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NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 635

DEPARTMENT OF FISH AND WILDLIFE

FILED: 04/29/2026 2:13 PM

ARCHIVES DIVISION SECRETARY OF STATE

FILING CAPTION: (CORRECTED) Amend Rule for Coastal Pelagic Species Fisheries for Consistency with Federal Regulations

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 06/26/2026 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

CONTACT:

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Filed By:

Linda Spansel

Rules Coordinator

HEARING(S)

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

DATE: 06/26/2026

TIME: 8:00 AM - 5:00 PM

OFFICER: Michelle Tate

IN-PERSON HEARING DETAILS

ADDRESS: Redmond Grange #812, 707 SW Kalama Ave., Redmond, OR 97756

SPECIAL INSTRUCTIONS:

SPECIAL INSTRUCTIONS:

LAST DAY AND TIME TO OFFER WRITTEN COMMENT TO THE AGENCY: 06/23/2026 @ 8:00 AM; LAST DAY AND TIME TO OFFER VERBAL COMMENT TO AGENCY: 06/26/2026 CLOSE OF HEARING.

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

NEED FOR THE RULE(S):

This rule is needed to modify state regulation for commercial Coastal Pelagic Species (CPS) fisheries to be consistent with federal regulations. Consistency with federal regulations established under the Magnuson-Stevens Fishery Conservation and Management Act is needed to provide orderly fisheries and enhance the ability of the State to enforce regulations necessary for conservation of CPS stocks in conjunction with other regional, state, and federal management entities.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

1. Staff report prepared for the Oregon Fish and Wildlife Commission hearing on 06/26/2026, including the presentation and all provided materials.

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

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

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

FISCAL AND ECONOMIC IMPACT:

No major fiscal or economic impacts are expected to result from the amended rules for Commercial Pelagic Species Fisheries, as the rules are essentially the same as the last several years.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) The proposed rule will affect state agencies, units of local government, and the public, respectively, as discussed below:

A. The state agencies that would be affected by adoption of this rule are the Oregon Department of Fish and Wildlife (ODFW), and the Oregon State Police (OSP) for enforcement costs. With no directed Pacific sardine fishery and limited incidental landings on the Pacific coast again in 2026-27, Ad Valorem revenues to ODFW from sardine landings will be lower than historical levels and will likely be similar to those since the directed fishery has been closed (2016). Overall, no significant changes in these agencies' operations or expenditures are expected as a result of this rule change.

B. Units of local government may be affected by this rule. No significant changes from the current levels of any local agencies' operations or expenditures are expected as a result of the adoption of this rule.

C. The public could be affected by the adoption of these rules, as discussed below:

The proposed rule will affect state agencies, units of local government, and the public, respectively, as discussed below:
Commercial Pacific Sardine

The Harvest Guideline (HG) is adopted annually by the PFMC for the entire harvest area (Pacific Ocean off CA, OR and WA), based on available biomass estimated by the sardine stock assessment and a predetermined harvest control rule. When the estimated biomass is below a conservation threshold, the HG is set at zero and directed commercial fishing is closed. Although direct harvest is closed, harvest specifications and management measures are still set to account for small-scale fisheries, tribal fisheries, and incidental catch in other fisheries (Table 1). Direct commercial harvest has been

closed since 2015.

See Table 1. Pacific Sardine Harvest Specifications (refer to Attachment).

For 2026-27, the estimated biomass is again below the conservation threshold so direct harvest is again expected to be closed. Consistent with recent years, the PFMC will adopt an annual catch target and accountability measures for incidental catch and the live bait fishery (active primarily in California). This annual catch target and the accountability measures have not yet been determined by the PFMC, but at this point are expected to be more strict than last year's. The following annual catch target and accountability measures were adopted last year for the 2025-2026 season:

- An incidental sardine catch allowance of 20% for commercial coastal CPS fisheries, except live bait and minor directed fishing;
- Directed take of sardines in the live bait fishery will be allowed. A per-trip limit of 1 mt of Pacific sardine will apply if the live bait fishery attains 3,000 mt;
- If the annual catch target of 2,100 mt is attained, a 1 mt per trip limit of Pacific sardine would apply to commercial CPS fisheries;
- An incidental per-trip allowance of 2 mt of sardines applies to non-CPS fisheries.

While the exact harvest specifications and incidental catch accountability measures for the 2026-2027 season have not yet been determined by the PFMC, ODFW anticipates that the new incidental sardine catch allowance for commercial coastal CPS fisheries will be no higher than 20%. The 2026-2027 annual catch limit is expected to be no more than 2,200 mt, with the annual catch target likely lower than that. These expectations are based on the latest draft of the Pacific Sardine Rebuilding Plan developed by the PFMC and National Marine Fisheries Service.

These stringent measures will continue the low level of economic benefit accruing to Oregon businesses involved with sardine harvest relative to recent years. It is difficult to quantify the exact magnitude of the decrease in benefits because the fish migrate annually along the entire U.S. West Coast and beyond, and incidental sardine catch may be landed in any of the three states.

Commercial Pacific sardine landings in Oregon are outlined in Table 2. The value of sardine landed in Oregon depends on many factors including the coast-wide harvest guideline, availability and quality of sardine, and market conditions. Data and models to predict the availability and quality of sardine or market conditions do not exist. However, given that the directed commercial sardine fishery will remain closed for the 2026-2027 season and the allowed incidental sardine catch is limited, it is clear that the value of the fishery will be quite low relative to years when the directed fishery was open (prior to 2016).

See Table 2. Pounds and Value of Pacific Sardines Landed in Oregon (refer to Attachment).

(2) The main types of small business subject to the rules are commercial fishermen targeting coastal pelagic species.

(2)(a) The department issued 17 sardine limited entry permits (3 resident and 14 nonresident) in 2025.

Wholesale dealers/processors who buy Pacific sardine would be affected; there were 7 in 2015, the last year that directed commercial fishing was open. Other small businesses affected would be marine fuel providers, commercial fishing businesses that use large volumes of sardine as bait, marine service and supply businesses, tackle shops, and restaurants/cafes/bars. Information is not available to estimate the number of those types of small businesses affected.

(2)(b) No significant changes in these costs are expected for the small businesses subject to the rule.

(2)(c) No significant changes in these costs are expected for the small businesses subject to the rule.

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

The proposed sardine fishery rule changes were developed through the Pacific Fishery Management Council's public process. Representatives of small businesses participated in that process.

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

No. The proposed rule changes were developed through the Pacific Fishery Management Council process, which

involves advisory committees and public comment.

AMEND: 635-004-0375

RULE SUMMARY: The amended rule will set harvest specification and management measures consistent with federal regulations for Pacific Sardine commercial fisheries. The Commission may decide to adopt the staff recommended rule and rule amendments as proposed in Attachment 3, or the Commission may decide to modify the proposed rule or not adopt some or any of the proposed rule amendments.

CHANGES TO RULE:

635-004-0375

Scope, Inclusion, and Modification of Rules ¶¶

(1) The commercial coastal pelagic species fishery in the Pacific Ocean off Oregon is jointly managed by the state of Oregon and the federal government through the Pacific Fishery Management Council process. The Code of Federal Regulations provides federal requirements for this fishery, including but not limited to the time, place, and manner of taking coastal pelagic species. However, additional regulations may be promulgated subsequently by publication in the Federal Register, and these supersede, to the extent of any inconsistency, the Code of Federal Regulations. Therefore, the following publications are incorporated into Oregon Administrative Rule by reference:¶¶

(a) Code of Federal Regulations, Part 660, Subpart I, (~~October~~March 13, 2024 ed.); and¶¶

(b) ~~Federal Register Vol. 90, no. 177, dated September 16, 2025 (90 FR 44583)~~Insert reference when available.¶¶

(2) Persons must consult the federal regulations in addition to Division 004 to determine all applicable coastal pelagic species fishing requirements. Where federal regulations refer to the fishery management area, that area is extended from shore to three nautical miles from shore coterminous with the Exclusive Economic Zone.¶¶

(3) The Commission may adopt additional or modified regulations that are more conservative than federal regulations, in which case Oregon Administrative Rule takes precedence. See OAR 635-004-0205 through 635-004-0235 and 635-004-0375 through 635-004-0545 for additions or modifications to federal coastal pelagic species regulations.

Statutory/Other Authority: ORS 506.119

Statutes/Other Implemented: ORS 506.109, ORS 506.129

RULE ATTACHMENTS MAY NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

NOTE: Attachments referenced are attached to this document. You may view the attachment 635-004-0375.pdf from the Attachments panel. Alternately, you may view the attachments at the following link:

<https://secure.sos.state.or.us/oard/viewAttachment.action?ruleVrsnRsn=335326>