



**RULE-MAKING ORDER  
PERMANENT RULE ONLY**

**CR-103P (August 2017)  
(Implements RCW 34.05.360)**

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: August 21, 2017

TIME: 8:57 AM

WSR 17-17-109

**Agency:** Washington Department of Fish & Wildlife

**Effective date of rule:**

**Permanent Rules**

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 the rule changes and recodification of selected regulations is to streamline and clarify rules related to people with disabilities who hunt and fish and to ensure compliance with the Americans with Disabilities Act (ADA) Title II and Section 504 of the Rehabilitation Act.

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

New:

Repealed:

Amended: WACs 220-413-130, 220-413-140, 220-413-150, 220-310-150, 220-220-240

Suspended:

**Statutory authority for adoption:** RCW 77.04.020, 77.12.045, and 77.12.047

**Other authority:** None

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

Adopted under notice filed as WSR 17-13-077 on June 16, 2017 (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:

Address:

Phone:

Fax:

TTY:

Email:

Web site:

Other:

**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Federal statute:	New	Amended	Repealed	_____
Federal rules or standards:	New _____	Amended _____	Repealed	_____
Recently enacted state statutes:	New _____	Amended _____	Repealed	_____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New	_____	Amended	_____	Repealed	_____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>5</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	Repealed	_____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:**

Negotiated rule making:	New	Amended	Repealed	_____
Pilot rule making:	New	Amended	Repealed	_____
Other alternative rule making:	New	Amended	Repealed	_____

**Date adopted:** August 4, 2017

**Name:** Brad Smith

**Title:** Director

**Signature:**



**WAC 220-310-150 Fly fishing.** (1) It is unlawful to fish in waters restricted to "fly fishing only" with the use of:

(a) A fixed spool reel.

(b) Fishing line other than conventional fly line or conventional "Tenkara" fly line, except that other line may be used for backing and leader if it is attached to not less than 25 feet of conventional fly line.

(c) Hooks that exceed 1/2 inch when measured from point to shank.

(d) Not more than two flies each with a barbless single hook.

(e) Bait.

(f) Weight attached to the leader or line.

(2) Only knotless nets may be used to land fish in waters restricted to "fly fishing only."

(3)(a) A violation of gear restrictions in subsection (1) or (2) of this section is an infraction, punishable under RCW 77.15.160, unless the person possesses fish taken with prohibited gear.

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

(4) "Fly" means a lure on which thread, feathers, hackle, foam, rubber, or yarn cover a minimum of half the shank of the hook. Metallic colored tape, metal wire, metal tape, tinsel, mylar, or beadeyes may be used as an integral part of the design of the fly pattern.

~~((5) Notwithstanding the provisions of this section, persons who have a permanent disability that significantly limits the use of one or both upper extremities may use spinning gear and may fish from a floating device equipped with an electric motor in lakes where fishing from a floating device is allowed in fly fishing only waters as provided for in this section.~~

~~(a) A fisher with a disability must apply for a fly fishing special use permit by presenting a letter from a physician stating that the fisher's disability is permanent and that, because of the inability to use one or both upper extremities, the fisher is physically incapable of using conventional fly fishing gear.~~

~~(b) The fisher will be issued a fly fishing special use permit in the form of a wearable tag. The fisher must have the special use permit in his or her possession at all times while using spin casting gear in fly fishing only waters, and may display the permit on outer clothing.~~

~~(c) It is permissible for persons in possession of a fly fishing special use permit to use the following gear:~~

~~(i) Fishers may use spin casting gear with a casting bubble.~~

~~(ii) Monofilament line with no limit on the breaking strength of the line.~~

~~(iii) Hook size and barb restrictions, fishing fly requirements, and bait and weight prohibitions as provided for in this section apply to both conventional fly fishing and spin bubble fly fishing.))~~

**WAC 220-413-140 Hunting of game birds and animals by persons with a disability.** (1) Definitions:

(a) "Hunter with a disability" means a person with a permanent disability who possesses a disabled hunter permit issued by the department.

(b) "Disabled hunter permit" means a permit, card, or endorsement to a license issued by the department to any person with a permanent disability who applies to the department and presents such evidence as the director may require showing that the applicant is a person with a qualifying disability.

(i) Upon approval of the application, the department will issue a vehicle identification placard.

(ii) A designated hunter companion card will be issued to the holder of a disabled hunter permit along with the issuance of a hunting license.

(c) "Designated hunter companion" means a designated person who only assists (~~or acts on behalf of a hunter with a disability in the~~) with that physical function the hunter with a disability is unable to perform, such as stalking, shooting, tracking, retrieving, or the tagging of game birds and game animals.

(d) "Designated hunter companion card" means an identification card issued by the department to a hunter with a disability for use by another person in assisting or acting on the behalf of the hunter with a disability while engaging in hunting activities.

(e) "Accompany" means the hunter with a disability and the designated hunter companion are in the physical presence of each other, not to exceed a 1/4-mile separation. While stalking or shooting an animal, the hunter with a disability and the designated hunter companion must have a form of reliable and direct communication.

(2) It is unlawful for a hunter with a disability to fail to obtain all required licenses, tags, or stamps before hunting.

(3) It is unlawful for a designated hunter companion to assist a hunter with a disability unless the designated hunter companion has the designated hunter companion card on his or her person. A designated hunter companion must have a valid hunting license issued by Washington state or another state.

(a) The designated hunter companion must accompany the hunter with a disability when stalking or shooting game on behalf of the hunter with a disability.

(b) The designated hunter companion does not need to accompany the hunter with a disability while tracking an animal wounded by either hunter, or while tagging or retrieving a downed animal on behalf of the hunter with a disability.

(4) It is unlawful for the hunter with a disability or the designated hunter companion to fail to:

(a) Immediately cut, notch, or date any required tag upon harvesting a game bird or animal; and

(b) Affix the tag to the carcass of the game bird or animal as soon as reasonably possible after killing the game.

(5) A violation of subsection (2), (3), or (4) of this section is punishable under RCW 77.15.400, 77.15.410, 77.15.430, or 77.15.750 or other statutes under chapter 77.15 RCW depending on the circumstances of the violation.

(6) Game birds or game animals killed, tagged or retrieved by a designated hunter companion on behalf of a hunter with a disability do not count against the designated hunter companion's bag or possession limit.

(7) It is unlawful for a hunter with a disability to possess a loaded firearm in a motor vehicle, or shoot from a motor vehicle, unless the vehicle is stopped, the vehicle is removed from the maintained portion of the roadway, and the motor is turned off. A disabled hunter vehicle identification placard must be displayed and visible.

**WAC 220-220-240 ((Fishing for)) Harvesting of shellfish, ((freshwater)) food fish or ((saltwater)) game fish by persons ((of)) with a disability.** (1) Definitions:

(a) ~~((("Designated harvester" means a licensed fisher who accompanies a disabled fisher and assists the disabled fisher in the taking of shellfish, game fish or food fish.~~

~~(b) ("Disabled fisher")) "Harvester with a disability" means a person ((of)) with a permanent disability who possesses a valid ((fishing license or shellfish license)) disabled harvester permit issued by the department((. A disabled fisher must have all required licenses and catch record cards before fishing.~~

~~(c) "Disabled");~~

(b) "Disabled harvester permit" means a permit, card, or endorsement to a license issued by the department to any person with a permanent disability who applies to the department and presents such evidence as the director may require showing that the applicant is a person with a qualifying disability;

(i) A designated harvester companion card will be issued to the holder of a disabled harvester permit along with the issuance of a harvesting license.

(c) "Designated harvester companion" means a designated person who only assists with that physical function the harvester with a disability is unable to perform during his or her recreational activity in the taking of shellfish, food fish, or game fish;

(d) "Designated harvester ((identification)) companion card" means ((a)) an identification card issued by the department to ((any person of)) a harvester with a disability ((who applies to the department and presents such evidence as the director may require showing that the applicant is a person of disability. Upon issuance of a disabled license, the department will also issue a designated harvester identification card.

~~(d) "Person of disability" means:~~

~~(i) A permanently disabled person who is not ambulatory over natural terrain without a prosthesis or assistive device; or~~

~~(ii) A permanently disabled person who is unable to hold or use any legal fishing or shell fishing device; or~~

~~(iii) A person who is totally blind or visually impaired.~~

~~This definition includes, but is not limited to, permanently disabled persons with upper or lower extremity impairments who have lost the use of one or both upper or lower extremities, or who have a significant limitation in the use of upper or lower extremities, or who have a diagnosed disease or disorder which substantially impairs or interferes with mobility of the use of upper extremities.~~

(e) "Visually impaired" means central visual acuity that does not exceed 20/200 in the better eye with corrective lenses, or the widest diameter of the visual field is no greater than 20 degrees)) for use by another person in assisting or acting on the behalf of the harvester with a disability while engaging in fishing or harvesting activities.

(2) It is unlawful for a harvester with a disability to fail to obtain all licenses, permits and catch record cards prior to fishing.

(3) The designated harvester companion, when accompanied by the ((disabled fisher)) harvester with a disability, may assist the ((dis-

~~abled fisher~~) harvester with a disability in taking shellfish, game fish and food fish or engage in the taking of shellfish, game fish, and food fish on behalf of the ~~((disabled fisher))~~ harvester with a disability.

~~((+3))~~ (4) It is unlawful for a designated harvester companion to assist a ~~((disabled fisher))~~ harvester with a disability unless the ~~((disabled fisher))~~ harvester with a disability is present and participating in the fishing activity~~(; except, the disabled fisher)~~, except:

(a) The harvester with a disability is not required to be present at the location where the designated harvester companion is harvesting shellfish for the ~~((disabled person))~~ harvester with a disability. The ~~((licensee))~~ harvester with a disability is required to be in the direct line of sight of the designated harvester companion who is harvesting shellfish for him or her, unless it is not possible to be in a direct line of sight because of a physical obstruction or other barrier. If such a barrier or obstruction exists, the ~~((licensee))~~ harvester with a disability is required to be within one-quarter mile of the designated harvester companion who is harvesting shellfish for him or her and must have a form of reliable and direct communication.

~~((+4))~~ (5) It is unlawful for a designated harvester companion to assist a ~~((disabled fisher))~~ harvester with a disability unless the designated harvester companion is licensed and has the designated harvester ~~((identification))~~ companion card on his or her person.

~~((+5))~~ (6) Shellfish, game fish or food fish harvested by a designated harvester companion on behalf of a ~~((disabled fisher))~~ harvester with a disability becomes part of the ~~((disabled fisher's))~~ harvester with a disability's bag or possession limit, and must be kept separate from the designated ~~((harvester's))~~ harvester companion's bag or possession limit.

(7) A violation of this section is punishable under RCW 77.15.380.

#### NEW SECTION

The following section of the Washington Administrative Code is decodified and recodified as follows:

Old WAC Number	New WAC Number
220-220-240	220-305-120

NEW SECTION

The following sections of the Washington Administrative Code are decodified and recodified as follows:

Old WAC Number	New WAC Number
220-413-130	220-200-170
220-413-150	220-200-160