



RULE-MAKING ORDER EMERGENCY RULE ONLY

CR-103E (October 2017) (Implements RCW 34.05.350 and 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: October 12, 2017

TIME: 1:14 PM

WSR 17-21-038

Agency: Washington Department of Fish and Wildlife (17-280)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) October 21, 2017

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

- Yes
 - No
- If Yes, explain:

Purpose: The purpose of this rule-making is to allow non-treaty recreational fishing opportunity in the Columbia River while protecting fish listed as threatened or endangered under the Endangered Species Act. This rule-making implements federal court orders governing Washington’s relationship with Treaty Indian Tribes, federal law governing Washington’s relationship with Oregon, and Washington Fish and Wildlife Commission policy guidance for Columbia River fisheries.

Citation of rules affected by this order:

- New:
- Repealed: WAC 220-312-06000T
- Amended: WAC 220-312-060
- Suspended:

Statutory authority for adoption: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047

Other authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546); *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington Fish and Wildlife Commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River Compact).

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.

Reasons for this finding: In Spring of 2017 an approach was developed for limited retention fisheries based on support from an updated abundance estimate, public input, and support from the Commission. This emergency rule is needed to allow for opportunity to meet the recreational harvest guideline of 1,245 white sturgeon by opening the fishery for two days. This action is consistent with decisions made at the Joint State hearing on October 11, 2017. There is insufficient time to adopt permanent rules.

**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 on 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	___

Date: October 12, 2017

Name: James B Scott for J W Unsworth

Title: Director

Signature:



NEW SECTION

WAC 220-312-06000T Freshwater exceptions to statewide rules—Columbia River.

Notwithstanding the provisions of WAC 220-312-060, it is unlawful to violate the provisions, provided that unless otherwise amended, all permanent rules remain in effect:

- (1) Retention of white sturgeon is allowed on October 21 and October 26, 2017.
 - (a) The area open to fishing is the mainstem Columbia River from the Wauna powerlines upstream to Bonneville Dam.
 - (b) The daily retention limit of white sturgeon is one fish between 44-inches minimum and 50-inches maximum fork length. The yearly limit is two retained sturgeon.
 - (c) Catch and release continues to be allowed in the mainstem Columbia River.
- (2) Fork length is measured in a straight line from the tip of the nose to the fork in the caudal fin (tail) with the fish laying on its side on a flat surface, with the tape measure/ ruler positioned flat under the fish.

REPEALER

The following section of the Washington Administrative Code is repealed effective October 27, 2017:

WAC 220-312-06000T Freshwater exceptions to statewide rules—Columbia River.