

Concise Explanatory Statement

WAC Overhaul Rule Batch 5 Changes to Oyster Reserve Sales and Fish Receiving Ticket Rules

The following rules are amended as part of this rulemaking (in numerical order):

WAC 220-60-010	Publishing notice of sales
WAC 220-60-040	Loads to be measured
WAC 220-60-050	Payment
WAC 220-60-060	Oyster growers' associations
WAC 220-60-070	Purchasers' licenses
WAC 220-60-080	Director may limit use of licenses
WAC 220-60-090	Director to establish broodstock sale prices
WAC 220-69-210	Fish receiving ticket definitions
WAC 220-69-230	Description of Washington state nontreaty fish receiving tickets
WAC 220-69-234	Description of treaty Indian fish receiving ticket
WAC 220-69-240	Duties of commercial purchasers and receivers
WAC 220-69-241	Duties of commercial fishers
WAC 220-69-243	Duties of aquatic farmers
WAC 220-69-250	Required information on nontreaty fish receiving tickets
WAC 220-69-254	Required information on treaty Indian fish and shellfish receiving tickets
WAC 220-69-260	Distribution of copies of nontreaty fish receiving tickets
WAC 220-69-264	Distribution of copies of treaty Indian fish receiving tickets
WAC 220-69-26401	Distribution of copies of shellfish receiving ticket
WAC 220-69-280	Fish receiving ticket accountability

Summary of reasons for rulemaking:

The Washington Department of Fish and Wildlife's (WDFW's) administrative code needs updating, and individual rules require clarification and streamlining. A project to streamline, update, and reorganize WDFW's administrative code is currently underway. The main objectives of this project are to: (1) reorganize WDFW's administrative code to maximize its efficiency by ensuring that the code is more logically organized and rules are easier to locate; and (2) update WAC sections to increase legal adequacy, clarity and, where applicable, enforceability. The changes included in the rules listed above are part of this ongoing project and are needed to update, reorganize, clarify, and streamline multiple rules dealing with oyster reserve sales and fish receiving tickets.

Explanation of amendments (as they appear in the order filed):

Chapter 220-60 WAC, Oyster reserve sales

- Changes are technical and intended merely to update the rules.
- Subsections are added where appropriate to ensure rule clarity.
- Language is streamlined and updated.
- RCW references are updated where needed.

- Rule violation penalty provisions are added where appropriate to increase clarity and ensure enforceability.

220-69-210 – Fish receiving ticket definitions

- Adds additional description to the rule title to ensure clarity and to prepare for renumbering and reorganization of the WACs as part of the WAC Overhaul.
- Additional detail is added to the definition of “fish buyer” to ensure clarity in the definition and use of the term. Moved the definition to a different subsection to ensure definitions appear in alphabetical order.
- Adds a definition of “fish receiving ticket,” which was merely implied before. It is virtually a list of the fish receiving tickets the department produces and is technical in nature for clarity.
- Further clarifies and simplifies the definition of “treaty” and “treaty Indian” for fish receiving ticket purposes.

220-69-240 – Duties of commercial purchasers and receivers

- Clarifying and organizational edits are made.
- Consolidates provisions regarding responsibility to fill out a fish receiving ticket to reduce redundancy.
- Clarifies provisions on when an original receiver must complete a FRT – If the original receiver purchases fish or shellfish from commercial fishers who are also fish dealers if the fisher/dealer has not previously filled out a FRT and provided a copy of the FRT or the FRT number as proof.
- Corrects RCW references for accuracy and to ensure enforceability.
- Worked with Regional Harvest Managers on updates to contact information and how reporting must be done for harvest to reflect actual practice and improve flexibility for reporting harvesters.
- Subsection (14)(e) (relating to quick reporting requirements for salmon and sturgeon) is amended to include a provision that allows a person to submit a fish receiving ticket (FRT) in PDF format to satisfy quick reporting requirements for salmon and sturgeon. If a person chooses to satisfy quick reporting requirements this way, they do not have to mail a hard copy of the FRT to the department, but must still maintain a copy in their records for 3 years. Regional offices will send the electronic copies of FRTs to Olympia offices for the Commercial Harvest Data Team.

220-69-230 – Description of Washington state nontreaty fish receiving tickets

- Technical updates for clarity to ensure proper description of nontreaty FRTs.
- Updates to language for clarity and uniformity.
- Inserted subsections to ensure the provisions are clear and may be cited to more easily.

220-69-234 – Description of treaty Indian fish receiving ticket and treaty Indian shellfish receiving ticket

- Technical updates for clarity to ensure proper description of treaty Indian FRTs.
- Adds language to describe a new treaty Indian shellfish receiving ticket. Previously, users had to scratch out the species on the treaty Indian fish receiving ticket (a Boldt-era document) for shellfish transfers. WDFW worked with tribal co-managers to make a separate form for treaty Indian shellfish transfers to simplify things for users and to accommodate co-managers’ concerns. Users were already required to submit this information; the new form does not increase requirements. The new form simply makes things easier on the users.

220-69-250 – Required information on nontreaty fish receiving tickets

- Correction of subsection references to increase accuracy and ensure enforceability.

- Technical changes to penalty language.

220-69-254 – Required information on treaty Indian fish and shellfish receiving tickets

- Subsection references are updated due to the changes to WAC 220-69-234 to accommodate the new treaty Indian shellfish receiving ticket provisions.

220-69-241 – Duties of commercial fishers

- Technical updates for clarity, including adjustments to subsections throughout the section.
- Correction of RCW references where appropriate to ensure accuracy and enforceability.

220-69-260 – Distribution of copies of nontreaty fish receiving tickets

- Technical changes for clarity and to improve rule structure.
- Includes provisions to remove the requirement to mail in a hard copy of a FRT for those who choose to submit a FRT in PDF format to satisfy quick reporting requirements for salmon and sturgeon. Regional harvest managers will forward electronic copies of FRT PDFs to Olympia for the Commercial Harvest Data Team. Those people who choose to report this way must still maintain a copy in their records for 3 years.

220-69-264 – Distribution of copies of treaty Indian fish receiving tickets

- Technical changes for clarity and to improve rule structure.
- Correction of RCW reference for violations of rule provisions. Ensures enforceability.

220-69-26401 – Distribution of copies of shellfish receiving ticket

- Technical changes for clarity and to improve rule structure.
- Correction of RCW reference for violations of rule provisions. Ensures enforceability.

220-69-280 – Fish receiving ticket accountability

- Technical changes for clarity and to improve rule structure.
- Correction of RCW reference for violations of rules provisions. Ensures enforceability.

220-69-243 – Duties of aquatic farmers

- Technical changes for clarity and to improve rule structure.

Differences between the text of the proposed rule and the text of the rule as adopted:

Some typographical edits were made to WAC 220-60-010 and 220-60-060. These were minor technical edits to fix typographical errors.

The department made technical changes to the definition of “treaty” and “treaty Indian” as it pertains to which fish receiving tickets in WAC 220-69-210 to ensure the definition functions as intended. The changes were recommended by the AG’s office and are a technical fix only; they do not change the scope of effect of the fish receiving ticket rules.

Summary of comments and WDFW’s response to and consideration of the comments:

WDFW received no public comment regarding this rulemaking.