



# 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 13-05-046 on 2/13/13;  
 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 220-95-100, 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 Street SE  
 Olympia, WA 98504

Date: June 7-8, 2013 Time: 8:30 a.m.

Date of intended adoption: June 7-8, 2013  
 (Note: This is NOT the effective date)

**Submit written comments to:**

Name: Richard Childers  
 Address: 600 Capitol Way North  
 Olympia, WA 98501-1091  
 E-mail: [Rich.childers@dfw.wa.gov](mailto:Rich.childers@dfw.wa.gov)  
 Fax: (360) 902-2943 by (date) May 26, 2013

Assistance for persons with disabilities: Contact  
 Tami Lininger by May 26, 2013  
 (360) 902-2207 or TTY at 1-800-833-6388

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

The purpose of the proposal is to change the date on which the agency will begin accepting sales offers for commercial sea urchin and commercial sea cucumber licenses. The agency will purchase these licenses as part of for the ongoing License Reduction Programs for these fisheries. The proposal also seeks to change the date of funds availability when the agency purchases licenses. Finally, the proposal delegates authority to the Director or his designee for setting the maximum purchase price of licenses. The anticipated effect of the proposal is that these buy-back programs will be optimized to promote program participation and efficient fund use.

Reasons supporting proposal: The proposed amendments to these rules will promote sales of licenses back to the agency to meet License Reduction Program goals. The proposal is supported by current license holders within these fisheries to optimize the programs.

Statutory authority for adoption: RCW 77.04.020, 77.12.047, 77.70.150 and 77.70.190.

Statute being implemented: RCW 77.04.020, 77.12.047, 77.70.150 and 77.70.190.

**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: April 30, 2013

TIME: 2:59 PM

WSR 13-10-074

DATE  
 April 30, 2013

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 Road., Brinnon, WA 98320  | (360) 301-2626 |
| Implementation.... James 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: Richard Childers  
Address: 1000 Point Whitney Road  
Brinnon, WA 98320

phone (360) 301-2626  
fax (360) 902-2943  
e-mail [rich.childers@dfw.wa.gov](mailto: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: These proposals do not affect hydraulics.

# **Small Business Economic Impact Statement**

## **Commercial Sea Urchin and Sea Cucumber License Buyback Program, 2013**

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

This proposal contains no requirements for small businesses. This is a license buy-back program that allows owners of commercial sea-urchin and sea-cucumber permits to make offers to sell their licenses 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.**

None – these rule changes propose to amend the dates for an existing license buyback program.

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

No costs are associated with compliance of this proposal.

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

No.

**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 anticipated 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 anticipated costs of compliance.

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

The agency has facilitated significant discussion with current license holders in the commercial sea cucumber and sea urchin fisheries regarding the proposal. The industry consensus for both fisheries is that the proposal will optimize the license buyback program and promote the achievement of program goals.

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

The industry that is required to comply with these rules is composed of all current commercial sea urchin and sea cucumber license holders who seek to sell their licenses in ongoing license reduction programs.

AMENDATORY SECTION (Amending Order 12-140, filed 7/10/12, effective 8/10/12)

**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 by the department.

(2) Offer process: The department will accept sales offers beginning (~~(August)~~) December 1st of each year and will purchase licenses based on the funds that are available on (~~(September 30th)~~) January 31st of (~~(that same)~~) the following year.

(3) Selection process: The department will 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 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)~~) set by the director or his or her designee. The director or his or her designee must seek the advice of commercial sea urchin fishery license holders prior to setting or revising the maximum purchase price. Once the director or his or her designee establishes or revises the maximum bid price, he or she will convey the price via emergency rule by November 1st of each year.

(4) License reduction process: 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. On the date that the department mails the warrant to the license holder's mailing address on file with the department, it will void the license. When the license holder receives the warrant, he or she must return his or her commercial sea urchin license cards to the department.

(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.

(6) Program termination: This program terminates when the number of sea urchin commercial fishery licensees is reduced to 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 by the department.

(2) Offer process: The department will accept sales offers beginning (~~(August)~~) December 1st of each year and will purchase licenses based on the funds that are available on (~~(September 30th)~~) January 31st of (~~(that same)~~) the following year.

(3) Selection process: The department will 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 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)~~) set by the director or his or her designee. The director or his or her designee must seek the advice of commercial sea cucumber fishery license holders prior to setting or revising the maximum purchase price. Once the director or his or her designee establishes or revises the maximum bid price, he or she will convey the price via emergency rule by November 1st of each year.

(4) License reduction process: 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. On the date that the department mails the warrant to the license holder's mailing address on file with the department, it will void the license. When the license holder receives the warrant, he or she must return his or her commercial sea cucumber license cards to the department.

(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.

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