

NOTICE OF PROPOSED RULEMAKING HEARING*

A Statement of Need and Fiscal Impact accompanies this form.

Oregon Department of Fish and Wildlife, Fish Division	635
Agency and Division	Administrative Rules Chapter Number
Therese Kucera	3406 Cherry Avenue NE, Salem, OR 97303
Rules Coordinator	Address
	(503) 947-6033
	Telephone

RULE CAPTION

Diamond Lake Management Plan

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

September 4, 2009	08:00 a.m.	Josephine County Fairgrounds 1451 Fairgrounds Road Grants Pass, Oregon 97527	Oregon Fish and Wildlife Commission
Hearing Date	Time	Location	Hearings Officer

*Auxiliary aids for persons with disabilities are available upon advance request.***RULEMAKING ACTION**

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT: OAR Chapter 635, Division 500 as determined justified.**AMEND:** OAR Chapter 635, Division 500 as determined justified.**REPEAL:** OAR Chapter 635, Division 500 as determined justified.**RENUMBER:** OAR Chapter 635, Division and 500 as determined justified.

Stat. Auth.: ORS 496.012, 496.138, 496.146 and 506.119

Other Auth.:

Stats. Implemented: ORS 496.171, 496.172, 496.176, 496.182, 496.430, 496.435, 496.445, 496.450, 496.455, 506.109
and 506.129

RULE SUMMARY

Adopt, amend, or repeal rules as determined necessary to establish a Diamond Lake Management Plan which includes the following elements: Stocking of fingerling and legal sized, trophy, or predacious trout; Maintaining or enhancing the productive capacity of the lake; Evaluation of stocking rates, survival, and harvest to prevent nutrient loading; Monitoring of benthic organisms, dissolved oxygen, pH, and water clarity to maintain the lake's ecosystem; and Conduction of invasive species education, monitoring, and enforcement activities.

Housekeeping and technical corrections may occur to ensure rule consistency.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

September 4, 2009

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)


Signature

Lance Thomson
Printed name

July 9, 2008
Date

* Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Rulemaking Notice in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Department of Fish and Wildlife, Fish Division
Agency and Division

635
Administrative Rules Chapter Number

In the Matter of: Amendment of OAR Chapter 635, Division 500, related to establishing the Diamond Lake Management Plan.

Rule Caption: (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

Diamond Lake Management Plan.

Statutory Authority: ORS 496.012, 496.138, 496.146 and 506.119

Other Authority:

Stats. Implemented: ORS 496.171, 496.172, 496.176, 496.182, 496.430, 496.435, 496.445, 496.450, 496.455, 506.109 and 506.129

Need for the Rule(s):

Rule modifications are necessary to establish a Diamond Lake Management Plan.

Documents Relied Upon, and where they are available:

1. Staff report for the Oregon Fish and Wildlife Commission hearing of September 4, 2009.

The above documents are available for public inspection in the Department of Fish and Wildlife, Fish Division, Third Floor, 3406 Cherry Avenue NE, Salem, Oregon, between 8:00 a.m. and 4:00 p.m., on normal working days, Monday through Friday.

Fiscal and Economic Impact, including Statement of Cost of Compliance:

See attached statement.

How were small businesses involved in the development of this rule?

Not applicable.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The implementation of a management plan for Diamond Lake is the latest part of a process which began several years ago. Consultation with stakeholders and interested parties has taken place whenever necessary throughout this process.


Signature

Lance Thomson
Printed name

July 9, 2008
Date

Fiscal and Economic Impact Statement for the September 4, 2009 Hearing In the Matter of Rules Relating to the Diamond Lake Management Plan

Fiscal and economic impact: Diamond Lake had historically been a premier trout fishery prior to the invasion of the Tui Chub. Treatments of rotenone were applied in 1954 and in 2006. The most recent treatment of the lake brought it back to its historical status as a trout fishery. Rule changes are proposed to adopt the Diamond Lake management plan which includes the following elements:

- Fingerling stocking in addition to stocking of some legal sized, trophy, or predacious trout.
- Maintaining or enhancing the productive capacity of the waters
- Evaluation of stocking rates, survival, and harvest to prevent nutrient loading
- Monitoring of benthic organisms, dissolved oxygen, pH, and water clarity to maintain the lake's ecosystem
- Conduction of invasive species education, monitoring, and enforcement activities

The proposed rule changes will affect state agencies, units of local government, and the public, respectively, as discussed below:

A. The only state agency that might be affected by adoption of these rules is the Oregon Department of Fish and Wildlife (ODFW) and the Oregon State Police (OSP) for enforcement costs. Management of Diamond Lake is shared with the United States Forest Service, and some of the monitoring costs are covered, resulting in a cost savings to ODFW. ODFW employs one seasonal EBA for the summer to conduct creel surveys on the lake, and participates in monitoring of some water quality parameters, fish growth rates, invasive species checks, and the benthic community. Three staff are required to carry out these surveys and other duties are handled as necessary. Education on invasive species is a shared responsibility between the regions and the information and education division at headquarters. Oregon State Police resources are necessary to prevent the use of live bait fish and to assist the public education effort on invasive species.

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 expected as a result of the adoption of these rules.

C. The public would be affected by these rules. The fishery at Diamond Lake contributes to values held by the public that are reflected in the market, and some values that are not reflected by the market. For each person that participates in the fishery, some invisible "user value" is held for the experience. In most cases, this value is over and above what is spent to actually participate in the fishery. Benefits to the public are expressed in the market for fishing related food, lodging, transportation, and equipment. The public also experiences "net benefits" which are the difference between values held and what is actually paid to participate in the fishery. These net benefits would be the relevant values in a benefit-cost analysis of the fishing in

Diamond Lake. Without survey methods to elicit these values from users of the fishery, it is impossible to quantify what individuals would have been willing to pay to participate. Information is only available on the amounts actually spent in the economy to fish on Diamond Lake, so we turn to an economic impact analysis.

Another way to express economic value is in terms of the impacts to the economy of fishing activity on Diamond Lake. Spending activity by the public can be translated into personal income impacts in terms of wages and salaries within the local, state, and national economies. Expenditures by the public have translated into \$58.31 per angler day in the Southwest (Oregon) zone for visitors to the area and \$40.80 per angler day for residents of the Southwest zone. Creel surveys during the last two years since the restoration of the lake have estimated 56,708 angler trips on average. These values have been negatively affected by a late start in 2008 due to ice over the lake, and road closures due to fire. In the previous two years, public expenditures to participate in the Diamond Lake fishery have averaged \$2,785,937. It is likely that this estimate is conservative, due to the low use year in 2008. These expenditures have translated into \$1,374,722 in personal income impact per year.

Most businesses affected by these rules are believed to be "small business."

The rules are believed to be fully compatible with legislative direction on the goals of wildlife management in Oregon.

We do not believe that a less intrusive or less costly alternative adaptation to only small business is consistent with the purpose of the rule.