

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	(503) 947-6033
Rules Coordinator	Telephone

3406 Cherry Avenue NE, Salem, OR 97303

Address

**RULE CAPTION**

Adopt and Modify Commercial Pacific Sardine, Sport Pacific Halibut, and Sport Sturgeon Fisheries Rules

*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	Oregon Fish and Wildlife Commission
March 12, 2010	08:00 a.m.	Location	Hearings Officer
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, 006, 011 and 039 as determined justified.

**AMEND:** OAR Chapter 635, Divisions 004, 006, 011 and 039 as determined justified.

**REPEAL:** OAR Chapter 635, Divisions 004, 006, 011 and 039 as determined justified.

**RENUMBER:**

**AMEND & RENUMBER:**

Stat. Auth.: ORS 496.138 and 506.119

Other Auth.:

Stats. Implemented: ORS 496.162, 506.109 and 506.129

**RULE SUMMARY**

These rules are for commercial Pacific sardine harvest specifications for 2010; sport Pacific halibut regulations for 2010; and prohibiting retention of green sturgeon in sport fisheries.

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.

March 12, 2010

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

	Lance Thomson	January 15, 2010
Signature	Printed name	Date

\* Hearing 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. ARC 920-2005

**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, 006, 011, and 039, related to ocean commercial Pacific sardine, sport Pacific halibut, and sport sturgeon fisheries.

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

Adopt and Modify Commercial Pacific Sardine, Sport Pacific Halibut, and Sport Sturgeon Fisheries Rules.

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 rules are needed to amend commercial Pacific sardine harvest regulations and establish annual management rules in 2010; amend sport Pacific halibut regulations for 2010; and prohibit retention of green sturgeon in sport fisheries.

Documents Relied Upon, and where they are available:

1. Staff report for the Oregon Fish and Wildlife Commission meeting of March 12, 2010.
2. Pacific Council News, Winter 2009, Volume 33, No.4

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 Pacific sardine and Pacific halibut fisheries for 2010 in November, 2009 which are to be adopted in the Federal Register. Representatives of small businesses participated in PFMC's public process to develop the proposed federal measures. Public meetings were held to solicit input on changes to Pacific halibut fisheries in 2010. Small businesses participated in these meetings.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The alternatives for rule changes were developed through the Council process, which involves advisory committees and public comment. Department staff also conducted public meetings to discuss proposed changes to Pacific halibut regulations.

Lance Thomson

January 15, 2010

Printed name

Date

Signature

## Fiscal and Economic Impact Statement for the March 12, 2010 Hearing In the Matter of Rules Relating to Commercial Sardine and Sport Halibut Fishing

Fiscal and economic impact: Rule changes are being proposed to adopt International Pacific Halibut Council (IPHC) and Pacific Fisheries Management Council (PFMC) sport halibut catch levels and management measures. Additionally, proposed changes would adopt sardine harvest levels for the commercial sardine fishery. Allowable harvests are determined by the PFMC management process. Finally, rule changes would prohibit the sport take of green sturgeon to comply with federal guidelines as this has been listed as a threatened species. The proposed rules will affect state agencies, units of local government, and the public, respectively, as discussed below:

A. The only state agency that would be affected by adoption of these rules is the Oregon Department of Fish and Wildlife (ODFW) and the Oregon State Police (OSP) for enforcement costs. No significant changes in these agencies operations or expenditures are expected as a result of this rule change.

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.

Commercial sardine landings are outlined in Table 1 below. Significant changes to the allowable catch for sardines are not anticipated, so the commercial fishing and processing sector is not expected to be significantly affected by this rule change.

**Table 1 – Pounds and Value of Pacific Sardines**

Year	Pounds	Total Value	Price per Pound
2005	99,449,714	\$ 5,872,272	\$ 0.06
2006	78,633,884	\$ 3,790,418	\$ 0.05
2007	92,910,549	\$ 4,632,700	\$ 0.05
2008	50,593,285	\$ 5,764,316	\$ 0.11
2009	47,357,065	\$ 5,426,396	\$ 0.11

Sport anglers gain value from fishing over and above the money they pay to participate. These net economic values accrue to individuals as they enjoy the experience of fishing. Information is not available on the net economic values of fishing for halibut in the ocean. However, the expenditures for ocean halibut trips benefit businesses as individuals pay for food, gas, charter boats, bait, hotels, restaurants, ice, etc. These expenditures have an impact on the local economy and Oregon's economy. Ultimately, the expenditures at a store, restaurant, or gas station will result in personal income for employees or owners of these and supporting businesses. In 2009, the allowable catch of halibut was reduced by 22% from 2008 levels. It is expected that, in 2010, the levels will be reduced by a comparable amount. Table 2 outlines the personal income impact in Oregon of halibut trips in 2009. These numbers have been derived from an expenditure survey conducted by Gentner (2001). Oregon Department of Fish and Wildlife halibut trip estimates were then applied to the expenditures calculated in the Gentner survey, and adjusted for inflation.

**Table 2 – Personal Income Impact of Halibut Trips Off the Oregon Coast**

Oregon, Statewide <u>Trip Expenditures</u>	2009 Personal Income Impact Total Impact (R/NR Pooled) (2008\$)		
	<u>Charter</u>	<u>Pr. Boat</u>	<u>Total</u>
Private transportation	\$66,053	\$126,146	\$192,200
Public transportation	\$10,982	\$5,519	\$16,501
Food	\$44,184	\$91,035	\$135,219
Lodging	\$67,654	\$80,316	\$147,970
Boat fuel	\$0	\$35,196	\$35,196
Party/charter fees	\$117,526	\$0	\$117,526
Access/boat	\$2,189	\$14,852	\$17,042
Equipment rental	\$45,992	\$5,025	\$51,017
Bait and ice	\$2,633	\$28,626	\$31,259
<b>Total</b>	<b>\$357,214</b>	<b>\$386,716</b>	<b>\$743,930</b>

Rules are being proposed to prohibit sport retention of green sturgeon. This species has been listed as “threatened” under the Federal Endangered Species Act. Prohibition on harvest of the green sturgeon would eliminate this small part of the sport fishery. The potential effects on fishing opportunity of this prohibition are unknown, but they are not likely to be very high given distressed population levels.

While the public will experience short-term losses from the conservation actions in this fishery, these actions are necessary to preserve the species in the long-term. Regulations are intended to preserve the stream of values the public derives from the fishery through both the opportunities to fish for halibut and existence values that the public hold for the species and its place in the ecosystem. Adequate escapement for spawning is necessary to preserve fish populations.

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

Gentner, Brad, Michael Price, and Scott Steinback. Marine Angler Expenditures in the Pacific Coast Region, 2000. National Oceanic and Atmospheric Administration Technical Memorandum NMFS-F/SPO 49, October, 2001.