

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
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RULE CAPTION

Recreational Sturgeon, Commercial Shad, and Miscellaneous Fishing Regulations for 2010

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

March 12, 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, Divisions 017, 023 and 042 as determined justified.**AMEND:** OAR Chapter 635, Divisions 017, 023 and 042 as determined justified.**REPEAL:** OAR Chapter 635, Divisions 017, 023 and 042 as determined justified.**RENUMBER:****AMEND & RENUMBER:**

Stat. Auth.: ORS 496.138, 496.146, 506.109, 506.119 and 506.129.

Other Auth.:

Stats. Implemented: ORS 496.162, 506.129 and 507.030.

RULE SUMMARY


Consider amendment of rules related to: 1) Commercial shad fishing in the Columbia River mainstem; and 2) Recreational sturgeon fishing in the Columbia and Willamette rivers.

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.

March 12, 2010

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

	Lance Thomson	January 15, 2010
Signature	Printed name	Date

* Hearing 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.

ARC 920-2005

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 017, 023, and 042, related to commercial shad and recreational sturgeon fisheries.

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

Recreational Sturgeon, Commercial Shad, and Miscellaneous Fishing Regulations for 2010

Statutory Authority: ORS 496.138, 496.146, 506.109, 506.119 and 506.129.

Other Authority:

Stats. Implemented: ORS 496.162, 506.129 and 507.030.

Need for the Rule(s):

The rules are needed to allow commercial shad fishing by non-treaty fisherman and to establish sport fishing seasons for white sturgeon in the mainstem Columbia and Willamette rivers. Fishing seasons established must meet the Federal Endangered Species Act requirements, provide for protection of the resource, and also be consistent with sharing arrangements for non-Indian fisheries.

Documents Relied Upon, and where they are available:

1. Staff report for the Oregon Fish and Wildlife Commission hearing of March 12, 2010.
2. Reports and Fact Sheets from the Joint Management Staff prepared for the February 18, 2010 Columbia River Compact hearing.
3. Compact Action recommendations adopted at the February 18, 2010 Columbia River Compact hearing.

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?

The participation of industry representatives (most of which are small businesses) was solicited at the Columbia River Compact hearing of February 18, 2010.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The Technical Advisory Committee (TAC) was established in 1983 as part of the court ordered Columbia River Fish Management Plan under *US v Oregon*. TAC is comprised of fisheries biologists representing Idaho, Oregon, Washington, Columbia River Treaty Tribes, the Shoshone-Bannock Tribes, US Fish & Wildlife Service and the National Marine Fisheries Service. TAC meets regularly throughout the year to review data and make recommendations on Columbia River harvest management. TAC will have reviewed and reported on data presented in the Joint Staff Report at the February 18, 2010 Columbia River Compact Hearing.


Signature

Lance Thomson

Printed name

January 15, 2010

Date

Fiscal and Economic Impact Statement for the March 12, 2010 Hearing Related to 2010 Recreational White Sturgeon Fisheries in the Columbia and Lower Willamette Rivers and Commercial Shad Seasons

Fiscal and economic impact: The rules are needed to establish sport-fishing seasons for white sturgeon in the main-stem Columbia and Willamette rivers within harvest limits while providing protection for spawning stocks, and to establish a permanent season for the commercial shad fishery in the Columbia River. The proposed rules will affect state agencies, units of local government and the public, respectively, as discussed below:

A. State agencies which could be affected by harvest management rules are the Oregon Department of Fish and Wildlife (ODFW) for fisheries management costs, and the Oregon State Police (enforcement costs). However, no significant changes from the current levels of these agencies' operations or expenditures are expected as a result of these particular rules.

B. Units of local government which could be affected by harvest management rules include Port Authorities and County Governments. Port Authorities may derive revenues from the provision of moorage and facilities for the off-loading of catches. No significant changes from the current levels of these agencies' operations or expenditures are expected as a result of these particular rules.

C. The public is affected by harvest management rules. Various sectors of the public economy (anglers, commercial harvesters, processors, suppliers of anglers, commercial harvesters and processors and the general economy) will experience different impacts. It was not possible to estimate impacts on each sector because Columbia River Compact meetings had not been held and specific alternatives had not been proposed before this document was drafted. The following narrative and references provide background information related to these sectors.

Recreational Sturgeon Fisheries

These rules relate directly and indirectly to the recreational harvest of sturgeon. The Columbia River Compact (via Joint State representation) determines regulations for the recreational sturgeon fishery in the main-stem Columbia River. The ODFW establishes recreational fishing seasons and regulations for the lower Willamette River. Regulations may ultimately affect season length for participants fishing in different segments of the lower Columbia and Willamette rivers. Current population estimates indicate a decline in both legal sized and sub-legal sized fish. Therefore the total and area specific number of angler days could be reduced significantly from previous years. It is expected that the sharing formula will remain unchanged at 80 percent sport and 20 percent commercial.

Estimates of the trip expenditures per day in the recreational sturgeon fishery and the associated impact on personal income in the local areas (Oregon counties bordering the Columbia) were developed in the Oregon Angler Survey and Economic Study (The Research Group, 1991).

Average Angler Trip Expenditures and Total Personal Income Impact on Columbia River Counties

Angler Origin	Trip Expenditures per Angler Day - Local Areas (updated to 2008\$)	Associated Personal Income Impact per Angler Day (updated to 2008\$)
Resident	\$ 41.10	\$ 26.59
Nonresident	\$ 79.20	\$ 55.61
Weighted Average	\$ 56.70	\$ 38.52

Resident refers to sturgeon anglers who live in the Oregon counties bordering the Columbia River. Nonresidents are those who live elsewhere, including nonresidents of Oregon. According to the angler survey, about 59 percent of the sturgeon angler days in the Columbia River zone were taken by zone residents; 41 percent were taken by zone nonresidents. These estimates are for a cross section of both pleasure boat and charter boat anglers. The trip expenditure and personal income impact of a charter boat angler day would be higher than the corresponding figure for a pleasure boat angler day because of the inclusion of the charter fee. Of course, charter boat anglers probably make lower annual expenditures on boats and equipment than pleasure boat anglers. Use of these estimates to project the impact of increases or decreases in angler trips assumes that the distribution of trips among charter and pleasure boats, and among zone residents and zone nonresidents remains relatively constant.

Commercial Shad Fisheries

These rules also relate to the commercial harvest of shad. The 2009 Oregon-side harvest of shad was about 3,769 pounds with an ex-vessel value of roughly \$923, and an average price per pound of \$0.24. Revenues to commercial fishers depend on poundage landed and prices received. Harvest data from fish tickets received by ODFW for the Columbia River commercial shad fishery (May-June) for 1991 through 2009 are shown in the table below.

Landings of Shad in the Columbia River 1991-2009

Year	Pounds	Value (In Thousands)	Price per Pound
1991	120,809	\$ 27.3	\$ 0.23
1992	359,365	\$ 61.6	\$ 0.17
1993	402,596	\$ 63.2	\$ 0.16
1994	154,265	\$ 32.1	\$ 0.21
1995	166,217	\$ 42.8	\$ 0.26
1996	158,781	\$ 41.3	\$ 0.26
1997	67,806	\$ 11.2	\$ 0.16
1998	70,149	\$ 15.5	\$ 0.22
1999	103,783	\$ 21.4	\$ 0.21
2000	42,975	\$ 8.7	\$ 0.20
2001	70,648	\$ 15.6	\$ 0.22
2002	100,235	\$ 23.1	\$ 0.23
2003	162,000	\$ 38.6	\$ 0.24
2004	112,896	\$ 25.5	\$ 0.23
2005	131,738	\$ 33.6	\$ 0.25
2006	57,360	\$ 12.6	\$ 0.22
2007	38,139	\$ 5.5	\$ 0.14
2008	33,872	\$ 6.8	\$ 0.20
2009	3,679	\$ 0.9	\$ 0.24

Estimates of the average price per pound of commercially harvested shad and revenue per fish landed are taken from fish ticket data compiled by the Oregon Department of Fish and Wildlife.

Although the proposed rules can be viewed as restricting economic opportunities by limiting the season, conservation of the resource will result in perpetuation of fish stocks in the long run.

The rules are believed to be fully compatible with legislative direction on the goals of fish and 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.

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

References

Oregon Angler Survey and Economic Study. Prepared for the Oregon Department of Fish and Wildlife by The Research Group. Corvallis, Oregon. June, 1991.