

OFFICE OF THE SECRETARY OF STATE  
BEV CLARNO  
SECRETARY OF STATE  
  
JEFF MORGAN  
INTERIM DEPUTY SECRETARY OF STATE



## Attachment 2

ARCHIVES DIVISION  
STEPHANIE CLARK  
DIRECTOR  
  
800 SUMMER STREET NE  
SALEM, OR 97310  
503-373-0701

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

CHAPTER 635  
DEPARTMENT OF FISH AND WILDLIFE

**FILED**

12/16/2020 3:37 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Amend Oregon State List of Threatened and Endangered Species to Remove Borax Lake Chub

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 02/12/2021 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.*

CONTACT: Lisa Kingsley  
503-947-6233  
Lisa.M.Kingsley@state.or.us

4034 Fairview Industrial Dr SE  
Salem, OR 97302

Filed By:  
Lisa Kingsley  
Rules Coordinator

#### HEARING(S)

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

DATE: 02/12/2021

TIME: 8:00 AM - 5:00 PM

OFFICER: ODFW Commission

ADDRESS: Oregon Department of Fish  
and Wildlife

4034 Fairview Industrial Dr SE  
Salem, OR 97302

#### SPECIAL INSTRUCTIONS:

Because of the rapidly changing  
situation with COVID-19, all or  
portions of this hearing may be  
conducted electronically. Information  
will be posted on our website at  
[https://www.dfw.state.or.us/agency/c  
ommission/minutes/](https://www.dfw.state.or.us/agency/commission/minutes/)

#### NEED FOR THE RULE(S):

The amendment removes the Borax Lake Chub from the State List of Threatened and Endangered Species based upon its recovery. Current scientific information indicates that threats to the Borax Lake Chub have been reduced to the point where the species no longer meets the definition of endangered or threatened under the state or federal Endangered Species Act. The species will subsequently be added to the State Sensitive Species list.

#### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

A copy of the rules and the other documents relied upon for this rulemaking [the above document(s)] are available from the Oregon Department of Fish and Wildlife, 4034 Fairview Industrial Drive SE, Salem, Oregon 97302-1142.

FISCAL AND ECONOMIC IMPACT:

No major fiscal or economic effects are expected to result from the proposed amendments.

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COST OF COMPLIANCE:

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

(1) The state agency that could be affected by these rules is the Oregon Department of Fish and Wildlife (ODFW). No significant changes from the current levels of the agency's staffing, expenditures, or revenues are expected as a result of these particular rule amendments. The removal of the Borax Lake Chub from the list requires minimal staff time to put together the Oregon Fish and Wildlife Commission exhibit and does not affect the staff effort in managing and monitoring the species.

No units of local government would be affected by the proposed rules; The public is not affected by the proposed rules.

(2) No significant effects on small businesses are expected as a result of these amendments.

(a) None

(b) None

(c) None

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

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 fish and wildlife management in Oregon.

The agency is engaging with the public through this noticed rulemaking process. Public meetings were previously held to present the development of a very similar rule in 2016 in Burns, Lakeview, and Salem (the nearest population centers in Oregon to Borax Lake are Lakeview and Burns), as well as at the April 2017 Commission Meeting. Public correspondence and involvement will also be part of the Commission meeting for February 2021, when this rule will be decided upon.

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AMEND: 635-100-0125

RULE SUMMARY: This amended rule removes the Borax Lake Chub (*Gila boraxobius*) from the State List of Threatened and Endangered Species.

CHANGES TO RULE:

635-100-0125

State List of Threatened and Endangered Species ¶

The state list of threatened and endangered species is as follows: ~~[Table not included. See ED. NOTE.]~~

[ED. NOTE: Tables referenced are available from the agency is provided as an attachment.]

Statutory/Other Authority: ~~ORS 496.004, 496.171, 496.172, 496.182, 496.192, 498.026~~ 496.172

Statutes/Other Implemented: ORS 496.004, 496.171, ~~496.172, 496.182, 496.192, 498.026~~

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

COMMON NAME	SCIENTIFIC NAME	Endangered (E)	Threatened (T)
<b>Fish</b>			
Hutton Spring Tui Chub	<i>Siphateles bicolor</i> ssp		X
<del>Borax Lake Chub</del>	<del><i>Siphateles boraxobius</i></del>		<del>X</del>
Warner Sucker	<i>Catostomus warnerensis</i>		X
Lahontan Cutthroat Trout	<i>Oncorhynchus clarkii henshawi</i>		X
Snake River Spring/Summer Chinook Salmon	<i>Oncorhynchus tshawytscha</i>		X
Snake River Fall Chinook Salmon	<i>Oncorhynchus tshawytscha</i>		X
Lower Columbia River Coho Salmon	<i>Oncorhynchus kisutch</i>	X	
Lost River Sucker	<i>Deltistes luxatus</i>	X	
Shortnose Sucker	<i>Chasmistes brevirostris</i>	X	
<b>Amphibians and Reptiles</b>			
Green Sea Turtle	<i>Chelonia mydas</i>	X	
Leatherback Sea Turtle	<i>Dermochelys coriacea</i>	X	
Loggerhead Sea Turtle	<i>Caretta caretta</i>		X
Olive Ridley Sea Turtle	<i>Lepidochelys olivacea</i>		X
<b>Birds</b>			
Short-tailed Albatross	<i>Phoebastria albatrus</i>	X	
California Brown Pelican	<i>Pelecanus occidentalis californicus</i>	X	
Western Snowy Plover	<i>Charadrius nivosus nivosus</i>		X
California Least Tern	<i>Sternula antillarum browni</i>	X	
Marbled Murrelet	<i>Brachyramphus marmoratus</i>		X
Northern Spotted Owl	<i>Strix occidentalis caurina</i>		X
<b>Mammals</b>			
Gray Whale	<i>Eschrichtius robustus</i>	X	
Sei Whale	<i>Balaenoptera borealis</i>	X	
Sperm Whale	<i>Physeter macrocephalus</i>	X	
Blue Whale	<i>Balaenoptera musculus</i>	X	
Humpback Whale	<i>Megaptera novaeangliae</i>	X	
North Pacific Right Whale	<i>Eubalaena japonica</i>	X	
Fin Whale	<i>Balaenoptera physalus</i>	X	
Kit Fox	<i>Vulpes macrotis</i>		X
Wolverine	<i>Gulo gulo</i>		X
Sea Otter	<i>Enhydra lutris</i>		X
Washington Ground Squirrel	<i>Urocitellus washingtoni</i>	X	