

WSR 18-15-022
EXPEDITED RULES
DEPARTMENT OF REVENUE

[Filed July 10, 2018, 12:35 p.m.]

July 10, 2018
 Erin T. Lopez
 Rules Coordinator

Title of Rule and Other Identifying Information: WAC 458-12-055 Taxable situs—Real property.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 458-12-055 is being amended to incorporate language from SSB 6475 that passed during the 2018 legislative session.

Reasons Supporting Proposal: WAC 458-12-055 is being updated to clarify that if a regional transit authority imposes property taxes, the taxes can only be imposed on a parcel of real property that is wholly located within the boundaries of the regional transit authority taxing district.

Statutory Authority for Adoption: RCW 84.08.010(2) and 84.08.070.

Statute Being Implemented: RCW 81.104.175.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Leslie Mullin, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1589; Implementation and Enforcement: Randy Simmons, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1605.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Explanation of the Reason the Agency Believes the Expedited Rule-making Process is Appropriate: The expedited rule-making process is applicable to this rule update because the department is incorporating changes resulting from 2018 legislation.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Leslie Mullin, Department of Revenue, P.O. Box 47453, Olympia, WA 98504-7453, phone 360-534-1589, fax 360-534-1606, email LeslieMu@dor.wa.gov, AND RECEIVED BY September 17, 2018.

AMENDATORY SECTION (Amending Order PT 68-6, filed 4/29/68)

WAC 458-12-055 Taxable situs—Real property. (1) Situs - Generally. The situs of real property is at the place where the property is located. The situs of a possessory interest in real property is at the place where the real property is situated.

~~((Where))~~ **(2) Parcel boundaries.** If a parcel of real property is located in more than one taxing district, the portion lying within a particular district is assessable only in that district. However, only parcels wholly located within a regional transit authority district under RCW 81.104.175 are assessable for property taxes imposed by that district.

WSR 18-15-048
EXPEDITED RULES
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed July 13, 2018, 2:33 p.m.]

Title of Rule and Other Identifying Information: Adding new section relating to aquatic invasive species (AIS) in chapter 220-640 WAC.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Adding WAC 220-640-200 to chapter 220-640 WAC based on changes from ESSB 6040 passed during the 2014 legislative session.

The department will amend and repeal the following rules: [No information supplied by agency].

New WAC 220-640-200 Deleterious exotic wildlife.

Reasons Supporting Proposal: During the 2014 legislative session, the legislature made substantial changes to the laws concerning invasive species and enacted chapter 77.135 RCW, Invasive species. The department needs to add to its current rules concerning AIS contained in chapter 220-640 WAC to reflect these statutory changes.

Statutory Authority for Adoption: RCW 77.04.090, 77.04.130, 77.15.568, 77.08.010, 77.65.510, 77.65.515, 77.65.520.

Statute Being Implemented: RCW 77.135.010, 77.135.-020, 77.135.030, 77.135.040, 77.135.050, 77.135.060, 77.135.070, 77.135.080, 77.135.090, 77.135.100, 77.135.-110, 77.135.120, 77.135.130, 77.135.140, 77.135.150, 77.135.160, 77.135.170, 77.135.180, 77.135.200, 77.135.-210, 77.135.220, 77.135.230, 77.135.240.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington department of fish and wildlife, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Allen Pleus, 1111 Washington Street, Olympia, WA 98501, 360-902-2724; and Enforcement: Chief Steve Bear, 1111 Washington Street, Olympia, WA 98501, 360-902-2936.

This notice meets the following criteria to use the expedited adoption process for these rules:

Content is explicitly and specifically dictated by statute.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Based on the rationale of RCW 34.053 [34.05.353] (1)(d), the department believes that an expedited rule-making process is appropriate because the content of the proposed rules is explicitly and specifically dictated by statute.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Scott Bird, Washington Department of Fish and Wildlife, 600 Capitol Way North, phone 360-902-2403, fax 360-902-2155, email Rules.Coordinator@dfw.wa.gov, AND RECEIVED BY September 18, 2018.

July 13, 2018
Scott Bird
Rules Coordinator

NEW SECTION

WAC 220-640-200 Deleterious exotic wildlife. (1) The following animals are hereby designated as deleterious exotic wildlife:

(a) Birds: In the family Anatidae, the mute swan (*Cygnus olor*).

(b) Mammals:

(i) In the family Viverridae, the mongoose (all members of the genus *Herpestes*).

(ii) In the family Suidae, the wild boar (*Sus scrofa* and all wild hybrids).

(iii) In the family Tayassuidae, the collared peccary (javelina) (*Tayassu tajacu*).

(iv) In the family Bovidae, all members and hybrids of the following genera: *Rupicapra* (Chamois); *Hemitragus* (Tahr); *Capra* (goats, ibexes except domestic goat *Capra hircus*); *Ammotragus* (Barbary sheep or Aoudad); *Ovis* (sheep), except domestic sheep *Ovis aries*; *Damaliscus* (Sassabies); *Alcelaphus buselaphus* (Hartebeest); and *Connochaetes* (Wildebeests).

(v) In the family Cervidae, the European red deer (*Cervus elaphus elaphus*), all nonnative subspecies of *Cervus elaphus*, and all hybrids with North American elk; Fallow deer (*Dama dama*), Axis deer (*Axis axis*), Rusa deer or Sambar deer (*Cervus unicolor*, *Cervus timorensis*, *Cervus mariannus* and *Cervus alfredi*), Sika deer (*Cervus Nippon*), Reindeer (all members of the genus *Rangifer* except *Rangifer tarandus caribou*), and Roedeer (all members of the genus *Capreolus*).

(2) It is unlawful to import into the state, hold, possess, propagate, offer for sale, sell, transfer, or release live speci-

mens of deleterious exotic wildlife, their gametes and/or embryo, except as provided under subsection (3), (4), (5), (6), or (7) of this section, and as provided in WAC 220-640-020.

(3) Scientific research or display: The director may authorize, by written approval, a person to import into the state, hold, possess, and propagate live specimens of deleterious exotic wildlife for scientific research or for display by zoos or aquariums who are accredited institutional members of the association of zoos and aquariums (AZA), provided:

(a) The specimens are confined to a secure facility;

(b) The specimens will not be transferred to any other location within the state, except to other AZA-accredited facilities with written director approval or as otherwise authorized in writing by the director;

(c) The specimens will be euthanized and all parts incinerated at the end of the project, except for federally listed endangered or threatened species, which may be retained or transferred where in compliance with federal law;

(d) The person will keep such records on the specimens and make such reports as the director may require; and

(e) The person complies with other requirements of this section.

(4) Retention or disposal of existing specimens lawfully in captivity:

(a) Specimens lawfully in captivity prior to January 18, 1991: A person holding exotic wildlife specimens in captivity that were classified by the fish and wildlife commission as deleterious exotic wildlife on or before January 18, 1991, may retain the specimens of such deleterious exotic wildlife such person lawfully possessed prior to January 18, 1991, provided such person complies with (c) through (h) of this subsection hereunder and the other requirements of this section;

(b) Specimens lawfully in captivity prior to June 20, 1992: A person holding the following deleterious exotic wildlife specimens in captivity that were classified by the fish and wildlife commission as deleterious exotic wildlife by operation of emergency rule filed June 19, 1992, (in the family Bovidae, *Sassabies* (all members of the genus *Damaliscus*), *Hartebeest* (*Alcelaphus buselaphus*), *Wildebeests* (all members of the genus *Connochaetes*), *Markhor* (*Capra falconeri*), and *Marcopolo sheep* (*Ovis ammon*); and in the family Cervidae, *Fallow deer* (*Dama dama*), *Axis deer* (*Axis axis*), *Sika deer* (*Cervus Nippon*), and *Rusa deer* or *Sambar deer* (*Cervus unicolor*, *Cervus timorensis*, *Cervus mariannus* and *Cervus alfredi*)), may retain the specimens of such deleterious exotic wildlife such person lawfully possessed prior to June 20, 1992, and the lawful progeny thereof, provided such person complies with (c) through (h) of this subsection and the other requirements of this section and except as provided under subsection (7) of this section;

(c) The person reported to the director, in writing, the species, number, and location of the specimens, as required;

(d) The specimens are confined to a secure facility at the location reported;

(e) Live specimens are not propagated, except at AZA-accredited facilities with the written permission of the director or as otherwise authorized in writing by the director;

(f) Live specimens shall be neutered, physically separated by sex, and/or rendered infertile by means of contracep-

tion, except at AZA-accredited facilities with the written permission of the director;

(g) Live specimens are not released; and

(h) Live specimens are not sold or transferred, except:

(i) Live specimens in lawful possession may be permanently removed from the state of Washington or transported directly to slaughter where in accordance with other applicable law;

(ii) Federally listed endangered or threatened species may be transferred to AZA-accredited facilities where in compliance with federal law;

(iii) Live specimens may be moved to the new primary residence of the possessor with the written approval of the director, provided that all other requirements are satisfied and the total number of locations where animals are held is not increased; and

(iv) AZA facilities may sell and/or transfer live specimens within the state with the written permission of the director.

(5) Retention or disposal of existing specimens lawfully in captivity prior to February 13, 1993: A person holding exotic wildlife specimens in captivity that are newly classified by the fish and wildlife commission as deleterious exotic wildlife by operation of this section (Reindeer (all members of the genus *Rangifer*, except *Rangifer tarandus caribou*), and Roedeer (all members of the genus *Capreolus*)), may retain the specimens of such deleterious exotic wildlife such person lawfully possessed prior to February 13, 1993, provided:

(a) The person reports to the director in writing by March 31, 1993, and reports annually thereafter, or as otherwise required by the director, the species, number, and location of such specimens; and

(b) The person complies with subsection (4)(d) through (h) of this section and the other requirements of this section.

(6) The provisions of this section shall not prohibit the importation, possession, propagation, sale, transfer, or release of live specimens of federally listed threatened or endangered species, their gametes and/or embryo, where in compliance with federal law.

(7) Notwithstanding the provisions of subsection (2) of this section, Fallow deer (*Dama dama*) and reindeer (all members of the genus *Rangifer*, except *Rangifer tarandus caribou*) may be imported into the state, held, possessed, propagated, offered for sale, sold, and/or transferred, provided:

(a) The person complies with subsection (4)(c) through (g) of this section and the other requirements of this section, except for subsection (4)(e), (f), and (h) of this section; and

(b) The person complies with the department of agriculture per WAC 16-54-180 as now or hereafter amended, except: Animals that have resided at any time east of a line drawn through the eastern boundaries of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and the 100th Meridian where it passes through Texas, or that have had contact with or shared common ground with animals which have resided at any time east of such line, shall not be imported into the state of Washington unless specifically authorized in writing by the director of the department of agriculture and the department of fish and wildlife;

(c) No specimens affected with any infectious or communicable disease shall be imported into the state unless in compliance with all applicable laws and regulations and unless written permission is obtained from the directors of the department of agriculture and the department of fish and wildlife;

(d) The specimens are confined to a secure facility; and

(e) Reindeer may not be imported into, held, or possessed in Ferry, Stevens, or Pend Oreille counties or that portion of Spokane County north of Spokane River.

(8) Escaped animals:

(a) Escaped deleterious exotic wildlife, including Fallow deer (*Dama dama*) and reindeer (all members of the genus *Rangifer*, except *Rangifer tarandus caribou*) will be considered a public nuisance. The department or any peace officer may seize, capture, or destroy deleterious exotic wildlife that have escaped the possessor's control. The former possessor shall be responsible for costs incurred by the department in recovering, maintaining, or disposing of such animals, as well as any damage to the state's wildlife or habitat.

(b) Escapes of deleterious exotic wildlife must be reported immediately to the department.

(c) The recapture or death of escaped deleterious exotic wildlife must be reported immediately to the department.

(9) Secure facility:

(a) All deleterious exotic wildlife will be held in a secure facility. For the purpose of this section, a secure facility is an enclosure so constructed as to prevent danger to the environment or wildlife of the state, including escape of deleterious exotic wildlife specimens or ingress of resident wildlife ungulates (hoofed animals). The adequacy of the facility shall be determined by the director or agents of the director.

(b) For deleterious exotic wildlife listed in subsection (1)(b)(iv) and (v) of this section, the "secure facility" must comply with the fencing requirements in subsection (10) of this section, unless otherwise authorized by the director in writing.

(10) Fencing requirements:

(a) Perimeter fences must be, at a minimum, eight feet above ground level for their entire length. The bottom six feet must be mesh of sufficient size to prevent resident wildlife ungulates (hoofed animals) from entering and deleterious exotic wildlife from escaping. Supplemental wire required to attain a height of eight feet may be smooth, barbed, or woven wire (at least twelve and one-half gauge) with strands spaced not more than six inches apart.

(b) Perimeter fences constructed of high tensile wire must be supported by a post or stay at minimum intervals of eight feet.

(c) Perimeter fences must be at least twelve and one-half gauge woven wire, fourteen and one-half gauge high-tensile woven wire, chain link, nonclimbable woven fence, or other fence approved by the director. If the wire used is not a full eight feet in height, it must be overlapped one row and securely fastened at every other vertical row or woven together with cable.

(d) Electric fencing materials may be used on perimeter fences only as a supplement to conventional fencing materials.

(e) All gates in the perimeter fences must be self-closing, equipped with two locking devices, and installed only in locations that have been approved by the director. Double gates may be required at points in the perimeter fences subject to frequent vehicle traffic that is not related to activities involving the holding of deleterious exotic wildlife.

(f) Posts used in the perimeter fences must be:

(i) Wood (pressure treated), five-inch minimum diameter or an equivalent as approved by the director;

(ii) Spaced no more than twenty-four feet apart with stays or supports at eight foot intervals between the posts;

(iii) Extended at least eight feet above ground level; and

(iv) Have corners braced with wood or with an equivalent material as approved by the director.

(g) Fences must be maintained at all times to prevent deleterious exotic wildlife from escaping or resident wildlife ungulates (hoofed animals) from entering the enclosure. If such animals do pass through, under, or over the fence because of any topographic feature or other conditions, the person possessing deleterious exotic wildlife must immediately supplement the fence to prevent continued passage.

(h) For any fence existing prior to February 13, 1993, a person may petition the director in writing for a variance from the above fencing requirements. Any such petition must be filed no later than May 31, 1993, and must identify all aspects in which the existing fence does not meet the fencing requirements contained herein. On approval of the director, such person may maintain such existing fence with normal repair. However, any extension or relocation of existing fence must meet the fencing requirements contained herein.

(11) Marking requirements:

(a) All live specimens of deleterious exotic wildlife, except those listed in subsection (1)(a) and (b) of this section, shall be permanently and individually identified by methods approved by the director.

(b) Identification assigned to an individual animal may not be transferred to any other animal.

(c) All specimens of deleterious exotic wildlife identified in subsection (1)(b)(iv) and (v) of this section must be individually identified by the methods specified below:

(i) All live specimens of such deleterious exotic wildlife shall be marked with USDA official ear tags or with ear tags supplied or approved by the department. Tags shall be applied in sequential order; and

(ii) All live specimens of such deleterious exotic wildlife shall be marked with a tattoo with an identifying number that has been recorded with the director. The tattoo must be placed on the left ear of the animal.

(d) All lawful progeny of deleterious exotic wildlife must be tagged and tattooed by December 31st of the year of birth or upon leaving the holding facility, whichever is earlier.

(e) Where allowed, if an animal is sold or transferred within the state, the tag and tattoo must accompany the animal. The new owner or possessor shall not renumber the animal.

(f) Where allowed, live specimens of deleterious exotic wildlife shall be marked prior to importation.

(g) No unmarked deleterious exotic wildlife may be sold or otherwise transferred from the holding facility.

(12) Testing of specimens:

(a) Where allowed, prior to entry into the state of Washington, a person importing any member of the genus *Cervus*, which is identified in subsection (1)(b)(v) of this section, must submit records of genetic tests conducted by a professionally recognized laboratory to identify red deer genetic influence (genetic material from any member of any subspecies, race, or species of the elk-red deer-wapiti complex *Cervus elaphus* not indigenous to the state of Washington). Such testing shall be at the possessor's expense. Animals that are deemed by the department of wildlife biologists upon examination to exhibit either: Behavioral (vocalization), morphological (size, rump patch, color), or biochemical indications of such influence (hemoglobin, superoxide dismutase, transferrin and post-transferrin, or others to be developed) may not be imported.

(b) The director may require a person currently possessing any member of the genus *Cervus* that are identified in subsection (1)(b)(v) of this section to submit records of genetic tests conducted by a professionally recognized laboratory to identify red deer genetic influence (genetic material from any member of any subspecies, race, or species of the elk-red deer-wapiti complex *Cervus elaphus* not indigenous to the state of Washington) for each individual cervid to the department. Such testing shall be at the possessor's expense. The director may require that any animal identified as a red deer or having nonindigenous genetic influence be destroyed, removed from the state, or neutered.

(c) The director may require that all specimens of deleterious exotic wildlife lawfully in captivity be tested for brucellosis (*brucella abortus*), tuberculosis (*mycobacterium bovis* and *mycobacterium tuberculosis*), meningeal worm (*Paralophostrongylus tenuis*), and muscle worm (*Elaphostrongylus cervis*) in accordance with the procedures specified in the department of agriculture per WAC 16-54-180 as now or hereafter amended and/or for other disease or parasites determined to pose a risk to wildlife. The results of such tests shall be filed with the director as required.

(13) Reporting:

(a) A person holding deleterious exotic wildlife in captivity shall submit a completed report no later than March 30, 1993, and then no later than January 31st of each year, or as otherwise required by the director, on a form provided by the department.

(b) Persons possessing deleterious exotic wildlife must notify the director within ten days of any change of such persons' address and/or location of the holding facility.

(14) Inspection:

(a) All holding facilities for deleterious exotic wildlife located in the state are subject to inspection for compliance with the provisions of this section.

(b) Such inspections shall be conducted at reasonable times.

(15) Notification and disposition of diseased animals:

(a) Any person who has reason to believe that deleterious exotic wildlife being held pursuant to this section have or have been exposed to a dangerous or communicable disease or parasite shall notify the department immediately.

(b) Upon having reason to believe that deleterious exotic wildlife held pursuant to this section have been exposed to or

contracted a dangerous or contagious disease or parasite, the director may order inspection of such animals by a licensed, accredited veterinarian or inspection agent. Inspection shall be at the expense of the possessor.

(c) The director shall determine when destruction of animals, quarantine, or disinfection is required at any facility holding deleterious exotic wildlife, pursuant to this section. If the director determines that destruction, quarantine, or disinfection is required, a written order shall be issued to the possessor describing the procedure to be followed and the time period for carrying out such actions. Such activities shall be at the expense of the possessor.

(16) Quarantine area:

(a) Any facility holding deleterious exotic wildlife must have an approved quarantine facility within its exterior boundary or submit an action plan to the director that guarantees access to an approved quarantine facility within the state of Washington:

(i) An approved quarantine facility is one that meets criteria set by the Washington state department of agriculture;

(ii) The quarantine area must meet the tests of isolation, separate feed and water, escape security, and allowances for the humane holding and care of its occupants for extended periods of time.

(b) Should the imposition of a quarantine become necessary, the possessor must provide an on-site quarantine facility or make arrangements at such possessor's expense to transport the animals to the approved quarantine facility named in the quarantine action plan.

(17) Seizure:

(a) The department of wildlife may seize any unlawfully possessed deleterious exotic wildlife.

(b) The cost of any seizure and/or holding of deleterious exotic wildlife may be charged to the possessor of such animals.

WSR 18-15-068
EXPEDITED RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Filed July 17, 2018, 8:06 a.m.]

Title of Rule and Other Identifying Information: Correct language for license and catch record card documents.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Correct language in WAC 220-220-020, 220-220-200, 220-310-010, and 220-310-020 to match current license and catch record card documents.

Reasons Supporting Proposal: Correct language in WAC 220-220-020, 220-220-200, 220-310-010, and 220-310-020 to match current license and catch record card documents.

Statutory Authority for Adoption: RCW 77.04.090, 77.04.130.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington department of fish and wildlife, governmental.

Name of Agency Personnel Responsible for Drafting: Trisha Anderson, 1111 Washington Street, Olympia, WA 98501, 360-902-2211; Implementation: Peter Vernie, 1111 Washington Street, Olympia, WA 98501, 360-902-2302; and Enforcement: Chief Steve Bear, 1111 Washington Street, Olympia, WA 98501, 360-902-2936.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Scott Bird, Washington Department of Fish and Wildlife, 600 Capitol Way North, phone 360-902-2403, fax 360-902-2155, email Rules.Coordinator@dfw.wa.gov, AND RECEIVED BY September 18, 2018.

July 17, 2018

Scott Bird

Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-220-020 Recreational license. A recreational license is ~~((a license document or))~~ a valid internet or telephone ~~((authorization))~~ transaction number issued by the department ~~((The license document is invalid unless the personal identification information on the license has been completed and the licensee has signed the license except that a temporary fishing license is issued either as a license document requiring personal identification information or as a stamp, which is invalid unless the two consecutive days for which it is valid are entered, in permanent ink, on the stamp))~~ or a valid license.

With the exception of razor clam licenses and one-day charter boat or guide operator stamp licenses, to be valid, a license must be signed by the licensee, must contain the licensee's personal identification information, and, if a catch record card is required, must be accompanied by a valid catch record card.

To be valid, a razor clam license must be signed by the licensee.

When a catch record card is not required for use with a one-day charter boat or guide operator stamp license, the stamp license is valid only if the issue date is written in ink on the stamp and the stamp is signed by the licensee. When a catch record card is required for use with a one-day charter boat or guide operator stamp license, the license is valid only if the issue date is written in ink on the stamp, the stamp is

affixed to the catch record card, the catch record card is signed by the licensee, and the catch record card contains the licensee's completed personal identification information.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-220-200 Valid catch record card. For a catch record card ~~((shall be invalid unless))~~ to be valid:

(1) The angler ~~((has))~~ must have in physical possession the appropriate ~~((recreational))~~ license and catch record card for the area in which the angler is participating, if a license and/or a catch record card is required.

(2) The catch record card ~~((number is written in ink in the appropriate space on the back of the recreational license, if a license is required, and))~~ must contain the personal information ~~((has been entered on the catch record card as))~~ required under WAC ~~((220-310-020, or, if an automated license is issued, the catch record card has attached to it a validation sticker containing the name and license number))~~ 220-310-010.

(3) The license issuance date ~~((is))~~ must be legible and not altered, and the license ~~((has not been))~~ must not be mutilated.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-310-010 Description of catch record cards and required information. (1) The department shall prepare and distribute a catch record card for the following:

- (a) Anadromous salmon (salmon);
- (b) Dungeness crab taken from Catch Record Card Area 4 east of the Bonilla-Tatoosh line and Catch Record Card Areas 5-13;
- (c) Halibut;
- (d) Steelhead; and
- (e) Sturgeon.

(2) Each catch record card shall contain space for the following information ~~((, which must be recorded prior to the catch record card being separated from the underlying copy of the catch record card))~~:

- (a) Name of fisher;
- (b) Home address, or mailing address for a catch record card issued with a one-day charter boat or guide operator stamp license;
- (c) City, state, and zip code;
- (d) Date of issuance;
- (e) ~~((Or, for automated licenses))~~ When the catch record card is issued with a one-day charter boat or guide operator stamp license, the catch record card shall contain space for ~~((the appropriate validation sticker))~~ that stamp.

(3) Each catch record card shall contain space for the following information:

- (a) Month of catch;
- (b) Day of catch;
- (c) Catch record card area, river code, or stream: Location of catch;
- (d) A species code for salmon and sturgeon and a marked or unmarked space for salmon;

(e) A space for designating the type of vessel from which halibut was taken, either charter ("c") or ~~((personal/kicker (k boat))~~ private ("p");

(f) A space for the length of sturgeon;

(g) For Dungeness crab:

(i) The type of crab fishery as described on the Dungeness crab catch record card;

(ii) The total crab retained by fishery type;

(iii) A tally mark for each crab retained.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-310-020 Catch record cards. It is unlawful for any person to fail to comply with the catch record requirements as provided for in this section:

(1) An angler must obtain and have in his or her personal possession a valid and appropriate Puget Sound Dungeness crab catch record card as described in WAC 220-310-010 to fish for or possess for personal use any Dungeness crab in Catch Record Card Area 4 east of the Bonilla-Tatoosh Line, and in Catch Record Card Areas 5-13.

(2) An angler must obtain and have in his or her personal possession a valid and appropriate catch record card as described in WAC 220-310-010 to fish for or possess for personal use any anadromous salmon, sturgeon, halibut, or steelhead except a catch record card is not required for:

(a) Commercially caught salmon retained for personal use, as provided in WAC 220-354-030, and commercially caught sturgeon retained for personal use, as provided in WAC 220-353-110; and

(b) Landlocked steelhead or for salmon in waters designated as "landlocked salmon rules apply" in WAC 220-312-010 through 220-312-060.

(3) Unless the catch record card is issued by the automated licensing system, anglers must completely, accurately, and legibly complete all personal identification information in ink on the catch record card ~~((before detaching the card from its underlying copy or, for automated licenses, affixing the appropriate validation sticker to the catch record card to validate a catch record card))~~. A catch record card remains valid as long as there is one or more unfilled spaces available for the species being fished for, except:

(a) A catch record card remains valid for catch-and-release sturgeon fishing when the sturgeon portion of the card is full in the mainstem Columbia River downstream from where the river forms the common boundary between Oregon and Washington.

(b) It is unlawful to use a second or subsequent catch record card to retain halibut, sturgeon, or wild steelhead after the first card is full.

(4) Immediately upon catching and possessing a salmon, steelhead, sturgeon or halibut, anglers must enter, in ink, in the appropriate space on the card, the place, date of catch, and species (catch type). For sturgeon, anglers also must record the length of the fish; for halibut, anglers also must record the vessel type; and for salmon, anglers also must indicate whether or not the fish was marked by having clipped adipose fins.

(5) Immediately upon retaining a Puget Sound Dungeness crab aboard a vessel or on the shore, fishers must enter, in ink, in the appropriate space on the Puget Sound Dungeness crab catch record card, the place and date of catch, the fishery type, and a tally mark for each Dungeness crab retained from each catch record card area fished. At the end of the fishing day, the fisher must enter the total number of crab tally marks for each fishery type.

(6)(a) Every person issued a catch record card must, by April 30 of the year after they used the card, return the card to the department of fish and wildlife. People issued a Puget Sound Dungeness crab catch record card must return the card to the Washington department of fish and wildlife or report the card information at the designated internet site by the dates indicated on the card.

(b) Failure to return a Dungeness crab catch record card or to report the Dungeness crab catch record card information at the designated internet site by the dates indicated on the card will result in a ten-dollar administrative fee. The administrative fee will be collected from anglers when they acquire a subsequent Puget Sound Dungeness crab endorsement.

(7) Any person possessing a catch record card must show the card to any law enforcement officer or authorized department employee who asks to inspect the card.

(8) A catch record card must not be transferred, borrowed, altered, or loaned to another person, except as authorized under RCW 77.32.565.

WSR 18-15-082

EXPEDITED RULES

DEPARTMENT OF REVENUE

[Filed July 18, 2018, 7:30 a.m.]

Title of Rule and Other Identifying Information: WAC 458-20-260 Oil spill response and administration tax.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To update the content of WAC 458-20-260 to reflect the statutory changes from the 2018 legislative session contained in ESSSB [E2SSB] 6269 (chapter 262, Laws of 2018 Washington), and to make grammatical changes for clarity.

Reasons Supporting Proposal: ESSSB [E2SSB] 6269 (chapter 262, Laws of 2018 Washington), expanded the scope of the oil spill response and administration tax. RCW 82.23B.010 and 82.23B.020 were amended to expand the scope of these taxes to crude oil or petroleum products received at bulk oil terminals from a pipeline. The amendments to WAC 458-20-260 reflect this statutory change to the oil spill response and administration taxes, and make grammatical changes to this rule for clarity.

Statutory Authority for Adoption: RCW 82.23B.050, 82.32.300, and 82.01.060(2).

Statute Being Implemented: RCW 82.23B.010 and 82.23B.020.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Rex Munger, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1554; Implementation and Enforcement: Randy Simmons, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1605.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The amendments to WAC 458-20-260 add in language reflecting the statutory changes from the 2018 legislative session to RCW 82.23B.010 and 82.23B.020, and make grammatical changes that do not change the substance of this rule.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Rex Munger, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, phone 360-534-1554, fax 360-534-1606, email RexM@dor.wa.gov, AND RECEIVED BY September 17, 2018.

July 17, 2018

Erin T. Lopez

Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-07-149, filed 3/23/16, effective 4/23/16)

WAC 458-20-260 Oil spill response and administration tax. (1) Introduction. This rule explains the provisions of chapter 82.23B RCW, which imposes an oil spill response tax and an oil spill administration tax. ~~((The))~~ Both of these taxes are imposed on the privilege of receiving crude oil or petroleum products through any of the following three ways at:

• A marine terminal in this state from a waterborne vessel or barge operating on the navigable waters of this state ~~((Effective July 1, 2015, both taxes are also imposed on the privilege of receiving crude oil or petroleum products at))~~;

• A bulk oil terminal within this state from a tank car, (under chapter 274, Laws of 2015, RCW 82.23B.020) as of July 1, 2015;

• A bulk oil terminal within this state from a tank car or a pipeline, as of April 1, 2018. RCW 82.23B.020.

Examples found in this rule identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all the facts and circumstances.

(2) **Definitions.** For purposes of this rule, the following terms as found in RCW 82.23B.010 will apply.

(a) **Barrel.** "Barrel" means a unit of measurement of volume equal to forty-two United States gallons of crude oil or petroleum product.

(b) **Bulk oil terminal.** "Bulk oil terminal" means a facility of any kind, other than a waterborne vessel, that is used for transferring crude oil or petroleum products from a tank car or pipeline into the terminal's storage tanks.

(c) **Crude oil.** "Crude oil" means any naturally occurring hydrocarbons coming from the earth that are liquid at twenty-five degrees Celsius and one atmosphere of pressure including, but not limited to, crude oil, bitumen and diluted bitumen, synthetic crude oil, and natural gas well condensate.

(d) **Department.** "Department" means the department of revenue.

(e) **Marine terminal.** "Marine terminal" means a facility of any kind, other than a waterborne vessel, that is used for transferring crude oil or petroleum products to or from a waterborne vessel or barge.

(f) **Navigable waters.** "Navigable waters" means those waters of the state and their adjoining shorelines that are subject to the ebb and flow of the tide, including the Columbia and Snake rivers.

(g) **Person.** "Person" or "company," herein used interchangeably, means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the state of Washington, corporation, limited liability company, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit, or otherwise and the United States or any instrumentality thereof. RCW 82.04.030.

(h) **Petroleum product.** "Petroleum product" means any liquid hydrocarbons at atmospheric temperature and pressure that are the product of the fractionation, distillation, or other refining or processing of crude oil, and that are used as, useable as, or may be refined as fuel or fuel blendstock including, but not limited to, gasoline, diesel fuel, aviation fuel, bunker fuel, and fuels containing a blend of alcohol and petroleum.

(i) **Pipeline.** "Pipeline" means an interstate or intrastate pipeline subject to regulation by the United States Department of Transportation under 49 C.F.R. Part 195 in effect as of April 1, 2018, through which oil moves in transportation, including line pipes, valves, and other appurtenances connected to line pipes, pumping units, and fabricated assemblies associated with pumping units.

(j) **Previously taxed product.** "Previously taxed product" means any crude oil or petroleum product which has been received in this state in a manner subject to the tax imposed by chapter 82.23B RCW and upon which such tax has been paid.

~~((j))~~ (k) **Tax.** "Tax" means the oil spill response and oil spill administration taxes imposed by chapter 82.23B RCW.

~~((k))~~ (l) **Taxpayer.** "Taxpayer" means the person owning crude oil or petroleum products immediately after receipt of the same into the storage tanks of a marine or bulk oil terminal in this state and who is liable for the tax.

~~((l))~~ (m) **Tank car.** "Tank car" means a rail car, the body of which consists of a tank for transporting liquids.

~~((m))~~ (n) **Waterborne vessel or barge.** "Waterborne vessel or barge" means any ship, barge, or other watercraft capable of traveling on the navigable waters of this state and capable of transporting any crude oil or petroleum product in quantities of ten thousand gallons or more for purposes other than providing fuel for its motor or engine.

(3) **Imposition, base, and reporting of tax.** The ~~((tax is))~~ taxes are imposed on the privilege of receiving ~~((:))~~ crude oil or petroleum products at:

• A marine terminal within this state from a waterborne vessel or barge operating on the navigable waters of this state; ~~((or effective July 1, 2015, crude oil or petroleum products at))~~

• A bulk oil terminal within this state from a tank car, beginning July 1, 2015; or

• A bulk oil terminal within this state from a pipeline, beginning April 1, 2018.

The tax is levied upon the owner of the crude oil or petroleum products immediately after receipt of the same into the storage tanks of a marine or bulk oil terminal from a tank car, pipeline or waterborne vessel or barge. RCW 82.23B.020.

(a) **Tax is due.** The tax is due for payment together with the timely filing of the tax return on which it is reported, on or before the twenty-fifth day of the month following the month in which the taxable receipt of crude oil or petroleum products occurs. If receipt commences on the last day of any month and extends past midnight, the receipt at the election of the marine or bulk oil terminal may be deemed to have occurred during the following month or may be deemed to have been completed at midnight on the last day of the month on which it was commenced.

(b) **Compute the number of net barrels.** The number of barrels received must be computed as the net barrels received by the marine or bulk oil terminal operator. Net barrels must be computed by using an industry standard adjustment to gross barrels received to account for variations in temperature and content of water or other nonpetroleum substances.

(4) **Tax collection by the marine or bulk oil terminal operator.** Unless the taxpayer has been issued a direct payment certificate as provided in subsection (5) of this rule, the operator of any marine or bulk oil terminal located in this state where crude oil or petroleum products are received and placed into storage tanks is responsible for the collection of the tax from the taxpayer.

(a) **Personally liable for the tax.** Failure to collect the tax from the taxpayer and remit it to the department will

cause the marine or bulk oil terminal operator to become personally liable for the tax, unless the terminal operator has billed the taxpayer for the tax or notified the taxpayer in writing of the imposition of the tax.

(i) The tax has been billed to a taxpayer when an invoice, statement of account, or notice of imposition of the tax is mailed or delivered to the taxpayer by the marine or bulk oil terminal operator within the operator's normal billing cycle, and separately states the dates of receipt, rate of tax, number of barrels received and placed into storage tanks, and the amount of the tax required to be collected by the operator.

(ii) A taxpayer has been notified of the imposition of the tax when, within twenty days from the date of receipt, a notice is mailed or delivered to the taxpayer, or to an agent of the taxpayer authorized to accept notices of this type other than the marine or bulk oil terminal operator. This notice must separately state the dates of receipt, rate of tax, number of barrels received into storage tanks, and the amount of the tax required to be collected by the operator.

(iii) Marine and bulk oil terminal operators must maintain a record of the names and addresses of taxpayers billed for the tax, or in cases where taxpayers are sent written notification of the imposition of the tax, the names and addresses of the persons to whom notice is sent. Such records must indicate those persons billed or notified from whom the tax has been collected. On request, the records must be made available for inspection by the department.

(b) **Tax must be held in trust.** The tax collected must be held in trust by the marine or bulk oil terminal operator until paid to the department. The tax is due from the operator, along with reports and returns on forms prescribed by the department, within twenty-five days after the end of the month in which the tax is collected.

(c) **Use of direct payment certificate.** A marine or bulk oil terminal operator who relies in good faith on a direct payment certificate (see subsection (5) of this rule) issued to a taxpayer is relieved from any liability for the collection of the tax from the taxpayer. A marine or bulk oil terminal operator is likewise relieved from liability for collection of the tax from a taxpayer if the terminal operator relies in good faith on a current roster of certificate holders that bears the name of a taxpayer and is published by the department (~~that bears the name of a taxpayer~~).

(5) **Direct payment to the department.** Any taxpayer may apply to the department in writing for permission to pay the tax directly to the department. On approval of the department, any taxpayer making application for direct payment will be issued a direct payment certificate entitling the taxpayer to pay the tax directly to the department.

(a) **Qualifications for direct payments.** To qualify for direct payment, the taxpayer must meet the following requirements:

(i) The taxpayer must be registered with the department.

(ii) The taxpayer must file a bond with the department in an amount equal to two (~~months~~) months' estimated liability for the tax, but in no event less than ten thousand dollars. The bond must be executed by the taxpayer as principal, and by a corporation approved by the department and authorized to engage in business as a surety company in this state, as surety. Two (~~months~~) months' estimated tax liability shall

be the total number of barrels received and placed into the storage tanks of a marine or bulk oil terminal in this state by the taxpayer during the two months in the immediately preceding twelve-month period, with the highest number of barrels received multiplied by the total tax rate. If the department determines that the result of the foregoing calculation does not represent a fair estimate of the actual tax liability that the taxpayer is expected to incur, it may set the bond requirement at such higher amount as the department determines in its judgment will secure the payment of the tax. The bond requirement may be waived with proof satisfactory to the department that the taxpayer has sufficient assets located in this state to ensure payment of the tax.

(iii) The taxpayer must be current in all of its tax obligations to the state having filed all returns as required by Title 82 RCW.

(b) **Review of bond amount.** The department may, from time to time, review the amount of any bond filed by a taxpayer possessing a direct payment certificate and may, with twenty (~~days~~) days' written notice to the taxpayer, require such higher bond as the department determines to be necessary to ensure payment of the tax. The filing of a substitute bond in such higher amount is a condition to the continuation of the right to make direct payment under this rule.

(c) **A direct payment certificate can be revoked.** The department may revoke a direct payment certificate issued under this rule if the taxpayer fails to maintain a current registration, fails to file a substitute bond within twenty days (~~from~~) of a written request by the department, or becomes delinquent in the payment of the tax.

(d) **Taxpayers holding a direct payment certificate.** The department maintains a current roster of all taxpayers who have a direct payment certificate. Copies of the roster are made available on a monthly basis to any interested person requesting to be placed on the roster subscription list. Requests to be placed on the roster subscription list should be mailed to Taxpayer Services, Department of Revenue, P.O. Box 47478, Olympia, WA 98504-7478.

(e) **Application for a direct payment certificate.** Applications for a direct payment certificate must be in writing and must include the name and address of the applicant, the applicant's registration number if currently registered, and the name and phone number of a contact person. The application must also contain a statement that if the application is approved, the taxpayer consents to (~~the~~) public disclosure (~~that~~) of the (~~taxpayer has been granted a~~) taxpayer's direct payment certificate (~~or if the certificate is later revoked, the taxpayer consents to the public disclosure of the fact of revocation.~~) status, including any subsequent revocation of any issued certificates. Certificate applications should be mailed to Taxpayer Account Administration, Attn: Oil Spill Tax Unit, Department of Revenue, P.O. Box 47476, Olympia, WA 98504-7476.

(6) **Exemption - Previously taxed crude oil or petroleum products.** The (~~tax applies~~) oil spill response and administration taxes apply only to the first receipt of crude oil or petroleum products at a marine or bulk oil terminal in this state. RCW 82.23B.030 provides an exemption for the subsequent receipt at a marine or bulk oil terminal in this state of previously taxed crude oil or petroleum products. This

exemption applies even though the previously taxed crude oil or petroleum products are refined or processed prior to subsequent transportation and receipt.

(7) **Presumption.** Any receipt of crude oil or petroleum products at a marine terminal within this state from a waterborne vessel or barge operating on the navigable waters of this state, ~~((or effective July 1, 2015, receipt of crude oil or petroleum products))~~ at a bulk oil terminal within this state from a tank car or pipeline, is presumed to be subject to the tax.

(a) **Certification of previous payment of the oil spill tax.** A person may rebut this presumption of taxability by

documenting that the crude oil or petroleum products received were previously subject to the tax. The proof may be in the form of information on the invoice or a written certification from the seller at the time of shipment or exchange. The written certification must be in substantially the form below, stating that all or a specific, stated portion of the crude oil or petroleum products were previously subject to the tax or, in the alternative, stating the amount of tax remitted or to be remitted to the state respective to the crude oil or petroleum products being sold.

Certification of Previous Payment of the Oil Spill Tax

I hereby certify that all or a portion of the crude oil or petroleum products specified herein were previously subject to the oil spill tax and that such tax was paid by the undersigned.

Identify product: _____

Amount of product in this shipment: _____

Percentage of product on which the tax has been paid: _____

OR

Amount of tax remitted or to be remitted to the state on product: _____

Name of recipient: _____

Authorized Signature of Seller

Date

Firm Name

UBI Number

(b) **Example 1.** Crude oil is received at a marine terminal in this state and the tax is remitted. The crude oil is then commingled with previously untaxed crude oil from a source not involving a receipt at a marine terminal, such as a receipt from ~~((a pipeline or))~~ a tank car. The commingled crude oil is refined into two petroleum products such as jet kerosene and unleaded gasoline. The petroleum products are then placed on separate waterborne vessels or barges and are shipped to a second marine terminal in this state. The receipt of petroleum products at the second marine terminal is presumed to be subject to the tax. The presumption may be rebutted by proof of what portion of each product of the shipment was previously subject to tax. Proof may be made by means of information on the invoice or a written certification that substantially conforms with the requirements set forth in subsection (7)(a) of this rule.

(c) **Example 2.** Petroleum product is received at a marine terminal in this state and the tax is remitted. Substances that were not previously subject to the tax are added to the petroleum product resulting in an increase of the volume of the petroleum product. The petroleum product is then placed on a waterborne vessel or barge and received at a second marine terminal in this state. At time of receipt at the second marine terminal, the tax is due on the incremental increase in volume of the petroleum product caused by the addition of the substances.

(8) **Export credit.** A credit is allowed against the tax for any crude oil or petroleum products exported from or sold for export from the state. RCW 82.23B.040.

(a) **Credit for previously taxed product.** Any person who exports or sells for export any previously taxed product may take an export credit. When the person taking the export credit is not the person who remitted the tax, the proof of payment of tax may be made by information on an invoice or written certification that substantially conforms to the requirements set forth in subsection (7)(a) of this rule.

(b) **When product is exported.** A person exports product when the person actually transports the product beyond the borders of this state for purposes of sale, or delivers the product to a common carrier for delivery and subsequent sale or use at a point outside this state. Documentation of export is described in (d) of this subsection.

(c) **Sales of previously taxed product for export.** A person sells product for export when, as a necessary incident to a contract of sale, the seller agrees to, and does deliver previously taxed product:

(i) To the buyer at a destination outside this state;

(ii) To a carrier consigned to and for transportation to a destination outside this state;

(iii) To the buyer alongside or aboard a vessel or other vehicle of transportation under circumstances where it is clear that the process of exporting the product has begun; or

(iv) Into a pipeline for transportation to a destination outside this state.

In all circumstances, there must be a certainty of export evidenced by some overt step taken in the export process. A sale for export will not necessarily be deemed to have occurred if the product is merely in storage awaiting shipment, even though there is reasonable certainty that the prod-

uct will be exported. The intention to export, as evidenced for example, by financial and contractual relationships, does not indicate certainty of export if the product has not commenced its journey outside this state. The product must actually enter the export stream. Sales of petroleum products by delivery into the fuel tank of a vessel or other vehicle in quantities greater than one hundred gallons will be considered placed into the export stream, provided the vessel or vehicle is immediately destined for a point outside this state and the seller obtains and keeps the documentary evidence discussed in (d) of this subsection.

(d) **Certificate of export.** A person who takes the credit for export must show that the previously taxed product was exported or sold for export. An export or a sale for export may be shown by obtaining and keeping any of the following documentary evidence:

(i) A bona fide bill of lading in which the seller is the shipper/consignor and by which the carrier agrees to transport the product to the buyer at a destination outside this state; or

(ii) A written certification in substantially the following form:

Certificate of Export

I hereby certify that the crude oil or petroleum products specified herein, purchased by or transferred to the undersigned from (seller or transferor), have been received into the export stream and are for export for sale or use outside Washington state. I will become liable for any tax credit granted (seller or transferor) pertaining to any crude oil or petroleum products ((which)) that are not so exported outside Washington state. This certificate is given with full knowledge of, and subject to the legally prescribed penalties for fraud.

Registration No. Type of Business
(If applicable)

Firm Name Registered Name
(If different)

Authorized Signature
Title

Identity of Product
(Kind and amount by volume)

Date; or

(iii) Documents consisting of:

(A) Purchase orders or contracts of sale which show that the seller is required to place the product into the export stream, e.g., "f.a.s. vessel"; and

(B) Local delivery receipts, tripsheets, waybills, warehouse releases, etc., reflecting how and when the product was delivered into the export stream; and

(C) When available, records showing that the products were packaged, numbered, or otherwise handled in a way ((which)) that is exclusively attributable to products sold for export.

(e) **Circumstances when credit is not available.** Only the export or sale for export of crude oil or petroleum products will qualify for the export credit. Crude oil or petroleum

products are not eligible for the export credit if, prior to export, they are subject to further processing or used as ingredients in other compounds unless the resulting products are themselves crude oil or petroleum products.

(f) **Location exchange agreement.** Crude oil or petroleum products delivered to purchasers in other states pursuant to location exchange agreements do not qualify for the export credit unless the crude oil or petroleum products were previously subject to the tax, and credit has not yet been taken. A location exchange agreement is any arrangement where crude oil or petroleum products located in this state are exchanged through an accounts crediting system, or any other method, for like substances located in other states. Any person acquiring previously taxed product in this state for which no credit has been taken may claim a credit on any such product subsequently exported or sold for export, provided all of the requirements set forth in subsections (8) and (9) of this rule have been met.

(g) **Maintenance of records.** Persons claiming the export credit must maintain records necessary to verify that the qualifications for taking the credit have been met. For this purpose any person claiming a credit who maintains those records required by WAC 458-20-19301 (Multiple activities tax credit), subsection (9), will be considered to have satisfied the requirements of this subsection.

(9) **Amount of credit.** The amount of the credit is equal to the tax previously paid on the crude oil or petroleum product exported or sold for export and for which credit has not already been taken. In no event will a credit be allowed in excess of the tax paid on the product exported or sold for export.

(a) **Credit for amount billed or written on certification.** If the person claiming the credit is not the taxpayer, the credit will be equal to that portion of the tax billed on an invoice or shown on a written certification that substantially conforms with the requirements set forth in subsection (7)(a) of this rule which relates to the particular product exported or sold for export.

To determine the amount of tax reflected on an invoice ((which)) that relates to a particular product exported or sold for export, it may be necessary to convert the tax paid from a rate per barrel to a rate per gallon or some other unit of measurement. This conversion is computed by taking the total amount of tax paid on an invoice for a particular product and dividing that figure by the total quantity of the product expressed in terms of the unit of measurement used for export. The credit is then computed by multiplying the converted rate times the quantity of product exported or sold for export.

(b) **Accounting methods for determining credit for commingled products.** When the product exported is previously taxed product commingled with untaxed product a person claiming the export credit may compute the amount of previously taxed product using one of the following methods:

(i) First-in, first-out method. Under this method the export credit is computed by treating existing inventory as sold before later acquired inventory.

(ii) Average of tax paid method. Under this method, the export credit is determined by calculating the average rate of tax paid on all inventory. This method requires computing the

tax by making adjustments in the rate of tax paid on all products on hand as they are removed from or added to storage.

(iii) Any other method approved by the department.

(c) **Use of selected method.** The use of one of the methods set forth in this subsection (9) to account for tax paid on commingled crude oil or petroleum products constitutes an election to continue using the method selected. Once selected, no change in accounting method is permitted without the prior consent of the department.

(d) **Examples.** The following examples show how to compute the credit.

(i) **Example 3.** A petroleum products distributor purchases 100 barrels each of premium unleaded gasoline and regular unleaded gasoline. The invoice from the refiner separately states that the invoice includes \$5.00 of tax for each of the two types of products. The distributor pays the invoiced amount and later sells 2,000 gallons of the premium unleaded and 4,000 gallons of the regular unleaded to a retailer located outside Washington. To compute the amount of credit on the export sales, the distributor must convert the tax paid from barrels to gallons. Since there are 42 US gallons in a barrel and 200 barrels purchased, the number of gallons equals 8400 (42×200). The per gallon tax paid on both products is equal to .119 cents per gallon ($\$10.00 \div 8400$). The distributor would be eligible for credit equal to \$2.38 for the premium unleaded ($2,000 \times \$0.00119$) and \$4.76 for the regular unleaded ($4,000 \times \$0.00119$).

(ii) **Example 4.** A petroleum products distributor purchases 100 barrels of unleaded gasoline on which the tax has been remitted for a portion. The invoice for the unleaded separately states that the total price includes \$4.00 of tax. This previously taxed product is commingled with 30 barrels of ~~other previously untaxed gasoline (received through a pipeline, that is, product that is not subject to tax)~~. The distributor sells 2,940 gallons of commingled product to a retailer for sale outside Washington. The tax paid on the previously taxed product is equal to .095 cents per gallon ($\$4.00 \div 4200$). Since the exported product has been blended with product that has not been taxed, only 76.9% of the exported product is eligible for credit ($100 \div 130$). The credit is \$2.15 ($2,940 \times .769 \times \0.00095).

(iii) **Example 5.** A petroleum distributor purchases 100 barrels of gasoline and receives from the seller an invoice that states that the tax has been paid on 90% of the shipped product. The distributor exports the 100 barrels. The petroleum distributor may claim an export credit of \$4.50. (90% of 100 barrels equals 90 barrels times the tax rate of \$.05 equals \$4.50.)

(iv) **Example 6.** A petroleum distributor purchases 100 barrels of unleaded gasoline from refinery A and later purchases 100 barrels from refinery B. The distributor stores all of its unleaded gasoline in a single storage tank. The invoice from refinery A separately states the amount of tax on the gasoline as \$5.00 and the refinery B invoice states the tax as \$4.00. The distributor pays the two invoiced amounts and sells 2,100 gallons of the commingled unleaded to a retailer located outside Washington. The distributor then purchases 100 more barrels of unleaded gasoline from distributor C. Distributor C's invoice separately states the tax as \$3.00. Following payment of the invoice, the distributor exports an

additional 2,100 gallons of unleaded. The distributor could choose to calculate the tax using one of the methods of accounting described in (b) of this subsection.

(A) Under the first-in, first-out method, the distributor would treat all 4,200 gallons sold as if it was the unleaded gasoline purchased from refinery A. Under this method, the credit would be equal to .119 cents per gallon ($\$5.00 \div 4,200$) or \$5.00 total ($\$.00119 \times 4,200$).

(B) Under the average of tax paid method the distributor would recompute the tax paid on average for the entire commingled amount, making adjustments as gasoline is sold or gasoline is added. Prior to the addition of the purchases from refinery B or distributor C, the rate would be .119 cents per gallon ($\$5.00 \div 4,200$). Following the addition of the 100 barrels from refinery B, the tank contains 8,400 gallons. The rate of tax would now be .107 cents per gallon ($(\$5.00 + \$4.00) \div 8,400$). Out of this amount 2,100 gallons is exported in the first sale. The credit for this sale would be equal to \$2.25 ($\$.00107 \times 2,100$).

(10) **Credit for use of petroleum products.** A person having paid the tax imposed by chapter 82.23B RCW may claim a refund or credit for the following:

(a) The use of petroleum products as a consumer for a purpose other than as a fuel. For this purpose, the term consumer shall be defined as provided in RCW 82.04.190; or

(b) The use of petroleum products as a component or ingredient in the manufacture of an item which is not a fuel.

(c) The amount of refund or credit claimed may not exceed the amount of tax paid by the person making such claim on the petroleum products so consumed or used.

WSR 18-15-085
EXPEDITED RULES
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed July 18, 2018, 7:51 a.m.]

Title of Rule and Other Identifying Information: Creating WAC 220-220-250 to accommodate the request legislation passed in 2018 that established a donation program for resident disabled veterans.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Creating WAC 220-220-250 to define the license products available under the resident disabled veteran donation program, effective June 13, 2018.

Reasons Supporting Proposal: Creating WAC 220-220-250 to define the license products available under the resident disabled veteran donation program, effective June 13, 2018.

Statutory Authority for Adoption: RCW 77.32.590.

Statute Being Implemented: RCW 77.12.320, 77.32.590.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington department of fish and wildlife, governmental.

Name of Agency Personnel Responsible for Drafting: Kristin Nielsen, 1111 Washington Street, Olympia, WA 98501, 360-902-2186; Implementation: Peter Vernie, 1111

Washington Street, Olympia, WA 98501, 360-902-2302; and Enforcement: Chief Steve Bear, 1111 Washington Street, Olympia, WA 98501, 360-902-2936.

This notice meets the following criteria to use the expedited adoption process for these rules:

Content is explicitly and specifically dictated by statute.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: This is to make the rule align with the new statute that was approved.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Scott Bird, Washington Department of Fish and Wildlife, P.O. Box 43200, Mailstop 43153, Olympia, WA 98504, phone 360-902-2403, fax 360-902-2155, email Rules.Coordinator@dfw.wa.gov, AND RECEIVED BY September 18, 2018.

July 18, 2018
Scott Bird
Rules Coordinator

NEW SECTION

WAC 220-220-250 Donation program for resident disabled veterans. (1) The department is authorized to create a special donation program for resident disabled veterans who meet the eligibility criteria set forth in RCW 77.32.480 (1)(a) or (b).

(2) Funds donated by the public will be deposited into a disabled veterans donation fund account. On a first-come, first-served basis, qualifying resident disabled veteran will have the opportunity to purchase certain recreational hunting and fishing licenses at the prices set forth below using funds in the disabled veterans donation fund account, as available. Donation account funds may also be applied to dealer and transaction fees associated with each qualifying license purchase.

(3) Qualifying resident disabled veterans are eligible to purchase the following licenses using available funds from the disabled veterans donation fund account:

(a) **Hunting Licenses:**

- (i) Deer;
- (ii) Deer and elk;
- (iii) Deer, elk, bear, cougar;
- (iv) Elk;
- (v) Small game;
- (vi) Deer and elk with small game;
- (vii) Deer with small game;
- (viii) Deer, elk, bear, cougar with small game;
- (ix) Elk with small game;
- (x) Bear with small game;
- (xi) Cougar with small game;

(xii) Bear;

(xiii) Cougar.

(b) **Fishing Licenses:**

(i) Annual combination fishing;

(ii) Three-day razor clam.

(4) Per RCW 77.32.480(1), qualifying resident disabled veterans will be issued hunting licenses at the reduced rate of a youth hunting license.

(5) Qualifying resident disabled veterans will be issued annual combination fishing licenses at the rate of eight dollars and fifty cents, which includes the reduced license rate of five dollars set forth in RCW 77.32.480(1) and the rockfish and biotoxin surcharges set forth in RCW 77.32.470 (2)(a) and 77.32.555(1).

(6) Qualifying resident disabled veterans will be issued three-day razor clam licenses at the rate of seven dollars, which includes the license rate of five dollars set forth in RCW 77.32.520(5) and the biotoxin surcharge set forth in RCW 77.32.555(1).