



# PROPOSED RULE MAKING

## CR-102 (June 2004)

(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 09-15-140; or
- Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_; or
- Proposal is exempt under RCW 34.05.310(4).

- Original Notice
- Supplemental Notice to WSR \_\_\_\_\_
- Continuance of WSR \_\_\_\_\_

**Title of rule and other identifying information:** (Describe Subject)  
 Amend WAC 220-20-010, General provisions—Lawful and unlawful acts—Salmon, other fish and shellfish; WAC 220-69-230, Description of Washington state nontreaty fish receiving tickets; and WAC 220-69-250, Required information on nontreaty fish receiving tickets.

**Hearing location(s):**  
 WDFW Region 6 Office  
 48 Devonshire Rd  
 Montesano, Washington 98563

Date: November 30, 2009 Time: 1:30 p.m.

**Submit written comments to:**  
 Name: Corey Niles, Marine Resources Policy Coordinator  
 Address: 48 Devonshire Rd., Montesano, WA 98563

e-mail [Corey.Niles@dfw.wa.gov](mailto:Corey.Niles@dfw.wa.gov)  
 fax (360) 664-0689 by (date) November 13, 2009

**Assistance for persons with disabilities:** Contact  
 Susan Yeager by November 13, 2009  
 TTY (360) 902-2207 or (360) 902-2267

**Date of intended adoption:** December 11, 2009  
 (Note: This is NOT the effective date)

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** Federal groundfish and salmon regulations allow trollers to have incidental allowances of Pacific halibut and groundfish that are expressed as a ratio of individual groundfish or halibut possessed or landed to the number of Chinook salmon retained. To enforce this incidental allowance, the department must therefore require that Pacific halibut and groundfish be reported in individual numbers on the troll fish receiving ticket. Current regulations only require halibut and groundfish to be reported in original total or original dressed weight. This rule proposal will help the department better track incidental allowances and thus enforce federal groundfish and salmon regulations.

**Reasons supporting proposal:** The agency is mandated to conserve food fish resources, maintain the economic well-being and stability of the fishing industry in the state, and promote orderly fisheries. This proposal supports the agency's mandate.

**Statutory authority for adoption:** RCW 77.12.047 and 77.04.020.

**Statute being implemented:** RCW 77.12.047 and 77.04.020.

**Is rule necessary because of a:**

- Federal Law?  Yes  No
  - Federal Court Decision?  Yes  No
  - State Court Decision?  Yes  No
- If yes, CITATION:
- 50 CFR § 660.370 (lingcod)
  - 50 CFR § 300.63 (halibut)

**DATE**  
 October 19, 2009

**NAME** (type or print)  
 Lori Preuss

**SIGNATURE**

**TITLE**  
 Rules Coordinator

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
 STATE OF WASHINGTON  
 FILED

**DATE:** October 19, 2009  
**TIME:** 4:40 PM

**WSR 09-21-088**

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

None.

**Name of proponent:** (person or organization)

The Washington Department of Fish and Wildlife

- Private
- Public
- Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting..... Corey Niles	48 Devonshire Rd, Montesano, WA 98563	(360) 249-4628
Implementation Corey Niles	48 Devonshire Rd, Montesano, WA 98563	(360) 249-4628
Enforcement.....Chief Bruce Bjork	1111 Washington Street, SE, Olympia, WA 98504	(360) 902-2373

**Has a small business economic impact statement been prepared under chapter 19.85 RCW?**

Yes. Attach copy of small business economic 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.

The proposed rule changes will not result in additional costs to fishery participants.

**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.

AMENDATORY SECTION (Amending Order 07-279, filed 11/7/07, effective 12/8/07)

**WAC 220-69-230 Description of Washington state nontreaty fish receiving tickets.** (1) There is hereby created the following nontreaty fish receiving ticket forms to be prepared, printed, and distributed upon request, by the department: Puget Sound salmon, troll, marine, utility, and shellfish. These forms shall contain space for the following information:

- (a) Fisherman: Name of licensed deliverer.
- (b) Address: Address of licensed deliverer.
- (c) Boat name: Name or Coast Guard number of landing vessel.
- (d) WDFW boat registration: Washington department of fish and wildlife boat registration number.
- (e) Gear: Code number or name of specific type of gear used.
- (f) Fisherman's signature: Signature of licensed deliverer.
- (g) Date: Date of landing.
- (h) Dealer: Name of dealer, and department number assigned to dealer.
- (i) Buyer: Name of buyer, and department number assigned to buyer.
- (j) Receiver's signature: Signature of original receiver.
- (k) Number of days fished: Days spent catching fish.
- (l) Fish or shellfish caught inside or outside 3-mile limit: Check one box.
- (m) Catch area: Salmon catch area code if salmon are caught. Marine fish/shellfish catch area code if marine fish are caught or shellfish are caught or harvested.
- (n) Tally space for dealer's use: Used at dealer's discretion.
- (o) Species code: Department assigned species code.
- (p) Individual number of salmon((7)) and sturgeon((7)).
- (q) Individual numbers of other fish species, if such fish are landed as part of an incidental catch allowance or catch ratio restriction that is expressed in numbers of fish rather than in pounds.
- (r) Number of ghost shrimp in dozens, number of oysters in dozens or gallons, and species description for all fish and shellfish((7)).
- (s) The original total weight in round pounds of all shellfish or fish, except that pounds of legally dressed fish and shellfish may be recorded in original dressed weight. Dressed fish and shellfish must be designated as dressed on the fish receiving ticket. Value of fish and shellfish sold or purchased: Summary information for species, or species groups landed.
- (t) All species or categories of bottomfish having a vessel trip limit must be listed separately (see WAC 220-44-050).

~~((t))~~ (u) Work area for dealer's use: Used at dealer's discretion, with the following exceptions:

(i) Federal sablefish endorsed limited entry permit numbers must be recorded in this area for each delivery of sablefish landed under the authority of this permit. Separate fish tickets are required for each permit number being used.

(ii) At the time of landing of coastal bottomfish into a Washington port, the fish buyer receiving the fish is required to clearly mark on the fish receiving ticket in the space reserved for dealer's use all legally defined trawl gear aboard the vessel at the time of delivery. The three trawl gear types are: Midwater trawl, roller trawl and small foot rope trawl (foot rope less than eight inches in diameter). The notation of the gear type(s) aboard the vessel is required prior to the signing of the fish receiving ticket by the vessel representative.

~~((r))~~ (v) Total amount: Total value of landing.

~~((s))~~ (w) Take-home fish: Species, number, and pounds of fish or shellfish retained for personal use.

~~((t))~~ (x) Crew: Name and signature of crew members who take home fish.

(2) The Puget Sound salmon fish receiving ticket shall be used for:

(a) Deliveries of nontreaty salmon caught in inland waters.

(b) Any other delivery of nontreaty salmon where the catch may be easily recorded.

(c) Any imports of fresh salmon into the state of Washington.

(3) The troll fish receiving ticket shall be used for:

(a) Deliveries of nontreaty coastal salmon and incidental catch.

(b) Any other nontreaty deliveries where the species delivered may be easily recorded.

(c) Any imports of fresh salmon into the state of Washington.

(d) Any bottomfish or halibut that are subject to a catch allowance or ratio restriction, when those species are taken incidental to salmon fishing.

(4) The marine fish receiving ticket shall be used for:

(a) Nontreaty deliveries of marine fish or bottomfish that do not include salmon.

(b) Any imports of fresh marine fish or bottomfish.

(5) The utility fish receiving ticket shall be used for:

(a) Any nontreaty deliveries that do not include salmon, where other fish receiving tickets are not appropriate.

(b) Any imports of fresh fish or shellfish that do not include salmon.

(6) The shellfish receiving ticket shall be used for:

(a) Any nontreaty deliveries of shellfish.

(b) Any imports of fresh shellfish.

(c) Any incidental catch of bottomfish made while fishing for shellfish. The species name, total pounds, and price per pounds must be entered for each species of bottomfish caught.

AMENDATORY SECTION (Amending Order 07-279, filed 11/7/07, effective 12/8/07)

**WAC 220-69-250 Required information on nontreaty fish receiving tickets.** (1) It is unlawful for a person required to complete a nontreaty fish receiving ticket to fail to enter the mandatory information referenced in WAC 220-69-230 (1)(a) through (m)(~~r~~) and (p)(~~r~~, ~~q~~, ~~s~~, and ~~t~~) through (x) on each nontreaty fish receiving ticket.

(2) A valid license card or duplicate license card issued by the department shall be used in conjunction with an approved mechanical imprinter in lieu of WAC 220-69-230 (1)(a) through (e) except as provided in WAC 220-69-273.

(3) A valid dealer or buyer card issued by the department shall be used in conjunction with an approved mechanical imprinter in lieu of WAC 220-69-230 (1)(h) and (i).

(4) During the period December 1 through December 30, the crab inspection certificate number is a required entry on all shellfish receiving tickets documenting landings and sale of Dungeness crab from Pacific Ocean, Coastal Washington, Grays Harbor, Willapa Harbor, and Columbia River waters. The crab inspection certificate number must be entered legibly on the left hand side of the ticket in the space indicated for dealer's use.

(5) Violation of this section is a gross misdemeanor, punishable under RCW 77.15.640.

AMENDATORY SECTION (Amending Order 07-266, filed 10/23/07, effective 11/23/07)

**WAC 220-20-010 General provisions--Lawful and unlawful acts--Salmon, other fish and shellfish.** (1) It shall be unlawful to take, fish for, possess or transport for any purpose fish, shellfish or parts thereof, in or from any of the waters or land over which the state of Washington has jurisdiction, or from the waters of the Pacific Ocean, except at the times, places and in the manners and for the species, quantities, sizes or sexes provided for in the regulations of the department.

(2) It shall be unlawful for any person to have in possession or under control or custody any food fish or shellfish within the land or water boundaries of the state of Washington, except in those areas which are open to commercial fishing or wherein the possession, control or custody of salmon or other food fish or shellfish for commercial purposes is made lawful under a statute of the state of Washington or the rules and regulations of the commission or director, unless otherwise provided.

(3) A person may fish for, possess, process and otherwise deal in food fish and fish offal or scrap for any purpose, provided that it shall be unlawful to use any of the following listed species for purposes other than human consumption or fishing bait:

Pacific halibut	<i>(Hippoglossus stenolepis)</i>
Pacific herring (except as prescribed in WAC 220-49-020)	<i>(Clupea harengus pallasii)</i>
Salmon	
Chinook	<i>(Oncorhynchus tshawytscha)</i>
Coho	<i>(Oncorhynchus kisutch)</i>
Chum	<i>(Oncorhynchus keta)</i>
Pink	<i>(Oncorhynchus gorbuscha)</i>
Sockeye	<i>(Oncorhynchus nerka)</i>
Masu	<i>(Oncorhynchus masu)</i>
Pilchard	<i>(Sardinops sagax)</i>
Except as provided for in WAC 220-88C-040	

(4) It shall be unlawful for any person to fish for fish or shellfish while in possession in the field of fish or shellfish that are in violation of the harvest regulations for the area being fished. This regulation does not apply to vessels in transit.

(5) It shall be unlawful for the owner or operator of any commercial food fish or shellfish gear to leave such gear unattended in waters of the state or offshore waters unless said gear is marked.

(a) Shellfish pot, bottom fish pot, set line and set net gear

must be marked with a buoy to which shall be affixed, in a visible and legible manner, the department approved and registered buoy brand issued to the license, provided that:

(i) Buoys affixed to unattended gear must be visible on the surface of the water except during strong tidal flow or extreme weather conditions.

(ii) When two or more shellfish pots are attached to a common ground line, the number of pots so attached must be clearly labeled on the required buoy.

(b) It is unlawful to operate any gill net, attended or unattended, unless there is affixed, within five feet of each end of the net, a buoy, float, or some other form of marker, visible on the cork line of the net, on which shall be marked in a visible, legible and permanent manner the name and gill-net license number of the fisher.

(c) It shall be unlawful at any time to leave a gill net unattended in the commercial salmon fishery.

(6) It shall be unlawful to place any commercial food fish or shellfish gear in any waters closed to commercial fishing, provided that this provision shall not apply to reef nets or brush weirs or to gear being tested under supervision of the department. In addition, it shall be unlawful to take, fish for or possess food fish with any type of commercial fishing gear in the waters of Carr Inlet north of north latitude 47°20', from August 15 through November 30, except as provided in chapter 220-47 WAC.

(7) It shall be unlawful for the owner or operator of any fishing gear to refuse to submit such gear to inspection in any manner specified by authorized representatives of the department.

(8) It shall be unlawful for any person taking or possessing fish or shellfish taken from any of the waters or beaches of the Columbia River, the state of Washington, or the Pacific Ocean, for any purpose, to fail to submit such fish or shellfish for inspection by authorized representatives of the department.

(9) It shall be unlawful for any person licensed by the department to fail to make or return any report required by the department relative to the taking, selling, possessing, transporting, processing, freezing and storing of fish or shellfish, whether taken within the jurisdiction of the state of Washington or beyond, or on Indian reservations or usual and accustomed Indian fishing grounds.

(10) It shall be unlawful to take, fish for, possess, injure, kill, or molest fish in any fishway, fish ladder, fish screen, holding pond, rearing pond, or other fish protective device, or to interfere in any manner with the proper operation of such fish protective devices.

(11) It shall be unlawful to club, gaff, snag, snare, dip net, harass, spear, stone, or otherwise molest, injure, kill, destroy, or shoot with a firearm, crossbow, bow and arrow, or compressed air gun, any fish or shellfish or parts thereof, or for any person to attempt to commit such acts, or to have any fish, shellfish or parts thereof so taken in possession, except as provided for in this subsection:

(a) A person may use a dip net or club in the landing of fish taken by personal-use angling, unless otherwise provided; and a person may use a gaff in the landing of tuna, halibut and dogfish, and a harpoon in the landing of halibut, in all catch record card areas.

(b) (i) A person may use a dip net, gaff, or club in the landing of food fish or shellfish taken for commercial purposes, except that it is unlawful to use a fish pew, pitchfork, or any other instrument that will penetrate the body of the fish or shellfish that are not going to be retained or are unlawful to possess.

(ii) It is unlawful under any circumstance to use a device that penetrates the body of a sturgeon whether legal to retain or not.

(c) A person may use a spear in underwater spear fishing, as provided for in WAC 220-56-160.

(d) A person may use a bow and arrow or spear to take carp, as provided for in WAC 220-56-280.

(e) A person may snag herring, smelt, anchovies, pilchard, sand lance, and squid when using forage fish jigger gear or squid jigs.

(f) A person may shoot halibut when landing them with a dip net, harpoon or gaff.

(12) It shall be unlawful to take or possess, for any purpose, any fish or shellfish smaller or larger than the lawful minimum or maximum size limits prescribed by department rule. Any such fish either snagged, hooked, netted or gilled must be immediately returned to the water with the least possible injury to the fish or shellfish.

(13) It shall be unlawful to allow salmon or sturgeon or fish unlawful to retain that are entangled in commercial nets to pass through a power block or onto a power reel or drum.

(14) Notwithstanding the exceptions listed in subsection (15) of this section, it shall be unlawful to possess, aboard any vessel engaged in commercial fishing or having commercially caught fish aboard, any food fish or shellfish in such condition that its species, length, weight or sex cannot be determined if a species, species group or category, length, weight, or sex limit is prescribed for said species. ((In addition,))

(15) It is unlawful to possess food fish or shellfish mutilated in any manner such that the natural length or weight cannot be determined if a length or weight limit is prescribed for said species, except as follows:

(a) The food fish or shellfish have been legally taken for commercial purposes, are landed, and are properly accounted for on a completed fish receiving ticket.

(b) A person may possess, transport through the waters of the state, or land dressed sablefish as defined in WAC 220-16-330.

(c) A person may possess, transport through the waters of the Pacific Ocean, or land dressed salmon caught during a legal commercial salmon troll fishery, provided that frozen Chinook salmon, dressed with the heads off, shall be 21 1/2 inches minimum;

and frozen coho salmon, dressed with the heads off, shall be 12 inches minimum, measured from the midpoint of the clavicle arch to the fork of the tail.

(d) A person may possess, transport through the waters of the Pacific Ocean, or land dressed halibut if allowed by International Pacific Halibut Commission (IPHC) rules and such fish meet any IPHC size requirements. All halibut must be landed with the heads on.

(e) A person may possess, transport through the waters of the Pacific Ocean, or land dressed lingcod as defined by WAC 220-16-330 when taken during a lawful commercial fishery.

~~((15))~~ (16) It shall be unlawful to possess for any purpose any fish or shellfish in excess of catch or possession limits prescribed by department rule. Any such fish either snagged, hooked, netted or gilled must be immediately returned to the water with the least possible injury to the fish or shellfish.

~~((16) A person may possess, transport through the waters of the state, or land, dressed sablefish as defined by WAC 220-16-330.~~

~~(17) A person may possess, transport through the waters of the Pacific Ocean, or land, dressed salmon caught during a lawful commercial salmon troll fishery, provided that frozen Chinook salmon, dressed, heads off, shall be 21-1/2 inches minimum, and frozen coho salmon dressed, heads off, shall be 12 inches minimum, measured from the midpoint of the clavicle arch to the fork of the tail.~~

~~(18) A person may possess, transport through the waters of the Pacific Ocean, or land, dressed halibut if allowed by International Pacific Halibut Commission (IPHC) rules and such fish meet any IPHC size requirements.~~

~~(19))~~ (17) It shall be unlawful in any area to use, operate, or carry aboard a commercial fishing vessel a licensed net or combination of such nets, whether fished singly or separately, in excess of the maximum lawful size or length prescribed for a single net in that area, except as otherwise provided for in the rules and regulations of the department.

~~((20))~~ (18) It shall be unlawful for any permit holder to fail to comply with all provisions of any special permit or letter of approval issued to him under the authority of the director, or to perform any act not specifically authorized in said document or in the regulations of the commission or director.

~~((21))~~ (19) It shall be unlawful to use, place or cause to be placed in the waters or on the beaches or tidelands of the state any substance or chemical used for control of predators or pests affecting fish or shellfish or other aquatic marine organisms, without first having obtained a special permit to do so from the director.

~~((22))~~ (20) It shall be unlawful to test commercial fishing gear, except as follows:

(a) Bellingham Bay - inside and northerly of a line from Governor's Point to the south tip of Eliza Island to Point Frances, in waters 10 fathoms and deeper.

(b) Boundary Bay - north of a line from Birch Point to Point Roberts, and south of the international boundary, in waters 10

fathoms and deeper during times not under control of the Pacific Salmon Commission.

(c) San Juan Channel - within a 1-mile radius of Point Caution during times not under control of the Pacific Salmon Commission.

(d) Port Angeles - inside and westerly of a line projected from the east tip of Ediz Hook through buoy C "1" to the mainland.

(e) Port Gardner - within a 2-mile radius of the entrance to Everett breakwater, in waters 10 fathoms and deeper.

(f) Central Puget Sound - between lines from Meadow Point to Point Monroe, and Skiff Point to West Point, in waters 50 fathoms and deeper.

(g) East Pass - between lines from Point Robinson true east to the mainland, and from Dash Point to Point Piner, in waters 50 fathoms and deeper.

(h) Port Townsend - westerly of a line from the Coast Guard station in Port Townsend to Walan Point to Kala Point, in waters 10 fathoms and deeper.

(i) All tows or sets are limited to 20 minutes, exclusive of setting and retrieving time.

(j) All testing is to be accomplished between 8:00 a.m. and 4:00 p.m.

(k) Cod ends of trawl nets must be left open, all hooks of set line gear must be unbaited, and no lures or baited hooks shall be used with jig or troll gear.

(l) Any and all incidentally caught fish and shellfish must be returned to the waters immediately, and no fish or shellfish are to be retained aboard the vessel at any time during a gear test operation.

(m) It shall be unlawful for any person conducting such gear testing operations to fail to notify the fish and wildlife enforcement office in Olympia prior to testing.

~~((23))~~ (21) It is unlawful for any person or corporation either licensed by the department or bringing fish or shellfish into the state to fail to comply with the directions of authorized department personnel related to the collection of sampling data or material from fish or shellfish. It is also unlawful for any such person or corporation to fail to relinquish to the department, upon request, any part of a salmon or other fish containing coded-wire tags, including but not limited to, the snouts of those salmon that are marked by having clipped adipose fins.

~~((24))~~ (22) It is unlawful for any person to possess live bottom fish taken under a commercial fishery license.

~~((25))~~ (23) It is unlawful for any person to use chemical irritants to harvest fish, shellfish or unclassified marine invertebrates except as authorized by permit issued by the department.

~~((26))~~ (24) The lower Columbia River, Grays Harbor and Willapa Bay are closed to commercial sturgeon fishing, except as provided by emergency rule of the director. Sturgeon taken incidentally during an open commercial salmon fishing period may be retained for commercial purposes as described by department rule.