

OFFICE OF THE SECRETARY OF STATE

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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
04/17/2024 11:28 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Amend regulations for 2024 salmon seasons on Oregon Coast and smallmouth bass in Coos-Coquille

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 06/14/2024 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.

CONTACT: Steven Emerson
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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: 06/14/2024

TIME: 8:00 AM - 5:00 PM

OFFICER: Steven Emerson

IN-PERSON HEARING DETAILS

ADDRESS: goos oLgi gowa, 35601 Choke Cherry Way, Chiloquin, OR 97624

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.

NEED FOR THE RULE(S)

Under the Coastal Multispecies Plan, ODFW is directed to conduct annual reviews of fish populations, and not to wait until a critical level has been reached to adjust the management for a population including considering reduced retention limits, shorter seasons, or other measures will be considered to prevent a declining population from falling to its critical level. Consistent with this, bag limits for wild chinook on the Oregon Coast are set annually based on several factors, including but not limited to recent population trends, forecast returns (and forecast uncertainty), environmental factors, and harvest rate trends. For 2024, ODFW staff are proposing basin specific daily and annual bag limits for wild fall Chinook salmon that protect and maintain populations and allow for optimal utilization. Adoption of lower bag limits or shorter seasons would reduce public opportunity; adoption of higher bag limits or longer seasons would increase the likelihood of impacting the populations and future utilization opportunity. With an amendment to the rule, wild harvest would remain closed and the public would be denied an opportunity to harvest this valuable resource.

Spear or speargun harvest of smallmouth bass will encourage anglers to harvest smallmouth bass within the Coquille Basin and allowing additional harvest methods is intended to increase that harvest during the primary season for smallmouth bass throughout the warmer months of summer and early fall. Where legal in other states, spear fishing has been found to be just as effective or more effective at times than hook and line on some game fish species.

Based on a strong forecast for 2024 returns of wild coho to proposed rivers and bays, ODFW staff are proposing to open wild coho harvest fisheries in specific coastal river systems to provide public angling opportunity for limited harvest of these fish. Failure to adopt these amendments would prevent fishing opportunity as these fisheries are currently closed. Bag limits and season dates proposed by staff are intended to ensure that fishery impacts remain well below those allowed under Endangered Species Act (ESA) authorizations from NOAA Fisheries while providing public opportunity for harvest and for associated economic benefits. Staff recommendations are intended to result in total harvest that is less than the maximum allowed under the ESA, in order to provide a margin of error, or buffer, for uncertainty in forecast accuracy and fishery performance. Adoption of lower bag limits or shorter seasons would reduce public opportunity; adoption of higher bag limits or longer seasons would reduce the amount of buffer proposed to address forecast uncertainty and could result in exceeding ESA impact limits or require subsequent additional in-season management.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

1. Staff report prepared for the Oregon Fish and Wildlife Commission hearing on June 14, 2024.

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 changes in fishing 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 the amendments in recreational fishing regulations are the Oregon Department of Fish and Wildlife (ODFW) and the Oregon State Police (OSP). ODFW impacts include fisheries management costs and license sales, while OSP impacts are from increased enforcement costs. Overall, the proposed rule amendments are not expected to result in significant changes to current levels of costs for ODFW or for OSP. Any potential changes to ODFW revenues from license sales would depend substantially on changes to participation rates and purchases from the sport angling community. While these specific factors are quantitatively indeterminate at this time, ODFW does not expect that the proposed regulations will result in direct impacts on the purchase of angling licenses, tags, and endorsements.

Units of local government which could be affected by sport fishing regulations include port authorities and county governments. Port authorities and county governments may experience costs and derive revenues related to the provision of moorage and other support facilities for sport fishing. However, no major changes from the current levels of local government operations or expenditures are expected as a result of these particular rule amendments.

The public is affected by rules relating to angling regulations. These rule changes are unlikely to translate into significant changes in angler trips. Some of the proposed rule amendments could result in decreased angler trips due to harvest restrictions, while other proposed rule amendments may lead to an increase in trips through the opening of salmon angling and retention in areas that had previously been closed. The cumulative magnitude of this effect cannot be forecast with any precision because a variety of factors, such as run sizes, weather, gas prices, etc. determine the number of angler trips in any given year. Additional angler trips would mean more spending by anglers, which can have positive impacts on local communities near fishing areas. Overall, these regulation amendments are not expected to result in significant change in license sales or angler trips in the next year.

Although some of the amendments to angling regulations in general can be viewed as reducing positive economic impacts in the short run, conservation through the regulation of seasons and other factors is intended to perpetuate Oregon's fishery resources at optimal levels in the long run. Failure to restrict harvests of fish to allow escapement for reproduction would result in severe adverse economic impacts in the future. The proposed regulations attempt to strike a balance, which will provide optimal angling opportunities subject to the need to sustain fish population levels and to maintain future benefits.

(2)(a) The types of businesses that may be indirectly affected are those that supply goods or services to anglers. These may include fishing guides, private marinas, food and beverage stores, gasoline stations, sporting goods stores, general merchandise stores, accommodation businesses, and food services and drinking places. Given that angling occurs in myriad locations in the Northwest and Southwest zones where these regulations are applicable, the number of small businesses subject to the rule cannot be estimated.

(2)(b) There are no projected reporting, recordkeeping, or other administrative activities required for compliance with these amendments.

(2)(c) There are no projected equipment, supplies, labor, or increased administration costs required for compliance with these amendments.

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

Small businesses have not been directly involved in the development of the rules proposed to the Commission. We do not believe that a less intrusive or less costly alternative adaptation to only small businesses is consistent with the proposed rule. Opportunity for the public to provide input and recommendations will be provided at the June 14th, 2024 Commission Hearing.

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

An Administrative Rule Advisory Committee was not consulted. The rules are believed to be fully compatible with legislative direction on the goals of fishery management in Oregon.

At the Commission Hearing, public correspondence and testimony will be accepted into the record as part of the rulemaking process.

RULES PROPOSED:

635-014-0500, 635-014-0510, 635-016-0500, 635-016-0510, 635-016-0520

AMEND: 635-014-0500

RULE SUMMARY: The Oregon Fish and Wildlife Commission (Commission) will consider modifications to recreational angling regulations for coastal streams for 2024 fall salmon seasons and to allow spear/spear gun harvest of smallmouth bass in Coos-Coquille District. If adopted, the proposed rules modify existing fishing regulations that are published in the 2024 Oregon Sport Fishing Regulations for the following bays, rivers and tributaries, within the NW and SW zones: Necanicum, Nehalem, Tillamook, Nestucca, Salmon, Yaquina, Siletz, Alsea, Beaver Cr., Yachats, Siuslaw, Umpqua, Coos, Coquille, Floras Cr./New River, Sixes, Elk, Hunter Cr., Pistol, Chetco, and Winchuck. The Commission may decide not to adopt the proposed rules, or may amend one or more of the proposed rules including amendments that may affect other bays, rivers, and tributaries.

CHANGES TO RULE:

635-014-0500

North Coast District

~~Reserving Number~~ (1) The current annual Oregon Sport Fishing Regulations provide requirements for the Northwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the current annual Oregon Sport Fishing Regulations.

(2) Effective August 1 through December 31, 2024, the following regulations apply in the Necanicum River:

(a) From August 1 through November 30, the daily adult wild Chinook salmon bag limit is one fish;

(b) From August 1 through November 30, no more than two adult wild Chinook salmon may be retained for the period; and

(c) From December 1 through December 31, angling for, and retention of, all Chinook salmon is closed.

(3) Effective July 1 through December 31, 2024, the following regulations apply in the Nehalem River and Bay and in the North Fork Nehalem River:

(a) From July 1 through November 30, no more than ten adult wild Chinook salmon may be retained in aggregate, of which only one may be retained prior to September 16; and

(b) From December 1 through December 31, angling for, and retention of, all Chinook salmon is closed.

(4) Effective September 11 through October 19, 2024, on Wednesdays and Saturdays, the following regulations apply in the Nehalem Bay from the tips of the jetties upstream to the Miami-Foley Road Bridge and in the North Fork Nehalem River from the mouth upstream to the North Fork Road Bridge at Aldervale:

(a) The daily adult wild coho salmon bag limit is one fish in aggregate;

(b) No more than two adult wild coho salmon may be retained for the period in aggregate; and

(c) The daily jack wild coho salmon bag limit is one fish.

(5) Effective August 1 through December 31, 2024, the following regulations apply in Tillamook Bay, Tillamook River, Wilson River, Trask River, Kilchis River, and Miami River:

(a) From August 1 through November 30, the following regulations apply:

(A) The daily adult wild Chinook salmon bag limit is one fish in aggregate; and

(B) No more than two adult wild Chinook salmon may be retained for the period in aggregate.

(b) From December 1 through December 31, angling for, and retention of, all Chinook salmon is closed.

(6) Effective September 11 through October 19, 2024, on Wednesdays and Saturdays, the following regulations apply in Tillamook Bay from the tips of the jetties upstream to the Highway 101 bridges on the Miami, Kilchis, Wilson, and Trask Rivers and upstream to the Burton Bridge on the Tillamook River:

(a) The daily adult wild coho salmon bag limit is one fish in aggregate;

(b) No more than two adult wild coho salmon may be retained for the period in aggregate; and

(c) The daily jack wild coho salmon bag limit is one fish.

(7) Effective September 11 through October 19, 2024, on Wednesdays and Saturdays, the following regulations apply in the Nestucca Bay from the river mouth upstream to the Cloverdale Bridge and in the Little Nestucca River from the bay upstream to the Highway 130 Bridge (MP 1.2):

(a) The daily adult wild coho salmon bag limit is one fish in aggregate;

(b) No more than two adult wild coho salmon may be retained for the period in aggregate; and

(c) The daily jack wild coho salmon bag limit is one fish.

(8) All other permanent rules for the Northwest Zone, as stated in the current annual Oregon Sport Fishing Regulations, remain in effect.

Statutory/Other Authority: ORS 496.138, ORS 496.146

Statutes/Other Implemented: ORS 496.162

AMEND: 635-014-0510

RULE SUMMARY: The Oregon Fish and Wildlife Commission (Commission) will consider modifications to recreational angling regulations for coastal streams for 2024 fall salmon seasons and to allow spear/spear gun harvest of smallmouth bass in Coos-Coquille District. If adopted, the proposed rules modify existing fishing regulations that are published in the 2024 Oregon Sport Fishing Regulations for the following bays, rivers and tributaries, within the NW and SW zones: Necanicum, Nehalem, Tillamook, Nestucca, Salmon, Yaquina, Siletz, Alsea, Beaver Cr., Yachats, Siuslaw, Umpqua, Coos, Coquille, Floras Cr./New River, Sixes, Elk, Hunter Cr., Pistol, Chetco, and Winchuck. The Commission may decide not to adopt the proposed rules, or may amend one or more of the proposed rules including amendments that may affect other bays, rivers, and tributaries.

CHANGES TO RULE:

635-014-0510

Mid-Coast District

Reserving Number (1) The current annual Oregon Sport Fishing Regulations provide requirements for the Northwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the current annual Oregon Sport Fishing Regulations.

(2) Effective August 1 through December 31, 2024, no more than ten adult wild Chinook salmon may be retained for the period in the Salmon River.

(3) Effective August 1 through December 31, 2024, no more than ten adult wild Chinook salmon may be retained for the period in the Siletz River and Drift Creek in aggregate.

(4) Effective September 15 through October 31, 2024, the following regulations apply in the Siletz River:

(a) From September 15 through October 7, retention of wild coho salmon is allowed from the mouth upstream to an ODFW marker sign approximately 1,200 feet upstream of the Ojalla Bridge;

(b) From October 8 through October 31, retention of wild coho salmon is allowed from the mouth upstream to the Illahee Boat Ramp;

(c) No more than one adult wild coho salmon may be retained for the period of September 15 through October 31; and

(d) The daily jack wild coho salmon bag limit is one fish.

(5) Effective August 1 through December 31, 2024, the following regulations apply in the Yaquina River and Bay and Big Elk Creek:

(a) No more than ten adult wild Chinook salmon may be retained for the period in aggregate; and

(b) From September 15 through October 15, the following additional regulations apply:

(A) No more than one adult wild coho salmon may be retained for the period in aggregate; and

(B) The daily jack wild coho salmon bag limit is one fish.

(6) Effective August 1 through December 31, 2024, no more than ten adult wild Chinook salmon may be retained for the period in the Alsea River and Bay and Drift Creek in aggregate.

(7) Effective September 15 through October 15, 2024, the following regulations apply in the Alsea River from the mouth upstream to the U.S. Forest Service River Edge Boat Landing and in Drift Creek from the mouth upstream to the lower Wilderness boundary:

(a) No more than one adult wild coho salmon may be retained for the period; and

(b) The daily jack wild coho salmon bag limit is one fish.

(8) Effective August 1 through December 31, 2024, the following regulations apply in the Yachats River:

(a) The daily adult wild Chinook salmon bag limit is one fish; and

(b) No more than two adult wild Chinook salmon may be retained for the period.

(9) Effective November 1 through November 30, 2024, the following regulations apply in Beaver Creek from the walking bridge at Ona Beach State Park upstream to the confluence of Beaver Creek and in South Fork Beaver Creek:

(a) No more than one adult wild coho salmon may be retained for the period; and

(b) The daily jack wild coho salmon bag limit is one fish.

(10) Effective August 1 through December 31, 2024, the following regulations apply in the Siuslaw River and in Sweet Creek:

(a) The daily adult wild Chinook salmon bag limit is one fish in aggregate; and

(b) No more than two adult wild Chinook salmon may be retained for the period in aggregate.

(11) Effective September 15 through October 15, 2024, the following regulations apply in the Siuslaw River from the mouth upstream to the confluence of Lake Creek, in the North Fork Siuslaw River from the mouth upstream to Meadows Bridge, and in Sweet Creek from the mouth upstream to head of tide:

(a) No more than one adult wild coho salmon may be retained for the period; and¶

(b) The daily jack wild coho salmon bag limit is one fish.¶

(12) All other permanent rules for the Northwest Zone, as stated in the current annual Oregon Sport Fishing Regulations, remain in effect.

Statutory/Other Authority: ORS 496.138, ORS 496.146

Statutes/Other Implemented: ORS 496.162

AMEND: 635-016-0500

RULE SUMMARY: The Oregon Fish and Wildlife Commission (Commission) will consider modifications to recreational angling regulations for coastal streams for 2024 fall salmon seasons and to allow spear/spear gun harvest of smallmouth bass in Coos-Coquille District. If adopted, the proposed rules modify existing fishing regulations that are published in the 2024 Oregon Sport Fishing Regulations for the following bays, rivers and tributaries, within the NW and SW zones: Necanicum, Nehalem, Tillamook, Nestucca, Salmon, Yaquina, Siletz, Alsea, Beaver Cr., Yachats, Siuslaw, Umpqua, Coos, Coquille, Floras Cr./New River, Sixes, Elk, Hunter Cr., Pistol, Chetco, and Winchuck. The Commission may decide not to adopt the proposed rules, or may amend one or more of the proposed rules including amendments that may affect other bays, rivers, and tributaries.

CHANGES TO RULE:

635-016-0500

Umpqua District

~~Reserving Number~~ (1) The current annual Oregon Sport Fishing Regulations provide requirements for the Southwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the current annual Oregon Sport Fishing Regulations.

(2) Effective July 1 through November 30, 2024, the following regulations apply in the Mainstem Umpqua River, Smith River, and North Fork Smith River:

(a) The daily adult wild Chinook salmon bag limit is one fish in aggregate; and

(b) No more than five adult wild Chinook salmon may be retained for the period in aggregate.

(3) Effective September 15 through October 15, 2024, the following regulations apply in the Mainstem Umpqua River and Bay from the mouth to Scottsburg Bridge at RM 27.5:

(a) The daily adult wild coho salmon bag limit is one fish;

(b) No more than two adult wild coho salmon may be retained for the period; and

(c) The daily wild jack coho salmon bag limit is one fish.

Statutory/Other Authority: ORS 496.138, ORS 496.146

Statutes/Other Implemented: ORS 496.162

AMEND: 635-016-0510

RULE SUMMARY: The Oregon Fish and Wildlife Commission (Commission) will consider modifications to recreational angling regulations for coastal streams for 2024 fall salmon seasons and to allow spear/spear gun harvest of smallmouth bass in Coos-Coquille District. If adopted, the proposed rules modify existing fishing regulations that are published in the 2024 Oregon Sport Fishing Regulations for the following bays, rivers and tributaries, within the NW and SW zones: Necanicum, Nehalem, Tillamook, Nestucca, Salmon, Yaquina, Siletz, Alsea, Beaver Cr., Yachats, Siuslaw, Umpqua, Coos, Coquille, Floras Cr./New River, Sixes, Elk, Hunter Cr., Pistol, Chetco, and Winchuck. The Commission may decide not to adopt the proposed rules, or may amend one or more of the proposed rules including amendments that may affect other bays, rivers, and tributaries.

CHANGES TO RULE:

635-016-0510

Coos-Coquille District

Reserving Number (1) The current annual Oregon Sport Fishing Regulations provide requirements for the Southwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the current annual Oregon Sport Fishing Regulations.

(2) Effective July 1 through December 31, 2024, the following regulations apply in the Coos River, Coos Bay, South Fork Coos River, and Millicoma mainstem:

(a) No more than ten adult wild Chinook salmon may be retained for the period in aggregate; and

(b) From September 15 through October 15, the following regulations apply:

(A) The daily adult wild coho salmon bag limit is one fish;

(B) No more than three adult wild coho salmon may be retained for the period in aggregate; and

(C) The daily wild jack coho salmon bag limit is one fish.

(3) Effective June 1 through October 31, 2024, the following regulations apply in the Coquille River (Mainstem), East Fork Coquille River, Middle Fork Coquille River, North Fork Coquille River, and in the South Fork Coquille River from the mouth upstream to the USFS boundary near Powers:

(a) Spears and spear guns may be used to harvest smallmouth bass; and

(b) Use of bait is allowed.

(4) Effective September 15 through October 10, the following regulations apply in the Coquille River from the Highway 101 Bridge upstream to the Highway 42S Bridge at Sturdivant Park:

(a) The daily adult wild coho salmon bag limit is one fish;

(b) No more than three adult wild coho salmon may be retained for the period; and

(c) The daily wild jack coho salmon bag limit is one fish.

(5) All other permanent rules for the Southwest Zone, as stated in the current annual Oregon Sport Fishing Regulations, remain in effect.

Statutory/Other Authority: ORS 496.138, ORS 496.146

Statutes/Other Implemented: ORS 496.162

AMEND: 635-016-0520

RULE SUMMARY: The Oregon Fish and Wildlife Commission (Commission) will consider modifications to recreational angling regulations for coastal streams for 2024 fall salmon seasons and to allow spear/spear gun harvest of smallmouth bass in Coos-Coquille District. If adopted, the proposed rules modify existing fishing regulations that are published in the 2024 Oregon Sport Fishing Regulations for the following bays, rivers and tributaries, within the NW and SW zones: Necanicum, Nehalem, Tillamook, Nestucca, Salmon, Yaquina, Siletz, Alsea, Beaver Cr., Yachats, Siuslaw, Umpqua, Coos, Coquille, Floras Cr./New River, Sixes, Elk, Hunter Cr., Pistol, Chetco, and Winchuck. The Commission may decide not to adopt the proposed rules, or may amend one or more of the proposed rules including amendments that may affect other bays, rivers, and tributaries.

CHANGES TO RULE:

635-016-0520

South Coast District

Reserving Number (1) The current annual Oregon Sport Fishing Regulations provide requirements for the Southwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the current annual Oregon Sport Fishing Regulations.

(2) Effective August 1 through December 31, 2024, the following regulations apply in Floras Creek and New River:

(a) The daily adult wild Chinook salmon bag limit is one fish in aggregate; and

(b) No more than one adult wild Chinook salmon may be retained for the period in aggregate.

(3) Effective November 1 through November 30, 2024, the following regulations apply in New River and in Floras Creek from the BLM boat ramp at Storm Ranch upstream to the confluence of Floras Creek and Floras Lake outlet:

(A) The daily adult wild coho salmon bag limit is one fish in aggregate;

(B) No more than two adult wild coho salmon may be retained for the period in aggregate; and

(C) The daily wild jack coho salmon bag limit is one fish.

(3) Effective July 1 through December 31, 2024, the following regulations apply in the Sixes River:

(a) The daily adult wild Chinook salmon bag limit is one fish;

(b) No more than ten adult wild Chinook salmon may be retained for the period;

(c) From October 1 through December 31, the river is closed to all angling from the Hughes House Boat Ramp upstream to the mouth of Crystal Creek until the low water closure is lifted; and

(d) Closed to all angling from Edson Creek upstream to the South Fork Sixes River.

(4) Effective July 1 through December 31, 2024, the Elk River is closed to angling for and retention of all wild Chinook salmon.

(5) Hunter Creek is closed to all angling.

(6) Effective October 1 through December 31, 2024, the following regulations apply in the Chetco River, Pistol River, and Winchuck River:

(a) The daily adult wild Chinook salmon bag limit is one fish; and

(b) No more than five adult wild Chinook salmon may be retained for the period.

(7) All other permanent rules for the Southwest Zone, as stated in the current annual Oregon Sport Fishing Regulations, remain in effect.

Statutory/Other Authority: ORS 496.138, ORS 496.146

Statutes/Other Implemented: ORS 496.162