

9. SHELLFISH RECEIVING TICKETS –(BRIEFING)

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“GREEN SHEET”

Meeting dates:	September 5-6, 2008 Commission Meeting	# 9
Agenda item:	Shellfish Receiving Ticket Rule – (Rule Briefing/Public Hearing)	
Staff Contact:	Bob Sizemore, Acting Marine Resources State Manager (Fish Program)	
Presenter(s):	Bob Sizemore, Acting Marine Resources State Manager (Fish Program)	

Background:

The proposed rule revision for shellfish receiving tickets (commonly referred to as “fish tickets”) seeks to bring the reporting timelines for geoduck into conformance with other fishery reporting requirements (WAC 220-69-26401), in that the department must receive the copy by the 6th day – not that it be mailed to the department by the 6th day. This proposed rule revision also recognizes that the Washington Department of Natural Resources, a state co-manager of the geoduck clam fishery, is on-site during state geoduck harvest and that they retain one state copy of the shellfish receiving ticket at the time of geoduck clam landings (rather than requiring the copy to be mailed within 6 working days). Furthermore, the rule also provides for the inclusion of the violation reference in the text.

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

There are no substantive or policy-related changes to standard processes or this proposed rule revision.

Public involvement process used and what you learned:

The proposed rule revision is “housekeeping” for clarity and it has been vetted with state co-managers with mutual agreement.

Action requested:

No action is requested for this briefing. We will seek adoption at the October 2008 meeting.

Draft motion language:

N/A

Justification for Commission action: To improve WDFW processes, and to simplify and clarify rule language in line with the Governor’s “Plain Talk” mandate.



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 08-11-023 and WSR 08-10-057; 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) WAC 220-69-26401, Distribution of copies of shellfish receiving ticket; and WAC 220-69-300, Commercial food fish and shellfish transportation ticket.

Hearing location(s):
Room 172
Natural Resources Building
1111 Washington Street SE
Olympia, WA 98504

Submit written comments to:
Name: Rules Coordinator
Address: 600 Capitol way No., Olympia, WA 98501-1091

e-mail preuslmp@dfw.wa.gov _____
fax (360)902-2155 _____ by (date) August 29, 2008

Date: September 5-6, 2008 Time: 8:30 AM

Assistance for persons with disabilities: Contact
Susan Yeager _____ by August 25, 2008 _____
TTY (360) 902-2207 or (360) 902-2267 _____

Date of intended adoption: October 3-4, 2008
(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:
WAC 220-69-26401, Distribution of copies of shellfish receiving ticket: This proposal contains no substantive change to the rule; it is merely housekeeping to correct an error. The Washington Department of Fish and Wildlife requires a definitive time period for shellfish receivers to submit their shellfish receiving tickets. These tickets are used to track catch data for conservation and allocation management purposes. This rule proposal corrects a previous amendment to the rule that inadvertently extended the required reporting period for the geoduck fishery and no others. This change will bring the reporting requirements for geoduck in line with all other receiving-ticket reporting timelines.

WAC 220-69-300, Commercial food fish and shellfish transportation ticket: This proposal contains no substantive change to the rule; it is merely housekeeping. Many commercial vessels are loaded onto trailers after leaving the fishery, with the product still onboard. The department seeks to clarify that in such instances, a transportation ticket is required. The department also expands the transportation ticket requirement to persons beyond commercial fishers, because sometimes transport is done by other than the commercial fishers. The tickets will allow officers to identify harvesters and the legality of harvests.

Statutory authority for adoption: RCW 77.12.047

Statute being implemented: RCW 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: July 23, 2008
TIME: 11:58 AM
WSR 08-15-180**

DATE
July 23, 2008

NAME (type or print)
Lori Preuss

SIGNATURE *Lori Preuss*

TITLE
Rules Coordinator

(COMPLETE REVERSE SIDE)

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..... Bob Sizemore & Mike Cenci	1111 Washington Street SE, Olympia	(360) 902-2827 & 902-2938
Implementation.... Lew Atkins & Mike Cenci	1111 Washington Street SE, Olympia	(360) 902-2651 & 902-2938
Enforcement..... Bruce Bjork	1111 Washington Street SE, Olympia	(360) 902-2373

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

Yes, for WAC 220-69-26401. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name: Lori Preuss
Address: 600 Capitol Way No., Olympia, WA 98501-1091

phone (360) 902-2930____
fax (360) 902-2155____
e-mail preuslmp@dfw.wa.gov____

No, for WAC 220-69-300. Explain why no statement was prepared.

There should be no impact to businesses, since this housekeeping proposal eliminates the need for the document to be filed with people who "store or hold" fish. This proposal expands the permit requirement to "all persons transporting" versus only "commercial fishermen" (dealers and buyers exempt).

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: These are not hydraulic rules.

Small Business Economic Impact Statement

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

Requires the receiver to provide the department's copy of the shellfish geoduck ticket in such a manner that the department receives its copy within 6 working days of the day the original receiver completes the ticket.

2. Kinds of professional services that a small business is likely to need in order to comply with such requirements:

None. Re-establishes a previous rule.

3. Costs of compliance for businesses, including costs of equipment, supplies, labor, and increased administrative costs:

No costs anticipated.

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

No.

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.

There are no additional costs of compliance.

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

There are no costs incurred, so no steps have been taken.

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

The department will present and review this proposal under the auspices of the Fish and Wildlife Commission's public rule-making process.

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

All shellfish receivers of geoduck.

AMENDATORY SECTION (Amending Order 05-16, filed 2/10/05, effective 3/13/05)

WAC 220-69-26401 Distribution of copies of shellfish receiving ticket. State of Washington shellfish receiving tickets ~~((shall))~~ must be made out in quintuplicate (five copies) at the time of delivery. Upon ~~((completion of the shellfish receiving))~~ completing these tickets, ~~((it is unlawful for))~~ the ~~((person completing the fish receiving ticket to fail to))~~ fish receiver must distribute the copies as follows:

(1) The dealer copies (white and yellow) ~~((shall be retained by))~~ stay with the receiver for ~~((their use))~~ his or her records.

(2) (a) For shellfish other than geoduck clams from department of natural resources geoduck tracts, the state copies (green and pink) ~~((shall))~~ must be mailed to the department of fish and wildlife. ~~((It is required that the state copies be received by))~~ The department must receive these state copies no later than the sixth working day after the day the original receiver completed the ticket ~~((was completed by the original receiver)).~~

(b) For geoduck clams from department of natural resources geoduck tracts, ~~((the green))~~ one state copy ~~((shall))~~ (green) must be mailed to the department of fish and wildlife. The department must receive its copy no later than the sixth working day after the day the original receiver completed the ticket ~~((was completed by the original receiver)).~~ The ~~((pink))~~ other state copy ~~((shall be mailed))~~ (pink) must be given to the department of natural resources ~~((no later than the sixth working day after the ticket was completed by the original receiver, or delivered earlier to the department of natural resources as))~~ at the time of weigh-out, unless otherwise directed by ~~((that))~~ the department of natural resources.

(3) The fisherman's copy (gold) ~~((shall))~~ must be retained by the deliverer for ~~((their))~~ his or her use.

(4) It is unlawful for a fish receiver to fail to distribute fish receiving tickets as directed above. Violation of this section is a gross misdemeanor, punishable under RCW 77.15.640.

OTS-1744.2

AMENDATORY SECTION (Amending Order 04-210, filed 8/17/04, effective 9/17/04)

WAC 220-69-300 Commercial food fish and shellfish transportation ticket. (1) Except as provided in subsection (6) of this section, it is unlawful for commercial fishers or their designees, who are neither wholesale dealers nor holders of a direct retail endorsement ((must)), to fail to complete a commercial food fish and shellfish transportation ticket ((when)) as required by this section. These tickets must be completed prior to transporting ((commercial)) fish or shellfish ((away from the catching vessel or,)) harvested for commercial purposes or in commercial quantities. For a fishery that does not require a vessel, ((the catch site, and it is unlawful to fail to complete the transportation ticket with all the information in subsection (2) of this section)) a transportation ticket must be completed prior to leaving the catch site. The purpose of this rule is to ensure catch accountability when fish or shellfish are transported by the fisherman or his or her designee from the catching vessel to an original receiver. Fish receiving ticket requirements under this chapter are still in effect. A violation of this subsection or subsection (2) of this section is punishable as a gross misdemeanor under RCW 77.15.290.

(2) ~~((The))~~ A transportation ticket ((shall)) must contain all of the following information and space for that information:

- (a) The name of the fisherman who caught the fish((?));
- (b) The fisherman's vessel registration number((?));
- (c) The signature of the fisherman or additional operator((?));
- (d) The name of the transporter((?));
- (e) The signature of the transporter((?));
- (f) The catch area where the food fish or shellfish were caught((?));
- (g) The species of food fish or shellfish being transported((?)); and
- (h) The number or approximate pounds of food fish or shellfish being transported.

(3) ~~((The information in subsection (2)(a) through (h) of this section are required entries on all completed transportation tickets.~~

~~((4))~~ It is unlawful for an original receiver or someone acting in the capacity of an original receiver to fail to mail the transportation ticket, together with the state copy of the fish receiving ticket as ((provided for)) required in WAC 220-69-260, 220-69-264, and 220-69-26401, ((if)) when the ((commercial fisher)) person delivering the fish or shellfish does not sign the fish receiving ticket((?)) as ((provided)) required in WAC 220-69-274.

OTS-1745.2

If the commercial fisher signs the fish receiving ticket, only the fish receiving ticket must be mailed in, and the transportation ticket is not required to be submitted with ((the fish receiving ticket)) it. Violation of this section is a gross misdemeanor, punishable under RCW 77.15.640.

~~((5))~~ (4) It is unlawful to fail to keep the transportation ticket ((is to remain)) with the fish or shellfish until a fish receiving ticket is completed((, and must be presented for inspection by)). Violation of this subsection is a gross misdemeanor under RCW 77.15.290.

(5) It is unlawful for any person((s)) transporting((, holding, or storing)) commercially taken fish or shellfish ((when requested to do so by a fish and wildlife officer, and it is unlawful)) or commercial quantities of fish or shellfish to fail to ((present the)) provide a transportation ticket ((on)) for inspection upon demand by a fish and wildlife officer. Violation of this subsection is a gross misdemeanor ((punishable)) under RCW ((77.15.360)) 77.15.290.

(6) The provisions of this section do not apply to:

(a) Food fish and shellfish purchased at retail, provided the purchaser has, in his or her possession, a sales receipt documenting the purchase((.));

(b) Food fish or shellfish for which a fish receiving ticket has been completed((.)) and a copy of the fish receiving ticket is in the possession of the person transporting;

(c) Food fish or shellfish being transported by the department((.));

(d) Hatchery carcass sales((.));

(e) Private sector cultured aquatic products in transport((.));

(f) Food fish or shellfish being transported on ((an)) a completed Oregon transportation ticket((.)), provided that the fish or shellfish were caught in the concurrent waters of the Columbia River and were landed on Washington's shore; and

(g) ~~((Food fish))~~ Fish or shellfish being transported in the catching vessel ((prior to delivery)), provided that the vessel is not being transported or towed over land.