

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

Amend rules related to 2011 Oregon Sport Fishing Regulations

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

		Commission Room Oregon Department of Fish & Wildlife 3406 Cherry Avenue NE Salem, Oregon 97303	
August 6, 2010	08:00 a.m.		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 011, 013, 014, 016, 017, 018, 019, 021, 023, and 039 as determined justified.

AMEND: OAR Chapter 635, Divisions 011, 013, 014, 016, 017, 018, 019, 021, 023, and 039 as determined justified.

REPEAL: OAR Chapter 635, Divisions 011, 013, 014, 016, 017, 018, 019, 021, 023, and 039 as determined justified.

RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: ORS 496.138, 496.146, 496.162, 497.121, and 506.119

Other Auth.:

Stats. Implemented: ORS 496.004, 496.009, 496.138, 496.146, 496.162 and 506.129

RULE SUMMARY

Amended rules to adopt sport fishing regulations for finfish, shellfish, and marine invertebrates for 2011.

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.

August 6, 2010

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


Signature

Lance Thomson
Printed name

June 15, 2010
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.

Secretary of State

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 011, 013, 014, 016, 017, 018, 019, 021, 023 and 039 relating to 2011 Sport Fishing Regulations.

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

Amend rules related to 2011 Oregon Sport Fishing Regulations.

Statutory Authority: ORS 496.138, 496.146, 496.162, 497.121 and 506.119

Other Authority:

Stats. Implemented: ORS 496.004, 496.009, 496.138, 496.146, 496.162 and 506.129

Need for the Rule(s): These rules are necessary to adopt the 2011 sport fishing regulations for finfish, shellfish and marine invertebrates and to perform housekeeping and technical corrections to ensure rule consistency.

Documents Relied Upon, and where they are available:

1. Staff report prepared for Oregon Fish and Wildlife Commission meeting of August 6, 2010.
2. Summary of Proposals for the 2011 Angling Regulations.

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? Not directly involved. However, Department staff did consider all concerns and recommendations brought forward by the general public, including local businesses. See also, explanation to the question below.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

In 1996 the Oregon Fish and Wildlife Commission adopted a staff recommendation to conduct major angling regulation reviews every four years. The 2008 public involvement process covered angling regulations from 2009 through 2012. The next major public involvement process will occur in September 2012. However, proposals are available to sport fishing groups and the general public through local Department staff and comments are welcomed.


Signature

Lance Thomson
Printed name

June 15, 2010
Date

**Economic Impact Statement for the August 6, 2010 Hearing on
Amendment of Rules Relating to the 2011 Sport Fishing Regulations for
Finfish, Shellfish, and Marine Invertebrates**

Fiscal and economic impact: Rules are being proposed to implement the 2011 angling regulations. The regulation process produced a number of regulation proposals. These include some housekeeping changes to allow for two-pole fishing licenses, a requirement that only barbless hooks may be used on the Columbia River from McNary Dam to Buoy 10, the restriction of angling to artificial flies and lures on the Crooked River and the opening of the Willamette River for White Sturgeon all year. 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 this amendment of rules relating to these regulations are the Oregon Department of Fish and Wildlife (fisheries management costs) and the Oregon State Police (enforcement costs). Potential increases or reductions in fishing opportunities associated with alternatives under consideration could affect the sales of fishing licenses and tags. We are unable to project the potential magnitude of this revenue effect precisely, but the changes proposed for 2011 are not expected to affect license sales and revenues, because the changes are not likely to have significant incremental effects on participation.

B. Units of local government which could be affected by sport fishing regulations, include port authorities and county governments. Port authorities and county governments may derive revenues and experience costs related to the provision of moorage and other support facilities for sport fishing. However, no major changes from the current levels of these agencies' operations or expenditures are expected as a result of these particular rule amendments.

C. The public is affected by rules relating to angling regulations. Various sectors of the public economy (anglers, businesses which cater to anglers, and the general economy) will experience different impacts. In general, the economic impact of changes in angling regulations depends primarily on the changes in angling opportunities associated with the rule changes and the associated effects on direct expenditures by anglers. These effects would best be measured by estimating the magnitude of changes in the number of anglers and angler days, and then inferring the resulting changes in expenditures made by anglers based on available estimates of expenditures per angler day or per season, if appropriate. In many cases, information is not available to determine the angling activity over time in an area in response to rule changes.

The total (direct, indirect and induced) effects on personal income in the state as a whole and in areas surrounding the sport fisheries are the result of the direct expenditures on goods and services made by anglers from the businesses which supply the goods and services. These expenditures ripple out into the economy to generate personal income for workers and owners of businesses that support angling and the businesses that support operations for these businesses. Further, the general economy experiences induced income effects that are generated when workers in these businesses spend their income on goods and services.

The effect on direct, indirect and induced personal income from anglers' expenditures related to selected sport fishing activities has been estimated using data from surveys of Oregon anglers. For the purposes of assessing the impact of changes in angling regulation changes, only trip expenditures and their impacts on personal income would be affected in the short run. Equipment expenditures are of a longer-term nature and are not expected to change immediately as a result of adjustments in angling regulations.

A recent survey conducted for ODFW by Dean Runyan and Associates indicated that expenditures by the public to fish in Oregon were \$341.51 million in 2008.

Based on the more detailed Oregon Angler Survey (1991), the average trip expenditure by Oregon residents is an estimated \$61.88 per angler day in 2009 dollars. The associated economic impact on personal income at the state level is \$46.01 (2009\$) per angler day. The average expenditure by nonresidents fishing in Oregon is \$62.43 per angler day in 2009 dollars. The associated personal income impact at the state level is \$48.64 (2009\$) per day. These per day impact estimates are representative estimates which could be applied to estimates of increases and decreases in angler days resulting from regulation changes, provided the effect of the changes on angler use can be accurately projected. That is, these estimates of angler expenditures and the associated total personal income impacts represent the per unit (angler day) economic impact on the public taken as a whole. Given a projection of the effect of a regulatory change on angler use in a particular fishery, the economic impact on personal income of the proposed change can then be inferred.

To perform specific analyses for each of the proposed changes in the angling regulations, statistical creel survey data and estimates of angler use would be required for each affected fishery in order to be able to predict the potential effects of changes that affect the use of bait and angling gear, openings, closures and other seasonal adjustments on angler use (angler days) in a particular fishery. Unfortunately, it is prohibitively expensive for ODFW to accomplish such studies for each specific fishery, so in most cases it is impossible to assess the effects of fishery-specific proposed changes on angler use. In other cases, we may simply not have sufficient knowledge to predict anglers' behavioral responses, in terms of participation levels, to regulations that do not close a fishery. For example, some regulations may impose other less stringent kinds of restrictions, such as season, method of harvest, or bag limits. As a result, it is usually not possible to make reliable inferences about the magnitude of the effect on angler use and economic impact on personal income associated with the entire set of proposed changes.

The magnitudes of potential economic impacts are not possible to estimate because relevant data are not available, and there is difficulty associated with measurement of such potentially small incremental changes in participation. Overall, it is likely that changes in participation levels and related local economic impacts will be minor and in most cases positive.

Although some of the changes to angling rules and angling regulations in general can be viewed as reducing positive economic impacts in the short run, conservation through the regulation of seasons and other factors is intended to perpetuate Oregon's fishery resources at optimal levels in the long run. Failure to restrict harvests of fish to allow escapement for reproduction would result in severe adverse economic impacts in the future. The proposed regulations attempt to strike a

balance, which will provide optimal angling opportunity subject to the need to sustain fish population levels and to maintain future benefits.

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

1. American Sportfishing Association. 2008. Sportfishing in America. Prepared under contract to the U.S. Fish and Wildlife Service. Alexandria, VA
2. The Research Group. 1991. Oregon Angler Survey and Economic Study. Prepared for the Oregon Department of Fish and Wildlife. Corvallis, OR.
3. US Fish and Wildlife Service. 2008. 2006 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, Oregon State Report. U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of Commerce, U.S. Census Bureau.
4. Dean Runyan Associates. 2008. Fishing, Hunting, Wildlife Viewing, and Shellfishing in Oregon, 2008 State and County Expenditure Estimates.