

**WSR 22-23-006
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 22-262—Filed November 2, 2022, 1:40 p.m., effective December 3, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of this rule is to allow for alternative commercial fishing gears to be used for commercial fishing in the Lower Columbia River.

Citation of Rules Affected by this Order: WAC 220-360-500, 220-360-510, 220-360-520, 220-360-530, and 220-360-540.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, 77.12.047, 77.70.160, 77.50.030, 77.65.400.

Adopted under notice filed as WSR 22-13-153 on June 21, 2022.

Changes other than editing from proposed to adopted version: There are four changes from the proposed rule and the rule as adopted. The first removes the phrase "Under that license or" from subsection (a) of WAC 220-360-510. The second change is in WAC 220-360-520(2) and extends the application deadline from March 15 to April 30. The third change is in WAC 220-360-520(3) and extends the license and permit issuance deadline from May 15 to May 30. The final revision adds text to define the term "TAC."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 5, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 1, 2022.

Kelly Susewind
Director

OTS-3888.2

NEW SECTION

WAC 220-360-500 Designation of an emerging commercial fishery in the Lower Columbia River. (1) The director designates an emerging commercial fishery in the Lower Columbia River. The director has determined a need to limit the number of participants in this fishery.

(2) It is unlawful to fish for, possess, or deliver salmon taken for this fishery unless the fisher possesses a valid emerging commercial fishery license and experimental fishery permit. A violation of this subsection is punishable under RCW 77.15.500 Commercial fishing without a license—Penalty.

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NEW SECTION**WAC 220-360-510 Columbia River emerging commercial fishery—**

Qualifications. To qualify for an emerging commercial fishery license and experimental fishery permit, a person must:

(1) Possess a commercial gillnet salmon license/permit issued by Washington (WA) or Oregon (OR) for the Columbia River; and

(a) Demonstrate by valid Washington or Oregon fish receiving tickets that salmon have been taken in the Columbia River or Columbia River select areas within the most recent five calendar years by the applicant under a commercial salmon license issued for the Columbia River; or

(b) Demonstrate participation in a test fishery (WA) or possession and use of an experimental gear permit (OR) using alternative commercial fishing gears within the most recent five calendar years.

(2) Have at least three years of commercial salmon fishing experience.

(3) Have at least one year of fishing experience (commercially or in a research/test fishery capacity) with purse seines, beach seines, or a pound net.

(4) Be free of a commercial fishing or other related violation within the last 10 years.

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NEW SECTION**WAC 220-360-520 Columbia River emerging commercial fishery—Issuance of an emerging commercial fishery license and experimental fishery permit—License and permit conditions.**

(1) To maintain consistency in this fishery enabling the department to gather the best available information, a fisher selected by lottery in the initial year the fishery is offered will be able to renew their permit for the duration of the fishery.

(2) Applications for participation in the one-time lottery are due by April 30th of the initial year in which the fishery is offered.

(a) Only one application per person is allowed, and only one gear type may be permitted per person.

(b) The alternative gear an applicant is interested in fishing is in the applicant's possession by the time their application is submitted.

(3) Issuance of the annual emerging commercial fishery license and experimental fishery permit will occur by May 30th prior to the start of each fishing season.

(a) If the total number of available permits is not filled from the applications received by the deadline, the department may ask for additional applications.

(b) Applicants selected must respond within 10 business days of being notified by the department to accept the permit and purchase the

emerging fishery license. If the applicant fails to purchase the license and permit within 10 business days of notification of selection, the department may issue the license and permit to another applicant.

(4) The conditions of possessing a valid license and permit are as follows:

(a) Fishery participants are not precluded from participation in other commercial fisheries.

(b) Fishery participants are required to have a state observer observing their catch while actively fishing.

(c) If a permit holder fails to make multiple landings during the fishery, the experimental permit issued to that fisher will be voided, that person will have his or her name permanently withdrawn from the applicant pool, and a new applicant will be selected from the applicant pool.

(d) This license and permit are not transferable between persons. The license and permit holder must be present and in possession of a valid license and permit during fishing operations. A violation of this subsection is punishable under RCW 77.15.540 Unlawful use of a commercial fishery license—Penalty.

(e) It is unlawful to violate the conditions of the emerging commercial fishery license and experimental fishery permit. A violation of this subsection is punishable under RCW 77.15.540 Unlawful use of a commercial fishery license—Penalty.

(f) This license and permit may be revoked at the discretion of the director and future licenses and permits denied for failure to comply with conditions specified in the permit or violations of other commercial fishing regulations.

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NEW SECTION

WAC 220-360-530 Columbia River emerging commercial fishery—Season, area, and gear requirements. (1) The following gear is allowable:

(a) Purse seines as defined in WAC 220-350-110.

(b) Beach seines as defined in WAC 220-350-040.

(c) Pound nets as defined here as nets attached to fixed pilings, stakes, and/or anchors to form a lead, guiding fish into at least one heart, pot, or spiller that directs fish into a live well for sorting.

(2) Other gears may be considered for inclusion in this fishery if:

(a) The gear has a *U.S. v Oregon* technical advisory committee (TAC) approved mortality rate; and

(b) It is brought forward by a commercial fisher possessing a Columbia River commercial fishing license.

(3) All other season, area, and gear requirements will be as determined by the states of Oregon and Washington via the Columbia River compact process.

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NEW SECTION

WAC 220-360-540 Columbia River emerging commercial fishery—Allowable possession and sales—Catch handling requirements. (1) Allowable possession and sales: Salmon, and as determined by the states of Oregon and Washington via the Columbia River compact process. All species other than salmon must be carefully handled and promptly returned to the water.

(2) Handling of catch: Salmon catch may only be handled by hand or with rubber coated nets when sorting fish. Fish must be sorted while submerged in the water; it is unlawful to dry sort fish on land or on deck.

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