

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, 011 and 039, Related to 2009 Sport and Commercial Groundfish and Pacific Halibut and Ocean Commercial Sturgeon Fisheries.

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

Amend Rules for Sport and Commercial Groundfish and Pacific Halibut, and Ocean Commercial Sturgeon Fisheries.

Statutory Authority: ORS 496.138, 496.146, 506.036, 506.109, 506.119, and 506.129.

Other Authority:

Stats. Implemented: ORS 496.162 and 506.129.

Need for the Rule(s): These rules will amend sport and commercial rules for groundfish and Pacific halibut, and ocean commercial sturgeon fisheries and establish annual management measures 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. Pacific Fishery Management Council Newsletter; Pacific Council News, Summer 2008, Vol. 32, No.2.
3. Pacific Fishery Management Council Newsletter; Pacific Council News, Winter 2008, Vol. 32, No. 4.
4. International Pacific Halibut Commission News Release, dated January 20, 2009.

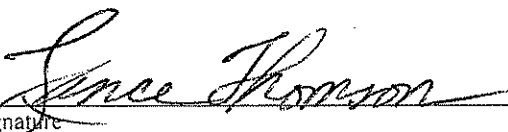
The above documents are available for public inspection in the Department of Fish and Wildlife, Fish Division, Third Floor, 3406 Cherry Avenue NE, Salem, Oregon, between 8:00 a.m. and 4:00 p.m., on normal working days, Monday through Friday.

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

How were small businesses involved in the development of this rule? The Department held several public meetings to discuss state groundfish regulations and federal management measures proposed by Pacific Fishery Management Council (PFMC) for groundfish fisheries in 2009 and 2010, which are to be adopted in the Federal Register in March 2009. Representatives of small businesses participated in those meetings. In addition, the marine Sport Advisory Committee which includes small business owners and employees was consulted on the proposed 2009 regulations. ODFW held several public meetings prior to the September and November PFMC meetings to solicit public input and comment. Small business representatives participated in the International Pacific Halibut Commission (IPHC) meeting in January 2009 which proposed management measures for halibut fisheries in 2009 to be adopted in the Federal Register in March 2009. For sturgeon regulations, participation of industry representatives (most of which are small businesses) was solicited at the Columbia River Commercial Advisory Committee and at the Columbia River Compact hearings of December 18, 2008 and January 29, 2009.

Administrative Rule Advisory Committee consulted?: No.

If not, why?: The alternatives for rule changes were developed through the PFMC and IPHC process, which involves advisory committees and public comment. Department staff also conducted several public meetings to discuss proposed changes to federal and state groundfish regulations and federal Pacific halibut regulations pertaining to the proposed alternatives. In addition, the marine Sport Advisory Committee was consulted. For sturgeon, the Technical Advisory Committee (TAC) comprised of fisheries biologists representing: Idaho; Oregon; Washington; Columbia River Treaty Tribes; Shoshone-Bannock Tribes; US Fish and Wildlife Service; and National Marine Fisheries Service; will have met, reviewed, and reported on data presented in the Joint Staff Report prepared for the January 29, 2009 Columbia River Compact hearing prior to convening of Oregon Fish and Wildlife Commission on April 17, 2009.


Signature

Lance Thomson

Printed name

February 13, 2009

Date

Economic and Fiscal Impact Statement for the April 17, 2009 Hearing In the Matter of Rules Relating to 2009 Sport and Commercial Groundfish and Halibut Fisheries and Commercial Sturgeon Fisheries

Fiscal and economic impact: Rule changes are being proposed to change the sport and commercial groundfish harvest limits and to incorporate a reference to the International Pacific Halibut Commission by rule for sport and commercial halibut fishing. Finally, the method for measuring sturgeon to determine legal size could be changed. The proposed rules will affect state agencies, units of local government, and the public, respectively, as discussed below:

A. The state agencies that could be affected by adoption of these rules are the Oregon Department of Fish and Wildlife (ODFW) and the Oregon State Police (enforcement costs). Reductions of allowed harvest for several nearshore groundfish species in recent years have caused reductions in landing fee revenues to the Commercial Fisheries Fund (Other Funds). Because of the continuation of restrictive management measures by the Pacific Fishery Management Council (PFMC), 2009 harvest levels of groundfish species will remain relatively low. Restrictions have been eased slightly for several species of groundfish, both in the sport and commercial fishery.

To the extent that commercial groundfish revenues are affected, there could be an impact on ODFW's ability to fund positions or activities in the Fish Division. Since restrictive commercial management measures have been in effect for several years, significant changes from the status quo are not expected. Although angler license sales have decreased in recent years, currently it is not possible to determine the relative importance of the many factors that are responsible for the decline.

B. We also do not have enough information or suitable methodology to predict the extent to which units of local government will be affected by these rules. It is probable that some Oregon port districts will be impacted, but relative to the magnitude of previous decreases in groundfish landings, severe impacts are not anticipated for the commercial fishery. The sport groundfish fishery contributes significantly to the local economy. It is also probable that some Oregon port districts will be impacted, but significant impacts are not anticipated. More detailed consideration of impacts is not possible because of data constraints and the 2009 commercial management measure proposals have not been finalized at this time.

C. The public will be affected by the adoption of these rules: The proposed rules are necessarily consistent with actions of the Pacific Fishery Management Council (PFMC), which establishes federal harvest levels for groundfish. Adoption of commercial regulations that exceed these harvest levels would likely result in preemption of state management authority. The harvest levels will limit fishers' and processors' income, but significant changes relative to the current situation are not anticipated.

Sport and Commercial Groundfish

In 2008 there were 55 black and blue rockfish only permits and 70 black and blue rockfish permits with the nearshore endorsement. There are 17 major buyers, of which six buy live fish. Total landings in 2008 included 101.3 metric ton (mt) of black and blue rockfish and 11.1 mt of nearshore fish.

Commercial and sport nearshore groundfish fishery quotas will be slightly higher than 2008 levels. For example, the federal harvest caps (landings plus discard) for the commercial harvest of black and blue rockfish combined would increase from 104.6 to 141.9 mt. The sport harvest cap of these species combined is raised from 359 to 481 mt.

In recent years, commercial seasons have been constrained by a combination of caps and period limits. Since fleet size and efficiency are sufficient to harvest entire harvest caps within several months, period limits were implemented to extend the season. These measures combine to affect the timing, volume, and associated price of landings. Impacts of management measures on individual vessels will differ depending on location or port, product form and target species mixes. The scale of vessel operations and associated fixed and variable costs determines whether a management measure will affect profitability, and provide a comparative advantage or disadvantage relative to other vessels in the fishery.

Ex-vessel prices depend in part on the quantity of product available at a given point in time. If management measures spread landings over a greater period of time, ex-vessel prices should be more stable and on average higher than if landings are taken over a shorter period. However, prices are also dependent on processors' needs and the scale of processing operations.

Potential changes in harvest patterns may also impact businesses that process fish or purchase live fish. Management measures that extend the season may have a positive impact on this sector by providing product to processors and consumers for a longer period. Product volume and timing will also impact this sector. At times the volume of landings may not be sufficient for large processors because of the scale of their operations.

At the time of this writing, we are unable to project likely positive or negative impacts because of uncertainty associated with the management measures that will be proposed. In addition, data required for bioeconomic models that incorporate fishing choices and predict reactions to regulation such as fishing location and target species are not available. However, for both harvesting and processing sectors we do not expect impacts to be significant because changes in commercial nearshore caps and associated regulations are likely to be small relative to the 2008 season.

Recreational Groundfish

The recreational groundfish fishery makes substantial contributions to coastal community economies from private and charter fishing trips. Total estimated angler trips for 2008 included approximately 72,278 angler days for bottomfish and 4,464 combination trips. In 1989, the most recent economic impact analysis, bottomfishing generated \$5.7 million in personal income (of which \$0.8 million was generated when halibut was the target species) (The Research Group 2000).

Halibut

Sport and commercial halibut seasons and regulations are set by the International Pacific Halibut Commission, this particular rule change only makes reference to existing regulations, so there is no fiscal impact from these changes.

Finally, a change in the way sturgeon are measured is proposed for the commercial sturgeon fishery. The proposed rule recommends measuring the fork length for sturgeon instead of total length.

Summary

Although harvest restrictions reduce positive economic impacts in the short run, conservation through restrictive regulations and Optimum Yields set at the federal level are intended to perpetuate these groundfish resources at higher levels in the long run. Failure to restrict harvests to appropriate levels to allow for rebuilding of stocks may result in more severe adverse economic impacts in the future. The proposed regulations are intended to strike a balance between present and future consumption that sustains fishery resource benefits over time.

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 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.

References:

PFMC (Pacific Fishery Management Council) and NMFS (National Marine Fisheries Service). 2006. Proposed Acceptable Biological Catch and Optimum Yield Specifications and Management Measures for the 2007-2008 Pacific Coast Groundfish Fishery, and Amendment 16-4: Rebuilding Plans For Seven Depleted Pacific Coast Groundfish Species; Final Environmental Impact Statement Including Regulatory Impact Review and Initial Regulatory Flexibility Analysis. Pacific Fishery Management Council, Portland, OR. October 2006. (Other amendments might be adopted before the date of the meeting to plan the 2008 season.)

The Research Group. 2000. Economic Impacts from Ocean and Lower Estuary Salmon Commercial and Recreational Fisheries in 2000. Oregon Department of Fish and Wildlife and Oregon Coastal Zone Management Association, Inc.

The Research Group. 2007. Oregon's Commercial Fishing Industry: Year 2005 and 2006 Review and Year 2007 Outlook. Oregon Department of Fish and Wildlife and the Oregon Coastal Zone Management Association, Inc.