



**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: May 04, 2018

TIME: 3:34 PM

WSR 18-11-022

Agency: Washington Department of Fish and Wildlife (WDFW) 18-91

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 proposal was to address long-standing confusion in the commercial fishing industry and in law enforcement concerning the regulation that allows deck hands to take home a small part of their catch for personal consumption during an open commercial fishery. Last year, the department was approached by representatives of the commercial salmon troller industry asking the department for more clarification regarding the amounts of commercial catch that can be utilized for personal use under the "take home" category. Furthermore, the department needed to more effectively enforce this regulation and provide the commercial fishing industry a clear rule and not be subject to a violation.

Based on outreach and discussion with representatives in the commercial fishing industry and the public, the department amended the rule only to clarify the amount of catch that can be taken home for personal consumption. The adopted rule does not increase the overall allowance of catch per vessel during an open commercial fishery, but simply clarifies the amount of catch that a deck hand can take home per trip and that it must have been harvested and accounted for consistent with all the applicable commercial fishery regulations.

Citation of rules affected by this order:

- New:
- Repealed:
- Amended: WAC 220-354-030
- Suspended:

Statutory authority for adoption: RCW 77.04.090 and RCW 77.04.130

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 18-01-095 on December 18, 2017 (date).
Describe any changes other than editing from proposed to adopted version: There were several non-substantive changes made to WAC 220-344-030 between the proposed rule and the final rule adopted by the Commission. They include the following:

- Changing the word "retain" to "possess" at the beginning of (1)(a);
- Adding the words "designated on the commercial fishing license" at the end of (1)(a)(i); and
- Adding the words "buyer or limited fish seller", correcting section "RCW 77.65.280" to "RCW 77.65.340", adding reference to RCW section "77.15.510" and adding the word "buyers" in (1)(c).

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 on the agency's own initiative:

New	___	Amended	1	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: March 18, 2018

Name: Brad Smith

Title: Chair, Fish and Wildlife Commission

Signature:



WAC 220-354-030 Sale and purchase of commercial caught salmon.

(1) It is unlawful for any person licensed to take salmon for commercial purposes as required under chapter 77.65 RCW to:

(a) ~~((Retain))~~ Possess for personal use more than ~~((the equivalent of one daily sport bag limit for the area being fished. All salmon taken under commercial license must be recorded on state of Washington fish receiving tickets. The daily limit and possession limit described in this subsection also apply to crew members of the licensed fishing vessel))~~ three salmon per landing and delivery, regardless of species, provided that:

(i) The commercial season is open for the species taken; and

(ii) The fish retained are lawful to possess when taken by the gear type for which the person is licensed to fish; and

(iii) The daily limit and possession limit described in this subsection also apply to crew members of the fishing vessel designated on the commercial fishing license.

(b) Fail to report and document all salmon taken during a commercial fishery on state of Washington fish receiving tickets, including fish retained for personal use.

~~((b))~~ (c) Sell any salmon ((he takes)) taken under such license to anyone other than a wholesale fish buyer located within or outside the state of Washington: ((Provided, That a person who is himself a wholesale fish buyer may sell his catch to individuals or corporations other than wholesale fish buyer)) Except that a person who is a wholesale fish buyer or limited fish seller under the provisions of RCW 77.65.340 or 77.15.510 may sell his catch to individuals or corporations other than licensed wholesale fish buyers.

~~((e))~~ (d) Sell, barter or attempt to sell or barter salmon eggs that have been removed from the body cavity of salmon unless all carcasses from which eggs have been removed are sold to the same buyer except this subsection does not apply to troll caught salmon or the eggs from such salmon.

~~((d))~~ (e) Discard salmon that may be lawfully retained except fishers may discard salmon that are unmarketable due to pinniped predation.

(2) It is unlawful for a wholesale fish buyer to purchase or attempt to purchase salmon eggs without also purchasing all male and female salmon taken by the fisher, including the salmon carcasses from which the eggs were removed.

(3) Violation of subsection (1)(a) of this section is punishable under RCW 77.15.550 Violation of commercial fishing area or time—Penalty.

(4) Violation of subsection (1)(b) of this section is punishable under RCW 77.15.280 Reporting of fish or wildlife harvest—Rules violation—Penalty.

(5) Violation of subsection (1)(c) of this section is punishable under RCW 77.15.620 Engaging in fish dealing activity—Unlicensed—Penalty.

(6) Violation of subsections (1)(d) and (2) of this section are punishable under RCW 77.15.260 Unlawful trafficking in fish, shellfish, or wildlife—Penalty.

(7) Violation of subsection (1)(e) of this section is punishable under RCW 77.15.170 Waste of fish and wildlife—Penalty.