



EXPEDITED RULE MAKING

CR-105 (December 2017) (Implements RCW 34.05.353)

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STATE OF WASHINGTON
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WSR 19-10-072

Agency: Washington Department of Fish and Wildlife (WDFW)

Title of rule and other identifying information: (describe subject)

WAC 220-314-020 Possession limits - Bottomfish
WAC 220-314-030 Halibut – Seasons – Daily and possession limits
WAC 220-314-040 Lingcod – Areas and Seasons
WAC 220-220-150 Oregon license reciprocity

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of this rule proposal is to amend rules affecting the coastal recreational bottomfish and halibut fisheries so that they are consistent with regulations adopted by the Pacific Fishery Management Council. These changes are consistent with actions taken by the Pacific Fishery Management Council (PFMC), which includes an extensive stakeholder process.

Reasons supporting proposal: This rule change conforms state regulations to regulations recently adopted by the Pacific Fisheries Management Council and implemented into federal regulation by the National Marine Fisheries Service. Stakeholder input from Washington recreational anglers was considered during the PFMC public hearing process and meetings sponsored by WDFW. By rule, here are the main reasons supporting individual rule amendments:

WAC 220-314-020 Possession limits – Bottomfish

Three changes would revise sub-limits and for bottomfish that are part of the aggregate daily bottomfish bag limit and remove the minimum size limit for cabezon.

Canary rockfish: Remove the canary rockfish sublimit

The west coast canary rockfish population has rebuilt sufficiently to allow the retention of canary rockfish as part of the daily aggregate bottomfish limit. In recent years, WDFW has revised restrictions on canary rockfish retention in a conservative manner after being a prohibited species in recreational fisheries for many years. In 2017, retention of up to two canary rockfish was allowed in some areas of the coast with retention expanded to two canary rockfish in all marine areas in 2018. The federal harvest quota for canary rockfish in Washington recreational fisheries is 47.1 mt in 2019 and 44.3 mt in 2020, well below the 2018 catch of 4.6 mt. Removing the canary rockfish sublimit will give anglers additional opportunity to target and retain canary rockfish without risk of exceeding federal harvest quota.

Cabezon: Reduce the cabezon sublimit to 1 in all coastal marine areas and remove the 18-inch size limit in Marine Area 4

Currently the cabezon sublimit is two fish per day in Marine Areas 1 – 3 and one fish per day in Marine Area 4. This rule change would revise the cabezon sublimit so that it is one fish per day in all marine areas, which streamline regulations in coastal marine areas and simplifies rules for recreational anglers.

There is currently an 18-inch minimum size limit for cabezon in Marine Area 4. Removing the size limit will allow anglers to keep the first cabezon they catch regardless of size and could reduce the amount of discarded fish. Similar to the change to the sublimit, removing the minimum size limit in Marine Area 4 will align with regulations in coastal Marine Areas 1-3 and simplify regulations for recreational anglers.

Flatfish: allow 3 flatfish in addition to the 9 daily bottomfish limit

This rule change is necessary to clarify current regulations so that it is clear that anglers can keep 3 flatfish (except Pacific halibut) per day that do not count toward their nine bottomfish daily aggregate limit but, that are in addition to it. The proposed rule change language better aligns with what is described in federal regulations.

WAC 220-314-030 Halibut – Seasons – Daily and possession limits

Regulation changes are necessary to revise depth restrictions in Marine Area 2 through 4. Depth restrictions are in place to reduce encounters with rebuilding yelloweye rockfish. The most recent stock assessment showed that yelloweye rockfish are

rebuilding at faster pace than previously thought. As a result, federal harvest quotas for yelloweye rockfish in Washington are significantly higher for 2019 and 2020 compared to recent years. Increased yelloweye rockfish harvest quotas allow some relaxation of depth restrictions and provide access to healthy lingcod resources that are commonly associated with yelloweye rockfish for recreational anglers.

Marine Area 3 and 4: Revise regulations relative to the 20 fathom depth restriction

Currently anglers are restricted from fishing for, or retaining, bottomfish seaward of 20-fathoms from May 9 through Labor Day in Marine Areas 3 and 4. This rule change would revise the depth restriction so that is in place from June 1 through Labor Day. In addition, the proposed rule changes would allow anglers to keep yellowtail and widow rockfish seaward of the 20-fathom depth restriction in the months of July and August on days open to the recreational salmon fishery. This change provides additional fishing opportunity for Washington recreational anglers to harvest healthy rockfish populations in a way that does not risk exceeding federal harvest quotas for rebuilding stocks like yelloweye rockfish.

Marine Area 2: Revise regulations relative to the 30 fathom depth restriction

Current regulations prohibit bottomfish retention seaward of 30 fathoms from March 15 through June 15; this rule change would revise the dates that the 30-fathom depth restriction is in place from the second Saturday in March through May 31. In addition, proposed rule changes would clarify that the 30-fathom depth restriction would be specific to lingcod rather than all bottomfish. These changes provide additional opportunity for recreational anglers to target lingcod in deep-water areas and streamline the regulations by implementing the start of the 30-fathom depth restriction so it is the same as the opening day of the recreational bottomfish and lingcod season.

WAC 220-314-040 Lingcod – Areas and Seasons

This rule change would open the lingcod season in Marine Area 4, west of the Bonilla-Tatoosh line from the second Saturday in March through the third Saturday in October. This aligns the opening of the lingcod season in this area with the opening of the recreational bottomfish and lingcod season in the other coastal management areas (Marine Areas 1-3). This change streamlines regulations in coastal marine areas and provides additional fishing opportunity for Washington recreational anglers to target lingcod approximately one month earlier than the current season opening in April.

Proposed rule changes would allow lingcod retention when halibut is onboard a vessel in Marine Area 1 north of the Washington border on all days open to the recreational halibut fishery, rather than just during the month of May as described in the current rule.

In Marine Area 2, current regulations prohibit lingcod retention in a deepwater closed area (with some exceptions). This rule change would allow lingcod retention in this deepwater area from June 1 through June 15 and from September 1 through September 15. Other revisions to the current rule language would provide regulatory clarity by describing that the deepwater lingcod closures in Marine Areas 1 and 2 are in effect when lingcod is open, rather than year round.

WAC 220-220-150 Oregon license reciprocity

In 2018, changes to WAC 220-314-030 were implemented to reflect a new four fish annual limit for the recreational halibut fishery approved through the Pacific Fishery Management Council. The proposed change to WAC 220-220-150 expands the current rule language to include annual limits and improves the clarity and intent of the rule.

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

Statute being implemented: RCW 77.04.020, 77.12.045, and 77.12.047

Is rule necessary because of a:

Federal Law?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION: CFR Title 50, Part 660

Name of proponent: (person or organization) WDFW

Private
 Public
 Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting: Heather Hall	1111 Washington St. SE, Olympia, WA	(360) 902-2487

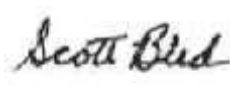
Implementation:	Heather Hall	1111 Washington St. SE, Olympia, WA	(360) 902-2487
Enforcement:	Steve Bear, Police Chief	1111 Washington St. SE, Olympia, WA	360 902-3463
Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None			
Expedited Adoption - Which of the following criteria was used by the agency to file this notice:			
<input type="checkbox"/> Relates only to internal governmental operations that are not subject to violation by a person; <input checked="" type="checkbox"/> Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; <input type="checkbox"/> Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect; <input type="checkbox"/> Content is explicitly and specifically dictated by statute; <input checked="" type="checkbox"/> Have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or <input type="checkbox"/> Is being amended after a review under RCW 34.05.328.			
Expedited Repeal - Which of the following criteria was used by the agency to file notice:			
<input type="checkbox"/> The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule; <input type="checkbox"/> The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute; <input type="checkbox"/> The rule is no longer necessary because of changed circumstances; or <input type="checkbox"/> Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.			
Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4): These changes are consistent with actions taken by the Pacific Fishery Management Council (PFMC), which includes an extensive stakeholder process. Through the Delegation of Authority provided by the Fish and Wildlife Commission to the Director, WDFW regulatory changes for consistency with PFMC actions may be approved by the Director via expedited rulemaking			

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO

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AND RECEIVED BY (date) July 2, 2019

Date: April 30, 2019	Signature: 
Name: Scott Bird	
Title: Rules Coordinator	

WAC 220-220-150 Oregon license reciprocity. (1) A person may, from a vessel or other floating device, fish for game fish, food fish, unclassified fish, and shellfish, unless otherwise prohibited, from Pacific Ocean waters within three miles of the Washington coast from Leadbetter Point to the Washington-Oregon boundary, and from the concurrent waters of the Columbia River where the river forms the boundary between Oregon and Washington if the person possesses a valid Oregon resident angling license or a valid Oregon resident shellfish license, but only if Oregon recognizes as valid a comparable Washington personal use license in Pacific Ocean waters within three miles of the Oregon coast from the Oregon-Washington boundary to Cape Falcon and the concurrent waters of the Columbia River.

(2) This reciprocity applies only to fishing from a vessel or other floating device. Fishing from the Washington shore requires a Washington personal use license.

(3) This reciprocity applies only to Oregon residents, and residents of other states must possess either a valid Washington license or a valid Oregon license to take game fish, food fish, unclassified fish, and shellfish from the waters of the respective states.

(4) Any game fish, food fish, unclassified fish, or shellfish landed into Washington must conform with current rules in effect for the point of landing including, but not limited to, daily limits, possession limits, annual limits, size restrictions, and sex restrictions.

WAC 220-314-020 Possession limits—Bottomfish. It is unlawful for any person to fish for or take bottomfish for personal use except within the seasons, daily quantities and possession limits prescribed as follows:

(1) Coastal areas (Catch Record Card Areas 1 through 3 and 4 west of the Bonilla-Tatoosh line):

(a) Bottomfish fishing is open the second Saturday in March through the third Saturday in October, except fishing for surfperch from the shore is allowed year-round.

(b) Limit of surfperch (~~and flatfish~~) is 12 per person per day. For all other bottomfish, limit is 9 fish total per person per day, which may include no more than:

(i) Lingcod: 2 fish, no minimum length.

(ii) Rockfish: 7 fish in aggregate (~~which can include up to two canary rockfish in Catch Record Card Areas 1 through 4~~). The possession limit for yelloweye rockfish is 0.

(iii) Wolf-eel: 0 fish from Catch Record Card Area 4.

(iv) Cabezon: Marine Areas 1 through (~~3: 2 fish. Marine Area 4: 1 fish; the minimum size limit is 18 inches~~) 4: 1 fish, no minimum size.

(c) Additional flatfish: In addition to the bottomfish limit in (b) of this subsection, anglers may take 3 flatfish per person, per day, not to be counted towards the bottomfish limit but in addition to it.

(2) Inner Puget Sound (Catch Record Card Areas 4 east of the Bonilla-Tatoosh line, and 5 through 13):

(a) Catch Record Card Area 4 east of the Bonilla-Tatoosh line: Limit 10 fish total, which may include no more than:

(i) Lingcod: 2 fish, minimum length of 22 inches.

(ii) Rockfish: 6 fish. Only black or blue rockfish may be retained.

(iii) Wolf-eel: 0 fish.

(iv) Cabezon: 1 fish; the minimum size limit is 18 inches.

(b) Catch Record Card Areas 5 and 6: 15 fish total for all species and species groups of bottomfish, which may include no more than:

Rockfish in Marine Area 5 except	1 fish May 1 through September 30. Only black or blue rockfish may be retained.
in Marine Area 5 west of Slip Point	3 fish. Only black or blue rockfish may be retained.
in Marine Area 6.	0 fish
Surfperch	10 fish
Pacific cod	2 fish
Pollock	2 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	0 fish
Cabezon	1 fish
Pacific hake	2 fish

(c) Catch Record Card Area 7: 15 fish total for all species of bottomfish, which may include no more than:

Rockfish	0 fish
Surfperch	10 fish
Pacific cod	2 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	0 fish
Cabezon	1 fish
Pollock	2 fish
Pacific hake	2 fish

(d) Catch Record Card Areas 8-1 through 11 and 13: 15 fish total for all species and species groups of bottomfish, which may include no more than:

Rockfish	0 fish
Surfperch	10 fish
Pacific cod	0 fish
Pollock	0 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	0 fish
Cabezon	1 fish
Pacific hake	0 fish

(e) Catch Record Card Area 12: 15 fish total for all species and species groups of bottomfish, which may include no more than:

Rockfish	0 fish
Surfperch	0 fish
Pacific cod	0 fish
Pollock	0 fish
Flatfish (except halibut)	15 fish
Lingcod	0 fish
Wolf-eel	0 fish
Cabezon	0 fish
Pacific hake	0 fish

(f) The possession limit for lingcod taken by angling gear is 26 to 36 inches in length. For spear fishing, lingcod may not be possessed that exceed 36 inches in length.

(g) In Marine Areas 5 through 11 and 13, the minimum size limit for cabezon is 18 inches. All cabezon must be released in Catch Record Card Areas 5 through 11 and 13 from December 1 through April 30.

(h) In Catch Record Card Area 5, the daily limit for rockfish is the first legal rockfish caught, except that west of Slip Point, the daily limit for rockfish is the first three legal rockfish caught. Only black or blue rockfish may be retained. After the daily limit of rockfish is caught, all subsequent rockfish must be released.

(i) In Catch Record Card Area 5, it is unlawful to take rockfish by spear fishing except when this area is open to spear fishing for lingcod.

(3) The possession limit at any time may not exceed the equivalent of two daily limits in fresh, frozen or processed form.

(4) Unless otherwise provided, bottomfish fishing is open the entire year.

(5) Daily limits include bottomfish caught in adjacent areas bordering other states, such as Oregon.

(6) It is unlawful to fish for, retain, or possess sixgill, sevengill, or thresher sharks.

AMENDATORY SECTION (Amending WSR 18-23-070, filed 11/16/18, effective 12/17/18)

WAC 220-314-030 Halibut—Seasons—Daily and possession limits.

(1) It is unlawful to fish for or possess halibut taken for personal use except from the areas or in excess of the amounts provided for in this section:

(a) Catch Record Card Area 1: Closed except as provided by emergency rule. By-catch restriction: It is unlawful during any vessel trip to bring into port or land bottomfish, except flatfish, sablefish (~~and~~), Pacific cod, and lingcod north of the Washington-Oregon border if the vessel has brought halibut into port or landed halibut.

(b) Catch Record Card Area 2:

(i) The northern near shore fishery takes place in those waters from 47°31.70'N. lat. south to 46°58.00'N. lat. and east of a boundary line approximating the 30 fathom depth contour as defined by the following coordinates:

47°31.70'N. lat., 124°37.03'W. long.

47°25.67'N. lat., 124°34.79'W. long.

47°12.82'N. lat., 124°29.12'W. long.

46°58.00'N. lat., 124°24.24'W. long.

Closed except as provided by emergency rule.

(ii) All other waters in Area 2 - Closed except as provided by emergency rule.

(iii) From the second Saturday in March (~~(15)~~) through (~~June 15~~) May 31, it is unlawful to fish for or possess (~~bottomfish, except rockfish~~) lingcod, seaward of line approximating the 30-fathom depth contour as defined by the coordinates below. However, a person may fish for and retain (~~sablefish and Pacific cod from May 1 through June 15 and retain~~) lingcod on days open during the primary halibut season as described in (b)(ii) of this subsection, seaward of a line approximating the 30-fathom depth contour as defined by the coordinates below:

47°31.70'N. lat., 124°37.03'W. long.

47°25.67'N. lat., 124°34.79'W. long.

47°12.82'N. lat., 124°29.12'W. long.

46°52.94'N. lat., 124°22.58'W. long.

46°44.18'N. lat., 124°18.00'W. long.

46°38.17'N. lat., 124°15.88'W. long.

(c) Catch Record Card Areas 3 and 4 west of Bonilla-Tatoosh line - Closed except as provided by emergency rule. The following area southwest of Cape Flattery is closed to halibut fishing at all times:

Those waters within an eastward-facing C-shaped closed area defined as: Beginning at 48°18'N. lat., 125°18'W. long.; thence to 48°18'N. lat., 124°59'W. long.; thence to 48°11'N. lat., 124°59'W. long.; thence to 48°11'N. lat., 125°11'W. long.; thence to 48°04'N. lat., 125°11'W. long.; thence to 48°04'N. lat., 124°59'W. long.; thence to 48°00'N. lat., 124°59'W. long.; thence to 48°00'N. lat., 125°18'W. long.; thence to the point of origin.

It is unlawful to fish for or possess bottomfish seaward of a line approximating the 20-fathom depth contour as defined by the following coordinates, from (~~May~~) June 1 through Labor Day except, on days and times open to halibut fishing (~~when only~~), it is permissible to retain lingcod, sablefish, and Pacific cod (can be retained). The retention of yellowtail rockfish and widow rockfish is permitted seaward of the line approximating 20 fathoms on days open to the recreational salmon fishery during the months of July and August:

48°23.9'N. lat., 124°44.2'W. long.
48°23.6'N. lat., 124°44.9'W. long.
48°18.6'N. lat., 124°43.6'W. long.
48°18.6'N. lat., 124°48.2'W. long.
48°10.0'N. lat., 124°48.8'W. long.
48°02.4'N. lat., 124°49.3'W. long.
47°37.6'N. lat., 124°34.3'W. long.
47°31.7'N. lat., 124°32.4'W. long.

(d) Catch Record Card Area 4 east of the Bonilla-Tatoosh line, closed except as provided by emergency rule. It is unlawful to fish for or possess bottomfish seaward of a line approximating 120 feet except, on days open to the Pacific halibut fishery in this area, it is permissible to retain lingcod, and Pacific cod seaward of 120 feet as defined by WAC 220-314-010.

(e) Catch Record Card Areas 5 through 13 - On days that the halibut fishery is open, it is lawful to fish for, retain, and possess lingcod and Pacific cod seaward of 120 feet in Catch Record Card Area (~~s 5 and 6~~) 5. Closed except as provided by emergency rule.

(2) Daily limit is one halibut taken from state or offshore waters. This does not include Canadian waters; see WAC 220-310-210 for limits on Canadian-origin halibut.

(3) The possession limit is two daily limits of halibut in any form, except the possession limit aboard the fishing vessel is one daily limit. See WAC 220-310-210 for rules on Canadian-origin halibut possession.

(4) The annual limit is four halibut taken from state or offshore waters. This does not include Canadian waters; see WAC 220-310-210 for limits on Canadian-origin halibut.

(5) It is unlawful to fish for, retain, possess, or land halibut into a port located within an area that is closed to halibut fishing. This does not include halibut caught in Canadian waters. See WAC 220-310-210 for rules on Canadian-origin halibut possession.

(6) A violation of this section is punishable under RCW 77.15.370 or 77.15.380, depending on the violation.

WAC 220-314-040 Lingcod—Areas and seasons. It is unlawful to take, fish for, or possess lingcod for personal use except during the following seasons and areas:

(1) Coastal area:

(a) Catch Record Card Areas 1 through 3 and 4 west of the Bonilla-Tatoosh line: From the second Saturday in March, through the third Saturday in October; and

(b) Catch Record Card Area 4 east (~~and west~~) of the Bonilla-Tatoosh line: April 16 through October 15.

(c) It is unlawful to fish for, retain, or possess lingcod in Catch Record Card Area 1 seaward of a line extending from 46°38.17'N. lat., 124°21.00'W. long. to 46°33.00'N. lat., 124°21.00'W. long. (~~year-round~~) when lingcod is open.

(d) It is unlawful to fish for, retain, or possess lingcod in Catch Record Card Area 2 seaward of a line extending from 47°31.70'N. lat., 124°45.00'W. long. south to 46°38.17'N. lat., 124°30.00'W. long. (~~year-round~~) when lingcod is open, except that lingcod may be taken, retained and possessed seaward of the line on days open during the primary halibut season and from June 1 through June 15 and September 1 through September 15.

(2) Catch Record Card Areas 5 through 13: May 1 through June 15 by angling, and May 21 through June 15 by spear fishing.