



# EXPEDITED RULE MAKING

**CR-105 (June 2004)**  
(Implements RCW 34.05.353)  
**EXPEDITED RULE MAKING ONLY**

**Agency:** Washington Department of Fish and Wildlife

**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 220-305-010 General Rules—Fish, WAC 220-310-120.

### 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) August 7, 2017

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose of this rule change is to adopt Washington Administrative Code for coastal recreational bottomfish and halibut fisheries that are consistent with regulations adopted by the Pacific Fishery Management Council (PFMC), see Attachment.

**Reasons supporting proposal:** This rule change conforms to regulations adopted by the PFMC and implemented into federal regulation by the National Marine Fisheries Service. Input from Washington recreational fishermen was gathered during the PFMC public process and during public meetings sponsored by WDFW.

**Statutory authority for adoption:** RCW 77.04.020, 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

### CODE REVISER USE ONLY

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STATE OF WASHINGTON  
FILED

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**WSR 17-12-102**

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**NAME (TYPE OR PRINT)**  
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**SIGNATURE**  
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- Private
- Public
- Governmental

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Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None

# Attachment

## **Purpose of the proposal and its anticipated effects, including any changes in existing rules:**

### **WAC 220-314-020 Possession limits – Bottomfish**

Changes to the Washington recreational bottomfish season will close recreational bottomfish fishing during the winter which is necessary to cap recreational fishing effort and focus recreational fishing opportunity during a time period when port sampling programs are in place allowing for in-season catch accounting.

Changes to possession limits that reduce the daily aggregate bottomfish limit from 12 to 9 and reduce the daily rockfish limit from 10 to 7 are needed to ensure that black rockfish catch does not exceed federal harvest limits. Black rockfish make up a significant portion the total bottomfish catch on the Washington coast. Based on recent years' bottomfish catch, maintaining status quo daily rockfish and aggregate bottomfish limits bag limits would risk exceeding federal harvest guidelines for black rockfish in Washington. This change would exempt surfperch from the 9 fish daily bottomfish limit and maintains the current daily bag limit of 12. Surfperch are a state managed species, not associated with changes made through the Pacific Fishery Management Council and National Marine Fisheries Service. Current management measures (daily limit 12) for surfperch are sufficient to provide recreational opportunity in balance with resource sustainability. The west coast canary rockfish population has rebuilt sufficiently to allow the retention of up to one canary rockfish in certain areas of the coast.

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

Recreational halibut season dates are being revised to simplify the permanent rule language. Specific recreational halibut season dates are decided annually after WDFW hosts public meetings to gather input from interested stakeholders. The proposed changes to halibut seasons would close the recreational halibut season until season dates can be established and implemented through emergency regulation and provides the flexibility for WDFW to set recreational halibut seasons that reflect input from Washington recreational fishermen.

A rule change is needed to revise the date that fishing for bottomfish is restricted seaward of 20 fathoms in Catch Record Card Areas 3 (La Push) and 4 (Neah Bay). Depth restrictions and area closures are the primary tools that allow for recreational fishing opportunities that are in balance with necessary protection of species such as yelloweye rockfish. Yelloweye rockfish are considered overfished and are managed under a rebuilding plan by the Pacific Fishery Management Council. Moving the 20 fathom depth restriction from May 9 to May 1 is needed to keep numbers of yelloweye rockfish taken incidentally during recreational halibut and bottomfish fisheries within federal harvest guidelines.

Rule changes are needed to allow flatfish retention in Catch Record Card 1 (Ilwaco) and lingcod, sablefish, and Pacific cod in Catch Record Card Areas 3 (La Push) and 4 (Neah Bay) on days open to the all depth halibut fishery. Restrictions are in place to limit bottomfish retention when anglers are targeting halibut. These restrictions are intended to reduce encounters with yelloweye rockfish that are managed under very low harvest limits while their population

rebuilt. Analysis conducted through the Pacific Fishery Management Council has shown that allowing retention of certain species that are commonly encountered when anglers are targeting halibut will have minimal impact on rebuilding species and allows anglers to keep these species that would otherwise be discarded.

Halibut are managed to a quota specified by the International Pacific Halibut Commission and are managed on a port of landing basis such that halibut catch is attributed to the quota for the marine area in which they are landed. Halibut must be landed into a port that is open to halibut fishing in order to be properly accounted for. A rule change is necessary to ensure that these landing restrictions are enforceable.

#### **WAC 220-314-040 Lingcod – Areas and seasons**

Lingcod season dates in Catch Record Card Areas 1 (Ilwaco) 2 (Westport) and 3 (La Push) are being modified slightly to align with the recreational bottomfish season that opens the second week in March through the third week in October. This change will have very little impact on the number of lingcod season dates as the current lingcod season is open the Saturday closest to March 15 through the Saturday closest to October 15. In addition, the minimum size limit of 22 inches for lingcod is being removed to allow anglers to retain lingcod that may have otherwise been discarded. Lingcod resources in coastal areas are healthy and size restrictions are not necessary for resource protection. These changes will simplify regulations for recreational anglers.

#### **WAC 220-310-120 Gaffing and use of other body – penetrating devices – personal use**

Proposed rule changes will remove the prohibition on using a gaff hook to bring a lingcod on board a recreational fishing vessel in areas where there is no size limit. This rule was in place to ensure that undersized lingcod that were caught could be returned to the water unharmed and is not necessary in areas where the size limit has been removed.

#### **WAC 220-305-010 General rules - Fish**

A rule change is needed to clarify Washington Administrative Codes regarding recreational bottomfish and shellfish possession limits. Rule changes made recently added general clarity to the rule but additional changes are needed to make it clear that bottomfish and shellfish caught in the Pacific Ocean waters off Oregon and transited into a Washington port are subject to Washington personal use fishing regulations including possession limits. Similar to the other clarifications these changes are needed to ensure that Washington is not at risk of exceeding federal harvest limits if catch from an area with less restrictive limits are allowed into Washington.

**WAC 220-305-010 General rules—Fish.** (1) It is unlawful to take, fish for, possess or transport fish, shellfish, or fish or shellfish parts, in or from any waters or land within the jurisdiction of the state of Washington, or from the waters of the Pacific Ocean, except as provided by department rule. Specifically, persons delivering fish or shellfish caught in Pacific Ocean waters into Washington are subject to all Washington personal use fishing, possession, and licensing regulations.

(2) It is unlawful for any person who takes or possesses fish or shellfish taken from any of the waters or beaches of the Columbia River, the state of Washington, or the Pacific Ocean, for any purpose, to fail to submit the fish or shellfish for inspection by authorized department personnel. Violation of this subsection is punishable under RCW 77.15.360 Unlawful interfering in department operations—Penalty.

(3) It is unlawful for the owner or operator of any fishing gear to refuse to submit to inspection of the gear in any manner specified by a fish and wildlife officer. Violation of this subsection is punishable under RCW 77.15.470.

(4) It is unlawful for any person to fish for fish or shellfish while in possession in the field of fish or shellfish that are in violation of the rules for the area fished. This subsection does not apply to vessels in transit between Washington marine areas. Violation of this subsection is punishable under RCW 77.15.380 or RCW 77.15.550, depending on the circumstances of the violation.

(5) It is unlawful to take, fish for, possess, injure, kill, or molest fish in any fishway, fish ladder, fish screen, holding pond, rearing pond, or other fish protective device, or to interfere with the proper operation of a fish protective device in any way. Violation of this subsection is punishable under RCW 77.15.370 or 77.15.380, depending on the circumstances of the violation.

(6) It is unlawful to take or possess any fish or shellfish smaller or larger than the minimum or maximum size limits or in excess of catch or possession limits prescribed by department rule. A person must immediately return to the water any fish or shellfish snagged, hooked, netted or gilled that do not conform to department size requirements or are in excess of catch or possession limits with the least possible injury to the fish or shellfish. Violation of this subsection is a misdemeanor punishable under RCW 77.15.380 or 77.15.550, depending on the circumstances of the violation.

(7) It is unlawful for any person or entity licensed by the department or bringing fish or shellfish into the state to fail to comply with the directions of authorized department personnel related to the collection of sampling data or material from fish or shellfish. It is also unlawful for any person or entity to fail to relinquish to the department, upon request, any part of a salmon or other fish containing coded-wire tags including, but not limited to, the snouts of salmon with clipped adipose fins.

(8) For the purposes of this section "delivery" means transportation by a private or commercial recreational fishing vessel. Delivery in Washington is complete when, within the state, the vessel anchors, moors, ties to a float or pier, or is placed or attempted to be placed

on a boat trailer. Delivery is also complete if the fish or shellfish are offloaded from the vessel within state waters.

**WAC 220-310-120 Gaffing and use of other body-penetrating devices—Personal use.** (1) It is unlawful to club, gaff, snag, snare, dip net, harass, spear, stone, or otherwise molest, mutilate, injure, kill, destroy, or shoot with a firearm, crossbow, bow and arrow, or compressed air gun, any fish or shellfish or fish or shellfish parts for personal-use purposes, except:

(a) A person may use a dip net or club in the landing of fish taken by personal-use angling, unless otherwise provided; and a person may use a gaff in the landing of tuna, halibut, lingcod in Marine Areas 1 through 3 and 4, west of the Bonilla-Tatoosh line and dogfish, and a harpoon in the landing of halibut, in all catch record card areas;

(b) A person may use a spear in underwater spear fishing, as provided in WAC 220-310-130;

(c) A person may use a bow and arrow or spear to take carp or as provided by department rule;

(d) A person may snag herring, smelt, anchovies, pilchard, sand lance, and squid when using forage fish jigger gear or squid jigs; and

(e) A person may shoot halibut when landing them with a dip net, harpoon or gaff for personal use only.

(2) It is unlawful to possess fish or shellfish or parts of fish or shellfish taken using the unlawful methods described in subsection (1) of this section.

(3) It is unlawful to use a device that penetrates the body of a sturgeon under any circumstance, whether the sturgeon is legal to retain or not.

(4) Violation of this section is a gross misdemeanor punishable under RCW 77.15.370, Unlawful recreational fishing in the first degree—Penalty.

(5) It is unlawful to attempt acts that violate this section. Violation of this subsection is punishable under RCW 77.15.380, Unlawful recreational fishing in the second degree—Penalty.

**WAC 220-314-020 Possession limits—Bottomfish.** ~~((It is unlawful to fish for, retain, or possess sixgill, sevengill, or thresher sharks.))~~ It is unlawful for any person to ~~((take in any day more than the following quantities of))~~ fish for or take bottomfish for personal use~~((. The possession limit at any time may not exceed the equivalent of two daily limits in fresh, frozen or processed form. Unless otherwise provided, bottomfish fishing is open the entire year.~~

~~(1) Coastal (Catch Record Card Areas 1 through 4):~~ 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 12 surfperch. For all other bottomfish, limit is 9 fish total, ((except limit 10 fish total east of the Bonilla-Tatoosh line, of all species and species groups of bottomfish,)) which may include no more than:

~~((a))~~ (i) Lingcod: 2 fish, no minimum length. ((Minimum length is 22 inches in Catch Record Card Areas 1 through 4.

~~(b))~~

(ii) Rockfish: ((10)) 7 fish in aggregate ((except)) which can include up to one canary rockfish in Catch Record Card Areas 1 and 2. The possession limit for ((canary rockfish and)) yelloweye rockfish is 0. ((In Marine Area 4 east of the Bonilla-Tatoosh line: 6 fish. Only black or blue rockfish may be retained.

~~(c))~~

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

~~((d))~~ (iv) Cabezon: ((i) Marine Areas 1 through 3: 2 fish.

(ii) Marine Area 4: 1 fish; the minimum size limit is 18 inches.) Marine Areas 1 through 3: 2 fish. Marine Area 4: 1 fish; the minimum size limit is 18 inches.

(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

~~((b))~~ (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

~~((e))~~ (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

~~((d))~~ (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

~~((e) It is unlawful to possess lingcod taken by angling that are under 26 inches in length or over))~~ (f) The possession limit for lingcod taken by angling gear is 26 to 36 inches in length. ~~((It is unlaw-~~

~~ful to possess lingcod taken by)) For spear fishing ((that are over)),  
lingcod may not be possessed that exceed 36 inches in length.~~

~~((f)) (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.~~

~~((g)) (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.~~

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

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

~~(4) Unless otherwise provided, bottomfish fishing is open the en-  
tire year.~~

~~(5) Daily limits include bottomfish caught in adjacent areas bor-  
dering other states, such as Oregon.~~

~~(6) It is unlawful to fish for, retain, or possess sixgill, sev-  
engill, or thresher sharks.~~

**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: ((Open on the first Thursday in May or May 1, if May 1 is a Friday or Saturday, through the third Saturday in July, from 12:01 a.m. each Thursday through 11:59 p.m. each Saturday. The fishery will reopen on the first Friday in August through September 30, from 12:01 a.m. each Friday through 11:59 p.m. each Sunday.))~~ 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 ((~~ø~~)) and Pacific cod, 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.

~~((Open on the first Sunday in May through September 30 on days that all other waters in Area 2 are open, as specified in (b)(ii) of this subsection, and from 12:01 a.m. each Thursday through 11:59 p.m. each Sunday.))~~ Closed except as provided by emergency rule.

(ii) All other waters in Area 2 - ~~((Open on the first Sunday in May through the third Sunday in May from 12:01 a.m. through 11:59 p.m. each Sunday, and from 12:01 a.m. through 11:59 p.m. each Tuesday. Beginning on the third Sunday in May through September 30, the halibut fishery will be open from 12:01 a.m. through 11:59 p.m. each Sunday.))~~ Closed except as provided by emergency rule.

(iii) From March 15 through June 15, it is unlawful to fish for or possess bottomfish, except rockfish, 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 - ~~((Open the first Thursday between May 9 and May 15 of each year through September 30, from 12:01 a.m. through 11:59 p.m. each Thursday, and from 12:01 a.m. through 11:59 p.m. each Saturday.))~~ 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 ~~((June))~~ May 1 through ~~((September 30))~~ Labor Day except, on days and times ~~((closed))~~ open to halibut fishing when only lingcod, sablefish and Pacific cod can be retained:

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 Areas 5 through 13 - ((Open the Thursday before Memorial Day through September 30, except closed to fishing for halibut beginning at 12:01 a.m. each Tuesday through 11:59 p.m. each Wednesday.~~

~~(e) Catch Record Card Areas 6 through 13 — Open May 1 through September 30, except closed to fishing for halibut beginning at 12:01 a.m. each Tuesday through 11:59 p.m. each Wednesday.))~~ 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) 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.

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

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

**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: ~~((The Saturday closest to March 15, through the Saturday closest to October 15;~~

~~(b) Catch Record Card Area 4 west of the Bonilla-Tatoosh line: April 16 through October 15, or the Saturday closest to October 15 if that Saturday comes before October 15, whichever is earlier; and~~

~~(c)) 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.

~~((d))~~ (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°25.00'N.))~~ 46°33.00'N. lat., 124°21.00'W. long. year-round.

~~((e))~~ (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, except that lingcod may be taken, retained and possessed seaward of the line on days open during the primary halibut season.

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