



# 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: July 30, 2021

TIME: 10:35 AM

WSR 21-16-066

**Agency:** Washington Department of Fish and Wildlife

**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:** On or about July 29, 2021, an emaciated Southern Resident killer whale, K21, was reported off the southern tip of Vancouver Island. The Department verified the images of the emaciated whale on the morning of July 30, 2021 and determined that the designation of “sick or vulnerable” is appropriate. Per WAC 220-460-110, the department is adopting an emergency rule to designate K21 as vulnerable and thereby prevent commercial whale watching operators from approaching this individual or a group containing the individual within 0.5 nautical mile. This designation and the additional distance are necessary to ensure that K21’s ability to survive is not hindered by the presence of vessels.

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

New: WAC 220-460-110A  
 Repealed:  
 Amended:  
 Suspended:

**Statutory authority for adoption:** RCW 77.65.620

**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 imminent risk to an endangered species requires additional protection immediately. This emergency action is necessary to protect the public’s interest in the preservation of a vulnerable endangered animal.

**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 X Amended \_\_\_\_ Repealed \_\_\_\_

**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:** July 30, 2021

**Name:** Kelly Susewind

**Title:** SRKW K21 Protection

**Signature:**



NEW SECTION

**WAC 220-460-110A Southern Resident Killer Whale K21**

Notwithstanding the provisions of WAC 220-460-110, effective immediately, the department declares the emaciated male Southern Resident Killer Whale K21 as a vulnerable individual. It is unlawful for commercial whale watching operators to approach within 0.5 nautical mile of the individual Southern Resident Killer Whale K21, or within 0.5 nautical mile of a group of Southern Residents containing K21.