

Background Information on Columbia River Fishery Management
Provided by Oregon and Washington Joint Management Staff
August 1, 2019

THE COMPACT/JOINT STATE PROCESS

The Columbia River Compact is charged by congressional and statutory authority to adopt seasons and rules for Columbia River commercial fisheries. In recent years, the Compact has consisted of the Oregon and Washington agency directors, or their delegates, acting on behalf of the Oregon Fish and Wildlife Commission (OFWC) and the Washington Fish and Wildlife Commission (WFWC). The Columbia River treaty tribes have authority to regulate treaty fisheries.

When addressing commercial seasons for Columbia River fisheries, the Compact/Joint State Process considers the effect of the commercial and recreational fisheries on escapement, treaty rights, and the impact on species listed under the Endangered Species Act (ESA). Working together under the Compact/Joint State Process, the states have the responsibility to address the allocation of limited resources between recreational, commercial, and treaty fishers. This responsibility has become increasingly demanding in recent years. The states maintain a conservative management approach when considering Columbia River fisheries that will affect species listed under the ESA.

Excerpts from “The Columbia River Compact” by Fronda Woods, Assistant Attorney General’s Office, August 2008.

The Columbia River Compact is a Congressionally-ratified interstate agreement between Oregon and Washington. In the Columbia River Compact, the two states promised each other in 1915 to adopt or amend laws for the conservation of fish in the Columbia River where it forms their common boundary only with both states’ mutual consent. The procedures for implementing the Columbia River Compact have evolved over time, and today they reflect a mix of statute, court order, policy, and custom. The Columbia River Compact has proven to be a durable agreement that continues to work well today as a framework for fisheries management in the Columbia River.

Because the United States Constitution forbids states from entering into compacts without the consent of Congress,^{2/} Oregon and Washington asked Congress to approve the Columbia River Compact, which it did in 1918.

As adopted by Congress, the Columbia River Compact provides in its entirety as follows:

All laws and regulations now existing [as of 1915], or which may be necessary for regulating, protecting, or preserving fish in the waters of the Columbia River, over which the States of Oregon and Washington have concurrent jurisdiction, or any other waters within either of said States, which would affect said concurrent jurisdiction, shall be

made, changed, altered, and amended in whole or in part, only with the mutual consent and approbation of both States.

Act of April 8, 1918, ch. 47, 40 Stat. 515.

² The Compacts Clause of the United States Constitution provides: “No state shall, without the consent of congress, . . . enter into any agreement or compact with another state . . .” U.S. Const. art. I, § 10, ¶ 3.

Endangered Species Act

The majority of Columbia Basin salmon and steelhead stocks are listed under the ESA as shown in the table below. The *U.S. v Oregon* TAC has prepared Biological Assessments (BAs) for combined fisheries based on relevant *U.S. v Oregon* management plans and agreements since 1992.

<i>Federally-listed Species Found in Columbia River Fishery Management Areas</i>			
Species – ESU/DPS	Current Designation	Listing Date	Effective Date
<u>Chinook</u>			
Snake River Fall	Threatened	April 22, 1992	May 22, 1992
Snake River Spring/Summer	Threatened	April 22, 1992	May 22, 1992
Upper Columbia Spring	Endangered	March 24, 1999	May 24, 1999
Upper Columbia Summer/Fall	Not warranted	--	--
Middle Columbia Spring	Not warranted	--	--
Lower Columbia River Spring/Fall	Threatened	March 24, 1999	May 24, 1999
Upper Willamette Spring	Threatened	March 24, 1999	May 24, 1999
Deschutes River Summer/Fall	Not warranted	--	--
<u>Steelhead</u>			
Snake River Basin	Threatened	August 18, 1997	October 17, 1997
Upper Columbia River ¹	Threatened	August 18, 1997	October 17, 1997
Lower Columbia River	Threatened	March 19, 1998	May 18, 1998
Middle Columbia River	Threatened	March 25, 1999	May 24, 1999
Southwest Washington	Not warranted	--	--
Upper Willamette	Threatened	March 25, 1999	May 24, 1999
<u>Sockeye</u>			
Snake River	Endangered	November 20, 1991	Dec. 20, 1991
Okanogan River	Not warranted	--	--
Lake Wenatchee	Not warranted	--	--
<u>Chum</u> – Columbia River	Threatened	March 25, 1999	May 24, 1999
<u>Coho</u> – Columbia River	Threatened	June 28, 2005	August 26, 2005
<u>Green Sturgeon</u> - Southern DPS	Threatened	April 7, 2006	July 7, 2006
<u>Eulachon</u> - Southern DPS	Threatened	March 18, 2010	May 17, 2010

Columbia River Salmonid Management Guidelines

The parties to *U.S. v Oregon* operate under the 2018-2027 Management Agreement (MA) through December 31, 2027. This agreement provides specific fishery management constraints for Upriver spring, summer, and fall Chinook, Coho, sockeye, and steelhead. Excerpts from the *U.S. v Oregon* MA and other agreements applicable to fisheries considered in this report are highlighted below.

Upriver Spring Chinook

The 2018–2027 MA provides for a minimum annual mainstem treaty entitlement to the Columbia River treaty tribes of 10,000 spring and summer Chinook that may be used for ceremonial and subsistence (C&S) purposes. If run sizes and allowed harvest rates do not allow the treaty mainstem fishery to harvest at least 10,000 spring and summer Chinook, the states will provide excess hatchery fish to meet this objective. Tributary harvest of spring and summer Chinook is not included in this entitlement.

Non-treaty and treaty winter and spring season fisheries are managed in accordance with the harvest rate schedule provided in Table A1 of the 2018-2027 MA. This harvest rate schedule was the first to incorporate a sliding scale, with increasing or decreasing allowable impact rates dependent on the total Upriver spring Chinook run size. This harvest rate schedule and the preseason forecast for Upriver spring Chinook are used to plan fisheries based on the available impacts allocated to treaty and non-treaty fisheries. Beginning in 2010, modifications to Table A1 were implemented, which required non-treaty fisheries to meet the Catch Balance provisions in the MA for Upriver spring Chinook. Under these provisions, non-treaty fisheries are managed to remain within ESA impacts and to not exceed the total allowable catch available for treaty fisheries. In addition, prior to the first run size update from TAC, non-treaty fisheries will be managed for the allowed treaty catch guideline based on a run size that is 70% of forecast (i.e., 30% run size buffer).

Willamette River Basin Fish Management Plan

The allocation plan provides recreational fisheries in the mainstem Willamette and Clackamas rivers at hatchery run sizes greater than 23,000 fish and an incrementally larger commercial share (up to 30%) as the run of hatchery fish increases. Limitations on Upriver spring Chinook generally restrict access to the commercial share of the Willamette hatchery surplus in the mainstem Columbia River. At low run sizes (<40,000 hatchery fish), the commercial fishery is restricted to ≤1% of the predicted return to allow for minimal incidental harvest of Willamette hatchery fish during other commercial fisheries.

Upper Columbia River Summer Chinook

Mainstem Columbia River summer Chinook fisheries occurring from June 16 through July 31 are managed in accordance with the harvest rate schedule provided in Table A2 of the 2018-2027 MA. Table A2 follows the general framework described in the table below, but provides a more detailed description of incremental harvest rates and escapement past fisheries. The parties agree to manage upper Columbia River summer Chinook based on an interim management goal of 29,000 hatchery and natural origin adults, as measured at the Columbia River mouth. The

management goal is based on an interim combined spawning escapement goal of 20,000 hatchery and natural adults upstream of Priest Rapids Dam (PRD). Current escapement goals may be reviewed by the parties to *U.S. v Oregon* during the course of the new agreement.

Upper Columbia River Summer Chinook Harvest Sharing Guidelines

The harvest allocation for non-treaty fisheries is determined through a three-tier process that uses policy guidelines set forth in the 2018-2027 MA, the agreement between Confederated Tribes of the Colville Reservation (CCT) and WDFW (CCT/WDFW Agreement), and by current Commission policies. The harvest rate schedule under the 2018-2027 MA determines the sharing formula of harvestable fish between treaty and non-treaty fisheries (shown in previous section). When calculating the harvestable shares, harvest in non-treaty ocean fisheries south of Canada is considered part of the non-treaty share.

The CCT/WDFW Agreement provides a harvest-sharing matrix also based on run strength of upper Columbia summer Chinook. Once the share for non-treaty fisheries is established through the MA matrix, the CCT/WDFW Agreement matrix allocates harvestable Chinook to non-treaty and tribal fisheries upstream and downstream of PRD. The CCT/WDFW Agreement provides the majority of the harvest to fisheries above PRD – recreational and Colville tribal.

Lower Columbia River natural origin Coho (LCN Coho)

As part of the 2018-2027 MA, ocean and Columbia River fisheries are managed to provide treaty and non-treaty fisheries the opportunity to each harvest 50% of the upriver adult Coho available for harvest south of the U.S-Canada border. Non-treaty fisheries include commercial and recreational fisheries in the ocean and mainstem Columbia River. For lower river Coho stocks, the exploitation rate (ER) limits are based on impacts to LCN Coho stocks. These ER limits are set annually by NMFS using a harvest matrix that considers parameters of ocean survival and parental escapement. The matrix was updated in 2015 to include additional reference populations. The allocation of non-treaty catch and ESA impacts between ocean and in-river fisheries is determined annually by the states and occurs during the Pacific Fishery Management Council (PFMC) and North of Falcon (NOF) meetings in March and April.

Lower Columbia River natural origin tule Chinook (LCR tule)

Fall season fisheries in the Columbia River and ocean that harvest LCR tules are currently managed according to an abundance-based ER schedule that depends on the abundance of LRH Chinook. The LRH Chinook are considered a valid indicator of the relative abundance of LCR (natural) tules. The total allowed ER is shared between ocean and in-river fisheries downstream of Bonneville Dam. The allocation of non-treaty catch and ESA impacts between ocean and in-river fisheries is determined annually by the states and occurs during the PFMC and NOF meetings in March and April.

Upriver Fall Chinook

Fall season fisheries in the Columbia River Basin below the confluence of the Snake River are managed according to the abundance-based harvest rate schedule from the 2018-2027 MA (Table A3). If non-treaty mark-selective fisheries are implemented that impact URBs, the non-

treaty ocean and in-river fisheries may not harvest more than 50% of the harvestable surplus of URBs, consistent with the applicable federal allocation case law.

Upriver fall Chinook escapement goals include 7,000 adult Bonneville Pool Hatchery fall Chinook (4,000 females) to Spring Creek Hatchery, and a 60,000 adult Upriver Bright fall Chinook (natural and hatchery) management goal above McNary Dam.