

OFFICE OF THE SECRETARY OF STATE

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Attachment 2

ARCHIVES DIVISION
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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 635
DEPARTMENT OF FISH AND WILDLIFE

FILED

07/25/2023 9:52 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: 2023 Ocean Terminal Salmon Fisheries

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/15/2023 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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4034 Fairview Industrial Dr SE
Salem, OR 97302

Filed By:
Steven Emerson
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 09/15/2023

TIME: 8:00 AM - 5:00 PM

OFFICER: Michelle Tate

HEARING LOCATION

ADDRESS: Seventh Mountain Resort, 18575 SW Century Drive, Bend, OR 97702

SPECIAL INSTRUCTIONS:

This hearing will be conducted as a hybrid meeting, providing an opportunity to give testimony either in person or virtually. Additional information regarding participation will be posted on our website at www.dfw.state.or.us/agency/commission/minutes/. The meeting can be viewed at www.youtube.com/user/IEODFW. Any changes to the meeting format (to virtual only if emergency arises) will be posted to our website as soon as possible.

REMOTE MEETING DETAILS

PHONE NUMBER: 503-947-6211

NEED FOR THE RULE(S)

These rules would establish terminal commercial and sport salmon seasons in nearshore waters of the Pacific Ocean adjacent to the Elk and Chetco Rivers. Seasons are set in a manner that will conserve stocks of salmon while providing opportunity and economic benefit to coastal communities. Rules are needed to provide orderly salmon fisheries and enhance the ability of the State to enforce regulations necessary for conservation of salmon stocks in conjunction with other regional, state, and federal fishery management entities.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

1. Staff report prepared for the Oregon Fish and Wildlife Commission hearing on 9/15/2023.

A copy of the rules and the other documents relied upon for this rulemaking [the above document(s)] are available from the Oregon Department of Fish and Wildlife, Fish Division, 4034 Fairview Industrial Drive SE, Salem, Oregon 97302-1142. Contact Steve Emerson at 503-947-6233 or Steven.C.Emerson@odfw.oregon.gov to view by appointment between the hours of 8:00 a.m. and 4:00 p.m., on normal working days, Monday through Friday.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The Department has solicited input from representatives of underrepresented communities likely to be affected on whether the proposed rule will have a fiscal impact on the community, the extent of the fiscal impact, and whether the rules will have significant impact on underrepresented communities. <https://www.dfw.state.or.us/OARs/index.asp>

FISCAL AND ECONOMIC IMPACT:

No major fiscal or economic effects are expected to result from the proposed ocean terminal salmon fisheries regulations.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) State agencies that could be affected by these terminal fisheries rules are the Oregon Department of Fish and Wildlife (ODFW) and the Oregon State Police. No changes from the current levels of these agencies' operations or expenditures are expected as a result of these particular rules. However, revenues associated with the sale of sport fishing licenses, tags, commercial permits and catch fees may change depending on the abundance and availability of salmon to these fisheries.

Units of local government that could be affected by harvest management rules include Port Authorities and County Governments. Port Authorities may derive revenues from the provision of moorage for sport and commercial fishing and from the provision of facilities for the unloading of catches. We do not have precise information on how these terminal fisheries regulations will affect the units of local government in a fiscal sense. We are not able to project the magnitude of the fiscal effects, because the data required to link allowable harvests and local government revenues and expenditures are not available.

The public is affected by the harvest management rules. Various sectors of the public economy (recreational fishers; commercial harvesters; processors; suppliers of recreational fishers; and the general economy) will experience different impacts. The 2023 rules propose to open salmon fisheries in the Elk River Ocean Terminal Area and Chetco River Ocean Terminal Area for the first time since 2018, with a few proposed changes to harvest restrictions compared to the 2018 regulations. Broadly speaking, the opening of these fisheries is expected to result in positive economic impacts to recreational fishers, commercial harvesters, processors, suppliers, and the general economy.

While the opening of these closed fisheries is expected to yield only positive economic impacts, it is worth mentioning a few proposed changes to harvest restrictions from the regulations which were in place when the fisheries were last open in 2018.

For sport/recreational anglers, the daily bag limit for Chinook Salmon in the Elk River Area decreases from two (no more than one wild) to one fish in the proposed 2023 rules. No changes are proposed to daily bag limits for recreational anglers in the Chetco River Area, though the minimum allowable size for a Chinook Salmon to be retained is proposed to

change from 28 inches to 24 inches. In general, these minor fishery harvest restrictions are more conservative in the Elk terminal Area and more liberal in the Chetco terminal area relative to the 2018 regulations, but should provide sustainable fishing opportunities in the long term. Failure to constrain harvests to appropriate levels may result in more severe economic impacts in the future. Despite these harvest modifications, the opening of the fisheries is expected to result in overall positive impacts to recreational fishers and the businesses that cater to them, as previously (during the years 2019-2022) there were no harvest opportunities in these areas.

For commercial harvesters, no changes are proposed to the 2018 gear and harvest restrictions in the Elk River Ocean Terminal Area. In the Chetco River Ocean Terminal Area, the maximum allowable quota of Chinook is proposed to increase from 300 to 400, and the maximum daily landings for Chinook are proposed to increase from five to eight Chinook compared to the 2018 regulations. These maximum quota and daily landing limit increases may yield greater economic benefits to commercial harvesters and processors active in this fishery relative to the regulations in place when the fisheries were last open in 2018.

The proposed regulations attempt to balance fishing opportunities in the present consistent with the requirement to sustain fish population levels and to provide future harvest opportunities for both recreational and commercial fishers.

(2)(a) The main type of small business subject to these rules are the commercial salmon fishermen who are active in the Elk River and Chetco River Ocean Terminal Areas. As of 2018 there were 14 commercial harvesters who were active in the Elk River Ocean Terminal Area, and 24 who were active in the Chetco River Ocean Terminal Area. Other small businesses affected would be gas stations, tackle shops, charter boat owners, restaurants/cafes/bars, food stores, and places of lodging (hotels, campgrounds, etc.). Information is not available to estimate the number of those types of small businesses affected.

(2)(b) No significant changes in these costs are expected for the small businesses subject to these rules.

(2)(c) No significant changes in these costs are expected for the small businesses subject to these rules.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses were not involved in the development of these rules but correspondence from and testimony by interested and affected persons is accepted into record and is part of the rulemaking process. Opportunities for public comment are provided during the ODFW Commission process.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

Correspondence from and testimony by interested and affected persons is accepted into record and is part of the rulemaking process. Furthermore, these rules are believed to be fully compatible with legislative direction on the goals of wildlife management in Oregon.

RULES PROPOSED:

635-003-0085, 635-013-0007

AMEND: 635-003-0085

RULE SUMMARY: Amend rules to implement commercial and recreational ocean terminal salmon fisheries adjacent to the Elk and Chetco rivers.

CHANGES TO RULE:

Reserve number In addition to the open seasons prescribed in OAR 635-003-0003 there are open seasons for Chinook salmon as follows:¶¶

(1) Elk River Ocean Terminal Area - from November 1 through November 30 in the area described in section (1)(a) of this rule.¶¶

(a) The open area is all Pacific Ocean waters shoreward of a line drawn from Cape Blanco (42°50'20" N. Lat.) thence SW to Black Rock (42°49'24" N. Lat. 124°35'00" W. Long.), thence SSW to Best Rock (42°47'24" N. Lat. 124°35'42" W. Long.), thence SE to 42°40'30" N. Lat. 124°29'00" W. Long., thence to shore (Humbug Mountain).¶¶

(b) During the season described in this section (1), it is unlawful to take Chinook salmon less than 26 inches in total length; it is unlawful to use multipoint or barbed hooks or to fish more than four spreads per line; and it is unlawful to have in possession or to land more than 10 Chinook per day taken in this fishery. Landings are restricted to Port Orford.¶¶

(2) Chetco River Ocean Terminal Area - from Oct 9-13 and 16-31 or quota of 400 Chinook in the area described in section (2)(a) of this rule:¶¶

(a) The open area is all Pacific Ocean waters inside an area south of the north shore of Twin Rocks (42°05'36" N. Lat.) to the Oregon/California border (42°00'00" N. Lat.) and seaward three nautical miles offshore:¶¶

(b) During the season described in this section (2) it is unlawful to take Chinook salmon less than 28 inches in total length; it is unlawful to use multipoint or barbed hooks, or to fish more than four spreads per line; and it is unlawful to have in possession or to land more than 8 Chinook per day taken in this fishery. Landings are restricted to Brookings.¶¶

(c) All vessels landing salmon caught in this season must report to ODFW within one hour of delivery or prior to transport away from the port of landing by either calling (541) 857-2538, or by e-mail to kmzor.trollreport@state.or.us. Notification shall include vessel name and number, number of salmon by species, port of landing, location of delivery, and estimated time of delivery.

Statutory/Other Authority: ORS 496.138, ORS 496.146, ORS 506.119

Statutes/Other Implemented: ORS 506.129

AMEND: 635-013-0007

RULE SUMMARY: Amend rules to implement commercial and recreational ocean terminal salmon fisheries adjacent to the Elk and Chetco rivers.

CHANGES TO RULE:

635-013-0007

Special South Coast Seasons ¶¶

~~Reserve number~~ In addition to the open seasons prescribed in OAR 635-013-0003 there are open seasons for Chinook salmon as follows:¶¶

(1) Elk River Area.¶¶

(a) From November 1 through November 30 in all Pacific Ocean waters shoreward of a line drawn from Cape Blanco (42°50'20" N. Lat.) thence SW to Black Rock (42°49'24" N. Lat. 124°35'00" W. Long.), thence SSW to Best Rock (42°47'24" N. Lat. 124°35'42" W. Long.), thence SE to 42°40'30" N. Lat. 124°29'00" W. Long., thence to shore (Humbug Mountain);¶¶

(b) During the season described for the Elk River Area in section (1)(a) of this rule it is unlawful to take Chinook salmon less than 24 inches in length. The daily bag limit is one Chinook. Terminal tackle is limited to no more than two single point barbless hooks. It is unlawful to use multipoint or barbed hooks.¶¶

(2) Chetco River Area.¶¶

(a) From October 7-8 and 14-15 in an area south of the north shore of Twin Rocks (42°05'36" N. Lat.) to the Oregon/California border (42°00'00" N. Lat.) and seaward three nautical miles offshore.¶¶

(b) During the seasons described in section (2)(a) of this rule it is unlawful to take Chinook salmon less than 24 inches in length. One Chinook salmon per day may be retained. Terminal tackle is limited to no more than two single point barbless hooks. It is unlawful to use multipoint or barbed hooks.

Statutory/Other Authority: ORS 496.138, ORS 496.146, ORS 506.119

Statutes/Other Implemented: ORS 496.162, ORS 506.129