

**WSR 23-04-026
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 23-11—Filed January 24, 2023, 6:12 p.m., effective February 25, 2023, 5:00 a.m.]

Effective Date of Rule: February 25, 2023, 5:00 a.m.

Purpose: Opens a commercial smelt fishery on the Columbia River.

Citation of Rules Affected by this Order: Repealing WAC 220-358-06000F; and amending WAC 220-358-060.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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.

Reasons for this Finding: This rule sets a limited Columbia River commercial fishery for eulachon smelt. The regulation is consistent with a conservative research-level fishery, reduced from the level-one fishery as described in the "Washington and Oregon Eulachon Management Plan" for the Columbia River. The expected return of eulachon to the Columbia River in 2023 is expected to be similar in magnitude to the run in 2022. The fishery serves as an important test fishery to monitor run strength and timing and to collect biological data. National Oceanic Atmospheric Administration fisheries concurs that a limited fishery is consistent with recovery of eulachon smelt. Rule is consistent with Columbia River compact action of January 24, 2023. The general public welfare is protected with the immediate and limited duration opening of the commercial smelt fishing in the mainstem Columbia River. This limited research-level harvest opportunity allows for maintenance and monitoring of a sustainable fish population. There is insufficient time to adopt permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 24, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-358-06000F Commercial fisheries—Columbia River below Bonneville Dam—Smelt. Notwithstanding the provisions of WAC 220-358-060, the Columbia River and Washington tributaries are closed to fishing for eulachon smelt except as provided below:

Open Dates: January 25 through March 16, 2023, open Mondays, Wednesdays, and Thursdays only, 5:00 a.m. to 5:00 p.m. (12-hour periods).

Open Area: Columbia River - SMCRA 1A, 1B, 1C.

Gear: It is unlawful to use anything other than gillnets. Gillnets must meet the following specifications per WAC 220-358-060: mesh size not to exceed 2 inches stretch measure; not to exceed 1,500 feet in length along the cork line. Use of monofilament nets is permissible.

Allowable sales: Smelt.

Other: 24-hour quick-reporting is required for Washington wholesale dealers, as provided in WAC. 220-352-315.

Multi-Net Rule: Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

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Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed effective March 17, 2023:

WAC 220-358-06000F Commercial fisheries—Columbia River
below Bonneville Dam—Smelt.