



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 12-05-052 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)
WAC 220-95-100, Sea urchin license reduction program; and
WAC 220-95-110, Sea cucumber license reduction program.

Hearing location(s):
Natural Resources Building, Room 172
1111 Washington St., SE
Olympia, WA 98504

Date: June 1-2, 2012 Time: 8:30 a.m.

Date of intended adoption: June 15, 2012
(Note: This is NOT the effective date)

Submit written comments to:
Name: Richard Childers
Address: 600 Capitol Way N.
Olympia WA 98501-1091

E-mail: rich.childers@dfw.wa.gov
Fax: (360) 902-2943 by (date) May 20, 2012

Assistance for persons with disabilities: Contact

Tami Lininger by May 20, 2012

TTY (360) 902-2207 or (360) 902-2267

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

The department wants to reduce the number of commercial sea urchin permits to 20 and sea cucumber permits to 20. To do this, it is implementing a permit buy-back program. The department solicited comment from industry stakeholders in a November 2011 letter. Stakeholders responded by recommending increases of the maximum bid price to \$20,000 for sea urchin permits and \$60,000 for sea cucumber permits.

Reasons supporting proposal: These amendments will promote sales of permits back to the department to meet license-reduction goals.

Statutory authority for adoption: RCW 77.12.047, 77.70.150, and 77.70.190

Statute being implemented: RCW 77.12.047, 77.70.150, and 77.70.190

Is rule necessary because of a:

- | | | |
|-------------------------|------------------------------|--|
| Federal Law? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
- If yes, CITATION:

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: April 16, 2012

TIME: 3:37 PM

WSR 12-09-053

DATE
April 16, 2012

NAME (type or print)
Lori Preuss

SIGNATURE

TITLE
Rules Coordinator

(COMPLETE REVERSE SIDE)

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

None.

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..... Richard Childers	1000 Point Whitney Rd., Brinnon, WA 98320	(360) 586-1498
Implementation.... James Scott	1111 Washington Street SE, Olympia, WA 98504	(360) 902-2736
Enforcement..... 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: Richard Childers
Address: 1000 Point Whitney Road
Brinnon, WA 98320

Phone: (360) 586-1498
Fax: (360) 796-4997
E-mail: rich.childers@dfw.wa.gov

No. Explain why no statement was prepared.

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.

Small Business Economic Impact Statement

1. Description of the reporting, record keeping, and other compliance requirements of the proposed rule:

This proposal contains no requirements for small businesses other than establishing a sales price for any permits they want to sell. This is a license buy-back program that allows owners of commercial sea-urchin and sea-cucumber permits to make offers to sell their permits back to the Washington Department of Fish and Wildlife (WDFW).

2. Kinds of professional services that a small business is likely to need in order to comply with such requirements:

There are no requirements to comply with. A small business may wish to hire a professional to help establish its bid price, but this is not required.

3. Costs of compliance for businesses, including costs of equipment, supplies, labor, and increased administrative costs:

No costs are required to comply with this proposal.

4. Will compliance with the rule cause businesses to lose sales or revenue?

Yes, if a small business decides to offer its sea-urchin or sea-cucumber permit for sale back to WDFW, and WDFW accepts the offer. Without a license, the small business cannot participate in the commercial sea-urchin and sea-cucumber fisheries, which means it will lose sales and revenue. However, if a small business is successful in selling its permit back to WDFW, it will gain revenue. The decision to make a sales offer to WDFW is wholly each permit owner's.

5. Cost of compliance for the ten percent of businesses that are the largest businesses required to comply with the proposed rules, using one or more of the following as a basis for comparing costs:

- 1. Cost per employee;**
- 2. Cost per hour of labor; or**
- 3. Cost per one hundred dollars of sales.**

There are no costs of compliance.

6. Steps taken by the agency to reduce the costs of the rule on small businesses, or reasonable justification for not doing so:

There are no costs of compliance.

7. A description of how the agency will involve small businesses in the development of the rule:

WDFW had significant discussions with current license holders in the commercial sea cucumber and sea urchin fisheries regarding whether and how much to raise the maximum bid prices for these license buy-back programs. The industry reached a consensus for both fisheries, and WDFW incorporated the agreed-upon maximum bid prices into its rules.

8. A list of industries that will be required to comply with the rule:

License holders wishing to participate in the commercial sea-urchin and sea-cucumber license buy-back program.

AMENDATORY SECTION (Amending Order 07-88, filed 5/18/07, effective 6/18/07)

WAC 220-95-100 Sea urchin license reduction program. In order to provide for economic stability in the commercial sea urchin fishery, and in accordance with RCW 77.70.150, the department establishes the sea urchin license reduction program (program).

(1) Eligibility: All persons who currently hold a sea urchin commercial fishery license are eligible to offer their license(s) for purchase ~~((under the program))~~ by the department.

~~((2))~~ ~~((Method of purchase: The department will rank offers to sell sea urchin licenses from the lowest offer to the highest offer. The department will purchase licenses each year from the funds made available under RCW 77.70.150, with a maximum purchase price of \$11,000 per license.~~

~~((3))~~ Offer process: The department will accept sales offers ~~((to sell))~~ beginning August 1st of each year and will purchase licenses based on the funds that are available on ~~((the following))~~ September 30th of that same year.

~~((4))~~ (3) Selection process: The department will ~~((select licenses to be purchased beginning with the lowest offer to sell, and continuing))~~ rank sales offers from the lowest offer to the highest. It will purchase the lowest-cost licenses first, then the next lowest, and continue until there are insufficient funds to ~~((purchase a))~~ complete a purchase on an offer. If two or more licenses are offered at the same price, selection will be by random draw. To purchase licenses, the department will use the funds made available under RCW 77.70.150, with a maximum purchase price of twenty thousand dollars per license.

~~((5))~~ (4) License reduction process: ((Upon selection,)) When the department purchases a license, it will issue a warrant (a check from the department) in the amount of the offer to the license holder ~~((in the amount of the offer)).~~ On the date that the department mails the warrant ~~((is mailed))~~ to the license holder's mailing address ~~((of the license holder as shown in their))~~ on file with the department ~~((licensing file, the department)),~~ it will void the license. ((Upon receipt of)) When the license holder receives the warrant, ~~((the license holder is to))~~ he or she must return ~~((the))~~ his or her commercial sea urchin license cards to the department.

~~((6))~~ (5) No prohibition on reentry: License holders who sell a license under the program may reenter the sea urchin commercial fishery if they purchase a license.

~~((7))~~ (6) Program termination: This program terminates when the number of sea urchin commercial fishery licensees is reduced to ~~((twenty-five))~~ twenty.

WAC 220-95-110 Sea cucumber license reduction program. In order to provide for economic stability in the commercial sea cucumber fishery, and in accordance with RCW 77.70.190, the department establishes the sea cucumber license reduction program (program).

(1) Eligibility: All persons who currently hold a sea cucumber commercial fishery license are eligible to offer their license(s) for purchase ~~((under the program))~~ by the department.

~~(2) ((Method of purchase: The department will rank offers to sell sea cucumber licenses from the lowest offer to the highest offer. The department will purchase licenses each year from the funds made available under RCW 77.70.190, with a maximum purchase price of \$15,000 per license.~~

~~(3)) Offer process: The department will accept sales offers ((to sell)) beginning August 1st of each year and will purchase licenses based on the funds that are available on ((the following)) September 30th of that same year.~~

~~((4)) (3) Selection process: The department will ((select licenses to be purchased beginning with the lowest offer to sell, and continuing)) rank sales offers from the lowest offer to the highest. It will purchase the lowest-cost licenses first, then the next lowest, and continue until there are insufficient funds to ((purchase a) complete a purchase on an offer. If two or more licenses are offered at the same price, selection will be by random draw. To purchase licenses, the department will use the funds made available under RCW 77.70.190, with a maximum purchase price of sixty thousand dollars per license.~~

~~((5)) (4) License reduction process: ((Upon selection,)) When the department purchases a license, it will issue a warrant (a check from the department) in the amount of the offer to the license holder ((in the amount of the offer)). On the date that the department mails the warrant ((is mailed)) to the license holder's mailing address ((of the license holder as shown in their)) on file with the department ((licensing file, the department)), it will void the license. ((Upon receipt of)) When the license holder receives the warrant, ((the license holder is to)) he or she must return ((the)) his or her commercial sea cucumber license cards to the department.~~

~~((6)) (5) No prohibition on reentry: License holders who sell a license under the program may reenter the sea cucumber commercial fishery if they purchase a license.~~

~~((7)) (6) Program termination: This program terminates when the number of sea cucumber commercial fishery licensees is reduced to ((twenty-five)) twenty.~~