PETITION FOR ADOPTION, AMENDMENT, OR REPEAL OF A STATE ADMINISTRATIVE RULE

Print Form

In accordance with RCW 34.05.330, the Office of Financial Management (OFM) created this form for individuals or groups who wish to petition a state agency or institution of higher education to adopt, amend, or repeal an administrative rule. You may use this form to submit your request. You also may contact agencies using other formats, such as a letter or email.

The agency or institution will give full consideration to your petition and will respond to you within 60 days of receiving your petition. For more information on the rule petition process, see Chapter 82-05 of the Washington Administrative Code (WAC) at http://apps.leg.wa.gov/wac/default.aspx?cite=82-05.

CONTACT INFORMATION *(please type or print)*

Petitioner's Name: Larry Lowe

Name of Organization: Snohomish Public Utilities District

Mailing Address: 2320 California Street

City: Everett State: WA Zip Code: 98206-1107

Telephone: 425-783-8161 Email: lglowe@snopud.com

COMPLETING AND SENDING PETITION FORM

- Check all of the boxes that apply.
- Provide relevant examples.
- Include suggested language for a rule, if possible.
- Attach additional pages, if needed.
- Send your petition to the agency with authority to adopt or administer the rule. Here is a list of agencies and their rules coordinators: http://www.leg.wa.gov/CodeReviser/Documents/RClist.htm.

INFORMATION ON RULE PETITION

Agency responsible for adopting or administering the rule: _____

☐ **1. NEW RULE - I am requesting the agency to adopt a new rule.**

☐ The subject (or purpose) of this rule is: _____

☐ The rule is needed because: _____

☐ The new rule would affect the following people or groups: _____

☒ **2. AMEND RULE - I am requesting the agency to change an existing rule.**

List rule number (WAC), if known: _____

☒ I am requesting the following change: • Delay opening day for recreational anglers on the Skykomish River from May 25 to June 15.
• Enact selective gear rules from July 15-January 31.

☒ This change is needed because: Current rules have severe negative impact on wild winter steelhead and salmon in the Skykomish River. Please see accompanying document (Snohomish PUD Skykomish R fishery_103119)

☒ The effect of this rule change will be: Aid in the recovery of Skykomish River wild steelhead and salmon

☐ The rule is not clearly or simply stated: _____

☐ **3. REPEAL RULE - I am requesting the agency to eliminate an existing rule.**

List rule number (WAC), if known: _____

(Check one or more boxes)

☐ It does not do what it was intended to do.

☐ It is no longer needed because: _____

☐ It imposes unreasonable costs: _____

☐ The agency has no authority to make this rule: _____

☐ It is applied differently to public and private parties: _____

☐ It conflicts with another federal, state, or local law or rule. List conflicting law or rule, if known: _____

☐ It duplicates another federal, state or local law or rule. List duplicate law or rule, if known: _____

☐ Other (please explain): _____

Proposed rule changes to the Skykomish River recreational fishery to preserve wild winter steelhead and juvenile salmonids

The Snohomish County Public Utility District (District) operates the Jackson Hydroelectric Project on the Sultan River, a tributary to the Skykomish River. As a requirement of the operating license, the District closely monitors fish populations and habitat conditions in the Sultan River. The District has also recently completed numerous fish habitat enhancement projects along the river. While we are heavily invested in the Sultan River, as stewards, we are concerned with the declining trend of wild winter run steelhead throughout the Skykomish River watershed. Our motivation is species recovery and our concern is that not enough has been done since this stock was listed as threatened under the Endangered Species Act (ESA) in June 2007.

A 2017 study found Puget Sound steelhead populations in the 2000s declined by 53% on average compared to the 1980s (https://phys.org/news/2017-06-steelhead-trout-population-declines-linked.html). Given this decline throughout the region, District biologists are particularly concerned about the Washington Department of Fish and Wildlife's (WDFW) fishing regulations and the direct and indirect impact some of them are having not only on Sultan and Skykomish steelhead but on salmon as well.

Specifically, the District hereby requests consideration of the following proposed rule changes:

- Delay opening day for recreational anglers on the Skykomish River from May 25 to June 15.
- Enact selective gear rules from July 15-January 31.

Justification for proposed rule changes

Over recent years, numerous fisheries enhancement projects have been completed on the Sultan and the Skykomish Rivers. Despite these projects, the number of winter steelhead returning has continued to decrease to an alarmingly low level. Returns to both the Sultan and Skykomish for 2018 and 2019 are the two lowest years on record (Table 1).

Table 1. Skykomish and Sultan River wild winter steelhead escapement, 2004-19.

Year	Skykomish River Mainstem steelhead escapement	Sultan River steelhead escapement
2004	1,896	80
2005	1,712	78
2006	1,850	154
2007		
2008		194
2009	240	74
2010	352	72
2011	596	56
2012	454	88
2013	606	94
2014	686	86
2015	490	142
2016	648	130
2017	462	100
2018	184	28
2019	178	55

Steelhead returns to the Sultan closely mirror the trend in the Skykomish River as reported by WDFW. Steelhead per mile are calculated using annual WDFW spawner survey escapement estimates (Figure 1).

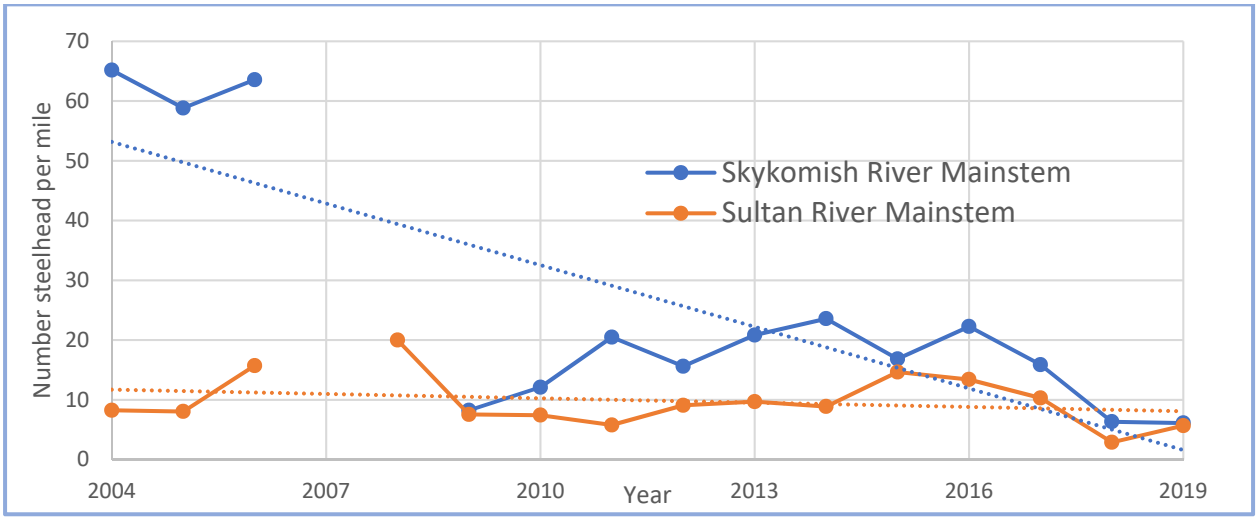


Figure 1. Skykomish and Sultan River wild winter steelhead per mile, 2004-2019. Dashed lines represent fitted linear line through the data.

In past years, the Skykomish River has opened for sport fishing on June 1. In 2019, the opening was moved up to May 25, the Saturday of Memorial Day weekend. This fishery targets hatchery summer Chinook returning to the Wallace Hatchery at River Mile (RM) 35.7 as well as hatchery summer run steelhead returning to Reiter Ponds (RM 46.0). Bait is allowed and fishing pressure is high. As steelhead returns to the Sultan and Skykomish rivers continue to decline, fishing pressure continues to increase in this fishery. The majority of the fishing pressure occurs upstream and downstream of the Sultan River (RM 34.4) within a roughly 15-mile reach of the Skykomish River with Reiter Ponds representing the upstream end of the reach.

Impact of fishery on adult wild winter steelhead

Although WDFW regulations prohibit retention of wild steelhead, the District is concerned about the negative impact the Skykomish fishery is having on adult winter wild steelhead in the Sultan and Skykomish Rivers. Table 2 shows the number and percentage of Sultan River wild winter steelhead redds observed on or after May 25, June 1, and June 15.

Table 2. Number and percentage of Sultan River wild winter steelhead redds for years 2012-19 observed on or after May 25, June 1, and June 15.

Year	Total	# Redds before **May 25**	# Redds on or after **May 25**	% Redds on or after **May 25**
2012	35	21	14	40%
2013	42	34	8	19%
2014	31	23	8	26%
2015	49	40	9	18%
2016	44	34	10	23%
2017	23	13	10	43%
2018	11	8	3	27%
2019	34	34	0	0%
TOTALS	269	207	62	23%
Year	Total	# Redds before **June 1**	# Redds on or after **June 1**	% Redds on or after **June 1**
2012	35	31	4	11%
2013	42	34	8	19%
2014	31	31	0	0%
2015	49	45	4	8%
2016	44	41	3	7%
2017	23	16	7	30%
2018	11	11	0	0%
2019	34	34	0	0%
TOTALS	269	243	26	10%
Year	Total	# Redds before **June 15**	# Redds on or after **June 15**	% Redds on or after **June 15**
2012	35	35	0	0%
2013	42	42	0	0%
2014	31	31	0	0%
2015	49	49	0	0%
2016	44	44	0	0%
2017	23	17	6	26%
2018	11	11	0	0%
2019	34	34	0	0%
TOTALS	269	263	6	2%

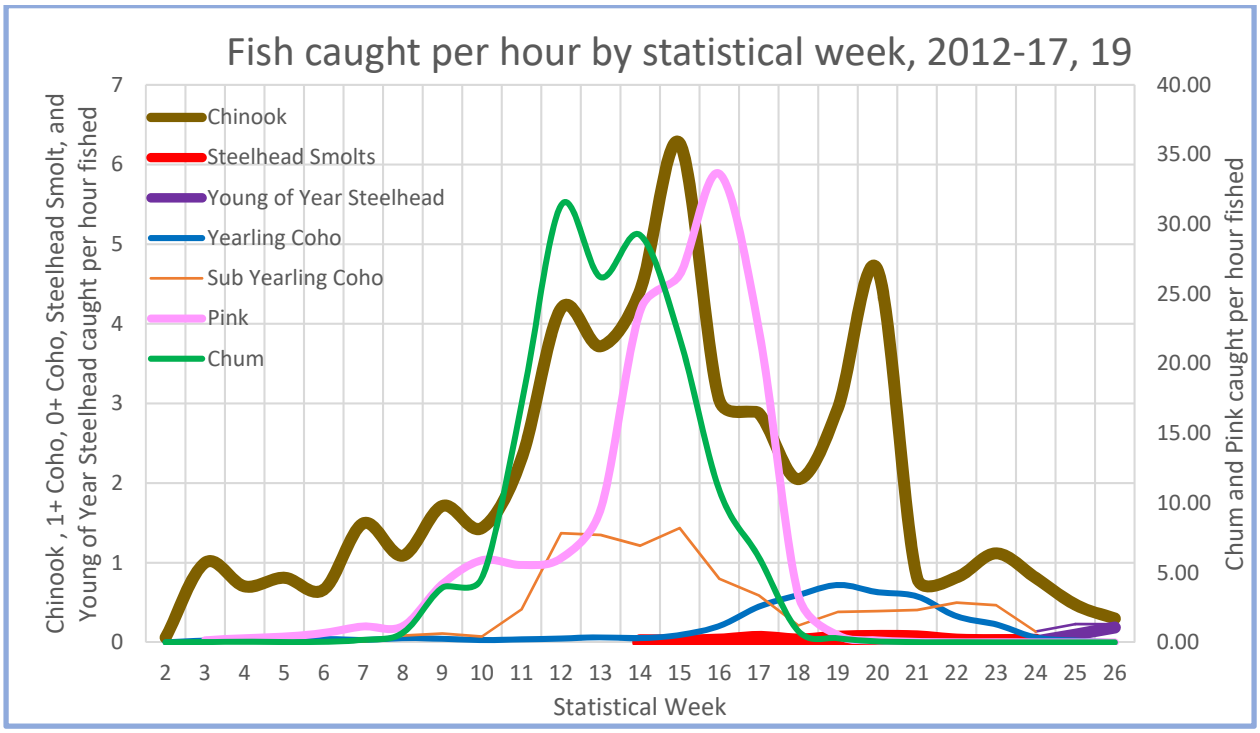
In addition to the impact this fishery is having on pre-spawn steelhead, it is also impacting post-spawn kelts. With May being the primary spawning month for wild winter steelhead, many kelts are present in the river well into June. Kelts are particularly vulnerable because they are depleted of energy reserves and desperately attempting to recover. The importance of steelhead kelts and their repeat spawning life history is well documented and included in the National Marine Fisheries Service Steelhead Draft Recovery Plan (NMFS 2018).

Impact of May 25 fishing opener on juvenile salmon and steelhead

In addition to the potential impact to adult winter steelhead, we are also concerned with the impact that the May 25 opener has on out-migrating juvenile fish.

Figure 2 shows catch per hour by statistical week at a smolt trap that the District has operated for 8 years at RM 0.2 on the Sultan River. The trap is deployed in early January and is operated through the end of June. The trap stops catching steelhead smolts around the end of May. The vast majority of yearling coho (~ 100 mm) are done out-migrating in the first week of June. Sub-yearling Chinook (~70-90 mm) migrate through the end of June but their numbers are greatly

reduced. Many of these fish are vulnerable under a May 25 opener. This would not be the case with a mid-June opener.



Statistical Weeks	Corresponding Months
1 to 5	January
6 to 9	February
10 to 13	March
14 to 17	April
18 to 22	May
23 to 26	June

Figure 2. Fish caught per hour by statistical week at the Sultan River smolt trap, 2012-17, 19.

Impact of fishery on juvenile salmon and steelhead throughout the summer

Juvenile salmon and steelhead are harvested all summer by recreational anglers. The Skykomish River reach between the town of Monroe and Sultan encompasses approximately 7.5 miles and provides a great deal of public access. This reach is very popular for recreational anglers. The confluence of the Skykomish/Sultan Rivers in the town of Sultan is particularly popular. The following figure (Figure 3), from one of our annual reports, shows 2018 mean daily temperature at RM 0.2 of the Sultan River and on the Skykomish River upstream (RM 14.1) and downstream (RM 13.2).

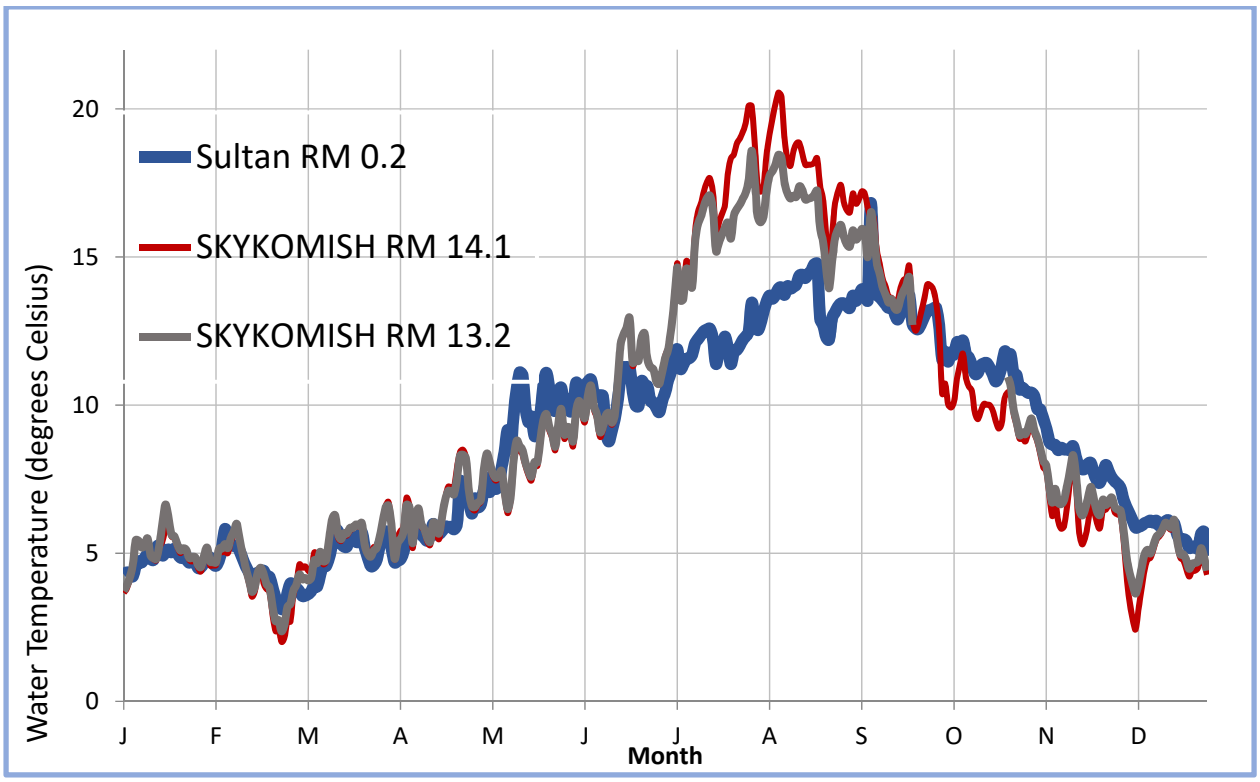


Figure 3. Mean daily water temperature (Celsius) at River Mile 0.2 of the Sultan River and River mile 14.1 and 13.2 of the Skykomish River, 2018.

The temperature pattern from 2018 is generally typical of all years since 2012, when collection of these data began. The Sultan stays cooler than the Skykomish because of license requirements tied to the operation of the hydroelectric project. The net result is that juvenile fish in the Skykomish River are attracted to this relatively abundant and cool water all summer long. To avoid waters above summer maximum temperatures, juvenile rearing is increasingly found in the confluence of colder tributaries or other areas of cold water refugia (Mantua et al 2009). Although no creel census data has been collected on juvenile harvest at the mouth of the Sultan River, District Biologists annually observe consistent heavy fishing pressure and substantial harvest from opening day through September. Catches include juvenile Chinook, coho, and steelhead as well as cutthroat and bull trout of all life stages. Chinook, steelhead, and bull trout are all listed as threatened under the ESA.

Skykomish River fishing regulations require that fish must be at least 14” to be retained. However, many of the undersized fish that are released fish do not survive. This fishery is particularly damaging because barbed hooks and bait are allowed. Barbed hooks have been shown to increase hooking injury compared to barbless hooks (Meka 2004). Also, the number of fish injured or killed by bait angling can exceed the number injured or killed by artificial lure angling by a significant margin (Hooton 2001). Regarding our request to enact selective gear rules from July 15-January 31, many anglers use bait when fishing for adult hatchery Chinook and adult hatchery summer run steelhead. However, there is very little effort in this fishery after July 15. Therefore, selective gear rules would have little impact on anglers targeting hatchery

Chinook and hatchery summer run steelhead and would dramatically decrease incidental hooking mortality on juvenile salmon.

WDFW Creel Census

Although WDFW conducted a condensed creel census for 7 days during the 2019 fishery, the most useful information comes from the last complete creel census conducted in 2011. That census spanned from June 1 to July 22 on 35 days. Figure 4 shows catch per hour by date for hatchery Chinook and hatchery summer run steelhead. Catch per hour was very low when the season opened on June 1 and began increasing on June 6 and peaked on June 11 (Figure 4). The results from prior creel censuses conducted in 2003-2008 were consistent with the results from 2011. Fishing is consistently slow at the beginning of the season and peaks around the 2nd week of June. Conversations with anglers and guides indicate that this is consistent with the timing they have seen in past seasons. Therefore, delaying the opening of this fishery until the 2nd week of June would have minimal impact on recreational opportunity and on overall harvest.

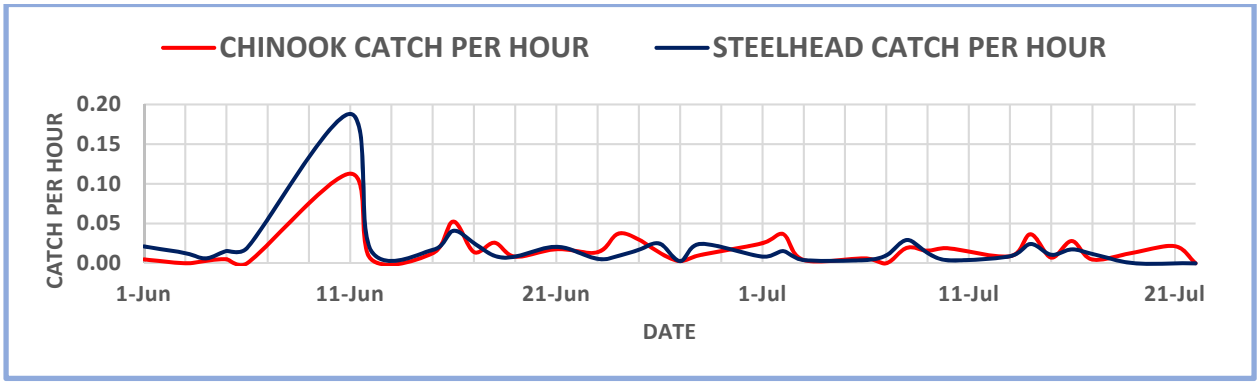


Figure 4. Catch per hour by date of hatchery Chinook and hatchery summer run steelhead, Skykomish River, 2011.

Conclusion

Wild salmon and steelhead face many complex and costly challenges on the road to recovery. The requested rule changes are neither complex nor costly and will continue to provide ample fishing opportunity for recreational anglers as well as provide the resource protections needed for species recovery.

Thank you for your consideration regarding these important rule changes that will have an immediate positive impact for Sultan and Skykomish River steelhead and salmon.

REFERENCES

Hooton, R.S. 2001. Facts and Issues Associated with Restricting Terminal Gear Types in the Management of Sustainable Steelhead Sport Fisheries in British Columbia. Report for Ministry of Lands, Forestry, and Natural Resources 28 p.

Mantua, N., Tohver, I., and Hamlet,A. 2009. Impacts of Climate Change on Key Aspects of Freshwater Salmon Habitat in Washington State. Pages 217 to 253 (Chapter 6) *in*: Washington Climate Change Impacts Assessment: Evaluating Washington's Future in a Changing Climate. Climate Impacts Group, University of Washington, Seattle, Washington. 37 p.

Meka, J. M. 2004. The Influence of Hook Type, Angler Experience, and Fish Size on Injury Rates and the Duration of Capture in an Alaskan Catch-and-Release Rainbow Trout Fishery, North American Journal of Fisheries Management, 24:4, 1309-1321, DOI: 10.1577/M03-108.1

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Washington Department of Fish and Wildlife. 2019. 2013-2019 Skykomish River spawner escapement data. https://fortress.wa.gov/dfw/score/score/species/population_details.jsp?stockId=3080