

Concise Explanatory Statement Establishing logbook requirements for guides

Rules created as part of this rulemaking:

WAC 220-352-245 Reporting required of licensed food fish, game fish and combination fishing guides

1. Background/Summary of Project:

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 non-guided angler data.
- Explore alternative structures for guide licensing with the objective of:
 - Improving the fishing experience and ensuring equitable opportunity for both guided and non-guided 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 and 2) requiring a licensed commercial fishing guide to record fishing activity on both guided and non-guided 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 non-guided 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 non-guided 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 non guided trips.

Based on the analysis as requested by the Fish and Wildlife Commission, staff offered the Fish and Wildlife Commission three rule options:

Option A

Adopt the Commercial Guide Logbook rule as filed in the CR-102 with an effective date of January 1, 2020.

Option B

Adopt the Commercial Guide Logbook rule as presented by staff, amending the subsection (3) to require logbook reports 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.

Option C

Adopt the Commercial Guide Logbook rule as presented by staff as option C, amending the subsection (3) to require logbook reports 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 non-guided fishing trips that occur on a designated WDFW licensed guide fishing vessel and with an effective date of January 1, 2020.

WDFW staff recommended that the Fish and Wildlife Commission adopt Option B, amending the original rule proposal to a monthly reporting increment but retaining, as proposed in the

original rule, the requirement that both guided and non-guided fishing activity should be reported.

2. Reasons for adopting the rule:

The rule will provide new information regarding where, when and how fishing guides use the fishery resources of Washington State. This type of information will allow fishery managers and elected officials to better understand the overall use of fisheries by guides and how that relates to economic value of the guiding industry, whether the industry has positive or negative social impacts (fishery crowding) and potential conservation issues related to the guiding industry. In addition, the harvest and catch information collected can be used to supplement existing creel surveys to better quantify harvest or encounter rates in fisheries.

3. Differences between the text of the proposed rule and the rule as adopted:

The proposed rule had a requirement for licensed Commercial Fishing Guides to report their guided and non-guided fishing activity to the department on a weekly basis. The adopted rule amended the reporting increment to monthly. The amended proposal for the reporting increment states, “require logbook reports to be provided to the department within ten days following any calendar month in which guide activity took place.”

4. Public comments, response to comments, and consideration of comments

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

- Consistent Fishing Guide and public comment themes:
 - Concerns about how the Department would use the data.
 - Concerns associated with disclosure under the Public Records Act.
 - Concerns associated with being required to report non-guiding activity.
 - Concerns with providing put in and take out location information.
 - Questions about other options for obtaining the information
 1. Catch Record Cards
 2. Creel
 3. Department of Revenue
- The Department offered Guides the opportunity for online commenting. 64 Comments were received, 51 from Guides and 13 from non-guides.
 - 24 Respondents were supportive of the logbook. Those that supported the concept asked that the Department make the logbook user friendly, do not include recording personal trips as a requirement and that the Department should consider implementing the logbook on a “pilot” for the first year of implementation to allow guides to transition into the requirements without penalty.

- 40 respondents were not supportive of the logbook program. Those respondents that were not supportive of the logbook program felt that the Department should use other existing data (i.e., creel surveys, Catch Record Cards) to manage the guide industry and gain an understanding of guiding in Washington. Respondents also felt that asking guides to complete logbook reporting was both cost and time prohibitive. Finally, non-supportive respondents were concerned that information reported in the logbook would be subject to public disclosure, which is not protective of information they viewed as proprietary and critical to their businesses success.
- Based on written, online and in person comments, the staff proposed modifications and the Fishing and Wildlife Commission adopted language allowing commercial fishing guides to report on a monthly basis.