

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

FILED
11-13-15 8:25 AM
ARCHIVES DIVISION
SECRETARY OF STATE

Department of Fish and Wildlife
Agency and Division Administrative Rules Chapter Number
Michelle Tate (503) 947-6044
Rules Coordinator Telephone
Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302
Address

RULE CAPTION

Establish Average Market Values of Food Fish for Determining Damages Related to Commercial Fishing Violations.

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

Hearing Date	Time	Location	Hearings Officer
1-15-16	8:00 a.m.	4034 Fairview Industrial Dr. SE, Salem, OR 97302	Oregon Fish and Wildlife

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND:
635-006-0232.

REPEAL:

RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

Statutory Authority:
ORS 506.119

Other Authority:

Statutes Implemented:
ORS 506.109 and ORS 506.720

RULE SUMMARY

Amend rule to establish the average market value of food fish species used to determine damages for commercial fishing violations.

Housekeeping and technical corrections 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 negative economic impact of the rule on business.

01-15-2016 Close of Hearing	Michelle Tate	michelle.l.tate@state.or.us
Last Day (m/d/yyyy) and Time for public comment	Rules Coordinator Name	Email Address

*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation.

Secretary of State
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Department of Fish and Wildlife

635

Agency and Division

Administrative Rules Chapter Number

Establish Average Market Values of Food Fish for Determining Damages Related to Commercial Fishing Violations.

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

In the Matter of:

Amendment of OAR Chapter 635, Division 006, related to damages for commercial fishing violations.

Statutory Authority:

ORS 506.119

Other Authority:

Statutes Implemented:

ORS 506.109 and ORS 506.720

Need for the Rule(s):

Rule modifications are necessary to update existing food fish species' market values that will be used to assess damages resulting from commercial fishing violations.

Documents Relied Upon, and where they are available:

1. Staff report for the Oregon Fish and Wildlife Commission hearing of January 15, 2016.

The above document is available for public inspection in the Department of Fish and Wildlife, Fish Division, Second Floor, 4034 Fairview Industrial Dr. SE, Salem, Oregon 97302-1142, between the hours of 8:00 a.m. and 4:00 p.m., on normal working days, Monday through Friday.

Fiscal and Economic Impact:

See attached statement.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

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. No significant changes from the current levels of the department'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 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. The persons or businesses most likely to be affected are those who may be assessed damages for commercial fishing violations. The proposed amendments would replace the existing values with updated values. The changes could increase or decrease potential damages depending on the species and the market prices for those species in the last year. Overall, it is unlikely that there will be significant changes in the magnitude of total damages that could be incurred.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:

Small businesses subject to these proposed rules would be commercial fishing outfits and commercial fish dealers. In 2014, the number of individuals or businesses that purchased Oregon commercial fishing licenses was 2,341 (1,783 resident and 558 nonresident) and the number of Oregon licensed fish dealers was 446. The vast majority of these commercial fishing license holders are small businesses, with less than 50 employees.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

None expected.

c. Equipment, supplies, labor and increased administration required for compliance:

None expected.

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

Not applicable.

Administrative Rule Advisory Committee consulted?: No

If not, why?:

Revisions to this rule are based on actual prices paid for fish species by licensed fish dealers with the exception of amounts mandated by Oregon Revised Statutes.

<u>01-15-2016 Close of Hearing</u>	<u>Michelle Tate</u>	<u>michelle.l.tate@state.or.us</u>
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

ARC 925-2007

**Fiscal and Economic Impact Statement for the January 15, 2016 Hearing
In the Matter of Rules Relating to Food Fish Values Used
In Determining Damages for Commercial Fishing Violations**

Fiscal and economic impact:

Rule modifications are necessary to update existing food fish species' market values that will be used to assess damages resulting from commercial fishing violations in 2016. Revisions to this rule are based on actual prices paid for fish species by licensed fish dealers in 2015, with the exception of amounts mandated by ORS 506.720. The food fish values are used in instances where fish were illegally landed or not reported properly and a price cannot be determined.

Statement of Cost of Compliance

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

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. No significant changes from the current levels of the department'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 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. The persons or businesses most likely to be affected are those who may be assessed damages for commercial fishing violations. The proposed amendments would replace the existing values with updated values. The changes could increase or decrease potential damages depending on the species and the market prices for those species in the last year. Overall, it is unlikely that there will be significant changes in the magnitude of total damages that could be incurred.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

Small businesses subject to these proposed rules would be commercial fishing outfits and commercial fish dealers. In 2014, the number of individuals or businesses that purchased Oregon commercial fishing licenses was 2,341 (1,783 resident and 558 nonresident) and the number of Oregon licensed fish dealers was 446. The vast majority of these commercial fishing license holders are small businesses, with less than 50 employees.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

None expected.

c. Equipment, supplies, labor and increased administration required for compliance:

None expected.

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.