



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 16-30

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 designate and provide regulations for a trial emerging commercial fishery for the commercial harvest of Pacific mackerel with purse seine gear. This proposal also anticipates advancement of the trial emerging fishery to an experimental emerging fishery. The effect of this rule is to establish a commercial fishery in federal waters for the harvest of Pacific mackerel with purse seine gear.

Citation of existing rules affected by this order:

Repealed:

Amended:

Suspended:

Statutory authority for adoption: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.045, 77.12.047, 77.65.400, 77.70.160, 77.70.170, 77.70.180

Other authority :

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 16-02-116 on January 6, 2016 (date).

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

New language was added to proposed new section, WAC 220-88F-030 (1) (c). Specifically, the phrase "prior to landing" was inserted into to this section. The effect of this change is to more clearly specify when the department-issued logbook is to be completed.

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: February 25, 2016

NAME (TYPE OR PRINT)

J W Unsworth

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: February 25, 2016

TIME: 1:33 PM

WSR 16-06-064

**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Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____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>3</u>	Amended	_____	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:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

Chapter 220-88F WAC
COASTAL DIRECTED MACKEREL PURSE SEINE FISHERY

NEW SECTION

WAC 220-88F-010 Designation of the coastal Pacific mackerel purse seine fishery as an emerging commercial fishery. (1) The director designates the coastal Pacific mackerel purse seine fishery as an emerging commercial fishery for which use of a vessel is required. It is unlawful to fish for, possess, or deliver Pacific mackerel taken for commercial purposes from Washington territorial waters west of the Bonilla-Tatoosh line or from waters of the Exclusive Economic Zone unless the fisher has a valid emerging commercial fishery license and a valid coastal Pacific mackerel purse seine trial or experimental fishery permit.

(2) The following licenses may not be used to fish for, possess, or deliver Pacific mackerel taken in Washington territorial waters west of the Bonilla-Tatoosh line or waters of the Exclusive Economic Zone: Shrimp trawl - Non-Puget Sound fishery license, ocean pink shrimp delivery license, coastal spot shrimp pot fishery license, non-limited entry delivery license, salmon troll delivery license, salmon delivery license, crab pot fishery license, Dungeness crab - Coastal fishery license.

NEW SECTION

WAC 220-88F-020 Emerging commercial fishery—Eligibility for coastal Pacific mackerel purse seine fishery permits—Terms and conditions of use—Renewal—Vessel restriction. (1) No individual may hold more than one Washington coastal Pacific mackerel purse seine trial or experimental fishery permit.

(2) Coastal Pacific mackerel fishery permits are not transferable. Only the vessel designated on the emerging commercial fishery license and Pacific mackerel fishery permit may be used to fish for or deliver Pacific mackerel in the directed Pacific mackerel fishery.

(3) Coastal Pacific mackerel fishery permits may be revoked by the director, and future permits denied by the director, for failure to comply with conditions specified in the permits or violations of other fishing regulations. A coastal Pacific mackerel fishery permit will not be renewed if the emerging commercial fishery license is revoked or future fishing privileges of the licensee are suspended.

(4) Coastal Pacific mackerel fishery permits are only valid for the year issued and expire on December 31st of the year issued.

NEW SECTION

WAC 220-88F-030 Coastal Pacific mackerel purse seine fishery—Harvest, landing, and reporting requirements—Gear. (1) Licensing, harvest, and reporting requirements. It is unlawful for persons fishing under a Washington trial or experimental Pacific mackerel purse seine fishery permit to fail to:

(a) Carry an observer onboard for any Pacific mackerel fishing trip if requested by the department;

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

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

(2) Possession, transport, and seasons.

(a) It is unlawful to possess, transport through the waters of the state, or deliver into any Washington port, Pacific mackerel or other coastal pelagic species taken in violation of rules published in Title 50, Part 660, Subpart I of the Code of Federal Regulations (C.F.R.) including, but not limited to: Annual specifications, closure of directed fishery, catch restrictions, gear requirements. 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 C.F.R. and Federal Register will be resolved in favor of the Federal Register. This chapter incorporates the C.F.R. by reference and is based, in part, on the C.F.R. State regulations that are more restrictive than the federal regulations will prevail.

(b) It is unlawful to fish for or possess Pacific mackerel taken with any gear other than purse seine gear, except Pacific mackerel taken incidentally in fisheries authorized by federal rule, from offshore waters except during the directed sardine fishery season or the directed Pacific mackerel fishery season open each year from April 1st through December 31st.

(c) It is unlawful to take Pacific mackerel in state waters except for the incidental take as authorized by the coastal baitfish regulations.

(d) It is unlawful to retain any species that is taken incidental to Pacific mackerel, except for other mackerel species, jack mackerel, sardine, anchovy, and market squid (*Logligo opalescens*). It is unlawful to retain, possess or deliver, anchovy in excess of 5 metric tons in one day, and in excess of 10 metric tons during any calendar week beginning 12:01 a.m. Sunday through 11:59 p.m. Saturday.

(e) It is unlawful to fail to release any salmon encircled in the purse seine prior to completion of the set or to land or retain salmon on the fishing vessel.

(f) It is unlawful to transfer Pacific mackerel catch from one fishing vessel to another.

(3) Landing and delivery.

(a) It is unlawful to fail to have legal purse seine gear as defined by department rule aboard a vessel making a Pacific mackerel landing.

(b) It is unlawful to fail to deliver Pacific mackerel landings to a processing facility located on shore.

(c) It is unlawful to land fish at more than one processing facility and to fail to offload all fish onboard the vessel once the delivery commences at the time of landing.

(d) It is unlawful to deliver in total more than fifteen percent cumulative weight of Pacific mackerel for the purposes of conversion into fish flour, fish meal, fish scrap, fertilizer, fish oil, other fishery products, or by-products, or for purposes other than human consumption, or fishing bait taken during the directed Pacific mackerel and/or directed sardine fishery season(s).

(4) A violation of the reporting requirements provided in this section is punishable under RCW 77.15.630 Unlawful fish and shellfish catch accounting—Penalty.

(5) A violation of the gear requirements provided in this section is punishable under RCW 77.15.520 Commercial fishing—Unlawful gear or methods—Penalty.

(6) A violation of the harvest or landing requirements provided in this section is punishable under RCW 77.15.550 Violation of a commercial fishing area or time—Penalty.