

OFFICE OF THE SECRETARY OF STATE

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Attachment 2

ARCHIVES DIVISION
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503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 635
DEPARTMENT OF FISH AND WILDLIFE

FILED
07/25/2023 9:00 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Salmon and Trout Enhancement Program Rules

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/15/2023 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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4034 Fairview Industrial Dr SE
Salem, OR 97302

Filed By:
Steven Emerson
Rules Coordinator

HEARING(S)

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

DATE: 09/15/2023

TIME: 8:00 AM - 5:00 PM

OFFICER: Michelle Tate

HEARING LOCATION

ADDRESS: Seventh Mountain Resort, 18575 SW Century Drive, Bend, OR 97702

SPECIAL INSTRUCTIONS:

This hearing will be conducted as a hybrid meeting, providing an opportunity to give testimony either in person or virtually. Additional information regarding participation will be posted on our website at www.dfw.state.or.us/agency/commission/minutes/. The meeting can be viewed at www.youtube.com/user/IEODFW. Any changes to the meeting format (to virtual only if emergency arises) will be posted to our website as soon as possible.

REMOTE MEETING DETAILS

PHONE NUMBER: 503-947-6211

NEED FOR THE RULE(S)

The proposed Salmon Trout Enhancement Program rules are necessary to establish the membership of the Advisory Committee, as well as to ensure STEP's consistency with ODFW policies and plans that were not in effect when the OARs were originally adopted, and to reduce redundancies within the current OARs.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

1. Staff report prepared for the Oregon Fish and Wildlife Commission hearing on 09/15/2023.

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, 4034 Fairview Industrial Drive SE, Salem, Oregon 97302-

1142. Contact Steve Emerson at 503-947-6233 or Steven.C.Emerson@odfw.oregon.gov to view by appointment between the hours of 8:00 a.m. and 4:00 p.m., on normal working days, Monday through Friday.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The Department has solicited input from representatives of underrepresented communities likely to be affected on whether the proposed rule will have a fiscal impact on the community, the extent of the fiscal impact, and whether the rules will have significant impact on underrepresented communities. <https://www.dfw.state.or.us/OARs/index.asp>

FISCAL AND ECONOMIC IMPACT:

No major fiscal or economic effects are expected to result from the Salmon Trout Enhancement Program rules updates.

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

State agencies that could be affected by the changes in rules are the Oregon Department of Fish and Wildlife (ODFW). ODFW impacts include fisheries management costs and staff workload. ODFW staff will be required to allocate time for review and approval of STEP project applications, in addition to providing citizen volunteers with assistance in the implementation of STEP. Overall, these proposed rule changes are not expected to result in significant changes to staff workloads or to current levels of staffing and other costs for ODFW.

There are no anticipated impacts from the proposed rules to units of local government.

The public may be affected by rules relating to Salmon Trout Enhancement Program (STEP) rules. These rule changes are unlikely to translate into changes in volunteer projects or volunteer hours. Overall, these rule changes are not expected to result in significant change in the public's participation in STEP.

Various sectors of the public economy (anglers, businesses that sell goods and services to STEP volunteers/anglers, and the general economy) may experience different impacts. There are no anticipated impacts to current STEP projects, so we do not anticipate significant impacts to the public economy due to the proposed rule changes.

(2)(a) Estimate the number of small businesses and types of business and industries with small businesses subject to the rules:

The types of businesses that may be indirectly affected are those that supply goods or services to STEP volunteers and anglers. These may include lumber/hardware stores, fishing guides, private marinas, food and beverage stores, gasoline stations, sporting goods stores, general merchandise stores, accommodation businesses, food services, and drinking places. STEP projects occur in a multitude of locations throughout the state and thus the number of small businesses subject to the rule cannot be estimated.

(2)(b) No significant changes in these costs are expected.

(2)(c) No significant changes in these costs are expected.

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

Small businesses were not involved in the development of these rules but correspondence from and testimony by interested and affected persons is accepted into record and is part of the rulemaking process. Opportunities for public comment are provided during the ODFW Commission process.

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

Correspondence from and testimony by interested and affected persons is accepted into record and is part of the rulemaking process.

RULES PROPOSED:

635-009-0090, 635-009-0095, 635-009-0096, 635-009-0097, 635-009-0100, 635-009-0105, 635-009-0106, 635-009-0107, 635-009-0110, 635-009-0115, 635-009-0120, 635-009-0125, 635-009-0130, 635-009-0135, 635-009-0140, 635-009-0150

AMEND: 635-009-0090

RULE SUMMARY: Update the Salmon Trout Enhancement Program rules to improve existing program management, improve consistency with ODFW policies, and to amend rules that govern the Department's administration of the Salmon Trout Enhancement Program (STEP). Updates to the rules include, but are not limited to, the Department's evaluation of STEP projects, project approval, project authorization amendment or revocation, as well as the STEP Advisory Committee's membership and role.

CHANGES TO RULE:

635-009-0090

Salmon and Trout Enhancement Program ~~Purpose ¶~~

~~These Rules guide the operation and project selection~~ Department's administration, including project evaluation and approval of the Salmon Trout Enhancement Program (STEP) as authorized under the provisions of ORS 496.4430, et seq. These rules also govern the STEP Advisory Committee's membership.

Statutory/Other Authority: ORS 496.138, ORS 496.146

Statutes/Other Implemented: ORS 496.430 et seq.

AMEND: 635-009-0095

RULE SUMMARY: Update the Salmon Trout Enhancement Program rules to improve existing program management, improve consistency with ODFW policies, and to amend rules that govern the Department's administration of the Salmon Trout Enhancement Program (STEP). Updates to the rules include, but are not limited to, the Department's evaluation of STEP projects, project approval, project authorization amendment or revocation, as well as the STEP Advisory Committee's membership and role.

CHANGES TO RULE:

635-009-0095

Salmon and Trout Enhancement Program Definitions ¶¶

The following definitions shall apply to Salmon and Trout Enhancement Program projects:¶¶

- (1) Definitions listed in ORS 496.430 and OAR 635-007-0501.¶¶
- (2) "Broodstock Development Project" means project in which adults will return to a recapture facility to provide an egg source for management programs.¶¶
- (3) "Commission" means the Oregon Fish and Wildlife Commission.¶¶
- (4) "Department" means the Oregon Department of Fish and Wildlife. Acclimation" means to hold juvenile fish at a site other than where they were reared, for a specified length of time immediately prior to release at the site, in order to cause them to imprint on and return to the site as adults.¶¶
- (53) "Educational Project" means project undertaken by a school or youth program. Committee" means the Salmon and Trout Enhancement Program Advisory Committee.¶¶
- (64) "Egg Incubation Project" means project in which eggs are contained and hatched and resultant fry are released unfed.¶¶
- (75) "Enhancement" means management activities including rehabresource conservation, utilization and supplementation that increase fish production beyond the existing production capability of the stock and/or habitat educational activities that contribute to the recovery and sustainability of native fish.¶¶
- (86) "Enhancement Project" is any project authorized by the Department in accordance with these rules.¶¶
- (97) "Fish Propagation" means to rear fish for release (includes egg incubation).¶¶
- (108) "Life Cycle" means:¶¶
 - (a) Coho salmon – 3 years;¶¶
 - (b) Chinook salmon – 5 years;¶¶
 - (c) Chum salmon – 4 years;¶¶
 - (d) Steelhead – 4 years;¶¶
 - (e) Trout – 4 years.¶¶
- (11) "Rehabilitation" means short-term management techniques which may include fish stocking, habitat improvement, harvest management, or other work that restore fish stocks depressed by natural or man-made events.¶¶
- (12) "STEP" means Salmon Trout Enhancement Program.¶¶
- (13) "Supplementation" means continued plant. Mark" means a distinctive identification such as a removed fin or characteristic scale pattern, or both; a coded-wire tag imbedded in the fish in addition to a removed adipose fin; or some other methods approved by the Department for the purpose of identifying the origing of the fish to maintain or increase fish abundance in areas where natural.¶¶
- (9) "Stocking" means to release hatchery production ed fish insufficient to meet management objective to state waters.

Statutory/Other Authority: ORS 496.138, ORS 496.146

Statutes/Other Implemented: ORS 496.430, ORS 537.142

ADOPT: 635-009-0096

RULE SUMMARY: Update the Salmon Trout Enhancement Program rules to improve existing program management, improve consistency with ODFW policies, and to amend rules that govern the Department's administration of the Salmon Trout Enhancement Program (STEP). Updates to the rules include, but are not limited to, the Department's evaluation of STEP projects, project approval, project authorization amendment or revocation, as well as the STEP Advisory Committee's membership and role.

CHANGES TO RULE:

635-009-0096

Salmon and Trout Enhancement Program Advisory Committee; Membership

(1) The Salmon and Trout Enhancement Program Advisory Committee consists of nine members appointed by the Governor through the Executive Appointments Administration application process.

(a) All citizens are welcome and encouraged to serve.

(b) In recommending the committee appointments, the Department may consider the following:

(A) Ensuring that the Committee's membership reflects the demographic and geographic diversity of Oregon;

(B) Members with experience working with volunteers, community service organizations, or involvement in natural resource or angling education; and

(C) Including those engaging youth, underserved communities and diverse audiences, such as communities of color, tribes, and low-income communities

(c) The term of office of a member of the Committee is four years, and a member is eligible for reappointment and may serve up to two consecutive full terms.

(d) Members shall:

(A) Be an Oregon resident;

(B) Have knowledge of STEP activities, work conducted by STEP biologists, volunteers, and partner organizations;

(C) Be in good standing with the Department's Statewide Volunteer Program;

(D) Complete required trainings and adhere to the Department's Volunteer Code of Conduct;

(E) Represent the regional and statewide interests of the program and volunteers; and

(F) Investigate topics of importance to STEP and develop recommendations.

(e) Members of the Committee will represent the following regions:

(A) North Coast;

(B) Mid-Coast;

(C) South Willamette Valley;

(D) North Willamette Valley;

(E) Coos-Coquille-Tenmile;

(F) Umpqua;

(G) South Coast;

(H) Upper Rogue; and

(I) Eastern Oregon.

(2) The Committee shall select officers and may form sub-committees as necessary to carry out business of the Committee.

(3) A members of the Committee will not receive compensation from the Department for services as a member. A member may be reimbursed for actual and necessary travel and other expenses incurred in the performance of official duties.

Statutory/Other Authority: ORS 496.138, ORS 496.146

Statutes/Other Implemented: ORS 496.460

ADOPT: 635-009-0097

RULE SUMMARY: Update the Salmon Trout Enhancement Program rules to improve existing program management, improve consistency with ODFW policies, and to amend rules that govern the Department's administration of the Salmon Trout Enhancement Program (STEP). Updates to the rules include, but are not limited to, the Department's evaluation of STEP projects, project approval, project authorization amendment or revocation, as well as the STEP Advisory Committee's membership and role.

CHANGES TO RULE:

635-009-0097

Committee Meetings

(1) Committee meetings are public meetings and must be conducted in compliance with requirements of the Oregon Public Meetings Law, ORS 192.610 et seq.¶

(2) The Committee will meet no less than twice each calendar year to carry out the business of the Committee.

Statutory/Other Authority: ORS 496.138, ORS 496.146

Statutes/Other Implemented: ORS 496.460, ORS 192.610 - ORS 192.695

AMEND: 635-009-0100

RULE SUMMARY: Update the Salmon Trout Enhancement Program rules to improve existing program management, improve consistency with ODFW policies, and to amend rules that govern the Department's administration of the Salmon Trout Enhancement Program (STEP). Updates to the rules include, but are not limited to, the Department's evaluation of STEP projects, project approval, project authorization amendment or revocation, as well as the STEP Advisory Committee's membership and role.

CHANGES TO RULE:

635-009-0100

Salmon and Trout Enhancement Program Policy and Goals ¶¶

(1) It is the policy of the Fish and Wildlife Commission, in carrying out the provisions of ORS 496.4430, et seq., that a ~~Salmon and Trout Enhancement Program~~ the STEP shall be conducted to benefit all users of the salmon and trout resources of this state.¶

(2) STEP goals are:¶

(a) Provide the greatest possible opportunity for citizen volunteer participation in achieving the Department's management objectives;¶

(b) Rehabilitate and enhance natural habitat of salmon and trout;¶

(c) Rehabilitate and enhance populations of salmon and trout; and¶

(d) Support and promote an education program to increase the public's understanding of Oregon's aquatic resources and the environment.

Statutory/Other Authority: ORS 496.138, ORS 496.146

Statutes/Other Implemented: ORS 496.435, ORS 496.440, ORS 496.445

AMEND: 635-009-0105

RULE SUMMARY: Update the Salmon Trout Enhancement Program rules to improve existing program management, improve consistency with ODFW policies, and to amend rules that govern the Department's administration of the Salmon Trout Enhancement Program (STEP). Updates to the rules include, but are not limited to, the Department's evaluation of STEP projects, project approval, project authorization amendment or revocation, as well as the STEP Advisory Committee's membership and role.

CHANGES TO RULE:

635-009-0105

Salmon and Trout Enhancement Program Community Advisors ¶¶

As identified in ORS 496.445, the Department, will assist citizen volunteers with implementation of STEP. A STEP coordinator and STEP biologist shall act as community advisors to:¶¶

(1) Provide technical assistance, education, and training to citizens responsible for implementation of enhancement projects;¶¶

(2) Cooperatively develop enhancement projects with citizen volunteers;¶¶

(3) Review projects to ensure compliance with applicable rules, plans, and policies;¶¶

(4) Coordinate the implementation of enhancement projects with the activities of the Department and staff and other agencies;¶¶

(45) Provide educational and informational materials to promote public awareness and involvement in the salmon and trout enhancement program. STEP;¶¶

(56) Supervise the activities of citizens developing local brood stock for undertaking enhancement projects;¶¶

(67) Evaluate enhancement projects with the citizens responsible for project implementation;¶¶

(78) Coordinate grants of funds to citizens for the implementation of approved enhancement projects from such moneys as may be available; and¶¶

(9) Provide educational and informational materials, and organize events, to increase the public's understanding of Oregon's aquatic resources and the environment.

Statutory/Other Authority: ORS 496.138, ORS 496.146

Statutes/Other Implemented: ORS 496.445

ADOPT: 635-009-0106

RULE SUMMARY: Update the Salmon Trout Enhancement Program rules to improve existing program management, improve consistency with ODFW policies, and to amend rules that govern the Department's administration of the Salmon Trout Enhancement Program (STEP). Updates to the rules include, but are not limited to, the Department's evaluation of STEP projects, project approval, project authorization amendment or revocation, as well as the STEP Advisory Committee's membership and role.

CHANGES TO RULE:

635-009-0106

STEP volunteers

(1) Citizens and groups assisting with implementation of STEP projects are subject to the Departments policies governing volunteers.¶

(2) The Department will provide training as outlined in OAR 635-007-0506 and 635-007-0548.

Statutory/Other Authority: ORS 496.138, ORS 496.146

Statutes/Other Implemented: ORS 496.440, ORS 496.445

ADOPT: 635-009-0107

RULE SUMMARY: Update the Salmon Trout Enhancement Program rules to improve existing program management, improve consistency with ODFW policies, and to amend rules that govern the Department's administration of the Salmon Trout Enhancement Program (STEP). Updates to the rules include, but are not limited to, the Department's evaluation of STEP projects, project approval, project authorization amendment or revocation, as well as the STEP Advisory Committee's membership and role.

CHANGES TO RULE:

635-009-0107

Propagation of fish through STEP

(1) The use of hatchery programs through STEP is important to provide citizen volunteer participation (ORS 496.440) and provide optimum fishery (ORS 506.109) and conservation benefits.¶

(2) All STEP hatchery related projects and associated propagation of fish must comply with the Department's Hatchery Management Policy OAR 635-007-0542 through 635-007-0548.¶

(3) All STEP propagation projects must be implemented consistent with:¶

(a) The Native Fish Conservation Policy outlined in OAR 635-007-0502 through 635-007-0509;¶

(b) The Fish Health Management Policy outlined in OAR 635-007-0965 through 635-007-0995; and¶

(c) The Climate and Ocean Change Policy outlined in OAR 635-900-0001 through 635-900-0020.¶

(4) For STEP propagation projects, all eggs, fish, and any portions thereof continue to be the property of the State of Oregon.¶

(a) It is unlawful to transport, hold, handle, possess, or release eggs or fish except as specifically authorized by the Department and when applicable a Fish Transport Permit in accordance with OAR 635-007-0600.¶

(b) All fish returning to a STEP propagation project must be handled and disposed of in accordance with OAR 635-007-0545(14).¶

(5) In the event of unforeseen shortages of eggs or fish, changes in facility availability or status, the Department may implement revisions to a STEP project as necessary. Any revision will be discussed with the STEP project sponsor to minimize impact to facility operations.¶

(6) The Department's or Commission's approval, as applicable, of a STEP project that includes the use of water will be considered "certified" pursuant to ORS 537.142.

Statutory/Other Authority: ORS 496.138, ORS 496.146

Statutes/Other Implemented: ORS 496.440, ORS 506.109, ORS 537.142

AMEND: 635-009-0110

RULE SUMMARY: Update the Salmon Trout Enhancement Program rules to improve existing program management, improve consistency with ODFW policies, and to amend rules that govern the Department's administration of the Salmon Trout Enhancement Program (STEP). Updates to the rules include, but are not limited to, the Department's evaluation of STEP projects, project approval, project authorization amendment or revocation, as well as the STEP Advisory Committee's membership and role.

CHANGES TO RULE:

635-009-0110

Salmon and Trout Enhancement Program Project Application ¶¶

(1) ~~A~~The Department, any citizen, or group of citizens, may propose a project for implementation under STEP. Projects may include but are not limited to: ~~H~~¶¶

~~(a) Improvements to aquatic habitat improvement, egg incubation,~~ s to provide resilience for expected future conditions;¶¶

~~(b) Stocking or acclimation of Department sponsored fish releases;~~¶¶

~~(c) Monitoring or research of fish propagulations, broodstock development, fish stocking, spawning ground surveys, education, and data collection.~~¶¶

~~(2) Phabitats, and water conditions over time;~~¶¶

~~(d) Education and outreach to inform the public about salmon, trout, and their habitats and opportunities to get involved through STEP including educational classroom incubators in which no more than 500 eggs may be incubated as an educational tool (all release locations must be approved by the Department); and~~¶¶

~~(e) Propagation projects including harvest hatchery, conservation hatchery, egg incubation, and rearing, acclimation, and release of fish.~~¶¶

~~(2) Following consultation with a STEP Biologist, the proposed projects shall be submitted in writing on forms provided by the Department.~~¶¶

~~(3) A separ~~Projects which are initiated application is required for each proposed project or project site.¶¶

~~(4) Each project must have explicit goals, method of achievement, beginning and ending date, and, if applicable, evaluation plan.~~¶¶

~~(5) Incomplete applications shall be returned to the project sponsor for completion and administered by Department do not need to apply under this section unless the Department is seeking certification for the water right as identified in ORS 537.142 to support a project that will be implemented with the assistance of volunteers.~~¶¶

~~(6)~~ (4) The Department may require any additional information it deems necessary in order to evaluate the project proposal.¶¶

~~(7) Applications for projects involving egg incubation or fish propagation must also comply with OAR 635-009-0125.~~

Statutory/Other Authority: ORS 496.138, ORS 496.146

Statutes/Other Implemented: ORS 496.450, ORS 537.142

AMEND: 635-009-0115

RULE SUMMARY: Update the Salmon Trout Enhancement Program rules to improve existing program management, improve consistency with ODFW policies, and to amend rules that govern the Department's administration of the Salmon Trout Enhancement Program (STEP). Updates to the rules include, but are not limited to, the Department's evaluation of STEP projects, project approval, project authorization amendment or revocation, as well as the STEP Advisory Committee's membership and role.

CHANGES TO RULE:

635-009-0115

Salmon and Trout Enhancement Program Project Approval ~~¶~~

- ~~(1) All~~The Department's approval will be based on whether the projects must comply with Department policies, fish management goals and objectives as set forth, including, as applicable, the criteria identified in OAR 635-0072-0501 through 635-007-0830, and species and/or area management plans adopted by the Commission 107.¶
- ~~(2) All projects, prior to commencing, must be approved in writing by the Department.¶~~
- ~~(3) A project will not be approved if the proposal, based on review by Department staff:¶~~
- ~~(a) Is not based on sound biological principles; approval of projects shall be for a time period determined by the Department based on the type of project.¶~~
- ~~(b4) Is not supported by physical and biological stream survey information;¶~~
- ~~(c) Does not show a demonstrated need~~Project proposals will be evaluated by the Department prior to approval to determine that:¶
- ~~(a) The proposal is consistent with relevant conservation plans developed under the Native Fish Conservation Policy (OAR 635-007-0502 through 635-007-0509);¶~~
- ~~(db) Proposes to~~The proposal is based on sound biological principles and uses inappropriate methods to accomplish the project objectives;¶
- ~~(ec) Violates goals, poli~~Releases from a Fish Propagation project shall not exceed 100,000 fish of each species, runles, species or bas authorized by the Commission or a Commission management plans adopted by the Commission; or policies or procedures developed by the Department. adopted plan;¶
- ~~(d) The potential impact on all fish species, the environment, and contribution to the resource are acceptable;¶~~
- ~~(e) Prior to operation, all required federal, state, and local permits have been obtained;¶~~
- ~~(4f) Project proposals will be evaluated according to their potential impact on all fish species, the environment, and contribution to the resource~~rior to operation, any required fish screen, disease control mechanisms, and isolation facilities will be in place and operating;¶
- ~~(g) The fish and egg production meets criteria shown in previously-approved programs for release size, time, and mark rate, and disease control regulations will be met; and¶~~
- ~~(h) The applicant has sufficient resources available to ensure continued successful operations of the project and, when applicable, adequate husbandry of fish.¶~~
- (5) The Department may prescribe such terms and conditions for project approval as it may deem necessary for protection of naturally produced species (or stocks).¶
- ~~(6) It will be the responsibility of the project sponsor to obtain all necessary water rights, access agreements, easements, and u~~The Department may choose to not issue project approval if:¶
- ~~(a) The propagation of the fish specified in the application will be the first introduction of that species into the watershed in which the proposed facility is located;¶~~
- ~~(b) For fish propagation projects, the Department finds the project or operation, as proposed by the applicant, is not consistent with relevant conservation plans developed under the Native Fish Conservation Policy;¶~~
- ~~(c) For habitat, monitoring, and education projects, the Department finds the project or operation, as proposed by the applicant, would tend to be harmful to existing fish populations in or below the project site;¶~~
- ~~(d) The Department finds the applicant violated any terms of any license, permits, or an operational plan issued by other permits needed to undertake the project~~Department; or¶
- ~~(e) The Department finds the applicant has failed to comply with any relevant statute, rule, or reporting requirements.~~

Statutory/Other Authority: ORS 496.138, ORS 496.146

Statutes/Other Implemented: ORS 496.450

AMEND: 635-009-0120

RULE SUMMARY: Update the Salmon Trout Enhancement Program rules to improve existing program management, improve consistency with ODFW policies, and to amend rules that govern the Department's administration of the Salmon Trout Enhancement Program (STEP). Updates to the rules include, but are not limited to, the Department's evaluation of STEP projects, project approval, project authorization amendment or revocation, as well as the STEP Advisory Committee's membership and role.

CHANGES TO RULE:

635-009-0120

Salmon and Trout Enhancement Program Revocation or Amendment of Project Approval ¶

(1) The Department may revoke or amend its approval of a STEP project if it determines:¶

(a) ~~The project has exceeded the scope of applicant engaged in or is undertaking an activity inconsistent with the approved project proposal~~ violations of approval, including those identified in OAR 635-009-0115;¶

(b) There has been a violation of any term or condition imposed on the project by the Department;¶

~~(c) Continued operation of the project may adversely affect fish populations in or below the project site, including failure to cooperate or participate with the Department's Volunteer Code of Conduct; or~~¶

~~(d)~~ There are not sufficient moneys available to fund the Department's continued involvement in the project.¶

(2) The revocation of a project's approval shall automatically invalidate any Department Permits issued for such project as of the date of revocation and may result in confiscating (reclaiming) by the Department of any fish or eggs used in the project.¶

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

(4) The Department may temporarily curtail or amend any aspect of the project to ensure compliance with project proposal or terms and conditions of the Department's approval of the project. Prior to revocation:¶

(a) The Department will notify the Committee of the proposed revocation;¶

(b) The Committee may review and make a recommendation to the Department; and¶

(c) The Department will consider the Committee recommendations before the Department revokes any project approval.

Statutory/Other Authority: ORS 496.138, ORS 496.146

Statutes/Other Implemented: ORS 496.450

RULE SUMMARY: Update the Salmon Trout Enhancement Program rules to improve existing program management, improve consistency with ODFW policies, and to amend rules that govern the Department's administration of the Salmon Trout Enhancement Program (STEP). Updates to the rules include, but are not limited to, the Department's evaluation of STEP projects, project approval, project authorization amendment or revocation, as well as the STEP Advisory Committee's membership and role.

CHANGES TO RULE:

~~635-009-0125~~

~~Egg Incubation and Fish Program Project Proposal~~

~~(1) Any citizen or group of citizens wishing to obtain and incubate and/or propagate salmon or trout, and to transport, hold or release any such eggs or fish resulting therefrom, must complete and submit to the Department an application form to conduct an "Egg Incubation" or "Fish Propagation" project. All such projects shall be identified as: rehabilitation, supplementation, educational, or broodstock development. For purposes of this rule, such projects shall be defined to mean one of the following:~~

- ~~(a) Rehabilitation Project – A project in which fish are released to rebuild a currently depressed run;~~
- ~~(b) Supplementation Project – A project involving continued planting to maintain or increase fish abundance where natural production is insufficient to meet management objectives;~~
- ~~(c) Educational Project – Classroom or youth education project in which eggs are incubated as an educational tool; the number of eggs incubated may not exceed 500;~~
- ~~(d) Broodstock Development Project – A project in which reared fish are released and the resulting adults return to a recapture facility to provide an egg source for management programs.~~

~~(2) Applications for an Egg Incubation project shall:~~

- ~~(a) Be submitted prior to September 1 of each year; applications received after this date will be considered but will have a lower priority for receipt of eggs;~~
- ~~(b) Include the following information:~~
 - ~~(A) Name, address, and telephone number of applicant;~~
 - ~~(B) Species requested;~~
 - ~~(C) Egg incubation location and proposed fry release location;~~
 - ~~(D) Type of project to be undertaken (i.e., rehabilitation, supplementation, education, or broodstock development);~~
 - ~~(E) A clear and concise statement of the operation proposed by the applicant.~~

~~(3) Applications for a Fish Propagation project shall:~~

- ~~(a) Be submitted prior to July 1 of each year for projects proposing to commence during the next egg take cycle;~~
- ~~(b) Include the following information:~~
 - ~~(A) Name, address, and telephone number of applicant;~~
 - ~~(B) Species and number of eggs requested;~~
 - ~~(C) Egg source;~~
 - ~~(D) Species and number of fish to be reared;~~
 - ~~(E) Egg incubation and fish propagation location;~~
 - ~~(F) Type of project to be undertaken (i.e., rehabilitation, supplementation, or broodstock development);~~
 - ~~(G) A clear and concise statement of the operation proposed by the application; the enhancement opportunity to be undertaken; and how the project meets fish management program objectives adopted by the Commission;~~
 - ~~(H) A map of proposed hatchery site or release site, clearly indicating the geographic relationship of the site to the surrounding area;~~
 - ~~(I) Clear and concise information on facility design, operation and maintenance costs, water supply, rearing and holding facilities, fish disease considerations and any other information the Department may request;~~
 - ~~(J) Plan to evaluate project;~~
 - ~~(K) Reports, technical documents, articles and data or information of any kind the applicant intends to rely on to support the facility;~~
 - ~~(L) A copy of all leases, options, easements, or other instruments by which applicant purports to have sufficient property rights pertaining to the proposed site to permit conduct of the proposed operation;~~
 - ~~(M) A statement from the appropriate local planning authorities of the county or other jurisdiction within which the proposed hatchery or release site is located, analyzing whether or not, in the opinion of the local jurisdiction, applicant's proposed operation is in compliance with the local jurisdiction's comprehensive land-use and estuary plan;~~
 - ~~(N) A projection of social consequences caused in the future by returning fish.~~

Statutory/Other Authority: ORS 496
Statutes/Other Implemented: ORS 496

REPEAL: 635-009-0130

RULE SUMMARY: Update the Salmon Trout Enhancement Program rules to improve existing program management, improve consistency with ODFW policies, and to amend rules that govern the Department's administration of the Salmon Trout Enhancement Program (STEP). Updates to the rules include, but are not limited to, the Department's evaluation of STEP projects, project approval, project authorization amendment or revocation, as well as the STEP Advisory Committee's membership and role.

CHANGES TO RULE:

~~635-009-0130~~

~~Egg Incubation and Fish Program Project Duration~~

~~(1) Egg incubation and Fish Propagation projects may be approved for the following length of time; all projects are subject to an annual review:¶¶~~

~~(a) Rehabilitation project: one life cycle of the species reared (see OAR 635-009-0105(7));¶¶~~

~~(b) Supplementation project: Five years;¶¶~~

~~(c) Broodstock Development project: one life cycle of the species reared (see OAR 635-009-0095(7)).¶¶~~

~~(2) A new project proposal must be submitted and approved if the project is to continue beyond the time period authorized in section (1) of this rule.~~

~~Statutory/Other Authority: ORS 496~~

~~Statutes/Other Implemented: ORS 496~~

REPEAL: 635-009-0135

RULE SUMMARY: Update the Salmon Trout Enhancement Program rules to improve existing program management, improve consistency with ODFW policies, and to amend rules that govern the Department's administration of the Salmon Trout Enhancement Program (STEP). Updates to the rules include, but are not limited to, the Department's evaluation of STEP projects, project approval, project authorization amendment or revocation, as well as the STEP Advisory Committee's membership and role.

CHANGES TO RULE:

~~635-009-0135~~

~~Egg Incubation and Fish Program Number of Fish Released~~

~~(1) The number of fish authorized for release under either an egg incubation or fish propagation project shall be determined by the Department. The number shall be based upon management objectives and carrying capacity of water body stocked.~~

~~(2) Releases from a Fish Propagation project shall not exceed 100,000 fish of each species reared, except the Commission after holding a public hearing may authorize releases above these numbers.~~

~~Statutory/Other Authority: ORS 496~~

~~Statutes/Other Implemented: ORS 496~~

REPEAL: 635-009-0140

RULE SUMMARY: Update the Salmon Trout Enhancement Program rules to improve existing program management, improve consistency with ODFW policies, and to amend rules that govern the Department's administration of the Salmon Trout Enhancement Program (STEP). Updates to the rules include, but are not limited to, the Department's evaluation of STEP projects, project approval, project authorization amendment or revocation, as well as the STEP Advisory Committee's membership and role.

CHANGES TO RULE:

~~635-009-0140~~

~~Egg Incubation and Fish Program General Considerations~~

~~(1) It is unlawful to transport, hold, or possess live fish or eggs without an appropriate permit issued by the Department.~~

~~(2) The Department may authorize the taking of eggs from wild fish for use in a STEP project if:~~

~~(a) There is a demonstrated need for enhancement on a stream and a suitable source of eggs is not available from public hatcheries;~~

~~(b) The project cooperators are involved in an approved project for selected broodstock development which includes use of wild fish;~~

~~(c) Facilities are available for holding adults to maturation, spawning fish, and incubating eggs;~~

~~(d) A knowledgeable individual is available to provide assistance in handling of adults, determining maturation, spawning, and care of eggs.~~

~~(3) The Department may require specific numbers of smolts be returned to locations if wild fish have been taken and moved to another stream.~~

~~(4) In the event egg shortages occur, the Department will reduce the number of eggs per approved project by an equal proportion, except the Department may establish priorities for certain projects that are expected to make a greater contribution to the resource.~~

~~(5) All eggs or fish are the property of the State of Oregon and may only be released as designated by the Department.~~

~~(6) All fish returning to a fish propagation project must be handled or disposed of as directed by the Department.~~

~~Statutory/Other Authority: ORS 496~~

~~Statutes/Other Implemented: ORS 496~~

REPEAL: 635-009-0150

RULE SUMMARY: Update the Salmon Trout Enhancement Program rules to improve existing program management, improve consistency with ODFW policies, and to amend rules that govern the Department's administration of the Salmon Trout Enhancement Program (STEP). Updates to the rules include, but are not limited to, the Department's evaluation of STEP projects, project approval, project authorization amendment or revocation, as well as the STEP Advisory Committee's membership and role.

CHANGES TO RULE:

~~635-009-0150~~

~~Egg Incubation and Fish Program Disposal of Fish and Fish Products~~

~~(1) All fish produced as a result of a STEP project remain the property of the State of Oregon and are subject to harvest in any and all public fisheries.¶¶~~

~~(2) All fish returning to a STEP fish propagation project must be handled or disposed of as directed by the department.¶¶~~

~~(3) Fish and eggs collected at a STEP fish propagation project are subject to the following priorities for use:¶¶~~

~~(a) Natural and artificial production needs of the department;¶¶~~

~~(b) Needs of the STEP program;¶¶~~

~~(c) Needs of Cooperative Salmon Hatchery projects;¶¶~~

~~(d) Indian ceremonial needs pursuant to ORS 496.201 to 496.221.¶¶~~

~~(4) The department may give written approval for the sale of salmon carcasses or salmon eggs to the project sponsor with the following conditions and consistent with OAR 635-007-0530:¶¶~~

~~(a) Only fish or eggs in excess of those required to fulfill the needs of section (3) of this rule may be sold;¶¶~~

~~(b) Project sponsor shall first obtain a wholesale fish dealer license. Monthly reports and payment of fees are required as provided in OAR 635-006-0200 through 635-006-0220 on all fish sold;¶¶~~

~~(c) Proceeds from the sale of fish or eggs may only be used for the following, in accordance with a written project agreement between the project sponsor and the department:¶¶~~

~~(A) Actual costs incurred by the project sponsor or department, directly related to the project;¶¶~~

~~(B) Equipment, supplies, and improvements to the project site.~~

~~Statutory/Other Authority: ORS 496.138, 506.119~~

~~Statutes/Other Implemented: ORS 496.146, 506.124~~