



MEMORANDUM

Oregon Department of Fish and Wildlife

Date: July 22, 2010

To: Oregon Fish and Wildlife Commission

From: Bruce McIntosh, Assistant Fish Division Administrator – Inland Fisheries

Subject: 2011 Angling Regulation Development- Fishing Season Openers and Key Issues

Development of the 2011 Oregon Sport Fishing Regulations takes place in an “interim” year; this is the second interim year following the Public Process that was used to develop the 2009 Oregon Sport Fishing Regulations. There are three sets of changes the Oregon Fish and Wildlife Commission (Commission) will consider at the August 6, 2010 Commission meeting in Salem.

This memo outlines the nature of the first two sets of changes for the 2011 regulations which are routine administrative changes, and for the third set of changes, provides a summary of the proposed angling regulation changes affecting angling opportunities (Key Issues). Proposed changes to the 2010 angling regulations will be displayed in a format that meets the requirements of the Administrative Procedures Act. This Act requires that all changes to administrative rules be displayed in a particular format -- that is, with new material in underlined bold typeface and deleted material in brackets ex. **2011** [2010]. We will use this format for attachments to the August 6, 2010 Commission packet that deal with proposed changes to angling regulations and will also highlight in yellow, the specific proposed changes to rule language.

The first change will deal with changing all references in the Oregon Administrative Rules (OARs) concerning the “2010 Sport Fishing Regulations” to refer to the “2011 Sport Fishing Regulations.”

The second set of changes will effect a uniform change of date for the fishing season openers and minor editing corrections. We have hand-created one document that uses this Administrative Procedures Act format to change the dates for the early trout opener (fourth Saturday in April) from April 24 to April 23, and the late trout opener (fourth Saturday in May) from May 22 to May 28 each place those dates would appear in the 2011 Oregon Sport Fishing Regulations. (Naturally, the actual date on which the fourth Saturday falls varies from year to year). In addition to the April and May trout opening date changes, several other date changes have been made which reflect season opening dates that are specific to day of the year and date changes to Free Fishing Weekend. This copy also shows minor edits to correct printing errors, grammatical corrections, and several formatting changes to improve the readability of the regulations. We can

provide a copy of this document to anyone who wants, but it seemed wasteful to produce multiple copies of a 108-page document that only changes these two dates and minor editing corrections. Commission members or others who would like to view this document may do so at the Oregon Department of Fish and Wildlife (ODFW) headquarters and a copy of the actual document will be at the Commission meeting for inspection. If you have any questions, please contact Rhine Messmer at (503) 947-6214.

The third set of changes deal with proposed changes in angling regulations for 2011 Oregon Sport Fishing Regulations as submitted by ODFW District, Regional and Fish Division staff and Oregon State Police and also includes one public proposal (Key Issue 7) which was submitted as a petition and subsequently included in the 2011 regulation packet. This year is an interim year for the public involvement process and as such, unless otherwise noted, proposed changes for the 2011 regulations fall into one of the following categories:

- Critical conservation needs
- Housekeeping corrections
- Inadvertent restrictions
- Regulation changes directed by basin plan adoption
- New Non-Controversial Angling Opportunities

In addition to the Interim Criteria, proposals for expanded angling opportunities are being proposed as part of ODFW’s emphasis on increasing recruitment and retention of anglers and implementation of the 25-Year Angling Enhancement Plan.

Many of the 61 proposed 2011 angling regulations deal with minor errors, formatting or pamphlet corrections and are not addressed in this memo. Table 1 provides a summary of proposed rule changes by Angling Zone and Category. Proposals that deal with critical conservation or enforcement, or substantial new angling opportunities will be discussed as “Key Issues” below. The Key Issues outlined in this memo will be the focus of the Angling Regulations presentation at the August 6, 2010 Commission meeting.

Table 1. Number of 2011 angling regulation proposals by Angling Zone and proposal category.

Angling Zone	Housekeeping			Criti. Conserv.	Inadv. Rest.	New- Opp.– 25 Plan	Total by Zone
	Corr.	Clar.	Simp.				
Statewide	0	8	0	3	0	0	11
Northwest	1	5	0	2	0	0	8
Southwest	3	4	0	0	0	0	7
Willamette	2	10	0	4	2	6	24
Central	2	2	0	0	0	2	6
Northeast	0	0	0	0	0	1	1
Southeast	0	0	0	0	0	0	0
Snake	0	0	0	0	0	0	0
Columbia	0	0	0	1	0	0	1
Marine	1	1	0	1	0	0	3
Totals	9	30	0	11	2	9	61

Key Issues:

Statewide:

Key Issue 1. Two-Rod validation clarifications following adoption of rules in 2010. Several clarifications related to the adoption of the two-rod validation are being proposed by staff. These clarifications are designed to clear-up questions on how the two-rod validation applies to items such as where the two-rod validation does not apply (some anglers including the Ocean as a standing water body), Disabled Angler allowances, statewide hook restrictions, and that the two-rod validation is an “endorsement” needed along with an angling license. As of July 1, there have been a total of 10,262 two-rod validations purchased and in increasing public interest in the current two-rod angling allowances with desires to expand two-rod angling into flowing and marine waters. Public proposals for expanded two-rod angling will be taken up as part of the 2013 Public Process for angling regulation development. Expansions (or clarification) of the two-rod angling areas are being proposed only for the Alton Baker Canoe Canal (primarily a series of impounded waters) in 2011.

Key Issue 2. Prohibit harvest of eulachon (*Thaleichthys pacificus*) or “smelt in response to Endangered Species Act (ESA). Eulachon were listed under the ESA 2010. Staff are proposing a restriction on the harvest of “smelt” in inland waters including bays, estuaries, rivers, as a general statewide and Zone Regulation to restrict harvest of eulachon but still allow for harvest of the four other “smelt” species found in Oregon inland and coastal waters including Whitebait (*Allosmerus elongates*), Longfin (*Spirinchus thaleichthys*), Surf (*Hypomesus pretiosus pretiosus*), and Night smelt (*Spirinchus starksi*). . These species of smelt are not readily distinguishable by anglers so in order to protect listed Eulachon, a statewide restriction is being proposed prohibiting harvest of all smelt species in Oregon’s inland waters.

Rationale for Listing. On November 8, 2007, NMFS received a petition from the Cowlitz Indian Tribe to list southern eulachon (populations in Washington, Oregon, and California) under the ESA. The Cowlitz Indian Tribe's petition sought delineation of a southern eulachon "Distinct Population Segment" (DPS) extending from the U.S.-Canada border south to include populations in Washington, Oregon, and California. In March 2008, NMFS determined that the petition presented substantial scientific and commercial information indicating the petitioned action may be warranted, and initiated a status review. In March 2010, NMFS listed the Southern DPS of eulachon as threatened under the ESA. The final rule became effective on May 17, 2010.

Changes in ocean conditions due to climate change were also identified as the most significant threat to eulachon and their habitat. The primary factors responsible for the decline of the southern DPS of eulachon are the destruction, modification, or curtailment of habitat and inadequacy of existing regulatory mechanisms. More details and supporting documentation related to these factors can be found in the proposed listing rule (74 FR 10857, March 13, 2009) and the 2010 status review update for eulachon (Eulachon Biological Review Team, January 20, 2010).

Current Status of Eulachon in Oregon. According to the 2010 status review, eulachon have been found in major Oregon estuaries, such as the Rogue River, Coos Bay, Siuslaw River and Umpqua River. In addition, the following drainages on the coast may also support eulachon spawning runs: Chetco, Pistol, Rogue, Elk, Sixes, Coquille, Coos, Siuslaw, Umpqua, Yaquina

and Winchuck Rivers; and Hunter, Euchre, Tenmile (draining Tenmile Lake) and Tenmile (near Yachats) creek.

The Columbia River and its tributaries support the largest eulachon run in the world. However, there is very little data estimating adult spawning stock abundance or spawning ground locations. Per ODFW and WDFW data from 2001, eulachon migrated upstream to Bonneville Dam (river km 234) and spawned in all the major tributaries of the lower Columbia River, including the Sandy River. The Sandy River is the only Oregon tributary known to support a run of eulachon.

Northwest and Southwest Zones: No Key Issues.

Willamette Zone:

Key Issue 3. McKenzie River Redside Trout. Staff are proposing two regulatory changes for the McKenzie River that address fishery issues that will affect trout angling opportunities. These proposed changes are intended to reduce angler impacts on native "Redside" (rainbow) and cutthroat trout in the McKenzie River in response to public concerns about the status of native trout and impacts from stocked hatchery trout. The first proposed rule change will create a new 5-mile section of the McKenzie River; Hayden Bridge upstream to Hendricks Bridge where trout would not be stocked and use of bait for trout fishing would be prohibited; thereby reducing hooking mortality on wild trout in this non-stocked area. Retention of hatchery trout that drift down the river from above Hendricks Bridge would be allowed along with continuing to allow salmon and steelhead anglers to use bait during the peak of these anadromous fish runs. The second set of proposed rule changes will close a winter fishery for trout in the Leaburg Dam to Forest Glen Boat Landing reach where OSP has found an extraordinary number of anglers fishing illegally with bait and retaining wild trout.

These proposed McKenzie River changes are part of a more comprehensive ODFW effort to evaluate the hatchery trout fishery in terms of angler benefits and impacts to native trout. ODFW is conducting a 2-year (2009 and 2010) statistical creel survey program on the McKenzie River above Leaburg Dam to Trail Bridge Reservoir, approximately 40 river miles. The survey goals are to evaluate angler catch and effort during the trout season, fishing gear used, time and location of catch of the hatchery releases, catch of native trout, residence of McKenzie River anglers, and angler preferences. Concurrent with the sampling of the fishery, we surveyed a random sample of anglers in 2009 regarding their preferences and opinions about the McKenzie River fishery and are planning a telephone survey of licensed anglers in the Eugene/Springfield area in late 2010 or 2011.

During 2009 we had two survey samplers on the river from April 25 – October 31. The samplers interviewed a random sample of anglers about the time they spent fishing, number and length of marked and unmarked fish caught (kept and released), and other angler characteristics (home origin, private or guided, gear) and made counts of total angling activity (numbers of boats and bank anglers). The samplers interviewed approximately 870 boat anglers and 4200 bank anglers from throughout the river (Table 1). These anglers caught approximately 7500 adipose-clipped and 900 non-clipped rainbow trout. Approximately 1/3 of the anglers in 2009 were given written surveys (see attached) with questions about their angling preferences. In 2010, we again have two samplers interviewing anglers in a similar manner as 2009 are not administering the written angler preference survey.

Table 2. Sampling information from 2009 McKenzie River creel survey

	AD Clip Rainbow Trout		No clip Rainbow Trout		Anglers sampled	
	Kept	Released	Kept	Released	Boat	Bank
Leaburg Lake	1671	1127	9	100	384	1739
Stocked	1907	2624	7	333	390	2238
Unstocked	62	122	0	267	91	134
South Fork	0	0	6	173	2	126

Creel and preference survey data will be analyzed during the fall and winter, 2010. Data collected by survey samplers in 2009 and 2010 will be expanded using appropriate statistical analysis. We will develop accurate and unbiased estimates of angling effort and catch of hatchery and wild fish in different areas of the river and by bait and non-bait angling. This information, along with results of the angler preference surveys, will be used to inform regulation development for the 2013 update of the angling regulations. The goal is to provide optimum and varied angling opportunities for a diverse angling public while ensuring protection of the native McKenzie River rainbow. Staff will provide updates of current McKenzie River trout investigations at the August 6th Commission meeting along with the proposed rule changes for the McKenzie River.

In addition to the proposed rule changes, new formatting (similar to the Rogue River) is being proposed which should allow anglers to better understand specific regulations for trout, salmon and steelhead in each section of the McKenzie River.

Key Issue 4. Tualatin and Yamhill native trout fisheries. . In 2010 temporary rules were put in place to reinstate limited consumptive native trout angling in the Tualatin and Yamhill River basins which were curtailed as part of winter steelhead ESA conservation and recovery efforts. Recent NOAA Fisheries findings have determined that streams on the east-slope of the Coast mountain range are not part of critical winter steelhead recovery area; therefore ODFW can consider rescinding some of the winter steelhead conservation measures implemented in 1999 which reduced consumptive trout angling in the Willamette Valley. The angling public has expressed interest in reinstating some level of consumptive trout angling in this geographic region through various public venues including the 2006 Angler Survey, 25-Year Recreational Angling Enhancement Plan, Angling Regulation Processes, and through direct contact with the department. There was wide public support for the 2010 temporary rule including support from fish conservation groups. Staff will present information on implementation and monitoring of these reinstated fisheries.

Central, Northeast and Snake River Zones: Crappie Regulations

Key Issue 5. Assessments of the biological and/or social support for crappie daily bag or length limits. During the 2009 Public Process, several public proposals were submitted to impose daily catch limits on crappie through the state, excluding boundary waters of the Columbia and Snake rivers. These “statewide” crappie proposals were rejected by the Commission, but several crappie limits were adopted for a few smaller waterbodies including Vernonia and East Salish

ponds (10 crappie per day (no minimum length). The Commission directed staff to continue to work with the warmwater angling community who continued to express support for crappie limits. ODFW Warmwater Fish Biologists, working with members of the Warmwater Working Group developed angler and biological surveys for five key waterbodies in Eastern Oregon; Prineville, Owyhee, Bully Creek, Willow Creek and Brownlee reservoirs. Objectives of biological and angler surveys were to assess the need for restrictive crappie limits (daily bag limits or length limits) in order to provide a better “quality” crappie fishery (more, or larger fish), or to address social concerns raised by the warmwater angling community (no limit devalues the fishery, anglers harvesting too many crappie and potential for fish being sold, waste of game fish, etc). The only other water body in the state with a crappie restriction in place is Emigrant Reservoir currently which has an 8-inch minimum length for crappie designed to increase the size of crappie in the reservoir for angler harvest. Staff will present an overview of actions taken in consideration of restrictive crappie regulations on a statewide, regional, and specific water body basis including consideration of restrictive crappie limits on Brownlee Reservoir.

Staff have completed biological and angler surveys on Willow Creek Reservoir and as a result of this work; we are proposing a 25 crappie per day, 8 inch minimum length regulation. The historic ability of the Willow Creek Reservoir to produce large numbers of crappie in excess of 8 inches has led to its popularity with non-local anglers. In a 2009 survey of anglers, approximately 35%, 29%, and 16% of Willow Creek crappie anglers were from the Pendleton/Hermiston area, Western Oregon, and out of state, respectively (ODFW 2009). These anglers typically come to Willow Creek to harvest substantial numbers of quality crappie. An exploratory tagging study in 2009 and subsequent population modeling determined that angler exploitation (19%) was high enough to limit the continued quality nature of the fishery given the constraints imposed by the changes in water level management.

When considering potential crappie regulation changes at Willow Creek Reservoir, both biological and social factors were considered. In a 2009 survey of angler attitudes toward crappie limits, almost twice as many anglers interviewed (36% versus 19%) preferred the use of bag limits to that of length limits to deal with over harvest of crappie. The more distant the origin of Willow Creek Reservoir anglers the less they supported a bag limit of at least 50 fish; 39% of out-of-state and western Oregon anglers and 80% of local and eastern Oregon anglers supported a bag limit of some sort. The survey also found that Willow Creek crappie anglers supported the concept of bag limits if there was biological data available to show that such a limit would increase crappie size (61% of anglers supported a bag limit of less than or equal to 50 crappie and 43% wanted a bag limit of 30 or fewer fish; ODFW 2009). Unfortunately, population modeling shows that if a bag limit is to be instituted, it must be for 30 or fewer crappie in order to have the positive biological effects we are targeting, i.e., greater number of ≤ 9 ” crappie present in the reservoir and harvested than under present harvest regulations (Table 3).

Table 3. Results of Willow Creek Reservoir crappie harvest modeling performed in 2009. Harvest numbers and number of crappie in the reservoir under different regulation scenarios are relative (not absolute estimates) and were generated using conditions present during the 2009 fishery.

	Number harvested			Yield	# present in reservoir	
	≥8"	≥9"	Total		≥8"	≥9"
Present conditions	96	34	145	17531	478	169
8" min.	106	37	106	15110	532	189
30 fish bag	89	32	134	16380	487	176
30 fish bag/8" min.	99	36	99	14056	537	194
25 fish bag	86	32	129	15643	492	179
25 fish bag/8" min.	95	35	95	13384	540	197
20 fish bag	79	29	118	14579	501	185
20 fish bag/8" min.	87	32	87	12426	544	201
10 fish bag	63	24	92	11365	523	201
10 fish bag/8" min.	66	25	92	9580	556	213
9" min.	16	16	16	3048	596	253

Balancing the biological necessity of restricting angler harvest in the face of increased water level withdrawals in order to maintain the quality crappie fishery and the desire of crappie anglers to harvest enough fish to justify their travel, we have proposed an 8" minimum length limit and a daily bag limit of 25 fish. We will continue to monitor both the crappie population and fishery in the future to determine if this regulation is achieving its desired effect. Probably do not need this much detail in this briefing.

Columbia River Zone:

Key Issue 6. Washington has proposed a barbless hook regulation for Columbia River mouth to McNary Dam contingent on Oregon adopting this rule in 2011. Based on ODFW's previous analysis of the benefits of barbless hook restrictions we recommend that this proposal be rejected and use of barbless hook continue to be an angler's choice. WDFW's assessment of the barbless hook proposal for the Columbia River is that it will facilitate easier release of fish legally hooked in the mouth.

ODFW's assessment of barbless hooks presented in 2009 supports the fact that use of barbless hooks has been shown to facilitate release of fish, but other key factors are far more important related to post-hooking and release mortality. Hook location, use of bait, water temperatures, handling procedures (fish-fighting methods and time, netting practices, atmospheric exposure, release practices etc.) are far more important factors than whether the hook is barbed or not.

Marine Zone - No Key Issues.

Key Issue 7 - On July 13, 2010, the Northwest Environmental Defense Center (NEDC) filed a petition asking the Commission to amend the angling regulation OARs to prohibit the use of baits cured with sulfites. Because this agenda item was already on the Commission's schedule, the petition was denied as moot, and NEDC's petition is found in Attachment 8 (public correspondence). Staff included the proposed rule into the set of angling regulations being

considered by the Commission for the development of the 2011 Oregon Sport Fishing Regulations as proposal 61P.

ODFW is currently working with egg cure manufactures on non-regulatory approaches to phase out the use of sodium sulfite in egg cures. Specific timelines have been developed to phase out the sale of egg-cures containing sodium sulfite to allow for the sale of existing inventories of egg cures and development of replacement cures. Although studies have shown that that eggs treated with sodium sulfite can cause mortality in juvenile salmonid in laboratory studies, there is no critical conservation issue with the current use of eggs cured with sodium sulfite. Additionally, the enforcement of the proposed ban on eggs containing sodium sulfite would be problematic since specific tests for sodium sulfite would need to be conducted in the field by state police. Therefore, staff recommends that this public proposal be rejected and that non-regulatory actions are allowed to continue to phase out use of sodium sulfite treated eggs.

Cc:	Ed Bowles	Rhine Messmer	Regional Managers
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