

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 017, 023, 041 and 042, related to non-Treaty commercial, Treaty and recreational sturgeon, smelt and salmon fisheries.

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

Columbia River Sturgeon, Salmon, Smelt and Miscellaneous Fishing Regulations for 2011.

Statutory Authority: ORS 183.325, 496.118, 496.138, 496.146, 506.109 and 506.119.

Other Authority:

Stats. Implemented: ORS 496.162, 506.109, 506.129 and 507.030.

Need for the Rule(s):

These rules are needed to modify commercial sturgeon and smelt fishing seasons and area/gear requirements by non-Treaty fisherman, amend Treaty fishing regulations, 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 11, 2011.
2. Reports and Fact Sheets from the Joint Management Staff prepared for the December 17, 2010 and February 8, 2011 Columbia River Compact hearings.
3. Compact Action recommendations adopted at the December 17, 2010 and February 8, 2011 Columbia River Compact hearings.

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 hearings of December 17, 2010 and February 8, 2011.

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 December 17, 2010 and February 8, 2011 Columbia River Compact hearings.

	Lance Thomson	January 14, 2011
Signature	Printed name	Date

**Fiscal and Economic Impact Statement for the March 11, 2011 Hearing
In the Matter of Rules Relating to 2011 Recreational Fisheries In the
Columbia and Lower Willamette Rivers; Commercial Salmon,
Sturgeon, Eulachon Smelt Seasons; and Treaty Fisheries**

Fiscal and economic impact: The rules are needed to establish recreational seasons for white sturgeon in the main-stem Columbia and Willamette rivers within harvest limits while providing protection for spawning stocks. The rules also modify regulations for treaty and non-treaty commercial salmon, white sturgeon, and smelt fisheries in the Columbia River and Select Areas considering Endangered Species Act (ESA) constraints. 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).

The smelt rule change is expected to have a relatively modest affect on agencies' operations or expenditures. Because the commercial smelt fishery will be closed, it is expected that agency enforcement costs will be reduced or minor. Landings fee revenues to the Commercial Fish Fund would not be severely affected because recent commercial landings of Eulachon smelt in the mainstem Columbia River have been minor. In the period from 2005 - 2010, 25,988 pounds of smelt were landed in Oregon from the mainstem Columbia River with an ex-vessel value of \$87,483. Average annual landings during this period were 4,331 pounds with an average ex-vessel value of \$14,580. The total direct revenue to agencies from landing fees (2.25%) during 2005-2010 was \$1,968.35 with an average annual value of \$328; therefore, significant impacts to the agencies due to lost landing revenues are not anticipated.

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 for all the fisheries included have not yet occurred; therefore, specific alternatives had not been proposed before this document was drafted. In addition, data required to calculate potential recreational impacts were collected and analyzed over 15 years ago. Economic data and models have not been updated to account for potential changes in the behavior of fishery participants. The following narrative and references provide background information related to these sectors.

Spring Chinook

Non-Treaty Commercial Harvests of Spring Chinook Landed in Oregon Columbia River Winter and Spring Seasons 1991 – 2010

Fishery & Year	Pounds (Oregon side)	Average Price per Pound	Ex-Vessel Value
Non-Treaty			
1991	158,568	\$ 3.52	\$ 558,668
1992	74,238	\$ 3.01	\$ 223,755
1993	33,775	\$ 3.07	\$ 103,656
1994	22,683	\$ 3.38	\$ 76,628
1995	2,891	\$ 4.08	\$ 11,800
1996	11,012	\$ 2.16	\$ 23,788
1997	26,067	\$ 2.55	\$ 66,351
1998	35,476	\$ 2.57	\$ 91,241
1999	24,618	\$ 2.91	\$ 71,708
2000	83,439	\$ 2.70	\$ 225,643
2001	213,255	\$ 2.69	\$ 573,052
2002	310,131	\$ 2.99	\$ 926,105
2003	147,533	\$ 2.56	\$ 377,081
2004	270,920	\$ 3.75	\$ 1,014,989
2005	92,109	\$ 3.41	\$ 314,457
2006	131,191	\$ 4.68	\$ 614,290
2007	135,641	\$ 5.52	\$ 748,598
2008	85,704	\$ 7.16	\$ 613,850
2009	57,099	\$ 5.77	\$ 329,626
2010	335,340	\$5.16	\$ 1,729,300

1. The non-treaty fishery includes Young's Bay landings for 1994 and later, with landings from the "select areas" (e.g., tongue Point and Blind Slough) beginning in 1998

Revenues to commercial fishers depend primarily on poundage landed and prices received. Harvest data from fish tickets received by ODFW for the Columbia River spring Chinook salmon winter and spring seasons (Jan-June) for 1991 through 2010 are shown in the table above.

In 2010, 335,340 pounds of spring Chinook were landed in Oregon during January through mid-June. The 2010 average price per pound received by harvesters was \$5.16.

The total (direct, indirect and induced) effect on personal income in the local area surrounding the fishery results from the so-called "multiplier effects" of the purchases of goods and services made by harvesters, processors and their employees from local suppliers and from the general economy. The estimated local area (i.e., Astoria area) personal income impact per pound of fish and per fish landed in 2006 for the Columbia River winter and spring salmon gillnet fishery are shown in the following table. The Oregon Commercial Fisheries Economic Assessment Model developed by Drs. Hans Radtke and William Jensen was used to derive the following estimates.

Average Prices and Local Area Personal Income Impacts for Spring Chinook Landed in the Non-Treaty Winter and Spring Gillnet Salmon Commercial Fishery, 2006

Period	Average Price per Pound Round Weight	Marginal Impact on Total Personal Income per Pound	Marginal Impact on Total Personal Income per 20 lb Fish
Winter (Jan – Mar)	\$7.58	\$11.93	\$238.60
Spring (Apr – Jul)	\$4.56	\$ 7.14	\$142.80

The estimates of average price and personal income per pound give the per unit economic impacts of changes in the level of the commercial harvest on commercial harvesters and the public taken as a whole, respectively. Recent landings of spring Chinook have generally been higher than in 2006, with a large increase in 2010 due to high returns in Select Area fisheries. The total ex-vessel value in 2011 is expected to be lower than 2010 but higher than the 2005-2009 average value.

Most stocks of spring Chinook harvested in the commercial fishery are also taken in the mainstem Columbia River sport fishery, and the Willamette River spring Chinook sport fishery. Thus, the commercial harvest of spring Chinook is viewed by some people as having a negative effect on the subsequent sport fishery. A detailed analysis of the economic aspects of the allocation of these fish between sport and commercial interests is contained in the Oregon Department of Fish and Wildlife staff report, "Selected Economic Aspects of the Commercial/Recreational Allocation of Willamette River Spring Chinook"(ODFW, 1986), which is incorporated by reference into this fiscal and economic impact statement. A report on the expenditures and income impacts of the 1988 Willamette spring Chinook sport fishery is also available (Davis, 1989). Sport fishing regulations for the mainstem spring Chinook sport fishery will also be set at the February 8, 2011 Compact/Joint State Hearing meeting.

The listing of Snake River spring Chinook as a threatened species was made by the National Marine Fisheries Service in 1992. More recently, in 1998, Columbia River winter steelhead stocks were also listed. These listings have significantly affected the harvest regulations. The general trend of reduced mainstem, non-select-area harvests were evident from 1992 to 1999. The commercial harvest regulations for 2011 should permit higher harvests than in years before 2002 for the mainstem fisheries due in part to the use of live capture selective fishing techniques. This allows harvesters to catch and retain marked fish with wild fish impact rates that are smaller than those which occurred prior to 2002.

**Treaty Commercial Harvests of Spring Chinook Landed in Oregon
Columbia River Winter and Spring Seasons 1991 – 2010**

Treaty	Pounds (Oregon side)	Average Price per pound	Ex-Vessel Value
1991	63	\$ 3.51	\$ 221
1992	274	\$ 3.00	\$ 822
1993	0	N/A	
1994	237	\$ 3.25	\$ 770
1995	68	\$ 4.34	\$ 295
1996	0	N/A	
1997	0	N/A	
1998	0	N/A	
1999	0	N/A	
2000	743	\$ 2.82	\$ 2,093
2001	24,721	\$ 1.37	\$ 33,814
2002	13,989	\$ 1.21	\$ 16,981
2003	1,284	\$ 4.00	\$ 5,136
2004	46,256	\$ 2.12	\$ 97,992
2005	0	N/A	
2006	137	\$ 3.00	\$ 411
2007	11,790	\$ 4.11	\$ 48,428
2008	48,511	\$ 5.10	\$ 247,303
2009	7,416	\$ 5.27	\$ 39,110
2010	92,784	\$ 4.25	\$ 394,232

White Sturgeon

These rules also relate directly to the recreational and commercial harvest of white sturgeon. The Columbia River Compact (via Joint State representation) also determines regulations for the recreational sturgeon fishery in the main-stem of the Columbia River. Regulations may ultimately affect season length for participants fishing in different segments of the river. Current population trends indicate a decline in abundance of both legal and sub-legal sized fish. Therefore the total and area specific number of angler days will likely be reduced significantly from previous years. At the same Compact/Joint State hearing, 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 white 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.

Estimates of the average price per pound of commercially harvested white sturgeon and revenue per fish landed are taken from fish ticket data compiled by the Oregon Department of Fish and Wildlife. The associated marginal impact on the Columbia River area (direct, indirect and induced) was estimated using the Oregon Commercial Fisheries Economic Assessment model developed by Drs. Hans Radtke and William Jensen.

Commercial Sturgeon Prices and Associated Impact on Personal Income

White Sturgeon (2006 Data)	Average Price per Pound Round Weight and Ex-vessel Revenue	Marginal Impact on Total Personal Income per Pound or per Fish
price per pound (round weight)	\$2.11	\$3.26
revenue per 26.5 pound fish	\$55.91	\$86.39

The personal income impact of commercial sturgeon is expected to change modestly from year to year depending on the levels of ex-vessel and ex-processor prices. Preliminary 2010 Oregon white sturgeon Columbia River landings were 100,382 pounds with a landed value of \$209,127.

Smelt

Due to the recent ESA listing of Eulachon smelt (effective May 17, 2010), it is highly unlikely the National Marine Fisheries Service would authorize direct take of this species, therefore, the States of Oregon and Washington have or will close all eulachon-directed fisheries. Commercial fishers that currently fish for smelt on the Columbia River would no longer be able to do so. Oregon landings of eulachon smelt from the mainstem Columbia River were worth an average of \$14,580 (ex-vessel) during 2005 to 2010. Therefore, effects from the loss of this fishery are expected to be relatively minor in the aggregate but since few fishers partake in this fishery, the individual impact could be meaningful.

Summary

Although some of 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. Failure to restrict harvests of these fish to allow escapement for reproduction could result in severe adverse economic effects in the future and could prevent the maintenance and rebuilding of the several stocks of salmon and steelhead listed as threatened or endangered under the federal ESA.

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.

References

Oregon Department of Fish and Wildlife. Selected Economic Aspects of the Commercial/Recreational Allocation of Willamette River Spring Chinook. Staff Report. December, 1986.

The Shannon W. Davis Research Group. Final Report - Survey and Economic Impact Analysis of the 1988 Willamette Run Spring Chinook Sports Fishery. Report prepared under contract to Oregon Department of Fish and Wildlife. Corvallis, Oregon. September, 1989.

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