



# 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 15-395**

- Immediately upon filing.
- Later (specify) 5:01 p.m. October 20, 2015

**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Repealed: WAC 220-36-02300B  
 Amended: WAC 220-36-023  
 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: (See Attachment)

**Date adopted:** October 20, 2015

**NAME (TYPE OR PRINT)**

J W Unsworth

**SIGNATURE**

**TITLE**

Director

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: October 20, 2015**

**TIME: 4:47 PM**

**WSR 15-21-085**

(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:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<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	New	_____	Amended	_____	Repealed	_____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	<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:**

<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 220-36-02300B Grays Harbor salmon—fall fishery.**

Notwithstanding the provisions of WAC 220-36-023, effective 5:01p.m. October 20 through 5:00 pm October 21, 2015, it is unlawful to fish for salmon in waters of Grays Harbor for commercial purposes.

## REPEALERS

The following section of the Washington Administrative Code is repealed effective 5:01 p.m. October 21, 2015:

WAC 220-36-02300B Grays Harbor salmon—fall fishery.

## Attachment

Department staff reviewed catches of salmon in the non-treaty commercial fishery in area 2A&D and compared them to pre-season expectations. With only 2 out of 4 scheduled days completed in week 43, an estimated 3,943 chum have been landed compared to a pre-season expectation of 2,689. This demonstrates that fish harvest is exceeding the anticipated rate at this time. Another 1,110 to 1,250 chum are expected to be caught on October 20th and October 21<sup>st</sup> if the fishery proceeds as originally opened. From the pre-season planning model, 21,029 chum were predicted to spawn compared to a goal of 21,000. That is, under pre-season planning, we were only expecting to meet or exceed the conservation escapement goal by 29 fish – a slim margin for any error in pre-season forecasting. We believe that it is advisable to carefully meter continuing fishing opportunity to ensure that escapement goals can be met.

Coho catches were substantially lower than predicted pre-season and few coho were reported anecdotally. Department staff examined QIN gillnet catch per landing in area 2A&D through week 42 from 1996 to 2014. A significant relationship existed between coho catch per landing and Chehalis Basin total run-size (excluding Humptulips Basin coho). Based on QIN catch per landing in 2015, the relationship predicted a run-size of 52,285 coho compared to a pre-season forecast of nearly 149,000. While a significant relationship existed between coho catch and total run-size, a similar relationship was not evident for chum.

Considering all these factors, an update to the 2015 chum run-size is difficult to make at this time. It is possible that additional time and data may result in a useable chum in-season update and that the run will run out to be larger than forecast. Nevertheless, without the ability to update the chum run at this time, and considering the narrow margin for achieving the desired chum escapement, the data provides a reasoned basis to be concerned that the chum escapement will not be met with the current catches.

This preliminary in-season coho update was also plugged into the pre-season planning model to examine the effect of actual 2015 treaty and non-treaty fisheries on the potential for reaching the coho escapement goal. Based on a run-size of 52,285 and the planned fishing schedules, the natural-origin coho escapement was predicted to be 22,565 compared to the goal of 28,506. That is, the pre-season forecast already predicts that the coho escapement goal will be missed by nearly 6,000 coho. Because the run-size for 2015 now appears to be far below the pre-season forecast, there is a reasoned basis for slowing harvest to ensure the overall harvest rate objective is met and to provide some buffer against a serious under-escapement of coho.

Based on all this information, an in-season reduction in the commercial fishery is warranted to help ensure that conservation goals are met. Such an in-season adjustment requires immediate action and cannot wait for the time required to adopt a permanent rule amendment.

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**Reasons for this finding:**