



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 14-106

- Immediately upon filing.
- Later (specify) May 10, 2014

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

- Yes
 - No
- If Yes, explain:

Purpose: Amend commercial fishing rules

Citation of existing rules affected by this order:

Repealed: WAC 220-33-03000I
 Amended: WAC 220-33-030
 Suspended:

Statutory authority for adoption: RCW 77.04.012, 77.04.020, and 77.12.047

Other authority :

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: Rules allow sales of shad when caught under an experimental gear permit issued by the State of Oregon. Washington supports innovative fishing techniques for shad. Incidental impacts to non-target species are expected to be minimal, and are covered in a Biological Opinion. This rule is consistent with requirements of the Endangered Species Act (ESA). There is insufficient time to adopt permanent regulations.

Date adopted: May 9, 2014

NAME (TYPE OR PRINT)

Philip Anderson

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: May 09, 2014

TIME: 11:54 AM

WSR 14-11-019

(COMPLETE REVERSE SIDE)

**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	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	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	<u>1</u>
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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 220-33-03000I Commercial shad—Columbia River.

Notwithstanding the provisions of WAC 220-33-030, effective immediately until further notice, it is unlawful to violate the provisions below. Unless otherwise amended, all permanent rules remain in effect:

Mainstem Columbia River

- (1) Stipulations: Shad may be taken and sold for commercial purposes with experimental fishing gear. A permit issued by the State of Oregon as described in the Oregon Administrative Rule 635-006-0020 is required to use experimental gear types for shad. Conditions under which shad may be taken and sold for commercial purposes will be specified in the permit.
- (2) Area: SMCRA 1A-1E
- (3) Season: May 10 through July 31, 2014
- (4) Gear: experimental, including but not limited to purse seines
- (5) Allowable sales: Only shad may be kept and sold. All salmonids, sturgeon, and non-target species taken as incidental catch in operation of such gear shall immediately, with care and least possible injury, be released and transferred to the water without violence.

REPEALER

The following section of the Washington Administrative Code is repealed effective August 1, 2014:

WAC 220-33-03000H Commercial Shad—Columbia River.

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- (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.

Reasons for this finding: This emergency rule allows sale of shad when caught under an experimental gear permit issued by the State of Oregon. Washington supports innovative fishing techniques for shad. Incidental impacts to non-target species are expected to be minimal, and are covered in a Biological Opinion. This rule is consistent with requirements of the Endangered Species Act (ESA). There is insufficient time to adopt permanent regulations.
(14-106, 5/9/2014)

