



PROPOSED RULE MAKING

CR-102 (June 2012)

(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 13-01-064 on 12-17-12;
 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).

Original Notice
 Supplemental Notice to WSR _____
 Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject)

WAC 220-47-311, Purse seine – Open periods;
WAC 220-47-411, Gillnet – Open periods; and
WAC 220-47-428, Beach seine – Open periods.

Hearing location(s):

Natural Resources Building
1111 Washington Street, Room 630
Olympia, WA 98504

Date: Tuesday, April 9, 2013 Time: 8:30 a.m. to 9:30 a.m.

Submit written comments to:

Name: Lori Preuss – Rules Coordinator
Address: 600 Capitol Way North
Olympia, WA 98501-1091
E-mail: Lori.preuss@dfw.wa.gov
Fax: (360) 902-2155 by (date) March 28, 2013

Assistance for persons with disabilities: Contact

Tami Lininger by March 28, 2013
(360) 902-2207 or TTY at 1-800-833-6388

Date of intended adoption: On or after April 12, 2013

(Note: This is NOT the effective date)

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

These rules will incorporate the recommendations of the North of Falcon sub-group of the Pacific Fisheries Management Council to take harvestable fish in commercial salmon fisheries in Puget Sound while protecting species of fish listed as endangered.

Reasons supporting proposal: To protect species of fish listed as endangered while supporting commercial salmon fishing in Puget Sound.

Statutory authority for adoption: RCW 77.12.045, 77.12.047, and 77.04.020

Statute being implemented: RCW 77.12.045, 77.12.047, and 77.04.020

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: March 06, 2013

TIME: 10:28 AM

WSR 13-06-072

DATE
March 6, 2013

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) Washington Department of Fish and Wildlife

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Kendall Henry	1111 Washington Street SE, Olympia, WA 98504	(360) 902-2717
Implementation..... Jim Scott	1111 Washington Street SE, Olympia, WA 98504	(360) 902-2651
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 or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name: Lori Preuss
 Address: 600 Capital Way North
 Olympia, WA 98501-1091

Phone: (360) 902-2930
 Fax: (360)902-2155
 E-mail: Lori.preuss@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

Commercial salmon fishing, Puget Sound, 2013

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

These rules will incorporate the recommendations of the North of Falcon sub-group of the Pacific Fisheries Management Council to take harvestable salmon in Puget Sound while protecting species of fish, marine mammals, and sea birds listed as endangered. The rules include legal gear requirements, area restrictions, and open periods for commercial salmon fisheries occurring in Puget Sound.

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

These rule changes clarify dates for anticipated open periods and areas for full-fleet and limited-participation salmon fisheries, and legal gear requirements for those fisheries. There are no anticipated professional services required to comply.

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

The proposed rules adjust opening and closing dates. The proposed rules do not require any additional equipment, supplies, labor, or administrative costs. Therefore, there is no additional cost to comply with the proposed rules.

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

The proposed rules do not affect the harvestable numbers of salmon available to non-treaty fleets. Therefore, the proposed rules should not cause any businesses to lose sales or revenue.

5. Cost of compliance for small businesses compared with the 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**

None - The proposed rules do not require any additional equipment, supplies, labor, or administrative costs.

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

Most businesses affected by these rules are small businesses. As indicated above, all of the gear restrictions proposed by the rules are identical to gear restrictions the Washington Department of Fish and Wildlife (WDFW) has required in past salmon fishery seasons. Therefore, the gear restrictions will not impose new costs on small businesses.

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

As in previous years, WDFW interacts with and receives input from affected businesses through the North of Falcon process, which is a series of public meetings occurring from February through April each year. These meetings allow small businesses to participate in formulating these rules.

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

All licensed fishers attempting to harvest salmon in the all-citizen commercial salmon fisheries occurring in Puget Sound will be required to comply with these rules.

9. An estimate of the number of jobs that will be created or lost as a result of compliance with the proposed rule.

As explained above, these rules impose similar requirements to those for previous years' commercial salmon fisheries. Compliance with the rules will not result in the creation or loss of jobs.

AMENDATORY SECTION (Amending Order 12-131, filed 7/12/12, effective 8/12/12)

WAC 220-47-311 Purse seine--Open periods. It is unlawful to take, fish for, or possess salmon taken with purse seine gear for commercial purposes from Puget Sound, except in the following designated Puget Sound Salmon Management and Catch Reporting Areas and during the periods provided for in each respective Management and Catch Reporting Area:

AREA	TIME	DATE
7, 7A:	7AM - 6PM	- <u>10/10, 10/11, 10/12,</u> <u>10/13, 10/14, 10/15,</u> <u>10/16, 10/17, 10/18,</u> 10/19, 10/20, 10/21, 10/22, 10/23, 10/24, 10/25, 10/26, 10/27, 10/28, 10/29, 10/30, 10/31, 11/1, 11/2(11/3)
	7AM - 5PM	- <u>11/3, 11/4, 11/5, 11/6,</u> 11/7, 11/8, 11/9(11/10)

Note: In Areas 7 and 7A, it is unlawful to fail to brail when fishing with purse seine gear. Any time brailing is required, purse seine fishers must also use a recovery box in compliance with WAC 220-47-301 (7)(a) through (f).

7B, 7C:	6AM - 9PM	- ((8/15)) <u>8/14</u>
7B, 7C:	6AM - 8PM	- ((8/22, 8/29, 9/5)) <u>8/21,</u> <u>8/28, 9/4</u>
7B:	7AM - 8PM	- ((9/10, 9/12, 9/14)) <u>9/9,</u> <u>9/11, 9/13</u>
	((7AM - 7PM	- <u>9/17, 9/19, 9/21)</u>
	7AM ((9/23))	- 6PM ((10/27)) <u>10/26</u>
	<u>9/15</u>	
	7AM ((10/29))	- 4PM ((11/2)) <u>11/1</u>
	<u>10/28</u>	
	7AM ((11/5))	- 4PM ((11/9)) <u>11/8</u>
	<u>11/4</u>	
	7AM ((11/12))	- 4PM ((11/16)) <u>11/15</u>
	<u>11/11</u>	
	7AM ((11/19))	- 4PM ((11/23)) <u>11/22</u>
	<u>11/18</u>	
	7AM ((11/26))	- 4PM ((11/30)) <u>11/29</u>
	<u>11/25</u>	

Note: That portion of Area 7B east of a line from Post Point to the flashing red light at the west entrance to Squalicum Harbor is open to purse seines beginning at 12:01 a.m. on the last Monday in October and until 4:00 p.m. on the first Friday in December.

<u>AREA</u>	<u>TIME</u>	<u>DATE</u>
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AREA	TIME		DATE
8:	<u>6AM - 7PM</u>	-	<u>8/26, 8/28, 9/3, 9/5</u>
8A:	<u>6AM - 7PM</u>	-	<u>8/22, 8/27, 8/29, 9/3</u>
	7AM - 7PM	-	Limited participation - Two boats ((9/17, 9/24)) <u>9/23, 9/30, 10/7</u>
8D:	7AM - 7PM	-	((9/17, 9/24, 10/1, 10/8)) <u>9/23, 9/30, 10/7</u>
	7AM - 6PM	-	((10/16, 10/22, 10/24, 10/29)) <u>10/14, 10/21, 10/28, 10/30</u>
	7AM - 5PM	-	((11/5, 11/7)) <u>11/4, 11/11, 11/13, ((11/20)) 11/18</u>
10:	<u>6AM - 7PM</u>	-	<u>8/26, 8/28, 9/4</u>
10, 11:	7AM - 6PM	-	((10/15, 10/23, 10/25, 10/29)) <u>10/22, 10/28, 10/30</u>
	7AM - 5PM	-	((11/6, 11/8, 11/12, 11/20)) <u>11/5, 11/11, 11/13, 11/19, 11/26</u>
12, 12B:	7AM - 6PM	-	((10/15, 10/23, 10/25, 10/29)) <u>10/22, 10/28, 10/30</u>
	7AM - 5PM	-	((11/6, 11/8, 11/12, 11/20)) <u>11/5, 11/11, 11/13, 11/19</u>
12C:	7AM - 5PM	-	((11/6, 11/8, 11/12, 11/20)) <u>11/5, 11/11, 11/13, 11/19, 11/26</u>

Note: In Area 10 during any open period occurring in August or September, it is unlawful to fail to brail or use a brailing bunt when fishing with purse seine gear. Any time brailing is required, purse seine fishers must also use a recovery box in compliance with WAC 220-47-301 (7)(a) through (f). During limited participation fisheries it is unlawful for vessels to take or fish for salmon without department observers on board.

It is unlawful to retain the following salmon species taken with purse seine gear within the following areas during the following periods:

Chinook salmon - At all times in Areas 7, 7A, 8, 8A, 8D, 10, 11, 12, 12B, and 12C, and after October 20 in Area 7B.

Coho salmon - At all times in Areas 7, 7A, 10, and 11, and prior to September 2 in Area 7B.

Chum salmon - Prior to October 1 in Areas 7 and 7A, and at all times in 8A.

All other saltwater and freshwater areas - Closed.

AMENDATORY SECTION (Amending Order 12-131, filed 7/12/12, effective 8/12/12)

WAC 220-47-411 Gillnet--Open periods. It is unlawful to take, fish for, or possess salmon taken with gillnet gear for commercial purposes from Puget Sound, except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the periods provided for in each respective fishing area:

AREA	TIME		DATE(S)	MINIMUM MESH
6D: Skiff gillnet only, definition WAC 220-16-046 and lawful gear description WAC 220-47-302.	7AM	-	7PM ((9/21, 9/22,)) 9/23, 9/24, 9/25, 9/26, 9/27, ((9/28)) 9/30, 10/1, 10/2, 10/3, 10/4, ((10/5)) 10/7, 10/8, 10/9, 10/10, 10/11, ((10/12)) 10/14, 10/15, 10/16, 10/17, 10/18, ((10/19)) 10/21, 10/22, 10/23, 10/24, 10/25	5"

Note: In Area 6D, it is unlawful to use other than 5-inch minimum mesh in the skiff gillnet fishery. It is unlawful to retain Chinook taken in Area 6D at any time, or any chum salmon taken in Area 6D prior to October 16. In Area 6D, any Chinook or chum salmon required to be released must be removed from the net by cutting the meshes ensnaring the fish.

7, 7A:	7AM	-	Midnight; use of recovery box required	<u>10/10</u> , 10/11, <u>10/12</u> , <u>10/13</u> , 10/14, 10/15, <u>10/16</u> , 10/17, 10/18, 10/19(10/20)	6 1/4"
	7AM	-	Midnight	<u>10/20</u> , 10/21, 10/22, 10/23, 10/24, 10/25, 10/26, 10/27, 10/28, 10/29, 10/30, 10/31, 11/1, 11/2, 11/3, 11/4, 11/5, 11/6, 11/7, 11/8, 11/9(11/10)	6 1/4"

Note: In Areas 7 and 7A after October 9 but prior to October 21, coho and Chinook salmon must be released, and it is unlawful to use a net soak time of more than 45 minutes. Net soak time is defined as the time elapsed from when the first of the gillnet web enters the water, until the gillnet is fully retrieved from the water. Fishers must also use a recovery box in compliance with WAC 220-47-302 (5)(a) through (f) when coho and Chinook release is required.

7B, 7C:	7PM	-	8AM	NIGHTLY ((8/12)) 8/11, 8/13, 8/14, ((8/15)) 8/18, 8/19, 8/20, 8/21, ((8/22, 8/26, 8/28, 8/29, 8/30)) <u>8/25, 8/27, 8/28</u>	7"
7B, <u>7C:</u>	7AM ((9/2)) <u>9/1</u>	-	7AM ((9/7)) <u>9/6</u>		5"
	7AM ((9/9)) <u>9/8</u>	-	7AM ((9/13)) <u>9/12</u>		
	7AM ((9/16)) <u>9/15</u>	-	7AM ((9/20)) <u>9/19</u>		5"
	7AM ((9/23)) <u>9/22</u>	-	Midnight ((10/27)) <u>10/26</u>		5"
	7AM ((10/29)) <u>10/28</u>	-	4PM ((11/2)) <u>11/1</u>		6 1/4"
	6AM ((11/5)) <u>11/4</u>	-	4PM ((11/9)) <u>11/8</u>		6 1/4"
	6AM ((11/12)) <u>11/11</u>	-	4PM ((11/16)) <u>11/15</u>		6 1/4"
	6 AM ((11/19)) <u>11/18</u>	-	4PM ((11/23)) <u>11/22</u>		6 1/4"
	7 AM ((11/26)) <u>11/25</u>	-	4PM ((11/30)) <u>11/29</u>		6 1/4"

Note: That portion of Area 7B east of a line from Post Point to the flashing red light at the west entrance to Squalicum Harbor is open to gillnets using 6 1/4-inch minimum mesh beginning 12:01 AM on the last day in October and until 4:00 PM on the first Friday in December.

AREA	TIME			DATE(S)	MINIMUM MESH
8:	<u>5AM</u>	-	<u>11PM</u>	<u>8/27, 8/29</u>	<u>5" minimum and 5 1/2" maximum</u>
	<u>5:30AM</u>	-	<u>11PM</u>	<u>9/2, 9/4</u>	<u>5" minimum and 5 1/2" maximum</u>

Note: In Area 8 it is unlawful to take or fish for pink salmon with drift gillnets greater than 60-mesh maximum depth. Fishers must also use minimum 5" and maximum 5 1/2" mesh during pink salmon management periods.

8A:	<u>5AM</u>	-	<u>11PM</u>	<u>8/21, 8/26, 8/28</u>	<u>5" minimum and 5 1/2" maximum</u>
	<u>5:30AM</u>	-	<u>11PM</u>	<u>9/4</u>	<u>5" minimum and 5 1/2" maximum</u>
	6PM	-	8AM	Limited participation; 2 boats only ((9/4)) <u>9/24</u>	5"
	6PM	-	8AM	NIGHTLY ((9/25, 9/26)) <u>10/1, 10/2, 10/8</u>	5"

Note: In Area 8A fishers must use minimum 5" and maximum 5 1/2" mesh during pink salmon management periods.

8D:	6PM	-	8AM	NIGHTLY ((9/16, 9/20, 9/23, 9/27, 9/30, 10/4)) <u>9/22, 9/26, 9/29, 10/3, 10/6, 10/10</u>	5"
	6PM ((9/17)) <u>9/23</u>	-	8AM ((9/20)) <u>9/26</u>		5"
	6PM ((9/24)) <u>9/30</u>	-	8AM ((9/27)) <u>10/3</u>		5"
	6PM ((10/1)) <u>10/7</u>	-	8AM (((10/4))) <u>10/10</u>		5"
	5PM	-	8AM	((10/7, 10/11)) <u>10/13, 10/17</u>	5"
	5PM ((10/8)) <u>10/14</u>	-	8AM (((10/11))) <u>10/17</u>		5"
	5PM	-	9AM	((10/14, 10/18, 10/21, 10/25, 10/28, 11/1)) <u>10/20, 10/24, 10/27, 10/31, 11/3, 11/7</u>	5"
	5PM ((10/15)) <u>10/21</u>	-	9AM (((10/18))) <u>10/24</u>		5"
	5PM ((10/22)) <u>10/28</u>	-	9AM (((10/25))) <u>10/31</u>		5"
	5PM ((10/29)) <u>11/4</u>	-	9AM (((11/1))) <u>11/7</u>		5"
	6AM	-	6PM	((11/7, 11/8, 11/14, 11/15, 11/21, 11/22)) <u>11/13, 11/14, 11/20, 11/21, 11/27, 11/28</u>	6 1/4"
	6AM	-	4PM	((11/9, 11/16, 11/23)) <u>11/15, 11/22, 11/29</u>	6 1/4"

9A: Skiff gillnet only, definition WAC 220-16-046 and lawful gear description WAC 220-47-302.

Note: It is unlawful to retain chum salmon taken in Area 9A prior to October 1, and it is unlawful to retain Chinook salmon at any time. Any salmon required to be released must be removed from the net by cutting the meshes ensnaring the fish.

10:	<u>5AM</u>	-	<u>11PM</u>	<u>Limited Participation - 4 boats 8/27, 8/29</u>	<u>4 1/2" minimum and 5 1/2" maximum</u>
	<u>5:30AM</u>	-	<u>11PM</u>	<u>Limited Participation - 4 boats 9/3</u>	<u>4 1/2" minimum and 5 1/2" maximum</u>

AREA	TIME		DATE(S)	MINIMUM MESH
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Note: In Area 10 fishers must use minimum 4 1/2" and maximum 5 1/2" mesh during pink salmon management periods. Also, during August or September openings, coho and Chinook salmon must be released, and it is unlawful to use a net soak time of more than 45 minutes. Net soak time is defined as the time elapsed from when the first of the gillnet web enters the water, until the gillnet is fully retrieved from the water. Fishers must also use a recovery box in compliance with WAC 220-47-302 (5)(a) through (f). During all limited participation fisheries, it is unlawful for vessels to take or fish for salmon without department observers on board.

10, 11:	5PM	-	9AM	NIGHTLY ((10/16, 10/17, 10/21, 10/30, 10/31)) <u>10/20, 10/23, 11/3, 11/6</u>	6 1/4"
	<u>5PM</u>	=	<u>8AM</u>	<u>10/29</u>	<u>6 1/4"</u>
	4PM	-	9AM	NIGHTLY ((11/4, 11/13, 11/18)) <u>11/12, 11/17, 11/24</u>	6 1/4"
	4PM	-	Midnight	NIGHTLY ((10/24, 11/7, 11/14, 11/21)) <u>10/31, 11/14, 11/20, 11/27</u>	6 1/4"
12A: Skiff gillnet only, definition WAC 220-16-046 and lawful gear description WAC 220-47-302.	7AM	-	7PM	Dates determined per agreement with tribal co-managers in-season if Summer Chum Salmon Conservation Initiative goals are met allowing for openings of gillnet gear.	5"

Note: In Area 12A, it is unlawful to use other than 5-inch minimum mesh in the skiff gillnet fishery. It is unlawful to retain Chinook or chum salmon taken in Area 12A at any time, and any salmon required to be released must be removed from the net by cutting the meshes ensnaring the fish.

12, 12B:	7AM	-	8PM	((10/16, 10/18, 10/22, 10/24, 10/30, 11/4)) <u>10/21, 10/23, 10/29, 10/31, 11/4, 11/6</u>	6 1/4"
	6AM	-	6PM	((11/5, 11/7, 11/13, 11/15, 11/19)) <u>11/12, 11/14, 11/18, 11/20</u>	6 1/4"
12C:	6AM	-	6PM	((11/5, 11/7, 11/13, 11/15, 11/19, 11/21)) <u>11/12, 11/14, 11/18, 11/20, 11/26, 11/28</u>	6 1/4"

All other saltwater and freshwater areas - Closed.

Nightly openings refer to the start date.

Within an area or areas, a mesh size restriction remains in effect from the first date indicated until a mesh size change is shown, and the new mesh size restriction remains in effect until changed.

AMENDATORY SECTION (Amending Order 12-131, filed 7/12/12, effective 8/12/12)

WAC 220-47-428 Beach seine--Open periods. It is unlawful to take, fish for, or possess salmon taken with beach seine gear for commercial purposes from Puget Sound except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the periods provided hereinafter in each respective Management and Catch Reporting Area:

All areas:

AREA	TIME		DATE(S)
12A:	7AM	-	7PM
			8/21, 8/22, 8/23, ((8/24)) <u>8/26</u> , 8/27, 8/28, 8/29, 8/30, ((8/31)) <u>9/2</u> , 9/3, 9/4, 9/5, 9/6, ((9/7)) <u>9/9</u> , 9/10, 9/11, 9/12, 9/13, ((9/14)) <u>9/16</u> , 9/17, 9/18, 9/19, 9/20, ((9/21)) <u>9/23</u> , 9/24, 9/25, 9/26, 9/27((9/28))

AREA	TIME	DATE(S)
12H:	7AM - 7PM	November (dates determined per agreement with tribal co-managers in-season if harvestable surplus of salmon remain).

It is unlawful to retain Chinook taken with beach seine gear in all areas, and it is unlawful to retain chum from Area 12A.