

Commercial Smelt Fishery Quick Reporting Rule– (Decision)

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Summary

Meeting dates: March 4, 2016 - Conference Call

Agenda item: Commercial Smelt Fishery Quick Reporting Rule - (Decision)

Presenter(s): Dr. Dayv Lowry, Senior Research Scientist, Fish Program

Background summary:

Smelt serve as an important food source for a variety of species in Puget Sound, including sea birds, marine mammals and salmon, some of which are federally protected. Smelt are also exploited for human consumption in recreational and commercial fisheries.

In 2014 the department implemented several changes to both recreational and commercial smelt fisheries in Puget Sound. Specifically, a night-time closure (10 p. m. to 6 a.m.) on open days was instituted for all fisheries except the recreational jig fishery, the commercial fishery was closed on Sundays, commercial purse seine and dip bag gear were disallowed, and an annual commercial harvest quota of 60,000 lbs was created. The creation of a commercial quota meant that active in-season management of harvest via quick reporting was required, which was not the case under the prior passive management regime.

In both 2014 and 2015 harvest from the commercial smelt fishery was monitored, via quick reporting, under an emergency regulation. The rule change under consideration would make quick reporting a permanent requirement for the commercial smelt fishery, much as it already is for fisheries on other species which require in-season management.

Policy issue(s) you are bringing to the Commission for consideration:

Adoption of the proposed quick reporting rule for the Puget Sound commercial smelt fishery.

Public involvement process used and what you learned:

Commercial fishers were involved in drafting the new rule. Specifically, they requested moving the reporting deadline back from 10AM to 2PM the day after landing fish.

Public comment on the permanent rule was allowed for at the February 26 Commission meeting but no testimony was received.

Action requested:

Adoption of the proposed quick reporting rule for the Puget Sound commercial smelt fishery.

Draft motion language:

I move to adopt **WAC 220-49-005 Puget Sound forage fish commercial fisheries—General provisions** as presented by staff.

Justification for Commission action:

Permanent quick reporting is necessary for in-season management to meet the catch quota.

Communications Plan:

Agency web site, continued individual contact, and ongoing contact with commercial fishers through quick reports.



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 15-22-096 on 11/3/15 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)

The department proposes to amend WAC 220-49-005 to require commercial smelt harvesters to quick report their catch.

Hearing location(s):

Natural Resources Building, Room 172
1111 Washington St. SE
Olympia, WA 98504

Date: February 26-27, 2016 Time: 8:30 a.m.

Submit written comments to:

Name: Joanna Eide, WDFW Rules Coordinator
Address: 600 Capitol Way N
Olympia, WA 98501-1091
E-mail: Rules.Coordinator@dfw.wa.gov
Fax (360) 902-2155 by (date) February 19, 2016

Assistance for persons with disabilities:

Contact Tami Lininger by February 19, 2016
TTY (800) 833-6388 or (360) 902-2267

Date of intended adoption: On or after March 4, 2016
(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: In order to close this fishery when the quota has been reached, near real-time catch data are needed.

Reasons supporting proposal: A 60,000 pound quota was imposed on the commercial smelt fishery by the Fish and Wildlife Commission in July of 2014. This "quick reporting" requirement is required for other species in WAC 220-69-240. Under temporary rule quick reporting occurred during the 2014 and 2015 seasons, and this rule action makes this requirement permanent.

Statutory authority for adoption: RCW 77.04.012, 77.04.013, 77.04.055, and 77.12.047

Statute being implemented: RCW 77.04.012, 77.04.013, 77.04.055, 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: January 14, 2016

TIME: 2:26 PM

WSR 16-03-046

DATE
January 14, 2016

NAME (type or print)
Joanna Eide

SIGNATURE

TITLE
Rules Coordinator

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

There is a minimal fiscal impact to the department of approximately \$2,000 each fiscal year.

The public hearing will take place at the February 2016 Fish and Wildlife Commission meeting. For more information on the agenda for this meeting, please see the Commission's webpage at <http://wdfw.wa.gov/commission/meetings/2016/index.html>.

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.....	Joanna Eide	1111 Washington St. SE, Olympia, WA 98501	(360) 902-2403
Implementation....	Craig Burley	1111 Washington St. SE, Olympia, WA 98501	(360) 902-2784
Enforcement.....	Steve Crown	1111 Washington St. 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: Craig Burley, WDFW Fish Program
Address: 600 Capitol Way N
Olympia, WA 98501
phone 360-902-2453
fax 360-902-2466
e-mail craig.burley@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 proposal does not involve hydraulics rules.

WAC 220-49-005 Puget Sound forage fish commercial fisheries—General provisions. (1) It is unlawful to fish for or possess Puget Sound forage fish taken for commercial purposes except at the times, during the seasons and using the gear provided for in this chapter.

(2) It is unlawful to fish for or possess candlefish taken for commercial purposes. A violation of this subsection is punishable under RCW 77.15.550, Violation of commercial fishing area or time—Penalty.

(3) The total annual quota for the Puget Sound smelt commercial fishery may not exceed sixty thousand pounds.

(4) It is unlawful for vessel operators engaged in the commercial harvest of smelt from Puget Sound to fail to report their daily catch to the department by 2:00 p.m. the day following the harvest of smelt.

(a) Catch reports may be submitted to the department as follows:

(i) By e-mailing the catch report or a picture of the fish receiving ticket to smeltreport@dfw.wa.gov; or

(ii) By phone at 1-844-611-3822.

(b) Catch reports must include the following information as it is recorded on the fish receiving ticket:

(i) Fisher name;

(ii) Wholesale fish dealer name;

(iii) Pounds of smelt landed;

(iv) Marine fish/shellfish catch area, as described in WAC 220-22-400;

(v) Date of harvest;

(vi) Date of sale;

(vii) Complete fish ticket serial number, including the first alphanumeric letter; and

(viii) If a picture of the fish receiving ticket is e-mailed as the daily harvest report, the date of harvest must be recorded on the bottom half of the ticket.

Small Business Economic Impact Statement

Puget Sound Commercial Smelt Fishery Quick Reporting Requirements

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

(4) It is unlawful for vessel operators engaged in the commercial harvest of smelt from Puget Sound to fail to report their daily catch to the department by 2:00 p.m. the day following the harvest of smelt.

(a) Catch reports may be submitted to the department as follows:

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(i) Fisher name;

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(iii) Pounds of smelt landed;

(iv) Marine Fish/Shellfish Catch area, as described in WAC 220-22-400;

(v) Date of harvest;

(vi) Date of sale;

(vii) Complete fish ticket serial number, including the first alphanumeric letter.

(viii) If a picture of the fish receiving ticket is emailed as the daily harvest report, the date of harvest must be recorded on the bottom half of the ticket.

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

There are no new anticipated professional services required to “Quick Report.” Under temporary rule, fishers have been quick reporting for two seasons (2014 and 2015). Fishers need only a phone or internet access to comply with this requirement and the phone hotline is a toll free number.

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

No additional costs are anticipated.

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

No. This rule will only take a few minutes to comply with and all the information should already be documented on their Fish Receiving Ticket.

- 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**

None - The proposed rules do not require any additional equipment, supplies, labor, or administrative costs. Only approximately 6 businesses are involved in this fishery and all bear the same burden for reporting.

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

We have created a toll-free number and an email account for harvesters to submit their reports free of charge.

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

Affected businesses will also have an opportunity to provide public comment during the public hearing on the rule proposal.

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

Commercial smelt harvesters (approximately 6 active licenses).

- 9. An estimate of the number of jobs that will be created or lost as a result of compliance with the proposed rule.**

The rules will not have an impact on job creation or job loss.