



# 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 16-94**

- Immediately upon filing.
- Later (specify) \_\_\_\_\_

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

- Yes
  - No
- If Yes, explain:

**Purpose:** Amend freshwater recreational fishing rules

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

Repealed: WAC 220-310-18000S, WAC 220-310-19000B  
 Amended: WAC 220-310-180, WAC 220-310-190  
 Suspended:

**Statutory authority for adoption:** RCW 77.04.012, 77.04.020, 77.12.045 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:** This emergency rule is needed because Endangered Species Act (ESA) coverage for Chinook and steelhead impacts expired April 30, 2016. This emergency rule modifies salmon and gamefish fisheries to ensure compliance with ESA take coverage for Chinook and steelhead until a permit is approved. There is insufficient time to adopt permanent rules.

**Date adopted:** May 2, 2016

**NAME (TYPE OR PRINT)**

J W Unsworth

**SIGNATURE**

**TITLE**

Director

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: May 02, 2016**

**TIME: 3:54 PM**

**WSR 16-10-070**

**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>2</u>	Amended	_____	Repealed	<u>2</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 220-310-19000D Freshwater exceptions to statewide rules—Puget Sound.**

Notwithstanding the provisions of WAC 220-310-190, effective immediately until further notice all waterways with the exceptions of Lakes listed in this WAC are closed to fishing except for the following:

- 1. Sumas River** (Whatcom Co.) including all tributaries.
- 2. Silesia Creek** (Whatcom Co.).
- 3. Chilliwack River** (Whatcom Co.) including all tributaries and their tributaries.
- 4. Whatcom Creek** (Whatcom Co.): from stone bridge at Whatcom Falls Park to Lake Whatcom.
- 5. Kendall Creek** (Whatcom Co.) (tributary to Nooksack River, North Fork): above hatchery grounds.
- 6. Canyon Creek** (Whatcom Co.) (tributary to Nooksack River, North Fork) from Canyon Creek Rd. Bridge upstream and all tributaries.
- 7. Nooksack River, North Fork** (Whatcom Co.) upstream of Nooksack Falls including all tributaries and their tributaries.
- 8. Nooksack River, Middle Fork** (Whatcom Co.) from the diversion dam upstream, including all tributaries and their tributaries.
- 9. Cavanaugh Creek** (Whatcom Co.) (Nooksack River, South Fork) from 0.4 miles of the mouth upstream and all tributaries.
- 10. Howard Creek** (Whatcom Co.) (Nooksack River, South Fork) from 0.3 miles of the mouth upstream and all tributaries.
- 11. Plumbago Creek** (Whatcom Co.) (Nooksack River, South Fork) from Sierra Pacific 140 Rd. Bridge upstream and all tributaries.
- 12. Roaring Creek** (Whatcom Co.) (Nooksack River, South Fork) upstream of confluence with Deer Creek and all tributaries.
- 13. Skookum Creek** (Whatcom Co.) (Nooksack River, South Fork) upstream from confluence with Arlecho Creek and all tributaries.
- 14. Cascade Creek** (San Juan Co.).
- 15. Backus Creek** (Skagit Co.) (tributary to Skagit River).
- 16. Cumberland Creek** (Skagit Co.) (tributary to Skagit River) from forest service road 17 upstream and all tributaries.
- 17. O'Toole Creek** (tributary to Skagit River) from Marietta Falls upstream.

- 18. Gorge and Diablo lakes tributary streams** (Whatcom Co.) and their tributaries, except Stetattle Creek.
- 19. Ross Lake tributary streams (Whatcom Co.)** and their tributaries from one mile upstream of Ross Lake to the headwaters (except Ruby and Big Beaver creeks).
- 20. Big Beaver Creek** (Whatcom Co.) (tributary of Ross Lake) from ¼ miles upstream of Ross Lake markers to headwaters, including tributary streams and beaver ponds.
- 21. Ruby Creek tributaries** (Whatcom Co.) (tributary to Ross Lake) all tributaries to Ruby Creek (excluding Ruby Creek).
- 22. Baker River** (Skagit/Whatcom Co.) from fish barrier dam to headwaters and all tributaries including the tributaries to Shannon and Baker lakes except Channel Creek.
- 23. Channel Creek** (Whatcom Co.) (tributary to the Baker River).
- 24. Clear Creek** (Snohomish Co.) (tributary to Sauk River) above Asbestos Creek Falls.
- 25. Copper Creek** (Snohomish Co.) (tributary to Clear Creek/Sauk River) mouth upstream.
- 26. Big Creek** (Skagit/Snohomish Co.) (tributary to Suiattle River) above TeePee Falls.
- 27. Grade Creek** (Skagit/Snohomish Co.) (tributary to Suiattle River).
- 28. Pilchuck Creek** (Skagit/Snohomish Co.) from Pilchuck Falls upstream including all tributaries and their tributaries, including tributaries to Lake Cavanaugh (Skagit Co.)
- 29. Boulder River** (Snohomish Co.) (tributary Stillaguamish River, North Fork) from Boulder Falls upstream.
- 30. Stillaguamish River, North Fork** (Skagit/Snohomish Co.) upstream of the falls including all tributaries.
- 31. Black Creek** (Snohomish Co.) (tributary to Stillaguamish River, South Fork) from Bear Creek confluence upstream.
- 32. Woods Creek, East Fork** (Snohomish Co.) (tributary to Skykomish River) from Old Pipeline Rd. upstream including tributaries.
- 33. Youngs Creek** (Snohomish Co.) (tributary to Skykomish River) from Potson Rd (299 Ave SE Bridge) upstream including tributaries.
- 34. Sultan River** (Snohomish Co.) (tributary to Sultan River) from diversion dam to 400' below Culmback Dam.

- 35. Chaplain Creek** (Snohomish Co.) (Tributary to Sultan River) from above waterfall to the dam at Chaplain Lake including tributaries.
- 36. Marsh Creek** (Snohomish Co.) (tributary to Sultan River) from above falls upstream including tributaries.
- 37. Wallace River** (Snohomish Co.) from Wallace Falls upstream including all tributaries and their tributaries.
- 38. Olney Creek** (Snohomish Co.) (tributary to Wallace River) upstream of Olney Falls, including all tributaries.
- 39. Skykomish River, North Fork** (Snohomish Co.) from Deer Falls (about ¼ mile upstream of Goblin Creek) upstream including all tributaries and their tributaries.
- 40. Tye River** (King Co.) (Skykomish River, South Fork) from Alpine Falls upstream.
- 41. Cherry Creek (King Co.)** from Cherry Creek falls, including all tributaries and beaver ponds
- 42. Tolt River, North Fork (King Co.)** from falls upstream and all tributaries
- 43. Tolt River, South Fork (King Co.)** from dam upstream
- 44. Tokul Creek (King Co.)** from Tokul Rd. SE upstream including tributaries and beaver ponds
- 45. Snoqualmie River (King/Snohomish Co.)** from Snoqualmie Falls upstream including **North** and **South** forks
- 46. Snoqualmie River Tributaries** upstream of Snoqualmie Falls, and tributaries of North and South forks, (except Tate, Sunday and Phillapa Creeks)
- 47. Boxley Creek (King Co.) (South Fork Snoqualmie tributary)** from falls (located approximately river mile 0.9) upstream
- 48. Coal Creek (King Co.)** from mouth upstream
- 49. Kimball Creek (King Co.)**
- 50. Snoqualmie River, Middle Fork (King Co.)** from mouth upstream including all tributaries
- 51. Green Duwamish** (King Co.) from Friday Creek upstream including all tributaries.
- 52. Clover Creek** (Pierce Co.) from Steilacoom Lake upstream and all tributaries.

- 53. Nisqually River** (Pierce Co.) from Alder Reservoir upstream including Little Nisqually, Mineral Creek, and north fork Mineral Creek and all other tributaries.
- 54. Deschutes River** (Thurston Co.) from the Old Hwy. 99 Bridge on Capitol Blvd. in Tumwater upstream.
- 55. Eaton Creek** (Thurston Co.) (Lake St. Clair Tributary).
- 56. Kennedy Creek** (Mason/Thurston Co.) from falls upstream and all tributaries.
- 57. Beaver Ponds** (Kitsap/Mason Co.) ponds on Tahuya Peninsula west of Hwy 3.
- 58. Beaver Ponds** (Kitsap/Mason Co.) ponds on Tahuya Peninsula east of Hwy 3.
- 59. Skokomish River South Fork** (Mason Co.) from Rule Creek upstream.
- 60. Le Bar Creek** (Mason Co.) (tributary to the Skokomish River, South Fork), upstream of falls at river mile 1.
- 61. Church Creek** (Mason Co.) (tributary to the Skokomish River, South Fork), upstream of bridge on USFS road #2361.
- 62. Lilliwaup River** (Mason Co.) from falls upstream.
- 63. Hamma Hamma River** (Mason Co.) from falls upstream.
- 64. Jefferson Creek** (Mason Co.) (tributary to the Hamma Hamma River).
- 65. Washington Creek** (Mason Co.) (tributary to the Hamma Hamma River).
- 66. Lena Creek** (Mason Co.) (tributary to the Hamma Hamma River).
- 67. Fulton Creek** (Mason Co.) upstream of falls at river mile 0.8.

## NEW SECTION

### **WAC 220-310-18000T Freshwater exceptions to statewide rules—Coastal.**

Notwithstanding the provisions of WAC 220-310-180, 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. Big Quilcene River** (Jefferson Co.) from mouth to upper boundary of Falls View Campground - closed
- 2. Rocky Brook** (Jefferson Co.) (tributary to the Dosewallips River) from mouth to falls - closed.
- 3. Little Quilcene River** (Jefferson Co.) from mouth to Little Quilcene River bridge on Penny Creek Rd. - closed.
- 4. Jimmycomelately Creek** (Clallam Co.) from mouth to confluence with East Fork - closed.
- 5. Dungeness River** (Clallam Co.) from mouth to Gold Creek - closed.
- 6. Morse Creek** (Clallam Co.) from mouth to Port Angeles Dam - closed.
- 7. Chimacum Creek** (Jefferson Co.)
- 8. Howe Creek** (Jefferson Co.) - Closed.
- 9. Leland Creek** (Jefferson Co.) – Closed.
- 10. Ripley Creek** (Jefferson Co.) – Closed.
- 11. Ludlow Creek** (Jefferson Co.) – Closed.
- 12. Shine Creek** (Jefferson Co.) – Closed.
- 13. Thorndyke Creek** (Jefferson Co.) – Closed.
- 14 Tarboo Creek** (Jefferson Co.) – Closed.

## REPEALERS

The following section of the Washington Administrative Code are repealed:

WAC 220-310-19000B Freshwater exceptions to statewide rules—Puget Sound (16-90)

WAC 220-310-18000S Freshwater exceptions to statewide rules—Coastal (16-90)

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## **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 , 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:** This emergency rule is needed as Endangered Species Act (ESA) coverage for Chinook and steelhead impacts expires April 30, 2016. This emergency rule modifies salmon and gamefish fisheries to ensure compliance with ESA take and coverage for Chinook and steelhead until a permit is approved. There is insufficient time to adopt permanent rules.

