



# 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 10-159**

- Immediately upon filing.
- Later (specify) July 5, 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Repealed:  
 Amended: WAC 220-40-021  
 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: This emergency rule is needed to meet the original intent of the regulations developed through the 2010 North of Falcon process. There is insufficient time to adopt permanent rules.

**Date adopted:** June 22, 2010

**NAME (TYPE OR PRINT)**

Philip Anderson

**SIGNATURE**

**TITLE**

Director

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: June 22, 2010**

**TIME: 2:43 PM**

**WSR 10-13-126**

**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	New	_____	Amended	_____	Repealed	_____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	New	_____	Amended	_____	Repealed	_____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	_____
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**The number of sections adopted in the agency's own initiative:**

New	<u>1</u>	Amended	_____	Repealed	_____
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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:**

<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 220-40-02100A Willapa Bay salmon--Summer fishery.**

Notwithstanding the provisions of WAC 220-40-021, effective July 5 through August 15, 2010, it is unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon taken from those waters for commercial purposes, except that:

**Fishing Periods:**

(1) Gill net gear may be used to fish for salmon and white sturgeon only as shown below. All non-legal sturgeon, all steelhead, and all other species, including Chinook, coho, chum and white sturgeon, must be handled with care to minimize injury to the fish and must be released immediately to the river/bay:

Time:  
6:00 p.m. August 8  
through 6:00 p.m.  
August 9, 2010.

Area:  
**Areas 2G** east of a line projected true south from the most waterward exposed end of the rock jetty located near Washaway Beach, except: **Closed Waters Area (Net Free Zone):**  
That portion of SMCRA 2G lying within the following boundary lines:  
Western Boundary:  
Those waters east of a line drawn from the most waterward exposed end of the jetty at Toke Point (46°42.446'N, 123°57.973'W), to Willapa Marker 2 (46°41.529'N, 123°57.973'W), then 180 degrees true to Goose Point (46°38.184'N, 123°57.584'W).  
Eastern boundary:  
Those waters west of a North-South line through Marker 29.

**Time:**

6:00 p.m. August 8  
through 6:00 p.m.  
August 9, 2010.

**Area 2H** west of  
Willapa Channel  
Marker 40.

**Area 2J** north of a  
true east-west line  
drawn through the  
North Entrance  
Marker to the  
Nahcotta Boat Basin  
(RF #2).

**Area 2M.**

(2) The Tokeland Boat basin is closed to commercial fishing during the openings in Salmon Management and Catch Reporting Area (SMCRA) 2G, described in this section. The Tokeland Boat basin is 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-seconds), to Tokeland Channel Marker "4," to the tip of the seawall.

**Gear:**

(3) Gill net gear restrictions - All areas:

(a) Drift gill net gear only. It is unlawful to use set net gear. It is permissible to have on board a commercial vessel more than one net, provided the nets are of a mesh size that is legal for the fishery, and the length of any one net does not exceed one thousand five hundred feet in length.

Nets with a mesh size different from that being actively fished must be 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 that is 3/8 (0.375) inches or greater.

It is unlawful to use a gill net to fish for salmon if the lead line weighs more than two pounds per fathom of net as measured on the cork line, provided that it is lawful to have a gill net with a lead line weighing more than two pounds per fathom aboard a vessel when the vessel is fishing in or in transit through Willapa Bay.

(b) Mesh size must not exceed six-inch minimum mesh to nine-inch maximum mesh.

(c) Only one net may be fished at a time; other nets must be properly stored.

(d) Each boat must have two operable recovery boxes or one box with two chambers on board when fishing in Willapa Bay Areas 2G, 2H, 2J, 2K, and 2M. Each box must be operating during any time the net is being retrieved or picked. The flow in the recovery box must be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute. Each chamber of the recovery box must meet the following dimensions as measured from within the box: The inside length measurement must be at or within 39-1/2 inches to 48 inches; the inside width measurements must be at or within 8 to 10 inches; and the inside height measurement must be at or within 14 to 16 inches.

Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of the chamber and 1-3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is at least 1-1/2 inches in diameter.

The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to department employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river/bay water into each chamber.

(e) Soak time must not exceed 45 minutes. Soak time is defined as the time elapsed from when the first of the gill net web is deployed into the water until the gill net web is fully retrieved from the water.

(f) All wild (unmarked) coho, wild (unmarked) Chinook, nonlegal sturgeon, and all steelhead must be handled with care to minimize injury to the fish and must be released immediately to the river/bay or to an operating recovery box when fishing in Willapa Bay Areas 2G, 2H, 2J, 2K, and 2M.

(g) Any fish that is bleeding or lethargic must be placed in the recovery box prior to being released to the river/bay.

(h) All fish placed in recovery boxes must be released to the river/bay prior to landing or docking.

**Other:** (4) Quick reporting is required for wholesale dealers and fishers retailing their catch under a "direct retail endorsement." According to WAC 220-69-240(12), reports must be made by 10:00 a.m. the day following landing.

(5) NOAA Fisheries has 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 Columbia River stock, which is part of the southern population. Therefore, the retention of green sturgeon is prohibited to protect this federally listed stock.

(6) It is unlawful to fish for salmon with gill net gear in Areas 2G, 2H, 2J, 2K, and 2M unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and is in possession of a department-issued certification card.

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**(10-159, 6/22/2010)**

