

**Chapter 220-360 WAC**  
**EMERGING COMMERCIAL FISHERIES**

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WAC

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**GENERAL RULES**

**WAC 220-360-010 Emerging commercial fisheries—Definitions.** The following definitions apply to this chapter:

(1) "Experimental fishery permit" means a permit issued by the director for either:

(a) An "emerging commercial fishery" defined as a fishery for a newly classified species for which the department has determined that there is a need to limit participation; or

(b) An "expanding commercial fishery" defined as a fishery for a previously classified species in a new area, by a new method, or at a new effort level, for which the department has determined that there is a need to limit participation.

(2) "Trial commercial fishery permit" means a permit issued by the department for trial harvest of a newly classified species, or harvest of a previously classified species in a new area or by a new means. A trial commercial fishery permit will only be issued when the department has determined that there is no need to limit participa-

tion. The director may redesignate a trial commercial fishery as an emerging or expanding commercial fishery if the director finds that there is a need to limit participation in that fishery.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-360-010, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 75.08.080. WSR 92-19-012 (Order 92-89), § 220-88-010, filed 9/3/92, effective 10/4/92.]

**WAC 220-360-020 Experimental fishery permits.** (1) The director will issue experimental fishery permits after the date the rules take effect designating a fishery as either an emerging commercial fishery or an expanding commercial fishery and establishing the number and qualifications of permit holders.

(2) Only persons meeting the following requirements may hold an experimental fishery permit:

(a) The person must hold a commercial fishing license under chapter 77.65 RCW for the gear that will be used with the experimental fishery permit, or the person must own a vessel that holds such a commercial fishing license. An experimental fishery permit is supplemental to a commercial fishing license, and may not be used unless the fisher or the fisher's vessel is currently licensed.

(b) No person ineligible to hold a commercial fishing license will be issued an experimental fishery permit. The person must meet the qualifications established for the experimental fishery permit that the person seeks.

(c) In the event an emerging or expanding commercial fishery arises from a trial commercial fishery, the director shall consider whether a fisher making application for an experimental fishery permit had previously held a trial commercial fishery permit for that fishery.

(3) An experimental fishery permit will not be issued for any species for which a license, endorsement, or validation limitation has been established pursuant to chapter 77.70 RCW, or for any fishery under the jurisdiction of the secretary of commerce.

(4) The director may at any time close an emerging or expanding commercial fishery for conservation reasons.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-360-020, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 34.05.353 (1)(b), (c), and (d), 77.12.047, 77.50.050, and chapters 77.65 and 77.70 RCW. WSR 12-09-046 (Order 12-61), § 220-88-020, filed 4/13/12, effective 5/14/12. Statutory Authority: RCW 75.08.080. WSR 92-19-012 (Order 92-89), § 220-88-020, filed 9/3/92, effective 10/4/92.]

**WAC 220-360-030 Experimental fishery permit advisory board.** The five-person advisory board that will review and make recommendations regarding number and qualifications of persons who will receive experimental fishery permits shall have knowledge of the commercial fishing industry.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-360-030, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 75.08.080. WSR 93-15-051, § 220-88-030, filed 7/14/93, effective 8/14/93; WSR 92-19-012 (Order 92-89), § 220-88-030, filed 9/3/92, effective 10/4/92.]

**WAC 220-360-040 Trial commercial fishery permits.** (1) Applications for trial commercial fishery permits must specify the species, fishing area, and fishing method to be used.

(2) The department will respond to any request for a trial commercial fishery permit within sixty days of receiving the application.

(3) Only persons who hold a commercial fishing license under chapter 77.65 RCW for the gear that will be used with the trial commercial fishery permit, or persons who own a vessel that holds such a commercial fishing license, are eligible to hold a trial commercial fishery permit. A trial commercial fishery permit is supplemental to a commercial fishing license, and may not be used unless the fisher or the fisher's vessel is currently licensed.

(4) The director will issue a trial commercial fishery permit for a newly classified species only after the director has by rule classified the species as a food fish or shellfish in chapter 220-300 WAC. If emergency classification is required, the director will issue the trial commercial fishery permit only for the period of emergency classification, and will not renew the permit unless the department has received a request for permanent classification at least two weeks before the end of the permit period.

(5) The director may redesignate a trial commercial fishery as an emerging or expanding commercial fishery if the director finds that there is a need to limit participation. A trial commercial fishery permit for that fishery does not guarantee future eligibility for an experimental fishery permit.

(6) The director may at any time close a trial commercial fishery for conservation reasons.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-360-040, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 34.05.353 (1)(b), (c), and (d), 77.12.047, 77.50.050, and chapters 77.65 and 77.70 RCW. WSR 12-09-046 (Order 12-61), § 220-88-040, filed 4/13/12, effective 5/14/12. Statutory Authority: RCW 75.08.080. WSR 92-19-012 (Order 92-89), § 220-88-040, filed 9/3/92, effective 10/4/92.]

## **COMMERCIAL SHELLFISH FISHERY ON NONSTATE LANDS**

**WAC 220-360-100 Emerging commercial fishery—Commercial wild clams, mussels, and oyster shellfish fishery on nonstate tidelands and bedlands.** The purpose of this chapter is to license and provide catch reporting requirements for the commercial harvest of wild clams, mussels, and oysters on nonstate lands in an emerging commercial fishery. For purposes of this chapter, "wild" or "wild stocks of" clams, mus-

sels, and oysters means shellfish identified in WAC 220-360-140. That rule distinguishes between the harvest of wild shellfish stocks subject to this chapter and private sector cultured aquatic products not subject to this chapter. These terms, and all provisions of this chapter pertaining to "wild" or "wild stocks of" clams, mussels, and oysters, or to "private sector cultured aquatic product," are for state resource management, catch reporting, and enforcement purposes only. They are neither intended to be, nor should be characterized as, any determination or evidence of whether "wild" or "wild stocks of" clams, mussels, and oysters (or any portion thereof) are naturally occurring, are subject to treaty sharing, or are part of natural or artificial shellfish beds as those concepts and terms are used and defined in *United States v. Washington*, 157 F.3d 630 (9th Cir. 1998), the Shellfish Implementation Plan of *United States v. Washington*, C70-9213, Subproceeding 89-3 (W.D. Wash, rev. April 8, 2002), and other applicable court orders relating to shellfish.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-360-100, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 06-04-015 (Order 06-08), § 220-88D-010, filed 1/22/06, effective 2/22/06.]

**WAC 220-360-110 Designation of the commercial wild clams, mussels, and oyster harvest on nonstate lands as an emerging commercial fishery.** The director designates the commercial harvest of wild clams, mussels, and oysters from nonstate tidelands and bedlands as an emerging commercial fishery for which use of a vessel is not required.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-360-110, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 06-04-015 (Order 06-08), § 220-88D-020, filed 1/22/06, effective 2/22/06.]

**WAC 220-360-120 Eligibility to participate in the nonstate lands commercial wild clams, mussels, and oyster shellfish fishery.** (1) Persons having an ownership interest or contractual right to take shellfish from nonstate owned tidelands or bedlands and who intend to commercially harvest wild stocks of clams, mussels, or oysters are eligible to obtain a nonstate lands commercial wild clam, mussel, and oyster trial fishery permit and to purchase an emerging commercial fishery license. Both the permit and the license are required in order to commercially harvest under this chapter.

(2) The trial fishery permit must be obtained for each site to be harvested. Each harvest site description will be the same as that used for obtaining certification of approval issued by the state department of health. The trial fishery permit must be renewed annually at the same time the site is recertified by the state department of health.

(3) The commercial harvester is covered by a single license for harvesting activity undertaken at any permitted site. The license is effective for one year and must be renewed annually.

(4) "Commercial harvest" of wild clams, mussels, and oysters includes both harvest for sale or barter and harvest of the presumptive commercial quantities defined in RCW 69.30.010.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-360-120, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 06-04-015 (Order 06-08), § 220-88D-030, filed 1/22/06, effective 2/22/06.]

**WAC 220-360-130 Nonstate lands commercial wild clams, mussels, and oysters—Application requirements—Notification requirements—Incidental take prohibited.** (1) A person making application for a wild clam, mussel, and oyster trial fishery permit must provide the following for each site:

(a) Documentation of ownership interest in or contractual right to harvest from the lands from which the wild clams, mussels, or oysters are to be harvested.

(b) A harvest site certificate issued by the state department of health for the lands from which the wild clams, mussels, or oysters are to be harvested.

(2) A copy of the application for a nonstate lands commercial wild clam, mussel, and oyster trial fishery permit will be provided to the affected tribes by the department.

(3) If a person registers nonstate lands as an aquatic farm, a copy of the aquatic farm registration will be provided to the affected tribes by the department.

(4) Prior to conducting harvest activities under a nonstate lands commercial wild clam, mussel, and oyster trial fishery permit, the permit holder must fulfill the following requirements:

(a) Provide a copy of the notice required to be given to affected tribes under the Stipulation and Order Amending Shellfish Implementation Plan, United States v. Washington, Case No. C70-9214, W.D.Wa., if such notice is required.

(b) Clearly and visibly mark with stakes and/or buoys the property boundaries of the nonstate lands to be harvested, using standard marking methods.

(c) Failure to comply with the requirements of this subsection invalidates the emerging commercial fishery license issued for the harvest of wild clams, mussels, and oysters.

(5) A nonstate lands commercial wild clam, mussel, and oyster trial fishery permit allows harvest only of clams, mussels, and oysters, and it is unlawful to harvest any other shellfish or any fin fish.

(6) It is unlawful to commercially harvest wild clams, mussels, or oysters without a valid emerging commercial fishery license and a nonstate lands commercial wild clam, mussel, and oyster trial fishery permit valid for the lands from which harvest is occurring.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-360-130, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 06-04-015 (Order 06-08), § 220-88D-040, filed 1/22/06, effective 2/22/06.]

**WAC 220-360-140 Identification of wild stocks of clams, mussels, or oysters—Reporting requirements for the commercial harvest of wild**

**clams, mussels, or oysters from nonstate aquatic lands—Conversion to private sector cultured aquatic products.** (1) Based upon RCW 15.85.020(3), the following shellfish are distinguished from private sector cultured aquatic products and are identified as wild stocks that are regulated under this chapter:

(a) All clams, mussels, or oysters that were not propagated, farmed, or cultivated under the active supervision and management of a private sector aquatic farmer; and

(b) All clams, mussels, or oysters that were set naturally prior to the time an aquatic farm was established and placed under the active supervision and management of a private sector aquatic farmer.

(2) Examples of harvested wild stocks of shellfish include, but are not limited to, the following:

(a) Any harvest of clams, mussels, or oysters from a site that is not registered as an aquatic farm unless there is some ability to demonstrate that the shellfish was propagated, farmed, or cultivated under the active supervision of an aquatic farmer;

(b) Any harvest of clams, mussels, or oysters that were naturally set prior to the time an aquatic farm was established at the site and placed under the active supervision and management of an aquatic farmer; and

(c) Shellfish that is harvested from a newly registered aquatic farm during a period when the shellfish is presumed to come from a wild stock as specified in subsection (5) of this section.

(3) It is unlawful to sell wild stocks of clams, mussels, and oysters unless properly reported on a shellfish receiving ticket. The failure to report the sale of shellfish with a fish receiving ticket when it is required is unlawful activity and constitutes a violation of WAC 220-352-020 and RCW 77.15.630. Any person selling wild stocks of clams, mussels, and oysters must sell the harvest to a Washington wholesale fish buyer, who is then required to complete the fish ticket. Alternatively, if the person harvesting the clams, mussels, or oysters sells this shellfish at retail or arranges for the harvested shellfish to be transported out-of-state, they must be a wholesale fish buyer and must complete a fish receiving ticket for each day's sales or for each shipment.

(4) Wild stock sales may not be reported on aquatic farm quarterly production reports. Only private sector cultured aquatic products may be reported on quarterly production reports.

(5) The following shellfish are presumed to be wild shellfish that are subject to these regulations:

(a) All mussels, oysters, and clams other than geoducks that are commercially harvested from the nonstate lands within the first twelve months after a complete application for the aquatic farm registration is filed; and

(b) All geoducks commercially harvested from the nonstate lands within the first thirty-six months after a complete application for the aquatic farm registration is filed.

The presumption that shellfish harvested from a newly registered aquatic farm during these time periods are from wild stocks may be overcome by a showing that the harvested shellfish were actually propagated, farmed, or cultivated under the active supervision of an aquatic farmer. After twelve or thirty-six months, respectively, all shellfish produced from a registered aquatic farm will be presumed to be private sector cultured aquatic products, and must be reported on quarterly aquatic farm reports. If a person does not commercially har-

vest mussels, oysters, or clams other than geoducks for the first twelve months after the aquatic farm registration, or does not commercially harvest geoducks for the first thirty-six months after registration, there is no requirement to obtain an emerging commercial fishery license or trial fishery permit.

[Statutory Authority: RCW 77.04.090, 77.04.130, 77.15.568, 77.08.010, 77.65.510, 77.65.515, 77.65.520. WSR 18-08-058 (Order 18-54), § 220-360-140, filed 3/30/18, effective 4/30/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-360-140, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 06-04-015 (Order 06-08), § 220-88D-050, filed 1/22/06, effective 2/22/06.]

### **EMERGING COMMERCIAL FISHERY—HAGFISH**

**WAC 220-360-200 Designation of the hagfish pot fishery as an emerging commercial fishery.** The director designates the hagfish pot fishery as an emerging commercial fishery for which use of a vessel is required. It is unlawful to fish for, possess, or deliver hagfish taken for commercial purposes unless the fisher has a valid emerging commercial fishery license and a hagfish pot trial fishery permit.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-360-200, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 05-21-067 (Order 05-245), § 220-88E-010, filed 10/14/05, effective 11/14/05.]

**WAC 220-360-210 Emerging commercial fishery—Eligibility for trial fishery permits—Incidental catch.** (1) An individual may not hold more than one Washington hagfish pot trial permit.

(2) Hagfish pot trial fishery permits are not transferable. Only the vessel designated on the emerging commercial fishery license and hagfish pot trial fishery permit may be used to fish for or deliver hagfish.

(3) A hagfish trial fishery permit will be issued only to a natural person who has a valid emerging commercial fishery license.

(4) Incidental catch:

(a) It is unlawful to retain any species other than hagfish.

(b) All species other than hagfish must be carefully handled and returned to the water promptly.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-360-210, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 05-21-067 (Order 05-245), § 220-88E-020, filed 10/14/05, effective 11/14/05.]

**WAC 220-360-220 Hagfish pot trial fishery—Season and gear.** It is unlawful to fish for hagfish for commercial purposes except as provided in this section:

- (1) Season - Open year-round to hagfish pot gear only.
- (2) Area - Open only in Pacific Ocean waters greater than 50 fathoms in depth.
- (3) Gear restrictions:
  - (a) Maximum of 100 hagfish pots per permit. Pots may be fished individually or on a common ground line.
  - (b) Hagfish pot gear requirements:
    - (i) Maximum entrance tunnel size of eleven square inches. Entrance tunnels may be of any shape.
    - (ii) Each pot is required to have at least one escape exit of at least nine and one-half square inches in opening and which must be constructed of 120 thread size or smaller untreated cotton twine.
  - (c) Buoy requirements: Hag fish pot gear must be buoyed. Marker buoys must be floating and visible on the surface of the water, equipped with a pole, flag, radar reflector and operating light, and marked with the clear identification of the permittee. If ground lines are used, ground line end marker buoys must display the number of pots on the ground line.

It is unlawful to use gear that has one or more line marks or to use multicolor line consistent with requirements for any other state or federally managed commercial fishery operating in the U.S. West Coast Exclusive Economic Zone, or in the state waters of Washington, Oregon, or California.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.045, and 77.12.047. WSR 23-22-110 (Order 2023-10), § 220-360-220, filed 10/31/23, effective 12/1/23. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-360-220, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 06-21-034 (Order 06-263), § 220-88E-030, filed 10/10/06, effective 11/10/06; WSR 05-21-067 (Order 05-245), § 220-88E-030, filed 10/14/05, effective 11/14/05.]

**WAC 220-360-230 Hagfish pot trial fishery—Logbook required.** It is unlawful for a participant in the hagfish pot trial fishery to fail to maintain and submit a legible, accurate, and complete harvest log for all hagfish fishing activity. Logs will be submitted such that the department receives them no later than the tenth day following the end of each calendar month. Participants in the hagfish pot trial fishery must use a Hagfish Harvest Logbook provided by the department to record all of their hagfish fishing activity. Failure to submit logbook information may result in revocation of a participant's hagfish pot trial fishery permit.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-360-230, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 09-14-031, § 220-88E-040, filed 6/24/09, effective 7/25/09; WSR 05-21-067 (Order 05-245), § 220-88E-040, filed 10/14/05, effective 11/14/05.]

**EMERGING COMMERCIAL FISHERY—COASTAL MACKEREL**

**WAC 220-360-300 Designation of the coastal Pacific mackerel purse seine fishery as an emerging commercial fishery.** (1) The director designates the coastal Pacific mackerel purse seine fishery as an emerging commercial fishery for which use of a vessel is required. It is unlawful to fish for, possess, or deliver Pacific mackerel taken for commercial purposes from Washington territorial waters west of the Bonilla-Tatoosh line or from waters of the Exclusive Economic Zone unless the fisher has a valid emerging commercial fishery license and a valid coastal Pacific mackerel purse seine trial or experimental fishery permit.

(2) The following licenses may not be used to fish for, possess, or deliver Pacific mackerel taken in Washington territorial waters west of the Bonilla-Tatoosh line or waters of the Exclusive Economic Zone: Shrimp trawl - Non-Puget Sound fishery license, ocean pink shrimp delivery license, coastal spot shrimp pot fishery license, non-limited entry delivery license, salmon troll delivery license, salmon delivery license, crab pot fishery license, Dungeness crab - Coastal fishery license.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-360-300, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04,013 [77.04.013], 77.04.055, 77.12.045, 77.12.047, 77.65.400, 77.70.160, 77.70.170, 77.70.180. WSR 16-06-064 (Order 16-30), § 220-88F-010, filed 2/25/16, effective 3/27/16.]

**WAC 220-360-310 Emerging commercial fishery—Eligibility for coastal Pacific mackerel purse seine fishery permits—Terms and conditions of use—Renewal—Vessel restriction.** (1) No individual may hold more than one Washington coastal Pacific mackerel purse seine trial or experimental fishery permit.

(2) Coastal Pacific mackerel fishery permits are not transferable. Only the vessel designated on the emerging commercial fishery license and Pacific mackerel fishery permit may be used to fish for or deliver Pacific mackerel in the directed Pacific mackerel fishery.

(3) Coastal Pacific mackerel fishery permits may be revoked by the director, and future permits denied by the director, for failure to comply with conditions specified in the permits or violations of other fishing regulations. A coastal Pacific mackerel fishery permit will not be renewed if the emerging commercial fishery license is revoked or future fishing privileges of the licensee are suspended.

(4) Coastal Pacific mackerel fishery permits are only valid for the year issued and expire on December 31st of the year issued.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-360-310, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04,013 [77.04.013], 77.04.055, 77.12.045, 77.12.047, 77.65.400, 77.70.160, 77.70.170, 77.70.180. WSR 16-06-064 (Order 16-30), § 220-88F-020, filed 2/25/16, effective 3/27/16.]

**WAC 220-360-320 Coastal Pacific mackerel purse seine fishery—Harvest, landing, and reporting requirements—Gear.** (1) Licensing, harvest, and reporting requirements. It is unlawful for persons fishing under a Washington trial or experimental Pacific mackerel purse seine fishery permit to fail to:

(a) Carry an observer onboard for any Pacific mackerel fishing trip if requested by the department;

(b) Surrender up to five hundred Pacific mackerel per vessel per trip if requested by department samplers for biological information; and

(c) Complete a department-issued logbook prior to landing, for each month in which fishing activity occurs, and submit it to the department by the 15th day of the following month.

(2) Possession, transport, and seasons.

(a) It is unlawful to possess, transport through the waters of the state, or deliver into any Washington port, Pacific mackerel or other coastal pelagic species taken in violation of rules published in Title 50, Part 660, Subpart I of the Code of Federal Regulations (C.F.R.) including, but not limited to: Annual specifications, closure of directed fishery, catch restrictions, gear requirements. These federal regulations govern commercial fishing for coastal pelagic species in the Exclusive Economic Zone off the coasts of Washington, Oregon, and California. Where the federal regulations refer to the fishery management area, that area is interpreted to include Washington state waters coterminous with the Exclusive Economic Zone. Updates to the federal regulations are published in the Federal Register. Discrepancies or errors between the C.F.R. and Federal Register will be resolved in favor of the Federal Register. This chapter incorporates the C.F.R. by reference and is based, in part, on the C.F.R. State regulations that are more restrictive than the federal regulations will prevail.

(b) It is unlawful to fish for or possess Pacific mackerel taken with any gear other than purse seine gear, except Pacific mackerel taken incidentally in fisheries authorized by federal rule, from offshore waters except during the directed sardine fishery season or the directed Pacific mackerel fishery season open each year from April 1st through December 31st.

(c) It is unlawful to take Pacific mackerel in state waters except for the incidental take as authorized by the coastal baitfish regulations.

(d) It is unlawful to retain any species that is taken incidental to Pacific mackerel, except for other mackerel species, jack mackerel, sardine, anchovy, and market squid (*Logligo opalescens*). It is unlawful to retain, possess or deliver, anchovy in excess of 5 metric tons in one day, and in excess of 10 metric tons during any calendar week beginning 12:01 a.m. Sunday through 11:59 p.m. Saturday.

(e) It is unlawful to fail to release any salmon encircled in the purse seine prior to completion of the set or to land or retain salmon on the fishing vessel.

(f) It is unlawful to transfer Pacific mackerel catch from one fishing vessel to another.

(3) Landing and delivery.

(a) It is unlawful to fail to have legal purse seine gear as defined by department rule aboard a vessel making a Pacific mackerel landing.

(b) It is unlawful to fail to deliver Pacific mackerel landings to a processing facility located on shore.

(c) It is unlawful to land fish at more than one processing facility and to fail to offload all fish onboard the vessel once the delivery commences at the time of landing.

(d) It is unlawful to deliver in total more than fifteen percent cumulative weight of Pacific mackerel for the purposes of conversion into fish flour, fish meal, fish scrap, fertilizer, fish oil, other fishery products, or by-products, or for purposes other than human consumption, or fishing bait taken during the directed Pacific mackerel and/or directed sardine fishery season(s).

(4) A violation of the reporting requirements provided in this section is punishable under RCW 77.15.630 Unlawful fish and shellfish catch accounting—Penalty.

(5) A violation of the gear requirements provided in this section is punishable under RCW 77.15.520 Commercial fishing—Unlawful gear or methods—Penalty.

(6) A violation of the harvest or landing requirements provided in this section is punishable under RCW 77.15.550 Violation of a commercial fishing area or time—Penalty.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-360-320, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.013 [77.04.013], 77.04.055, 77.12.045, 77.12.047, 77.65.400, 77.70.160, 77.70.170, 77.70.180. WSR 16-06-064 (Order 16-30), § 220-88F-030, filed 2/25/16, effective 3/27/16.]

#### **EMERGING COMMERCIAL FISHERY—PUGET SOUND WHITING**

**WAC 220-360-400 Puget Sound whiting endorsement validation procedure.** (1) A Puget Sound whiting endorsement for the current year will be issued to a natural person who meets the following qualifications:

(a) Is the possessor of a valid trawl license.

(b) Submits proof of landing as required by RCW 75.30.170.

(c) Submits proof of ownership or lease, as of January 1, 1986, of an otter trawl vessel and otter trawl net, which may be either a pelagic trawl net or a bottom trawl net.

(2) The possessor of the Puget Sound whiting endorsement must be aboard the vessel at all times while the vessel is fishing for whiting or has whiting aboard, except during unloading.

(3) Only a natural person may obtain a yearly Puget Sound whiting endorsement. A corporation or partnership that meets the qualifications in subsection (1) of this section may designate one natural person to receive the endorsement. The designation is irrevocable.

(4) The Puget Sound whiting endorsement is valid for one person and one vessel. An individual may not possess more than one endorsement.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-360-400, filed 2/15/17, effective 3/18/17. Statutory Authority:

**WAC 220-360-410 Puget Sound whiting endorsement—Transfer.** (1)

A person may transfer a Puget Sound whiting endorsement to that person's spouse or natural or step-child only. The person making the transfer is required to show proof of the relationship. Acceptable proof is a marriage certificate, birth certificate, or decree of adoption. A Puget Sound whiting endorsement will only be transferred to a person who has a valid trawl license, and transfer must be documented at the department's licensing division.

(2) A person may transfer a Puget Sound whiting endorsement from one vessel to another vessel by making application at the department's licensing division for a transfer of the person's trawl license from the first vessel to the second vessel, and informing the licensing division, in writing, that the person is additionally transferring the Puget Sound whiting endorsement. In the case of an individual having more than one trawl license, the transfer of the Puget Sound whiting endorsement from one vessel to a second vessel will be made in substantially the same form as if a trawl license was being transferred.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-360-410, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 75.08.080. WSR 87-04-003 (Order 87-03), § 220-87-020, filed 1/22/87.]

**WAC 220-360-500 Designation of an emerging commercial fishery in the Lower Columbia River.** (1) The director designates an emerging commercial fishery in the Lower Columbia River. The director has determined a need to limit the number of participants in this fishery.

(2) It is unlawful to fish for, possess, or deliver salmon taken for this fishery unless the fisher possesses a valid emerging commercial fishery license and experimental fishery permit. A violation of this subsection is punishable under RCW 77.15.500 Commercial fishing without a license—Penalty.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, 77.12.047, 77.70.160, 77.50.030, and 77.65.400. WSR 22-23-006 (Order 22-262), § 220-360-500, filed 11/2/22, effective 12/3/22.]

**WAC 220-360-510 Columbia River emerging commercial fishery—Qualifications.** To qualify for an emerging commercial fishery license and experimental fishery permit, a person must:

(1) 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.

(2) Have at least three years of commercial salmon fishing experience.

(3) Have at least one year of fishing experience (commercially or in a research/test fishery capacity) with purse seines, beach seines, or a pound net.

(4) Be free of a commercial fishing or other related violation within the last 10 years.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, 77.12.047, 77.70.160, 77.50.030, and 77.65.400. WSR 22-23-006 (Order 22-262), § 220-360-510, filed 11/2/22, effective 12/3/22.]

**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 will be able to obtain a permit for the duration of the fishery.

(2) Applications for participation in the lottery are due by October 15th of the year 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 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 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 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, 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) 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.

(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. Future licenses and permits denied for failure to comply with conditions specified in the permit or violations of other commercial fishing regulations.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, 77.12.047, 77.70.160, 77.50.030, and 77.65.400. WSR 23-18-097 (Order 23-182), § 220-360-520, filed 9/6/23, effective 10/7/23; WSR 22-23-006 (Order 22-262), § 220-360-520, filed 11/2/22, effective 12/3/22.]

**WAC 220-360-530 Columbia River emerging commercial fishery—Season, area, and gear requirements.** (1) The following gear is allowable:

(a) Purse seines as defined in WAC 220-350-110.

(b) Beach seines as defined in WAC 220-350-040.

(c) Pound nets as defined here as nets attached to fixed pilings, stakes, and/or anchors to form a lead, guiding fish into at least one heart, pot, or spiller that directs fish into a live well for sorting.

(2) Other gears may be considered for inclusion in this fishery if:

(a) The gear has a *U.S. v Oregon* technical advisory committee (TAC) approved mortality rate; and

(b) It is brought forward by a commercial fisher possessing a Columbia River commercial fishing license.

(3) All other season, area, and gear requirements will be as determined by the states of Oregon and Washington via the Columbia River compact process.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, 77.12.047, 77.70.160, 77.50.030, and 77.65.400. WSR 22-23-006 (Order 22-262), § 220-360-530, filed 11/2/22, effective 12/3/22.]

**WAC 220-360-540 Columbia River emerging commercial fishery—Allowable possession and sales—Catch handling requirements.** (1) Allowable possession and sales: Salmon, and as determined by the states of Oregon and Washington via the Columbia River compact process. All spe-

cies other than salmon must be carefully handled and promptly returned to the water.

(2) Handling of catch: Salmon catch may only be handled by hand or with rubber coated nets when sorting fish. Fish must be sorted while submerged in the water; it is unlawful to dry sort fish on land or on deck.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, 77.12.047, 77.70.160, 77.50.030, and 77.65.400. WSR 22-23-006 (Order 22-262), § 220-360-540, filed 11/2/22, effective 12/3/22.]