

WSR 22-14-078
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-122—Filed June 30, 2022, 4:22 p.m., effective July 1, 2022]

Effective Date of Rule: July 1, 2022.

Purpose: The purpose of this emergency rule is to increase daily sockeye limits in the Columbia River areas listed within this rule.

Citation of Rules Affected by this Order: Repealing WAC 220-312-06000U; and amending WAC 220-312-050 and 220-312-060.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This action is necessary to increase daily sockeye limits and reopen adult summer Chinook retention in the areas listed within this rule.

The *U.S. v. OR* technical advisory committee (TAC) updated both the 2022 preseason summer Chinook and sockeye returns from 56,300 to 66,800, and 198,700 to 426,000, respectively. At this updated run size there are additional sockeye available for the mainstem Columbia, Okanogan, and Similkameen rivers. TAC is comprised of representatives from Washington, Oregon, Idaho, NOAA, and the treaty tribes and are responsible for developing preseason and in-season run forecast that salmon season are based on.

The fishery is consistent with the *U.S. v. Oregon* Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with Compact Action on June 30, 2022. The general public welfare is protected with the immediate and limited duration opening of recreational salmon fishing. This limited harvest allows for public use of the resource as well as the maintenance of a sustainable fish population.

Washington and Oregon jointly regulate Columbia River fisheries under the congressionally ratified Columbia River Compact. Four Indian tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the tribes an opportunity to take a fair share of the available fish, and the states must manage other fisheries accordingly. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* Management Agreement (February 26, 2018) (Doc. No. 2607-1). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under the federal Endangered Species Act (ESA). On February 23, 2018, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in the fisheries as described in the 2018-2027 *U.S. v. Oregon* Management Agreement.

Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under ESA. The Washington and Oregon fish and wildlife commissions have developed policies to guide the implementation of such biological opinions in the states' regulation of nontreaty fisheries.

Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, ESA, and commission guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached. There is insufficient time to promulgate permanent rules.

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 2, Amended 0, Repealed 1.

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: June 30, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-06000V Freshwater exceptions to statewide rules—Columbia River. Effective July 1 through October 15, 2022, the provisions of WAC 220-312-060 regarding recreational salmon and steelhead seasons from the Megler-Astoria Bridge to Chief Joseph Dam, shall be modified during the dates listed and as described below. All year-round Closed Waters areas remain in effect. Other provisions of WAC 220-312-060 not addressed herein remain in effect unless otherwise amended by emergency rule:

(1) From the Megler-Astoria Bridge upstream to 600 feet below the fish ladder at the new Bonneville Powerhouse: Salmon and steelhead:

(a) Effective July 1 through July 13, 2022: Daily limit 6. No more than 2 adults may be retained, of which up to 1 may be a hatchery steelhead. Release all salmon other than sockeye and hatchery Chinook. Release wild steelhead.

(b) Effective July 14 through July 31, 2022: Daily limit 6. No more than 2 adults may be retained, of which up to 1 may be a hatchery steelhead. Release all salmon other than sockeye and hatchery jack Chinook. Release wild steelhead.

(2) From Bonneville Dam to The Dalles Dam: Salmon and steelhead:

Effective July 1 through July 31, 2022: Daily limit 6. No more than 2 adults may be retained, of which up to 1 may be a hatchery steelhead. Release all salmon other than sockeye and hatchery Chinook. Release wild steelhead.

(3) From The Dalles Dam upstream to a line starting from a fishing boundary sign on the Washington north shore located approximately

1300' upstream of The Dalles Dam and Lock boat ramp projected easterly across the Columbia River to a boundary sign on the Washington southern shore located approximately 200' above the fish ladder exit: Salmon and steelhead:

Effective June 16, 2022, until further notice: Closed to fishing for and retention of salmon and steelhead.

(4) From a line starting from a fishing boundary sign on the Washington north shore located approximately 1300' upstream of The Dalles Dam and Lock boat ramp projected easterly across the Columbia River to a boundary sign on the Washington south shore located approximately 200' above the fish ladder exit upstream to Hwy. 395 Bridge at Pasco: Salmon and steelhead:

Effective July 1 through July 31, 2022: Daily limit 6. No more than 2 adults may be retained, of which up to 1 may be a hatchery steelhead. Release all salmon other than sockeye and hatchery Chinook. Release wild steelhead.

(5) From Columbia Point (approximately 1/3 mile downstream of I-182 Bridge) upstream to I-182 Bridge: Salmon:

(a) Effective immediately through July 15, 2022: Closed to angling from a floating device or by any method except hand-cast lines from the west shore (Richland side of the river).

(b) Effective July 1 through July 15, 2022: Daily limit 6. No more than 3 adult salmon may be retained of which no more than 2 may be hatchery Chinook. Release wild adult Chinook.

(6) From I-182 Bridge upstream to Priest Rapids Dam: Salmon:

Effective July 1 through August 15, 2022: Daily limit 6. No more than 3 adult salmon may be retained of which no more than 2 may be hatchery Chinook. Release wild adult Chinook.

(7) From Priest Rapids Dam to boundary markers 400 feet downstream of the fish ladders at Rock Island Dam: Salmon:

Effective July 1 through August 31, 2022: Daily limit 6, including no more than 2 adult hatchery Chinook and no more than 4 sockeye. Release wild adult Chinook and coho.

(8) From Rock Island Dam to Boundary 400 feet below the Wells Dam spawning channel discharge (on Chelan County side) and fish ladder (on Douglas County side): Salmon:

Effective July 1 through October 15, 2022: Daily limit 6, including no more than 2 adult hatchery Chinook and no more than 4 sockeye. Release wild adult Chinook and coho.

(9) From Wells Dam to Hwy. 173 Bridge at Brewster: Salmon:

Effective July 16 through September 30, 2022: Daily limit 6, including no more than 2 adult hatchery Chinook and no more than 4 sockeye. Release wild adult Chinook and coho.

(10) From Hwy. 173 Bridge at Brewster to the rock jetty at the upstream shoreline of Foster Creek (Douglas County side): Salmon:

Effective July 1 through October 15, 2022: Daily limit 6, including no more than 2 adult hatchery Chinook and no more than 4 sockeye. Release wild adult Chinook and coho.

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NEW SECTION

WAC 220-312-05000Q Freshwater exceptions to statewide rules—Eastside. Effective July 1 through October 15, 2022, the provisions of WAC 220-312-050 regarding recreational salmon seasons in the Okanogan and Similkameen rivers, shall be modified during the dates listed and as described below. All provisions of WAC 220-312-050 not addressed herein remain in effect unless otherwise amended by emergency rule:

(1) Okanogan River (Okanogan Co.):

(a) From the mouth to the Hwy. 97 bridge immediately upstream of the mouth: Salmon:

Effective July 1 through October 15, 2022: Daily limit 6, including no more than 2 adult hatchery Chinook and no more than 4 sockeye. Release wild adult Chinook and coho. Night closure and Anti-snagging rule in effect. Two-pole fishing is allowed with valid a two-pole endorsement.

(b) From the Hwy. 97 bridge immediately upstream of the mouth to the Hwy. 97 bridge at Oroville: Salmon:

Effective July 1 through September 15, 2022: Daily limit 6, including no more than 2 adult hatchery Chinook and no more than 4 sockeye. Release wild adult Chinook and coho. Night closure and Anti-snagging rule in effect.

(2) Similkameen River (Okanogan Co.): From the mouth to 400 feet below Enloe Dam: Salmon:

Effective July 1 through September 15, 2022: Daily limit 6, including no more than 2 adult hatchery Chinook and no more than 4 sockeye. Release wild adult Chinook and coho. Night closure and Anti-snagging rule in effect.

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Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed, effective July 1, 2022:

WAC 220-312-06000U Freshwater exceptions to statewide rules—Columbia. (22-94)