



# RULE-MAKING ORDER

**CR-103E (May 2009)**  
**(Implements RCW 34.05.360)**

**Agency:** Washington Department of Fish and Wildlife

**Emergency Rule Only**

**Effective date of rule:**

**Emergency Rules 10-249**

- Immediately upon filing.
- Later (specify) September 22, 2010

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes
  - No
- If Yes, explain:

**Purpose:** The purpose of this rule-making is to allow non-treaty recreational fishing opportunity in the Columbia River while protecting fish listed as threatened or endangered under the Endangered Species Act. This rule-making implements federal court orders governing Washington's relationship with Treaty Indian Tribes, federal law governing Washington's relationship with Oregon, and Washington Fish and Wildlife Commission policy guidance for Columbia River fisheries.

**Citation of existing rules affected by this order:**

Repealed: WAC 232-28-61900J  
 Amended: WAC 232-28-619  
 Suspended:

**Statutory authority for adoption:** RCW 77.04.130, RCW 77.12.045 and RCW 77.12.047

**Other authority :** *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546); *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington Fish and Wildlife Commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River Compact).

**EMERGENCY RULE**

Under RCW 34.05.350 the agency for good cause finds:

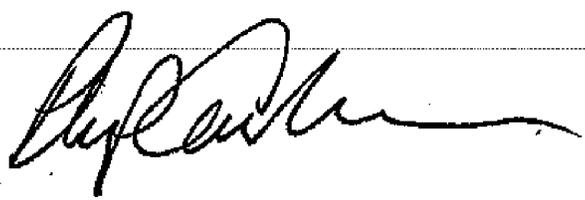
- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
- That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal years 2009, 2010, or 2011, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding: Increases the daily bag limit for adult Chinook. Two adult Chinook may be kept in the area from Warrior Rock upstream to Bonneville Dam. Harvestable numbers of upriver bright fall Chinook remain within the Endangered Species Act (ESA) impact limit, based on the current in-season Chinook run size. There is insufficient time to adopt permanent rules.

**Date adopted:** September 21, 2010

**NAME (TYPE OR PRINT)**  
Philip Anderson

**SIGNATURE**



**TITLE**  
Director

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: September 21, 2010**  
**TIME: 2:15 PM**

**WSR 10-19-117**

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	<u>1</u>	Amended	_____	Repealed	<u>1</u>
<b>Federal rules or standards:</b>	New	<u>1</u>	Amended	_____	Repealed	1
<b>Recently enacted state statutes:</b>	New	_____	Amended	_____	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	<u>1</u>	Amended	_____	Repealed	1
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	_____	Repealed	_____

NEW SECTION

**WAC 232-28-61900J Exceptions to statewide rules—Columbia River.**

Notwithstanding the provisions of WAC 232-28-619, effective immediately until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

**Columbia River**

1. From the Warrior Rock Lighthouse (defined as a line projected from the Warrior Rock Lighthouse through red buoy #4 to the orange marker atop Dolphin on the Washington shore) upstream to Bonneville Dam: Effective September 22 through December 31, 2010: Release all salmon other than Chinook and hatchery coho. Salmon minimum size limit is 12 inches. Daily limit six fish. Up to two may be adult salmon or hatchery steelhead, or one of each.
2. From Beacon Rock to Bonneville Dam, closed to fishing for salmon November 1 through December 31, 2010.

REPEALER

The following section of the Washington Administrative Code is repealed effective January 1, 2010:

WAC 232-28-61900J Exceptions to statewide rules—Columbia River.

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**EMERGENCY RULE ONLY**

Under RCW 34.05.350 the agency for good cause finds:

: (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

9 (b) That state or federal law or federal rule a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

**Reasons for this finding:** Increases the daily bag limit for adult Chinook. Two adult Chinook may be kept in the area from Warrior Rock upstream to Bonneville Dam. Harvestable numbers of upriver bright fall Chinook remain within the Endangered Species Act (ESA) impact limit, based on the current inseason Chinook run size. There is insufficient time to adopt permanent rules.

**(10-249, 9/21/2010)**