



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: January 27, 2021

TIME: 11:15 AM

WSR 21-04-046

Agency: Department of Fish and Wildlife (Order 21-09)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) January 28, 2021

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 open commercial smelt seasons for the Columbia River.

Citation of rules affected by this order:

New:
 Repealed: WAC 220-358-06000C
 Amended: WAC 220-358-060
 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 rule sets a limited Columbia River commercial fishery for eulachon smelt. The regulation is consistent with a conservative research-level fishery, reduced from the Level-One fishery as described in the "Washington and Oregon Eulachon Management Plan" for the Columbia River. The expected return of eulachon to the Columbia River in 2021 is expected to be similar in magnitude to the run in 2020. The fishery serves as an important test fishery to monitor run strength and timing and to collect biological data. NOAA Fisheries concurs that a limited fishery is consistent with recovery of eulachon smelt. Rule is consistent with Columbia River Compact action of January 26, 2021. There is insufficient time to adopt permanent regulations.

**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Federal statute:	New	___	Amended	___	Repealed	___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 ____

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

New 1 Amended ____ Repealed 1

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

New ____ Amended ____ Repealed ____

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: January 27, 2021
Name: Kelly Susewind
Title: Director

Signature:



NEW SECTION

WAC 220-358-06000C Commercial Fisheries--Columbia River below Bonneville Dam--Smelt.

Notwithstanding the provisions of WAC 220-358-060, the Columbia River and Washington tributaries are closed to fishing for eulachon smelt except as provided below:

Open Dates: January 28 through February 25, 2021, open Mondays and Thursdays only, 5:00 a.m. to 5:00 p.m. (12-hour periods).

Open Area: Columbia River – SMCRA 1A, 1B, 1C.

Gear: It is unlawful to use anything other than gillnets. Gillnets must meet the following specifications per WAC 220-358-060: mesh size not to exceed 2 inches stretch measure; not to exceed 1,500 feet in length along the cork line. Use of monofilament nets is permissible.

Allowable sales: Smelt.

Other: 24-hour quick-reporting is required for Washington wholesale dealers, as provided in WAC. 220-352-315.

Multi-Net Rule: Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

REPEALER

The following section of Washington Administrative Code is repealed effective February 26, 2021:

WAC 220-358-06000C Commercial Fisheries--Columbia River below Bonneville Dam--Smelt.