

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING HEARING\***  
 A Statement of Need and Fiscal Impact accompanies this form.

Oregon Department of Fish and Wildlife, Fish Division	635
Agency and Division	Administrative Rules Chapter Number
Therese Kucera	3406 Cherry Avenue NE, Salem, OR 97303
Rules Coordinator	(503) 947-6033
	Address
	Telephone

**RULE CAPTION**

Adopt Regulations Pertaining to Commercial Harvest of Bait Fish in Inland Waters

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

		Commission Room Oregon Dept. of Fish & Wildlife 3406 Cherry Avenue NE Salem, OR 97103	
August 7, 2009	08:00 a.m.		Oregon Fish and Wildlife Commission
Hearing Date	Time	Location	Hearings Officer

*Auxiliary aids for persons with disabilities are available upon advance request.*

**RULEMAKING ACTION**

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

**ADOPT:** OAR Chapter 635, Divisions 004 and 006 as determined justified.

**AMEND:** OAR Chapter 635, Divisions 004 and 006 as determined justified.

**REPEAL:** OAR Chapter 635, Divisions 004 and 006 as determined justified.

Stat. Auth.: ORS 506.119.

Other Auth.: \_\_\_\_\_

Stats. Implemented: ORS 506.109 and 506.129

**RULE SUMMARY**

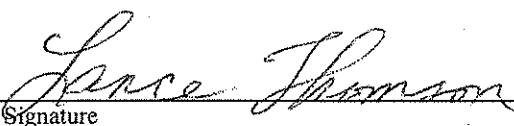
Adopt rules relating to commercial harvest of bait fish in Oregon inland waters.

Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

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

August 7, 2009

**Last Day for Public Comment** (Last day to submit written comments to the Rules Coordinator)

  
Signature

Lance Thomson  
Printed name

June 9, 2009  
Date

\* Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Rulemaking Notice in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

**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  
Agency and Division

635

Administrative Rules Chapter Number

In the Matter of: Amendment of OAR Chapter 635, Divisions 004 and 006, related to commercial harvest of bait fish in inland waters.

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

Adopt Regulations Pertaining to Commercial Harvest of Bait Fish in Inland Waters.

Statutory Authority: ORS 506.119

Other Authority:

Stats. Implemented: ORS 506.109 and 506.129

Need for the Rule(s): In response to industry requests, the Oregon Department of Fish and Wildlife filed temporary rules in 2008 and 2009 allowing commercial harvest of anchovies in inland waters. This allows live bait albacore tuna vessels to capture bait after delivering tuna, promoting these vessels to land in Oregon ports. Department staff are bringing alternatives forward for the Oregon Fish and Wildlife Commission to take permanent rulemaking action.

Documents Relied Upon, and where they are available:

1. Staff report for the Oregon Fish and Wildlife Commission hearing of August 7, 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.

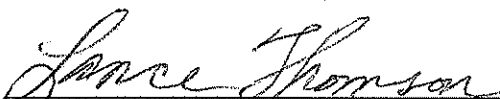
How were small businesses involved in the development of this rule?

Department staff consulted with members of the tuna industry and a small bait business in developing the proposed alternatives.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The alternatives for rule changes were developed through cooperation and consultation with affected members of the tuna industry and an existing small bait business.

  
Signature

Lance Thomson  
Printed name

June 9, 2009  
Date

## **Fiscal and Economic Impact Statement for the August 7, 2009 Hearing In the Matter of Rules Relating to Anchovy Bait Fishing in Selected Areas**

Fiscal and economic impact: Rule changes are being proposed to allow the harvest of anchovies for bait from certain bays and estuaries. The sale of this bait would attract boats with tuna landings to areas where bait can be harvested or purchased in Oregon. The proposed rules will affect state agencies, units of local government, and the public, respectively, as discussed below:

A. The only state agency that should be affected by adoption of these rules is the Oregon Department of Fish and Wildlife and the Oregon State Police for enforcement costs. No significant changes from the current levels of these agencies' operations or expenditures are expected as a result of the adoption of these rules. If tuna boats make more landings in Oregon due to the opportunities to harvest sardines for bait, ad-valorem catch fees to the ODFW commercial fish fund would increase accordingly.

B. No units of local government are expected to be affected by these rules. No significant changes from the current levels of any local agencies' operations or expenditures are expected as a result of the adoption of these rules.

C. The public could be affected by the adoption of these rules: This rule change may allow businesses to harvest and sell anchovies for bait to sport anglers and commercial tuna businesses. It is expected that the businesses that open would be relatively small-scale. Business owners would benefit from the opportunity to harvest and sell anchovies. Specific information about operations costs or net revenues are not available.

In 2008, 572,407 pounds of anchovies were harvested for a price of \$0.10 per pound. The harvest of anchovies is allowed in the ocean and Columbia River. This represents a 5-year peak in harvest. The fishery has been highly variable, ranging from 11,101 pounds of harvest in 2007 to 572,407 pounds in 2008.

<b>Year</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
<b>Ex-Vessel Revenues</b>	\$4,612	\$1,602	\$23	\$2,220	\$56,781
<b>Pounds Harvested</b>	28,812	150,690	18,915	11,101	572,407
<b>Price per Pound</b>	\$0.16	\$0.01	\$0.00	\$0.20	\$0.10

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.