

RULE-MAKING ORDER

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

Agency: Washington Department of Fish and Wildlife

Emergency Rule Only

•	Emergency Rule Only
Effective date of rule: Emergency Rules 15-220 Immediately upon filing. Later (specify)	
Any other findings required by other provisions of law as pro	econdition to adoption or effectiveness of rule?
Purpose: Amend recreational fishing rules	
Citation of existing rules affected by this order: Repealed: WAC 220-310-20000Q Amended: WAC 220-310-200 Suspended:	000 77 04 055 and 77 40 047
Statutory authority for adoption: RCW 77.04.012, 77.04.	.020, 77.04.055, and 77.12.047
Other authority:	
safety, or general welfare, and that observing the time adoption of a permanent rule would be contrary to the part of the part	adline for state receipt of federal funds requires immediate ons in appropriations enacted in any budget for fiscal year he need for the immediate adoption, amendment, or repeal notice and opportunity to comment upon adoption of a
Date adopted: July 23, 2015	CODE REVISER USE ONLY
NAME (TYPE OR PRINT) J W Unsworth SIGNATURE	OFFICE OF THE CODE REVISER STATE OF WASHINGTON FILED DATE: July 23, 2015 TIME: 3:34 PM
TITLE	WSR 15-16-010
Director	

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.

				ne categor	у.	
The number of sections adopted in o	rder to co	mply 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Federal statute:	New		Amended		Repealed	
Federal rules or standards:	New		Amended		Repealed	
Recently enacted state statutes:	New		Amended		Repealed	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 th	e reques	t of a nongo	overnmental e	ntity:		
	New		Amended		Repealed	
The number of sections adopted in th	ne agency	r's own initi	ative:			
	New	<u>1</u>	Amended		Repealed	<u>1</u>
The number of sections adopted in o	r der to cl New	arify, strean	n line, or refor i Amended		procedures: Repealed	
The number of sections adopted in or The number of sections adopted usin	New	arify, strean				
	New	arify, strean				
The number of sections adopted usin	New g:	arify, strean	Amended		Repealed	

ORDER NO. 15-220

NEW SECTION

WAC 220-310-20000T Freshwater exceptions to statewide rules—Columbia River.

Notwithstanding the provisions of WAC 220-310-200, effective immediately through July 31, 2015, it is permissible to fish in waters of the Columbia River from the Astoria-Megler Bridge upstream to the Oregon/Washington border.

- (1) Daily salmonid limit is 6 fish; minimum size is 12 inches. Up to 2 may be adult salmon or hatchery steelhead or 1 of each. Only 1 may be an adult Chinook. Release all coho.
- (2) Any Chinook (adipose fin clipped or not) may be kept. Sockeye are included in the daily adult salmonid limit.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-310-20000Q Freshwater exceptions to statewide rules—Columbia River. (15-196)

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, 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: The regulation clarifies that Coho salmon must be released through July 31, 2015. On June 30, 2015 the intent of the Compact was allow only Chinook and sockeye salmon retention, along with hatchery Steelhead in the daily bag limit. Coho salmon typically don't enter the river until early to mid-August, but reports of Coho presence in the Columbia River which has prompted the clarification for Washington rules. The daily bag limit allows any Chinook to be retained (fin clipped or not) as part of the daily limit, but only one can be an adult Chinook. The area from the Oregon/Washington border upstream to Priest Rapids dam remains open and the daily bag limit remains consistent with permanent regulations outlined in the 2015-2016 fishing pamphlet. Harvestable summer Chinook and Sockeye are available for harvest based on inseason forecasts and management agreements. The fishery is consistent with the *U.S. v Oregon* Management Agreement and the associated Biological Opinion. Conforms Washington state rules with Oregon state rules. There is insufficient time to promulgate permanent rules.

Washington and Oregon jointly regulate Columbia River fisheries under the congressionally-ratified Columbia River Compact. Four Indian Tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the Tribes an opportunity to take a fair share of the available fish, and the states must manage other fisheries accordingly. Sohappy v. Smith, 302 F. Supp. 899 (D. Or. 1969). A federal court order sets the current parameters for sharing between treaty Indians and others. 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).

Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under the federal Endangered Species Act. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in treaty and non-treaty Columbia River fisheries governed by the 2008-2017 U.S. v. Oregon Management Agreement. The Washington and Oregon Fish and Wildlife Commissions have developed policies to guide the implementation of such biological opinions in the states' regulation of non-treaty fisheries.

Columbia River non-treaty fisheries are monitored very closely to ensure compliance with federal court orders, the Endangered Species Act, and Commission guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from the Washington and Oregon Departments of Fish and Wildlife convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached. (15-220, 7/23/2015)