

**“GREEN SHEET”**

(Form revised 01/25/05)

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<b>Meeting dates:</b>	May 18, 2007 Phone Conference Call
<b>Agenda item:</b>	Sea Urchin and Sea Cucumber Maximum Bid Amounts (rule adoption)
<b>Staff Contact:</b>	Morris Barker
<b>Presenter/s:</b>	Morris Barker Ph.D., State Marine Resource Manager

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**Background:**

Through legislative action, the sea urchin and sea cucumber dive industry has developed a self funded license retirement program with the goal of reducing the number of licenses in each fishery to 25. These fisheries started in the late 70's and early 80's and hit peak harvests in the late 80's to early 90's when the legislature went to a limited entry fishery to curb this rapid growth and over-capitalization. During this period staff were scrambling to make estimates of stock productivity and population assessments to bring harvest in line with the need for a healthy resource. This resulted in harvest decreases to meet the biological requirements for stock health. Within a few years thereafter, the federal court decision on Treaty Tribal shellfish harvest was handed down and this limited entry over-capitalized fishery had their harvest reduced even further to meet sharing requirements. It was in this climate that the industry asked for the department's help in crafting a license reduction bill. The bill was passed and has since come to a sunset date and was, at the request of the industry, extended by legislative action in the previous session. The industry has put a surcharge on license sales and transfers as well as a surcharge on the excise tax on landings to go into the license buyback account for each fishery.

These accounts have continued to increase cumulative totals available and the maximum bid amounts have also slowly increased. These amounts have not generated much interest in this previous year (only 1 sea urchin license offered) and it is time to consider raising the maximum bid amount to buy out some additional licenses. To date this process has reduced the number of sea cucumber licenses from 49 to 41 with a goal of 25. The sea cucumber account now has \$135,465 as of 1/07. The sea urchin fishery has been reduced from 42 licenses to 31 licenses, also with a goal of 25 licenses remaining in the fishery. The sea urchin account has a total accumulation of \$39,901 available.

The proposal is to raise the maximum bid amounts for each license by \$3,000 bringing the amount of maximum bid for sea cucumber licenses to \$15,000 and sea urchin to \$11,000.

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**Policy issue(s) you are bringing to the Commission for consideration:**

Does the Fish and Wildlife Commission wish to enhance the incentives for the sea urchin and sea cucumber license reduction program?

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**Public involvement process used and what you learned:**

We have vetted the proposal to raise the maximum bid amount on these licenses with the industry advisory committee and they have been supportive of the idea and the amount proposed.

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**Action requested** (identify the specific Commission decisions you are seeking and when):

Adopt the proposed amendment to increase the maximum bid amounts for the sea cucumber

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and sea urchin license buy back program.

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**Draft motion language:**

Move to adopt WAC 220-95-100 Sea urchin license reduction program and WAC 220-95-110 Sea cucumber license reduction program.

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**Justification for Commission action:**

RCW's 77.70.150 and 190 provide for the statute basis for the license buyback program. This is also justified in reducing the level of over-capitalization to make remaining fishers more economically viable.

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# 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

Preproposal Statement of Inquiry was filed as WSR 07-02-078 ; or  
 Expedited Rule Making--Proposed notice was filed as WSR; or  
 Proposal is exempt under RCW 34.05.310(4).

Original Notice  
 Supplemental Notice to WSR \_\_\_\_\_  
 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. The legislature has set up a self-funded industry license buy-back program, which will increase the maximum bid amount paid to encourage further license sales to the department. This in turn will reduce overcapitalization and will allow for license retirements.

Hearing location(s): Ellensburg Inn and Conference Center, 1700 Canyon Road, Ellensburg, WA.

Submit written comments to:  
Name: Lori Preuss, Rules Coordinator

Address: 600 Capitol Way No., Olympia, WA 98501-1091  
e-mail preuslmp@dfw.wa.gov  
fax (360) 902-2155 by (date) 4/4/07

Date: April 6-7, 2007 Time: 8:00 AM

Assistance for persons with disabilities: Contact  
Susan Yeager by October 19, 2006

Date of intended adoption: May 18, 2007  
(Note: This is NOT the effective date)

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

Purpose of the proposal and its anticipated effects, including any changes in existing rules: To increase the maximum bid amount for sea urchin and sea cucumber license-reduction buy-back efforts to reduce fleet size in both fisheries and increase the economic return of the remaining fishers.

Reasons supporting proposal: Current rules with a lower maximum bid amount are not generating enough interest to cause existing license holders to sell their licenses. Thus, the goal of license-reduction levels has not yet been met.

Statutory authority for adoption: RCW 77.70.150 and RCW 77.70.190

Statute being implemented: RCW 77.70.150 and RCW 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

CODE REVISER'S OFFICE  
STATE OF WASHINGTON  
FILED

FEB 13 2007

TIME 9:05 AM  
WSR 07-05-023 PM

DATE  
February 13, 2007

NAME (type or print)  
Lori Preuss

SIGNATURE  
*Lori Preuss*

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..... Morris W. Barker	1111 Washington Street, Olympia	(360) 902-2826
Implementation..... Lew Atkins	1111 Washington Street, Olympia	(360) 902-2651
Enforcement..... Bruce Bjork	1111 Washington Street, Olympia	(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: Morris W. Barker  
Address: 600 Capitol Way No., Olympia, WA 98501-1091

phone (360) 902-2826  
fax (360)902-2944  
e-mail barkemwb@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: These proposals do not affect hydraulics.

# Small Business Economic Impact Statement

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

None required.

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

None required.

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

No cost of compliance – participation is purely voluntary.

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

No, revenue and sales will be gained by remaining participants.

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:

- A. Cost per employee;
- B. Cost per hour of labor; or
- C. Cost per one hundred dollars of sales.

There is no cost 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.

The industry advisory board was consulted on the appropriate maximum bid amount.

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

The agency will present the rule proposals in a public forum under the auspices of the Fish and Wildlife Commission's public rule making process. See response to #6 above.

8. A list of industries that will be required to comply with the rule.  
The sea urchin and sea cucumber dive fishery may choose to participate in the voluntary license reduction program.

AMENDATORY SECTION (Amending Order 02-184, filed 8/9/02, effective 9/9/02)

**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.

(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 ~~\$(8,000)~~ 11,000 per license.

(3) Offer process: The department will accept 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.

(4) Selection process: The department will select licenses to be purchased beginning with the lowest offer to sell, and continuing until there are insufficient funds to purchase a complete offer. If two or more licenses are offered at the same price, selection will be by random draw.

(5) License reduction process: Upon selection, the department will issue a warrant to the license holder in the amount of the offer. On the date the warrant is mailed to the mailing address of the license holder as shown in their department licensing file, the department will void the license. Upon receipt of the warrant, the license holder is to return the license cards to the department.

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

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

AMENDATORY SECTION (Amending Order 05-170, filed 8/5/05, effective 9/5/05)

**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.

(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 \$((~~12,000~~)) 15,000 per license.

(3) Offer process: The department will accept 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.

(4) Selection process: The department will select licenses to be purchased beginning with the lowest offer to sell, and continuing until there are insufficient funds to purchase a complete offer. If two or more licenses are offered at the same price, selection will be by random draw.

(5) License reduction process: Upon selection, the department will issue a warrant to the license holder in the amount of the offer. On the date the warrant is mailed to the mailing address of the license holder as shown in their department licensing file, the department will void the license. Upon receipt of the warrant, the license holder is to return the license cards to the department.

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

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