

Charter Stamp Regulation Proposal – (Rule Adoption)

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Summary

Meeting dates: December 9-10, 2016

Agenda item: Charter Stamp Rule – Briefing and Public Hearing

Presenter(s): Mike Cenci, Deputy Chief, Enforcement

Background summary:

Fishing Charter and Guide businesses have the ability to sell one day fishing licenses to their clients. These fishing licenses are referred to as charter stamps. Charter stamps are small stickers that are purchased from WDFW, which must be affixed to catch record cards prior to fishing, provided that the client is 15 years of age or older. The charter stamp program is an important and efficient means of disseminating licenses to arriving customers for those businesses that are expected to provide ala carte services.

A charter business was discovered to have defrauded the state out of license revenue through reuse of the charter stamps.

Department staff briefed the Commission during the November 4-5 Commission meeting on rules needed to clarify the obligations of fishing guides and charter-boat operators in their use of charter stamps, helping to provide a clear process and identifying penalties.

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

Whether the Commission wishes to ensure the integrity of a valuable licensing tool for Charter/Guide businesses.

Public involvement process used and what you learned:

In a negotiated rulemaking, WDFW Police met with leaders in the Charter Industry from Puget Sound, Columbia River, and the Washington Coast on May 17, 2016. The purpose of the meeting was to discuss the status of the charter business, and WDFW's enforcement needs. As a result, both parties agreed to collaborate on developing a rule that improves the department's ability to detect and punish license fraud while preserving license issuance efficiencies for charter businesses. In addition, the department website provided instructions, associated documents, a timeline and the ability to submit and comment on the proposal online. The public was also invited to comment at the November Commission meeting.

Action requested:

Requesting the approval and adoption of a new sport fishing WAC.

Draft motion language:

Move to approve new WAC 220-69-23801 as presented by staff.

Justification for Commission action:

This action is justified under RCW 77.12.047.

Communications Plan:

Enforcement Program and the Charter industry representatives met and exchanged drafts and final rule proposal versions. The charter industry is aware that WDFW and industry leaders have met to develop this new rule on Charter Stamps. In addition, Officers will educate businesses about the legal obligations and process to issue charter stamps to the public.

Form revised 12/5/12

Charter Stamp Proposal – (Rule Adoption)



December 9, 2016

NEW WAC

Type of Rule Change Proposal

Recreational

Short Description

This proposal creates a new WAC 220-69-23801 defining the process to issue charter stamps to the public and associated penalties for not doing so properly.

Explanation

The purpose of this proposal is provide a clear process for charter boat operators and fishing to follow in issuing charter stamps to the public and to ensure that violations in re-issuing charter-stamps are penalized appropriately.

Written Testimony (2 comments)

Support (0):

Oppose (0): No comments

General (0): No Comments

Public Hearing (0 comments)

No comments

Modifications

None

Staff Recommendation

Adopt as presented.



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 (WDFW)

<input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 16-10-099 ; or	<input checked="" type="checkbox"/> Original Notice
<input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or	<input type="checkbox"/> Supplemental Notice to WSR _____
<input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).	<input type="checkbox"/> Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject)
 Create a new rule to clarify the requirements in using charter stamps for fishing guides and charter-boat operators and the penalties for not adhering to these requirements

Hearing location(s):
 Natural Resource Building
 1111 Washington Street SE
 Olympia, WA 98501

Date: November 4-5, 2016 Time: 8:00am – 5:00 pm

Date of intended adoption: December 11, 2016
 (Note: This is NOT the effective date)

Submit written comments to:
 Name: Scott Bird WDFW Rules Coordinator
 Address: 600 Capitol Way North
 Olympia, WA 98501-1091
 e-mail Rules.Coordinator@dfw.wa.gov
 fax (360)902-2155 by (date) November 2, 2016_____

Assistance for persons with disabilities: Contact
 Delores Noyes by November 3, 2016
 TTY (360) 902-2155 or (360)902-2349

Purpose of the proposal and its anticipated effects, including any changes in existing rules:
 The department needs to clarify for fishing guides and charter-boat operators their obligations in the use of charter stamps. Specifically, the department needs to provide a clear process for fishing guides and charter-boat operators to follow when they validate charter stamps for clients before fishing commences as well as the penalties for not properly doing so.

Reasons supporting proposal:
 In the past, some members in the fishing guide and charter-boat operator industry have re-used charter stamps rather than issue new charter stamps to clients as required under RCW 77.32.430. This practice is illegal. As a result, the department needs to provide a clear process for the validation of charter stamps and to ensure that any violations of validating charter stamps are appropriately penalized.

Statutory authority for adoption: RCWs 77.12.047, 77.04.020, 77.05.055, 77.12.047, 77.12.150, 77.12.240 and 77.12.800

Statute being implemented: RCWs 77.04.012, 77.04.020, 77.04.055, 77.12.047, 77.12.150, 77.12.240 and 77.12.800

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:

DATE
 August 8, 2016

NAME (type or print)
 Scott Bird

SIGNATURE *Scott Bird*

TITLE Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
 STATE OF WASHINGTON
 FILED

DATE: August 11, 2016
TIME: 3:36 PM

WSR 16-17-053

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 (WDFW)

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Mike Cenci	1111 Washington Street Olympia, WA 98501	(360) 902-2329
Implementation.... Scott Bird	1111 Washington Street Olympia, WA 98501	(360) 902-2403
Enforcement..... Mike Cenci	1111 Washington Street Olympia, WA 98501	(360) 902-2329

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:

Address:

phone () _____

fax () _____

e-mail _____

No. Explain why no statement was prepared.

This rule proposal only clarifies an existing legal obligation.

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 affect hydraulics

NEW SECTION

WAC 220-69-23801 Charter stamps—Charter boat and guide operator issuance duties. It is unlawful for a charter boat or guide operator to fail to comply with the charter stamp validation requirements as provided for in this section.

(1) Before any fishing commences, the charter boat or guide operator shall write the validation date across every charter stamp issued to a client in ink. The validation date is the first day on which a client may fish for, harvest or possess fish, shellfish, or seaweed.

(2)(a) Each failure to validate a charter boat stamp is punishable as an infraction under RCW 77.15.160, so long as the charter boat or guide operator has not committed prior infractions under this subsection in the same calendar year involving a cumulative stamp value of more than one hundred fifty dollars.

(b) Each failure to validate a charter boat stamp is punishable as a gross misdemeanor under RCW 77.15.813 when the charter boat or guide operator has previously committed infractions under (a) of this subsection in the same calendar year involving a cumulative value of more than one hundred fifty dollars.