



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: October 05, 2022

TIME: 6:15 PM

WSR 22-21-022

Agency: Department of Fish and Wildlife (Order 22-226)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) October 8, 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 modify recreational salmon seasons for the Columbia River downstream of the Hwy. 395 Bridge at Pasco.

Citation of rules affected by this order:

- New:
- Repealed: WAC 220-312-06000D
- Amended: 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 rule is necessary to close Chinook retention in the Columbia River from Buoy 10 to the Hwy. 395 Bridge at Pasco beginning October 8, 2022.

The Upriver Bright Fall Chinook runsize has been updated resulting in a lower runsize projection. Chinook retention in the lower river is being closed to stay within the allowable Upriver Bright Fall Chinook harvest sharing agreement, and within allowable ESA impact limits. These fisheries are opened under joint-state agreement. Staff will continue to monitor progress of ongoing fisheries, with an expectation to manage within the allowable ESA impact rates, US v. OR Management Agreement, and per Washington Fish and Wildlife Policy C-3630. This rule conforms Washington state rules with Oregon state rules and is consistent with Compact Action on September 13, September 28, and October 5, 2022.

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. 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.

This rule carries forward Columbia River salmon seasons upstream of Priest Rapids dam previously set by WSR 22-20-005, filed September 21.

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: October 5, 2022

Name: Amy Windrope for Kelly Susewind

Title: Director

Signature:



NEW SECTION

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

Effective October 8, 2022, through December 31, 2022, the provisions of WAC 220-312-060 regarding recreational salmon and steelhead seasons from Buoy 10 to the Hwy. 395 Bridge at Pasco and from Priest Rapids Dam 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 a true north and south line through Buoy 10 to a line drawn from Rocky Point on the Washington bank through Red Buoy 44 to the red navigation marker 2 at Tongue Point on the Oregon Bank (the Rocky Point/Tongue Point line):

- (a) Effective October 8 through October 31, 2022: Salmon and steelhead: Daily limit 6. Up to 3 adults may be retained. Release all salmon and steelhead other than hatchery coho.
- (b) Effective November 1 through December 31, 2022: Salmon and steelhead: Daily limit 6. Up to 3 adults may be retained, including no more than 2 hatchery steelhead. Release all salmon and steelhead other than hatchery coho and hatchery steelhead.

(2) From the Rocky Point/Tongue Point line) to Beacon Rock:

- (c) Effective October 8 through October 31, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained. Release all salmon and steelhead other than hatchery coho.
- (d) Effective November 1 through December 31, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained. Release all salmon and steelhead other than hatchery coho and hatchery steelhead.

(3) From Beacon Rock to a line projected from the Hamilton Island boat ramp to an Oregon boundary marker on the westernmost point of Robins Island to a marker on the Oregon mainland shore:

Effective October 8 through October 31, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained. Release all salmon and steelhead other than hatchery coho.

(4) From a line projected from the Hamilton Island boat ramp to an Oregon boundary marker on the westernmost point of Robins Island to a marker on the Oregon mainland shore to a point 600 feet below the fish ladder at the new Bonneville Dam Powerhouse:

- (a) Effective October 8 through October 31, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained. Release all salmon and steelhead other than hatchery coho.
- (b) Effective November 1 through December 31, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained. Release all salmon and steelhead other than hatchery coho and hatchery steelhead.

(5) From Bonneville Dam to the Hood River Bridge:

- (a) Effective October 8 through October 15, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained. Release all salmon and steelhead other than hatchery coho. Anti-snagging rule in effect. Only fish hooked inside the mouth may be retained.
- (b) Effective October 16 through October 31, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained. Release all salmon and steelhead other than hatchery coho.
- (c) Effective November 1 through December 31, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained. Release all salmon and steelhead other than hatchery coho and hatchery steelhead.

(6) From Hood River Bridge to the upstream side of the Interstate (Hwy. 197) Bridge and the Washington shore from the upstream side of the Interstate (Hwy. 197) Bridge to the navigation lock wall:

- (a) Effective October 8 through October 15, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained. Release all salmon and steelhead other than coho. Anti-snagging rule in effect. Only fish hooked inside the mouth may be retained.
- (b) Effective October 16 through October 31, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained. Release all salmon and steelhead other than coho.
- (c) Effective November 1 through December 31, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained. Release all salmon and steelhead other than coho and hatchery steelhead.

(7) From a line starting from a fishing boundary sign on the Washington north shore located approximately 1300 feet 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 feet above the fish ladder exit to the Hwy. 395 Bridge at Pasco:

- (a) Effective October 8 through October 15, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained. Release all salmon and steelhead other than coho. Anti-snagging rule in effect. Only fish hooked inside the mouth may be retained.

(b) Effective October 16 through December 31, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained. Release all salmon and steelhead other than coho.

(8) From Priest Rapids Dam to Rock Island Dam:

Effective immediately, through October 15, 2022: Salmon: Daily limit 6, including no more than 2 adult Chinook and no more than 2 coho.

(9) 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):

Effective immediately, through October 15, 2022: Salmon: Daily limit 6, including no more than 2 adult hatchery Chinook and no more than 2 coho. Release wild adult Chinook.

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

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

R E P E A L E R S

The following sections of Washington Administrative Code are repealed, effective October 8, 2022:

WAC 220-312-06000D Freshwater exceptions to statewide rules—Columbia River. (22-222)