

Recreationally Caught Salmon from Canada – (Briefing/Public Hearing)

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Summary Sheet

Meeting dates: June 14-16, 2018 Commission Meeting

Agenda item: Recreationally Caught Salmon from Canada - (Briefing/Public Hearing)

Presenter(s): Kirt Hughes, Statewide Salmon and Steelhead Fishery Manager

Background summary:

The Canadian Parliament recently changed requirements for vessels entering Canadian waters. As a result Canada no longer provides a Canadian Customs *clearance number* to recreational vessel operators who enter Canadian water and return to the U.S. without making landfall to clear customs at Canadian port of entry. Therefore anglers wishing to fish in Canadian water and return to a Washington port are unable to fulfill the requirements of WAC 220-31-210 which states in part that a vessel operator must have “a valid Canadian customs clearance number obtained once they are in Canadian waters fishers aboard the vessel may deliver Canadian-origin salmon into Washington that are lawfully taken in Canada, regardless of whether the salmon meet the current salmon regulations for the area where delivered.”

This rule-making addresses that change in Canadian customs law and allow anglers to pass a dockside inspection upon their return to Washington. Anglers will simply need to complete the form on the WDFW website notifying the department of their plans to fish for salmon in Canadian waters. This process allows U.S. anglers a way to document their catch of salmon legally taken in Canadian waters with a Canadian issues fishing license. Anglers completing the online form will receive an email confirmation that their trip information has been received, with a number that will take the place of the Canadian Customs clearance number.

A Washington fishing license is not required to fish in Canada or to fill out the trip notification form. WILD ID can be used if the angler has had a Washington license and WILD ID number, but it is not required.

This proposed rule-making does not intend to allow anglers to catch their daily limit of salmon in both Canadian and Washington waters on the same day. Anglers with Canadian salmon in their possession may not fish in Washington marine waters unless it is legal to retain the fish caught in Canada in the area where fishing in Washington.

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

NA – Rule-Making

Fiscal impacts of agency implementation:

The cost to the public is similar in nature to that associated with the requirement under the current rule. The cost to the agency is also minimal; current website design will support the rule going forward, staff are taking very few questions on this subject since shortly after the emergency rule was filed in August of 2017.

Public involvement process used and what you learned:

The CR101 proposing this rule was filed in March of 2017. Enforcement and Fish Program staff have reached out to various key constituents including the Puget Sound recreation salmon advisory group over the course of the preceding year. These contact were used to identify and resolve concerns identified in making this change. The draft rule was implemented through the emergency rule making process in August of 2017 at the point when Canadian salmon regulation and those in adjoining water of the Salish Sea (marine area 4B, 5, 6, and 7) differed substantive and angler began making routine day-trips from ports like Sekui, Clallam Bay, Port Angeles and elsewhere to fish in and return from Canadian waters.

It is also noteworthy that department staff have completed the form for anglers via phone and provided confirmation numbers to those anglers; as such staff believe that the single online form is sufficient to allow anglers access to this information. This also provides enforcement staff with ready access to relevant information including confirmation numbers for tracking purposes. With this information Fish Program staff are better able to account for angler trips in Canadian waters originating from a Washington port.

Action requested:

Draft motion language:

Justification for Commission action:

Post decision communications plan:

Form revised 9/13/17



PROPOSED RULE MAKING

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

Do NOT use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: May 02, 2018

TIME: 10:18 AM

WSR 18-10-104

Agency: Washington Department of Fish and Wildlife (WDFW)

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 17-07-016 on March 6, 2017 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

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

WAC 220-310-210 Possession and delivery of Canadian-origin food fish and shellfish.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
June 14, 2018	8:00 am	Natural Resource Building 1111 Washington St SE. Olympia, WA 98501	

Date of intended adoption: June 15, 2018 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Scott Bird, WDFW Rules Coordinator

Address: 600 Capitol Way North

Email: Rules.Coordinator@dfw.wa.gov

Fax: 360-902-2155

Other:

By (date) June 13, 2018

Assistance for persons with disabilities:

Contact Dolores Noyes

Phone: (360) 902-2349

Fax:

TTY:

Email: dolores.noyes@dfw.wa.gov

Other:

By (date) June 5, 2018

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The department needs to clarify the process for anglers who catch Canadian-based food fish and shellfish and land their catch in Washington state ports.

Reasons supporting proposal: The proposed changes to the rule clarify and update what anglers need to do to comply with both Canadian regulations and land their catch in Washington state ports in a legal manner.

Statutory authority for adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047

Statute being implemented: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047

Is rule necessary because of a:

- Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Name of proponent: (person or organization) Washington Department of Fish & Wildlife

- Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Scott Bird	1111 Washington St SE, Olympia WA	(360) 902-2403
Implementation:	Chief Steve Bear	1111 Washington St SE, Olympia WA	360-902-2373
Enforcement:	Chief Steve Bear	1111 Washington St SE, Olympia WA	360-902-2373

Is a school district fiscal impact statement required under RCW 28A.305.135?

- Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

- Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under RCW 34.05.328?

- Yes: A preliminary cost-benefit analysis may be obtained by contacting:

- Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

- No: Please explain: This rule proposal does not affect hydraulics

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

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

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

Citation and description:

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

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

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

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

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

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

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

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

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

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

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

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

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

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

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

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: May 1, 2018

Name: Scott Bird

Title: Rules Coordinator

Signature:



WAC 220-310-210 Possession and delivery of Canadian-origin food fish and shellfish. (1) (~~Canadian license required.~~) It is unlawful to possess in marine waters or deliver into Washington shellfish or food fish taken for personal use from Canadian waters unless the person (~~who~~) also possesses (~~or delivers the shellfish or food fish possesses~~) a valid Canadian sport fishing license and catch record card, if one is required(~~, for the shellfish and food fish taken~~).

(2) Canadian-origin rockfish restrictions: It is unlawful to possess yelloweye or canary rockfish taken for personal use from Canadian waters.

(3) Canadian-origin halibut restrictions:

(a) The daily limit of halibut is one daily limit, regardless of the origin of the halibut.

(b) The possession limit is two halibut if at least one halibut was taken from Washington waters. It is unlawful to possess in excess of the Canadian possession limit of halibut for the time and area fished if all halibut were taken from Canadian waters.

(c) It is unlawful to possess more than one daily limit of halibut aboard the fishing vessel.

(4) Canadian-origin salmon restrictions:

(a) It is unlawful to possess in marine waters or deliver into Washington any fresh salmon taken for personal use from Canadian waters unless:

(i) Such salmon (~~meet current~~) are in compliance with current salmon regulations for the waters of the applicable department of fish and wildlife catch record card area(~~. However, if the vessel operator has a valid Canadian customs clearance number obtained once they are in Canadian waters fishers aboard the vessel may deliver Canadian origin salmon into Washington that are lawfully taken in Canada, regardless of whether the salmon meet the current salmon regulations for the area where delivered.~~); or

(ii) The vessel operator obtained a valid Canadian customs clearance number while the vessel was moored at a Canadian government dock in Ucluelet, Victoria, Sydney, White Rock, or Bedwell Harbor, British Columbia; or

(iii) The vessel operator has completed and submitted the trip report via the internet at http://wdfw/licensing/canadian_catch.php.; and

(iv) The salmon in possession are in compliance with Canadian fishing regulations.

(b) It is unlawful to fish for any species in state or offshore waters from a vessel having Canadian-origin salmon aboard that do not meet the current salmon regulations for the waters being fished.

(c) It is unlawful for a fisher to fish for any species in state or offshore waters if the fisher possesses in the field any salmon that do not meet the current salmon regulations for the waters being fished.

(5) "Delivery" of Canadian-origin fish into Washington defined. 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.