

Secretary of State

NOTICE OF PROPOSED RULEMAKING HEARING*

A Statement of Need and Fiscal Impact accompanies this form

<p>FILED 7-15-15 8:19 AM ARCHIVES DIVISION SECRETARY OF STATE</p>

<u>Department of Fish and Wildlife</u>	635
Agency and Division	Administrative Rules Chapter Number
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Rules Coordinator	Telephone
<u>Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302</u>	
Address	

RULE CAPTION

Rule Amendments Related to the 2016-2017 Oregon Sport Fishing Regulations.

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

Hearing Date	Time	Location	Hearings Officer
9-4-15	8:00 a.m.	Best Western Oceanview Resort, Lewis and Clark Ballroom 1 & 2, 414 N Prom, Seaside, Oregon 97138	Oregon Fish and Wildlife

RULEMAKING ACTION

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

ADOPT:

OAR Chapter 635, Divisions 011, 012, 013, 014, 016, 017, 018, 019, 021, 023, 039 and 500 as necessary.

AMEND:

OAR Chapter 635, Divisions 011, 012, 013, 014, 016, 017, 018, 019, 021, 023, 039 and 500 as necessary.

REPEAL:

OAR Chapter 635, Divisions 011, 012, 013, 014, 016, 017, 018, 019, 021, 023, 039 and 500 as necessary.

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, 496.162, 497.121, 506.119

Other Authority:

Statutes Implemented:

ORS 496.004, 496.009, 496.138, 496.146, 496.162, 506.109, 506.129

RULE SUMMARY

These rules modify sport fishing regulations for finfish, shellfish, and marine invertebrates for 2016-2017. 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 the negative economic impact of the rule on business.

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.

<u>09-04-2015 Close of Hearing</u>	<u>Michelle Tate</u>	<u>michelle.l.tate@state.or.us</u>
Last Day (m/d/yyyy) and Time for public comment	Rules Coordinator Name	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

635

Agency and Division

Administrative Rules Chapter Number

Rule Amendments Related to the 2016-2017 Oregon Sport Fishing Regulations.

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

In the Matter of:

Amendment of OAR Chapter 635, Divisions 011, 013, 014, 016, 017, 018, 019, 021, 023, 039 and 500 relating to the 2016 Oregon Sport Fishing Regulations.

Statutory Authority:

ORS 496.138, 496.146, 496.162, 497.121, 506.119

Other Authority:

Statutes Implemented:

ORS 496.004, 496.009, 496.138, 496.146, 496.162, 506.109, 506.129

Need for the Rule(s):

These rules are necessary to adopt modifications to the sport fishing regulations for finfish, shellfish and marine invertebrates in 2016-2017 and perform housekeeping and technical corrections as necessary to ensure rule consistency.

Documents Relied Upon, and where they are available:

1. Staff report prepared for the Oregon Fish and Wildlife Commission hearing on September 4, 2015.
2. Summary of Proposals for the 2016-2017 Oregon Sport Fishing Regulations.

A copy of the rules and the other documents relied upon for this rulemaking [the above document] are available from the Oregon Department of Fish and Wildlife, Fish Division, Second Floor, 4034 Fairview Industrial Drive SE, Salem, Oregon 97302-1142, between the hours of 8:00 a.m. and 4:00 p.m., on normal working days, Monday through Friday.

Fiscal and Economic Impact:

See attachment.

Statement of Cost of Compliance:

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

See attachment.

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 attachment.

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

See attachment.

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

See attachment.

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

Not directly involved. See also, explanation to the question below.

Administrative Rule Advisory Committee consulted?: No

If not, why?:

In 1996 the Oregon Fish and Wildlife Commission adopted a staff recommendation to conduct major angling regulation reviews every four years. The 2012 public involvement process covered angling regulations from 2013 through 2016. The next major public involvement process will occur in September 2016. Proposals are available to sport fishing groups and the general public through local Department staff and public comments are welcomed.

<u>09-04-2015 Close of Hearing</u>	<u>Michelle Tate</u>	<u>michelle.l.tate@state.or.us</u>
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address

Economic Impact Statement for the September 4, 2015 Hearing on Amendment of Rules Relating to the 2016-2017 Sport Fishing Regulations for Finfish, Shellfish, and Marine Invertebrates

At the time of writing this FIS, the two most prominent items in the 2015 update of the Sport Fishing regulations are the regulation simplification effort for warmwater and trout fisheries and the shifting of the frequency of sport fishing regulation book printing from annually to every two years. Rule changes related to regulation simplification include making many trout streams, which are currently closed November through April, open year-round. This affects about 30 streams state-wide, most of them in the Willamette Valley. They also include removing the daily limit on bass retention in the Umpqua River, John Day River, and the 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. State agencies which could be affected by this amendment of rules relating to these regulations are the Oregon Department of Fish and Wildlife (fisheries management costs, license sales revenues) and the Oregon State Police (enforcement costs). Regulation simplification should function to reduce confusion among the angling public, which would have consequence of reducing time spent by ODFW staff or OSP troopers clarifying the regulations with the public. This should mean time savings for ODFW staff and OSP troopers, though the savings would be small in magnitude. Overall, these proposed changes are not expected to result in significant changes to current levels of costs or revenues for ODFW or for OSP.

Potential increases or reductions in fishing opportunities associated with alternatives under consideration could affect the sales of fishing licenses and tags. Changes in the sales of licenses and tags affect Other Funds revenues that support ODFW programs. We are unable to forecast the potential magnitude of this revenue effect with any precision, but we expect that it is likely that only a marginal portion of the potential change in license sales in 2016 compared to 2015 would be related to the proposed changes in regulations considered at this hearing. Overall, the changes proposed for 2015 are not expected to affect license sales and revenues, because the changes are not likely to have significant incremental effects on participation.

The shift in the printing of the angling regulations book from once per year to once every two years will likely result in cost savings to ODFW. These cost savings relate to more efficient ordering of regulation books in the second year of the two-year printing period, which will probably result in fewer overall regulation books printed and paid for by ODFW. In addition, ODFW has contracted with a new printer who will create a glossy regulation book and will likely be more effective at procuring advertising that would offset printing costs.

B. Units of local government which could be affected by sport fishing regulations, include port authorities and county governments. Port authorities and county governments may derive revenues and experience costs related to the provision of moorage and other support facilities for

sport fishing. However, no major changes from the current levels of these agencies' operations or expenditures are expected as a result of these particular rule amendments.

C. The public is affected by rules relating to angling regulations. Regulation simplification should function to reduce confusion among the angling public, some of whom have expressed frustration with increasing angling regulation complexity over the years. Opening many trout streams to year-around angling and eliminating the daily limit on bass retention mean greater fishing opportunities. These rule changes may translate into increases in angler trips, though the magnitude of the effect cannot be forecast with any precision because a variety of factors, such as run sizes, weather, gas prices, etc. determine the level of angler trips in any given year. Additional angler trips would mean more spending by anglers, which can have positive impacts on local communities near fishing areas (see below). Overall, these regulation changes not expected to result in significant change in license sales or angler trips in the next year.

Various sectors of the public economy (anglers, businesses that sell goods and services to anglers, and the general economy) will experience different impacts. In general, the economic impact of changes in angling regulations depends primarily on the changes in angling opportunities associated with the rule changes and the associated effects on direct expenditures by anglers. These effects would best be measured by estimating the magnitude of changes in the number of anglers and angler days, and then inferring the resulting changes in expenditures made by anglers based on available estimates of expenditures per angler day or per season, as appropriate.

The total (direct, indirect and induced) effects on personal income in the state as a whole and in areas surrounding the sport fisheries are the result of the direct expenditures on goods and services made by anglers from the businesses which supply the goods and services. Through the "multiplier process," there is a resulting increase in economic activity and personal income in the general economy. For the purposes of assessing the impact of changes in angling regulation changes, only trip expenditures and their impacts on personal income would probably be affected in the short run. Equipment expenditures are of a longer-term nature and are not expected to change immediately as a result of adjustments in angling regulations

The Oregon state report of the 2011 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation (U.S. Fish and Wildlife Service, 2013) estimated that there were 638,000 anglers and 5,658,000 days of fishing in Oregon in 2011. Total angling expenditures in Oregon, both from residents and nonresidents, were estimated at \$641 million for 2011. The aggregate impact of total anglers' expenditures in terms of total personal income at the Oregon state level was an estimated \$383 million dollars in 2011 (American Sportfishing Association, 2013).

The USFWS report also provides estimates for the average trip expenditure per angler day, which was \$63 per day averaged across residents and nonresidents. These per day impact estimates are representative estimates which could be applied to estimates of increases and decreases in angler days resulting from regulation changes, provided the effect of the changes on angler use can be accurately projected. That is, these estimates of angler expenditures and the associated total personal income impacts represent the per unit (angler day) economic impact on the public taken as a whole. Given a projection of the effect of a regulatory change on angler use in a particular fishery, the economic impact on personal income of the proposed change can then be inferred.

To perform specific analyses for each of the proposed changes in the angling regulations, statistical creel survey data and estimates of angler use would be required for each affected fishery in order to be able to predict the potential effects of changes that affect the use of bait and angling gear, retention, openings, closures and other seasonal adjustments on angler use (angler days) in a particular fishery. Unfortunately, it is prohibitively expensive for ODFW to accomplish such studies for each specific fishery, so in most cases it is impossible to assess the effects of fishery-specific proposed changes on angler use. In other cases, we may simply not have sufficient knowledge to predict anglers' behavioral responses, in terms of participation levels, to regulations that do not close a fishery. For example, some regulations may impose other less stringent kinds of restrictions, such as season, method of harvest, or bag limits. As a result, it is usually not possible to make reliable inferences about the magnitude of the effect on angler use and economic impact on personal income associated with the entire set of proposed changes.

Although some of the changes to angling rules and angling regulations in general can be viewed as reducing positive economic impacts in the short run, conservation through the regulation of seasons and other factors is intended to perpetuate Oregon's fishery resources at optimal levels in the long run. Failure to restrict harvests of fish to allow escapement for reproduction would result in severe adverse economic impacts in the future. The proposed regulations attempt to strike a balance, which will provide optimal angling opportunity subject to the need to sustain fish population levels and to maintain future benefits.

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 business subject to the rule are those that supply goods or services to anglers and shellfishers. These may include fishing guides, private marinas, food and beverage stores, gasoline stations, sporting goods stores, general merchandise stores, accommodation businesses, food services and drinking places. Angling and shellfishing occur in myriad locations throughout the state and thus the number of small businesses subject to the rule cannot be estimated.

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

None expected.

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

None expected.

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.

References

American Sportfishing Association. 2013. Sportfishing in America. Prepared under contract to the U.S. Fish and Wildlife Service. Alexandria, VA.

US Fish and Wildlife Service. 2013. 2011 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, Oregon State Report. U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of Commerce, U.S. Census Bureau.