

Sturgeon Sport Rules Update (Decision)

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Summary Sheet

Meeting dates:	December 13-14, 2019 Decision
Agenda item:	Sturgeon Sport Rules Update – (Decision)
Presenter(s):	Ryan Lothrop, Columbia River Fishery Manager, Fish Program William Tweit, Special Assistant, Fish Program Laura Heironimus, R5 Sturgeon, Smelt, Lamprey Unit Lead, Fish Program

Background summary:

In an effort to simplify sturgeon sport rules and improve conservation efforts for sturgeon in Washington, a number of regulation updates are proposed, including:

1. Update Columbia River sturgeon spawning sanctuaries to include an expansion in time for all sanctuaries upstream of Bonneville to remain closed through August 31st, and to include an expansion in area for the sanctuary in John Day Reservoir (below McNary Dam) and in the Hanford Reach (below Priest Rapids Dam). The purpose of these proposed rules are to minimize handling stress of mature female sturgeon during the post-spawn period, with the intended benefits of decreasing mortality rates of oversize sturgeon and increasing spawning success.
 2. Shifting retention fisheries upstream of McNary Dam to catch-and-release only as a precautionary measure to conserve sturgeon populations due to a lack of recent monitoring data.
 3. Closing night fishing for sturgeon in the Chehalis River to comply with statewide simplification rules.
 4. Improving clarify on sturgeon catch-and-release regulations to further define what fish must be released in all areas, regardless of whether a slot-limit is in effect.
 5. Defining oversize sturgeon as fish larger than 55 inches fork length to align with rules pertaining to take of an illegal-sized sturgeon in RCW 77.15.370.
 6. Simplifying and clarifying statewide sturgeon regulations (WAC 220-316-010) to comply with agency standards and improve readability.
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Staff recommendation:

Recommend adopting all rule proposals as presented.

Policy issue(s) and expected outcome:

Establish rules to achieve conservation objectives, simplify, and clarify statewide sturgeon regulations.

Fiscal impacts of agency implementation:

None.

Public involvement process used and what you learned:

A public news release and online notice through our website notified people of the opportunity to comment on these sport fishing proposals. The end date for submitting comments on the final proposals was October 17, 2019. The Department conducted four regional workshops with the public to discuss the rule process and proposed regulation changes.

The Dalles, Oregon: 6 to 8 p.m., Wednesday, May 22, at the ODFW screen shop, 3561 Klindt Dr., The Dalles.

Kennewick: 6 to 8 p.m, Tuesday, June 11, at the Benton PUD building, 2721 W. 10th Ave., Kennewick.

Hermiston, Oregon: 6 to 8 p.m., Wednesday, June 12, at the Hermiston Community Center, 415 S. Hwy 395, Hermiston.

Montesano: 6 to 8 p.m., Thursday, June 13, at the WDFW Region 6 office, 48 Devonshire Rd., Montesano.

At the meetings, Department staff provided explanations for proposals and too comments.

The Commission held a public hearing on October 18, 2019

Action requested and/or proposed next steps:

Consideration for adoption of the rule proposals for Recreational Sturgeon Fishing Regulations.

Draft motion language:

I move to adopt recreational sturgeon fishing regulations permanent amendments to;
220-310-100 - Fish handling rules - Removal from water.
220-316-010 - Sturgeon - Areas, seasons, limits and unlawful acts
As presented by staff

Is there a "second"?

If so, then motion maker discusses basis for motion; other Commissioners discuss views on motion; amendments, if any, proposed and addressed

Post decision communications plan:

The public will be notified of the outcome of the rulemaking through a press release, our website, and to the email distribution list. Hard copies will be sent to those who request it.

Form revised 2-15-18



PROPOSED RULE MAKING

CR-102 (October 2017)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: September 03, 2019

TIME: 1:37 PM

WSR 19-18-069

Agency: Washington Department of Fish and Wildlife (WDFW)

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 18-24-094 December 04, 2018 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) The department is considering amendments to recreational fishing rules to provide fishing opportunity and to address conservation objectives.

220-310-100 - Fish handling rules - Removal from water.

220-316-010 - Sturgeon - Areas, seasons, limits and unlawful acts.

Hearing location(s):

Date: **Time:** **Location:** (be specific) **Comment:**

October 18-19, 2019	8:00 am	Natural Resource Building, 1111 Washington St. SE, Olympia, WA 98501	
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Date of intended adoption: October 20, 2019 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: WDFW Rules Coordinator

Address: PO Box 43152 Olympia, WA 98501

Email: Rules.Coordinator@dfw.wa.gov

Fax: 360-902-2155

Other:

By (date) October 17, 2019

Assistance for persons with disabilities:

Contact WDFW ADA Manager

Phone: 360-902-2349

Fax:

TTY: 360-902-2207

Email: adaprogram@dfw.wa.gov

Other:

By (date) October 17, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: To update Columbia River sturgeon spawning sanctuaries, address retention fisheries upstream of McNary Dam, address night fishing in the Chehalis River, define oversize sturgeon, improve clarify on sturgeon-catch-and-release regulations, and clarify statewide sturgeon regulations.

Reasons supporting proposal: To improve recruitment success and long-term population viability consistent with commission policy. To simplify and standardize regulations to ease rule comprehension and enforcement.

Statutory authority for adoption: RCWs 77.04.012, 77.04.055 and 77.12.047

Statute being implemented: : RCWs 77.04.012, 77.04.055 and 77.12.047

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization)

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Kelly Henderson	1111 Washington Street, Olympia, WA 98501	360-902-2684
Implementation:	Laura Heironimus	5525 S 11 th Street, Ridgefield, WA 98642	360-906-6716
Enforcement:	Chief Steve Bear	1111 Washington Street, Olympia, WA 98501	360-902-2373

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under RCW 34.05.328?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

No: Please explain: The proposed rule does not affect hydraulics

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

RCW 34.05.310 (4)(b)
(Internal government operations)

RCW 34.05.310 (4)(e)
(Dictated by statute)

RCW 34.05.310 (4)(c)
(Incorporation by reference)

RCW 34.05.310 (4)(f)
(Set or adjust fees)

RCW 34.05.310 (4)(d)
(Correct or clarify language)

RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(4).

Explanation of exemptions, if necessary: The department is exempt from the requirements of RCW chapter 19.85 because the proposed recreational fishing rules do not regulate small businesses; rather, the department's proposed fishing rules regulate individuals who undertake recreational fishing activities. The statewide recreational rules that are the subject of this rule making simply govern the time, place and manner for individuals who want to enjoy the recreational fishing opportunities provided.

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. _____

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

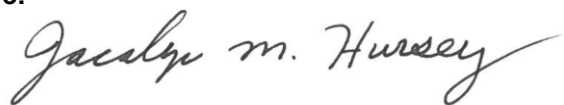
Other:

Date: September 3, 2019

Name: Jacalyn M Hursey

Title: Rules Coordinator

Signature:



WAC 220-310-100 Fish handling rules—Removal from water. In order to protect fish that are required to be released:

~~(1) ((It is unlawful to totally or partially remove oversize sturgeon from the water.~~

~~(2)))~~ It is unlawful to totally or partially remove six-gill shark from the water.

~~((3)))~~ (2) In all freshwater areas, except the Columbia River downstream from a line between Rocky Point and Tongue Point, it is unlawful to totally remove salmon, steelhead, Dolly Varden or bull trout from the water if it is unlawful to retain those salmon, steelhead, Dolly Varden or bull trout or if the angler subsequently releases the salmon, steelhead, Dolly Varden or bull trout.

~~((4)))~~ (3) In Marine Areas 5 through 13, it is unlawful to bring wild salmon or a species of salmon aboard a vessel if it is unlawful to retain that salmon. For purposes of this subsection, "aboard" means inside the gunnel of a vessel.

~~((5)))~~ (4) In Marine Area 2-2 east of the Buoy 13 line, salmon required to be released may not be totally removed from the water, except anglers fishing from vessels thirty feet or longer as shown on their state registration or Coast Guard documentation are exempt from this subsection.

WAC 220-316-010 Sturgeon—Areas, seasons, limits and unlawful acts.

- (1) It is unlawful to fish for or retain green sturgeon.
- ~~(2) ((The following limits and requirements apply in areas where it is permissible to catch sturgeon for release or retention:~~
 - ~~(a)) It is unlawful to fish for sturgeon with terminal gear other than bait and one single-point barbless hook.~~
 - ~~((b) It is unlawful to fail to release undersize or oversize))~~
- (3) Any sturgeon that cannot lawfully be retained must be released immediately.
 - ~~((c) It is permissible to use artificial scent with bait when fishing for white sturgeon.~~
 - ~~(d))~~ (4) It is unlawful to totally or partially remove oversized sturgeon from the water. Oversized sturgeon are defined as: Any sturgeon larger than 55 inches fork length.
 - (5) It is unlawful to use a gaff or other body-penetrating device while restraining, handling, or landing a sturgeon.
 - ~~((e) It is unlawful to fish for or possess sturgeon from freshwater, except the Chehalis River, from one hour after official sunset to one hour before official sunrise.~~
- ~~(3) It is permissible to catch and release white sturgeon in saltwater waterways year-round. However, for freshwater waterways, including freshwater Puget Sound tributaries, it is permissible to catch and release white sturgeon only when the season is open for salmon or game fish, except in the Snohomish River from mouth to Highway 9 Bridge it is permissible to catch and release sturgeon year-round.~~
- ~~(4) It is permissible to catch and release, but unlawful to retain, white sturgeon in the following areas:~~
 - ~~(a) Coastal waters and tributaries of coastal waters;~~
 - ~~(b) Puget Sound waters and tributaries of Puget Sound;~~
 - ~~(c) Vancouver Lake and all other waters west of Burlington Northern Railroad from the Columbia River drawbridge near Vancouver downstream to Lewis River (Clark County);~~
 - ~~(d) Columbia River and tributaries from a true north-south line through Buoy 10 (the mouth) upstream to Chief Joseph Dam, unless otherwise provided; and~~
 - ~~(e) Snake River and tributaries from the mouth upstream to the border with Oregon, unless otherwise provided.~~
- ~~(5) White sturgeon retention is allowed in the areas open to fishing and following rules as specified in WAC 220-312-060:~~
 - ~~(a) Columbia River:~~
 - ~~(i) Columbia River and tributaries from Bonneville Dam upstream to McNary Dam: January 1 through July 31.~~
 - ~~(ii) Columbia River and tributaries from McNary Dam upstream to Priest Rapids Dam: February 1 through July 31.~~
 - ~~(b) Snake River: From the Snake River mouth (also called the Snake River Confluence Protection Area) upstream to Ice Harbor Dam: February 1 through July 31.~~
- ~~(6) The following waters are closed to fishing for sturgeon:~~
 - ~~(a) Columbia River:~~
 - ~~(i) Mouth to Bonneville Dam:~~
 - ~~(A) Year-round from Bonneville Dam downstream to a boundary marker on the Washington shore approximately 4,000 feet below the fish~~

ladder at the powerhouse, south to the downstream end of Cascade Island, and across to the Oregon angling boundary on Bradford Island (the Cascade Island-Bradford Island line).

(B) May 1 through August 31 from Bonneville Dam downstream 9 miles to a line crossing the Columbia River from navigation marker 82 on the Oregon shore, westerly to the boundary marker on the Washington shore upstream of Fir Point (navigational marker 82 line).

(ii) Bonneville Dam to McNary Dam:

(A) May 1 through July 31 from The Dalles Dam downstream 1.8 miles to a line from the east (upstream) dock at the Port of The Dalles boat ramp straight across to a marker on the Washington shore.

(B) May 1 through July 31 from John Day Dam downstream 2.4 miles to a line crossing the Columbia at a right angle to the thread of the river from the west end of the grain silo at Rufus, Oregon.

(C) May 1 through July 31 from McNary Dam downstream to the Highway 82 (395) Bridge.

(iii) McNary Dam to Priest Rapids Dam:

(A) May 1 through July 31 from Priest Rapids Dam downstream 2.5 miles to the boundary marker on the river bank 400 feet downstream from Priest Rapids Hatchery outlet channel (Jackson Creek).

(B) October 23 through January 31 from the Old Hanford townsite wooden power line towers to Vernita Bridge.

(iv) Chief Joseph Dam upstream:

(A) Columbia River and its tributaries.

(B) Roosevelt Lake and its tributaries.

(b) Snake River Mouth to Ice Harbor Dam: May 1 through July 31 from the downstream end of Goose Island upstream 1.5 miles to Ice Harbor Dam.

(7) The following limits and requirements apply in areas where it is permissible to retain sturgeon:

(a) The daily limit is one white sturgeon.

(b) The possession limit is two daily limits of fresh, frozen, or processed white sturgeon.

(c) The annual personal-use limit for white sturgeon from April 1 through March 31 is two fish, regardless of where the angler takes the sturgeon.

(d) The maximum fork-length is 54 inches.

(e) The minimum fork-length is 38 inches, except the minimum fork-length is 43 inches in:

(i) The mainstem Columbia and its tributaries from The Dalles Dam to Priest Rapids Dam; and

(ii) The Snake River from the Snake River Confluence Protection Area to Ice Harbor Dam.

(f) Once an angler reaches his or her annual limit of white sturgeon, he or she may continue to fish for white sturgeon in the mainstem Columbia River downstream from where the river forms the common boundary between Oregon and Washington, unless otherwise provided by department rule, so long as the angler releases all subsequent sturgeon immediately.

(g) It is unlawful to possess sturgeon eggs in the field without retaining the intact carcass of the fish from which the eggs have been removed.

(8-)) (6) The daily limit for white sturgeon is one fish.

(7) The annual limit for white sturgeon is two fish, regardless of where the angler takes the sturgeon. After an angler reaches their annual limit of white sturgeon, catch and release fishing is permitted in areas open to catch and release fishing.

- (8) The possession limit is two daily limits of fresh, frozen, or processed white sturgeon.
- (9) It is unlawful to possess sturgeon eggs in the field without retaining the intact carcass of the fish from which the eggs have been removed.
- (10) Statewide night closure for white sturgeon fishing.
- (11) Coastal marine areas: Open year-round catch and release only.
- (12) Coastal tributaries:
- (a) Open when season is open for salmon or game fish.
- (b) Catch and release only.
- (13) Puget Sound marine areas: Open year-round catch and release only.
- (14) Puget Sound tributaries:
- (a) Open when season is open for salmon or game fish; except: Snohomish River from mouth to Highway 9 Bridge: Open year-round.
- (b) Catch and release only.
- (15) Columbia River and tributaries (except Snake River):
- (a) From a true north-south line through Buoy 10 (the mouth) upstream to a line crossing the Columbia River from navigation marker 82 on the Oregon shore, westerly to the boundary marker on the Washington shore upstream of Fir Point (navigational marker 82 line; including Vancouver Lake and all other waters west of Burlington Northern Railroad from the Columbia River drawbridge near Vancouver downstream to Lewis River (Clark County): Open year-round catch and release only.
- (b) From a line crossing the Columbia River from navigation marker 82 on the Oregon shore, westerly to the boundary marker on the Washington shore upstream of Fir Point (navigational marker 82 line) to a boundary marker on the Washington shore approximately 4,000 feet below the fish ladder at the powerhouse, south to the downstream end of Cascade Island, and across to the Oregon angling boundary on Bradford Island (the Cascade Island-Bradford Island line):
- (i) Open September 1 through April 30: Catch and release only.
- (ii) May 1 through August 31: Closed.
- (c) From a boundary marker on the Washington shore approximately 4,000 feet below the fish ladder at the new powerhouse, south to the downstream end of Cascade Island, and across to the Oregon angling boundary on Bradford Island (the Cascade Island-Bradford Island line) to the Bonneville Dam: Closed.
- (d) From Bonneville Dam to a line from the east (upstream) dock at the Port of The Dalles boat ramp straight across to a marker on the Washington shore:
- (i) Open January 1 through April 30 for retention: Minimum fork-length 38 inches and maximum fork-length 54 inches.
- (ii) Open May 1 through December 31: Catch and release only.
- (e) From a line from the east (upstream) dock at the Port of The Dalles boat ramp straight across to a marker on the Washington shore to The Dalles Dam:
- (i) Open January 1 through April 30 for retention: Minimum fork-length 38 inches and maximum fork-length 54 inches.
- (ii) May 1 through August 31: Closed.
- (iii) Open September 1 through December 31: Catch and release only.
- (f) From The Dalles Dam to a line crossing the Columbia River at a right angle to the thread of the river located at the west end of the grain silo at Rufus, Oregon:

(i) Open January 1 through April 30 for retention: Minimum fork-length 43 inches and maximum fork-length 54 inches.

(ii) Open May 1 through December 31: Catch and release only.

(g) From a line crossing the Columbia River at a right angle to the thread of the river located at the west end of the grain silo at Rufus, Oregon to John Day Dam:

(i) Open January 1 through April 30 for retention: Minimum fork-length 43 inches and maximum fork-length 54 inches.

(ii) May 1 through August 31: Closed.

(iii) Open September 1 through December 31: Catch and release only.

(h) From John Day Dam to a line from the grain elevators at Patterson Ferry Road on the Oregon shore, straight across to a marker on the Washington shore at the west end of the old concrete foundation:

(i) Open January 1 through April 30 for retention: Minimum fork-length 43 inches and maximum fork-length 54 inches.

(ii) Open May 1 through December 31: Catch and release only.

(i) From a line from the grain elevators at Patterson Ferry Road on the Oregon shore, straight across to a marker on the Washington shore at the west end of the old concrete foundations to McNary Dam:

(i) Open January 1 through April 30 for retention: Minimum fork-length 43 inches and maximum fork-length 54 inches.

(ii) May 1 through August 31: Closed.

(iii) Open September 1 through December 31: Catch and release only.

(j) From McNary Dam to the Old Hanford townsite wooden power line towers: Open year-round catch and release only.

(k) From the Old Hanford townsite wooden power line towers to Vernita Bridge: Open year-round catch and release only.

(l) From Vernita Bridge to Priest Rapids Dam:

(i) Open September 1 through April 30: Catch and release only.

(ii) May 1 through August 31: Closed.

(m) From Priest Rapids Dam to Chief Joseph Dam: Open year-round catch and release only.

(n) From Chief Joseph Dam to Grand Coulee Dam and tributaries: Closed.

(o) Roosevelt Lake and tributaries: Closed.

(16) Snake River and tributaries:

(a) From the Snake River mouth (from the Burbank to Pasco railroad bridge) upstream to the downstream end of Goose Island: Open year-round catch and release only.

(b) From the downstream end of Goose Island upstream to Ice Harbor Dam:

(i) Open September 1 through April 30: Catch and release only.

(ii) May 1 through August 31: Closed.

(c) From Ice Harbor Dam upstream to the border with Oregon: Open year-round catch and release only.

(17) A violation of this section is an infraction, punishable under RCW 77.15.160, unless the person has harvested sturgeon. If the person has harvested sturgeon, the violation is punishable under RCW 77.15.380 Unlawful recreational fishing in the second degree—Penalty, unless the sturgeon are taken in the amounts or manner to constitute a violation of RCW 77.15.370 Unlawful recreational fishing in the first degree—Penalty—Criminal wildlife penalty assessment.

((9)) (18) It is unlawful to possess sturgeon taken with gear in violation of the provisions of this section. Possession of sturgeon

while using gear in violation of the provisions of this section is a rebuttable presumption that the sturgeon were taken with such gear. Possession of such sturgeon is punishable under RCW 77.15.380 Unlawful recreational fishing in the second degree—Penalty, unless the sturgeon are taken in the amounts or manner to constitute a violation of RCW 77.15.370 Unlawful recreational fishing in the first degree—Penalty—Criminal wildlife penalty assessment.