

PACIFIC FISHERY MANAGEMENT COUNCIL

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Ms. Jeri Chase
Oregon Department of Forestry
2600 State Street
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Re: Comments Suggesting Changes to the Proposed Rule for Management of State Forest Lands (OAR 629, Division 35) to Reflect the Need to Protect Fish Habitat.

The Pacific Fishery Management Council (Council) was created by the Magnuson Fishery Conservation and Management Act (MFCMA) in 1976 with the primary role of developing, monitoring, and revising management plans for fisheries conducted within federal waters off Washington, Oregon, and California. Subsequent congressional amendments to the MFCMA in 1986, 1990, and 1996 [now referred to as the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act)] added emphasis to the Council's role in fishery habitat protection, restoration, and enhancement.

The 1996 amendments to the Magnuson-Stevens Act contain important language directing the National Marine Fisheries Service (NMFS) and regional fishery management councils to identify and describe habitat that is essential to the spawning, breeding, feeding, or growth-to-maturity of fish species managed by the councils. The Magnuson-Stevens Act's amendments also mandate that threats to "Essential Fish Habitat" (EFH) be identified, and conservation and enhancement measures be described minimize those adverse impacts. The Magnuson-Stevens Act also requires that the regional fishery management councils comment on federal or state agency activities that are likely to substantially affect the EFH of an anadromous fishery.

We are concerned the proposed rule change for management of state forest lands (OAR 629, Division 35) is at cross purposes with current efforts to restore coho and other salmon in Oregon.

The success of the Oregon Coastal Salmon Restoration Initiative will depend on the improvement of our watershed management strategies (including forestry), modification of hatchery practices, and carefully regulating harvest impacts. We believe the fishing industry has shouldered its part of the recovery burden through the numerous closures and shortened seasons that have typified Council ocean fishery management in the last five years. This has come at great expense to region's fishing industry as well as the coastal communities that depend on fishing revenues. However, all pieces of the recovery puzzle, whether it be on state, federal, private, or tribal land must be put in place if we, as a region, are serious about restoring salmon to harvestable surpluses. It is, therefore, critical that the state of Oregon manage its public forests with a purpose of providing strong aquatic protection standards for salmonids.

The portion of the draft administrative rule which concerns us under 629-35-101 is:

- (c)
 - i sustain these lands as forest lands over time; and
 - ii actively manage the lands to produce a sustainable supply of timber and revenues from timber production, consistent with protecting, and maintaining, and enhancing other forest values.

- (e) The State Forester and Board are not required to manage lands acquired under ORS 530 to maximize revenues, or exclude all non-revenue producing uses in deference to the growing and harvesting of forest tree species or to produce revenue from every acre of state-owned forest land. However, because counties have protected interest in receiving revenue from the lands, the State Forester and Board have a duty to plan for and manage those lands to produce revenue.

In an August 26, 1997 letter to the Oregon Board of Forestry, NMFS raised concerns the draft rule "would seriously undermine Oregon's commitment to salmon restoration and the role of state forest lands in delivering on that commitment." Furthermore, NMFS states that by shifting the statute's language governing the management of state forests towards timber revenues, "that this subtle, but important shift could unnecessarily and inappropriately hamper the discretion the Board now has under statute to determine that some of the state forest lands should be devoted more directly to fish and wildlife habitat....."

In addition, Oregon Governor, John Kitzhaber, in a September 3 statement told the Board the proposed rule must:

be consistent with our efforts under the Coastal Salmon Recovery Initiative to protect and restore aquatic habitat on Oregon forest lands;

call for a balancing of various resource objectives, and

enjoy broad public acceptance and credibility as a framework for addressing the changing role of forests...

Based on the concerns raised above, we request the proposed rule language be revised to reflect the need to protect and enhance fish habitat on state lands. It is critical the Board of Forestry continue to move toward progressive forestry management that protects the essential fish habitat of salmonids.

We look forward to working with you in this process. Please feel free to contact the staff of Pacific Fishery Management Council at (503) 326-6352 if we may be of assistance to you.

Sincerely,


Jerry Mallet
Chair

SHP:rdh