



# 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 20, 2017

TIME: 2:45 PM

WSR 17-22-021

**Agency:** Washington Department of Fish and Wildlife (17-288)

**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:

**Purpose:** The purpose of this rule-making is to provide for Treaty Indian fishing opportunity in the Columbia River while protecting threatened or endangered species under the Endangered Species Act.

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

New:  
Repealed: WAC 220-359-08000B  
Amended: WAC 220-359-080  
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:** This emergency rule is needed to allow treaty fisheries to remove excess and undesirable hatchery sturgeon from the populations in the Priest Rapids and Wanapum pools. 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Federal statute:	New	___	Amended	___	Repealed	___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	___

<b>Date Adopted:</b> October 20, 2017	<b>Signature:</b> 
<b>Name:</b> Joe Stohr for J W Unsworth	
<b>Title:</b> Director	

## NEW SECTION

### **WAC 220-359-08000B Season—Sturgeon above Bonneville Dam.**

Notwithstanding the provisions of WAC 220-359-080, effective immediately, it is unlawful to take, fish for or possess sturgeon for commercial purposes in the Columbia River Priest Rapids and Wanapum pools, except that those individuals possessing treaty fishing rights under the Yakama treaties may fish for sturgeon with setline gear under the following provisions:

- (1) **SEASON:** Immediately through 5:00 p.m. December 2, 2017.
- (2) **AREA:** Priest Rapids Pool from one-half mile upstream of Priest Rapids Dam to the Boat Restricted Zone markers below Wanapum Dam, and in Wanapum Pool from one-half mile upstream of Wanapum Dam to Boat Restricted Zone markers below Rock Island Dam.
- (3) **GEAR:** Setlines only. Hook size must be 9/0 or larger and circle hooks are encouraged over J-hooks. All other gears are specifically prohibited. Setlines are restricted to no more than 100 hooks per line.
- (4) **COMMERCIAL AND SUBSISTENCE SIZE LIMITS:** Legal size limits include sturgeon from 38 inches to 72 inches fork length for any purpose in the Priest Rapids and Wanapum Pools. It shall be unlawful to contort or mutilate sturgeon in any way to conform to size limits.
- (5) **ADDITIONAL REGULATIONS:** 24-hour quick reporting required for Washington wholesale dealers, pursuant to WAC 220-352-180, **except** that landings must be reported within 24 hours of completing the fish ticket. Sturgeon must be delivered to the buyer "in the round", that is with fins, eggs, guts, scutes, and gills intact.

## REPEALER

The following section of the Washington Administrative Code is repealed effective 5:01 p.m. December 2, 2017:

WAC 220-359-08000B Columbia River sturgeon.