

WSR 12-05-101
EXPEDITED RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Filed February 21, 2012, 11:25 a.m.]

Title of Rule and Other Identifying Information: WAC 220-16-230 Geographical definitions—Outside Initiative 77 line, 220-16-235 Geographical definitions—Inside Initiative 77 line, 220-16-275 Geographical definitions—Village Point, 220-16-280 Geographical definitions—Clam and oyster districts, 220-56-129 Unclassified freshwater invertebrates and fish, 220-76-130 Marine finfish aquaculture—Aquaculture facility inspection authority, 220-77-081 Aquaculture facility inspection authority, 220-130-010 Purpose, 232-13-010 Introduction, and 232-13-020 Purpose.

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 Joanna Eide, Administrative Regulations Analyst, WDFW Enforcement, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Joanna.eide@dfw.wa.gov, AND RECEIVED BY April 23, 2012.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to repeal several WAC sections that are outdated, redundant, and/or no longer necessary; to make small technical changes to WAC titles to ensure clarity and uniformity; and to align a WAC with another rule.

Reasons Supporting Proposal: These changes will eliminate unneeded rules and contribute to efforts to streamline and clarify the department's administrative code. Keeping incorrect, outdated, or unnecessary rules in the code will only lend to confusion. The proposed technical changes to existing WACs will ensure the clarity of the rules.

Statutory Authority for Adoption: RCW 34.05.353 (1)(c) and (e), (2)(c) and (d), and 77.12.047 (1)(o).

Statute Being Implemented: RCW 34.05.353 (1)(c) and (e), (2)(c) and (d), and 77.12.047 (1)(o).

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: Joanna Eide, 1111 Washington Street S.E., Olympia, WA 98504, (360) 902-2403; Implementation: Deputy Chief Mike Cenci, 1111 Washington Street S.E., Olympia, WA 98504, (360) 902-2938; and Enforcement: Chief Bruce Bjork, 1111 Washington Street S.E., Olympia, WA 98504, (360) 902-2373.

February 21, 2012

Joanna Eide

Administrative Regulations Analyst

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-16-230	Geographical definitions— Outside Initiative 77 line.
WAC 220-16-235	Geographical definitions— Inside Initiative 77 line.
WAC 220-16-275	Geographical definitions— Village Point.
WAC 220-16-280	Geographical definitions— Clam and oyster districts.

AMENDATORY SECTION (Amending Order 10-64, filed 3/19/10, effective 5/1/10)

WAC 220-56-129 Unclassified freshwater invertebrates and fish. (1) Definitions. For purposes of this section, "freshwater clams and mussels" means all freshwater bivalves existing in Washington in a wild state, except prohibited aquatic animal species classified under WAC 232-12-090.

(2) It is unlawful for any person to take or possess freshwater clams and mussels taken for personal use. Freshwater clams and mussels include all bodily parts but does not include five pounds or less of relic shells of freshwater clams and mussels. A relic (dead) shell is defined as one which apparently died of natural causes and contains no meat or soft parts: It readily exhibits noticeable sediment, vegetation, algal or mineral stains, discolorations, soiling, weathering or other visual evidence on its interior surface which clearly and unambiguously shows the shell has not been cooked-out or freshly cleaned. No license or permit is required to take or possess up to five pounds of relic shells per day. It is unlawful to take or possess more than five pounds of relic shells without first obtaining a scientific collection permit.

(3) It is unlawful to retain any freshwater fish not classified as a food fish or game fish, with the exception of northern pike when taken in accordance with WAC 220-12-090.

(4) It is unlawful for any person to take, fish for or possess Pacific lamprey, western brook lamprey, or river lamprey taken for personal use.

(5) Violation of this rule is punishable under RCW 77.15.140.

AMENDATORY SECTION (Amending Order 02-309, filed 12/24/02, effective 7/1/03)

WAC 220-76-130 (~~Marine finfish aquaculture~~) Aquaculture facility inspection authority—Marine finfish aquaculture. Authorized department employees shall, at reasonable times and in a reasonable manner, have access to marine aquatic farming locations to conduct inspections to determine conformity with the law and the rules of the department relating to preventing escaped finfish and/or the recapture of escaped finfish. The department shall conduct at least annual inspections of marine finfish aquaculture facilities of the state.

AMENDATORY SECTION (Amending Order 01-281, filed 12/21/01, effective 1/21/02)

WAC 220-77-081 Aquaculture facility inspection authority—Generally. Authorized department employees shall, at reasonable times and in a reasonable manner, have access to all finfish aquaculture facilities to conduct inspections for the prevention and suppression of aquaculture diseases, including, but not limited to, taking samples for detection of regulated finfish pathogens and other diseases. If the department is denied access, a court of competent jurisdiction may issue a search warrant authorizing access to the facility upon a showing that the facility is engaged in aquaculture production and that access has been denied.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-130-010 Purpose.

AMENDATORY SECTION (Amending Order 07-293, filed 12/17/07, effective 1/17/08)

WAC 232-13-020 Declaration of purpose—Department lands. The primary purpose of department lands is the preservation, protection, perpetuation and management of fish and wildlife and their habitats. Public use of department lands may include fishing, hunting, fish and wildlife appreciation, and other outdoor recreational opportunities when compatible with healthy and diverse fish and wildlife populations.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-13-010 Introduction.