



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 16-132

- 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: Columbia River seine fishery emerging commercial fishery.

Citation of existing rules affected by this order:

- Repealed:
- Amended:
- Suspended:

Statutory authority for adoption: RCW 77.04.012, 77.04.020, 77.04.130, 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 rule establishes an emerging commercial fishery with limited participants using beach or purse seine gear in the Columbia River. This limited entry fishery is established consistent with RCW 77.70.160 and is implemented based on Policy C-3620 which includes guiding principles and a progressive series of actions to improve the management of salmon in the Columbia River basin. The fisheries outlined here are part of a series of actions meant to be progressively implemented in 2013-2016 during the transitional period of the policy. Aside from the research fishery conducted in 2014, and the pilot 2015 fishery, this set of commercial regulations allowing seine gear in the Columbia River is the first in decades, and is meant to inform fishery managers in how best to implement such fisheries. There is insufficient time to adopt permanent rules.

Date adopted: June 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: June 02, 2016

TIME: 10:08 AM

WSR 16-13-006

**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>4</u>	Amended	_____	Repealed	_____
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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 220-88-05000C Designation of Columbia River seine fishery as an emerging commercial fishery.

- (1) The director designates the Columbia River seine salmon fishery as an emerging commercial fishery for which use of a vessel is required. The director has determined a need to limit the number of participants in this fishery.
- (2) It is unlawful to fish for, possess, or deliver salmon taken for commercial purposes using beach or purse seine unless the fisher possesses a valid emerging commercial fishery license and a salmon experimental fishery permit for either beach seine or purse seine gear. A violation of this subsection is punishable under RCW 77.15.500, Commercial fishing without a license—Penalty.

NEW SECTION

WAC 220-88-06000C Columbia River seine emerging commercial fishery -- Qualifications – Issuance of experimental fishery permits – License fee - Permit conditions.

- (1) Individuals interested in participating in this fishery must apply for an emerging fishery license. The initial application deadline is midnight June 17, 2016.
 - (a) Experimental fishery permits will be drawn randomly from the pool of emerging fishery license applications for Columbia River seine fisheries received by the deadline. Applications will be pooled by gear type (i.e. beach seine pool and purse seine pool). Only one application per person.
 - (b) Random drawings will begin after the application deadline. Drawings will continue until the number of permits needed is filled for each gear type and zone as determined by the agencies.
 - (c) Once drawn, the emerging fishery license and experimental fishery permit will be awarded so long as the applicant meets the qualifications for the license and permit as provided in subsection (2) of this section. Random drawings will continue from this pool of applicants until all permits are filled, or the pool of qualified applicants is exhausted. Award notifications for successful applicants are expected to occur no later than June 24, 2016. The primary mode for notification will be via telephone.
 - (d) If the total number of permits needed is not filled from the first round of applications received by deadline, the department may ask for additional applications and perform random drawings or consider applications on a first-come first served basis. This ‘second-round’ is open to all qualified applicants, including those awarded a permit in the first round.
 - (e) Alternate permits for each for gear type may be drawn. Alternate permits for each gear type may be awarded if needed at the Department’s discretion.
 - (f) Applicants drawn for an emerging fishery license and experimental fishery permit must respond within ten (10) business days of being notified by the department to accept the permit and purchase the emerging fishery license. At that time the emerging fishery license fee will be due, and the license and permit will be issued by WDFW upon receipt of payment. The department will not issue the emerging fishery license or the experimental fishery permit until payment is received. If an applicant is drawn for the license and permit and fails to purchase the license and permit within ten (10) business days of notification of selection, the department may issue the license and permit to another selected applicant.

- (g) The emerging fishery license and experimental fishery permit expire on December 31, 2016.
- (2) Qualifications: An experimental fishery permit will only be issued to a natural person who has a valid emerging commercial fishery license and who:
- (a) Possesses a commercial gillnet salmon license/permit issued by Washington or Oregon for the Columbia River, Columbia River/Willapa Bay or Columbia River/Grays Harbor and can demonstrate by valid Washington or Oregon fish receiving tickets that salmon have been taken in the Columbia River or Columbia River Select Areas within the past two calendar years (2014 and 2015) under that license; or
 - (b) Can demonstrate by valid Washington or Oregon fish receiving tickets that salmon have been taken in the Columbia River or Columbia River Select Areas by the applicant under a commercial salmon license issued for the Columbia River, Columbia River/Willapa Bay or Columbia River/Grays Harbor within the past two calendar years (2014 and 2015).
- (3) Nothing in this section gives preference to 2016 permit holders for issuance of potential future permits.
- (4) Experimental fishery permits are not transferable between persons. The permit holder must be present and in possession of a valid experimental fishery permit during seine fishing operations. A violation of this subsection is punishable under RCW 77.15.540, Unlawful use of a commercial fishery license--Penalty.
- (5) It is unlawful to violate the conditions of the experimental fishery permit for the Columbia River seine emerging commercial fishery. A violation of this subsection is punishable under RCW 77.15.540, Unlawful use of a commercial fishery license--Penalty.
- (6) Experimental fishery permits may be revoked at the discretion of the Director and future permits denied for failure to comply with conditions specified in the permit or violations of other commercial fishing regulations.

NEW SECTION

WAC 220-88-07000F Columbia River seine emerging commercial fishery – Season, area, and gear requirements.

It is unlawful to fish for salmon for commercial purposes with beach or purse seine gear except as provided in this section:

- (1) Season: Open with state regulatory processes for commercial fishing with these gear types (beach or purse seine). Fishing periods are expected in 2016 during the months of August, September, and October. A violation of this subsection is punishable under RCW 77.15.550, Violation of commercial fishing area or time—Penalty.
- (2) Open area: Columbia River from the Grays Point/Tongue Point line upstream to Rooster Rock, as described in WAC 220-22-010 salmon management and catch reporting areas 1B-1D and as determined by the Columbia River Compact. A violation of this subsection is punishable under RCW 77.15.550, Violation of commercial fishing area or time—Penalty.
- (3) Gear type: Beach seines or purse seines only. Only one net per boat.
 - (a) Purse seine gear requirements:
 - (i) Net length: 200 fathoms maximum, including associated lead nets.
 - (ii) Net depth: 200 meshes deep (approximately 50 feet).
 - (iii) Mesh size/type: 3.5-inch maximum mesh. 3-strand nylon. Twine \geq #12.

- (iv) Bunt: No less than six fathoms of knotless bunt (1.5-inch maximum).
 - (v) Red corks are required at 25-fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.
 - (vi) Block or drum gear is permissible.
- (b) Beach seine gear requirements:
- (i) Net length: 200 fathoms maximum, including associated lead nets.
 - (ii) Net depth: 200 meshes deep (approximately 50 feet).
 - (iii) Mesh size/type: 3.5-inch maximum mesh. 3-strand nylon. Twine \geq #12.
 - (iv) Red corks are required at 25-fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.
- (4) A violation of subsection (3) of this section is punishable under RCW 77.15.520, Commercial fishing—Unlawful gear or methods—Penalty.

NEW SECTION

WAC 220-88-08000C – Columbia River seine emerging commercial fishery – Allowable possession and sales – Catch handling requirements.

- (1) Allowable possession and sales: Salmon, and as determined by the Columbia River Compact. All species other than salmon must be carefully handled and returned to the water promptly.
- (2) Handling of catch: Catch may only be handled by hand or with rubber coated nets when sorting fish. Fish must be sorted while submerged in the water; it is unlawful to dry sort fish on land.

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(16-132, 6/2/2016)