



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 13-301

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: This proposed rule-making is to streamline, make technical changes to, and update rules in accordance with the WAC Overhaul Project currently underway. Outdated rules are also repealed. The Washington Department of Fish and Wildlife's (WDFW's) administrative code is in need of updating and consolidation. The agency's RCWs were combined and updated after the department of fisheries and the department of wildlife consolidated, but a consolidation, clean-up, and streamlining of the administrative codes was never done. These proposed changes are part of a larger effort to reorganize and update the agency's administrative code.

Reasons supporting proposal: This rule change proposal was discussed during the Fish and Wildlife Commission meeting and public hearing held on October 4, 2013. The proposed changes were adopted by the Commission at the November 8, 2013, Commission meeting. The changes promote increases in conservation and the availability of resources, and they reduce redundancy. The proposal is part of WDFW's WAC Overhaul Project to streamline, update, and reorganize WDFW's administrative code.

Citation of existing rules affected by this order:

Repealed: Chapter 220-85 WAC, WAC 220-28-010, and 232-12-099
Amended: WAC 220-47-001, 220-47-121, and 220-56-315
Suspended:

Statutory authority for adoption: RCW 77.04.012, 77.04.013, 77.04.055, and 77.12.047

Other authority :

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 13-14-118 on July 3, 2013.

Describe any changes other than editing from proposed to adopted version:

Some small editing changes were made from the proposed to the adopted version. However, these were all technical changes rather than substantive. Changes include amending WAC titles for uniformity, correcting a few errors, and making minor word changes/additions for clarity. Additionally, the department withdrew the proposed amendments to WAC 220-56-112 and the repeal of WAC 232-12-082 from WSR 13-14-118 (withdrawal notice filed as WSR 14-01-052) to allow for a comprehensive rewrite of related rules at a later date.

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: November 8, 2013

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: December 12, 2013

TIME: 3:04 PM

WSR 14-01-056

**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	<u>0</u>	Amended	<u>3</u>	Repealed	<u>12</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 chapter of the Washington Administrative Code is repealed:

WAC 220-28-010 Emergency regulations.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 220-85-015 License moratorium review boards.
- WAC 220-85-030 Moratorium advisory review boards—Secretary and investigative assistance, place of hearings.
- WAC 220-85-040 Moratorium advisory review boards—Director's action on license applications—Reasons stated in writing.
- WAC 220-85-050 Moratorium advisory review boards—Who may appeal.
- WAC 220-85-060 Moratorium advisory review boards—Proceedings to be informal—Rules of evidence inapplicable—Record to be kept.
- WAC 220-85-070 Moratorium advisory review boards—Appeals—Requirements—Form for appeal.
- WAC 220-85-080 Moratorium advisory review boards—Appeals—Time for scheduling hearings—Conduct of hearings.
- WAC 220-85-090 Moratorium advisory review boards—Decisions by advisory review board—Form and content.
- WAC 220-85-100 Moratorium advisory review boards—Decision on appeal by director.
- WAC 220-85-110 Moratorium advisory review boards—Appeals—Information procedures optional.

WAC 220-56-315 Personal use crab, shrimp, crawfish—Unlawful acts. (1) It is unlawful to take and possess crab, shrimp, and crawfish taken for personal use except by hand or with hand dip nets, ring nets, shellfish pots, or any hand-operated instrument that will not penetrate the shell. A violation of this subsection is a misdemeanor, punishable under RCW 77.15.380 or 77.15.382 depending on the circumstances of the violation.

(2) It is unlawful to set, fish, or pull more than 2 units of gear at any one time ~~((except+))~~, unless otherwise provided in this subsection. A violation of this subsection is punishable under RCW 77.15.160, Infractions, or RCW 77.15.380, Unlawful recreational fishing in the second degree—Penalty, depending on the circumstances of the violation.

(a) In Puget Sound waters, it is unlawful to set, fish, or pull at any one time more than 2 units of crab gear and 2 additional units of shrimp gear.

(b) In Catch Record Card Areas 4 through 13, it is unlawful for the operator of any boat from which shrimp pots are set, fished, or pulled ((in Catch Record Card Areas 4 through 13)) to have on board or to fish more than 4 shrimp pots.

(c) In the Columbia River, it is unlawful to set, fish, or pull more than 3 units of crab gear ((in the Columbia River)).

(d) In fresh water, it is permissible to use up to 5 units of gear to fish for crawfish ((in fresh water)).

(3) It is unlawful for any person to operate a shellfish pot not attached to a buoy bearing that person's name, except that a second person may assist the pot owner in operation of the gear. A violation of this subsection is a misdemeanor, punishable under RCW 77.15.382, Unlawful use of shellfish gear for personal use purposes—Penalty.

(4) It is unlawful to salvage or attempt to salvage shellfish pot gear from Hood Canal that has been lost ~~((without))~~, unless the person first ((obtaining)) obtains a permit((7)) issued by the director, authorizing that activity. A violation is punishable under RCW 77.15.180, Unlawful interference with fishing or hunting gear—Penalty. It is unlawful to fail to comply with all provisions of ((the)) a permit authorizing the salvage of gear from Hood Canal. A violation of this subsection is ((a misdemeanor, punishable under RCW 77.15.382 Unlawful use of shellfish gear for personal use purposes—Penalty)) RCW 77.15.750, Unlawful use of a department permit—Penalty.

(5) It is unlawful to dig for or possess ghost or mud shrimp taken for personal use by any method except hand operated suction devices or dug by hand. A violation of this subsection is ((a misdemeanor, punishable under RCW 77.15.382 Unlawful use of shellfish gear for personal use purposes—Penalty)) punishable under RCW 77.15.160, Infractions, or RCW 77.15.380, Unlawful recreational fishing in the second degree—Penalty, depending on the circumstances of the violation.

(6) It is unlawful to have more than one unit of unattended gear attached to a buoy line or to fail to have a separate buoy for each unit of gear. "One unit of gear" means one ring net or one shellfish pot. A violation of this subsection is a misdemeanor, punishable under RCW 77.15.382, Unlawful use of shellfish gear for personal use purposes—Penalty.

(7) In waters open only on certain days or certain hours during the day, except for those waters affected by the night closure set out in subsection ((+9+)) (8) of this section, it is unlawful to fail to remove gear from the water ~~((when))~~ if fishing for shellfish is not allowed. It is also unlawful to fail to remove gear from the water ~~((by))~~ within one hour after sunset if fishing is not allowed on the next calendar day. In waters that are open continuously, except for those waters affected by the night closure set out in subsection ((+9+)) (8) of this section, gear may be left in the water during ~~((the))~~ a night closure. A violation of this subsection is ((a misde-
meanor,)) punishable under RCW 77.15.160, Infractions, or RCW 77.15.380, Unlawful recreational fishing in the second degree-Penalty, depending on the circumstances of the violation.

(8) It is unlawful to set or pull shellfish pots, ring nets or star traps from a vessel in Catch Record Card Areas 1-13 from one hour after official sunset to one hour before official sunrise. A violation of this subsection is ((a misdemeanor,)) punishable under RCW 77.15.160, Infractions, or RCW 77.15.380, Unlawful recreational fishing in the second degree-Penalty, depending on the circumstances of the violation.

AMENDATORY SECTION (Amending WSR 07-20-006, filed 9/20/07, effective 10/21/07)

WAC 220-47-001 Puget Sound salmon-Quick reporting. All Puget Sound salmon fisheries are designated as "quick reporting required" fisheries, and commercial purchasers and receivers must comply with the provisions of WAC 220-69-240(~~(+12+)~~) (14).

AMENDATORY SECTION (Amending WSR 84-13-078, filed 6/21/84)

WAC 220-47-121 Treaty Indian gear identification. It (~~shall be~~) is unlawful for any person exercising (~~his or her~~) treaty Indian fishing rights at adjudicated usual and accustomed grounds and stations within the Point No Point, Makah, Quinault, Medicine Creek, and Point Elliott treaty areas to leave any gear unattended unless there is affixed to it an identification tag of tribal affiliation and (~~specific fisherman~~) the person's valid treaty Indian identification number.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-12-099 Treaty Indian fishing gear
identification.