

11. Columbia River Commercial Shad Fishing Regulations

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“GREEN SHEET”

Meeting dates:	February 5-6, 2010, Commission Meeting
Agenda item #11:	Columbia River Commercial Shad Fishing Regulations – Rule Briefing and Public Hearing
Staff Contact:	Cindy LeFleur, Columbia River Policy Coordinator, Intergovernmental Resource Management Program
Presenter(s):	Cindy LeFleur, Columbia River Policy Coordinator, Intergovernmental Resource Management Program

Background:

Shad were introduced on the West Coast in the late 19th century. Columbia River shad runs steadily increased after mainstem dams were completed. The average run size during the past 10 years is around three million fish. Shad pass Bonneville Dam during May-August, with peak passage in June.

The shad fishery in commercial Area 2S occurs typically during May and June. Area 2S is generally defined as Columbia River waters from the Sandy River upstream to Beacon Rock. Because of the overlap in run timing of shad and salmonids, the commercial shad fisheries have operated with severe time, area, and gear restrictions. Experiments conducted in Area 2S in 1995 showed a modified shad gill net can still be effective harvesting shad while considerably reducing salmonid handle. The shallower and shorter nets substantially reduced the handle of salmonids compared to the traditional gear. As a result of this experiment, changes were made to the commercial shad fishery beginning in 1996:

1. Open hours were reduced from 4 a.m. to 10 p.m. to 3 p.m. to 10 p.m.
2. The length of the net was reduced from 250 fathoms to 150 fathoms.
3. The net cannot exceed 40 meshes in depth.

These restrictions have been in place since 1996. The staff members of Washington Department of Fish and Wildlife (Department) and Oregon Department of Fish and Wildlife (ODFW) monitored this fishery during 1997-2001 to get numbers of shad caught per salmonid handled. These ratios are used to estimate salmonid handle in current fisheries adjusted for run sizes, to estimate impacts to salmon and steelhead that are listed under the Endangered Species Act (ESA). These restrictions enable the commercial shad fishery to operate with minimal salmonid handle and associated impacts.

Estimated impacts to ESA-listed salmonids were provided to the National Marine Fisheries Service (NMFS) for the 2008-2017 Biological Assessment of the *United States v Oregon* Management Agreement (Agreement). The estimated mortality of salmonids released is based on an averages observed during the monitoring. Since 1996, one ESA-listed spring/summer Chinook mortality has occurred during this fishery. The impact to ESA-listed steelhead in future fisheries is estimated to be one fish, based on 2003-2007 averages.

The commercial shad fishery has been set annually under emergency regulations by the Columbia River Compact (Compact). The Department files these emergency regulations just prior to the season opening each year. A recreational shad season has been in place under permanent regulations for a number of years.

In 2009, the ODFW and Department staff recommended that the Compact adopt permanent regulations for the commercial shad season, since the season is approximately the same every year. The Compact adopted a permanent commercial shad season, following the joint staff's proposal.

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

Adopt permanent regulations for commercial shad fisheries (WAC 220-33-030) consistent with those regulations adopted by the Compact and concurrent with permanent Oregon regulations.

Public involvement process used and what you learned:

A Compact hearing in 2009, with public comments. The commercial fishing industry supports the proposal.

Action requested:

Delegate authority to Director to adopt permanent regulations.

Draft motion language:

I move to delegate authority to the Director to adopt permanent regulations governing the commercial shad fishery in Area 2S using gear and seasons that are consistent with those of recent years.

Justification for Commission action:

The fishery has been adopted under emergency rules on an annual basis. Adoption as a permanent regulation will help fishers and processors to plan for the same season each year. The rule will be consistent with ODFW's rule in concurrent waters of the Columbia River.

Communications Plan:

The results will be communicated to the advisory groups and published in appropriate state registers.

Form revised 10/16/2008 - sdy

AMENDATORY SECTION (Amending Order 88-86, filed 9/2/88)

WAC 220-33-030 Shad. It is unlawful to fish for shad in the lower Columbia River for commercial purposes, or to possess shad taken from those waters for commercial purposes, except as provided in this section:

Gear

(1) Gill net gear may be used to fish for shad if:

(a) The cork line of the gill net does not exceed (~~(1,500)~~) 900 feet in length (150 fathoms) and has sufficient buoyancy to float the cork line on the surface. Also, the net may not exceed 40 meshes in depth.

(b) The webbing of the gill net is constructed of mesh having a breaking strength of less than 10 pounds. The gill net may be constructed of monofilament webbing or twine.

(c) The mesh size of the gill net is not less than 5-3/8 inches or more than 6-1/4 inches stretch measure.

(d) The gill net does not have more than a single web. The gill net web shall be suspended between a single cork line and a single lead line.

(e) The gill net does not have added lines, strings, backwalls, trammels, or aprons. Riplines may be used but may not be less than 10 fathoms (60 feet) apart.

Fishing periods

(2) The lower Columbia River is (~~(closed)~~) open to commercial shad fishing (~~(, except as provided by emergency rule of the director)~~) in Shad Area 2S from 3:00 p.m. to 10:00 p.m. daily, Monday through Friday (except on the observed Memorial Day holiday), from May 10 through June 20 annually. Shad taken incidentally during an open commercial salmon or sturgeon fishing period may be retained for commercial purposes.

General

(3) As used in this chapter and in emergency rules of the director, unless the context clearly requires otherwise:

(a) "Shad Area 2S" means those waters of Salmon Management and Catch Reporting Area (SMCRA) 1D and 1E that are upstream of a line projected true north and south from the Oregon shore through the Washougal blinker light (light "50" flashing red) to a fishing boundary marker on the Washington shore (~~(and to the Oregon shore)~~) (upper boundary of SMCRA 1E).

(b) "Camas-Washougal Reef Area" means those waters of SMCRA 1D inside of a line commencing at the white six-second equal-interval light approximately 3/4 mile east of the Washougal Woolen Mill pipeline and projected westerly to the Washougal blinker light,

thence to the white four-second blinker light on the east end of Lady Island, thence easterly and along the shoreline of Lady Island to the State Highway 14 Bridge, thence easterly and along the shoreline of Lady Island to the State Highway 14 Bridge, thence easterly across the State Highway 14 Bridge to the mainland.



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 <u>09-20-076</u> ; 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 220-33-030, Shad

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

Submit written comments to:

Name: Rules Coordinator
Address: 600 Capitol Way No., Olympia, WA 98501-1091
E-mail: Lori.Preuss@dfw.wa.gov
Fax: (360) 902-2155 By (date) January 30, 2010

Date: February 5 - 6, 2010 Time: 8:30 a.m.

Assistance for persons with disabilities: Contact

Susan Yeager by January 30, 2010
TTY (360) 902-2207 or (360) 902-2267

Date of intended adoption: March 12, 2010
(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This proposal will make the Columbia River shad fishery a permanent season, eliminating the need for annual emergency regulations to be implemented.

Reasons supporting proposal: The fishery has been adopted under emergency rules on an annual basis. This proposal will help fishers and processors to plan for same season each year. The rule will be consistent with the Oregon Department of Fish and Wildlife's rule in concurrent waters of the Columbia River.

Statutory authority for adoption: 77.12.047

Statute being implemented: 77.12.047

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: **December 07, 2009**
TIME: **4:16 PM**

WSR 10-01-037

DATE
December 7, 2010

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) The Washington Department of Fish and Wildlife

- Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting.....	Cindy LeFleur	2108 Grand Blvd Vancouver, WA 98661	(360) 906-6708
Implementation	Jim Scott	1111 Washington Street, SE, Olympia, WA 98504	(360) 902-2651
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 changes do not impose any additional burdens or costs on fishers or dealers participating in commercial shad fisheries.

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.