BACKGROUND

Oregon is very fortunate to have one of the last robust wild white sturgeon populations in the world. Recent inventories estimate a population of 1 million fish over 24 inches. This healthy population supports strong, economically important sport and commercial fisheries. The proposed amendments establish a good foundation for future management and economic growth of commercial sturgeon aquaculture operations, while protecting and enhancing the state’s unique and valuable sturgeon resource. The 2007 Legislature passed Senate Bill 569 (SB569) (Attachment 5), which legalizes the commercial aquaculture of sturgeon in the state of Oregon and requires the Oregon Fish and Wildlife Commission (Commission) to regulate the industry by adopting administrative rules to implement SB569 when it becomes effective on January 1, 2008. SB569 amends ORS 497.325 and repeals ORS 497.330, under which provisions the Oregon Department of Fish and Wildlife (ODFW) has been regulating sturgeon propagation since 1989. Four sturgeon propagation permits were issued under that system; these permits get “priority” in the allocation of permits created under this new system. The new law specifically authorizes the commercial propagation of sturgeon, while the prior system restricted propagation to “solely for educational or scientific purposes.” SB569 also prohibits the collection of eggs from wild sturgeon broodstock in the operation of a commercial hatchery authorized under this permit (with a minor exception explained below), establishes a $3,000 annual fee for the permit, requires the Commission to establish the number of new permits available, how they would be allocated, and the specific standards, criteria and conditions under which the facilities must operate. Some modifications to related rules have been submitted to clarify definitions and make rules consistent with the existing statute.

PUBLIC INVOLVEMENT

October 4, 2007: Private sector sturgeon propagators were invited to a public meeting held at ODFW headquarters to discuss the proposed sturgeon propagation rule changes. Direct contact with fish propagators interested in commercial sturgeon aquaculture was established.

ISSUE 1

ADOPTION OF NEW STURGEON PROPAGATION RULES

ANALYSIS

PROHIBITION OF THE COLLECTION OF WILD STURGEON BROODSTOCK

Since 1989, lower Columbia River white sturgeon fisheries have been managed for optimum sustained yield (OSY). This management target is intended to optimize harvest while allowing for the continued rebuilding of the lower Columbia River white sturgeon population. The main goal of the sturgeon propagation rules is to ensure that commercial propagation of these fish does not adversely affect this world class fishery.

Part of the way the protection is established is to prohibit taking eggs from wild sturgeon broodstock (Enrolled ORS 497.325 (1)(5)(a)).
However, ORS 497.325(3) will now provide authority to the Commission to issue special permits for the collection of male white sturgeon and eggs from oversize female white sturgeon for commercial aquaculture, in accordance with rules adopted by the Commission, provided the person possessed such a special permit from the Commission in calendar year 2006. Only one person qualifies for this permit. This authority sunsets January 1, 2011. Staff proposes to implement this authority by amending OAR 635-007-0705 and 0710 to clarify that the current rules applicable to take eggs from wild sturgeon will continue to apply to the one potential applicant until the authority expires in 2011.

ALLOW PRODUCTION OF STURGEON FOR SALE ON THE COMMERCIAL MARKET
SB569 fundamentally changes Oregon’s policy on propagation of sturgeon. Since 1989, new propagation permits could not be issued unless they were “solely for educational or scientific purposes.” The new law removes these statutory restrictions to propagation of sturgeon and allows production for sale on the commercial market. Thus, the new rules will allow the issuance of commercial sturgeon propagation licenses which will be managed in a manner similar to other fish propagation licenses (OAR 635-007-0725, 0730, 0735, 0740, 0745).

$3,000 ANNUAL FEE
Enrolled ORS 497.325 (1)(5)(b) establishes an annual fee of $3,000 for any sturgeon propagation permit for commercial purposes. The fee will support quarterly fish health examinations by ODFW staff to assist sturgeon propagators in the prevention and control of fish pathogen introductions or amplification of fish diseases in state waters. The key diseases of concern are iridovirus and sturgeon herpesvirus, which can cause large losses in hatcheries. Sturgeon herpesvirus has been isolated in wild sturgeon populations in Idaho, California and Oregon. Fish health staff will also provide technical guidance and support to sturgeon growers in dealing with all fish health issues and provide support on general fish propagation techniques.

CLARIFICATION OF WHETHER STURGEON QUALIFY AS AQUARIA SPECIES
Currently, no fish transport permit is required for “aquaria species”. In some circumstances, sturgeon placed in certain bodies of water might technically qualify as “aquaria species” under the current rule definition. In order to eliminate this ambiguity in fish transport rules, staff propose to amend OAR 635-007-0501(2) to specifically exclude sturgeon from the definition of “aquaria species”. This exclusion will require fish transport permit applications for all transport activities of sturgeon within the state, and will, therefore, provide additional protective measures for the species. In addition, this rule change will not allow sturgeon propagators to ship sturgeon to ponds fitting the ”aquaria” definition for potential commercial growout of sturgeon without a transport permit. This has been an issue for Oregon State Police law enforcement officials in the past.
NUMBER OF PERMITS ALLOWED
SB569 requires the Commission to establish the number of these permits that can be allowed, by rule, and to determine the method by which these permits may be allocated, should more people want them than the Commission allows. Enrolled ORS 497.325(3)(a),(b). Staff propose to establish the number of allowable permits at 15, which is more than the number of applicants we actually expect. In accordance with the statutory language, as an allocation system, staff propose to grant the available permits first to those persons currently holding sturgeon propagation permits, and then to persons who apply on a first-come first served basis. Should ODFW receive an unexpectedly high number of permit applications, staff would return with a new allocation proposal in the future if first-come, first served approach seems an unfair way to distribute the available permits.

STANDARDS AND CRITERIA APPLICABLE TO PERMITS
SB569 requires the Commission to establish by rule the terms and criteria under which a propagation permit may be exercised. ORS 497.325(3)(c). The rules propose these standards and criteria in OAR 635-007-0725, 0730 and 0735. The rules aim first at protection of our wild stocks and then to provide reasonable guidelines for the development of a commercial sturgeon aquaculture industry.

OPTIONS
1. Status Quo, in which case SB569 would not become effective and the current rules would be contrary to the statute.
2. Adopt the rule language as presented in Attachment 4.
3. Amend the proposed rules.

STAFF RECOMMENDATION
Option 2.

DRAFT MOTION
I move to amend and adopt OAR 635-007-0501, 635-007-0600, 635-007-0650, 635-007-0705, 635-007-0710, 635-007-0725, 635-007-0730, 635-007-0735, 635-007-0740 and 635-007-0745 as recommended by staff and shown in Attachment 4 of this exhibit.

EFFECTIVE DATE
January 1, 2008.