



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: September 29, 2020

TIME: 5:02 PM

WSR 20-20-033

Agency: Department of Fish and Wildlife (Order 20-203)

Effective date of rule:

Emergency Rules

- 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: The purpose of this emergency rule is to add an additional day to the commercial salmon season in Willapa Bay Catch Areas 2N, 2M, 2T, and 2U.

Citation of rules affected by this order:

- New:
- Repealed: WAC 220-354-25000G; WAC 220-354-25000F
- Amended: WAC 220-354-250
- 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 needed to add an additional day to the commercial fishery in Willapa Bay Salmon Management and Catch Reporting Area 2N, 2M, 2U and 2T in the week of September 28 through October 3, 2020. To accommodate this additional day of fishing, the scheduled opening days have been changed from October 1, 2020 to September 30 and October 2, 2020.

The marine fisheries are currently still within the preseason predicted number of unmarked Chinook salmon impacts to attain the conservation objective of a 14% impact rate cap to natural origin Willapa River and Naselle River Chinook salmon. The harvest of coho, both hatchery and natural origin, in the commercial fishery has far exceeded preseason predictions. The Department utilizes a modeling tool to evaluate the runsize of coho in-season that is based on the catch per unit effort (CPUE) of the commercial fisheries. This in-season update model (ISU) has been applied in the last few years and it becomes statistically significant in statistical week 38 (mid-September). The significance improves as more data are added through time. Currently, we are in statistical week 40 (Sept 27-Oct 3, 2020) and the ISU model is predicting a natural origin coho runsize between 35,788 to 69,656 fish. This prediction is much higher than the preseason forecasted runsize of 16,074 natural origin coho.

The Department also utilizes a model to plan fisheries preseason, the Willapa Bay Terminal Area Management Model (TAMM). This model will estimate catch, impacts, escapements, and harvest rates for each fishery by species. Adding the predicted coho natural origin runsize from the ISU to the TAMM finalized from our 2020 North of Falcon process, the TAMM model predicts a natural origin coho escapement of 38,335 fish. This is 21,735 fish above the escapement goal of 13,600 for natural origin coho.

Early indications from the ISU and TAMM models suggests the preseason management objectives would still be attained for all three species; Chinook salmon (14% impact rate cap), coho (13,600 natural origin spawners), and chum (10% impact rate cap).

In addition, the commercial fishery lost opportunity early in the season to conserve unmarked Chinook salmon impacts and with minimal Chinook salmon impacts likely to occur in successive weeks, coupled with the predicted increased harvest potential of hatchery coho, the Department has decided to make additional changes to the upcoming commercial schedule for statistical week 40. The commercial fishing opportunity in statistical week 40 (Sept 27 – Oct 3, 2020) will be increased from two days (Monday and Thursday) to three days (Monday, Wednesday, and Friday).

Immediate adoption of this rule is necessary for the preservation of the public health, safety, or general welfare. Observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest. 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>2</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: September 29, 2020

Name: Amy Windrope for Kelly Susewind

Title: Director

Signature:



NEW SECTION

WAC 220-354-25000G Willapa Bay salmon fall fishery.

Effective September 29 through October 3, 2020, it is unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon taken from those waters for commercial purposes, except during the times and dates in the Willapa Bay Catch Reporting Areas listed below, using only gear with mesh size listed below. All other provisions of WAC 220-354-250 not addressed herein remain in effect unless otherwise amended by emergency rule:

Fishing periods:

Area	Time	Date(s)	Gear type	Maximum mesh size
2N, 2M, 2T, 2U	7:00 a.m. through 7:00 p.m.	9/30, 10/2	Small mesh gillnet gear	6.5"

REPEALERS

The following section of the Washington Administrative Code is repealed effective September 26, 2020:

WAC 220-354-25000F Willapa Bay salmon fall fishery. (20-194)

The following section of the Washington Administrative Code is repealed effective October 4, 2020:

WAC 220-354-25000G Willapa Bay salmon fall fishery. (20-203)