

Columbia River Commercial Catch Area Amendments – (Briefing/Public Hearing)

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Summary

Meeting dates: January 9, 2015

Agenda item: Columbia River Commercial Catch Area Amendments – Briefing and Public Hearing

Presenter(s): Ron Roler, Columbia River Policy Coordinator (Director's Office)

Background summary: The proposed rule change will add additional catch area designations for Columbia River commercial fishing, amending WAC 220-22-010 to include two new catch areas (1E1 and Cathlamet Channel Select Area). In addition, a catch area description contained in WAC 220-33-030, Shad, is being added into WAC 220-22-010, Columbia River Salmon Management and Catch Reporting Areas, as it is applicable under both WAC's. As a housekeeping measure, WAC 220-32-050, Indian Fishery, is being amended to include a reference to one of the new catch areas.

Additions of new catch area designations are needed to manage evolving and emergent commercial fisheries, some of which are in response to the Columbia River Basin Salmon Management Policy C-3620. Developing fisheries require managing sub-sections of existing catch areas and/or designation of new catch areas. Additionally, some housekeeping changes have been included which will simplify the process for adopting commercial fishing seasons set under the Columbia River Compact.

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

There are no policy issues in this proposed rule change.

Public involvement process used and what you learned:

The proposed rule change has been posted on the WDFW website under Rules Information Center and is open to public comment until December 31st, 2014. Columbia River commercial buyers who have purchased fish from the affected catch areas will be notified of the proposed rule change.

Action requested:

This is the rule briefing and public hearing opportunity. The Commission will consider final adoption of the rule proposals at its February 6-7, 2015.

Draft motion language:

N/A

Justification for Commission action:

N/A

Communications Plan:

N/A



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 14-17-116 on 08/20/14;
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) Amending existing WACs to designate additional catch areas on the Columbia River.

WAC 220-22-010, Columbia River Salmon Management and Catch Reporting Areas;
WAC 220-32-050, Indian Fishery – Area and qualification;

Hearing location(s):

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

Date: January 9-10, 2015 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) December 31, 2014

Assistance for persons with disabilities:

Contact Tami Lininger by December 31, 2014

TTY (800) 833-6388 or (360) 902-2267

Date of intended adoption: On or after February 6, 2015
(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Addition of new catch area designations and inclusion of new catch areas in existing WACs will aid in management of existing and emergent commercial fishing opportunities in the Columbia River. Additional housekeeping changes are proposed to reduce the number of WACs referred to in the setting of some commercial fishing seasons through the Columbia River Compact process.

Reasons supporting proposal: Additions of new catch area designations are needed to manage evolving and emergent commercial fisheries, some of which are in response to the Columbia River Basin Salmon Management Policy C-3620. Developing fisheries require managing sub-sections of existing catch areas and/or designation of new catch areas. Additionally, some housekeeping changes have been included which will simplify the process for adopting commercial fishing seasons set under the Columbia River Compact.

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

Statute being implemented: RCW 77.04.012, 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: December 03, 2014

TIME: 8:35 AM

WSR 14-24-112

DATE
December 3, 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.....	Lisa Harlan	2108 Grand Boulevard, Vancouver, WA 98661	(360) 906-6711
Implementation....	Lisa Harlan/Ron Roler	2108 Grand Boulevard, Vancouver, WA 98661	(360) 696-6211
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: Joanna Eide, Rules Coordinator
Address: Washington Department of Fish and Wildlife
600 Capitol Way North
Olympia, WA 98501

phone (360) 902-2403
fax (360) 902-2155
e-mail Rules.Coordinator@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.

Small Business Economic Impact Statement Adding Columbia River Catch Area Codes

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

This proposed rule change will add additional catch area designations for Columbia River commercial fishing, amending WAC 220-22-010 to include two new catch areas. In addition, a catch area description contained in WAC 220-33-030, Shad, is being added into WAC 220-22-010, Columbia River Salmon Management and Catch Reporting Areas, as it is applicable under both WACs. As a housekeeping measure, WAC 220-32-050, Indian Fishery, is being amended to include a reference to one of the new catch areas.

As with all the existing catch area designations, commercial fish tickets will need to be filled out correctly reflecting the catch area in which the fish they are selling have been caught.

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:

The costs of compliance with the provisions within the proposal will be negligible as the requirement to fill out fish tickets with the proper catch area has not changed.

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

No. Compliance with the changes to department requirements in this rule making will not cause businesses to lose sales or revenue because the changes do not involve any marked increase to pre-existing requirements already imposed on affected businesses.

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 of complying with the proposed changes to the rules in this project will be negligible as the changes do not involve any marked increase to pre-existing requirements.

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

Costs are negligible; the requirements in the rules already apply to affected small businesses.

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

WDFW posts proposed rule changes on the department website allowing for a public comment period and notifies individuals who have expressed a desire to be notified of such rule changes. No additional measures will be taken to involve small business in the development of this rule as it is essentially an internal housekeeping proposal.

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

Columbia River commercial fishers and Columbia River commercial buyers.

WAC 220-22-010 Columbia River Salmon Management and Catch Reporting Areas. (1) **Area 1A** ((shall)) includes those waters of the Columbia River easterly of a line projected from the inshore end of the north jetty in the state of Washington to the knuckle of the south jetty in the state of Oregon, and westerly of a line projected from Grays Point in Washington to Tongue Point in Oregon.

(2) **Area 1B** ((shall)) includes those waters of the Columbia River easterly of a line projected from Grays Point in the state of Washington to the flashing 4-second lighted red buoy #44 off the easterly tip of Tongue Point in the state of Oregon, and westerly of a line projected from the 4-second flashing green lighted marker #81 on the Washington bank to a boundary marker on the easterly end of the Beaver Terminal Pier in Oregon, including all waters of Grays Bay, those waters of Deep River downstream of the Highway 4 Bridge, all waters of Seal Slough, those waters of Grays River downstream of a line projected between fishing boundary markers on both banks at the Leo Reisticka farm, and those waters of Elokom in Slough and Elokom in River downstream of the Highway 4 Bridge.

(3) **Area 1C** ((shall)) includes those waters of the Columbia River easterly of a line projected from the 4-second flashing green lighted marker #81 on the Washington bank to a boundary marker on the easterly end of the Beaver Terminal Pier in Oregon, and westerly of a line projected true west from the east or upstream bank of the Lewis River mouth in Washington.

(4) **Area 1D** ((shall)) includes those waters of the Columbia River upstream of a line projected true west from the east or upstream bank of the Lewis River mouth in Washington state and westerly of a line projected true north from Rooster Rock in Oregon, and those waters of Camas Slough downstream of the westernmost powerline crossing at the James River mill.

(5) **Area 1E** ((shall)) includes those waters of the Columbia River easterly of a line projected true north from Rooster Rock in the state of Oregon, and westerly of a line projected from a deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse #1) in a straight line through the western tip of Pierce Island, to a deadline marker on the Washington bank at Beacon Rock.

(6) **Area 2S** includes those waters of the Columbia River from a true north/south line through the Washougal flashing red light "50" near the Oregon bank upstream to a straight line projected from a deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse #1) through the western tip of Pierce Island, to a deadline marker on the Washington bank at Beacon Rock.

(7) **Area 1E1** includes those waters of the Columbia River easterly of a line projected from a deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse #1) in a straight line through the western tip of Pierce Island, to a deadline marker on the Washington bank at Beacon Rock, and easterly to Bonneville Dam.

(8) **Area 1F** (Bonneville Pool) ((shall)) includes those waters of the Columbia River upstream from the Bridge of the Gods, located approximately 2.3 miles above Bonneville Dam, and downstream of a line

projected from the west end of the Port of The Dalles Dock across the Columbia River to a Washington department of fish and wildlife boundary marker on the Washington shore.

~~((7))~~ (9) Area 1G (The Dalles Pool) ~~((shall))~~ includes those waters of the Columbia River upstream from a line projected from an Oregon department of fish and wildlife deadline marker on the Oregon shore to the 5-mile-lock light (6 seconds red) on an island near the Oregon shore, to an island near the Washington shore to a Washington department of fish and wildlife fishing boundary marker on the Washington shore at the southwest corner of Horsethief Lake, SP&S Railroad fill and downstream of a line projected across the thread of the Columbia River at the grain elevator at Rufus, Oregon, to a deadline marker on the Washington shore.

~~((8))~~ (10) Area 1H (John Day Pool) ~~((shall))~~ includes those waters of the Columbia River upstream from a line projected across the thread of the Columbia River from a fishing boundary marker approximately 1/2-mile above the John Day River, Oregon, to a fishing boundary marker on the Washington shore and downstream of a line projected across the thread of the Columbia River from the upstream bank of the Umatilla River.

~~((9))~~ (11) Select areas:

(a) **Blind Slough Select Area.** Blind Slough fishing area includes all waters from markers at the mouth of Gnat Creek located approximately 0.5 mile upstream of the county road bridge downstream to markers at the mouth of Blind Slough.

(b) **Knappa Slough Select Area.** Knappa Slough fishing area includes all waters bounded by a line from the north marker at the mouth of Blind Slough, westerly to a marker on Karlson Island, downstream to boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon shore.

(c) **Tongue Point Select Area.** Tongue Point fishing area includes all waters bounded by a line from a marker midway between the red USCG navigation light #2 at the tip of Tongue Point and the downstream (northernmost) pier (#8) at the Tongue Point Job Corps facility, to the flashing green USCG navigation light #3 on the rock jetty at the west end of Mott Island, a line from a marker at the southeast end of Mott Island northeasterly to a marker on the northwest tip of Lois Island, and a line from a marker on the southwest end of Lois Island westerly to a marker on the Oregon shore.

(d) **South Channel Select Area.** South Channel area includes all waters bounded by a line from a marker on John Day Point through the green USCG buoy #7 to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to the flashing red USCG marker #10, northwesterly to a marker on Burnside Island defining the upstream terminus of South Channel.

(e) **Deep River Select Area.** Deep River fishing area includes all waters downstream of the town of Deep River to the mouth defined by a line from USCG navigation marker #16 southwest to a marker on the Washington shore.

(f) Cathlamet Channel Select Area. Cathlamet Channel catch area includes waters easterly from a line drawn from the westerly tip of Puget Island through green buoy #41 north to light #39 to a line drawn from the eastern tip of Puget Island through flashing green #4s buoy then to the southern tip of Cape Horn.

AMENDATORY SECTION (Amending Order 77-14, filed 4/15/77)

WAC 220-32-050 Indian fishery—Area and qualification. It (~~shall be~~) is unlawful to take, fish for or possess food fish for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, (~~and~~) 1H, and 1E1 except that it (~~shall be lawful~~) is permissible for individuals possessing treaty fishing rights pursuant to the Yakima Treaty (12 Stat. 951), the Warm Springs Treaty (12 Stat. 963), the Umatilla Treaty (12 Stat. 945), and the Nez Perce Treaty (12 Stat. 957), while having on (~~their~~) his or her person (~~their~~) his or her Federal Tribal Identification Card to take, fish for and possess food fish for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, (~~and~~) 1H, and 1E1 in accordance with the (~~following regulations~~) rules in this chapter.