



PROPOSED RULE MAKING

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

Do NOT use for expedited rule making

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FILED

DATE: July 31, 2020

TIME: 9:26 AM

WSR 20-16-100

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 20-13-097 on June 17, 2020 ; 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 is proposing to broaden the scope of Chapter 220-111 WAC to encompass agency rule-making activities and revise the title from "Emergency rules" to "Rule-making" accordingly. The department is also proposing new rules to govern the management of its rule-making files, which would be created in Chapter 220-111 WAC as follows:

WAC 220-111-001 – Rule-making files—Generally.

WAC 220-111-002 – Agency rules coordinator.

WAC 220-111-003 – Rule-making files available.

WAC 220-111-004 – Requests to inspect rule-making files.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
September 8, 2020	9:00 a.m.	Online webinar	This hearing will take place by webinar. The public may participate in the meeting. Visit our website at: https://wdfw.wa.gov/about/regulations/development#pending or contact the Rules Coordinator at: Rules.Coordinator@dfw.wa.gov for instructions on how to register for the meeting.

Date of intended adoption: September 8, 2020 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Rules Coordinator

Address: PO Box 43200, Olympia, WA 98504-3200

Email: Rules.Coordinator@dfw.wa.gov

Fax:

Other: <https://wdfw.wa.gov/about/regulations>

By (date) September 2, 2020

Assistance for persons with disabilities:

Contact Dolores Noyes

Phone: (360) 902-2349

Fax:

TTY: (360) 902-2207

Email: dolores.noyes@dfw.wa.gov

Other:

By (date) September 2, 2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of the proposed modification to Chapter 220-111 WAC is to broaden the chapter to encompass agency rules to govern rule-making activities beyond emergency rules.

The purpose of the proposed new rules is to identify a point of contact for the department's rule-making files and clarify the department's procedures relative to requests for public access to its rule-making files.

Reasons supporting proposal: New rules are necessary to clarify the department's implementation of Chapter 34.05 RCW, the Administrative Procedures Act.

The intent of these proposed actions is to facilitate public transparency in the administrative decision-making process and specify a procedure by which the department would provide public access to agency rule-making files.

Statutory authority for adoption: RCWs 43.17.060, 34.05.220, and 77.04.080.

Statute being implemented: RCWs 34.05.220, 34.05.312, 34.05.370, 43.17.060, and 77.04.080.

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 Department of Fish and Wildlife Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Michele Culver	1111 Washington St. SE Olympia, WA 98501	(360) 902-2196
Implementation:	Michele Culver	1111 Washington St. SE Olympia, WA 98501	(360) 902-2196
Enforcement:	Steve Bear	1111 Washington St. SE 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: A cost-benefit analysis is not required for this rule under RCW 34.05.328.

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 19.85.025(4) This chapter does not apply to the adoption of a rule if an agency is able to demonstrate that the proposed rule does not affect small businesses..

Explanation of exemptions, if necessary: These rules provide a point of contact for the department's rule-making files and clarify the department's procedures relative to requests from individual members of the public to access its rule-making files. There are no costs to comply with these rules, and therefore, this rule does not affect small businesses.

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: July 31, 2020

Name: Michele K. Culver

Title: Agency Rules Coordinator

Signature:



Chapter 220-111 WAC
((~~EMERGENCY RULES~~)) RULE-MAKING

NEW SECTION

WAC 220-111-001 Rule-making files—Generally. The purpose of this chapter is to specify criteria for the director to close or shorten seasons pursuant to RCW 77.12.150, and to provide procedures governing the department's maintenance of, and the public's request to inspect, rule-making files of the department pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

NEW SECTION

WAC 220-111-002 Agency rules coordinator. (1) The department's rules coordinator:

- (a) Has knowledge of the subjects of rules being proposed or prepared within the agency for proposal;
- (b) Maintains the records of any such action;
- (c) Maintains the department's rule-making docket;
- (d) Responds to public inquiries about possible, proposed, or adopted rules and the identity of agency personnel working, reviewing, or commenting on them; and
- (e) Oversees the department's compliance with the Administrative Procedure Act requirements concerning locating, processing, and making department rule-making files available for public inspection.

(2) The department's rules coordinator can be contacted at:

Agency Rules Coordinator
Department of Fish and Wildlife

Office Location:
Natural Resources Building, 5th Floor
1111 Washington Street S.E.
Olympia, WA 98501-1091

Mailing Address:
P.O. Box 43200
Olympia, WA 98504-3200
email address: Rules.Coordinator@dfw.wa.gov

Current contact information is also available at the department's website at <http://wdfw.wa.gov>.

(3) The department's rules coordinator may designate one or more department staff to carry out the responsibilities set forth in subsection (1) of this section; and other staff may process requests to inspect rule-making files. Therefore, use of the term "department rules coordinator" in this chapter may include the department rules coordinator's designee(s) and/or any other staff assisting in processing requests to inspect rule-making files, where indicated by context.

NEW SECTION

WAC 220-111-003 Rule-making files available. (1) The department's rule-making docket and many of its rule-making files are publicly available on the department's website at <http://wdfw.wa.gov>. Requestors are encouraged to search for and view department rule-making activities on the department's website in lieu of or prior to submitting a request to inspect the department's rule-making files.

(2) Rule-making files are available for inspection, upon request, from 9:00 a.m. to 12:00 p.m. and from 1:30 p.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Based on other demands on the agency and/or the size, format, and location of the rule-making file, the department rules coordinator may specify the date and times during which particular rule-making files will be made available for inspection.

(3) Requestors providing a valid email address may be able to view rule-making files on their own computers, or rule-making files may be inspected at the department's central office, located at 1111 Washington Street S.E., Olympia, Washington 98501.

(4) Requestors should contact the department's rules coordinator to determine the availability of records for inspection. The department will ordinarily respond to such requests within three days.

NEW SECTION

WAC 220-111-004 Requests to inspect rule-making files. (1) Any person wishing to inspect rule-making files of the department must contact the agency rules coordinator by letter or email to the office or email address set forth in WAC 220-111-002(2). The written request must be addressed and sent to the department's rules coordinator and include the following information:

(a) Name of the requestor;

(b) Contact information, including telephone number and email address, if the requestor has one; and

(c) Identification of the rule-making files sought, in a form or description that is sufficient for the department's rules coordinator to identify and locate the requested file. If a request for inspection of a rule-making file is unclear, the rules coordinator may request clarification.

(2) If the requestor wishes to have copies of the records made, whether hard copy or electronic, instead of inspecting them, the requestor must submit a request for public records pursuant to the Public Records Act, chapters 42.56 RCW and 220-120 WAC. A public records request form is available to requestors at the office of the public records officer and at the department's website at <http://wdfw.wa.gov>.