

Summary

Meeting dates: April 9-10, 2015

Agenda item: Technical Amendments to Recreational Fishing Rules - Briefing and Public Hearing

Presenter(s): Joanna Eide, Criminal Justice Liaison/Rules Coordinator

Background summary: This proposal is part of an ongoing effort to ensure rule accuracy, clarity, and uniformity. Changes to several recreational fishing rules are needed due to recent sport rules changes, and due to the splitting and renumbering of former WAC 232-28-619 (now WAC 220-310-175 through 220-310-200). Other technical edits to reflect changes in names of species and size restrictions as well as differentiate between Dolly Varden and bull trout are made to ensure the functionality and enforceability of rules. A reference to the former Department of Fisheries is also corrected. Proposed amendments to the following rules are included in this rule making:

- WAC 220-56-100, Definitions—Personal-use fishing;
 - WAC 220-56-112, Sampling data and tag recovery;
 - WAC 220-56-115, Angling gear—Lawful and unlawful acts;
 - WAC 220-56-175, Catch record cards;
 - WAC 220-56-500, Game fish seasons—General rules; and
 - WAC 232-12-166, Northern squawfish sport-reward fishery Columbia and Snake rivers.
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Policy issue(s) you are bringing to the Commission for consideration: Proposed changes to rules in this package are technical in nature and do not involve policy changes.

Public involvement process used and what you learned: The Department filed the proposed changes in the Washington State Register and followed the notification and posting requirements under the Administrative Procedure Act (Chapter 34.05 RCW). A public hearing will be held at the April Fish and Wildlife Commission meeting.

Action requested: None.

Draft motion language: N/A.

Justification for Commission action: Department rules should be clear and accurate. This rule proposal makes technical edits to ensure rule clarity, accuracy, and functionality.

Communications Plan: This rule proposal is listed on the department's website on the Current Rule Making Activities page. The department sent notification of the rule change proposal to members of the public who expressed interest in receiving notification of proposed rule changes. Because this proposal is technical in nature, no extensive formal communications plan was necessary. The department will hold a public hearing at the April Fish and Wildlife Commission Meeting and receive public comments at that time as well.



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Washington Department of Fish and Wildlife

- Preproposal Statement of Inquiry was filed as WSR 14-17-120 on 08/20/14;
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).

- Original Notice
 Supplemental Notice to WSR _____
 Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject) Amendments to recreational fishing rules – technical edits for clarity and accuracy.

WAC 220-56-100, Definitions—Personal-use fishing;
WAC 220-56-112, Sampling data and tag recovery;
WAC 220-56-115, Angling gear—Lawful and unlawful acts;
WAC 220-56-175, Catch record cards;
WAC 220-56-500, Game fish seasons—General rules; and
WAC 232-12-166, Northern squawfish sport-reward fishery Columbia and Snake rivers.

Hearing location(s):

Capital Events Center
6005 Tye Drive SW
Tumwater, WA 98512

Date: April 9-10, 2015 Time: 8:30 a.m.

Submit written comments to:

Name: Joanna Eide, WDFW Rules Coordinator
Address: 600 Capitol Way N
Olympia, WA 98501-1091
E-mail: Rules.Coordinator@dfw.wa.gov
Fax (360) 902-2155 by (date) April 3, 2015

Assistance for persons with disabilities:

Contact Tami Lininger by March 27, 2015
TTY (800) 833-6388 or (360) 902-2267

Date of intended adoption: On or after April 17, 2015
(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This rule proposal makes technical changes and edits to update recreational fishing rules to ensure rule clarity, accuracy, and functionality.

Reasons supporting proposal: WDFW needs these changes to increase efficiency, functionality, and clarity of the rules within WDFW’s administrative code. The changes also update rules, removing a reference to the former Department of Fisheries and correcting the reference to “Northern squawfish” in WAC 232-12-166 to the correct name for the fish: “Northern pikeminnow.” The proposal is part of WDFW’s larger efforts in the WAC Overhaul Project to streamline, update, and reorganize WDFW’s administrative code.

Statutory authority for adoption: RCW 77.04.012, 77.04.055, 77.12.045, and 77.12.047.

Statute being implemented: RCW 77.04.012, 77.04.055, 77.12.045, and 77.12.047.

Is rule necessary because of a:

- Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No
If yes, CITATION:

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: March 04, 2015

TIME: 9:41 AM

WSR 15-06-062

DATE
March 4, 2015

NAME (type or print)
Joanna Eide

SIGNATURE

TITLE
Rules Coordinator

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

This rule proposal will receive a public hearing at the April 9-10, 2015, Fish and Wildlife Commission public meeting. More information on the agenda for the meeting, including the public hearing and briefing on this proposal, is available at <http://wdfw.wa.gov/commission/meetings/2015/index.html>.

Name of proponent: (person or organization) Washington Department of Fish and Wildlife

- Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting.....	Joanna Eide	1111 Washington St. SE, Olympia, WA 98501	(360) 902-2403
Implementation....	Joanna Eide	1111 Washington St. SE, Olympia, WA 98501	(360) 902-2403
Enforcement.....	Steve Crown	1111 Washington St. SE, Olympia, WA 98501	(360) 902-2373

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone

fax

e-mail

No. Explain why no statement was prepared.

These rule changes address recreational fishing rules and are technical in nature; they do not impact small business.

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 () _____

e-mail _____

No: Please explain: This proposal does not involve hydraulics.

WAC 220-56-100 Definitions—Personal-use fishing. The following definitions apply to personal use fishing rules in Titles 220 and 232 WAC:

(1) "Anadromous game fish" means steelhead, sea-run cutthroat trout, and sea-run Dolly (~~Varden/bull~~) Varden and bull trout.

(2) "Anti-snagging rule" means:

(a) Except when fishing with a buoyant lure (with no weights added to the lure or line) or trolling from a vessel or floating device, terminal fishing gear is limited to a lure or bait with one single point hook.

(b) Only single point hooks measuring not more than 3/4 inch from point to shank may be used and all hooks must be attached to or below the lure or bait.

(c) Weights may not be attached below or less than 12 inches above the lure or bait.

(3) "Bait" means any substance which attracts fish by scent or flavors. Bait includes any lure which uses scent or flavoring to attract fish.

(4) "Barbless hook" means a hook on which all barbs have been deleted when manufactured or filed off or pinched down.

(5) "Bass" means largemouth and smallmouth bass.

(6) "Bow and arrow fishing" means any method of taking, or attempting to take, fish by the use of an arrow equipped with a barbed head and a line attached, and propelled by a bow, as in the sport of archery, while the fisher is above the surface of the water.

(7) "Buoy 10 line" means a true north-south line projected through Buoy 10 at the mouth of the Columbia River. "Buoy 10 fishery" means a fishery between a line in the Columbia River from Tongue Point in Oregon to Rocky Point in Washington and the Buoy 10 line.

(8) "Buoyant lure" means a lure that floats on the surface of freshwater when no additional weight is applied to the line or lure, and when not being retrieved by a line.

(9) "Channel Marker 13 line" means a true north-south line through Grays Harbor Channel Marker 13.

(10) "Daily limit" means the maximum number or pounds of fish, shellfish, or seaweed of the required size of a given species or aggregate of species which a person may retain in a single day.

(11) "Fresh" means fish or shellfish that are refrigerated, iced, salted, or surface glazed.

(12) "Freshwater area" means:

(a) Within any freshwater river, lake, stream or pond.

(b) On the bank or within 10 yards of any freshwater river, lake, stream or pond.

(c) On or within any boat launch, ramp, or parking facility associated with any freshwater river, lake, stream or pond.

(13) "Frozen" means fish or shellfish that are hard frozen throughout.

(14) "Gaffing" means an effort to take fish by impaling the fish with a hook attached directly to a pole or other device.

(15) "Hatchery" when used to describe the difference between a hatchery fish and a nonhatchery fish, except salmon, means a fish having a clipped adipose fin or a clipped ventral fin with a healed scar

at the location of the clipped fin. A hatchery salmon is a salmon having a clipped adipose fin and a healed scar at the location of the clipped fin, regardless of whether the fish is missing a ventral fin.

(16) "Hook" means one single point, double or treble hook. A "single point hook" means a hook having only one point. A "double hook" means a hook having two points on a common shank. A "treble hook" means a hook having three points on a common shank.

(17) "Hook and line" or "angling" (~~shall be~~) are identical in meaning and, except as provided in WAC 220-56-115, (~~shall be~~) are defined as the use of not more than one line with three hooks attached to a pole held in hand while landing fish, or the use of a hand operated line without rod or reel, to which may be attached not more than three hooks. When fishing for bottom fish, "angling" and "jigging" (~~shall be~~) are identical in meaning.

(18) "In the field or in transit" means at any place other than at the ordinary residence of the harvester. An ordinary residence is a residential dwelling where a person normally lives, with associated features such as address, telephone number, utility account, etc. A motor home or camper parked at a campsite or a vessel are not considered to be an ordinary residence.

(19) "Juvenile" means a person under fifteen year of age.

(20) "Lure" means a manufactured article constructed of feathers, hair, fiber, wood, metal, glass, cork, leather, rubber or plastic which does not use scent or flavoring to attract fish. "Nonbuoyant lure" means a lure complete with hooks, swivels or other attachments, which does not float in freshwater.

(21) "Night closure" means closed to fishing from one hour after official sunset to one hour before official sunrise.

(22) "Opening day of lowland lake season" means the fourth Saturday in April.

(23) "Possession limit" means the number of daily limits allowed to be retained in the field or in transit.

(24) "Processed" means fish or shellfish which have been processed by heat for human consumption as kippered, smoked, boiled, or canned.

(25) "Steelhead license year limit" means the maximum number of steelhead trout any one angler may retain from April 1st through the following March 31st.

(26) "Selective gear rules" means terminal fishing gear is limited to artificial flies with barbless single hooks or lures with barbless single hooks and bait is prohibited. Up to three hooks may be used. Only knotless nets may be used to land fish. In waters under selective gear rules, fish may be released until the daily limit is retained.

(27) "Slough" means any swamp, marsh, bog, pond, side-channel, or backwater connected to a river by water. Waters called sloughs that are not connected to a river are considered lakes.

(28) "Snagging" means an effort to take fish with a hook and line in a manner that the fish does not take the hook or hooks voluntarily in its mouth.

(29) "Spearing" or "spear fishing" means an effort to take fish or shellfish by impaling the fish or shellfish on a shaft, arrow or other device.

(30) "Stationary gear restriction" means the line and weight and lure or bait must be moving while in the water. The line and weight and lure or bait may not be stationary.

(31) "Steelhead" means sea-run rainbow trout over twenty inches in length.

(32) "Trolling" means a method of fishing from a vessel or floating device that is underway and under power.

(33) "Unmarked salmon" means a salmon with intact adipose and ventral fins.

(34) "Trout" means brown trout, bull trout, cutthroat trout, Dolly Varden, Eastern brook trout, golden trout, grayling, Kokanee (silver trout), lake trout, rainbow trout, tiger trout, and, in WAC ((~~232-28-619~~)) 220-310-175 through 220-310-200, salmon from waters designated as "landlocked salmon rules apply."

(35) "Whitefish gear rules" means terminal fishing gear is restricted to one single hook, maximum hook size three-sixteenths inch point to shank (hook size 14), and bait is allowed. All species: Release all fish except whitefish.

(36) "Wild" when used to describe the difference between a hatchery fish and a nonhatchery fish, except salmon, means a fish with all fins intact.

(37) "Wild" when used to describe a salmon (Chinook, coho, chum, pink or sockeye), means a salmon with an unclipped adipose fin, regardless of whether the fish is ventral fin-clipped. A salmon with a clipped adipose fin and a healed scar at the site of the clipped fin is not a wild salmon.

(38) "Wild cutthroat release" means it is unlawful to retain any cutthroat trout that does not have a clipped adipose fin and a healed scar at the location of the clipped fin.

(39) "Wild steelhead release" means it is unlawful to retain any steelhead that does not have a clipped adipose or ventral fin and a healed scar at the location of the clipped fin.

AMENDATORY SECTION (Amending WSR 82-07-047, filed 3/18/82)

WAC 220-56-112 Sampling data and tag recovery. It is unlawful for any person to fail to comply with the directions of authorized department ((~~of fisheries~~)) personnel related to the collection of sampling data or material from salmon or other food fish. It is also unlawful for any person to fail to relinquish upon request to the department any fish tag or any part of a salmon or other food fish containing coded wire tags, including but not limited to, the snouts of those salmon that are marked by having clipped adipose fins.

AMENDATORY SECTION (Amending WSR 13-06-070, filed 3/6/13, effective 4/6/13)

WAC 220-56-115 Angling gear—Lawful and unlawful acts. (1) It is unlawful for any person to use more than one line while angling for personal use, except:

(a) Anglers in possession of a valid two-pole endorsement may use up to two lines while fishing in lakes, ponds, and reservoirs open to fishing unless listed as an exception in WAC 220-55-220. Anglers in

possession of a valid two-pole endorsement may use up to two lines while fishing in rivers and marine areas as noted in WAC 220-55-220 and (~~232-28-619~~) 220-310-175 through 220-310-200.

(b) A second line using forage fish jigger gear is permissible while fishing in Catch Record Card Areas 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12, and 13.

(c) When fishing outside 3 miles from shore in Pacific Ocean waters for tuna species, anglers are not restricted on the number of rods or lines fished per angler, provided that no other species are possessed onboard the vessel. A violation of this subsection is an infraction, punishable under RCW 77.15.160, Infractions.

(2) It is unlawful for any person to take, fish for, or possess fish taken for personal use by any means other than angling with a line attached to a pole held in hand while landing the fish or with a hand-operated line without rod or reel, except:

(a) It is unlawful to fish for or possess salmon taken for personal use with hand lines in marine waters of Puget Sound east of the mouth of the Sekiu River and in Washington waters at the mouth of the Columbia River east of a line projected true north and south through Buoy 10, Grays Harbor, and Willapa Bay.

(b) It is permissible to leave a pole in a pole holder while playing or landing the fish if the pole is capable of being readily removed from the pole holder.

(c) It is permissible to use an electric power-operated reel designed for sport fishing attached to a pole.

(3) It is unlawful for any person while angling to fail to keep his angling gear under his or her direct and immediate physical control.

(4) In areas where a saltwater license is valid, each fisher aboard a vessel may continue to deploy angling gear or shellfish gear until the daily limit of food fish or shellfish for all licensed anglers and juvenile anglers aboard has been retained.

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

(6) It is unlawful to possess fish or shellfish taken with gear in violation of the provisions of this section. Possession of fish or shellfish while using gear in violation of the provisions of this section is a rebuttable presumption that the fish or shellfish were taken with such gear. Possession of such fish or shellfish is punishable under RCW 77.15.380, Unlawful recreational fishing in the second degree—Penalty, unless the fish or shellfish are taken in the amounts or manner to constitute a violation of RCW 77.15.370, Unlawful recreational fishing in the first degree—Penalty.

WAC 220-56-175 Catch record cards. It is unlawful for any person to fail to comply with the catch record requirements as provided for in this section:

(1) ~~((In order to fish for or possess for personal use any Dungeness crab in Catch Record Card Area 4 east of the Bonilla-Tatoosh Line, and in Catch Record Card Areas 5-13,))~~ An angler must obtain and have in his or her personal possession a valid and appropriate Puget Sound Dungeness crab catch record card as described in WAC 220-69-236 to fish for or possess for personal use any Dungeness crab in Catch Record Card Area 4 east of the Bonilla-Tatoosh Line, and in Catch Record Card Areas 5-13.

(2) ~~((In order to fish for or possess for personal use any anadromous salmon, sturgeon, halibut, or steelhead,))~~ An angler must obtain and have in his or her personal possession a valid and appropriate catch record card as described in WAC 220-69-236 ~~((The only exception is for))~~ to fish for or possess for personal use any anadromous salmon, sturgeon, halibut, or steelhead except a catch record card is not required for:

(a) Commercially caught salmon retained for personal use, as provided ~~((for))~~ in WAC 220-20-016, and commercially caught sturgeon retained for personal use, as provided ~~((for))~~ in WAC 220-20-021 ~~((Also, a catch record card is not required for)); and~~

(b) Landlocked steelhead or for salmon in waters designated as "landlocked salmon rules apply" in WAC ~~((232-28-619))~~ 220-310-175 through 220-310-200.

(3) ~~((To validate their catch record cards,))~~ Anglers must completely, accurately, and legibly complete all personal identification information in ink on the catch record card before detaching the card from its underlying copy or, for automated licenses, affixing the appropriate validation sticker to the catch record card to validate a catch record card. A catch record card remains valid as long as there is one or more unfilled spaces available for the species being fished for, except:

(a) ~~((In the mainstem Columbia River downstream from where the river forms the common boundary between Oregon and Washington,))~~ A catch record card remains valid for catch-and-release sturgeon fishing when the sturgeon portion of the card is full in the mainstem Columbia River downstream from where the river forms the common boundary between Oregon and Washington.

(b) ~~((A person may not))~~ It is unlawful to use a second or subsequent catch record card to retain sturgeon ~~((and))~~ or wild steelhead after the first card is full.

(4) Immediately upon catching and possessing a salmon, steelhead, sturgeon or halibut, anglers must enter, in ink, in the appropriate space on the card, the place, date of catch, and species (catch type). For sturgeon, anglers also must record the length of the fish; for halibut, anglers also must record the vessel type; and for salmon, anglers also must indicate whether or not the fish was marked by having clipped adipose fins.

(5) Immediately upon retaining a Puget Sound Dungeness crab aboard a vessel or on the shore, ~~((a))~~ fishers must enter, in ink, in the appropriate space on the Puget Sound Dungeness crab catch record card, the place and date of catch, the fishery type, and a tally mark

for each Dungeness crab retained from each catch record card area fished. At the end of the fishing day, the fisher must enter the total number of crab tally marks for each fishery type.

(6)(a) Every person issued a catch record card must, by April 30 of the year after they used the card, return the card to the department of fish and wildlife. People issued a Puget Sound Dungeness crab catch record card must return the card to the Washington department of fish and wildlife or report the card information at the designated internet site by the dates indicated on the card.

(b) (~~Effective December 1, 2009, and thereafter,~~) Failure to return a Dungeness crab catch record card or to report the Dungeness crab catch record card information at the designated internet site by the dates indicated on the card will result in a ten-dollar administrative fee. The administrative fee will be collected from anglers when they acquire a subsequent Puget Sound Dungeness crab endorsement.

(7) Any person possessing a catch record card must show the card to any law enforcement officer or authorized department employee who asks to inspect the card.

(8) A catch record card must not be transferred, borrowed, altered, or loaned to another person, (~~unless pursuant to Substitute Senate Bill No. 6260, effective June 12, 2008~~) except as authorized under RCW 77.32.565.

AMENDATORY SECTION (Amending WSR 13-20-021, filed 9/23/13, effective 10/24/13)

WAC 220-56-500 Game fish seasons—General rules. It is unlawful to fish for game fish except during the seasons and times below.

(1) Freshwater lakes, ponds and reservoirs: Open year-round except as provided for in WAC (~~(232-28-619)~~) 220-310-175 through 220-310-200.

(2) Freshwater rivers, streams, and beaver ponds:

(a) Rivers, streams, and beaver ponds that drain into Puget Sound, the Strait of Juan de Fuca, Pacific Ocean (excluding the Columbia River), Grays Harbor, and Willapa Bay are closed to fishing for game fish unless otherwise provided (~~(for)~~) in department rule.

(b) All (~~other~~) rivers, streams, and beaver ponds listed in WAC 220-310-175 through 220-310-200: Open the first Saturday in June through October 31 except as otherwise provided for in WAC (~~(232-28-619)~~) 220-310-175 through 220-310-200.

(3) Saltwater (all waters downstream and seaward of the mouths of rivers and streams generally defined in WAC 220-16-245 and specifically defined in WAC 220-56-105): Open year-round, except:

(a) Lake Washington Ship Canal - Those waters of Area 10 west of the Lake Washington Ship Canal to a north-south line 175 feet west of the Burlington-Northern Railroad Bridge are closed waters.

(b) Toliva Shoal - Waters within 500 yards of the Toliva Shoal buoy are closed waters from June 16 through April 30.

(c) Freshwater Bay - Waters south of a line from Angeles Point westerly to Observatory Point are closed July 1 through October 31.

(d) Tulalip Bay - Waters of Tulalip Bay east of a line from Hermosa Point to Mission Point are closed waters.

(e) Agate Pass - Waters of Catch Record Card Area 10 west of a line from Point Monroe to Indianola and east of a line from Point Bolin to Battle Point are closed to game fish angling from January 1 through March 31; however, a person can fish with gear meeting the fly-fishing-only requirements of WAC 220-56-210 as long as he or she does not use lead-core fly line. It is unlawful to retain any fish taken during the period January 1 through March 31.

(f) Those waters of Hood Canal inshore from yellow marker buoys to the mouth of Finch Creek, and waters within the channel created when tidelands are exposed, are closed the entire year.

However, persons with disabilities who permanently use a wheelchair and who have a designated harvester card under WAC 220-55-065 may fish from the ADA-access site at the Hoodsport Salmon Hatchery, as long as such persons follow all department rules that apply to the adjoining waters of Marine Area 12.

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

WAC 232-12-166 Northern (~~squawfish~~) pikeminnow sport-reward fishery Columbia and Snake rivers. The Washington department of fish and wildlife shall administer a bounty voucher program for Northern (~~squawfish~~) pikeminnow (*Ptychocheilus oregonensis*) taken by legal fishing methods, in waters open to fishing, from the mouth of the Columbia River to the boundary markers 650 feet below the fish ladders at Priest Rapids Dam; from the mouth of the Snake River to the boat restricted zone below Hells Canyon Dam, and from the backwaters and sloughs as well as up to 400 feet into the tributaries of the reaches listed above on the Columbia and Snake rivers. (~~In addition,~~) The following requirements (~~shall~~) must be met to qualify for a voucher:

(~~(a)~~) (1) Each angler must register in person, prior to fishing, at one of the registration stations each fishing day. A fishing day is a 24-hour period from 9:01 p.m. through 9:00 p.m. of the following day;

(~~(b)~~) (2) Each angler, in person must exchange their eligible Northern (~~squawfish~~) pikeminnow for a voucher during the posted hours, and at the same registration station where the angler registered during the same fishing day;

(~~(c)~~) (3) Each Northern (~~squawfish~~) pikeminnow must be eleven inches or longer in total length and presented in fresh condition or alive;

(~~(d)~~) (4) Anglers (~~shall~~) must provide information regarding their catch as requested by department personnel at the registration site and mail in survey forms; and

(~~(e)~~) (5) Anglers (~~shall obtain~~) must possess a valid Washington state fishing license and must use a single rod, reel, and line with up to three hooks with no more than three points each.