

GREEN SHEET

Meeting dates: August 21, 2009 Commission Meeting

Agenda item: Columbia River Commercial and Tribal Fishing Regulations
—Rule Action

Staff Contact: Cindy LeFleur, Columbia River Policy Coordinator,
Intergovernmental Resource Management Program

Presenter(s): Cindy LeFleur, Columbia River Policy Coordinator,
Intergovernmental Resource Management Program

Background:

Fisheries in the Columbia River are managed jointly with Washington Department of Fish and Wildlife and Oregon Department of Fish and Wildlife (ODFW) and consistent with the conservation principles established within the *U.S. v Oregon* Management Agreement and the associated Biological Opinion. The goals of the fishery managers are to have concurrent regulations in joint Columbia River waters, to have regulations that are easily understood by the fishers, and rules that can be enforced by our officers. The proposed rule changes that are presented here are intended to change the measurement criteria for sturgeon.

WAC 220-32-057 – Season – Sturgeon. Changes the measurement criteria for sturgeon to fork length instead of total length for the Columbia River treaty Indian fishery. The tribes have agreed to this change and are currently using the new length for treaty Indian fisheries in the Columbia River.

WAC 220-20-020 – General provisions – Lawful and unlawful acts – Food fish other than salmon. Changes the measurement criteria for sturgeon to fork length instead of a total length measurement for non-Indian fisheries. This rule was adopted by the Columbia River Compact and has been implemented for the sport fishery beginning in January 2009. In the commercial fishery this rule has been implemented on an emergency basis.

Policy issue(s) you are bringing to the Commission for consideration:

Changes to two existing rules regarding how sturgeon are measured for non-Indian commercial and treaty Indian fisheries.

Public involvement process used and what you learned:

Package of proposed regulation changes has been shared with the Columbia River commercial and recreational advisor groups. The sturgeon fork length change has already been through a public process prior to adoption in the sport fishery. The commercial fishing industry has been in support of this regulation for some time.

Action requested:

Adoption requested during conference call being held on August 21.

Draft motion language:

N/A

Justification for Commission action:

N/A

Communications Plan:

The results of the August commission meeting and decision will be communicated to the advisory groups. Results will be shared with the tribal co-managers for the tribal regulations.

Form revised 10/16/2008 - sdy

AMENDATORY SECTION (Amending Order 00-146, filed 8/17/00, effective 9/17/00)

WAC 220-32-057 Season--Sturgeon. (1) It is unlawful to take, fish for or possess sturgeon taken for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H except individuals possessing treaty fishing rights pursuant to the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for sturgeon with setline gear from January 1 through January 31, and during seasons opened under emergency rule by the department and as provided in this section.

(2) During the open season, it is unlawful to:

(a) (~~It is unlawful to~~) Retain for commercial or subsistence purposes sturgeon less than ((48)) 38 inches in fork length or greater than ((60)) 54 inches in fork length in Columbia River Salmon Management and Catch Reporting Area (SMCRA) 1F. It is unlawful to retain for commercial or subsistence purposes sturgeon less than 43 inches in fork length or greater than 54 inches in fork length in Columbia River SMCRA 1G and 1H;

(b) (~~To~~) Sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of a sturgeon prior to the sale of the sturgeon to a wholesale dealer licensed under chapter 75.28 RCW, or to sell or barter sturgeon eggs at retail; or

(c) (~~To~~) Deliver to a wholesale dealer licensed under chapter 75.28 RCW any sturgeon that are not in the round with the head and tail intact.

(3) Gear:

(a) Maximum 100 hooks per setline;

(b) Minimum hook size 9/0;

(c) Treble hooks prohibited; and

(d) Visible buoys required, with operator name and tribal identification clearly marked on the buoy.

AMENDATORY SECTION (Amending Order 06-301, filed 12/27/06, effective 1/27/07)

WAC 220-20-020 General provisions--Lawful and unlawful acts--Food fish other than salmon. (1) It is unlawful to fish for or possess for commercial purposes any round, undressed sturgeon less than ((40)) 43 inches in fork length or greater than ((60)) 54 inches in fork length.

(2) It is unlawful to fish for, possess, or retain green sturgeon taken with commercial gear. Any green sturgeon taken with any type of commercial gear incidental to a lawful fishery shall immediately be returned to the water unharmed.

(3) It is unlawful to fish for or possess for commercial purposes or possess aboard a commercial fishing vessel for any purpose any species of halibut (*Hippoglossus*) unless permitted by the current regulations of the International Pacific Halibut Commission.

(4) It is unlawful to fish for or possess for commercial purposes sturgeon taken from any of the waters of Puget Sound or tributaries(~~(, and)~~). Any sturgeon taken with any type of commercial gear incidental to a lawful fishery shall immediately be returned to the water unharmed.

(5) It is unlawful to fish for food fish for commercial purposes in the waters of Shilshole Bay, inland and inside a line projected in a southwesterly direction from Meadow Point to West Point.

(6) It is unlawful to fish for or possess for commercial purposes any starry flounder less than 14 inches in length taken by any commercial gear, in all Puget Sound Marine Fish-Shellfish Areas.

(7) It (~~shall be~~) is unlawful to harvest herring eggs naturally deposited on marine vegetation or other substrate(~~(7)~~) unless a person has a permit issued by the director.

(8) It is unlawful to fish for or possess carp taken for commercial purposes except as authorized by written permit from the director. However, (~~except that~~) carp taken incidental to a commercial fishery for other species may be retained for commercial purposes. Failure to comply with the provisions of the carp permit constitutes unlawful use of the carp commercial fishery license and may result in revocation of the carp permit.

(9) It is unlawful to fin sharks in Washington state waters, and it is unlawful to possess shark fins in the field unless the carcass of the shark is retained(~~(, except that)~~). However, once a commercially taken shark carcass has been delivered to a licensed wholesale dealer or a person acting in that capacity, and the sale of the shark has been recorded on a fish receiving ticket, the shark fins need not be retained with the shark carcass.



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Washington Department of Fish and Wildlife

- | | |
|--|---|
| <input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 09-06-077 ; or | <input checked="" type="checkbox"/> Original Notice |
| <input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or | <input type="checkbox"/> Supplemental Notice to WSR _____ |
| <input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4). | <input type="checkbox"/> Continuance of WSR _____ |

Title of rule and other identifying information: (Describe Subject) WAC 220-32-057, Seasons – Sturgeon; and WAC 220-20-020, General provisions – Lawful and unlawful acts – Food fish other than salmon.

Hearing location(s):
Natural Resources Building ~ First Floor, Room 172
1111 Washington St. SE
Olympia, Washington 98504

Date: July 10-11, 2009 Time: 8:45 a.m.

Submit written comments to:
Name: Rules Coordinator
Address: 600 Capitol Way No., Olympia, WA 98501-1091
e-mail Lori.Preuss@dfw.wa.gov
fax (360) 902-2155 by (date) June 29, 2009

Assistance for persons with disabilities: Contact
Susan Yeager by June 29, 2009
TTY (360) 902-2207 or (360) 902-2267

Date of intended adoption: August 7-8, 2009
(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The Columbia River Compact adopted new measurement criteria for white sturgeon, based on fork length versus total length. The size limits in the WAC will reflect the new criteria.

Reasons supporting proposal: As a member of the Columbia River Compact, the agency should change its rules to reflect those of other Compact members, for consistency and ease of enforceability, if the rule change makes sense. This one does because it mirrors a change in the industry standard for measuring sturgeon.

Statutory authority for adoption: 77.12.047

Statute being implemented: 77.12.047

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

DATE
May 22, 2009

NAME (type or print)
Lori Preuss

SIGNATURE

TITLE
Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: May 22, 2009

TIME: 3:29 PM

WSR 09-12-023

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None.

Name of proponent: (person or organization) The Washington Department of Fish and Wildlife

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Cindy LeFleur	1111 Washington Street, SE, Olympia, WA 98504	(360) 753-2600
Implementation Jim Scott	1111 Washington Street, SE, Olympia, WA 98504	(360) 902-2651
Enforcement.....Chief Bruce Bjork	1111 Washington Street, SE, Olympia, WA 98504	(360) 902-2373

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No. Explain why no statement was prepared. The new method of measuring sturgeon does not change the size of sturgeon that are legal to possess. Therefore, the rule change will not impact small businesses.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No: Please explain: This proposal does not involve hydraulics.