



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 30, 2022

TIME: 4:22 PM

WSR 22-14-078

Agency: Department of Fish and Wildlife (Order 22-122)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) July 1, 2022

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 increase daily sockeye limits in the Columbia River areas listed within this rule.

Citation of rules affected by this order:

New:
 Repealed: WAC 220-312-06000U
 Amended: WAC 220-312-050; WAC 220-312-060
 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 action is necessary to increase daily sockeye limits and reopen adult summer Chinook retention in the areas listed within this rule.

The US v. OR Technical Advisory Committee (TAC) updated both the 2022 preseason summer Chinook and sockeye returns from 56,300 to 66,800 and 198,700 to 426,000, respectively. At this updated run size there are additional Sockeye available for the mainstem Columbia, Okanogan, and Similkameen rivers. The TAC is comprised of representatives from Washington, Oregon, Idaho, NOAA, and the Treaty Tribes and are responsible for developing pre-season and in-season run forecast that salmon season are based on.

The fishery is consistent with the U.S. v Oregon Management Agreement and the associated Biological Opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with Compact Action on June 30, 2022. The general public welfare is protected with the immediate and limited duration opening of recreational salmon fishing. This limited harvest allows for public use of the resource as well as the maintenance of a sustainable fish population.

Washington and Oregon jointly regulate Columbia River fisheries under the congressionally-ratified Columbia River Compact. Four Indian Tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the Tribes an opportunity to take a fair share of the available fish, and the states must manage other fisheries accordingly. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). A court order sets the current parameters. *United States v. Oregon*, Civil No. 68 513 KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon Management Agreement* (February 26, 2018) (Doc. No. 2607-1). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under the federal Endangered Species Act. On February 23, 2018, the National Marine Fisheries Service issued a biological

opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in the fisheries as described in the 2018-2027 U.S. v. Oregon Management Agreement.

Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under the federal Endangered Species Act. The Washington and Oregon Fish and Wildlife Commissions have developed policies to guide the implementation of such biological opinions in the states' regulation of non-treaty fisheries.

Columbia River non-treaty fisheries are monitored very closely to ensure compliance with federal court orders, the Endangered Species Act, and Commission guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from the Washington and Oregon Departments of Fish and Wildlife convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached. There is insufficient time to promulgate 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	___
-----	-----	---------	-----	----------	-----

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

New	2	Amended	___	Repealed	<u>1</u>
-----	---	---------	-----	----------	----------

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: June 30, 2022

Name: Kelly Susewind

Title: Director

Signature:



NEW SECTION

WAC 220-312-06000V Freshwater exceptions to statewide rules—Columbia River.

Effective July 1 through October 15, 2022, the provisions of WAC 220-312-060 regarding recreational salmon and steelhead seasons from the Megler-Astoria Bridge to Chief Joseph Dam, shall be modified during the dates listed and as described below. All year-round Closed Waters areas remain in effect. Other provisions of WAC 220-312-060 not addressed herein remain in effect unless otherwise amended by emergency rule:

(1) From the Megler-Astoria Bridge upstream to 600 feet below the fish ladder at the new Bonneville Powerhouse: Salmon and steelhead:

- (a) Effective July 1 through July 13, 2022: Daily limit 6. No more than 2 adults may be retained, of which up to 1 may be a hatchery steelhead. Release all salmon other than sockeye and hatchery Chinook. Release wild steelhead.
- (b) Effective July 14 through July 31, 2022: Daily limit 6. No more than 2 adults may be retained, of which up to 1 may be a hatchery steelhead. Release all salmon other than sockeye and hatchery jack Chinook. Release wild steelhead.

(2) From Bonneville Dam to The Dalles Dam: Salmon and steelhead:

Effective July 1 through July 31, 2022: Daily limit 6. No more than 2 adults may be retained, of which up to 1 may be a hatchery steelhead. Release all salmon other than sockeye and hatchery Chinook. Release wild steelhead.

(3) From The Dalles Dam upstream to a line starting from a fishing boundary sign on the Washington north shore located approximately 1300' upstream of The Dalles Dam and Lock boat ramp projected easterly across the Columbia River to a boundary sign on the Washington southern shore located approximately 200' above the fish ladder exit: Salmon and steelhead:

Effective June 16, 2022, until further notice: Closed to fishing for and retention of salmon and steelhead.

(4) From a line starting from a fishing boundary sign on the Washington north shore located approximately 1300' upstream of The Dalles Dam and Lock boat ramp projected easterly across the Columbia River to a boundary sign on the Washington south shore located approximately 200' above the fish ladder exit upstream to Hwy. 395 Bridge at Pasco: Salmon and steelhead:

Effective July 1 through July 31, 2022: Daily limit 6. No more than 2 adults may be retained, of which up to 1 may be a hatchery steelhead. Release all salmon other than sockeye and hatchery Chinook. Release wild steelhead.

(5) From Columbia Point (approximately 1/3 mile downstream of I-182 Bridge) upstream to I-182 Bridge: Salmon:

- (a) Effective immediately through July 15, 2022: Closed to angling from a floating device or by any method except hand-cast lines from the west shore (Richland side of the river).
- (b) Effective July 1 through July 15, 2022: Daily limit 6. No more than 3 adult salmon may be retained of which no more than 2 may be hatchery Chinook. Release wild adult Chinook.

(6) From I-182 Bridge upstream to Priest Rapids Dam: Salmon:

Effective July 1 through August 15, 2022: Daily limit 6. No more than 3 adult salmon may be retained of which no more than 2 may be hatchery Chinook. Release wild adult Chinook.

(7) From Priest Rapids Dam to boundary markers 400 feet downstream of the fish ladders at Rock Island Dam: Salmon:

Effective July 1 through August 31, 2022: Daily limit 6, including no more than 2 adult hatchery Chinook and no more than 4 sockeye. Release wild adult Chinook and coho.

(8) From Rock Island Dam to Boundary 400 feet below the Wells Dam spawning channel discharge (on Chelan County side) and fish ladder (on Douglas County side): Salmon:

Effective July 1 through October 15, 2022: Daily limit 6, including no more than 2 adult hatchery Chinook and no more than 4 sockeye. Release wild adult Chinook and coho.

(9) From Wells Dam to Hwy. 173 Bridge at Brewster: Salmon:

Effective July 16 through September 30, 2022: Daily limit 6, including no more than 2 adult hatchery Chinook and no more than 4 sockeye. Release wild adult Chinook and coho.

(10) From Hwy. 173 Bridge at Brewster to the rock jetty at the upstream shoreline of Foster Creek (Douglas County side): Salmon:

Effective July 1 through October 15, 2022: Daily limit 6, including no more than 2 adult hatchery Chinook and no more than 4 sockeye. Release wild adult Chinook and coho.

NEW SECTION

WAC 220-312-05000Q Freshwater exceptions to statewide rules—Eastside.

Effective July 1 through October 15, 2022, the provisions of WAC 220-312-050 regarding recreational salmon seasons in the Okanogan and Similkameen rivers, shall be modified during the

dates listed and as described below. All provisions of WAC 220-312-050 not addressed herein remain in effect unless otherwise amended by emergency rule:

(1) Okanogan River (Okanogan Co.):

(a) From the mouth to the Hwy. 97 bridge immediately upstream of the mouth:

Salmon:

Effective July 1 through October 15, 2022: Daily limit 6, including no more than 2 adult hatchery Chinook and no more than 4 sockeye. Release wild adult Chinook and coho. Night closure and Anti-snagging rule in effect. Two-pole fishing is allowed with valid a two-pole endorsement.

(b) From the Hwy. 97 bridge immediately upstream of the mouth to the Hwy. 97 bridge at Oroville: Salmon:

Effective July 1 through September 15, 2022: Daily limit 6, including no more than 2 adult hatchery Chinook and no more than 4 sockeye. Release wild adult Chinook and coho. Night closure and Anti-snagging rule in effect.

(2) Similkameen River (Okanogan Co.): From the mouth to 400 feet below Enloe Dam: Salmon:

Effective July 1 through September 15, 2022: Daily limit 6, including no more than 2 adult hatchery Chinook and no more than 4 sockeye. Release wild adult Chinook and coho. Night closure and Anti-snagging rule in effect.

R E P E A L E R

The following section of Washington Administrative Code is repealed, effective July 1, 2022:
WAC 220-312-06000U Freshwater exceptions to statewide rules—Columbia. (22-94)