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ARCHIVES DIVISION
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NOTICE OF PROPOSED RULEMAKING
 INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 635
 DEPARTMENT OF FISH AND WILDLIFE

FILED

02/15/2018 10:55 AM
 ARCHIVES DIVISION
 SECRETARY OF STATE

FILING CAPTION: Salmon Seasons for Commercial and Sport Fisheries In the Pacific Ocean.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 04/20/2018 5:00 PM

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.

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Filed By:
 April Mack
 Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 04/20/2018

TIME: 8:00 AM - 5:00 PM

OFFICER: Oregon Department of Fish
 & Wildlife Commissioners

ADDRESS: Clatsop County Fair & Expo
 Exhibit Hall
 92937 Walluski Loop
 Astoria, OR 97103

NEED FOR THE RULE(S):

These rules are needed to establish commercial and sport salmon seasons in the Pacific Ocean within Oregon State jurisdiction. Seasons are set in a manner that will conserve stocks of salmon and will conform to federal regulations adopted under the Magnuson-Stevens Fishery Conservation and Management Act. Rules are needed to provide orderly salmon fisheries and enhance the ability of the State to enforce regulations necessary for conservation of salmon stocks in conjunction with other regional, state and federal fishery management entities.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

1. Staff Report for the Oregon Fish and Wildlife Commission hearing on April 20, 2018.

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:

Fiscal and Economic Impact Statement for the April 19, 2018 Hearing in the Matter of Rules Relating to Commercial and Sport Salmon Fishing Regulations In the Pacific Ocean and In Specific Near-Shore Ocean Waters.

The proposed rules are necessary to implement federal regulations for commercial and sport salmon fishing in state waters of the Pacific Ocean that were adopted by the Pacific Fishery Management Council (PFMC). The regulations are also needed to protect salmon stocks listed as threatened or endangered under the federal Endangered Species Act.

Fiscal and economic impacts discussed in this document pertain only to the proposed rules at the time of the writing of this FIS.

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 harvest management rules are the Oregon Department of Fish and Wildlife (ODFW) and the Oregon State Police. No changes from the current levels of these agencies' operations or expenditures are expected as a result of these particular rules. However, revenues associated with the sale of sport fishing licenses, tags, commercial permits and catch fees may change depending on the abundance and availability of salmon to the ocean and Buoy 10 fisheries.

b. Units of local government that could be affected by harvest management rules include Port Authorities and County Governments. Port Authorities may derive revenues from the provision of moorage for sport and commercial fishing and from the provision of facilities for the unloading of catches. We do not have precise information on how much the 2018 harvests and fishing activity will affect the units of local government in a fiscal sense. We are not able to project the magnitude of the fiscal effects, because the data required to link allowable harvests and local government revenues and expenditures are not available.

c. The public is affected by the harvest management rules. Various sectors of the public economy (recreational fishers; commercial harvesters; processors; suppliers of recreational fishers; and the general economy) will experience different impacts. Those impacts cannot be determined at this time, as commercial harvest and recreational effort will depend on multiple factors, such as prices for salmon and other food fish, abundance of returning fish, weather, and as well as the 2018 regulations. Overall, the 2018 regulations are likely to be similar to the 2017 ones and therefore no significant impacts are anticipated.

Revenues to commercial fishers depend primarily on poundage landed and prices received. In 2017, a total of 266,874 pounds with an ex-vessel value of \$2,129,654 were landed in the commercial salmon troll fishery, excluding a small amount of pink salmon. Of this total, Chinook contributed \$2,129,654 in revenue; Coho were not allowed to be harvested in the ocean troll fishery in Oregon areas south of Cape Falcon. In 2017, there were 955 salmon troll permits

issued, of which 176 had landings. Average ex-vessel revenue was approximately \$12,100 per vessel reporting landings.

The total (direct, indirect and induced) effects on personal income in the local areas where the sport and commercial fisheries take place are the result of the direct purchases of goods and services made by sport fishers, charter operators, commercial fishers and processors from local suppliers. Through the "multiplier process," there is a resulting increase in economic activity and personal income in the general economy of the area.

The total landings, average ex-vessel price per pound landed, and the coastal community personal income impacts for both Coho and Chinook salmon are shown in Table 1. These impacts may change depending on 2017 levels of ex-vessel and ex-processor prices.

Table 1. Personal income impact per pound and per fish - commercially harvested ocean salmon (prices in inflation adjusted 2017 dollars)

Year	Species	Landings (thousands of dressed pounds)	Avg. ex-vessel price per pound landed	Estimated Coastal community personal income impacts (thousands of \$)
2012	Coho	3.8	\$2.37	\$10.43
	Chinook	741.4	\$6.19	\$5,571.57
2013	Coho	2.7	\$2.71	\$5.75
	Chinook	1,292.6	\$6.23	\$9,552.25
2014	Coho	67.5	\$2.08	\$164.42
	Chinook	2,571.7	\$5.95	\$17,286.58
2015	Coho	11.1	\$1.94	\$24.77
	Chinook	1,189.7	\$6.34	\$8,480.23
2016	Coho	0	\$0	\$0
	Chinook	518	\$8.37	\$4,677.0
2017	Coho	2.8	\$3.03	*
	Chinook	264.1	\$8.03	*

The economic impact of ocean recreational salmon fishing activity depends primarily on the level of angler activity (i.e., days of recreational fishing) supported by the seasons and allowable harvests provided to the sport fishery, but also on substitute recreation activities and related angler expenditures. The coastal community impact (local area) on personal income per angler day of ocean sport salmon fishing is based on the estimated impact of ocean salmon angler destination expenditures.

Ocean salmon recreational estimates of angler activity were 39,900 angler trips in 2017. This is comparable to 2016, but a lower level of angler activity as observed during the previous four years (2016 – 36,400; 2015 – 58,200; 2014 – 107,000; 2013 – 78,100; 2012 – 60,700).

Table 2 shows estimates of the total personal income impacts per angler day in the coastal area by recreational user origin and fishing mode. These estimates should be used as the coastal area per unit economic impact per recreational ocean salmon fishing day. In addition to being affected by the total allowable level of sport harvest, the estimate of the aggregate impact on coastal personal income will vary depending on the proportion of total trips by charter boats versus private as well as the proportion of coastal resident versus nonresident anglers.

Table 2. Total personal income impacts per angler day by user segment

User Segment

Average coastal trip expenditure per day

Associated coastal personal income impact

Private boat,
 coastal resident \$43.68 (1989\$)
 \$87.59 (2017\$) \$27.01 (1989\$)
 \$54.16 (2017\$)

Private boat,
 coastal nonresident
 \$45.02 (1989\$)
 \$90.28 (2017\$)
 \$33.41 (1989\$)
 \$67.00 (2017\$)

Charter boat,
 coastal resident
 \$63.86 (1989\$)
 \$128.06 (2017\$)
 \$47.79 (1989\$)
 \$95.83 (2017\$)

Charter boat,
 coastal nonresident

\$104.53 (1989\$)

\$209.61 (2017\$)

\$84.43 (1989\$)

\$169.31 (2017\$)

As mentioned above, at the time this statement was written, the options for allowable levels of harvest and other regulations for the upcoming season had not been determined, but these options will be developed by the PFMC. As a result, the magnitudes of harvest reductions and any changes in positive economic impacts could not be accurately estimated. We do not have sufficient information at this time to describe precisely the magnitude of the expected commercial landings and angler activity, or to predict whether prices received by commercial harvesters will be higher or lower than those received in 2017. Also, information needed to predict possible movement of recreational fishing effort among other marine recreational opportunities is too limited to infer shifts in effort.

Although the rules related to regulations can be viewed as reducing positive economic impacts in the short run, conservation through the regulation of seasons and other factors are intended to perpetuate Oregon's salmon resources at optimal levels in the long run. The regulations are also needed to protect salmon stocks listed as threatened or endangered under the federal Endangered Species Act. Failure to restrict harvests of fish to allow escapement for reproduction would probably result in adverse economic effects in the future. The proposed regulations attempt to strike a balance between present fishing opportunities and future benefits. Therefore, the proposed regulations attempt to provide the best possible fishing opportunities in the present consistent with the requirement to sustain fish population levels and to provide future harvest opportunities for both recreational and commercial fishers.

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 type of small business subject to the rule are commercial troll salmon fishermen. Of the 955 salmon troll permits issued in Oregon in 2017, 176 of them made landings. Those active fishermen would be most affected by the rules. Wholesale dealers who buy landed ocean salmon would be affected and there were 53 in 2016 (plus 8 limited fish sellers). Other small businesses affected would be gas stations, tackle shops, charter boat owners, restaurants/cafes/bars, food stores, and places of lodging (hotels, campgrounds, etc.). Information is not available to estimate to number of those types of small businesses affected.

b. Projected reporting, record keeping 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 rule is 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.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

See Fiscal Impact Statement

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

See Fiscal Impact Statement

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The PFMC has established the Salmon Technical Team, the Salmon Advisory Sub-panel, and the Scientific and Statistical Committee, made up of state, federal and tribal fishery scientists, economists, consumers, sport and commercial fishers, and industry representatives. These committees have reviewed the proposed regulations and provided comment.

RULES PROPOSED:

635-003-0003, 635-003-0085, 635-013-0003, 635-013-0007

AMEND: 635-003-0003

RULE SUMMARY: Amend rules related to commercial and sport salmon fishing in the Pacific Ocean within Oregon State jurisdiction. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

CHANGES TO RULE:

635-003-0003

Purpose and Scope ¶¶

PLEASE NOTICE THE PROPOSED TEXT BELOW IS PRELIMINARY AND SUBJECT TO CHANGE. UP TO DATE VERSIONS OF THIS DRAFT RULE ARE AVAILABLE UPON REQUEST TO THE DEPARTMENT AND WILL BE POSTED ON THE COMMISSION WEBSITE DAYS PRIOR TO THE COMMISSION MEETING.¶¶

635-003-0003¶¶

(1) The purpose of Division 003 is to provide for management of commercial salmon fisheries off the Oregon Coast over which the state has jurisdiction.¶¶

(2) Division 003 incorporates into Oregon Administrative Rules, by reference, the annual ocean troll salmon specifications and management measures as adopted by the Pacific Fishery Management Council in its annual Ocean Salmon Management Measures and Impacts, as finalized in April 2017~~8~~ [2017], and in addition to the extent they are consistent with these rules, Code of Federal Regulations (CFR), Title 50, Part 660, Subpart H (61FR34572, July 2, 1996, as amended to incorporate the standards in the Pacific Fishery Management Council referenced document). Therefore, persons must consult the Pacific Fishery Management Council referenced document and Federal Regulations in addition to Division 003 to determine all applicable troll salmon fishing requirements. A copy of the Pacific Fishery Management Council referenced document and the Federal Regulations may be obtained by contacting the Pacific Fishery Management Council at www.pcouncil.org or at 7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384.¶¶

(3) To the extent not preempted by Federal law, these regulations apply within the State of Oregon's Fisheries

Conservation Zone (out to fifty miles from shore).

Statutory/Other Authority: ORS 496.138, 496.146, 506.119

Statutes/Other Implemented: ORS 506.129

AMEND: 635-003-0085

RULE SUMMARY: Amend rules related to commercial and sport salmon fishing in the Pacific Ocean within Oregon State jurisdiction. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

CHANGES TO RULE:

635-003-0085

Extended Commercial Seasons ¶

PLEASE NOTICE THE PROPOSED TEXT BELOW IS PRELIMINARY AND SUBJECT TO CHANGE. UP TO DATE VERSIONS OF THIS DRAFT RULE ARE AVAILABLE UPON REQUEST TO THE DEPARTMENT AND WILL BE POSTED ON THE COMMISSION WEBSITE DAYS PRIOR TO THE COMMISSION MEETING.¶

In addition to the open seasons prescribed in OAR 635-003-0003 there are open seasons for Chinook salmon as follows:¶

(1) Elk River Ocean Terminal Area - from ~~October 15~~ - November 1-30 in the area described in section (1)(a) of this rule.¶

(a) The open area is all Pacific Ocean waters shoreward of a line drawn from Cape Blanco (42°50'20" N. Lat.) thence SW to Black Rock (42°49'24" N. Lat. 124°35'00" W. Long.), thence SSW to Best Rock (42°47'24" N. Lat. 124°35'42" W. Long.), thence SE to 42°40'30" N. Lat. 124°29'00" W. Long., thence to shore (Humburg Mountain).¶

(b) During the season described in this section (1), it is unlawful to take Chinook salmon less than 26 inches in total length; it is unlawful to use multipoint or barbed hooks or to fish more than four spreads per line; and it is unlawful to have in possession or to land more than 20 Chinook per day taken in this fishery. Landings are restricted to Port Orford.¶

(2) Chetco River Ocean Terminal Area - from October ~~[9-13]~~ 8-12 and ~~[16-31]~~ 15-31 or quota of 300 Chinook in the area described in section (2)(a) of this rule:¶

(a) The open area is all Pacific Ocean waters inside an area south of the north shore of Twin Rocks (42°05'36" N. Lat.) to the Oregon/California border (42°00'00" N. Lat.) and seaward three nautical miles offshore;¶

(b) During the season described in this section (2) it is unlawful to take Chinook salmon less than 28 inches in total length; it is unlawful to use multipoint or barbed hooks, or to fish more than four spreads per line; and it is unlawful to have in possession or to land more than 5 Chinook per day ~~for the period October 9-13 and 10 Chinook per day thereafter~~ taken in this fishery. Landings are restricted to Brookings.¶

(c) All vessels landing salmon caught in this season must report to ODFW within one hour of delivery or prior to transport away from the port of landing by either calling (541) 867-0300, ext. 252 or by e-mail to kmzor.trollreport@state.or.us. Notification shall include vessel name and number, number of salmon by species, port of landing, location of delivery, and estimated time of delivery.

Statutory/Other Authority: ORS 496.138, 496.146, 506.119

Statutes/Other Implemented: ORS 506.129

AMEND: 635-013-0003

RULE SUMMARY: Amend rules related to commercial and sport salmon fishing in the Pacific Ocean within Oregon State jurisdiction. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

CHANGES TO RULE:

635-013-0003

Purpose and Scope ¶¶

PLEASE NOTICE THE PROPOSED TEXT BELOW IS PRELIMINARY AND SUBJECT TO CHANGE. UP TO DATE VERSIONS OF THIS DRAFT RULE ARE AVAILABLE UPON REQUEST TO THE DEPARTMENT AND WILL BE POSTED ON THE COMMISSION WEBSITE DAYS PRIOR TO THE COMMISSION MEETING.¶¶

(1) The purpose of Division 013 is to provide for management of sport salmon fisheries off the Oregon Coast over which the State has jurisdiction.¶¶

(2) This rule incorporates by reference, the annual ocean sport salmon specifications and management measures as adopted by the Pacific Fishery Management Council in its annual Ocean Salmon Management Measures and Impacts, as finalized in April 2017~~8~~ [2017], and in addition to the extent they are consistent with these rules, Code of Federal Regulations (CFR), Title 50, Part 660, Subparts A and H.¶¶

(3) This rule also incorporates by reference the 2018 Oregon Sport Fishing Regulations.¶¶

(4) A copy of the Pacific Fishery Management Council referenced document and the Federal Regulations may be obtained by contacting the Pacific Fishery Management Council at www.pcouncil.org or at 7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384.¶¶

(5) To the extent not preempted by Federal law, these regulations apply within the State of Oregon's Fisheries Conservation Zone (out to fifty miles from shore).

Statutory/Other Authority: ORS 496.138, 496.146, 506.119

Statutes/Other Implemented: ORS 496.162, 506.129

AMEND: 635-013-0007

RULE SUMMARY: Amend rules related to commercial and sport salmon fishing in the Pacific Ocean within Oregon State jurisdiction. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

CHANGES TO RULE:

635-013-0007

Special South Coast Seasons ¶

PLEASE NOTICE THE PROPOSED TEXT BELOW IS PRELIMINARY AND SUBJECT TO CHANGE. UP TO DATE VERSIONS OF THIS DRAFT RULE ARE AVAILABLE UPON REQUEST TO THE DEPARTMENT AND WILL BE POSTED ON THE COMMISSION WEBSITE DAYS PRIOR TO THE COMMISSION MEETING.¶

In addition to the open seasons prescribed in OAR 635-013-0005 there are open seasons for Chinook salmon as follows: ¶

(1) Elk River Area. ¶

(a) From November 1 through November 30 in all Pacific Ocean waters shoreward of a line drawn from Cape Blanco (42°50'20" N. Lat.) thence SW to Black Rock (42°49'24" N. Lat. 124°35'00" W. Long.), thence SSW to Best Rock (42°47'24" N. Lat. 124°35'42" W. Long.), thence SE to 42°40'30" N. Lat. 124°29'00" W. Long., thence to shore (Humbug Mountain); ¶

(b) During the season described for the Elk River Area in section (1)(a) of this rule it is unlawful to take Chinook salmon less than 24 inches in length. Two Chinook salmon per day of which no more than one wild Chinook salmon per day and 10 wild Chinook salmon in the seasonal aggregate when combined with waters of Floras Creek/New River, Sixes River and Elk River. It is unlawful to use multipoint or barbed hooks. ¶

(2) Chetco River Area. ¶

(a) From October 6-7[7-8] and 13-14[14-15] in an area south of the north shore of Twin Rocks (42°05'36" N. Lat.) to the Oregon/California border (42°00'00" N. Lat.) and seaward three nautical miles offshore. ¶

(b) During the seasons described in section (2)(a) of this rule it is unlawful to take Chinook salmon less than 28 inches in length. One Chinook salmon per day. It is unlawful to use multipoint or barbed hooks.

Statutory/Other Authority: ORS 496.138, 496.146, 506.119

Statutes/Other Implemented: ORS 496.162, 506.129