



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: July 28, 2021

TIME: 3:15 PM

WSR 21-16-053

Agency: Department of Fish and Wildlife (Order 21-128)

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 create additional regulations that are needed to prevent wildfires on Department lands in eastern Washington during the current period of very high and extreme fire danger. The new rule will help reduce the threat of wildfires on Department lands in eastern Washington and provide protection of human health, safety, and wildlife habitat. Select water access areas listed in this rule within Columbia Basin and Chief Joseph Wildlife Areas are authorized for overnight use.

Citation of rules affected by this order:

New:
Repealed: WAC 220-500-04000E
Amended: WAC 220-500-040
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: An emergency rule is necessary to protect Department lands from imminent risk of wildfire damage during a very high fire danger period which is occurring currently. These additional prohibitions are needed immediately to protect humans, wildlife, and property.

Listed exceptions are based on the following rationales:

1. The Columbia Basin Wildlife Area is a fragmented landscape of unforested low-elevation shrubsteppe, irrigated agriculture, and dryland wheat (harvest currently underway) with a relatively high degree of road access. Due to relatively flat topography and accessibility, wildfires in this area typically last hours, as opposed to days, and require less suppression resources. Water access sites proposed for exemption serve a high demand on large water bodies (Banks Lake, Potholes Reservoir) for recreational boating. Parking areas and access roads are generally well maintained, well delineated, and free of vegetation. Recreational value is high, and risk is relatively low. Further, compliance on Columbia Basin Wildlife Area during the COVID-19 shutdown was low, signs were ignored, and barriers were crossed. By allowing overnight use of some of these sites will reduce the number of violations across the wildlife area, make enforcement more manageable, and focus fire risk to more manageable areas as well.

2. Chief Joseph Wildlife Area has three sites with relatively low risk of wildfire and which support rafters who park overnight. Allowing these sites to remain open also helps with enforcement and reduces risk of violations across the wildlife area.

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: July 28, 2021

Name: Kelly Susewind

Title: Director

Signature:



NEW SECTION

WAC 220-500-04000F Regulating public access.

Notwithstanding the provisions of WAC 220-500-040, effective immediately, until further notice, it is unlawful to be present in wildlife areas, and in water access areas within wildlife areas, owned or controlled by the Department in Eastern Washington from 9:00 pm – 6:00 am without written approval from the Director; with the following exceptions:

Water Access Site	Wildlife Area Unit	Water Body
Million Dollar Mile North	Banks Lake	Banks Lake
Million Dollar Mile South	Banks Lake	Banks Lake
Blythe	Desert	Potholes Reservoir
Crab Creek	Desert	Potholes Reservoir
Glen Williams	Desert	Potholes Reservoir
Lind Coulee Bridge East	Desert	Potholes Reservoir
Lind Coulee Bridge West	Desert	Potholes Reservoir
Lind Coulee Island	Desert	Potholes Reservoir
Lind Coulee Point	Desert	Potholes Reservoir
North Outlet	Desert	Potholes Reservoir
Sampson's Pit	Desert	Potholes Reservoir
South Outlet	Desert	Potholes Reservoir
Heller Bar	Chief Joseph WLA	Snake River
Shumaker Grade	Chief Joseph WLA	Grande Ronde River
Snyder Bar	Chief Joseph WLA	Grande Ronde River

A violation of this section is an infraction punishable under RCW 77.15.160 or a criminal citation punishable under RCW 77.15.230.

REPEALER

The following section of Washington Administrative Code is repealed, effective immediately:
WAC 220-500-04000E Regulating Public Access (21-126)