

Concise Explanatory Statement

Duties of commercial purchasers and receivers of Mackerel

Introduction

This Concise Explanatory Statement (CES) relates to rules being adopted by the Washington Department of Fish and Wildlife (WDFW or Department) to amend Washington Administrative Code (WAC) 220-69-240 Duties of commercial purchasers and receivers. The CES contains three sections: Section I describes the rule being adopted, the purpose and need for the rule, and the rule-making process. Section II describes the changes from the proposed rule to the adopted rule. Section III discusses comments received during rulemaking and the agency's analysis and resolution of those comments.

I. The Adopted Rule, Purpose and Need, and Rule-making process

WDFW is adopting a rule amendment relating to the purchase of mackerel from commercial fisheries. The primary change to WAC 220-69-240 will restrict the amount of mackerel that can be purchased for purposes other than human consumption or bait. Other changes to the rule are intended to clarify definitions and achieve consistency across fisheries that catch forage fish and related species.

The purpose and need for the rule changes result from the establishment of a new coastal trial purse seine fishery for mackerel in 2016. Before the trial mackerel fishery was initiated, mackerel could be only incidentally caught and delivered shoreside (i.e. landed). The trial fishery removes this constraint for purse seine gears, allowing targeted mackerel fishing. The purpose of this rule-making is to apply the same restrictions on the purchase of mackerel as exist in rule for the delivery of mackerel by fishers, and in rule for sardine and anchovy fisheries. Together these restrictions on delivery and purchase conform generally to agency forage fish management policy. WDFW policy supports fisheries for forage species but in recognition of the importance of forage fish as prey in the marine environment, places priority for ecosystem benefits over utilization by fisheries (WDFW Policy C3012 – Forage Fish Management Policy, Goals and Plan). Consistent with this, in turn, is the intent to foster higher value uses of the fishery resource, such as human consumption. The rule changes are needed as targeted mackerel opportunity could spur higher catches and an increase in marketing interest.

The main outcome of this rule-making is to limit the amount, by weight, of mackerel that can be *purchased* per vessel annually for purposes other than human consumption or fishing bait to 15%. This restriction already applies to the amount of mackerel that might be *delivered* (i.e. *fished*) for purposes other than human consumption or bait (WAC 220-88F-020). The adopted changes apply the restriction consistently to both purchasers and fishers. Permitting a percentage of annual catch to be reduced is intended to minimize wastage of fish not suitable for human consumption or bait. The quality of some species of fish like mackerel can degrade quickly and may not meet standards for some uses if a vessel's return to port is delayed by unforeseen circumstances such as adverse ocean conditions, mechanical failure or other emergency.

To fully implement and support this primary change, several changes to the rule address how the term "forage fish" is defined and used. WAC 220-16-475 defines "forage fish" as anchovy, herring, sand lance, sardine and smelt. This definition is needed because the term "forage fish" does not comprise a distinct list of fish species in ordinary or scientific usage. Those species captured in WAC 220-16-475 are widely recognized as "forage fish" but as many as two dozen other species, including mackerel, may also be considered "forage fish" based on their role as prey species in marine ecosystems. The term "forage fish" is used in WAC and WDFW policy for convenience; it reduces the need to name each

species separately. To avoid compromising the present uses of the term “forage fish” in other Washington rules or for other agency purposes (e.g. policy documents), “mackerel” was inserted into pertinent subsections of WAC 220-69-240. The insertion aligns mackerel with “forage fish” as used by WDFW, a change that is also consistent with federal management under the Pacific Fishery Management Council Coastal Pelagic Fishery Management Plan to which mackerel are subject.

Some of these rule changes also reflect the characteristics of fisheries that catch forage fish, including mackerel. References to a “mackerel fishery” or a “sardine fishery” or an “anchovy fishery” typically reflect the primary intended target of the fisher, or the type of fishery license being used to authorize the fishing trip, but the fish caught might be comprised of an assemblage of forage fish species. Such usage does not intend to imply only one species is caught and sold. Mackerel and other forage fish species are schooling fish and often exist in mixed schools. It is not uncommon for vessels fishing for sardine to catch mackerel or vice versa; vessels fishing for anchovy may also encounter and catch sardine or mackerel incidentally.

Rule Development Process:

As noted above the rule changes under this rule-making were done to achieve regulatory and management consistency between mackerel and other forage fish. This rule-making was preceded by extensive public involvement in the development of coastal forage fish fisheries, particularly for sardine, beginning in 2000. More recently, public meetings were conducted on June 22, 2015 and February 11, 2016 specifically to approve the trial mackerel fishery.

Notice of the rule-making was mailed May 19, 2016 to commercial dealers (purchasers) of sardine, mackerel or anchovy and fishers holding purse licenses for sardine or baitfish licenses. The notice announced the public hearing, and included the proposed regulation and information on how to submit comment. Notice of the rule-making was also posted to the WDFW rules information web page.

A public hearing was conducted at the WDFW Region 6 office on June 9, 2016. One individual attended to obtain information about the proposed rule but did not testify or submit comment about it. No written comment was received via mail or electronic mail.

A copy of the final rule, the CR 103 and this CES was mailed to the same dealers and commercial fishery license holders referenced above.

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

No changes were made to the text of the proposed rule.

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

No public comment was received.