



PROPOSED RULE MAKING

CR-102 (October 2017)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: February 20, 2019
TIME: 10:50 AM

WSR 19-05-092

Agency: Washington State Department of Fish and Wildlife (WDFW)

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 18-22-031 filed October 29, 2018 ; 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); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) The department seeks to adopt rules concerning the status of the Pinto Abalone and to classify it as an endangered species.

Hearing location(s):

Date: **Time:** **Location:** (be specific) **Comment:**

April 5-6, 2019	8:00 a.m.	Natural Resources Building 1111 Washington St. SE Olympia, WA 98501	
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Date of intended adoption: May 10, 2019 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Michael Ulrich
Address: PO Box 43200 Olympia, WA 98501-3200
Email: michael.ulrich@dfw.wa.gov
Fax: (360) 902-2943
Other:
By (date) April 3, 2019

Assistance for persons with disabilities:

Contact Delores Noyes
Phone: (360) 902-2349
Fax:
TTY: (360) 902-2207
Email: Delores.Noyes@dfw.wa.gov
Other:
By (date) _____

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of this proposal is to preserve the Pinto Abalone species which has become endangered. Based on the department's preliminary status review in 2018, the Pinto Abalone population is declining and vulnerable to local extinction. The Pinto Abalone population, a marine gastropod mollusc (aka "sea snail"), is aging and has experienced widespread reproductive failure. Consequently, the species is not likely to recover without significant protection and assistance. This proposal would remove Pinto Abalone from the list of food fish/shellfish potentially available for harvest and add it to the state's list of endangered species.

Reasons supporting proposal: The department conducted an in-depth study on the current status and trends in the Pinto Abalone populations in local marine waters. The study, underlying factors affecting the Pinto Abalone's continued existence, and management activities related to restoration are detailed in the Preliminary Status Report for the Pinto Abalone and this report is available online at <https://wdfw.wa.gov/publications/02031/>.

Statutory authority for adoption: RCWs 77.32.470 ,77.04.012, 77.04.013, 77.04.055, and 77.12.047

Statute being implemented: RCWs 77.04.012, 77.04.055, 77.12.020, 77.12.045, and 77.12.047

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> 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) WDFW

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Henry Carson	1111 Washington Street, Olympia, WA 98501	360-902-2846
Implementation:	Michael Ulrich	1111 Washington Street, Olympia, WA 98501	360-902-2737
Enforcement:	Chief Steve Bear	1111 Washington Street, Olympia, WA 98501	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: Hydraulics are not affected by this rule proposal.

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)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- 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:

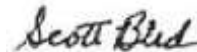
Name: Scott Bird
 Address: PO Box 43200 Olympia, WA 98501-3200
 Phone:
 Fax: 360-902-2155
 TTY:
 Email: Rules.Coordinator@dfw.wa.goc
 Other:

Date: February 19, 2019

Name: Scott Bird

Title: Rules Coordinator

Signature:



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

WAC 220-330-090 Crawfish, (~~abalone~~) sea urchins, sea cucumbers, goose barnacles—Areas and seasons, personal-use fishery. (1)

Crawfish: The open season for crawfish is the first Monday in May through October 31.

~~(2) (~~Abalone: It is unlawful to fish for or possess abalone taken for personal use the entire year.~~~~

~~(3))~~ Sea urchins: It is lawful to fish for sea urchins for personal use the entire year. It shall be lawful to take, fish for and possess sea urchins for personal use with any hand-operated instrument which does not penetrate the shell.

~~((4))~~ (3) Sea cucumbers: It is lawful to fish for sea cucumbers for personal use the entire year except closed year-round in Marine Area 12. It shall be lawful to take, fish for and possess sea cucumbers for personal use with any hand-operated instrument which does not penetrate the animal.

~~((5))~~ (4) Goose barnacles: It is lawful to take goose barnacles for personal use the entire year.

WAC 220-320-010 Shellfish—Classification. The following species are classified as shellfish under RCW 77.12.047 and are subject to the provisions of this title:

((Abalone	
Pinto abalone	<i>Haliotis kamtschatkana</i>)
Mussel	
Blue mussel	<i>Mytilus trossulus</i>
California mussel	<i>Mytilus californianus</i>
Mediterranean mussel	<i>Mytilus galloprovincialis</i>
Scallops	
Pacific pink scallop	<i>Chlamys rubida</i>
Rock scallop	<i>Crassadoma gigantea</i>
Spiny scallop	<i>Chlamys hastata</i>
Weathervane scallop	<i>Patinopecten caurinus</i>
Clams	
All macoma clams	<i>Macoma spp.</i>
Butter clam	<i>Saxidomus giganteus</i>
Common cockle	<i>Clinocardium nuttallii</i>
Geoduck	<i>Panopea abrupta</i>
Horse or Gaper clam	<i>Tresus nuttallii,</i> <i>Tresus capax</i>
Mud or soft shell clam	<i>Mya arenaria</i>
Manila clam	<i>Venerupis philippinarum</i>
Piddock	<i>Zirfaea pilsbryi</i>
Razor clam	<i>Siliqua patula</i>
Rock or native little neck clam	<i>Leukoma staminea</i>
Varnish clam	<i>Nuttallia obscurata</i>
All other marine clams existing in Washington in a wild state	
Oysters	
All oysters	(Ostreidae)
Squid	
All squid	Sepiolida or Teuthida
Octopus	
Octopus	<i>Enteroctopus dofleini</i>
Barnacles	
Goose barnacle	<i>Pollicipes polymerus</i>
Shrimp	
Coonstripe shrimp	<i>Pandalus danae</i>
Coonstripe shrimp	<i>Pandalus hypsinotus</i>
Ghost or sand shrimp	<i>Neotrypaea spp.</i>
Humpy shrimp	<i>Pandalus goniurus</i>
Mud shrimp	<i>Upogebia pugettensis</i>
Ocean pink shrimp	<i>Pandalus jordani</i>

Pink shrimp	<i>Pandalus eous</i>
Sidestripe shrimp	<i>Pandalopsis dispar</i>
Spot shrimp	<i>Pandalus platyceros</i>
Crab	
Dungeness or Pacific crab	<i>Cancer magister</i>
Red rock crab	<i>Cancer productus</i>
Tanner crab	<i>Chionoecetes tanneri</i>
King and box crab	<i>Lopholithodes spp.</i>
Blue king crab	<i>Paralithodes platypus</i>
Red king crab	<i>Paralithodes camtschaticus</i>
Golden king crab	<i>Lithodes aequispinus</i>
Crawfish	
Crawfish	<i>Pacifastacus sp.</i>
Sea cucumber	
Sea cucumber	<i>Parastichopus californicus</i>
Sea urchin	
Green urchin	<i>Strongylocentrotus droebachiensis</i>
Red urchin	<i>Strongylocentrotus franciscanus</i>
Purple urchin	<i>Strongylocentrotus purpuratus</i>

WAC 220-610-010 Wildlife classified as endangered species. Endangered species include:

Common Name	Scientific Name
pygmy rabbit	<i>Brachylagus idahoensis</i>
fisher	<i>Pekania pennanti</i>
gray wolf	<i>Canis lupus</i>
grizzly bear	<i>Ursus arctos</i>
killer whale	<i>Orcinus orca</i>
sei whale	<i>Balaenoptera borealis</i>
fin whale	<i>Balaenoptera physalus</i>
blue whale	<i>Balaenoptera musculus</i>
humpback whale	<i>Megaptera novaeangliae</i>
North Pacific right whale	<i>Eubalaena japonica</i>
sperm whale	<i>Physeter macrocephalus</i>
Columbian white-tailed deer	<i>Odocoileus virginianus leucurus</i>
woodland caribou	<i>Rangifer tarandus caribou</i>
Columbian sharp-tailed grouse	<i>Tympanuchus phasianellus columbianus</i>
sandhill crane	<i>Grus canadensis</i>
snowy plover	<i>Charadrius nivosus</i>
upland sandpiper	<i>Bartramia longicauda</i>
spotted owl	<i>Strix occidentalis</i>
western pond turtle	<i>Clemmys marmorata</i>
leatherback sea turtle	<i>Dermochelys coriacea</i>
mardon skipper	<i>Polites mardon</i>
Oregon silverspot butterfly	<i>Speyeria zerene hippolyta</i>
Oregon spotted frog	<i>Rana pretiosa</i>
northern leopard frog	<i>Rana pipiens</i>
Taylor's checkerspot	<i>Euphydryas editha taylori</i>
Streaked horned lark	<i>Eremophila alpestris strigata</i>
Tufted puffin	<i>Fratercula cirrhata</i>
North American lynx	<i>Lynx canadensis</i>
marbled murrelet	<i>Brachyramphus marmoratus</i>
Loggerhead sea turtle	<i>Caretta caretta</i>
Yellow-billed cuckoo	<i>Coccyzus americanus</i>
<u>Pinto abalone</u>	<u><i>Haliotis kamtschatkana</i></u>