

Concise Explanatory Statement
Emerging Columbia River Non-Treaty Commercial Fisheries

Rules amended as part of this rulemaking:

WAC 220-360-520 Columbia River emerging commercial fishery—Issuance of an emerging commercial fishery license and experimental fishery permit—License and permit conditions.

1. Background/Summary of Project:

The purpose of this rule change is to amend the WAC pertaining to the application due date, and timeline for securing gear, for the Lower Columbia River Emerging Commercial Fishery. This fishery will be limited entry with participants chosen from a lottery in the first year the fishery is offered. The Department will also select a number of alternates in the event one of the selected participants needs to forfeit their spot in this fishery. The anticipated effects are that some commercial fishers may use these gears to harvest salmon when fisheries are open for commercial harvest using the existing commercial allocation as described in Policy C-3630 for the Columbia River.

2. Reasons for adopting the rule:

The purpose of this rule change is to adjust the timing of participant selection and the timing for gear in hand requirements to allow fishers sufficient time to secure gear. These revisions come at the request of the industry given their timeline constraints and commitments with purchasing the required fishing gear. The revisions also provide detailed conditions pertaining to applicant requirements for those considering applying for the lottery and expectations for successfully chosen applicants ahead of a potential 2024 Lower Columbia River Emerging Commercial Fishery (and future fisheries). These conditions for both successful applicants and DFW provides measured steps to improve fishing participation and essential data collection from the fishery for management and evaluation purposes.

3. Differences between the text of the proposed rule and the rule as adopted:

There are three changes from the proposed rule and the rule as adopted. The first modifies text in Section 2(b) to read “April 30th of the inaugural year for each fisher.” The second deletes some text in Section 3 to clarify that the Emerging Commercial Fishery License and associated Experimental Fishery Permit will be issued November 15th. The third change adds text to Section 4(c) to provide more flexibility for selected fishers to miss a fishing period with an approved exception.

4. Public comments, response to comments, and consideration of comments

The Department received written comments from two commenters pertaining to the draft rule language as detailed below. Two members of our Columbia River Commercial Alternative Gear Advisory Board attended the public hearing on August 22nd but opted not to testify.

1) One commenter requested a change to Section 2(b): to remove the words “April 30th in the inaugural year of the fishery”. Since a fisherman might be selected in a lottery occurring after the first year of the fishery, this language must be changed to “April 30th of each fishing year” to accommodate WDFW’s preceding revisions in section 2.

The Department agrees that this wording could be clarified, but the wording the commenter suggests would require fishers to submit proof of gear every year instead of just the first time the fisher participates. Thus, we have changed the language to read “April 30th of the inaugural year for each fisher.”

2) One commenter requested a change to Section 4(d) to “allow fishers to have a registered alternate operator. Just like with other gears (including the gillnet), alternative gear fishers should be allowed to have a registered alternate operator. This will better incentivize use of alternative gears, providing relief and flexibility for the primary operator. Relief may be necessary for some of the Columbia’s older participants.”

The Department has considered these suggestions but is not going to allow alternate operators in this fishery due to; 1) the need for fisher consistency as the department collects data to inform the use of the alternative gears, 2) the fishery is likely to be fairly short in duration, and 3) crewmember licenses are allowable if a fisher needs additional assistance.

3) The language change in section 4 C is too strong; requiring a fisherman to fish every opening without considering if any fish are available.

Thank you for this feedback. We have modified the language in 4(c) to read: “Fishery participants are required to actively fish all of the open periods during any season of the fishery. WDFW reserves the right to make exceptions. To qualify for this exception the permit holder must contact WDFW ahead of any open fishery period for which they will be unable to participate and document their inability to participate in writing. If this exception is granted, WDFW will notify the permit holder in writing of that decision before that open fishery period.”

4) One commenter requested changes to other Emerging Commercial Fishery WACs. Within WAC 220-360-510 remove all language in Section 1 that requires applicants to “Possess a commercial gillnet salmon license/permit issued by Washington (WA) or Oregon (OR) for the Columbia River; and (a) Demonstrate by valid Washington or Oregon fish receiving tickets that salmon have been taken in the Columbia River or Columbia River select areas within the most recent five calendar years by the applicant under a commercial salmon license issued for the Columbia River; or (b) Demonstrate participation in a test fishery (WA) or possession and use of an experimental gear permit (OR) using alternative commercial fishing gears within the most recent five calendar years.”

We request this revision to WAC 220-360-510 as it functions to indirectly discriminate against the youth and minority fishers, including tribal fishers, that have expressed interest in using alternative gear within this fishery. These WAC’s must allow for participation of a new generation that includes non-white and female fishers. It should not limit WA participants to only the 11 remaining active gillnetters that are predominantly male and white. Therefore, the qualification rule that an alternative gear fisher must possess a commercial gillnet license with recent gillnet landings should be removed to address this discrimination problem.

The WAC 220-360-510 referenced by the commenter is outside the scope of this rule change.