



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 17-112

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:

Makes technical changes to several WAC sections including both the correction of internally inconsistent WAC references and removal of invalid RCW references. This set of rule changes is the last phase of the agency's WAC Recodification project which took place earlier this year.

Citation of existing rules affected by this order:

Repealed:

Amended: WACs 220-352-180, 220-352-110, 220-352-140, 220-352-050 and 220-370-070.

Suspended:

Statutory authority for adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, 77.12.150, 77.12.240, 77.12.800, 77.32.090, 77.32.155

Other authority :

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 17-08-100 on April 5, 2017 (date).

Describe any changes other than editing from proposed to adopted version: N/A

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:

June 6, 2017

NAME (TYPE OR PRINT)

Jim Unsworth

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: June 06, 2017

TIME: 4:36 PM

WSR 17-12-105

**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Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____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New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	__	Amended	<u>5</u>	Repealed	_____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:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

WAC 220-370-070 Aquatic farm registration form—Required information. If asked by an aquatic farmer, the department will prepare, print, and distribute an aquatic farm registration form. The following information must be provided by the aquatic farmer:

- (1) The name, mailing address, and telephone number of the individual or company that owns or leases the aquatic farm;
- (2) The name and telephone number of a contact person immediately responsible for operation of the aquatic farm;
- (3) The department of (~~social and~~) health (~~(services—(DSHS))~~) (DOH) shellfish certification number if DSHS requires a certification number;
- (4) The common name of aquatic species being cultured;
- (5) The method(s) of culture the aquatic farmer is using on the farm;
- (6) If it is a freshwater or onshore aquatic farm, the legal description, street address, county, aquaculture district, and the number of separate tracts or facilities within the district that comprise the aquatic farm(s);
- (7) If it is a marine aquatic farm, the name of bay or inlet, county, and aquaculture district for the farm(s);
- (8) The signature of the company official or owner;
- (9) A site drawing of the aquatic farm and a brief narrative description of the facility and its operation. Freshwater farms must also identify the source of culture water, where the water is discharged, and the watershed where the facility is located;
- (10) Documentation of ownership or present right of possession of the land comprising the aquatic farm.

WAC 220-352-180 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 by the directed commercial fisheries for Pacific Coast Groundfish authorized under 50 C.F.R., Part 660 if such persons are in compliance with the provisions of WAC ((220-69-250)) 220-352-050(5) and:

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

(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; and

(c) Electronically submit any amendments made to the mandatory information required under WAC ((~~220-69-256~~)) 220-352-120 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~~)) 220-352-120 has been entered and time-lines 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, 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 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 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~~)) 220-340-520.

(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~~)) 220-340-520.

(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~~)) 220-340-520.

(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~~)) 220-340-520.

(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 email 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 email 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~~)) 220-354-090:

(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 des-

ignated department location. Reports can be submitted via fax at 360-902-2949; via email 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 email 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; email 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 email 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 email 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.

WAC 220-352-140 Signatures—Fish receiving tickets. (1) It is unlawful for the deliverer or original receiver of nontreaty fish or shellfish to fail to sign the complete nontreaty fish receiving ticket to certify that all entries on the ticket are accurate and correct.

(2) It is unlawful for the deliverer of treaty fish or shellfish to fail to sign the tribal copy of the treaty Indian fish receiving ticket to certify that all entries on the ticket are accurate and correct. It is unlawful for the original receiver of treaty food fish or shellfish to fail to sign the completed treaty Indian fish receiving ticket.

(3) It is unlawful for the deliverer or original receiver of fish from the directed commercial fisheries for Pacific Coast Groundfish authorized under 50 C.F.R., Part 660 to fail to print and sign a copy of the completed electronic fish receiving ticket to certify that all entries on the ticket are accurate and correct.

(a) A fisher who fails to sign a fish receiving ticket is in violation of RCW (~~77.15.560~~) 77.15.630.

(b) An original receiver who fails to sign a fish receiving ticket is in violation of RCW 77.15.630.

(4) Where the fisherman is unable to deliver the catch, an agent of the fisherman is authorized to sign the fish receiving ticket if the agent has first obtained an alternate operator's license for the fishing vessel operated by the fisherman.

(5) If the receiver receives the fish or shellfish by any method other than direct delivery, the receiver shall affix his or her signature to the fish receiving ticket, and the fish receiving ticket shall be completed and submitted without the deliverer's signature and together with the transportation ticket. The receiver shall assume complete responsibility for the correctness of all entries on the fish receiving ticket.

WAC 220-352-110 Description of Washington state electronic fish receiving ticket. (1) There is hereby created a nontreaty electronic fish receiving ticket. Electronic forms are available for deliveries of fish from the directed commercial fisheries for Pacific Coast Groundfish authorized under 50 C.F.R., Part 660. The electronic form shall contain space for the following information:

(a) Fisherman: Name of licensed deliverer and department number assigned to 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 gear type 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) Catch area: Marine fish/shellfish management and catch reporting area code where the majority of the marine fish were caught or harvested;

(m) Species code: Department assigned species code;

(n) Individual numbers of 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;

(o) The scale weight of all fish, to include fish with no value. However, if the department allows a species of fish to be dressed, and the fish is dressed as the department requires, such fish can be recorded in its original dressed weight and designated as dressed on the fish receiving ticket;

(p) Value of fish sold or purchased: Summary information for species, or species groups landed as described in (q) of this subsection;

(q) Description of species or species category: All species or categories of bottomfish having a vessel trip limit must be listed separately (see WAC ((~~220-44-050~~)) 220-355-100), and all others must be described with the relevant category or species name issued by the department;

(r) Federal limited entry permit number granting authority for the delivery. The weight and value of sablefish delivered by vessels participating in the primary sablefish season authorized under 50 C.F.R., Part 660, Subpart E, Section 231 must be reported by individual sablefish limited entry permit number;

(s) All legally defined gear as defined in 50 C.F.R. 660, Subpart D, and WAC ((~~220-44-030~~)) 220-355-070, aboard the vessel at the time of delivery;

(t) Total amount: Total value of landing;

(u) Take-home fish: Species, number, and pounds of fish or shellfish retained for personal use;

(v) Seized/overage: Species and pounds of fish or shellfish; and

(w) Work area for dealer's use: Used at dealer's discretion.

(2) The electronic fish receiving ticket shall be used exclusively for nontreaty deliveries of fish harvested by participants lawfully involved in the directed commercial fisheries for Pacific Coast Groundfish authorized under 50 C.F.R., Part 660.

WAC 220-352-050 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~~) 220-352-040) (2)(a) through (m) and (p) through (y) on each nontreaty fish receiving ticket, except as provided in subsection (5) of this section.

(2) A valid license card or duplicate license card issued by the department used with an approved mechanical imprinter satisfies the requirements in WAC ((~~220-69-230~~) 220-352-040) (2)(a) through (e), except as provided in WAC ((~~220-69-273~~) 220-352-150).

(3) A valid dealer or buyer card issued by the department used with an approved mechanical imprinter satisfies the requirements in WAC ((~~220-69-230~~) 220-352-040) (2)(h) and (i).

(4) 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 the Pacific Ocean, Coastal Washington, Grays Harbor, Willapa Harbor, and Columbia River waters. The crab inspection certificate number must be entered legibly in the space indicated for dealer's use.

(5) A person who sells or receives deliveries of fish made from the directed commercial fisheries for Pacific Coast Groundfish authorized under 50 C.F.R., Part 660 may use an electronic fish receiving ticket to enter mandatory information in lieu of completing a nontreaty fish receiving ticket, so long as:

(a) All information required under WAC ((~~220-69-256~~) 220-352-120) is entered on the electronic fish receiving ticket;

(b) Both the fisherman and original receiver sign a legible, printed copy of the original electronic fish receiving ticket, plus all amended copies declaring the document and information contained therein as being true and accurate, and submit those signed copies as prescribed in WAC ((~~220-69-260~~) 220-352-060); and

(c) A signed copy of the electronic fish receiving ticket and all amended copies are maintained by the original receiver at the original receiver's place of business for 3 years after the date of initiation.

(6) Violation of this section is a gross misdemeanor or a class C felony punishable under RCW 77.15.630, Unlawful fish and shellfish catch accounting—Penalty, depending on the circumstances of the violation.