

OFFICE OF THE SECRETARY OF STATE

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ARCHIVES DIVISION

MARY BETH HERKERT
DIRECTOR800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701**NOTICE OF PROPOSED RULEMAKING**
INCLUDING STATEMENT OF NEED & FISCAL IMPACTCHAPTER 635
DEPARTMENT OF FISH AND WILDLIFE**FILED**02/11/2019 11:22 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Amend Rules for Sport and Commercial Halibut Fisheries

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 04/19/2019 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.*CONTACT: April Mack
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april.h.mack@state.or.us4034 Fairview Industrial DR SE
Salem, OR 97302Filed By:
April Mack
Rules Coordinator

HEARING(S)

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

DATE: 04/19/2019

TIME: 8:00 AM - 5:00 PM

OFFICER: Oregon Department of Fish
& Wildlife CommissionersADDRESS: Columbia River Receptions
& EventsMeriwether Place
1070 Columbia Blvd
St. Helens, OR 97051

NEED FOR THE RULE(S):

These rules are needed to modify Oregon State regulations for sport and commercial halibut fisheries in order to be concurrent with federally adopted regulations. These regulations are needed to establish 2019 halibut seasons and quotas.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

1. Staff report prepared for the Oregon Fish and Wildlife Commission hearing on 04/19/2019.

A copy of the rules and the other documents relied upon for this rulemaking [the above document(s)] 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:

Purpose – Modify Oregon state regulations for sport and commercial halibut fisheries in order to be concurrent with federally adopted regulations.

Rule description – These rules establish 2019 Pacific halibut fishery quotas and seasons. They specify catch limits (expected to be 25% higher than in 2018), open dates, and season structures.

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 state agencies that would be affected by adoption of these rules are the Oregon Department of Fish and Wildlife (ODFW) and the Oregon State Police (OSP). ODFW monitors, samples, and manages recreational halibut fisheries, and OSP enforces fishery regulations. The season timing and duration determine the amount and scheduling of each agency's resources related to those responsibilities. Despite increased catch limits, no significant change from current operating levels or expenditures is expected as a result of the adoption of these rules.

b. Local governments (e.g., port authorities) may be indirectly impacted by the timing of fishing seasons established by these rules. However, no significant changes from the status quo are expected as a result of the adoption of these rules, so there is no anticipated fiscal impact to local government.

c.

The public could be affected by the adoption of these rules. These rules provide for orderly fisheries that offer the opportunity to harvest up to the established quotas but not exceed them, ensuring long-term conservation of the halibut resource and social and economic benefits from fisheries. The anticipated 25% increase in halibut quotas for 2019 is likely to result in an increased level of halibut fishing effort. This may increase economic activity related to halibut fishing, but it is not quantifiable 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:

All fishing charter boats that fish for halibut will be subject to the rule. The number of those business that have fewer than 50 employees cannot be determined with the data available to the Department. The increase in catch limits may slightly increase the demand for fishing charter boats, but not substantially. Other small businesses that could be affected by these changes are restaurants, lodging, bait and tackle shops, gasoline stations, and outdoor supply stores. There are no substantial fiscal impacts to any small business listed here.

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

There are no projected reporting, recordkeeping, or other administrative activities required for compliance with this rule.

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

There are no equipment, supplies, labor, or increased administration required for compliance with this 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 attached Fiscal Impact Statement

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

The proposed rule amendments for concurrence with federal regulations in sport and commercial halibut fisheries were developed through the Pacific Fishery Management Council's public process, which involves advisory committees and public comment. Representatives of small businesses participated in that process. Department staff also conducted six public meetings to solicit input on proposed changes to both federal and state halibut fishery regulations, and accepted comments via phone, email, webinar, and two online surveys. Representatives of small businesses participated in these public comment opportunities.

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

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

RULES PROPOSED:

635-004-0585, 635-039-0085

AMEND: 635-004-0585

RULE SUMMARY: Amendments to Oregon's regulations for sport and commercial halibut fisheries will bring the State concurrent with federally adopted regulations. Modifications establish 2019 seasons and/or quotas for halibut fisheries. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

CHANGES TO RULE:

635-004-0585

Scope, Inclusion, and Modification of Pacific Halibut Fishery Rules ¶

(1) The commercial Pacific halibut fishery in the Pacific Ocean off Oregon is jointly managed by the state of Oregon, the federal government, and the International Pacific Halibut Commission (IPHC). The Code of Federal Regulations provides federal requirements for this fishery, including but not limited to the time, place, and manner of taking Pacific halibut. However, additional federal regulations may be promulgated subsequently by publication in the Federal Register, and these supersede, to the extent of any inconsistency, the Code of Federal Regulations. Therefore, the following publications are incorporated into Oregon Administrative Rule by reference:¶

(a) Code of Federal Regulations, Part 660, Subpart E, (October 1, 2017~~8~~ ed.);¶

(b) [~~Federal Register Vol. 83, No. 58, Dated March 26, 2018; and~~¶

~~(c) Federal Register Vol. 83, No 58, Dated March 26, 2018]~~ [INSERT CITATION WHEN AVAILABLE].¶

(2) Persons must consult the federal regulations in addition to Division 004 to determine all applicable Pacific halibut fishing requirements. The area that federal regulations apply to is hereby extended to the area from shore to three nautical miles from shore, coterminous with the Exclusive Economic Zone.¶

(3) The Commission may adopt additional or modified regulations that are more conservative than federal regulations, in which case Oregon Administrative Rule takes precedence.¶

(4) It is unlawful to take Pacific halibut for commercial purposes except as set by federal regulations and the IPHC and in accordance with a valid permit issued by the IPHC.¶

[Publications: Publications referenced are available from the Department.]

Statutory/Other Authority: ORS 496.138, ORS 496.162, ORS 506.036, ORS 506.109, ORS 506.119, ORS 506.129

Statutes/Other Implemented: ORS 469.162, ORS 506.109, ORS 506.129, ORS 508.306

AMEND: 635-039-0085

RULE SUMMARY: Amendments to Oregon's regulations for sport and commercial halibut fisheries will bring the State concurrent with federally adopted regulations. Modifications establish 2019 seasons and/or quotas for halibut fisheries. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

CHANGES TO RULE:

635-039-0085

Halibut Seasons ¶¶

(1) The Pacific halibut sport fishery in Oregon is regulated by the federal government and the International Pacific Halibut Commission (IPHC). OAR Chapter 635, Division 039 incorporates into Oregon Administrative Rules, by reference:¶¶

(a) Title 50 of the Code of Federal Regulations, Part 300, Subpart E (October 1, 2017 ed.), as amended;¶¶

(b) [Federal Register Vol. 83, No. 58, Dated March 26, 2018; and¶¶

(c) ~~Federal Register Vol. 83, No. 58, Dated March 26, 2018~~ [INSERT CITATION WHEN AVAILABLE].¶¶

(2) Therefore, persons must consult all publications referenced in this rule in addition to Division 039 to determine applicable halibut fishing seasons.¶¶

[Publications: Publications referenced are available from the agency.]:

Statutory/Other Authority: ORS 496.138, ORS 496.162, ORS 506.036, ORS 506.109, ORS 506.119, ORS 506.129

Statutes/Other Implemented: ORS 496.162, ORS 506.129