



# RULE-MAKING ORDER EMERGENCY RULE ONLY

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

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: January 30, 2018

TIME: 3:28 PM

WSR 18-04-035

**Agency:** Washington Department of Fish and Wildlife (18-14)

**Effective date of rule:**

**Emergency Rules**

- Immediately upon filing.  
 Later (specify) February 1, 2018

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

- Yes  No If Yes, explain:

**Purpose:** Amends commercial smelt harvest rules

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

New:  
Repealed: WAC 220-358-06000A  
Amended: WAC 220-358-060  
Suspended:

**Statutory authority for adoption:** RCW 77.04.012, 77.04.020, 77.12.045 and RCW 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:** Sets a limited Columbia River commercial fishery for eulachon smelt. The regulation is consistent with a reduced Level One fishery as described in the "Washington and Oregon Eulachon Management Plan" for the Columbia River. The expected return of eulachon to the Columbia River in 2018 is expected to be similar to or slightly less than the run of 2017. The fishery serves as an important test fishery to monitor run strength and timing and to collect biological data. NOAA Fisheries concurs that the limited fishery is consistent with recovery of eulachon smelt. Rule is consistent with Columbia River Compact action of January 30, 2018. There is insufficient time to adopt permanent regulations.

**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Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___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 Adopted:** January 30, 2018

**Name:** J W Unsworth

**Title:** Director

**Signature:**



## NEW SECTION

### **WAC 220-358-06000A Smelt – Areas and Seasons.**

Notwithstanding the provisions of WAC 220-358-060, the Columbia River and Washington tributaries are closed to fishing for eulachon smelt except as provided below:

**Open Dates:** February 1 through February 26, 2018, open Mondays and Thursdays only, 7:00 a.m. to 2:00 p.m. (7-hour periods).

**Open Area:** Columbia River – SMCRA 1A, 1B, 1C.

**Gear:** It is unlawful to use anything other than gillnets. Gillnets must meet the following specifications per WAC 220-358-060: mesh size not to exceed 2 inches stretch measure; not to exceed 1,500 feet in length along the cork line. Use of monofilament nets is permissible.

**Allowable sales:** Smelt.

**Other:** 24-hour quick-reporting is required for Washington wholesale dealers, as provided in WAC 220-352-180.

## REPEALER

The following section of the Washington Administrative Code is repealed effective 2:01 p.m. February 26, 2018:

WAC 220-358-06000A Smelt—Areas and seasons.