



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

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STATE OF WASHINGTON
FILED

DATE: September 06, 2023

TIME: 11:34 AM

WSR 23-18-097

Agency: Washington Department of Fish and Wildlife P2023-12 23-182

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

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

- Yes No If Yes, explain:

Purpose: The purpose of this rule is to adjust the timing of participant selection and the timing for gear in hand requirements to allow fishers sufficient time to secure gear. In addition, this rule will clarify conditions pertaining to the successful fisher applicants..

Citation of rules affected by this order:

- New:
- Repealed:
- Amended: WAC 220-360-520
- Suspended:

Statutory authority for adoption: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, 77.12.047, 77.70.160, 77.50.030, 77.65.400

Other authority: N/A

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 23-15-096 on July 18, 2023 (date).

Describe any changes other than editing from proposed to adopted version: 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 second change adds text to Section 4(c) to provide more flexibility for selected fishers to miss a fishing period with an approved exception.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Web site:
- Other:

**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Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___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	<u>1</u>	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	___	Repealed	___
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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: August 31, 2023

Name: Kelly Susewind

Title: Director, Department of Fish and Wildlife

Signature:



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) To maintain consistency in this fishery enabling the department to gather the best available information, a fisher selected by lottery (~~in the initial year the fishery is offered will be able to renew their~~) will be able to obtain a permit for the duration of the fishery.

(2) Applications for participation in the (~~one-time~~) lottery are due by (~~April 30th~~) October 15th of the (~~initial~~) year (~~in which the fishery is offered~~) preceding the fishery starting with October 15, 2023, (for the fishery starting in 2024). Any permits remaining available or that become available will be part of the subsequent year's lottery subject to all of the same conditions of the original lottery taking place in 2023.

(a) Only one application per person is allowed, and only one alternative gear type may be permitted per person for this emerging commercial fishery. Selected fishers wishing to switch between alternative gear types (e.g., purse seine to beach seine) may do so with written approval from the WDFW staff and said switch may only occur between fishing seasons.

(b) (~~The alternative gear an applicant is interested in fishing is in the applicant's possession by the time their application is submitted.~~) The proof of purchase for the alternative gear an applicant is interested in fishing must be submitted to WDFW by April 30th in the inaugural year for each fisher. If such proof of purchase is not submitted by the above date, the department will notify that fisher of their failure and select a new fisher to replace them in the fishery.

(3) Issuance of the annual emerging commercial fishery license and experimental fishery permit will occur by (~~May 30th prior to the start of each fishing season~~) November 15th.

(a) If the total number of available permits is not filled from the applications received by the deadline for that year, the department may ask for additional applications. If more applications are submitted than the number of permits available for that year, the WDFW will select and notify additional fishers to serve as alternates in the event a selected applicant is no longer able to participate or fails to present the proper proof of purchase for alternate gear.

(b) Applicants selected must respond within 10 business days of being notified by (~~the department~~) WDFW to accept the permit and purchase the emerging fishery license. If the applicant fails to purchase the license and permit within 10 business days of notification of selection, (~~the department~~) WDFW may issue the license and permit to another applicant.

(4) The conditions of possessing a valid license and permit are as follows:

(a) Fishery participants are not precluded from participation in other commercial fisheries.

(b) Fishery participants are required to have a state observer observing their catch while actively fishing.

(c) (~~If a permit holder fails to make multiple landings during the fishery, the experimental permit issued to that fisher will be voided, that person will have his or her name permanently withdrawn~~)

~~from the applicant pool, and a new applicant will be selected from the applicant pool.))~~ 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.

(d) This license and permit are not transferable between persons. The license and permit holder must be present and in possession of a valid license and permit during fishing operations. ~~((A violation of this subsection is punishable under RCW 77.15.540 Unlawful use of a commercial fishery license—Penalty.))~~

(e) It is unlawful to violate the conditions of the emerging commercial fishery license and experimental fishery permit. A violation of this subsection is punishable under RCW 77.15.540 Unlawful use of a commercial fishery license—Penalty.

(f) This license and permit may be revoked, at any time, at the discretion of the director ~~((and))~~. Future licenses and permits denied for failure to comply with conditions specified in the permit or violations of other commercial fishing regulations.