

# Chapter 220-304 WAC

## FISH—SURPLUS SALMON EGGS

### WAC

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**WAC 220-304-010 Purpose.** The purpose of this chapter shall be to establish an orderly means for the department to dispose of surplus live salmon eggs in a manner that provides optimum benefits to the citizens of the state.

All surplus salmon eggs sold pursuant to chapter 220-304 WAC shall be used in accordance with the provisions of WAC 220-200-140 through 220-200-150.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-304-010, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 75.08.080. WSR 78-09-071 (Order 78-66), § 220-74-010, filed 8/25/78.]

### WAC 220-304-020 Surplus salmon eggs—Priorities.

(1) It is the duty of the department to assure that egg requirements for state hatcheries are satisfied. Once these requirements have been met, eggs surplus to these requirements will be provided as per RCW 77.95.210.

(2) Prioritized schedule for salmon production. Annually the department shall:

(a) Determine the salmon production capacity of department hatcheries;

(b) Determine the allowable numbers of hatchery-origin salmon that will be allowed to spawn naturally, by location;

(c) Make estimates of the number of adult salmon returning to department facilities;

(d) Solicit requests for viable salmon eggs from the following entities: Volunteer salmon rearing cooperatives established under chapter 77.100 RCW, regional fisheries enhancement groups established under chapter 77.95 RCW, lead entities for salmon recovery as established under chapter 77.85 RCW, government hatcheries in Washington, Oregon and Idaho, and hatcheries of federally recognized Indian tribes in Washington, Oregon and Idaho;

(e) Compile and submit for review by Indian tribes with treaty fishing rights a plan for replenishing fish runs through the use of available viable salmon eggs, including transfers to the entities listed in this subsection; and

(f) Offer an appeal mechanism to any entity denied a transfer of viable salmon eggs.

(3) The department will prioritize projects that utilize surplus viable salmon eggs and outplanting of adult fish. In such prioritization, the department will evaluate all proposed projects in terms of potential benefits and risks. In considering projects that involve placing adult, juvenile or eggs into a body of water, the biological factors that will be considered include, but are not limited to:

- (a) Expected salmon recovery benefits;
- (b) Effect on ongoing research and monitoring projects;
- (c) Nutrient benefit;

- (d) Habitat carrying capacity;
- (e) Interspecies interactions;
- (f) Disease risk;
- (g) Ability to monitor effects of introduction;
- (h) Biodiversity significance of the wild population;
- (i) Genetic similarity of introduced and wild stocks;
- (j) Status of populations under the Endangered Species Act or the salmonid stock inventory; and
- (k) The proportional mix of hatchery-origin and wild fish.

(4) All projects will be evaluated consistent with documented department protocols and procedures, recovery plans and management agreements, including, but not limited to:

- (a) *The WDFW Genetics Manual*;
- (b) *The WDFW Spawning Guidelines*;
- (c) *The WDFW Stock Transfer Guidelines*;
- (d) *The WDFW Fish Health Manual*;
- (e) The Co-Managers Fish Disease Control Policy;
- (f) The WDFW Wild Salmonid Policy;
- (g) WDFW hatchery and genetics management plans;
- (h) WDFW fishery management and evaluation plans;
- (i) Rules developed under section 4(d) of the Endangered Species Act; and
- (j) Take permits issued under sections 7 and 10 of the Endangered Species Act.

(5) Prioritized schedule for egg sales. To encourage the use of surplus live salmon eggs available for sale for the optimum benefit of the citizens of the state, the following priorities will be followed, within practical limitations, in distributing surplus live salmon eggs resulting from returns to artificial production facilities:

(a) Sales to in-state aquaculturists when the eggs would be hatched, the resulting fry reared, by a person or corporation engaged in the fish industry in this state.

(b) Sales to private Oregon sea ranchers where fish are to be released for migration from Oregon sites to the Pacific Ocean and thus subject to the public capture fisheries of the state of Washington.

(c) Sales to the hatcheries located in California and Alaska where the fish are to be released at sites located in those states for migration to the Pacific Ocean for harvest by public capture fisheries and thus subjected to public capture by fishermen of the state of Washington.

(d) Sales to other state, federal and private aquaculture programs.

(e) Sales to foreign governmental entities.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-304-020, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.100.060. WSR 02-10-023 (Order 02-79), § 220-74-020, filed 4/23/02, effective 5/24/02. Statutory Authority: RCW 75.08.080. WSR 79-10-013 (Order 79-75), § 220-74-020, filed 9/7/79; WSR 78-09-071 (Order 78-66), § 220-74-020, filed 8/25/78.]

**WAC 220-304-030 Surplus salmon eggs—Certain sales disallowed.** (1) Sales of surplus eggs as described in WAC 220-304-020 shall not be allowed where the person or corporation seeking to buy said eggs has not paid all fees and taxes due and owing to the state of Washington.

(2) Notwithstanding the provisions of chapter 220-304 WAC, the department reserves the right to refuse to sell surplus salmon eggs to any purchaser for good cause.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-304-030, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 75.08.080. WSR 84-05-046 (Order 84-11), § 220-74-022, filed 2/21/84; WSR 79-10-013 (Order 79-75), § 220-74-022, filed 9/7/79.]

**WAC 220-304-040 Surplus salmon eggs—Purchases.** Purchases of surplus salmon eggs will occur within the following framework:

(1) The price of eggs sold during a spawning season will be determined by the director after reviewing the results of an annual assessment of existing marketing conditions. The price will be the same for all purchases.

(2) Within priority 1, requests for available eggs will be satisfied in accordance with the earliest date of receipt of the application for a salmon aquaculture permit by the department (WAC 220-370-060): Provided, That a firm request for eggs is received prior to September 1. All firm requests for eggs received after September 1 will be satisfied in order of their receipt on an eggs-available basis.

(3) Within priority 1, up to one million eggs will be offered to the first qualified applicant before selling eggs to the next applicant. If eggs are still available after each applicant has had an opportunity to buy one million eggs, the procedure will be repeated until all requests within this priority have been satisfied.

(4) Within priorities 2 and 3, requests for eggs will be satisfied in accordance with the firm requests that have the greatest likelihood of contributing to the public capture fisheries of the state of Washington.

(5) Within priorities 4 and 5, requests for eggs will be satisfied in accordance with the earliest firm requests for eggs received.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-304-040, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 75.08.080. WSR 78-09-071 (Order 78-66), § 220-74-025, filed 8/25/78.]