



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 11-51

- Immediately upon filing.
- Later (specify) 12:01 a.m. April 16, 2011

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Repealed: WAC 220-40-03100H
 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: Harvestable white sturgeon are available within the Willapa Bay management guideline for a commercial fishery. There is insufficient time to adopt permanent rules.

Date adopted: April 5, 2011

NAME (TYPE OR PRINT)
Philip Anderson

SIGNATURE

TITLE
Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: April 05, 2011

TIME: 2:43 PM

WSR 11-08-059

**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:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____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>1</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:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

ORDER NO. 11-51

NEW SECTION

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

Notwithstanding the provisions of WAC 220-40-031, effective April 16, through May 15, 2011, 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) Gillnet gear may be used to fish for white sturgeon:

Time	Area
12:01 a.m. April 16 through 11:59 p.m. May 15, 2011	Salmon Management and Catch Reporting Area (SMCRA) Area 2G easterly of a line from the most northerly upland at Leadbetter Point (approximately 46 degrees 39' N) to the eastern most upland 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 means 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) Gillnet gear restrictions - All areas:

- (a) Drift gillnet gear only. It is unlawful to use set net gear.
- (b) April 16 through May 15, 2011 - 9-inch minimum mesh.
- (c) All salmon, non-legal sturgeon, and all 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 (WAC 220-69-240) by 10:00 a.m. the day following landing for wholesale dealers and fishers retailing their fish.
- (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 to participate in Quick Reporting, WAC 220-69-240, prior to 10:00 a.m. April 12, 2011.

- (6) The NOAA Fisheries listed the southern population of green sturgeon as threatened under the Endangered Species Act, effective July 6, 2006. Most green sturgeon captured in Willapa Bay 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, via fax at 360.249.1229, or e-mail at 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 retained white sturgeon, 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, 2011.

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

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

(a) 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.

(b) That state or federal law or federal rule a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: Harvestable white sturgeon are available within the Willapa Bay management guideline for a commercial fishery. There is insufficient time to adopt permanent rules.

(11/51, 4/5/2011)