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Attachment 2

ARCHIVES DIVISION
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NOTICE OF PROPOSED RULEMAKING INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 635
DEPARTMENT OF FISH AND WILDLIFE

FILED

11/06/2020 4:21 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: 2021 Development of a Non-Native Game Fish Policy

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 01/15/2021 5:00 PM

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.

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Salem, OR 97302

Filed By:
Lisa Kingsley
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 01/15/2021

TIME: 8:00 AM - 5:00 PM

OFFICER: ODFW Commission

ADDRESS: Oregon Department of Fish
and Wildlife

4034 Fairview Industrial Dr SE
Salem, OR 97302

SPECIAL INSTRUCTIONS:

Because of the rapidly changing
situation with COVID-19, all or
portions of this hearing may be
conducted electronically. Information
will be posted on our website at
[https://www.dfw.state.or.us/agency/c
ommission/minutes/](https://www.dfw.state.or.us/agency/commission/minutes/)

NEED FOR THE RULE(S):

The policy will ensure that these species are managed consistently across the state to benefit the conservation of native species and maintain recreational opportunity in certain waterbodies.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

1. Staff report prepared for the Oregon Fish and Wildlife Commission hearing on 1/15/2021.

A copy of the rules and the other documents relied upon for this rulemaking [the above document(s)] 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:

No major fiscal or economic effects are expected to result from policy development.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) The state agencies that could potentially be affected by adoption of these rules are the Oregon Department of Fish and Wildlife (ODFW) and Oregon State Police (OSP). Overall, these proposed rule changes are not expected to result in significant changes to current levels of costs or revenue for ODFW or for OSP.

Units of local government which could be affected by fish policy changes 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.

The public may be affected by rules relating to angling regulations. However, these rule changes are unlikely to change any participation rates for these game species. There should be no increased pressure on fishing locations or decrease in the quality of fishing. ODFW does not anticipate significant impacts to the public.

(2)(a) The types of business subject to the rule are those that supply goods or services to anglers of non-native species. The only impact to these small businesses will be to update their internal knowledge networks to reflect changes in 2021 regulations. This is presumably occurring every year for any regulation changes. There are no additional compliance costs are expected to occur as a result of this proposal.

(b) No significant changes in these costs are expected for the small businesses subject to the rules.

(c) No significant changes in these costs are expected for the small businesses subject to the rules.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

We do not believe that a less intrusive or less costly alternative adaptation to only small business is consistent with the purpose of these rules.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The rule changes are believed to be fully compatible with legislative direction on the goals of fee containment and wildlife management in Oregon.

RULES PROPOSED:

635-007-0512, 635-007-0514, 635-007-0516, 635-007-0518

ADOPT: 635-007-0512

RULE SUMMARY: Development a non-native game fish policy allowing for the management of non-native fish populations on certain waterbodies.

CHANGES TO RULE:

635-007-0512

Purpose of the Non-Native Game Fish Management Policy

This policy provides direction on the management of non-native game fish to ensure the Department's management actions are consistent with the conservation of native fish and wildlife and that the resources to establish, maintain, enhance, or constrain these fisheries are most effectively applied. It clarifies the Department's management of a very diverse suite of non-native game fish species found across the landscape and provides direction on where and when to focus efforts to optimize their recreational use.

Statutory/Other Authority: ORS 635.500

Statutes/Other Implemented: ORS 496.012, 496.138, 496.146, 496.162, 496.164, 506.119, 506.129

ADOPT: 635-007-0514

RULE SUMMARY: Development a non-native game fish policy allowing for the management of non-native fish populations on certain waterbodies.

CHANGES TO RULE:

635-007-0514

Non-Native Game Fish Management Policy Goal

The goal of the Non-Native Game Fish Management Policy is to frame how and where to manage non- native game fish to provide recreational angling opportunity, while limiting the expansion of non-native game fish populations as necessary to reduce or avoid risk to native fish and wildlife populations. Implementation of this policy will likely be specific to individual sites, locations, or environments based upon native and non-native game fish distributions, the availability and quality of suitable habitat, and the importance of that habitat to native and non- native game fish species.

Statutory/Other Authority: ORS 635.500

Statutes/Other Implemented: ORS 496.012, 496.138, 496.146, 496.162, 496.164, 506.119, 506.129

ADOPT: 635-007-0516

RULE SUMMARY: Development a non-native game fish policy allowing for the management of non-native fish populations on certain waterbodies.

CHANGES TO RULE:

635-007-0516

Key Elements of Non-Native Game Fish Management

(1) The Non-Native Game Fish Management Policy applies to all geographic regions and the diversity of aquatic habitats found across Oregon.¶

(2) Non-native game fish provide important and valued recreational angling opportunities to Oregon. Recreational use of these fisheries has social and economic importance throughout the state. ¶

(3) As outlined in the Department's Climate and Ocean Change Policy (OAR 635-900-0001), a changing climate will result in conditions that favor many non-native fish including some non-native game fish. As a result, it is anticipated some species of non-native game fish may expand their distribution. ¶

(4) Although non-native game fish provide significant recreational angling opportunity in Oregon and some may have increasing importance due to a changing climate, non-native game fish may also pose risk to Oregon's native fish and wildlife and must be managed to ensure this risk is within acceptable limits.¶

(5) The Department shall manage non-native game fish to meet the following objectives:¶

(a) Optimize recreational use to the benefit of Oregonians consistent with conservation of native fish species.¶

(b) Provide a variety of recreational angling opportunities reflecting the diverse resource and public interest. These can range from catch-and-release and trophy fisheries to high yield fisheries that optimize surpluses and harvest opportunities.¶

(c) Prevent or minimize potential adverse impacts to native fish and wildlife. Adverse impacts may occur through range expansion, competition, predation, introduction or transmission of pathogens, interbreeding and hybridization. The presence or relative importance of one or more of these factors may vary significantly across species or locations.¶

(d) Prevent or minimize potential adverse impacts to natural aquatic ecosystem functions. The introduction or establishment of a non-native game fish species may influence the health of an aquatic ecosystem and present risk to the conservation of native species or the quality of fisheries for native and other non-native game fish.

Statutory/Other Authority: ORS 635.500

Statutes/Other Implemented: ORS 496.012, 496.138, 496.146, 496.162, 496.164, 506.119, 506.129

ADOPT: 635-007-0518

RULE SUMMARY: Development a non-native game fish policy allowing for the management of non-native fish populations on certain waterbodies.

CHANGES TO RULE:

635-007-0518

Directives of the Non-Native Game Fish Management Policy

(1) Non-native game fish occur in many aquatic systems throughout the state. Management of these species may differ depending on type of water body (i.e., river, stream, lake or reservoir), how established a population has become, how altered the water body is, and the spatial and temporal overlap with native species.¶

(a) In rivers, streams, and natural lakes where non-native game fish are not present, the Department will actively manage against the establishment of non-native game fish.¶

(b) In rivers, streams, and natural lakes where non-native game fish are present and pose a risk to the conservation or recovery of native fish or wildlife, or would be detrimental to the reestablishment of extirpated native fish or wildlife populations, the Department will actively manage against the expansion of non-native game fish populations. At some specific locations, this may include efforts to reduce or remove non-native game fish depending on the degree of conservation risk, management options and resources available, and likelihood of success.¶

(c) In rivers, streams, and natural lakes where the impact of non-native game fish on native fish or wildlife is negligible or native fish or wildlife have been extirpated and the natural ecosystem functions have been altered such that reestablishment of native fish populations is unlikely, the Department will manage for recreational opportunity of non-native game fish.¶

(d) In man-made ponds, lakes, or reservoirs, if populations of non-native and native game fish combine to provide a recreational fishery (mixed stock fishery), and the associated fishery does not pose a conservation risk to native species the Department may continue to manage for the full suite of species.¶

(e) In man-made ponds, lakes or reservoirs, if a population of non-native game fish is present and the population is detrimental to the quality of the fishery, the Department may actively manage by removing or reducing the non-native population causing the problem to reestablish the desired recreational fishery.¶

(f) In waterbodies with significantly altered habitat, the Department will continue to establish, maintain, or enhance a desired recreational fishery for non-native game fish as long as the non-native game fish population and associated fishery do not pose conservation risk to native species.¶

(2) In response to an illegal introduction of a non-native game fish species into a river, stream, lake, or reservoir where that non-native species does not currently exist, the Department, as best possible within available resources, shall:¶

(a) Attempt to eradicate the species if it is feasible and practical to do so:¶

(b) If the species cannot be eradicated and presents a conservation risk, the Department shall actively manage to reduce its presence or influence;¶

(c) If the species cannot be eradicated and presents minimal conservation risk, the Department shall manage to prevent or minimize its population growth and range expansion, but may also manage the non-native game fish to provide recreational opportunity at that location.

Statutory/Other Authority: ORS 635.500

Statutes/Other Implemented: ORS 496.012, 496.138, 496.146, 496.162, 496.164, 506.119, 506.129