



RULE-MAKING ORDER

CR-103E (July 2011)
(Implements RCW 34.05.350)

Agency: Washington Department of Fish and Wildlife

Emergency Rule Only

Effective date of rule:

Emergency Rules 12-138

- Immediately upon filing.
- Later (specify) July 9, 2012

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Repealed: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:

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 year 2009, 2010, 2011, 2012, or 2013, 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: Closes retention of sockeye salmon from Bonneville Dam upstream to the Highway 395 Bridge in Pasco, Washington. The Snake River sockeye run is listed as endangered under the Endangered Species Act, and non-Indian fisheries downstream of the Snake River are limited to a 1% harvest rate on this run. The combined non-Indian fisheries are projected to reach this limit prior to the original closure date of July 31. Conforms Washington rules with Oregon rules. Consistent with action of the Joint States on July 6, 2012. There is insufficient time to adopt permanent rules.

Date adopted: July 6, 2012

NAME (TYPE OR PRINT)

Philip Anderson

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: July 06, 2012

TIME: 3:25 PM

WSR 12-15-006

**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	<u>1</u>	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

	New	_____	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 232-28-61900A Freshwater exceptions to statewide rules – Columbia River.

Notwithstanding the provisions of WAC 232-28-619 and WAC 220-55-255, effective July 9, 2012, until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

1. Columbia River:

- a. North Jetty: Barbed hooks allowed for salmon 7 days per week when Marine Area 1 or Buoy 10 are open for salmon.
- b. The Columbia River from the Megler-Astoria Bridge upstream to Bonneville Dam: Effective immediately through July 31, 2012: Open to retention of Chinook and sockeye. Daily salmonid limit is 6 fish. Up to 2 may be adult salmon or hatchery steelhead, or 1 of each. Release all salmon other than hatchery Chinook and sockeye. July 2 –July 31, release adult Chinook and sockeye. Salmon minimum size is 12 inches.
- c. The Columbia River from Bonneville Dam upstream to the Highway 395 Bridge in Pasco: Effective immediately through July 31, 2012: Open to retention of salmon and steelhead. Daily salmonid limit is 6 fish. Up to 2 may be adult salmon or hatchery steelhead, or 1 of each. Release all salmon other than hatchery Chinook. Salmon minimum size is 12 inches.
- d. From the Highway 395 Bridge at Pasco to Priest Rapids Dam, except Ringold Spring Creek (Hatchery Creek): Salmon: Effective immediately through July 31: Daily limit 6 fish, of which no more than 2 may be adult hatchery Chinook. Release wild Chinook.
- e. Ringold Area Bank Fishery waters (from WDFW markers ¼ mile downstream from the Ringold wasteway outlet, to WDFW markers ½ mile upstream from Spring Creek): Immediately until further notice, same rules as the adjoining Columbia River.
- f. From Priest Rapids Dam to Wells Dam: All Species: Anglers in possession of a valid two-pole endorsement may use up to two lines while fishing through August 31. Salmon: Open immediately until further notice. Daily limit 6 Chinook and 6 sockeye only. Of the 6 Chinook, no more than 3 may be adult Chinook, and of these 3 adult Chinook, only 1 may be a wild adult Chinook.
- g. From Wells Dam to Highway 173 Bridge at Brewster: All Species: Anglers in possession of a valid two-pole endorsement may use up to two lines while fishing from July 16 through August 31. Salmon: Open July 16 until further notice. Daily limit 6 Chinook and 6 sockeye only. Of the 6 Chinook, no more than 3 may be adult Chinook, and of these 3 adult Chinook, only 1 may be a wild adult Chinook.

- h. From Highway 173 Bridge at Brewster to Chief Joseph Dam: All Species: Anglers in possession of a valid two-pole endorsement may use up to two lines while fishing through August 31. Salmon: Open until further notice. Daily limit 6 Chinook and 6 sockeye only. Of the 6 Chinook, no more than 3 may be adult Chinook, and of these 3 adult Chinook, only 1 may be a wild adult Chinook.
- i. From Priest Rapids Dam to Chief Joseph Dam: Effective immediately through October 15, release all Chinook and sockeye with external floy tags and/or with one or more holes (round, approximately 1/4-inch diameter) punched in the caudal (tail) fin.

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(x) 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.

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(12-138, 7/6/2012)