



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 30, 2024

TIME: 3:53 PM

WSR 24-22-081

Agency: Department of Fish and Wildlife (Order 24-249)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
 Later (specify) November 1, 2024

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: This emergency rule opens hatchery steelhead retention in the Columbia River from The Dalles Dam to Highway 395 at Pasco.

Citation of rules affected by this order:

New:
Repealed: WAC 220-312-06000Z
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: The Columbia River Technical Advisory Committee (TAC) provided in-season run size updates for the upriver summer steelhead return to Bonneville Dam. Sufficient steelhead ESA-impacts remain available which allows for hatchery steelhead retention from The Dalles Dam upstream to Highway 395 Br. in Pasco. Staff will continue to monitor progress of ongoing fisheries. This rule conforms Washington state rules with Oregon state rules and is consistent with Compact Action on September 10, September 18, and September 25, October 10, and Joint State Action on October 30, 2024.

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.

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: October 30, 2024

Name: Kelly Susewind

Title: Director

Signature:



NEW SECTION

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

Effective November 1 through December 31, 2024, the provisions of WAC 220-312-060 regarding recreational salmon and steelhead seasons from a true north-south line through Buoy 10 upstream to Highway 395 Bridge at Pasco, 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-south line through Buoy 10 upstream to Beacon Rock:

Effective immediately through December 31, 2024: Salmon and steelhead: Daily limit 6. Up to 2 adults including no more than 1 Chinook may be retained. Release all salmon and steelhead other than Chinook, hatchery coho and hatchery steelhead.

(2) From Beacon Rock upstream to a line 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:

Closed to salmon and steelhead angling.

(3) From a line 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 upstream to a point 600 feet below the fish ladder at the new Bonneville Dam Powerhouse:

Effective immediately through December 31, 2024: Salmon and steelhead: Daily limit 6. Up to 2 adults including no more than 1 Chinook may be retained. Release all salmon and steelhead other than Chinook, hatchery coho and hatchery steelhead.

(4) From Bonneville Dam upstream to Hood River Bridge:

Effective immediately through December 31, 2024: Salmon and steelhead: Daily limit 6. Up to 2 adults including no more than 1 Chinook may be retained. Release all salmon and steelhead other than Chinook, hatchery coho and hatchery steelhead.

(5) From Hood River Bridge upstream to Highway 395 Bridge at Pasco:

Effective immediately through December 31, 2024: Salmon and steelhead: Daily limit 6. Up to 2 adults including no more than 1 Chinook may be retained. Release all salmon and steelhead other than Chinook, coho and hatchery steelhead.

REPEALER

The following section of Washington Administrative Code is repealed, effective
November 1, 2024:

WAC 220-312-06000Z Freshwater exceptions to statewide rules—Columbia River. (24-231)