

2017-2018 Sportfishing Regulation Proposals

Concise Explanatory Statement



December 14, 2016

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SPORTFISHING RULE CHANGE PROPOSALS

In April 2014 the Commission approved a three year rotating rule cycle where staff and public propose conservation and significant recreation rules that pertain to waters within the Columbia Basin the first year (2014), freshwaters of the Puget Sound and Coastal regions the second year (2015), and marine finfish, forage fish, and shellfish the third year (2016).

Department staff and public were asked to submit rule change proposals for marine finfish, forage fish, and shellfish from mid-March through the end of April for rules that would be effective starting July 2017. Of the 66 proposals submitted, 11 were moved forward for additional review.

Proposals were posted online from August through the end of October to receive written public comment. Public meetings were held in Mill Creek (Aug 29th), Port Townsend (Aug 30th) and Olympia (Aug 31st). A public hearing was held at the November 5 commission meeting. Final motion to adopt was made at the December 9th commission meeting held in Olympia.

Timeline for 2017-2018 Sport Rule Adoption Process	
March 15 through April 30	Solicit proposals online for marine waters through an online process.
April 30	Deadline for submitting proposals.
May-June	Agency review of proposals.
Early August through September	Proposals placed on website for public comment.
August through September	Regional meetings with public to discuss proposals.
End of October	Deadline for the public to submit written comments on proposed sport rule changes.
November 4-5	Washington State Fish and Wildlife Commission meeting: Public testimony will be received for sport proposals.
December 9-10	Washington State Fish and Wildlife Commission takes action on sport rule proposals.
July 1, 2017	Rules take effect.

1. Technical changes

Type of Rule Change Proposal

Conservation

Short Description

Corrects Washington Administrative Code language to reflect rule adoptions made by the Commission (technical changes). Formats the language in a clear structure, removes redundant language, etc.

Explanation

This proposal is a technical fix to provide clearer language reflective of Commission intent, and to streamline the information by reducing redundant presentation of the language in multiple WACs. See Table

Number	Issue	Details
1	Disposition of oyster shells.	Remove redundant language: Language requiring the need to shuck oysters and return shells to the beach can currently be found in two shellfish WACs (220-56-310 and 220-56-385). Proposal removes reference to the need to shuck oysters in WAC 220-56-310.
2	Daily shellfish limits.	Fold language from WAC 220-56-312 into WAC 220-56-310. Shellfish possession and daily limits are found in these two separate WACs; combining them streamlines the information.
3	Consolidating season descriptions.	Combine WACs 220-56-405, 220-56-410, 220-56-400, 220-56-336, 220-56-415 into WAC 220-56-336. Currently abalone, crayfish, sea urchins, sea cucumbers, and goose barnacles each have their own WAC describing seasons; combining this information into a single WAC reduces redundancy and simplifies rules.
4	Defining shellfish "possession limit".	Amend WAC 220-56-312 (shellfish possession limits) to align with WAC 220-56-100, thus applying only one shellfish daily limit in fresh form while in the field or in transit. This provides a consistent definition of "possession limit".
5	Recreational shrimp fisheries by emergency rule only.	Modify rules for recreational shrimp fishing in Puget Sound to close fishing except when opened by emergency rule. Management is based on abundance and in-season management; there can be significant changes year to year due to tides, quota changes, and catch overages the previous year.
6	Describing bivalve rules.	Combine three bivalve WACs into one. Merging WACs 220-56-340 and 220-56-385 into 220-56-355 consolidates information on unlawful bivalve acts, making it more efficient to find this information.
7	"Due West" vs "True West".	Replace "due west" with "true west" in WAC 220-56-330. Enforcement has communicated "true west" is more enforceable than "due west" for technical reasons.
8	Marine Area descriptions for shrimp subareas.	Add descriptions of the three Marine Area 7 shrimp subareas: Marine Areas 7 East, 7 South and 7 West, into WAC 220-56-325. The three subareas have significantly different quotas and seasons. Previously, we have described the subareas by emergency rule.
9	Updating taxonomy.	Updated taxonomy in WAC 220-12-210: (1) "skates" will be referred to by their entire order (Rajiformes) to include intended families recently redefined (Rajidae and Arhynchobatidae); (2) sharks will be referred to by their superorder Selachimorpha, to be inclusive of all species as intended; (3) updates and corrections to several scientific names.

Written Testimony (0 comments)

Support (0): No comments

Oppose (0): No comments.

General (0): No comments

Public Hearing (0 comments)

Modificaitons:

None

Staff Recommendation:

Adopt as presented

Commission Action:

Adopted

2. Possession of another's food fish or shellfish limit

Type of Rule Change Proposal

Recreational

Short Description

This rule proposal would make it unlawful to possess food fish or shellfish taken during the open season by another while in the field or in transit unless it is accompanied by a statement which shows the name, address, fishing or other license or permit number and signature of the taker, the date, and county or Marine Area where taken.

Explanation

This rule will provide the ability to track food fish and shellfish recreationally harvested and possessed by another while in the field or in transit.

Written Testimony (4 comments)

Support (0): No Comments

Oppose (3): Comment includes:

- I do not support this change. This is more for us to do and a complete waste of time.
- I'm not in favor of rule proposal #3. Making it unlawful to possess food fish or shellfish taken during the open season by another while in the field or in transit unless it is accompanied by a written statement just adds an extra step to complicate our lives. Those who are fishing without a license are likely to get around this anyway, by keeping a written statement at hand.
- This is extremely unpractical and I'd be surprised if it is constitutional. I suppose you've thought this through, but if I take my extended family fishing, legally harvest fish or shellfish, dock my boat, and then gift some of my catch to my unlicensed mother who takes it home, it seems unlikely that the state can (a) legally pull my mother over as she drives home (for no other reason than because they suspect she has fish that I harvested); (b) force my mother to disclose where she obtained her fish; and (c) confiscate fish that I gifted to her at the marina. Even if you can do (a)-(c), this rule is going to lead to thousands upon thousands of unintended and uncorrected violations every year. Is that the kind of reg we want or need? Is this really a serious problem for WDFW, or at least serious enough to justify the enforcement headache that this will present?

General (1): Comment include:

- No change enforcement is already busy making a tv show busting people for parking violations

. Public Hearing (0 comments)

Modificaitons:

None

Staff Recommendation:

Adopt as presented

Commission Action:

Adopted

3. Define a unit of gear for crab, crawfish, and shrimp

Type of Rule Change Proposal

Recreational

Short Description

Clarifies regulations regarding the definition of a unit of gear when fishing for crab, crawfish, and shrimp to include the use of angling gear or a castable device.

Explanation

Currently the definition of a unit of gear when fishing for crab, shrimp and crawfish means one ring net or one shellfish pot. A number of alternative gear types exist on the market for harvesting these species including the use of a fishing pole and casting a trap or tangle type devise. This proposed regulation change will clarify that these types of devices for catching crab, shrimp and crawfish count as one unit of gear.

Written Testimony (3 comments)

Support (2): Comment includes:

- The proposed rule, if implemented, would remove potential incidents/confrontations amongst fishers (or between fishers and enforcement officers) where a fisher might be accused of illegal "two-poling", when in fact the fisher is legally fishing with 1-2 rods for shellfish and plus one other rod for fish.
- I'm in favor of proposal #4; it basically just updates the definition of a unit of gear to keep up with the times.

Oppose (0): No Comments

General (1): Comment include:

- The number of pots that "trap" crab should still be limited to 2 pots per fisher, but two additional devices like rings should be allowed because the crab can freely move off the trap. This would give the fisher an opportunity to have more ability to cover more area when searching for crab in a body of water they are less familiar with. I fished the entire season (2016) including the extra days in Hood Canal in January and February and was not ever checked by the Enforcement Officers. My point is that no matter how many devices we are allowed, it is on the fishers honesty, the so called "Honor System" that determines how many crabs are retained, not enforcement by the under staffed WDF&W officers.

Public Hearing (0 comments)

Modificaitons:

None

Staff Recommendation:

Adopt as presented

Commission Action:

Adopted

4. Require buoy of unattended shellfish gear to be marked with the first and last name and permanent mailing address of the person operating the gear

Type of Rule Change Proposal

Conservation

Short Description

Unattended shellfish gear must be marked with a buoy that lists the first and last name and permanent mailing address of the person operating the gear.

Explanation

This rule change clarifies the description and definition of who is legally allowed to operate and tend shellfish gear and enhances the ability to enforce shellfish gear regulations.

Written Testimony (8 comments)

Support (2): Comment includes:

- agree because my gear is marked per the requirement
- Makes sense

Oppose (4): Comment includes:

- I'm not in favor of this rule. I don't want other fishermen to be able to follow me to my buoy and find out exactly where I live and show up at my front door. I would prefer to write my name and phone number on the buoy.
- I have a large family and we share our crab and shrimp pots, including the bouys. Since we only have enough gear for ONE of us to fish at a time, we list our last name and address on our bouys. Forcing each family to buy full sets of bouys seems extravagant and unnecessary. I understand the problem for enforcement but I also don't think that WDFW agents ever stop and take names off of bouy sets in order to enforce the limits on number of pots. Even if they did, a last name and address should be sufficient for enforcement. If you can't produce enough licenses on a boat for the last name on the bouys, you get written up, period.
- Gear marked with a buoy that lists the first and last name and permanent mailing address of the person operating the gear does not provide the description and definition of who is legally allowed to operate and tend shellfish gear. It seems the only true description and definition of who is legally allowed to operate and tend shellfish gear is the fishing or other license or permit number issued to that person through WDFW. So why not included the fishing or other license or permit number be added to the marking of the buoy which would enhances the ability to enforce shellfish gear regulations.
- I disagree with this proposal. Over the years people share pots with family members and friends. There is plenty of room on the Buoy two write 2 or 3 names. I would allow (3) names on the pot and as long as one of those people are on board the boat while the pot is being pulled it should be legal. Thank you

General (2): Comment include:

- Why? We have a system now that works. If they don't include their phone number and the pot is found to bad. WDFW does not enforce anything for crab pots now. People steal them, take crab from pots that are not theirs so why change? Write tickets and start enforcing the rules we have.

The rules need to clarify a minimum age that a person should be to obtain a crab catch record card. I have my grand-children poses a CRC when they are 8 years old. The rules also need to clarify assisting retrieving a pot. I use an electric puller and assist my grand-children in lifting the pot into the boat. With today's pot sizes, sometimes these pot weight 60-80 pounds.

Public Hearing (0 comments)

Modificaitons:

None

Staff Recommendation:

Based on public comment received, do not adopt.

Commission Action:

Not Adopted

5. Tanner crab minimum size in Puget Sound

Type of Rule Change Proposal

Recreational

Short Description

This change is intended to implement a 4 1/2 inch minimum size limit for any Tanner crabs that are retained during an open personal use crab fishery.

Explanation

This rule will protect Tanner crab in Puget Sound by allowing the majority of females and over 50 percent of the males to spawn prior to harvest.

Written Testimony (2 comments)

Support (2): Comment includes:

- I support the proposal. I have a suggestion for WDFW. Consider allowing larger volume top loader pots for tanner crab as they do in Alaska recreational fishery.
- Sounds good

Oppose (0): No Comments

General (0): No Comments

Public Hearing (0 comments)

Modificaitons:

None

Staff Recommendation:

Adopt as presented

Commission Action:

Adopted

6. Shrimp pot mesh size

Type of Rule Change Proposal

Recreational

Short Description

Allow 1/2 inch mesh size for shrimp pots inside 20 fathoms year round in Marine Areas 1-3 and Marine Area 4 west of the Bonilla-Tatoosh Line. This proposal would allow opportunity to harvest coonstripe shrimp and require the release of spot shrimp.

Explanation

The change in mesh size as proposed here, inside 20 fathoms in coastal waters only, should provide sport fishers added opportunity.

Written Testimony (1 comments)

Support (1): Comment includes:

- Good change

Oppose (0): No Comments

General (0): No Comments

Public Hearing (0 comments)

Modificaitons:

None

Staff Recommendation:

Adopt as presented

Commission Action:

Adopted

7. Allow squid harvest in Hood Canal

Type of Rule Change Proposal

Recreational

Short Description

Allow squid harvest year round, including Humboldt squid in Hood Canal.

Explanation

In 2004 the Department closed fishing for a number of species in Hood Canal due to low dissolved oxygen (DO) levels. This widespread closure included squid and was intended to address conservation concerns associated with the impacts low DO was having on some marine species. A 2004 study on market squid population abundance, production, and distribution in California highlighted the role of environmental forcing on the population dynamics of this resource (Reis et al. 2004). In this study El Niño and resulting warming water temperatures were found to negatively impact the abundance of adult squid and the production of offspring. The decline in squid abundance was attributed to behavioral responses to environmental conditions effecting presence in the nearshore. Squid are migratory and capable of occupying various levels in the water column and therefore have the ability to move from an area if desirable conditions are not encountered. In addition, being that environmental conditions can affect offspring production, a concern from low DO concentrations would be on the viability of any deposited squid egg masses. Market squid are capable of spawning multiple times and have a short lifespan of roughly a year. As a result, populations tend to fluctuate, which can allow for recovery from years of low production (Reis et al. 2004). Therefore, Department staff recommends moving forward with this proposal for further public comment.

Written Testimony (2 comments)

Support (1): Comment includes:

- Good opportunity.

Oppose (1): Comment includes:

- I would not allow harvest of squid in the Hood Canal. Squid are eaten by salmon and our salmon are having a hard time finding food. We should be protecting any food that our salmon eat.

General (0): No Comments

Public Hearing (0 comments)

Modificaitons:

None

Staff Recommendation:

Adopt as presented

Commission Action:

Adopted

8. Restrict heating of oyster shells

Type of Rule Change Proposal

Conservation

Short Description

Restrict harvesters from cooking oysters in the shell and/or opening oysters through the addition of heat.

Explanation

There is a growing number of people that are interested in cooking oysters in the shell on the beach after harvesting. Oyster shells often have young oysters attached on the outside of the shell that produce future oysters for harvest. Heating the shells kills the young oysters and reduces the amount of oysters available for harvest in future years.

Written Testimony (9 comments)

Support (1): Comment includes:

- I support this change.

Oppose (2): Comment includes:

- I am against this proposal. For over 50 years our family has cooked oysters in the shell at family get together's and beach picnics. There is no shortage of oysters and I don't believe this proposal is necessary. It seems as though your looking for another trivial law to harass and site people.
- I'm not in favor of proposal #9, to restrict heating of oyster shells. To reduce the risk of illness from vibrio, oysters that are harvested should be cooked before eating. If they are not cooked in the shell on the beach, they will likely be taken home in the shell and cooked; either way the young oysters that are living on the shell will likely not survive. If oyster species are threatened or endangered, then they should be protected by limiting the allowable amount of harvest and the length of the open season. But as long as it's open to harvest, I feel we should have the freedom to cook them on the beach.

General (6): Comment includes:

- There needs to be an exception for those that own the shellfish on their own beach. We own the tide lands and bbq oysters on a normal basis. We also take care of those same tidelands. We can sell the oysters if we wish and remove the shells. What would be the difference. Bbq oysters from the beach has been something we have done for 40 years as they r our oysters and our beach is as healthy as they get because we take care of it. More regulation on private property is not going to help our oyster beds.
- What?? I thought all oysters had to be shucked on the beach for that very reason. If that is not the case, it should be. Suggest you rewrite the proposal to that end.
- Only when tribal and nontribal commercial fishermen do not take oysters off of the beach
- I was under the impression that you were required to shuck the oyster at the same time and area it is being harvested? I personally do not understand the rule as it is widely known that oysters are mostly unable to reproduce in the wild due to the higher salinity in the ocean. Most oyster company's source and purchase oyster seed from distributors. The pacific oyster is not native anyways so what is the point? All of the oysters that are located in our area (excluding olympia's) are farmed and planted. This rule requiring shucking at the harvest site should be done away with.
- Wow really I could take them home but can't eat them at the beach!! Seriously just raise oysters with the money the sportsman in this state spend, so basically get my dollars out of the general fund
- The number of people cooking oysters on the beach is low enough that the effects on the population are near zero. The effects on recruitment of heating your 15 shells makes little difference even to the localized population. This practice allows the public the opportunity to prepare oysters in a traditional manner if they are willing to put the work in to transport their cooking devices. If this is outlawed, the only people that will be able to prepare oysters in a traditional manner are those that own private tidelands. Yet another loss for the public and a

further bifurcation of common public benefits vs private benefits. This sounds like enforcement making an issue of a non-issue.

Public Hearing (0 comments)

Modificaitons:

None

Staff Recommendation:

Based on public comment received, do not adopt.

Commission Action:

Not Adopted

9. Remove bonus limits for eastern softshell clams in Skagit Bay, and for cockles in Willapa Bay

Type of Rule Change Proposal

Recreational

Short Description

Remove bonus limits for eastern softshell clams in Skagit Bay, and for cockles in Willapa Bay.

Explanation

Current populations no longer warrant continued bonus limit for cockles in Willapa Bay and for Eastern softshell clams in Skagit Bay. At both locations, continued advertisement of bonus limits provides false opportunity.

Written Testimony (1 comments)

Support (1): Comment includes:

- Good policy

Oppose (0): No Comments

General (0): No Comments

Public Hearing (0 comments)

Modificaitons:

None

Staff Recommendation:

Adopt as presented

Commission Action:

Adopted

10. Require descending devices in Puget Sound for bottomfish and halibut

Type of Rule Change Proposal

Conservation

Short Description

Require a descending device be onboard the fishing vessel and rigged for deployment when fishing for bottomfish or halibut in waters east of the Bonilla-Tatoosh Line.

Explanation

Washington is home to many species of rockfish (family Sebastidae). Populations of some species are healthy but others, such as yelloweye, canary and bocaccio, are suffering and have been listed under the Endangered Species Act (canary and yelloweye as Threatened, bocaccio as Endangered). Within Puget Sound, WDFW has implemented recreational depth and area restrictions, and closed commercial fisheries that target rockfish or have a high potential to encounter them as bycatch. Barotrauma is physical damage to body tissues caused by changes in air pressure and affects rockfish caught in deep water and brought to the surface. Rapid ascent through the water column expands the gases in the swim bladder. Fish that are caught then released with inflated swim bladders cannot descend through the water column and typically float around until they die or are consumed by predators/scavengers. Rockfish conservation can be improved by employing a decompression or descending device. Survival from injuries caused by barotrauma can be greatly improved by returning rockfish to the depth of capture before release. More information regarding the use of descending devices can be found at <http://wdfw.wa.gov/fishing/bottomfish/rockfish/mortality.html>.

Written Testimony (8 comments)

Support (5): Comment includes:

- The goal of this proposal is one I have supported and I will continue to do so. However, I am not convinced that requiring all boats involved in bottom fishing anywhere in Puget Sound is an appropriate tool for several reasons. Per the linked WDFW webpage the issue of barotrauma starts at depths of 60 feet of water (FOW). The effects of barotrauma increase with depth beyond 60 FOW. Therefore, the proposed rule will impose a requirement for a descender device to be aboard and ready for use even if bottom fishing is occurring in less than 60 FOW. So what's the problem? Lots of folks fish from small rowboats in waters less than 60 FOW for bottom fish such as sole and perch and especially young fishers for whom that nearshore fishery is their first solo outing. Is it reasonable and appropriate to require a descender device be on board and ready for use under those circumstances? Are we going to unnecessarily be setting up those fishers for an unfortunate law enforcement officer experience?
- Good tool to have in the boat. But another expense for recreational fishermen
- I support the requirement for a descending device onboard while fishing for halibut and bottomfish in Puget Sound east of the Bonilla-Tatoosh line.
- Yes this rule is fine. The recreational fisherman will pay the price of WDFW allowing over fishing by commercial bottom draggers. WDFW allowed them into Puget Sound and destroyed that fishery, and now the straights, next the ocean. We pay the price. Nice job!
- I'm in favor of adopting this rule, so long as it remains okay to make your own descending device using inexpensive materials. I've read about the techniques used to descend fish to the depth caught, and this is a simple step that will help to ensure longevity of endangered and threatened species of fish, and allow continued fishing for other bottomfish.

Oppose (1): Comment includes:

- I recommend that this proposal be suspended pending concurrent review and comments of NOAA's

- device requirement for all WA salt water fisheries deeper than 120 feet with the caveat that there be a quid pro quo of increased deep water fisheries opportunity.

General (2): Comment include:

- As written here this proposal is too vague. What is meant by a descending device? It gives too much discretion to enforcement officers.
- Well here we go again, enforce the current rules. Charters call these floaters and don't send them down now they leave them up top for the birds so why change something that is not enforced. Waste of time and money. Enforcement is the answer not more rules that will get broken and never enforced.

Public Hearing (0 comments)

Modificaitons:

None

Staff Recommendation:

Adopt as presented

Commission Action:

Adopted

11. Classify Opah, Swordfish, Striped Marlin, and Dolphinfish as food fish

Type of Rule Change Proposal

Recreational

Short Description

Classify Lampris guttatus (opah), Xiphias gladius (swordfish), Kajikia audax (striped marlin), and Coryphaena hippurus (dolphinfish) as "food fish".

Explanation

These species are currently "unclassified", and thus not permitted to retain. These highly migratory species may be caught incidentally during other fisheries and allowing retention is not a conservation concern.

Classifying them as a food fish, and allowing a daily catch limit of two per angler, will allow for retention while not promoting a target fishery for the species.

Written Testimony (3 comments)

Support (3): Comment includes:

- I totally agree with the proposal. The ability to possess 2 fish will have no biological impact on these pelagic fish because so few will be caught. The important issue is to prevent a directed Commercial Fishery on these species.
- Good policy.
- I'm in favor of classifying Opah, Swordfish, Striped Marlin, and Dolphinfish as food fish so they can be retained if caught.

Oppose (0): No

Comments

General (0): No

Comments

Public Hearing (0 comments)

Modificaitons:

None

Staff Recommendation:

Adopt as presented

Commission Action:

Adopted