



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 16-07-041; 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) Coastal mackerel purse seine fishery, duties of commercial receivers and processors. The Washington Department of Fish and Wildlife is proposing a rule amendment relating to the sale and processing of mackerel from commercial fisheries. The rule amendment will limit the amount of mackerel that commercial receivers and processors can process for purposes other than human consumption. This rule supports maximizing the value of the fish caught.

Hearing location(s):

WDFW Region 6 Office
48 Devonshire Road
Montesano, WA 98563

Date: June 9, 2016 Time: 10:00 a.m.

Submit written comments to:

Name: Lorna Wargo
Address: 48 Devonshire Road
Montesano, WA 98563
e-mail Lorna.Wargo@dfw.wa.gov
fax (360) 249-1229 by (date) _____

Assistance for persons with disabilities: Contact

Tami Lininger by _____

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

Date of intended adoption: On or after June 15, 2016.
(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of this proposal is to limit the amount of mackerel commercial receivers and processors can process for purposes other than human consumption or bait (also known as "reduction"). As proposed, the amendment will limit the amount of mackerel that can be processed for purposes other than for human consumption to 15 percent of total weight of mackerel landed for sale per vessel per year. The permanent rule already limits the amount of sardine that commercial receivers and processors can process for purposes other than for human consumption. The proposed rule applies the same limit to mackerel.

Reasons supporting proposal: This proposal reflects the establishment of a new trial purse seine fishery for mackerel in 2016 and the intent to apply the same limits on the reduction of mackerel as exist in rule for sardine. Previously, mackerel could only be landed incidentally in the sardine purse seine fishery; the new fishery, however, will allow targeted fishing for mackerel and the potential for a greater total volume of mackerel caught. The intent of the proposal is to maximize the mackerel catch value by promoting utilization of catch for human consumption over reduction and minimizing wastage of fish not suitable for human consumption.

Statutory authority for adoption: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.045, 77.12.047

Statute being implemented: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.045, 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: May 04, 2016

TIME: 11:09 AM

WSR 16-10-113

DATE
May 3, 2016

NAME (type or print)
Scott Bird

SIGNATURE *Scott Bird*

TITLE
Rules Coordinator

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

Name of proponent: (person or organization) Lorna Wargo

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Lorna Wargo	48 Devonshire Road, Montesano, WA 98563	(360) 249-1221
Implementation....Lorna Wargo	48 Devonshire Road, Montesano, WA 98563	(360) 249-1221
Enforcement.....Steve Crown	1111 Washington Street 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: Lorna Wargo
Address: 48 Devonshire Road, Montesano, WA 98563

phone (360) 249-1221
fax (360)249-1229
e-mail Lorna.Wargo@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: These proposals do not affect hydraulics.

Small Business Economic Impact Statement

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

The proposed rule requires commercial receivers and processors to record on the fish ticket as "reduction" mackerel purchased for purposes other than for human consumption. Reduction refers to the conversion of fish into fish flour, fishmeal, fish scrap, fertilizer, fish oil, other fishery products, or by-products, for purposes other than human consumption or fishing bait.

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

Compliance with the proposed rule will not require professional services.

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

Fish tickets (also known as fish landing receipts) are provided by the Department of Fish and Wildlife to commercial receivers and processors at no cost. Fish tickets must be completed for commercial landings of mackerel. The proposed rule does not affect any costs of compliance: it simply requires specific notation of the disposition of purchased mackerel catch when that catch is purchased for reduction.

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

No, compliance will have no effect on sales or revenue.

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

Cost of compliance will be insignificant.

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

The agency provides printed fish tickets.

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

A hearing will be held to review the rules as part of the rule-making process.

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

Commercial receivers and processors of mackerel.

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

(1) It is unlawful for any person originally receiving or buying fresh, iced, or frozen fish or shellfish, whether or not the fish or shellfish was previously delivered in another state, territory, or country, to fail to:

(a) Be a licensed wholesale fish dealer or fish buyer; and

(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.

(i) The original receiver must record each delivery on a separate fish receiving ticket; and

(ii) The original receiver must prepare a fish receiving ticket for purchases of fish or shellfish from fishers who are also fish dealers if the fisher/dealer has not previously completed a fish receiving ticket and provided a copy of the fish receiving ticket or the ticket number as proof.

(2) Failure to be licensed under 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.

(3) 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. If delivery of the catch takes more than one day, the original receiver must enter the date that the delivery is completed 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 date the vessel leaves the delivery site on the fish receiving ticket.

(4) It is unlawful for any original receiver of shellfish to fail to record all shellfish aboard the vessel making the delivery to the original receiver. The poundage of any fish or shellfish that are 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 those fish or shellfish.

(5) Any employee of a licensed wholesale dealer who is authorized 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, is authorized to initiate and sign fish receiving tickets on behalf of his or her employer. The business, firm, and/or licensed wholesale fish dealer the buyers are operating under is responsible for the accuracy and legibility of all documents initiated in its name.

(6) This section does not apply to purchases or receipts made by individuals or consumers at retail.

(7) Subsections (1) through (4) of this section do 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.

(8) For purposes of this section;

(a) The term "completed" means that scale weights have been recorded for all delivered fish; and

(b) The term "submitted" means that all mandatory information required under WAC 220-69-256 has been entered and timelines under subsection (7)(b) of this section have been met.

(9) Forage fish and mackerel:

(a) It is unlawful for any person receiving forage fish or mackerel to fail to report the forage fish or mackerel on fish receiving tickets initiated and completed on the day the forage fish or mackerel are delivered.

(i) Herring must also be reported on herring harvest logs.

(ii) The harvested amount of forage fish or mackerel must be entered upon the fish ticket when the forage fish are off-loaded from the catcher vessel.

(iii) An estimate of herring, candlefish, anchovy, ((~~o~~)) sardine or mackerel caught but not sold due to mortality must be included on the fish ticket as "loss estimate."

(b) In the coastal sardine fishery or coastal mackerel fishery, it is unlawful to purchase, per sardine or mackerel fishery vessel, more than fifteen percent cumulative weight of sardine((~~s~~)) or mackerel 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 or mackerel fishery season. Sardine((~~s~~)) and mackerel purchased for these purposes must be included, by weight, on the fish ticket as "reduction."

(c) In any forage fish fishery or in the mackerel purse seine fishery, 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."

(10) Geoduck: It is unlawful for any person receiving geoduck, 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 from the harvesting vessel onto the shore. This fish receiving ticket must accompany the harvested geoduck from the department of natural resources harvest tract to the point of delivery.

(11) Puget Sound shrimp - Pot gear:

(a) It is unlawful for any person originally receiving or purchasing shrimp, other than ghost shrimp, harvested from Catch Area 23A, to fail to record 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.

(b) 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.

(c) 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.

(d) 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 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.

(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) Reports must be made by fax at 360-796-0108 or by text message or e-mail at shrimpreport@dfw.wa.gov.

(c) Reports must include, for each fish receiving ticket prepared:

(i) The buyer name, fisher name, and date of sale;

(ii) The fish receiving ticket number, including the first alphanumeric letter;

(iii) The total number of pounds caught per shrimp species; and

(iv) The Marine Fish-Shellfish Management and Catch Reporting Area where the shrimp was harvested.

(13) Puget Sound crab:

(a) It is unlawful for any wholesale dealer acting in the capacity of an original receiver of Dungeness crab taken from Puget Sound by nontreaty fishers to fail to report to the department the previous day's purchases by 10:00 a.m. the following business day.

(b) Reports must be made to the Mill Creek Regional Office by fax at 425-338-1066, or by e-mail at crabreport@dfw.wa.gov.

(c) Reports must include:

(i) The dealer's name;

(ii) The dealer's phone number;

(iii) The date of delivery of crab to the original receiver; and

(iv) 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.

(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:

(A) The dealer or DRE holder name and purchasing location;

(B) The date of purchase;

(C) Each fish receiving ticket number, including the first alphanumeric letter, used on the purchasing date; and

(D) The following catch data for each fish ticket used: The 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 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; date of purchase; each fish receiving ticket number, including the first alphanumeric letter, 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, 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 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; date of purchase; each fish receiving ticket number, including the first alphanumeric letter, used on the purchasing date; and the following catch data for each fish ticket used:

(A) The total number of days fished;

(B) The gear used;

(C) The catch area fished; and

(D) The 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 360-249-1229; 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 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 receiving ticket number,

including the first alphanumeric letter, 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.

(A) The department establishes the time frame for submitting reports at the time of adoption of the quick reporting fishery. Adoption and communication of the quick reporting regulations for a given fishery occurs in conjunction with the adoption of the fishery through the Columbia River Compact.

(B) 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 or reporting electronically in portable document format (PDF) a copy of each fish receiving ticket used, within the previously indicated time frames specified per area, satisfies the quick reporting requirement.

(15) Sea urchins and sea cucumbers:

(a) 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.

(i) Wholesale dealers must report by:

(A) Fax at 360-902-2943;

(B) Toll-free telephone at 866-207-8223; or

(C) Text message or e-mail at seaurchinreport@dfw.wa.gov for sea urchins or seacucumberreport@dfw.wa.gov for sea cucumbers.

(ii) For red sea urchins, the report must specify the number of pounds received from each sea urchin district.

(iii) 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.

(iv) For sea cucumbers, the report must specify whether the landings were "whole-live" or "split-drained."

(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 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."

(16) A violation of the documentation or reporting requirements in this section is punishable under RCW 77.15.630, Unlawful fish and shellfish catch accounting—Penalty.