



# 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 10-284**

- Immediately upon filing.
- Later (specify) November 1, 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Repealed: WAC 220-40-02700M, WAC 220-40-02700N  
 Amended: WAC 220-40-027  
 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: Emergency rule is needed to clarify species allowed for retention during the sturgeon management period. Language was previously revised to adjust a gear restriction, and the revision inadvertently resulted in requirements for use of recovery boxes and wild coho release. Those requirements were contrary to pre-season negotiations. There is insufficient time to adopt permanent rules.

**Date adopted:** October 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: October 22, 2010**

**TIME: 4:12 PM**

**WSR 10-22-024**

**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	<u>2</u>
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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 220-40-02700N Salmon -- Willapa Bay fall fishery.**

Notwithstanding the provisions of WAC 220-40-027 and 220-40-020, effective immediately through November 30, 2010, it is unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon or white sturgeon taken from those waters for commercial purposes, except as provided in this section:

**1. Fishing periods and areas:**

The Tokeland Boat basin is closed to commercial fishing. The Tokeland Boat basin is that portion of Salmon Management and Catch Reporting Area (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.

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

Open periods:  12:00 p.m. November 6 through 12:00 p.m. November 30, 2010.	<b>Open areas 2G, 2H, 2J, and 2M.</b>
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**2. Landing limitations**

Immediately through November 30, 2010, non-legal sturgeon and all steelhead must be handled with care to minimize injury to the fish and must be released immediately to the river/bay when fishing in Willapa Bay Areas 2G, 2H, 2J, 2K, and 2M.

**3. Gear**

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.
- b. Only one net may be fished at a time. 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.

- c. 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 permissible 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 is transiting through Willapa Bay.
- d. Effective 12:00 p.m. (noon) on November 6 through 12:00 p.m. (noon) on November 30, 2010, mesh size must not exceed nine inch minimum mesh.

#### 4. Other

- a. 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.
- b. NOAA Fisheries has listed the southern population of green sturgeon as threatened under the Endangered Species Act, effective July 6, 2006. Green sturgeon taken in Washington fisheries may be part of the southern population. Therefore, the retention of green sturgeon is prohibited to protect this federally listed stock.
- c. Fishers must take department staff on-board, if requested by WDFW, when participating in these openings to observe fishing operations and/or collect biological data on the catch.

#### REPEALERS

The following section of the Washington Administrative Code is repealed effective November 1, 2010:

WAC 220-40-02700M Salmon—Willapa Bay fall fishery. (10-261)

The following section of the Washington Administrative Code is repealed effective December 1, 2010:

WAC 220-40-02700N Salmon—Willapa Bay fall fishery.

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**(10-284, 10/22/2010)**

