



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 14-107

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: This rule change establishes a jack (*Carangidae*) and mackerel (*Scombridae*) incidental catch limit of 45% of total landed catch, by weight, in the directed Pacific sardine fishery. The commercial sardine purse seine limited entry program, established in 2009, did not provide for the landing of jacks (*Carangidae*) and mackerels (*Scombridae*) in the directed fishery. This rule change allows incidental catch to include jacks (*Carangidae*) and/or mackerels (*Scombridae*). The amendments also clarify language and improve rule structure.

Citation of existing rules affected by this order:

Repealed:
Amended: WAC 220-44-095
Suspended:

Statutory authority for adoption: RCW 77.04.012, 77.04.020, 77.04.055, and 77.12.047.

Other authority :

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 14-07-111 on 3/19/2014 (date).
Describe any changes other than editing from proposed to adopted version:

There were no changes from the proposed version to the adopted version.

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:

May 9, 2014

NAME (TYPE OR PRINT)

Philip Anderson

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: May 13, 2014

TIME: 2:26 PM

WSR 14-11-028

**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:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

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

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

The number of sections adopted in the agency's own initiative:

New	_____	Amended	<u>1</u>	Repealed	_____
-----	-------	---------	----------	----------	-------

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

WAC 220-44-095 Coastal sardine purse seine fishery—Harvest, landing, and reporting requirements—Gear. (1) Licensing, harvest, and reporting requirements. It is unlawful for persons fishing under a Washington sardine purse seine fishery license or temporary annual fishery permit to fail to:

(a) Carry an observer onboard for any sardine fishing trip if requested by the department;

(b) Surrender up to five hundred sardines per vessel per trip if requested by department samplers for biological information; and

(c) Complete a department-issued logbook each month in which fishing activity occurs, and submit it to the department by the 15th day of the following month.

(2) **Possession, transport, and seasons.**

(a) It is unlawful to possess, transport through the waters of the state, or deliver into any Washington port, Pacific sardine (*Sardinops sagax*) or other coastal pelagic species taken in violation of gear requirements and other rules published in Title 50, Part 660, Subpart I of the Code of Federal Regulations (C.F.R.). These federal regulations govern commercial fishing for coastal pelagic species in the Exclusive Economic Zone off the coasts of Washington, Oregon, and California. Where the federal regulations refer to the fishery management area, that area is interpreted to include Washington state waters coterminous with the Exclusive Economic Zone. Updates to the federal regulations are published in the Federal Register. Discrepancies or errors between the C.F.R. and Federal Register will be resolved in favor of the Federal Register. This chapter incorporates the C.F.R. by reference and is based, in part, on the C.F.R. A copy of the federal rules may be obtained by contacting (~~Lori Preuss~~) the department of fish and wildlife rules coordinator at (~~360-902-2930~~) 360-902-2403, or going to the U.S. Government Printing Office's GPO Access web site (www.gpoaccess.gov). State regulations that are more restrictive than the federal regulations will prevail.

(b) It is unlawful to fish for or possess Pacific sardine taken with any gear from coastal waters except during the coastal sardine fishery season (~~is~~) open to purse seine fishing each year (~~only~~) from April 1st through December 31st.

(c) It is unlawful to take Pacific sardine in state waters except for the incidental take authorized by the coastal baitfish regulations.

(~~e~~) (d) It is unlawful to retain any species that is taken incidental to sardine, except for anchovy, mackerel, and market squid (*Logligo opalescens*).

(e) It is unlawful to retain mackerel (*Scombridae*) or jacks (*Carangidae*) taken incidental to a lawful sardine fishery that in combination exceeds forty-five percent of the weight of the total landing.

(f) It is unlawful to fail to release any salmon encircled in the purse seine (~~must be released~~) prior to completion of the set (~~, and no salmon may be landed~~) or to land or retain salmon on the fishing vessel.

(~~d~~) (g) It is unlawful to transfer sardine catch from one fishing vessel to another.

(~~e~~) (3) **Landing and delivery.**

(a) It is unlawful to fail to have legal purse seine gear as defined by department rule aboard ((the)) a vessel making a sardine landing.

~~((f))~~ (b) It is unlawful to fail to deliver sardine landings to a ((shore-side)) processing facility located on shore.

~~((g))~~ Once a delivery has commenced at a processing plant, all fish on board the vessel must be offloaded at that plant.

~~(h))~~ (c) It is unlawful to land fish at more than one processing facility and to fail to offload all fish onboard the vessel once the delivery commences at the time of landing.

(d) It is unlawful to deliver more than fifteen percent cumulative weight of sardines for the purposes of conversion into fish flour, fish meal, fish scrap, fertilizer, fish oil, other fishery products, or by-products, for purposes other than human consumption or fishing bait used during the sardine fishery season.

~~((2))~~ License owners must designate a vessel upon issuance or renewal of the license and must be identified as either the vessel owner or primary license operator.

~~(3)~~ Persons fishing under a Washington sardine purse seine fishery license or temporary annual fishery permit must:

~~(a)~~ Carry an observer on board for any sardine fishing trip if requested by the department;

~~(b)~~ Surrender up to five hundred sardines per vessel per trip if requested by department samplers for biological information; and

~~(c)~~ Complete a department issued logbook each month in which fishing activity occurs, and submit it to the department by the 15th day of the following month.)

(4) A violation of the reporting requirements ((under)) provided in this section is punishable ((pursuant to)) under RCW ((77.15.280)) 77.15.560, Commercial fish, shellfish harvest or delivery-Failure to report-Penalty.

(5) A violation of the gear((7)) requirements provided in this section is punishable under RCW 77.15.520, Commercial fishing-Unlawful gear or methods-Penalty.

(6) A violation of the harvest((7)) or landing requirements ((under)) provided in this section is punishable ((pursuant to)) under RCW ((77.15.520)) 77.15.550, Violation of a commercial fishing area or time-Penalty.