

Secretary of State
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 (503) 947-6033
Rules Coordinator Address Telephone

RULE CAPTION

Adopt Rules for the Mid-Columbia Steelhead Conservation and Recovery Plan
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

February 5, 2010	08:00 a.m.	Commission Room Oregon Dept. of Fish & Wildlife 3406 Cherry Avenue NE Salem, OR 97103	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.

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

Other Auth.: Native Fish Conservation Policy (OAR 635-007-0502 through 0509), federal Endangered Species Act.

Stats. Implemented: ORS 496.162, 506.109 and 506.129

RULE SUMMARY

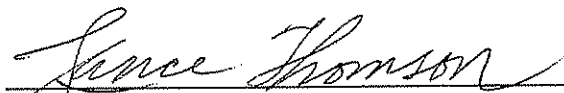
Adopt or amend rules, as necessary, relating to the Mid-Columbia Steelhead Conservation and Recovery Plan.

Housekeeping 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.

February 5, 2010

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


Signature

Lance Thomson
Printed name

December 15, 2009
Date

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 a conservation and recovery plan for Mid-Columbia steelhead.

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

Adopt Rules for the Mid-Columbia Steelhead Conservation and Recovery Plan

Statutory Authority: ORS 496.138, 496.146, and 506.119

Other Authority: Native Fish Conservation Policy (OAR 635-007-0502 through 0509), federal Endangered Species Act.

Stats. Implemented: ORS 496.162, 506.109 and 506.129

Need for the Rule(s):

In response to a listing under the federal Endangered Species Act and in keeping with planning requirements under Oregon's Native Fish Conservation Policy, the **Mid-Columbia Steelhead Conservation and Recovery Plan** was developed. Fish management plans, or portions thereof, need to be adopted into administrative rule(s) by the Oregon Fish and Wildlife Commission.

Documents Relied Upon, and where they are available:

- 1. Staff report for the Oregon Fish and Wildlife Commission hearing of February 5, 2010.

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 the Mid-Columbia Sounding Board, which was an advisory body comprised of interested and impacted stakeholders, to develop this plan. Numerous public outreach events and comment opportunities were also provided during plan development.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The alternatives for rule changes were developed through cooperation and consultation of the Mid-Columbia Sounding Board. Department staff also conducted public meetings pertaining to plan development.


Signature

Lance Thomson
Printed name

December 15, 2009
Date

**Fiscal and Economic Impact Statement for the February 5, 2010 Hearing
In the Matter of Rules Relating to the Mid-Columbia Steelhead
Conservation and Recovery Plan**

Fiscal and economic impact: New rules and rule changes are being proposed to implement the Mid-Columbia Steelhead Conservation and Recovery Plan. The plan provides a framework to guide actions toward the recovery of this distinct population segment of steelhead and their habitats. The goals are to restore and maintain the ecological, social, and economic benefits provided by the steelhead. The proposed rules will affect state agencies, units of local government, and the public, respectively, 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), any agency choosing to undertake habitat improvement projects on their state lands, and agencies that implement landowner programs. ODFW currently fulfills the role of providing technical assistance for habitat improvement projects in the watersheds of the Middle Columbia. This plan would prioritize and guide these projects that would be conducted by private landowners, the federal government, state agencies, local governments, and other organizations. State agencies that make changes to their landowner programs to bring actions in line with this plan might incur some costs to do so. After collaboration with ODFW on the goals and priorities of this plan, agencies could change their landowner interactions or their programs relating to landowners. Such changes are not mandated in this rulemaking, but could result from inter-agency cooperation on this plan. Also, state agencies that own land could directly incur costs if they choose to implement habitat improvements in line with this plan.

The plan will also guide ODFW fish population and habitat monitoring efforts. New fish population and habitat monitoring for this plan will be implemented as part of a larger funding package provided through federal funds. The Mid-Columbia Steelhead Conservation and Recovery Plan also calls for a reduction in the impact of hatchery strays from federal, state, and tribal hatcheries. In the future, this portion of the plan could result in changes to the hatchery releases by ODFW as well as these other entities. It would be difficult to determine the extent or direction of the fiscal impacts from these changes in releases or rearing locations. ODFW is currently participating in efforts to improve instream flow and water quality in this basin. These efforts would continue under this plan.

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 required as a result of the adoption of these rules. Local governments could incur costs through voluntary participation in habitat improvement projects on their land.

C. The public could be affected by the adoption of these rules. Members of the public who voluntarily implement habitat improvement projects on their land would incur some costs to do so. ODFW or others with technical expertise would advise on the activities as they relate to this recovery plan.

Recovery of the steelhead populations is necessary to preserve the existence and cultural values that the public holds for these fish. Further, healthy populations can sustain consumptive use such as angling for recreation or commercial fishing. In 2008, the public spent \$34.7 million to participate in angling in the Portland Metropolitan/Columbia River area (Runyan, 2009.) This represents the direct impact on the state economy of the fishing opportunities available to the public. Steelhead constitutes one of the species available to generate these expenditures. Businesses that support fishing from guide services, equipment manufacturers, hotels, restaurants, campgrounds, gas stations, and stores will benefit from more angling activity generated by improved fish populations.

Expenditures are only one portion of the public's expressed value for the experience of fishing. Members of the public also hold net economic values over and above what they spend to actually participate in fishing. These benefits accrue to those participating in fishing even though they are not expressed in terms of monetary transactions.

Most of the activities guided by this plan, such as habitat improvement projects, water quality improvement, or flow improvement, can have benefits for other fish species as well. Commercial fisheries for salmon in the ocean and in the Columbia River would see benefits from more available fish to harvest. The size of this benefit to commercial fisheries would depend on the fish population's response to the plan's actions and would vary from season to season. Such a benefit is difficult to quantify due to uncertainties in biological factors as well as business responses to better population levels in the commercial fishery. It is likely that commercial fishing vessels and processors would see some positive benefit, but the amount is impossible to determine.

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.

References

Fishing, Hunting, Wildlife-Viewing and Shellfishing in Oregon, May 2009. Prepared for the Oregon Department of Fish and Wildlife by Dean Runyan and Associates.