

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form.

Attachment 2

Oregon Department of Fish and Wildlife, Fish division

635

Agency and Division

Administrative Rules Chapter Number

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Rules Coordinator

Address

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RULE CAPTION

Amendment of Rules for the Temporary Suspension of the Developmental Fisheries Program

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

December 11, 2009	08:00 a.m.	Commission Room 3406 Cherry Avenue NE, Salem, OR 97303	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, Divisions 004, 005 and 006 as determined justified.

AMEND: OAR Chapter 635, Divisions 004, 005 and 006 as determined justified.

REPEAL: OAR Chapter 635, Divisions 004, 005 and 006 as determined justified.

RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: ORS 496.146, 506.036, 506.109 and 506.119

Other Auth.:

Stats. Implemented: ORS 506.036, 506.109, 506.119, 506.129 and 506.450 to 506.465

RULE SUMMARY


Rules will be adopted and/or amended as determined necessary to temporarily suspend the Developmental Fisheries Program; and modify the Developmental Species List, permitting structure and rule requirements for the five fisheries permitted through the program in 2009.

House keeping and technical corrections to the regulations 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.

December 11, 2009

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



Lance Thomson

Printed name

October 15, 2009

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

635

Agency and Division

Administrative Rules Chapter Number

In the Matter of: Amendment of OAR Chapter 635, Divisions 004, 005 and 006, related to the Developmental Fisheries Program and associated permitted fisheries.

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

Amendment of Rules for the Temporary Suspension of the Developmental Fisheries Program.

Statutory Authority: ORS 496.146, 506.036, 506.109 and ORS 506.119

Other Authority:

Stats. Implemented: ORS 506.036, 506.109, 506.119, 506.129 and 506.450 to 506.465

Need for the Rule(s):

The Oregon Fish and Wildlife Commission annually establishes the Developmental Species List. Due to funding shortfalls in the 2010-2011 biennium budget, it is necessary to adopt and amend rules as determined necessary to temporarily suspend the Developmental Fisheries Program; modify the Developmental Species List; and adjust the permitting infrastructure and rule requirements for the five fisheries permitted through the program in 2009.

Documents Relied Upon, and where they are available:

1. Staff report for the Oregon Fish and Wildlife Commission hearing of December 11, 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.

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

Department staff convened two meetings with the Developmental Fisheries Board in July and August, 2009 and one public meeting with fishery participants on August 4, 2009 to discuss potential rule changes.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

Department staff consulted the Developmental Fisheries Board on July 14, 21, 22, and August 12, 2009.


Signature

Lance Thomson
Printed name

October 15, 2009
Date

Fiscal and Economic Impact Statement for the December 11, 2009 Hearing In the Matter of Rules Relating to the Developmental Fisheries Program

Fiscal and economic impact: Rule changes are being proposed to suspend the Developmental Fisheries program and eliminate the associated positions. Changes will also prohibit the ocean harvest of euchalon and marine snails. These changes will impact fisheries that currently have the requirement for a Developmental Fisheries permit. The proposed rules will affect state agencies, units of local government, and the public, respectively, as discussed below:

A. The only state agency that would be affected by adoption of these rules is the Oregon Department of Fish and Wildlife (ODFW). ODFW will have a cost savings associated with the elimination or discontinuation of three positions associated with the Developmental Fisheries Program. These limited duration positions will not be made permanent as a result of this program elimination. The costs for these position's salary, OPE, and associated supplies and services in 2007-2009 was \$267,531. These costs will not be incurred by ODFW as these positions and related duties will be eliminated. The revenue that currently accrues to the Developmental Fisheries program represents 75% of the ad-valorem landings fees. These funds will remain in the Commercial Fisheries Fund as revenue to ODFW. A small amount of revenue from the approximately 75 Developmental Fisheries permits that are issued each year will be lost. These permits are only required in the following five fisheries: Swordfish, Box Crab, Spot Prawn, Hagfish, and Anchovy/Herring. ODFW revenues will not be affected by the prohibition of ocean harvest of euchalon and marine snails as there are no landings of these species at this time.

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 could be affected by the adoption of these rules. Changes to the permit requirements for some fisheries, opening them to anyone who wishes to participate will affect individuals and businesses involved in fishing for those species. Depending on the fishery, the potential exists to crowd fishing grounds or reduce catch per unit effort of existing vessels. If a fishery is overcapitalized, costs to the entire fleet of adding a new vessel exceed the benefits to that vessel that enters the fishery. In most fisheries, information is not available on the magnitude of these costs and benefits. Prohibition of euchalon and marine snail ocean harvest will not eliminate any existing revenue to fishing operations, but would also eliminate any potential future revenues associated with those fisheries.

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.

