



## Draft ZONE 6 & HANFORD AREA COMMERCIAL AND SUBSISTENCE FISHERIES

### 2019 ANNUAL REGULATIONS

Pursuant to Chapter 2, Sections 7 & 8, of the Fish & Wildlife Code of the Confederated Tribes of the Umatilla Indian Reservation, the Fish & Wildlife Commission has the authority to establish regulations for CTUIR ceremonial, subsistence and commercial fisheries. Pursuant to that authority the Fish & Wildlife Commission (FWC) approved the following fishing regulations for CTUIR tribal fishers. These regulations shall become effective following the 30 day comment period.

#### **SAFETY REQUIREMENTS**

**Liquor Rule** – It shall be unlawful for any tribal member to fish for ceremonial, subsistence, or commercial purposes under the claim of Treaty fishing rights while using or under the influence of intoxicating liquor or controlled substances. See also the regulation below entitled, **“Operating a boat while under the influence of intoxicating liquor and/or controlled substance.”**

**Marijuana Prohibition** - No tribal member shall possess, use, be under of the influence of, sell, give away, barter, distribute, buy, or receive marijuana at any of the Treaty Fishing In Lieu or In Lieu Access sites, including those in the States of Washington and Oregon. Part XVI of the Umatilla Criminal Code, and all its provisions, continue to apply to marijuana and related drug offenses at all Treaty Fishing In Lieu and Treaty Fishing Access sites, and all Treaty fishing activities. Recent legislation in Washington has no effect on these statutes and regulations, and they continue to apply to all Treaty Fishing In Lieu and Treaty Fishing Access sites in Washington.

#### ***BOATING SAFETY REGULATIONS***

**Operating improperly equipped boat prohibited** – no person shall operate or give permission for another person to operate a boat which is not properly equipped with the **all of the** following devices:

(1) All boats shall carry at least one U.S. Coast Guard approved personal flotation device in good and serviceable condition for each person on board. Each device shall be of an appropriate size for the person for whom it is intended and shall be readily accessible whenever the boat is in use. In addition, all boats shall carry at least one U.S. Coast Guard approved throw able (Type IV) flotation device.

(2) Every boat with a motor shall carry on board a fully charged and in good condition Type ABC fire extinguisher.

(3) Every boat shall carry and exhibit lights in accordance with U.S. Coast Guard specifications during the hours of dusk thru dawn.

(a) It is required that drift netters have a light at the end of the net and a UHF radio on board for contact with river traffic.

(4) Any violation of this section shall be an infraction and may be prosecuted as a civil offense pursuant to the CTUIR Fish and Wildlife Code § 4.01 and 4.03.

**Inspection of safety equipment** – Each boat owner, operator, person in charge of or in control of a boat shall have an annual inspection of safety equipment by a law enforcement officer who is authorized to enforce applicable tribal or CRITFC code or regulation. The inspecting officer shall issue a decal, to be displayed on the starboard exterior of the transom, indicating the date, officer's ID and the date of issue. The inspecting officer shall issue a copy of the inspection report to the owner, operator, or person in charge or control of the vessel upon completion of the inspection. One annual inspection, with compliance of all required equipment, shall satisfy the requirement. For the purpose of this section the inspection is limited to:

(1) Safety equipment that is required to be carried on the vessel in accordance with tribal law, CRITFC code or regulation, and or federal law;

(2) For purposes of enforcing this section, boat owners, operators or persons in charge or control of a boat have until July 1 of each year, starting in 2011, to get their boats inspected and receive and post their inspection decal;

(3) Any violation of this section shall be an infraction and may be prosecuted as a civil offense pursuant to the CTUIR Fish and Wildlife Code § 4.01 and 4.03.

**Enforcement officer authority to require operator to remedy hazardous condition** – When a law enforcement officer observes a boat being operated in a hazardous condition and determines that continuance of the operations of the boat could place the occupants in imminent danger, the law enforcement officer may order the operator of the boat to take immediate and reasonable steps to remedy the hazardous condition, including but not limited to directing the operator to move to shore, a moorage or any safe landing and remain there until the hazardous condition is remedied.

For purposes of this section, a hazardous condition is limited to the following conditions:

(1) Improper or insufficient personal floatation devices in violation of an applicable tribal or CRITFC code or regulation;

(2) Improper or insufficient fire extinguishers in violation of an applicable tribal or CRITFC code or regulation;

(3) Improper or insufficient backfire arresting devices on carburetors;

(4) Improper or insufficient navigation lights in violation of an applicable tribal or CRITFC code or regulation, if found between sunset and sunrise;

(5) Leakage of fuel from the boat engine, fuel system or bilge; or

(6) Hull or transom condition of the Vessel is visibly cracked, separating or otherwise unworthy to voyage. Adequate patching on a hull or transom is not a violation of this subsection.

(7) Any violation of this section shall be an infraction and may be prosecuted as a civil offense pursuant to the CTUIR Fish and Wildlife Code § 4.01 and 4.03.

**Person required to remedy hazardous condition** – It is unlawful for a boat owner, operator, person in charge of or in control of a boat to intentionally disobey a lawful order to take immediate and reasonable steps to remedy a hazardous condition. Any violation of this section shall be an infraction and may be prosecuted as a civil offense pursuant to the CTUIR Fish and Wildlife Code § 4.01 and 4.03.

**Operating a boat while using or under the influence of intoxicating liquor and/or controlled substance** –No person using or under the influence of an intoxicating liquor and/or controlled substance shall operate, propel or be in actual physical control of any boat. No owner of a boat or person in charge or control of a boat shall allow or knowingly permit the boat to be operated or propelled by any person who is under the influence of intoxicating liquor and/or controlled substance. Fishermen should be aware that by operating a boat they have consented to field sobriety tests by enforcement officials. Any violation of this section shall be a crime and may be prosecuted as a criminal offense pursuant to the CTUIR Fish and Wildlife Code § 4.02 and 4.03.

**Eluding law enforcement with a boat** - No person while operating a boat shall knowingly flee or attempt to elude any law enforcement officer after having received a signal from a law enforcement officer to bring a boat to a stop.

(1) For purposes of this section, a signal to stop shall include a visual or audible signal, including any signal by hand, voice or emergency light or siren. Such signal must be of sufficient assertiveness and strength, taking into consideration weather and operating conditions, for the boat operators to see or hear and understand the signal.

(2) It is an affirmative defense to prosecution of a person under this section that, after a law enforcement officer operating a boat not marked as an official police boat signaled the person to stop; the person proceeded lawfully to an area the person reasonably believed was necessary to reach before stopping.

(3) Any violation of this section shall be a crime and may be prosecuted as a criminal offense pursuant to the CTUIR Fish and Wildlife Code § 4.02 and 4.03.

**Reckless operation** – A person commits the offense of reckless operation of a boat if the person operates a boat carelessly or recklessly with disregard of the rights, safety or property of others and results in injury of any person or property. Any violation of this section shall be a crime and may be prosecuted as a criminal offense pursuant to the CTUIR Fish and Wildlife Code § 4.02 and 4.03.

**Unsafe Operation** – A person commits the offense of unsafe operation of a boat if the person operates a boat in a manner that endangers or would be likely to endanger any person or property. Any violation of this section shall be an infraction and may be prosecuted as a civil offense pursuant to the CTUIR Fish and Wildlife Code § 4.01 and 4.03.

**No wake speed restriction** – No person shall operate a boat with an outboard or inboard motor at a speed which creates a wake within 100 feet of any boat ramp, dock, marina or designated swimming area. Any violation of this section shall be an infraction and may be prosecuted as a civil offense pursuant to the CTUIR Fish and Wildlife Code § 4.01 and 4.03.

**Reporting lost boat** – If any person finds a boat which is lost or adrift the person shall report the whereabouts of the boat to the owner or to any law enforcement officer without unreasonable delay. Any failure to report a lost or an adrift boat may result in a violation and may be prosecuted as a civil offense pursuant to the CTUIR Fish and Wildlife Code § 4.01 and 4.03.

## **COMMERCIAL FISHING**

### **FISHING BOATS IDENTIFICATION:**

Any boat used to exercise treaty-fishing rights shall be permanently marked with the owner's tribal enrollment number.

### **REQUIRED DISTANCE BETWEEN NETS:**

It shall be unlawful to set gill nets closer than 300 feet to other gill nets.

### **MONOFILAMENT RESTRICTION:**

It shall be lawful to use monofilament nets during 2019.

### **NON-ENROLLED HELPERS PROHIBITED:**

Any person who is not an enrolled member of the four Columbia River Treaty Tribes shall not be allowed to fish under the claim of Treaty fishing rights, shall not be allowed to assist Treaty members with the taking of fish, and shall not be allowed on the boat while the boat is being used to exercise treaty fishing rights. It shall be lawful to hire non-enrolled members to provide security for fishing gear and such activities shall not be considered an exercise of treaty fishing rights.

### **NET LENGTH, FISH LENGTH, AND MESH SIZE REQUIREMENTS:**

**“Net Length Measurement”**: the length of any net is defined as its measurement along the cork line where webbing is attached.

**“Fish Length Measurement”**: the shortest distance between the extreme tip of the tail and extreme tip of the snout or jaw, whichever extends the farthest, measured while the fish is lying in a prone and normal position. Specifically, Sturgeon is measured by fork length. Fork length is the length from the most anterior part of the fish to the tip of the median caudal fin rays or “fork in the tail.”

**“Mesh Size Measurement”**: the size of the mesh of any net shall be defined as the distance between the inside of one knot to the outside of the opposite vertical knot of one mesh when the mesh is stretched vertically, while wet, by using a tension of ten pounds on any three consecutive meshes, then measuring the middle mesh of the three while under tension.

**NET LENGTH RESTRICTION:**

Set gillnet length shall not exceed 400 feet and drift gillnet length shall not exceed 1200 feet unless specified in the Tribal seasonal regulations.

**NON-TRANSFERABLE RULE:**

It shall be unlawful for any tribal member to buy or sell an individual tribal fishing site.

**GEAR DEFINED:**

Legal gear shall include set or drift gillnets, and set lines (for sturgeon).

**“Set Gill Net”**: a gill net which is anchored, tied, or staked, in a fixed position to the shore or other fixed objects, or whose lead line is heavily weighted.

**“Drift Gill Net”**: a gill net which is not anchored, tied, or staked.

**“Dip Net”**: a section of netting or bag, not exceeding 5 inch mesh (measured from the inside of one vertical knot to the outside of the opposite vertical knot), distended by a rigid frame with a circumference no more than eight feet (8 ft.) at the hoop attached to the pole.

**“Bag Net”**: a type of dip net with a section of netting that may or may not include a trigger mechanism for closure of the open end thereby trapping the catch.

**“Hoop Net or Set Net”**: a section of netting or bag, shaped at the open end by a framed hoop of no more than 26 feet in circumference and attached to a pole or ropes.

**“Hook and Line”**: rod and reel type fishing gear.

**“Setline”**: a long heavy fishing line to which several hooks are attached in series.

**“Hoopnets fished suspended from buoys”**: hoopnets suspended from buoys. Allowed up to three hoopnets per buoy set, may not be fished within 50 feet of existing hoopnets or set bag net gear or within 400 feet of gillnets without permission.

**GEAR IDENTIFICATION:**

On the Columbia River all commercial gear including floats/buoys shall be permanently marked with the owner’s tribal enrollment number.

**UNLAWFUL ROPING OF STURGEON:**

It shall be unlawful to tie an illegal sturgeon with a rope (through gills or around tail) attached to a boat or to the bank. Illegal sturgeon must be released immediately.

### **UNLAWFUL SALE:**

It shall be unlawful for any tribal member to offer for sale, sell, trade, or barter, pursuant to treaty rights, any fish taken by any person not enrolled as a member of the four Columbia River Treaty Tribes.

### **COMMERCIAL SANCTUARIES:**

The following waters are closed to commercial gillnet fishing, however setlines, dip nets, bag nets, hoop nets, and hook and line are permitted in the sanctuary areas (other than dam restricted zones and distances) during commercial salmon, sturgeon and shad fishing seasons.

- (1) Except as specifically described below, there shall be no commercial fishing in Oregon and Washington tributaries of the Columbia River.
- (2) Bonneville Dam (upstream): The Columbia River westerly and downstream of the Bridge of Gods.
- (3) McNary Dam (downstream): The Columbia River easterly and upstream of a line extending at a right angle across the thread of the river one mile downstream of McNary Dam.
- (4) The Dalles Dam: The Columbia River between a line extending at a right angle across the thread of the river from a deadline marker at the west end of Three Mile Dam Rapids upstream to a line from a deadline marker on the Oregon shore located approximately  $\frac{3}{4}$  mile above The Dalles Dam fish way exit, thence at a right angle to the thread of the river to a point in mid-river thence downstream to light "1" on the Washington shore.
- (5) John Day Dam: The Columbia River between a line extending at right angle across the thread of the river from Preacher's Eddy Light below the John Day Dam to a line approximately 4.3 miles upstream extending at a right angle across the thread of the river from a deadline marker, approximately one half mile above the easterly bank of the John Day River, Oregon to a deadline marker on the Washington shore.
- (6) The Columbia River within the areas at and adjacent to the mouths of the Hood, Deschutes, and Umatilla Rivers. The closed areas are along the Oregon side of the Columbia River and extend out to midstream and are bounded as follows:
  - (a) Between one half mile upstream from the mouth of Hood River to the west end of the break wall at the west end of the Port of Hood River.
  - (b) Between one half mile upstream from the upriver bank and one mile downstream from the downriver bank of the mouth of the Umatilla River.
  - (c) From the navigation beacon one half mile upstream from the upriver bank to a marker approximately one mile downstream from the downriver bank of the mouth of the Deschutes River.



- (7) The Columbia River within an area at and adjacent to the mouth of the Big White Salmon River. The closed area is along the Washington side of the Columbia River and extends out to midstream at right angles to the thread of the Columbia River from navigation light #35 to a marker approximately one half mile downstream of the mouth of the Big White Salmon River.
- (8) The Columbia River within an area at and adjacent to the mouth of the Little White Salmon River. The closed area is along the Washington side of the Columbia River and extends out to midstream at right angles to the thread of the Columbia River between one half mile upstream and navigation light #27 approximately 3/4 mile downstream from the outlet of Drano Lake.
- (9) The Columbia River within an area at and adjacent to the mouth of the Wind River. The closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between one half mile upstream and one and one quarter miles downstream from the shores of the mouth of the Wind River.
- (10) The Columbia River within an area at and adjacent to the mouth of the Klickitat River. The closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River from the downstream margin of Lyle Landing to a marker located approximately one and one eighth miles downstream of the river mouth at the upstream edge of the first railroad tunnel (#2).
- (11) Herman Creek upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.
- (12) The standard Spring Creek sanctuary will be in effect during the fall commercial fishing period: The closed area is along the Washington side of the Columbia River and extends to midstream of right angles to the thread of the Columbia River between 1 ½ miles downriver of the entrance to the Spring Creek Hatchery fish ladder and the downriver boundary of the Big White Salmon River sanctuary. The smaller Spring Creek sanctuary (the Columbia River within 150 feet around the Spring Creek Hatchery fish ladder) is in effect during periods other than the fall commercial fishery or as adopted in specific season regulations.

### **SUBSISTENCE FISHING**

For regulations applicable to the Tribal Fishery below Bonneville Dam, see the separate regulations entitled "Columbia River Below Bonneville Dam Subsistence-Only Bank Fishery".

Subsistence fishing on the Columbia River and tributaries shall be for traditional use, except during tribal commercial seasons for salmon (including steelhead). Exception: shad may be sold year-round which are caught in tribal subsistence fisheries.

**SUBSISTENCE PURPOSES DEFINITION:**

Subsistence purposes shall be defined as personal consumption by tribal members; the trade, barter, or sale to other Indians for their consumption; or for the consumption at a tribally approved function which no admission or other fee is charged.

**GEAR TYPES ALLOWED:**

The legal fishing gears for subsistence fishing on the Columbia River are dip net, bag net, set net, or hoop net, and hook and line with bait or lures, and set gill nets as approved by the Fish and Wildlife Committee; all other methods are unlawful.

**GEAR DEFINED:**

Legal gear shall include set or drift gillnets, and set lines (for sturgeon).

**“Set Gill Net”**: a gill net which is anchored, tied, or staked in a fixed position to the shore or other fixed objects, or whose lead line is heavily weighted. Gill nets shall not exceed 400 ft. and can be fished by permit only.

**“Dip Net”**: a section of netting or bag, not exceeding 5 inch mesh (measured from the inside of one vertical knot to the outside of the opposite vertical knot), distended by a rigid frame with a circumference no more than eight feet (8 ft.) at the hoop attached to the pole.

**“Bag Net”**: a type of dip net with a section of netting that may or may not include a trigger mechanism for closure of the open end thereby trapping the catch.

**“Hoop Net or Set Net”**: a section of netting or bag, shaped at the open end by a framed hoop of no more than 26 feet in circumference and attached to a pole, or ropes.

**“Hook and Line”**: rod and reel type fishing gear.

**“Setline”**: a long heavy fishing line to which several hooks are attached in series.

**“Hoopnets fished suspended from buoys”**: hoopnets suspended from buoys. Allowed up to three hoopnets per buoy set, may not be fished within 50 feet of existing hoopnets or set bag net gear or within 400 feet of gillnets without permission.

**GEAR IDENTIFICATION:**

**On the Columbia River all subsistence gear shall be permanently branded with the owner’s tribal enrollment number.**



**MUST ATTEND GEAR:**

Subsistence fishing gear shall be attended (frequent enough attention to prevent waste and spoilage).

**LIMIT SIZE OF HOOP NET:**

Circumference of net hoops shall not exceed 26 feet.

**LIMIT NUMBER OF GEARS PER PLATFORM:**

No more than two (2) gears shall be fished on any one (1) fishing platform or rope set-up with hoops at any one time in Zone 6 during subsistence season. During tribally approved salmon/steelhead commercial season, no more than six (6) gears (which include no more than three hoop nets) shall be fished per platform.

**LIMIT NUMBER OF HOOK-AND-LINE GEARS PER FISHER:**

No more than six (6) hook and line angling gears shall be fished by any one (1) fisher at any one time in Zone 6 during a subsistence and or commercial season.

**LIMITED DISTANCE BETWEEN PLATFORMS AND PLACEMENT:**

Fishing platforms shall be placed at least 25 feet apart, unless the owner's of the platforms have agreed otherwise. It shall be unlawful to place fishing platforms, or to take, injure, or fish for salmon or steelhead within 25 feet of the entrance or exit of any fish ladder, fishway, fish bypass pipes, or fish screens.

**UNLAWFUL ROPING OF STURGEON:**

It shall be unlawful to tie an illegal sturgeon with a rope or line (through gills or around tail) attached to a boat or to the bank. Illegal sturgeon must be released immediately.

**SUBSISTENCE SANCTUARIES:**

Pursuant to Chapter 7, Section 34 of the Wildlife Code of the Confederated Tribes of the Umatilla Indian Reservation, the following waters are closed to subsistence fishing.

- (1) All fishways in Oregon tributary streams of the Columbia River within 25 feet above and below such fishways. This closure does not apply to the taking of lamprey eel so long as such taking does not interfere with the migration of salmon through such fishways.
- (2) Those waters of Eagle Creek from its mouth to 25 feet above the Oregon Fish and Wildlife Department intake Dam.
- (3) Those waters of Herman Creek from its mouth to 25 feet above the Oregon Fish and Wildlife Department holding ponds.

**Fish and Wildlife Commission Approval:**

---

**Chairman, Fish & Wildlife Commission**

---

**Member, Fish & Wildlife Commission**

---

Date

---

Date