

Secretary of State

**STATEMENT OF NEED AND FISCAL IMPACT**

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Department of Fish and Wildlife, Fish Division

635

Agency and Division

Administrative Rules Chapter Number

In the Matter of: Amendment of OAR Chapter 635, Divisions 004 and 006, related to ocean commercial Pacific sardine fisheries.

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

Modify Rules for Ocean Commercial Pacific Sardine Fisheries.

Statutory Authority: ORS 496.138 and 506.119

Other Authority:

Stats. Implemented: ORS 496.162, 506.109 and 506.129

Need for the Rule(s):

These modifications are needed to amend commercial Pacific sardine regulations concerning: permit renewal requirements; permit waivers; permit transfers; the permit lottery; and banning practice of tendering (see definition, OAR 635-004-0020). In addition, these rules are needed to amend commercial Pacific sardine harvest regulations and establish annual management rules for 2009.

Documents Relied Upon, and where they are available:

1. Staff report for the Oregon Fish and Wildlife Commission meeting of April 17, 2009.
2. Federal Register Notice (RIN 0648-XM21), Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Annual Specifications, dated January 5, 2009.

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.

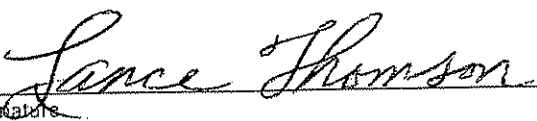
How were small businesses involved in the development of this rule?

The Pacific Fishery Management Council (PFMC) proposed federal management measures for sardine fisheries for 2009 in November, 2008, which are to be adopted in the Federal Register in February 2009. Representatives of small businesses participated in PFMC's public process to develop the proposed federal measures. ODFW also held public meetings to discuss proposed changes to both federal and state sardine regulations. Representatives of small businesses participated in those meetings. In addition, the Sardine Advisory Board, which includes small business owners and advises ODFW on sardine fishery issues, was consulted on the proposed regulations.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

Department staff is consulting with the sardine industry (Sardine Advisory Board, permit holders, and fish processors) regarding the proposed rule changes. Small business representatives participated in the sardine meetings.



Lance Thomson

Printed name

February 13, 2009

Date

**Economic Impact Statement for the April 17, 2009 Hearing  
In the Matter of Rules Relating to the Pacific Sardine Fishery Permits  
And the Practice of Tendering**

Fiscal and economic impact: Rules are being proposed to change the landings requirements to renew a sardine permit, to change waivers for these landings requirements, to eliminate the practice of tendering, to change permit renewal requirements, and to establish a lottery system to allocate extra permits until the cap of 26 is reached. The proposed rules will affect state agencies, units of local government and the public, respectively, as discussed below.

A. State agencies that could be affected by these harvest management rules are the Oregon Department of Fish and Wildlife (ODFW) and the Oregon State Police. No changes from the current levels of these agencies' operations or expenditures are expected as a result of these particular rules.

B. Units of local government that could be affected by harvest management rules include Port Authorities and County Governments. Provision of moorage to sardine permit holders is a source of revenue for these local agencies, and any changes in the number of permit holders will affect these entities.

C. The public is affected by these rules. Any changes to landings requirements to make them less stringent or averaged over a longer period would benefit sardine fishers who may keep their permits as a result. One option under consideration is a lottery by which extra sardine permits may be allocated. Individuals receiving those permits would benefit from such a lottery. Changes to permit transfer rules would allow individuals to transfer permits to vessels without requiring that the individual own or operate the vessel to which a permit is transferred. This facilitates the ability of individuals or companies to transfer permits to other vessels that are able to make landings requirements, so that such individuals or companies may keep all the benefits of their permits. Finally rule changes are being proposed to ban the practice of tendering, by which a vessel transfers fish from another vessel at sea and makes a landing with the fish. Any rule changes to ban tendering are likely to change business operations for those who practice this, causing a potential negative fiscal impact to these individuals. Information is not logged on the amount of tendering that happens, so the magnitude of this impact is unknown.

In 2008, the sardine fishery made landings of 50.6 million pounds of fish worth \$5.7 million. The fishery has 25 permit holders.

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

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.