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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 635  
DEPARTMENT OF FISH AND WILDLIFE

**FILED**  
08/23/2019 1:36 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Conservation and Recreation Advisory Committee

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/11/2019 5:00 PM

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

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Salem, OR 97302

Filed By:  
Roxann Borisch  
Rules Coordinator

HEARING(S)

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

DATE: 10/11/2019

TIME: 8:00 AM - 5:00 PM

OFFICER: ODFW Commission

ADDRESS: Four Rivers Cultural Center  
676 SW 5th Avenue  
Ontario, OR 97914

NEED FOR THE RULE(S):

These rules are needed to provide a mechanism for creation of the Oregon Conservation and Recreation Advisory Committee called for by the legislature to expend funds from the new Oregon Conservation and Recreation Fund.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

A copy of the rules and the other documents relied upon for this rulemaking are available from the Oregon Department of Fish and Wildlife, Wildlife Division, 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:

The Oregon Conservation and Recreation Advisory Committee and Fund is expected to have an overall positive fiscal and economic impact, as it introduces new sources of revenue to ODFW from the general fund as well as funds from gifts, grants, and other types of donations.

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).*

The state agency that would be affected is ODFW. There would be potential for increased revenues from funds received as gifts, grants, and other donations, which would be matched by general fund up to \$1 million dollars. There also would be additional expenses relating to the Advisory Committee's administrative costs. Committee members would be volunteers, but travel costs and other incidentals would be reimbursed. These expenses are expected to be minimal in scale compared to the fund's revenues. The exact fiscal impact is uncertain at this time as the specifics of the conservation and recreation project expenditures would be determined by the ODWF commission and would also be constrained by the amount of funding received through donations and grants, along with any interest the fund is able to accrue over time.

No units of local government are expected to be directly affected. It is possible that the implementation of Oregon Conservation and Recreation Fund projects, which address critical conservation and recreational needs, would result in positive indirect economic effects from additional economic activities induced by funds spent in local government's jurisdictions. At this time it is not possible to estimate the extent of potential benefits and which local governments would benefit due to the limitations discussed above.

The public could be affected by the adoption of these rules. Increased outdoor recreation opportunities and conservation have been shown to provide a number of benefits to the public. Economic benefits can include increased property values, reduced health costs, increased economic activity, and other positive impacts of biodiversity (for example reduced damage from pests and disease). These benefits have been studied in a vast body of literature (Runyan 2008, Conatanza 2002, USFWS 2011). It is not possible to provide an accurate monetary estimate of the economic impact of the Oregon Conservation and Recreation Fund to the public at this time.

#### References

Dean Runyan Associates, Fishing, Hunting, Wildlife Viewing, and Shellfishing in Oregon, 2008.

Prepared for the Oregon Department of Fish and Wildlife, May 2009.

Conatanza, Robert, Economic Benefits of Conservation. Science Magazine, March 2002.

U.S. Fish and Wildlife Service and U.S. Census Bureau. 2011 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, 2011.

It is not expected that the Oregon Conservation and Recreation Advisory Committee would present any adverse effects to small businesses. Any potential contributions to the fund from small businesses would be voluntary.

Increased investment towards conservation and recreation could potentially result in positive impacts to businesses that provide goods and services to individuals engaging in outdoor recreation activities and/or for habitat rehabilitation projects. These small businesses may include land reclamation and restoration service businesses, outdoor guiding companies (including: hunting, fishing, and tour based guiding), sporting goods stores, general merchandise stores, accommodation businesses, food services and drinking places. Given the statewide reach of this rule, the number of small businesses affected by the rule cannot be estimated.

Expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); No additional costs to small businesses are anticipated.

Cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s): No additional costs to small businesses are anticipated.

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

While small business representatives may provide comment and participate in the rulemaking in the ordinary course, they were not more specifically involved in the rule development because 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.

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

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

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RULES PROPOSED:

635-098-0000, 635-098-0010, 635-098-0020, 635-098-0030, 635-098-0040, 635-098-0050, 635-098-0060

ADOPT: 635-098-0000

RULE SUMMARY: Rule adoptions are proposed in response to the passage of HB 2829 which established the Oregon Conservation and Recreation Fund to protect, maintain and enhance fish and wildlife resources. Specific activities outlined are improving educational outreach, joint parks and recreation programs, improving public engagement in outdoor recreation opportunities, and promoting the health of Oregon's ecosystems. Along with the establishment of the fund, the Oregon Conservation and Recreation Advisory Committee will also be formed to provide recommendations to the Oregon Fish and Wildlife Commission.

CHANGES TO RULE:

635-098-0000

Purpose

The purpose of the Conservation and Recreation Fund appropriated to the State Department of Fish and Wildlife is to carry out activities that serve to protect, maintain or enhance fish and wildlife resources in Oregon.

Statutory/Other Authority: ORS 496.012, 496.138, 496.146, HB 2829 (2019)

Statutes/Other Implemented: ORS 496.012, 496.138, 496.146, HB 2829 (2019)

ADOPT: 635-098-0010

RULE SUMMARY: Rule adoptions are proposed in response to the passage of HB 2829 which established the Oregon Conservation and Recreation Fund to protect, maintain and enhance fish and wildlife resources. Specific activities outlined are improving educational outreach, joint parks and recreation programs, improving public engagement in outdoor recreation opportunities, and promoting the health of Oregon's ecosystems. Along with the establishment of the fund, the Oregon Conservation and Recreation Advisory Committee will also be formed to provide recommendations to the Oregon Fish and Wildlife Commission.

CHANGES TO RULE:

635-098-0010

Fund

The fund shall consist of: ¶

(1) Moneys appropriated to the State Department of Fish and Wildlife for deposit in the fund or otherwise transferred to the fund; and ¶

(2) Gifts, grants, contributions or other donations for use as described in 635-098-0020 (Expenditures) that are received by the department from any public or private source and caused to be deposited and credited to the fund.

Statutory/Other Authority: ORS 496.012, 496.138, 496.146, HB 2829 (2019)

Statutes/Other Implemented: ORS 496.012, 496.138, 496.146, HB 2829 (2019)

ADOPT: 635-098-0020

RULE SUMMARY: Rule adoptions are proposed in response to the passage of HB 2829 which established the Oregon Conservation and Recreation Fund to protect, maintain and enhance fish and wildlife resources. Specific activities outlined are improving educational outreach, joint parks and recreation programs, improving public engagement in outdoor recreation opportunities, and promoting the health of Oregon's ecosystems. Along with the establishment of the fund, the Oregon Conservation and Recreation Advisory Committee will also be formed to provide recommendations to the Oregon Fish and Wildlife Commission.

CHANGES TO RULE:

635-098-0020

Expenditures

The activities for which the department may expend moneys from the Oregon Conservation and Recreation Fund include, but are not limited to:¶

(1) Promoting the health of Oregon's ecosystems and fish and wildlife species by implementing conservation programs and strategies identified in the Oregon Conservation Strategy, as defined in ORS 541.890, including conservation programs and strategies for the nearshore identified in the marine component of the Oregon Conservation Strategy;¶

(2) Improving engagement of the public in hunting and fishing opportunities and in other outdoor recreation opportunities related to and in support of healthy fish, wildlife and habitats;¶

(3) Improving educational outreach and engagement of the public, including diverse and underserved communities, related to and in support of healthy fish, wildlife and habitats;¶

(4) Engaging in, and providing funding for, joint projects of the department and the State Parks and Recreation Department or other state agencies as recommended by the Oregon Conservation and Recreation Advisory Committee; and¶

(5) Other conservation, management, research, habitat improvement, enforcement, outdoor recreation or education activities.

Statutory/Other Authority: ORS 496.012, 496.138, 496.146, HB 2829 (2019)

Statutes/Other Implemented: ORS 496.012, 496.138, 496.146, HB 2829 (2019)

ADOPT: 635-098-0030

RULE SUMMARY: Rule adoptions are proposed in response to the passage of HB 2829 which established the Oregon Conservation and Recreation Fund to protect, maintain and enhance fish and wildlife resources. Specific activities outlined are improving educational outreach, joint parks and recreation programs, improving public engagement in outdoor recreation opportunities, and promoting the health of Oregon's ecosystems. Along with the establishment of the fund, the Oregon Conservation and Recreation Advisory Committee will also be formed to provide recommendations to the Oregon Fish and Wildlife Commission.

CHANGES TO RULE:

635-098-0030

Purpose of Conservation and Recreation Fund Advisory Committee

The purpose of the Oregon Conservation and Recreation Advisory Committee (the "advisory committee") is to advise the Oregon Fish and Wildlife Commission on how to expend and obligate funding from the Oregon Conservation and Recreation Fund to carry out activities that serve to protect, maintain, or enhance fish and wildlife resources in Oregon and prepare a biennial report to submit to the Legislative Assembly.

Statutory/Other Authority: ORS 496.012, 496.138, 496.146, HB 2829 (2019)

Statutes/Other Implemented: ORS 496.012, 496.138, 496.146, HB 2829 (2019)

ADOPT: 635-098-0040

RULE SUMMARY: Rule adoptions are proposed in response to the passage of HB 2829 which established the Oregon Conservation and Recreation Fund to protect, maintain and enhance fish and wildlife resources. Specific activities outlined are improving educational outreach, joint parks and recreation programs, improving public engagement in outdoor recreation opportunities, and promoting the health of Oregon's ecosystems. Along with the establishment of the fund, the Oregon Conservation and Recreation Advisory Committee will also be formed to provide recommendations to the Oregon Fish and Wildlife Commission.

CHANGES TO RULE:

635-098-0040

Membership

(1) Advisory Committee Composition: ¶

(a) The advisory committee shall consist of nine members appointed by the Governor. ¶

(b) Members of the advisory committee shall live in or possess demonstrable biological expertise related to the ecoregions described below, which are documented and described in the Oregon Conservation Strategy: ¶

(A) Nearshore ¶

(B) Coast Range ¶

(C) Willamette Valley ¶

(D) Klamath Mountains ¶

(E) West Cascades ¶

(F) East Cascades ¶

(G) Columbia Plateau ¶

(H) Blue Mountains ¶

(I) Harney Basin ¶

(c) One member of the Oregon Fish and Wildlife Commission may be designated by the Commission as a non-voting participant in the Advisory Committee. ¶

(2) Appointments, Term Limits: ¶

(a) Members shall be appointed to the advisory committee by the Governor. ¶

(b) Terms shall be four years commencing the date of appointment. ¶

(c) Advisory committee members may serve no more than a total of two terms unless the policy is waived by the commission under extenuating circumstances (e.g., lack of qualified professionals to represent a required discipline). ¶

(d) If the member's original appointment fulfilled the unexpired term of another, the member may be considered for reappointment twice in succession thereafter. ¶

(e) Each member shall sign an affidavit acknowledging that he or she has read applicable conflict-of-interest provisions in state and federal rules. ¶

(3) Vacancies: ¶

(a) If any member of the advisory committee is absent from two consecutive regular meetings, the Chair may recommend that the Governor declare the position vacant. ¶

(b) Vacancies shall be filled by appointment by the Governor for any vacant, unexpired term. ¶

(4) Officers: ¶

(a) The officers of the advisory committee shall be a Chair and a Vice Chair. ¶

(b) Officers shall be elected by the advisory committee. ¶

(c) Officers may hold office for a period of two years from the date of appointment, and may be re-elected. ¶

(5) Compensation: Members of the advisory committee may not receive compensation for service as members. However, subject to any applicable law regulating travel and other expenses of state officers a member may be

reimbursed for actual and necessary travel and other expenses incurred in the performance of official duties from moneys available to the department for the purpose of reimbursement of advisory committee members.

Statutory/Other Authority: ORS 496.012, 496.138, 496.146, HB 2829 (2019)

Statutes/Other Implemented: ORS 496.012, 496.138, 496.146, HB 2829 (2019)

ADOPT: 635-098-0050

RULE SUMMARY: Rule adoptions are proposed in response to the passage of HB 2829 which established the Oregon Conservation and Recreation Fund to protect, maintain and enhance fish and wildlife resources. Specific activities outlined are improving educational outreach, joint parks and recreation programs, improving public engagement in outdoor recreation opportunities, and promoting the health of Oregon's ecosystems. Along with the establishment of the fund, the Oregon Conservation and Recreation Advisory Committee will also be formed to provide recommendations to the Oregon Fish and Wildlife Commission.

CHANGES TO RULE:

635-098-0050

Meetings

(1) Time, Location, and Frequency: At times and places fixed by the Chair of the advisory committee, the committee shall meet at a minimum three times per year.

(2) Voting:

(a) The department director, or his/her designee and a member of the commission may participate in discussion of a project nomination, but shall not be voting members of the advisory committee.

(b) Each of the nine voting members of the advisory committee shall be entitled to one vote on all issues presented at meetings at which the member is present.

(c) Five members of the advisory committee constitute a quorum.

(d) Less than a quorum of the advisory committee or a subcommittee may receive testimony.

(e) A recommendation to the department and advisory commission requires an affirmative vote of a majority of committee members. Vote will be by roll call.

(f) On any other matter voted upon by the advisory committee, the act of a majority of the members present at a meeting at which there is a quorum shall be the act of the committee.

(g) In the absence of the chair and vice chair, the members may choose a temporary chair.

(h) Members of the advisory committee should not abstain from voting except on a matter involving potential conflict of interest, in which case the reason for abstention will have been disclosed.

(3) Advisory Committee Recommendation Procedures:

(a) The advisory committee shall establish a process for requesting proposals for Conservation and Recreation Fund projects from the department and other interested parties.

(b) The department and any other interested parties may recommend projects to the advisory committee that follow permissible purposes outlined in [HB 2829 Section 1(2)(a-e)].

(c) The advisory committee shall review all submitted projects and shall recommend expenditures to the commission. The advisory committee will be responsible for determining whether the projects propose activities that serve to protect, maintain, or enhance fish and wildlife resources in Oregon.

(d) Interested parties must submit proposed projects to the advisory committee not less than 60 days prior to a scheduled meeting.

(e) All proposed funding projects that are or are not recommended by the advisory committee shall be presented in summary to the commission.

(f) A project for which recommendation for funding is not supported by the advisory committee may be reconsidered by the committee at a later meeting if the proponent has resolved the objections or deficiencies with a revised proposal. The reason(s) for the advisory committee's vote to not recommend a project shall be explained or reviewed for the proponent at the meeting, or relayed to the proponent in writing after the meeting and be conveyed to the commission upon making recommendations.

Statutory/Other Authority: ORS 496.012, 496.138, 496.146, HB 2829 (2019)

Statutes/Other Implemented: ORS 496.012, 496.138, 496.146, HB 2829 (2019)



ADOPT: 635-098-0060

RULE SUMMARY: Rule adoptions are proposed in response to the passage of HB 2829 which established the Oregon Conservation and Recreation Fund to protect, maintain and enhance fish and wildlife resources. Specific activities outlined are improving educational outreach, joint parks and recreation programs, improving public engagement in outdoor recreation opportunities, and promoting the health of Oregon's ecosystems. Along with the establishment of the fund, the Oregon Conservation and Recreation Advisory Committee will also be formed to provide recommendations to the Oregon Fish and Wildlife Commission.

CHANGES TO RULE:

635-098-0060

Advisory Committee Duties

In accordance with HB 2829 (2019), the Oregon Conservation and Recreation Advisory Committee: ¶

(1) Shall review department policies regarding the use of Oregon Conservation and Recreation Fund moneys. ¶

(2) Shall make recommendations to the commission and the department regarding the use of fund moneys.

Pursuant to HB 2829 (2019), the advisory committee shall identify uses for which the department may expend fund moneys. ¶

(3) Shall work jointly with the department to submit a biennial report to the Legislative Assembly as provided in ORS 293.640 regarding the expenditure of moneys deposited in the Oregon Conservation and Recreation Fund and on the status of various activities funded by the moneys. ¶

(4) May perform such other duties as may be requested by the department and commission.

Statutory/Other Authority: ORS 496.012, 496.138, 496.146, HB 2829 (2019)

Statutes/Other Implemented: ORS 496.012, 496.138, 496.146, HB 2829 (2019)