

Secretary of State

NOTICE OF PROPOSED RULEMAKING HEARING*

A Statement of Need and Fiscal Impact accompanies this form

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ARCHIVES DIVISION
SECRETARY OF STATE

Department of Fish and Wildlife

635

Agency and Division

Administrative Rules Chapter Number

Michelle Tate

(503) 947-6044

Rules Coordinator

Telephone

Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302

Address

RULE CAPTIONAmendment to Administrative Rules for Recreational and Commercial Fisheries in the Columbia River.

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

Hearing Date	Time	Location	Hearings Officer
3-17-17	8:00 a.m.	Benton County Fairgrounds -Guerber Hall 110 SW 53rd Street, Corvallis,	Oregon Fish and Wildlife

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

OAR Chapter 635, Divisions 014, 017, 023, 042 and 500 as determined justified

AMEND:

OAR Chapter 635, Divisions 014, 017, 023, 042 and 500 as determined justified.

REPEAL:

OAR Chapter 635, Divisions 014, 017, 023, 042 and 500 as determined justified.

RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.**AMEND AND RENUMBER:** Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.**Statutory Authority:**

ORS 183.325, 496.138, 496.146, 497.121, 506.036, 506.109, 506.119, 506.129, 513.020

Other Authority:**Statutes Implemented:**

ORS 496.004, 496.009, 496.162, 506.109, 506.129, 507.030, 508.025, 508.040, 508.550, 508.980.

RULE SUMMARY

The amendments will modify recreational and commercial fisheries in the Columbia River and tributaries. ORS 508.980 sets forth the policy of the State that governs rules related to Columbia River fish management and reform. The Commission adopted rules on January 20, 2017, and directed the ODFW Director to negotiate with Washington through the Columbia River Compact process in order to reach concurrence, and to check back with the Commission regarding those discussions. These rulemaking amendments will address modifications, if any, to the existing rules to promote orderly fisheries with Washington. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency. The Agency requests public comment on whether other options should be considered for achieving the rule's goals while reducing any negative economic effect on business.

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.

03-17-2017 Close of Hearing	Michelle Tate	michelle.l.tate@state.or.us
Last Day (m/d/yyyy) and Time for public comment	Rules Coordinator Name	Email Address

*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation.

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
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635
Administrative Rules Chapter Number

Amendment to Administrative Rules for Recreational and Commercial Fisheries in the Columbia River.

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

In the Matter of:

Amendment of OAR Chapter 635, Divisions 014, 017, 023, 042 and 500, related to rules governing recreational and commercial fisheries in the Columbia River.

Statutory Authority:

ORS 183.325, 496.138, 496.146, 497.121, 506.036, 506.109, 506.119, 506.129, 513.020

Other Authority:

Statutes Implemented:

ORS 496.004, 496.009, 496.162, 506.109, 506.129, 507.030, 508.025, 508.040, 508.550, 508.980.

Need for the Rule(s):

Amendments to previously adopted OARs and Oregon Fish and Wildlife Commission policies for managing recreational and commercial fisheries within the Columbia River and nearby waters are needed to address additional information and further analysis to carry out the legislative policy set forth in ORS 508.980.

Documents Relied Upon, and where they are available:

1. Staff report for the Oregon Fish and Wildlife Commission hearing of December 2, 2016
2. Staff report for the Oregon Fish and Wildlife Commission hearing of January 20, 2017
3. Audio record of Columbia River Rules Advisory Committee meeting on February 14, 2017

A copy of the rules and the other documents relied upon for this rulemaking [the above document] are available from the Oregon Department of Fish and Wildlife, Fish Division, Second Floor, 4034 Fairview Industrial Drive SE, Salem, Oregon 97302-1142, between the hours of 8:00 a. m. and 4:00 p.m., on normal working days, Monday through Friday.

Fiscal and Economic Impact:

See Attached FIS

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

See Attached FIS

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:

See Attached FIS

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

See Attached FIS

c. Equipment, supplies, labor and increased administration required for compliance:

See Attached FIS

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

Recreational and commercial businesses impacted by these rules are small businesses, and all were actively involved in the original development of the Columbia River fisheries management and reform rules in June 2013, and again for amendments made in the recent rulemaking that occurred on January 20, 2017. The agency is seeking additional input from the public and small businesses through this noticed rulemaking process.

Administrative Rule Advisory Committee consulted?: Yes

If not, why?:

<u>03-17-2017 Close of Hearing</u>	<u>Michelle Tate</u>	<u>michelle.l.tate@state.or.us</u>
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address

Fiscal and Economic Impact Statement for The March 17, 2017 Hearing In the Matter of Rules Relating to Recreational and Commercial Fisheries in the Columbia River

At their January 20, 2017 meeting, the Oregon Fish and Wildlife Commission (OFWC) adopted Columbia River Fisheries Reform rules termed the “Enhanced Commercial Rebalance Plan”. At that meeting, the Commission also directed the Agency to work with Washington Department of Fish and Wildlife (WDFW) on options for concurrent fisheries and to return to the Commission for approval of options. A letter from Oregon’s Governor to OFWC members also asked for revisiting the Commission decision to better achieve concurrent and orderly fisheries with WA. Primary areas of non-concurrence are spring tangle nets (allowed in Oregon, not in Washington), summer gillnets (allowed in OR not in WA), fall sport/commercial allocation (66:44 OR; 75:25 WA), and the two-year sunset of fall gillnets (WA only). The ODFW Director is currently in discussions with WDFW on possible options to promote orderly fisheries with Washington and achieve concurrence. This Fiscal Impact Statement focuses on the range of possible policy outcomes in the non-concurrent areas and the range of fiscal impacts relative to the rules adopted in the January 20, 2017 Commission action.

Commercial Fishing

Commercial salmon landings can benefit both commercial fishermen and the local communities where the landings are made. To estimate economic impacts and assist in management decisions, the Pacific Fishery Management Council uses the IO-PAC (Input-Output Pacific Fisheries). IO-PAC output is economic impact metrics; the metric used in this fiscal analysis is local personal income impacts. IO-PAC model calculates a multiplier of 1.409 of local personal income impacts for every \$1 in ex-vessel value in commercial salmon landings. This multiplier incorporates economic activity by both fishing vessels (1.09) and processors (0.32). The multiplier tracks how spending from vessel owners, processors, crew or employee salaries, and spending to run the commercial fishing and processors businesses on a daily basis (repairs, ice, etc.) recirculates through the local economy.

Recreational Fishing

Economic impacts are associated with angler trips because the anglers will spend money on gas for travel, boat fuel, food, lodging, etc. during their trips. These trip-related expenditures could be spent near the angler’s residence, the point of access on the Columbia River, and anywhere in between, though a greater proportion of expenditures would likely be concentrated in local Columbia River communities. Expenditures on equipment (e.g., durable goods such as boats, rods, and reels) are not included here because anglers are not likely to increase spending on fishing equipment in response to the addition of small number of angling days. A portion of the angler trip-related expenditures is recirculated through the local economies where it is spent (known as the multiplier effect). Using output from the IO-PAC model, the per angler trip multipliers for local personal income impacts are \$65.35 for private boat trips and \$221.48 for for-hire trips (i.e., charters). However because the proportion of angler trips that is “for-hire” is unknown, the modeling exercises use only the private boat trip multiplier. These impact values are generated from average angler trip expenditures reported by NOAA National Marine Fisheries Service for marine anglers in Oregon (Lovell, Steinback, and Hilger, 2013). Those mean expenditure estimates are \$129.24 and \$360.44 in 2016 dollars for private boat trips and for-hire trips, respectively.

Analysis

Table 1 shows a comparison between the estimated ex-vessel values between the OFWC 1/20/2017 Action and the policy the Washington Fish and Wildlife Commission (WFWC) adopted on 1/14/2017, for each of the first three areas of non-concurrence. All involve the commercial fishing side of the policy package and use values modeled for 2018. Policy options to move the lower Columbia River fisheries toward concurrence would fall between these two policies. The difference in ex-vessel value between the two policies translates into the difference in economic impact using the local personal income impact multiplier (1.409) from IO-PAC. Overall, negative economic impacts could be as high as -\$1.7M if the Oregon rules were modified to be in line with WFWC policy in these three areas. The fourth area of non-concurrence involves a two-year sunset of fall gillnets in the WFWC policy; Oregon rules do not contain this provision. After the WFWC sunset, it would be expected that the ex-vessel value would drop substantially. Since additional seine fishing would probably occur, substituting for some of the gillnet effort, commercial landings would not likely go to near zero in the fall season. However, with the information currently available, the resulting ex-vessel value and local income impacts associated with this shift cannot be pinpointed; though ex-vessel value could be expected to decrease by \$1 M or more.

Table 1.

Areas of Non-concurrence	OFWC 1/20 Action	WFWC policy	Difference, Ex-vessel Value	Difference, Local Income Impacts
Spring Tangle nets	\$103,000	\$0	-\$103,000	-\$145,000
Summer Gillnets	\$88,000	\$0 ^a	-\$88,000	-\$124,000
Fall Sport/Comm Allocation	\$3,107,000	\$2,090,000 ^b	-\$1,017,000	-\$1,433,000
			-\$1,208,000	-\$1,702,000

^a Although modeled at \$0 if alternative gears become available that allows access to this allocation this could range between \$0 and \$88,000.

^b WFWC action modeled through 2018, values will decrease further in years beyond that.

The aggregate numbers for the recreational and commercial sectors are in Table 2. Policy changes associated with these two options have the potential to shift the recreational economic impact by about \$0.21 million, the commercial economic impact by about \$2.24 million, and the overall economic impacts by about \$2 million.

Table 2.

		OFWC 1/20 Action	WFWC policy	Difference
Recreational	Number of Trips	425,630	428,900	3,270 ^a
	Local Income Impact	\$27.86 M	\$28.07 M	\$0.21M ^b
Commercial	Ex-vessel Value	\$5.87 M	\$4.28 M	-\$ 1.59M
	Local Income Impact	\$8.27 M	\$6.03 M	-\$ 2.24M
Total Economic Impacts		\$36.13 M	\$34.09 M	-\$2.04 M

^a Differences in fall angler trips are calculated as a change from non-mark selective days to mark selective fishing days as a result of Labor Day rule. This is less than the difference between open and closed days.

^b Because angler trips are calculated without any for hire numbers this is an minimum estimate and would be expected to increase with for-hire trips added to all scenarios.

Statement of Cost of Compliance

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

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

A. The state agencies that would be affected by adoption of these rules are the Oregon Department of Fish and Wildlife (ODFW) and Oregon State Police (OSP). The January 20 Commission action included new monitoring of fall gillnet fisheries. The policy options under consideration to promote concurrence would not alter the magnitude of this monitoring effort. Overall, no significant changes from the current levels of OSP's operations or expenditures are expected as a result of adoption of these particular rules.

Changes in ex-vessel value of salmon landings would result in changes to the Ad Valorem (AV) (3.15% of salmon landings value) revenue collected by ODFW from the Columbia River commercial salmon fishery. In the extreme case, if ex-vessel value of salmon landings to Oregon were to drop by \$1.59M, (the difference between the OFWC and WFWC policies in Table 2), then AV revenues to the Agency could decrease by as much as \$50,000.

Prior to the two-year sunset provision in WFWC's policy, it is unlikely that significant changes in the number of gillnet permit renewals, commercial fishing licenses purchased, and fishing boat licenses purchased would result from the proposed rules. Therefore, revenues to the Agency associated with those sales in this time period is unlikely to change significantly. If the sunset were to occur it is likely that substantial changes in the number of gillnet permit renewals, commercial fishing licenses purchased, and fishing boat licenses purchased would occur. It is not currently quantifiable because existing data and models do not allow a precise quantification of the impacts.

B. Units of local government could be affected by these rules. Changes in the number of commercial and recreational trips could result from the proposed rules and could mean changes in parking fee and moorage fee revenues received by the Port Authorities and other local governments. There may be additional overnight recreational fishing trips that would mean more nights in local accommodations along the Columbia River. Hotel tax revenues may increase for locations such as the City of Astoria. Those changes cannot be estimated given the limited available data, though no significant changes from the current levels of any local agencies' operations or expenditures would be expected to result from the adoption of these rules.

C. The public could be affected by the adoption of these rules. Recreational anglers, commercial fishermen, wholesale dealers, fish processors, and other businesses may be impacted economically by the proposed rules. Between the two policies (Table 2), there is a difference of about 3,000 recreational angling trips on a base of about 425,000 trips, estimated as the difference between mark selective and non-mark selective fishing days, and so as currently modeled any changes in policy would not be expect to change the number of trips outside this range. On the commercial side, there could be a maximum adverse impact of \$2.24 million in local personal economic impacts (Table 2). It would impact commercial fishermen, wholesale dealers, fish processors, and other local businesses that provide goods and services to them. The

exact distribution of those impacts across the various small businesses cannot be estimated with existing data and models.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

The types of businesses and industries with small businesses subject to the rule would include Columbia River non-tribal gillnet fishermen, fish dealers who receive Columbia River commercial non-tribal salmon landings, recreational fishing guides, food and beverage stores, gasoline stations, sporting good stores, general merchandise stores, accommodation businesses, food services and drinking places, and marinas.

Combining Oregon Employment Department 2016 data for businesses in Clatsop and Multnomah Counties (the local area used in the IO-PAC economic analysis is composed of those two counties), there were 567 food and beverage stores, 151 gasoline stations, 83 general merchandise stores, 257 accommodation businesses, 3,018 food services and drinking places. Sporting good stores are a subset of the category “Sporting goods, hobby, book and music stores”, of which there were 261 in 2016. Most of those businesses would be considered “small businesses”. Given the size of the Northwestern Oregon economy and the high number of small businesses, it cannot be determined how many would be impacted and to what extent.

Regarding estimates of the number of small businesses affected or potentially affected by the rule, there were 285 gillnet permits issued in 2016 (228 resident; 57 nonresident) and 17 dealers who received Columbia River commercial non-tribal salmon landings in 2016 (ODFW data).

The Northwest Guides and Anglers Association estimates that there were about 125-130 guides active in the lower Columbia River recreational fisheries in 2016. According to the Oregon State Marine Board, there were 102 licensed recreational fishing guides who had the Lower Columbia River (LCR) Endorsement in 2012, which was the last year those statistics were kept at OSMB. OSMB data indicate that there were 78 private Charter Boats licensed in Oregon in 2016, but the data does not include information on where those charters are active. Ilwaco Charter Association (in Washington State) estimates that there are about 30-35 charters active in the lower Columbia River fisheries in 2016.

Oregon State Marine Board data indicates that there are currently 53 private marinas along the Columbia River in Clatsop, Columbia, and Multnomah counties. In addition, there are 24 private marinas along the Multnomah Channel, 1 on the Skipanon River in Warrenton, and 8 on the Willamette River in Multnomah County. Overall, 86 private marinas are potentially subject to the rule.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No significant changes in these costs are expected for the small businesses subject to the rule.

c. Equipment, supplies, labor and increased administration required for compliance:

No significant changes in these costs are expected for the small businesses subject to the rule.

These rules may have adverse effects on some small businesses and favorable effects on other small businesses depending upon whether that small business is affected by a decrease or an increase in allocation, respectively, eventually adopted in rule. Accordingly, the effect on small businesses by the rules are not common to all businesses, some are advantaged and some are disadvantaged. These rules also include several measures that mitigate the effect of the rules on small business based upon continued public input and evaluation of adverse effects and potential modifications for compliance with the policy set forth in existing statutes governing Columbia River fisheries management and reform. Further, these rules will apply equally and with the same qualitative effect on small and large businesses engaged in fishing.

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 that must regulate small businesses consistent with applicable legislative policy.

References

Lovell, Sabrina, Scott Steinback, and James Hilger. 2013. The Economic Contribution of Marine Angler Expenditures in the United States, 2011. U.S. Dep. Commerce, NOAA Tech. Memo. NMFS-F/SPO-134. 188 p.