

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING HEARING\***

A Statement of Need and Fiscal Impact accompanies this form.

Oregon Department of Fish and Wildlife (ODFW) – Wildlife Division	635
Agency and Division	Administrative Rules Chapter Number
Teri Kucera	(503) 947-6033
Rules Coordinator	Telephone

3406 Cherry Ave NE Salem, OR 97303

Address

**RULE CAPTION**

Amend Rules Relating to Wildlife Taxonomy and the Controlled, Non-Controlled, Exempt and Prohibited Species Lists

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

February 4, 2011	8:00AM	3406 Cherry Ave Salem, OR 97303	Fish and Wildlife Commission
Hearing Date	Time	Location	Hearings Officer

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*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:**

**AMEND:** OAR 635 Divisions 044, 056 and 57

**REPEAL:**

**RENUMBER:**

**AMEND & RENUMBER:**

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222, 498.242, and SB 391(Chapter 492, 2009 Laws)

Other Auth.:

Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222, 498.242, and SB 391(Chapter 492, 2009 Laws)

**RULE SUMMARY**

Review, update and amend rules relating to controlled, non-controlled, exempt and prohibited species. Specific rule changes include: updating taxonomic standards, updating scientific and common names. Amend rules to implement portions of SB 391, enacted by the 2009 Legislative Assembly. This amendment moves Crocodylia from a non-controlled to exempt species. Amendments may also include housekeeping and other changes necessary to update the rules.

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 4, 2011

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



Michelle Tate

Printed name

12/15/10

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 (ODFW) Wildlife Division

635

Agency and Division

Administrative Rules Chapter Number

Amend Rules Relating to Wildlife Taxonomy and the Controlled, Non-Controlled, Exempt and Prohibited Species Lists

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

In the Matter of: Wildlife Integrity Rules Amendments of OAR Chapter 635, Divisions 044, 056, and 057	) Statutory Authority, ) Statues Implemented, ) Statement of Need, ) Principal Documents Relied Upon, ) Statement of Emergency Justification
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Statutory Authority: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222, 498.242 and SB 391(Chapter 492, 2009 Laws)

Other Authority:

Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222, 498.242 and SB 391(Chapter 492, 2009 Laws)

Need for the Rule(s): The wildlife integrity rules establish controls necessary to regulate nonnative wildlife, to protect native wildlife while allowing flexibility for private ownership of potentially harmful nonnative species. These amendments are needed because it is exceedingly difficult to provide a clear, consistent taxonomic standard for the public and law enforcement. The technical portions of this rule have not been updated since November of 2001. These rule amendments are needed to implement portions of SB 391, enacted by the 2009 Legislative Assembly. This amendment moves Crocodylia from a non controlled to exempt species. Amendments may also include housekeeping and other changes necessary to update the rules.

Documents Relied Upon, and where they are available:

1. Wilson, D. E. and D. M. Reeder, editors. 2005. Mammal species of the world. a taxonomic and geographic reference. 3rd Edition. Johns Hopkins University Press ("Walker's Mammals of the World", 6th Edition, R. M. Nowak, 1999).
2. Frank, N. and E. Ramus. 1996. A Complete Guide to Scientific and Common Names of Reptiles and Amphibians of the World. N G Publishing, Pottsville, Pennsylvania. ("A Complete Guide to Scientific and Common Names of Reptiles and Amphibians of the World", N. Frank and E. Ramus, 1996.)
3. Clements, J.F. 2007. The Clements Checklist of Birds of the World, Sixth Edition. Cornell University, Ithaca, New York. ("Birds of the World: A Checklist", J. F. Clements, 1991.)
4. Nelson, J.S. et al. 2004. Common and Scientific Names of Fishes from the United States, Canada, and Mexico. 6th Edition. American Fisheries Society Special Publication 29. American Fisheries Society. Bethesda, Maryland. ("Common and Scientific Names of Fishes from the United States, Canada, and Mexico", 6th Edition, American Fisheries Society Special Publication 29, J. S. Nelson et al., 2004.)
5. Robbins, C.L. et al. 1991. World Fishes Important to North Americans. Special Publication 21. American Fisheries Society. Bethesda, Maryland. ("World Fishes Important to North Americans", American Fisheries Society Special Publication 21, C. R. Robins et al., 1991.)
6. Turgeon, D.D. 1998. Common and Scientific Names of Aquatic Invertebrates from the United States and Canada: Mollusks", 2nd Edition. American Fisheries Society Special Publication 26. American Fisheries Society. Bethesda, Maryland. ("Common and Scientific Names of Aquatic Invertebrates from the United States and Canada: Mollusks", 2nd Edition, American Fisheries Society Special Publication 26, D. D. Turgeon et al., 1998.)
7. McLaughlin. P.A. 2005. Common and Scientific Names of Aquatic Invertebrates from the United States and Canada: Crustaceans", American Fisheries Society Special Publication 31. American Fisheries Society. Bethesda, Maryland. ("Common and Scientific Names of Aquatic Invertebrates from the United States and Canada: Crustaceans", American Fisheries Society Special Publication 31, P. A. McLaughlin et al., 2005.)
8. Holthius. L.B. 1980. Shrimps and Prawns of the World: An Annotated Catalogue of Species of Interest to Fisheries. Food and Agriculture Organization Fisheries Synopsis no. 125, vol. 1. "Shrimps and Prawns of the World: An Annotated Catalogue of Species of Interest to Fisheries", Food and Agriculture Organization Fisheries Synopsis no. 125, vol. 1, L. B. Holthius, 1980.

Fiscal and Economic Impact: See attached

Statement of Cost of Compliance: See attached

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):
2. Cost of compliance effect on small business (ORS 183.336):
  - a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
  - b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:
  - c. Equipment, supplies, labor and increased administration required for compliance:

How were small businesses involved in the development of this rule?

Administrative Rule Advisory Committee consulted?: No  
If not, why?:

The department staff consulted with scientific experts by telephone and email correspondence in the development of these amendments. Correspondence from and testimony by interested and affected persons has been considered in developing the administrative rules.



Signature

Michelle Tate

Printed name

12/15/10

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007

## **Fiscal and Economic Impact Statement for the February 4, 2011 Hearing In the Matter of Rules Relating to Wildlife Integrity and Taxonomy**

Fiscal and economic impact: Rule changes are being proposed to update the scientific and common names for species on the prohibited, non-controlled, controlled, and exempt lists in rule. Proposed changes would also require businesses that sell animals to the public to attach a sign with the full scientific name of the species being sold. Furthermore, animals from the order Crocodylia will be reclassified as an exotic species and will therefore fall under the jurisdiction of the Oregon Department of Agriculture (ODA.) The proposed rules will affect state agencies, units of local government, and the public, respectively, as discussed below:

A. The only state agencies that would be affected by adoption of these rules are the Oregon Department of Fish and Wildlife (ODFW), the Oregon Department of Agriculture (ODA), and the Oregon State Police (OSP) for enforcement costs. Most of the rule changes simply reflect housekeeping to update scientific and common names. No species will change lists except the order of Crocodylia will be moved from the list "Non-controlled Species" to "Controlled Species"; the authority for this order was transferred to ODA by 2009 legislative action. The ODA would have responsibility for the Crocodylia permits, and may realize some revenues from residents holding this species. The ODA will also have costs to administer these permits and to ensure holding requirements are met. No impacts to ODFW's operations, revenues, or expenditures are anticipated as part of this rule change. OSP will see a decline in enforcement costs when they examine whether a pet store complies with the rules on which species may be sold because signage will be available to identify each animal species.

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 expected as a result of the adoption of these rules.

C. The public will be affected by the adoption of these rules. Those individuals or businesses holding any species from the order of Crocodylia will be required to obtain a permit from the Oregon Department of Agriculture. No additional businesses or individuals would be able to obtain these animals if they do not already have them, except in select cases where ODA may grant a permit to display the animal for educational or scientific purposes.

Businesses or individuals selling animals to the public will be required to bear the costs associated with learning the scientific names of the animals they are selling and producing signs with these names for their displays. The estimate of these costs is not known; as some businesses already have appropriate signage on their animals that are being sold. It is not known what percentage of businesses will purchase new signs to meet the requirement, or how many signs would be purchased under this rule change. Costs would likely be reduced by the proposed one-year grace period for businesses and individuals to comply with rules.

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.