



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: August 01, 2018

TIME: 9:24 AM

WSR 18-16-114

Agency: Washington Department of Fish and Wildlife (WDFW)

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 18-11-006 on May 2, 2018 ; or

Expedited Rule Making--Proposed notice was filed as WSR 18-15-068 on July 17, 2018; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject)

Amendments made to the following WACs:

WAC 220-220-020 Recreational license.

WAC 220-220-200 Valid catch record card.

WAC 220-310-010 Description of catch record cards and required information

WAC 220-310-020 Catch record cards

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
September 14-15, 2018	8:00 am	Natural Resource Building 1111 Washington St SE. Olympia, WA 98501	

Date of intended adoption: September 15, 2018 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Scott Bird, WDFW Rules Coordinator

Address: 43200, MS 43153, Olympia, WA 98504

Email: Rules.Coordinator@dfw.wa.gov

Fax: 360-902-2155

Other:

By (date)

Assistance for persons with disabilities:

Contact Dolores Noyes

Phone: (360) 902-2349

Fax: (360) 902-2179

TTY:

Email: Dolores.noyes@dfw.wa.gov

Other:

By (date) September 12, 2018

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The department needs to amend rules pertaining to Catch Record Cards based on passage of Engrossed Substitute Senate Bill 6127 during the 2018 legislative session and recent recommendations made by the Pacific Fishery Management Council, a federal administrative body.

Originally, the department filed a pre-proposal concerning these rules on May 2, 2018 (WSR 18-11-006) in anticipation of the passed legislation. Based on further changes recommended by the Pacific Fishery Management Council and the nature of the underlying proposed changes, the department filed an expedited rule making on July 17, 2018 (WSR 18-15-068). On July 25, 2018, a third party sent an e-mail to the department making several suggestions to the proposed rule changes filed in the

expedited rule making; he sought to further amend WAC 220-310-010(3)(c), and WAC 220-310-010(3)(c), and WAC 220-310-020(4) and (6)(a). The department has agreed to the changes to WAC sections 220-310-010(3)(c), and WAC 220-310-020(4) but not to his proposed changes to WAC 220-310-020(6)(a) as reflected in the attached proposed amendments.

In addition, a modification is being proposed to WAC 220-310-020(6)(a) to facilitate online catch reporting for species for which a catch record card is required. This mechanism is currently available only for the Puget Sound recreational Dungeness crab fishery; however, this modification would allow WDFW to expand that to include other species (e.g., salmon, steelhead, sturgeon, and halibut).

Because of the suggested changes to the department's proposed rules under the expedited rule making, the department is now filing this permanent rule proposal (CR-102) and scheduling a briefing and hearing for the public at the scheduled September 14-15 Commission meeting.

Reasons supporting proposal: The proposed changes to the current rules are necessary to make the rules consistent with request legislation passed in 2018 and recommendations made by the Pacific Fishery Management Council. The proposed modification to WAC 220-310-020(6)(a) would facilitate online catch reporting for species in addition to Puget Sound crab, which already has this capability. This would be a more convenient catch reporting method for anglers and could help increase compliance with catch reporting requirements.

Statutory authority for adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047

Statute being implemented: RCW 77.04.012, 77.04.020, 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:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Name of proponent: (person or organization) Washington Dept of Fish & Wildlife (WDFW) Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Michele Culver	1111 Washington St SE, Olympia WA	360-902-2182
Implementation:	Michele Culver	1111 Washington St SE, Olympia WA	360-902-2182
Enforcement:	Chief Steve Bear	1111 Washington St SE, Olympia WA	360-902-2373

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:

Other:

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:

TTY:

Email:

Other:

No: Please explain: This rule proposal does not affect hydraulics

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

RCW 34.05.310 (4)(b)
(Internal government operations)

RCW 34.05.310 (4)(e)
(Dictated by statute)

RCW 34.05.310 (4)(c)
(Incorporation by reference)

RCW 34.05.310 (4)(f)
(Set or adjust fees)

RCW 34.05.310 (4)(d)
(Correct or clarify language)

RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. _____

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

Date: August 1, 2018

Name: Scott Bird

Title: Rules Coordinator

Signature:

Scott Bird

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-310-010 Description of catch record cards and required information. (1) The department shall prepare and distribute a catch record card for the following:

- (a) Anadromous salmon (salmon);
- (b) Dungeness crab taken from Catch Record Card Area 4 east of the Bonilla-Tatoosh line and Catch Record Card Areas 5-13;
- (c) Halibut;
- (d) Steelhead; and
- (e) Sturgeon.

(2) Each catch record card shall contain space for the following information (~~(, which must be recorded prior to the catch record card being separated from the underlying copy of the catch record card)~~):

- (a) Name of fisher;
- (b) Home address, or mailing address for a catch record card issued with a one-day charter boat or guide operator stamp license;
- (c) City, state, and zip code;
- (d) Date of issuance;
- (e) (~~Or, for automated licenses~~) When the catch record card is issued with a one-day charter boat or guide operator stamp license, the catch record card shall contain space for ((the appropriate validation sticker)) that stamp.

(3) Each catch record card shall contain space for the following information:

- (a) Month of catch;
- (b) Day of catch;
- (c) (~~((Catch record card area, river code, or stream: Location of catch;))~~) Location of catch by Marine Area, River, or Lake Code;
- (d) A species code for salmon and sturgeon and a marked or unmarked space for salmon;
- (e) A space for designating the type of vessel from which halibut was taken, either charter ("c") or (~~((personal/kicker (k) boat))~~) private ("p");
- (f) A space for the length of sturgeon;
- (g) For Dungeness crab:
- (i) The type of crab fishery as described on the Dungeness crab catch record card;
- (ii) The total crab retained by fishery type;
- (iii) A tally mark for each crab retained.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-310-020 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) 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 220-310-010 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) An angler must obtain and have in his or her personal possession a valid and appropriate catch record card as described in WAC 220-310-010 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 in WAC 220-354-030, and commercially caught sturgeon retained for personal use, as provided in WAC 220-353-110; and

(b) Landlocked steelhead or for salmon in waters designated as "landlocked salmon rules apply" in WAC 220-312-010 through 220-312-060.

(3) Unless the catch record card is issued by the automated licensing system, 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) 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) It is unlawful to use a second or subsequent catch record card to retain halibut, sturgeon, 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 a clipped adipose fin((s)).

(5) Immediately upon retaining a Puget Sound Dungeness crab aboard a vessel or on the shore, 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 or report the card information at the designated internet site by dates indicated on the card. 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) 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, except as authorized under RCW 77.32.565.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-220-020 Recreational license. A recreational license is ~~((a license document or))~~ a valid internet or telephone ~~((authorization))~~ transaction number issued by the department ~~((The license document is invalid unless the personal identification information on the license has been completed and the licensee has signed the license except that a temporary fishing license is issued either as a license document requiring personal identification information or as a stamp, which is invalid unless the two consecutive days for which it is valid are entered, in permanent ink, on the stamp))~~ or a valid license.

With the exception of razor clam licenses and one-day charter boat or guide operator stamp licenses, to be valid, a license must be signed by the licensee, must contain the licensee's personal identification information, and, if a catch record card is required, must be accompanied by a valid catch record card.

To be valid, a razor clam license must be signed by the licensee.

When a catch record card is not required for use with a one-day charter boat or guide operator stamp license, the stamp license is valid only if the issue date is written in ink on the stamp and the stamp is signed by the licensee. When a catch record card is required for use with a one-day charter boat or guide operator stamp license, the license is valid only if the issue date is written in ink on the stamp, the stamp is affixed to the catch record card, the catch record card is signed by the licensee, and the catch record card contains the licensee's completed personal identification information.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-220-200 Valid catch record card. For a catch record card ~~((shall be invalid unless))~~ to be valid:

(1) The angler ~~((has))~~ must have in physical possession the appropriate ~~((recreational))~~ license and catch record card for the area in which the angler is participating, if a license and/or a catch record card is required.

(2) The catch record card ~~((number is written in ink in the appropriate space on the back of the recreational license, if a license is required, and))~~ must contain the personal information ~~((has been entered on the catch record card as))~~ required under WAC ~~((220-310-020, or, if an automated license is issued, the catch record card has attached to it a validation sticker containing the name and license number))~~ 220-310-010.

(3) The license issuance date ~~((is))~~ must be legible and not altered, and the license ~~((has not been))~~ must not be mutilated.