

Oregon Administrative Rules
Department of Fish and Wildlife

Chapter 635

Division 9

SALMON AND TROUT ENHANCEMENT PROGRAM AND RIPARIAN LANDS TAX INCENTIVE PROGRAM

635-009-0055

Determination of Outdoor Clubs Non-Profit Status

No outdoor club shall be exempt from the provisions of ORS 498.400 through 498.464 unless such club submits with its application for exemption:

- (1) A certified copy of its Articles of Incorporation, which must be accompanied by a copy of its Certificate of Incorporation issued pursuant to ORS Chapter 61; and
- (2) Certified copies of a certificate of tax exempt status issued by the Oregon Department of Revenue and the United States Internal Revenue Service.

Statutory/Other Authority: ORS 496

Statutes/Other Implemented: ORS 496

History:

FWC 41-1978, f. & ef. 8-29-78, Renumbered from 635-007-0500

635-009-0060

Charter Boat License and Decals

- (1) An ocean charter vessel license required by Oregon Laws 1979, Chapter 358 must be obtained by the owner or operator of any boat used in the business of carrying individuals to angle in the ocean.
- (2) A pair of decals bearing the wording "Oregon Licensed Charter Boat" shall be included with the initial issue of an ocean charter vessel license. Vessels having previously received the above decals applying for renewal will not be issued replacement decals unless specifically requested.
- (3) A pair of decal bearing the last two numbers of the year for which the license is issued shall be included with the license.
- (4) The decals "Oregon Licensed Charter Boat" with the decals bearing the last two numbers of the year for which the ocean charter vessel license is issued shall be affixed to the licensed boat in a conspicuous place on each side of the boat on the outside of the superstructure as near midship as practicable.
- (5) It shall be unlawful to operate a licensed ocean charter vessel which does not have the decals described in section (2) of this rule, displayed on the licensed vessel as provided in this rule.

Statutory/Other Authority: ORS 496

Statutes/Other Implemented: ORS 496

History:

Reverted to FWC 4-1981, f. & ef. 1-21-81

FWC 23-1988(Temp), f. & cert. ef. 3-29-88

FWC 4-1981, f. & ef. 1-21-81

635-009-0090

Salmon and Trout Enhancement Program

These Rules guide the Department's administration, including project evaluation and approval, of the Salmon and Trout Enhancement Program (STEP) as authorized under the provisions of ORS 496.430, et seq. These rules also govern the STEP Advisory Committee's membership and meeting frequency.

Statutory/Other Authority: ORS 496.138 & ORS 496.146

Statutes/Other Implemented: ORS 496.430 et seq.

History:

[DFW 97-2023, amend filed 09/19/2023, effective 09/19/2023](#)

FWC 64-1988, f. 8-9-88, cert. ef. 8-19-88

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) "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.

(3) "Committee" means the Salmon and Trout Enhancement Program Advisory Committee.

(4) "Egg Incubation Project" means project in which eggs are contained and hatched and resultant fry are released unfed.

(5) "Enhancement" means resource conservation, utilization and educational activities that contribute to the recovery and sustainability of native fish.

(6) "Enhancement Project" is any project authorized by the Department in accordance with these rules.

(7) "Fish Propagation" means to rear fish for release (includes egg incubation).

(8) "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 origin of the fish.

(9) "Stocking" means to release hatchery-produced fish into state waters.

Statutory/Other Authority: ORS 496.138 & ORS 496.146

Statutes/Other Implemented: ORS 496.430 & ORS 537.142

History:

[DFW 97-2023, amend filed 09/19/2023, effective 09/19/2023](#)

FWC 64-1988, f. 8-9-88, cert. ef. 8-19-88

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

(l) Eastern Oregon.

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

(3) A member 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

History:

[DFW 97-2023, adopt filed 09/19/2023, effective 09/19/2023](#)

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

History:

[DFW 97-2023, adopt filed 09/19/2023, effective 09/19/2023](#)

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 496.430, et seq., that 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

History:

[DFW 97-2023, amend filed 09/19/2023, effective 09/19/2023](#)

FWC 64-1988, f. 8-9-88, cert. ef. 8-19-88

FWC 45-1981, f. & ef. 12-21-81

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 other agencies;
- (5) Provide educational and informational materials to promote public awareness and involvement in the STEP;
- (6) Supervise the activities of citizens undertaking enhancement projects;
- (7) Evaluate enhancement projects with the citizens responsible for project implementation;
- (8) 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

History:

[DFW 97-2023, amend filed 09/19/2023, effective 09/19/2023](#)

FWC 64-1988, f. 8-9-88, cert. ef. 8-19-88

FWC 45-1981, f. & ef. 12-21-81

635-009-0106

STEP Volunteers

- (1) Citizens and groups assisting with implementation of STEP projects are subject to the Department's 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

History:

[DFW 97-2023, adopt filed 09/19/2023, effective 09/19/2023](#)

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

History:

[DFW 97-2023, adopt filed 09/19/2023, effective 09/19/2023](#)

635-009-0110

Salmon and Trout Enhancement Program Project Application

- (1) The Department, any citizen, or group of citizens, may propose a project for implementation under STEP. Projects may include but are not limited to:
 - (a) Improvements to aquatic habitats to provide resilience for expected future conditions;
 - (b) Stocking or acclimation of Department-sponsored fish releases;
 - (c) Monitoring or research of fish populations, habitats, 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 project application shall be submitted in writing on forms provided by the Department.

(3) Projects which are initiated and administered by the Department do not need to apply under this section unless the Department is seeking a water right exemption as identified in ORS 537.142 to support a project that will be implemented with the assistance of volunteers.

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

Statutory/Other Authority: ORS 496.138 & ORS 496.146

Statutes/Other Implemented: ORS 496.450 & ORS 537.142

History:

[DFW 97-2023, amend filed 09/19/2023, effective 09/19/2023](#)

FWC 64-1988, f. 8-9-88, cert. ef. 8-19-88

FWC 45-1981, f. & ef. 12-21-81

635-009-0115

Salmon and Trout Enhancement Program Project Approval

(1) The Department's approval will be based on whether the project complies with Department policies, fish management goals and objectives, including, as applicable, the criteria identified in OAR 635-009-0107.

(2) All projects, prior to commencing, must be approved in writing by the Department.

(3) Approval of projects shall be for a time period determined by the Department based on the type of project.

(4) 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);

(b) The proposal is based on sound biological principles and uses appropriate methods to accomplish the project objectives;

(c) Releases from a Fish Propagation project shall not exceed 100,000 fish of each species, unless authorized by the Commission or a Commission-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;
 - (f) Prior 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 operation 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) 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, permit, or operational plan issued by the 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

History:

[DFW 97-2023, amend filed 09/19/2023, effective 09/19/2023](#)

FWC 64-1988, f. 8-9-88, cert. ef. 8-19-88

FWC 45-1981, f. & ef. 12-21-81

[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 applicant engaged in or is undertaking an activity inconsistent with all provisions 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, including failure to cooperate or participate with the Department's Volunteer Code of Conduct; or

(c) 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

History:

[DFW 97-2023, amend filed 09/19/2023, effective 09/19/2023](#)

FWC 64-1988, f. 8-9-88, cert. ef. 8-19-88

FWC 45-1981, f. & ef. 12-21-81

[635-009-0200](#)

Purpose

These rules guide the operation and project selection of the Fish Restoration and Enhancement Program as authorized under ORS 496.280 through 496.291.

Statutory/Other Authority: ORS 512

Statutes/Other Implemented: ORS 512

History:

[DFW 170-2019, amend filed 12/09/2019, effective 01/01/2020](#)

FWC 86-1989, f. 8-31-89, cert. ef. 9-1-89

[635-009-0205](#)

Definitions

The following definitions shall apply:

- (1) "Board" means the Fish Restoration and Enhancement Board appointed by the Commission.
- (2) "Commission" means the Oregon Fish and Wildlife Commission.
- (3) "Department" means the Oregon Department of Fish and Wildlife.
- (4) "Director" means the Director of the Oregon Department of Fish and Wildlife.
- (5) "Enhancement Project" includes:
 - (a) Angler Access;
 - (b) New fishways and screens;
 - (c) Habitat;
 - (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 that provides a benefit to the recreational fisheries or commercial fisheries.
- (8) "Project Sponsor" means any public organization or private, nonprofit, organization applying for, or implementing a project.
- (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" includes:
 - (a) Modification of existing fishways and existing screens;
 - (b) Hatchery restoration;
 - (c) Liberation equipment.
- (12) "STEP Organization" means any group or organization participating in the Salmon Trout Enhancement Program.
- (13) "Internal Review Team" means Department personnel providing assistance to the Board, including review and evaluation of proposed projects.

Statutory/Other Authority: ORS 512

Statutes/Other Implemented: ORS 512

History:

[DFW 170-2019, amend filed 12/09/2019, effective 01/01/2020](#)

FWC 86-1989, f. 8-31-89, cert. ef. 9-1-89

635-009-0210

Fish Restoration and Enhancement Board

(1) The Fish Restoration and Enhancement Board shall:

(a) Review and evaluate proposed projects;

(b) Consult with the internal review team;

(c) Recommend fish restoration and enhancement projects to the Commission consistent with available funds.

(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;

(c) Encourage projects that result in obtaining matching funds from other sources;

(d) Recommend projects benefiting recreational fishing and the commercial fishing industry in the same proportion as revenues, including from other funding sources, as set forth in ORS 496.289(5);

(e) Recommend conditions for project approval, as appropriate; and

(f) 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.

Statutory/Other Authority: ORS 512

Statutes/Other Implemented: ORS 512

History:

[DFW 170-2019, amend filed 12/09/2019, effective 01/01/2020](#)

FWC 86-1989, f. 8-31-89, cert. ef. 9-1-89

635-009-0215

Regional Advisory Councils

Reserving number.

Statutory/Other Authority: ORS 512

Statutes/Other Implemented: ORS 512

History:

[DFW 170-2019, amend filed 12/09/2019, effective 01/01/2020](#)

FWC 86-1989, f. 8-31-89, cert. ef. 9-1-89

635-009-0220

Project Application

- (1) Any public, or private nonprofit organization may propose a project for funding.
- (2) Proposed projects shall be submitted to the Board in writing and on forms provided by the Department.
- (3) Except as allowed by the Board, 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 commercial fisheries.
- (5) Incomplete applications may be returned to the project sponsor for completion.
- (6) Project proposals for STEP 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.

Statutory/Other Authority: ORS 512

Statutes/Other Implemented: ORS 512

History:

[DFW 170-2019, amend filed 12/09/2019, effective 01/01/2020](#)

FWC 86-1989, f. 8-31-89, cert. ef. 9-1-89

635-009-0225

Evaluation of Projects Submitted for Funding

- (1) All projects shall be evaluated by the Board and 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 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 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;
 - (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.

Statutory/Other Authority: ORS 512

Statutes/Other Implemented: ORS 512

History:

[DFW 170-2019, amend filed 12/09/2019, effective 01/01/2020](#)

FWC 86-1989, f. 8-31-89, cert. ef. 9-1-89

635-009-0230

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 approval by the Commission.
- (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.

Statutory/Other Authority: ORS 512

Statutes/Other Implemented: ORS 512

History:

[DFW 170-2019, amend filed 12/09/2019, effective 01/01/2020](#)

Reverted to FWC 86-1989, f. 8-31-89, cert. ef. 9-1-89

DFW 78-2000(Temp), f. & cert. ef. 12-13-00 thru 5-29-01

FWC 86-1989, f. 8-31-89, cert. ef. 9-1-89

635-009-0235

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.

Statutory/Other Authority: ORS 512

Statutes/Other Implemented: ORS 512

History:

[DFW 170-2019, amend filed 12/09/2019, effective 01/01/2020](#)

FWC 86-1989, f. 8-31-89, cert. ef. 9-1-89

[635-009-0240](#)

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) 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.

Statutory/Other Authority: ORS 512

Statutes/Other Implemented: ORS 512

History:

[DFW 170-2019, amend filed 12/09/2019, effective 01/01/2020](#)

FWC 86-1989, f. 8-31-89, cert. ef. 9-1-89

635-009-0400

Cooperative Salmon Hatchery Program Purpose

(1) These Rules guide the operation and project selection of cooperative salmon hatchery projects.

(2) The purpose of these rules is to describe policies, standards, and procedures concerning:

(a) Application for cooperative salmon hatchery projects;

(b) Evaluation of applications for cooperative salmon hatchery projects;

(c) Operation of cooperative salmon hatchery projects, including changes in operation and termination;

(d) Monitoring and evaluation of cooperative salmon hatchery projects;

(e) Disposal of fish and fish products produced by cooperative salmon hatchery projects;

(f) Duties and responsibilities of cooperators in cooperative salmon hatchery projects;

(g) Effects on native fish populations of the project.

Statutory/Other Authority: ORS 496.138 & 506.119

Statutes/Other Implemented: ORS 496.146 & 506.124

History:

FWC 15-1997, f. & cert. ef. 3-10-97

635-009-0405

Cooperative Salmon Hatchery Program Definitions

The following definitions shall apply to cooperative salmon hatchery projects:

(1) Definitions listed in OAR 635-007-0501.

(2) “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.

(3) “Brood stock Development” means a project in which adults will return to a recapture facility to provide a local brood stock egg source for local management programs.

- (4) “Commission” means the Oregon Fish and Wildlife Commission.
- (5) “Cooperative Salmon Hatchery Project” means any fish propagation enhancement project authorized under these rules in which the department and the project sponsor share the costs and/or responsibilities of fish propagation.
- (6) “Cooperator” means party participating in a cooperative salmon hatchery project.
- (7) “Department” means the Oregon Department of Fish and Wildlife.
- (8) “Enhancement” means management activities including rehabilitation and supplementation that increase fish production beyond the existing levels.
- (9) “Fish Propagation” means the spawning, incubating, and/or rearing of fish by a human for sale, release, or other uses.
- (10) “Life cycle” means:
- (a) Coho salmon — three years;
 - (b) Chinook salmon — five years;
 - (c) Chum salmon — four years.
- (11) “Mark” means a distinctive identification such as a removed fin and/or characteristic scale pattern; a coded-wire tag imbedded in the fish in addition to a removed adipose fin; or some other method approved by the department for the purpose of identifying the origin of the fish.
- (12) “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.
- (13) “Project Sponsor” means any public, private nonprofit, or STEP organization proposing or cooperating in a cooperative salmon hatchery project.
- (14) “Public Organization” means any public agency in the State of Oregon, including but not limited to agencies of the state, counties, cities, municipalities, special districts, school districts, port districts, cooperating agencies pursuant to ORS 190.110, and public institutions of higher education.
- (15) “Rehabilitation” means short-term management actions which may include fish stocking, habitat improvement, harvest management, or other work, that restore fish populations depressed by natural or man-made events.
- (16) “Salmon” means coho salmon, chinook salmon, and chum salmon.
- (17) “STEP” means Salmon Trout Enhancement Program.
- (18) “Stocking” means to release hatchery produced fish into state waters.
- (19) “Supplementation” means continued planting of fish to maintain or increase fish abundance in areas where natural production is insufficient to meet management objectives.

Statutory/Other Authority: ORS 496.138 & 506.119

Statutes/Other Implemented: ORS 496.146 & 506.124

History:

FWC 15-1997, f. & cert. ef. 3-10-97

635-009-0410

Cooperative Salmon Hatchery Program Policy and Goals

(1) The department recognizes natural production, public hatchery, STEP, and cooperative hatchery production as necessary and critical elements in the state's salmon production system in order to provide harvest opportunities for Oregon's citizens.

(2) Cooperative salmon hatchery project goals are:

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

(b) Promote local economic development and enjoyment of the state's salmon resource by all the citizens of Oregon;

(c) Provide for harvest opportunities and local production needs;

(d) Protect and restore natural populations of salmon through the use of hatchery technology where appropriate;

(e) Develop new sources of revenue or support for production of hatchery salmon in Oregon.

Statutory/Other Authority: ORS 496.138 & 506.119

Statutes/Other Implemented: ORS 496.146 & 506.124

History:

FWC 15-1997, f. & cert. ef. 3-10-97

635-009-0415

Cooperative Salmon Hatchery Program Project Limitations

(1) Duration.

(a) All cooperative salmon hatchery projects are subject to an annual review. Projects may be approved for the following length of time:

(A) Rehabilitation project:

(i) Coho salmon — three years;

(ii) Chinook salmon — five years;

(iii) Chum salmon — four years.

(B) Supplementation project: Five years.

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

(2) Number of Fish Released.

(a) Total releases of hatchery fish (including cooperative salmon hatchery releases) shall not exceed limits on releases of hatchery fish established in an approved basin plan for the species and basin where the cooperative salmon hatchery fish are released. Priority of release of hatchery fish for compliance with this limit will be determined by OAR 635-007-0817;

(b) In basins without an approved basin plan, cooperative salmon hatchery releases shall not exceed 150,000 fish of each species reared, unless the commission approves pursuant to OAR 635-009-0430.

Statutory/Other Authority: ORS 496.138 & 506.119

Statutes/Other Implemented: ORS 496.146 & 506.124

History:

FWC 15-1997, f. & cert. ef. 3-10-97

635-009-0420

Cooperative Salmon Hatchery Program Project Application

(1) Any public, private nonprofit, or STEP organization may propose a cooperative salmon hatchery project to the department. Projects may include but are not limited to: fish propagation, brood stock development, acclimation, and fish stocking.

(2) Proposed projects shall be submitted in writing on forms provided by the department.

(3) A separate application is required for each proposed project or project site.

(4) The department may assist in the development of project applications.

(5) Project applications shall include:

(a) Project Summary — Including a list of cooperators, name and phone number of contact person for each cooperator, proposed funding source, and project goals;

(b) Project Description — Including enhancement goal (rehabilitation or supplementation), type of project (fish propagation, brood stock development, acclimation, or fish stocking), location and physical layout of the facility, water supply (source, quantity, presence or absence of fish, and manner of access), proposed production (species, stock, number of fish, and release location), and expected duration of project (ongoing or beginning and ending dates);

(c) Project Justification — Including need for project, expected costs and benefits of project, expected local consequences (positive or negative) of project (biological, social, and economic), and local support for project;

(d) A copy of all leases, options, easements, or other instruments by which project sponsor purports to have sufficient property rights pertaining to the proposed site to permit conduct of the proposed operation;

(e) A copy of all federal, state, and local licenses or permits required to permit conduct of the proposed operation;

(f) 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, the proposed operation is in compliance with the local jurisdiction's comprehensive land-use plan and other applicable laws.

(6) Incomplete applications shall be returned to the project sponsor for completion.

(7) The department may require any additional information it deems necessary in order to evaluate the project proposal.

Statutory/Other Authority: ORS 496.138 & 506.119

Statutes/Other Implemented: ORS 496.146 & 506.124

History:

FWC 15-1997, f. & cert. ef. 3-10-97

635-009-0425

Cooperative Salmon Hatchery Program Project Application Review

(1) Completed applications will be reviewed by the department. As part of the review the department will solicit public review and comments on the application. The department will determine the method of soliciting public review and comments, which may include local public notice and/or local public meeting.

(2) In determining whether to accept or reject a proposed project the department shall consider but is not limited to considering:

(a) Compliance with fish management goals and objectives as set forth in OAR 635-007-0501 through 635-007-0830, and species and/or area management plans adopted by the commission;

(b) Compliance with OAR 635-040-0200 through 635-040-0210 for projects involving net pens or cage-culture;

(c) The department's ability to fulfill its obligations under the project (including funding, staffing, equipment, and facilities);

(d) The project sponsor's ability to fulfill its obligations under the project (including funding, staffing, equipment, and facilities);

(e) Availability of eggs or fish from an approved stock for project needs;

(f) Effect of the project on other department management activities;

(g) Analysis of the benefits and costs of the proposed project;

(h) Evidence of local need and support;

(i) Use of sound biological principles, appropriate methods, and hatchery practices to accomplish the project objectives;

(j) The department's sole judgment as to the benefits of the project when considered on its own as well as in the context of other activities in the basin;

(k) Public review and comments.

Statutory/Other Authority: ORS 496.138 & 506.119

Statutes/Other Implemented: ORS 496.146 & 506.124

History:

FWC 15-1997, f. & cert. ef. 3-10-97

635-009-0430

Cooperative Salmon Hatchery Program Project Approval

(1) Following completion of the project application review (OAR 635-009-0425) the department shall advise the project sponsor in writing of the department's acceptance, rejection, or referral to the commission of the proposed cooperative salmon hatchery project. The notification of rejection shall include the reason(s) for rejection.

(2) At the written request of any person, including but not limited to the project sponsor, the commission may review the department's decision to accept or reject a project.

(a) The written request for commission review shall address the factors listed in OAR 635-009-0425 and any other concerns which the requester considers relevant;

(b) If the commission chooses to review the department's decision it shall provide an opportunity for public testimony before making a decision.

(3) Referral shall occur when the department is satisfied that the project meets the criteria of OAR 635-009-0425(2), but the proposed releases exceed the limits established in OAR 635-009-0415(2).

(a) When a project is referred to the commission, the commission shall schedule the matter for consideration at a commission meeting;

(b) The commission's decision on a referred project shall include but not be limited to consideration of the factors enumerated in OAR 635-009-0425(2).

Statutory/Other Authority: ORS 496.138 & 506.119

Statutes/Other Implemented: ORS 496.146 & 506.124

History:

FWC 15-1997, f. & cert. ef. 3-10-97

635-009-0435

Cooperative Salmon Hatchery Program — Memorandum of Understanding

(1) Prior to commencing any cooperative salmon hatchery project a memorandum of understanding shall be signed by all cooperators to the project. The memorandum of understanding shall include:

(a) A Plan of Operation governing fish propagation activities including:

(A) Project goals and duration;

(B) Species and brood stock approved for the project;

(C) Number of fish to be released;

- (D) Location of rearing and release of project fish;
 - (E) Acclimation requirements if rearing and release location are not the same;
 - (F) Release date(s) and size at release;
 - (G) Disease inspection and monitoring requirements;
 - (H) Type of mark and number of fish to be marked;
 - (I) Fish transportation needs;
 - (J) Needs for recapture and egg-take from returning adults;
 - (K) Schedule of routine fish culture practices including: feeding schedule, pond cleaning schedule, schedule for removal and recording of mortalities, length and weight sampling schedule, pre-release sampling schedule.
- (b) Monitoring and evaluation requirements including:
- (A) Fish propagation monitoring including records of: disease sampling; mortality; feeding; monthly length and weight samples; release location, date, size and number (marked and unmarked); collection and disposition of returning fish; number of eggs taken;
 - (B) Post release monitoring including: estimates of survival, contributions to the target fishery for supplementation projects or to natural production for rehabilitation projects, comparison of project benefits versus costs;
 - (C) Specific and measurable conditions for monitoring compliance with fish management goals and objectives as set forth in OAR 635-007-0501 through 635-007-0830, and species and/or area management plans adopted by the commission.
- (c) Use of returning fish and eggs collected from returning fish;
 - (d) Approved methods for disposal of returning fish and fish products;
 - (e) Use of any proceeds generated by the disposal of returning fish and fish products;
 - (f) Duties, responsibilities, and financial obligations of each cooperator. Statement that the inability of any cooperator to maintain their obligation to the project will not require any other cooperator to expand their obligations;
 - (g) Specific conditions and schedules for suspension, reduction in number of fish released, increase in number of fish released, or termination of the project. Plans for orderly termination of the project including funds, personnel, and facilities for capture of returning adults for the full life cycle of all fish released;
 - (h) Any conditions or limitations on the project deemed necessary by the department.
- (2) Representatives of all cooperators shall be involved in development of the memorandum of understanding. The memorandum of understanding shall address allocation of duties, responsibilities, and financial obligations of each cooperator (subject to project specific modification) for the following:

- (a) Operations at the project site;
- (b) Operations at department hatcheries;
- (c) Collection and disposition of returning adults;
- (d) Maintenance, security, and utilities at the project site;
- (e) Transportation of fish and/or eggs from department hatchery to project;
- (f) Fish propagation monitoring;
- (g) Post release and compliance monitoring;
- (h) Disease examinations;
- (i) Eggs and/or fish for the project;
- (j) Non-department permits and licenses are the responsibility of the project sponsor(s);
- (k) Department permits and licenses are the responsibility of the department.

Statutory/Other Authority: ORS 496.138 & 506.119

Statutes/Other Implemented: ORS 496.146 & 506.124

History:

FWC 15-1997, f. & cert. ef. 3-10-97

635-009-0440

Cooperative Salmon Hatchery Program — Disposal of Fish and Fish Products

- (1) All fish produced as a result of a cooperative salmon hatchery 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 cooperative salmon hatchery project must be handled and/or disposed of as directed by the department.
- (3) Fish and eggs collected at a cooperative salmon hatchery project site 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 the cooperative salmon hatchery program;
 - (d) Indian ceremonial needs pursuant to ORS 496.201 to 496.221.
- (4) The department may give written approval for the sale of fish or 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 be used for the following, in accordance with the memorandum of understanding:

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

(B) Equipment, supplies, and improvements to the facilities agreed to by all cooperators.

Statutory/Other Authority: ORS 496.138 & 506.119

Statutes/Other Implemented: ORS 496.146 & 506.124

History:

FWC 15-1997, f. & cert. ef. 3-10-97

635-009-0445

Increases in Releases for Approved Cooperative Salmon Hatchery Program Projects

(1) The department may approve increases in the number of fish released, based on the criteria set forth in OAR 635-009-0425(2), provided that such increases are in compliance with OAR 635-009-0415(2).

(2) Increases shall be incremental. The level shall be established in the memorandum of understanding. Each incremental increase shall be separately monitored and evaluated before proceeding with further increases.

Statutory/Other Authority: ORS 496.138 & 506.119

Statutes/Other Implemented: ORS 496.146 & 506.124

History:

FWC 15-1997, f. & cert. ef. 3-10-97

635-009-0450

Cooperative Salmon Hatchery Program Project Suspension, Reduction, or Termination

(1) At its discretion the department may suspend, terminate, or alter the project because:

(a) Eggs or fish are not available;

(b) Funding, staffing, facilities, or equipment is inadequate;

(c) Strays exceed limits set in Wild Fish Management Policy (OAR 635-007-0525 through 635-007-0529);

(d) Program poses a disease risk to project fish or fish at rearing or release site;

(e) Adverse impacts on ecology of native fish or food organisms;

(f) Project fails to meet project goals;

(g) The project has exceeded the scope of the approved project proposal or memorandum of understanding;

(h) Violation of local, state, or federal laws, licenses, or permits, project conditions or restrictions, or any policies or rules of the department.

(2) The department shall advise the project sponsor in writing of any suspension, alteration, or termination. Notification shall include the reason(s) for the action, duration of the action (if applicable), and any requirements for restarting or returning to the prior production program.

(3) Suspension or termination of a project shall automatically invalidate any department permits issued for such project as of the date of suspension or termination. Such action may result in confiscating (reclaiming) by the department any fish or eggs used in the project.

(4) Suspension or termination of a project is in addition to, and not in lieu of, other penalties provided by law.

Statutory/Other Authority: ORS 496.138 & 506.119

Statutes/Other Implemented: ORS 496.146 & 506.124

History:

FWC 15-1997, f. & cert. ef. 3-10-97

635-009-0455

Cooperative Salmon Hatchery Program Ongoing Projects

(1) OAR 635-009-0420 through 635-009-0435 do not apply to cooperative projects existing as of December 31, 1996, as approved on or before that date.

(2) Any increases in releases for projects excluded under section (1) of this rule shall occur only in compliance with these rules (OAR 635-009-0400 through 635-009-0455).

Statutory/Other Authority: ORS 496.138 & 506.119

Statutes/Other Implemented: ORS 496.146 & 506.124

History:

FWC 15-1997, f. & cert. ef. 3-10-97