

ISSUE 1

WHETHER TO ADOPT RULES TO ESTABLISH 1) RECREATIONAL FISHERIES FOR SPRING CHINOOK IN THE MAINSTEM COLUMBIA AND WILLAMETTE RIVERS, AND 2) SEASONS AND/OR REGULATIONS FOR COMMERCIAL SPRING CHINOOK FISHERIES IN THE MAINSTEM COLUMBIA RIVER AND SELECT AREAS

ANALYSIS

In December 2008, the Oregon Fish and Wildlife Commission (Commission) provided guidance to staff regarding management objectives for 2009-2014 recreational and commercial spring Chinook fisheries. Management objectives included:

- Likelihood of a 45-day sport fishery in the lower Columbia River in March and April
- Provide for stability in Select Area commercial fisheries
- Meaningful commercial harvest opportunity during March and April
- Provide for a predictable sport fishery above Bonneville Dam
- Establish a 35% conservation buffer to minimize the risk of exceeding Endangered Species Act (ESA) limits
- Provide opportunity in May for both recreational and commercial fisheries within remaining ESA limits.

At the time of this writing, the Washington Fish and Wildlife Commission (Washington Commission) and the Oregon Commission have not reached concurrence on management objectives for spring Chinook fisheries in the Columbia River. Based on the final Oregon and Washington Commission guidance, the Joint State staff will develop specific regulations for 2009 spring Chinook fisheries for consideration by the Columbia River Compact on January 29, 2009. Because this information is not currently available, a summary from the Compact hearing and associated administrative rules will be presented at the February Oregon Commission meeting. The rules included in Attachment 4 are included as a placeholder pending Compact action.

OPTIONS

- Option 1. Adopt modifications to the permanent rules (635-017-0090, 635-023-0125, 635-042-0145, 635-042-0160, 635-042-0170, and 635-042-0180) as proposed in Attachment 4 to allow for recreational and commercial spring Chinook fisheries in the mainstem Columbia and Willamette rivers, and in Select Areas.

Agenda Item Summary

BACKGROUND

Rules are needed to amend and/or establish commercial and recreational fishing seasons for spring Chinook, sturgeon, shad, and smelt in the Columbia and Willamette rivers and Select Areas. Modifications to other rules are needed to:

- Describe the legal length measurement for white sturgeon in non-Indian commercial fisheries
- Describe the legal length measurement for white sturgeon in Treaty Indian commercial fisheries

PUBLIC INVOLVEMENT

Oregon Department of Fish and Wildlife (department), together with the State of Washington, recreational interests and commercial industry participants met December 18, 2008 to develop and forward regulations for the Commission's review and consideration. Additionally, staff conducted the following associated public meetings:

- **September 15, 2008** – Meeting with the Columbia River Fish Working Group in Vancouver, WA
- **October 15, 2008** - Meeting with the Columbia River Fish Working Group in Portland, OR
- **October 23, 2008** – Meeting with the Columbia River Commercial Fisheries Advisory Group in Rainier, OR
- **October 23, 2008** – Meeting with the Columbia River Recreational Fisheries Advisory Group in Vancouver, WA
- **November 17, 2008** – Meeting with the Columbia River Fish Working Group in Vancouver, WA
- **December 2, 2008** - Meeting with the Columbia River Commercial Fisheries Advisory Group in Rainier, OR
- **December 2, 2008** – Meeting with the Columbia River Recreational Fisheries Advisory Group in Vancouver, WA
- **December 17, 2008** - Meeting with Northwest Sport Fishing Industry Association in Clackamas, OR
- **December 18, 2008** - Public testimony taken at the Columbia River Compact hearing
- **January 15, 2009** – Public meeting regarding Select Area fisheries in Astoria, OR
- **January 20, 2009** - Meeting with the Columbia River Commercial Fisheries Advisory Group in Rainier, OR
- **January 20, 2009** – Meeting with the Columbia River Recreational Fisheries Advisory Group in Vancouver, WA
- **February 20, 2009** - Permanent rule adoption by the Oregon Fish and Wildlife Commission

ISSUE 2

WHETHER TO ADOPT RULES TO ESTABLISH 1) A NON-INDIAN COMMERCIAL FISHERY FOR WHITE STURGEON IN THE MAINSTEM COLUMBIA RIVER, AND 2) RECREATIONAL FISHERIES FOR WHITE STURGEON IN THE MAINSTEM COLUMBIA AND WILLAMETTE RIVERS

ANALYSIS

Staff, as a member of the Columbia River Compact and through Joint State proceedings, developed regulations for white sturgeon fisheries according to the protocol first established by the Commission in 2004 (and renewed in 2006). The regulations are also consistent with parameters in the 2006-2008 Joint State Sturgeon Management Agreement that is being extended for 2009 fisheries. The rules included in Attachment 4 represent the seasons and regulations adopted by the Columbia River Compact and Joint States on December 18, 2008.

OPTIONS

Adopt modifications to the permanent rules (635-017-0095, 635-023-0095, and 635-042-0135) as proposed in Attachment 4 to allow a winter commercial fishery for white sturgeon in Zones 1-5 of the mainstem Columbia River, and recreational fisheries for white sturgeon in the mainstem Columbia and Willamette (downstream of Willamette Falls) rivers.

ISSUE 3

WHETHER TO MODIFY PERMANENT RULES TO ALLOW A PERMANENT NON-INDIAN COMMERCIAL SHAD FISHERY IN AREA 2S (WASHOUGAL TO BEACON ROCK) OF THE COLUMBIA RIVER

ANALYSIS

The current fishery structure and regulations for the commercial shad fishery in Area 2S (Washougal to Beacon Rock) of the Columbia River downstream of Bonneville Dam were developed to maximize harvest of shad while minimizing impacts to non-target species. Time, area, and gear restrictions were based on several years of evaluation and fishery monitoring. The fishery has been adopted annually by the Compact since 1999. The Joint Staff recommend this fishery be adopted as a permanent season since annual review and season setting via the Columbia River Compact is unnecessary.

OPTIONS

Option 1. Adopt modifications to the permanent rules (635-042-0110) as proposed in Attachment 4 to establish a permanent non-Indian commercial shad fishery in Area 2S of the Columbia River

ISSUE 4

WHETHER TO ADOPT RULES TO ALLOW A NON-INDIAN COMMERCIAL EULACHON SMELT FISHERY IN THE MAINSTEM COLUMBIA RIVER

ANALYSIS

Since 2001, Oregon and Washington have managed commercial and recreational eulachon smelt fisheries in the mainstem Columbia River and tributaries according to the Washington and Oregon Eulachon Management Plan (WOEMP). This plan recommends uninterrupted (24 hours/day) commercial fishing opportunity in the mainstem Columbia River (Zones 1-5) during December of each year and three levels of fishing during the

January-March timeframe based on 1) parental run strength, 2) juvenile production, and 3) estimates of ocean productivity.

Since 2006, the January-March portion of the mainstem commercial smelt fishery has been managed at the most conservative Level One due to weak adult returns. During 2006-2008, the fishery has consisted of two, 9-hour fishing periods each week consistent with the WOEMP. Due to continued low abundance, the Compact adopted two, 7-hour fishing periods weekly for January-March 2009 at the December 18, 2008 hearing. This limited season will provide some commercial harvest opportunity while maintaining an important historic index of run strength.

In November, 2007, the NMFS was petitioned to list the population of eulachon smelt south of the U.S./Canada border as threatened or endangered pursuant to the ESA. The NOAA Fisheries had not made a determination at the time this document was prepared. Even though smelt returns to the Columbia River are variable and currently depressed, the Joint State staff does not believe harvest in the commercial fishery poses a significant risk to the long-term health of the population. Harvest in this fishery is typically very low due to sporadic run timing and limited effort (<10 fishers).

OPTIONS

Option 1. Adopt modifications to the permanent rule (635-042-0130) as proposed in Attachment 4 to allow a commercial smelt fishery during January-March 2009 in Zones 1-5 of the mainstem Columbia River.

ISSUE 5

WHETHER TO MODIFY RULE LANGUAGE DESCRIBING THE LEGAL LENGTH MEASUREMENT FOR WHITE STURGEON IN NON-INDIAN COMMERCIAL FISHERIES

ANALYSIS

Because research has shown that fork length is a more precise method for measuring sturgeon, both Oregon and Washington have adopted this method in permanent rule as the new statewide measurement standard for sturgeon caught in recreational fisheries effective January 1, 2009. For consistency between fisheries, the Columbia River Compact recently adopted fork length as the measurement standard for Columbia River commercial fisheries effective January 1, 2009. Staff requests Commission action to make this rule modification permanent.

OPTIONS

Adopt modifications to the permanent rule (OAR 635-042-0133) as proposed in Attachment 4 to change the legal measurement standard for white sturgeon from total length to fork length for non-Indian Columbia River commercial fisheries.

ISSUE 6

WHETHER TO MODIFY RULE LANGUAGE DESCRIBING THE LEGAL LENGTH MEASUREMENT FOR WHITE STURGEON IN TREATY INDIAN COMMERCIAL FISHERIES

ANALYSIS

Effective January 1, 2009, fork length has been adopted as the measurement standard for statewide recreational fisheries in Oregon and Washington (permanent rule) and for Columbia River non-Indian

commercial fisheries (temporary rule). The treaty tribes have also decided to convert to a fork length standard for white sturgeon consistent with non-Indian fisheries. The Columbia River Compact will likely adopt a temporary rule at the January 29, 2009 hearing to establish fork length as the measurement standard for Treaty Indian fisheries. Staff requests Commission action to make this rule modification permanent.

OPTIONS

Option 1. Adopt modifications to the permanent rules (OAR 635-041-0030, 635-041-0061, 635-041-0063, and 635-041-0065) as proposed in Attachment 4 to change the legal standard for white sturgeon from total length to fork length for treaty Indian Columbia River commercial fisheries.

DRAFT MOTION

I move to adopt 635-017-0090, 635-017-0095, 635-023-0095, 635-023-0125, 635-041-0030, 635-041-061, 635-041-0063, 635-041-0065, 635-042-0110, 635-042-0130, 635-042-0135, 635-042-0145, 635-042-0160, 635-042-0170, and 635-042-0180 as proposed by staff in Attachment 4.

EFFECTIVE DATE

Upon filing.