

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
 A Statement of Need and Fiscal Impact accompanies this form

FILED
 11-10-14 2:09 PM
 ARCHIVES DIVISION
 SECRETARY OF STATE

Department of Fish and Wildlife
 Agency and Division
 Therese Kucera
 Rules Coordinator
 Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302
 Address

635
 Administrative Rules Chapter Number
 (503) 947-6033
 Telephone

RULE CAPTION

Modify Barbless Hook Regulations for the lower Willamette River and Select Areas.
 Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

Hearing Date	Time	Location	Hearings Officer
1-9-15	8:00 a.m.	Oregon Dept. of Fish & Wildlife, 4034 Fairview Industrial Drive SE,	Oregon Fish and Wildlife

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

OAR Chapter 635, Divisions 014 and 017 as determined justified.

AMEND:

OAR Chapter 635, Divisions 014 and 017 as determined justified.

REPEAL:

RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

Statutory Authority:

ORS 496.138, 496.146, 506.036, 506.119, 506.129, 506.750

Other Authority:

Statutes Implemented:

ORS 496.162, 506.036, 506.109, 506.129, 506.750

RULE SUMMARY

Amend rules relating to barbless hook regulation requirements for specific fisheries in the Willamette and Northwest Zones. Specifically, the rule modification would repeal the required use of barbless hooks when angling for salmon, steelhead and trout in the lower Willamette River and Select Area fisheries in the lower Columbia River, effective February 1, 2015. 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 negative economic impact of the rule on business.

01-09-2015 ^{Hearing 11/18/14} Close of Business
 Last Day (m/d/yyyy) and Time
 for public comment

Therese Kucera
 Rules Coordinator Name

Teri.Kucera@state.or.us
 Email Address

*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation.

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
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Department of Fish and Wildlife
Agency and Division

635
Administrative Rules Chapter Number

Modify Barbless Hook Regulations for the lower Willamette River and Select Areas.

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

OAR Chapter 635, Divisions 014 and 017, related to gear regulations for lower Willamette River and Select Area recreational salmon fisheries.

Statutory Authority:

ORS 496.138, 496.146, 506.036, 506.119, 506.129, 506.750

Other Authority:

Statutes Implemented:

ORS 496.162, 506.036, 506.109, 506.129, 506.750

Need for the Rule(s):

The proposed rule modification would reverse regulations requiring the use of barbless hooks when angling for salmon, steelhead, and trout in the lower Willamette River and Select Area fisheries in off-channel areas of the lower Columbia River which became effective January 1, 2013. The barbless hook requirement for these fisheries was adopted as part of a broader rule package limiting barbed hooks in the Columbia River. Endangered Species Act limitations for salmon in the lower Willamette are somewhat less constraining than those in the mainstem Columbia River. Recreational catches of salmon in Select Areas are very low as are measured impacts to ESA listed species in this fishery. Allowance for barbed hooks in these areas will allow easier angler harvest of hatchery-produced fish, providing a more positive angling experience and helping reduce the number of hatchery fish on natural spawning grounds. Rule modifications would allow anglers to use barbed hooks in these fisheries with little or no conservation risk.

Documents Relied Upon, and where they are available:

1. Management Strategies for Columbia River Recreational and Commercial Fisheries: 2013 and Beyond. See:
http://www.dfw.state.or.us/agency/commission/minutes/12/12_dec/Exhibit%20H_Att%203_Col%20R%20Fisheries%20Mgmt-%202013%20%20Beyond.pdf
2. ODFW Staff report for the Oregon Fish and Wildlife Commission hearing on January 9, 2015, "Barbless Hook Regulations for the Lower Willamette River and Select Areas."

A copy of the rules and the other documents relied upon for this rulemaking [the above documents] are available from the Oregon Department of Fish and Wildlife, Fish Division, Second Floor, 4034 Fairview Industrial Drive SE, Salem, Oregon, between 8:00 a.m. and 4:00 p.m., on normal working days, Monday through Friday.

Fiscal and Economic Impact:

See attached document.

Statement of Cost of Compliance:

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

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

Small businesses were not involved in development of this rule; however, tackle retailers will benefit in that all hook types will again be marketable for these fisheries.

Administrative Rule Advisory Committee consulted?: No

If not, why?:

The proposed regulation change is simple and benefits recreational anglers while posing no measurable conservation risk. The rule modification was developed by staff based on input from the general public and key constituents. Inland sport salmon regulation proposals were developed by staff working with ODFW regional staff, Oregon State Police and key constituents.

<u>01-09-2015 Close of Business</u>	<u>Therese Kucera</u>	<u>Teri.Kucera@state.or.us</u>
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address

**Economic Impact Statement for the January 9, 2015 Hearing
In the Matter of Rules Relating to the
Use of Barbed Hooks on the Lower Willamette River**

These proposed rules will allow the use of barbed hooks in the lower Willamette River, including Multnomah Channel, and Youngs Bay and Blind Slough Select Areas in the lower Columbia River. Starting in 2013, the use of barbless hooks was required in these areas as part of the implementation of the Columbia River Fisheries reform. Barbless hooks will still be required in all other locations in the lower Columbia River.

Statement of Cost of Compliance

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

The proposed rules will affect state agencies, units of local government, and the public, respectively, as discussed below:

A. Oregon Department of Fish and Wildlife (ODFW) and Oregon State Police (OSP) will be the state agencies affected by these rules. While it is possible that some anglers may have stopped buying licenses due to the barbless rule, there is no clear evidence (i.e., in license sales data) that this has occurred. Therefore, an observable increase in license sales (and related revenues) in reaction to the rule change is not expected. The rules are not expected to result in any significant impacts on ODFW's costs or revenues. With regard to OSP, additional enforcement effort may be needed at the interfaces between the Columbia River mainstem, where barbed hooks are not allowed, and the lower Willamette River, Multnomah Channel, and the select areas. This additional enforcement effort should be absorbed by the additional OSP troopers brought on as part of the implementation of the Columbia River Fisheries reform. Thus, the rules are also not expected to result in significant impacts to OSP's costs.

B. No local governments are expected to be affected by these rules.

C. The public will be affected by the adoption of these rules. The rules will now allow recreational anglers to use barbed hooks in the aforementioned areas, which have been under a barbless hook regime for the last two years. Since there is no clear evidence that the barbless hook rule has resulted in fewer licenses being purchased (equivalent to anglers choosing to quit fishing in Oregon), these rules are not expected to lead to additional angling license buying. Also, since most anglers who fish in the lower Willamette also fish in other locations in which regulations are not changing, it is unlikely that rule changes to these specific areas would drive license buying behavior. It is possible that anglers may have been fishing less days in the lower Willamette since the barbless hook rule became effective, perhaps redirecting their fishing effort to other water bodies. However, angler effort is influenced by multiple factors including fish run size, weather, and fishing regulations, and it is not possible to isolate the effect of the regulations with the available data. There is no evidence that guide services in the areas where the rule is changing have been affected by the barbless hook rule, so no significant impacts are expected with this rule either. Stores selling fishing tackle in the affected areas could potentially see an increase in demand for barbed hook tackle and decrease in demand for barbless hook tackle. However, given that the lower Columbia River will still require barbless hooks and that the permitted use of barbed hooks in other waterbodies (e.g., Clackamas River or coastal rivers) has

not changed, significant impacts are not expected to the overall demand for tackle, and thus store revenues related to tackle sales.

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:

The types of small businesses affected are marinas located in, fishing guides/charters working in, and sporting goods stores providing goods and services to recreational anglers active in the lower Willamette River and select areas. There are about 24 private marinas along the Multnomah Channel, 8 on the Willamette River in Multnomah County, and 53 along the Columbia River in Clatsop, Columbia, and Multnomah Counties. The number of fishing guides/charters active in the area affected by the rule cannot be estimated. Sporting goods stores are a subset of the retail category "Sporting goods, hobby, book and music stores", of which there were 35 in Columbia and Clatsop Counties together and 220 in Multnomah County in 2011.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No significant changes in these costs are expected for the small businesses subject to the rule.

c. Equipment, supplies, labor and increased administration required for compliance:

No significant changes in these costs are expected for the small businesses subject to the rule.

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.