



EXPEDITED RULE MAKING

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

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STATE OF WASHINGTON
FILED

DATE: July 05, 2018

TIME: 11:16 AM

WSR 18-14-116

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 220-310-110 Angling gear – Lawful and unlawful acts

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).

WAC 220-314-020 Possession limits – Bottomfish

Two changes to WAC 220-314-020 are proposed. The first would expand the current allowance to retain up to two canary rockfish to all coastal marine areas. The west coast canary rockfish population has rebuilt sufficiently to allow retention of canary rockfish. The Washington Department of Fish and Wildlife has implemented canary rockfish retention in a conservative manner after a long period of retention being prohibited in recreational fisheries. In 2017, retention of up to two canary rockfish was allowed only in some areas of the coast. This approach gave managers the opportunity to consider not only the amount of canary rockfish that anglers would retain, but also to understand if there might be issues with misidentification with yelloweye rockfish which remains prohibited in recreational fisheries and is managed under small federal harvest guidelines. Final 2017 catch estimates showed that recreational catch of approximately five mt was well below the 50 mt Washington recreational federal harvest guideline. In addition, it was clear that anglers were correctly distinguishing canary rockfish from yelloweye rockfish. Catch relative to federal harvest guidelines is sufficient to allow retention in all coastal management areas west of the Bonilla-Tatoosh line.

The second change would exempt flatfish from the nine fish daily bottomfish limit and maintain the current daily bag limit of 12. In 2017, the recreational bottomfish bag limit was reduced from 12 to nine bottomfish per day. The bottomfish bag limit reduction was focused on the need to reduce catch of some rockfish species, primarily black rockfish. However, changes to the aggregate bottomfish bag limit that includes flatfish has no beneficial impact on the rockfish population given that the preferred habitat for most flatfish species (soft sand or muddy bottom) is different from the preferred habitat for most rockfish species (pelagic and high relief rocks and boulders). Restoring the flatfish limit to a daily limit of 12 will provide recreational opportunity in balance with resource sustainability.

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

The purpose of this rule change would be to implement an annual limit of four halibut per person. The primary objective of an annual bag limit is to spread halibut fishing opportunity across more participants by reducing the amount of halibut that anglers can collectively retain. WDFW catch record card data from 2012-2016 estimates that 87 percent of anglers report catching two or fewer halibut per year while only one percent of anglers retain more than six halibut per year. However, stakeholders have continually expressed their support for an annual bag limit with many in favor of going as low as two fish. Others would be comfortable with a higher limit and some want it to continue to be unlimited. Based on the data and stakeholder input, we are proposing a phased approach to an annual bag limit starting at four fish. WDFW will review the results of the annual limit and continue to gather public input to gauge the need for additional changes in the future.

WAC 220-310-110 Angling gear – Lawful and unlawful acts

The purpose of this rule change is to expand the requirement to have a descending device on board recreational fishing vessels and rigged for deployment when fishing for bottomfish and halibut to include coastal marine areas. Currently, the rule is in place only in Puget Sound marine areas. Descending devices used to release rockfish back to the depth of capture significantly improve the survivability of released rockfish.

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 anglers was gathered during the PFMC public process and during public meetings sponsored by WDFW.

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) Washington Dept. of Fish and Wildlife (WDFW) Private
 Public
 Governmental

Name of agency personnel responsible for:

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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:

- Relates only to internal governmental operations that are not subject to violation by a person;
- 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;
- Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect;
- Content is explicitly and specifically dictated by statute;
- 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
- 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:

- 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;
- 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;
- The rule is no longer necessary because of changed circumstances; or
- 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): This is to adhere to new legislation what was passed

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) September 5, 2018

Date: July 5, 2018

Name: Scott Bird

Title: Rules Coordinator

Signature:



WAC 220-310-110 Angling gear—Lawful and unlawful acts. (1) It is unlawful for any person to use more than one line while angling for personal use, except:

(a) Anglers in possession of a valid two-pole endorsement may use up to two lines while fishing in lakes, ponds, and reservoirs open to fishing unless listed as an exception in WAC 220-220-160. Anglers in possession of a valid two-pole endorsement may use up to two lines while fishing in rivers and marine areas as noted in WAC 220-220-160 and 220-312-010 through 220-312-060.

(b) A second line using forage fish jigger gear is permissible while fishing in Catch Record Card Areas 5, 6, 7, 8-1, 8-2, 9, 10, 11, and 13.

(c) When fishing outside 3 miles from shore in Pacific Ocean waters for tuna species, anglers are not restricted on the number of rods or lines fished per angler, provided that no other species are possessed onboard the vessel. A violation of this subsection is an infraction, punishable under RCW 77.15.160, Infractions.

(2) It is unlawful for any person to take, fish for, or possess fish taken for personal use by any means other than angling with a line attached to a pole held in hand while landing the fish or with a hand-operated line without rod or reel, except:

(a) It is unlawful to fish for or possess salmon taken for personal use with hand lines in marine waters of Puget Sound east of the mouth of the Sekiu River and in Washington waters at the mouth of the Columbia River east of a line projected true north and south through Buoy 10, Grays Harbor, and Willapa Bay.

(b) It is permissible to leave a pole in a pole holder while playing or landing the fish if the pole is capable of being readily removed from the pole holder.

(c) It is permissible to use an electric power-operated reel designed for sport fishing attached to a pole.

(3) It is unlawful for any person while angling to fail to keep his angling gear under his or her direct and immediate physical control.

(4) In areas where a saltwater license is valid, each fisher aboard a vessel may continue to deploy angling gear or shellfish gear until the daily limit of food fish or shellfish for all licensed anglers and juvenile anglers aboard has been retained.

(5) In Catch Record Card Areas ~~((4 east of the Bonilla Tatoosh line and Areas 5))~~ 1 through 13: It is unlawful for any person to take, fish for, or possess bottomfish or halibut taken for personal use, to fail to have onboard the vessel a fish descending or fish recompression device, rigged for immediate use, and capable of rapidly returning ~~((fish))~~ rockfish to depth of capture.

(6) A violation of this section is an infraction, punishable under RCW 77.15.160, unless the person has harvested fish or shellfish. If the person has harvested fish or shellfish, the violation is punishable under RCW 77.15.380, Unlawful recreational fishing in the second degree—Penalty, unless the fish or shellfish are taken in the amounts or manner to constitute a violation of RCW 77.15.370, Unlawful recreational fishing in the first degree—Penalty.

(7) It is unlawful to possess fish or shellfish taken with gear in violation of the provisions of this section. Possession of fish or shellfish while using gear in violation of the provisions of this section is a rebuttable presumption that the fish or shellfish were taken with such gear. Possession of such fish or shellfish is punishable under RCW 77.15.380, Unlawful recreational fishing in the second degree—Penalty, unless the fish or shellfish are taken in the amounts or manner to constitute a violation of RCW 77.15.370, Unlawful recreational fishing in the first degree—Penalty.

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

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

(ii) Rockfish: 7 fish in aggregate which can include up to ~~((one))~~ two canary rockfish in Catch Record Card Areas 1 ~~((and 2))~~ 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.

(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 17-17-045, filed 8/10/17, effective 9/10/17)

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, 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 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 - 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 1 through Labor Day except, on days and times 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 - 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 Areas 5 and 6. 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.

~~((5))~~ (6) A violation of this section is punishable under RCW 77.15.370 or 77.15.380, depending on the violation.