

## DEPARTMENT OF FISH AND WILDLIFE

### DIVISION 12

#### MARINE RESERVES AND MARINE PROTECTED AREAS IN THE TERRITORIAL SEA

##### 635-012-0020

###### Purpose

The purpose of the regulations in this section are to implement ORS 196.540 through 196.555 and Oregon Senate Bill 1510 (2012) by regulating activities in areas of Oregon's Territorial Sea designated as marine reserves or protected areas.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 157-2009, f. 12-30-09, cert. ef. 6-30-11; DFW 6-2010, f. 1-22-10, cert. ef. 6-30-11; DFW 78-2011(Temp), f. 6-28-11, cert. ef. 6-29-11 thru 12-25-11; DFW 157-2011(Temp), f. 12-13-11, cert. ef. 12-25-11 thru 12-31-11; DFW 102-2012, f. & cert. ef. 8-6-12

##### 635-012-0030

###### Definitions

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

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

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 157-2009, f. 12-30-09, cert. ef. 6-30-11; DFW 6-2010, f. 1-22-10, cert. ef. 6-30-11; Suspended by DFW 78-2011(Temp), f. 6-28-11, cert. ef. 6-29-11 thru 12-25-11; Suspended by DFW 157-2011(Temp), f. 12-13-11, cert. ef. 12-25-11 thru 12-31-11; DFW 102-2012, f. & cert. ef. 8-6-12

**635-012-0040**

**Marine Reserve and Marine Protected Area Boundaries**

(1) Otter Rock Site:

(a) The Otter Rock Marine Reserve encompasses the area bounded by the points described in OAR 141-142-0030.

(b) The rules provided in OAR 635-012 for this site are effective January 1, 2012.

(2) Redfish Rocks Site:

(a) The Redfish Rocks Marine Reserve encompasses the area bounded by the points described in OAR 141-142-0035.

(b) The Redfish Rocks Marine Protected Area encompasses the area bounded by the points described in OAR 141-142-0040.

(c) The rules provided in OAR 635-012 for this site are effective January 1, 2012.

(3) Cape Perpetua Site:

(a) The Cape Perpetua Marine Reserve encompasses the area bounded by the points described in OAR 141-142-0045.

(b) The Cape Perpetua North Marine Protected Area encompasses the area bounded by the points described in OAR 141-142-0050.

(c) The Cape Perpetua South-East Marine Protected Area encompasses the area bounded by the points described in OAR 141-142-0055.

(d) The Cape Perpetua Seabird Protection Area encompasses the area bounded by the points described in OAR 141-142-0060.

(e) The rules provided in OAR 635-012 for this site are effective January 1, 2014.

(4) Cascade Head Site:

(a) The Cascade Head Marine Reserve encompasses the area bounded by the points described in OAR 141-142-0065.

(b) The Cascade Head North Marine Protected Area encompasses the area bounded by the points described in OAR 141-142-0070.

(c) The Cascade Head South Marine Protected Area encompasses the area bounded by the points described in OAR 141-142-0075.

(d) The Cascade Head West Marine Protected Area encompasses the area bounded by the points described in OAR 141-142-0080.

(e) The rules provided in OAR 635-012 for this site are effective January 1, 2014.

(5) Cape Falcon Site:

(a) The Cape Falcon Marine Reserve encompasses the area bounded by the points described in OAR 141-142-0085.

(b) The Cape Falcon West Marine Protected Area encompasses the area bounded by the points described in OAR 141-142-0090.

(c) The Cape Falcon Shoreside Marine Protected Area encompasses the area bounded by the points described in OAR 141-142-0095.

(d) The rules provided in OAR 635-012 for this site are effective January 1, 2016.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 157-2009, f. 12-30-09, cert. ef. 6-30-11; Suspended by DFW 78-2011(Temp), f. 6-28-11, cert. ef. 6-29-11 thru 12-25-11; Suspended by DFW 157-2011(Temp), f. 12-13-11, cert. ef. 12-25-11 thru 12-31-11; DFW 102-2012, f. & cert. ef. 8-6-12

### **635-012-0050**

#### **Marine Reserve Prohibitions and Allowances**

(1) Except as specified in section 3 below, the following activities are prohibited within the Otter Rock, Redfish Rocks, Cape Perpetua, Cascade Head and Cape Falcon marine reserve areas: Take, including fishing or hunting, of any fish or wildlife species.

(2) Take of fish species from the ocean, using hook-and-line from the bank shoreward of a marine reserve, unless specifically authorized, is prohibited.

(3) Notwithstanding the prohibitions in sections (1) and (2) above, person(s) may:

(a) Remove fishing gear from within the marine reserve boundary, provided that the retrieving vessel operator must notify the Oregon State Police at 1-800-452-7888 and receive permission before retrieving the gear and no fish or wildlife species from the retrieved gear shall be retained. Specific to commercial crab pots:

(A) If the pot(s) do not belong to the retrieving vessel, the vessel operator must follow the retrieval requirements set forth in OAR 635-005-0490.

(B) If the pot(s) do belong to the retrieving vessel, the vessel operator may re-set the pot(s) outside of the reserve area pursuant to the requirements set forth in OAR 635-005-0490.

(b) Take fish and wildlife species if authorized by a valid scientific taking permit as required by OAR divisions 635-007 and 635-043.

(c) Have catch onboard while transiting or anchoring in the marine reserve area. Except as allowed by subsection (3)(b) above, fishing gear shall not be deployed in the water at any time within the marine reserve.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 157-2009, f. 12-30-09, cert. ef. 6-30-11; DFW 6-2010, f. 1-22-10, cert. ef. 6-30-11; Suspended by DFW 78-2011(Temp), f. 6-28-11, cert. ef. 6-29-11 thru 12-25-11; Suspended by DFW 157-2011(Temp), f. 12-13-11, cert. ef. 12-25-11 thru 12-31-11; DFW 102-2012, f. & cert. ef. 8-6-12

### **635-012-0060**

#### **Redfish Rocks Marine Protected Area Prohibitions and Allowances**

(1) Except as specified in section (2) below, the following activities are prohibited within the Redfish Rocks marine protected areas:

Take of any fish species.

(2) Notwithstanding the prohibitions in section (1) above, person(s) may:

(a) Commercially or recreationally troll for and take salmon in fisheries otherwise authorized by Commission rule.

(b) Commercially or recreationally take crab in fisheries otherwise authorized by Commission rule.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 157-2009, f. 12-30-09, cert. ef. 6-30-11; DFW 6-2010, f. 1-22-10, cert. ef. 6-30-11; Suspended by DFW 78-2011(Temp), f. 6-28-11, cert. ef. 6-29-11 thru 12-25-11; Suspended by DFW 157-2011(Temp), f. 12-13-11, cert. ef. 12-25-11 thru 12-31-11; DFW 102-2012, f. & cert. ef. 8-6-12

#### **635-012-0070**

##### **General Protected Area Prohibitions and Allowances**

(1) The prohibitions and allowances specified in this section apply to all areas of Oregon's Territorial Sea designated as marine protected and seabird protection areas. Notwithstanding the area-specific prohibitions and allowances, person(s) may:

(a) Take fish species if authorized by a valid scientific taking permit as required by OAR divisions 635-007 and 635-043.

(b) Have catch onboard while transiting or anchoring in the marine protected or seabird protection area. Except as allowed by OAR 635-012-0060, 635-012-0080 through 635-012-0150 or by subsection (1)(a) above, fishing gear shall not be deployed in the water at any time within a marine protected or seabird protection area.

(2) It is *unlawful* to take any legal fish species in a marine protected or seabird protection area while possessing onboard any species not allowed to be taken in the marine protected or seabird protection area.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

#### **635-012-0080**

##### **Cape Perpetua North Marine Protected Area Prohibitions and Allowances**

(1) Except as specified in section (2) below, the following activities are prohibited within the Cape Perpetua North Marine Protected Area: Take of any fish species.

(2) Notwithstanding the prohibitions in section (1) above, person(s) may:

(a) Commercially or recreationally troll for and take salmon in fisheries authorized specifically for this area by Commission rule.

(b) Commercially or recreationally take crab in fisheries authorized specifically for this area by Commission rule.

(c) Recreationally take fish species using hook-and-line from the bank in fisheries otherwise authorized by Commission rule.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

#### **635-012-0090**

##### **Cape Perpetua South-East Marine Protected Area Prohibitions and Allowances**

(1) Except as specified in (2) below, take of all species authorized by general Commission rule for this area is allowed.

(2) The following activities are prohibited within the Cape Perpetua South-East Marine Protected Area:

(a) Use of trawl gear to take any fish species.

(b) Take of the following species, used as seabird forage:

(A) Pacific herring;

(B) Pacific sardine (pilchard);

(C) Anchovies;

(D) Smelt as defined by OAR 635-004-0215;

(E) Pacific sand lance;

(F) Market squid.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

#### **635-012-0100**

##### **Cape Perpetua Seabird Protection Area Prohibitions and Allowances**

(1) Except as specified in (2) below, take of all species authorized by general Commission rule for this area is allowed.

(2) Take of the following species, used as seabird forage, are prohibited within the Cape Perpetua Seabird Protection Area:

(a) Pacific herring;

(b) Pacific sardine (pilchard);

(c) Anchovies;

(d) Smelt as defined by OAR 635-004-0215;

(e) Pacific sand lance.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

#### **635-012-0110**

##### **Cascade Head North Marine Protected Area Prohibitions and Allowances**

(1) Except as specified in section (2) below, the following activities are prohibited within the Cascade Head North Marine Protected Area: Take of any fish species.

(2) Notwithstanding the prohibitions in section (1) above, person(s) may:

(a) Commercially or recreationally troll for and take salmon in fisheries authorized specifically for this area by Commission rule.

(b) Commercially or recreationally take crab in fisheries authorized specifically for this area by Commission rule.

(c) Recreationally take groundfish using hook-and-line from private, non-chartered, boats in fisheries authorized specifically for this area by Commission rule.)

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

#### **635-012-0120**

##### **Cascade Head South Marine Protected Area Prohibitions and Allowances**

(1) Except as specified in (2) below, take of all species authorized by general Commission rule for this area is allowed.

(2) The use of net gear to take any fish species is prohibited within the Cascade Head South Marine Protected Area.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

#### **635-012-0130**

##### **Cascade Head West Marine Protected Area Prohibitions and Allowances**

(1) Except as specified in section (2) below, the following activities are prohibited within the Cascade Head West Marine Protected Area: Take of any fish species.

(2) Notwithstanding the prohibitions in section (1) above, person(s) may:

(a) Commercially or recreationally troll for and take salmon in fisheries authorized specifically for this area by Commission rule.

(b) Commercially or recreationally take crab in fisheries authorized specifically for this area by Commission rule.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

#### **635-012-0140**

##### **Cape Falcon West Marine Protected Area Prohibitions and Allowances**

(1) Except as specified in section (2) below, the following activities are prohibited within the Cape Falcon West Marine Protected Area: Take of any fish species.

(2) Notwithstanding the prohibitions in section (1) above, person(s) may:

(a) Commercially or recreationally troll for and take salmon in fisheries authorized specifically for this area by Commission rule.

(b) Commercially or recreationally take crab in fisheries authorized specifically for this area by Commission rule.

(A) Gravel bed areas shall be delineated by the Department and participants in the commercial ocean Dungeness crab fishery shall voluntarily avoid setting crab pots in the gravel beds.

(B) The Department and Oregon State Police shall periodically monitor the voluntary compliance within the delineated gravel beds and consider proposing regulatory requirements if voluntary compliance is low.

Stat. Auth.: ORS 506.119 & 506.129  
Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)  
Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

#### **635-012-0150**

#### **Cape Falcon Shoreside Marine Protected Area Prohibitions and Allowances**

(1) Except as specified in section (2) below, the following activities are prohibited within the Cape Falcon Shoreside Marine Protected Area: Take of any fish species.

(2) Notwithstanding the prohibitions in section (1) above, person(s) may: Recreationally take fish species using hook-and-line from the bank in fisheries authorized specifically for this area by Commission rule.

Stat. Auth.: ORS 506.119 & 506.129  
Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)  
Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

#### **635-012-0160**

#### **Untitled**

(1) Nothing in OAR 635-012 rules alters or supersedes the Agreement between the Confederated Tribes of Siletz Indians of Oregon, the United States and the State of Oregon, recorded at OAR 635-041-0500, defining specified tribal hunting, fishing, trapping and gathering rights by the Siletz Tribe and its members.

(2) Nothing in OAR 635-012 rules alters or supersedes the Agreement between the Confederated Tribes of the Grand Ronde Community of Oregon, the United States and the State of Oregon, recorded at OAR 635-041-0600, defining specified tribal hunting, fishing, trapping and gathering rights by the Grand Ronde Tribe and its members.

(3) Nothing in OAR 635-012 rules alters or supersedes the rights of any federally recognized Indian Tribe.

Stat. Auth.: ORS 506.119 & 506.129  
Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)  
Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

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