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## Attachment 2

ARCHIVES DIVISION  
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SALEM, OR 97310  
503-373-0701

### NOTICE OF PROPOSED RULEMAKING INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 635  
DEPARTMENT OF FISH AND WILDLIFE

**FILED**

11/06/2020 12:58 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Establish Average Market Values of Food for Determining Damages Related to Commercial Fishing Violations

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 01/15/2021 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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4034 Fairview Industrial Dr SE  
Salem, OR 97302

Filed By:  
Lisa Kingsley  
Rules Coordinator

#### HEARING(S)

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

DATE: 01/15/2021

TIME: 8:00 AM - 5:00 PM

OFFICER: ODFW Commission

ADDRESS: Oregon Department of Fish  
and Wildlife

4034 Fairview Industrial Dr SE  
Salem, OR 97302

#### SPECIAL INSTRUCTIONS:

Special Instructions:

Because of the rapidly changing situation with COVID-19, all or portions of this hearing may be conducted electronically. Information will be posted on our website at <https://www.dfw.state.or.us/agency/commission/minutes/>

#### NEED FOR THE RULE(S):

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

#### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

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:

There are no expected fiscal impacts associated with this rule change. More detail on fiscal impacts are shown below.

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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).

(1)(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 anticipated 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)(a) Small businesses subject to these proposed rules would be commercial fishing outfits and commercial fish dealers. In 2020, the number of individuals or businesses that purchased Oregon commercial fishing licenses was 1,915 (1,529 resident and 386 nonresident) and the number of Oregon licensed fish dealers was 393. The vast majority of these commercial fishing license holders are small businesses, with less than 50 employees.

(b) none expected

(c) none expected

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

Small businesses were directly not involved in the development of this rule.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

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AMEND: 635-006-0232

RULE SUMMARY: This amended rule will update existing food fish species' market values that will be used to assess damages resulting from commercial fishing violations.

CHANGES TO RULE:

635-006-0232

Damages for Commercial Fishing Violations ¶¶

(1) For purposes of ORS 506.720 the following shall be the ~~2019~~20 average market value for each species of food fish for ~~2020~~1. For species not listed, the average market value shall be the price per pound paid to law enforcement officials for any fish or shellfish confiscated from the person being assessed damages, or the average price per pound paid for that species during the month in which the violation occurred, whichever is greater. Unless otherwise noted, the amount given is the price per pound and is based on round weight.¶¶

(a) FISH:¶¶

(A) Anchovy, Northern \$0.10.¶¶

(B) Cabezon \$~~3.86~~23.¶¶

- (C) Carp \$0.50.¶
- (D) Cod, Pacific \$0.6253.¶
- (E) Flounder, arrowtooth \$0.09.¶
- (F) Flounder, starry \$0.350.¶
- (G) Greenling \$4.767.¶
- (H) Grenadier, Pacific \$0.140.¶
- (I) Hagfish, \$1.040.98.¶
- (J) Hake, Pacific (Whiting) \$0.107.¶
- (K) Halibut, Pacific \$6.525.39.¶
- (L) Herring, Pacific \$0.20.04.¶
- (M) Lingcod \$1.8159.¶
- (N) Mackerel, jack \$0.083; Pacific \$0.083.¶
- (O) Opah \$43.00.¶
- (P) Pacific ocean perch \$0.430.¶
- (Q) Pollock, Walleye \$0.072.¶
- (R) Rockfish:¶
- (i) Black, \$2.181.¶
- (ii) Blue (including Deacon rockfish), \$1.607.¶
- (iii) Canary, \$0.6632.¶
- (iv) Darkblotched, \$0.3728.¶
- (v) Black and yellow, \$6.132.07.¶
- (vi) Brown, \$2.721.85.¶
- (vii) China, \$5.936.00.¶
- (viii) Copper, \$3.659.¶
- (ix) Gopher, \$4.6150.¶
- (x) Grass, \$5.416.68.¶
- (xi) Olive, \$2.389.¶
- (xii) Quillback, \$3.796.¶
- (xiii) Rougheye/blackspotted, \$0.8150.¶
- (xiv) Shelf, \$0.351.¶
- (xv) Shortbelly, using trawl gear \$0.043, using line and pot gear \$2.00.30.¶
- (xvi) Shortraker, \$0.571.¶
- (xvii) Slope, using trawl gear, \$0.234, using line and pot gear \$1.038.¶
- (xviii) Tiger, \$4.4439.¶
- (xix) Vermilion, \$2.5749.¶
- (xx) Widow \$0.294.¶
- (xxi) Yelloweye, using trawl gear \$0.542, using line and pot gear \$1.140.60.¶
- (xxii) Yellowtail, \$0.3722.¶
- (S) Sablefish, \$1.621.¶
- (T) Salmon eggs, \$4.1503.¶
- (U) Salmon, Chinook, ocean mixed size, \$9.48.37.¶
- (V) Salmon, coho, ocean dressed weight: mixed size, \$4.803.29.¶
- (W) Salmon, pink, ocean, dressed weight: ungraded, \$1.820.50.¶
- (X) Sanddab, Pacific \$0.676.¶
- (Y) Sardine, Pacific \$0.2015.¶
- (Z) Scuplin, buffalo \$3.001.75.¶
- (AA) Shad, American:¶
- (i) Coast, ungraded, midwater trawl, \$0.01¶
- (ii) Columbia, ungraded, gillnet, setnet, and dipnet, \$0.05.¶

(BB) Shark, blue ~~\$1.25~~0.42, Pacific sleeper \$0.03, shortfin mako ~~\$1.77~~2.51, sixgill \$0.025, soupfin \$0.20, spiny dogfish ~~\$0.70~~1, scalloped hammerhead \$0.12, silky \$0.18, thresher dressed weight ~~\$2.25~~00, and round weight \$0.60, and other species ~~\$0.02~~1.1

(CC) Skate, longnose ~~\$0.36~~2.1

(DD) Skates and Rays ~~\$0.33~~1

(EE) Skates, unsp. ~~\$0.84~~30.1

(FF) Smelt, Eulachon (Columbia River), ~~\$2.64~~1.87 and other species \$0.20.1

(GG) Sole, butter \$0.05, curlfin (turbot) \$0.25, Dover ~~\$0.45~~0, English ~~\$0.26~~2, flathead ~~\$0.22~~3, petrale \$1.28, rex ~~\$0.38~~5, rock ~~\$0.28~~4 and sand ~~\$0.59~~62.1

(HH) Steelhead ocean ~~\$3.34~~77.1

(II) Sturgeon, green \$0.98 and white ~~\$3.68~~72.1

(JJ) Surfperch ~~\$1.98~~3.00.1

(KK) Swordfish \$4.00.1

(LL) Thornyhead (Sebastolobus), longspine ~~\$0.23~~8, and shortspine ~~\$0.54~~37.1

(MM) Tuna, albacore ~~\$1.77~~59, bluefin ~~\$2.44~~15.15, bigeye \$4.00, and yellowfin \$4.00.1

(NN) Walleye ~~\$1.53~~0.00.1

(OO) Wolf-eel ~~\$1.80~~2.37.1

(PP) Wrymouth ~~\$0.22~~8.1

(QQ) Yellowtail ~~\$32~~00.1

(b) CRUSTACEANS:1

(A) Crab: box ~~\$2.17~~1.50, Dungeness bay ~~\$5.15~~4.93 and ocean ~~\$4.33~~3.65, rock ~~\$2.16~~00 and Tanner \$1.00.1

(B) Crayfish ~~\$3.76~~4.1

(C) Shrimp: brine \$1.00, coonstripe \$5.00, ghost (sand) ~~\$2.52~~81, mud \$2.00, pink ~~\$0.78~~53 (applied to the gross round weight of the confiscated pink shrimp reported on the fish receiving ticket) and spot ~~\$11.49~~8.1

(D) Water flea (Daphnia) ~~\$0.65~~1

(c) MOLLUSKS:1

(A) Abalone, flat \$21.09.1

(B) Clams: butter ~~\$0.74~~68, cockle \$1.20, gaper ~~\$0.87~~3, Manila littleneck \$2.00, Nat. littleneck \$1.25, razor \$3.01, and softshell \$1.23.1

(C) Mussels, ocean ~~\$1.13~~00.1

(D) Octopus ~~\$0.86~~5.1

(E) Scallop, rock ~~\$0.70~~1

(F) Scallop, weathervane dressed weight (shucked) \$5.73 and round weight ~~\$0.55~~1

(G) Squid, market ~~\$0.55~~8.1

(H) Squid, other species ~~\$0.22~~58.1

(d) OTHER INVERTEBRATES:1

(A) Jellyfish \$10.00.1

(B) Sea anemone \$5.00.1

(C) Sea cucumber ~~\$41~~00.1

(D) Sea urchin, red ~~\$1.97~~2.64 and purple ~~\$1.00~~50.1

(E) Sea stars \$1.00.1

(2) The Department may initiate civil proceedings to recover damages as authorized by ORS 506.720 where the value of any food fish unlawfully taken exceeds \$300, except for food fish taken by trawl in the groundfish fishery where the trip limit has not been exceeded by more than 15%.

Statutory/Other Authority: ORS 506.119

Statutes/Other Implemented: ORS 506.109, 506.720