

Secretary of State

NOTICE OF PROPOSED RULEMAKING HEARING*

A Statement of Need and Fiscal Impact accompanies this form

<p>FILED 1-14-16 9:19 AM ARCHIVES DIVISION SECRETARY OF STATE</p>

<u>Department of Fish and Wildlife</u>	635
Agency and Division	Administrative Rules Chapter Number
<u>Michelle Tate</u>	(503) 947-6044
Rules Coordinator	Telephone
<u>Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302</u>	
Address	

RULE CAPTION

Sea Urchin and Sea Cucumber Commercial Fisheries Regulations.

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

Hearing Date	Time	Location	Hearings Officer
3-18-16	8:00 a.m.	Oregon Dept of Fish and Wildlife, 4034 Fairview Industrial Drive SE,	Oregon Fish and Wildlife

RULEMAKING ACTION

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

ADOPT:

OAR Chapter 635, Division 005 as determined justified.

AMEND:

OAR Chapter 635, Division 005 as determined justified.

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 506.036, 506.109, 506.119 and 506.129

Other Authority:

Senate Bill 247 (2015)

Statutes Implemented:

ORS 506.109, 506.129, 506.306, 508.760 and 508.762

RULE SUMMARY

These proposed rules: 1) Amend the number of limited entry permits in the sea urchin fishery from 30 permits to 12 permits; 2) Adopt new rules to disallow use of enriched air; and 3) Adopt new rules to incorporate California sea cucumbers into the permit. These modifications will increase long-term sustainability of the sea urchin fishery. In particular, the proposed rules will: 1) Reduce the total harvest potential of the fleet to better match productivity of the resource; 2) Increase the investment of active fishers by a reduction in the number of new permits allocated through a lottery; 3) Maintain the status quo in gear use which will help preserve the deep water populations that are important to productivity and the fishery; and 4) Incorporate permitting for commercial harvest of California sea cucumbers (which typically involves only sea urchin harvesters) into the limited entry system for sea urchins.

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.

<u>03-18-2016 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	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
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

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SECRETARY OF STATE

Department of Fish and Wildlife

635

Agency and Division

Administrative Rules Chapter Number

Sea Urchin and Sea Cucumber Commercial Fisheries Regulations.

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 005 to reduce the number of limited entry permits, disallow enriched air usage, and incorporate California sea cucumbers into the sea urchin permit.

Statutory Authority:

ORS 506.036, 506.109, 506.119 and 506.129

Other Authority:

Senate Bill 247 (2015)

Statutes Implemented:

ORS 506.109, 506.129, 506.306, 508.760 and 508.762

Need for the Rule(s):

These amended rules are needed to improve the sustainability of Oregon's sea urchin and sea cucumber fisheries.

Documents Relied Upon, and where they are available:

Staff report for the Oregon Fish and Wildlife Commission hearing of March 18, 2016.

A copy of the rules and the other documents relied upon for this rulemaking [the above document] are available from the Oregon Department of Fish and Wildlife, Fish Division, Second Floor, 4034 Fairview Industrial Drive 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 attachment.

Statement of Cost of Compliance:

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

See attachment.

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:

See attachment.

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

See attachment.

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

See attachment.

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

Decades of fishery dependent and independent data for sea urchins show a need for more conservative management strategies in the long term. The department analyzed these data and presented it to industry on December 3, 2015. Changes to management and regulations in order to improve the long term sustainability of the sea urchin fishery were discussed. Representatives of small businesses attended that meeting. Previously, the existing sea urchin permit lottery was suspended on March 7, 2014 and that suspension was developed in direct consultation with the affected industry including small businesses. These businesses are most interested in the continued sustainability / viability of the fishery.

Administrative Rule Advisory Committee consulted?: No

If not, why?:

The affected industry was involved in the development of these rules through public meetings.

<u>03-18-2016 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

**Economic Impact Statement for the March 18, 2016 Hearing
In the Matter of Rules Relating to Sea Urchin and
Sea Cucumber Commercial Fisheries Regulations**

The proposed rules: 1) Amend the number of limited entry permits in the sea urchin fishery from 30 permits to 12 permits; 2) Adopt new rules to disallow use of enriched air when diving commercially for sea urchin; and 3) Adopt new rules to incorporate California sea cucumbers into the permit. These modifications are intended to increase the long-term sustainability of the sea urchin fishery. In particular, the proposed rules will: 1) Reduce the total harvest potential of the fleet to better match productivity of the resource; 2) Increase the investment of active fishers by a reduction in the number of new permits allocated through a lottery; 3) Maintain the status quo in gear use which will help preserve the deep water populations that are important to productivity and sustainability of the fishery; and 4) Incorporate permitting for commercial harvest of California sea cucumbers (which typically involves only sea urchin harvesters) into the limited entry system for sea urchins.

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. State agencies that could be affected by these rules are the Oregon Department of Fish and Wildlife (ODFW) and the Oregon State Police (OSP). Under these rule changes, it is likely that ODFW would collect slightly less revenue due to selling a few less Sea Urchin Limited Entry permits (being reduced to 12) and a few less Commercial Shellfish Harvester licenses (sea cucumber harvesters will no longer need that license). No change in enforcement levels by OSP is anticipated. Overall, no significant changes from the current levels of these agencies' staffing, expenditures, or revenues are expected as a result of these particular rules.

B. No units of local government will be affected by the proposed rules.

C. The public may be affected by the proposed rules. The addition of sea cucumbers to the sea urchin limited entry fishery may increase the value of the permits, which would benefit incumbents, though the magnitude of any change cannot be forecast with any accuracy. Reducing the number of limited entry permits to 12 would potentially make it more expensive for new commercial fishers to participate in the fishery. This is because they would have to purchase a permit from an incumbent, which probably would come at a cost greater than that of renewing a permit with the Department (\$127 resident; \$177 nonresident). However, there is no unmet demand for participation in the sea urchin fishery at this time.

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:

The main types of small business subject to the rule are those participating in commercial dive fisheries for sea urchins and sea cucumbers. Fifteen permits for the limited entry sea urchin fishery were renewed in 2015 (11 resident, 4 nonresident).

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

No significant changes in these costs are expected for the small businesses subject to the rule.

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

No significant changes in these costs are expected for the small businesses subject to the rule.

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.