Oregon Department of Fish and Wildlife, Fish Division (Department) 635

In the Matter of: Amendment of OAR Chapter 635, Division 005, related to commercial razor clam fisheries.

Rule Caption: (Not more than 15 words that reasonably identifies the subject matter of the agency’s intended action.)

Review of regulations for commercial razor clam fishery.

Statutory Authority: ORS 506.109 and ORS 506.119

Other Authority:

Stats. Implemented: ORS 506.129

Need for the Rule(s):

In response to public comments, the Oregon Fish and Wildlife Commission asked for a review of regulations pertaining to the commercial harvest of razor clams south of Tillamook Head. Upon conclusion of review, rules may be adopted or amended, as determined necessary, to prohibit commercial harvest of razor clams in areas south of Tillamook Head.

Documents Relied Upon, and where they are available:


The above documents are available for public inspection in the Department of Fish and Wildlife, Fish Division, Third Floor, 3406 Cherry Avenue NE, Salem, Oregon, between 8:00 a.m. and 4:00 p.m., on normal working days, Monday through Friday.

Fiscal and Economic Impact, including Statement of Cost of Compliance: See attached.

How were small businesses involved in the development of this rule?

Department staff convened the Razor Clam Advisory Committee (commercial and recreational users, processors, retail industry, and chamber of commerce) that were consulted regarding proposed rule alternatives.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The alternatives for rule changes were developed through cooperation and consultation of the Razor Clam Advisory Committee. Department staff also conducted two public meetings pertaining to the proposed alternatives: April 23, 2007 in Seaside; and April 26, 2007 in Newport.

Lance Thomson May 15, 2007

Signature Printed name Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2005
Fiscal and Economic Impact Statement for the July 13, 2007 Hearing
In the Matter of Rules Relating to Commercial Razor Clam Fisheries

Fiscal and economic impact: The proposed rule for the razor clam fishery would prohibit commercial harvest of razor clams south of Tillamook Head in Clatsop County through an amendment of Rule 635-005-0020. The proposed will affect state agencies, units of local government, and the public as follows:

A. State agencies that could be affected by the adoption of this rule are the Oregon Department of Fish and Wildlife (ODFW) and the Oregon Department of Agriculture (ODA). No significant changes from the current levels of the ODFW’s or the ODA’s operations or expenditures are expected as a result of the adoption of these rules.

B. No units of local government are expected to be affected by this rule. A change in the rule will result in no significant changes from the current levels of local agencies’ operations or expenditures.

C. The public could be affected by the adoption of this rule.

2006 marks the first time since 1975 that razor clams were commercially harvested in the area south of Tillamook Head in Clatsop County. Six individuals made commercial landings here, with a total harvest of 2400 lbs., worth $4,790. ODFW collected a poundage fee of 1% of this catch, for a total of $47.90. Of the six individuals that made commercial landings, all had made other landings from areas north of Tillamook Head in that year. It is unknown whether these individuals would have purchased their commercial licenses from ODFW if digging had not been available to them in the area south of Tillamook Head. The most extreme scenario is that all of these individuals would have forgone digging razor clams in response to a prohibition in this area. The price of a resident commercial razor clam permit is $50. In this case, there would have been a $300 loss in permit sales for ODFW. Given the small portion of total harvest value that comes from the area (5% of 2006 harvest) it is unlikely that these individuals would forgo all commercial digging if the area were closed to them. Altogether, the effect on ODFW revenues or operations of closure of this area is not expected to be significant.

ODA issues health certifications for clams intended for human consumption. However, the area south of Tillamook Head has no beaches on which commercial harvest for human consumption is permitted, so there is no impact on ODA operations or revenues.

It has been argued that closure of this area to commercial harvest might allow more razor clams to be available to the public for recreational harvest. However, this effect would be mitigated by several factors. The first is that natural mortality rates in these areas are much higher than at the Clatsop Beaches, so any clams harvested are more likely to die even without the harvest. Secondly, the commercial harvest here is relatively low. Finally, the recreational catch per unit effort (CPUE) here is 11 clams per digger, much higher than at the Newport area beaches where no commercial harvest has occurred. For these reasons, it is uncertain whether prohibiting commercial harvest would increase the quality of recreational harvest in this area. Additionally, state parks south of Tillamook Head provide ample opportunities for recreational digging in areas close to commercial diggers. In fact, of the 16 known large razor clam populations found south of Tillamook Head, 10 are found exclusively in state parks.
The rules are believed to be fully compatible with legislative direction on the goals of fish and wildlife management in Oregon.

We do not believe that a less intrusive or less costly alternative adaptation to only small business is consistent with the purpose of the rule.

All business affected by these rules are believed to be "small business."