

Chapter 220-359 WAC

COMMERCIAL FISHERIES—COLUMBIA RIVER ABOVE BONNEVILLE DAM

WAC

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WAC 220-359-010 Indian fishery—Area and qualification. It is unlawful to take, fish for or possess food fish for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, 1H, and 1E1 except that it is permissible for individuals possessing treaty fishing rights pursuant to the Yakima Treaty (12 Stat. 951), the Warm Springs Treaty (12 Stat. 963), the Umatilla Treaty (12 Stat. 945), and the Nez Perce Treaty (12 Stat. 957), while having on his or her person his or her Federal Tribal Identification Card to take, fish for and possess food fish for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, 1H, and 1E1 in accordance with the rules in this chapter.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-359-010, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.055, 77.12.045, and 77.12.047. WSR 15-08-031 (Order 15-53), § 220-32-050, filed 3/25/15, effective 4/25/15; Order 77-14, § 220-32-050, filed 4/15/77; Order 915, § 220-32-050, filed 3/4/71; Order 860, § 220-32-050, filed 3/3/70.]

WAC 220-359-020 Seasons—Salmon. It shall be lawful to take, fish for and possess salmon for commercial purposes taken with drift gillnets and set nets not exceeding 300 feet in length, and with dip nets and hoop nets in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H during the following season:

No open season.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-359-020, filed 2/15/17, effective 3/18/17; Order 77-14, § 220-32-051, filed 4/15/77; Order 1043, § 220-32-051, filed 2/22/73; Order 915, § 220-32-051, filed 3/4/71.]

WAC 220-359-030 Weekly open fishing periods—Salmon. It shall be unlawful during any open season in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H to take, fish for or possess salmon for commercial purposes except during the weekly open period hereinafter designated:

No open season.

(10/30/17)

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-359-030, filed 2/15/17, effective 3/18/17; Order 77-14, § 220-32-052, filed 4/15/77; Order 1043, § 220-32-052, filed 2/22/73; Order 915, § 220-32-052, filed 3/4/71.]

WAC 220-359-040 Lawful salmon gear—Mesh. It shall be unlawful to take, fish for or possess salmon taken for commercial purposes with any net in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H containing gillnet mesh larger than 4-1/2 inches stretch measure during the period 12 noon June 28 to 12 noon July 2; and containing mesh smaller than 7-1/4 inches stretch measure during the period 12 noon August 9 to 12 noon August 20.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-359-040, filed 2/15/17, effective 3/18/17; Order 77-14, § 220-32-053, filed 4/15/77; Order 915, § 220-32-053, filed 3/4/71.]

WAC 220-359-050 Open area salmon—Lone Pine. It shall be lawful to take, fish for and possess salmon taken for commercial purposes with dip nets, bag nets, and hoop nets at the Lone Pine Indian fishing site located immediately above The Dalles Interstate Bridge during the times it is lawful to take salmon commercially in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-359-050, filed 2/15/17, effective 3/18/17; Order 77-14, § 220-32-054, filed 4/15/77; Order 915, § 220-32-054, filed 3/4/71.]

WAC 220-359-060 Off-reservation Indian subsistence fishing. (1) It is unlawful for any person, including treaty Indian fishermen, to take, fish for, or possess salmon or other food fish for subsistence purposes except in accordance with the provisions of this section.

(2) It is lawful for individuals possessing treaty fishing rights pursuant to the Yakima Treaty, the Warm Springs Treaty, the Umatilla Treaty, and the Nez Perce Treaty to fish for food fish for subsistence family-use purposes subject to the following provisions:

(a) Such fishing is permitted year-round in the following areas: That area of the mainstem Columbia River from a line between a marker on the Washington shore and a marker on the Oregon shore, such line located approximately one-half mile upstream from the mouth of Eagle Creek, upstream to a point at the four-second flashing light #67 approximately 1/2 mile downstream of the Dalles Bridge; that area of the mainstem Columbia River from a point 200 feet above the Dalles Dam fishway exit upstream to a point 600 feet downstream of the John Day Dam fishway entrance; that area of the mainstem Columbia River from a point 200 feet above the John Day Dam fishway exit upstream to a point at the downstream

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end of the wingwall of the McNary Dam boat lock; that area of Columbia River from a point 200 feet above the McNary Dam fishway exit upstream to the Highway 12 bridge; excluding those areas within 1/4 mile radius of the mouth of Wind River, Little White Salmon River (Drano Lake), Klickitat River, and Spring Creek Hatchery fishway entrance.

(b) Lawful fishing gear by treaty Indians in the above-designated area includes dip nets and bag nets of a mesh size not exceeding 5 inches attached to a hoop 24 feet or less in circumference, spear, gaff, club, and foul hook.

(c) It is lawful to use sport angling gear in places and at times allowed under chapter 220-310 WAC series for treaty Indian subsistence purposes.

(d) It is unlawful to use drift gillnets or set gillnets for treaty Indian subsistence fishing in the mainstem of the Columbia River except as authorized by the director of the department of fish and wildlife under the provisions of WAC 220-359-110.

(e) It is unlawful to use gillnets, set nets, hoop nets, dip or bag nets with a mesh size exceeding 5 inches, set lines, or any other type of fishing gear not otherwise specifically authorized except during times and in areas where such gear is authorized for commercial fishing purposes.

(3) In accordance with RCW 77.12.453, it is lawful for the following Wanapum Indians to take, fish for, and possess food fish for subsistence purposes in the vicinity of Priest Rapids Dam in specified areas at specified times using specified gear authorized by the director of the department of fish and wildlife. The individuals designated below may be revised from time to time by agreement between the Wanapum Indians and the director of the department of fish and wildlife:

Frank Buck	Jade Buck
Stanley Buck	Robert S. Tomanawash, Sr.
Willie Buck	Lester Umtuch
Harry Buck	Grant Wyena
Ken Buck	Jerry Wyena
Rex Buck, Jr.	Douglas Wyena
Phillip Buck	Jimmy Wyena
Richard Buck	Patrick Wyena

The following provisions apply to this fishery:

(a) It is unlawful to fish at any time, place, or using gear other than that designated by the director of the department of fish and wildlife and authorized by regulation.

(b) It is unlawful for Wanapum Indian fishermen to fail to report, in writing, their total catch to the department of fish and wildlife within five days of the end of fishing activity under subsection (3)(a) of this section.

(c) Should any Wanapum Indian be convicted of violating the provisions of this section, or sell, barter, or attempt to sell or barter any fish taken in this fishery or any treaty Indian fishery, that fishermen will be ineligible to further participate in the Wanapum Indian subsistence fishery unless otherwise determined by the director of the department of fish and wildlife.

(4) It is unlawful to sell, barter, or offer for sale or barter, buy, or for a commercially licensed fish dealer or wholesale

fish buyer to have in possession food fish taken in an Indian subsistence fishery under the provisions of subsections (2) and (3) of this section.

(5) It is unlawful for fishermen participating in an Indian subsistence fishery to fail to submit their catch to department of fish and wildlife employees for the conduct of biological sampling or to fail to allow necessary biological samples to be taken.

[Statutory Authority: RCW 77.04.090, 77.04.130, 77.15.568, 77.08.010, 77.65.510, 77.65.515, and 77.65.520. WSR 17-22-100, § 220-359-060, filed 10/30/17, effective 1/1/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-359-060, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 75.08.080. WSR 85-18-027 (Order 85-112), § 220-32-055, filed 8/27/85; WSR 84-05-046 (Order 84-11), § 220-32-055, filed 2/21/84; WSR 82-17-040 (Order 82-105), § 220-32-055, filed 8/13/82; Order 77-14, § 220-32-055, filed 4/15/77; Order 866, § 220-32-055, filed 6/12/70.]

WAC 220-359-070 Season and gear—Shad. It shall be lawful to take, fish for and possess shad taken for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H with single-wall floater gillnet and set net gear containing mesh of a size not less than 5-3/8 inches or larger than 6-1/4 inches stretch measure and said mesh webbing shall be of a breaking strength not greater than a 10-pound pull from 12 noon July 4 to 12 noon July 11. It shall be unlawful to sell any salmon taken during this lawful shad fishery.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-359-070, filed 2/15/17, effective 3/18/17; Order 77-14, § 220-32-056, filed 4/15/77; Order 76-26, § 220-32-056, filed 1:45 p.m., 4/20/76; Order 915, § 220-32-056, filed 3/4/71.]

WAC 220-359-080 Season—Sturgeon. (1) It is unlawful to take, fish for or possess sturgeon taken for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H except individuals possessing treaty fishing rights pursuant to the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for sturgeon with setline gear from January 1 through January 31, and during seasons opened under emergency rule by the department and as provided in this section.

(2) During the open season, it is unlawful to:

(a) Retain for commercial or subsistence purposes sturgeon less than 38 inches in fork length or greater than 54 inches in fork length in Columbia River Salmon Management and Catch Reporting Area (SMCRA) 1F. It is unlawful to retain for commercial or subsistence purposes sturgeon less than 43 inches in fork length or greater than 54 inches in fork length in Columbia River SMCRA 1G and 1H;

(b) Sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of a sturgeon prior to the sale of the sturgeon to a wholesale fish buyer endorsed under chapter 77.65 RCW, or to sell or barter sturgeon eggs at retail; or

(c) Deliver to a wholesale fish buyer endorsed under chapter 77.65 RCW any sturgeon that are not in the round with the head and tail intact.

(3) Gear:

(a) Maximum 100 hooks per setline;

(b) Minimum hook size 9/0;

(c) Treble hooks prohibited; and

(d) Visible buoys required, with operator name and tribal identification clearly marked on the buoy.

[Statutory Authority: RCW 77.04.090, 77.04.130, 77.15.568, 77.08.010, 77.65.510, 77.65.515, and 77.65.520. WSR 17-22-100, § 220-359-080, filed 10/30/17, effective 1/1/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-359-080, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047 and 77.04.020. WSR 09-18-070 (Order 09-187), § 220-32-057, filed 8/28/09, effective 9/28/09. Statutory Authority: RCW 77.12.047. WSR 00-17-117 (Order 00-146), § 220-32-057, filed 8/17/00, effective 9/17/00. Statutory Authority: RCW 75.08.080. WSR 82-19-083 (Order 82-142), § 220-32-057, filed 9/21/82; Order 77-14, § 220-32-057, filed 4/15/77; Order 1043, § 220-32-057, filed 2/22/73; Order 915, § 220-32-057, filed 3/4/71.]

WAC 220-359-090 Closed areas salmon—River mouths. It shall be unlawful to take, fish for or possess salmon taken for commercial purposes in or from the following designated closed waters adjacent to the mouths of streams tributary to Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H during the time periods specified.

(1) Those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline of the mouths of Hood River, Deschutes River, and Umatilla River are closed the entire year.

(2) Those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to three-quarters mile downstream from the western shoreline of the mouth of the Little White Salmon River are closed the entire year.

(3) Those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline of the mouths of Herman Creek and the Big White Salmon River are closed from August 1 to November 1 of each year.

(4) Those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one- and one-half miles downstream from the western shoreline of the mouths of the Klickitat River and Wind River are closed the entire year.

(5) Those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one- and one-half miles downstream from the western shoreline of the mouth of Spring Creek are closed from August 1 to November 1 of each year.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-359-090, filed 2/15/17, effective 3/18/17; Order 77-14, § 220-32-058, filed 4/15/77; Order 915, § 220-32-058, filed 3/4/71.]

WAC 220-359-100 Unlawful provision—Salmon. It shall be unlawful to take, fish for or possess salmon taken for commercial purposes in or from the waters of the Klickitat River between the swinging bridge, approximately one- and one-half miles upstream, and a monument located in Section

25, Township 3N, Range 12E, a distance of 25 feet downstream from the entrance to the upper Klickitat Falls Fishway (No. 5), except during the lawful seasons, times, and manners as provided for such fishing in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H under WAC 220-359-020 and 220-359-030.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-359-100, filed 2/15/17, effective 3/18/17; Order 77-14, § 220-32-059, filed 4/15/77; Order 915, § 220-32-059, filed 3/4/71.]

WAC 220-359-110 Columbia River—Columbia River off-reservation treaty Indian ceremonial fishing. (1)

It shall be unlawful for any Indian to conduct ceremonial fishing on the Washington side of the Columbia River or in Washington Columbia River tributaries outside of an Indian reservation without first providing at least one week advance written notification to the director of the Washington state department of fish and wildlife, including all of the following information:

(a) Name, place, and time of ceremony for which fish will be used.

(b) Name of individuals and helpers who will be fishing and transporting fish. Only these individuals will be allowed to fish on the occasion covered by the notice.

(c) Exact location(s) of fishing and the amount of gear to be used at each location.

(d) Exact beginning and ending dates of ceremonial fishing.

(e) Type of gear to be used in ceremonial fishing.

(f) Estimated number of pounds of fish needed for ceremonial fishing.

(g) If fish are to be stored prior to a ceremony, the location of storage must be identified. If they are not to be stored, it must be so indicated.

(h) The signature of the designated tribal official certified to the Washington department of fish and wildlife in advance.

(2) It shall be unlawful to:

(a) Fish for ceremonial purposes with commercial fishing gear except in those areas where such fishing gear is authorized for commercial fishing.

(b) Engage in ceremonial fishing during any portion of a week within a commercial fishing season which is closed to commercial fishing.

(c) Sell or barter, offer for sale or barter, buy, or for a commercial wholesale fish buyer or fish dealer to have in his possession fish taken for ceremonial purposes.

(d) Engage in ceremonial fishing unless done in compliance with all provisions contained in the advance notice to the department of fish and wildlife of the state of Washington.

(3) Any individual engaged in ceremonial fishing must have in his possession a signed copy or duplicate copy of the written tribal notification to the director of the Washington state department of fish and wildlife that such fishing is to be conducted.

(4) All fishing gear shall be marked and identified at all times while fishing for ceremonial purposes.

(5) A record of the numbers of fish taken for ceremonial purposes will be made and sent promptly to the director of the

Washington state department of fish and wildlife upon conclusion of each ceremonial fishing activity.

[Statutory Authority: RCW 77.04.090, 77.04.130, 77.15.568, 77.08.010, 77.65.510, 77.65.515, and 77.65.520. WSR 17-22-100, § 220-359-110, filed 10/30/17, effective 1/1/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-359-110, filed 2/15/17, effective 3/18/17; Order 1043, § 220-32-060, filed 2/22/73.]