

Department of Fish and Wildlife
Administrative Rules Annual Report
HB 4106 (2016 Session)

Report contains rules filed during calendar year January 01, 2020 and December 31, 2020

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	10
Amended	139
Repealed	1

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	4
Amended	178
Suspended	0

DFW 2-2020

Filed: 01/06/2020 3:30 PM

635-004-0275

Amend

Statement of Need

This rule is needed to adopt in-season actions previously adopted by the federal government for 2019-2020 Pacific Coast commercial groundfish fisheries.

Justification

The National Marine Fisheries Service (NMFS) announced in-season adjustments to Pacific Coast commercial groundfish management measures as noticed by means of the NMFS Final Rule published in the Federal Register Vol 85, No. 2, dated January 3, 2020 (85 FR 250). There is not adequate time to go through normal rulemaking proceedings prior to the January 2, 2020 effective date of these rule amendments. Failure to adopt this temporary rule would cause serious prejudice to the public interest in that inconsistency between state and federal regulations would exist, which subsequently could result in enforcement issues and confusion within the commercial fishing industry.

DFW 3-2020

Filed: 01/15/2020 3:56 PM

635-016-0090

Amend

Statement of Need

This rule is needed in an effort to reduce the number of harvested South Umpqua bound wild spring Chinook from the Umpqua River (Mainstem) fishery. This population has been deemed "at risk" per the Coastal Multi-Species Conservation and Management Plan and recent population estimates have been low, equaling 29 in 2018 and 64 in 2019 (15-30% of average).

Justification

By closing wild spring Chinook harvest on the Umpqua River (Mainstem) we are managing for the weaker of the two Umpqua Basin stocks of spring Chinook which include South Umpqua and North Umpqua. The Coastal Multi-Species Conservation and Management Plan outlines the status of the South Umpqua stock as "at risk" with a high probability of extinction in the next 100 years. It is estimated we can increase the escapement of spring Chinook into South Umpqua 10-15% by instituting this regulation.

DFW 10-2020

Filed: 01/30/2020 2:22 PM

635-041-0065

Amend

Statement of Need

These amended rules are needed to implement the 2020 winter season commercial treaty gillnet fisheries on the Columbia River.

Justification

Fisheries are managed to provide opportunity to meet species or stock-specific allocations for each fishery while remaining within ESA guidelines. There is insufficient time to initiate the permanent rulemaking process prior to the scheduled start of the fall fisheries. Failure to adopt this rule would cause serious prejudice to the public interest in that commercial fishers would not be allowed an opportunity to harvest their allocation of this valuable resource.

DFW 11-2020

Filed: 01/30/2020 2:40 PM

635-042-0130

Amend

Statement of Need

These amended rules are needed to implement the 2020 winter season commercial smelt fisheries on the Columbia River.

Justification

Fisheries are managed to provide opportunity to meet species or stock-specific allocations for each fishery while remaining within ESA guidelines. There is insufficient time to initiate the permanent rulemaking process prior to the scheduled start of the fall fisheries. Failure to adopt this rule would cause serious prejudice to the public interest in that commercial fishers would not be allowed an opportunity to harvest their allocation of this valuable resource.

DFW 12-2020

Filed: 02/11/2020 3:20 PM

635-041-0065

Amend

Statement of Need

These amended rule is needed to modify the 2020 winter season commercial treaty gillnet fishery on the Columbia River.

Justification

Fisheries are managed to provide opportunity to meet species or stock-specific allocations for each fishery while remaining within ESA guidelines. There is insufficient time to initiate the permanent rulemaking process prior to the scheduled start of the fall fisheries. Failure to adopt this rule would cause serious prejudice to the public interest in that commercial fishers would not be allowed an opportunity to harvest their allocation of this valuable resource.

DFW 14-2020

Filed: 02/13/2020 11:37 AM

635-023-0095

Amend

Statement of Need

This amended rule is needed to prohibit retention of white sturgeon in Bonneville and The Dalles pools of the Columbia

River, and adjacent tributaries. Failure to restrict retention will result in exceeding the harvest guideline for these fisheries.

Justification

There is not adequate time to go through normal rulemaking proceedings to modify this fishery in a timely manner. Fishing seasons must operate within management guidelines that may include Federal Endangered Species Act requirements, sharing agreements between treaty and non-treaty fisherman, and sharing arrangements for non-Indian fisheries. Failure to adopt this rule would cause serious prejudice to the public interest in that recreational fishermen would likely exceed their allocation for this valuable resource.

DFW 15-2020 **Filed: 02/13/2020 4:35 PM**

635-042-0145 Amend

635-042-0160 Amend

635-042-0170 Amend

Statement of Need

These amended rules are needed to implement the 2020 winter, spring and summer commercial salmon fisheries, beginning February 17 for Youngs Bay, Blind Slough/Knappa Slough and Tongue Point/South Channel Select Areas.

Justification

Fisheries are managed to provide opportunity to meet species or stock-specific allocations for each fishery while remaining within ESA guidelines. There is insufficient time to initiate the permanent rulemaking process prior to the scheduled start of the winter fisheries. Failure to adopt this rule would cause serious prejudice to the public interest in that commercial fishers would not be allowed an opportunity to harvest their allocation of this valuable resource.

DFW 16-2020 **Filed: 02/18/2020 11:16 AM**

635-018-0090 Amend

Statement of Need

This amended rule is needed to allow sport harvest opportunities for returning hatchery spring Chinook salmon in the Hood River beginning April 15, 2020.

Justification

There is an opportunity to allow sport harvest of returning hatchery spring Chinook salmon to the Hood river. There is not adequate time to go through the normal rulemaking proceedings to open these fisheries by their scheduled start dates. Failure to adopt this rule would cause serious prejudice to the public interest in that it would prevent anglers the opportunity to harvest this valuable resource.

DFW 17-2020 **Filed: 02/19/2020 2:50 PM**

635-041-0065 Amend

Statement of Need

These amended rule is needed to modify the 2020 winter season commercial treaty gillnet fishery on the Columbia River.

Justification

Fisheries are managed to provide opportunity to meet species or stock-specific allocations for each fishery while

remaining within ESA guidelines. There is insufficient time to initiate the permanent rulemaking process prior to the scheduled start of the fall fisheries. Failure to adopt this rule would cause serious prejudice to the public interest in that commercial fishers would not be allowed an opportunity to harvest their allocation of this valuable resource.

DFW 18-2020 **Filed: 02/20/2020 3:21 PM**

635-023-0125 Amend

635-500-6715 Amend

Statement of Need

The rule modifications are needed to 1) implement spring recreational fishery changes and 2) align the sharing of upriver spring Chinook impacts for Columbia River non-treaty fisheries in 2020 as agreed to by the Directors of the Oregon and Washington departments of Fish and Wildlife under authorities delegated to them by their respective Commissions.

Justification

This amended rule establishes regulations for Columbia River recreational spring Chinook and steelhead seasons with descriptions of areas, dates, and bag limits for harvest of adipose fin-clipped Chinook salmon and adipose fin-clipped steelhead. Fisheries for spring Chinook in the Columbia River Basin must operate within allowable take limits for ESA-listed stocks which are sub-allocated between recreational and commercial fisheries. To facilitate coordinated management in these primarily concurrent waters, the states of Oregon and Washington need to operate under the same sub-allocations. The revised rule language captures the intent of the two states for management of 2020 upriver spring Chinook impact sharing.

DFW 19-2020 **Filed: 02/26/2020 2:04 PM**

635-041-0065 Amend

Statement of Need

This amended rule is needed to modify the 2020 winter season commercial treaty gillnet fishery on the Columbia River.

Justification

Fisheries are managed to provide opportunity to meet species or stock-specific allocations for each fishery while remaining within ESA guidelines. There is insufficient time to initiate the permanent rulemaking process prior to the scheduled start of the fall fisheries. Failure to adopt this rule would cause serious prejudice to the public interest in that commercial fishers would not be allowed an opportunity to harvest their allocation of this valuable resource.

DFW 20-2020 **Filed: 02/28/2020 3:35 PM**

635-005-0355 Amend

Statement of Need

Rule modifications are needed to close the Tillamook Bay commercial cockle dive fishery, as required under OAR 635-005-0355 section (1), due to attainment of the 185,000 pound annual harvest quota.

Justification

There is not adequate time to go through normal rulemaking proceedings to close this fishery. Failure to adopt this rule would cause serious prejudice to the public interest in that commercial cockle harvesters would be allowed to exceed their annual quota for cockles in the Tillamook Bay fishery.

DFW 21-2020

Filed: 03/04/2020 3:44 PM

635-041-0065

Amend

Statement of Need

This amended rule is needed to modify the 2020 winter season commercial treaty gillnet fishery on the Columbia River.

Justification

Fisheries are managed to provide opportunity to meet species or stock-specific allocations for each fishery while remaining within ESA guidelines. There is insufficient time to initiate the permanent rulemaking process prior to the scheduled start of the fall fisheries. Failure to adopt this rule would cause serious prejudice to the public interest in that commercial fishers may exceed their allowed allocation of this valuable resource.

DFW 22-2020

Filed: 03/05/2020 9:26 AM

635-042-0145

Amend

Statement of Need

These amended rules expand the winter fishing periods previously adopted for March 9-13 in the Young's Bay and Tongue Point Select Areas.

Justification

Fisheries are managed to provide opportunity to meet species or stock-specific allocations for each fishery while remaining within ESA guidelines. There is insufficient time to initiate the permanent rulemaking process prior to the scheduled start of the winter fisheries. Failure to adopt this rule would cause serious prejudice to the public interest in that commercial fishers would have restricted opportunity to harvest their allocation of this valuable resource.

DFW 23-2020

Filed: 03/05/2020 9:27 AM

635-042-0170

Amend

Statement of Need

These amended rules expand the winter fishing periods previously adopted for March 9-13 in the Young's Bay and Tongue Point Select Areas.

Justification

Fisheries are managed to provide opportunity to meet species or stock-specific allocations for each fishery while remaining within ESA guidelines. There is insufficient time to initiate the permanent rulemaking process prior to the scheduled start of the winter fisheries. Failure to adopt this rule would cause serious prejudice to the public interest in that commercial fishers would have restricted opportunity to harvest their allocation of this valuable resource.

DFW 24-2020

Filed: 03/05/2020 9:28 AM

635-041-0064

Amend

Statement of Need

These amended rules are needed to modify the Treaty Indian winter season commercial platform fishery.

Justification

Fisheries are managed to provide opportunity to meet species or stock-specific allocations for each fishery while remaining within ESA guidelines. There is insufficient time to initiate the permanent rulemaking process prior to the scheduled start of the fall fisheries. Failure to adopt this rule would cause serious prejudice to the public interest in that commercial fishers may exceed their allocation of this valuable resource.

DFW 26-2020 **Filed: 03/09/2020 4:25 PM**
635-023-0095 Amend

Statement of Need

This amended rule is needed to prohibit retention of white sturgeon in the John Day Pool of the Columbia River, and adjacent tributaries. Failure to restrict retention will result in harvest further exceeding the guideline for this fishery.

Justification

There is not adequate time to go through normal rulemaking proceedings to modify this fishery in a timely manner. Fishing seasons must operate within management guidelines that may include Federal Endangered Species Act requirements, sharing agreements between treaty and non-treaty fisherman, and sharing arrangements for non-Indian fisheries. Failure to adopt this rule would cause serious prejudice to the public interest in that recreational fishermen would further exceed their allocation for this valuable resource.

DFW 29-2020 **Filed: 03/20/2020 1:04 PM**
635-008-0050 Amend

Statement of Need

In response to the COVID-19 Emergency, Temporary Rule is needed to comply with CDC guidelines for social distancing and Governor Kate Brown’s Emergency Declaration and directives designed to reduce the spread of COVID-19 by reducing social contact including social gatherings of more than 10 individuals which commonly occur when camping.

Justification

A Temporary Rule is needed to modify OAR 635-008-0050 to prohibit camping at all Department owned, managed, or controlled areas. The Temporary Rule reduces the opportunity for social gatherings and person to person contact for the benefit of the public and Department staff conducting activities such as cleaning and stocking supplies necessary for public use of Department owned, managed, or controlled areas. The Temporary Rule reduces the potential for spread of COVID-19.

DFW 30-2020 **Filed: 03/20/2020 5:38 PM**
635-043-0175 Amend
635-066-0010 Amend
635-067-0004 Amend

Statement of Need

In response to the COVID-19 Emergency, Temporary Rules are needed to comply with CDC guidelines for social distancing and Governor Kate Brown's Emergency Declaration and directives designed to reduce the spread of COVID-19 by reducing social contact. Effective on 3/23/2020 at 7:00 a.m.

Justification

Temporary rules are needed to modify:

OAR 635-043-0175 to remove the requirement for individuals who salvage antlerless deer or antlerless elk to deliver the head to the Department; and

OAR 635-066-0010 to remove the requirement for individuals who take a bear to deliver the skull to the Department; and

OAR 635-067-0004 to remove the requirement for individuals who take a cougar to deliver the hide with skull and proof of sex attached, and the reproductive tract to the Department.

These Temporary Rules eliminate the opportunity for person to person contact to deliver parts and information to the Department which reduces the potential for spread of COVID-19.

DFW 31-2020

Filed: 03/20/2020 6:06 PM

635-008-0050

Amend

Statement of Need

In response to the COVID-19 Emergency, Temporary Rule is needed to comply with CDC guidelines for social distancing and Governor Kate Brown's Emergency Declaration and directives designed to reduce the spread of COVID-19 by reducing social contact including social gatherings of more than 10 individuals which commonly occur when camping.

Justification

A Temporary Rule is needed to modify OAR 635-008-0050 to prohibit camping at all Department owned, managed, or controlled areas. The Temporary Rule reduces the opportunity for social gatherings and person to person contact for the benefit of the public and Department staff conducting activities such as cleaning and stocking supplies necessary for public use of Department owned, managed, or controlled areas. The Temporary Rule reduces the potential for spread of COVID-19.

DFW 32-2020

Filed: 03/24/2020 3:11 PM

635-075-0029

Amend

635-075-0035

Amend

Statement of Need

In response to the COVID-19 Emergency, Temporary Rule is needed to minimize impacts to O/G small businesses who were allocated tags but have faced uncertainty from clients.

Justification

A Temporary Rule is needed to modify OAR 635, Division 075 to allow more time for Outfitter and Guide (O/G) businesses the opportunity to find non-resident clients. Many sportsmen shows in Oregon and other states were cancelled and non-resident hunters have been cancelling booked hunts or are unwilling to commit because of unpredictable issues regarding travel and other restrictions from the current COVID-19 pandemic. The O/G companies often have significant investments in land leases, federal permits, equipment, and employees for the upcoming fall seasons that will be irretrievable without an amendment to current deadlines for hunting tags received during initial draw. The Temporary Rule reduces the financial burden of pre-paying for retained tags that were initially allocated at the end of December. The Temporary Rule reduces the potential impact on the registered O/G companies along with related small businesses.

DFW 33-2020

Filed: 03/26/2020 3:08 PM

635-023-0125

Amend

Statement of Need

The rule modifications are needed to temporarily close recreational salmon and steelhead fisheries in the mainstem Columbia River (from Warrior Rock upstream to the Oregon/Washington border above McNary Dam) to maintain concurrency with WDFW regulations and limit the spread of coronavirus/COVID-19.

Justification

Due to recent executive orders adopted by Governors Inslee and Brown directing the public to stay home and stay healthy, WDFW and ODFW are temporarily closing recreational salmonid fisheries in the mainstem Columbia River to aid in limiting the spread of coronavirus/COVID-19. To facilitate coordinated management in these primarily concurrent waters, the states of Oregon and Washington need to operate under the same regulations.

DFW 34-2020

Filed: 03/26/2020 4:18 PM

635-060-0009

Amend

Statement of Need

In response to the COVID-19 emergency, a Temporary Rule is needed to extend the end date for the ability to purchase Spring Bear Controlled Hunt Tags associated with the February 2020 Spring Bear Controlled Hunt Draw to May 1, 2020.

Justification

A temporary rule is needed to modify 635-060-0009 (1) to extend the tag sales deadline date for 2020 Spring Bear Tags from March 31 to May 1, 2020. Failure to act promptly will result in serious prejudice to the public interest because hunters would be required to decide whether to purchase a tag without the benefit of health and safety related information specific to the time period in which they would hunt, and this could result in unnecessary loss of opportunity. Because of unpredictable issues regarding travel and other restrictions from the current COVID-19 pandemic, hunters need additional time to determine if they will have an opportunity to participate in 2020 spring black bear hunts which end May 31, 2020. The Temporary Rule allows hunters to wait before buying tags so they can make decisions based on the latest travel, camping, and other COVID-19 related restrictions.

DFW 35-2020

Filed: 03/27/2020 9:10 AM

635-019-0090

Amend

Statement of Need

This amended rule is needed due to lower than expected returns of steelhead and spring Chinook salmon returning to the Umatilla River. Implementation of this rule will protect returning adults for hatchery broodstock.

Justification

There is insufficient time to initiate the permanent rulemaking process. Failure to adopt this temporary rule would cause serious prejudice to the public interest in that it could result in not meeting hatchery broodstock collection needs, and allowing for natural reproduction of spring Chinook salmon.

DFW 36-2020

Filed: 03/30/2020 2:11 PM

635-435-0005

Amend

635-435-0010

Amend

635-435-0015

Amend

635-435-0025

Amend

Statement of Need

The increase in nuisance and damage complaints specific to wild turkeys, particularly in incorporated city limits, has created a need for additional capacity to address these complaints. This rule change allows WCOs to address wild turkey complaints.

Justification

Failure to act promptly by amending these rules will result in serious prejudice to the public interest. Wild turkey populations are robust rangewide and increasing in areas where they have exceeded human tolerance. Damage and nuisance complaints specific to wild turkeys has increased to approximately 100 per year statewide, primarily in proximity to residences. Complaints range from destruction of gardens and landscaping, to fecal accumulation on personal property, and safety concerns from aggressive birds. WCOs provide a commercial alternative for landowners to deal with nuisance wildlife, particularly where the Department lacks the capacity to respond. WCOs will be required to follow game animal carcass disposition rules. Any translocation of live wild turkeys will be coordinated with local Department biologists and adhere to the Oregon Wild Turkey Management Plan.

DFW 37-2020

Filed: 04/02/2020 4:24 PM

635-042-0145

Amend

Statement of Need

These amended rules are needed to add/modify several fishing periods for the 2020 winter-spring commercial salmon fisheries in Oregon Select Areas, beginning April 3, 2020. Modifications include 1) adding several fishing periods in Youngs Bay, and 2) correcting open fishing hours for South Channel and Knappa Slough previously adopted on February 11, 2020

Justification

Fisheries are managed to provide opportunity to meet species or stock-specific allocations for each fishery while remaining within ESA guidelines. There is insufficient time to initiate the permanent rulemaking process prior to the scheduled start of the winter fisheries. Failure to adopt this rule would cause serious prejudice to the public interest in that commercial fishers would not be allowed an opportunity to harvest their allocation of this valuable resource.

DFW 38-2020

Filed: 04/02/2020 4:25 PM

635-042-0160

Amend

Statement of Need

These amended rules are needed to add/modify several fishing periods for the 2020 winter-spring commercial salmon fisheries in Oregon Select Areas, beginning April 3, 2020. Modifications include 1) adding several fishing periods in Youngs Bay, and 2) correcting open fishing hours for South Channel and Knappa Slough previously adopted on February 11, 2020

Justification

Fisheries are managed to provide opportunity to meet species or stock-specific allocations for each fishery while remaining within ESA guidelines. There is insufficient time to initiate the permanent rulemaking process prior to the scheduled start of the winter fisheries. Failure to adopt this rule would cause serious prejudice to the public interest in that commercial fishers would not be allowed an opportunity to harvest their allocation of this valuable resource.

DFW 39-2020

Filed: 04/02/2020 4:26 PM

635-042-0170

Amend

Statement of Need

These amended rules are needed to add/modify several fishing periods for the 2020 winter-spring commercial salmon fisheries in Oregon Select Areas, beginning April 3, 2020. Modifications include 1) adding several fishing periods in Youngs Bay, and 2) correcting open fishing hours for South Channel and Knappa Slough previously adopted on February 11, 2020

Justification

Fisheries are managed to provide opportunity to meet species or stock-specific allocations for each fishery while remaining within ESA guidelines. There is insufficient time to initiate the permanent rulemaking process prior to the scheduled start of the winter fisheries. Failure to adopt this rule would cause serious prejudice to the public interest in that commercial fishers would not be allowed an opportunity to harvest their allocation of this valuable resource.

DFW 40-2020

Filed: 04/07/2020 1:51 PM

635-017-0090

Amend

Statement of Need

This rule is needed to facilitate enforcement of illegal activity observed in recent years that has compromised the protection of sturgeon. Placing limitations on fishing gear and allowable catch in the Gilbert River is crucial to white sturgeon management and to better control illegal activities.

Justification

There is insufficient time to initiate the permanent rulemaking process prior to the scheduled start of this fishery in the

Gilbert River. Failure to adopt this rule would result in serious prejudice to the fishing public. Rule modifications provide opportunity to the fishers, benefits to conservation, and proper enforcement of the regulations by the Oregon State Police.

DFW 41-2020 **Filed: 04/09/2020 10:30 AM**

635-042-0145 Amend

Statement of Need

These amended rules are needed to add two fishing periods to the 2020 Youngs Bay Select Area commercial fishery, beginning April 13, 2020. In light of the current COVID-19 pandemic, food production (e.g. commercial fisheries) is considered essential by state and federal policies.

Justification

Fisheries are managed to provide opportunity to meet species or stock-specific allocations for each fishery while remaining within ESA guidelines. There is insufficient time to initiate the permanent rulemaking process prior to the scheduled start of the proposed fishery. Failure to adopt this rule would cause serious prejudice to the public interest in that commercial fishers would not be allowed an opportunity to harvest their allocation of this valuable resource.

DFW 42-2020 **Filed: 04/09/2020 5:19 PM**

635-010-0000 Amend

635-011-0100 Amend

635-051-0000 Amend

635-065-0001 Amend

Statement of Need

In further response to travel restrictions associated with the COVID-19 pandemic emergency, temporary rules are needed to prohibit the participation of nonresidents (individuals who do not currently reside in Oregon) in recreational hunting, fishing, and shellfishing in Oregon.

Justification

Temporary rules are needed to modify OARs 635-010-0000, 635-011-0100, 635-051-0000 and 635-065-0001 to exclude nonresidents from participating in hunting, fishing, and shellfishing in Oregon. These rules will assist with compliance of Oregon Governor Kate Brown's Executive Order 20-12, and similar orders in other states, which direct people to stay home to save lives and to minimize travel including for outdoor recreation. These temporary rules remove recreational hunting, fishing, and shellfishing as incentives for nonresidents to travel to Oregon with the intent of reducing the spread of COVID-19.

Failure to amend the rules immediately would result in serious prejudice to citizens of Oregon due to concerns about travel to Oregon to participate in these outdoor activities. Such travel could spread the virus and put more of a burden on Oregon's rural communities.

DFW 43-2020 **Filed: 04/13/2020 2:44 PM**

635-067-0000	Amend
635-069-0000	Amend
635-071-0000	Amend
635-073-0000	Amend

Statement of Need

Oregon Administrative Rules establishing tag numbers for 2020 controlled deer, elk, and bighorn sheep hunts were adopted September, 2019. Tag numbers adopted at that time did not anticipate the level of disease related mortality or the low wildlife population levels observed in some areas during fall-winter of 2019-2020. These rule amendments are needed to reduce the maximum number of tags that may be issued for the purpose of hunting deer elk, and bighorn sheep during specified 2020 controlled hunts.

Justification

Temporary Rules are needed to reduce tag numbers for controlled hunts in areas where deer elk, and bighorn sheep are below desired and anticipated levels to keep from exceeding appropriate harvest levels in the hunt areas.

Tests conducted by ODFW veterinarians during fall, 2019 confirmed that adenovirus hemorrhagic disease (AHD) was responsible for the deaths of deer in central Oregon. Epizootic Hemorrhagic Disease (EHD) is another disease affecting deer in northeast Oregon last fall; the outbreak was confirmed in at least Grant, Umatilla, and Baker Counties. In the Lookout Mtn. Unit east of Baker City, Oregon, a respiratory disease, was found in bighorn sheep in mid-February 2020. The primary cause of the disease outbreak is a bacterium pathogen which causes severe pneumonia in bighorn sheep.

Reducing controlled hunt tag numbers for the specific hunts identified in these Temporary Rules will provide the intended level of harvest given the conservation concern for each of the species. Failure to amend the rules before the controlled hunt drawing would result in serious prejudice to hunters participating in these deer elk, and once-in-a-lifetime bighorn sheep hunts because fewer animal will be available for harvest than anticipated when tag numbers were initially adopted in September, 2019 .

DFW 44-2020	Filed: 04/20/2020 1:43 PM
635-023-0134	Amend

Statement of Need

This rule is needed to authorize a spring Chinook sport fishery in a portion of the Snake River, from the Dug Bar boat ramp upstream to the deadline below Hell's Canyon Dam.

Justification

This rule is necessary in order to be concurrent with Idaho's fishery on the Snake River by allowing sport anglers an opportunity to harvest hatchery spring Chinook salmon. There is insufficient time to initiate the permanent rulemaking process. Failure to adopt this temporary rule would cause serious prejudice to the public interest in that it would prevent the harvest of surplus hatchery spring Chinook, a valuable resource.

This fishery allows for adequate social distancing as directed by Governor Brown's executive order 20-12. Limited

angler effort is expected due to the remoteness of the fishery, diminished returns, and subsequent low daily bag limits. Anglers also have the ability to maintain space between anglers.

DFW 45-2020 **Filed: 04/23/2020 8:05 AM**

635-014-0090 Amend

Statement of Need

This rule is needed to reduce the allowable seasonal bag limit in the Siletz River early returning Chinook Salmon to one adult wild Chinook Salmon for the fishing period to allow for reduced harvest impacts. This action is consistent with management provisions specified in ODFW's Coastal Multi-Species Conservation and Management Plan (CMP).

Justification

Under the provisions of ODFW's Coastal Multi-Species Conservation and Management Plan (CMP), which is reflected by OAR 635-500-6775, reductions in estimates of returning fall-run Chinook Salmon are tied to reductions in daily and seasonal bag limits for wild adult Chinook Salmon. These changes are intended to reduce harvest impacts under conditions of lower abundance. The CMP specifies a reduction to the wild adult Chinook Salmon bag limit in the Siletz River Basin from the permanent rule of 1 per day and 2 for the period from April 1 to July 31, 2020, to 1 per day and 1 for the period from May 1 to July 31, 2020. This emergency rule will reduce the bag limit for wild adult Chinook Salmon to one adult wild Chinook Salmon for the period from May 1 to July 31, 2020, consistent with the reductions specified in the CMP.

DFW 46-2020 **Filed: 04/24/2020 3:57 PM**

635-039-0085 Amend

Statement of Need

These rules are needed to modify Oregon State regulations for recreational halibut fisheries in order to be concurrent with federally adopted regulations. These regulations are needed to establish 2020 halibut season start dates.

Justification

This emergency rule establishes start dates for recreational halibut fishing in 2020 in the Central Coast Subarea's nearshore season and the Southern Oregon Subarea, and prohibits angling for halibut in the Columbia River Subarea. The intent of that prohibition is to postpone the opening of the all-depth and nearshore seasons in the Columbia River, which is shared and collaboratively managed by Oregon and Washington, pending further discussions with Washington managers.

DFW 47-2020 **Filed: 04/27/2020 1:12 PM**

635-003-0003 Amend

Statement of Need

The proposed rules are necessary to implement federal regulations for commercial and recreational salmon fishing in state waters of the Pacific Ocean. Federal regulations were adopted by the Pacific Fishery Management Council (PFMC). Rules are needed to provide orderly salmon fisheries and to enhance the ability of the State to enforce regulations necessary for the protection of salmon stocks listed under the federal Endangered Species Act (ESA) and for the conservation of salmon stocks of concern in conjunction with other regional, state and federal fishery management

entities

Justification

These rules are normally adopted through permanent rulemaking processes by the OFWC at their annual April hearing. Due to the effects of the COVID 19 pandemic and resulting cancellation of the rulemaking portions of the April 2020 OFWC hearing, adoption of these rules under normal permanent rulemaking processes is not possible before the onset of the Federally-adopted salmon seasons. Failure to implement these emergency rules would cause serious prejudice to the public interest in that Federally-adopted salmon seasons would not occur.

DFW 48-2020

Filed: 04/27/2020 1:18 PM

635-013-0003

Amend

Statement of Need

The proposed rules are necessary to implement federal regulations for commercial and recreational salmon fishing in state waters of the Pacific Ocean. Federal regulations were adopted by the Pacific Fishery Management Council (PFMC). Rules are needed to provide orderly salmon fisheries and to enhance the ability of the State to enforce regulations necessary for the protection of salmon stocks listed under the federal Endangered Species Act (ESA) and for the conservation of salmon stocks of concern in conjunction with other regional, state and federal fishery management entities

Justification

These rules are normally adopted through permanent rulemaking processes by the OFWC at their annual April hearing. Due to the effects of the COVID 19 pandemic and resulting cancellation of the rulemaking portions of the April 2020 OFWC hearing, adoption of these rules under normal permanent rulemaking processes is not possible before the onset of the Federally-adopted salmon seasons. Failure to implement these emergency rules would cause serious prejudice to the public interest in that Federally-adopted salmon seasons would not occur.

DFW 49-2020

Filed: 04/28/2020 4:06 PM

635-010-0027

Amend

Statement of Need

As a result of travel restrictions associated with the COVID-19 pandemic emergency, the participation of nonresidents (individuals who do not currently reside in Oregon) in recreational hunting, fishing, and shellfishing in Oregon was prohibited. Some individuals who purchased nonresident license documents were unable to and continue to be unable to participate, and these rules establish a refund process.

Justification

Temporary rules are needed to modify OAR 635-010-0027 to authorize a refund process for nonresidents who were prohibited from participating in hunting, fishing, and shellfishing in Oregon. The prohibition removed recreational hunting, fishing, and shellfishing as incentives for nonresidents to travel to Oregon with the intent of reducing the spread of COVID-19. Such travel could spread the virus and put more of a burden on Oregon's rural communities.

Failure to amend the rules immediately would result in the state retaining monies it determined equity and good conscious require it to refund, and the retention of which would result in serious prejudice to nonresident license buyers.

DFW 50-2020

Filed: 05/01/2020 9:13 AM

635-019-0090

Amend

Statement of Need

This amended rule is needed due to lower than expected returns of steelhead and spring Chinook salmon returning to the Umatilla River. Implementation of this rule will protect returning adults for hatchery broodstock.

Justification

There is insufficient time to initiate the permanent rulemaking process. Failure to adopt this temporary rule would cause serious prejudice to the public interest in that it could result in not meeting hatchery broodstock collection needs, and allowing for natural reproduction of spring Chinook salmon.

DFW 51-2020

Filed: 05/01/2020 2:44 PM

635-048-0005

Amend

Statement of Need

In response to the COVID-19 emergency, a Temporary Rule is needed to allow people younger than 18 years of age to hunt without completing the in-person field day training.

Justification

A temporary rule is needed to modify 635-048-0005 (2) to suspend the requirement for an individual less than 18 years of age to attend a field day to hunt. Field day training includes and requires close contact of individuals, such as when handing guns from one person to another, when helping people through fences, and other critical components of safe gun handling. Because of social distancing guidelines and the unpredictable issues regarding travel and other restrictions from the current COVID-19 pandemic, field day training cannot be conducted at this time.

The Temporary Rule allows youth hunters to hunt this fall before they attend a field day when in the presence of a supervisory adult who is 21 years of age or older. Failure to adopt the amended rule and provide immediate notification to the public with the controlled hunt application deadline only two weeks away (May 15), and to amend the rule before the fall hunting seasons would result in serious prejudice to youth hunters and their families by adding the uncertainty of when youth will be able to complete field day training to all of the other factors complicating decisions including unpredictable travel, camping, and other COVID-19 related restrictions.

DFW 52-2020

Filed: 05/04/2020 1:06 PM

635-023-0125

Amend

Statement of Need

The rule modifications are needed to 1) re-open the recreational spring Chinook fishery in the mainstem Columbia River, and 2) amend the bag limit for the Columbia River steelhead fishery to allow retention of sockeye.

Justification

This amended rule establishes regulations for Columbia River recreational spring Chinook seasons with descriptions of areas, dates, and bag limits and modifies the bag limits for the permanent steelhead fishery downstream of the I-5 Bridge to include sockeye.

DFW 53-2020	Filed: 05/04/2020 5:04 PM
635-010-0000	Amend
635-011-0100	Amend
635-051-0000	Amend
635-065-0001	Amend

Statement of Need

In further response to travel restrictions and social distancing associated with the COVID-19 pandemic emergency, temporary rules are needed to prohibit the participation of nonresidents (individuals who do not currently reside in Oregon) in recreational shellfishing in Oregon. Hunting and angling by nonresidents will be permitted as social distancing standards are more easily met and to reflect that hunting and angling seasons in Washington state have reopened for participation.

Justification

Temporary rules are needed to modify OARs 635-010-0000, 635-011-0100, 635-051-000 and 635-065-0001 to exclude nonresidents from participating in shellfishing in Oregon and remove the prohibition for nonresident participation in hunting and angling in Oregon. These rules will assist with compliance of Oregon Governor Kate Brown's Executive Order 20-12, and similar orders in other states, which direct people to stay home to save lives and to minimize travel including for outdoor recreation, while allowing for activities that can reasonably be done safely. These temporary rules remove recreational shellfishing as an incentive for nonresidents to travel to Oregon with the intent of reducing the spread of COVID-19. Hunting and angling by nonresidents will be permitted as social distancing standards are more easily met and to reflect that hunting and angling seasons in Washington state have reopened for participation which reduces the incentive to travel to hunt and fish in Oregon.

Failure to amend the rules immediately would result in serious prejudice to citizens of Oregon due to concerns about travel to Oregon to participate in these outdoor activities. Such travel could spread the virus and put more of a burden on Oregon's rural communities. In addition, amendments to allow nonresident participation in hunting and fishing are necessary, because serious prejudice to the public interest would result if those outdoor activities remained closed to nonresidents though concerns about overcrowding and spread COVID-19 have been alleviated by Washington opening opportunity for its residents.

DFW 54-2020 **Filed: 05/07/2020 10:45 AM**

635-004-0585 Amend

635-039-0085 Amend

Statement of Need

These rules are needed to modify Oregon State regulations for commercial and recreational halibut fisheries in order to be concurrent with federally adopted regulations that establish 2020 halibut seasons and quotas. A one-week delay in the recreational spring all-depth season in the Central Coast Subarea is needed to be consistent with local COVID-19 measures in some portions of the subarea while ensuring fair and equitable access to the halibut resource.

Justification

This emergency rule adopts final federal regulations for commercial and recreational halibut fisheries in 2020 by reference. These regulations were developed through the Pacific Fishery Management Council process. This rule also postpones the opening of the recreational spring all-depth halibut fishery in the Central Coast Subarea by one week in response to COVID-19 concerns in some coastal communities.

DFW 55-2020 **Filed: 05/14/2020 8:16 AM**

635-023-0125 Amend

Statement of Need

The rule modifications are needed to add four additional days to the recreational spring Chinook fishery in the mainstem Columbia River.

Justification

This amended rule establishes regulations for Columbia River recreational spring Chinook seasons with descriptions of areas, dates, and bag limits.

DFW 56-2020 **Filed: 05/14/2020 4:08 PM**

635-018-0090 Amend

635-019-0090 Amend

Statement of Need

This amended rule is needed to reduce harvest related mortalities of hatchery and wild steelhead due to the low predicted upriver steelhead return in 2020.

Justification

There is insufficient time to initiate the permanent rulemaking process. Failure to adopt this temporary rule would cause serious prejudice to the public interest since permanent regulations may be too liberal given the low predicted steelhead return in 2020.

DFW 57-2020 **Filed: 05/14/2020 4:14 PM**

635-023-0128 Amend

Statement of Need

Modifications to the mainstem Columbia River recreational summer season for 2020 conform to regulation changes developed through this year's Pacific Fishery Management Council/North of Falcon process. Corrections to the regulations ensure rule consistency with the State of Washington.

Justification

These amended rules are necessary to meet expectations for summer Columbia River fisheries developed through the 2020 Pacific Fishery Management Council/North of Falcon process. Modifications are needed to align regulations for the mainstem Columbia River with the State of Washington. There is insufficient time to initiate the permanent rulemaking process prior to the scheduled start of these fisheries. Failure to adopt these rules would cause serious prejudice to the public interest in that recreational fishermen would not be allowed to harvest their allocations of this valuable resource.

DFW 58-2020 **Filed: 05/14/2020 4:51 PM**

635-023-0129 Adopt

Statement of Need

The rule is needed to provide additional protection for upriver summer steelhead.

Justification

Cold water refuges exist in the lower reaches and at the mouths of specific Columbia River tributaries during the summer and early fall timeframe due to increasing mainstem Columbia water temperatures. These areas may serve as important resting areas for summer steelhead during their extended upstream migration. Upriver summer steelhead abundances have been declining over time, justifying a precautionary approach. Although the benefit cannot be quantified, establishing thermal angling sanctuaries where angling is prohibited during July 15-September 15 is a precautionary approach that may potentially provide additional protection for upriver summer steelhead.

DFW 59-2020 **Filed: 05/14/2020 4:54 PM**

635-023-0130 Amend

Statement of Need

Modifications to the mainstem Columbia River recreational fall season for 2020 conform to regulation changes developed through this year's Pacific Fishery Management Council/North of Falcon process. Corrections to the regulations ensure rule consistency with the State of Washington.

Justification

These amended rules are necessary to meet expectations for fall Columbia River fisheries developed through the 2020 Pacific Fishery Management Council/North of Falcon process. Modifications are needed to align regulations for the mainstem Columbia River with the State of Washington. There is insufficient time to initiate the permanent rulemaking process prior to the scheduled start of these fisheries. Failure to adopt these rules would cause serious prejudice to the public interest in that recreational fishermen would not be allowed to harvest their allocations of this valuable resource.

DFW 60-2020 **Filed: 05/19/2020 8:59 AM**

635-008-0095	Amend
635-008-0130	Amend
635-008-0140	Amend
635-008-0155	Amend
635-045-0000	Amend
635-045-0002	Amend
635-051-0000	Amend
635-052-0000	Amend
635-053-0000	Amend
635-054-0000	Amend
635-060-0000	Amend

Statement of Need

Oregon Administrative Rules establishing the 2020 – 2021 Oregon Game Bird Regulations were scheduled to be adopted by the Oregon Fish and Wildlife Commission April 17, 2020 for the period July 1, 2020 through June 30, 2021. In response to the COVID-19 emergency and related travel and meeting restrictions that meeting did not occur as planned, a Temporary Rule is needed to establish Game Bird Regulations until the Commission has the ability to meet and adopt permanent OARs. Additionally, this Temporary Rule is needed to establish the 2020-2021 Oregon migratory game bird regulations to meet the Federal requirement for states to submit state selected migratory game bird hunting season dates and bag limits to the U.S. Fish and Wildlife Service (USFWS). These seasons and bag limits are subject to USFWS approval and must be published in the Federal Register by September 1 or states cannot lawfully allow hunting seasons for migratory game birds to open. This Temporary Rule is need to meet this Federal deadline before the Commission has the ability to meet and adopt permanent OARs.

Justification

A temporary rule is needed to modify 635-008-0095; 635-008-0130; 635-008-0140; 635-008-0155; 635-045-0000; 635-045-0002; 635-051-0000; 635-052-0000; 635-053-0000; 635-054-0000; 635-060-0000 to continue without interruption the regulations established to manage game birds in Oregon.

Because of social distancing guidelines and the unpredictable issues regarding travel and other restrictions from the current COVID-19 pandemic, permanent rule making could not take place as planned in April 2020, and time is of the essence in adopting these rule amendments.

Failure to amend the rules in time for USFWS approval; regulation publication deadline; and before permit and controlled hunt application deadlines and hunting seasons would result in serious prejudice to hunters, their families, friends, and businesses that benefit from the activities of hunters by adding the uncertainty of when game bird seasons will occur in addition to all of the other factors complicating decisions including unpredictable travel, camping, and other COVID-19 related restrictions.

DFW 61-2020

Filed: 05/19/2020 12:22 PM

635-010-0000

Amend

635-011-0100

Amend

Statement of Need

In further response to travel restrictions and social distancing associated with the COVID-19 pandemic emergency, temporary rules are needed to continue to prohibit the participation of nonresidents (individuals who do not currently reside in Oregon) in recreational shellfishing north of Cape Falcon in Oregon.

Justification

Temporary rules are needed to modify OARs 635-010-0000, and 635-011-0100 to allow the recreational take of crab species by nonresidents in coastal bays and estuaries and in marine areas south of Cape Falcon. These rules will assist with compliance of Oregon Governor Kate Brown's Executive Order 20-12, and similar orders in other states, which direct people to stay home to save lives and to minimize travel including for outdoor recreation, while allowing for activities that can reasonably be done safely. These temporary rules continue to remove the incentive for nonresidents to travel north of Cape Falcon in Oregon with the intent of reducing the spread of COVID-19.

Failure to amend the rules immediately would result in serious prejudice to citizens of Oregon due to concerns about travel to Oregon to participate in these outdoor activities. Such travel could spread the virus and put more of a burden on Oregon's coastal communities. In addition, amendments to allow nonresident crabbing are necessary, because serious prejudice to the public interest would result if those outdoor activities remained closed to nonresidents though concerns about overcrowding and spread COVID-19 have been alleviated by Washington opening opportunity for its residents.

DFW 62-2020

Filed: 05/19/2020 2:10 PM

635-008-0050

Amend

Statement of Need

In continuing alignment with Governor Kate Brown's Emergency Declaration and directives to address the COVID-19 Emergency, many counties in Oregon are now authorized to begin Phase 1 of re-opening. Temporary Rules are needed to remove the day-use only restrictions implemented in March that affected many Department owned areas.

Justification

Temporary Rules are needed to modify OAR 635-008-0050 to allow for camping at those Department owned, managed, or controlled areas where that use was previously allowed in permanent rule and where Phase 1 reopening is authorized. These amendments allow for increased use on Department lands for the benefit of the public and at the request of the counties to begin some localized travel with appropriate social distancing. Failure to amend the rules immediately would result in serious prejudice to citizens of Oregon to participate in outdoor activities. Increased public use in appropriate locations is in alignment with Governor Kate Brown's authorization for a phased approach for opening Oregon.

DFW 64-2020

Filed: 06/02/2020 2:39 PM

635-016-0090

Amend

Statement of Need

This rule is needed to reduce the number of fish harvested and help meet broodstock needs of the spring Chinook mitigation program at Cole Rivers Hatchery. Current returns are extremely low, and at the current pace of returns, broodstock needs may not be met. A similar emergency rule was enacted in 2017 due to poor returns of early returning fish.

Justification

As of May 27, 2020 a total of 274 spring chinook have returned to Cole Rivers Hatchery. Approximately 1600 fish are needed for broodstock, including over 1,000 females. At the current rate of return there is concern that the broodstock need will not be met, therefore the smolt release goal may not be met, which can impact fisheries in future years.

Both unmarked fish (presumed wild), and adipose fin clipped fish (hatchery) are used in the Spring Chinook broodstock for the Rogue River. The majority of the brood come from hatchery origin fish. The hatchery fish is responsible for a significant amount of direct harvest of hatchery Spring Chinook in the upper Rogue river. By closing now, fish returning will be protected once in this reach and will contribute to broodstock, while still allowing a majority of opportunity throughout the rest of the Rogue Basin Chinook fishery. A recent genetic analysis has shown that earlier returning fish are more important for brood need than fish returning later (after August 15), when the risk of fall chinook being included in the brood increases.

DFW 65-2020

Filed: 06/04/2020 11:32 AM

635-005-0480

Amend

635-005-0485

Amend

635-005-0490

Amend

Statement of Need

This amended rule is needed to mitigate the risk of whale entanglements in commercial Dungeness crab gear during and immediately following the 2019-20 season.

Justification

The Department has developed a suite of management measures to mitigate the risk of whale entanglement in Dungeness crab gear which has emerged as a priority conservation issue in recent years, when the number of reported and/or confirmed entanglements on the U.S. West Coast increased dramatically in a short time. Entanglements have remained high since, with much of the increase due to humpback whales entangled in Dungeness crab fishing gear. A substantial proportion of humpback whales found along the U.S. West Coast belong to populations which are listed as threatened or endangered under the U.S. Endangered Species Act.

After engaging in a robust public process that included public meetings, solicitation of input by mail, meetings of the Oregon Dungeness Crab Advisory Committee (ODCAC), and participation on the Oregon Whale Entanglement Working Group convened by Oregon Sea Grant, the Department intended to recommend this suite of management measures to reduce the risk of whale entanglements at the April, 2020 Commission meeting. However, due to the state's response to COVID-19, the April Commission meeting was held virtually, and most rulemaking exhibits were removed from the Commission agenda to be rescheduled for a later time. It is anticipated that this exhibit will attract substantial public input, and the Department preferred to delay such exhibits to a time when in-person public testimony would be possible. Since that time, little clarity has emerged on when in-person Commission meetings may resume, and the Department has tentatively rescheduled this exhibit for August, 2020 regardless of meeting format in order to implement any

management measures adopted by the Commission for the 2020-2021 crab season.

In the meantime, Department staff evaluated whether any of the proposed management measures may be suitable for adoption via temporary rule for implementation during the 2019-2020 season based on criteria of implementation timing, simplicity, and industry support or acceptance. Evaluation of the latter criteria included additional consultation with ODCAC. The Department has identified two management measures which are possible to implement during the current season, simple to comply with, and relatively uncontroversial: Removing the post-season allowance to leave unbaited gear in the Pacific Ocean for two weeks, and prohibiting use of more line than reasonable necessary on actively fished gear.

These measures would reduce risk of whale entanglement by removing vertical lines from the ocean at the end of the season, facilitating derelict gear retrieval, and reducing the amount of line used on actively fished pots. These measures can be implemented immediately with only minor impacts to industry. The provision allowing another crab permitted vessel to help retrieving gear in the last two weeks of the season is designed to mitigate impacts on smaller vessels that can only transport a few pots at a time, thus reducing the number of pots they can actively fish as the end of the season approaches. The change to dates for allowing unlimited retrieval of derelict gear maintains the timing of this provision relative to the date that all crab gear is required to be removed from the water, which will occur two weeks earlier under these rules.

Due to the COVID-19 related delay of the April Commission exhibit, there is not adequate time to go through normal rulemaking proceedings to implement these provisions during the 2019-2020 commercial Dungeness crab season. Failure to act immediately in this regard will result in serious prejudice to the public interest because commercial Dungeness crab gear could remain in the ocean while not being actively fished after the end of the season, and actively fished gear with more line than reasonably necessary could be used during the season, both of which increase risk of entangling whales.

DFW 66-2020	Filed: 06/09/2020 4:39 PM
635-041-0045	Amend
635-041-0076	Amend

Statement of Need

These rules are needed to authorize sales of fish caught in Treaty Indian Summer commercial salmon fisheries and the Yakima Nation tributaries on the Columbia River beginning at 6:00 a.m. Monday, June 22, 2020.

Justification

There is insufficient time to initiate the permanent rulemaking process to establish this Tribal fisheries by the specified date and time. Failure to set this Tribal season would deny Tribal fishers the opportunity to sell their harvested fish in Oregon, causing economic hardship.

DFW 67-2020	Filed: 06/09/2020 4:47 PM
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Statement of Need

This rule amendment is needed to establish the maximum number of Limited Landowner deer tags that may be issued for the purpose of hunting deer during previously established controlled hunts in Wildlife Management Units 31-77 on pages 31-35 of the 2020 Oregon Big Game Regulations.

Justification

The Oregon Fish and Wildlife Commission during their September 13, 2019 meeting adopted the dates of the controlled hunts for mule deer, but the maximum number of Limited Landowner Hunting Preference tags for mule deer allowed per hunt is dependent on the completion of biological surveys to estimate winter populations. Winter population surveys are not completed until March and require additional time for data entry and analysis. Failure to adopt this temporary rule will result in serious prejudice to the public interest and parties concerned because there would be no Limited Landowner Hunting Preference tags for mule deer hunting for landowners, their family members and other big game hunters eligible for the tags due to lack of time to undertake permanent rule making before completion of the controlled draw with appropriate tag numbers and the start of the season. Controlled hunts for mule deer are fully supported by the biological data, in alignment with the Department's mission and would deprive Department biologists from acquiring important information from mandatory reporting of hunting effort and biological information related to harvested deer useful for the management of deer populations.

DFW 68-2020

Filed: 06/10/2020 10:07 AM

635-016-0090

Amend

Statement of Need

This rule is needed to reduce the high likelihood of a fish kill due to extremely low reservoir levels expected this summer due to poor winter fill and the anticipation of irrigation drawdown. Dead-pool elevation near 4471 feet is a possibility according to the irrigation district responsible for water management.

Justification

Conditions at Howard Prairie are very similar to the time period around 1992-1993, when the reservoir dropped to its lowest level on record.

In 1992 the water level at Howard dropped 12 feet by August 31, but then stabilized in September at around 6300 acre feet and 4484.5 feet elevation. Releases increased again in December 1992 and that winter Howard dropped to the closest it has come to dead pool since construction: (2436.9AF/4477.8 ft elevation) on Feb 27, 1993.

ODFW doesn't have any record of a fish kill in 1992. But two things are different now:

- We have a different fish assemblage due to established bass populations.
- The irrigation company responsible for water management at Howard Prairie has stated there is no guarantee of keeping the reservoir at the same level as 1992 in August/September. The irrigation district has hinted that water levels reaching dead-pool (elevation 4471) is a real possibility.
- Mapped elevation of Howard Prairie bathymetry indicates that available habitat over 10 feet in depth will be greatly reduced to a mere fraction of current levels, which are already very low.
- Howard Prairie regularly experiences large algae blooms in the summer months, and this is expected to occur again. With reduced wetted area, when this algae dies off, it could create hypoxic conditions.

Due to very low water levels, ODFW is concerned that there could be a large fish kill at Howard Prairie Reservoir this summer. In response we are requesting the removal of bag limits on fish at Howard Prairie Reservoir this summer. By thinning the number of fish in the reservoir, risk of a catastrophic loss should be reduced.

Current conditions for comparison

As of June 5, 2020 Howard Prairie is 6 feet below where it was on this date in 2015, the peak of the last drought. The reservoir is about nine inches higher than the water level on this date in 1992.

Recent trout stocking

ODFW did not stock legal-sized trout in April and May 2020, due to concern over lack of access and low water conditions; but about 150,000 rainbow trout fingerling were stocked last fall.

ODFW will continue conducting a multi-year stock comparison creel during this bag limit change.

Bass

ODFW will work with local bass clubs and the State warmwater biologist to hold and help translocate larger bass to waterbodies with active bass management in the SW Zone.

DFW 69-2020 **Filed: 06/11/2020 9:13 AM**

635-004-0275 Amend

Statement of Need

This rule is needed to adopt in-season actions previously adopted by the federal government for 2019-2020 Pacific Coast commercial groundfish fisheries.

Justification

The National Marine Fisheries Service (NMFS) announced in-season adjustments to Pacific Coast commercial groundfish management measures as noticed by means of the NMFS Final Rule published in the Federal Register Vol 85, No. 111, dated June 9, 2020 (85 FR 35210). There is not adequate time to go through normal rulemaking proceedings prior to the June 9, 2020 effective date of these rule amendments. Failure to adopt this temporary rule would cause serious prejudice to the public interest in that inconsistency between state and federal regulations would exist, which subsequently could result in enforcement issues and confusion within the commercial fishing industry.

DFW 70-2020 **Filed: 06/17/2020 11:26 AM**

635-017-0095 Amend

Statement of Need

This rule is needed to allow for retention of white sturgeon in the Lower Willamette River including the Multnomah Channel.

Justification

There is insufficient time to initiate the permanent rulemaking process prior to the scheduled start of this fishery. Failure to adopt this rule would result in serious prejudice to the fishing public by not providing access to this valuable resource.

DFW 72-2020 **Filed: 06/19/2020 12:56 PM**

635-021-0090 Amend

Statement of Need

This rule is needed to allow recreational harvest of spring Chinook salmon in the Malheur River from the Bluebucket Creek confluence upstream to the headwaters of McCoy Creek, Lake Creek, Big Creek and tributaries, and Bosonberg Creek from June 15 through August 15, 2020.

Justification

Stocking hatchery Chinook salmon is done in part to allow Burns Paiute Tribal members to express and develop their Native traditions and culture. It also provides a unique angling opportunity for the general public as well.

DFW 73-2020 **Filed: 06/24/2020 4:53 PM**

635-023-0128 Amend

Statement of Need

This amended rule is needed to prohibit angling for and retention of salmon and steelhead in the mainstem Columbia River from the Astoria-Megler Bridge upstream to the Oregon/Washington boarder (above McNary Dam). Failure to restrict retention will result in further exceeding the Federal ESA harvest guideline for sockeye in non-treaty fisheries.

Justification

There is not adequate time to go through normal rulemaking proceedings to modify this fishery in a timely manner. Fishing seasons must operate within management guidelines that may include Federal Endangered Species Act requirements, sharing agreements between treaty and non-treaty fisherman, and sharing arrangements for non-Indian fisheries. Failure to adopt this rule would cause serious prejudice to the public interest in that recreational fishermen would further exceed their allocation for this valuable resource.

DFW 74-2020 **Filed: 06/29/2020 10:31 AM**

635-004-0355 Amend

Statement of Need

This rule is needed to increase opportunity for attaining a larger proportion of the black rockfish commercial harvest guideline.

Justification

Harvest in the commercial nearshore fishery is running low for black rockfish in periods 1-3 (January thru June 2020). The commercial harvest guideline for black rockfish is not expected to be attained by the end of the year at the current harvest rate. By increasing black rockfish cumulative trip limits, fishers will have increased opportunity allowing for greater attainment. There is not adequate time to go through normal rule making proceedings in order to increase cumulative trip limits for fishing periods 4-6 (July thru December 2020).

DFW 75-2020

Filed: 06/30/2020 5:06 PM

635-041-0076

Amend

Statement of Need

These rules are needed to authorize sales of fish caught in Treaty Indian Summer commercial salmon fisheries on the Columbia River beginning at 6:00 a.m. Wednesday, July 1, 2020.

Justification

There is insufficient time to initiate the permanent rulemaking process to establish this Tribal fisheries by the specified date and time. Failure to set this Tribal season would deny Tribal fishers the opportunity to sell their harvested fish in Oregon, causing economic hardship.

DFW 76-2020

Filed: 07/01/2020 10:49 AM

635-016-0090

Amend

Statement of Need

Spawner returns in 2019 were unexpectedly and unusually low and there is uncertainty in the abundance forecast for 2020. This rule is needed to reduce the harvest of wild Chinook salmon in the Umpqua River.

Justification

Reductions in daily and seasonal bag limits for wild adult Chinook salmon are intended to reduce harvest impacts under conditions of low abundance

DFW 77-2020

Filed: 07/01/2020 12:12 PM

635-018-0090

Amend

Statement of Need

This amended rule is needed to reduce harvest related mortalities of hatchery and wild steelhead due to the low predicted upriver steelhead return in 2020.

Justification

There is insufficient time to initiate the permanent rulemaking process. Failure to adopt this temporary rule would cause serious prejudice to the public interest since permanent regulations may be too liberal given the low predicted steelhead return in 2020

DFW 78-2020

Filed: 07/01/2020 12:42 PM

635-019-0090

Amend

Statement of Need

This amended rule is needed to reduce harvest related mortalities of hatchery and wild steelhead due to the low predicted upriver steelhead return in 2020.

Justification

There is insufficient time to initiate the permanent rulemaking process. Failure to adopt this temporary rule would cause serious prejudice to the public interest since permanent regulations may be too liberal given the low predicted steelhead return in 2020.

DFW 79-2020

Filed: 07/01/2020 5:17 PM

635-023-0128

Amend

Statement of Need

This amended rule is needed allow angling for and retention of adult Chinook salmon in the mainstem Columbia from Tongue Point-Rocky Point upstream to the OR/WA state line.

Justification

There is not adequate time to go through normal rulemaking proceedings to modify this fishery in a timely manner. Fishing seasons must operate within management guidelines that may include Federal Endangered Species Act requirements, sharing agreements between treaty and non-treaty fisherman, and sharing arrangements for non-treaty fisheries. Failure to adopt this rule would cause serious prejudice to the public interest in that recreational fishermen would not be able to access their allocation for this valuable resource.

DFW 80-2020

Filed: 07/02/2020 1:11 PM

635-005-0290

Amend

635-005-0355

Amend

Statement of Need

Commercial dive harvests of gaper clams in Yaquina Bay increased markedly in 2018, and recent stock assessment data indicates that repeated harvest at similar levels may not be sustainable. Analysis of survey biomass data and estimates of anticipated harvest rates indicate that a harvest quota of 20,000 pounds is an appropriate level for the season opening July 1, 2020. Additional work to determine appropriate management measures for the long-term is underway.

Justification

There is not adequate time to go through normal rulemaking proceedings to close this fishery. Failure to adopt this rule would cause serious prejudice to the public interest in that commercial harvest of larger amounts of clams may not be sustainable. This is a temporary rule put in place until more information concerning the subtidal stocks of gaper clams can be obtained.

DFW 81-2020

Filed: 07/02/2020 3:06 PM

635-017-0090

Amend

Statement of Need

This rule is needed to reduce the number of fish harvested to help meet broodstock needs of the spring Chinook program at Clackamas Hatchery. Current adult returns are extremely low, and at the current pace of returns broodstock needs will not be met.

Justification

Clackamas Hatchery relies on returning hatchery spring Chinook adults for broodstock. This year's run is currently 30-40% complete. As of 07/02/20, a total of two spring chinook have been collected for broodstock. Approximately 600 fish are needed to achieve production goals. At the current rate of collection, it is highly unlikely that broodstock needs will be met, therefore the future smolt release goal will not be met, impacting fisheries in future years.

DFW 82-2020

Filed: 07/06/2020 7:36 AM

635-004-0275

Amend

Statement of Need

This rule is needed to adopt in-season actions previously adopted by the federal government for 2019-2020 Pacific Coast commercial groundfish fisheries.

Justification

The National Marine Fisheries Service (NMFS) announced in-season adjustments to Pacific Coast commercial groundfish management measures as noticed by means of the NMFS Final Rule published in the Federal Register Vol 85, No. 111, dated June 9, 2020 (85 FR 35210). There is not adequate time to go through normal rulemaking proceedings prior to the June 9, 2020 effective date of these rule amendments. Failure to adopt this temporary rule would cause serious prejudice to the public interest in that inconsistency between state and federal regulations would exist, which subsequently could result in enforcement issues and confusion within the commercial fishing industry.

DFW 83-2020 **Filed: 07/08/2020 4:19 PM**

635-042-0160 Amend

635-042-0170 Amend

Statement of Need

These amended rules are needed to add five fishing periods for the 2020 summer commercial salmon fisheries in Oregon Select Areas, beginning July 9, 2020.

Justification

Fisheries are managed to provide opportunity to meet species or stock-specific allocations for each fishery while remaining within ESA guidelines. There is insufficient time to initiate the permanent rulemaking process prior to the scheduled start of the winter fisheries. Failure to adopt this rule would cause serious prejudice to the public interest in that commercial fishers would not be allowed an opportunity to harvest their allocation of this valuable resource.

DFW 84-2020 **Filed: 07/08/2020 4:28 PM**

635-023-0128 Amend

Statement of Need

This amended rule is needed allow angling for and retention of Chinook salmon in the mainstem Columbia from Tongue Point-Rocky Point upstream to the OR/WA state line, as well as closing shad angling in Bonneville Pool to minimize additional ESA-listed sockeye handle.

Justification

There is not adequate time to go through normal rulemaking proceedings to modify this fishery in a timely manner. Fishing seasons must operate within management guidelines that may include Federal Endangered Species Act requirements, sharing agreements between treaty and non-treaty fisherman, and sharing arrangements for non-treaty fisheries. Failure to adopt this rule would cause serious prejudice to the public interest in that recreational fishermen would not be able to access their allocation for this valuable resource.

DFW 85-2020 **Filed: 07/08/2020 4:31 PM**

635-041-0076 Amend

Statement of Need

These rules are needed to authorize sales of fish caught in Treaty Indian Summer commercial salmon fisheries on the

Columbia River beginning at 6:00 a.m. Monday, July 13, 2020.

Justification

There is insufficient time to initiate the permanent rulemaking process to establish this Tribal fisheries by the specified date and time. Failure to set this Tribal season would deny Tribal fishers the opportunity to sell their harvested fish in Oregon, causing economic hardship.

DFW 87-2020 **Filed: 07/13/2020 4:23 PM**

635-005-0355 Amend

Statement of Need

Rule modifications are needed to close the Tillamook Bay commercial gaper clam dive fishery, as required under OAR 635-005-0355 section (1), due to attainment of the 235,000 pound annual harvest quota.

Justification

There is not adequate time to go through normal rulemaking proceedings to close this fishery. Failure to adopt this rule would cause serious prejudice to the public interest in that commercial clam harvesters would be allowed to exceed their annual quota for gaper clams in the Tillamook Bay fishery.

DFW 88-2020 **Filed: 07/13/2020 4:29 PM**

635-016-0090 Amend

Statement of Need

Coquille fall Chinook spawner returns in 2018 and 2019 were extremely low. After review by ODFW staff, illegally introduced smallmouth bass are partly to blame for these unexpected low returns of adult Chinook in the Coquille. ODFW staff are encouraging anglers to harvest smallmouth bass within the Coquille Basin, and the primary season for smallmouth bass is the warmer months of summer and early fall. This rule is needed to increase harvest methods for smallmouth bass in the Coquille Basin. Where legal in other states, spear fishing has been found to be just as effective or more effective at times than hook and line on some game fish species.

Justification

There is not adequate time to go through normal rulemaking proceedings to modify this fishery in a timely manner. Allowing additional harvest methods is intended to increase harvest of invasive smallmouth bass in the Coquille Basin. Failure to adopt this rule would cause serious prejudice to the public interest in that this invasive species would continue to deplete the fall Chinook fishery, which is an important recreational and commercial southern Oregon coastal fishery.

DFW 89-2020 **Filed: 07/13/2020 4:51 PM**

635-039-0085 Amend

Statement of Need

These rules are needed to modify Oregon State regulations for recreational halibut fisheries in order to establish open dates for the Columbia River Subarea.

Justification

The opening of recreational halibut fishing in the Columbia River Subarea was delayed due to COVID-19 concerns in coastal communities. There is not adequate time to go through normal rulemaking proceedings to modify this fishery in a timely manner. This emergency rule adopts open dates for recreational fishing in the Columbia River Subarea. Failure to

adopt this rule would cause serious prejudice to the public interest in that recreational fishermen would not be able to access their allocation for this valuable resource.

DFW 91-2020

Filed: 07/14/2020 10:59 AM

635-043-0150

Amend

Statement of Need

Amend the Burns Paiute Ceremonial Harvest Permits for the current season to include additional elk tags and extending season dates for all species.

Justification

A temporary rule is needed to amend 635-043-0150(3) to allow for more elk hunting opportunity and extend the season dates through standard fall hunting seasons when tribal members have traditionally harvested the species. The Burns Paiute Tribe has been very communicative about their primary tribal use period which was not included during the initial year of tag issuance, and their need for additional elk to meet their ceremonial and cultural use needs. Additionally, with extended BPT season for elk, a restriction for archery equipment only is included to prevent harvest with firearm during the elk rut when the sport hunting season is restricted to archery equipment as well. There is not adequate time to go through the normal rule making process and failure to adopt this temporary rule would result in serious prejudice to the Burns Paiute Tribe because without the amendment the Tribe is not authorized to harvest enough big game for ceremonial and cultural purposes during culturally significant times.

DFW 92-2020

Filed: 07/15/2020 4:17 PM

635-039-0090

Amend

Statement of Need

This rule is needed to maximize recreational fishing opportunity while ensuring that conservation objectives are met.

Justification

There is not adequate time to go through normal rulemaking proceedings to modify this fishery in a timely manner. Oregon Department of Fish and Wildlife (ODFW) staff reviewed recreational groundfish catch data and determined that projected total mortality of black rockfish, which makes up the majority of catch in the general marine bag limit, is sufficiently below its annual harvest guideline (HG) that the bag limit can be increased to seven fish without exceeding the HG. This will provide marine recreational anglers with additional harvest opportunity.

In addition, ODFW staff determined that total mortality of species in the Other Nearshore Rockfish group is expected to reach the recreational harvest guideline (HG) well before the end of the year under current rules, and action is needed to prevent exceeding the HG. Catch of copper, quillback, and China rockfishes combined accounts for over 98% of the total catch of all eleven species in the Nearshore Rockfish group. Prohibiting retention of these three species, which are relatively easy for anglers to identify, will reduce catch and slow progress toward the annual HG for the group as a whole, and will simplify compliance with the rule. Catch of these species by persons fishing from shore is minimal, and not expected to add more than a trace amount to the total. Retention of these species while fishing from shore therefore remains allowed.

Failure to adopt this rule could cause serious prejudice to the public interest by exceeding the Oregon recreational

harvest guideline for Nearshore Rockfish, which could result in higher than sustainable harvest or restrictions on other fisheries.

DFW 93-2020

Filed: 07/15/2020 4:50 PM

635-023-0128

Amend

Statement of Need

This amended rule is needed to allow angling for and retention of adult hatchery Chinook salmon and hatchery steelhead in the mainstem Columbia from Tongue Point-Rocky Point upstream to the OR/WA state line.

Justification

There is not adequate time to go through normal rulemaking proceedings to modify this fishery in a timely manner. Fishing seasons must operate within management guidelines that may include Federal Endangered Species Act requirements, sharing agreements between treaty and non-treaty fisherman, and sharing arrangements for non-treaty fisheries. Failure to adopt this rule would cause serious prejudice to the public interest in that recreational fishermen would not be able to access their allocation for this valuable resource.

DFW 94-2020

Filed: 07/15/2020 5:04 PM

635-041-0076

Amend

Statement of Need

These rules are needed to authorize sales of fish caught in Treaty Indian Summer commercial salmon fisheries on the Columbia River beginning at 6:00 a.m. Monday, July 20, 2020.

Justification

There is insufficient time to initiate the permanent rulemaking process to establish this Tribal fisheries by the specified date and time. Failure to set this Tribal season would deny Tribal fishers the opportunity to sell their harvested fish in Oregon, causing economic hardship.

DFW 95-2020

Filed: 07/28/2020 9:15 AM

635-014-0090

Amend

Statement of Need

This rule modifications are needed to reduce harvest impacts on adult wild Chinook Salmon for the period of August 1 through December 31. These actions are consistent with provisions of ODFWs Coastal Multi-Species Conservation and Management Plan (CMP) and Rogue Fall Chinook Salmon Plan.

Justification

There is not adequate time to go through normal rulemaking proceedings to modify these fisheries in a timely manner. Under the provisions of ODFWs Coastal Multi-Species Conservation and Management Plan (CMP, OAR 635-500-6775), and Rogue Fall Chinook Salmon Plan (OAR 635-500-6650), reductions in estimates of returning fall-run Chinook Salmon are tied to reductions in daily and seasonal bag limits for adult wild Chinook Salmon. These changes are necessary to reduce harvest impacts under conditions of low abundance.

Failure to adopt these rules could cause serious prejudice to the public interest by depleting the fall Chinook salmon

fishery which would result in greater harvest restrictions for future fisheries.

DFW 96-2020

Filed: 07/28/2020 9:19 AM

635-016-0090

Amend

Statement of Need

This rule modifications are needed to reduce harvest impacts on adult wild Chinook Salmon for the period of August 1 through December 31. These actions are consistent with provisions of ODFWs Coastal Multi-Species Conservation and Management Plan (CMP) and Rogue Fall Chinook Salmon Plan.

Justification

There is not adequate time to go through normal rulemaking proceedings to modify these fisheries in a timely manner. Under the provisions of ODFWs Coastal Multi-Species Conservation and Management Plan (CMP, OAR 635-500-6775), and Rogue Fall Chinook Salmon Plan (OAR 635-500-6650), reductions in estimates of returning fall-run Chinook Salmon are tied to reductions in daily and seasonal bag limits for adult wild Chinook Salmon. These changes are necessary to reduce harvest impacts under conditions of low abundance.

Failure to adopt these rules could cause serious prejudice to the public interest by depleting the fall Chinook salmon fishery which would result in greater harvest restrictions for future fisheries.

DFW 97-2020

Filed: 07/29/2020 12:34 PM

635-098-0060

Amend

Statement of Need

Over 8000 Oregonians have contributed funds to the Oregon Conservation & Recreation Fund for expenditures that will be recommended by the Oregon Conservation & Recreation Advisory Committee. The Committee and the Fund sunset June 30, 2021, leaving less than one year to make recommendations.

Removing the requirement that interested parties must submit proposed projects to the advisory committee not less than 60-days prior to a scheduled meeting will accelerate the pace of project approvals, and also shorten the time until Oregonians reap the conservation, recreation and economic benefits of the projects. Failure to expend donated funds in a timely manner will result in serious prejudice to the many donors of the fund who expect their donations will support conservation and recreation projects, and also will prejudice all Oregonians who will benefit from enhanced habitat conservation and recreational opportunities, which due to the COVID-19 crisis are increasingly valuable because of the mental wellbeing and enjoyment that they provide.

Further, the COVID-19 crisis has resulted in a significant negative impact on the state's economy. Expediting expenditures of funds in the Oregon Conservation & Recreation Fund will support jobs in the conservation and recreation fields, and failure to make these additional funds accessible would result in serious prejudice to the public interest because the benefits to Oregon's economy would be delayed.

Justification

Following the permanent rule making process, rather than taking this temporary rule making action, would result in

serious prejudice to Oregonians because the conservation, recreation and economic benefits that will result from expenditure of funds in the Oregon Conservation & Recreation Fund, which are more important during the COVID-19 crisis than ever, would be delayed.

This rule amendment would avoid this prejudice by allowing faster consideration of project proposals by the Conservation & Recreation Advisory Committee in the short term, while requiring longer deliberation when the state has returned to typical conditions.

DFW 98-2020 **Filed: 07/31/2020 4:25 PM**

635-041-0075 Amend

Statement of Need

These rules are needed to authorize sales of fish caught in Treaty Indian fall commercial platform and hook-and-line fisheries in the Columbia River and its tributaries, above and below Bonneville Dam beginning August 1, 2020.

Justification

There is insufficient time to initiate the permanent rulemaking process to establish these Tribal fisheries by the specified date and time. Failure to set this Tribal season would deny Tribal fishers the opportunity to sell their harvested fish in Oregon, causing economic hardship.

DFW 99-2020 **Filed: 08/01/2020 9:31 PM**

635-041-0045 Amend

Statement of Need

These rules are needed to authorize sales of fish caught in Treaty Indian fall commercial platform and hook-and-line fisheries in the Columbia River and its tributaries, above and below Bonneville Dam beginning August 1, 2020.

Justification

There is insufficient time to initiate the permanent rulemaking process to establish these Tribal fisheries by the specified date and time. Failure to set this Tribal season would deny Tribal fishers the opportunity to sell their harvested fish in Oregon, causing economic hardship.

DFW 100-2020 **Filed: 08/04/2020 4:59 PM**

635-042-0031 Amend

635-042-0145 Amend

635-042-0160 Amend

635-042-0170 Amend

635-042-0180

Amend

Statement of Need

This rule is needed to authorize non-Treaty commercial gillnet fisheries in the Columbia River and Select Areas

Justification

There is insufficient time to initiate the permanent rulemaking process to establish the non-Treaty commercial gillnet fisheries by the specified date and time. Failure to set this seasons would deny fishers the opportunity to access harvestable fish, causing economic hardship.

DFW 101-2020

Filed: 08/10/2020 4:52 PM

635-053-0005

Amend

Statement of Need

This rule amendment is needed to establish the maximum number of permits that may be issued for the purpose of hunting sage-grouse during the previously established September 12 - September 20, 2020 Oregon sage-grouse season.

Justification

Oregon's sage-grouse population is conservatively managed to harvest no more than 5% of the projected fall population in as many as 12 of 21 Wildlife Management Units where they are known to occur. The Oregon Fish and Wildlife Commission during their August 7, 2020 meeting adopted the dates of the 9-day sage-grouse hunting season and the season bag limit of 2 birds per hunter, but the information required to set the permits is dependent on the annual completion and analysis of biological surveys to estimate fall populations which were not available in time to open this specific rule before the August meeting. A temporary rule is needed to amend 635-053-0005 to establish the maximum number of allowed permits per Wildlife Management Unit. Spring breeding population surveys are not completed until mid-May and require additional time for data entry and analysis. Failure to adopt this temporary rule will result in serious prejudice to the public interest and parties concerned because there would be no sage-grouse hunting opportunities for upland game bird hunters who have already submitted their controlled hunt applications, due to lack of time to undertake permanent rule making before completion of the controlled draw with appropriate tag numbers and the start of the season. The sage-grouse hunting season is fully supported by the biological data, is in alignment with Department mission and would deprive Department biologists from acquiring important biological information from the wings of harvested birds useful for the management of sage-grouse populations.

DFW 102-2020

Filed: 08/11/2020 1:49 PM

635-039-0090

Amend

Statement of Need

This rule is needed to maximize recreational fishing opportunity while ensuring that conservation objectives are met as total mortality of cabezon in Oregon's recreational ocean boat groundfish fishery is projected to meet or exceed the annual harvest guideline with fishing through August 13, 2020.

Justification

There is not adequate time to go through normal rulemaking proceedings to modify this fishery in a timely manner. Oregon Department of Fish and Wildlife (ODFW) staff reviewed recreational effort and catch data related to cabezon

and determined total year-end mortality is expected to meet the annual recreational harvest guideline based on landings through August 13, 2020.

Failure to adopt this rule could cause serious prejudice to the public interest by exceeding the Oregon recreational harvest guideline for cabezon, which could result in higher than sustainable harvest or restrictions on other fisheries.

DFW 104-2020 **Filed: 08/13/2020 5:35 PM**
635-023-0134 Amend

Statement of Need

This rule is needed to close the recreational spring Chinook fishery on the Snake River to avoid further harvest under existing rules, authorize the opportunity to harvest returning fall Chinook under the appropriate fishery management structure, and maintain concurrent regulations with the State of Idaho in the Snake River.

Justification

There is not adequate time to go through normal rulemaking proceedings to modify these fisheries in a timely manner.

Under the provisions of the Fishery Management and Evaluation Plan for the State of Idaho, Washington, and Oregon Anadromous Fish Species Sport Fishing Programs for Directed Adipose Intact Fall Chinook Salmon Fisheries; Summary of natural-origin impacts for Snake River fall Chinook fisheries. ODFW 2020; and Proposal for a 2020 Oregon Hells Canyon/Snake River Hatchery Fall Chinook Sport Fishery. ODFW 2020 these changes are necessary to close the spring Chinook fishery and open the fall Chinook fishery.

Failure to adopt these rules could cause serious prejudice to the public interest by exceeding the impact to spring Chinook under existing rules as outlined in federal fisheries permits. Fall Chinook fisheries are managed for impacts combined for both Oregon and Idaho. If the Oregon fishery is not open, anglers would not be able to access available harvest shares as outlined in federal fisheries permits.

DFW 105-2020 **Filed: 08/20/2020 3:40 PM**
635-039-0085 Amend

Statement of Need

This rule is needed to open the Central Oregon Coast Subarea summer all-depth season every Thursday, Friday, and Saturday instead of every other. Additionally this rule will allow anglers to fish both bottomfish and halibut on the same trip when both are open at all depths. The National Oceanic & Atmospheric Administration (NOAA), International Pacific Halibut Commission (IPHC), and the Department (ODFW) conferred on August 17, 2020 and determined that enough quota remained on the Oregon allocation to allow the additional openings. This will increase angler opportunity to reach the harvest quota for Oregon.

Justification

Opening the Central Oregon Coast Subarea summer all-depth season to every Thursday, Friday, and Saturday rather than every other and allowing bottomfish and halibut on the same trip when both are open to all depths will allow anglers additional opportunity to harvest the halibut allocation. Failure to adopt this rule would cause serious prejudice to the

public interest in that recreational fishermen would not be able to access their allocation for this valuable resource.

DFW 106-2020 **Filed: 08/20/2020 5:15 PM**

635-016-0090 Amend

Statement of Need

This rule modification is needed to respond to public concern about illegal fishing when adult fall chinook are present in the upper Illinois River. Lower streamflow prevalent in the last six years is making fall chinook more susceptible to snagging. Drought conditions are prevalent in Southwest Oregon this year. A permanent rule change is anticipated in 2021 for the 2022 angling regulations.

Justification

There is not adequate time to go through normal rulemaking proceedings to modify these fisheries in a timely manner.

Failure to adopt these rules could cause serious prejudice to the public interest in that it could result in illegal harvest of fall chinook, a risk that will be greater due to the 2020 drought.

DFW 107-2020 **Filed: 08/27/2020 5:22 PM**

635-004-0355 Amend

Statement of Need

This rule is needed to increase opportunity for attaining a larger proportion of black rockfish and cabezon commercial harvest guidelines.

Justification

There is not adequate time to go through normal rule making proceedings to increase cumulative trip limits by periods 5 and 6 (September through December, 2020). During periods 1-4, commercial nearshore fishery harvest of black rockfish and cabezon is running low. Commercial harvest guidelines for black rockfish and cabezon are not expected to be attained by the end of the year at current harvest rates. By increasing cumulative trip limits, fishers will have increased opportunities allowing for greater attainment.

Failure to adopt this rule would cause serious prejudice to the public interest in that commercial fishers would be denied the opportunity to access harvestable fish, causing economic hardship.

DFW 108-2020 **Filed: 08/27/2020 6:08 PM**

635-039-0085 Amend

Statement of Need

This rule is needed to increase opportunity for attaining a larger amount of the halibut allocation consistent with the International Pacific Halibut Commission, National Oceanic & Atmospheric Administration, and Washington.

This will increase angler opportunity to reach the harvest quota for this subarea and ensure that the regulations are the same for anglers fishing out of WA and OR ports in this co-managed subarea.

Justification

There is not adequate time to go through normal rule making proceedings to provide additional opportunities to recreational anglers prior to the season closure.

Opening the Columbia River Subarea all-depth season on two Fridays will allow anglers additional opportunity to harvest the halibut allocation. Failure to adopt this rule would cause serious prejudice to the public interest in that recreational fishermen would not be able to access their allocation for this valuable resource.

DFW 109-2020 **Filed: 08/27/2020 6:26 PM**

635-019-0090 Amend

Statement of Need

In response to low summer steelhead returns, this rule will ensure escapement of hatchery steelhead and reduce impacts on wild steelhead in the Snake River and tributaries to:

- Ensure that enough hatchery steelhead escape recreational fisheries to meet broodstock production objectives;
- Potentially reduce impacts to wild steelhead that are also at low abundance; and
- Maintain concurrent regulations with Idaho's fishery on the Snake River and Washington's on the Grande Ronde River.

Justification

There is not adequate time to go through normal rulemaking proceedings to modify these fisheries in a timely manner. Observations of tagged hatchery and wild summer steelhead bound for the Snake River and tributaries indicate low returns for the 2020-21 run year.

Failure to adopt this temporary rule could cause serious prejudice to the public interest by depleting the fall steelhead fishery which would result in greater harvest restrictions for future fisheries.

DFW 110-2020 **Filed: 08/27/2020 6:28 PM**

635-023-0134 Amend

Statement of Need

In response to low summer steelhead returns, this rule will ensure escapement of hatchery steelhead and reduce impacts on wild steelhead in the Snake River and tributaries to:

- Ensure that enough hatchery steelhead escape recreational fisheries to meet broodstock production objectives;
- Potentially reduce impacts to wild steelhead that are also at low abundance; and
- Maintain concurrent regulations with Idaho's fishery on the Snake River and Washington's on the Grande Ronde River.

Justification

There is not adequate time to go through normal rulemaking proceedings to modify these fisheries in a timely manner. Observations of tagged hatchery and wild summer steelhead bound for the Snake River and tributaries indicate low returns for the 2020-21 run year.

Failure to adopt this temporary rule could cause serious prejudice to the public interest by depleting the fall steelhead fishery which would result in greater harvest restrictions for future fisheries.

DFW 111-2020 **Filed: 08/28/2020 2:37 PM**

635-042-0031 Amend

Statement of Need

This rule is needed to rescind one non-Treaty commercial gillnet period in the mainstem Columbia River.

Justification

There is insufficient time to initiate the permanent rulemaking process to rescind the non-Treaty commercial gillnet fishery by the specified date and time. Failure to rescind this period could result in the commercial fishery exceeding its allocation of Snake River/Upriver bright fall Chinook. Based on available information, it appears the majority of the August commercial upriver bright Chinook harvest sub-allocation has been met, and there are not enough remaining for the previously scheduled August 31 through September 1, 2020 period.

DFW 112-2020 **Filed: 09/01/2020 4:07 PM**

635-005-0290 Amend

635-005-0355 Amend

Statement of Need

Issue 1 - Commercial dive harvests of gaper clams in Yaquina Bay increased markedly in 2018, and recent stock assessment data indicates that repeated harvest at similar levels may not be sustainable. Analysis of survey biomass data and estimates of anticipated harvest rates indicate that a harvest quota of 20,000 pounds is an appropriate level for the season opening July 1, 2020. Additional work to determine appropriate management measures for the long-term is underway.

Issue 2 - Rule modifications are needed to close the Tillamook Bay commercial gaper clam dive fishery, due to attainment of the annual harvest quota.

Justification

Issue 1 - There is not adequate time to go through normal rulemaking proceedings to close this fishery. Failure to adopt this rule would cause serious prejudice to the public interest in that commercial harvest of larger amounts of clams may not be sustainable. This is a temporary rule put in place until more information concerning the subtidal stocks of gaper clams can be obtained.

Issue 2 - There is not adequate time to go through normal rulemaking proceedings to close this fishery. Failure to adopt this rule would cause serious prejudice to the public interest in that commercial clam harvesters would be allowed to exceed their annual quota for gaper clams in the Tillamook Bay fishery.

DFW 113-2020 **Filed: 09/02/2020 3:38 PM**

635-019-0090 Amend

Statement of Need

In response to low summer steelhead returns, this rule will ensure escapement of hatchery steelhead and reduce impacts on wild steelhead in the Snake River and tributaries to:

- Ensure that enough hatchery steelhead escape recreational fisheries to meet broodstock production objectives;
- Potentially reduce impacts to wild steelhead that are also at low abundance; and
- Maintain concurrent regulations with Idaho's fishery on the Snake River and Washington's on the Grande Ronde River.

Justification

There is not adequate time to go through normal rulemaking proceedings to modify these fisheries in a timely manner. Observations of tagged hatchery and wild summer steelhead bound for the Snake River and tributaries indicate low returns for the 2020-21 run year.

Failure to adopt this temporary rule could cause serious prejudice to the public interest by depleting the fall steelhead fishery which would result in greater harvest restrictions for future fisheries.

DFW 114-2020 **Filed: 09/03/2020 4:59 PM**
635-041-0075 Amend

Statement of Need

These rules are needed to authorize sales of fish caught in the Treaty Indian fall commercial gillnet fisheries in Zone 6 of the Columbia River.

Justification

There is insufficient time to initiate the permanent rulemaking process to establish these Tribal fisheries by the specified date and time. Failure to set this Tribal season would deny Tribal fishers the opportunity to sell their harvested fish in Oregon, causing economic hardship.

DFW 115-2020 **Filed: 09/04/2020 2:42 PM**
635-023-0095 Amend

Statement of Need

This amended rule is needed to allow for retention of recreational white sturgeon in the Columbia River.

Justification

There is not adequate time to go through normal rulemaking proceedings to open these fisheries in a timely manner. Fishing seasons established must meet guidelines established by the federal government. The fishery is also established conforming to agreements developed to share the available resource with Treaty Tribal, Non-Treaty Commercial, and recreational fishers. Failure to adopt these rules would cause serious prejudice to the public interest in that recreational fishermen would not be allowed to access their allocations for these valuable resources.

DFW 116-2020 **Filed: 09/04/2020 2:46 PM**
635-023-0130 Amend

Statement of Need

This amended rule is needed to allow for retention of adult Chinook, and adult hatchery coho salmon in the Columbia

River.

Justification

There is not adequate time to go through normal rulemaking proceedings to open these fisheries in a timely manner. Fishing seasons established must meet guidelines established by the federal government. The fishery is also established conforming to agreements developed to share the available resource with Treaty Tribal, Non-Treaty Commercial, and recreational fishers. Failure to adopt these rules would cause serious prejudice to the public interest in that recreational fishermen would not be allowed to access their allocations for these valuable resources.

DFW 118-2020

Filed: 09/10/2020 11:18 AM

635-023-0130

Amend

Statement of Need

This amended rule is needed to allow for retention of recreational adult Chinook, and adult coho salmon in the Columbia River.

Justification

There is not adequate time to go through normal rulemaking proceedings to open these fisheries in a timely manner. Fishing seasons established must meet guidelines established by the federal government. The fishery is also established conforming to agreements developed to share the available resource with Treaty Tribal, Non-Treaty Commercial, and recreational fishers. Failure to adopt these rules would cause serious prejudice to the public interest in that recreational fishermen would not be allowed to access their allocations for these valuable resources.

DFW 119-2020

Filed: 09/12/2020 10:15 PM

635-041-0075

Amend

Statement of Need

These rules are needed to authorize sales of fish caught in the Treaty Indian fall commercial gillnet fisheries in Zone 6 of the Columbia River.

Justification

There is insufficient time to initiate the permanent rulemaking process to establish these Tribal fisheries by the specified date and time. Failure to set this Tribal season would deny Tribal fishers the opportunity to sell their harvested fish in Oregon, causing economic hardship.

DFW 120-2020

Filed: 09/12/2020 10:16 PM

635-042-0060

Amend

Statement of Need

This rule is needed to authorize non-Treaty commercial gillnet period in the mainstem Columbia River.

Justification

There is insufficient time to initiate the permanent rulemaking process establish the non-Treaty commercial gillnet fishery by the specified date and time.

Failure to set this seasons would deny fishers the opportunity to harvest their allocation of this resource, causing

economic hardship.

DFW 122-2020	Filed: 09/18/2020 12:37 PM
635-418-0000	Adopt
635-418-0010	Adopt
635-418-0020	Adopt

Statement of Need

HB2437 (2019) directed the Department to establish regional dry maintenance time periods for removal of sediment in dry traditionally maintained channels for agricultural drainage. This temporary rule defines the dry regional maintenance time period for removal of sediment in watersheds across the state.

Justification

Implementation of the Oregon Department of Agriculture’s notification process (OAR 603-095) to remove sediment from dry traditionally maintained channels for agricultural drainage begins in August 2020. Establishment of the regional dry maintenance time periods are a required part of that notification process. There is not adequate time to go through the normal rulemaking process and failure to adopt this temporary rule would result in serious prejudice to the agricultural producers and associated irrigation districts because the Oregon Department of Agriculture will be restricting maintenance activities in many of these areas and without an exception, period there could be substantial impacts to agricultural drainage activities.

DFW 123-2020	Filed: 09/18/2020 1:07 PM
635-067-0030	Amend

Statement of Need

The first season for Bighorn Sheep Controlled Hunting in the West Deschutes River hunt area (543C1) is from September 12 – 20, 2020. The hunt area is currently compromised due to extremely hazardous air quality index conditions stemming from active wildfires throughout other areas in Oregon. This amendment to extend the hunt season through October 2, 2020 is necessary to allow additional opportunity for the hunters possessing valid, once in a lifetime, bighorn sheep tags, to hunt after air quality improves.

Justification

Failure to act promptly by amending these rules will result in serious prejudice to the public interest. This once-in-a-lifetime hunting opportunity will be severely compromised for tagholders in this hunt if the season is not extended to allow adequate hunting opportunity because hunters may force themselves to go hunting when air quality concerns are noted.

DFW 124-2020

Filed: 09/18/2020 2:51 PM

635-023-0130

Amend

Statement of Need

This amended rule is needed to allow for retention of recreational adult Chinook, and coho salmon in the Columbia River.

Justification

There is not adequate time to go through normal rulemaking proceedings to open these fisheries in a timely manner. Fishing seasons established must meet guidelines established by the federal government. The fishery is also established conforming to agreements developed to share the available resource with Treaty Tribal, Non-Treaty Commercial, and recreational fishers. Failure to adopt these rules would cause serious prejudice to the public interest in that recreational fishermen would not be allowed to access their allocations for these valuable resources.

DFW 125-2020

Filed: 09/18/2020 2:57 PM

635-041-0075

Amend

Statement of Need

These rules are needed to authorize sales of fish caught in the Treaty Indian fall commercial gillnet fisheries in Zone 6 of the Columbia River.

Justification

There is insufficient time to initiate the permanent rulemaking process to establish these Tribal fisheries by the specified date and time. Failure to set this Tribal season would deny Tribal fishers the opportunity to sell their harvested fish in Oregon, causing economic hardship.

DFW 126-2020

Filed: 09/21/2020 9:03 AM

635-043-0175

Amend

635-066-0010

Amend

635-067-0004

Amend

Statement of Need

Due to continued Department office closures in response to the COVID-19 Emergency and the expected increase of harvested animals with the fall hunting seasons, Temporary Rules are needed to continue compliance with CDC guidelines for social distancing and Governor Kate Brown's Emergency Declaration and directives designed to reduce the spread of COVID-19 by reducing social contact.

Justification

Failure to act promptly by amending these rules will result in serious prejudice to the public interest and safety of all persons. These amendments reduce additional travel needs to visit Department offices and eliminate the opportunity for person to person contact to deliver parts and information to the Department which reduces the potential for spread of COVID-19. The check-in modifications include:

Removing the requirement for individuals who salvage antlerless deer or antlerless elk to deliver the head to the Department (OAR 635-043-0175); and

Removing the requirement for individuals who take a bear to deliver the skull to the Department (OAR 635-066-0010); and

Removing the requirement for individuals who take a cougar to deliver the hide with skull and proof of sex attached, and the reproductive tract to the Department (OAR 635-067-0004).

DFW 127-2020

Filed: 09/22/2020 12:14 PM

635-039-0085

Amend

Statement of Need

This rule is needed to increase opportunity for attaining a larger amount of the halibut allocation consistent with the International Pacific Halibut Commission, National Oceanic & Atmospheric Administration, and Washington.

This will increase angler opportunity to reach the harvest quota for this subarea and ensure that the regulations are the same for anglers fishing out of WA and OR ports in this co-managed subarea.

Justification

There is not adequate time to go through normal rule making proceedings to provide additional opportunities to recreational anglers prior to the season closure.

Opening the Columbia River Subarea all-depth season on two additional days will allow anglers additional opportunity to harvest the halibut allocation. Failure to adopt this rule would cause serious prejudice to the public interest in that recreational fishermen would not be able to access their allocation for this valuable resource.

DFW 128-2020

Filed: 09/24/2020 4:36 PM

635-042-0032

Amend

635-042-0060

Amend

Statement of Need

This rule is needed to authorize non-Treaty commercial gillnet and tangle net periods in the mainstem Columbia River.

Justification

There is insufficient time to initiate the permanent rulemaking process establish the non-Treaty commercial gillnet fishery by the specified date and time.

Failure to set this seasons would deny fishers the opportunity to harvest their allocation of this resource, causing economic hardship.

DFW 129-2020

Filed: 09/24/2020 4:44 PM

635-023-0095

Amend

Statement of Need

This amended rule is needed to allow for retention of recreational white sturgeon in the Columbia River.

Justification

There is not adequate time to go through normal rulemaking proceedings to open these fisheries in a timely manner. Fishing seasons established must meet guidelines established by the federal government. The fishery is also established conforming to agreements developed to share the available resource with Treaty Tribal, Non-Treaty Commercial, and recreational fishers. Failure to adopt these rules would cause serious prejudice to the public interest in that recreational fishermen would not be allowed to access their allocations for these valuable resources.

DFW 130-2020

Filed: 09/25/2020 8:43 AM

635-041-0075

Amend

Statement of Need

These rules are needed to authorize sales of fish caught in the Treaty Indian fall commercial gillnet fisheries in Zone 6 of the Columbia River.

Justification

There is insufficient time to initiate the permanent rulemaking process to establish these Tribal fisheries by the specified date and time. Failure to set this Tribal season would deny Tribal fishers the opportunity to sell their harvested fish in Oregon, causing economic hardship.

DFW 132-2020

Filed: 09/28/2020 11:08 AM

635-019-0090

Amend

Statement of Need

This rule is needed to authorize the opportunity to harvest coho salmon under the appropriate fishery management structure.

Justification

There is not adequate time to go through normal rulemaking proceedings to modify these fisheries in a timely manner. Analysis of PIT tag observations projects that coho salmon will return to the Grande Ronde River in adequate abundance to provide harvest opportunities.

This fishery will be concurrent both geographically and temporally with ongoing steelhead fisheries. It is expected that harvest of coho salmon will be incidental to these fisheries, and therefore increases in angler effort is not anticipated. In addition, the coho fishery is not expected to impact Snake River steelhead nor fall Chinook salmon above those effects outlined in the approved Fisheries Management and Evaluation Plans.

Failure to adopt this temporary rule could cause serious prejudice to the public interest by preventing anglers from accessing a harvestable portion of the 2020 run as outlined in federal fisheries permits.

DFW 134-2020

Filed: 09/30/2020 4:28 PM

635-023-0130

Amend

Statement of Need

This amended rule is needed to increase the daily bag limit for Chinook to two adult Chinook salmon in the Columbia River.

Justification

There is not adequate time to go through normal rulemaking proceedings to open these fisheries in a timely manner. Fishing seasons established must meet guidelines established by the federal government. The fishery is also established conforming to agreements developed to share the available resource with Treaty Tribal, Non-Treaty Commercial, and recreational fishers. Failure to adopt these rules would cause serious prejudice to the public interest in that recreational fishermen would not be allowed to access all of their allocations for these valuable resources.

DFW 135-2020

Filed: 10/01/2020 8:30 AM

635-018-0090

Amend

Statement of Need

This amended rule is needed to reduce harvest related mortalities of hatchery and wild steelhead due to the low predicted upriver steelhead return in 2020.

Justification

There is insufficient time to initiate the permanent rulemaking process. Failure to adopt this temporary rule would cause serious prejudice to the public interest since permanent regulations may be too liberal given the low predicted steelhead return in 2020.

DFW 136-2020

Filed: 10/01/2020 10:42 AM

635-008-0080

Amend

Statement of Need

The September 19-20, 2020 scheduled Youth Upland Bird Hunt was postponed due to predicted air quality issues resulting from numerous severe wildfires in western Oregon. This amendment will close hunting on the Denman Wildlife Area to the general public in order to allow for youth participation in a re-scheduled Youth Upland Bird Hunt at the wildlife area on October 10-11, 2020. A standard component of these events for safety of the participants is to not allow concurrent hunting activities to overlap the youth hunt.

Justification

Failure to act promptly by amending these rules will result in serious prejudice to the public interest particularly the safety and enjoyment of the youth hunter participants. The youth hunting opportunity is for a limited number of participants and requires all participants to check-in and out. Each youth hunter must be accompanied by an adult who may not hunt and all participants must attend a safety briefing. Without the amended rule there would be some general public hunters who might interfere with youth hunters, including hunting for the pheasants released on the wildlife area intended for the youth hunters. Licensed hunters were able to hunt the Western Oregon Fee Pheasant Hunt on Denman Wildlife Area from Sept. 21 – Oct. 9, 2020, and will have the remainder of the pheasant season (through December 31) on Denman Wildlife Area to hunt pheasants, resulting in minimal net loss of opportunity.

DFW 137-2020

Filed: 10/02/2020 1:26 PM

635-041-0075

Amend

Statement of Need

These rules are needed to authorize sales of fish caught in the Treaty Indian fall commercial gillnet fisheries in Zone 6 of the Columbia River.

Justification

There is insufficient time to initiate the permanent rulemaking process to establish these Tribal fisheries by the specified date and time. Failure to set this Tribal season would deny Tribal fishers the opportunity to sell their harvested fish in Oregon, causing economic hardship.

DFW 138-2020

Filed: 10/07/2020 12:36 PM

635-042-0060

Amend

Statement of Need

This rule is needed to authorize non-Treaty commercial gillnet periods in the mainstem Columbia River.

Justification

There is insufficient time to initiate the permanent rulemaking process establish the non-Treaty commercial gillnet fishery by the specified date and time.

Failure to set this seasons would deny fishers the opportunity to harvest their allocation of this resource, causing economic hardship.

DFW 140-2020

Filed: 10/15/2020 2:41 PM

635-004-0355

Amend

Statement of Need

This rule is needed to slow attainment and prevent exceedance of the other nearshore rockfish commercial harvest guideline.

Justification

Harvest in the commercial nearshore fishery is running high for other nearshore rockfish in bimonthly periods 1-5 (January through October, 2020). The commercial harvest guideline for other nearshore rockfish is expected to be exceeded before the end of the year at current harvest rates. Implementing a daily trip limit effective October 23, 2020 and decreasing the period 6 (November-December, 2020) bimonthly trip limit from 450 to 45 pounds will limit opportunities, slowing attainment and reducing the likelihood of exceeding the harvest guideline before the end of the year.

There is not adequate time to go through normal rulemaking proceedings to implement the inseason fishery revisions. Failure to adopt this rule would cause serious prejudice to the public interest in that commercial nearshore fishers would be allowed to exceed their annual quota for other nearshore rockfish.

DFW 141-2020

Filed: 10/22/2020 10:55 AM

635-004-0275

Amend

Statement of Need

This rule is needed to adopt in-season actions previously adopted by the federal government for 2019-2020 Pacific Coast commercial groundfish fisheries.

Justification

The National Marine Fisheries Service (NMFS) announced in-season adjustments to Pacific Coast commercial groundfish management measures as noticed by means of the NMFS Final Rule published in the Federal Register Vol 85, No. 202, dated October 19, 2020 (85 FR 66274). There is not adequate time to go through normal rulemaking proceedings prior to the October 19, 2020 effective date of these rule amendments. Failure to adopt this temporary rule would cause serious prejudice to the public interest in that inconsistency between state and federal regulations would exist, which subsequently could result in enforcement issues and confusion within the commercial fishing industry.

DFW 142-2020

Filed: 10/23/2020 4:14 PM

635-042-0032

Amend

Statement of Need

This rule is needed to authorize non-Treaty commercial gillnet and tangle net periods in the mainstem Columbia River.

Justification

There is insufficient time to initiate the permanent rulemaking process establish the non-Treaty commercial gillnet fishery by the specified date and time.

Failure to set this seasons would deny fishers the opportunity to harvest their allocation of this resource, causing economic hardship.

DFW 143-2020

Filed: 10/26/2020 1:47 PM

635-039-0085

Amend

Statement of Need

This rule is needed to increase opportunity for attaining a larger amount of the halibut allocation consistent with the International Pacific Halibut Commission, and National Oceanic & Atmospheric Administration.

This will increase angler opportunity to reach the harvest quota for this subarea.

Justification

There is not adequate time to go through normal rule making proceedings to provide additional opportunities to recreational fishery.

Failure to adopt this rule would cause serious prejudice to the public interest in that recreational fishermen would not be able to access their allocation for this valuable resource.

DFW 144-2020

Filed: 10/28/2020 9:11 AM

635-048-0005

Amend

Statement of Need

A temporary rule is needed to modify OAR 635-048-0005 (2) to suspend the requirement for an individual less than 18 years of age to attend a field day to hunt. Field day training includes and requires close contact of individuals, such as when handing guns from one person to another, when helping people through fences, and other critical components of safe gun handling. To comply with CDC guidelines and Governor Kate Brown's Emergency Declaration, the directives designed to reduce the spread of COVID-19 for social distancing and reduced travel continue through the fall hunting seasons to the end of the year, access to field day training is limited throughout numerous locations in the state. The amended rule will allow people younger than 18 years of age to hunt without completing the in-person field day training as long as they receive a Completion Certificate for the hunter-education coursework.

Justification

The Temporary Rule allows youth hunters to hunt this fall and winter, when in the presence of a supervisory adult, 21 years of age or older, who is familiar with hunting and hunting regulations, before they complete the required field day. Failure to adopt the amended rule and provide immediate notification to the public during the busy fall/winter hunting seasons would result in serious prejudice to youth hunters and their families by the missed opportunity to hunt together. This adds to the uncertainty of when youth will be able to complete field day training to all of the other factors complicating decisions including unpredictable travel, camping, and other COVID-19 related restrictions.

DFW 145-2020

Filed: 10/30/2020 2:57 PM

635-019-0090

Amend

635-023-0130

Amend

Statement of Need

This amended rule is needed to allow retention of one hatchery steelhead in the Columbia River above The Dalles Dam and in the lower John Day River.

Justification

There is not adequate time to go through normal rulemaking proceedings to open these fisheries in a timely manner. Fishing seasons established must meet guidelines established by the federal government. The fishery is also established conforming to agreements developed to share the available resource with Treaty Tribal, Non-Treaty Commercial, and recreational fishers. Failure to adopt these rules would cause serious prejudice to the public interest in that recreational fishermen would not be allowed to access all of their allocations for these valuable resources.

DFW 146-2020

Filed: 11/05/2020 2:26 PM

635-004-0275

Amend

Statement of Need

This rule is needed to adopt in-season actions previously adopted by the federal government for 2019-2020 Pacific Coast commercial groundfish fisheries.

Justification

The National Marine Fisheries Service (NMFS) announced in-season adjustments to Pacific Coast commercial groundfish management measures as noticed by means of the NMFS Final Rule published in the Federal Register Vol 85, No. 208, dated October 27, 2020 (85 FR 68001). There is not adequate time to go through normal rulemaking proceedings prior to the October 27, 2020 effective date of these rule amendments. Failure to adopt this temporary rule would cause serious prejudice to the public interest in that inconsistency between state and federal regulations would exist, which subsequently could result in enforcement issues and confusion within the commercial fishing industry.

DFW 147-2020

Filed: 11/16/2020 12:42 PM

635-016-0090

Amend

Statement of Need

This rule modifications are needed to allow angling opportunity of adult wild and hatchery Chinook Salmon for the period of November 14 through December 31. These actions are consistent with provisions of ODFWs Coastal Multi-Species Conservation and Management Plan (CMP) and Rogue Fall Chinook Salmon Plan.

Justification

There is not adequate time to go through normal rulemaking proceedings to open these fisheries in a timely manner. Fishing seasons established must meet guidelines established under the provisions of ODFWs Coastal Multi-Species Conservation and Management Plan (CMP, OAR 635-500-6775), and Rogue Fall Chinook Salmon Plan (OAR 635-500-6650).

Failure to adopt these rules would cause serious prejudice to the public interest in that recreational fishermen would not be allowed to access all of their allocations for these valuable resources. Low flow closures enacted to protect fall chinook staging in lower river holes are no longer necessary.

DFW 148-2020

Filed: 11/19/2020 4:34 PM

635-005-0465

Amend

Statement of Need

A rule is needed to delay the opening of the Oregon commercial Dungeness crab fishery in the Pacific ocean and Columbia River. Under the Tri-State Memorandum-of-Understanding Regarding Management of the Pacific Coast Dungeness Crab Fishery, the process for pre-season testing of crab condition and season-opening decision-making is specified through the Preseason Testing Protocol. Crab condition criteria to open the fishery on December 1, 2020 were not met in samples from several test areas within the Tri-State region (from Point Arena, CA to the US/Canada border). Accordingly, the season opening in Oregon needs to be delayed until crab quality improves.

Justification

Pre-season test results for crab condition off the California, Oregon and Washington coasts provided the basis for a delayed opening of the commercial Dungeness crab fishery in the Pacific Ocean. These tests were completed in recent days and therefore adequate time does not exist to go through normal rulemaking proceedings prior to the scheduled start of the Dungeness crab fishery on December 1, 2020. Oregon's Dungeness crab fishery is its most economically

valuable commercial fishery. Failure to adopt this temporary rule will result in serious prejudice to the public interest and parties concerned in that conflicts could arise without an orderly opening to the fishery and landings of poor-condition crab (i.e., low meat content) are likely to occur, with impacts to marketability of crab and the industry.

DFW 149-2020

Filed: 12/03/2020 10:43 AM

635-023-0130

Amend

Statement of Need

This amended rule is needed to allow retention of one hatchery steelhead in the Columbia River above The Dalles Dam.

Justification

There is not adequate time to go through normal rulemaking proceedings to open these fisheries in a timely manner. Fishing seasons established must meet guidelines established by the federal government. The fishery is also established conforming to agreements developed to share the available resource with Treaty Tribal, Non-Treaty Commercial, and recreational fishers. Failure to adopt these rules would cause serious prejudice to the public interest in that recreational fishermen would not be allowed to access all of their allocations for these valuable resources.

DFW 150-2020

Filed: 12/08/2020 2:58 PM

635-016-0090

Amend

Statement of Need

These rule modifications are needed to reduce harvest impacts on adult wild Chinook salmon and to allow angling opportunities for adult wild and hatchery Chinook salmon through December 31. These actions are consistent with provisions of ODFW's Coastal Multi-Species Conservation and Management Plan (CMP) and Rogue Fall Chinook Salmon Plan.

Justification

There is not adequate time to go through normal rulemaking proceedings to modify these fisheries in a timely manner. Fishing seasons established must meet provisions of ODFW's Coastal Multi-Species Conservation and Management Plan (CMP, OAR 635-500-6775), and Rogue Fall Chinook Salmon Plan (OAR 635-500-6650). Reductions in estimates of returning fall-run Chinook Salmon are tied to reductions in daily and seasonal bag limits for adult wild Chinook Salmon. These changes are necessary to reduce harvest impacts under conditions of low abundance.

Failure to adopt these rules could cause serious prejudice to the public interest by depleting the fall Chinook salmon fishery which would result in greater harvest restrictions for future fisheries. Additionally, recreational anglers would not be allowed to access all of their allocations for hatchery fall chinook, which is a valuable resource. Low flow closures enacted to protect fall chinook staging in lower river holes are no longer necessary.

DFW 151-2020

Filed: 12/09/2020 8:07 AM

635-005-0465

Amend

Statement of Need

A rule is needed to open the Oregon commercial Dungeness crab fishery in the Pacific Ocean and from Cape Falcon southward to the California border. The commercial Dungeness crab fishery will remain closed in the Pacific Ocean and Columbia River from Cape Falcon northward to the Washington border in order to coordinate an orderly start with the

Washington coastal Dungeness crab fishery. Results from recent domoic acid testing of crab conducted by the state of Washington exceeded federally established thresholds for human health, and therefore Washington is delaying the coastal fishery until further testing is conducted.

Justification

Under the Tri-State Memorandum-of-Understanding Regarding Management of the Pacific Coast Dungeness Crab Fishery, the Directors of California, Oregon, and Washington Fish and Wildlife agencies agree to take mutually supportive actions to maximize the sound economic and biological utilization of crab. After consultation with industry advisors, representatives of the agency Directors met on December 8, 2020 and determined that continuing to delay the fishery north of Cape Falcon until the state of Washington conducts further domoic testing is likely to be the optimal utilization of the resource because it will ensure an orderly start to the fishery and protect the public from potential domoic acid exposure.

This rule also implements a "fair start" provision that prohibits vessels that take crab from the area south of Cape Falcon before the area north of Cape Falcon opens from taking crab north of Cape Falcon until the northern area has been open for at least 30 days, in accordance with the policy of all three states when delays are related to domoic acid. The "fair start" policy does not apply to delays related to marine life concentrations in California.

There is not adequate time to go through normal rulemaking proceedings prior to the December 16, 2020 opening for the commercial season south of Cape Falcon. Failure to modify this rule would cause serious prejudice to the public interest and parties concerned because absent modification by temporary rule the state of Oregon would violate its agreement with the states of Washington and California, conflicts could arise without an orderly opening to the fishery, and public health and consumer confidence would be negatively impacted by allowing the fishery to commence north of Cape Falcon without further testing to ensure that all Dungeness crab brought to market are safe to consume.

DFW 156-2020

Filed: 12/22/2020 11:48 AM

635-067-0000

Amend

Statement of Need

Oregon Administrative Rules establishing tag numbers for 2021 controlled bighorn sheep hunts were adopted September, 2020. Tag numbers adopted at that time did not anticipate the level of disease-related mortality and the low wildlife population levels observed through this fall-winter 2020-2021. This rule amendment is needed to reduce the number of tags that may be issued for the purpose of hunting bighorn sheep during the Burnt River Canyon 2021 controlled hunt #551.

Justification

Temporary Rules are needed to reduce tag numbers for a controlled hunt in an area where bighorn sheep are below the desired and anticipated level to keep from exceeding appropriate harvest levels in the hunt area.

In the Burnt River Canyon bighorn herd in the Sumpter Wildlife Management Unit west of Baker City, OR a respiratory disease was confirmed in bighorn sheep during November 2020. The primary cause of the disease outbreak is a contagious bacterium pathogen which causes severe pneumonia in bighorn sheep herds.

Eliminating the controlled hunt tag for the specific hunt identified in these Temporary Rules will provide the intended level of protection for this herd given the conservation concern for this population. Failure to amend the rules before the controlled hunt drawing would result in serious prejudice to hunters participating in the once-in-a-lifetime bighorn sheep hunt because fewer animal will be available for harvest than anticipated when tag numbers were initially adopted in September, 2020.

DFW 159-2020 **Filed: 12/22/2020 9:09 PM**

635-023-0125 Amend

Statement of Need

This amended rule is needed to maintain the current daily bag limit for hatchery steelhead in the Columbia River above The Dalles Dam at one fish. This reduced bag limit provides some harvest opportunity in this river section while maintaining the conservative approach used for the 2020-2021 upriver summer steelhead run.

Justification

There is not adequate time to go through normal rulemaking proceedings to modify regulations for this fishery in a timely manner. Fishing seasons established must meet guidelines established by the federal government. The fishery is also established conforming to agreements developed to share the available resource with Treaty Tribal, Non-Treaty Commercial, and recreational fishers. Failure to adopt these rules would cause serious prejudice to the public interest in that recreational fishermen would not be allowed to access all of their allocations for these valuable resources.

DFW 160-2020 **Filed: 12/22/2020 9:16 PM**

635-019-0090 Amend

635-023-0134 Amend

Statement of Need

In response to low summer steelhead returns, this rule will ensure escapement of hatchery steelhead and reduce impacts on wild steelhead in the Snake River and tributaries to:

- Ensure that enough hatchery steelhead escape recreational fisheries to meet broodstock production objectives;
- Potentially reduce impacts to wild steelhead that are also at low abundance; and
- Maintain concurrent regulations with Idaho's fishery on the Snake River and Washington's on the Grande Ronde River.

Justification

There is not adequate time to go through normal rulemaking proceedings to modify these fisheries in a timely manner. Observations of tagged hatchery and wild summer steelhead bound for the Snake River and tributaries indicate low returns for the 2020-21 run year.

Failure to adopt this temporary rule could cause serious prejudice to the public interest by depleting the fall steelhead fishery which would result in greater harvest restrictions for future fisheries.

Statement of Need

This rule is needed to reduce the mortality of wild spring Chinook salmon in the Umpqua River mainstem to protect the South Umpqua River population. Although this population was considered to be non-viable in the 2014 status assessment for the Coastal Multi-Species Conservation and Management Plan, it was considered to be stable with a low extinction risk. Additionally, harvest was not identified as a limiting factor. However, there has been a concerning decline in abundance in recent years (29 in 2018, 64 in 2019, and 120 in 2020) thereby necessitating additional actions to reduce potential sources of direct mortality, including harvest, to the extent practicable.

Justification

There is not adequate time to go through normal rulemaking proceedings to close this fishery in a timely manner. These modifications are consistent with the provisions of ODFW's Coastal Multi-Species Conservation and Management Plan (CMP, OAR 635-500-6775).

Failure to adopt these regulations would cause serious prejudice to the public interest by depleting the South Umpqua River spring Chinook salmon population which would result in greater harvest restrictions for future fisheries.