



Fish and Wildlife Commission Presentation Summary Sheet

Meeting date:

7/15/2022

Agenda item:

Free Fishing Weekend – rule making proposal – decision

Presenter(s):

Kirt Hughes, Fish Management Division Manager

Background summary:

In June 2022 department staff briefed the Commission on this proposed rule change. The Department is seeking a decision from the Commission on a proposed rule-making to modify the current rule governing free fishing weekend. The proposed amendment would limit the waiver of a license requirement on free fishing weekend to fish that do not require a catch record card.

Under the existing rule, the Saturday and Sunday following the first Monday in June is declared to be free fishing weekend in Washington. On that weekend, a fishing license is not required for any person, regardless of age or residency, to fish for or possess fish and shellfish, except that it is unlawful to fish for or possess any species for which a catch record is required without a valid catch record card in possession. Additionally, a fish and wildlife lands vehicle use permit is not required to use department parking facilities, and anglers may fish with two poles in all lakes where it is legal to do so without purchasing a two-pole endorsement. During free fishing weekend, only the license, endorsements, and permit provided for in WAC 220-220-230 are affected, and all other rules including the catch record card requirement remain in effect.

The proposed rule, if adopted, would limit the waiver of licensure requirements for free fishing weekend to fish that do not require a catch record card. On free fishing weekend, licenses and catch record cards (if applicable) would be required to gather or possess shellfish or fish requiring a catch record card. A fishing license would not be required for any person, regardless of age or residency, to fish for or possess fish that do not require a catch record card on free fishing weekend. The new rule would waive the requirement for a vehicle access pass and continue to allow fishing with two poles (where legal) without a two-pole endorsement, on free fishing weekend.

This proposal intends to address conservation concerns related to species for which season are set based on availability of the resource for harvest. For example, intertidal shellfish (clams and oysters) and salmon season are established based on population surveys and anticipated harvestable shares. Estimates of harvest or catch are made using creel surveys and/or catch record card estimate. Participation on free fishing weekend is difficult to anticipate and has caused significant spikes in harvest.

Staff recommendation:

Adopt rule as proposed in the CR102.

Policy issue(s) and expected outcome:

As noted above the proposed rule change would reduce the species which may be harvested on free fishing weekend for those who do not possess a valid fishing license. It is expected that this change will address concerns related to conservation, catch accounting, and compliance with regulations.

Fiscal impacts of agency implementation:

na

Public involvement process used and what you learned:

The public was notified via WDFW website and in Washington State Register. Only one public comment was received during the comment period which ran from March 22, 2022 through Jun 28, 2022.

Action requested and/or proposed next steps:

Consider adoption of proposed rule.

Draft motion language:

I move that the Commission adopt the proposed rule as presented in the CR102.

Post decision communications plan:

Update information in Free Fishing Weekend on WDFW website and in the Fishing Pamphlet.



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: March 22, 2022

TIME: 1:37 PM

WSR 22-07-098

Agency: Washington Department of Fish and Wildlife ({2022-04})

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 22-03-089 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) Free Fishing Weekend: proposed amendments to WAC 220-220-230 to address changes in types of fishing that are "free" to fishing without a state license.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
June 23-25, 2022	8:00a.m.	Webinar	This meeting will take place by webinar. The public may participate in the meeting. Registration is required to testify at the public hearing. Registration deadlines and registration forms are available at http://wdfw.wa.gov/about/commission/meetings or contact the Commission office at (360) 902-2267.

Date of intended adoption: July 2022 (Note: This is NOT the effective date)

Submit written comments to:

Name: WDFW Fish Program

Address: n/a

Email: FreeFishing102@PublicInput.com

Fax: voicemail comments: 855-925-2801 Project code 2906

Other: website portal: <https://publicinput.com/FreeFishing102>

By (date) June 28, 2022

Assistance for persons with disabilities:

Contact Title VI/ADA Compliance Coordinator

Phone: 360-902-2349, TTY (711)

Fax: n/a

TTY: 711

Email: Title6@dfw.wa.gov

Other: <https://wdfw.wa.gov/accessibility/requests-accommodation>

By (date) June 28, 2022

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The proposed amendment would limit the waiver of a license requirement on free fishing weekend to fish that do not require a catch record card. The amendment would prohibit fishing for or possessing (1) shellfish and (2) fish that require a catch record card on free fishing weekend, unless the fisher or harvester possesses an appropriate license (if otherwise required).

Under the existing rule, the Saturday and Sunday following the first Monday in June is declared to be free fishing weekend in Washington. On that weekend, a fishing license is not required for any person, regardless of age or residency, to fish for or

possess fish and shellfish, except that it is unlawful to fish for or possess any species for which a catch record is required without a valid catch record card in possession. Additionally, a fish and wildlife lands vehicle use permit is not required to use department parking facilities, and anglers may fish with two poles in all lakes where it is legal to do so without purchasing a two-pole endorsement. During free fishing weekend, only the license, endorsements, and permit provided for in WAC 220-220-230 are affected, and all other rules including the catch record card requirement remain in effect.

The proposed rule, if adopted, would limit the waiver of licensure requirements for free fishing weekend to fish that do not require a catch record card. On free fishing weekend, licenses and catch record cards (if applicable) would be required to gather or possess shellfish or fish requiring a catch record card. A fishing license would not be required for any person, regardless of age or residency, to fish for or possess fish that do not require a catch record card on free fishing weekend. The new rule would waive the requirement for a vehicle access pass and continue to allow fishing with two poles (where legal) without a two-pole endorsement, on free fishing weekend.

Reasons supporting proposal:

Amendments being considered are intended to address management and conservation concerns related to accounting of fish harvesting. Historically, free fishing weekend has led to high levels of harvest of shellfish, which limits other opportunities throughout the year. In addition, the lack of a licensure requirement for fish that require catch records has led to challenges regarding catch accounting.

Statutory authority for adoption: RCW 77.04.012, RCW 77.04.055, RCW 77.12.047, RCW 77.32.010, RCW 77.32.025, RCW 77.32.090.

Statute being implemented: RCW 77.32.025, RCW 77.12.047

Is rule necessary because of a:

- Federal Law? Yes No
- Federal Court Decision? Yes No
- State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: n/a

Name of proponent: (person or organization) Washington Department of Fish and Wildlife Private Public Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Kirt Hughes	Kirt.hughes@dfw.wa.gov	360 480-2421
Implementation:	Kelly Cunningham	Kelly.cunningham@dfw.wa.gov	360 902-2325
Enforcement:	Chief Steve Bear	Steve.bear@dfw.wa.gov	360 902-2373

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

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

Is a cost-benefit analysis required under RCW 34.05.328?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

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

No: Please explain: This proposal does not require a cost benefit analysis under RCW 34.05.328(5)(i)

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under RCW **RCW 19.85.025 (4)** .

Explanation of exemptions, if necessary: The proposed rule applies to recreational fishing opportunities and does not affect small businesses.

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. _____

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

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

Date: 3/22/2022

Name: Annie Szvetecz

Title: Agency Rules Coordinator

Signature:

A handwritten signature in black ink, appearing to read "Annie Szvetecz". The signature is written in a cursive style with a horizontal line at the end.

WAC 220-220-230 Free fishing weekend. The Saturday and Sunday following the first Monday in June is declared to be free fishing weekend in Washington. On this weekend a fishing license is not required for any person, regardless of age or residency, to fish for or possess fish (~~and shellfish and a fish and wildlife lands vehicle use permit is not required to utilize department parking facilities except that it is unlawful to fish for or possess any species for which a catch record is required without a valid catch record card in possession.~~) for which a catch record card is not required. On free fishing weekend, anglers may fish with two poles in all lakes where it is legal to do so without purchasing a two-pole endorsement (~~. During free fishing weekend~~), and a fish and wildlife lands vehicle access pass is not required to use department parking facilities. Only the license, endorsements, and permit provided for in this section are affected, and all other rules (~~including the catch record card requirement~~) remain in effect.

Free fishing weekend does not apply to fish that require a catch record card or shellfish, and any licensure requirements otherwise provided for by rule continue to apply to those species.