



# RULE-MAKING ORDER

**CR-103E (July 2011)**  
**(Implements RCW 34.05.350)**

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

**Emergency Rule Only**

**Effective date of rule:**

**Emergency Rules 11-296**

- Immediately upon filing.
- Later (specify) 12:01 p.m. November 10, 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Repealed: WAC 220-40-02700P  
 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 year 2009, 2010, 2011, 2012, or 2013, 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: Based on catch information to-date, harvest guidelines will be exceeded if retention of white sturgeon in the Willapa Bay commercial gillnet fishery is allowed beyond 12:01 p.m. on Thursday, November 10, 2011. There is insufficient time to adopt permanent rules.

**Date adopted:** November 9, 2011

**NAME (TYPE OR PRINT)**  
Philip Anderson

**SIGNATURE**

**TITLE**  
Director

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: November 09, 2011**  
**TIME: 2:16 PM**

**WSR 11-23-050**

**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>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:**

<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 220-40-02700P Salmon--Willapa Bay fall fishery.**

Notwithstanding the provisions of WAC 220-40-027, effective 12:01 p.m. November 10 through December 31, 2011, 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. Gillnet gear may be used to fish for salmon only as shown below:

6:00 p.m. November 11  
through 6:00 p.m. November 19, 2011

Areas 2M, 2N, 2R, 2T, and 2U

Gear:

2. Gillnet 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. 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 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 transiting through Willapa Bay.
3. From November 11 through November 19, 2011: Mesh size must not exceed six and one-half inch maximum mesh.
  - a. Only one net of six and one-half inch configuration, not exceeding fifteen hundred feet, may be used when in the act of fishing.
  - b. Only one net may be fishing at a time; other nets must be properly stored.
  - c. From November 11 through November 19, 2011, all white sturgeon, all steelhead, and all green sturgeon 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 2K, 2M, 2N, 2R, 2T, and 2U.

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. Effective 12:01 p.m. November 10 through December 31, 2011, it is unlawful to retain white sturgeon.

6. The retention of green sturgeon and steelhead is prohibited.
7. It is unlawful to fish with gillnet gear in Areas 2K, 2M, 2N, 2R, 2T, and 2U unless the vessel operator has attended a “Fish Friendly” best fishing practices workshop and has in their possession a department-issued certification card.

## REPEALER

The following section of the Washington Administrative Code is repealed effective January 1, 2012:

WAC 220-40-02700P Salmon Willapa Bay fall fishery.

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(x) 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.

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(11-296, 11/9/2011)

