



RULE-MAKING ORDER EMERGENCY RULE ONLY

CR-103E (December 2017) (Implements RCW 34.05.350 and 34.05.360)

CODE REVISER USE ONLY

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STATE OF WASHINGTON
FILED

DATE: April 27, 2020

TIME: 5:00 PM

WSR 20-10-028

Agency: Washington Department of Fish and Wildlife (WDFW) (Order 20-62)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: The Washington Department of Fish and Wildlife is suspending the sale and issuance of non-resident recreational fishing licenses, effective April 27, 2020, at 5:00 pm, until the expiration date of the emergency rule or until further notice.

Citation of rules affected by this order:

New: WAC 220-220-00100A
 Repealed:
 Amended:
 Suspended:

Statutory authority for adoption: RCWs 77.04.012, 77.04.055, 77.12.047, and 77.12.240

Other authority: None

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: The Washington Department of Fish and Wildlife (WDFW) is suspending the sale and issuance of non-resident recreational fishing licenses in an effort to help slow the spread of the COVID-19 Coronavirus. However, we intend to continue to sell non-resident hunting licenses and honor the non-resident recreational fishing and hunting licenses sold prior to the suspension and address these topics separately below.

Suspension of the Sale and Issuance of Non-Resident Recreational Fishing Licenses

The WDFW license year begins on April 1 each year and runs through March 31 of the following year. In reviewing the number of non-resident recreational fishing licenses sold by month in 2019 (Table 1), it appears that typically there are a lot of licenses sold in April at the start of the licensing year. The number of licenses remains steadily high in May and June before peaking in July. While the number of non-resident recreational fishing licenses sold in April 2020 is considerably lower due to the COVID-19 situation, as the state considers allowing outdoor recreational activities to slowly resume in phases, the number of non-resident recreational fishing licenses could quickly jump, which could potentially compromise our ability to prosecute recreational fisheries in a manner that is safe for the recreating public and WDFW employees fulfilling essential functions, such as enforcement and conducting angler interviews.

Table 1. The number of non-resident recreational fishing licenses (annual and temporary) sold, by month, in 2019 and 2020 through April 26, 2020.

	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
2019	14,682	11,262	11,663	18,025	17,328	12,176	7,481	6,261	4,745	2,376	6,421	7,335
2020	369											

Given that the timing of the COVID-19 situation has overlapped with the opening dates of fisheries that typically draw a lot of effort, such as lowland lake trout fishing, and there could be a pent-up desire to spend time outdoors after staying home for six weeks or more, WDFW would like to be precautionary when considering when and how to phase-in the reopening of recreational fishing. Unlike hunting, recreational fishing often requires anglers to spend time in fairly close proximity whether fishing from a bank or launching a boat from an access site. Therefore, given that so few non-resident recreational fishing licenses have been sold this year, but the potential to sell tens of thousands is there in the next few months, we believe that suspending the sale of non-resident recreational fishing licenses is the pro-active, prudent action to take at this time.

As the COVID-19 situation hopefully continues to improve and the state is able to progress through additional phases to allow increased outdoor recreational activities, WDFW plans to reassess when fishing opportunities to non-resident anglers could safely be offered.

Continuation of the Sale and Issuance of Non-Resident Hunting Licenses

The number of non-resident hunting licenses sold each year is considerably lower than the number of non-resident fishing licenses sold each year (i.e., 5,323 for hunting compared to 119,755 for fishing) and the hunting opportunities available for non-residents to engage in during the spring is pretty much limited to spring bear and turkey, which do not draw much effort.

Non-resident hunters are also required to purchase a WDFW hunting license in order to apply for special permit hunts, such as for deer and elk. The deadline to submit special permit applications is May 18, 2020; however, the special permit seasons are not scheduled until the fall when, hopefully, the COVID-19 situation will have significantly improved. Also, it important to note that, because a non-resident hunting license is required to apply for a special permit and that special permit hunts are limited (e.g., 20 permits may be issued for a hunt in a specific geographic area), all non-resident hunting license holders may not have the opportunity to use their license to hunt in a given year.

Additionally, unlike fishing where angler effort can become concentrated, it may be easier for hunters to spread out and avoid areas that are already occupied by other hunters.

Therefore, given that the number of non-resident hunting licenses sold each year is relatively low absent the COVID-19 situation, the hunting opportunities currently offered are extremely limited, the expectation that the COVID-19 situation will have improved by the fall, and the ability for hunters to spread out on the landscape while hunting, WDFW believes that the continuation of the sale of non-resident hunting licenses poses relatively low health risk to the hunting public.

Honoring the Non-Resident Recreational Fishing and Hunting Licenses Already Sold and Issued

Given that the number of non-resident recreational fishing licenses sold (i.e., 369) and the number of non-resident hunting licenses sold (i.e., 128) through April 26 are relatively low, the current situation explained above, and that the state intends to phase-in outdoor recreational activities slowly as the COVID-19 situation improves, we believe that honoring the non-resident recreational fishing and hunting licenses that have already been sold poses relatively low additional risk to the recreating public.

The intent of these decisions is to comply with Governor Inslee’s statewide proclamations to “stay home, stay healthy,” while also allowing Washingtonians to engage in localized outdoor recreational activities.

There is insufficient time to adopt permanent rules.

**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 ____

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New ____ Amended ____ Repealed ____

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: April 27, 2020

Name: Kelly Susewind

Title: WDFW Director

Signature:



NEW SECTION

WAC 220-220-00100A General recreational license rules.

Notwithstanding the provisions of Chapter 220-220 WAC, effective April 27, 2020, at 5:00 pm, the sale and issuance of non-resident recreational fishing licenses is hereby suspended, until the expiration date of the emergency rule or until further notice. The recreational fishing and hunting licenses issued to non-resident persons prior to this license sales suspension remain valid for the 2020-2021 license year.