



RULE-MAKING ORDER EMERGENCY RULE ONLY

CR-103E (December 2017) (Implements RCW 34.05.350 and 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: May 18, 2020

TIME: 10:52 AM

WSR 20-11-045

Agency: Department of Fish and Wildlife (Order 20-74)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) June 1, 2020

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

- Yes No If Yes, explain:

Purpose: This emergency rule is needed to open a hatchery spring Chinook fishery in a portion of the North Fork Nooksack River, starting June 1, 2020.

Citation of rules affected by this order:

New:
 Repealed: WAC 220-312-04000L
 Amended: WAC 220-312-040
 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.

Reasons for this finding: Sufficient numbers of hatchery spring Chinook are forecasted to return to allow for a harvest fishery. This fishery has been agreed to with comanagers during the 2020 North of Falcon process and will be actively monitored. Should total encounters reach the agreed to threshold, the fishery may close earlier than scheduled. There is insufficient time to adopt permanent rules.

This fishery is being opened pursuant to the Governor's Proclamation amendment 20-25.2, issued April 27, 2020, indicating that recreational activities including fishing may resume, when and where permitted beginning May 5, 2020.

The Governor's proclamation amendment also includes requirements to exclude gatherings with people who are not members of the same household and maintain social distancing for the continued protection of public health and safety. These fishery openings considered that requirement as a basis for the decision to re-open fisheries, but do not incorporate those social distance elements within the regulations themselves. While not imposed in WDFW's fishery rules, they are and remain, a requirement of the Governor's Proclamation. Failure to abide by those social distance requirements could result in increased health risks requiring future fishery closures.

There is insufficient time to adopt permanent rules.

**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 on the agency's own initiative:

New	1	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	___

Date Adopted: May 18, 2020	Signature: 
Name: Kelly Susewind	
Title: Director	

NEW SECTION

WAC 220-312-04000L Freshwater exceptions to statewide rules—Puget Sound.

Effective June 1 through June 30, 2020, the following provisions of WAC 220-312-040 regarding salmon seasons for the Nooksack River, North Fork, shall be as described below. All other provisions of WAC 220-312-040 not addressed herein, or unless otherwise amended, remain in effect:

Nooksack River, North Fork (Whatcom Co.) from the Hwy. 9 Bridge to the yellow marker at the upstream side of Kendall Hatchery:

Salmon: Daily limit 2. Release all salmon other than hatchery Chinook.

REPEALER

The following section of the Washington Administrative Code is repealed effective July 1, 2020:

WAC 220-312-04000L Freshwater exceptions to statewide rules—Puget Sound.