



# 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 19, 2017

TIME: 3:21 PM

WSR 17-22-013

**Agency:** Washington Department of Fish and Wildlife (17-285)

**Effective date of rule:**

**Emergency Rules**

- 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: The department has filed a CR-101 (WSR-17-20-109) for a permanent rule and is actively undertaking the appropriate procedures to adopt this emergency rule as a permanent rule.

**Purpose:** Amend the Sultan River authorized work time in the Gold and Fish Pamphlet to protect fall Chinook, coho and steelhead because a new fish passage structure now allows anadromous fish to spawn above the City of Everett's municipal drinking water diversion dam.

**Citation of rules affected by this order:**

New:  
Repealed: WAC 220-660-30000B  
Amended: WAC 220-660-300  
Suspended:

**Statutory authority for adoption:** RCW 77.04.012, 77.04.020, 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.

**Reasons for this finding:** The Washington Department of Fish and Wildlife (WDFW) filed an emergency rule on June 29, 2017 revising the authorized work time in the Gold and Fish Pamphlet for the Sultan River upstream of the City of Everett's municipal drinking water diversion dam located at river mile 9.4. That emergency rule expires October 24, 2017. WDFW started rule-making (WSR-17-20-109) for a permanent modification on October 4, 2017 but a second emergency rule is needed until the permanent rule is adopted.

Work on the diversion dam completed in October 2016 now enables steelhead, fall chinook and coho salmon found in the lower Sultan River to pass above the diversion dam to spawn and rear. The current authorized work time for the section of river upstream of the diversion is July 16 to February 28. This work time protected resident trout spawning and incubation areas. WDFW must amend the authorized work time for the section of river upstream of the diversion dam to river mile 15.7 (0.7 river miles below the Culmback Dam) from July 16 to February 28 to August 1 to August 31 to protect steelhead and salmon spawning and incubation areas as well. The authorized work time from river mile 15.7 upstream to Elk Creek and upstream of Elk Creek will remain unchanged.

Without modification to the work windows steelhead and salmon eggs and alevins could be impacted by mineral prospectors working under the statewide Gold and Fish pamphlet during the 2017 spawning season because prospecting activities could take place where fish are spawning..

**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	___
-----	-----	---------	-----	----------	-----

**The number of sections adopted on the agency's own initiative:**

New	<u>1</u>	Amended	___	Repealed	<u>1</u>
-----	----------	---------	-----	----------	----------

**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	___	Amended	___	Repealed	___
-----	-----	---------	-----	----------	-----

**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 Adopted:** October 19, 2017

**Name:** J W Unsworth

**Title:** Director

**Signature:**



NEW SECTION

**WAC 220-660-30000C Mineral prospecting.**

Notwithstanding the provisions of WAC 220-660-300, effective immediately until further notice, the following rules apply:

County	Mineral Prospecting Allowable Dates	Prospecting Equipment with 4 1/4" nozzle	Prospecting Equipment with 5 1/4" Nozzle
<b>Snohomish County</b>			
Sultan River (07.0881) – Diversion Dam to river mile 15.7 (0.7 river miles downstream of Culmback Dam <del>Elk Creek</del> )	<u>Closed until further notice</u>	X	X
Sultan River (07.0881) – Upstream of river mile 15.7 to Elk Creek	<u>Open until further notice</u>	X	

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-330-66000B Mineral Prospecting. (17-147)