



# RULE-MAKING ORDER

**CR-103P (May 2009)**  
**(Implements RCW 34.05.360)**

**Agency:** Washington Department of Fish and Wildlife

**Permanent Rule Only**

**Effective date of rule:**

**Permanent Rules 12-09A**

31 days after filing.

Other (specify) (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

Yes  No If Yes, explain:

**Purpose:** RCW 77.12.045 gives the Fish and Wildlife Commission (Commission) the authority to adopt rules consistent with the recommendations or regulations of the Pacific Marine Fisheries Commission. RCW 77.12.047 authorizes the Commission to adopt rules, including but not limited to rules governing time, place, and manner of fishing, regulating the landing and sale of fish, and specifying reporting requirements. RCW 77.04.020 authorizes the Commission to delegate to WDFW's director any power vested in the Commission. In 1996, the Commission delegated to WDFW's director authority to adopt rules pursuant to RCW 77.12.045. WDFW Director Philip Anderson adopted the rules contained in WSR 12-04-028, filed on January 26, 2012, under his delegation of authority. However, the changes contained in the following subsections of WAC 220-69-240 fall outside of that delegation of authority and are hereby adopted by the Commission:

WAC 220-69-240(9)(b), sardine purchase restrictions;

WAC 220-69-240(9)(c), anchovy purchase restrictions;

WAC 220-69-240(14)(c)(ii), adding total number of days fished to required data for any Grays Harbor and Willapa Bay salmon and/or sturgeon fisheries where quick reporting is required;

WAC 220-69-240(14)(d)(ii), adding total number of days fished to required data for any Columbia River salmon and/or sturgeon fisheries where quick reporting is required; and

WAC 220-69-240, former (14), deletion of reporting requirement for original receiver of spot shrimp taken from Area 60-A.

**Citation of existing rules affected by this order:**

Repealed:

Amended: WAC 220-69-240

Suspended:

**Statutory authority for adoption:** RCW 77.04.020, 77.12.045, and 77.12.047

**Other authority :** 50 C.F.R. 660

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 11-23-182 on 11/23/11.

Describe any changes other than editing from proposed to adopted version: None.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: phone ( ) \_\_\_\_\_

Address: fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

**Date adopted:** February 3, 2012

**NAME (TYPE OR PRINT)**

Miranda Wecker

**SIGNATURE**

*Miranda Wecker*

**TITLE**

Chair, Washington Fish and Wildlife Commission

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: February 03, 2012**

**TIME: 5:11 PM**

**WSR 12-05-009**

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	_____	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	_____	Amended	1	Repealed	_____
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	_____	Repealed	_____

AMENDATORY SECTION (Amending Order 10-33, filed 3/2/10, effective 4/2/10)

**WAC 220-69-240 Duties of commercial purchasers and receivers.**

(1) It is unlawful for any person originally receiving fresh or iced fish or shellfish or frozen fish or shellfish that have not been previously delivered in another state, territory, or country, except purchases or receipts made by individuals or consumers at retail, to fail to:

(a) Be a licensed wholesale fish dealer or fish buyer (~~(, and to fail to)~~); or

(b) Immediately, completely, accurately, and legibly prepare the appropriate state of Washington fish receiving ticket for each and every purchase or receipt of such commodities. Each delivery must be recorded on a separate fish receiving ticket.

(2) This section does not apply to persons delivering or receiving fish taken under the Pacific Coast Groundfish Shoreside Individual Fishing Quota (IFQ) Program (50 C.F.R. § 660.140) who are in compliance with the provisions of WAC 220-69-250(5) and who:

(a) Complete electronic fish receiving tickets prior to either processing fish or removing the fish from the delivery site; and

(b) Electronically submit the electronic fish receiving tickets to the National Marine Fisheries Service and the department no later than twenty-four hours after the date the fish are received.

(c) Electronically submit any amendments made to the mandatory information required under WAC 220-69-256 after the initial submission required under (b) of this subsection.

(3) For purposes of this section, the term "completed" means that scale weights have been recorded for all delivered fish. The term "submitted" means that all mandatory information required under WAC 220-69-256 has been entered and timelines under subsection (2)(b) of this section have been met.

(4) Failure to be licensed under (~~this~~) subsection (1) of this section is punishable under RCW 77.15.620. Failure to properly prepare a fish receiving ticket is punishable under RCW 77.15.630.

~~((2))~~ (5) It is unlawful for any person originally receiving fresh or iced fish or shellfish previously delivered in another state, territory, or country, to fail to be a licensed wholesale fish dealer or fish buyer, and to fail to immediately, completely, accurately, and legibly prepare the appropriate state of Washington fish receiving ticket for each and every purchase or receipt of such commodities. Failure to prepare a fish receiving ticket under this subsection is punishable under RCW 77.15.630.

~~((3))~~ (6) It is unlawful for any original receiver of (~~crab or spot shrimp~~) shellfish to fail to record all (~~crab or spot shrimp~~) shellfish aboard the vessel making the delivery to the

original receiver. The poundage of any fish or shellfish deemed to be unmarketable, discards, or weigh backs must be shown on the fish receiving ticket and identified as such, but a zero dollar value may be entered for such fish or shellfish. Failure to prepare a fish receiving ticket under this subsection is punishable under RCW 77.15.630.

~~((4))~~ (7) Any employee of a licensed wholesale dealer who has authorization to receive or purchase fish or shellfish for that dealer on the premises of the primary business address or any of its plant locations as declared on the license application, shall be authorized to initiate and sign fish receiving tickets on behalf of his or her employer. The business, firm, and/or licensed wholesale fish dealer who the buyers are operating under shall be responsible for the accuracy and legibility of all such documents initiated in its name.

~~((5))~~ (8) It is unlawful for the original receiver to fail to initiate the completion of the fish receiving ticket upon receipt of any portion of a commercial catch. Should the delivery of the catch take more than one day, the date that the delivery is completed must be entered on the fish receiving ticket as the date of delivery. If, for any reason, the delivery vessel leaves the delivery site, the original receiver must immediately enter the current date on the fish receiving ticket. Violation of this subsection is punishable under RCW 77.15.630.

~~((6))~~ (9) Forage fish:

(a) It is unlawful for any person receiving forage fish to fail to report the forage fish on fish receiving tickets initiated and completed on the day the forage fish are delivered. Herring are also required to be reported on herring harvest logs. The harvested amount of forage fish must be entered upon the fish ticket when the forage fish are off-loaded from the catcher vessel. An estimate of herring, candlefish, anchovy, or sardine caught but not sold due to mortality must be included on the fish ticket as "loss estimate."

(b) In the coastal sardine fishery, ~~((the amount of sardine, by weight, purchased for the purposes of conversion into fish flour, fishmeal, fish scrap, fertilizer, fish oil, other fishery products, or by-products for purposes other than human consumption or fishing bait, must be included))~~ it is unlawful to purchase, per sardine fishery vessel, more than fifteen percent cumulative weight of sardines for the purposes of conversion into fish flour, fishmeal, fish scrap, fertilizer, fish oil, other fishery products, or by-products, for purposes other than human consumption or fishing bait during the sardine fishery season. Sardines purchased for these purposes must be included, by weight, on the fish ticket as "reduction."

(c) In any forage fish fishery, ~~((the amount of anchovy, by weight, purchased for the purposes of conversion into fish flour, fishmeal, fish scrap, fertilizer, fish oil, other fishery products, or by-products for purposes other than human consumption or fishing bait,))~~ it is unlawful to purchase anchovy in excess of fifteen percent, by weight, of the total landing weight per vessel, for the purposes of conversion into fish flour, fishmeal, fish scrap,

fertilizer, fish oil, or other fishery products. Anchovy purchased for these purposes must be included, by weight, on the fish ticket as "reduction."

(d) Any violation ((of)) under this subsection is a gross misdemeanor, punishable under RCW ((77.15.640)) 77.15.630.

((7)) (10) Geoduck: It is unlawful for any person receiving geoduck((s)), regardless of whether or not the receiver holds a license as required under Title 77 RCW, to fail to accurately and legibly complete the fish receiving ticket initiated on the harvest tract immediately upon the actual delivery of geoduck((s)) from the harvesting vessel onto the shore. This fish receiving ticket shall accompany the harvested geoduck((s)) from the department of natural resources harvest tract to the point of delivery. Violation of this subsection is a gross misdemeanor, punishable under RCW ((77.15.640)) 77.15.630.

((8) Pacific whiting: It is unlawful for the original receiver of Pacific whiting to fail to enter an estimated weight of Pacific whiting on the fish receiving ticket immediately upon completion of the delivery. The exact weights of whiting, by grade, and all incidental species in the delivery must be entered on the fish receiving ticket within twenty-four hours of the landing. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.

((9)) (11) Puget Sound shrimp - Pot gear:

(a) It is unlawful for the original receiver of shrimp other than ghost shrimp taken from Puget Sound by pot gear to fail to report to the department the previous week's purchases by 10:00 a.m. the following Monday. For harvest in Crustacean Management Regions 1 or 2, reports must be made to the La Conner district office by phone at 360-466-4345, extension 245, or by fax at 360-466-0515. For harvest in Crustacean Management Regions 3, 4, or 6, reports must be made to the Point Whitney Shellfish Laboratory by phone at 1-360-796-4601, option 1, or by fax at 360-586-8408. All reports must specify the serial numbers of the fish receiving tickets on which the previous week's shrimp were sold, plus the total number of pounds caught by gear type, the Marine Fish-Shellfish Management and Catch Reporting Area (Catch Area), and the species listed on each ticket. Violation of this subsection is a gross misdemeanor, punishable under RCW ((77.15.560)) 77.15.630.

((a)) (b) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Area 23A, to fail to record ((either)) 23A-C, 23A-E, 23A-W, or 23A-S on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051. Violation of this subsection is a gross misdemeanor, punishable under RCW ((77.15.640)) 77.15.630.

((b)) (c) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Area 26A, to fail to record either 26A-E or 26A-W on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051. Violation of this subsection is a gross misdemeanor, punishable under RCW ((77.15.640)) 77.15.630.

~~((c))~~ (d) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Area 26B, to fail to record either 26B-1 or 26B-2 on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051. Violation of this subsection is a gross misdemeanor, punishable under RCW ~~((77.15.640))~~ 77.15.630.

~~((d))~~ (e) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Areas 20B, 21A, and 22A, to fail to record ~~((either))~~ 1A-20B, 1A-22A, 1B-20B, 1B-21A, 1B-22A, or 1C-21A on shellfish receiving tickets based on the location of harvest and the boundary definitions specified in WAC 220-52-051. Violation of this subsection is a gross misdemeanor, punishable under RCW ~~((77.15.640))~~ 77.15.630.

~~((10))~~ (12) Puget Sound shrimp - Trawl gear:

(a) It is unlawful for the original receiver of shrimp other than ghost shrimp taken from Puget Sound by trawl gear to fail to report to the department the previous day's purchases by 10:00 a.m. the following morning.

(b) For harvest in Crustacean Management Region 1, reports must be made to the La Conner district office by phone at 360-466-4345, extension 245, or by fax at 360-466-0515.

(c) For harvest in Crustacean Management Region 3, reports must be made to the Point Whitney Shellfish Laboratory by phone at 1-360-796-4601, option 1, or by fax at 360-586-8408.

(d) All reports must specify the serial numbers of the fish receiving tickets on which the previous day's shrimp were sold, the total number of pounds caught by gear type, the Marine Fish-Shellfish Management and Catch Reporting Area, and the species listed on each ticket.

(e) Violation of this subsection is a gross misdemeanor, punishable under RCW ~~((77.15.560))~~ 77.15.630.

~~((11))~~ (13) Puget Sound crab: It is unlawful for any wholesale dealer acting in the capacity of an original receiver of Dungeness crab taken by nontreaty fishers, from Puget Sound, to fail to report to the department the previous day's purchases by 10:00 a.m. the following business day. Reports must be made to the Point Whitney Shellfish Laboratory by fax at 360-586-8408 or by phone at 1-866-859-8439, option 5, and must specify the dealer name; dealer phone number; date of delivery of crab to the original receiver; and the total number of pounds of crab caught by nontreaty fishers, by Crab Management Region or by Marine Fish-Shellfish Management and Catch Reporting Area. ~~((The fish receiving ticket reporting requirement of WAC 220-69-240 remains in effect.))~~ Violation of this subsection is a gross misdemeanor, punishable under RCW ~~((77.15.560))~~ 77.15.630.

~~((12))~~ (14) Salmon and sturgeon:

(a) During any Puget Sound fishery opening that is designated as "quick reporting required," per WAC 220-47-001:

(i) It is unlawful for any wholesale dealer acting in the capacity of an original receiver to fail to report all purchases of salmon and sturgeon made on the previous calendar day, or for a

direct retail endorsement (DRE) holder to fail to report all salmon offered for retail sale on the previous calendar day.

(ii) The report must include dealer or DRE holder name and purchasing location((~~τ~~)); date of purchase((~~τ~~)); each fish ticket number, including alpha, used on the purchasing date((~~τ~~)); and the following catch data for each fish ticket used: Total number of days fished, gear, catch area, species, number, and total weight for each species purchased and all take home fish not purchased (wholesale dealer) or sold (DRE).

(iii) When quick reporting is required, Puget Sound reports must be submitted by 10:00 a.m. on the day after the purchase date. Submission of a report is not complete until the report arrives at the designated department location. Reports can be submitted via fax at 360-902-2949; via e-mail at psfishtickets@dfw.wa.gov; or via phone at 1-866-791-1279. In fisheries under Fraser Panel Control within Fraser Panel Area Waters (area defined under Art. XV, Annex II, Pacific Salmon Treaty 1985), other reporting requirements not listed in this subsection may be necessary under Subpart F of the International Fisheries Regulations, 50 C.F.R. Ch. III § 300.93.

(b) During any coastal troll fishery opening that is designated by rule as "quick reporting required":

(i) It is unlawful for any wholesale dealer acting in the capacity of an original receiver to fail to report all purchases of salmon and sturgeon made on the previous calendar day, or for a ((~~direct retail endorsement~~(~~τ~~))DRE(~~τ~~)) holder to fail to report all salmon offered for retail sale on the previous calendar day.

(ii) The report must include dealer or DRE holder name and purchasing location((~~τ~~)); date of purchase((~~τ~~)); each fish ticket number, including alpha, used on the purchasing date((~~τ~~)); and the following catch data for each fish ticket used: Total number of days fished, gear, catch area, species, number, and total weight for each species purchased and all take home fish not purchased (wholesale dealer) or sold (DRE).

(iii) When quick reporting is required, coastal troll reports must be submitted by 10:00 a.m. on the day after the purchase date. Submission of a report is not complete until the report arrives at the designated department location. Reports can be made via fax at 360-902-2949; via e-mail at trollfishtickets@dfw.wa.gov; or via phone at 1-866-791-1279.

(c) During any Grays Harbor or Willapa Bay fishery opening that is designated by rule as "quick reporting required":

(i) It is unlawful for any wholesale dealer acting in the capacity of an original receiver to fail to report all purchases of salmon and sturgeon made on the previous calendar day, or for a ((~~direct retail endorsement~~(~~τ~~))DRE(~~τ~~)) holder to fail to report all salmon offered for retail sale on the previous calendar day.

(ii) The report must include dealer or DRE holder name and purchasing location((~~τ~~)); date of purchase((~~τ~~)); each fish ticket number, including alpha, used on the purchasing date((~~τ~~)); and the following catch data for each fish ticket used: Total number of days fished, gear, catch area, species, number, and total weight for each species purchased and all take home fish not purchased (wholesale dealer) or sold (DRE).

(iii) When quick reporting is required, Grays Harbor and Willapa Bay reports must be submitted by 10:00 a.m. on the day after the purchase date. Submission of a report is not complete until the report arrives at the designated department location. Reports can be made via fax at 360-664-0689; e-mail at harborfishtickets@dfw.wa.gov; or phone at 1-866-791-1280.

(d) During any Columbia River fishery opening that is designated by rule as "quick reporting required":

(i) It is unlawful for any wholesale dealer acting in the capacity of an original receiver to fail to report all purchases of salmon and sturgeon, or for a ~~((direct retail endorsement~~ ~~(+))DRE((+))~~ holder to fail to report all salmon offered, for retail sale.

(ii) The report must include dealer or DRE holder name and purchasing location~~((+))~~; date of purchase~~((+))~~; each fish ticket number, including alpha, used on the purchasing date~~((+))~~; and the following catch data for each fish ticket used: Total number of days fished, gear, catch area, species, number, and total weight for each species purchased and all take home fish not purchased (wholesale dealer) or sold (DRE).

(iii) When quick reporting is required, Columbia River reports must be submitted within 5, 8, 12, or 24 hours of closure of the designated fishery. The time frame for submitting reports will be established by the department at the time of adoption of the quick reporting fishery. Adoption and communication of the quick reporting regulations for a given fishery will occur in conjunction with the adoption of said fishery through the Columbia River Compact. Submission of a report is not complete until the report arrives at the designated department location. Reports can be made via fax at 360-906-6776 or 360-906-6777; via e-mail at crfishtickets@dfw.wa.gov; or via phone at 1-866-791-1281.

(e) Faxing a copy of each fish receiving ticket used, within the previously indicated time frames specified per area, satisfies the reporting requirement.

(f) Violation of this subsection is a gross misdemeanor, punishable under RCW ~~((77.15.560))~~ 77.15.630.

~~((+13+))~~ (15)(a) Sea urchins and sea cucumbers: It is unlawful for any wholesale dealer acting in the capacity of an original receiver and receiving sea urchins or sea cucumbers from nontreaty fishers to fail to report to the department each day's purchases by 10:00 a.m. the following day. For red sea urchins, the report must specify the number of pounds received from each sea urchin district. For green sea urchins and sea cucumbers, the report must specify the number of pounds received from each Marine Fish-Shellfish Management and Catch Reporting Area. For sea cucumbers, the report must specify whether the landings were "whole-live" or "split-drained." The report must be made by fax at 360-902-2943, or by toll-free telephone at 866-207-8223.

(b) It is unlawful for the original receiver of red sea urchins to fail to record on the fish receiving ticket the sea urchin district where the red sea urchins were taken, and it is unlawful for the original receiver of any sea urchins to fail to record on the fish receiving ticket the name of the port of landing

where the sea urchins were landed ashore.

(c) It is unlawful for the original receiver of sea cucumbers to fail to record on the fish receiving ticket whether the sea cucumbers were delivered "whole-live" or "split-drained."

(d) Violation of this subsection is a gross misdemeanor, punishable under RCW (~~77.15.560~~) 77.15.630.

~~((14) Coastal spot shrimp: It is unlawful for any original receiver of spot shrimp taken from Marine Fish Management and Catch Reporting Area 60A-1 to fail to record separately on the fish receiving ticket spot shrimp taken north or south of 47°04.00' north latitude. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.640.)~~)