



## Oregon Administrative Rules Oregon Department of Fish and Wildlife

### DIVISION 006 COMMERCIAL FISHERIES AND GEAR COMMERCIAL LICENSES, POUNDAGE FEES, RECORDS AND REPORTS

#### 635-006-0001

##### Definitions

As used in Division 006 regulations:

- (1) "Board" means the Commercial Fishery Permit Board.
- (2) "Boat" means any vessel, any floating craft, powered, towed, rowed or otherwise propelled which is used for landing or taking food fish, as specified in ORS 506.006.
- (3) "Buy" includes offer to buy, barter, exchange or trade.
- (4) "Commercial fishing license" means the commercial fishing licenses required by ORS 508.235 and, for purposes of the Limited Fish Seller Permit, includes an Albacore Tuna Landing License.
- (5) "Commercial purposes" means taking food fish with any gear *unlawful* for angling, or taking or possessing food fish in excess of the limits permitted for personal use, or taking, fishing for, handling, processing, or otherwise disposing of or dealing in food fish with the intent of disposing of such food fish or parts thereof for profit, or by sale, barter or trade, in commercial channels, as specified in ORS 506.006.
- (6) "Commission" means the State Fish and Wildlife Commission created by ORS 496.090.
- (7) "Department" means the State Department of Fish and Wildlife, as specified in ORS 506.006.
- (8) "Director" means the Director of the Oregon Department of Fish and Wildlife appointed pursuant to ORS 496.112.
- (9) "Fair market value" shall be based on the market price of food fish or shellfish at the same time and place that the fish are landed, or the price established in OAR 635-006-0232 when the market price cannot be determined. For species not listed in OAR 635-006-0232, fair market value shall be based on the average price per pound paid to law enforcement officials for any fish or shellfish confiscated from persons landing legal overages, or the average ex-vessel price per pound paid for that species in that port during the month in which the overage occurred, whichever is greater. Unless otherwise noted, the fair market value is the price per pound and is based on round weight.
- (10) "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 fishers at locations other than the licensed premises of the wholesale fish dealer or food fish canner.
- (11) "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 fishers.
- (12) "Fishing" means catching, taking or harvesting food fish that results in or can be reasonably expected to result in the sale, barter, trade or other disposition of fish for other than personal use or consumption.
- (13) "Fishing gear" means, as specified in ORS 506.006, any appliance or device intended for or capable of being used to take food fish for commercial purposes, and includes:
  - (a) "Fixed gear" means longline, trap or pot, setnet, and stationary hook-and-line gears;
  - (b) "Gillnet" has the meaning as set forth in OAR 635-042-0010;
  - (c) "Hook-and-line" means one or more hooks attached to one or more lines;
  - (d) "Lampara net" means a surrounding net with the sections of netting made and joined to create bagging. It is hauled with purse rings and is generally much smaller in size than a purse seine net;
  - (e) "Longline" means a stationary buoyed, and anchored groundline with hooks attached;
  - (f) "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;
  - (g) "Pot or trap" means a portable, enclosed device with one or more gates or entrances and one or more lines attached to surface floats;
  - (h) "Purse seine" means an encircling net that may be closed by a purse line threaded through the bottom of the net. Purse seine gear includes ring net, drum purse seine, and lampara nets;
  - (i) "Seine" means any non-fixed net other than a trawl or gillnet;
  - (j) "Setline" means a bottom longline used in rivers and estuaries for targeting white sturgeon;
  - (k) "Set net" means a stationary, buoyed and anchored gillnet or trammel net which takes fish commonly by gilling and is not free to move or drift with the current or tide;
  - (l) "Spear" means a sharp, pointed, or barbed instrument on a shaft;
  - (m) "Trammel net" means a gillnet made with two or more walls joined to a common float line;
  - (n) "Trawl gear" means a cone or funnel-shaped net which is towed or drawn through the water by one or two



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vessels;

(o) "Troll" means fishing gear that consists of 1 or more lines that drag hooks with bait or lures behind a moving fishing vessel, and which lines are affixed to the vessel and are not disengaged from the vessel at any time during the fishing operation;

(p) "Vertical hook and line" 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.

(14) "Fishing trip" means a period of time between landings when fishing is conducted.

(15) "Food Fish" means any animal over which the State Fish and Wildlife Commission has jurisdiction, as specified in ORS 506.036.

(16) "Food fish canner" means a wholesale fish dealer who cans food fish including shellfish in hermetically sealed containers whereby no further preservation, artificial or otherwise, is required.

(17) "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, Part 660 (See OAR 635-004-0240).

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

(19) "Import" means to transport into Oregon from outside the State of Oregon.

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

(21) "Land, Landed or Landing" means either of the following:

(a) For fisheries where food fish were taken by use of a vessel, "land, landed or landing" means to begin transfer of food fish from a vessel. Once transfer begins, all food fish on board the vessel are counted as part of that landing, except:

(A) Anchovies being held live on a vessel for the purpose of using for bait in that vessel's commercial fishing operation; and

(B) For vessels participating in the federal trawl rationalization program, the portion of catch that is intended to be delivered to Washington or California is not considered part of that landing.

(b) For fisheries where food fish were taken without use of any vessel, "land, landed or landing" means to begin transfer of food fish from a harvester to a wholesale fish dealer, wholesale fish bait dealer, or food fish canner, under which the following provisions apply:

(A) When the harvester and the wholesale fish dealer, wholesale fish bait dealer, or food fish canner are the same person or entity, transfer occurs when the food fish arrive at the licensed premises of the wholesale fish dealer, wholesale fish bait dealer, or food fish canner; and

(B) Once transfer begins, all food fish from the harvest area are counted as part of that landing.

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

(23) "Length" or "Length Overall" 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.

(24) "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 the fisher to sell any species of food fish, taken in lawful activity directly from his or her boat, as specified in ORS 508.550.

(25) "Limited fish seller – non-treaty Columbia River Gillnet Salmon Vessel Permit fishery" means a person who holds a valid Oregon commercial fishing license, a Columbia River Gillnet Salmon Vessel Permit, and who has obtained an annual limited fish seller permit which enables the fisher to sell any species of food fish, taken in lawful activity directly from his or her boat or at locations away from the boat.

(26) "Non-reporting fish dealer" means a wholesale fish dealer or fish bait dealer who buys food fish exclusively from other wholesale fish dealers or bait dealers.

(27) "Overage" means any landing or portion of a landing that exceeds groundfish trip limits. Groundfish trip limits are approved by Pacific Fisheries Management Council and implemented by the National Marine Fisheries Service.

(28) "Owner" means 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.

(29) "Pacific Ocean" means all water seaward of the end of the jetty or jetties of any river, bay, or tidal area, except the Columbia River boundary with the Pacific Ocean is as specified 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.

(30) "Possession" means holding any food fish, shellfish or parts thereof in a person's custody or control.

(31) "Process or Processing" means fresh packaging requiring freezing of food fish, or any part thereof, or any



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type of smoking, reducing, loining, steaking, pickling or filleting. Cooking crab is not considered processing.

(32) "Processor" means a person who buys fresh food fish from a licensed commercial fisher or a wholesale fish dealer and processes food fish for sale through retail outlets or for sale to the ultimate consumer.

(33) "Purchase" means to obtain by paying money or its equivalent, trade, or barter.

(34) "Receive" or "Receiving" means to take or come into possession of.

(35) "Replacement vessel" means a vessel purchased to replace a permitted vessel which had been lost due to fire, capsizing, sinking or other event.

(36) "Resident" means an actual bona fide resident of this state for at least one year immediately prior to application.

(37) "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.

(38) "Retail fish dealer" means a person who buys fresh food fish or shellfish from wholesale fish dealers, undertakes limited processing activity (limited to loining of tuna, filleting, smoking, steaking, or pickling food fish or shellfish), and sells only to the ultimate consumer.

(39) "Retain" means to keep in possession or use.

(40) "Security interest" means an interest in a vessel or permit granted by the owner of the vessel or permit to a third party under a security agreement, pursuant to ORS Chapter 79, another state's laws enacted to implement Article 9 of the Uniform Commercial Code or equivalent federal statutory provisions for federally documented vessels.

(41) "Sell" includes to offer or possess for sale, barter, exchange or trade.

(42) "Shellfish canner" means a wholesale fish dealer who cans only shellfish in hermetically sealed containers whereby no further preservation, artificial or otherwise, is required.

(43) "Take" means fish for, hunt, pursue, catch, capture or kill or attempt to fish for, hunt, pursue, catch, capture or kill.

(44) "Take home" means food fish that are sold commercially to a licensed wholesale fish dealer, reported on a fish receiving ticket and then purchased back for the purpose of private use by the harvester.

(45) "Transport" means, for the purposes of OAR 635-006-0165, to move the food fish after landing.

(46) "Trip limit" means the total amount of fish that may be taken and retained, possessed, or landed per vessel from a single fishing trip or cumulatively per unit of time. 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. Trip limits may be:

(a) "Bi-monthly cumulative trip limit" means the maximum amount of fish that may be taken and retained, possessed or landed per vessel in specified bi-monthly periods. There is no limit on the number of landings or trips in each period, and periods apply to calendar months. The specified periods are as follows:

- (A) Period 1: January through February;
- (B) Period 2: March through April;
- (C) Period 3: May through June;
- (D) Period 4: July through August;
- (E) Period 5: September through October; and
- (F) Period 6: November through December.

(b) "Daily trip limit" means the maximum amount of fish that may be taken and retained, possessed or landed per vessel in 24 consecutive hours, starting at 00:01 hours local time. Only one landing of groundfish may be made in that 24-hour period;

(c) "Monthly trip limit" means the maximum amount of fish that may be taken and retained, possessed or landed per vessel during the first day through the last day of any calendar month.

(d) "Weekly trip limit" means the maximum amount of fish that may be taken and retained, possessed or landed per vessel in 7 consecutive days, starting at 00:01 hours local time on Sunday and ending at 24:00 hours local time on Saturday. Weekly trip limits may not be accumulated during multiple week trips. If a calendar week falls within two different months or two different cumulative limit periods, a vessel is not entitled to two separate weekly limits during that week.

(47) "Ultimate consumer" means the party that utilizes the product as food, including restaurants.

(48) "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



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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.

(49) "Vessel operator" means the person onboard a fishing vessel who is responsible for leading a fishing vessel in fishing or transit operations, and who signs the corresponding fish ticket from that fishing trip. A vessel operator may be a vessel or permit owner or both, individual hired to operate a vessel, or lessee of a vessel, permit or both. Although more than one person may physically operate a vessel during a fishing trip or transit, there may only be one person identified as a vessel operator (commonly referred to as a captain or skipper) on a fishing vessel during any one fishing trip or transit.

(50) "Waters of this state" means all waters over which the State of Oregon has jurisdiction, or joint or other jurisdiction with any other state or government, including waters of the Pacific Ocean and all bays, inlets, lakes, rivers and streams within or forming the boundaries of this state.

(51) "Weighbacks" means fish or shellfish with no commercial value.

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

(53) "Wholesale fish dealer" means a person who:

(a) Buys food fish or shellfish from a commercial fisher; 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 506.036, 506.109, 506.119, 506.129 & 513.020

Stats. Implemented: ORS 506.109, 506.129, 508.025, 508.040 & 508.550

Hist.: Adopted 5-10-13, f. & ef. 5-13-13

### 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 506.119 and 506.129

Stats. Implemented: ORS 506

Hist.: FC 136, f. 12-20-65, ef. 1-1-66

#### 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 any commercial fishing or which does not conform to the specifications established for such fishing gear.

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

Stats. Implemented: ORS 506.109, 506.129 & 506.306

Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12



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### 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 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 506.109, 506.119, 506.129, 506.306 & 508.240

Hist.: 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 \$30.00 (plus a \$2.00 license agent fee) 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 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 506.109, 506.119 and 506.129, 506.306

Hist.: Adopted 10-2-09, f. 12-9-09, ef. 1-1-10

### 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 506.036, 506.109, 506.119, 506.129, 508.025 & 508.035

Stats. Implemented: ORS 506.109, 506.119, 506.129, 506.306, 508.025 & 508.035

Hist.: 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 506.036, 506.109, 506.119, 506.129, 508.025 & 508.035

Stats. Implemented: ORS 506.036, 506.109, 506.119, 506.129, 508.025 & 508.035

Hist.: 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 506.036, 506.109, 506.119, 506.129, 508.025 & 508.035

Stats. Implemented: ORS 506.109, 506.119, 506.129, 508.025 & 508.035

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



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### **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 506.036, 506.109, 506.119, 506.129, 508.025 & 508.035

Stats. Implemented: ORS 506.109, 506.119, 506.129 and 508.035

Hist.: 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 506.036, 506.109, 506.119, 506.129, 508.025 & 508.035

Stats. Implemented: ORS 506.109, 506.119, 506.129, 508.025 & 508.035

Hist.: 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 "fish-buying 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 506.036, 506.109, 506.119, 506.129, 508.025 & 508.035

Stats. Implemented: ORS 506.109, 506.119, 506.129, 508.025 & 508.035

Hist.: 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 506.036, 506.109, 506.119, 506.129, 508.025 & 508.035

Stats. Implemented: ORS 506.109, 506.119, 506.129, 508.025 & 508.035

Hist.: 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 506.036, 506.109, 506.119, 506.129, 508.025 & 508.035

Stats. Implemented: ORS 506.109, 506.119, 506.129, 508.025 & 508.035

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

### **635-006-0132**

#### **Limited Fish Seller Permit**

(1) The permit referred to in ORS 508.550 shall be available to commercial fishers who hold a valid commercial fishing license, including Albacore Tuna Landing License, and who sell the catch off his or her own vessel, or a vessel operated by the fisher.

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

(3) Prior to selling food fish from their vessel, the holder of a Limited Fish Seller Permit must notify the Department



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of the estimated number of food fish on board the vessel and the location where sales are to take place. Completion of a fish ticket prior to selling with the estimated number of fish on board and completion of the Limited Fish Seller Permit application which identifies location from which the sales occur constitutes the required notice. Change in location of sales from that reported in the Limited Fish Seller Permit application must be reported to the Department.

(4) Dressed fish must have an established dressed to round weight conversion factor.

(5) After the sale of and reporting of whole or dressed food fish, a limited fish seller may conduct or allow limited processing on his/her boat (limited to loining or filleting) of food fish or any part thereof for the ultimate consumer.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129, 508.025, 508.035 & 513.020

Stats. Implemented: ORS 506.109, 506.129, 506.306, 508.025, 508.035, 508.040 and 508.550

Hist: DFW 142-2008, f. & cert. ef. 11-21-08

### 635-006-0134

#### Bonding Requirements

In accordance with ORS 508.415 and 508.550, the minimum bond amount is \$25.00 for wholesale bait dealers; \$1,000.00 for wholesale fish dealers, fish canners, and shellfish canners; and \$200.00 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 non-reporting fish dealers.

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

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

Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

## 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 508.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 506.109, 506.119, 506.129 & 506.306

Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

### 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 3-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.

(6) Except as authorized by OAR 635-006-0132 or for fishers having a current Oregon Wholesale Fish Dealer license and Fish Buyer license, it is *unlawful* to transfer or sell commercially caught food fish, shellfish, or parts thereof, from a commercial fishing vessel to other than an Oregon Wholesale Fish Dealer or Fish Bait Dealer.

(7) As a license condition, owners or operators of commercial fishing vessels must cooperate with Department or



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Federal fishery observers, or observers collecting data for the Department or Federal agency, when asked, by the Department, to carry and accommodate an observer on fishing trips at no charge to the sponsoring agency.

(a) If observer coverage of a trip is denied by the owner or operator of a vessel, the Department shall require an explanation in writing from the owner or operator. This explanation shall be received by the Department within 15 days of written request by the Department for an explanation.

(b) The Department may request that the Commission revoke fishing permits or licenses for failure to cooperate in the observer program, after first allowing the owner or operator to meet with the Manager of the Marine Resources Program, or their representative, to provide an explanation for the denial.

(c) The Department shall not require the vessel operator or owner to provide an observer with meals or a subsistence allowance on observed fishing trips, but the vessel operator shall accommodate the observer with regard to reasonable eating and working conditions and access to pertinent fishing information and fishery data while aboard the vessel.

(d) Failure to provide reasonable eating and working conditions or access to pertinent fishing information or fishery data to observers, or actions taken by a vessel owner or operator against an observer that is prohibited pursuant to subsection (e), on observed fishing trips may lead to revocation of the vessel's fishing permits or licenses following the procedure outlined in subsection (b) above.

(e) To ensure that observer objectives may be reasonably and safely achieved, consistent with federal groundfish observer rules, it is *unlawful* for any person to:

(A) Forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with an observer;

(B) Interfere with or bias the sampling procedure employed by an observer, including physical, mechanical, or other sorting or discarding of any catch before sampling;

(C) Tamper with, destroy or discard an observer's collected samples, equipment, or personal gear, without the express consent of the observer;

(D) Prohibit or bar by command, impediment, threat, coercion, or refusal of reasonable assistance, an observer collecting samples, making observations, or otherwise performing the observers duties;

(E) Harass an observer by conduct that has sexual connotations, has the purpose or effect of interfering with the observer's work performance, or otherwise creates an intimidating, hostile or offensive environment; or

(F) Require, pressure, coerce, or threaten an observer to perform duties normally performed by crew members.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129, 508.025 & 508.035

Stats. Implemented: ORS 506.109, 506.129, 506.306, 508.025, 508.035 and 508.260

Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

### 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 fisher to keep any food fish or shellfish taken under such license for personal use.

(4) It is unlawful for a person to participate in any commercial fishery if that person's commercial fishing license is suspended or revoked.

Stat. Auth.: ORS 506.109, 506.119 and 506.129

Stats. Implemented: ORS 506.109, 506.119 and 506.129

Hist.: Adopted 10-2-09, f. & cert. ef. 10-7-09





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### 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 in a 12 month period, 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. The license shall be on board the boat and available for inspection by the Oregon State Police or a representative of the Department 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 Receiving Ticket. Vessels taking fish outside of state waters may substitute the license fee at the time of landing for the license document.

(5) Vessels operating under a Single Delivery License must comply with OAR 635-006-0140(7), when requested by the Department.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129, 508.025, 508.035, 508.235 & 508.260

Stats. Implemented: ORS 506.109, 506.129, 506.306, 508.025, 508.035, 508.235 & 508.260

Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

### 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 506.119, 506.129 and 508.121

Stats. Implemented: ORS 508

Hist.: FC 246, f. 5-5-72, ef. 5-15-72

### 635-006-0160

#### Bait Fishing License

(1) A bait fishing license may be 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 or for use as bait in a commercial fishing operation. It is *unlawful* to take any food fish or shellfish under this license for human consumption purposes.

(2) For the purposes authorized under section (1), a bait fishing license serves in lieu of the commercial fishing and boat licenses required under ORS 508.235 and ORS 508.260. This license is not required for individuals already possessing a valid commercial fishing license pursuant to ORS 508.235, provided the vessel they are operating possesses a valid commercial boat license pursuant to ORS 508.260.

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

Stats. Implemented: ORS 506.109, 506.119, 506.129, 506.306 & 508.312

Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

### 635-006-0165

#### Commercial Fisher Transportation Report

(1) It is *unlawful* for any commercial fisher 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 fisher or received from a commercial fisher, including his or her commercial fishing license number;

(c) Name and address of the Oregon licensed Wholesale Fish Dealer or Oregon licensed Fish Bait Dealer where the food fish or shellfish are being delivered;



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- (d) The number of each species of food fish or shellfish, their weight or estimated weight in pounds.
- (2) Notwithstanding OAR 635-006-0210(2), the food fish or shellfish shall be transported within 48 hours to an Oregon licensed Wholesale Fish Dealer or Oregon licensed Fish Bait Dealer and reported on a Fish Receiving Ticket within 48 hours of arriving in port.
- (3) 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.
- (4) The transportation report, invoice, or memorandum shall be retained by the commercial fisher or person transporting the food fish including shellfish for a period of six months and is subject to inspection by the Director, the Director's authorized agent, or by the Oregon State Police at any time during that period.
- (5) This section does not apply to:
- (a) 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; or
- (b) Vessels participating in the federal trawl rationalization program that are delivering part of their catch to licensed dealers in Washington or California.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129  
Stats. Implemented: ORS 506.109, 506.129, 506.306 & 508.535  
Hist.: Adopted 5-10-13, f. & ef. 5-13-13

### 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 fisher 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 fisher, his or 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 or 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 shall be:
- (a) Subject to inspection by the Director, the Director's authorized agent, or the Oregon State Police;
- (b) 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) Retained for a period not less than three years, at a location within Oregon where the record is to be available for inspection as designated in section (2)(a) of this rule. Notice of the physical location is to be provided to the Department.
- (d) Written in the English language.

Stat. Auth.: ORS 506.109, 506.119, 506.129, 508.406, 508.530 and 508.535  
Stats. Implemented: ORS 506.109, 506.119, 506.129, 508.406, 508.530 and 508.535  
Hist.: Adopted 12-6-12, f. 12-27-12, ef. 1-1-13

#### 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 fishers or commercial bait fishers authorized to land his or 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, fish buying station, fish buyer, bait dealer or



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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, fish buying station, fish buyer, 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 Receiving 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 fisher signature on the Fish Receiving Ticket reporting such catch or if necessary, a dock ticket for Dungeness crab or 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 Receiving 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 Receiving 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) For pink shrimp unloaded at a receiving or docking facility of a wholesale fish dealer or shellfish canner, the following shall apply:

(a) All pink shrimp 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 authorized in writing by the Department;

(c) Those wholesale fish dealers or cannery authorized to use the sampling procedure in subsection (5)(b) of this rule 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.

(6) All commercial fishers landing Dungeness crab must report the area of primary catch to the dealer at the time of landing. The dealer is responsible for recording this information on the Fish Receiving Ticket.

(7) For wholesale fish bait dealers landing less than 5,000 pounds daily of species defined in OAR 635-004-0220(3)(b)(C) and 635-004-0220(3)(b)(D), the following shall apply:

(a) Wholesale fish bait dealers may request the Department allow an estimate of the net weight of fish caught on a Fish Receiving Ticket.

(b) The Department may issue a written approval of requests made under subsection (6)(a) of this rule if the permittee uses a minimum sampling method or equivalent method to estimate the net weight, provided such method is acceptable to the Department.

(c) Those wholesale fish bait dealers authorized to use a sampling procedure approved under subsection (6)(b) of this rule are subject to inspection for accuracy by the Department or by the Oregon State Police, at any



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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 506.036, 506.109, 506.119, 506.129 & 508.530

Stats. Implemented: ORS 506.109, 506.129 & 508.535

Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

### 635-006-0207

#### Limited Fish Seller Required Reports

- (1) This regulation is in addition to, and not in lieu of the provisions contained in OAR 635-006-0205.
- (2) 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.
- (3) 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 fisher if fish are to be kept for take home 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, 506.119, 506.129 & ORS 802

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

Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

### 635-006-0209

#### Sorting Required

- (1) It is *unlawful* to fail to sort into the categories listed in sections (2) and (3) of this rule, prior to the first weighing after offloading, those groundfish species or species groups for which there is a trip limit, quota, harvest guideline, harvest cap, size limit, scientific sorting designation, Optimum Yield (OY) or Annual Catch Limit (ACL).
- (2) Federal sorting requirements must be met for the following sectors:
  - (a) Trawl fisheries pursuant to **660.130(d), subpart D of the Code of Federal Regulations;**
  - (b) Limited Entry Fixed Gear groundfish fisheries pursuant to **660.230(c), subpart E of the Code of Federal Regulations;** and
  - (c) Open Access Fixed Gear groundfish fisheries pursuant to **660.330(c), subpart F of the Code of Federal Regulations.**
- (3) Nearshore species must be sorted into the following categories:
  - (a) Black rockfish;
  - (b) Black and Yellow rockfish;
  - (c) Blue rockfish;
  - (d) Brown rockfish;
  - (e) Cabezon;
  - (f) Calico rockfish;
  - (g) China rockfish;
  - (h) Copper rockfish;
  - (i) Gopher rockfish;
  - (j) Grass rockfish;
  - (k) Greenling;
  - (l) Kelp rockfish;
  - (m) Olive rockfish;
  - (n) Quillback rockfish;
  - (o) Tiger rockfish;
  - (p) Treefish;



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- (q) Vermilion rockfish.
- (4) Blackspotted rockfish, rougheye rockfish, and shortraker rockfish must be sorted into the following categories:
  - (a) Blackspotted rockfish and rougheye rockfish;
  - (b) Shortraker rockfish.

Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119, 506.129  
Stats. Implemented: ORS 506.109, 506.129, 506.306  
Hist.: Adopted 1-9-15, f. 1-13-15, ef. 1-15-15

### 635-006-0210

#### Fish Receiving Ticket - All Fish

(1) Except as provided in OAR 635-006-0211, for each purchase of food fish or shellfish by a licensed wholesale fish dealer, wholesale fish bait dealer, food fish canner, or shellfish canner from a commercial fisher or commercial bait fisher, the dealer or canner shall prepare at the time of landing a Fish Receiving Ticket, or a separate document in lieu of a Fish Receiving Ticket provided the original dock ticket is attached to the completed dealer copy of the Fish Receiving Ticket subsequently submitted to ODFW. Fish dealers shall be required to account for all Fish Receiving Tickets received from the Department. Fish Receiving Tickets shall be issued numerical sequence.

(2) Fish Receiving Tickets shall include the following:

(a) Fish dealer's name and license number, including the buying station and location if the food fish or shellfish were received at any location other than the licensed premises of the fish dealer;

(b) Date of landing;

(c) His or her name from whom purchase is made. If not landed from a vessel, then his or her commercial license number shall be added. If received from a Columbia River treaty Indian, his or her tribal affiliation and enrollment number as shown on the official identification card 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) For groundfish harvested in the limited entry fixed gear fishery, the federal limited entry fixed gear permit number associated with the landing or portion of landing, which shall be provided by the vessel operator to the preparer of the fish ticket;

(f) Port of first landing. The port of first landing will be recorded as where a vessel initially crosses from the Pacific Ocean to inland waters, or is physically removed from the Pacific Ocean, for the purposes of ending a fishing trip;

(g) Fishing gear used by the fisher;

(h) For salmon and Dungeness crab, zone or area of primary catch;

(i) Species or species group, as determined by the Department, of food fish or shellfish received;

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

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

(B) Pounds shall include "weighbacks" by species. "Weighbacks" are those fish or shellfish with no commercial value. The following species or species groups are exempt from fish ticket requirements when considered "weighbacks":

(i) Sponges;

(ii) Sea Pens;

(iii) Sea Whips;

(iv) Black Corals;

(v) Sea Fans;

(vi) Anemone;

(vii) Jellyfish;

(viii) Whelks;

(ix) Squids other than Humboldt and market;

(x) Octopus other than Pacific giant octopus;

(xi) Mysids;

(xii) Shrimps other than pink shrimp, coonstripe prawns, and spot prawns;

(xiii) Crabs other than Dungeness, tanner, box, Oregon hair, and red rock crabs;



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- (xiv) Sea Stars including Brittle Stars;
- (xv) Urchins;
- (xvi) Sand dollars;
- (xvii) Sea cucumbers;
- (xviii) Eels other than hagfish;
- (xix) Blacksmelts;
- (xx) Spookfish;
- (xxi) Stomiformes including Viperfish and Blackdragons;
- (xxii) Slickheads;
- (xxiii) Flatnoses;
- (xxiv) Lancetfishes;
- (xxv) Barricudinas;
- (xxvi) Myctophids;
- (xxvii) Tomcod;
- (xxviii) Eelpouts including Bigfin, Two line, Black, and Snakehead;
- (xxix) Dreamers;
- (xxx) Anglerfish;
- (xxxii) King of the Salmon;
- (xxxii) Melamphids;
- (xxxiii) Whalefish;
- (xxxiv) Oxeye oreo;
- (xxxv) Sculpins other than cabezon, buffalo sculpin, red Irish lord, and brown Irish lord;
- (xxxvi) Poachers;
- (xxxvii) Snailfish;
- (xxxviii) Pricklebacks;
- (xxxix) Gunnels;
- (xl) Scabbardfish;
- (xli) Lancetfish;
- (xlii) Ragfish;
- (xliii) Slender sole;
- (xliv) Deepsea sole;
- (xlv) Rays including Pacific and electric Rays and Devilfish;
- (xlvi) Wolffishes including wolf eels.

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

- (l) Price paid per pound for each species received;
- (m) Signature of the individual preparing the Fish Receiving Ticket;
- (n) Signature of the vessel operator making the landing;
- (o) Species name, pounds and value of fish retained by fisher for take home use.

(3) Except as provided in OAR 635-006-0212 and OAR 635-006-0213, the original of each Fish Receiving Ticket covering food fish and shellfish received shall be forwarded within five working days of the date of landing to the Oregon Department of Fish and Wildlife, 4034 Fairview Industrial Drive SE, Salem, OR 97302 or through the Pacific States Marine Fisheries Commission West Coast E-Ticket system or as required by **Title 50 of the Code of Federal Regulations, part 660 Subpart C**. All fish dealer amendments must be conducted in the same system in which the ticket was initially submitted.

(4) Wholesale fish bait dealers landing small quantities of food fish or shellfish may request authorization to combine multiple landings on one Fish Receiving Ticket and to deviate from the time in which Fish Receiving Tickets are due to the Department. Such request shall be in writing, and written authorization from the Department shall be received by the wholesale fish bait dealer before any such deviations may occur.

Stat. Auth.: ORS 496.138, 496.146, 496.162, 506.036, 506.109, 506.119, 506.129, 508.530, 508.535

Stats. Implemented: ORS 506.109, 506.129, 508.025, 508.040, 508.550

Hist.: Adopted 12-6-13, f. 12-19-13, ef. 1-1-14

### 635-006-0211

#### Fish Receiving Ticket – Dungeness crab and Net Caught Groundfish

(1) This regulation is in addition to, and not in lieu of the provisions contained in OAR 635-006-0210.



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(2) 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 Receiving Ticket subsequently submitted to ODFW:

- (a) Date of landing.
- (b) Boat name and federal document or State Marine Board number from which catch was made.
- (c) Port of first landing. The port of first landing will be recorded as where a vessel initially crosses from the Pacific Ocean to inland waters, or is physically removed from the Pacific Ocean, for the purposes of ending a fishing trip.
- (d) Pounds of fish by species or species group, as determined by the Department:

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

(B) Pounds shall include "weighbacks" by species. "Weighbacks" are those fish or shellfish with no commercial value. Species or species groups defined in 635-006-0210(2)(i)(B) are exempt from fish ticket requirements when considered "weighbacks."

- (e) Signature of the vessel operator delivering the catch.

(3) For Dungeness crab, at time of landing the following may be recorded on a separate document in lieu of a Fish Receiving Ticket, provided this original document (landing receipt) is attached to the completed dealer copy of the Fish Receiving Ticket subsequently submitted to ODFW:

- (a) Fish dealer's name and dealer license number;
- (b) Date of landing;
- (c) Name of vessel operator from whom the food fish were purchased;
- (d) Vessel name, vessel license number, and the federal document or State Marine Board number of the vessel from which catch was made;

(e) Port name of first landing. The port of first landing will be recorded as where a vessel initially crosses from the Pacific Ocean to inland waters, or is physically removed from the Pacific Ocean, for the purposes of ending a fishing trip;

- (f) Fishing gear used by the fisher;
- (g) Gross pounds of food fish received and price paid per pound; and
- (h) Signature of both the vessel operator making the landing and the individual preparing the landing receipt.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129, 508.530 & 508.535

Stats. Implemented: ORS 506.109, 506.129, 508.025, 508.040 & 508.550

Hist.: Adopted 12-6-12, f. 12-27-12, ef. 1-1-13

**635-006-0212**

**See below: Temp. Rule effective 5-1-15 thru 10-27-15**

**Fish Receiving Ticket - Salmon**

- (1) This regulation is in addition to, and not in lieu of the provisions contained in OAR 635-006-0210.
- (2) Fish receiving tickets shall be completed at time of landing and the original copy forwarded within four consecutive days following the landing to the Oregon Department of Fish and Wildlife.
- (3) For troll-caught salmon, fish receiving tickets shall show the number of each species of salmon landed, the number of halibut landed, if any, and the number of days fished during the trip in which the salmon were caught.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129, 508.530 and 508.535

Stats. Implemented: ORS 506.109, 506.129, 508.025, 508.040 and 508.550

Hist.: Adopted 4-24-15, f. & ef. 4-27-15

**635-006-0212**

**Temp. Rule effective 5-1-15 thru 10-27-15**

**Fish Receiving Ticket - Salmon**

- (1) This regulation is in addition to, and not in lieu of the provisions contained in OAR 635-006-0210.
- (2) Fish receiving tickets shall be completed at time of landing and the original copy forwarded within four consecutive days following the landing to the Oregon Department of Fish and Wildlife.
- (3) For troll-caught salmon, fish receiving tickets shall show the number of each species of salmon landed, the number of halibut landed, if any, and the number of days fished during the trip in which the salmon were caught.



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(4) It is lawful for licensed wholesale fish dealers, canners, or buyers to purchase from tribal fishers, referred to in OAR 635-041-0005, gilled and gutted Columbia River salmon lawfully taken by treaty Indians during commercial fishing seasons. The licensed wholesale dealer must submit round weights on the Fish Receiving Ticket by multiplying the weights of gilled and gutted salmon by the conversion factor listed in OAR 635-006-0215 for tribal Columbia River salmon and steelhead.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129, 508.530 and 508.535  
Stats. Implemented: ORS 506.109, 506.129, 508.025, 508.040 and 508.550  
Hist.: Adopted 4-27-15, f. 4-28-15, ef. 5-1-15

### 635-006-0213

#### Fish Receiving Ticket - Limited Fish Seller Permit

- (1) This regulation is in addition to, and not in lieu of the provisions contained in OAR 635-006-0210.
- (2) 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) For groundfish harvested in the limited entry fixed gear fishery, the federal limited entry fixed gear permit number associated with the landing or portion of landing;
  - (e) Port of first landing. The port of first landing will be recorded as where a vessel initially crosses from the Pacific Ocean to inland waters, or is physically removed from the Pacific Ocean, for the purposes of ending a fishing trip;
  - (f) Fishing gear used;
  - (g) Species or species group of fish or shellfish sold;
  - (h) Quantity in pounds;
  - (i) Price received per pound;
  - (j) Signature of the individual preparing the fish ticket;
  - (k) Name of wholesale fish dealer to whom other food fish or shellfish were sold from the same fishing trip.
- (l) For troll-caught salmon, fish receiving tickets shall show the number of each species of salmon landed, the number of halibut landed, if any, and the number of days fished during the trip in which the salmon were caught.
- (3) The original of each Fish Receiving Ticket covering fish and shellfish sold per trip shall be forwarded within ten working days following the landing to the Department.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129, 508.530, 508.535 and 508.550  
Stats. Implemented: ORS 506.109, 506.129, 508.025, 508.040 and 508.550  
Hist.: Adopted 4-24-15, f. & ef. 4-27-15

### 635-006-0215

#### See below: Temp. Rule effective 5-1-15 thru 10-27-15

#### Monthly Remittance Report

- (1) A monthly report is required of all licensed:
  - (a) Wholesale fish dealers, wholesale fish bait dealers, food fish canners, or shellfish canners receiving food fish or shellfish from licensed commercial fishers or bait fishers;
  - (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





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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. When landed in a dressed condition, the following listed species may be converted to round weight for the purposes of completing monthly reports, by multiplying each applicable 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) Headed and gutted with tail removed 2.0

(E) Thresher shark 2.0

(F) Lingcod:

(i) Gilled and gutted 1.1

(ii) Gilled, gutted and headed 1.5

(G) Spot prawn, tails 2.24

(H) Rockfish (including thornyheads), except Pacific Ocean Perch:

(i) Gilled and gutted 1.14

(ii) Gutted and headed 1.75

(iii) Gutted and headed, with collarbone still attached to body (western cut) 1.66

(iv) Gutted and headed, with collarbone removed from body (eastern cut) 2.0

(I) Pacific Ocean Perch:

(i) Gilled and gutted 1.14

(ii) Gutted and headed 1.6

(J) Pacific Cod, gutted and headed 1.58

(K) Dover sole, English sole, and "other flatfish" as defined in Title 50 of the Code of Federal Regulations, part 660 Subpart C, gutted and headed 1.53

(L) Petrale sole, gutted and headed 1.51

(M) Arrowtooth flounder, gutted and headed 1.35

(N) Starry flounder, gutted and headed 1.49

(O) Groundfish, glazed:

(i) Conversion factors must be calculated for each landing for each species or species group categorized in OAR 635-006-0209 when there are 60 or greater individuals of a category in a single landing as follows:

(I) Weigh a sample of at least 20 glazed fish to obtain the glazed weight;

(II) Completely remove glaze from individual fish making up the sample;

(III) Re-weigh the sample to obtain the non-glazed weight;

(IV) Divide the non-glazed weight by the glazed weight to obtain the conversion factor;

(V) A separate conversion factor may be calculated for each size grade of a species, but may only be applied to landings of that size grade;

(VI) Documentation of this calculation must be retained with the dock receiving ticket.

(ii) A conversion factor of 0.95 must be applied when there are fewer than 60 individuals of any species or species group categorized in OAR 635-006-0209 in a single landing.

(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) Effective January 1, 2005, all black rockfish, blue rockfish and nearshore fish (as defined by ORS 506.011), 5.00 percent.

(C) Effective January 1, 2010, all other food fish (except tuna, as defined by ORS 508.505), 2.25 percent.

(D) All tuna (as defined by ORS 508.505), 1.09 percent.



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(k) Signature of the individual completing the report.

(4) The monthly report and all landing fees due shall be sent to the Department 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 506.036, 506.109, 506.119, 506.129, 508.530  
Stats. Implemented: ORS 506.109, 506.129, 508.535, 508.505, 508.550  
Hist.: Adopted 1-9-15, f. 1-13-15, ef. 1-15-15

**635-006-0215**

**Temp. Rule effective 5-1-15 thru 10-27-15**

**Monthly Remittance Report**

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

- (a) Wholesale fish dealers, wholesale fish bait dealers, food fish canners, or shellfish canners receiving food fish or shellfish from licensed commercial fishers or bait fishers;
- (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. When landed in a dressed condition, the following listed species may be converted to round weight for the purposes of completing monthly reports, by multiplying each applicable 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) Tribal Columbia River salmon and steelhead trout:

- (i) Gilled and gutted 1.17

(C) Halibut:

- (i) Gilled and gutted 1.15
- (ii) Gilled, gutted, and headed 1.35

(D) Sablefish, gutted and headed 1.60

(E) Pacific whiting:

- (i) Fillet 2.86
- (ii) Headed and gutted 1.56

(F) Thresher shark 2.0

(G) Lingcod:

- (i) Gilled and gutted 1.1
- (ii) Gilled, gutted and headed 1.5

(H) Spot prawn, tails 2.24

(I) Rockfish (including thornyheads), except Pacific Ocean Perch:

- (i) Gutted and headed 1.75
- (ii) Gutted and headed, with collarbone still attached to body (western cut) 1.66
- (iii) Gutted and headed, with collarbone removed from body (eastern cut) 2.0

(J) Pacific Ocean Perch, gutted and headed 1.6

(K) Pacific Cod, gutted and headed 1.58

(L) Dover sole, English sole, and "other flatfish" as defined in Title 50 of the Code of Federal Regulations, part 660 Subpart C, gutted and headed 1.53



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- (M) Petrale sole, gutted and headed 1.51
- (N) Arrowtooth flounder, gutted and headed 1.35
- (O) Starry flounder, gutted and headed 1.49
- (P) Groundfish, glazed:

(i) Conversion factors must be calculated for each landing for each species or species group categorized in OAR 635-006-0209 when there are 60 or greater individuals of a category in a single landing as follows:

- (I) Weigh a sample of at least 20 glazed fish to obtain the glazed weight;
- (II) Completely remove glaze from individual fish making up the sample;
- (III) Re-weigh the sample to obtain the non-glazed weight;
- (IV) Divide the non-glazed weight by the glazed weight to obtain the conversion factor;
- (V) A separate conversion factor may be calculated for each size grade of a species, but may only be applied to landings of that size grade;
- (VI) Documentation of this calculation must be retained with the dock receiving ticket.

(ii) A conversion factor of 0.95 must be applied when there are fewer than 60 individuals of any species or species group categorized in OAR 635-006-0209 in a single landing.

(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) Effective January 1, 2005, all black rockfish, blue rockfish and nearshore fish (as defined by ORS 506.011), 5.00 percent.

(C) Effective January 1, 2010, all other food fish (except tuna, as defined by ORS 508.505), 2.25 percent.

(D) All tuna (as defined by ORS 508.505), 1.09 percent.

(k) Signature of the individual completing the report.

(4) The monthly report and all landing fees due shall be sent to the Department 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 506.036, 506.109, 506.119, 506.129 & 508.530

Stats. Implemented: ORS 506.109, 506.129, 508.535, 508.505 & 508.550

Hist.: Adopted 4-9-15, f. 4-9-15, ef. 5-1-15

### **635-006-0220**

#### **Waiver of Monthly Report**

(1) Any licensed wholesale fish dealer, wholesale fish bait dealer, food fish canner, or shellfish canner 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, 506.119, 506.129 & 802

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

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

### **635-006-0225**

#### **See below: Temp. Rule effective 5-1-15 thru 10-27-15**

#### **Purchase, Record, Report, and Sale of Steelhead Trout and Walleye from Treaty Indian Fisheries**

(1) Steelhead trout and walleye lawfully taken by treaty Indians during commercial fishing seasons may be purchased by licensed wholesale fish dealers, canners, or buyers pursuant to restrictions set forth in sections (2)



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through (4) 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 (5) of this rule.

(2) The wholesale fish dealer, canner, or buyer, shall at the time of purchase, enter the purchase of steelhead trout and walleye on a Department 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 trout and walleye shall be maintained by licensed wholesale fish dealers, cannery, or buyers for a period of three years and shall be subject to inspection by the Department, the Director's authorized agent or the Oregon 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; and
- (c) Date of each delivery.

(5) 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 (5) apply to individuals other than licensed wholesale fish dealers, cannery and buyers.

Stat. Auth.: ORS 506.119, 508.530 & 509.031

Stats. Implemented: ORS 498.022, 506.129, 508.535 & 508.550

Hist.: Adopted 8-3-12, f. & ef. 8-6-12

### **635-006-0225**

#### **Temp. Rule effective 5-1-15 thru 10-27-15**

#### **Purchase, Record, Report, and Sale of Steelhead Trout and Walleye from Treaty Indian Fisheries**

(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 trout and walleye on a Department 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 through 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. The round weights of all gilled and gutted steelhead trout must be converted by the licensed wholesale fish dealer, canner, or buyer by using the conversion factor of 1.17 listed in OAR 635-006-0215 for Tribal Columbia River salmon and steelhead trout.

(4) In addition to the records required in connection with the purchase of steelhead trout, and walleye, a record of all sales of steelhead trout and walleye shall be maintained by licensed wholesale fish dealers, cannery, or buyers for a period of three years and shall be subject to inspection by the Department, the Director's authorized agent or the Oregon 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; and
- (c) Date of each delivery.

(5) 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 (5) apply to individuals other than licensed wholesale fish dealers, cannery and buyers.



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Stat. Auth.: ORS 506.036, 506.109, 506.119, 508.530, 509.031  
Stats. Implemented: ORS 498.022, 506.109, 506.129, 508.535, 508.550  
Hist.: Adopted 4-9-15, f. 4-9-15, ef. 5-1-15

### 635-006-0230

#### **When Possession of Steelhead Trout 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. Notwithstanding OAR 635-006-0225, it is lawful for any wholesale fish dealer, canner, buyer or retailer to possess and sell, in Oregon, legally purchased steelhead trout or walleye taken from outside the Columbia River Basin, consistent with reporting requirements contained within OAR 635-006-0200.

Stat. Auth.: ORS 496.138 and 509.031  
Stats. Implemented: ORS 496.138 and 509.031  
Hist: DFW 142-2008, f. & cert. ef. 11-21-08

### 635-006-0231

#### **When Possession of Salmon *Unlawful***

Except as otherwise provided by law or rule, it is *unlawful* to possess or distribute commercially caught salmon that has been taken by gear other than "troll", unless authorized by the Oregon Department of Fish and Wildlife.

Stat. Auth.: ORS 506.119  
Stats. Implemented: ORS 506.109 and 506.129  
Hist.: Adopted 5-12-99; f. & cert. ef. 5-24-99

### 635-006-0232

#### **Damages for Commercial Fishing Violations**

(1) For purposes of ORS 506.720 the following shall be the 2014 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) Anchovy, Northern \$0.05 (2013 price).
- (B) Cabezon \$3.51.
- (C) Carp \$0.50 (2006 price).
- (D) Cod, Pacific \$0.55.
- (E) Flounder, arrowtooth \$0.09.
- (F) Flounder, starry \$0.90.
- (G) Greenling \$4.53.
- (H) Grenadier \$0.06.
- (I) Hagfish \$0.81.
- (J) Hake, Pacific (Whiting) \$0.10.
- (K) Halibut, Pacific \$5.59.
- (L) Herring, Pacific \$0.21 (2012 price).
- (M) Lingcod \$1.29.
- (N) Mackerel, jack \$0.05; Pacific \$0.08.
- (O) Opah \$2.98 (2008 price).
- (P) Pacific ocean perch, \$0.40.
- (Q) Pollock, Walleye \$0.07 (2013 price).
- (R) Rockfish:
  - (i) Black, \$2.24.
  - (ii) Blue, \$1.39.
  - (iii) Canary, \$0.51.
  - (iv) Darkblotched, \$0.46.



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- (v) Black and yellow, \$5.68.
- (vi) Brown, \$4.75.
- (vii) China, \$6.00.
- (viii) Copper, \$3.47.
- (ix) Gopher, \$4.00.
- (x) Grass, \$6.73.
- (xi) Quillback, \$3.77.
- (xii) Shelf, \$0.32.
- (xiii) Shortbelly, using trawl gear \$0.22, using line and pot gear \$1.96 (2008 price).
- (xiv) Slope, using trawl gear, \$0.55, using line and pot gear \$1.04.
- (xv) Tiger, \$3.71.
- (xvi) Vermilion, \$1.83.
- (xvii) Widow, \$0.44.
- (xviii) Yelloweye, using trawl gear \$0.53, using line and pot gear \$1.00.
- (xix) Yellowtail, \$0.53.
- (S) Sablefish, \$2.44.
- (T) Salmon eggs, \$2.44.
- (U) Salmon, Chinook, ocean mixed size, \$5.71.
- (V) Salmon, coho, ocean dressed weight: mixed size, \$2.00.
- (W) Salmon, pink, ocean, dressed weight: ungraded, \$1.35 (2013 price).
- (X) Sanddab, Pacific \$0.50.
- (Y) Sardine, Pacific \$0.11.
- (Z) Scuplin, buffalo \$0.83.
- (AA) Shad, American:
  - (i) Coast, ungraded, midwater trawl, \$0.22 (2012 price).
  - (ii) Columbia, ungraded, gillnet, setnet, and dipnet, \$0.07.
- (BB) Shark, blue \$0.50 (2013 price), Pacific sleeper \$0.62 (2000 price), shortfin mako \$1.80 (2012 price), sixgill \$0.05 (2007 price), soupfin \$0.20 (2012 price), spiny dogfish \$0.02, scalloped hammerhead \$0.12 (2001 price), silky \$0.18 (2001 price), thresher dressed weight \$1.50 (1995 price) and round weight \$0.60 (2012 price), and other species \$0.02.
- (CC) Skate, longnose \$0.40.
- (DD) Skates and Rays \$0.33.
- (EE) Skates, unsp. \$0.40.
- (FF) Smelt, Eulachon (Columbia River), \$2.86 (2012 price) and other species \$0.20 (2010 price).
- (GG) Sole, butter \$0.03, curlfin (turbot) \$0.28, Dover \$0.45, English \$0.31, flathead \$0.28, petrale \$1.13, rex \$0.36, rock \$0.33 and sand \$0.73.
- (HH) Steelhead \$2.18.
- (II) Sturgeon, green \$0.98 (2009 price) and white \$1.35.
- (JJ) Surfperch \$5.75.
- (KK) Swordfish \$4.00 (2008 price).
- (LL) Thornyhead (Sebastolobus), longspine \$0.35 and shortspine \$0.69.
- (MM) Tuna, albacore \$1.26, bluefin \$5.72, bigeye \$4.00 (2008 price), and yellowfin \$2.00 (2011 price).
- (NN) Walleye \$1.00.
- (OO) Wolf-eel \$2.25.
- (PP) Wrymouth \$0.18.
- (b) CRUSTACEANS:
  - (A) Crab: box \$1.28 (2012 price), Dungeness bay \$5.52 and ocean \$3.47, rock \$1.60 (2012 price) and Tanner \$1.00 (2012 price).
  - (B) Crayfish \$2.54.
  - (C) Shrimp: brine \$1.00, coonstripe \$3.56 (2012 price), ghost (sand) \$2.43, mud \$1.64, pink \$0.58 (applied to the gross round weight of the confiscated pink shrimp reported on the fish receiving ticket) and spot \$12.53.
  - (D) Water flea (Daphnia) \$0.65 (2002 price).
- (c) MOLLUSKS:
  - (A) Abalone, flat \$21.09 (2008 price).
  - (B) Clams: butter \$0.93, cockle \$0.68, gaper \$0.77, Manila littleneck \$2.00 (2008 price), Nat. littleneck \$0.63 (2012 price), razor \$2.93, and softshell \$0.50 (2009 price).
  - (C) Mussels, ocean \$0.90.



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- (D) Octopus \$1.40.
- (E) Scallop, rock \$0.70 (2005 price).
- (F) Scallop, weathervane dressed weight (shucked) \$5.73 (2002 price) and round weight \$0.55 (2002 price).
- (G) Squid, market \$0.20.
- (H) Squid, other species \$0.13.
- (d) OTHER INVERTEBRATES:
  - (A) Jellyfish \$10.00 (2004 price).
  - (B) Sea anemone \$0.83.
  - (C) Sea cucumber \$1.00.
  - (D) Sea urchin, red \$0.61 and purple \$0.30 (2004 price).
  - (E) Sea stars \$1.00.

(2) The Department may initiate civil proceedings to recover damages as authorized by ORS 506.720 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 and ORS 506.720

Hist.: Adopted 1-9-15, f. & ef. 1-13-15

### 635-006-0233

#### Payment for Legal Commercial Fishing Overages

For purposes of legally landed overages where proceeds are to be remitted to the state, payment shall be at fair market value as defined in OAR 635-006-0001.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109 & 506.129

Hist.: DFW 38-1999, f. & cert. ef. 5-24-99

### 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 ORS 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%, 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. License Revocation 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 License Revocation Board shall participate in hearings related to their subject area. The hearings officer shall notify the appropriate License Revocation 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 License Revocation Board may request the hearings officer call additional witnesses or seek additional evidence;



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(d) At the conclusion of the hearing, the License Revocation Board shall prepare written recommendations concerning the disposition of the case, which the License Revocation 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 License Revocation 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 506.036, 506.109, 506.119, 506.129, 508.485, 508.490 & ORS Chapter 183

Stats. Implemented: ORS 506.109, 506.129, 508.485 & 508.490

Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

### 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 506.241

Stats. Implemented: ORS 506.241

Hist.: FWC 77-1982, f. and ef. 10-29-82

#### 635-006-0405

##### Definitions

For the purpose of OAR 635-006-0400 through 635-006-0425:

(1) "Buy-back" means the purchase by the Department of a current permit during the program.

(2) "Current" means either a 1984 permit for which the permitted vessel qualifies for renewal in 1985 or a 1985 permit.

(3) "License" means a boat license issued in accordance with ORS 508.035 and ORS 508.260.

(4) "Offer price" means the dollar amount at which a permit holder offers to sell the permit to the Department.

(5) "Permit" means a current Columbia River gillnet salmon vessel permit, issued pursuant to Chapter 679, Oregon Laws 1979.

(6) "Permit holder" means an individual who has been issued and possesses a current permit.

(7) "Program" means the Oregon Columbia River gillnet salmon fleet reduction program.

(8) "Vessel" means a commercial fishing vessel.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129 & 506.241

Stats. Implemented: ORS 506.109, 506.129 & 506.241

Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12





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### 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 506.241

Stats. Implemented: ORS 506.241

Hist.: FWC 63-1984, f. & ef. 9-21-84

### 635-006-0412

#### Death of Eligible Permit Holder

(1) In the event that an eligible permit holder dies subsequent to January 29, 1982, his or 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 506.241

Stats. Implemented: ORS 506.241

Hist: DFW 142-2008, f. & cert. ef. 11-21-08

### 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 506.241

Stats. Implemented: ORS 506.241

Hist.: 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 506.241

Stats. Implemented: ORS 506.241

Hist.: 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.



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Stat. Auth.: ORS 506.241  
Stats. Implemented: ORS 506  
Hist.: FWC 63-1984, f. and 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 1985.
- (4) Any offer over \$1,000.00 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 shall 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 or her eligibility.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129 & 506.241  
Stats. Implemented: ORS 506.109, 506.129 & 506.241  
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

### Restricted Participation Systems

### 635-006-1005

#### Introduction to Organization

- (1) In 2012, many commercial fishing regulations were reorganized, with significant parts of the Restricted Participation Systems regulations moved to their related fishery sections in Division 004 and Division 005 of the Fish & Wildlife Oregon Administrative Rules. As a result of the reorganization, only regulations regarding commercial gillnet and troll salmon fisheries remain in the Restricted Participation Systems section. These two fisheries are organized by topic. 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) Requirement for permit - 635-006-1015;
  - (b) Permit Fee - 635-006-1025;
  - (c) Eligibility Requirements for a Permit - 635-006-1035;
  - (d) Evidence of Eligibility - 635-006-1050;
  - (e) Revocation and Refusal to Issue Permits - 635-006-1060;
  - (f) Review of Denials - 635-006-1065;
  - (g) Renewal of Permit - 635-006-1075;
  - (h) Lottery for Certain Limited Entry Fisheries - 635-006-1085;
  - (i) Transferability of Permits - 635-006-1095;



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- (j) Commercial Fishery Permit Boards - 635-006-1200;
- (k) Agency Representation by Employee - 635-006-1210.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129  
Stats. Implemented: ORS 506.109 & 506.129  
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

### **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;
- (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 ORS 508.260.
- (3) No vessel may hold more than one vessel permit for a given fishery at any one time.
- (4) If permits are issued on an individual basis, no individual may hold more than one permit for a given fishery at any one time.
- (5) Unless otherwise provided, permits must be purchased by December 31 of the year the permit is sought for renewal.
- (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 506.036, 506.109, 506.119 & 506.129  
Stats. Implemented: ORS 506.109 & 506.129  
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

### **635-006-1025**

#### **Permit Fee**

The annual fee to participate in limited entry fisheries is as follows:

- (1) Gillnet salmon:
  - (a) The annual fee is \$100.00 (plus a \$2.00 license agent fee) for resident applicants and \$150.00 (plus a \$2.00 license agent fee) for non-resident applicants. See ORS 508.790, ORS 508.775 and Section 6, Chapter 512, Oregon Laws 1989.
  - (b) A fee of \$100.00 shall be charged for each transfer of participation rights under this section.
- (2) Troll salmon:
  - (a) The annual fee is \$100.00 (plus a \$2.00 license agent fee) for resident applicants and \$150.00 (plus a \$2.00 license agent fee) for non-resident applicants. See ORS 508.816, ORS 508.822 and Section 6, Chapter 512, Oregon Laws 1989.
  - (b) A fee of \$100.00 shall be charged for each transfer of participation rights under this section.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129  
Stats. Implemented: ORS 506.109 & 506.129  
Hist.: Adopted 5-10-13, f. & ef. 5-13-13

### **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.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129  
Stats. Implemented: ORS 506.109  
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12



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### 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 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.

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

Stats. Implemented: ORS 506.109 & 506.129

Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

### 635-006-1065

#### Review of Denials (Restricted Participation Systems)

(1) An individual whose application for issuance or renewal of a limited entry permit is denied by the Oregon Department of Fish and Wildlife (Department) may request review of the Department's decision by doing so in writing to the Commercial Fishery Permit Board (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;

(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 \$125.00 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 Oregon Fish and Wildlife Commission (Commission), but may be appealed as provided in ORS 183.480 to ORS 183.550.

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

Stats. Implemented: ORS 506.109 & 506.129

Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

### 635-006-1075

#### Renewal of Permit

(1) An individual who obtained a limited entry permit may renew the permit as follows:

(a) Gillnet salmon - Permits may be renewed by submission to the Department of a \$100.00 fee (plus a \$2.00 license agent fee) for resident applicants and \$150.00 fee (plus a \$2.00 license agent fee) for non-resident applicants and a complete application, see ORS 508.781 and 508.790;

(b) Troll salmon - Permits may be renewed by submission to the Department of a \$100.00 fee (plus a \$2.00 license agent fee) for resident applicants and \$150.00 fee (plus a \$2.00 license agent fee) for non-resident applicants and a complete application, see ORS 508.807 and 508.816.

(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 December 31 of the permit year sought, 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.



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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 506.036, 506.109, 506.119 & 506.129  
Stats. Implemented: ORS 506.109 & 506.129  
Hist.: Adopted 5-10-13, f. & ef. 5-13-13

### 635-006-1085

#### Lottery for Certain Limited Entry Fisheries

(1) 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;

(2) Each applicant for a permit lottery shall complete the application form prescribed by the Department.

(3) 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.

(4) Only one application per vessel may be submitted for each permit fishery lottery.

(5) 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 permits will be accepted at the Salem headquarters office of the Department, and shall be postmarked or date stamped no later than March 31 of the year for which the permit is issued.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129  
Stats. Implemented: ORS 506.109 & 506.129  
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

### 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.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129  
Stats. Implemented: ORS 506.109, 506.129, 508.760 & 508.762  
Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

### 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 Fishery Permit 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;



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(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 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 506.129 & 508.755

Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

### **635-006-1210**

#### **Agency Representation by Employee**

(1) An officer or employee of the agency, designated by the Director, with the written consent of the Attorney General pursuant to ORS 183.452 is authorized to represent the department in contested case hearings.

(2) An agency representative acting under the provisions of this section shall not give legal advice to an agency, and may not present legal argument in contested case hearings, except to the extent authorized in subsection (3) of this section.

(3) The officer presiding at a contested case hearing in which an agency representative appears under the provision of this section may allow the agency representative to present evidence, examine and cross-examine witnesses, and make arguments relating to the:

- (a) Application of statutes and rules to the facts in the contested case;
- (b) Actions taken by the agency in the past in similar situations;
- (c) Literal meaning of the statutes or rules at issue in the contested case;
- (d) Admissibility of evidence; and
- (e) Proper procedures to be used in the contested case hearing.

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

Stats. Implemented: ORS 183.452

Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12