



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 14-28

- Immediately upon filing.
- Later (specify) 7:00 a.m. February 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Repealed: WAC 220-33-04000L
 Amended: WAC 220-33-040
 Suspended:

Statutory authority for adoption: RCW 77.04.020, 77.04.055, 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: Sets a limited Columbia River commercial fishery for eulachon smelt. The regulation is consistent with a reduced Level One fishery as described in the "Washington and Oregon Eulachon Management Plan" for the Columbia River. Returns of eulachon to the Columbia River have improved since 2011, with a very large return in 2013. This minimal commercial fishing season, and a limited sport season adopted for the Cowlitz River, are expected to harvest less than 1% of the total run size forecasted for 2014. The fishery serves as an important test fishery to monitor run strength and timing and to collect biological data. NOAA Fisheries concurs that the fisheries are consistent with recovery of eulachon smelt. Rule is consistent with Columbia River Compact action of February 5, 2014. There is insufficient time to adopt permanent regulations.

Date adopted: February 6, 2014

NAME (TYPE OR PRINT)
Philip Anderson

SIGNATURE

TITLE
Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: February 06, 2014

TIME: 2:09 PM

WSR 14-05-010

(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 220-33-04000L Smelt – Areas and Seasons.

Notwithstanding the provisions of WAC 220-33-040, the Columbia River and Washington tributaries are closed to fishing for eulachon smelt except as provided below:

Open Dates: From February 10, 2014 through March 6, 2014, open Mondays and Thursdays only, 7:00 a.m. to 2:00 p.m. (7-hour periods).

Open Area: Columbia River – SMCRA 1A, 1B, 1C.

Gear: It is unlawful to use anything other than gillnets. Gillnets must meet the following specifications per WAC 220-33-040: mesh size not to exceed 2 inches stretch measure; not to exceed 1,500 feet in length along the cork line. Use of monofilament nets is permissible.

Allowable sales: Smelt.

Other: 24-hour quick-reporting is required for Washington wholesale dealers, as provided in WAC 220-69-240.

REPEALER

The following section of the Washington Administrative Code is repealed effective 2:01 p.m. March 6, 2014:

WAC 220-33-04000L Smelt – Areas and Seasons.

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

(a) 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.

(b) That state or federal law or federal rule a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: Sets a limited Columbia River commercial fishery for eulachon smelt. The regulation is consistent with a reduced Level One fishery as described in the “Washington and Oregon Eulachon Management Plan” for the Columbia River. Returns of eulachon to the Columbia River have improved since 2011, with a very large return in 2013. This minimal commercial fishing season, and a limited sport season adopted for the Cowlitz River, are expected to harvest less than 1% of the total run size forecasted for 2014. The fishery serves as an important test fishery to monitor run strength and timing and to collect biological data. NOAA Fisheries concurs that the fisheries are consistent with recovery of eulachon smelt. Rule is consistent with Columbia River Compact action of February 5, 2014. There is insufficient time to adopt permanent regulations.

(14-28, 2/6/2014)

