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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
03/02/2021 1:55 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Amend Rules for Commercial and Recreational Halibut Fisheries Regulations

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 04/23/2021 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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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: 04/23/2021

TIME: 8:00 AM - 5:00 PM

OFFICER: Oregon Fish and Wildlife
Commission

ADDRESS: ODFW Headquarters
Commission Room

4034 Fairview Industrial Dr SE
Salem, OR 97302

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):

These rules are needed to establish Oregon's 2021 commercial and recreational halibut seasons and quotas, and render state regulations consistent with federally adopted regulations.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

1. Staff report prepared for the Oregon Fish and Wildlife Commission hearing on 04/23/2021.

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, Wildlife Division, 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:

No major fiscal and economic impacts are expected from these rule changes.

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) The proposed rules will affect state agencies, units of local government, and the public, 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. No significant change from current operating levels or expenditures is expected as a result of the adoption of these rule amendments.

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 amendments.

C. The public could be affected by the adoption of these rule amendments. 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.

(2)(a) Fishing charters and commercial operations that fish for halibut will be subject to the rule. Other small businesses that provide goods and services to commercial and recreational halibut fishers, such as gas stations, tackle shops, food stores, and lodging facilities have the potential to be indirectly affected. The number of those businesses that have fewer than 50 employees cannot be determined with the data available to the Department.

(b) There are no projected reporting, recordkeeping, or other administrative activities required for compliance with these amendments.

(c) There are no equipment, supplies, labor, or increased administration required for compliance with these amendments.

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

The proposed rule amendments for concurrence with federal regulations in commercial and recreational 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 seven 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? YES

RULES PROPOSED:

635-004-0585, 635-039-0085

AMEND: 635-004-0585

RULE SUMMARY: These amended rules will establish Oregon's 2021 commercial and recreational halibut seasons and/or quotas for the fisheries, and render the state regulations consistent with federally-adopted regulations. Housekeeping and technical corrections to the regulations are made 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, 2018~~20~~20 ed.);¶¶

(b) Federal Register Vol. 84, No. 50, dated March 14, 2019 (84 FR 9243); and¶¶

~~(c) Federal Register Vol. 84, No. 82, dated April 29, 2019 (84 FR 17960).~~ [INSERT CITATION WHEN AVAILABLE];
and¶¶

(c) [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: These amended rules will establish Oregon's 2021 commercial and recreational halibut seasons and/or quotas for the fisheries, and render the state regulations consistent with federally-adopted regulations. Housekeeping and technical corrections to the regulations are made 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~~20~~ ed.), as amended;¶¶

(b) ~~Federal Register Vol. 84, No. 50, dated March 14, 2019 (84 FR 9243); and¶¶~~

(c) ~~Federal Register Vol. 84, No. 82, dated April 29, 2019 (84 FR 17960)~~[INSERT CITATION WHEN AVAILABLE]; and¶¶

(c) [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