

WAC 220-359-060 Off-reservation Indian subsistence fishing. (1)

It is unlawful for any person to take, fish for, or possess fish for subsistence purposes in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, 1H, and 1E1 unless:

(a) The person possesses treaty fishing rights pursuant to the Yakima Treaty, the Warm Springs Treaty, the Umatilla Treaty, and the Nez Perce Treaty to fish; and

(b) Such fishing occurs in the following areas:

(i) 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; and

(ii) 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 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.

(c) The fishing gear used is limited to 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, and club, except it is lawful to use sport angling gear in places and at times allowed under chapter 220-310 WAC for treaty Indian subsistence purposes.

(d) The owner's tribal affiliation and enrollment number is either placed on the upper side of the hoop, or on a tag attached to the hoop, pole, or cable.

(e) The fishing is authorized by tribal regulation.

(2) In accordance with RCW 77.12.453, it is lawful for Wanapum Indians to take, fish for, and possess food fish for subsistence purposes in the vicinity of Priest Rapids Dam provided that a permit has been issued by the director of the department of fish and wildlife and all conditions followed. Individuals will be designated by agreement between the Wanapum Indians and the director of the department of fish and wildlife or the director's designee.

The following provisions apply to this fishery:

(a) 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 this subsection.

(b) 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.

(3) It is unlawful to sell, barter, or offer for sale or barter, buy, or for a person acting in the capacity of a wholesale fish buyer to have in possession fish taken in an Indian subsistence fishery unless authorized by department rule.

(4) 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.

(5) Violation of this section is punishable as:

(a) A gross misdemeanor or felony crime under RCW 77.15.550 regarding seasons and times;

(b) A gross misdemeanor under RCW 77.15.520 regarding gear; and

(c) A felony crime under RCW 77.15.260 regarding trafficking of fish not allowed by department rule.

[Statutory Authority: RCW 77.04.090, 77.040.130 [77.04.130], 77.12.045, and 77.12.047. WSR 19-06-018 (Order 19-36), § 220-359-060, filed 2/26/19, effective 3/29/19. 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.]