



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 12-61

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 purpose of this proposal is to amend several WAC sections to clarify rule titles and to align a WAC with previous Commission action taken in February 2012. WAC 220-16-230, 220-16-235, 220-16-275, 220-16-280, 220-130-010, and 232-13-010 are repealed, as they are outdated and unnecessary.

Reasons supporting proposal: This rule change proposal was discussed during the Fish and Wildlife Commission conference call on May 4, 2012. The Commission adopted the proposed changes during the May 18, 2012, conference call. The changes are part of an agency WAC overhaul project that will increase clarity, accuracy, and efficiency of the WDFW administrative code.

Citation of existing rules affected by this order:

Repealed: 220-16-230, 220-16-235, 220-16-275, 220-16-280, 220-130-010, and 232-13-010

Amended: WAC 220-56-129, 220-76-130, 220-77-081, 232-13-020.

Suspended:

Statutory authority for adoption: RCW 34.05.353(1)(c) and (e), 34.05.353(2)(c) and (d), and 77.12.047(1)(o).

Other authority : N/A

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 12-05-101 on February 21, 2012 (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: May 18, 2012

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: May 18, 2012

TIME: 10:46 AM

WSR 12-11-089

**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 in the agency's own initiative:

New	_____	Amended	<u>4</u>	Repealed	<u>6</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	_____

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-16-230	Geographical definitions--Outside Initiative 77 line.
WAC 220-16-235	Geographical definitions--Inside Initiative 77 line.
WAC 220-16-275	Geographical definitions--Village Point.
WAC 220-16-280	Geographical definitions--Clam and oyster districts.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-130-010 Purpose.

REPEALER

The following section of the Washington Administrative Code
is repealed:

WAC 232-13-010

Introduction.

AMENDATORY SECTION (Amending Order 10-64, filed 3/19/10, effective 5/1/10)

WAC 220-56-129 Unclassified freshwater invertebrates and fish. (1) Definitions. For purposes of this section, "freshwater clams and mussels" means all freshwater bivalves existing in Washington in a wild state, except prohibited aquatic animal species classified under WAC 232-12-090.

(2) It is unlawful for any person to take or possess freshwater clams and mussels taken for personal use. Freshwater clams and mussels include all bodily parts but does not include five pounds or less of relic shells of freshwater clams and mussels. A relic (dead) shell is defined as one which apparently died of natural causes and contains no meat or soft parts: It readily exhibits noticeable sediment, vegetation, algal or mineral stains, discolorations, soiling, weathering or other visual evidence on its interior surface which clearly and unambiguously shows the shell has not been cooked-out or freshly cleaned. No license or permit is required to take or possess up to five pounds of relic shells per day. It is unlawful to take or possess more than five pounds of relic shells without first obtaining a scientific collection permit.

(3) It is unlawful to retain any freshwater fish not classified as a food fish or game fish, with the exception of northern pike when taken in accordance with WAC 220-12-090.

(4) It is unlawful for any person to take, fish for or possess Pacific lamprey, western brook lamprey, or river lamprey taken for personal use.

(5) Violation of this rule is punishable under RCW 77.15.140.

AMENDATORY SECTION (Amending Order 07-293, filed 12/17/07, effective 1/17/08)

WAC 232-13-020 Declaration of purpose--Department lands. The primary purpose of department lands is the preservation, protection, perpetuation and management of fish and wildlife and their habitats. Public use of department lands may include fishing, hunting, fish and wildlife appreciation, and other outdoor recreational opportunities when compatible with healthy and diverse fish and wildlife populations.

AMENDATORY SECTION (Amending Order 02-309, filed 12/24/02, effective 7/1/03)

WAC 220-76-130 (~~(Marine finfish aquaculture--)~~) Aquaculture facility inspection authority--Marine finfish aquaculture.
Authorized department employees shall, at reasonable times and in a reasonable manner, have access to marine aquatic farming locations to conduct inspections to determine conformity with the law and the rules of the department relating to preventing escaped finfish and/or the recapture of escaped finfish. The department shall conduct at least annual inspections of marine finfish aquaculture facilities of the state.

AMENDATORY SECTION (Amending Order 01-281, filed 12/21/01, effective 1/21/02)

WAC 220-77-081 Aquaculture facility inspection authority--
Generally. Authorized department employees shall, at reasonable times and in a reasonable manner, have access to all finfish aquaculture facilities to conduct inspections for the prevention and suppression of aquaculture diseases, including, but not limited to, taking samples for detection of regulated finfish pathogens and other diseases. If the department is denied access, a court of competent jurisdiction may issue a search warrant authorizing access to the facility upon a showing that the facility is engaged in aquaculture production and that access has been denied.