



# 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 15-403**

- Immediately upon filing.
- Later (specify) 6:00 a.m. October 29, 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Repealed: WAC 220-40-02700E  
 Amended: WAC 220-40-027  
 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: This emergency rule is needed to allow for a test fishery which will be used to evaluate stock composition and whether scheduled commercial fisheries should open in Willapa Bay. There is insufficient time to adopt permanent rules.

**Date adopted:** October 27, 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 27, 2015**

**TIME: 3:45 PM**

**WSR 15-22-032**

(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	_____
-----	-------	---------	-------	----------	-------

**The number of sections adopted in the agency's own initiative:**

New	<u>1</u>	Amended	_____	Repealed	<u>1</u>
-----	----------	---------	-------	----------	----------

**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

**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 220-40-02700E Willapa Bay salmon—fall fishery.**

Notwithstanding the provisions of WAC 220-40-027, effective 6:00 a.m. to 6:00 p.m. October 29, 2015, it is unlawful to fish in waters of Willapa Bay for commercial purposes, except:

- (1) Open only in Willapa Bay Catch Area 2M and only for the vessel “OR764ZM”, 2T for the vessel “BRUTE FORCE”, and 2U for vessel “WN586Y”.
- (2) Mesh size must not exceed six and one-half inches stretched.
- (3) The vessel must have two operable recovery boxes or one box with two chambers on board.
  - (a) Each box and chamber must be operating during any time the net is being retrieved or picked. The flow in the recovery box must be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute.
  - (b) Each chamber of the recovery box must meet the following dimensions as measured from within the box:
    - (i) The inside length measurement must be at or within 39-1/2 inches to 48 inches;
    - (ii) The inside width measurements must be at or within 8 to 10 inches; and
    - (iii) The inside height measurement must be at or within 14 to 16 inches.
  - (c) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of the chamber and 1-3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to department employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river or fresh bay water into each chamber.
- (4) All steelhead and wild (unmarked) Chinook must be placed in an operating recovery box which meets the requirements in section (3) prior to being released to the river/bay as set forth in section (5).
- (5) All fish placed in recovery boxes must remain until they are not lethargic and not bleeding and must be released to the river/bay prior to landing or docking.
- (6) Soak time must not exceed 45 minutes. Soak time is defined as the time elapsed from when the first of the gillnet web is deployed into the water until the gillnet web is fully retrieved from the water.
- (7) Quick reporting is required for wholesale dealers and fishers retailing their catch under a "direct retail endorsement." According to WAC 220-69-240(14), reports must be made by 10:00 a.m. the day following landing.
- (8) It is unlawful to retain any species other than Coho salmon or hatchery Chinook marked by a healed scar at the site of the adipose fin.
- (9) The fisher must take a department observer onboard the vessel while fishing.
- (10) The vessels must stop fishing at 6:00 p.m., or when 10 unmarked Chinook or 50 Chum are encountered per boat, whichever comes first.

REPEALER

The following section of the Washington Administrative code is repealed effective 6:01 p.m. October 29, 2015:

WAC 220-40-02700E Willapa Bay salmon—fall fishery.

---

**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:** This emergency rule is needed to allow for a test fishery which will be used to evaluate stock composition and whether scheduled commercial fisheries should open. There is insufficient time to adopt permanent rules.

**(15-403, 10/27/2015)**