



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 13-11-118 on 5/21/13;
 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:

The Washington Department of Fish and Wildlife is considering rule amendments relating to the commercial harvest of hagfish in the hagfish pot trial fishery.

WAC 220-20-039 Live fish – Import and transfer.

Hearing location(s):
 WDFW Region 6 Office
 48 Devonshire Road
 Montesano, WA 98563

Date: December 9, 2014 Time: 10:00 a.m.

Submit written comments to:

Name: Lorna Wargo
 Address: WDFW Region 6 Office
 48 Devonshire Road, Montesano, WA 98563
 e-mail Lorna.Wargo@dfw.wa.gov
 fax (360) 249-1229 by (date) December 2, 2014

Assistance for persons with disabilities:

Contact Tami Lininger by December 2, 2014
 TTY 1-800-833-6388 or (360) 902-2207

Date of intended adoption: On or after December 10, 2014
 (Note: This is NOT the effective date)

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

The purpose of this proposal is to exempt hagfish from the ban on possession, transport, or sale of live fish. Under current regulation it is unlawful to transport, possess, transfer or sell hagfish in a live state (i.e. alive). The effect of this proposed rule change is to allow a live fishery for hagfish and thereby expand potential opportunity in the hagfish pot trial fishery as there are separate markets for live and frozen hagfish. The ban on live fish transport or sales is intended to protect against the introduction of exotic disease and for resource conservation purposes. Hagfish are indigenous to the ocean and coastal marine waters of Washington and conservation measures are being achieved through active fishery management actions.

Reasons supporting proposal: There is market demand for live hagfish and this proposal could increase sales opportunities for fishers and dealers. The value per volume of catch for live hagfish may be higher than frozen product. Individuals will only be able to possess live hagfish if they have a department permit under the rule proposal, so the department will still be able to ensure proper fishery management.

Statutory authority for adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045 and 77.12.047

Statute being implemented: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045 and 77.12.047

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: November 05, 2014
TIME: 10:06 AM

WSR 14-22-110

DATE
 November 5, 2014

NAME (type or print)
 Joanna Eide

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..... Lorna Wargo	48 Devonshire Road, Montesano, WA 98563	(360) 249-1221
Implementation... Lorna Wargo	48 Devonshire Road, Montesano, WA 98563	(360) 249-1221
Enforcement..... Steve Crown	1111 Washington Street SE, Olympia, WA 98501	(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: Lorna Wargo
Address: WDFW Region 6 Office
48 Devonshire Road
Montesano, WA 98563

phone (360) 249-1221
fax (360) 249-1229
e-mail Lorna.Wargo@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: This rule proposal does not involve hydraulics.

Attachment A

Small Business Economic Impact Statement Hagfish Pot Trial Fishery/Live Hagfish Permit

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

This proposed rule change authorizes the transport, transfer, or sale of live hagfish taken in the coastal (ocean) commercial hagfish pot trial fishery. Markets exist for both dead (fresh frozen) and live hagfish. The requirements for reporting or recording keeping are the same for hagfish sold live or dead.

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

There are no professional service requirements for a small business to comply with the requirements.

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

There is no cost to compliance as this rule authorizes the possession, transfer or sale of live hagfish but does not impose any additional or new requirements upon commercial fishers or dealers to participate in the coastal hagfish pot trial fishery. The proposed changes only require a fisher who wishes to possess live hagfish to obtain a permit from the department allowing such possession.

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

No. The proposed rule does not require commercial fishers or dealers to participate in the live hagfish fishery. Authorizing a live hagfish fishery may increase sales opportunity.

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.**

The costs to comply per one hundred dollars of sales are negligible. Fishers and dealers already must document fishing and sales activity on fishery logbooks and fish receiving tickets. The live condition of the hagfish does not change costs.

Small businesses engaged in commercial fish and wildlife activities may incur penalty-related costs if they fail to comply with department requests and are cited with a violation. A violation is punishable under RCW 77.15.253, 77.15.290, or 77.15.750, depending on the species, value of the species, and the circumstances underlying the violation.

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

As costs are negligible and the requirements already apply to small businesses, there is no need for the agency to take steps to reduce costs to small businesses.

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

The department has engaged in on-going discussion with affected small businesses – commercial hagfish fishers and dealers. Affected small businesses have been supportive of the proposed changes.

WDFW sends out a notice of proposed rule-making projects after the proposed rule changes are filed to people who notified the department that they are interested in the department's rule-making activities. This notice directs those people to information on how they can participate in the rule-making process and comment on proposed changes.

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

Commercial fishers, commercial fish processors, and people who choose to engage in commercial activity involving live hagfish must obtain a permit to do so and comply with permit requirements relating to the transport, transfer, or sale of live hagfish.

WAC 220-20-039 Live fish—Import and transfer. (1) It is unlawful for any person, group, corporation, association, or government entity to import into, transport, transfer, sell, or possess within the state of Washington live fish and/or the viable sexual products of fish without first obtaining a permit to do so from the director. The only exceptions ~~((is))~~ to the permit requirement are for aquarium fish, game fish, indigenous marine baitfish, indigenous hagfish species and mosquito fish (genus *Gambusia*) when used by agencies authorized by chapter 17.28 RCW. The permit must accompany the fish and/or sexual products at all times within the state of Washington and must be presented to department employees on demand.

(2) For any permit issued under subsection (1) of this section, the director may impose conditions as necessary to ensure the protection of food fish populations from infectious, contagious, or communicable diseases and pests.

(3) It is unlawful to violate the terms and conditions imposed on any permit issued under subsection (1) of this section. In addition to penalties provided by law, violation of the permit terms and conditions may result in the suspension and/or revocation of the permit.

(4) A violation of this section is punishable under RCW 77.15.253, 77.15.290, or 77.15.750, depending on the species, value of the species, and the circumstances underlying the violation.