

Agenda Item Summary

BACKGROUND

The issue of public access and activities on state owned fish hatcheries has not been clearly defined in Oregon Administrative Rules (OAR). While state fish hatcheries have posted hours for daytime visitor access to view the hatchery, there have been instances where the public has utilized hatchery property for parking and access to adjacent properties for fishing or other activities. The late night or all night presence of vehicles, individuals loitering and concern for safety have led to Oregon Department Fish and Wildlife (Department) staff requesting assistance from law enforcement personnel in some instances. Law enforcement representatives have indicated that it is more difficult to act on these concerns over access when no administrative rule prohibits public access at these times and places.

The use of the Sandy Hatchery for parking and access to the Sandy River via the Cedar Creek access has been a serious problem to hatchery staff for many years. The high volume of vehicle and angling traffic utilizing the Cedar Creek access has made it difficult to operate on the hatchery grounds and has presented a safety hazard. While access during normal fishing hours has presented a management challenge, it has been the presence of visitors throughout the night that has raised the greatest concern. In 2009, temporary rule OAR 635-008-0210, effective August 26, 2009 through February 21, 2010, was filed with the same access and use specifications as the proposed permanent rule (see Attachment 3). The temporary rule allowed law enforcement personnel to effectively carry out their duties. Staff now asks the Commission to adopt that as a permanent rule.

PUBLIC INVOLVEMENT

No public correspondence was received during the temporary rule effective dates.

ISSUE 1

WHETHER TO ADOPT THE PROPOSED RULE LIMITING PUBLIC ACCESS TO DEPARTMENT HATCHERIES

ANALYSIS

The Oregon State Police (OSP) have indicated that a rule is necessary to enforce trespassing at Department hatcheries. Even if visitor access hours are publicly posted that in itself is not sufficient to support a citation or to clear grounds and adjacent areas because a posted sign does not have the legal authority of an OAR. The access to fishing areas through the Department fish hatcheries should be accommodated where reasonable. The proposed rule would allow reasonable access both before and after legal fishing hours but restrict late night activity.

OPTIONS

1. Adopt the rule as proposed by staff in Attachment 3.
2. Modify the proposed rule.
3. Status Quo, in which case OSP will be restricted in their ability to assist the Department to control public access at hatcheries.

**STAFF
RECOMMENDATION**

1. Option 1.

DRAFT MOTION	I move to adopt OAR 635-008-0211 as proposed by staff in Attachment 3.
EFFECTIVE DATE	Upon filing.