



# RULE-MAKING ORDER

**CR-103E (May 2009)**  
(Implements RCW 34.05.360)

**Agency:** Washington Department of Fish and Wildlife

**Emergency Rule Only**

**Effective date of rule:**

**Emergency Rules 10-50**

- Immediately upon filing.
- Later (specify) April 16, 2010

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

- Yes
  - No
- If Yes, explain:

**Purpose:** Amend commercial fishing rules

**Citation of existing rules affected by this order:**

Repealed: WAC 220-40-03100G  
 Amended: WAC 220-40-031  
 Suspended:

**Statutory authority for adoption:** RCW 77.12.047 and RCW 77.04.020

**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.
- That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal years 2009, 2010, or 2011, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding: There are 498 white sturgeon available for harvest within the Willapa Bay management guideline for a commercial fishery with a quota of 498 fish. There is insufficient time to adopt permanent rules.

**Date adopted:** March 17, 2010

**NAME (TYPE OR PRINT)**

Philip Anderson

**SIGNATURE**

**TITLE**

Director

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE:** March 17, 2010

**TIME:** 4:22 PM

**WSR 10-07-083**

**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:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	_____	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

**The number of sections adopted in the agency's own initiative:**

New	<u>1</u>	Amended	_____	Repealed	<u>1</u>
-----	----------	---------	-------	----------	----------

**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	_____	Repealed	_____

## NEW SECTION

### **WAC 220-40-03100G Willapa Bay spring white sturgeon fishery.**

Notwithstanding the provisions of WAC 220-40-031, effective April 16, 2010 through May 15, 2010, it is unlawful to fish for sturgeon in Willapa Bay for commercial purposes or to possess sturgeon taken from those waters for commercial purposes, except that:

#### **Fishing periods**

(1) Gill net gear may be used to fish for sturgeon:

Time	Area
12:01 a.m. April 16 through 11:59 p.m. May 15, 2010	Area 2G easterly of a line from the most northerly upland point at Leadbetter Point (approximately 46 degrees 39' N) to the eastern most upland point at Toke Point (approximately 123 degrees 58' W); and areas 2H, 2J and 2M.

The Tokeland Boat basin is closed to commercial fishing during the openings in SMCRA 2G described in this section. The Tokeland Boat basin is defined as that portion of SMCRA 2G bounded on the south by the shoreline of the boat basin, on the west by the seawall, and on the north and east by a line from the Tokeland Channel Marker "3" (flashing green, 4-second) to Tokeland Channel Marker "4" to the tip of the seawall.

#### **Gear**

(2) Gill net gear restrictions - All areas:

- (a) Drift gill net gear only. It is unlawful to use set net gear.
- (b) April 16 through May 15, 2010 - 9-inch minimum mesh.
- (c) All salmon, non-legal sturgeon, and steelhead must be handled with care to minimize injury to fish, and released immediately to the river/bay.

#### **Other**

- (3) A new method of measuring white sturgeon statewide became effective January 1, 2009. This method measures fork length from the tip of the nose to the fork in the tail with the fish on its side. The new legal fork length size limit is 43 – 54 inches.
- (4) Quick reporting is required by 10:00 a.m. the day following landings for wholesale dealers and fishers retailing their fish (WAC 220-69-240).
- (5) Fishers must take department observers, if requested by WDFW staff, when participating in these openings, and provide Notice of Intent via phone, fax, or e-mail prior to 10:00 a.m. April 12, 2010, to participate in Quick Reporting, WAC 220-69-240.

- (6) The NOAA Fisheries listed the southern population of green sturgeon as threatened under the Endangered Species Act, effective July 6, 2006. Most of the green sturgeon taken in Washington fisheries are from the southern population. Therefore, the retention of green sturgeon is prohibited to protect this federally listed stock.
- (7) Report ALL encounters with Chinook, green sturgeon and steelhead (your name, date of encounter, and number of species encountered) to the Quick Reporting office via phone at 866.771.1280, fax at 360.249.1229, or email at [harborfishtickets@dfw.wa.gov](mailto:harborfishtickets@dfw.wa.gov).
- (8) Retrieve any information from spaghetti tags near the dorsal fin on green or white sturgeon. For green sturgeon, do NOT remove tags. For white sturgeon retained, please submit tags to the Washington Department of Fish and Wildlife, 48 Devonshire Rd., Montesano, WA, 98563.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. May 16, 2010:

WAC 220-40-03100G Willapa Bay spring white sturgeon fishery.