**RULE-MAKING ORDER**  
**EMERGENCY RULE ONLY**

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

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**Agency:** Department of Fish and Wildlife  
(Orders - 182)

**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 rule-making is to provide for Treaty Indian fishing opportunity in the Columbia River while protecting salmon listed as threatened or endangered under the Endangered Species Act. This rule-making implements federal court orders governing Washington’s relationship with Treaty Indian Tribes and federal law governing Washington’s relationship with Oregon.

**Citation of rules affected by this order:**

- New:
- Repealed: WAC 220-359-02000S
- Amended: WAC 220-359-020
- Suspended:

**Statutory authority for adoption:** RCW 77.04.012, 77.04.020, 77.12.045 and 77.12.047


**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 extends the 2021 tribal fall commercial fisheries above Bonneville Dam, and in accordance with state/tribal MOUs/MOAs for below Bonneville Dam. This rule is consistent with actions of the Columbia River Compact on June 8, June 23, July 8, July 27, August 11, September 1, and September 9, 2021. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.


Columbia River fisheries are monitored very closely to ensure consistency with court orders and Endangered Species Act guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. As required by court order, the Washington and Oregon Departments of Fish and Wildlife convene public hearings and invite
tribal participation when considering proposals for new emergency rules affecting treaty fishing rights. Sohappy, 302 F. Supp. at 912. WDFW and ODFW then adopt regulations reflecting agreements reached.

| 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 1 Amended ____ Repealed 1 |
| Federal rules or standards: New 1 Amended ____ Repealed 1 |
| Recently enacted state statutes: New 1 Amended ____ Repealed 1 |

| 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: September 9, 2021 | Signature: |
| Name: Kelly Susewind | |
| Title: Director | |
NEW SECTION

WAC 220-359-02000T Columbia River salmon seasons.

Effective immediately, until further notice, the following provisions of WAC 220-301-010, WAC 220-359-010, WAC 220-359-020, WAC 220-359-030, and WAC 220-359-090 regarding tribal commercial fisheries above and below Bonneville Dam, shall be as described below. All other provisions of WAC 220-301-010, WAC 220-359-010, WAC 220-359-020, WAC 220-359-030, and WAC 220-359-090 not addressed herein, or unless amended by emergency rule, remain in effect:

1) Open Areas: SMCRA 1F, 1G, 1H (Zone 6)
   (a) Season: Immediately until further notice.
   (b) Gear: Hoop nets/bag nets, dip nets, and rod and reel with hook and line.
   (c) Allowable sale: Salmon (any species) and steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Fish landed during the open periods are allowed to be sold after the period concludes. Sturgeon from 38 to 54 inches fork length in the Bonneville Pool and sturgeon from 43 to 54 inches fork length in The Dalles and John Day Pools may be kept for subsistence purposes.
   (d) Standard river mouth and dam sanctuary closures remain in place for this gear.

2) Open Areas: SMCRA 1F, 1G, 1H (Zone 6)
   (a) Season: Immediately, through 6:00PM September 10; and 6:00AM September 13 through 6:00PM September 17.
   (b) Gear: Set and Drift Gillnets with an 8-inch minimum mesh size.
   (c) Allowable sale: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Fish landed during the open periods are allowed to be sold after the period concludes. Sturgeon from 38 to 54 inches fork length in the Bonneville Pool and sturgeon from 43 to 54 inches fork length in The Dalles and John Day Pools may be kept for subsistence purposes.
   (d) Standard sanctuaries applicable to gillnet gear. The standard Spring Creek Hatchery Sanctuary is in place through September 10, and reduced to a 150-foot radius starting September 13.

3) Open Areas: SMCRA 1E1 (Downstream of Bonneville Dam)
   (a) Season: Immediately through 11:59 PM October 31, 2021, only during days and times opened under tribal rules.
   (b) Gear: Hook and line and/or platform gear identified in tribal rules.
   (c) Allowable sale: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Sturgeon may not be retained in the fisheries downstream of Bonneville Dam.

4) Open Areas: Wind River, Drano Lake, and Klickitat River
   (a) Season: Immediately until further notice, only during those days and hours when the tributaries listed are open under lawfully enacted Yakama Nation tribal subsistence fishery regulations for enrolled Yakama Nation members.
   (b) Gear: Hoop Nets/Bag Nets, Dip Nets, and Rod and Reel with Hook and Line. Gillnets may only be used in Drano Lake.
   (c) Allowable sale: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Sturgeon from 38 to 54 inches fork length in the Bonneville Pool may be kept for subsistence.
5) 24-hour quick reporting is required for Washington wholesale dealers for all areas as provided in WAC 220-352-315, except that all landings from treaty fisheries described above must be reported within 24-hours of completing the fish ticket (not 24-hours after the period concludes).

6) Fish caught during the open period may be sold after the period concludes.

R E P E A L E R

The following section of Washington Administrative Code is repealed, effective immediately: WAC 220-359-02000S Columbia River salmon seasons. (21-174)