



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Washington Department of Fish and Wildlife

Permanent Rule Only

Effective date of rule:

Permanent Rules 09-167

31 days after filing.

Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

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

Yes No If Yes, explain:

Purpose: The Legislature created a new license limitation program in ESHB 1326 for the harvest and delivery of Pacific sardines into the state. The current emerging commercial fishery rules for sardine/pilchard no longer applied after this new law became effective on July 26, 2009. This proposal will extend the current harvest, bycatch, landing, and reporting requirements to the new licenses and incorporate federal coastal pelagic species regulations by reference.

Citation of existing rules affected by this order:

Repealed: WACs 220-88C-010, 220-88C-020, 220-88C-030, 220-88C-040, and 220-88C-050.

Amended:

Suspended:

Statutory authority for adoption: RCW 77.12.047 and RCW 77.04.020

Other authority :

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 09-14-100 on June 30, 2009 (date).

Describe any changes other than editing from proposed to adopted version: None to WAC 220-44-095. However, with this CR-103, we are adding a repealer for the WAC sections this new rule replaces.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____

Address: _____ fax () _____

e-mail _____

Date adopted: December 23, 2009

NAME (TYPE OR PRINT)

Philip Anderson

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 23, 2009

TIME: 1:58 PM

WSR 10-02-003

**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	<u>1</u>	Amended	_____	Repealed	<u>5</u>
Federal rules or standards:	New	<u>1</u>	Amended	_____	Repealed	<u>5</u>
Recently enacted state statutes:	New	<u>1</u>	Amended	_____	Repealed	<u>5</u>

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	<u>1</u>	Amended	_____	Repealed	<u>5</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>1</u>	Amended	_____	Repealed	<u>5</u>
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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	_____

NEW SECTION

WAC 220-44-095 Coastal sardine purse seine fishery--Harvest, landing, and reporting requirements--Gear. (1)(a) It is unlawful to possess, transport through the waters of the state, or deliver into any Washington port, Pacific sardine (*Sardinops sagax*) or other coastal pelagic species taken in violation of gear requirements and other rules published in Title 50, Part 660, Subpart I of the Code of Federal Regulations (CFR). These federal regulations govern commercial fishing for coastal pelagic species in the Exclusive Economic Zone off the coasts of Washington, Oregon, and California. Where the federal regulations refer to the fishery management area, that area is interpreted to include Washington state waters coterminous with the Exclusive Economic Zone. Updates to the federal regulations are published in the Federal Register. Discrepancies or errors between the CFR and Federal Register will be resolved in favor of the Federal Register. This chapter incorporates the CFR by reference and is based, in part, on the CFR. A copy of the federal rules may be obtained by contacting Lori Preuss at 360-902-2930, or going to the U.S. Government Printing Office's GPO Access web site (www.gpoaccess.gov). State regulations that are more restrictive than the federal regulations will prevail.

(b) The coastal sardine fishery season is open to purse seine fishing each year only from April 1st through December 31st. It is unlawful to take Pacific sardine in state waters except for the incidental take authorized by the coastal baitfish regulations.

(c) It is unlawful to retain any species that is taken incidental to sardine, except for anchovy, mackerel, and market squid (*Logligo opalescens*). Any salmon encircled in the purse seine must be released prior to completion of the set, and no salmon may be landed on the fishing vessel.

(d) It is unlawful to transfer sardine catch from one fishing vessel to another.

(e) It is unlawful to fail to have legal purse seine gear aboard the vessel making a sardine landing.

(f) It is unlawful to fail to deliver sardine landings to a shore-side processing facility.

(g) Once a delivery has commenced at a processing plant, all fish on board the vessel must be offloaded at that plant.

(h) It is unlawful to deliver more than fifteen percent cumulative weight of sardines for the purposes of conversion into fish flour, fish meal, fish scrap, fertilizer, fish oil, other fishery products, or by-products, for purposes other than human consumption or fishing bait used during the sardine fishery season.

(2) License owners must designate a vessel upon issuance or renewal of the license and must be identified as either the vessel

owner or primary license operator.

(3) Persons fishing under a Washington sardine purse seine fishery license or temporary annual fishery permit must:

(a) Carry an observer on board for any sardine fishing trip if requested by the department;

(b) Surrender up to five hundred sardines per vessel per trip if requested by department samplers for biological information; and

(c) Complete a department-issued logbook each month in which fishing activity occurs, and submit it to the department by the 15th day of the following month.

(4) Violation of reporting requirements under this section is punishable pursuant to RCW 77.15.280.

(5) Violation of gear, harvest, or landing requirements under this section is punishable pursuant to RCW 77.15.520.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 220-88C-010	Emerging commercial fishery-- Coastal pilchard fishery.
WAC 220-88C-020	Designation of the coastal pilchard fishery as an emerging commercial fishery.
WAC 220-88C-030	Eligibility to participate in the coastal pilchard fishery.
WAC 220-88C-040	Coastal pilchard fishery--Seasons and lawful catch.
WAC 220-88C-050	Coastal pilchard fishery--Observer and sampler coverage, logbook requirements.