

WSR 23-18-097
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-182—Filed September 6, 2023, 11:34 a.m., effective October 7, 2023]

Effective Date of Rule: Thirty-one days after filing.

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: Amending WAC 220-360-520.

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.

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

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 subsection (2)(b) to read "April 30th of the inaugural year for each fisher." The second deletes some text in subsection (3) to clarify that the emerging commercial fishery license and associated experimental fishery permit will be issued November 15. The second [third] change adds text to subsection (4)(c) to provide more flexibility for selected fishers to miss a fishing period with an approved exception.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 31, 2023.

Kelly Susewind
Director

OTS-4716.2

AMENDATORY SECTION (Amending WSR 22-23-006, filed 11/2/22, effective 12/3/22)

**WAC 220-360-520 Columbia River emerging commercial fishery—Is-
suanance 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.

[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), § 220-360-520, filed 11/2/22, effective 12/3/22.]