

OFFICE OF THE SECRETARY OF STATE

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Attachment 2

ARCHIVES DIVISION
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503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 635
DEPARTMENT OF FISH AND WILDLIFE

FILED

07/17/2023 11:18 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Implement Tillamook Bay Intertidal Commercial Cockle Fishery Quota

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/15/2023 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: Steven Emerson
503-947-6233
steven.c.emerson@odfw.oregon.gov

4034 Fairview Industrial Dr SE
Salem, OR 97302

Filed By:
Steven Emerson
Rules Coordinator

HEARING(S)

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

DATE: 09/15/2023

TIME: 8:00 AM - 5:00 PM

OFFICER: Michelle Tate

HEARING LOCATION

ADDRESS: Seventh Mountain Resort, 18575 SW Century Drive, Bend, OR 97702

SPECIAL INSTRUCTIONS:

This hearing will be conducted as a hybrid meeting, providing an opportunity to give testimony either in person or virtually. Additional information regarding participation will be posted on our website at www.dfw.state.or.us/agency/commission/minutes/. The meeting can be viewed at www.youtube.com/user/IEODFW. Any changes to the meeting format (to virtual only if emergency arises) will be posted to our website as soon as possible.

NEED FOR THE RULE(S)

These modifications are needed to add a harvest quota to the Tillamook Bay commercial intertidal cockle fishery in order to ensure the equitable allocation between commercial and recreational harvesters, and to maintain the sustainability of this fishery.

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, 4034 Fairview Industrial Drive SE, Salem, Oregon 97302-1142. Contact Steve Emerson at 503-947-6233 or steven.c.emerson@odfw.oregon.gov to view by appointment between the hours of 8:00 a.m. and 4:00 p.m., on normal working days, Monday through Friday.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The Department has solicited input from representatives of underrepresented communities likely to be affected on

whether the proposed rule will have a fiscal impact on the community, the extent of the fiscal impact, and whether the rules will have significant impact on underrepresented communities. <https://www.dfw.state.or.us/OARs/index.asp>

FISCAL AND ECONOMIC IMPACT:

State agencies that could be affected by this rule are the Oregon Department of Fish and Wildlife (ODFW) and the Oregon State Police (OSP). No significant changes from the current levels of these agencies' staffing, expenditures, or revenues are expected to result from the adoption of this 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).

State agencies that could be affected by these rules are the ODFW and OSP, primarily through additional staff time associated with awareness, and compliance. No significant changes from the current levels of these agencies' staffing, expenditures, or revenues are expected to result from the adoption of the proposed rule.

No units of local government are expected to be affected by these rules.

The proposed action establishing an annual harvest quota of 90,000 pounds on the Tillamook Bay commercial intertidal cockle fishery may have a potential to impact those who participate in the fishery. It is difficult to estimate the magnitude or direction of the economic impact of the quota. The quota's impacts may be viewed as negative given that the quota establishes a maximum limit on the number of cockles that can be harvested each year. Conversely, the quota's impacts may be viewed as positive given that the rule is intended to maintain the long-term sustainability of the fishery and to ensure that cockle harvesting opportunities remain available and equitable to both commercial and recreational harvesters. In general, fishery harvest restrictions may reduce short-term benefits, but they are necessary to sustain fishing opportunities and contribute to healthy ocean ecosystems in the long term. Failure to constrain harvests to appropriate levels may result in more severe economic impacts in the future. This proposal is intended to strike a balance between present and future use for the purpose of sustaining fishery resource benefits over time.

There are typically 20-30 commercial harvesters who participate in the Tillamook Bay commercial intertidal cockle fishery annually, though a smaller number of these harvesters account for the majority of the harvest each year. These commercial harvesters may be impacted in the short term by the proposed harvest quota, though they would also benefit from improved long-term sustainability and availability of the fishery.

Though we are unable to estimate costs monetarily, it is anticipated there would be minimal additional recordkeeping or administrative costs to business participants.

No changes to these costs are anticipated as a result of the proposed rules.

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

Input provided by the Tillamook Bay Clam Regional Advisory Committee (TBCAC) and participants in Tillamook Bay fishery was considered during development of the proposed rules.

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

An Administrative Rules Advisory Committee was not consulted. The rules are believed to be fully compatible with

legislative direction on the goals of fishery management in Oregon.

At the Commission hearing, public correspondence and testimony will be accepted into the record as part of the rulemaking process.

AMEND: 635-005-0387

RULE SUMMARY: These amended rules will impose an annual harvest quota of 90,000 pounds on the Tillamook Bay commercial intertidal cockle fishery.

CHANGES TO RULE:

635-005-0387

Catch Limits ¶

- (1) In Netarts Bay, the commercial landing cap for cockles harvested by the intertidal fishery is 22,000 pounds.¶
- (2) In Tillamook Bay, the commercial landing cap for cockles harvested by the intertidal fishery is 90,000 pounds.¶
- (3) When the commercial cockle landing cap specified in section ~~(1)~~ s 1 or 2 of this rule is reached, the intertidal cockle fishery in ~~Netarts Bay will close~~ will close in that bay for the remainder of the calendar year.

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

Statutes/Other Implemented: ORS 506.109, 506.129