Fish Restoration and Enhancement Program

Purpose
These rules guide the operation and project selection of the Fish Restoration and Enhancement Program as authorized under [the Oregon Fisheries Restoration and Enhancement Act of 1989 (Oregon Laws 1989, Chapter 512)] ORS 496.280 through 496.291.

Stat. Auth.: ORS 512
Stats. Implemented: ORS 512
Hist.: FWC 86-1989, f. 8-31-89, ef. 9-1-89

635-009-0205

Definitions
The following definitions shall apply:

(1) "Act" means the Oregon Fisheries Restoration and Enhancement Act of 1989.

(1) "Board" means the Fish Restoration and Enhancement Board appointed by the Commission.

(2) "Commission" means the Oregon Fish and Wildlife Commission.

(3) "Council(s)" means Regional Advisory Council(s).

(4) "Director" means the Director of the Oregon Department of Fish and Wildlife.

(5) "Enhancement Project" includes:

(a) Angler Access; [Increase recreational or commercial opportunities or access to fish resources;]

(b) New fishways and screens; [Increase fish production; or]

(c) Habitat; [Improve fish management;]

(d) New hatchery equipment and technology;

(e) Public education;

(f) Aquatic inventories.

(6) "Grant Agreement" means a legally binding contract between the Department and a project sponsor detailing project conditions and financial support on a form prescribed by the Department.

(7) "Project" means restoration project or enhancement project [as defined here] that provides a benefit to the recreational fisheries or commercial fisheries.

(8) "Project Sponsor" means any public, organization or private, nonprofit, or STEP organization applying for, or implementing a project [under the Act].

(9) "Public Organization" means any public agency in the State of Oregon, including but not limited to agencies of the State, counties, municipalities, special districts, school districts, port districts,
cooperating agencies pursuant to ORS 190.110 (e.g., Tribes and U.S. Government) and public institutions of higher education.

(10) "Private Nonprofit Organization" means any organization recognized as such under Section 501(c)(3) of the Internal Revenue Code for purposes of charitable tax exemption.

(11) "Restoration Project" means any activity to include:

(a) Modification of existing fishways and existing screens (Rehabilitate or restore fish production facilities (including fish liberation equipment));

(b) Hatchery restoration (Rehabilitate or restore fish passage or protection facilities);

(c) Liberation equipment. (Collect information on physical and biological characteristics of streams, lakes or estuaries; or information on recreational or commercial use of fisheries.

(12) "STEP Organization" means any group or organization participating in the Salmon Trout Enhancement Program.

(13) "Technical Advisory Committee" means the team of Department personnel providing assistance to the Board, including review and evaluation of proposed projects.

Fish Restoration and Enhancement Board

(1) The Fish Restoration and Enhancement Board shall:

(a) Review and evaluate proposed restoration and enhancement projects; [submitted for funding under this Act].

(b) Consult with the internal review team; [affected Regional Advisory council, if one exists, concerning projects affecting that region.]

(c) Recommend fish restoration and enhancement projects to the Commission consistent with available funds. [In so doing, the Board shall:]

(2) In recommending projects to the Commission, the Fish Restoration and Enhancement Board project shall:

(a) Recommend a mix of projects that provide a balance between restoration and enhancement benefits;

(b) Recommend projects that are to be implemented by STEP and nonprofit organizations engaged in approved restoration and enhancement activities [authorized by the Act];

(c) Encourage projects that result in obtaining matching funds from other sources; [and]
(d) Recommend projects benefiting recreational fishing and the commercial fishing industry in the same proportion as revenues, including from other funding sources, [derived from the Act] as set forth in ORS 496.289(5)];

(e) [Rec] Recommend conditions for project approval, as appropriate; and [.

(f) [Rec] Recommend funding a project in whole or in part, as appropriate; [.

(3) In making appointments to the Fish Restoration and Enhancement Board, the Commission shall consider recommendations from the State Fish and Wildlife Director. The Commission shall appoint one member to represent the public, three members to represent recreational fishing, and three members to represent the salmon industry. For the commercial salmon industry representatives, it is preferred that troll, gillnet, and fish processing interests each be represented except when the Department is unable to find a representative for any one of such interests. For recreational fishing representation a diversity of demographics, fishing interests, and geographic distribution is preferred.

Stat. Auth.: ORS 512
Stats. Implemented: ORS 512
Hist.: FWC 86-1989, f. 8-31-89, ef. 9-1-89

635-009-0215
Regional Advisory Councils
Reserving number
[The Board shall periodically hold Regional Advisory Council meetings in each of the Department's Administrative Regions.

(1) Council meetings shall be open to the public.
(2) A review of proposed or approved projects shall be provided at each meeting.
(3) The public shall have the opportunity to comment on projects.
(4) Meeting locations shall be rotated among cities within each region to assure convenient citizen/staff access.
(5) Department staff shall arrange for and publicize meeting times and locations in consultation with the Board.
(6) One or more Board members shall attend each Council meeting and report back to the full Board.]

Stat. Auth.: ORS 512
Stats. Implemented: ORS 512
Hist.: FWC 86-1989, f. 8-31-89, ef. 9-1-89
635-009-0220

Project Application

1. Any public, or private nonprofit [or STEP] organization may propose a project for funding.
2. Proposed projects shall be submitted to the Board in writing and on forms provided by the [Board]

3. **Except as allowed by the Board, a [A]** separate application is required for each proposed project or
project site.
4. Each project must have explicit goals, methods of achievement, beginning and ending date, estimated
cost and estimate of contribution to recreational and/or commercial fisheries.
5. Incomplete applications may be returned to the project sponsor for completion.
6. Project proposals [from] for STEP [organizations] projects shall be accompanied by an approved
STEP Project Proposal form or confirmation from the Department that it is an approved STEP
activity.
7. The Department, Board or Commission may require any additional information it deems necessary in
order to evaluate the project proposal.

Stat. Auth.: ORS 512
Stats. Implemented: ORS 512
Hist.: FWC 86-1989, f. 8-31-89, ef. 9-1-89

635-009-0225

Evaluation of Projects Submitted for Funding

1. All projects shall be evaluated by the Board and [Technical Advisory Committee] Internal Review
Team for consistency with fish management goals and objectives as set forth in OAR 635-007-0501
through 635-007-0830, and species and/or management plans, as applicable, adopted by the
Commission.
2. A project shall not be recommended for funding if, based on review by the Department or the Board,
the project:
   (a) Is inconsistent with the intent of the Act ORS 496.280 through 496.291;
   (b) Is contrary to sound biological principles;
   (c) Proposes to use inappropriate methods to accomplish project objectives;
   (d) Is inconsistent with state land use planning goals and local acknowledged land use plans; [or]
   (e) Violates goals, policies, rules, species or basin management plans adopted by the Commission.

3. Project proposals shall be evaluated according to their potential impact on all fish species, the
environment, and contribution to the resource.

Stat. Auth.: ORS 512
Stats. Implemented: ORS 512
Hist.: FWC 86-1989, f. 8-31-89, ef. 9-1-89
Commission Approval

(1) The Commission shall review the Board's recommendations, and may approve or disapprove any or all projects recommended for funding.

(2) No project may commence without the Board's recommendation and prior [written] approval by the Commission. [The Commission may attach such terms and conditions to project approval as it deems necessary, including but not limited to:]

(3) The Commission may attach terms and conditions to project approval as it deems necessary to ensure the project meets the requirements of subsection (2) of OAR 635-009-0225 or other laws and regulations.

   [(a) No project may commence without prior written approval by the Commission;
   (b) The project sponsor shall agree to complete the project as approved by the Commission and within the time frame specified in the Grant Agreement;
   (c) The project sponsor shall obtain all necessary water rights, access agreements, easements, use permits or any other permits needed to undertake the project. Copies shall be provided to the Commission prior to commencing the project;
   (d) The project sponsor shall file a written request for permission to amend or expand the project construction or the construction time schedule including the rationale for the requested change. Proposed modifications shall be submitted to and approved by the Board and Commission prior to the beginning of any work proposed in the modification;
   (e) The project sponsor shall submit a project report at the completion of the project describing the work done;
   (f) The project sponsor shall monitor and report, as determined by the Commission, the long-term effectiveness of the project;
   (g) The project sponsor shall allow Commission or Board members, or their designated representatives, access to the project to monitor and/or evaluate the project;
   (h) The project sponsor shall account for funds distributed by the Department, using project expense forms provided by the Department;
   (i) The project sponsor shall maintain the project for a period of time as deemed appropriate by the Commission.]

Stat. Auth.: ORS 512
Stats. Implemented: ORS 512
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Revocation of Project Approval

(1) The Commission may revoke its approval of a project if, after consultation with the Board, it determines that:

(a) Implementation of the project has exceeded or is inconsistent with the approved project proposal; or
(b) The project sponsor has violated any term or condition imposed on the project; or
(c) Continued operation of the project may adversely affect fish populations in, above, or below the project site; or
(d) The project does not meet its proposed objectives; or
(e) The project is inconsistent with current Department goals, policies or management plans.

(2) Proceedings to revoke approval of a project shall be conducted in accordance with ORS 183.413 to 183.550.

(3) The revocation of a project's approval shall automatically invalidate any Department permits issued for such project as of the date of revocation.

(4) Revocation of approval for a project is in addition to, and not in lieu of, other penalties provided by law.

Grant Agreement

(1) Project sponsors, other than the Department, shall enter into a Grant Agreement with the Department prior to undertaking the project. The project sponsor shall obtain all necessary water rights, access agreements, easements, use permits or any other permits needed to undertake the project. Copies shall be provided prior to commencing the project.

(2) No funds shall be disbursed under a Grant Agreement until the Department receives satisfactory evidence that necessary permits and licenses have been granted and required documents submitted.

(3) Advance funds may be released upon presentation of a detailed estimate of expenses for a time period specified in the Grant Agreement. No additional funds will be released until all receipts for expenditures of a previous fund release are submitted.

(4) The project sponsor shall account for funds distributed by the Department, using project expense forms provided by the Department. Funds may be released upon presentation of a completed Fund Release Request Form accompanied by proof of completion of specific work elements of the project as identified in the Grant Agreement. Proof of completion may be made through presentation of paid receipts of invoices for materials of contracted labor, or inspection reports.
(5) Except for grants of less than $2,000, the Department shall retain ten percent of project funds until the report required in OAR 635-009-0230(2)(e) has been submitted and the project has been evaluated for completion and compliance with the Grant Agreement. The project sponsor shall agree to complete the project as approved by the Commission and within the time frame specified on the Grant Agreement.

(6) The project sponsor shall file a written request for permission to amend or expand the project or the time schedule including the rationale for the requested change. Proposed modifications shall be submitted and approved prior to the beginning of any work proposed in the modification.

(7) The project sponsor shall submit a project report at the completion of the project describing the work done.

(8) The project sponsor shall allow Commission, Board members, or Department staff, access to the project to monitor and evaluate the project.

(9) The project sponsor shall maintain the project for a period of time as deemed appropriate by the Commission.

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