



# Oregon Administrative Rules Oregon Department of Fish and Wildlife

## COLUMBIA RIVER FISHERIES DIVISION 041

### COLUMBIA RIVER SYSTEM TREATY INDIAN FISHERY

#### 635-041-0005

##### Applicability of Regulations

- (1) The right to fish in accordance with OAR 635-041-0005 through 635-041-0085 is restricted to those individuals possessing Indian treaty fishing rights pursuant to the Yakima Treaty (12 Stat. 951), the Warm Springs Treaty (12 Stat. 963), the Umatilla Treaty (12 Stat. 945), or the Nez Perce Treaty (12 Stat. 957).
- (2) The fishing activities authorized by the afore-mentioned treaties for the Columbia River and its tributaries above Bonneville Dam are hereinafter referred to as the Treaty Indian Fishery.
- (3) Nothing in these regulations shall prevent any individual having Indian treaty fishing rights from participating equally with other citizens in any other commercial fishery in Oregon so long as such individual complies with the commercial fishing laws and rules of the Commission applicable to such fishery.
- (4) The taking of fish from the Columbia River or its tributaries above Bonneville Dam for commercial purposes is prohibited except by the persons, during the times, with the fishing gear, and in the areas specified in OAR 635-041-0005 through 635-041-0085.
- (5) It is *unlawful* for any individual to take fish pursuant to the authority of any of the aforementioned treaties and OAR 635-041-0005 through 635-041-0085 who does not have in his possession an Indian tribal identification card which identifies him as a duly enrolled member of the Yakima, Warm Springs, Umatilla, or Nez Perce Tribe.

Stat. Auth.: ORS 183.325 and 506.119

Stats. Implemented: ORS 506.129 and 507.030

Hist.: FWC 2-1987, f. & ef. 1-23-87

## DEFINITIONS

#### 635-041-0010

##### Definitions

In addition to the definitions provided in the commercial fishing laws and other rules of the Department, the following definitions shall apply to the Treaty Indian Fishery:

- (1) "Subsistence fishing" means taking fish for Indians' personal use, including the sale or exchange with other treaty Indians, but not sale or trade with non-Indians.
- (2) "Fishway" means any structure or facility made to facilitate or provide passage for fish over a natural or artificial barrier or obstruction.

Stat. Auth.: ORS 183.325 and 506.119

Stats. Implemented: ORS 506.129 and 507.030

Hist.: FWC 2-1987, f. & ef. 1-23-87

## SUBSISTENCE FISHING

#### 635-041-0015

##### Subsistence Fishing Authorized

Subject to the closed area restrictions specified in OAR 635-041-0020, and to the gear restrictions specified in OAR 635-041-0025, subsistence fishing is permitted the year round in the main Columbia River and its Oregon tributaries above Bonneville Dam.

Stat. Auth.: ORS 183.325 and 506.119

Stats. Implemented: ORS 506.129 and 507.030

Hist.: FWC 2-1987, f. & ef. 1-23-87



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### 635-041-0020

#### Areas Closed to Subsistence Fishing

It is *unlawful* to engage in subsistence fishing at any time in:

- (1) Those waters of the main stem Columbia River near Bonneville Dam westerly and downstream of a line from Light "4" on the Oregon shore, located approximately 200 yards upstream of the mouth of Eagle Creek, thence northerly to Light "5" located on Boat Rock in midriver, thence perpendicular to the thread of the river to a marker on the Washington shore.
- (2) Those waters of the main stem Columbia River near The Dalles Dam easterly and upstream from a line at marker on Covington Point on the Oregon shore, thence in a westerly direction to a marker on the Washington shore beneath the Interstate Bridge to a point 200 feet above The Dalles Dam. Subsistence fishing for salmon and steelhead is allowed within this closed area except within 600 feet of fishway entrances, within 600 feet of the mouth of Fifteenmile Creek, and above The Dalles Dam.
- (3) Those waters of the main stem Columbia River within a radius of one-quarter mile of the mouths of the Hood River, Deschutes River, Wind River, Little White Salmon River, Spring Creek, and Klickitat River.
- (4) Those waters of the main stem Columbia River near John Day Dam from a line at marker on the Oregon shore located 600 feet below the fishway entrance, thence westerly to Light "2" located on the navigation lock wing wall, thence to a marker on the Washington shore easterly and upstream to 200 feet above John Day Dam.
- (5) Those waters of the mainstem Columbia River near McNary Dam easterly and upstream from a line at marker on the Oregon shore located 600 feet below the fishway entrance, thence westerly to the end of the navigation lock wing wall, thence to a marker on the Washington shore.
- (6) All fishways in Oregon tributary streams of the Columbia River within 100 feet above and below such fishways. This closure does not apply to the taking of lamprey eel so long as such taking does not interfere with the migration of salmon or steelhead through such fishways.
- (7) Those waters of Eagle Creek from its mouth to 100 feet above the Department intake Dam.
- (8) Those waters of Herman Creek from its mouth to 100 feet above the Department holding ponds.

Stat. Auth.: ORS 183.325 and 506.119

Stats. Implemented: ORS 506.129 and 507.030

Hist.: FWC 90-1989, f. & ef. 9-6-89

### 635-041-0025

#### Subsistence Fishing Gear

- (1) It is lawful at all times to take fish for subsistence purposes by dip net or bag net of a mesh size not exceeding five inches attached to a hoop 26 feet or less in circumference, or by spear, gaff, club, or fouling-hook. All such fishing gear must be tended at all times.
- (2) It is lawful to use angling gear as defined by the Oregon Wildlife Laws and regulations of the Department.
- (3) It is *unlawful* to use gill nets, set nets, hoop nets, setlines, or dip nets or bag nets of a mesh size exceeding five inches, or any other type of fishing gear not otherwise specifically authorized in section (1) of this rule, except during the times and in the areas where such gear is authorized for commercial fishing.
- (4) Notwithstanding the provisions of this rule a treaty subsistence fishing season with gillnets for salmon may occur provided rules for ceremonial fishing and notice requirement (OAR 635-041-0040) are followed.

Stat. Auth.: ORS 183.325 and 506.119

Stats. Implemented: ORS 506.129 and 507.030

Hist.: FWC 90-1989, f. & ef. 9-6-89

### 635-041-0030

#### Subsistence Fishing Activities

- (1) It is *unlawful* to utilize any fish taken by subsistence fishing for other than subsistence purposes as defined in OAR 635-041-0010 with the exception of shad which may be sold commercially, and with the exception of dip-net-caught fish from main stem Columbia and Klickitat River subsistence areas taken during open commercial fishing seasons.
- (2) Only sturgeon between 48-60" in overall length from between The Dalles and McNary dams and between 45-60" in overall length from between the Bonneville dam and The Dalles dam may be taken for subsistence purposes.



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Stat. Auth.: ORS 183.325 and 506.119  
Stats. Implemented: ORS 506.129 and 507.030  
Hist.: Adopted 2-11-05, f. & ef. 2-14-05

### CEREMONIAL FISHING

#### 635-041-0040

##### Ceremonial Fishing and Notice Requirement

- (1) It is *unlawful* for any Indian or group of Indians to conduct ceremonial fishing on the Columbia River or in Oregon Columbia River tributaries outside an Indian reservation without first providing at least two working days advanced written notification to the Director of the Department or his designee.
- (2) All notices must contain the following information:
  - (a) Name, place, and time of ceremony for which fish will be used;
  - (b) Name of individuals and helpers who will be fishing and transporting fish. Only these individuals will be allowed to fish on the occasion covered by the notice;
  - (c) Exact location(s) of fishing and the amount of gear to be used at each location;
  - (d) Exact beginning and ending dates of ceremonial fishing;
  - (e) The type of gear to be used in ceremonial fishing;
  - (f) Estimated number of fish needed for ceremony;
  - (g) If fish are to be stored prior to a ceremony, the location of storage must be identified. If they are not to be stored, it must be so indicated;
  - (h) The signature of the designated tribal official certified to the Department in advance.
- (3) It is *unlawful* to:
  - (a) Fish for ceremonial purposes with commercial fishing gear except in those areas where such fishing gear is authorized for commercial fishing;
  - (b) Engage in ceremonial fishing during any portion of a week within a commercial fishing season which is closed to commercial fishing;
  - (c) Sell or barter, offer for sale or barter, buy, or for a commercially licensed fish buyer or wholesale fish dealer to have in his possession fish taken for ceremonial purposes;
  - (d) Engage in ceremonial fishing unless done in compliance with all provisions contained in the advance notice to the states.
- (4) Any individual engaged in ceremonial fishing must have in his possession a signed copy or duplicate copy of the written tribal notification to the Director of the Department that such fishing was to be conducted.
- (5) Set nets and other commercial fishing gear shall be marked and identified at all times while fishing for ceremonial or other fishing purposes.
- (6) A record of the numbers of fish taken for ceremonial purposes will be made available to the Department by the designated tribal official who authorized ceremonial fishing. The report must be sent promptly upon conclusion of each ceremonial fishing activity.

Stat. Auth.: ORS 183.325 and 506.119  
Stats. Implemented: ORS 506.129 and 507.030  
Hist.: FWC-10-1988, f. & ef. 3-4-88

### COMMERCIAL FISHING AREA AND GEAR RESTRICTIONS

#### 635-041-0045

##### Closed Commercial Fishing Areas

Unless otherwise specified in this rule and OAR 635-041-0063, the following waters are closed to commercial fishing:

- (1) All Oregon tributaries of the Columbia River.
- (2) The Columbia River westerly and downstream of the Bridge of the Gods.
- (3) The Columbia River easterly and upstream of a line extending at a right angle across the thread of the river from a deadline marker one mile downstream of McNary Dam.
- (4) The Columbia River between a line extending at a right angle across the thread of the river from a deadline marker at the west end of 3-Mile Rapids located approximately 1.8 miles below the dam, upstream to a line from



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a deadline marker on the Oregon shore located approximately 3/4 mile above The Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in midriver, thence downstream to Light "1" on the Washington shore; except that dip nets, bag nets, and hoop nets are permitted during commercial salmon and shad fishing seasons at the Lone Pine Indian fishing site located immediately above The Dalles Interstate Bridge.

(5) The Columbia River between a line extending at a right angle across the thread of the river from a deadline marker at Preachers Eddy light below the John Day Dam and a line approximately 4.3 miles upstream extending from a marker on the Oregon shore approximately one-half mile above the upper easterly bank of the mouth of the John Day River, Oregon, extending at a right angle across the thread of the river to a point in midriver, thence turning downstream to a marker located on the Washington shore approximately opposite the mouth of the John Day River.

(6) The Columbia River within areas at and adjacent to the mouths of the Deschutes River and the Umatilla River. The closed areas are along the Oregon side of the Columbia River and extend out to the midstream from a point one-half mile above the intersection of the upper bank of the tributary with the Columbia River to a point one mile downstream from the intersection of the lower bank of the tributary with the Columbia River. All such points are posted with deadline markers.

(7) The Columbia River within an area and adjacent to the mouth of the Big White Salmon River. The closed area is along the Washington side of the Columbia River and extends out to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".

(8) The Columbia River within an area at and adjacent to the mouth of Drano Lake (Little White Salmon River). The closed area is along the Washington side of the Columbia River and extends out to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately 1/2 mile upriver of the outlet of Drano Lake.

(9) The Columbia River within an area and adjacent to the mouth of the Wind River. The closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between markers located 1-1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

(10) The Columbia River within areas at and adjacent to the mouth of Hood River. The closed area is along the Oregon side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles downriver from the west bank at end of the breakwall at the west end of the Port of Hood River and 1/2 mile upriver from the east bank.

(11) The Columbia River within a radius of 150 feet of the Spring Creek Hatchery fishway, except that during the period of August 25-September 20 inclusive the closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between a marker located 1-1/2 miles downriver of the Spring Creek Hatchery fishway up to the downstream marker of the Big White Salmon sanctuary located approximately 1/2 mile upriver of the Spring Creek Hatchery fishway.

(12) Herman Creek upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

(13) The Columbia River within an area and adjacent to the mouth of the Klickitat River. The closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1-1/8 miles downstream from the west bank.

Stat. Auth.: ORS 183.325 and 506.119

Stats. Implemented: ORS 506.129 and 507.030

Hist.: FWC 90-1989, f. & ef. 9-6-89

### **635-041-0047**

#### **Commercial Fishing in Subsistence Areas**

Salmon and steelhead taken with subsistence fishing gear from subsistence fishing areas of the main stem Columbia River during commercial fishing seasons shall be considered as having been taken for commercial purposes.

Stat. Auth.: ORS 183.325 and 506.119

Stats. Implemented: ORS 506.129 and 507.030

Hist.: FWC 2-1987, f. & ef. 1-23-87



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### 635-041-0050

#### Commercial Fishing Gear

It is *unlawful* to:

- (1) Take fish for commercial purposes by any means other than setnets, gill nets, dip nets, bag nets, hoop nets, or any gear expressly authorized for subsistence fishing by OAR 635-041-0025.
- (2) Fish a setnet or gill net which is more than 400 feet in length.
- (3) Fish more than one setnet at any one location.
- (4) Fish more than five setnets at any one time.
- (5) Use or operate any gill net, setnet, or hoop net which does not have the tribal affiliation and tribal enrollment number of the owner of the net placed upon or adjacent to each end cork or float of the gill net or setnet and upon the upper side of the hoop net.
- (6) Have spoiled fish in any fishing gear.

Stat. Auth.: ORS 183.325 and 506.119

Stats. Implemented: ORS 506.129 and 507.030

Hist.: FWC 2-1987, f. & ef. 1-23-87

### 635-041-0053

#### Measurement of Net Mesh Size

The mesh size of any gill net or setnet is determined only after the meshes are wet from soaking in water not less than one hour. Three consecutive meshes are then placed under ten pounds of vertical tension and the measurement is taken from the inside of one vertical knot to the outside of the opposite vertical knot of the center mesh.

Stat. Auth.: ORS 183.325 and 506.119

Stats. Implemented: ORS 506.129 and 507.030

Hist.: FWC 2-1987, f. & ef. 1-23-87

## TREATY INDIAN COMMERCIAL FISHING SEASONS

### 635-041-0055

#### Closed Season

It is *unlawful* to take any fish for commercial purposes from the Treaty Indian Fishery of the Columbia River except during the times, in the areas, with the gear, and for the species as provided in these rules.

Stat. Auth.: ORS 183.325 and 506.119

Stats. Implemented: ORS 506.129 and 507.030

Hist.: FWC 2-1987, f. & ef. 1-23-87

### 635-041-0060

#### Sturgeon Season

- (1) Sturgeon may be taken for commercial purposes during commercial salmon, steelhead, sturgeon, or shad fishing seasons with the commercial fishing gear authorized for the taking of salmon, steelhead, sturgeon, or shad.
- (2) Sturgeon must be delivered to wholesale fish dealers, canners, or fish buyers undressed (in the round).
- (3) It is *unlawful* to:
  - (a) Take sturgeon from any setline with the intent of depriving the rightful owner of such sturgeon;
  - (b) Steal or otherwise molest or disturb any lawful fishing gear;
  - (c) Remove the head or tail of any sturgeon taken for commercial purposes prior to being received at the premises of a wholesale fish dealer or canner;
  - (d) Remove the head or tail of any sturgeon while in transit;
  - (e) Remove eggs from the body cavity of sturgeon until the fish is sold;
  - (f) Purchase from commercial fishermen sturgeon eggs which have been removed from the body cavity prior to sale.



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Stat. Auth.: ORS 496.118 and 506.119  
Stats. Implemented: ORS 506.129 and 507.030  
Hist.: Adopted 1-27-95, ef. 2-15-95

### **635-041-0061** **Sturgeon Size**

- (1) Sturgeon may be taken for commercial purposes by treaty Indian fishers during commercial fishing seasons in which sales of sturgeon are authorized.
- (2) Sales are limited to sturgeon between 48-60" in overall length taken from between The Dalles and McNary dams and between 45-60" in overall length from between the Bonneville dam and The Dalles dam.
- (3) It is *unlawful* to mutilate or disfigure a sturgeon in any manner which extends or shortens its length to the legal limit, or to possess such sturgeon.

Stat. Auth.: ORS 506.119  
Stats. Implemented: ORS 506.129 and 507.030  
Hist.: Adopted 2-11-05, f.& ef. 2-14-05

### **635-041-0063** **See Temp Rule ef. 1-1-07 thru 6-29-07** **Sturgeon Setline Fishery**

- (1) Sturgeon may be taken by setline for commercial purposes from 12 Noon January 1 through 12 Noon January 31 in all of Zone 6.
  - (a) In The Dalles and John Day pools sturgeon taken must be between 48-60 inches in length.
  - (b) In the Bonneville Pool sturgeon taken must be between 45-60 inches in length.
  - (c) Sturgeon taken as described in subsections (1)(a) and (1)(b) of this rule may be sold or kept for subsistence use.
- (2) Closed areas are set forth under OAR 635-041-0045.
- (3) During the sturgeon setline season it shall be *unlawful* to:
  - (a) Operate any fishing gear other than setlines except as provided in OAR 635-041-0060;
  - (b) Operate any setline having more than 100 hooks;
  - (c) Use other than single hooks size 9/0 or larger;
  - (d) Operate any setline on which the buoy or marker does not have the tribal identification number of the individual operating the line clearly marked on it and which is attached in a manner that will not allow it to float visibly on the surface at all times.
- (4) Notwithstanding OAR 635-041-0045(6)-(11), it is lawful during the open season to fish for sturgeon by means of set lines in the Columbia River within areas at and adjacent to the mouths of rivers.

Stat. Auth.: ORS 183.325 and 506.119  
Stats. Implemented: ORS 506.129 and 507.030  
Hist.: Adopted 2-9-07, f. & ef. 2-14-07

### **635-041-0063** **Temp Rule ef. 1-1-07 thru 6-29-07** **Sturgeon Setline Fishery**

- (1) Sturgeon may be taken by setline for commercial purposes from 12 Noon January 1 through 12 Noon January 31 in all of Zone 6.
  - (a) In The Dalles and John Day pools sturgeon taken must be between 48-60 inches in length.
  - (b) In the Bonneville Pool sturgeon taken must be between 45-60 inches in length.
  - (c) Sturgeon taken as described in subsections (1)(a) and (1)(b) of this rule may be sold or kept for subsistence use.
- (2) Closed areas are set forth under OAR 635-041-0045.
- (3) During the sturgeon setline season it shall be *unlawful* to:
  - (a) Operate any fishing gear other than setlines except as provided in OAR 635-041-0060;
  - (b) Operate any setline having more than 100 hooks;
  - (c) Use other than single hooks size 9/0 or larger;



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(d) Operate any setline on which the buoy or marker does not have the tribal identification number of the individual operating the line clearly marked on it and which is attached in a manner that will not allow it to float visibly on the surface at all times.

(4) Notwithstanding OAR 635-041-0045(6)-(11), it is lawful during the open season to fish for sturgeon by means of set lines in the Columbia River within areas at and adjacent to the mouths of rivers.

Stat. Auth.: ORS 183.325 and 506.119

Stats. Implemented: ORS 506.129 and 507.030

Hist.: Adopted 12-14-06, ef. 1-1-07

### 635-041-0065

#### See Temp Rule ef. 3-14-07 thru 9-9-07

#### Winter Salmon Season

(1) Salmon, steelhead, shad, sturgeon, walleye and carp may be taken for commercial purposes from the Columbia River Treaty Indian Fishery, from 12 noon February 1 to 6:00 p.m. March 21.

(2) There are no mesh size restrictions.

(3) Closed areas as set forth in OAR 635-041-0045 remain in effect with the exception of Spring Creek Hatchery sanctuary.

(4) White sturgeon between 48-60 inches in length in The Dalles and John Day pools and white sturgeon between 45-60 inches in the Bonneville Pool may be sold or kept for subsistence use.

(5) Sale of platform and hook-and-line caught fish is allowed during open commercial fishing seasons.

Stat. Auth.: ORS 183.325 and 506.119

Stats. Implemented: ORS 506.129 and 507.030

Hist.: Adopted 2-9-07, f. & ef. 2-14-07

### 635-041-0065

#### Temp Rule ef. 3-14-07 thru 9-9-07

#### Winter Salmon Season

(1) Salmon, steelhead, shad, sturgeon, walleye and carp may be taken for commercial purposes from the Columbia River Treaty Indian Fishery, from 12 noon February 1 to 6:00 p.m. March 21, 2007.

(a) Effective 6:00 p.m. Wednesday March 14, 2007 The Dalles Pool is closed to all commercial fishing. Platform and hook-and-line fisheries remain open for subsistence purposes only.

(2) There are no mesh size restrictions.

(3) Closed areas as set forth in OAR 635-041-0045 remain in effect with the exception of Spring Creek Hatchery sanctuary.

(4) White sturgeon between 48-60 inches in length in The Dalles and John Day pools and White sturgeon between 45-60 inches in the Bonneville Pool may be sold or kept for subsistence use during open commercial fishing seasons.

(5) Sale of platform and hook-and-line caught fish is allowed during open commercial fishing seasons.

Stat. Auth.: ORS 183.325 and 506.119

Stats. Implemented: ORS 506.129 and 507.030

Hist.: Adopted 3-14-07, f. & ef. 3-14-07

### 635-041-0068

#### Sockeye Season

(1) Sockeye salmon, shad, sturgeon, steelhead, and chinook salmon less than 24 inches may be taken for commercial purposes from the Columbia River Treaty Indian Fishery between 12:00 noon June 22 and 6:00 p.m. June 25, 1988, in the area between Bonneville Dam and McNary Dam.

(2) It is *unlawful* to use gill nets or set nets with a mesh size greater than 4-1/2 inches during the season provided in section (1) of this rule.

Stat. Auth.: ORS 183.325 and 506.119

Stats. Implemented: ORS 506.129 and 507.030



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Hist.: FWC 48-1988, f. & ef. 6-21-88

### **635-041-0070**

#### **Walleye Taken Incidentally to Commercial Season**

- (1) Walleye taken by net during any authorized commercial fishing season may be sold in accordance with OAR 635-006-0225.
- (2) Notwithstanding OAR 635-011-0100, walleye may be retained for personal use.

Stat. Auth.: ORS 183.325 and 506.119  
Stats. Implemented: ORS 506.129 and 507.030  
Hist.: FWC 5-1989, f. 2-6-89, ef. 2-7-89

### **635-041-0072**

#### **Carp and Other Nongame Fish**

It is *unlawful* to fish for or possess carp and other nongame fish from the Columbia River for commercial purposes except:

- (1) As authorized by ORS 508.106 (Permit to take carp or other foodfish).
- (2) During open commercial fishing periods with gear authorized for those open commercial fishing periods.

Stat. Auth.: ORS 183.325 and 506.119  
Stats. Implemented: ORS 506.129 and 507.030  
Hist.: Adopted 2-19-99, f and ef. 2-26-99

### **635-041-0075**

#### **Fall Salmon Season**

- (1) Salmon, steelhead, shad and walleye may be taken for commercial purposes in the Columbia River above Bonneville Dam from 6 a.m. August 27 to 6 p.m. August 30, 1997.
- (2) Closed areas are set forth in OAR 635-041-0045, including the closure at the mouth of Spring Creek which during August 25 through September 20, 1997, is the larger area described in OAR 635-041-0045(11).

Stat. Auth.: ORS 496.118 and 506.119  
Stats. Implemented: ORS 506.109, 506.129 and 507.030  
Hist.: Adopted 8-1-97, f and ef. 8-25-97

### **635-041-0076**

#### **Summer Salmon Season**

Stat. Auth.: ORS 496.118 and ORS 506.119  
Stats. Implemented: ORS 506.109, ORS 506.129 and ORS 507.030  
Hist.: Adopted 2-10-06, f. and cert. ef. 2-15-06

### **CONFEDERATED TRIBES OF SILETZ INDIAN CULTURAL SALMON FISHERY**

### **635-041-0500**

#### **Definitions**

In addition to the definitions provided in other rules of the Department, the following definitions shall apply to OAR 635-041-0500 through 635-041-0520:

- (1) "Agreement" means the Agreement Among the State of Oregon, United States of America and the Confederated Tribes of Siletz Indians of Oregon to Permanently Define Tribal Hunting, Fishing, Trapping, and Gathering Rights of the Siletz Tribe and its Members, signed by the parties to the Agreement and dated April 22, 1980, and referred to in United States Public Law 96-340. (See Exhibit 1.)



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- (2) "Dip net" means a net with a mesh size no larger than five inches (measured from the inside of one vertical knot to the outside of the opposite vertical knot), attached to a hoop no larger than four feet in diameter and attached directly to a handle; dip nets shall be attended at all times.
- (3) "Spear" means a hand-propelled barbed single or multiple point device attached directly to a long shaft; no multiple pointed spear shall have an overall width greater than eight inches.
- (4) "Gaffhook" means a large, strong, single point hook attached directly to a handle.

Stat. Auth.: ORS 496.138  
Stats. Implemented: ORS 506.129 and 507.030  
Hist.: FWC 52-1982, f. & ef. 8-9-82

### 635-041-0510

#### Applicability of Regulations

- (1) The right to fish in accordance with OAR 635-041-0500 through 635-041-0520 is restricted to those members of the Confederated Tribes of Siletz Indians of Oregon, referred to in Public Law 95-195, 91 Stat. 1415 (currently codified at 25 U.S.C.S. 711-711F), and all tribal members, present and future, and applies only to the cultural fishery described in the Agreement. All other fishing by tribal members must be in accordance with state laws or rules. The attached Agreement is hereby made a part of these rules.
- (2) The taking of salmon prescribed in the Agreement and by OAR 635-041-0500 through 635-041-0520 is prohibited except by persons, during times, with the fishing gear, and in the areas specified.
- (3) Tribal fishermen must have a valid tribal license in their possession at all times when fishing pursuant to the Agreement.
- (4) Violation of any of the provisions of the Agreement or any of these rules is prohibited.

Stat. Auth.: ORS 496.138  
Stats. Implemented: ORS 506.129 and 507.030  
Hist.: FWC 52-1982, f. & ef. 8-9-82

### 635-041-0515

#### Cultural Fishery Gear

It is lawful to take salmon during the open seasons, prescribed in OAR 635-041-0520 for cultural fishery purposes by dipnets, spears, and gaffhooks.

Stat. Auth.: ORS 496.138  
Stats. Implemented: ORS 506.129 and 507.030  
Hist.: FWC 52-1982, f. & ef. 8-9-82

### 635-041-0520

#### Cultural Fishery Seasons and Areas

- (1) Salmon may be taken for cultural fishery purposes from October 1 through November 30 in those areas described in the Agreement and more specifically:
- (a) Euchre Creek Falls, a single falls located approximately between stream mile 2.8 and 3.0 in Section 11, T9S, R10W. Upstream boundary designated by an orange-painted 18-20 inch oval area located on the rock face on the right side of the stream approximately 94 feet above the base of the falls. The downstream boundary is designated by an orange-painted area on a large boulder on the left side of the stream approximately 280 feet below the base of the falls;
- (b) Dewey Creek Falls, a series of three small falls located approximately between stream mile 0.4 and 0.5 in Section 8, T10S, R10W. The upstream boundary designated by an orange-colored 12 inch triangular piece of aluminum attached to an alder tree on the right side of the stream approximately 53 feet above the base of the upper falls. The downstream boundary designated by an orange-painted 18-20 inch area on a rock ledge on the right side of the stream approximately 290 feet below the base of the upper falls;
- (c) Little Rock Creek, in portions flowing through the NE 1/4 and NW 1/4 of Section 7, T10S, R8W, W.M. on land owned by the Confederated Tribes of the Siletz Indians of Oregon. The upstream boundary is designated by a yellow Siletz Tribal marker at Survey Boundary Stake LS1901 located between Little Rock Creek and the Siletz-Nashville Road at approximately stream mile 0.9. The downstream boundary is designated by a yellow Siletz



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Tribal marker located on a fir Bearing Tree located between Little Rock Creek and the Siletz-Nashville Road at approximately stream mile 0.3;

(d) Within the cultural fishing site on Little Rock Creek, fishing is additionally regulated as follows:

(A) No fishing is allowed within an area 200 feet upstream or downstream of the fish trap operated by the Oregon Department of Fish and Wildlife and designated by Siletz Tribal markers;

(B) Fishing in the section of Little Rock Creek beginning at the Tribal marker 200 feet downstream from the ODFW fish trap and extending downstream 300 feet to a Siletz Tribal marker must occur from platforms or other devices raised above the water surface. Such platforms or devices shall not extend more than one half the width of the stream.

(2) Salmon may be taken for cultural fishery purposes from one hour before sunrise until one hour after sunset.

(3) Salmon taken during the open season set forth in section (1) of this rule shall be tagged immediately upon landing by inserting one of the 200 salmon tags provided to the Confederated Tribe of Siletz by permanently affixing the tag around the lower jaw of the fish. It is *unlawful* to possess salmon taken during the open season set forth in section (1) of this rule which have not been so tagged.

Stat. Auth.: ORS 496.138

Stats. Implemented: ORS 506.129 and 507.030

Hist.: Adopted 10-16-91, ef. 10-18-91

### **635-041-0600**

#### **Confederated Tribes of the Grand Ronde Community of Oregon**

The Oregon Fish and Wildlife Commission adopts the "Agreement among the State of Oregon, the United States of America and the Confederated Tribes of the Grand Ronde Community of Oregon to permanently define tribal hunting, fishing, trapping, and animal gathering rights of the Tribe and its members" (see Exhibit 2), signed by the Commission Chairman, Don Barth, 11-29-86, and further provided that no angling license is required for Grand Ronde members when fishing from jetties and the surf in the Pacific Ocean within the Trask unit.

Stat. Auth.: ORS 496.138

Stats. Implemented: ORS 506.129 and 507.030

Hist.: FWC 33-1987, f. & ef. 6-25-87