

OFFICE OF THE SECRETARY OF STATE

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SECRETARY OF STATE

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AND TRIBAL LIAISON



Attachment 2

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

CHAPTER 635
DEPARTMENT OF FISH AND WILDLIFE

FILED
10/17/2023 1:18 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: [Corrected] 2024 Commercial and Recreational Groundfish Fishery Regulations, and Territorial Sea Plan Revisions

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/15/2023 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.

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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: 12/15/2023

TIME: 8:00 AM - 5:00 PM

OFFICER: Michelle Tate

HEARING LOCATION

ADDRESS: McMinnville Community Center, 600 NE Evans Street, McMinnville, OR 97128

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 rule amendments are needed to implement the Pacific Coast Groundfish Fishery Management Plan (FMP), including federal harvest levels established by the Pacific Fishery Management Council. The FMP describes current resource management goals, harvest policy, and management measures for commercial and recreational fisheries. These rule amendments are also recommended to amend commercial fishery regulations to conform to recent revisions to Oregon's Territorial Sea Plan adopted by the Ocean Policy Advisory Council (OPAC), see ORS 196.485(3).

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

1. Staff report prepared for the Oregon Fish and Wildlife Commission hearing on 12/15/2023.

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:

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 could be affected by the adoption of these rules are the Oregon Department of Fish and Wildlife (ODFW) and the Oregon State Police (OSP). No significant changes in costs to ODFW or to OSP are expected from these rule changes. There is potential for changes in recreational groundfish regulations to affect recreational angler license sales (ODFW) and enforcement costs (OSP), but the potential changes are likely to be small relative to statewide angler license sales and enforcement costs. There is potential for slight changes in Ad Valorem (AV) revenues from changes to commercial nearshore period limits, but the potential changes are likely to be very small relative to overall AV revenues collected annually by ODFW.

B. Economic impacts to local governments are expected to be minor. There may be potential for some Oregon port districts to be impacted, but significant impacts are not anticipated. A more detailed consideration of impacts is not possible because of data constraints.

C. The public will be affected by the adoption of these rules. The proposed rules are consistent with actions of the Pacific Fishery Management Council (PFMC), which establishes federal harvest levels for groundfish. Adoption of regulations that exceed these harvest levels would likely result in preemption of state management authority. Detailed economic analyses are required under federal law and are part of the Environmental Impact Statement (EIS) filed by the PFMC. The EIS contains additional information on the economic and social effects of the 2024-2025 regulations. That document is incorporated into this statement by reference. The proposed rules are also consistent with recent revisions to the Territorial Sea Plan (TSP) adopted by the Ocean Policy Advisory Council (OPAC). State agencies are statutorily required to act consistently with OPAC policies.

State Harvest Guidelines (HGs)

State HGs are harvest objectives and attainment does not necessarily close a fishery but may result in further in-season restrictions to meet objectives such as not exceeding federal Annual Catch Limits (ACLs) or state HGs. HGs are set separately for commercial and recreational fisheries, establishing sector-specific harvest objectives. Proportional allocations to each sector were established in the mid-2000s based on historical sector utilization of each species; no changes to the proportional sector allocations are proposed. The department recommends adjusting recreational and commercial state HGs within each sector for blue and deacon rockfish, nearshore rockfish, cabezon, and greenling

based on changes in federal harvest specifications, which are founded on projections of sustainable yield from the most recent assessment of each stock. Table 1 presents adopted HGs in recent years and proposed HGs for 2024.

The proposed HG for black rockfish, the most important target species in both sectors, is the same as in 2020-2023 because there is no change in the federal annual catch limit for this stock. Modest reductions in all other HGs are recommended to stay within lower federal guidelines. In recent years, attainment of cabezon in recreational fisheries has been high, and lower HGs are likely to reduce opportunity. Attainment of blue and deacon rockfish and greenling has consistently been low in both recreational and commercial fisheries, and the proposed decreases are not expected to impact opportunity. The HG for Other Nearshore Rockfish, a group of similar species that are managed together, was increased substantially in 2023 due to new stock assessments for some component species. Total catch in 2023 is projected to be well below the new HG, and the proposed decrease from 2023 to 2024 is not expected to impact opportunity.

Harvest restrictions may reduce short-term economic benefits, but they are necessary to preserve the ability of groundfish resources to sustain fishing opportunities and contribute to healthy ocean ecosystems in the long term. Failure to constrain harvest to appropriate levels may result in more severe adverse economic impacts in the future. The proposed regulations are intended to strike a balance between present and future use that sustains fishery resource benefits over time.

Recreational Groundfish Regulations

The only proposed change for 2024 increases the long-leader gear bag limit from 10 to 12 fish per angler. Long-leader gear targets abundant mid-water rockfish while avoiding prohibited yelloweye and quillback rockfish, allowing a higher bag limit for select species when used. This will increase recreational bottomfish opportunity while maintaining low to moderate risk of exceeding federal or state harvest limits. ODFW will monitor harvest rates during the year and adjust regulations as needed in consultation with the marine Sportfishing Advisory Committee.

From 2018-2022, anglers took between 99,600 and 116,800 recreational fishing trips targeting groundfish, accounting for one-half of total ocean recreational trips during that time (Attachment, Table 2). Using the most recent recreational expenditure data-based multipliers from the NMFS IOPAC Model for charter and private angler trips, \$246.69 and \$83.84 respectively (Leonard, J. and P. Watson. 2011), adjusting these values from January 2015 dollars to December 2022 dollars, results in multipliers of (\$313.28) for charter trips and (\$106.47) for private angler trips. Applying these multipliers to the number of charter and private groundfish trips in 2022 provides an estimated economic impact of recreational groundfish fishing in Oregon of \$23.04 million for 2022.

While impacts on catch per species can be estimated with existing data and models, it is not possible to estimate how the proposed modifications might impact the total number of angler trips targeting bottomfish; therefore, it is not possible to estimate the fiscal impact at this time.

Commercial Groundfish Regulations

In Oregon's commercial nearshore sector, harvesters use small vessels and hook and line gear to target nearshore groundfish, including black rockfish and other species, generally in state waters. In 2022, commercial nearshore groundfish landings totaled about 405 thousand pounds, valued at over \$1.2 million.

The only proposed regulation change for 2024 increases the black rockfish bi-monthly trip limits for periods 2 and 4 (March to April and September to October) from 1,800 pounds to 2,100 pounds per period. The proposed change balances opportunity for commercial nearshore permit holders to attain but not exceed the commercial HG with the goal of maintaining year-round harvest opportunity.

Territorial Sea Plan (TSP)

Recent revisions to the TSP changed the names of some marine management areas without changing boundaries or harvest restrictions, and added six new marine management areas which will limit commercial harvest at these sites. ODFW expects minimal impact to the public from the six new areas limiting commercial harvest as there has been little to no commercial harvest at these sites in recent years.

References

Leonard, J. and P. Watson. 2011. Description of the input-output model for Pacific Coast fisheries. U.S. Dept. Commer., NOAA Tech. Memo. NMFS-NWFSC-111, 64p.

US Bureau of Labor Statistics. CPI Inflation Calculator. https://www.bls.gov/data/inflation_calculator.htm. Retrieved September 26, 2023.

(2)(a) The main types of small business subject to the rules are commercial and recreational harvesters landing nearshore groundfish and businesses that provide goods and services to those commercial and recreational groundfish harvesters. In 2022 there were 88 commercial vessels landing nearshore groundfish worth \$500 or more in ex-vessel value. There were 40 Black/Blue Rockfish permits and 68 Nearshore-endorsed Black/Blue Rockfish permits sold, two separate permit types that exist for the limited-entry commercial nearshore fishery.

Wholesale dealers who buy nearshore groundfish will be affected and there were 39 in 2022 who bought \$500 or more worth of nearshore species.

Other small businesses that have the potential to be affected include 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 accurately the number of those types of small businesses affected.

(2)(b) No significant changes in these costs are expected for the small businesses subject to the rule.

(2)(c) No significant changes in these costs are expected for the small businesses subject to the rule.

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

Public meetings were conducted in fall of 2023 to allow impacted parties to participate in the rule making process. The rules are believed to be fully compatible with legislative direction on the goals of wildlife management in Oregon.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

NOTE: Additional PDF filed with this filing not included in this document. Please contact Department of Fish and Wildlife for a copy of this document.

RULES PROPOSED:

635-004-0220, 635-004-0275, 635-004-0350, 635-004-0355, 635-005-0260, 635-039-0080, 635-039-0090

AMEND: 635-004-0220

RULE SUMMARY: These amended rules will modify annual groundfish management measures and harvest limits for 2024 commercial and recreational groundfish fisheries, including but not limited to, state Harvest Guidelines for commercial and recreational fisheries, recreational regulations (e.g., bag limits, length limits, and seasons), nearshore commercial regulations (e.g., bi-monthly period vessel limits), and commercial closed areas adopted by the Ocean Policy Advisory Council. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

CHANGES TO RULE:

Closed Season and Areas ¶¶

(1) It is unlawful to take for commercial purposes, the following from ~~Special Regulation Marine~~ Marine Management Areas described in the "Oregon Sport Fishing Regulations:" ¶¶

(a) Shellfish and invertebrates in designated Marine Garden areas. ¶¶

(b) Shellfish and invertebrates in designated ~~Intertidal and Subtidal~~ Marine Research Reserve Areas. ¶¶

(c) Fish, shellfish and invertebrates in designated ~~Habitat Refuges~~ Marine Conservation Areas, except: ¶¶

~~(d) Fish, shellfish and invertebrates from 1000 feet around and including Pyramid Rock from May 1 through August 31.~~ In the Ecola Point Marine Conservation Area, fish may be taken. ¶¶

(B) In the Cape Lookout Marine Conservation, fish may be taken, and shellfish or invertebrates may be taken from subtidal areas. ¶¶

~~(2C) It is unlawful to move any vessel within 500 feet of the main rocks in Three Arch Rocks National Wildlife Refuge~~ the Fogarty Creek Marine Conservation Area, fish may be taken from shore. ¶¶

~~(d) Fish, shellfish and invertebrates from 1000 feet around and including Pyramid Rock from May 1 through September 15.~~ August 31. ¶¶

~~(32) It is unlawful to take ocean food fish for commercial purposes during the following seasons and areas:~~ ¶¶

(a) As provided in these rules or in the Code of Federal Regulations, Title 50 Part 660; and ¶¶

(b) From Oregon coastal bays, the Oregon estuary waters of the Columbia River, or from or within ~~2600 yards~~ feet of any man-made structures. This closure does not apply to: ¶¶

(A) Ocean food fish taken in specific fisheries established by rule allowing harvest in inland waters, but only during the times and areas specified in those fishery's regulations; ¶¶

(B) Ocean food fish taken to be sold or used for scientific or educational purposes, or for live public display; ¶¶

(C) Pacific herring, Pacific sardine (pilchard), anchovies, and shad that are taken by hook-and-line and sold as bait; or to ¶¶

(D) Pacific herring, Pacific sardine (pilchard), anchovies, and shad that are taken by beach seine in the Umpqua estuary and sold as bait. ¶¶

(c) All species other than those whose harvest is authorized under these rules must be immediately returned to the water unharmed. ¶¶

~~(43) The following areas have additional closures and prohibitions as specified in ORS Chapter 511, and fishers should consult these regulations before fishing in these areas:~~ ¶¶

(a) Coastal Streams Areas; ¶¶

(b) Columbia River Area; ¶¶

(c) Rogue River Area; ¶¶

(d) Curry County Area; ¶¶

(e) Coos, Douglass and Lane County Areas; ¶¶

(f) Nestucca, Netarts and Tillamook Bay Areas; and ¶¶

(g) Willamette River Area. ¶¶

~~(54) Marine Reserves and Marine Protected Areas within Oregon's Territorial Sea have been established and fishers should consult regulations in OAR Division 012 regarding fishing and transit restrictions.~~

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

Statutes/Other Implemented: ORS 506.036, ORS 506.109, ORS 506.129, ORS 506.306

AMEND: 635-004-0275

RULE SUMMARY: These amended rules will modify annual groundfish management measures and harvest limits for 2024 commercial and recreational groundfish fisheries, including but not limited to, state Harvest Guidelines for commercial and recreational fisheries, recreational regulations (e.g., bag limits, length limits, and seasons), nearshore commercial regulations (e.g., bi-monthly period vessel limits), and commercial closed areas adopted by the Ocean Policy Advisory Council. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

CHANGES TO RULE:

635-004-0275

Scope, Inclusion, and Modification of Rules ¶

(1) The commercial groundfish fishery in the Pacific Ocean off Oregon is jointly managed by the state of Oregon and the federal government through the Pacific Fishery Management Council process. The Code of Federal Regulations provides federal requirements for this fishery, including but not limited to the time, place, and manner of taking groundfish. However, additional 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, Subparts C, D, and E (October 1, 2022~~3~~ ed.) as amended; and¶

(b) ~~Federal Register Vol. 87, no. 241, dated December 16, 2022 (86 FR 77007)~~ Insert Reference When Available.¶

(2) Persons must consult the federal regulations in addition to Division 004 to determine all applicable groundfish fishing requirements. Where federal regulations refer to the fishery management area, that area is extended 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. See OAR 635-004- 0205 through 635-004-0235 and 635-004-0280 through 635-004-0365 for additions or modifications to federal groundfish regulations.

Statutory/Other Authority: ORS 506.119

Statutes/Other Implemented: ORS 506.109, ORS 506.129

AMEND: 635-004-0350

RULE SUMMARY: These amended rules will modify annual groundfish management measures and harvest limits for 2024 commercial and recreational groundfish fisheries, including but not limited to, state Harvest Guidelines for commercial and recreational fisheries, recreational regulations (e.g., bag limits, length limits, and seasons), nearshore commercial regulations (e.g., bi-monthly period vessel limits), and commercial closed areas adopted by the Ocean Policy Advisory Council. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

CHANGES TO RULE:

635-004-0350

Harvest Guidelines and Landing Caps ¶¶

(1) Upon attainment of a harvest guideline in the Black Rockfish / Blue Rockfish / Nearshore Fishery, the Department shall initiate consultation to determine if additional regulatory actions are necessary to achieve management objectives.¶¶

(2) The following commercial harvest guidelines include the combined landings and other fishery related mortality by all Oregon commercial fisheries in a single calendar year:¶¶

(a) Black rockfish: 122.9 metric tons;¶¶

(b) Blue rockfish and deacon rockfish combined: 15.72 metric tons;¶¶

(c) Other Nearshore Rockfish combined: 16.61 metric tons;¶¶

(d) Cabezon: 32.416 metric tons; and¶¶

(e) Greenling: 100.798.4 metric tons.

Statutory/Other Authority: ORS 506.119

Statutes/Other Implemented: ORS 506.109, ORS 506.129

AMEND: 635-004-0355

RULE SUMMARY: These amended rules will modify annual groundfish management measures and harvest limits for 2024 commercial and recreational groundfish fisheries, including but not limited to, state Harvest Guidelines for commercial and recreational fisheries, recreational regulations (e.g., bag limits, length limits, and seasons), nearshore commercial regulations (e.g., bi-monthly period vessel limits), and commercial closed areas adopted by the Ocean Policy Advisory Council. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

CHANGES TO RULE:

635-004-0355

Trip Limits ¶

(1) The trip limits outlined in this rule are set at the beginning of each calendar year based on commercial harvest caps and projected fishing effort, and are subject to in-season adjustments and closures. Fishers should refer to Nearshore Commercial Fishery Industry Notices on the Marine Resources Program Commercial Fishing Rules and Regulations webpage for the most up-to-date information regarding trip limits and other regulations affecting the Nearshore Commercial Fishery. ¶

(2) Vessels with a Black Rockfish / Blue Rockfish / Nearshore Fishery Permit, with or without a Nearshore Endorsement, may land no more than the following bi-monthly cumulative trip limits: ¶

(a) Black rockfish: ¶

(A) 1800 pounds in period 1; ¶

(B) ~~2~~1800 pounds in period 2; ¶

(C) 2400 pounds in period 3; ¶

(D) 2400 pounds in period 4; ¶

(E) ~~2~~1800 pounds in period 5; ¶

(F) ~~2~~1800 pounds in period 6; and ¶

(b) 1500 pounds of blue rockfish and deacon rockfish combined in each period. ¶

(3) ~~Effective September 1, f~~For all other nearshore species, ~~vessels with a Black Rockfish-/ Blue Rockfish-/ Nearshore Fishery Permit with Nearshore Endorsement may land no more than the following bi-monthly cumulative trip limits: ¶~~

(a) ~~3~~450 pounds of other nearshore rockfish combined in each period; ¶

(b) ~~2~~1500 pounds of cabezon in each period; and ¶

(c) 1200 pounds of greenling species in each period. ¶

(4) It is unlawful to retain or land quillback rockfish for commercial purposes, except by vessels participating in the federal Pacific coast groundfish limited entry trawl fishery.

Statutory/Other Authority: ORS 506.119

Statutes/Other Implemented: ORS 506.109, ORS 506.129

AMEND: 635-005-0260

RULE SUMMARY: These amended rules will modify annual groundfish management measures and harvest limits for 2024 commercial and recreational groundfish fisheries, including but not limited to, state Harvest Guidelines for commercial and recreational fisheries, recreational regulations (e.g., bag limits, length limits, and seasons), nearshore commercial regulations (e.g., bi-monthly period vessel limits), and commercial closed areas adopted by the Ocean Policy Advisory Council. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

CHANGES TO RULE:

635-005-0260

Closed Seasons and Areas ¶¶

(1) It is unlawful to take for commercial purposes, the following from ~~Special Regulation Marine~~Marine Management Areas described in the "Oregon Sport Fishing Regulations:" ¶¶

(a) Shellfish and invertebrates in designated Marine Garden areas; ¶¶

(b) Shellfish and invertebrates in designated ~~Intertidal and Subtidal~~Marine Research Reserves; Areas. ¶¶

(c) Fish, shellfish and invertebrates in designated ~~Habitat Refuges; or~~Marine Conservation Areas, except: ¶¶

~~(d) Fish, shellfish and invertebrates from 1000 feet around and including Pyramid Rock from May 1 through August 31~~In the Ecola Point Marine Conservation Area, fish may be taken. ¶¶

~~(B) In the Cape Lookout Marine Conservation, fish may be taken, and shellfish or invertebrates may be taken from subtidal areas.~~ ¶¶

~~(2C) It is unlawful to move any vessel within 500 feet of the main the Fogarty Creek Marine Conservation Area, fish may be taken frocks in Three Arch Rocks National Wildlife Refugem shore.~~ ¶¶

~~(d) Fish, shellfish and invertebrates from 1000 feet around and including Pyramid Rock from May 1 through September 15~~August 31. ¶¶

~~(32) The following areas have additional closures and prohibitions as specified in ORS Chapter 511, and fishers should consult these regulations before fishing in these areas:~~ ¶¶

(a) Coastal Streams Areas; ¶¶

(b) Columbia River Area; ¶¶

(c) Rogue River Area; ¶¶

(d) Curry County Area; ¶¶

(e) Coos, Douglass and Lane County Areas; ¶¶

(f) Nestucca, Netarts and Tillamook Bay Areas; and ¶¶

(g) Willamette River Area. ¶¶

~~(43) Marine Reserves and Marine Protected Areas within Oregon's Territorial Sea have been established and fishers should consult regulations in OAR Division 012 regarding fishing and transit restrictions.~~

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

Statutes/Other Implemented: ~~ORS 506.109, 036, ORS 506.109, ORS 506.129~~

AMEND: 635-039-0080

RULE SUMMARY: These amended rules will modify annual groundfish management measures and harvest limits for 2024 commercial and recreational groundfish fisheries, including but not limited to, state Harvest Guidelines for commercial and recreational fisheries, recreational regulations (e.g., bag limits, length limits, and seasons), nearshore commercial regulations (e.g., bi-monthly period vessel limits), and commercial closed areas adopted by the Ocean Policy Advisory Council. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

CHANGES TO RULE:

635-039-0080

Purpose and Scope ¶¶

(1) The purpose of Division 039 is to provide for management of sport fisheries for marine fish, shellfish, and marine invertebrates in the Pacific Ocean, coastal bays, and beaches over which the State has jurisdiction.¶¶

(2) Division 039 incorporates into Oregon Administrative Rules, by reference:¶¶

(a) The sport fishing regulations of the State, included in the document entitled ~~2023~~current annual Oregon Sport Fishing Regulations;¶¶

(b) Title 50 of the Code of Federal Regulations, Part 300, Subpart E (October 1, 2021~~3~~3 ed.), as amended; and¶¶

(c) Title 50 of the Code of Federal Regulations, Part 660, Subpart G (October 1, 2021~~3~~3 ed.), as amended.¶¶

(3) Therefore, persons must consult all publications referenced in this rule in addition to Division 011 and Division 039 to determine all applicable sport fishing requirements for marine fish, shellfish and marine invertebrates.

Statutory/Other Authority: ORS 496.138, ORS 496.146

Statutes/Other Implemented: ORS 496.162

AMEND: 635-039-0090

RULE SUMMARY: These amended rules will modify annual groundfish management measures and harvest limits for 2024 commercial and recreational groundfish fisheries, including but not limited to, state Harvest Guidelines for commercial and recreational fisheries, recreational regulations (e.g., bag limits, length limits, and seasons), nearshore commercial regulations (e.g., bi-monthly period vessel limits), and commercial closed areas adopted by the Ocean Policy Advisory Council. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

CHANGES TO RULE:

635-039-0090

Inclusions and Modifications ¶

(1) The ~~2023~~current annual Oregon Sport Fishing Regulations provide requirements for sport fisheries for marine fish, shellfish, and marine invertebrates in the Pacific Ocean, coastal bays, and beaches, commonly referred to as the Marine Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the ~~2023~~current annual Oregon Sport Fishing Regulations.¶

(2) For the purposes of this rule, a "sport harvest guideline" is defined as a specified numerical harvest objective that is not a quota. Attainment of a harvest guideline does not automatically close a fishery. Upon attainment of a sport harvest guideline, the Department shall initiate consultation to determine if additional regulatory actions are necessary to achieve management objectives. The following sport harvest guidelines include the combined landings and other fishery related mortality by the Oregon sport fishery in a single calendar year:¶

(a) Black rockfish, 389.1 metric tons;¶

(b) Blue rockfish and deacon rockfish combined: ~~71.266.7~~ metric tons;¶

(c) Other Nearshore Rockfish combined: ~~10.55.2~~ metric tons;¶

(d) Cabezon, ~~187.6~~ metric tons; and¶

(e) Greenling, ~~34.42.6~~ metric tons.¶

(3) For the purposes of this rule, "Other nearshore rockfish" means the following rockfish species: black and yellow (*Sebastes chrysomelas*); brown (*S. auriculatus*); calico (*S. dalli*); China (*S. nebulosus*); copper (*S. caurinus*); gopher (*S. carnatus*); grass (*S. rastrelliger*); kelp (*S. atrovirens*); olive (*S. serranoides*); quillback (*S. maliger*); and treefish (*S. serriceps*).¶

(4) In addition to the regulations for Marine Fish in the ~~2023~~current annual Oregon Sport Fishing Regulations, the following apply for the sport fishery in the Marine Zone:¶

(a) Lingcod (including green colored lingcod): 2 fish daily bag limit.¶

(b) All rockfish ("sea bass" "snapper"), greenling ("sea trout"), cabezon, skates, and other marine fish species not listed in the ~~2023~~current annual Oregon Sport Fishing Regulations in the Marine Zone, located under the category of Finfish Species, General Marine Species: 5 fish daily bag limit in aggregate (total sum or number), of which no more than one may be a ~~China rockfish or copper rockfish in aggregate, and no more than one may be a cabezon,~~ when retention of cabezon is allowed. Retention of the following species is prohibited:¶

(A) Yelloweye rockfish;¶

(B) Cabezon from January 1 through June 30; and¶

(C) Quillback rockfish.¶

(c) Flatfish (flounder, sole, sanddabs, turbot, and all halibut species except Pacific halibut): 25 fish daily bag limit in aggregate (total sum or number).¶

(d) Except as specified in subsection (4)(d)(A), retention of all marine fish listed under the category of Finfish Species, General Marine Species, except Pacific cod, sablefish, flatfish, herring, anchovy, smelt, sardine, striped bass, hybrid bass, and offshore pelagic species (excluding leopard shark and soupfin shark), is prohibited when Pacific halibut is retained on the vessel during open days for the all-depth sport fishery for Pacific halibut when the sport fishery for general marine species (other than flatfish species) is closed outside of the 40 fathom curve as specified in subsection (4)(f).¶

(A) Persons must also consult all publications referenced in OAR 635-039-0080 to determine all rules applicable to the taking of Pacific halibut.¶

(B) When the all-depth sport fishery for Pacific halibut is open and the sport fishery for general marine species (other than flatfish species) is closed outside of the 40-fathom curve as specified in subsection (4)(f), fishing with long-leader gear is allowed on the same trip as all-depth halibut fishing as follows:¶

(i) When rockfish are onboard the vessel, anglers are only allowed to retain the species listed under subsection (4)(h)(A) and must use longleader gear as defined in subsection (4)(e)(F);¶

(ii) Pacific cod, sablefish, flatfish, herring, anchovy, smelt, sardine, striped bass, hybrid bass, and offshore pelagic species (excluding leopard shark and soupfin shark) may be retained while all-depth halibut fishing, prior to

retaining any rockfish species;¶

(iii) It is not required to separate all-depth halibut fishing from long-leader fishing by returning to the dock and offloading fish. A long-leader fishing trip must be separated from any other fishing trip where groundfish are retained by returning to the dock and offloading fish; and¶

(iv) All other requirements and prohibitions contained within subsection (4)(h) apply.¶

(e) Harvest methods and other specifications for marine fish in subsections (4)(a), (4)(b) and (4)(c) including the following:¶

(A) Minimum length for lingcod, 22 inches.¶

(B) Minimum length for cabezon, 16 inches.¶

(C) May be taken by angling, hand, bow and arrow, spear, gaff hook, snag hook and herring jigs.¶

(D) Mutilating the fish so the size or species cannot be determined prior to landing or transporting mutilated fish across state waters is prohibited.¶

(E) When angling for groundfish or Pacific halibut in the Pacific Ocean or when in possession of groundfish or Pacific halibut, all watercraft shall have a functional descending device on board and shall use a descending device when releasing any rockfish outside of the 30-fathom curve (defined by latitude and longitude) as shown in Title 50 Code of Federal Regulations Part 660 Section 71. Upon request, a descending device shall be presented for inspection by any person authorized to enforce the wildlife laws or a representative of the Department. In this subsection, "descending device" means a device capable of returning a rockfish back to a depth of at least 100 feet to assist the fish in recompression and to improve the fish's chance of survival.¶

(F) Long-leader gear means fishing gear with the following: one fishing line, deployed with a sinker and no more than three hooks, with a minimum of 30 feet (9.14 meters) between the sinker and the lowest hook, and a non-compressible float attached to the line above the hooks. The hooks can only be equipped with artificial lures or molded soft plastic or rubber imitations of worms, eggs, insects, bait fish, crayfish, etc. 5 inches or less in length and/or artificial flies. Natural bait may not be used.¶

(f) Sport fisheries for species in subsections (4)(a), (4)(b) and (4)(c) and including leopard shark and soupfin shark are open January 1 through December 31, twenty-four hours per day, except as provided in subsections 4(b) and (4)(d). ~~Ocean waters are closed for these species, with the exception of flatfish species, during July 1 through August 31, outside of the 40-fathom curve (defined by latitude and longitude) as shown in Title 50 Code of Federal Regulations Part 660 Section 71, except as provided in subsection 4(d) or when fishing with long-leader gear during such times and in such areas as allowed in federal rule. A 20A 20-fathom, 25-fathom, 2530-fathom, or 340-fathom curve, as shown in Title 50 Code of Federal Regulations Part 660 Section 71 may be implemented as the management line as for depth-based inseason modifications as necessitate early.~~ In addition, the following management lines may be used to set area-specific regulations for inseason action only:¶

(A) Cape Lookout (45°20'30" N latitude); and¶

(B) Cape Blanco (42°50'20" N latitude).¶

(g) The Stonewall Bank Yelloweye Rockfish Conservation Area (YRCA) is defined by coordinates specified in Title 50 Code of Federal Regulations Part 660 Section 70 (October 1, 2018 ed.). Within the YRCA, it is unlawful to fish for, take, or retain species listed in subsections (4)(a), (4)(b) and (4)(c) of this rule, leopard shark, soupfin shark, and Pacific halibut using recreational fishing gear. A vessel engaged in recreational fishing within the YRCA is prohibited from possessing any species listed in subsections (4)(a), (4)(b) and (4)(c) of this rule, leopard shark, soupfin shark, and Pacific halibut. Recreational fishing vessels in possession of species listed in subsections (4)(a), (4)(b) and (4)(c) and including leopard shark, soupfin shark, and Pacific halibut may transit the YRCA without fishing gear in the water.¶

(h) On any fishing trip where fishing with long-leader gear (as defined in subsection (4)(e)(F)) occurs seaward of the 40-fathom curve (defined by latitude and longitude) as shown in Title 50 Code of Federal Regulations Part 660 Section 71, the following apply:¶

(A) It is unlawful to retain any species in the Groundfish Group other than yellowtail rockfish (*Sebastes flavidus*), widow rockfish (*S. entomelas*), canary rockfish (*S. pinniger*), deacon rockfish (*S. diaconus*), blue rockfish (*S. mystinus*), redstripe rockfish (*S. proriger*), greenstriped rockfish (*S. elongatus*), chilipepper rockfish (*S. goodei*), bocaccio rockfish (*S. paucispinis*), or silvergray rockfish (*S. brevispinis*);¶

(B) The daily bag limit is 10 fish in aggregate for the species listed in section (4)(h)(A);¶

(C) A long-leader fishing trip must be separated from any other fishing trip where groundfish are retained by returning to the dock and offloading fish, except as specified in subsection (4)(d)(B)(iii);¶

(D) It is unlawful for an angler who retained fish on a long-leader fishing trip to retain more than 10 fish in aggregate of the species listed in subsection (4)(b) in the same day;¶

(E) It is unlawful to fish for any species in the Groundfish Group, including those listed in subsection (4)(h)(A), inside of the 40-fathom curve or with gear that is not long-leader gear as defined in subsection (4)(e)(F); and¶

(F) Federal rules governing the long-leader fishery will supersede these rules to the extent of any inconsistency, including the definition of long-leader gear.¶

(5) Take of abalone prohibited, twenty-four hours per day, in all Oregon waters until March 17, 2024.
Statutory/Other Authority: ORS 496.138, ORS 496.146
Statutes/Other Implemented: ORS 496.162

Table 1. State harvest guidelines in metric tons for commercial and recreational groundfish management groups

Management Group	2020	2021	2022	2023	2024
Black Rockfish					
Commercial HG (24.0%)	122.9	122.9	122.9	122.9	122.9
Recreational HG (76.0%)	389.1	389.1	389.1	389.1	389.1
Blue and Deacon Rockfish					
Commercial HG (18.6%)	18.3	16.8	16.3	15.7	15.2
Recreational HG (81.4%)	80.1	73.7	71.2	68.8	66.6
Nearshore Rockfish					
Commercial HG (51.3%)	12.2	11.3	11.1	16.6	16.1
Recreational HG (48.7%)	11.6	10.8	10.5	15.8	15.2
Cabezon					
Commercial HG (64.3%)	30.2	35.0	33.5	32.4	31.7
Recreational HG (35.7%)	16.8	19.4	18.6	18.0	17.6
Greenling					
Commercial HG (75.1%)	118.3	108.1	103.8	100.7	98.4
Recreational HG (24.9%)	39.2	35.8	34.4	33.4	32.6

Table 2. Ocean recreational fishing effort by trip-type (target species), 2018 to 2022, in thousands of angler-trips. Data from the ODFW Ocean Recreational Boat Survey.

	2018	2019	2020	2021	2022
Salmon	51.2	73.8	42.4	80.0	72.6
Halibut	19.9	16.0	20.2	12.9	17.3
Tuna	5.9	15.3	2.6	5.8	5.3
Bottomfish (Groundfish)	110.0	100.3	103.6	99.6	116.8
Combo (Salmon + Other)	12.6	20.4	14.6	18.7	23.8
Total	199.7	225.8	183.3	216.9	235.8