



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 29, 2023

TIME: 7:59 AM

WSR 23-14-074

Agency: Department of Fish and Wildlife (Order 23-107)

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 close adult summer Chinook retention in the Columbia River, from the Megler-Astoria Bridge to Priest Rapids Dam.

Citation of rules affected by this order:

New:
Repealed: WAC 220-312-06000Q
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 emergency action closes mainstem recreational adult summer Chinook retention downstream of Priest Rapids Dam. TAC met on June 26 but did not provide an in-season abundance projection for the summer Chinook return. TAC concurred that the summer Chinook return was tracking less than forecast and expects to downgrade the return on June 29. The states utilized a 30% run size reduction in order to calculate potential in-season harvest allocations which indicated that recreational summer Chinook fisheries downstream of Priest Rapids Dam have achieved (111%) the area-specific summer Chinook allocation at this reduced abundance. The fishery is consistent with Washington's Upper Columbia Management Agreement and the U.S. v Oregon Management Agreement, associated Biological Opinion and Compact Action of June 28, 2023. Conforms Washington state rules with Oregon state rules. The general public welfare is protected with the immediate closure of recreational Chinook retention downstream of Priest Rapids Dam. 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	___
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The number of sections adopted on the agency's own initiative:

New	1	Amended	___	Repealed	1
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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: June 28, 2023

Name: Amy Windrope for Kelly Sussewind

Title: Director

Signature:



NEW SECTION

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

Effective immediately, through July 31, 2023, the provisions of WAC 220-312-060 regarding recreational salmon and steelhead seasons from the Megler-Astoria Bridge to Priest Rapids Dam, shall be modified as described below, except in areas closed to fishing for salmon and steelhead year-round in WAC 220-312-060. All 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 The Dalles Dam: Salmon and steelhead:

- (a) Effective immediately through June 30, 2023: Daily limit 6, no more than 2 adults may be retained of which up to 1 may be a steelhead. Release all salmon and steelhead other than hatchery Chinook, sockeye, and hatchery steelhead.
- (b) Effective July 1 through July 31, 2023: Daily limit 6, no more than 2 adults may be retained of which up to 1 may be a hatchery steelhead. Release all salmon and steelhead other than hatchery jack Chinook, sockeye and hatchery steelhead.

(2) 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 immediately, until further notice: Closed to fishing for and retention of salmon and steelhead.

(3) 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:

- (a) Effective immediately through June 30, 2023: Daily limit 6, no more than 2 adults may be retained of which up to 1 may be a steelhead. Release all salmon and steelhead other than hatchery Chinook, sockeye and hatchery steelhead.
- (b) Effective July 1 through July 31, 2023: Daily limit 6, no more than 2 adults may be retained of which up to 1 may be a hatchery steelhead. Release all salmon and steelhead other than hatchery jack Chinook, sockeye and hatchery steelhead.

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

- (a) Effective immediately through July 15, 2023: 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 immediately through June 30, 2023: Daily limit 6, no more than 2 adult salmon may be retained. Release all salmon other than hatchery adult Chinook, chinook jacks, and sockeye.
- (c) Effective July 1 through July 15, 2023: Daily limit 6, no more than 2 sockeye salmon may be retained. Release all salmon other than jack Chinook and sockeye.

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

- (a) Effective immediately through June 30, 2023: Daily limit 6, no more than 2 adult salmon may be retained. Release all salmon and steelhead other than hatchery adult Chinook, jack Chinook, and sockeye.
- (b) Effective July 1 through August 15, 2023: Daily limit 6, no more than 2 adult sockeye salmon may be retained. Release all salmon and steelhead other than jack Chinook and sockeye.

REPEALER

The following section of the Washington Administrative Code is repealed, effective immediately:
WAC 220-312-06000Q Freshwater exceptions to statewide rules—Columbia River. (23-93)