

Coastal Commercial Dungeness Crab Regulation Changes – (Briefing, Public Hearing)

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Summary

Meeting dates:	September 17, 2021 – Webinar
Agenda item:	Coastal Commercial Dungeness Crab Regulation Changes - Briefing/Public Hearing
Presenter(s):	Heather Hall, Intergovernmental Ocean Policy Manager Aaron Dufault, Puget Sound Shellfish Manager

Background summary:

In 2020, the Fish and Wildlife Commission adopted, and the Washington Department of Fish and Wildlife implemented, several regulation changes focused on reducing the entanglement risk between marine mammals and coastal commercial Dungeness crab gear. Additional changes to coastal Dungeness crab rules are proposed that build on those changes and align with conservation plan objectives directed at reducing the risk of marine life entanglements in coastal Dungeness crab gear pursuant to federal Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) requirements, including requirements for reporting landings using electronic fish tickets. Finally, a couple of minor changes would clarify existing rules.

In addition to changes proposed specifically for the coastal commercial Dungeness crab fishery, changes to fish ticket reporting regulations would expand mandatory electronic fish ticket reporting for several coastal and Puget Sound shellfish fisheries.

Expand Mandatory use of Electronic Fish Tickets to Crab and Shrimp Deliveries on the Coast and in Puget Sound

Electronic fish tickets are currently mandatory for most commercial groundfish and Pacific halibut delivered into the state. Electronic fish ticket reporting of deliveries from the groundfish individual fishing quota program were made mandatory in 2011. This requirement was expanded in 2017 to include limited entry and open access non-trawl groundfish fisheries, and again in 2018 to include Pacific halibut and deliveries made by vessels conducting research on groundfish and Pacific halibut. This proposed change would further expand mandatory fish ticket reporting to several coastal and Puget Sound shellfish fisheries.

Coastal deliveries impacted by this rule change are coastal Dungeness crab, pink shrimp, and spot shrimp. Puget Sound deliveries impacted by this rule change are Puget Sound Dungeness crab, pink shrimp, spot shrimp, coonstripe shrimp, and sidestripe shrimp. For Puget Sound fisheries, these changes will eventually remove the need for buyer quick reporting.

Mandatory electronic reporting streamlines the reporting process and reduces the time between landings and when catch information is available to managers. This reduced reporting time allows managers to be more responsive to adjustments that may be needed to meet harvest sharing agreements with tribal co-managers. A program that allows a fish buying business (dealer) to use electronic fish tickets on a voluntary basis has been in place since 2018 and has allowed interested dealers to become familiar with electronic reporting tools. Currently, approximately 80 percent of coastal Dungeness crab landings and 100 percent of coastal pink shrimp landings are reported using the voluntary electronic fish ticket program.

The voluntary reporting period has also allowed WDFW time to develop a mobile platform that will allow small dealers that may not have access to a computer at the time of delivery to complete an electronic fish ticket using a cell phone or tablet. This mobile application is currently being field tested by staff and several commercial fishers to ensure it will support the mandatory requirement by the implementation date. The proposed electronic fish ticket reporting requirement is also beneficial to participants and shellfish dealers because it eliminates the burden of duplicative reporting requirements that include submitting paper fish receiving tickets and quick reports to WDFW, instead the proposal will allow participants and shellfish dealers to submit the same information electronically. Adding these fisheries to

mandatory electronic fish ticket reporting would reduce the time between landings and when catch information is available to managers, increasing efficiency for WDFW and facilitating improved management of the fisheries resources.

Coastal Commercial Dungeness Crab Rule Changes

- **Eliminate the replacement buoy tag program (WAC 220-340-430).** Buoy tags are required on all crab gear fished in the coastal Dungeness crab fishery and are used to enforce pot limit regulations. Currently, a small number of tags can be obtained if tags are lost between March 1 and April 30. Eliminating the replacement buoy tag program will remove the option for participants to obtain replacement tags during the season and will reduce marine life entanglement risk by decreasing the number of lines in the water. The replacement buoy tag program has been progressively scaled back since its implementation in 2005 with the most recent change in 2020 when the period to replace tags and the number of tags available were last reduced, this change would be the final step in that process. In recent years, participants have requested very few tags through the replacement tag program. Eliminating the program will streamline and improve enforcement of the pot limit and have a minor impact on participants.
- **Reduce the time that commercial Dungeness crab gear can be left unattended (WAC 220-340-480).** Under current regulations, after May 1 each year, a landing must be reported on actively fished gear every 21 days. This proposed rule would reduce the time that gear can be in the water without an associated landing to every 14 days after May 1. This gear tending requirement provides enforcement staff with a regulatory structure for confiscating gear that is not actively being fished and contributes to efforts to reduce entanglements with marine mammals by minimizing gear in the water during the period when whales are more likely to be present off the Washington coast.
- **Allow experimental gear testing (WAC 220-340-430, WAC 220-353-020).** Currently, the only gear allowed when fishing commercially for Dungeness crab are pots with a line attached from the pot to a buoy at the surface. This rule change would provide a regulatory pathway to allow license holders to consider and experiment with innovative tools that may reduce the risk of entanglements with ESA and MMPA protected marine mammals. This experimental opportunity would also encourage gear innovators to work directly with fishery participants to test gear in the unique conditions off the Washington coast, and this will inform whether tools that may be effective in one area are a reasonable option for the Washington coastal crab fishery. Permits would only be issued to license owners and would include specific provisions that require close coordination with WDFW managers and the Enforcement Program.

Coastal Commercial Dungeness Crab Rule Clarification

- **73-hour gear pre-set period (WAC 220-340-420).** This rule change would codify rules that are implemented annually through the emergency rule making process.
- **Season delay due to biotoxin (WAC 220-340-450).** This rule change would add delays to the season opening due to biotoxin events such as domoic acid that would trigger fair start regulations.
- **Gear recovery program to include new in-season gear recovery (WAC 220-340-490).** This rule change would clarify existing rules that now include gear recovery from May 1 through September 15 and after the end of the coastal commercial Dungeness crab season.

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

Proposed rule changes would make it mandatory for several non-treaty coastal and Puget Sound commercial shellfish fisheries to report all landings into Washington ports using electronic fish tickets. This change is needed to improve the timeliness of data collection and to narrow data gaps, support management of catch relative to quotas, and better respond to state-tribal co-management needs.

The proposed rule changes for the coastal commercial Dungeness crab fishery are necessary to reduce the risk of coastal commercial crab gear becoming entangled with marine mammals, including humpback

whales which are listed under the Endangered Species Act. Specifically, changes focused on reducing the risk of entanglements would eliminate the replacement buoy tag allowance, reduce the time that crab gear can be left in the ocean unattended, and allow experimental gear testing by coastal Dungeness crab license holders only when authorized through a permit issued by the Director. Additional changes to coastal commercial Dungeness crab rules are necessary to provide clarity to existing rule language that describes the pre-season gear set period and clarifies season opening provisions if the season is delayed due to biotoxins.

Public involvement process used and what you learned:

A letter summarizing proposed changes and opportunities for public comment was distributed to all coastal and Puget Sound shellfish dealers.

WDFW has an active coastal Dungeness crab Advisory Board. Changes to coastal Dungeness crab regulations were developed with input from the Advisory Board and a larger group of industry members, stakeholders, and coastal Dungeness crab license holders. WDFW staff have met with industry and coastal crab advisors multiple times each year to discuss all proposed rule changes. Input gathered from industry and coastal crab advisors over the past approximately nine months relative to the changes described here has been generally supportive.

Outreach for the coastal pink shrimp fishery has been accomplished beginning in 2018 through the WDFW annual pink shrimp newsletter that is widely distributed to coastal pink shrimp fishery license holders, fish buying businesses (dealers), coastal tribes, and NMFS partners. The annual newsletter is also posted to the WDFW commercial pink shrimp fishery webpage. The newsletter announced the opportunity to use electronic tickets on a voluntary basis and sought feedback from dealers. Response was positive and dealers made the shift to electronic tickets and none chose to revert to paper tickets during the voluntary phase.

In Puget Sound, WDFW and commercial industry representatives have discussed long-standing compliance issues with quick reporting and identified the need for electronic catch reporting to address those issues. In general, Puget Sound commercial shellfish harvesters support moving to electronic catch reporting, and we have engaged with several harvesters to improve development of the mobile application. Additional outreach and training sessions with industry representatives are planned in fall 2021.

Action requested:

No action, briefing and public comment only.

Draft motion language:

N/A

Justification for Commission action:

N/A

Communications Plan:

In addition to discussing these proposals during public meetings, all coastal and Puget Sound shellfish dealers and all coastal Dungeness crab license holders received a letter describing the proposed rule changes. Public comment is open through September 15th and a public hearing will be held at the time of the Commission briefing. WDFW staff will summarize public comment provided prior to the Commission meeting as part of the briefing with additional responses provided when the Commission takes final action.

WDFW staff will continue to build outreach materials and engage with shellfish harvesters and dealers during the final phase of the development of the mobile application for electronic fish ticket reporting this fall.



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: June 23, 2021

TIME: 12:56 PM

WSR 21-14-001

Agency: Washington Department of Fish and Wildlife

Original Notice

Supplemental Notice to WSR

Continuance of WSR

Preproposal Statement of Inquiry was filed as WSR 21-08-061 ; 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); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) Amending coastal commercial Dungeness crab rules and implementing electronic fish ticket reporting for select Washington shellfish fisheries.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
September 16 -18, 2021	8:00 AM	Webinar and teleconference	Visit our website at http://wdfw.wa.gov/about/commission/meetings or contact the commission office at (360) 902-2267 email: commission@dfw.wa.gov for instructions on how to join the meeting

Date of intended adoption: On or after October 21, 2021 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Heather Hall

Address: Post Office Box 43200
Olympia WA

Email: 24362@PublicInput.com

Fax:

Other: Public Comment Website: <https://publicinput.com/V3151>

By (date) September 15, 2021

Assistance for persons with disabilities:

Contact Title VI/ADA Compliance Coordinator

Phone: 360) 902-2349, TTY (711)

Fax:

TTY:

Email: Title6@dfw.wa.gov

Other: <https://wdfw.wa.gov/accessibility/requests-accommodation>

By (date) September 15, 2021

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Proposed rule changes would make it mandatory for several non-treaty coastal and Puget Sound commercial shellfish fisheries to report all landings into Washington ports using electronic fish tickets. The purpose of this change is to improve the timeliness of data collection and is needed to narrow data gaps, support management of catch relative to quotas, and better respond to state-tribal co-management needs.

Proposed rule changes for the coastal commercial Dungeness crab fishery are necessary to reduce the risk of coastal commercial Dungeness crab gear becoming entangled with marine mammals, including humpback whales which are listed

under the Endangered Species Act. Specifically, changes focused on reducing the risk of entanglements would, eliminate the replacement buoy tag allowance, reduce the amount of time that crab gear can be left in the ocean unattended, and allow experimental gear testing by coastal Dungeness crab license holders only when authorized through a permit issued by the WDFW Director.

Additional changes to coastal commercial Dungeness crab rules are necessary to provide clarity to existing rule language, that that describe the pre-season gear set period and clarify season opening provisions if the season is delayed due to biotoxins.

Reasons supporting proposal:

Mandatory Electronic Fish Ticket Reporting (WAC 220-352-035, WAC 220-352-305, WAC 220-352-060, WAC 220-352-140)

Electronic fish ticket reporting will move several coastal and Puget Sound commercial shellfish fisheries from a voluntary electronic fish ticket reporting program to a mandatory requirement for deliveries of Dungeness crab, ocean pink shrimp, pink shrimp, coonstripe shrimp, sidestripe shrimp, or spot shrimp into Washington ports. Mandatory electronic reporting streamlines the reporting process and reduces the time between landings and when catch information is available to managers. This reduced reporting time allows managers to be more responsive to adjustments that may be needed to meet harvest sharing agreements with tribal co-managers. A program that allows a fish buying business (dealer) to use electronic fish tickets on a voluntary basis has been in place since 2018 and has allowed interested dealer to become familiar with electronic reporting tools. Currently, approximately 80 percent of coastal Dungeness crab landings are reported using the voluntary electronic fish ticket program. The voluntary reporting period has also allowed WDFW time to develop a mobile platform that will allow small dealers that may not have access to a computer at the time of delivery to complete an electronic fish ticket using a cell phone or tablet. This application is currently being field tested to ensure it will support the mandatory requirement by the implementation date. The proposed electronic fish ticket reporting requirements is also beneficial to participants and shellfish dealers because it eliminates the burden of duplicative reporting requirements that include submitting paper fish receiving tickets to WDFW, instead the proposal will allow participants and shellfish dealers to submit the same information electronically.

Additional changes to coastal Dungeness crab regulations are necessary to continue to implement measures that align with conservation plan objectives directed at reducing the risk of coastal Dungeness crab gear becoming entangled with marine mammals, including those listed under the Endangered Species Act (ESA) and protected by the Marine Mammal Protection Act (MMPA).

Eliminate Replacement Buoy Tag Program (WAC 220-340-430):

Buoy tags are required on all crab gear fished in the coastal Dungeness crab fishery. Currently, a small number of replacement tags can be obtained if tags are lost between March 1 and April 30. Eliminating the replacement buoy tag program will reduce the option for participants to obtain replacement tags during the season and will reduce the entanglement risk by reducing the number of lines in the water. WDFW has been working with participants to progressively reduce the number of replacement tags allowed and this change would be the final step in that process. In recent years, participants have requested very few tags through the replacement tag program, eliminating the program will streamline and improve enforcement of the pot limit and have a minor impact on participants.

Gear Tending Requirement (WAC 220-340-480):

Currently, each year after May 1, a landing must be made every 21 days on actively fished gear. This proposed rule would reduce the time that gear can be in the water without an associated landing to every 14-days after May 1. This rule focuses on the period after May 1 when participants may be in the process of moving to other fisheries and ensures that gear that is not actively fished is removed from the water. This gear tending requirement provides enforcement staff with a regulatory structure for confiscating gear that is not actively being fished and contributes to efforts to reduce entanglements with marine mammals by minimizing gear in the water during the period when whales are more likely to be present off the Washington coast.

Experimental Gear Testing (WAC 220-340-430, 220-353-020)

Currently, the only gear allowed when fishing commercially for Dungeness crab are pots with a line attached from the pot to a buoy at the surface. This rule change would provide a regulatory pathway to allow license holders to consider, and experiment with innovative tools that may reduce the risk of entanglements with ESA and MMPA protected marine mammals. This experimental opportunity would also allow gear innovators to work directly with participants to test gear in the unique conditions off the Washington coast and will inform whether tools that may be effective in one area, are a reasonable option for the coastal crab fishery. Permits would only be issued to license owners and would include specific provisions that require close coordination with WDFW managers and the Enforcement Program.

Minor Changes

73-hour gear pre-set period (WAC 220-340-420) – implements the gear set period, which is currently adopted each year by emergency rule, into permanent regulation.

Gear recovery (WAC 220-340-490) – clarifies that gear recovery is now allowed after May 1, and after the September 15 close of the coastal commercial crab season.

Biotoxin delays (WAC 220-340-450) – clarifies that fair start provisions will be applied when the crab season is delayed due to meat quality and the presence of biotoxins.

Statutory authority for adoption: RCW 77.040.020, 77.12.045, and 77.12.047

Statute being implemented: RCW 77.040.020, 77.12.045, and 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:

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:	Heather Hall	1111 Washington St. SE, Olympia, WA	360-490-9628
Implementation:	Dan Ayres - Coast	Region Six Office, Montesano, WA	360-249-1209
	Chris Eardley – Puget Sound	Port Townsend District Office, Port Townsend	360-302-0302
Enforcement:	Chief Steve Bear	1111 Washington St. SE, Olympia	360-902-2373

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No
If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:
Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

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:
TTY:
Email:
Other:
 No: Please explain: A cost-benefit analysis is not required for this rulemaking under RCW 34.05.328(5)(a).

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:
This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

RCW 34.05.310 (4)(b)
(Internal government operations)

RCW 34.05.310 (4)(e)
(Dictated by statute)

RCW 34.05.310 (4)(c)
(Incorporation by reference)

RCW 34.05.310 (4)(f)
(Set or adjust fees)

RCW 34.05.310 (4)(d)
(Correct or clarify language)

RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW ____.

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

Small Business Economic Impact Summary Statement: The portion of the proposed rulemaking directed at making electronic fish ticket reporting may impose more-than-minor costs on businesses in the state of Washington. Other proposed changes for the coastal crab fishery are not likely to impose more than minor costs to businesses. The costs associated with compliance with the proposed mandatory electronic fish ticket rulemaking may disproportionately impact small businesses. However, the value of costs to comply with the proposed rulemaking are still expected to be negligible for the vast majority of potentially impacted businesses, regardless of size. The Department has provided significant opportunities for stakeholder input during the development of the proposed rulemaking in recent years. As a result of this stakeholder input, the Department has developed a mobile application to mitigate the potential impacts to small businesses by providing a more accessible, low-cost platform from which to comply with the proposed rule. Job gains or losses are not anticipated as a result of this proposed rule, and businesses are not expected to lose access to revenue as a result of the proposed rule. While some may choose not to purchase fish products covered under the proposed rulemaking if electronic submission of fish tickets is required, other fish and fish products will remain available for purchase from harvesters using paper tickets.

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name: Heather Hall

Address: 1111 Washington St. SE, Olympia, WA

Phone: 360-490-9628

Fax: 360-902-2943

TTY:

Email: Heather.Hall@dfw.wa.gov

Other:

Date: July 2, 2021

Name: Annie Szvetecz

Title: Agency Rules Coordinator

Signature:



WAC 220-352-035 Requirement to prepare fish receiving ticket forms completely and accurately—Determining the appropriate form.

(1) Receivers must completely, accurately, and legibly prepare fish receiving tickets using a department-approved electronic or department-supplied paper form, as further specified in this section.

(2) Receivers must use an electronic fish receiving ticket form for the following:

(a) Deliveries from vessels fishing under the Pacific Fishery Management Council's Pacific Coast Groundfish Fishery Management Plan and related regulations under 50 C.F.R., Part 660. This requirement includes deliveries from research vessels but excludes deliveries of groundfish made under the trip limits for salmon troll (~~and pink shrimp trawl~~) vessels.

(b) Deliveries from directed commercial halibut vessels fishing under 50 C.F.R., Part 300 or vessels conducting research surveys for the International Pacific Halibut Commission if not previously delivered in another jurisdiction.

(c) Deliveries of groundfish harvested from the offshore waters off Alaska or British Columbia if not previously delivered in another jurisdiction.

(d) Deliveries of Dungeness crab, ocean pink shrimp, pink shrimp, coonstripe shrimp, sidestripe shrimp, or spot shrimp, and any other lawfully landed species taken incidentally by vessels fishing and delivering under a coastal Dungeness crab license, a Puget Sound Dungeness crab license, an ocean pink shrimp delivery license, an ocean pink shrimp single delivery license, a Puget Sound shrimp pot license, a Puget Sound shrimp trawl license, or a coastal spot shrimp license issued by the department.

(3) Receivers not required to report under subsection (2) of this section may report using electronic fish receiving ticket forms if they enter into an electronic fish receiving ticket reporting agreement with the department.

(a) The department reserves the discretion to limit the use of electronic fish receiving ticket reporting agreements based on species, gears, areas, times, or other factors.

(b) Electronic fish receiving ticket reporting agreements will identify how to access the appropriate electronic forms and may include terms and conditions related to the timing and manner of completion and submittal.

(c) Receivers may not submit paper fish receiving tickets for deliveries covered by an electronic fish receiving ticket reporting agreement.

(d) The department or receiver may terminate an electronic fish receiving ticket reporting agreement with thirty days notice to the other party.

(e) A receiver who fails to comply with the terms of the electronic fish receiving ticket agreement commits a violation of this chapter.

(4) A receiver that is not required or authorized by agreement to use electronic fish receiving ticket forms must report using the appropriate paper form. There are separate forms for nontreaty troll

fish, marine fish, shellfish, and Puget Sound salmon; and separate forms for treaty fish and treaty shellfish.

WAC 220-352-060 Completion, submission, distribution, and retention of copies of nontreaty fish receiving tickets. (1) Original receivers must complete state of Washington nontreaty fish receiving tickets by recording the delivery amount using the appropriate weight or quantity measure for all fish at the conclusion of the offload and prior to the fish being processed or transported away from the delivery site.

(2) Fish receiving tickets paper forms must be made out in quadruplicate (four copies) at the time of delivery of fish. Original receivers must use fish receiving tickets in numerical sequence, starting with the lowest numbered ticket issued. Original receivers reporting using paper forms must:

(a) Mail the state copy (green) of the fish receiving ticket to the department of fish and wildlife (department), except for original receivers who submit a fish receiving ticket in portable document format (PDF) to satisfy quick reporting requirements for salmon and sturgeon under WAC 220-352-315, 220-352-320, 220-352-325 and 220-352-330. The department must receive the state copy no later than the sixth working day after the day the original receiver completes the fish ticket.

(b) Retain the dealer copies (white and yellow) of the fish receiving ticket for his or her records.

(c) The deliverer must retain the fisher copy (gold) for his or her records.

(3) Original receivers who submit fish receiving tickets using an electronic form must:

(a) (i) Submit the ticket within twenty-four hours of completion of the delivery if required ((by WAC 220-352-035(2-)) to report electronically under WAC 220-352-035(2) except:

(ii) For deliveries made by vessels fishing and delivering under a coastal Dungeness crab license, the receiver must submit the ticket by the close of the next business day after the delivery is completed.

(b) Submit the ticket in compliance with the timely reporting conditions set forth in ((an)) the electronic fish receiving ticket reporting agreement if reporting voluntarily under WAC 220-352-035(3).

~~((c) Print and retain a copy of the completed electronic fish receiving ticket for three years unless an alternative fish ticket retention requirement is specified in an electronic fish receiving ticket agreement.))~~ (4) Original receivers who submit fish receiving tickets using an electronic form must print and retain a copy of the completed electronic fish receiving ticket for three years unless:

(a) The fish receiving ticket is signed electronically under WAC 220-352-140 (4)(c) and an electronic copy of the signed and completed fish receiving ticket is available to the department for a minimum of three years; or

(b) An alternative fish ticket retention requirement is specified in the electronic fish receiving ticket agreement governing the voluntary reporting of the delivery.

WAC 220-352-140 Signatures—Fish receiving tickets. (1) The fisher and original receiver of both treaty and nontreaty fish or shellfish must sign the appropriate completed fish receiving ticket paper form to certify that all entries on the ticket are accurate and correct.

(2) If an agent of the fisher delivers fish or shellfish to the original receiver, the receiver and the agent must complete and sign the fish receiving ticket together with the transportation ticket. The receiver and fisher shall assume complete responsibility for the correctness of all entries on the fish receiving ticket.

(3) Any employee of a licensed wholesale fish buyer who is authorized to receive or purchase fish or shellfish for that buyer on the premises of the primary business address or any of its plant locations as declared on the license application or agreement described under WAC 220-352-035(3), is authorized to initiate and sign fish receiving tickets on behalf of his or her employer. The business, firm, or licensed wholesale fish buyer that the receivers are operating under is responsible for the accuracy and legibility of all documents initiated in their name by any employee or agent.

(4) If an original receiver submits an electronic fish receiving ticket form, the fisher and original receiver must ~~((sign the printed completed fish receiving ticket form to certify that all entries on the ticket are accurate and correct, unless otherwise specified in an electronic fish receiving ticket reporting agreement (WAC 220-352-035(3)))~~) certify that all entries on the ticket are accurate and correct by either:

(a) Signing the printed and completed copy of the fish receiving ticket required under WAC 220-352-060(4);

(b) Following the terms and conditions for signature specified in an electronic fish receiving ticket reporting agreement (WAC 220-352-035(3)); or

(c) Signing electronically if the electronic form provided by the department directs the fisher and receiver to do so.

(5) If the receiver must complete an electronic fish receiving ticket form away from the place of delivery and it is impractical for the fisher to comply with subsection (4) of this section, the deliverer and receiver must sign the completed transportation ticket required by WAC 220-352-230 and attach it to the printed and signed copy of the completed electronic fish receiving ticket form, unless otherwise specified in an electronic fish receiving ticket reporting agreement (WAC 220-352-035(3)).

AMENDATORY SECTION (Amending WSR 18-11-052, filed 5/10/18, effective 6/10/18)

WAC 220-352-305 Coastal Dungeness crab—Additional reporting requirements. Original receivers of Dungeness crab from the Pacific Ocean, Coastal Washington, Grays Harbor, Willapa Harbor, and Columbia River waters must enter the crab vessel hold inspection certificate number on all (~~shellfish~~) nontreaty fish receiving tickets during the period specified in emergency regulations. (~~The crab inspection certificate number must be entered legibly in the space indicated for dealer's use or where specified by the terms of an electronic fish ticket reporting agreement~~) (WAC 220-352-035(3)).

WAC 220-353-020 General gear rules—Commercial fishery. (1)(a)

Commercial shellfish pot, bottom fish pot, set line and set net gear must be marked with a buoy that bears the department approved and registered buoy brand issued to the license in a visible and legible manner. It is unlawful for the owner or operator of any commercial food fish or shellfish gear to leave the gear unattended in state or offshore waters unless the gear is marked. Violation of this subsection is punishable under RCW 77.15.520 or 77.15.522, depending on the circumstances of the violation.

(b) Exemptions may apply for commercial shellfish pot gear otherwise authorized for use by permit issued by the director.

(2) Violations of the following are punishable under 77.15.520, Commercial fishing—Unlawful gear or methods—Penalty:

(a) Buoys affixed to unattended commercial food fish or shellfish gear must be visible on the surface of the water except during strong tidal flow (~~(or)~~), extreme weather conditions, or as authorized by permit issued by the director.

(b) It is unlawful to operate any gill net unless there is a buoy, float, or other marker affixed within 5 feet of each end of the net and visible on the cork line. The buoy, float, or other marker must be labeled legibly and permanently with the name and gill-net license number of the owner of the net.

(c) It is unlawful to leave a gill net unattended at any time in the commercial salmon fishery.

(d) It is unlawful to allow salmon, sturgeon, or fish unlawful to retain that are entangled in commercial nets to pass through a power block or onto a power reel or drum.

(3) It is unlawful for any person who loses or abandons non-tribal commercial net fishing gear within the waters of the state to fail to:

(a) Contact the department of fish and wildlife within twenty-four hours of the loss, by phone at 855-542-3935, or online at <http://wdfw.wa.gov/fishing/derelect/>; and

(b) Provide the following required information:

(i) Type of gear;

(ii) General location of the gear;

(iii) Latitude (if known) of the gear;

(iv) Longitude (if known) of the gear;

(v) Estimated water depth where the gear is located;

(vi) Date the gear was lost;

(vii) Time the gear was lost;

(viii) Name of gear's owner;

(ix) Telephone number of the gear's owner; and

(x) Email address (if available) of the gear's owner.

(c) Failing to report lost or abandoned nontribal commercial net gear under this subsection is an infraction under RCW 77.15.160.

WAC 220-340-420 Commercial crab fishery—Unlawful acts. (1)

Crab size and sex restrictions. It is unlawful for any person acting for commercial purposes to take, possess, deliver, or otherwise control:

(a) Any female Dungeness crab; or

(b) Any male Dungeness crab measuring less than 6-1/4 inches, caliper measurement, at the widest part of the shell immediately in front of the points (tips).

(2) Violation of subsection (1) of this section is a gross misdemeanor or class C felony depending on the value of fish or shellfish taken, possessed, or delivered, punishable under RCW 77.15.550 (1)(c).

(3) **Incidental catch may not be retained.** It is unlawful to retain salmon, food fish, or any shellfish other than octopus that is taken incidental to any commercial crab fishing.

(4) **Net fishing boats must not have crab on board.** It is unlawful for any person to possess any crab on board a vessel geared or equipped with commercial net fishing gear while fishing with the net gear for commercial purposes or while commercial quantities of food fish or shellfish are on board. Violation of this subsection is a gross misdemeanor or class C felony punishable under RCW 77.15.550(1), depending on the quantity of crab taken or possessed.

(5) **Area must be open to commercial crabbing.** It is unlawful for any person to set, maintain, or operate any baited or unbaited shellfish pots or ring nets for taking crab for commercial purposes in any area or time that is not open for commercial crabbing by rule of the department, except when acting lawfully under the authority of a valid gear recovery permit as provided in WAC 220-340-450.

(6) Violation of subsection (5) of this section is a gross misdemeanor or class C felony punishable under RCW 77.15.550, or a gross misdemeanor punishable under RCW 77.15.522 depending on the circumstances of the violation.

(7) **When it is unlawful to buy or land crab from the ocean without a crab vessel inspection.** It is unlawful for any fisher or wholesale fish buyer to land or purchase Dungeness crab taken from Grays Harbor, Willapa Bay, the Columbia River, or Washington coastal or adjacent waters of the Pacific Ocean from any vessel that has not been issued a Washington crab vessel inspection certificate during the first 30 days following the opening of a coastal crab season.

(a) Authorized department personnel will perform inspections for Washington crab vessel inspection certificates no earlier than 12 hours prior to the opening of the coastal crab season and during the following 30-day period.

(b) A Washington crab vessel inspection certificate may be issued to vessels made available for inspection at a Washington coastal port that:

(i) Are properly licensed commercial crab fishing; and

(ii) Contain no Dungeness crab on board the vessel.

(8) Violation of subsection (7) of this section is a gross misdemeanor, punishable under RCW 77.15.550 (1)(a) Violation of commercial fishing area or time—Penalty.

(9) **Coastal - Barging of crab pots by undesignated vessels.** It is unlawful for a vessel not designated on a Dungeness crab coastal fish-

ery license to deploy crab pot gear except under the following conditions:

(a) The vessel deploys pot gear only during the (~~64-hour~~) 73-hour period immediately preceding the season opening date and during the 48-hour period immediately following the season opening date;

(b) The undesignated vessel carries no more than 250 crab pots at any one time; and

(c) The primary or alternate operator of the crab pot gear named on the license associated with the gear is on board the undesignated vessel while the gear is being deployed.

(10) Violation of subsection (9) of this section is a gross misdemeanor or class C felony punishable under RCW 77.15.500 Commercial fishing without a license—Penalty, depending on the circumstances of the violation.

WAC 220-340-430 Commercial crab fishery—Gear requirements. (1) Buoy tag and pot tag required.

(a) It is unlawful to place in the water, pull from the water, possess on the water, or transport on the water any crab buoy or crab pot without an attached buoy tag and pot tag that meet the requirements of this section, except as provided by (b) and (c) of this subsection. A violation of this subsection is punishable under RCW 77.15.520 Commercial fishing—Unlawful gear or methods—Penalty.

(b) Persons operating under a valid coastal gear recovery permit as provided in WAC 220-340-440 may possess crab pots or buoys missing tags or bearing the tags of another license holder, provided the permittee adheres to provisions of the permit. Failure to adhere to the provisions of the permit is a gross misdemeanor, punishable under RCW 77.15.750 Unlawful use of a department permit—Penalty.

(c) Persons operating under a valid coastal gear transport permit as provided in WAC 220-340-440 may possess crab pots or buoys bearing the tags issued by another state, provided the permittee adheres to provisions of the permit. Failure to adhere to the provisions of the permit is a gross misdemeanor, punishable under RCW 77.15.750 Unlawful use of a department permit—Penalty.

(2) **Commercial crab fishery pot tag requirements:** Each shellfish pot used in the commercial crab fishery must have a durable, nonbiodegradable tag securely attached to the pot that is permanently and legibly marked with the license owner's name or license number and telephone number. If the tag information is illegible, or the tag is lost for any reason, the pot is not in compliance with state law. A violation of this subsection is punishable under RCW 77.15.520 Commercial fishing—Unlawful gear or methods—Penalty.

(3) **Commercial crab fishery buoy tag requirements.**

(a) The department issues crab pot buoy tags to the owner of each commercial crab fishery license upon payment of an annual buoy tag fee per crab pot buoy tag. Prior to setting gear, each Puget Sound crab license holder must purchase 100 tags, and each coastal crab fisher must purchase 300 or 500 tags, depending on the crab pot limit assigned to the license.

(b) In coastal waters, except if authorized by permit issued by the director, each crab pot must have the department-issued buoy tag securely attached to the first buoy on the crab pot buoy line (the buoy closest to the crab pot), and the buoy tag must be attached to the end of the first buoy, at the end away from the crab pot buoy line.

(c) In Puget Sound, all crab buoys must have the department-issued buoy tag attached to the outermost end of the buoy line.

(d) If there is more than one buoy attached to a pot, only one buoy tag is required.

(e) Replacement crab buoy tags.

(i) Puget Sound: The department only issues additional tags to replace lost tags to owners of Puget Sound commercial crab fishery licenses who obtain, complete, and sign a declaration, under penalty of perjury, in the presence of an authorized department employee. The declaration must state the number of buoy tags lost, the location and

date where the licensee last observed lost gear or tags, and the presumed cause of the loss.

(ii) Coastal: The department only issues replacement buoy tags for the coastal crab fishery (~~(beginning March 1 and after a signed affidavit is received by an authorized department employee. The affidavit must be signed by the primary or alternate operator fishing the commercial crab gear and state the number of buoy tags lost, the location and date where the licensee last observed lost gear or tags, and the presumed cause of the loss.~~

~~(A) Coastal crab license holders with a 300-pot limit may replace lost tags according to the following schedule: March 1 through April 30, up to 10 tags.~~

~~(B) Coastal crab license holders with a 500-pot limit may replace lost tags according to the following schedule: March 1 through April 30, up to 15 tags.~~

~~(C) No replacement tags will be issued for the current season after May 1.~~

~~(D) In the case of extraordinary loss of crab pot gear, the department may issue replacement tags in excess of the amount listed in this subsection on a case-by-case basis) in the case of extraordinary loss or on a case-by-case basis. Replacement buoy tags will not be issued in excess of the license holder's permanent pot limit.~~

(4) A violation of subsection (3) of this section is a gross misdemeanor, punishable under RCW 77.15.520 Commercial fishing—Unlawful gear or methods—Penalty.

(5) **Commercial crab fishery buoy requirements.**

(a) All buoys attached to commercial crab gear must consist of a durable material and remain floating on the water's surface when 5 pounds of weight is attached, unless otherwise authorized by permit issued by the director.

(b) No buoys attached to commercial crab gear in Puget Sound may be both red and white in color unless a minimum of 30 percent of the surface of each buoy is also prominently marked with an additional color or colors other than red or white. Red and white colors are reserved for personal use crab gear as described in WAC 220-330-020.

(c) It is unlawful for any coastal Dungeness crab fishery license holder to fish for crab unless the license holder has registered the buoy brand and buoy color(s) to be used with the license. A license holder may register only one unique buoy brand and one buoy color scheme with the department per license. Persons holding more than one state license must register buoy color(s) for each license that are distinctly different. The buoy color(s) will be shown in a color photograph.

(i) All buoys fished under a single license must be marked in a uniform manner with one buoy brand number registered by the license holder with the department and be of identical color or color combinations, unless otherwise authorized by permit issued from the director.

(ii) It is unlawful for a coastal Dungeness crab fishery license holder to fish for crab using any other buoy brand or color(s) than those registered with and assigned to the license by the department.

(6) **Coastal commercial crab fishery line requirements.**

(a) All crab pots used in the coastal Dungeness crab fishery shall be set up to use only the amount of line reasonably necessary to compensate for tides, currents, and weather.

(b) (i) Beginning December 1, 2020, it is unlawful for a coastal Dungeness crab fishery license holder to use line that connects the

main buoy to the crab pot that is not marked sufficiently to identify it as gear used in the Washington coastal Dungeness crab fishery.

(ii) For each shellfish pot used in the Washington coastal commercial Dungeness crab fishery (~~(must be)~~) and rigged with line, that (~~is~~) line must be marked with 12 inches of red in at least two places. At a minimum, 12 inches of line must be marked in red, no more than one fathom from the main buoy and no more than one fathom from the pot.

(7) Violation of subsection (5) of this section is a gross misdemeanor, punishable under RCW 77.15.520 Commercial fishing—Unlawful gear or methods—Penalty.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-340-450 Commercial crab fishery—Seasons and areas—Coastal. The open times and areas for coastal commercial crab fishing are as follows:

(1) Coastal, Pacific Ocean, Grays Harbor, Willapa Bay and Columbia River waters are closed to commercial crab fishing except as provided by emergency rule. The target date for the commercial season opening is December 1 based on the results of test fishing to determine crab condition.

(2) The department may delay opening of the coastal crab fishery due to softshell crab conditions or biotoxin levels. If the department delays a season due to softshell crab conditions or biotoxin levels, the following provisions will apply:

(a) After consultation with the Oregon department of fish and wildlife and the California department of fish and wildlife, the director may establish a softshell crab or biotoxin demarcation line by emergency rule.

(b) For waters of the Pacific Ocean north of Point Arena, California, it is unlawful for a person to use a vessel to fish in any area where the season opening is delayed due to softshell crab or biotoxin for the first 30 days following the opening of the area if the vessel was employed in the coastal crab fishery during the previous 45 days.

(c) It is unlawful for fishers to set crab gear in any area where the season opening is delayed, except that gear may be set as allowed by emergency rule. Emergency rules will allow setting crab gear in advance of the delayed season opening time.

(d) It is unlawful to fish for or possess Dungeness crab or to set crab gear in waters of the Pacific Ocean adjacent to the states of Oregon or California without the licenses or permits required to commercially fish for Dungeness crab within the state waters of Oregon or California. Washington coastal Dungeness crab permits are valid only in Washington state waters, the Columbia River, Willapa Bay, Grays Harbor, and the Pacific Ocean in federal waters north of the Washington/Oregon border (46°15'00"N. Lat.), extending 200 nautical miles westward.

AMENDATORY SECTION (Amending WSR 20-04-066, filed 1/31/20, effective 3/2/20)

WAC 220-340-480 Commercial crab fishery—Gear limits—Coastal.
(1) **Coastal crab pot limit.**

(a) It is unlawful for a person to take or fish for Dungeness crab for commercial purposes in Grays Harbor, Willapa Bay, the Columbia River, or waters of the Pacific Ocean adjacent to the state of Washington unless the person's Dungeness crab coastal fishery license or the equivalent Oregon or California Dungeness crab fishery license is assigned a crab pot limit. A violation of this subsection is punishable under RCW 77.15.520 Commercial fishing—Unlawful gear or methods—Penalty.

(b) It is unlawful for a person to deploy or fish more shellfish pots than the number of shellfish pots assigned to the license held by that person, unless authorized under a permit issued by the director. A violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.520 Commercial fishing—Unlawful gear or methods—Penalty.

(c) It is unlawful to use any vessel other than the vessel designated on a license to operate or possess shellfish pots assigned to that license. A violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.530 Unlawful use of a nondesignated vessel—Penalty.

(d) It is unlawful for a person to take or fish for Dungeness crab or to deploy crab pots unless the person is in possession of valid documentation issued by the department that specifies the crab pot limit assigned to the license. A violation of this subsection is a misdemeanor, punishable under RCW 77.15.540 Unlawful use of a commercial fishery license—Penalty.

(e) Beginning May 1, through September 15, it is unlawful to leave Dungeness crab pots deployed in Grays Harbor, Willapa Bay, Columbia River, or waters of the Pacific Ocean adjacent to the state of Washington for more than ((21)) 14 consecutive days without making a Dungeness crab landing.

(2) **Grays Harbor pot limit of 200.** It is unlawful for any person to take or fish for crab for commercial purposes in Grays Harbor (Catch Area 60B) with more than 200 shellfish pots in the aggregate. It is unlawful for any group of persons using the same vessel to take or fish for crab for commercial purposes in Grays Harbor with more than 200 shellfish pots. Violation of this subsection is a gross misdemeanor, punishable under RCW 77.15.520 Commercial fishing—Unlawful gear or methods—Penalty.

(3) **Determination of permanent coastal crab pot limits.**

(a) The number of crab pots assigned to a Washington Dungeness crab coastal fishery license, or to an equivalent Oregon or California Dungeness crab fishery license is based on documented landings of Dungeness crab taken from waters of the Pacific Ocean south of the United States/Canada border and west of the Bonilla-Tatoosh line, and from coastal estuaries in the states of Washington, Oregon, and California. Documented landings may be evidenced only by valid Washington state shellfish receiving tickets, or equivalent valid documents from the states of Oregon and California, which show Dungeness crab were taken between December 1, 1996, and September 16, 1999. Such documents must have been received by the respective states no later than October 15, 1999.

(b) The following criteria is used to determine and assign a crab pot limit to a Dungeness crab coastal fishery license, or to an equivalent Oregon or California Dungeness crab fishery license:

(i) The three "qualifying coastal Dungeness crab seasons" are from December 1, 1996, through September 15, 1997; from December 1, 1997, through September 15, 1998; and from December 1, 1998, through September 15, 1999. Of the three qualifying seasons, the one with the most poundage of Dungeness crab landed on a license determines the crab pot limit for that license. A crab pot limit of 300 will be assigned to a license with landings totaling up to 35,999 pounds and a crab pot limit of 500 will be assigned to a license with landings totaling 36,000 pounds of crab or more.

(ii) Landings of Dungeness crab made in the states of Oregon or California on valid Dungeness crab fisheries licenses during a qualifying season may be used for purposes of assigning a crab pot limit to a Dungeness crab fishery license, provided that documentation of the landings is provided to the department by the Oregon department of fish and wildlife and/or the California department of fish and game.

(iii) Landings of Dungeness crab made in Washington, Oregon, and California on valid Dungeness crab fishery licenses during a qualifying season may be combined for purposes of assigning a crab pot limit, provided that the same vessel was named on the licenses, and the same person held the licenses. A crab pot limit assigned as a result of combined landings is invalidated by any subsequent split in ownership of the licenses. No vessel named on a Dungeness crab fishery license will be assigned more than one coastal crab pot limit.

(4) **Appeals of coastal crab pot limits.** An appeal of a crab pot limit by a coastal commercial license holder must be filed with the department on or before October 18, 2001. The shellfish pot limit assigned to a license by the department will remain in effect until such time as the appeal process is concluded.

(5) **Summer management period - Pot limits.** Beginning May 1 through September 15, it is unlawful for a person to deploy or fish more than the specified reduced pot limit assigned to each license, unless otherwise authorized by permit issued by the director. Each pot deployed during the summer management period must possess a summer buoy tag, unless authorized by permit issued by the director.

(a) Licenses with a permanent pot limit of 500 will be assigned a reduced pot limit of 330 pots.

(b) Licenses with a permanent pot limit of 300 will be assigned a reduced pot limit of 200 pots.

(c) It is unlawful to deploy gear that includes tags other than the summer buoy tag, unless authorized by permit issued by the director.

AMENDATORY SECTION (Amending WSR 20-15-049, filed 7/9/20, effective 8/9/20)

WAC 220-340-490 Commercial crab fishery—Coastal gear recovery permits.

(1) **Emergency coastal crab gear recovery permit.** Emergency permits are granted on a case-by-case basis to allow crab fishers to recover shellfish pots that were irretrievable at the end of the lawful season opening due to extreme weather conditions. The director or director's designee may grant an emergency coastal crab gear permit once a commercial crab season is closed. Crab fishers must notify and apply to the department's enforcement program for such emergency permits within 24 hours prior to the close of the commercial crab season.

(2) **Coastal crab gear recovery permit.** (~~15 days~~) After the September 15 close of the primary coastal commercial crab season and from May 1 through September 15, the director or director's designee may grant a coastal crab gear recovery permit for licensed coastal Dungeness crab fishers to recover crab pots that remain in the ocean and belong to state licensed fishers.

(3) It is unlawful to fail to follow the provisions of a coastal crab gear recovery permit. Violation of this section is a misdemeanor,

punishable under RCW 77.15.750 Unlawful use of a department permit—
Penalty.

Small Business Economic Impact Statement

Pursuant to Regulatory Fairness Act (Chapter 19.85 RCW)

Commercial Fisheries Rules Chapter 220-350 WAC

2021 Fish Receiving Ticket and Other Reporting Requirements [Proposed amendments]

WAC 220-352-035 Requirement to prepare fish receiving ticket forms completely and accurately—Determining the appropriate form.

WAC 220-352-305 Coastal Dungeness crab—Additional reporting requirements.

WAC 220-352-060 Completion, submission, distribution, and retention of copies of nontreaty fish receiving tickets.

WAC 220-352-140(4) Signatures—Fish receiving tickets.

This proposal mandates the use of electronic fish tickets by businesses purchasing unprocessed Dungeness crab and several species of shrimp from commercial fishery deliveries into Washington ports.

Washington Department of Fish and Wildlife
Fish Program
Olympia, Washington
June 23, 2021

Section 1 Describe Rule and Compliance Requirements

1.1 Background

Fish receiving tickets (“fish tickets”) are mandatory for all commercial deliveries of unprocessed fish and shellfish in the state, with few exceptions. This rulemaking would expand mandatory electronic reporting of fish tickets to cover all deliveries of Dungeness crab, ocean pink shrimp, pink shrimp, coonstripe shrimp, sidestripe shrimp, and spot shrimp into Washington ports.

For the purposes of this report, “shrimp” will refer to the shrimp species listed above, and business will be referenced as “fish-buying business” or “dealer.” “Fish” is used generically to mean fish and shellfish.

Mandatory electronic fish ticket reporting has been in place for some fishery sectors since 2011. Beginning in 2018, certain dealers started using electronic tickets through a voluntary program. Those dealers participating in the volunteer program, representing about 7% of the Dungeness crab/shrimp fish-buying businesses statewide, have all been located at coastal Washington ports and represent the larger businesses within the statewide fish-buying community. Under the voluntary program, 100% of ocean pink shrimp and >80% of commercial Dungeness crab fish tickets from the coastal fisheries have been submitted electronically. Under this rule making, **all** fish-buying businesses statewide that purchase commercial Dungeness crab and shrimp would be required to submit electronic fish tickets. Therefore, about 93% of businesses that will be required to comply with the proposed rule do not have a history of submitting electronic fish tickets, and these are the only businesses that would incur the new equipment, accessibility, and potential training costs described in the following sections of this report. These businesses include small, mobile dealers, and business establishments with facilities primarily located in the greater Puget Sound region.

The WDFW is pursuing this rule proposal to improve the reporting of Dungeness crab and shrimp deliveries. Fish ticket information is used by fishery managers and law enforcement to monitor the number of participants in a fishery, the species and volume delivered, and the value of the fishery. Paper tickets have historically been used in the absence of another option to document this information, but challenges with paper forms have long been noted. Paper tickets can be easy to alter and thus require numerous accountability rules. Distribution of the paper booklets can be difficult to control. And paper tickets are slow to be entered into a system that managers can view, making it difficult for managers to be responsive in their efforts to meet new or changing management and enforcement needs. In contrast, an electronic system offers near real-time information to managers and law enforcement, greater control over documents, a reduction in errors, and a date/time stamp record of revisions. In addition, anomalies can more easily be discovered with an electronic system.

1.2 Compliance requirement of the proposed rule

RCW 19.85.040(1) “A small business economic impact statement must include a brief description of the reporting, recordkeeping, and other compliance requirements of the proposed rule, and the kinds of professional services that a small business is likely to need in order to comply with such requirements.”

Fish-buying businesses must complete a state of Washington fish ticket for all deliveries of fish and shellfish not previously delivered into another state, territory or country, including retail sales authorized under limited retail endorsement provisions that allow fishers to sell directly to retail customers ([WAC 220-352-020](#)). Pre-printed paper ticket booklets are provided by the WDFW for this purpose. In order to comply with the proposed rule, fish-buying businesses subject to the provisions of WAC 220-352-020 will be required instead to complete an electronic fish ticket. Both paper and electronic forms of fish tickets require the dealers to report the same information such as fisher name and address, fish-buying business name and address, fishing gear and catch location, amount of species landed in pounds or counts, price paid and total value of landing.

Similarly, the proposed rule does not impose new requirements for document retention. Under existing regulation, fish-buying businesses must retain a copy of completed fish tickets for their records ([WAC 220-352-060](#)). However, some users of electronic fish tickets may be required, depending on the specific electronic system used, to print a paper copy of the electronic ticket to comply with the regulation and will need to acquire paper for this purpose. In contrast, WDFW provides pre-printed booklets of paper forms in quadruplicate at no cost to dealers. Existing retention requirements also differ, whereas there is no specified time limit for paper fish tickets, the paper copy of an electronic fish ticket must be retained for three years unless otherwise specified in an electronic fish receiving ticket agreement.

1.3 Professional Services Required

For most businesses, the move to electronic fish tickets should not create a need for professional services over and above any in which a business may already choose to engage. Most businesses have an owner and/or employees familiar with fish tickets, and many of the larger businesses have dedicated staff that are responsible for completing and processing fish tickets. In addition, most businesses have existing access to mobile phones, computers, printers, and the internet. However, some very small, mobile operations, “truck buyers,” may not have these resources or possess the skills to adapt to an electronic system. For instance, when groundfish fish-buying businesses were required to use electronic fish tickets under a federal program, some very small operations, i.e., single individual dealers, did not own any type of computer equipment or have basic computer skills, and therefore had to seek outside services.

The federally mandated electronic system is operated only on a desktop platform. To mitigate the impact of mandatory electronic reporting on small businesses, and those operating without existing desktop computer equipment, the WDFW is developing a system that includes a mobile phone electronic fish ticket application. This application is described further in Section 6, Steps to Reduce Costs to Individuals or Small Businesses.

Section 2 Costs of Compliance

Acquiring or maintaining access to a computer, the internet, and a printer are the major potential costs involved with using electronic fish receiving ticket forms. The electronic reporting portal itself is provided free of charge and is compatible with modern web browsers. The current system will work with smartphones and tablets. The department assumes that many businesses already use computers, printers, and the internet for other aspects of their operations.

The delayed implementation (from voluntary in 2018 to proposed mandatory in 2021) of electronic fish tickets for the coastal Dungeness crab and coastal ocean pink shrimp fisheries listed in the rulemaking may have already given some businesses time to absorb the costs of compliance. At the same time, the WDFW recognizes that fish-buying businesses are diverse and is aware of smaller and/or more mobile operations that currently operate with little equipment other than a vehicle and telephone. If subject to the mandatory electronic fish ticket requirement, these businesses could experience more-than-minor costs¹ from needing to purchase equipment, pay for internet service, and spend staff time setting up and getting familiar with the system.

Computers with internet access and printers are available freely through public libraries around the state. However, they could be inconvenient for businesses to use. There is a range of costs for computers and printers. A basic setup could be purchased for under \$500, while more advanced configurations could

¹ A minor cost “means a cost per business that is less than three-tenths of one percent of annual revenue or income, or one hundred dollars, whichever is greater.” (RCW 19.85.020(2)). Under this definition, the \$100 minimum threshold applies up to annual revenues under \$33,333.34. For a business earning \$100,000 per year, the threshold would be \$300.

cost two to four times as much. The WDFW estimates that internet service would cost on the order of \$300 to \$500 per year. In addition, or alternatively, fish-buying businesses may need to purchase a mobile “smart” phone to utilize the department’s fish ticket submission application. However, WDFW field staff indicate that the use of mobile phones is common among those involved in buying fish. Therefore, this potential cost (and recurring cost associated with continued compliance, e.g., a monthly cell phone bill) has not been included in the analyses provided in this SBEIS.

While it is possible for businesses to incur expenses less than this and still be fully equipped to comply with the proposed regulation, some businesses may incur more-than-minor costs in an effort to comply with the proposed rulemaking (for example, by purchasing a computer and printer system that costs more than \$700).

Businesses may also need to spend staff time on setup and training in the use of the electronic reporting system. The system is as easy to use as the paper-based system, but it may take some time for new users to become familiar with its features. The WDFW estimates that businesses not already utilizing it may spend 10-20 hours to train and setup for electronic reporting. Businesses may also incur ongoing, operational costs in terms of staff time spent on administrative tasks. The electronic ticket system introduces some new tasks but eliminates the need for others associated with paper tickets. For instance, the dealer will need to manually enter vessel information in the business’ electronic fish ticket system that previously was imprinted on the commercial license card. Further, each electronic ticket must be printed and signed by the both the business and the fisher. Businesses will incur the costs of purchasing paper for this purpose. However, as an offset to this cost, other tasks and expenses associated with paper tickets, such as preparing ticket copies for mailing and purchasing postage, will no longer be necessary. For this reason, the recurring cost for paper has not been included in the analyses provided in this SBEIS.

Compliance with the rule may cause small, mobile businesses to lose access to product that might be purchased at locations with no or limited access to the internet. This may result in a loss of sales or revenue. However, the majority of locations where mobile businesses would be expected to purchase directly from the fisher are expected to have sufficient internet service, depending on the business’ service provider, to support the mobile phone fish ticket application.

While the movement to electronic reporting systems may incur new costs, both minor and otherwise, there is also room for businesses to experience direct cost savings. These cost savings may occur in the form of reduced postage costs and the potential for variable savings in the form of streamlined workflows and time spent managing records in the office.

Section 3 Identify Businesses – Minor Cost Threshold

RCW 19.85.040(2)(c) “Provide a list of industries that will be required to comply with the rule. However, this subsection (2)(c) shall not be construed to preclude application of the rule to any business or industry to which it would otherwise apply.”

RCW 19.85.020(1) “‘Industry’ means all of the businesses in this state in any one four digit standard industrial classification as published by the United States department of commerce, or the North American industry classification system as published by the executive office of the president and the office of management and budget.’

RCW 19.85.020(2) “‘Minor cost’ means a cost per business that is less than three-tenths of one percent of annual revenue or income, or one hundred dollars, whichever is greater, or one percent of annual payroll.’

Pursuant to [RCW 19.85.040\(2\)\(c\)](#), Table 1 below identifies industries, as defined in [RCW 19.85.020\(1\)](#), that may be required to comply with the proposed rule, alongside each one’s code under the North

American industry classification system (NAICS). Industries in the list below were identified using the [2012 Washington State Office of Financial Management \(OFM\) Input-Output table](#), which includes summary values for industries in Washington, by NAICS code, that purchase “hunting, fishing, and trapping” (an economic commodity that includes fish products at the first point of sale).

Table 1. List of industries, by NAICS Code, that may be required to comply with the proposed rule.

NAICS Code(s)	Industry Description
3117	Seafood Product Preparation and Packaging
3253	Pesticide; Fertilizer; and Other Agricultural Chemical Manufacturing
3364	Aerospace Product and Parts Manufacturing
4543	Non-store Retail: Direct Selling Establishments
445	Food and Beverage Stores
483	Water Transportation
488	Support Activities for Transportation
493	Warehousing and Storage
5413, 5414, 5415, 5417	Architectural; Engineering; and Computing
61	Educational Services
622	Hospitals
623	Nursing and Residential Care Facilities
624	Social Assistance
71	Arts; Entertainment; and Recreation
721	Accommodation
722	Food Services and Drinking Places
562	Waste Management and Remediation Services

The above list of industries in Table 1, along with the total estimated cost associated with compliance for businesses (which is detailed out in Section 2 above), has been entered into the [Minor Cost Threshold Calculator](#) provided by Governor’s Office for Regulatory Innovation and Assistance (ORIA). Minor cost thresholds for each industry identified are included in the completed version of this worksheet (Appendix A, not included in this document).

Section 4 More than Minor Costs

RCW 19.85.030(1)(a) “In the adoption of a rule under chapter 34.05 RCW, an agency shall prepare a small business economic impact statement: (i) If the proposed rule will impose more than minor costs on businesses in an industry; ...”

RCW 19.85.020(2) “‘Minor cost’ means a cost per business that is less than three-tenths of one percent of annual revenue or income, or one hundred dollars, whichever is greater, or one percent of annual payroll...’

The completed version of the Minor Cost Calculator provided by ORIA also analyzes whether the estimated costs associated with the proposed rule will impose more-than-minor costs on businesses in the industries potentially affected. For more details, see Appendix A, provided separately.

Section 5 Disproportionate Impact on Small Businesses²

RCW 19.85.040(1) "...To determine whether the proposed rule will have a disproportionate cost impact on small businesses, the impact statement must compare the cost of compliance for small business with the 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: (a) Cost per employee; (b) Cost per hour of labor; or (c) Cost per one hundred dollars of sales."

As described in Section 2 above, the estimated costs to comply with the proposed rule include the following: 1) a \$500-1,000 investment in a computer and printer set-up for those that do not already have one and do not wish to utilize the Department's mobile application, and 2) a recurring cost of \$300-500 annually for internet/data services (regardless of mobile application use). To compare the cost of compliance for small businesses against the cost of compliance for the ten percent of businesses that are the largest of those that will be required to comply with the proposed rule, WDFW staff compiled ex-vessel value and other recent data to estimate the average annual and 5-year total revenues of all impacted fish dealers (those that have a recent history of purchasing the fish and shellfish fishery products specified in the proposed rule). A side-by-side comparison is included in Appendix B (see Table B3), as well as a more detailed description of the method utilized for the analysis.

Both the estimated investment cost of compliance and the recurring annual cost associated with maintaining compliance represents less than \$0.01 per \$100 of sales, on average, for the ten percent of businesses that are the largest businesses required to comply with the proposed rule. All other potentially impacted businesses were conservatively assumed to be small businesses (pursuant to RCW 19.85.020(2)) for the purposes of the analysis. The estimated investment cost of compliance per \$100 of sales for those assumed small businesses approximately ranged between \$0.04 and \$0.09. And the recurring annual cost of compliance per \$100 of sales for those assumed small businesses approximately ranged between \$0.08 and \$0.13. The difference between the average estimated impacts of the cost of compliance for large and small businesses that might be affected represents a disparity of one to two orders of magnitude, and thus the cost of compliance of the proposed rulemaking can be reasonably expected to disproportionately impact small businesses. However, the impacts to most businesses are still expected to be negligible, regardless of the size of the business.

Section 6 Steps to Reduce Costs to Individuals or Small Businesses

RCW 19.85.030(2) "Based upon the extent of disproportionate impact on small business identified in the statement prepared under RCW 19.85.040 [i.e. in Section 5 of this document], the agency shall, where legal and feasible in meeting the stated objectives of the statutes upon which the rule is based, reduce the costs imposed by the rule on small businesses. The agency must consider, without limitation, each of the following methods of reducing the impact of the proposed rule on small businesses:"

RCW 19.85.030(3) "If a proposed rule affects only small businesses, the proposing agency must consider all mitigation options defined in this chapter." RCW 19.85.030(4) "In the absence of sufficient data to calculate disproportionate impacts, an agency whose rule imposes more than minor costs must mitigate the costs to small businesses, where legal and feasible, as defined in this chapter."

² RCW 19.85.020(2) defines a small business as, "any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, and that has fifty or fewer employees."

RCW 19.85.030(5) “If the agency determines it cannot reduce the costs imposed by the rule on small businesses, the agency must provide a clear explanation of why it has made that determination.”

RCW 19.85.040(2) “A small business economic impact statement must also include: (a) A statement of the steps taken by the agency to reduce the costs of the rule on small businesses...”

The purpose of the SBEIS is to determine whether and to what degree a proposed rule imposes disproportionate costs on small businesses versus large businesses. As has been described, the fish-buying industry for Dungeness crab and shrimp is diverse and ranges from businesses with substantial handling and processing facilities, office buildings, and multiple employees to mobile operations that utilize little more than a truck, a phone, and a few employees. In considering the transition from paper fish tickets to an electronic fish ticket system, the WDFW recognized the need for an electronic platform that would be compatible with the mobile fish-buying business model. The electronic system provided by the Pacific States Marine Fisheries Commission in current use is not designed specifically for mobile functionality, and it is more easily used with a computer and printer. Thus, the WDFW has separately pursued development of an electronic fish ticket submission system “WA-tix”, in part, to make mobile reporting easier. The WA-tix system will be available for both Android and Apple platforms. These mobile applications would negate the need for a computer and printer.

As with paper fish tickets, the software and applications for the electronic fish ticket system are provided at no cost to fish-buying businesses. This analysis assumes mobile fish-buying businesses already possess mobile phones in order to operate, thus the costs to implement WA-tix are limited to the labor costs associated with downloading and installing the application, time spent learning to use it, and the internet/data plan costs. To mitigate the labor cost associated with installing and use of WA-tix, the WDFW will provide training and ongoing technical support to fish-buying businesses.

The WDFW currently provides support to businesses on matters related to fish tickets. The WDFW Harvest Data Team is responsible for managing the WDFW’s fish ticket programs. The Harvest Data Team provides informational emails and written user manuals to new dealers, in addition to offering in-person training, and Harvest Data Team staff are available on an ongoing basis for assistance. The WDFW also anticipates support to be delivered through existing working relationships between dealers and biologists and scientific technicians that are responsible for fishery management and monitoring. Access to this support should mitigate labor costs both as businesses transition to electronic tickets and require training, and for ongoing operational needs (e.g., technical difficulties with the application or portal, questions about proper codes to use, or correcting data entry errors).

The WDFW cannot reduce or mitigate the printer or internet/data costs that are necessary to use an electronic fish ticket system for fish-buying businesses. Acquiring a printer and its usage, or access to the internet or a data plan or upgrading to a larger data plan could represent new, recurring costs for some fish-buying businesses. However, the analysis conducted for this SBEIS indicates that impacts to comply with the proposed rule are negligible, i.e., approximately \$0.01 to \$0.13 per \$100 of sales.

Section 7 Involving stakeholders in rule development

RCW 19.85.040(2) “A small business economic impact statement must also include:... (b) A description of how the agency will involve small businesses in the development of the rule.”

RCW 19.85.040(3) “To obtain information for purposes of this section, an agency may survey a representative sample of affected businesses or trade associations and should, whenever possible, appoint a committee under RCW 34.05.310(2) to assist in the accurate assessment of the costs of a proposed rule, and the means to reduce the costs imposed on small business.”

The proposed rule implements changes affecting businesses that purchase Dungeness crab and shrimp species statewide. However, the fisheries harvesting these species are licensed and managed separately by region. And, while the fisheries share common characteristics there are differences among them due to region (coast versus Puget Sound), species, port or point of landing (i.e., where the transaction between fisher and dealer occurs), and size of business (both fisher and dealer). The timing and nature of stakeholder involvement in rule development reflects the diversity of these fisheries.

The WDFW has been contemplating the transition from paper to electronic reporting for nearly a decade as technological infrastructure improvements and expansion made such systems increasingly feasible for fish-buying businesses located outside metropolitan areas. This transition was initiated by a mandatory federal electronic fish ticket “E-Tix” program in 2011 for businesses participating in particular coastal fisheries for groundfish (sablefish, soles, flounders, rockfish). As a partner in groundfish fishery management, WDFW staff were actively engaged in the implementation of the E-Tix system and have used the lessons learned to inform rule making considerations.

Once the E-Tix system became routine, and because many groundfish fish-buying businesses also purchase Dungeness crab and ocean pink shrimp from state managed coastal fisheries, WDFW staff speculated that these businesses might welcome the opportunity to switch from paper tickets for these fisheries as well. This led to the development of the voluntary fish ticket program in 2018 as described in the introduction. These groundfish fish-buying businesses operate larger facilities at coastal ports and often have employees dedicated to processing fish tickets, so the expansion of E-Tix to other fisheries is expected to be fairly seamless.

The gradual, stepwise approach has afforded ample opportunity over the intervening years to seek feedback from stakeholders. For example, the potential switch to an electronic fish ticket system has been a topic of discussion at numerous coastal Dungeness crab advisory board meetings and public meetings open to coastal Dungeness license holders and fish dealers. Through these meetings, advisors, fishery participants, and others involved in the fishery, including fish dealers, have been able to share industry members’ concerns, and describe the practical constraints involved in the transition to electronic fish tickets and the different requirements of the various fish-buying businesses. In particular, advisors and fishers pointed out that small “truck buyers” needed a phone or tablet application because they lacked facilities beyond a truck at buying locations. The lack of internet service or the poor quality of service in many coastal communities and outlying areas was raised as a significant barrier. The WDFW has used this feedback to guide considerations for the process and timeline to transition to mandatory electronic fish tickets for state managed fisheries.

Stakeholder input has also been sought from dealers that purchase ocean pink shrimp from the coastal fishery. Each year, any business that purchases ocean pink shrimp from the coastal fishery is among the recipients that receive a newsletter, the [“Pink Shrimp Fishery Newsletter.”](#) The newsletter has solicited input from businesses and apprised them on intentions to transition to a mandatory electronic program beginning in 2018. Although the report focuses on the coastal ocean pink shrimp fishery, businesses that receive it typically purchase a variety of fish and shellfish, including Dungeness crab and spot shrimp.

The stakeholder input from participants in coastal fisheries for Dungeness crab and shrimp pointed to the need for an electronic fish ticket system that would support mobile fish-buying businesses. Through meetings and informal interactions, fish-buying businesses based out of Puget Sound expressed concerns that indicated that the need for a mobile phone fish ticket application was particularly significant for dealers. In contrast to the coast, the majority of dealers purchasing Dungeness crab and/or shrimp species in Puget Sound are smaller, mobile operations.

Finally, as part of this rulemaking, the WDFW will be seeking delayed implementation of E-Tix, in part to provide time for WDFW staff to conduct additional outreach to solicit input from affected stakeholders.

Section 8 Number of jobs created or lost

RCW 19.85.040(2) "A small business economic impact statement must also include:... (d) An estimate of the number of jobs that will be created or lost as the result of compliance with the proposed rule."

Job gains or losses are not anticipated as a result of this rule because only the manner or method of reporting fish/shellfish purchases is changing. Rather, to comply with this rule, businesses will need to shift staff resources from processing paper tickets to processing electronic tickets.

Section 9 Summarize results of small business analysis

In sum, the proposed rulemaking may impose more-than-minor costs on businesses in the state of Washington. Furthermore, the costs associated with compliance with the proposed rulemaking may disproportionately impact small businesses. However, the value of costs to comply with the proposed rulemaking are still expected to be negligible for the vast majority of potentially impacted businesses, regardless of size.

The Department has provided significant opportunities for stakeholder input during the development of the proposed rulemaking in recent years. As a result of this stakeholder input, the Department has developed a mobile application to mitigate the potential impacts to small businesses by providing a more accessible, low-cost platform from which to comply with the proposed rule.

Job gains or losses are not anticipated as a result of this proposed rule, and businesses are not expected to lose access to revenue as a result of the proposed rule. While some may choose not to purchase fish products covered under the proposed rulemaking if electronic submission of fish tickets is required, other fish and fish products will remain available for purchase from harvesters using paper tickets.

Section 10 Report Preparation

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Appendix B Impact Analysis Methodology

Overall revenues of fish-buying businesses should be used to determine the impact of the rule making. However, the department does not have direct information on revenues earned by fish and shellfish buying and processing companies. Fish tickets record ex-vessel revenues (the amounts fish buyers pay to fishers for their catch), and license ID numbers of both dealers and harvesters. This information, combined with other data sources described in the analyses below, represents the best available to managers for all the fisheries included in this rulemaking, so it has been used as described for the purposes of compliance with RCW 19.85.

To analyze potential cost impacts of the proposed rule-making to fish-buying businesses, WDFW staff utilized available data collected from fish receiving tickets (defined in [WAC 220-352-010](#)) submitted to the Department between January 1, 2014 and December 31, 2019. Fish receiving tickets submitted to the Department in paper form are manually entered into the Washington Fish Ticket (WAFT) database, while fish receiving tickets submitted electronically are entered into WAFT automatically.

First, this analysis sought to identify fish-buying businesses that could potentially be impacted by this proposed rulemaking. To do this, WDFW staff queried WAFT for a list of Wholesale Dealer License numbers that were listed on fish receiving tickets submitted (2014-2019) for the sale of Dungeness crab, side stripe shrimp, coon stripe shrimp, pink shrimp (including ocean pink shrimp), spot shrimp, and a small amount of “shrimp-general.”

Next, this analysis sought to estimate the annual revenue of potentially impacted fish-buying businesses. To do this, WDFW staff then used the list of identified businesses to query WAFT for all fish receiving tickets submitted (2014-2019) by these dealers (including fish receiving tickets associated with the purchase of other fish species and products). Each of these fish receiving tickets includes the ex-vessel value of fish and fish products involved in the sale, in the form of poundage landed multiplied by the price per pound. However, ex-vessel value calculated from fish receiving tickets does not represent fish-buying business *revenue*, but rather *cost*. To estimate annual revenue of potentially impacted fish-buying businesses, a markup was applied representing the estimated value added by fish-buying businesses as a function of the ex-vessel value these businesses originally purchased the fish for. Markups by year and species group applied in this analysis were provided by Jerry Leonard (personal communication) and are based on data collected as part of NOAA Fisheries Northwest Fisheries Science Center’s Economic Data Collection (EDC) program (see Table B1).

The data suggests that the ratio of fish purchase costs to revenues earned is highly variable between processors/dealers. The EDC program only collects information from dealers involved in the groundfish IFQ fishery. Dealers who do not buy any IFQ groundfish, which includes the business affected here, are not covered. However, fish-buying businesses that are covered by the program do report economic information for all species purchased, e.g., Dungeness crab, shrimp spp. Buyers who receive but do not process fish or shellfish are also not covered. These businesses may receive less of a markup when selling. The department recognizes the uncertainty in the data but believes it provides a helpful means of gauging the potential size of new costs relative to revenues.

Table B1. Data courtesy of Jerry Leonard, NOAA, personal communication. May 25, 2021.

Species Group	2014	2015	2016	2017	2018	2019
<i>Whiting</i>	2.76	3.42	3.49	3.46	3.74	3.49
<i>Sablefish</i>	1.3	1.36	1.36	1.28	1.44	1.49
<i>Dover/thornyhead</i>	2.01	1.97	1.8	1.7	2.73	2.63
<i>Other groundfish</i>	1.6	1.72	1.69	1.83	2.14	1.79
<i>Crab</i>	1.34	1.44	1.4	1.41	1.51	1.45
<i>Shrimp</i>	1.99	1.87	1.87	2.37	2.1	2.36
<i>Salmon</i>	1.38	1.33	1.45	1.25	1.4	1.93
<i>Highly Migratory Species (HMS)</i>	1.15	1.56	1.38	1.21	1.41	1.67
<i>Coastal Pelagic Species (CPS)</i>	2.97	1.68	3	1.2	2	2.04
<i>Halibut</i>	1.17	1.12	1.13	1.15	1.07	1.14

To apply these markups, WDFW staff sorted fish species categories found in WAFT into the Species Groups depicted in Table 1, with all fish species and products not fitting into one of these being assigned to an “Other fish & products” category (see Table B2 below).

Table B2. WDFW 2021. Species and Species Group Assignments.

Species Group	Species Category in WAFT
Whiting	Pacific whiting
Sablefish	Sablefish
Dover/Thornyhead	Sole dover, long spine thornyhead, short spine thornyhead
Other groundfish	Arrowtooth flounder, big skate, darkblotched rockfish, lingcod, longnose skate, miscellaneous marine fish, near-shore rockfish, pacific ocean perch, pacific cod, perch-general, ratfish, rockfish, rockfish (black), rockfish (canary, red), rockfish (shortbelly), rockfish (widow)(brown), rockfish (yelloweye), rockfish (yellowtail)(green), rogeye/blackspotted rockfish, sand dabs, shelf rockfish, shortraker rockfish, skate, slope rockfish, sole butter, sole c-o, sole English, sole petrale, sole rex, sole rock, sole sand, sole-general, spiny dogfish, soupfin shark, starry flounder, striped seaperch, walleye pollock, white perch, white sea bass, yellow perch
Crab	Dungeness crab, king crab, rock crab, tanner crab
Shrimp	Shrimp-general, coon stripe shrimp, spot shrimp, side stripe shrimp, pink shrimp, sand or ghost shrimp
Salmon	Chinook, chum, pink, coho, sockeye

HMS	Albacore tuna, bluefin tuna, yellowfin tuna, skipjack tuna, swordfish, bonita, blue shark, thresher shark
CPS	Jack mackerel, pacific mackerel, mackerel, herring (bait), anchovy, sardines, herring, squid
Halibut	Pacific halibut
Other fish & products	[all others]

The “Other fish & products” category was assigned a markup value of 1.5 for all years as a conservative estimate. Federal EDC data was not available for this wide range of fish species and products that includes species caught in inland waters as well as coastal waters inshore of 3 miles (but not subject to federal fishery data collection). A raw average of all the most recent available (2019) markup values for the Species Groups identified in Table 1 were taken to yield 1.99. Markup values between zero and one represent a cost of fish that outweighs potential revenue the fish-buying business could gain from purchasing that fish, so were deemed unlikely/unusual. However, on the other end of the spectrum, a markup value of 1.99 may not well represent this “Other fish & products” category either because some federally managed species and Species Groups may generally fetch a higher value at secondary or tertiary points of sale. Therefore, in the absence of more refined data, and to capture the potentially wide range in values represented in the “Other fish & products” category, a conservative markup estimate of 1.5 was applied.

Then, the data was aggregated to produce the total estimated annual revenue of each potentially impacted fish-buying business.

Once this data was compiled, WDFW staff sought to use it to identify, pursuant to RCW 19.85, the “ten percent of businesses that are the largest businesses required to comply with the proposed rules” as well as small businesses (as defined in [RCW 19.85.020](#)) required to comply with the proposed rules.

Attempts to cross-reference the WDFW-compiled list of potentially impacted fish-buying businesses, by names listed on dealer licenses, with databases in the [Regulatory Fairness Act Data and Business Information Sources](#) resource provided by ORIA to identify the largest businesses (by number of employees) required to comply with the proposed rule did not yield meaningful or consistent results. This was due in part to the lack of consistency between databases regarding the number of employees estimated for each business represented in multiple databases. Moreover, the vast majority of dealers on the WDFW-compiled list are assumed to be small businesses, many of which are in fact individuals or enterprises consisting of fewer than 10 employees, and most of these were not found in the data sources provided by ORIA. However, the poundage of fish and fish products associated with each delivery is required to be reported on each fish receiving ticket. In lieu of data on the number of employees in each potentially-impacted fish-buying business, WDFW staff assumed, generally, that the more fish and/or fish products were purchased by a fish-buying business, the more employees would be required to handle and/or process the resource. Thus, the ten percent of businesses that are the largest businesses required to comply with the proposed rule were identified for the analysis below using total pounds purchased over the six-year period (2014-2019) rather than number of employees.

Comparing the cost of compliance (per employee, per hour of labor, or per one hundred dollars of sales, pursuant to [RCW 19.85.040\(1\)](#)) for businesses in these two groups forms the basis for determining whether the proposed rule may disproportionately impact small businesses in the state of Washington. Due to difficulties associated with estimating number of employees in each potentially-impacted business and the availability of estimated revenue data (calculated as described above), this analysis compares the average estimated cost of compliance per one hundred dollars of sales between the following: 1) the largest ten percent of businesses (by pounds purchased) required to comply with the rule, and 2) the rest

of the fish-buying businesses identified as potentially impacted by the proposed rule. Some businesses were omitted from this analysis due to a lack of reporting on ex-vessel value, and some others were omitted because they no longer exist or are no longer independent entities, so they would not be expected to be impacted by the proposed rulemaking.

Table B3. WDFW 2021. Cost of compliance comparison, summarized.

Metric	Largest 10% of Businesses	Small Businesses (90%)
Est. Number of Businesses	29	289
Avg. Annual Revenue (lower bound)	\$921,929.48	<\$500.00
Estimated Avg. Annual Revenue	\$7,137,963.92	\$386,330.49
Avg. Annual Revenue (upper bound)	\$31,691,284.58	\$9,329,238.07
Est. Cost of Compliance	\$500-1,000	\$500-1,000
Est. Annual Cost of Compliance	\$300-500	\$300-500
Est. Total Revenue (sales, 2014 thru 2019) - averaged across businesses	\$38,389,421.01	\$1,126,755.10
"Investment" cost of compliance per \$100 sales	<\$0.01	\$0.04 - \$0.09
Recurring annual cost of compliance per \$100 sales	<\$0.01	\$0.08 - \$0.13