

Secretary of State

NOTICE OF PROPOSED RULEMAKING HEARING*

A Statement of Need and Fiscal Impact accompanies this form.

Oregon Department of Fish and Wildlife (ODFW) – Wildlife Division	635
Agency and Division	Administrative Rules Chapter Number

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Rules Coordinator	Address	Telephone

RULE CAPTION

Review, update and amend Fish and Wildlife Integrity Rules

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

September 12, 2008	8:00 AM	Pacific University 2043 College Way, Washburne Hall, Forest Grove, OR 97116	Oregon Fish and Wildlife Commission
Hearing Date	Time	Location	Hearings Officer

Hearing Date	Time	Location	Hearings Officer
<i>Auxiliary aids for persons with disabilities are available upon advance request.</i>			

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT:**AMEND:** OAR Chapter 635, Division 056**REPEAL:****RENUMBER:****AMEND & RENUMBER:**

Stat. Auth. : ORS 496.012, 496.138, 496.146, 497.308, 498.002, 498.022, 498.029, 498.052, 498.222, 498.242

Other Auth.:

Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.308, 498.002, 498.022, 498.029, 498.052, 498.222, 498.242**RULE SUMMARY**

Review, update and amend Fish and Wildlife Integrity Rules

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

September 12, 2008

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)**FILED**

JUL 15 2008

ARCHIVES DIVISION
SECRETARY OF STATE


Michelle Tate

July 15, 2008

Signature

Printed name

Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Department of Fish and Wildlife (ODFW) Wildlife Division

635

Agency and Division

Administrative Rules Chapter Number

In the Matter of Amendment of Rules:)	Statutory Authority,
OAR 635 Division 056)	Statutes Implemented,
Relating to the "Fish and Wildlife)	Statement of Need,
Integrity Rules")	Principal Documents Relied Upon,
)	Statement of Fiscal Impact,

Rule Caption: (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)
Update and amend Fish and Wildlife Integrity Rules

Statutory Authority: ORS 496.012, 496.138, 496.146, 497.308, 498.002, 498.022, 498.029, 498.052, 498.222, and 498.242

Other Authority:

Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.308, 498.002, 498.022, 498.029, 498.052, 498.222, and 498.242

Need for the Rule(s): The purpose of this amendment is to update and expand the lists of species. The wildlife integrity rules establish controls necessary to regulate nonnative wildlife, to protect native wildlife while allowing flexibility for private ownership of potentially harmful nonnative species. This amendment would legalize (under specified conditions) the production of tilapia, Malaysian prawns and Pacific white shrimp.

The scientific nomenclatures for some species have changed, rendering the references that have listed in the OARs obsolete. This amendment will change and update the references to the scientific taxonomic nomenclature to reflect current written publications.

Documents Relied Upon, and where they are available: Recommendations made by the Wildlife Integrity Panel, species research documents, staff analysis, written and oral presentations by experts and the public.

The above documents are available for public inspection in the Department of Fish and Wildlife, Fish Division, Third Floor, 3406 Cherry Avenue NE, Salem, Oregon, between 8:00 a.m. and 4:00 p.m., on normal working days, Monday through Friday.

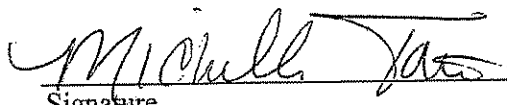
Fiscal and Economic Impact, including Statement of Cost of Compliance: See Attached

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

Administrative Rule Advisory Committee consulted?: No

If not, why?:

The department staff consulted the Wildlife Integrity Panel, The Invasive Species Counsel, and aquarium, pet store and retail fish industries in the development of these amendments. Correspondence from and testimony by interested and affected persons has been considered in developing the administrative rules.



Michelle Tate

July 15, 2008

Signature

Printed name

Date

**Fiscal and Economic Impact Statement for the September 12, 2008
Hearing on the Addition of Tilapia, Malaysian Prawns, and
Pacific White Shrimp to Wildlife Integrity Rules**

Fiscal and economic impact: Rule changes are being proposed to add Tilapia (two species and one hybrid of the two), Malaysian Prawns, and Pacific White Shrimp to existing wildlife integrity rules. This opens up the opportunity for licensed businesses to propagate these species under controlled conditions and to transport them to other licensed facilities with a fish transfer permit from the Oregon Department of Fish and Wildlife (ODFW.) The addition of the proposed species to this list ends any sale to the general public by aquariums or live fish dealers. The proposed rules will affect state agencies, units of local government, and the public, respectively, as discussed below:

A. The only state agencies that might be affected by adoption of these rules are the Oregon Department of Fish and Wildlife (ODFW.) Increased costs in staff time to issue the fish propagation licenses for businesses entering the new market of farmed Tilapia, Prawns, or Pacific White Shrimp in Oregon. New businesses and existing businesses which add these species to operations would require additional fish transport permits if transport between licensees is necessary. There are costs in ODFW staff time to verify and issue permits. Information is not available on how many additional transport or propagation permits will be issued as a result of this rule change, so exact costs cannot be determined at this time.

B. No units of local government are expected to be affected by these rules. No significant changes from the current levels of any local agencies' operations or expenditures are expected as a result of the adoption of these rules.

C. The public could be affected by the adoption of these rules: Businesses which currently sell any of these species live to the public will lose this portion of operations. There is no specific permit or means to count the fish dealers that sell live Tilapia, so information is not available on how many aquariums and live fish dealers will be affected, or the economic losses that will result from this prohibition. It is also not known whether substitute species that remain legal for the aquarium or live fish trade will be as profitable.

Fish propagation businesses that wish to raise these species for sale will gain a new opportunity with the potential for earnings if this rule change is implemented. One business raised these species under temporary rules, but the propagation of Tilapia, Asian prawns, and Pacific White Shrimp is a new industry in Oregon. It is unknown how many businesses will be established as a result of this rule change or how many existing businesses will add these species to their operations. Information has not been collected on the profitability of this new opportunity.

Risks to wild populations of fish will be managed through some provisions of the proposed rules. To minimize the risk of disease, no discharge will be permitted from facilities raising these species to any waters of the state. Furthermore, only certified disease-free animals can be purchased for propagation and adequate veterinary care for the identification and control of diseases will be required. Finally, no live specimens of any of these species may be released into state waters. These precautions are necessary to protect the state's fish and wildlife resources.

Most businesses affected by these rules are believed to be "small business."

The rules are believed to be fully compatible with legislative direction on the goals of wildlife management in Oregon.

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