. 1-10-86; FWC 99-1987, f. & ef. 11-17-87; FWC 142-1991, f. 12-31-92, cert. ef. 1-1-92

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 fisherman or commercial bait fisherman, the dealer or canner shall prepare a Fish Receiving Ticket at time of landing. Fish receiving tickets are prenumbered in books of 50 tickets. 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. The fish receiving ticket 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;

(b) Date of receipt of food fish or shellfish;

(c) Fisherman's name from whom purchase is made. If not landed from a vessel, then fisherman's commercial license number shall be added. If received from a Columbia River treaty Indian, his/her tribal affiliation and enrollment number as shown on the official identification card issued by the U.S. Department of Interior, Bureau of Indian Affairs, or tribal government, shall be used in lieu of an address or commercial fishing license;

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

(e) Fishing gear used by the fisherman;

(f) For salmon, zone or area of primary catch;

(g) Species of food fish or shellfish received;

(h) Pounds of each species received:

(A) Pounds may be determined using any one of the following methods:

(i) Actual round weights based on certified scale measurements;

(ii) Actual round weights measured using a hopper scale;

(iii) Weights converted to round weight by multiplying the appropriate conversion weight listed in OAR 635-006-0215.

(B) Pounds shall include "weighbacks" by species. "Weighbacks" are those fish or shellfish with no commercial value.

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

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

(k) Signature of the individual preparing the fish receiving ticket;

(l) Signature of the fisherman making the landing;

(m) Species name, pounds and value of fish retained by fisherman for personal use.

(2) Except as provided in OAR 635-006-0212 and 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 Department of Fish and Wildlife, P.O. Box 59, Portland, OR 97207.

(3) Wholesale fish bait dealers landing small quantities of food fish or shellfish may request authorization to combine multiple landings on one fish ticket and to deviate from the time in which tickets are due to the Department. Such requests 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.

Stat. Auth.: ORS 496.138, ORS 496.146, ORS 496.162, ORS 506.119, ORS 506.129, ORS 508.530 & ORS 508.535

Stats. Implemented: ORS 496.138, ORS 496.146, ORS 496.162, ORS 506.119, ORS 506.129, ORS 508.530 & ORS 508.535

Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FC 274(74-6), f. 3-20-74, ef. 4-11-74; FWC 28, f. 11-28-75, ef. 1-1-76, Renumbered from 625-040-0135, Renumbered from 635-036-0580; FWC 1-1986, f. & ef. 1-10-86; FWC 99-1987, f. & ef. 11-17-87; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 22-1992(Temp), f. 4-10-92, cert. ef. 4-13-91; FWC 53-1992, f. 7-17-92, cert. ef. 7-20-92; FWC 16-1995(Temp), f. & cert. ef. 2-16-95; FWC 23-1995, f. 3-29-95, cert. ef. 4-1-95

635-006-0211

Fish Receiving Ticket — Net Caught Groundfish

For net-caught groundfish, at time of landing the following information may be recorded on a separate document in lieu of a Fish Receiving Ticket provided this original document (dock ticket) is attached to the completed dealer copy of the fish ticket subsequently submitted to ODFW:

(1) Date.

(2) Boat name and federal document or State Marine Board number from which catch was made.

(3) Pounds of fish by species:

(a) Pounds may be determined using any one of the following methods:

(A) Actual round weights based on certified scale measurements;

(B) Actual round weights measured using a hopper scale;

(C) Weights converted to round weight by multiplying the appropriate conversion weight listed in OAR 635-006-0215.

(b) Pounds shall include "weighbacks" by species. "Weighbacks" are those fish or shellfish with no commercial value.

(4) Signature of fisherman delivering the catch.

Stat. Auth.: ORS 496.112, ORS 506.109, ORS 506.119 & ORS 506.129

Stats. Implemented: ORS 496.112, ORS 506.109, ORS 506.119 & ORS 506.129

Hist.: FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 22-1992(Temp), f. 4-10-92, cert. ef. 4-13-92; FWC 53-1992, f. 7-17-92, cert. ef. 7-20-92

635-006-0212

Fish Receiving Ticket — Salmon

For all salmon, the following requirements apply in addition to those listed in OAR 635-006-0210 or 635-006-0213:

(1) Fish receiving tickets shall be completed at time of landing and the original copy forwarded within four consecutive days following the landing to the Department of Fish and Wildlife, P.O. Box 59, Portland, OR 97207.

(2) For troll-caught salmon, fish receiving tickets shall show the number of days fished during the trip in which the salmon were caught.

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

Stats. Implemented: ORS 506.109, ORS 506.119 & ORS 506.129

Hist.: FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92

635-006-0213

Fish Receiving Ticket — Limited Fish Seller Permit

(1) For food fish or shellfish sold under a *Limited Fish Seller Permit*, the Limited Fish Seller shall complete daily entries of fish sold on a fish receiving ticket. Fish receiving tickets are prenumbered in books of 50 tickets. Limited Fish Sellers shall account for all fish receiving tickets received from the Department. Fish receiving tickets shall be issued in numerical sequence. The fish receiving ticket shall include, for each day's sales:

- (a) Limited Fish Seller's name and license number;
- (b) Date of sales;
- (c) Boat name and federal document or State Marine Board number from which catch made;
- (d) Fishing gear used;
- (e) Species of fish or shellfish sold;
- (f) Quantity in pounds;
- (g) Price received per pound;
- (h) Signature of the individual preparing the fish ticket;
- (i) Name of wholesale fish dealer to whom other food fish or shellfish were sold from the same fishing trip.

(2) Except as provided in OAR 635-006-0212, the original of each fish receiving ticket covering fish and shellfish sold per trip shall be forwarded within ten working days following the end of a trip to the Department of Fish and Wildlife, P.O. Box 59, Portland, OR 97207.

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

Stats. Implemented: ORS 506.109, ORS 506.119 & ORS 506.129

Hist.: FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92

635-006-0215

Monthly Remittance Report

(1) A monthly report is required of all licensed:

(a) Wholesale fish dealers, wholesale fish bait dealers, food fish cannery, or shellfish cannery receiving food fish or shellfish from licensed commercial fishermen or bait fishermen;

(b) Limited fish sellers selling food fish or shellfish.

(2) Except as provided in OAR 635-006-0220, the report is required even though no food fish or shellfish are received or sold during the calendar month covered by the report.

(3) The following information shall be included on the report:

- (a) Fish dealer's name, license number, and address;
- (b) Calendar month of the report;
- (c) Serial numbers of all fish receiving tickets issued during the month;

(d) Total pounds of all salmon and steelhead received or sold during the calendar month on which poundage fees are due. Salmon and steelhead may be reported as round weight, dressed head on or dressed head off;

(e) Total value of salmon and steelhead received or sold during the calendar month including fish eggs and parts;

(f) Total value of all other food fish and shellfish including eggs and parts;

(g) Total pounds in the round of all other species of food fish or shellfish received or sold during the calendar month on which taxes are due. The following listed species may be converted to round weight for the purposes of completing monthly reports, by multiplying the below-listed factor by the dressed weight of that species:

(A) Troll salmon:

(i) Gilled and gutted — 1.15;

(ii) Gilled, gutted, and headed — 1.30.

(B) Halibut:

(i) Gilled and gutted — 1.15;

(ii) Gilled, gutted, and headed — 1.35.

(C) Sablefish, gutted and headed — 1.60;

(D) Pacific whiting:

(i) Fillet — 2.86;

(ii) Headed and gutted — 1.56;

(iii) Surimi — 6.25.

(E) Razor Clams, shelled and cleaned — 2.0;

(F) Scallops, shelled and cleaned — 12.2;

(G) Thresher shark — 2.0.

(h) Total value of food fish landed in another state but not taxed by that state;

(i) Total pounds in the round of all food fish landed in another state but not taxed by that state;

(j) Total fees due — In accordance with ORS 508.505 the fees are the value of the food fish at the point of landing multiplied by the following rates:

(A) All salmon and steelhead, 3.15 percent;

(B) All other food fish and shellfish, 1.09 percent until the first Emergency Board hearing of 1993 and 1.25 percent thereafter.

(k) Signature of the individual completing the report.

(4) The monthly report and all landing fees due shall be sent to the Department of Fish and Wildlife, P.O. Box 59, Portland, OR 97207, on or before the 20th of each month for the preceding calendar month. Landing fees are delinquent if not received or postmarked within 20 days after the end of the calendar month. A penalty charge of \$5 or five percent of the landing fees due, whichever is larger, shall be assessed along with a one percent per month interest charge on any delinquent landing fee payments.

Stat. Auth.: ORS 496.112, ORS 506.109, ORS 506.119, ORS 506.129, ORS 508.505 & ORS 802

Stats. Implemented: ORS 496.112, ORS 506.109, ORS 506.119, ORS 506.129, ORS 508.505 & ORS 802

Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FC 274(74-6), f. 3-20-74, ef. 4-11-74; FWC 28, f. 11-28-75, ef. 1-1-76, Renumbered from 625-040-0140; FWC 48-1978, f. & ef. 9-27-78, Renumbered from 635-036-0585; FWC 17-1981(Temp), f. & ef. 5-22-81; FWC 25-1981(Temp), f. 7-8-81, ef. 7-15-81; FWC 27-1981, f. & ef. 8-14-81; FWC 1-1986, f. & ef. 1-10-86; FWC 4-1987, f. & ef. 2-6-87; FWC 99-1987, f. & ef. 11-17-87; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 22-1992(Temp), f. 4-10-92, cert. ef. 4-13-92; FWC 53-1992, f. 7-17-92, cert. ef. 7-20-92; FWC 5-1993, f. 1-22-93, cert. ef. 1-25-93

635-006-0220

Waiver of Monthly Report

(1) Any licensed wholesale fish dealer, wholesale fish bait dealer, food fish cannery, or shellfish cannery may request waiver of the filing of monthly reports when either no food fish or shellfish will be received for more than two months in a calendar year or all food fish or shellfish purchased during the year will be received from other wholesale fish dealers. The waiver request shall be in writing and shall include the reason for the request and, if applicable, the names of the wholesale fish dealers from whom food fish will be received.

(2) Any licensed limited fish seller may request waiver of the filing of monthly reports when no food fish or shellfish will be sold for more than two months in a calendar year. The waiver request must be in writing and include the reason for the request.

Stat. Auth.: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 802

Stats. Implemented: ORS 506.109, ORS 506.119, ORS 506.129 & ORS 802

Hist.: FC 246, f. 5-5-72, ef. 5-15-72, Renumbered from 625-040-0145, Renumbered from 635-036-0590; FWC 1-1986, f. & ef. 1-10-86; FWC 99-1987, f. & ef. 11-17-87; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92

635-006-0225

Purchase, Record, and Sale of Steelhead Trout, Walleye

(1) Steelhead trout and walleye lawfully taken by treaty Indians during commercial fishing seasons may be purchased by licensed wholesale fish dealers, cannery, or buyers pursuant to

restrictions set forth in sections (2) through (5) of this rule. In addition, steelhead trout and walleye taken lawfully by treaty Indians during commercial fishing seasons may be purchased and/or possessed by any individual pursuant to restrictions set forth in section (6) of this rule.

(2) The wholesale fish dealer, canner, or buyer, shall at the time of purchase, enter the purchase of steelhead and walleye on a Department of Fish and Wildlife Columbia River Fish Receiving Ticket. Information required to be entered on the fish receiving ticket shall be the same as required by OAR 635-006-0210 and 635-006-0212 for each purchase of food fish.

(3) The record keeping and reporting requirements for food fish as set forth in OAR 635-006-0200 through 635-006-0215 shall apply to all steelhead trout and walleye purchases.

(4) In addition to the records required in connection with the purchase of steelhead trout, and walleye, a record of all sales of steelhead and walleye shall be maintained by licensed wholesale fish dealers, cannerys, or buyers for a period of three years and shall be subject to inspection by the Department or the State Police. Such record of sales shall include as a minimum:

(a) Name and address of each person to whom either steelhead or walleye are sold;

(b) Quantity in pounds of each sale identified as whole or round weight or dressed weight;

(c) Date of each delivery.

(5) It is *unlawful* for any wholesale fish dealer, canner, or buyer in possession of legally purchased steelhead or walleye to sell or distribute such fish in Oregon except to another wholesale fish dealer, canner, or buyer.

(6) Steelhead trout and walleye taken lawfully by treaty Indians during commercial fishing seasons may be purchased from a treaty Indian and/or possessed by any individual so long as said fish are accompanied by a written document listing treaty Indian taker's name, tribal enrollment number, number of fish, approximate weight of each fish, date and location where taken, date of sale, and purchaser's name. It is *unlawful* for any individual other than a treaty Indian to sell steelhead trout or walleye. The provisions in this section (6) apply to individuals other than licensed wholesale fish dealers, cannerys and buyers.

Stat. Auth.: ORS 506.119, ORS 508.530 & ORS 509.031

Stats. Implemented: ORS 498.022, ORS 506.129, ORS 508.535 & ORS 508.550

Hist.: FWC 39, f. & ef. 1-23-76, Renumbered from 625-040-0150, Renumbered from 635-036-0595; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 41-1995, f. 5-23-95, cert. ef. 5-24-95; FWC 51-1997(Temp), f. & cert. ef. 8-27-97; DFW 73-1998, f. & cert. ef. 8-28-98

635-006-0230

When Possession of Steelhead or Walleye Unlawful

Except as otherwise provided by law or rule, it is *unlawful* for any person to have in possession either steelhead trout or walleye taken by any means other than by angling.

Stat. Auth.: ORS 496.138 & ORS 509.031

Stats. Implemented: ORS 496.138 & ORS 509.031

Hist.: FWC 41, f. & ef. 1-23-76, Renumbered from 625-040-0155, Renumbered from 635-036-0600; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 41-1995, f. 5-23-95, cert. ef. 5-24-95

635-006-0232

Schedule of Damages for Commercial Fishing Violations

(1) For purposes of ORS 506.720 the following shall be the 1998 average market value of food fish species. For species not listed, the average market value shall be the price per pound paid to law enforcement officials for any fish or shellfish confiscated from the person being assessed damages, or the average price per pound paid for that species during the month in which the violation occurred, whichever is greater. Unless otherwise noted, the amount given is the price per pound and is based on round weight.

(a) FISH:

(A) Cabezon:

(i) Round weight, \$0.49;

(ii) Live, \$1.12.

(B) Carp \$0.10 (1995 price);

(C) Cod, Pacific \$0.39;

(D) Flounder, arrowtooth \$0.10;

(E) Flounder, starry \$0.31;

(F) Greenling:

(i) Round weight, \$0.44;

(ii) Live, \$2.17.

(G) Grenadier \$0.10;

(H) Hake, Pacific (Whiting) \$0.04;

(I) Halibut, Pacific, dressed weight with head on \$2.18 and with head off \$2.38;

(J) Herring, Pacific \$0.41;

(K) Lamprey, Pacific \$0.85;

(L) Lingcod:

(i) Round weight, using trawl gears \$0.40 and using line and pot gears \$0.72;

(ii) Dressed weight \$0.83.

(M) Pollock, Walleye \$0.21 (1995 price);

(N) Pacific ocean perch, nominal \$0.24 and true \$0.32;

(O) Rockfish:

(i) Black, using trawl gears \$0.50 and using line and pot gears \$0.52;

(ii) Canary, using trawl gears \$0.35 and using line and pot gears \$0.84;

(iii) Widow \$0.30;

(iv) Yellowtail, using trawl gears \$0.35 and using line and pot gears \$0.49;

(v) Other species, using trawl gears \$0.34 and using line and pot gears \$0.86.

(P) Sablefish:

(i) Round weight, ungraded \$1.79, extra small \$1.05, small \$1.24, medium \$1.39, and large \$1.64;

(ii) Dressed weight, ungraded \$2.61, extra small \$2.28, small \$3.25, medium \$3.75, and large \$3.92.

(Q) Salmon, Chinook:

(i) Columbia River round weight, winter \$5.03, spring \$2.37, ungraded fall \$0.72, tules fall \$0.17, and jacks fall \$0.42;

(ii) Ocean dressed weight, large \$1.76, medium \$1.50, small \$1.21, and mixed size \$1.65.

(R) Salmon, chum \$0.25;

(S) Salmon, coho:

(i) Columbia River round weight, ungraded \$0.73, tule \$0.30, and jacks \$0.27;

(ii) Ocean dressed weight, mixed size \$1.13 (1993 price).

(T) Salmon, pink \$0.56;

(U) Sanddab, Pacific \$0.26;

(V) Shad, American:

(i) Columbia, ungraded \$0.18, roe \$0.10, and buck \$0.17;

(ii) Coast, ungraded, gill net and set net, \$0.26.

(W) Shark, blue \$0.22, sixgill \$0.50, soupfin \$0.65, spiny dogfish \$0.09, thresher dressed weight \$1.50 (1995 price) and round weight \$1.00, and other species \$0.88;

(X) Skates and Rays \$0.17;

(Y) Smelt, unclassified \$0.23 and Eulachon (Columbia River) \$2.35;

(Z) Sole, butter \$0.39, curlfin (turbot) \$0.37, Dover \$0.30, English \$0.31, flathead \$0.32, petrale \$0.93, rex \$0.30, rock \$0.41, and sand \$0.73;

(AA) Steelhead \$0.33;

(BB) Sturgeon, green \$0.45 and white \$1.08;

(CC) Surfperch \$0.72;

(DD) Swordfish \$3.95;

(EE) Thornyhead (Sebastolobus), longspine \$0.72 and short-spine \$0.83;

(FF) Tuna, albacore \$0.71;

(GG) Walleye \$0.76 (1996 price);

(HH) Wolf-eel \$0.29;

(II) Wrymouth \$0.14.

(b) CRUSTACEANS:

(A) Crab, box \$0.75, Dungeness bay \$2.31 and ocean \$1.86, rock \$0.97, and Tanner \$0.57;

(B) Crayfish \$1.52;

(C) Shrimp, brine \$1.00, coonstripe \$3.50, ghost (sand) \$1.51, mud \$1.35, pink \$0.40 (applied to the gross round weight of the confiscated pink shrimp reported on the fish receiving ticket), and spot \$3.16.

(c) MOLLUSKS:

(A) Clams, butter \$0.36, cockle \$0.36, gaper \$0.30, littleneck \$1.69, and razor \$3.44;

(B) Mussels, ocean \$0.55;

(C) Octopus \$0.60;

(D) Hagfish \$0.40;

(E) Scallop, weathervane dressed weight (shucked) \$6.85 and round weight \$0.50;

(F) Squid \$0.18.

(d) OTHER INVERTEBRATES. Sea urchin, red \$0.46 and purple \$0.34.

(2) The Department may initiate civil proceedings where the value of any food fish unlawfully taken exceeds \$300, except for food fish taken by trawl in the groundfish fishery where the trip limit has not been exceeded by more than 15%.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109 & ORS 506.720

Hist.: FWC 9-1988, f. & cert. ef. 3-3-88; FWC 4-1989, f. 2-6-89, cert. ef. 2-7-89; FWC 2-1991, f. 1-18-91, cert. ef. 1-23-91; FWC 1-1992, f. 1-28-92, cert. ef. 2-1-92; FWC 14-1993, f. 2-26; FWC 7-1995, f. & cert. ef. 2-1-95; FWC 4-1996, f. & cert. ef. 2-5-96; FWC 6-1997, f. & cert. ef. 2-11-97; DFW 7-1998, f. & cert. ef. 1-27-98

635-006-0235

Revocation of and Refusal to Issue Commercial Fishing and Fish Dealer Licenses

(1) Except as provided in section (2) of this rule in accordance with ORS 508.485 and 508.490, upon the third conviction or third forfeiture of bail within three years for violation of any of the Commercial Fishing Laws of the State of Oregon or for conviction in the State of Washington of an offense which was a violation of Columbia River Commercial fishing rules adopted pursuant to the Columbia River Compact, by any person, the Commission shall initiate contested case proceedings in accordance with the Administrative Procedures Act (ORS Chapter 183) to revoke, or refuse to issue, licenses issued under the Commercial Fishing Laws (ORS Chapters 506 - 513).

(2) Convictions or forfeiture of bail for exceeding trip limits in the groundfish trawl fishery, where the trip limit has not been exceeded by more than 15 percent, shall not be considered as a conviction or forfeiture of bail for purposes of section (1) of this rule.

(3) The Commission shall appoint a hearings officer to conduct the contested case hearing prescribed in section (1) of this rule.

(4)(a) In addition to the hearings officer, the Commission may appoint a three-member License Revocation Board to be present at the hearing and to make advisory recommendations to the Commission concerning revocation or refusal to issue a license to that person. Boards shall consist of members representing the following fishing industries:

(A) Troll salmon;

(B) Gillnet salmon;

(C) Groundfish and shrimp;

(D) Crab;

(E) All other commercial fisheries.

(b) Only members from the appropriate board shall participate in hearings related to their subject area. The hearings officer shall notify the appropriate board of the date, time and place of the hearing, and shall provide any other public notice required by ORS Chapter 183;

(c) At the hearing, the board may request the hearings officer call additional witnesses or seek additional evidence;

(d) At the conclusion of the hearing, the board shall prepare written recommendations concerning the disposition of the case, which the board shall serve on all parties and forward to the Commission.

(5) A proposed order in the form prescribed by OAR 137-

003-0070, including findings of fact and conclusions of law, shall be prepared by the hearings officer, served on all parties, and shall be forwarded to the Commission.

(6) In accordance with ORS Chapter 183, the Commission shall provide an opportunity to all parties to respond in writing within a period set by the Commission to the proposed order of the hearings officer and to the written recommendations submitted by the board.

(7) In deciding whether to revoke or refuse to issue a license, the Commission shall consider:

(a) The recommendation of the License Revocation Board;

(b) The gravity of the most recent offense, including whether the offense was a felony and whether the offense involved a closed season, closed area, or *unlawful* gear;

(c) The gravity of the other commercial fishing offenses of which the person has been convicted or forfeited bail;

(d) The impact of the offense on the fisheries resources of the state or, where relevant, on the State of Washington, including consideration of the species involved;

(e) Whether the person also has been convicted of or forfeited bail for violations of the wildlife laws of the State of Oregon.

Stat. Auth.: ORS 508

Stats. Implemented: ORS 508

Hist.: FWC 160, f. & ef. 11-25-77; FWC 18-1978, f. & ef. 4-7-78, Renumbered from 635-036-0605; FWC 33-1982, f. & ef. 6-2-82; FWC 9-1988, f. & cert. ef. 3-3-88

Columbia River Gillnet Salmon Vessel Fleet Reduction Program

635-006-0400

Purpose

The purpose of the Columbia River gillnet salmon vessel fleet reduction program is to obtain an effective and expeditious reduction of the number of vessels in the non-Indian Columbia River commercial gillnet salmon fishing fleet to reduce their overall fishing capacity.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FWC 7-1982, f. & ef. 1-29-82; FWC 77-1982, f. & ef. 10-29-82; FWC 25-1985(Temp), f. & ef. 5-30-85

635-006-0405

Definitions

For the purpose of OAR 635-006-0400 through 635-006-0425:

(1) "Permit" shall mean a current Columbia River gillnet salmon vessel permit, issued pursuant to Chapter 679, Oregon Laws 1979.

(2) "License" shall mean a boat license issued in accordance with ORS 508.035 and 508.260.

(3) "Permit Holder" shall mean an individual who has been issued and possesses a current permit.

(4) "Vessel" shall mean a commercial fishing vessel.

(5) "Program" shall mean the Oregon Columbia River gillnet salmon fleet reduction program.

(6) "Buy-Back" shall mean the purchase by the Department of a current permit during the program.

(7) When used to describe the status of a permit, "current" shall mean either a 1984 permit for which the permitted vessel qualifies for renewal in 1985 or a 1985 permit.

(8) "Offer Price" shall mean the dollar amount at which a permit holder offers to sell the permit to the Department.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FWC 7-1982, f. & ef. 1-29-82; FWC 77-1982, f. & ef. 10-29-82; FWC 68-1983, f. & ef. 12-16-83; FWC 63-1984, f. & ef. 9-21-84; FWC 56-1986(Temp), f. & ef. 9-11-86

635-006-0410

Eligibility Requirements

In order to be eligible to participate in the program, a permit

holder must have held a license for a vessel which was used lawfully to land in Oregon salmon taken in the Columbia River gillnet salmon fishery prior to December 22, 1984.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FWC 7-1982, f. & ef. 1-29-82; FWC 77-1982, f. & ef. 10-29-82; FWC 63-1984, f. & ef. 9-21-84; FWC 56-1986(Temp), f. & ef. 9-11-86

635-006-0412

Death of Eligible Permit Holder

(1) In the event that an eligible permit holder dies subsequent to January 29, 1982, his/her permit may then be purchased from the personal representative or executor administering the estate of the permit holder.

(2) In the event that the permit holder's estate referred to in section (1) of this rule is closed:

(a) The permit may be purchased from the permit holder's spouse;

(b) In the event that the permit holder is not survived by a spouse, the permit may be purchased from the permit holder's children.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FWC 22-1983(Temp), f. & ef. 6-13-83; FWC 68-1983, f. & ef. 12-16-83

635-006-0415

Notification

All permit holders shall be notified of the program by 1st class mail to the last known address of which the Department has notice in writing from the permit holder; and shall be provided with information explaining the program's purpose, eligibility requirements, application procedures, buy-back procedures, and forms required to be completed and returned to the Department.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FWC 7-1982, f. & ef. 1-29-82; FWC 77-1982, f. & ef. 10-29-82

635-006-0420

Participation Requirements

In order to participate in the program a permit holder shall provide to the Department:

(1) A completed application form including the written consent of each person holding a security interest in the vessel to which the permit is assigned.

(2) Information on activities in the Columbia River gillnet salmon fishery including years in which salmon were lawfully landed in Oregon from the fishery, and pounds of salmon lawfully landed in Oregon in those years.

(3) A completed and signed offer to sell the permit to the Department at an offer price specified by the permit holder.

(4) A completed and signed transfer authorization of the offered permit if the offer is accepted.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FWC 7-1982, f. & ef. 1-29-82; FWC 77-1982, f. & ef. 10-29-82

635-006-0423

Ranking of Applications

The Department shall separate eligible applicants into one of the following categories:

(1) Category A shall contain permit holders who held licenses prior to February 28, 1977.

(2) Category B shall contain permit holders not contained in Category A who held licenses subsequent to February 28, 1977, but prior to December 22, 1980.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FWC 63-1984, f. & ef. 9-21-84

635-006-0425

Purchase of Permits

Permits shall first be purchased from Category A. Permits

shall be purchased from Category B only after purchases approved by the Commission from Category A are selected:

(1) Permits shall be purchased beginning with the lowest offer price.

(2) Each subsequent permit purchase shall be made at the lowest remaining offer price.

(3) In case of ties in otherwise qualified permit holders' offer prices, the Department will first purchase the permit of the permit holder with the greatest total pounds of salmon lawfully landed in Oregon from the Columbia River gillnet salmon fishery for the period 1978 through 1984.

(4) Any offer over \$1,000 shall be referred to the Commission for approval.

(5)(a) Permits which are purchased shall be retired by the Department;

(b) The transfer of the offered permit is effective upon written acceptance by the Department.

(6) The Department shall purchase no more than one permit from each applicant.

(7) The Department shall indicate on all application forms a deadline date after which no more program applications and offers to sell permits shall be accepted.

(8) Any offer to sell a permit at the offer price selected by the applicant shall constitute a formal offer to sell the permit to the Department and may not be withdrawn until 120 days after the deadline date specified on the application form provided by the Department.

(9) In determining the total salmon landings of an applicant, the Department may consider as evidence:

(a) Department records;

(b) Such information as the Department considers reliable evidence of the landings;

(c) An affidavit submitted by the permit holder concerning the quantity of salmon lawfully landed.

(10) In determining program eligibility the Department may consider as evidence:

(a) Department records;

(b) Such information as the Department considers reliable evidence of eligibility;

(c) An affidavit submitted by the permit holder concerning his/her eligibility.

Stat. Auth.: ORS 506

Stats. Implemented: ORS 506

Hist.: FWC 7-1982, f. & ef. 1-29-82; FWC 77-1982, f. & ef. 10-29-82; FWC 1-1984, f. & ef. 1-10-84; FWC 68-1983, f. & ef. 12-16-83; FWC 63-1984, f. & ef. 9-21-84; FWC 56-1986(Temp), f. & ef. 9-11-86

Developmental Fisheries Program

635-006-0800

Purpose

These rules guide the operation of the Developmental Fisheries Program pursuant to ORS 506.450 through 506.465.

Stat. Auth.: ORS 506.109, ORS 506.119 & ORS 506.450 - ORS 506.465

Stats. Implemented: ORS 506.109, ORS 506.119 & ORS 506.450 - ORS 506.465

Hist.: FWC 85-1994, f. 10-31-94, cert. ef. 11-1-94

635-006-0810

Definitions

For the purposes of OAR's 635-006-0820 through 635-006-0950 the following definitions shall apply:

(1) "Board" means the Developmental Fisheries Board appointed by the Commission.

(2) "Commission" means the Oregon Fish and Wildlife Commission.

(3) "Department" means the Oregon Department of Fish and Wildlife.

(4) "Developed fisher" means a fishery where the level of participation, catch, and effort indicate the fishery has approached optimum sustained yield and/or there is sufficient biological information, information on harvest methods, gear types, and markets

to develop a long-term management plan for the species.

(5) "Developmental fisheries species" means food fish species adopted by the Commission to be managed under the Developmental Fisheries Program.

(6) "Director" means the Director of the Oregon Department of Fish and Wildlife.

(7) "Maximum sustainable yield:" (MSY) means an estimate of the largest average annual catch or yield that can be taken over a significant period of time from each stock under prevailing ecological and environmental conditions.

(8) "Underutilized species" means a food fish species that is not presently harvested in significant quantities due to poor markets or inadequate gear development or may be caught but not utilized due to poor markets.

(9) "Optimum sustained yield" (OSY) means the desired catch level of a fishery that will provide the greatest overall benefit to the state taking into account economic, social, and ecological considerations that will maintain a level of population that insures the long-term productivity of the stock and does not impair its ability to sustain itself into the future.

(10) "Overfishing" means a level or rate of fishing mortality that jeopardizes the long-term capacity of a stock or stock complex to produce MSY.

Stat. Auth.: ORS 506.109, ORS 506.119 & ORS 506.450 - ORS 506.465

Stats. Implemented: ORS 506.109, ORS 506.119 & ORS 506.450 - ORS 506.465

Hist.: FWC 85-1994, f. 10-31-94, cert. ef. 11-1-94

635-006-0820

Annual List of Developmental Fisheries Species

(1) In consultation with the Board, the Commission shall by rule adopt an annual list, effective the first of January of each year, of food fish species that are considered to be developmental fisheries species.

(2) Any person may submit a written request to the Board to list or remove species on the Developmental Fisheries Species list by October 31. The Board shall make a recommendation to the Commission on each request at the annual review.

(3) Prior to the annual review by the Commission, the Board shall review the Developmental Fishery Program including numbers of permits, conditions of use, and research programs including financing.

Stat. Auth.: ORS 506.109, ORS 506.119 & ORS 506.450 - ORS 506.465

Stats. Implemented: ORS 506.109, ORS 506.119 & ORS 506.450 - ORS 506.465

Hist.: FWC 85-1994, f. 10-31-94, cert. ef. 11-1-94

635-006-0830

Listing as a Developmental Fisheries Species

To list a food fish species as a Developmental Fisheries Species, the Commission shall determine the species is underutilized. If the Commission determines the species is underutilized it shall:

(1) Consider existing catch history, biological data, market information.

(2) Consider any known or potential conflicts including competing users or gears, existing rules, state or federal management plans or policies, or impacts on other species.

(3) Place each species into one of three categories of the list according to the following criteria:

(a) Species in category "A" are underutilized, are not currently under another state or federal management plan, and have the potential to be economically viable. Species in category "A": shall have permit and gear limitations established by the Commission annually;

(b) Species in category "B" are underutilized, are not currently under another state or federal management plan, and have not shown the potential to be a viable fishery. A species so designated may be upgraded to the "A" category, upon application to the Board and approval by the Commission during the annual review;

(c) Species in category "C" are underutilized and are currently under another state or federal management plan already estab-

lishing permit and/or gear limitations.

Stat. Auth.: ORS 506.109, ORS 506.119 & ORS 506.450 - ORS 506.465

Stats. Implemented: ORS 506.109, ORS 506.119 & ORS 506.450 - ORS 506.465

Hist.: FWC 85-1994, f. 10-31-94, cert. ef. 11-1-94

635-006-0840

Removing a Developmental Fisheries Species From the List

(1) To remove a food fish species as a Developmental Fisheries Species, the Commission shall determine:

(a) The fishery meets the definition of a developed fishery; or
(b) The species is being harvested in excess of optimum sustained yield; or

(c) The species is listed by the State or Federal government as threatened or endangered; or is critical to the health of a species, pursuant to OAR 635-100-0130 to Section 6 of the Federal Endangered Species Act; or

(d) Continuation of commercial harvest as a developmental fisheries species may lead to excessive gear conflicts, habitat damage, or excessive discard of incidentally caught food fish; or

(e) Excessive user group conflicts.

(2) When a Developmental Fisheries Species is removed from the list, the Commission shall establish an alternative management plan for the species which may include continuation of the limited entry system or termination as a commercial species.

Stat. Auth.: ORS 506.109, ORS 506.119 & ORS 506.450 - ORS 506.465

Stats. Implemented: ORS 506.109, ORS 506.119 & ORS 506.450 - ORS 506.465

Hist.: FWC 85-1994, f. 10-31-94, cert. ef. 11-1-94

635-006-0850

Developmental Fisheries Species List

(1) The Developmental Fisheries Species List, Category "A," is as follows:

(a) FISH:

(A) Pacific hagfish (*Eptatretus stouti*) fishery has a qualifying and annual renewal requirement of five landings. There are 25 permits for harvest of which there are no trawl permits;

(B) Blue shark (*Prionace glauca*) fishery has a qualifying and annual renewal requirement of either five landings consisting of at least 500 pounds each landing or one landing consisting of at least 5000 pounds. There are 10 permits for harvest of which there are no high seas drift net permits and no large mesh gill net permits. No permit is needed for hand lines or hand harvest. Experimental gear permits may be required;

(C) Swordfish (*Xiphias gladius*) fishery has a qualifying and annual renewal requirement of either five landings consisting of at least 500 pounds each landing or one landing consisting of at least 5000 pounds. There are 20 permits for harvest by floating longline and 10 permits for harvest by other gear. Specially adapted drift/gill net may be permitted. Experimental gear permits may be required. Five single-delivery permits will be issued to those who applied by annual filing date, but did not receive a Developmental Fishery Permit. Gill net gear must conform to California gear restrictions;

(D) Northern anchovy (*Engraulis mordax*) and Pacific herring (*Clupea pallasii*) fishery has a qualifying and annual renewal requirement of either five landings consisting of at least 500 pounds each landing or one landing consisting of at least 5000 pounds. There are 15 permits for ocean harvest. Specially adapted small mesh drift/gill net may be permitted. No permit is needed for hand lines or hand harvest. Experimental gear permits may be required;

(E) Pacific sardine (*Sardinops sagax*) and Pacific saury (*Cololabis saira*) fishery has a qualifying and annual renewal requirement of either five landings consisting of at least 500 pounds each landing or one landing consisting of at least 5000 pounds. There are 15 permits for ocean harvest. Specially adapted small mesh drift/gill net may be permitted. Experimental gear permits may be required;

(F) Pacific sandfish (*Trichodon trichodon*) fishery has a qualifying and annual renewal requirement of five landings. There are

10 permits for harvest of which there are no dredging permits and no trawl permits, however, limited numbers of experimental gear permits may be issued for trawl harvest. Permits are area specific. Experimental gear permits may be required. No permit is needed for hand lines or hand harvest;

(G) Eulachon (*Thaleichthys pacificus*), whitebait smelt (*Allosmerus elongatus*), night smelt (*Spirinchus starksi*), longfin smelt (*Spirinchus thaleichthys*) and surf smelt (*Hypomesus pretiosus*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 20 permits for ocean harvest of which there are no trawl permits, however, limited numbers of experimental gear permits may be issued for trawl harvest. Specially adapted small mesh drift/gill net may be permitted. No permit is needed for hand lines or hand harvest. Experimental gear permits may be required;

(H) Pacific pomfret (*Brama japonica*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 10 permits for harvest. Experimental gear permits may be required;

(I) Slender sole (*Eopsetta exilis*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 10 permits for harvest. Experimental gear permits may be required.

(b) INVERTEBRATES:

(A) Box crab (*Lopholithodes foraminatus*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 25 permits for harvest with pots only;

(B) Grooved tanner crab (*Chionoecetes tanneri*), Oregon hair crab (*Paralomis multispina*) and scarlet king crab (*Lithodes couesi*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 10 permits for harvest with pots only;

(C) Spot prawn (*Pandalus platyceros*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds (round weight) each landing. There are six permits for harvest by trawl gear and 10 permits for harvest by other gear. Permits are area specific. Experimental gear permits may be required. Permits are issued geographically, split at Heceta Head with 50 percent issued north and 50 percent issued south of Heceta Head;

(D) Coonstripe shrimp (*Pandalus danae*) and sidestripe shrimp (*Pandalopsis dispar*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds (round weight) each landing. There are 10 permits for harvest by pot gear;

(E) Ocean cockle clams (*Clinocardium nuttallii*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are five permits for ocean harvest only. No permit is needed for hand lines or hand harvest. Experimental gear permits may be required;

(F) Bay clams including cockle clams (*Clinocardium nuttallii*), butter clams (*Saxidomus giganteus*), gaper clams (*Tresus capax*, *nuttallii*), native littleneck clams (*Protothaca staminea*), and softshell clams (*Mya arenaria*) fishery has no qualifying and annual renewal requirements for intertidal hand harvest, an unlimited number of permits, and a \$25 permit fee. There are 11 permits (individual or vessel) for subtidal dive harvest, effective March 18, 1997-December 31, 1997, and 10 permits thereafter. Qualifying requirements are either five landings consisting of at least 200 pounds each landing or an annual total of 2500 pounds for one calendar year during the qualifying period of January 1, 1990 through October 16, 1995. Annual renewal requirements are either five landings consisting of at least 100 pounds each landing or an annual total of 2500 pounds;

(G) Giant octopus (*Octopus dofleini*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 10 permits for harvest using octopus pots only;

(H) California market squid (*Loligo opalescens*) and other squid (several species) fishery has a qualifying and annual renewal requirement of either five landings consisting of at least 500

pounds each landing or one landing consisting of at least 5000 pounds. There are 30 permits for harvest using trawl gear and 30 permits for harvest using other gear types. Experimental gear permits may be required. Permits are issued geographically, split at Heceta Head with 50 percent issued north and 50 percent issued south of Heceta Head. An additional three trawl permits and 12 other gear permits shall be issued to applicants on the 1998 lottery waiting lists;

(I) Fragile urchin (*Allocentrotus fragilis*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 500 pounds each landing. There are six permits for harvest using trawl gear and six permits for harvest using other gear. Experimental gear permits may be required. Permits are issued geographically, split at Heceta Head with 50 percent issued north and 50 percent issued south of Heceta Head;

(J) Sea cucumber (*Parastichopus* spp.) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are six permits for harvest using trawl gear, 10 permits for harvest by diver, and 10 permits for harvest by other gear. Experimental gear permits may be required. Permits are issued geographically, split at Heceta Head with 50 percent issued north and 50 percent issued south of Heceta Head;

(K) Marine snails (various species) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 10 permits for subtidal harvest only;

(L) Brine shrimp (*Artemia* spp.) fishery has a qualifying and annual renewal requirement of at least 5000 pounds landed. There are three permits to harvest adults and one permit to harvest eggs. Applicants for the egg permit must have prior experience harvesting brine shrimp.

(2) The Developmental Fisheries Species List, Category "B," is as follows:

(a) FISH:

- (A) Salmon shark (*Lamna ditropis*);
- (B) Carp (*Cyprinus carpio*);
- (C) Black hagfish (*Eptatretus deani*);
- (D) Yellow perch (*Perca flavescens*);
- (E) Eelpouts (family Zoarcidae);
- (F) Brown bullhead (*Ameiurus nebulosus*);
- (G) Skiffish (*Erilepis zonifer*);
- (H) Northern squawfish (*Ptychocheilus oregonensis*).

(b) INVERTEBRATES:

- (A) Euphausiids (krill) (family Euphausiidae);
- (B) Pacific sand crab (*Emerita analoga*);
- (C) Freshwater mussels (families Margaritifera, Anodonta, Gonidea, and Corbicula).

(3) The Developmental Fisheries Species List, Category "C," is as follows:

(a) FISH:

- (A) Spiny dogfish (*Squalus acanthias*);
- (B) Soupfin shark (*Galeorhinus zyopterus*);
- (C) Skate (family Rajidae);
- (D) American shad (*Alosa sapidissima*);
- (E) Pacific cod (*Gadus macrocephalus*);
- (F) Pacific flatnose (*Antimora microlepis*);
- (G) Pacific grenadier (*Coryphaenoides acrolepis*);
- (H) Cabezon (*Scorpaenichthys marmoratus*);
- (I) Sculpins (family Cottidae);
- (J) Kelp greenling (*Hexagrammos decagrammus*);
- (K) Jack mackerel (*Trachurus symmetricus*);
- (L) Chub (Pacific) mackerel (*Scomber japonicus*);
- (M) Greenstriped rockfish (*Sebastes elongatus*);
- (N) Redstripe rockfish (*Sebastes proriger*);
- (O) Shortbelly rockfish (*Sebastes jordani*);
- (P) Sharpchin rockfish (*Sebastes zacentrus*);
- (Q) Splitnose rockfish (*Sebastes diploproa*);
- (R) Pacific sanddab (*Citharichthys sordidus*);
- (S) Butter sole (*Pleuronectes isolepis*);
- (T) English sole (*Pleuronectes vetulus*);
- (U) Rex sole (*Errex zechirus*);

- (V) Rock sole (*Pleuronectes bilineatus*);
- (W) Sand sole (*Psettichthys melanostictus*);
- (X) Curlfin (lemon) sole (*Pleuronichthys decurrens*);
- (Y) Spotted ratfish (*Hydrolagus coliei*);
- (Z) Wolf-eel (*Anarrhichthys ocellatus*);
- (AA) Walleye pollock (*Theragra chalcogramma*).
- (b) INVERTEBRATES:
- (A) Red rock crab (*Cancer productus*);
- (B) Purple sea urchins (*Strongylocentrotus purpuratus*);
- (C) Crayfish (*Pacifastacus leniusculus*).

Stat. Auth.: ORS 506.109 & ORS 506.119

Stats. Implemented: ORS 506.129 & ORS 506.450 - ORS 506.465

Hist.: FWC 85-1994, f. 10-31-94, cert. ef. 11-1-94; FWC 87-1995, f. 11-17-95, cert. ef. 11-20-95; FWC 1-1997, f. & cert. ef. 1-16-97; FWC 18-1997(Temp), f. & cert. ef. 3-18-97; FWC 34-1997, f. 6-11-97, cert. ef. 6-15-97; DFW 3-1998, f. & cert. ef. 1-12-98; DFW 17-1998(Temp), f. & cert. ef. 3-6-98 thru 7-31-98

635-006-0870

Methods to Obtain Information

For each species in category "A", the Department shall establish a program to collect needed biological and fishery information.

(1) For species with a lack of sufficient biological and other information to meet the requirement of Statewide Planning Goal 19 and other applicable laws or rules, the program shall focus on obtaining information in order to evaluate the short- and long-term impacts of harvesting the species on ocean resources, including habitats, and determine long-term sustainability of the resource.

(2) As the level of biological information increases, the program will include obtaining biological and fishery information in order to determine optimum yield and effort levels, and developing a long-term management plan.

(3) Program designs and information collected will vary from fishery to fishery and may include, but is not limited to:

- (a) A list of needed information;
- (b) specific study objectives;
- (c) Description of study methods;
- (d) Methods of reporting and analyzing data;
- (e) Literature search for existing information;
- (f) Samples of landed commercial harvest;
- (g) Observations of fishing methods and results;
- (h) Direct research projects; and
- (i) Examination of logbook information.

Stat. Auth.: ORS 506.109, ORS 506.119 & ORS 506.450 - ORS 506.465

Stats. Implemented: ORS 506.109, ORS 506.119 & ORS 506.450 - ORS 506.465

Hist.: FWC 85-1994, f. 10-31-94, cert. ef. 11-1-94

635-006-0880

Establish Commercial Harvest Program and Limited Entry System

In consultation with the Board, the Commission shall specify the number, qualifications, and conditions of use and renewal of developmental fisheries permits for species in category "A".

(1) In determining the number, qualifications, conditions of use and renewal of developmental fisheries permits, the Commission shall consider:

(a) The level of available biological information to scale the numbers of permits and conditions of use to minimize risk of overfishing and habitat disruption while a fishery is developing. When there is a lack of sufficient biological and other information for a fishery to meet the standards of Statewide Planning Goal 19 and other applicable laws or rules, the numbers of permits and conditions of use will be conservative in order to minimize the disturbance or disruption to other marine resources, including habitats, while obtaining needed information to determine long-term sustainability of the resource. As the level of biological information increases, the number of permits and conditions of use may become more liberal in order to determine optimum levels of yield and effort and to develop a long-term management plan;

(b) The availability of Department staff and/or other recognized resources to conduct necessary research and monitoring of landings;

(c) Diversity of small and large boat interests and fishing methods;

(d) The need to prevent excessive gear conflicts, and waste or damage to the environment; and

(e) The number of permits needed for market development.

(2) The Commission shall establish a minimum level of effort needed for renewal of Developmental Fisheries Species Permits.

(3) The Director may establish other permit stipulations as needed for each fishery which may include, but is not limited to, gear and area restrictions, limits of incidental catch, and sampling and observation requirements.

Stat. Auth.: ORS 506.109, ORS 506.119 & ORS 506.450 - ORS 506.465

Stats. Implemented: ORS 506.109, ORS 506.119 & ORS 506.450 - ORS 506.465

Hist.: FWC 85-1994, f. 10-31-94, cert. ef. 11-1-94

635-006-0890

Logbooks

The Department shall provide a logbook to each individual or vessel permitted to harvest developmental fishery species. Each individual or vessel skipper is responsible for maintaining the logbook in accordance with the instructions contained therein and shall, upon request of an authorized representative of the Department, permit examination and transcription of information from such logbook. Information so received by the Department shall be treated as confidential to the extent allowable under Oregon Law.

Stat. Auth.: ORS 506.109, ORS 506.119 & ORS 506.450 - ORS 506.465

Stats. Implemented: ORS 506.109, ORS 506.119 & ORS 506.450 - ORS 506.465

Hist.: FWC 85-1994, f. 10-31-94, cert. ef. 11-1-94

635-006-0900

Requirement for Developmental Fisheries Species Permit

(1) Effective January 1, 1995, except as provided in section (2) of this rule:

(a) It is *unlawful* to take or attempt to take food fish defined as a Developmental Fisheries species for commercial purposes without first obtaining a permit issued pursuant to OAR 635-006-0910;

(b) It is *unlawful* for a wholesaler, canner, or buyer to buy or receive food fish defined as developmental fisheries species from a person or vessel for which the permit required in section (1)(a) of this rule has not been issued.

(2) The permit required by section (1) of this rule is not needed for developmental fisheries species taken as incidental catch allowed under State or Federal Regulations or taken for documented live display purposes by licensed wholesale fish dealers or fish bait dealers.

(3) The permit required by section (1) of this rule is in addition to and not in lieu of the commercial fishing and boat license required by ORS 508.235 and 508.260.

Stat. Auth.: ORS 506.109, ORS 506.119 & ORS 506.450 - ORS 506.465

Stats. Implemented: ORS 506.109, ORS 506.119 & ORS 506.450 - ORS 506.465

Hist.: FWC 85-1994, f. 10-31-94, cert. ef. 11-1-94

635-006-0910

Procedures for Issuance, Transfer and Renewal of Developmental Fisheries Species Permits

(1) Applications:

(a) An applicant for a permit must submit a complete application in writing accompanied by an annual fee of up to \$75. The application shall include the species of fish to be taken, the method and gear proposed to be used, and the area from which the Developmental Fisheries Species are to be taken, and other information as the Department may require;

(b) Complete applications must be received postmarked or date-stamped by January 1 of the year of issue for new species

added to the developmental fishery list in OAR 635-006-0850, and thereafter by the annual filing date of February 1 of the year of issue;

(c) An application shall be considered complete if it is legible, has all information requested on the form, and is accompanied by the required fee in full. Any application which is not complete shall be returned and, unless it is thereafter resubmitted and deemed complete by the filing date, the individual shall not be considered to have applied in a timely manner.

(2) Number of permits allowed:

(a) An individual shall not submit more than one application, per permittee, for each developmental fishery species gear category;

(b) No permittee who holds a valid developmental fisheries permit may apply for any additional permits for the same species gear category. A valid developmental fisheries permit is a permit which is neither at issue in a pending Permit Review Board proceedings nor before a court of law;

(c) If a permittee, who holds a permit at issue either before the Permit Review Board or a court of law, is awarded another permit for the same species gear category through the lottery and thereafter prevails before the Permit Review Board or in court, the permittee shall immediately surrender one of the permits to any Department office, so that only one valid permit per species gear category is held.

(3) Issuance of permits:

(a) If the number of applications received by the filing date is less than the number of permits available, all applicants who have submitted complete applications shall be issued a permit within 14 days of the filing date.

(A) Any remaining permits shall be issued on a first-come, first-served basis, within 14 days of receipt of each completed application, until the maximum number of permits is issued. Priority shall be based on postmark or date-stamped date;

(B) The names of applicants who did not receive a permit shall be placed on an alternates list, in the order they are received, until the next annual filing date. Applicants whose names are placed on the alternates list shall be refunded their permit fee minus a \$10 application fee. Permits which become available before the end of the year shall be made available to the alternates list, in the order listed. The applicant shall be notified of an available permit and shall resubmit a complete application and permit fee within 30 days of the date the notification is mailed. The permit shall be issued within 14 days of receipt of the resubmitted application and fee. If an alternate fails to apply, he shall forfeit the permit and the permit shall then be made available to the next name on the alternates list.

(b) If the number of applications received by the filing date is greater than the number of permits available, the Department shall determine first how many applications there are with preference points as accrued under OAR 635-006-0915, except for new species that have qualification restrictions set forth in OAR 635-006-0850. Evidence of landings must be supplied by the applicant and submitted with the application.

(A) If the number of these applicants does not exceed the number of permits, they shall be given all available permits and any remaining applicants shall be placed in a lottery;

(B) If the number of applicants who have preference points exceeds the number of permits, then these applicants only shall be placed in a lottery, and grouped by the number of preference points they have accrued for each species gear category. Applicants with the highest number of preference points for each species gear category will be drawn first. Applicants having the highest number of preference points per species gear category will be drawn next. This permit issuance process will continue through descending numbers of preference points until all the available permits have been issued, unless all qualified applicants with preference points have been issued permits prior to that point. Permits shall be issued within 14 days of the lottery;

(C) In addition, remaining applicants (who do not have preference points) shall be placed in a lottery and their names shall be drawn;

(D) The Department then shall prepare an alternates list, in which applicants who have preference points are listed first (in the order drawn), and thereafter remaining applicants are listed, in the order in which they were drawn. All applicants whose names are placed on the alternates list shall be refunded their permit fee minus a \$10 application fee. Any permits available before the end of the year shall be made available to the first name on the alternates list. The applicant shall be notified of an available permit and shall resubmit a complete application and permit fee within 30 days of the date the notification is mailed. The permit shall be issued within 14 days of receipt of the resubmitted application and fee. If an alternate fails to apply for the lottery permit within 30 days, he shall forfeit such permit and the permit shall then be made available to the next name on the alternates list.

(c) Permits may be made available before the end of the year by a permittee voluntarily turning in a permit.

(4) Persons to whom permits are issued: Permits shall be issued to either a vessel or an individual person when hand harvest methods are used. The permit holder is the owner or controller of the vessel or the individual person when hand harvest methods are used.

(5) Transfer of permits: Permits for Developmental Fisheries Species are not transferable to another person or entity; provided however that permits may be transferred to another vessel owned or controlled by the permit holder up to two times annually.

(a) To transfer a permit, a permittee shall first apply on a form provided by the Department and shall include a \$25 transfer fee;

(b) No transfer shall be considered effective until the permittee has received approval from the Department and an updated permit.

(6) Renewal of permits:

(a) Permits may be renewed by submission, to the Department, of the appropriate fee and a complete application date-stamped or postmarked before January 1 of the year for which renewal is sought;

(b) An application for renewal shall be considered complete if it is legible and has all information requested on the form and is accompanied by the required fee in full. Any application which is not complete shall be returned, and unless it is thereafter resubmitted and deemed complete before January 1, the individual shall not be considered to have applied for renewal in a timely manner;

(c) It is the responsibility of the permit holder to ensure an application is complete and is filed in a timely manner. Failure of the Department to return an application for incompleteness or of an individual to receive a returned application shall not be grounds for treating the application as having been filed in a timely and complete manner;

(d) In addition to timely and complete filing to renew a permit, a permittee must annually lawfully land the required pounds and/or landings listed in OAR 635-006-0850. However, if a permittee obtained a permit later than July 1 of the prior year, the permittee shall not be required to make the annual landing requirement by the following January. Instead, at the next renewal thereafter, the permittee shall be required to demonstrate the annual landing requirement was fulfilled during the first full year in which the permit was held.

(7) Authority of Director: Consistent with OAR 635-006-0810 through 635-006-0950, the Director is authorized to issue Developmental Fisheries Permits under the authority of ORS 506.460.

Stat. Auth.: ORS 506.109 & ORS 506.119

Stats. Implemented: ORS 506.129 & ORS 506.450 - ORS 506.465

Hist.: FWC 85-1994, f. 10-31-94, cert. ef. 11-1-94; FWC 2-1996, f. & cert. ef. 1-23-96; FWC 1-1997, f. & cert. ef. 1-16-97; DFW 3-1998, f. & cert. ef. 1-12-98

635-006-0915 Preference Point System

(1) Valid applicants who did not receive a permit during the lottery shall receive one preference point applicable to subsequent permit lotteries for the species gear category for which points

were accrued, except as excluded in section (4) of this rule.

(2) Applicants shall accrue no more than one preference point per species gear category per year.

(3) Applicants successful in obtaining a permit shall have zero preference points when they next apply for a new permit in that species gear category.

(4) Applicants will forfeit preference points accumulated for a species gear category when they do not apply for that species gear category for two consecutive years.

(5) Department records are final to determine accrued preference points for permit applicants.

(6) Each applicant's preference point accrual record will be jointly linked to his or her social security number or tax ID number and vessel document number. Preference point applicants shall use the same social security number or tax ID number and vessel document number each time they apply for a permit.

(7) Applicants will receive no preference points when their application is not received by the appropriate application date.

Stat. Auth.: ORS 506.109 & ORS 506.119

Stats. Implemented: ORS 506.129 & ORS 506.450 - ORS 506.465

Hist.: DFW 3-1998, f. & cert. ef. 1-12-98

635-006-0930

Review of Denials

(1) A Permit Review Board consisting of members appointed by the Commission shall be established as follows:

(a) Three members shall be chosen to represent developing fisheries industries; and

(b) Two members shall be chosen to represent the public.

(2) An individual whose application for issuance, renewal or transfer of the permit required by OAR 635-006-0900 is denied by the Department may, within 60 days of receipt of denial, make written request, accompanied by a \$25 application fee, to the Permit Review Board for a review of the denial. The request shall be in such form and shall contain such information as the Permit Review Board considered appropriate.

(3) In accordance with any applicable provisions of ORS 183.310 to 183.550, the Permit Review Board shall review the denial by the Department of an application for issuance, renewal or transfer of a permit. The Permit Review Board may recommend waiver of landing requirements for renewal of a permit if it finds that failure to meet those requirements was due to illness, injury, or circumstances beyond the control of the permittee. Orders issued by the Permit Review Board are not subject to review by the Commission but may be appealed as provided in ORS 183.480 to 183.550.

Stat. Auth.: ORS 506.109, ORS 506.119 & ORS 506.450 - ORS 506.465

Stats. Implemented: ORS 506.109, ORS 506.119 & ORS 506.450 - ORS 506.465

Hist.: FWC 85-1994, f. 10-31-94, cert. ef. 11-1-94

635-006-0940

Emergency Suspension of Permits

In the event of a resource emergency, the Director may, after consultation with the Board, suspend temporarily all or any permits in a developmental fishery. Such suspension shall be in effect only until such time as the Commission considers whether to terminate or make permanent the suspension.

Stat. Auth.: ORS 506.109, ORS 506.119 & ORS 506.450 - ORS 506.465

Stats. Implemented: ORS 506.109, ORS 506.119 & ORS 506.450 - ORS 506.465

Hist.: FWC 85-1994, f. 10-31-94, cert. ef. 11-1-94

635-006-0950

Reduction of Permit Numbers

If habitat impacts, incidental catch and/or reduced catch-per-unit effort raise concerns, the Commission, in consultation with the Board, may establish a system to reduce the number of permits issued. The Commission may choose a system which includes, but is not limited to:

(1) Reduction through attrition of permits not meeting the minimum level of effort for renewal.

(2) Recall of all existing permits and reissuance through a lottery system up to the new level of permits allowed.

(3) Revocation of permits by date-of-issue: last permit issued is first removed.

Stat. Auth.: ORS 506.109, ORS 506.119 & ORS 506.450 - ORS 506.465

Stats. Implemented: ORS 506.109, ORS 506.119 & ORS 506.450 - ORS 506.465

Hist.: FWC 85-1994, f. 10-31-94, cert. ef. 11-1-94

Restricted Vessel Permit Systems

635-006-1005

Introduction to Organization

(1) Over the years, a variety of laws have been passed concerning limited entry commercial fisheries. Some statutes are very detailed and little rulemaking is needed to implement these statutes. Other statutes rely on the rulemaking authority of the Fish and Wildlife Commission to create a limited entry system. Previously, administrative rules were organized by fisheries, resulting in inconsistent provisions as well as duplication. This new rule approach is based on topics, rather than specific fisheries. For each topic, the applicable law for each fishery is either set forth or, where the statute provides detail, the statute is cited.

(2) The topics covered by these rules are:

(a) Definitions - OAR 635-006-1010;

(b) Requirement for permit - OAR 635-006-1015;

(c) Permit Fee - OAR 635-006-1025;

(d) Eligibility Requirements for a Permit - OAR 635-006-1035;

(e) Evidence of Eligibility - OAR 635-006-1050;

(f) Revocation and Refusal to Issue Permits - OAR 635-006-1060;

(g) Review of Denials - OAR 635-006-1065;

(h) Renewal of Permit - OAR 635-006-1075;

(i) Lottery for Certain Limited Entry Fisheries - OAR 635-006-1085;

(j) Transferability of Permits - OAR 635-006-1095;

(k) Logbook Required in Sea Urchin Fishery - OAR 635-006-1110;

(l) Vessel Length Modification in Ocean Dungeness Crab Fishery - OAR 635-006-1120;

(m) Commercial Fisheries Boards - OAR 635-006-1200;

(n) Agency Representation by Employee - OAR 635-006-1210.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96

635-006-1010

Definitions

For the purpose of OAR 635-006-1015 through 635-006-1210:

(1) "Completion" of a vessel for the purposes of initial eligibility for an Oregon ocean Dungeness crab permit pursuant to ORS 508.931 is defined as:

(a) A date identified in a contract document as the proposed or actual date of completion; or

(b) The date an insurance policy was in effect covering the vessel for loss or liability; or

(c) The date of inspection for certification by the U.S. Coast Guard; or

(d) Other written document acceptable to the Department that establishes the actual date the vessel was completed for the purposes of entering the Oregon ocean Dungeness crab fishery.

(2) "Crab fishing season" is the period from December 1 of one year through August 14 of the next year.

(3) "Length" or "Overall Length" of a vessel means the manufacturer's specification of overall length, United States Coast Guard or Marine Board registered length documentation stating overall length or overall length as surveyed by a certified marine surveyor. In determining overall length, marine surveyors shall measure in a straight line parallel to the keel from the foremost

part of the vessel to the aftermost part, excluding sheer and excluding bow sprits, boomkins, rudders aft of the transom, outboard motor brackets, or transom extensions as in a dive step or platform. For the purpose of initial ocean Dungeness crab permit issuance, length of the vessel is overall length of the vessel on September 9, 1995.

(4) "Ocean Dungeness crab fishery" for the purposes of ORS 508.926, means all fishing for Dungeness crab in Oregon waters of the Columbia River and all other ocean water seaward of Oregon's coastline and river mouths.

(5) "Owner" is any ownership interest in a vessel, including interests arising from partnerships, corporations, limited liability corporations, or limited liability partnerships. Owner does not include a leasehold interest.

(6) "Replacement vessel" is a vessel purchased to replace a permitted vessel which has been lost due to fire, capsizing, sinking or other event. For the ocean Dungeness crab fishery, a replacement vessel shall be no more than 10 feet greater than the vessel which it replaces.

(7) "Sea urchin fishery" shall mean the commercial fishing for *Strongylocentrotus franciscanus*, *S. purpuratus*, and *S. droebachiensis*.

(8) "Under construction" for the purposes of initial eligibility for an Oregon ocean Dungeness crab permit pursuant to ORS 508.931, means that between December 1, 1988, and August 14, 1991, a contract was signed and earnest money paid equaling at least 10% of the value of the contract, or invoices have been paid for 10% or more of the total construction cost, to produce a newly constructed vessel, including, but not limited to, the laying of the new vessel's keel.

(9) "Yaquina Bay Roe-herring fishery" shall mean the commercial net fishery for Pacific herring (*Clupea harengus pallasii*) which occurs annually between January 1 and April 15 in Yaquina Bay.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109

Hist.: FWC 76-1995, f. 9-13-95, cert. ef. 9-19-95; FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; FWC 64-1996, f. 11-13-96, cert. ef. 11-15-96

635-006-1015 Requirement for Permit

(1) The following provide general requirements for permits:

- (a) Gillnet salmon - see ORS 508.775;
- (b) Troll salmon - see ORS 508.801 and 508.828;
- (c) Shrimp - see ORS 508.880 and 508.883;
- (d) Scallop - see ORS 508.840 and 508.843;
- (e) Roe-herring:

(A) It is *unlawful* for an individual to operate a vessel in the Yaquina Bay roe-herring fishery without first obtaining a vessel permit issued pursuant to OAR 635-006-1035 through 635-006-1095;

(B) It is *unlawful* for a wholesaler, canner or buyer to buy or receive roe-herring taken in the Yaquina Bay roe-herring fishery from a vessel for which the permit required by section (1)(e) of this rule has not been issued.

(f) Sea Urchin:

(A) It is *unlawful* for an individual to take or attempt to take sea urchins for commercial purposes without first obtaining a permit issued pursuant to OAR 635-006-1035 through 635-006-1095;

(B) It is *unlawful* for a wholesaler, canner, or buyer to buy or receive sea urchins taken in the sea urchin fishery from a person for which the permit required by section (1)(f) of this rule has not been issued.

(g) Ocean Dungeness crab: Except as provided under the reciprocity provisions of section 6 (3), it is *unlawful* for an individual to operate a vessel in the ocean Dungeness crab fishery without first obtaining a vessel permit issued pursuant to ORS 508.931 or 508.941. A single delivery license may not be substituted for an ocean Dungeness crab permit. Once a vessel has obtained an ocean Dungeness crab permit, Dungeness crab may be landed by the vessel using a combination of an ocean Dungeness crab permit and a single delivery permit in lieu of a com-

mercial fishing and boat license. However, crab may not be landed more than twice in any one crab season using single delivery permits.

(2) The permits required by section (1) of this rule are in addition to and not in lieu of the commercial fishing and boat license required by ORS 508.235 and 508.260.

(3) No vessel may hold more than one vessel permit for a given fishery at any one time.

(4) Unless otherwise provided, vessel permits must be purchased by December 31 of the license year.

(5) No vessel permit may be transferred away from a vessel without the lien holder's written permission.

(6) Applications for permits shall be in such form and contain such information as the Department may prescribe. Proof of length of a vessel may be required at the time of application.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; FWC 64-1996, f. 11-13-96, cert. ef. 11-15-96

635-006-1025

Permit Fee

The annual fee to participate in limited entry fisheries is as follows:

(1) Gillnet salmon - \$75. See ORS 508.790 and Section 6, Chapter 512, Oregon Laws 1989.

(2) Troll salmon - \$75. See ORS 508.816 and Section 6, Chapter 512, Oregon Laws 1989.

(3) Shrimp - \$75. See ORS 508.901.

(4) Scallop - \$75. See ORS 508.858.

(5) Roe-herring - \$75. See ORS 508.765.

(6) Sea Urchin - \$75. See ORS 508.760.

(7) Ocean Dungeness crab - \$75. See ORS 508.941(4).

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; FWC 64-1996, f. 11-13-96, cert. ef. 11-15-96

635-006-1035

Eligibility Requirements for a Permit

Eligibility for a limited entry permit is as follows:

(1) Gillnet salmon - see ORS 508.784.

(2) Troll salmon - see ORS 508.810.

(3) Shrimp - see ORS 508.886 and 508.895.

(4) Scallop - see ORS 508.852.

(5) Roe-herring - An individual is eligible to obtain the permit required by ORS 508.765:

(a) By renewal of previous year's permit;

(b) Through the lottery if a lottery is held in accordance with OAR 635-006-1085.

(6) Sea Urchin - An individual licensed as a commercial fisherman under ORS 508.235 is eligible to obtain the permit required by OAR 635-006-1015:

(a) By renewal of previous year's permit; or

(b) Through the lottery if a lottery is held in accordance with OAR 635-006-1085; or

(c) Through a duly authorized medical transfer of an existing permit in accordance with 635-006-1095;

(d) By combining three currently renewed permits into one new permit as provided in OAR 635-006-1095.

(7) Ocean Dungeness crab:

(a) See ORS 508.931;

(b) For the purposes of eligibility for the ocean Dungeness crab fishery permit, a boat which received a license waiver issued pursuant to ORS 508.808 shall be considered as having possessed a boat license for that year;

(c) ORS 508.931 and 508.941 require that the vessel be previously licensed in accordance with ORS 508.260 for the purposes of initial eligibility for an ocean Dungeness crab fishery permit. A single delivery license may not be substituted for a boat license for this purpose.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; FWC 64-1996, f. 11-13-96, cert. ef. 11-15-96

635-006-1050

Evidence of Eligibility

In making determinations regarding issuance or renewal of any limited entry permit, the Department and the Commercial Fishery Permit Board may consider as evidence of permit qualifications or requirements Department records and such receipts, accounts, contracts and other business records of private parties as the Department or the Board considers reliable evidence of the qualifications or requirements in question.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109

Hist.: FWC 76-1995, f. 9-13-95, cert. ef. 9-19-95; FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96

635-006-1060

Revocation and Refusal to Issue Permits

The Commercial Fishery Permit Board may revoke and refuse subsequent issuance of limited entry fisheries permits as follows:

- (1) Gillnet salmon permit - see ORS 508.787.
- (2) Troll salmon permit - see ORS 508.813.
- (3) Shrimp permit - see ORS 508.898.
- (4) Scallop permit - see ORS 508.855.
- (5) Roe-herring permit - see ORS 508.485 and 508.490.
- (6) Sea Urchin permit - see ORS 508.485 and 508.490.
- (7) Ocean Dungeness crab permit - see ORS 508.485 and 508.490.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109

Hist.: FWC 76-1995, f. 9-13-95, cert. ef. 9-19-95; FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; FWC 64-1996, f. 11-13-96, cert. ef. 11-15-96

635-006-1065

Review of Denials

(1) An individual whose application for issuance or renewal of a limited entry permit is denied by the Department may request review of the Department's decision by doing so in writing to the Commercial Fishery Permit Board. The procedure for requesting review and the applicable standard of review shall be as follows:

- (a) Gillnet salmon- see ORS 508.796;
- (b) Troll salmon - see ORS 508.825;
- (c) Shrimp - see ORS 508.910;
- (d) Scallop - see ORS 508.867;
- (e) Roe-herring - see ORS 508.765. For the roe-herring fishery, the Board may waive requirements for permits if the Board finds that:

(A) The individual for personal or economic reasons chose to actively commercially fish the permit vessel in some other ocean fishery during the roe-herring season; or

(B) The Board finds that the individual failed to meet the requirements as the result of illness, accident or other circumstances beyond the individual's control.

(f) Sea Urchin - see ORS 508.760. For the sea urchin fishery, the Board may waive requirements for permits if the Board finds that failure to meet the requirements was due to illness, injury or circumstances beyond the control of the permittee;

(g) Ocean Dungeness crab - see ORS 508.941.

(2) The Board may delegate to the Department its authority to waive requirements for renewal of permits in all fisheries in such specific instances as the Board sets forth in a letter of delegation to the Department.

(3) For those fisheries requiring a \$75 application fee for Board review, the fee is nonrefundable. However, if the Board grants the applicant's request, the nonrefundable fee shall apply toward the permit fee.

(4) Orders issued by the Board are not subject to review by the Commission, but may be appealed as provided in ORS 183.480 to 183.550.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; FWC 64-1996, f. 11-13-96, cert. ef. 11-15-96

635-006-1075

Renewal of Permit

(1) An individual who obtained a limited entry vessel permit may renew the permit as follows:

- (a) Gillnet salmon- see ORS 508.781;
- (b) Troll salmon - see ORS 508.807;
- (c) Shrimp - see ORS 508.892;
- (d) Scallop - see ORS 508.849;
- (e) Roe-herring permit - Permits may be renewed by submission to the Department of a \$75 fee and a complete application;
- (f) Sea Urchin permit:

(A) Permits may be renewed by submission to the Department of a \$75 fee and a complete application date-stamped or postmarked by January 31 of the year for which renewal is sought; and

(B) The permittee shall have annually lawfully landed 5,000 pounds of sea urchins in Oregon. If a permittee obtained a permit later than January of the prior year (because the permit was obtained through the lottery, or as a result of Permit Board actions or surrender of a permit by a permit holder), the permittee shall not be required to make the 5,000 pound landing by the following January. Instead, at the next renewal thereafter, the permittee shall be required to demonstrate that the 5,000 pound landing requirement was fulfilled during the first full year (twelve-month period) in which the permit was held.

(g) Ocean Dungeness crab permit - see ORS 508.941.

(2) An application for renewal in any limited entry fishery shall be considered complete if it is legible, has all information requested in the form, and is accompanied by the required fee in full. Any application which is not complete shall be returned, and unless it is thereafter resubmitted and deemed complete by January 31, the individual shall not be considered to have applied for renewal in a timely manner.

(3) It is the responsibility of the permittee to ensure that an application is complete and is filed in a timely manner. Failure of the Department to return an application for incompleteness or of an individual to receive a returned application shall not be grounds for treating the application as having been filed in a timely and complete manner.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; FWC 64-1996, f. 11-13-96, cert. ef. 11-15-96

635-006-1085

Lottery for Certain Limited Entry Fisheries

(1) A lottery process is provided in all limited entry fisheries except ocean Dungeness crab.

(2) A lottery for issuance of permits shall be conducted as follows:

- (a) Gillnet salmon - see ORS 508.792;
- (b) Troll salmon - see ORS 508.819;
- (c) Shrimp - see ORS 508.904;
- (d) Scallop - see ORS 508.861. If the number of permits issued in accordance with ORS 508.849 falls below 25, the Department in the next succeeding calendar year may issue permits by a lottery system. However, the total number of permits issued shall not exceed 25;

(e) Roe-herring - If the number of permits issued in accordance with OAR 635-006-1035 falls below six, the Department in the next succeeding calendar year may issue permits by a lottery system. However, the total number of permits issued shall not exceed six;

(f) Sea Urchin:

(A) If the total number of permits which have been renewed, and/or for which an appeal is pending, with the Commercial Fishery Permit Board and/or awarded through a prior lottery, is less

than 30, a lottery shall be held on the 4th Friday in April;

(B) An individual must be 18 years of age or older and furnish proof of age to be eligible for the lottery;

(C) An individual may not already hold a valid urchin permit, however, an individual whose permit is at issue in a pending Sea Urchin Permit Board proceeding or before a court of law may participate in the lottery;

(D) If a permittee whose permit is at issue either before the Sea Urchin Permit Board or a court of law is awarded another permit through the lottery and thereafter prevails before the Board or in court, the permittee shall immediately surrender one of the permits to any Department office, so that only one valid permit is held;

(E) An individual who qualifies to participate in the lottery shall send a complete lottery application to the Department, date-stamped or postmarked no later than April 15 of the year for which the permit is to be issued. An individual shall not submit more than one application to participate in the lottery. For successful applicants, the application fee shall apply toward the permit fee of \$75;

(F) The names of lottery applicants shall be drawn to obtain the available permits. All other names of lottery applicants shall be drawn and placed on an alternate list in the order in which they were drawn, and shall be issued permits during the next 24 months as they may become available through Permit Board actions or surrender of permits by a permit holder;

(G) An individual whose name is drawn in the lottery shall thereafter apply on the prescribed form, to the Department to obtain a permit. Such application must be received by the Department within 30 days of the date the notification was mailed to the successful applicant following the lottery;

(H) Any individual who fails to apply for the lottery permit within 30 days shall forfeit such permit. The permit shall then be made available to the first name on the alternate list, and shall be applied for in accordance with section (G) of this rule;

(I) If all permits are not issued by renewal or through the lottery, permits thereafter may be issued on a first come first served basis up to the total number of permits allowed. All applications shall be mailed to the Department and priority shall be based on postmark or date-stamped date;

(J) The Commission may suspend the lottery for up to two years based upon its assessment of the condition of the resource and recommendations of the Sea Urchin Permit Review Board.

(3) Each applicant for a permit lottery shall complete the application form prescribed by the Department.

(4) Application for vessel permits shall only be accepted for vessels, which in the judgment of the Department, are capable of operating the gear necessary to legally participate in the fishery. Vessels of a size or design incapable of harvesting the permitted species are not eligible for the lottery.

(5) Only one application per vessel may be submitted for each permit fishery lottery.

(6) Any application which is not legible, has incomplete information, or is postmarked after the deadline will not be entered in the lottery. Applications for all vessel permits will be accepted at the Headquarters Office of the Department of Fish and Wildlife, and shall be postmarked or date stamped no later than June 30 of the year for which the permit is issued.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96

635-006-1095

Transferability of Permits

Any transfer of a permit away from a vessel without the written consent of each person holding a security interest in such vessel is void. The following rules apply to transfer of limited entry fishery permits:

(1) Gillnet salmon - see ORS 508.793.

(2) Troll salmon - see ORS 508.822.

(3) Shrimp - see ORS 508.907.

(4) Scallop - see ORS 508.864.

(5) Roe-herring: A permit is transferable to:

(a) A replacement vessel of the permit holder; or, upon request of a permit holder, the Department may authorize transfer of a permit to a replacement vessel owned by an individual other than the permit holder. However, any transfer of a permit away from a vessel without the written consent of each person holding a security interest in such vessel is void;

(b) The purchaser of the vessel when the vessel is sold.

(6) Sea Urchin:

(a) Medical Transfers: If the number of permits is at 31 or more, the Department may authorize a permit to be transferred to a specified individual for up to 90 days upon petition by a permittee on the form provided by the Department. The Department's decision to allow a transfer shall be based on a finding that the current permit holder is unable to participate in the fishery due to injury or illness which prevents diving, based on medical evidence submitted by the permit holder and such other evidence the Department considers reliable. At the end of the transfer period, the transfer may be renewed by the Department to the original transferee or to a new transferee, provided that the permittee again submits medical evidence documenting that the injury or illness continues to prevent the permittee's return to diving. The total amount of time a permit may be transferred shall not exceed two years (beginning with the first medical transfer in 1996). When the total number of permits reaches 30 or less the Department shall not allow any permit transfers for any medical reason;

(b) If the Department, or the Board, after review of a denial by the Department, allows a transfer, the original permit holder shall give written notice to the Department of the name, address and telephone number of the transferee. The original permit holder may, at any time during the transfer period specified in subsection (6)(a), request the Department to transfer the permit back to the original permit holder. Such transfer requires 30 days' written notice to the Department. In any event, upon expiration of the transfer period specified in (6)(a), or upon cancellation of a transfer due to lack of medical evidence of continuing inability to dive, the permit shall revert automatically to the original permit holder, unless the transfer is renewed, as provided in subsection (6)(a) of this rule;

(c) The total landings of sea urchins by all transferees of a permit shall not exceed the greater of either of the following amounts:

(A) Up to 5,000 pounds per 90-day period, not to exceed 5,000 pounds annually; or

(B) Twenty-five percent of the amount landed by the original permit holder in the previous season's catch, for each 90-day period.

(d) Combination Permit Transfers: If the number of permits is at 31 or more, the Department may transfer permits from one person to another as follows:

(A) The individual receiving the transferred permit (the purchaser) obtains no more than three total permits, each of which is valid for the current year in which the permit is purchased, from existing permit holders;

(B) The Department combines the three permits into a single new permit issued to the purchaser; and

(C) No transferred permit is valid for harvesting sea urchins until conditions (d)(A) and (d)(B) are met. Individual permits which are transferred may not be used individually and are not renewable. Once a permit has been transferred in accordance with (d)(A) the individual to whom the permit has been transferred has up to 24 months from the date of transfer to combine it with two others to create a valid new permit.

(e) When the total number of permits reaches 30 or less, the Department shall approve the transfer of any permit to any purchaser of the permit, provided that not more than one sale or transfer of the permit occurs within that calendar year.

(7) Ocean Dungeness crab - see ORS 508.936 and:

(a) The vessel permit is transferable provided the vessel holding the permit has landed at least 500 pounds of ocean Dungeness crab in each of two crab fishing seasons in the last five crab seasons which includes landings made during any season open at the

time of application. Crab fishing season means ocean Dungeness crab season. However, the Board may waive the landing requirement as well as the 60-month waiting period provided by ORS 508.936 if the Board finds that strict adherence to these requirements would create undue hardship to the individual seeking to transfer a permit. The board also may delegate to the Department its authority to waive these requirements in such specific instances as the Board sets forth in a letter of delegation to the Department;

(b) The vessel permit is transferable:

(A) To another vessel; or

(B) To the purchaser of the vessel when the vessel is sold.

(c) The vessel to which a permit is transferred, with the exception of vessels covered by (d), shall not be:

(A) More than 10 feet longer than the vessel from which the permit is transferred; and

(B) More than 99 feet in length.

(d) Permits obtained as a result of qualifying under section (1)(e) of ORS 508.931 may only be transferred to vessels of a length of 26 feet or less;

(e) The length of a vessel for purposes of transferring permits is the length of that vessel on September 9, 1995, unless subsequently modified to increase its length;

(f) Except for vessels described in section (d), transfer of permits is limited to vessels no more than 10 feet longer than the permitted vessel, regardless of length of vessels previously holding the permit;

(g) In the event a vessel is destroyed due to fire, capsizing, sinking or other event, the vessel owner has up to two years to transfer the ocean Dungeness crab fishery permit to a replacement vessel.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; FWC 64-1996, f. 11-13-96, cert. ef. 11-15-96

635-006-1110

Logbook Required

The Department shall provide a logbook to each individual permitted to harvest sea urchins. Each individual is responsible for maintaining the logbook in accordance with the instructions contained therein and shall, upon request of an authorized representative of the Department, permit examination and transcription of information from such logbook. Information so received by the Department shall be considered as confidential.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96

635-006-1120

Vessel Length Modification in Ocean Dungeness Crab Fishery

(1) No vessel holding a ocean Dungeness crab permit shall be modified to increase its length by more than 10 feet during any 60-month period. If a permitted vessel is modified, the owner shall promptly notify the Department and the 60-month period shall begin on the date the Department receives notification.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96

635-006-1200

Commercial Fisheries Boards

See ORS 508.920. In addition:

(1) The members of the Boards established by ORS 508.920 shall:

(a) Be members in good standing within their community;

(b) Serve staggered three-year terms. The term of a board member shall end three years from the date the Commission confirms an individual as a board member. An individual shall not serve more than two consecutive terms as a board member;

(c) Serve at the pleasure of the Commission and may be removed if in the judgment of the Commission, the Board member is no longer qualified to serve including, but not limited to, a

conviction for violation of fish and wildlife laws, or inappropriate conduct during the course of Permit Board proceedings.

(2) Members representing the commercial fisheries described in ORS 508.920 shall maintain a valid permit or license for the fishery they represent. If such permit or license becomes invalid for any reason, the term of the individual on the permit board terminates on the date the permit or license expires.

(3) When issues are pending before the Commercial Fisheries Permit Boards, the Boards shall meet not less frequently than once every calendar quarter to make disposition of such issues.

(4) The Department shall provide an Administrative Hearings Officer to assist the Commercial Fisheries Permit Board in developing the record and preparing the Boards' Opinion and Order. The Administrative Hearings Officer shall exhibit through references and experience a thorough understanding of the Administrative Procedures Act.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.129 & ORS 508.920

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96

635-006-1210

Agency Representation by Employee

(1) The Director, or a person designated by the Director, with the written consent of the Attorney General pursuant to ORS 183.450(7)(a) is authorized to appear and participate (but not make legal argument) on behalf of the department in hearings before the Commercial Fishery Permit Board.

(2)(a) Legal argument, as used in ORS 183.450(8) and in this rule, has the same meaning as in Model Rule OAR 137-003-0008(1)(d), which includes arguments concerning:

(A) The jurisdiction of the department to hear the matter;

(B) The constitutionality of a statute or rule or the application of a constitutional requirement to the department;

(C) The application of court precedent to the facts of the particular proceeding.

(b) Legal argument does not include presentation of evidence, examination and cross-examination of witnesses or presentation of factual arguments or arguments concerning:

(A) The application of the facts to the statutes or rules directly applicable to the issues in the proceeding;

(B) Comparison of prior actions of the department in handling similar situations;

(C) The literal meaning of the statutes or rules directly applicable to the issues in the proceeding;

(D) The admissibility of evidence or the correctness of procedures being followed.

(3) When the Director or a person designated by the Director represents the department in a hearing, the chairperson of the Commercial Fishery Permit Board shall advise concerning the manner in which objections may be made and matters preserved for appeal. Such advice is of a procedural nature and does not change applicable law on waiver or the duty to make timely objections. Where such objections involve legal argument, the chairperson shall provide a reasonable opportunity for the department representative to consult legal counsel and shall permit legal counsel to file written legal argument within a reasonable time after conclusion of a hearing but before final disposition.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 183.450

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96

DIVISION 7

SHOOTING PRESERVE RULES

Fish Management and Hatchery Operation

635-007-0501

Definitions

As used in this Division and Division 040:

(1) "Anadromous" means fish which migrate from saltwater

to freshwater for spawning.

(2) "Aquaria species" means those fish commonly sold in the pet store trade for use in home aquaria. "Aquaria" are any tanks, pools, ponds, bowls or other containers intended for and capable of holding or maintaining live fish and from which there is no outfall to any waters of this state.

(3) "Aquatic habitat" means the waters which support fish or other organisms which live in water and which includes the adjacent land area and vegetation (riparian habitat) that provides shade, food, and/or protection for those organisms.

(4) "Area" means a stream, a lake, a group of streams or lakes, or a portion of the ocean managed for or with a common stock of fish, or for protection of a stock or stocks of fish.

(5) "Biological requirements" refers to those environmental conditions such as water quality, water quantity, and available food that are necessary for fish to grow and/or reproduce.

(6) "Brood stock" means a group of fish, generally from the same population, that are held and eventually artificially spawned to provide a source of fertilized eggs for hatchery programs.

(7) "Brood year" means the year in which more than fifty percent of the adults in a population of fish spawn.

(8) "Commission" means the Oregon Fish and Wildlife Commission.

(9) "Compensation" means activities that replace fish, or their habitat lost through development or other activities.

(10) "Cooperative Salmon Hatchery Project" means a fish propagation enhancement project authorized under OAR 635-009-0400 through OAR 635-009-0455.

(11) "Department" means the Oregon Department of Fish and Wildlife.

(12) "Depressed" means below established goal such as a fish production or escapement goal shown in a management plan or below the level of production or escapement that the commission determines to be an optimal level.

(13) "Disease" means problems caused by infectious agents, such as parasites or pests, and by other conditions that impair the performance of the body or one of its parts.

(14) "Enhancement" means management activities including rehabilitation and supplementation that increase fish production beyond the existing levels.

(15) "Fish" means all game fish as defined by ORS 496.009 and food fish as defined by ORS 506.036, which live or could live in the waters of this state.

(16) "Fish Hatchery" means a facility at which adult broodstock are held, or where eggs are collected and incubated, or where eggs are hatched, or where fish are reared.

(17) "Fry" means fish which have recently hatched and have not fed.

(18) "Foreign" means fish which originate through human intervention from a different population.

(19) "Gene conservation group" means a genetically distinct cluster of one or more populations within a taxonomic species that resulted because gene flow between the cluster and other populations of the same species has been zero or very low over sufficient geological time.

(20) "Genetic engineering" means the introduction of genetic material into an organism's genotype through molecular genetics techniques.

(21) "Genetic Resources" means the kind and frequency of genes found within a population or collection of populations.

(22) "Genotype" means the kinds of and the combination of genes possessed by an individual.

(23) "Goal" means a statement of intent which leads to policy, rules, and operation plans for implementation of a department Program.

(24) "Hatchery produced fish" means a fish incubated or reared under artificial conditions for at least a portion of its life.

(25) "Hatchery Program" means a program in which a specified hatchery population is planted in a specified geographical location.

(26) "Hold fish" means to capture and/or remove live fish in or from the waters of this state and/or maintain live fish in captivity but does not include fish held live for less than one day for examination and release without transfer from the waters where caught or collected.

ty but does not include fish held live for less than one day for examination and release without transfer from the waters where caught or collected.

(27) "Indigenous" means descended from a population that is believed to have been present in the same geographical area prior to the year 1800 or that resulted from a natural colonization from another indigenous population.

(28) "Management Plan" means:

(a) A plan adopted by the Fish and Wildlife Commission which provides the basic framework (goals, policies and objectives) for managing a resource, geographic area, watershed (waterbody) or species; and

(b) Which may include specific information or alternatives relative to how the goals and policies may be achieved.

(29) "Marine species" means those fish found in the ocean or the saline or brackish water of estuaries or bays along the coast, but not generally found in freshwater streams.

(30) "Mitigation" means to lessen the impact of activities or events that cause fish or habitat loss.

(31) "Naturally Spawned" means fish produced in the natural environment as the result of natural reproduction.

(32) "Nongame Fish" means any fish other than those specifically defined as game fish in ORS 496.009.

(33) "Objective" means a specific statement of planned results to be achieved by a predetermined date. Attainment of objectives represents measurable progress toward attainment of the broader goal.

(34) "Operating Principle" means a mandatory direction or approach to carrying out a department program.

(35) "Operation plan" means an action plan developed by the department that generally addresses how the objectives in a management plan for harvest or production of a species shall be attained.

(36) "Optimum" means the desired fish production level as stated in management plans or set by specific commission action.

(37) "Phenotype" means any characteristic of an organism that is determined by the organism's genes, genotype and the environment.

(38) "Policy" means mandatory direction or constraints that provide the framework for department programs.

(39) "Population" means a group of fish spawning in a particular area at a particular time which do not interbreed to any substantial degree with any other group spawning in a different area or in the same area at a different time.

(40) "Population fragmentation" means the process by which natural or human-caused events cause a single, large breeding population to be broken up into two or more smaller new breeding populations.

(41) "Presmolt" means a juvenile anadromous fish which has fed and reared but is not yet a smolt.

(42) "Production" means the number or pounds of fish raised in a hatchery or resulting from natural spawning and rearing in freshwater, estuarine, or ocean habitats; also used in reference to harvest.

(43) "Propagation of fish" means the spawning, incubating, and/or rearing of fish by a human for sale, release or other uses.

(44) "Rehabilitation" means short-term management actions which may include fish stocking, habitat improvement, harvest management, or other work, that restore fish populations depressed by natural or man-made events.

(45) "Rehabilitation fish" means a fish from a hatchery program that has wild-type phenotypes and is used for one life cycle in a program to rebuild a depressed population of wild fish.

(46) "Risk" means the extent to which, a management practice may reduce population productivity or cause an undesirable change in genetic characteristics of a population.

(47) "Sensitive" means those fishes that have been designated for special consideration pursuant to OAR 635-100-0040.

(48) "Significant or substantial" means a condition of sufficient magnitude such that it is likely to influence continued natural production at optimum levels.

(49) "Smolt" means a juvenile salmon or trout that is capable

of initiating a seaward migration and is capable of living in the sea.

(50) "Species hybridization" means the crossing of two different taxonomic species.

(51) "STEP" means Salmon Trout Enhancement Program.

(52) "Stock" means an aggregation for management purposes of fish populations which typically share common characteristics such as life histories, migration patterns, or habitats.

(53) "Stray" means a hatchery fish that spawns naturally in a location different from the location intended when the fish was stocked.

(54) "Supplementation" means continued planting of fish to maintain or increase fish abundance in areas where natural production is insufficient to meet management objectives.

(55) "Taxonomic species" means a group of fish that have been assigned a scientific name in the form of genus and species by the American Fisheries Society Committee on Common and Scientific Names of Fishes.

(56) "Transgenic fish" means fish that have genes or groups of genes that have been transferred from another organism through the process of genetic engineering.

(57) "Wild fish" means any naturally spawned fish in the taxonomic classes, Agnatha, Chondrichthyes, and Osteichthyes, belonging to an indigenous population.

(58) "Wild Fish Management" means all of the constraints, operating principles, and direction embodied in both the Natural Production Rules and the Wild Fish Management Rules.

(59) "Wild-type phenotype" means the kind of phenotype possessed by individuals in a wild population.

Stat. Auth.: ORS 496.138 & ORS 506.119

Stats. Implemented: ORS 496.146 & ORS 506.124

Hist.: FWC 25-1984, f. 6-21-84, ef. 7-1-84; FWC 6-1990, f. & cert. ef. 1-29-90; FWC 2-1992, f. 1-28-92, cert. ef. 2-1-92; FWC 37-1992, f. 5-29-92, cert. ef. 6-1-92; FWC 15-1997, f. & cert. ef. 3-10-97

General Fish Management Goals

Oregon Administrative Rules Compilation

