

# FISH PASSAGE ADMINISTRATIVE RULE REVISIONS

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*North Unit Dam & New Fishway – Deschutes River in Bend (pre and post treatment 2017)*

# FISH PASSAGE POLICY

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>100 year history

State policy is to provide passage for native migratory fish (ORS 509.585)

Policy Intent – **Incremental approach** for existing structures that allows owners time to plan



# SCOPE OF PROBLEM

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Road-stream crossings: 10,000's

Dams: 1,000's

Tide gates: 1,000+

Dikes, etc.: ?



# FISH PASSAGE RULE REVISION

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~20 years experience, >2000 authorizations, waivers & exemptions

Tracked implementing issues

Tracked feedback on clarity

Changing climate conditions increase importance of fish passage





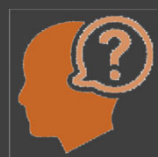
# Desired Outcomes

## Prioritizing



Processes that help staff focus in areas of greatest benefit

## Clarify



When do fish passage rules apply?

## Strengthen



Reduce opportunities to avoid providing passage

## Update



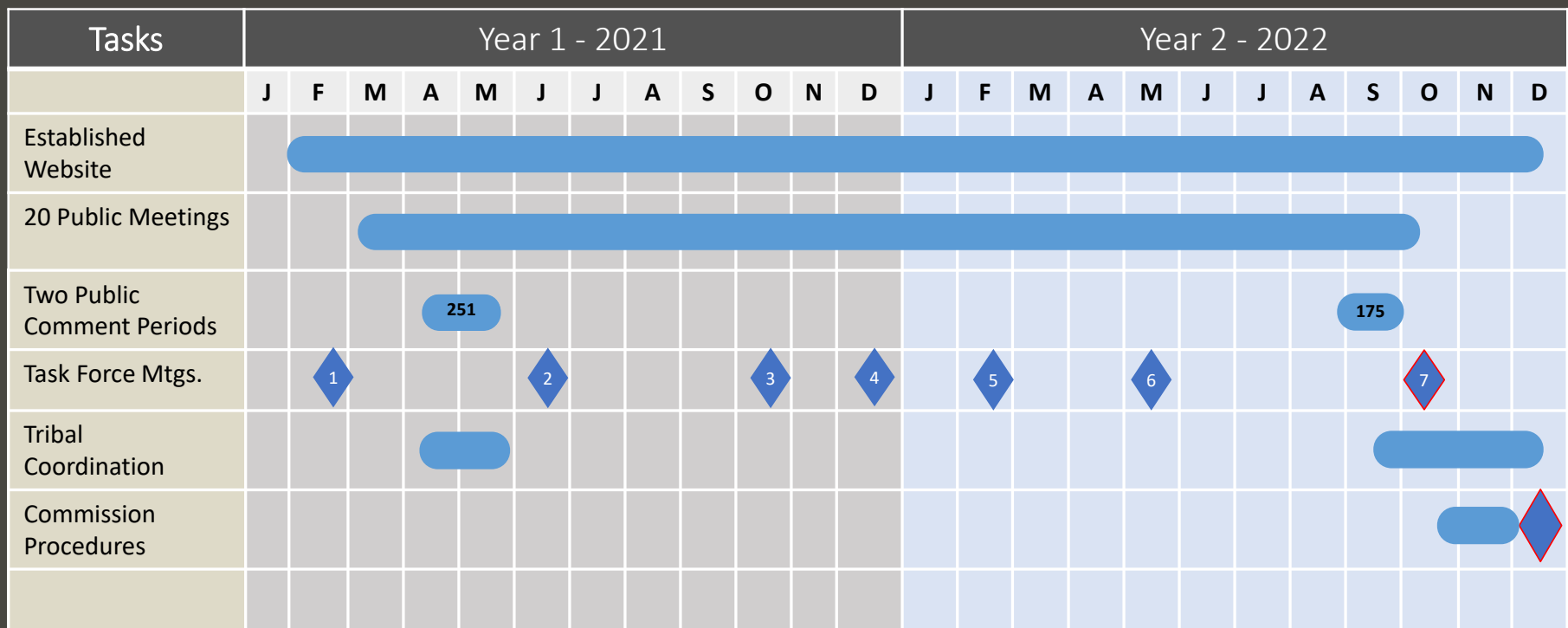
Design criteria that reflect state of the art and changing climate

## Consistency



Closer alignment between federal and state

# PUBLIC INVOLVEMENT & TIMELINE





# KEY REVISIONS

- Rule clarity
- Trigger avoidance
- Design criteria, procedures, specifications
- Incorporate multispecies needs
- Improve program efficiency

# RULE CLARITY

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**Artificial Obstruction**  
clarify that “prevents passage..” includes significant delays



**Abandonment**  
new definition to clarify triggers



**No Appreciable Benefit**  
clarify when exemptions can be reconsidered



**Exemption/Waiver**  
clarify options and flexibility

# TRIGGER AVOIDANCE AT DAMS

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## Strengthen triggers

- The cumulative impact of repairs/upgrades will now be captured as a trigger
- Broadens the activities that constitute “major replacement” to capture all significant repairs/upgrades





# UPDATED DESIGN CRITERIA, STANDARDS AND PROCEDURES

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- Road crossings
  - Increased width requirement
  - Consideration of climate change
- Beaver co-existence
- Alternative designs
  - e.g., Roughened channel & channel spanning weirs



## INCORPORATING MULTI-SPECIES NEEDS

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- Lamprey specific criteria
  - Ensure surfaces and corners allow passage



# PROGRAM EFFICIENCY

- Propose to allow Department to approve all exemptions where there is **no benefit** to fish
- Estimated to save hundreds of hours of staff time

*The change will allow the Department to focus its limited resources into attaining passage in areas where it will **benefit fish**, consistent with direction in the Climate and Ocean Change policy*



# TASK FORCE RECOMMENDATION

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- Approved sub-committee recommendation to adopt draft revisions as presented Oct 7
- Recommended development of guidance document
- Emphasized need for outreach/education on new rules



*Staff recommend  
the commission  
adopt the  
proposed rule  
changes*

## Draft Motion

I move to adopt OAR 635-412-0001 and amend OARs 635-412-0005, 635-412-0010, 635-412-0015, 635-412-0020, 635-412-0025, 635-412-0030, 635-412-0035, and 635-412-0040 as proposed by staff in Attachment 3.