



PROPOSED RULE MAKING

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

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OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: January 23, 2019

TIME: 10:50 AM

WSR 19-03-169

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 on November 5, 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) Amendment to WAC 220-353-080 to provide more detailed information about scheduling and testing commercial fishing gear.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
April 5-6, 2019	8:00am	Natural Resources Building 1111 Washington Street SE Olympia, WA 98501	

Date of intended adoption: June 14, 2019 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Scott Bird, WDFW Rules Coordinator
Address: PO Box 43200 Olympia, WA 98501-3200
Email: Rules.Coordinator@dfw.wa.gov
Fax: (360) 902-2155
Other:
By (date) April 4, 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) April 4, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This rule proposal clarifies the requirements for a boat owner to notify the department's police staff about scheduling and testing commercial fishing gear.

Reasons supporting proposal: Currently, there is not sufficient detail in the rule about how to contact and schedule the testing of commercial fishing gear. This leads to non-compliance in fishing gear requirements in the local commercial fishing industry.

Statutory authority for adoption: RCWs 77.04.012, 77.04.055, 77.12.045, and 77.12.047

Statute being implemented: RCWs 77.04.012, 77.04.055, 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:

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:	Sgt. Erik Olson	16018 Mill Creek Boulevard, Mill Creek, WA 98012-1541	425-775-1311
Implementation:	Sgt. Erik Olson	16018 Mill Creek Boulevard, Mill Creek, WA 98012-1541	425-775-1311
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: The proposed rule change does not affect hydraulics.

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:

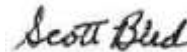
- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

Date: January 22, 2019

Name: Scott Bird

Title: Rules Coordinator

Signature:



WAC 220-353-080 Testing commercial fishing gear. (1) It is unlawful to test commercial fishing gear, except as follows:

(a) Bellingham Bay - Inside and northerly of a line from Governor's Point to the south tip of Eliza Island to Point Frances, in waters 10 fathoms and deeper.

(b) Boundary Bay - North of a line from Birch Point to Point Roberts, and south of the international boundary, in waters 10 fathoms and deeper during times not under control of the Pacific Salmon Commission.

(c) San Juan Channel - Within a 1-mile radius of Point Caution during times not under control of the Pacific Salmon Commission.

(d) Port Angeles - Inside and westerly of a line projected from the east tip of Ediz Hook through buoy C "1" to the mainland.

(e) Port Gardner - Within a 2-mile radius of the entrance to Everett breakwater, in waters 10 fathoms and deeper.

(f) Central Puget Sound - Between lines from Meadow Point to Point Monroe, and Skiff Point to West Point, in waters 50 fathoms and deeper.

(g) East Pass - Between lines from Point Robinson true east to the mainland, and from Dash Point to Point Piner, in waters 50 fathoms and deeper.

(h) Port Townsend - Westerly of a line from the Coast Guard station in Port Townsend to Walan Point to Kala Point, in waters 10 fathoms and deeper.

(i) All tows or sets are limited to 20 minutes, exclusive of setting and retrieving time.

(j) All testing must only occur between 8:00 a.m. and 4:00 p.m.

(k) Cod ends of trawl nets must be left open, all hooks of set line gear must be unbaited, and no lures or baited hooks may be used with jig or troll gear.

(l) All incidentally caught fish and shellfish must be returned to the waters immediately. It is unlawful to retain fish or shellfish aboard the vessel at any time during a gear test operation.

(2) It is unlawful for any person conducting gear testing operations to fail to notify fish and wildlife enforcement in Olympia (~~at 360-902-2936 prior to testing~~) at least twenty-four hours in advance of testing. The individual may call the department at 360-902-2936 and speak to an enforcement program representative or leave a voice mail message. The individual may also send an email to the department at WILDCOMM@dfw.wa.gov. In their voice mail, or their email to the department, the individual must provide their name or point of contact, phone number, location where they plan to conduct testing, date and approximate time of testing and either their vessel's registration number or vessel name.

(3) Violation of this section is punishable under RCW 77.15.520, 77.15.550, or 77.15.580, depending on the circumstances of the violation.