



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 11-173

- Immediately upon filing.
- Later (specify) August 1, 2011

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Repealed:
 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: The Department is in the process of adopting permanent rules that are necessary to implement the personal use fishing plans that were agreed upon with resource co-managers at the North of Falcon proceedings. These emergency rules are necessary to comply with agreed-upon management plans, and are interim until permanent rules take effect.

Date adopted: July 29, 2011

NAME (TYPE OR PRINT)
Philip Anderson

SIGNATURE

TITLE
Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: July 29, 2011

TIME: 9:13 AM

WSR 11-16-059

**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:

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	Amended	_____	Repealed	_____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	Amended	_____	Repealed	_____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

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

NEW SECTION

WAC 232-28-61900H 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:

(1) Salmon and steelhead – It is permissible to use barbed hooks unless otherwise restricted. Anglers may not possess in the field salmon or steelhead mutilated so that size, species, or fin clip cannot be determined until the angler has reached their automobile or principle means of land transportation.

(a) From a true north-south line through Buoy 10, upstream to a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank: Salmon and steelhead: August 1 through August 28, daily limit, 2 salmon or 2 hatchery steelhead or one of each; only 1 may be a Chinook. Release all salmon except Chinook and hatchery coho. Chinook minimum length 24 inches. Coho minimum length 16 inches. August 29 through September 30, daily limit 2 hatchery coho or 2 hatchery steelhead or one of each. Release all salmon other than hatchery coho. Coho minimum length 16 inches. October 1 until further notice, daily limit, 6 fish, of which no more than 2 may be adult salmon or hatchery steelhead, or one of each. Release all salmon except Chinook and hatchery coho.

(b) From a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank, upstream to the I-5 Bridge: Salmon and steelhead: August 1 through September 9, daily limit, 6 fish, of which no more than 2 may be adult salmon or hatchery steelhead or one of each; of the adult salmon, only 1 may be a Chinook. Release all salmon except Chinook and hatchery coho. September 10 until further notice, daily limit, 6 fish, of which no more than 2 may be adult salmon or hatchery steelhead or one of each. Release all salmon except Chinook and hatchery coho, and September 10 through September 30 release Chinook downstream of a line projected from the Warrior Rock Lighthouse, through Red Buoy #4, to the orange marker atop the dolphin on the Washington shore.

(c) From the I-5 Bridge to Bonneville Dam: Salmon and steelhead: August 1 through September 9, daily limit, 6 fish, of which no more than 2 may be adult salmon or hatchery steelhead or one of each; of the adult salmon, only 1 may be a Chinook. Release all salmon except Chinook and hatchery coho. September 10 until further notice, daily limit, 6 fish, of which no more than 2 may be adult salmon or hatchery steelhead or one of each. Release all salmon except Chinook and hatchery coho.

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(11-173, 7/29/2011)