



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 15-311

- Immediately upon filing.
- Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes
 - No
- If Yes, explain:

Purpose: Amend work times in the Aquatic Plants and Fish Pamphlet for all aquatic plant removal activities except hand pulling.

Citation of existing rules affected by this order:

Repealed: WAC 220-660-29000C
 Amended: WAC 220-660-290
 Suspended:

Statutory authority for adoption: RCW 77.04.012, 77.04.020, 77.12.045 and 77.12.047

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:

See Attachment A

Date adopted: September 2, 2015

NAME (TYPE OR PRINT)

J W Unsworth

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
 STATE OF WASHINGTON
 FILED

DATE: September 02, 2015

TIME: 6:40 PM

WSR 15-19-013

(COMPLETE REVERSE SIDE)

**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Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____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	_____

NEW SECTION

WAC 220-660-29000D Aquatic plant removal and control

Notwithstanding the provisions of WAC 220-660-290, effective immediately until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

Asotin County

Asotin Creek and tributaries from mouth to headwaters: Closed to all aquatic plant removal activities except hand pulling.

Chelan County

Wenatchee River from mouth to the Icicle River Road Bridge: Closed to all aquatic plant removal activities except hand pulling.

Icicle River from the mouth to 500 feet downstream of the Leavenworth National Fish Hatchery Barrier Dam: Closed to all aquatic plant removal activities except hand pulling.

Peshastin Creek and all tributaries: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Columbia County

Tucannon River (Columbia/Garfield Co.) From Highway 12 Bridge to Cow Camp Bridge: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Touchet River (Columbia/Walla Walla Co.) from mouth to the confluence of the North and South forks: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

- (1) North Fork Touchet River from mouth to Spangler Creek: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.
- (2) North Fork Touchet River upstream from the confluence of Spangler Creek: Closed to all aquatic plant removal activities except hand pulling.
- (3) South Fork Touchet River from mouth to Griffen Fork and above Griffen Fork: Closed to all aquatic plant removal activities except hand pulling.
- (4) Wolf Fork Touchet River from mouth to Coates Creek and Robinson Fork: Closed to all aquatic plant removal activities except hand pulling.

Ferry County

Kettle River and all tributaries from Barstow Bridge to headwaters, all portions contained within the United States: Closed to all aquatic plant removal activities except hand pulling.

Garfield County

Tucannon River (Columbia/Garfield Co.) From Highway 12 Bridge to Cow Camp

Bridge: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Grays Harbor County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to all aquatic plant removal activities except hand pulling.

Jefferson County

Queets River and its tributaries including Matheny Creek and the Salmon River outside Olympic National Park and the Quinault Reservation: Closed to all aquatic plant removal activities except hand pulling.

King County

Raging River from the mouth upstream: Closed to all aquatic plant removal activities except hand pulling.

Snoqualmie River from the mouth upstream to Snoqualmie Falls: Effective September 1, 2015, closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

South Fork Skykomish River (Snohomish/King Co.) from Sunset Falls upstream and all tributaries, including the Beckler, Foss, Miller and Rapid Rivers and their tributaries: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Kittitas County

Little Naches River: Closed to all aquatic plant removal activities except hand pulling.

Teanaway River, including West, Middle and North Forks: Closed to all aquatic plant removal activities except hand pulling.

Swauk Creek and all tributaries except Williams Creek: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling. Williams Creek is closed to all aquatic plant removal activities except hand pulling.

Lewis County

Newaukum River and all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Lincoln County

Spokane River (Spokane/Lincoln Co.) from upstream Boundary at Plese Flats Day Use Area to Idaho State Boundary: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Okanogan County

Methow River from County Road 1535 Bridge (lower Burma Rd.) upstream to Weeman Bridge (8 miles upstream of Winthrop): Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Okanogan River from the Hwy 97 Bridge immediately upstream of the mouth to Zosel Dam: Closed to all aquatic plant removal activities except hand pulling.

Similkameen River from the mouth upstream to Enloe Dam: Closed to all aquatic plant removal activities except hand pulling.

Pend Oreille County

Sullivan Creek and all tributaries from mouth to headwaters: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Skagit County

Sauk River (Skagit/Snohomish Co.) From the confluence with the Suiattle River upstream including North Fork from mouth to North Fork Falls and South Fork from mouth to Elliot Creek:: Closed to all aquatic plant removal activities except hand pulling.

Suiattle River Tributaries Buck, Downey and Sulpher Creeks: Closed to all aquatic plant removal activities except hand pulling.

Samish River from I-5 to headwaters and Friday Creek from the mouth upstream: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Stillaguamish River (Skagit/Snohomish Co.) from Marine Drive upstream including the North and South Forks and all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Snohomish County

North Fork Skykomish River from mouth upstream including all tributaries: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

South Fork Skykomish River (Snohomish/King Co.) from Sunset Falls upstream and all tributaries, including the Beckler, Foss, Miller and Rapid Rivers and their tributaries: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Wallace River from the mouth upstream including all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Sauk River (Skagit/Snohomish Co.) From the confluence with the Suiattle River upstream including North Fork from mouth to North Fork Falls and South Fork from mouth to Elliot Creek: Closed to all aquatic plant removal activities except hand pulling.

Spokane County

Spokane River (Spokane/Lincoln Co.) from upstream Boundary at Plese Flats Day Use Area to Idaho State Boundary: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Stevens County

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Colville River and all tributaries from mouth to headwaters: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Thurston County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to all aquatic plant removal activities except hand pulling.

Walla Walla County

Walla Walla River from McDonald Road Bridge to Oregon State Boundary: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Mill Creek from Bennington Dam to State Line: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Whatcom County

Middle Fork Nooksack River from the mouth to the City of Bellingham Diversion Dam and all tributaries: Closed to all aquatic plant removal activities except hand pulling.

North Fork Nooksack River from the mouth to Nooksack Falls and all tributaries: Closed to all aquatic plant removal activities except hand pulling.

South Fork Nooksack River from the mouth to Skookum Creek and from Wanlick Creek to headwaters including Wanlick and all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Yakima County

Ahtanum Creek, including North and Middle Forks: Closed to all aquatic plant removal activities except hand pulling.

American River: Closed to all aquatic plant removal activities except hand pulling.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-660-29000C Aquatic plant removal and control. (15-302)

ATTACHMENT A

Reasons for this finding: A lack of snowpack from an unusually warm winter has resulted in drought conditions throughout much of Washington. A healthy snowpack slowly provides water to rivers and streams, helping to sustain fish through the drier summer months. But, with little or no snowpack, flows in many rivers have dropped significantly and water temperatures have increased – conditions that are lethal to fish. In response, WDFW has placed drought-related fishing closures and restrictions on nearly 60 rivers and streams.

Low water and higher than normal water temperatures are limiting fish movement and making them more susceptible to diseases. In addition, stream flows have fallen low enough to concentrate fish into small areas of refugia where they are highly susceptible to additional stress from disturbance caused by aquatic plant removal. To protect fish life, WDFW is aligning the work times for all aquatic plant removal activities except hand pulling with the drought-related fishing closures or restrictions now in effect. There is insufficient time to adopt permanent rules. As water temperatures and streamflows improve due to changing weather patterns, emergency rule changes for aquatic plant removal activities will be modified to return to permanent rule requirements.

The daily closures are intended to reduce additional stress to fish from aquatic plant removal activities during periods of the day when fish are stressed from elevated temperatures. In addition, some streams are closed to aquatic plant removal activities except hand pulling because of record low flows due to lack of winter snowpack and rainfall. Stream flows have fallen low enough to concentrate fish into small areas of refugia where they are highly susceptible to additional stress from disturbance at these temperatures further reduces survival.

Many of the restrictions placed on various streams under previous emergency rules are repealed in this emergency rule. Lower air temperatures and recent rainfall have resulted in stream flows and water temperatures similar to average fall conditions. Those conditions are not expected to change considerably for the remaining times aquatic plant removal activity is authorized under the permanent rules.

(15-311, 9/2/2015)