



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

Agency: Washington Department of Fish and Wildlife

- | | |
|--|---|
| <input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 09-10-025 ; or | <input checked="" type="checkbox"/> Original Notice |
| <input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or | <input type="checkbox"/> Supplemental Notice to WSR _____ |
| <input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4). | <input type="checkbox"/> Continuance of WSR _____ |

Title of rule and other identifying information: (Describe Subject)
Repeal Chapter 220-88C WAC. Add WAC 220-44-095 – Coastal sardine purse seine fishery – Harvest, landing, and reporting requirements – Gear

Hearing location(s):
WDFW Region 6 Office
48 Devonshire Rd
Montesano, Washington 98563

Submit written comments to:
Name: Corey Niles, Marine Resources Policy Coordinator
Address: 48 Devonshire Rd., Montesano, WA 98563

e-mail Corey.Niles@dfw.wa.gov
fax (360) 664-0689 by (date) July 31, 2009

Date: August 11, 2009 Time: 10:00 a.m.

Assistance for persons with disabilities: Contact
Susan Yeager by July 31, 2009
TTY (360) 902-2207 or (360) 902-2267

Date of intended adoption: August 12, 2009
(Note: This is **NOT** the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The Legislature created a new license limitation program in ESHB 1326 for the harvest and delivery of Pacific sardines into the state. The current emerging commercial fishery rules for sardine/pilchard will no longer apply once this new law becomes effective on July 26, 2009. This proposal would extend the current harvest, bycatch, landing, and reporting requirements to the new licenses and incorporate federal coastal pelagic species regulations by reference.

Reasons supporting proposal: The agency is mandated to conserve food-fish resources, maintain the economic well-being and stability of the fishing industry in the state, and promote orderly fisheries.

Statutory authority for adoption: Chapter 331, Laws of 2009 (ESHB 1326); and RCWs 77.04.020, 77.12.047, and 77.65.220.

Statute being implemented: Chapter 331, Laws of 2009 (ESHB 1326).

Is rule necessary because of a:
Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No
If yes, CITATION:

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: June 30, 2009

TIME: 11:01 AM

WSR 09-14-100

DATE
June 30, 2009

NAME (type or print)
Lori Preuss

SIGNATURE

TITLE
Rules Coordinator

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

None.

Name of proponent: (person or organization)

The Washington Department of Fish and Wildlife

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Corey Niles	48 Devonshire Rd, Montesano, WA 98563	(360) 249-4628
Implementation Lorna Wargo	48 Devonshire Rd, Montesano, WA 98563	(360) 249-4628
Enforcement.....Chief Bruce Bjork	1111 Washington Street, SE, Olympia, WA 98504	(360) 902-2373

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No. Explain why no statement was prepared.

The proposed rules are no more restrictive than the existing emerging commercial fishery regulations and will not result in additional costs to fishery participants.

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 () _____

e-mail _____

No: Please explain: This proposal does not involve hydraulics.

NEW SECTION

WAC 220-44-095 Coastal sardine purse seine fishery--Harvest, landing, and reporting requirements--Gear. (1)(a) It is unlawful to possess, transport through the waters of the state, or deliver into any Washington port, Pacific sardine (*Sardinops sagax*) or other coastal pelagic species taken in violation of gear requirements and other rules published in Title 50, Part 660, Subpart I of the Code of Federal Regulations (CFR). These federal regulations govern commercial fishing for coastal pelagic species in the Exclusive Economic Zone off the coasts of Washington, Oregon, and California. Where the federal regulations refer to the fishery management area, that area is interpreted to include Washington state waters coterminous with the Exclusive Economic Zone. Updates to the federal regulations are published in the Federal Register. Discrepancies or errors between the CFR and Federal Register will be resolved in favor of the Federal Register. This chapter incorporates the CFR by reference and is based, in part, on the CFR. A copy of the federal rules may be obtained by contacting Lori Preuss at 360-902-2930, or going to the U.S. Government Printing Office's GPO Access web site (www.gpoaccess.gov). State regulations that are more restrictive than the federal regulations will prevail.

(b) The coastal sardine fishery season is open to purse seine fishing each year only from April 1st through December 31st. It is unlawful to take Pacific sardine in state waters except for the incidental take authorized by the coastal baitfish regulations.

(c) It is unlawful to retain any species that is taken incidental to sardine, except for anchovy, mackerel, and market squid (*Logligo opalescens*). Any salmon encircled in the purse seine must be released prior to completion of the set, and no salmon may be landed on the fishing vessel.

(d) It is unlawful to transfer sardine catch from one fishing vessel to another.

(e) It is unlawful to fail to have legal purse seine gear aboard the vessel making a sardine landing.

(f) It is unlawful to fail to deliver sardine landings to a shore-side processing facility.

(g) Once a delivery has commenced at a processing plant, all fish on board the vessel must be offloaded at that plant.

(h) It is unlawful to deliver more than fifteen percent cumulative weight of sardines for the purposes of conversion into fish flour, fish meal, fish scrap, fertilizer, fish oil, other fishery products, or by-products, for purposes other than human consumption or fishing bait used during the sardine fishery season.

(2) License owners must designate a vessel upon issuance or renewal of the license and must be identified as either the vessel

owner or primary license operator.

(3) Persons fishing under a Washington sardine purse seine fishery license or temporary annual fishery permit must:

(a) Carry an observer on board for any sardine fishing trip if requested by the department;

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

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

(4) Violation of reporting requirements under this section is punishable pursuant to RCW 77.15.280.

(5) Violation of gear, harvest, or landing requirements under this section is punishable pursuant to RCW 77.15.520.