

Agenda Item No.:	D
Work Plan:	State Forests
Topic:	Nehalem River Scenic Waterway
Presentation Title:	Nehalem River Scenic Waterway Designation and Rulemaking Process
Date of Presentation:	November 6, 2019
Contact Information:	Ron Zilli, State Forests Planning and Coordination Deputy Division Chief 503-741-1098, Ron.f.zilli@oregon.gov

CONTEXT

The Nehalem River was designated as a Scenic Waterway by Governor Brown in June, 2019. As such, general rules that apply to all Scenic Waterways now apply. Those general rules require written notification to the Oregon Parks and Recreation Department (OPRD) for a variety of development impacts or land uses such as road building, minerals and aggregate extraction, timber harvesting, or other similar projects.

Additionally, OPRD is required to adopt specific rules in accordance with ORS chapter 183. Such rules shall reflect management principles, standards and plans applicable to scenic waterways, their shorelines and related adjacent land and, if necessary, establish varying intensities of protection or development based on special attributes of each area.

ORS 390.845 requires consultation with the Board of Forestry on rules governing the management of state scenic waterways and related adjacent lands. Approximately 75 percent of the designated scenic waterway is on Board of Forestry lands, with the remainder being industrial forestland and scattered private parcels.

BACKGROUND AND ANALYSIS

Oregon Parks and Recreation Department is responsible for administering the State Scenic Waterways Program, designed to protect the existing scenic, natural and recreation values of the designated Scenic Waterways throughout the state. OPRD is directed by statute (ORS 390.855) to periodically study new waterways for potential inclusion in the program.

OPRD conducted a two-year study of a 17.5 mile stretch of the Nehalem River for potential inclusion in Oregon’s Scenic Waterway program. The study process includes consulting with and involving key stakeholders and the local community, gathering existing river data, conducting a field evaluation of the segment of river being studied, and drafting a report for public comment. OPRD worked closely with state- and federal-agency staff, tribes, local governments, landowners (including Oregon Department of Forestry (ODF) and Weyerhaeuser), natural resource groups, and other stakeholders to evaluate the river for potential inclusion in the State Scenic Waterway system using the statutorily defined criteria. As a part of this study process, OPRD also developed a draft management plan in cooperation with an advisory committee. This management plan

contains guidance on potential draft rule language and other management recommendations.

The complete study report and recommendations were approved by the Oregon Parks and Recreation Commission and concurrence was given by the Water Resources Commission (WRC) in February 2019. The study segment was designated by Governor Brown in June 2019 (Executive Order 19-05).

OPRD staff convened a Rules Advisory Committee (RAC) in September 2019. A majority of the RAC members had previously served on the advisory committee. The RAC includes County Commissioners from both Tillamook and Clatsop counties, local landowners, including Weyerhaeuser, and state agency stakeholders including ODF staff. The RAC met on September 5th in Nehalem to discuss and revise draft administrative rules recommended by the management plan advisory committee earlier this year. While supportive of the draft rules, members of the RAC agreed on edits (Attachment 1), to add clarity or improve consistency. However, not all members of the RAC were in agreement with 736-040-0120(1)(h)(A). A few would prefer an alternative rule to increase harvest restrictions within the 100-foot Riparian Buffer Zones on public and private timberland to address concerns about potential impacts of timber harvest in this area. OPRD staff recommends, and ODF staff support, maintaining language in the current draft.

ALTERNATIVES CONSIDERED

Rulemaking is required as the scenic waterway has been designated by Governor Brown.

RECOMMENDATION

This is an information item only – staff is presenting information about draft rules being developed by Oregon Parks and Recreation Department in consultation with ODF.

NEXT STEPS

- OPRD staff will finalize the draft rules following the formal rulemaking process required by the Administrative Procedures Act. A public comment period is scheduled to occur from October 1-November 4, 2019 with a public hearing on October 28th, in Nehalem. The draft rules will be revised as necessary following public comment.
- The draft rules will go to the OPRD Commission for potential adoption on November 20, 2019, and WRC thereafter for a request for concurrence.
- More information, including the study report and draft management plan, is available online on the scenic waterway program website at bit.ly/scenicwaterways.

ATTACHMENTS

1. Notice of Proposed Rulemaking - Nehalem Scenic Waterway (OAR 736-040-0120)