



# 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 11-72**

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:** To clarify the description of lawful methods of providing an escape mechanism on commercial shellfish pots. This clarification will make the rule easier to enforce and will allow the escape mechanism to work as intended. Properly rigged escape mechanisms save shellfish that are trapped in lost and abandoned crab pots.

**Reasons supporting proposal:** This proposal will allow the Washington Department of Fish and Wildlife to protect the state's shellfish resources and enhance commercial and recreational harvesting opportunities.

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

Repealed:

Amended: WAC 220-52-035, Commercial shellfish pot gear – Escape mechanism required.

Suspended:

**Statutory authority for adoption:** RCW 77.04.012 and 77.12.047

**Other authority :**

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 11-05-042 on February 9, 2011 (date).

Describe any changes other than editing from proposed to adopted version: None

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:** April 15, 2011

**NAME (TYPE OR PRINT)**

Miranda Wecker

**SIGNATURE**

*Miranda Wecker*

**TITLE**

Chair, Washington Fish and Wildlife Commission

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: April 19, 2011**

**TIME: 2:07 PM**

**WSR 11-09-072**

**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:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	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 in the agency's own initiative:**

New	_____	Amended	<u>1</u>	Repealed	_____
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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:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	_____	Repealed	_____

AMENDATORY SECTION (Amending Order 06-38, filed 3/9/06, effective 4/9/06)

**WAC 220-52-035 Commercial shellfish pot gear--Escape mechanism required.** It is unlawful to fish for or possess crab, shrimp, or crawfish taken for commercial purposes with shellfish pot gear unless the gear allows for escapement using at least one of the following methods:

(1) Attachment of pot lid hooks or tiedown straps with a single strand or loop of untreated cotton twine or other natural fiber no larger than thread size 120 so that the pot lid will open freely if the twine or fiber is broken. It is permissible to use a single strand of cotton twine or other natural fiber tied together at the ends so that it can be looped between the tie down straps and the lid hook to connect them together.

(2) Providing an opening in the pot mesh no less than three inches by five inches ((which is)) and laced or sewn closed with one single strand of untreated cotton twine or other natural fiber no larger than thread size 120. The single strand of cotton may not be wrapped multiple times or doubled in any way when lacing or sewing the wire mesh closed. The opening must be located within the top half of the pot and be unimpeded by the entry tunnels, bait boxes, or any other structures or materials.