

Commercial Fishing Guide Logbook Requirements
(Decision)

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Summary Sheet

Meeting dates:	August 2-3, 2019
Agenda item:	Commercial Fishing Guide Logbook requirements - Decision
Presenter(s):	Craig Burley, Fish Management Division Manager Chris Donley, Region 1 Fish Program Manager Dan Chadwick, Region 6 Enforcement Captain

Background summary:

During the 2017 legislative session, a bill was introduced that would have drastically changed how guides are regulated in the state of Washington. This bill failed to make it through the legislative process and instead, the legislature provided the Department guidance in the form of proviso language attached to our budget. The proviso directed the Department to do the following:

- Convene public meetings in the North Olympic Peninsula and Klickitat River.
- Evaluate guided and nonguided angler data.
- Explore alternative structures for guide licensing with the objective of:
 - Improving the fishing experience and ensuring equitable opportunity for both guided and nonguided river anglers.
 - Managing fishing pressure to protect wild steelhead and other species.
 - Ensuring that recreational fish guiding remains a sustainable economic contributor to rural economies.
- Provide a report to the legislature that summarized the findings of the work mentioned above.

In response to the proviso, the Department conducted 14 meetings across the state with both guides and recreational anglers to collect information on guiding in Washington. The Department also solicited two separate surveys to gather opinions from the guide industry and recreational anglers.

In addition, the Department received legislative authority to pursue guide logbooks under RCW 77.65.500. During discussions at the public meetings in 2017, the Department committed to coming back to the guide industry in 2018 to gather specific feedback about the logbook program prior to moving forward with implementation.

In 2018 and early 2019, the Department conducted eight meetings across the state to gather feedback regarding the implementation of a logbook system. In addition, the department provided an online comment page to receive feedback from fishing guides that were unable to attend the meetings or wanted to provide additional comment.

The Fish and Wildlife Commission was briefed on the Commercial Fishing Guide Logbook rule during the June 14, 2019 Commission meeting in Port Angeles. During the briefing staff were asked to develop an analysis on the pros and cons of two portions of the rule and return to brief the Commission in August on their findings. The two portions of the program were: 1) reporting periodicity or how often a licensed commercial fishing guide is required to submit their reports on daily fishing activity (weekly or monthly) and 2) requiring a licensed commercial fishing guide to record fishing activity on both guided and nonguided fishing outings.

Analysis:

- 1) How often should a commercial fishing guide be asked to submit their guiding activity reports on daily fishing activity (weekly or monthly)?

Pros of weekly reporting

- Afford staff the opportunity to regularly review reporting compliance and work to ensure that data is reported on-time and correctly.
- Allows for close to real-time estimates of guide participation in fisheries.
- Affords staff the ability to use catch information from the guide fleet as a supplement to ongoing creel surveys on a close to real-time basis, important in quota driven fisheries.
- Data collection and management may be more effective when dealing with smaller data sets on a weekly delivery increment.

Cons of weekly reporting

- Time consuming for the Commercial Fishing Guide to report on a short time increment.
- May be difficult for Commercial Fishing Guides that are participating in remotely located fisheries to comply on a weekly basis.
- Requires agency staff to receive and manage data on a weekly increment. May be less time consuming for staff to manage only once a month.

Alternatives

1. Require a weekly reporting increment
2. Require a monthly reporting increment

- 2) Should a licensed commercial fishing guide be required to record fishing activity on both guided and nonguided fishing trips?

Pros for requiring nonguided fishing trips

- Based on conversations with Alaska Department of Fish and Game (ADFG) this approach ensures compliance from fishing guides in their logbook program. ADFG's intent with this rule was to avoid leaving a "loop hole" in the system where guides could claim personal outings when, in reality, they were on paid guided trips.
 - WDFW enforcement staff have had multiple conversations with Alaska State Troopers and believe this is the appropriate rule to ensure compliance and enforceability.
- Assures accurate reporting of guiding activity statewide in all fisheries.

Cons for requiring nonguided fishing trips

- Guides concerned that this is an onerous requirement for guides that regularly fish on nonguided personal trips.
- Reporting all fishing activity a guide undertakes can risk revealing "proprietary information" related to fishing areas that are critical to business success.

Alternatives

1. Require reporting for all trips regardless of whether they are guided or personal.
 2. Suspend the requirement to report nonguided trips.
-

Today, Department staff are before the Fish and Wildlife Commission to review the aforementioned analysis and staff will be recommending to the Commission to consider approving the Commercial Fishing Guide Logbook Program as presented today.

Staff recommendation:

Adopt Option B, amending the subsection (3) to require logbook pages be provided to the department within ten days following any calendar month in which the guide activity took place with an effective date of January 1, 2020.

Policy issue(s) and expected outcome:

Providing the Commission a review of the proposed Commercial Fishing Guide Logbook rule. Review the analysis of alternatives to the rule and adopt a final Commercial Fishing Guide Logbook Rule.

Fiscal impacts of agency implementation:

Cost of initial development and establishment of the program is approximately \$35,000. There will be an annual cost associated with app. and database management and annual reporting of guiding activity of approximately \$25,000.

Public involvement process used and what you learned:

In winter of 2018 and early 2019, Fish program staff conducted eight meetings across the state with licensed fishing guides to gather feedback regarding the implementation of a logbook system.

Action requested and/or proposed next steps:

Fish and Wildlife Commission to adopt rule to create the Commercial Fishing Guide Logbook Program.

Draft motion language:

Option A

Motion: I move to adopt the Commercial Guide Logbook as filed in the CR-102 with an effective date of January 1, 2020.

Is there a "second"?

If so, then motion maker discusses basis for motion; other Commissioners discuss views on motion; amendments, if any, proposed and addressed

Option B

Motion: I move to adopt the Commercial Guide Logbook rule as presented by staff as option B, amending the subsection (3) to require logbook pages be provided to the department within ten days following any calendar month in which the guide activity took place with an effective date of January 1, 2020.

Is there a "second"?

If so, then motion maker discusses basis for motion; other Commissioners discuss views on motion; amendments, if any, proposed and addressed

Option C

Motion: I move to adopt the Commercial Guide Logbook rule as presented by staff as option C, amending the subsection (3) to require logbook pages be provided to the department within ten days following any calendar month in which the guide activity took place; amending subsection (4) removing the requirement to report on personal use or nonguided fishing trips that occur on a designated WDFW licensed guide fish vessel and with an effective date of January 1, 2020.

Is there a "second"?

If so, then motion maker discusses basis for motion; other Commissioners discuss views on motion; amendments, if any, proposed and addressed

Post decision communications plan:

Individual outreach to licensed fishing guides statewide and additional meetings with commercial fishing guides around the state to introduce the logbook system.

Form revised 2-15-18



PROPOSED RULE MAKING

CR-102 (October 2017)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: February 06, 2019

TIME: 11:46 AM

WSR 19-04-106

Agency: Washington State Department of Fish and Wildlife

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 16-16-114 filed August 02, 2016 ; 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); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) Establishing logbook requirements for gamefish guides, food fish guides, and combination game fish and food fish guides.

Hearing location(s):

Date: **Time:** **Location:** (be specific) **Comment:**

June 14-15, 2019	8:00 a.m.	Red Lion Hotel 221 N. Lincoln Street Port Angeles, WA 98362	
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Date of intended adoption: August 2, 2019 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Scott Bird, WDFW Rules Coordinator
Address: PO Box 43200 Olympia, WA 98501-3200
Email: Rules.Coordinator@dfw.wa.gov
Fax: (360) 902-2155
Other:
By (date) June 12,, 2019

Assistance for persons with disabilities:

Contact Delores Noyes
Phone: (360) 902-2349
Fax:
TTY: (360) 902-2207
Email: Delores.Noyes@dfw.wa.gov
Other:
By (date) _____

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Logbooks will give fishery managers a better understanding of the guiding industry's role in state fisheries, including when and where guides are fishing, angler effort and catch.

Reasons supporting proposal: The rule will allow for documenting real time effort, species encounters and retention rates. This information will provided new information regarding all of these data points reported by guilds giving biologist more information.

Statutory authority for adoption: RCWs 77.32.470 ,77.04.012, 77.04.013, 77.04.055, and 77.12.047

Statute being implemented: RCWs 77.04.012, 77.04.055, 77.12.045, and 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:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Name of proponent: (person or organization) Washington State Department of Fish and Wildlife

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Kelly Henderson	1111 Washington Street, Olympia, WA 98501	360-902-2684
Implementation:	Christopher Donley	3215 N Discovery Place, Spokane Valley, WA 99216	509-892-1001 ext 307
Enforcement:	Chief Steve Bear	1111 Washington Street, Olympia, WA 98501	360-902-2373

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

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:
TTY:
Email:
Other:

No: Please explain: The proposed rule does not affect hydraulics.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's analysis showing how costs were calculated. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

**Small Business Economic Impact Statement
Commercial Fishing Guide Log Book Reporting Requirements, 2018**

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

The proposed rules requires commercial fishing guides to report fishing guide activities to the Department. The Department will provide fishing guides with the paper format and electronic method to report guiding activity. The Department will also provide direction regarding how and when to report.

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

None, the information the Department is requesting is limited and readily available.

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

The proposed rules requires commercial fishing guides to report fishing guide activities to the Department. The proposed rule does not require any additional equipment or supplies. There is minimal additional cost to

comply with the proposed rules. As noted above the Department will provide the paper logbooks and electronic application for reporting.

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

No, the proposed rule does not affect the number of clients or numbers of fish available to catch. Therefore, the proposed rule 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

The Department's understanding is that most if not all fishing guides are small businesses. The proposed rule may result in minimal costs associated with completing the reporting requirements.

Each guide will be required to complete reporting for each trip. It will take approximately 15 minutes to complete the reporting requirement at the end of each trip. The annual cost per guide to implement this rule is estimated to range from zero dollars for guides that purchase a license and do not fish to approximately a maximum of \$2,600 per guide per year (2 trip/day * 5 days/week * 52 weeks/Year *.25 hours/trip * \$20.00 dollars/hour = \$2,600).

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. The Department will provide multiple ways for commercial guides to report guiding information to minimize costs to the businesses.

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

The Department will be conducting meetings around the state to provide commercial fishing guides with the proposed rule and receive input from affected businesses. 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 persons with a game fish guide, food fish guide and fish guide combination licenses 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.

These rules impose reporting requirements. Compliance with the rules will not result in the creation or loss of jobs.

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name: Scott Bird

Address: PO Box 43200 Olympia, WA 98501-3200

Phone:

Fax: 360-902-2155

TTY:

Email: Rules.Coordinator@dfw.wa.goc

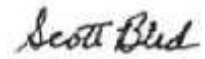
Other:

Date: February 6, 2019

Name: Scott Bird

Title: Rules Coordinator

Signature:

A handwritten signature in cursive script that reads "Scott Bird".

NEW SECTION

WAC 220-352-245 Reporting required of licensed food fish, game fish and combination fishing guides. (1) Licensed food fish, game fish and combination fishing guides shall maintain a daily logbook of guiding activity to include:

(a) Guide name and license No. for the guide leading the trip;

(b) Date that fishing took place. For multiday trips, each day is considered a separate trip;

(c) Specific name of river, stream, or lake fished;

(d) Site code of site fished as referenced within a list provided to each guide. If multiple sites are fished on the same day, each site is considered a separate trip;

(e) Client, "comped angler" and crew current fishing license number (wild ID No.) for each person on board if required to have a license or catch record card. A comped angler is an angler that fishes without charge;

(f) Indicate if person was a crew member or if angler was "comped";

(g) Species kept or released. For salmon and steelhead specify origin (hatchery, wild) and life stage (adult, jack).

(2) Logbooks are required to be completed for each trip before offloading any fish from the vessel or if no fish were kept, complete the logbook before leaving the site.

(3) Report of daily guiding activity shall be made using the department's paper logbook or online reporting application. Logbook pages must be provided to the department or postmarked by the Monday following the week (Monday through Sunday) the guiding activity took place.

(4) Each day of fishing that occurs on a designated WDFW licensed guide fish vessel will be required to be recorded in the logbook. This includes any personal use or nonguided fishing trips that occur.

(5) Information collected under this section may be exempt from public disclosure to the extent provided under RCW 42.56.430.

(6) Failure to report any guiding activity listed in subsections (1) through (4) of this section is an infraction, punishable under RCW 77.15.160.

(7) A fishing guide, or person under the control or direction of a fishing guide, that submits false information is guilty of a gross misdemeanor, punishable under RCW 77.15.270.

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Option A as filed in the CR-102

NEW SECTION

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Option B

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~~(Monday through Sunday)~~ the guiding activity took place.

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Option C

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