



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: June 15, 2020

TIME: 5:12 PM

WSR 20-13-067

Agency: Washington Department of Fish and Wildlife (WDFW) (Order 20-107)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) June 20, 2020

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

- Yes No If Yes, explain:

Purpose: Effective March 1, 2020, WDFW adopted WAC 220-312-03000I (WSR 20-06-017 filed on February 21, 2020) to implement salmon fishery closures and reductions in daily limits in rivers in southwest Washington, including the Kalama River and Cowlitz River. The purpose of this rule is to be responsive to new scientific information regarding the low returns of Cowlitz Salmon Hatchery spring Chinook broodstock by extending the adult salmon daily limit reduction in the Kalama River originally adopted in WSR 20-06-017 through July 31, 2020.

This emergency rule allows a 6 salmon daily limit of which no more than 1 may be an adult, anglers must release all salmon other than hatchery Chinook and hatchery coho. By comparison, the permanent rule allows a 6 fish daily limit, up to 2 adults may be retained, release all salmon other than hatchery chinook and hatchery coho. So, the difference is a reduction from 2 to 1 adults per day.

Citation of rules affected by this order:

- New:
- Repealed: WAC 220-312-03000N
- Amended: WAC 220-312-030
- 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: This emergency rule is necessary because WDFW anticipates Kalama River spring Chinook stock will be needed to backfill Cowlitz River spring Chinook broodstock. Current numbers show that the Cowlitz Salmon Hatchery spring Chinook return is extremely depressed while Kalama broodstock goals are now expected to be met. The possibility of using Kalama stock to backfill for Cowlitz was mentioned in WSR 20-13-049, filed on June 11, 2020. Using broodstock from one river within the broader system to supplement low hatchery returns in another river is anticipated by WDFW's Hatchery Program; however, this practice requires approval by NOAA and coordination with Tacoma Power. Therefore, WDFW has discussing this contingency with NOAA and Tacoma Power as part of a package to address the Cowlitz broodstock shortfall.

A reduction in the adult salmon daily limit for Kalama River, that initiated on March 1, 2020, has resulted in putting Kalama River Hatchery broodstock collection on track to meet broodstock goals (670 HOR Chinook) and ahead of preseason projections (590 HOR Chinook), while continuing to provide angling opportunity. Kalama Falls Hatchery, as of June 7, 2020, has 480 HOR Chinook on hand, about 174 percent of the brood goal of 276 through June 7. Extending this rule is necessary to ensure that additional broodstock are available to address the shortfall of Cowlitz River hatchery spring Chinook returns and will continue to provide angling opportunity for spring Chinook within the Kalama River.

The Cowlitz Salmon Hatchery escapement goal is 1,310 Chinook. In response to the preseason run-size forecast of 1,242 Chinook, a closure on Chinook retention in the Cowlitz basin was enacted on March 1. Chinook non-retention was further extending through July 31, 2020 with WSR 20-13-049 in response to new scientific data showing that as of June 7, 2020, the

Cowlitz Salmon Hatchery spring Chinook returns on hand (83 HOR Chinook) is less than 12% of what was expected (737 HOR Chinook). Even with the continued non-retention of Chinook in the Cowlitz basin, total Cowlitz River broodstock collection is projected to be 10-13 percent of what is needed. Thus, supplementation of Cowlitz spring Chinook with other stocks is a most likely necessity.

Using Kalama River stock to backfill for Cowlitz River stock is one of multiple management strategies being employed or considered by WDFW. The necessity of this reduction is unlikely to change prior to its expiration date of July 31, 2020 but will continue to be evaluated should circumstances change.

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: June 15, 2020

Name: Amy Windrope for Kelly Susewind

Title: Director

Signature:



NEW SECTION

WAC 220-312-03000N Freshwater exceptions to statewide rules—Southwest.

Effective June 20 through July 31, 2020, the provisions of WAC 220-312-030 regarding salmon seasons for Kalama River shall be modified as described below. All other provisions of WAC 220-312-030 not addressed herein remain in effect unless otherwise amended:

Kalama River (Cowlitz Co.): From the mouth upstream to 1000 feet below the fishway at the upper salmon hatchery:

Salmon: Daily limit 6; up to 1 may be an adult. Release all salmon other than hatchery Chinook and hatchery coho.

REPEALER

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

WAC 220-312-03000N Southwest – Freshwater exceptions to statewide rules.