

Recreational Halibut Catch Record Card (Decision)

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Summary Sheet

Meeting dates: October 5, 2018

Agenda item: Recreational Halibut Catch Record Card – Rule Adoption

Presenter(s): Michele Culver, Intergovernmental Policy Manager

Background summary:

Purpose of the Proposed Rule Changes

In March, the Legislature passed SB 6127, which authorizes the Washington Department of Fish and Wildlife (WDFW) to charge a fee for the halibut catch record card (CRC) sold with an annual license. As the amount of the CRC fee is discretionary up to five dollars, and the effective date of the legislation was in the middle of the 2018 halibut season, WDFW decided to delay implementing the halibut CRC fee until the 2019 license year. We have included the fee in the attached proposed rule as new section (4) in WAC 220-310-020.

Through the course of reviewing the rules for recreational licenses and CRCs to implement revisions for SB 6127, WDFW Licensing staff noted that there were several misstatements in our current regulations with regard to the descriptions of licenses and CRCs, as well as CRC requirements, that needed correcting. Therefore, most of the proposed changes before the Commission are corrections or revisions for clarification purposes. These are reflected in the changes to WACs 220-220-020, 220-220-200, and 220-310-010.

Additionally, through the Pacific Fishery Management Council's process to consider changes to its Catch Sharing Plan, WDFW had proposed and the Council adopted an annual bag limit of four halibut, beginning with the 2018 season. WDFW implemented the annual bag limit via emergency rule and an expedited rulemaking process to conform our regulations to the Council's action.

We also restructured the CRC to limit the number of spaces for halibut to four. However, because anglers can purchase additional CRCs for some species, we are proposing a change to WAC 220-310-020(3)(b) that would prohibit anglers from obtaining a second CRC for halibut after their first card is full. Note: Anglers would still be allowed to get a replacement halibut CRC (for an additional fee) if they lost their first one. This same approach is taken for sturgeon and wild steelhead, which also have annual bag limits.

Two additional changes to WAC 220-310-020 to sections (3) and (6)(a) are proposed to facilitate the expansion of the online CRC system that is currently in place for Puget Sound crab to include other CRC species (halibut, salmon, steelhead, and sturgeon). As noted in my briefing to the Commission in June on recreational electronic catch reporting systems, this is a request that several stakeholders have made over the past few years, which could help improve catch reporting. The online CRC system is voluntary, and harvesters would still have the option to submit their paper CRCs, which would still be required to validate compliance with seasons and bag limits by anglers in the field.

Rulemaking Process

WDFW staff had initially set out to implement rule changes associated with the implementation of SB 6127 and the restriction on obtaining a second CRC through an expedited rulemaking process. However, through the course of doing so, we received comments on the proposed

expedited rule from Dave Croonquist and realized we had forgotten to include the changes to facilitate online CRC catch reporting. In response, we withdrew the proposed expedited rule (CR-105) and submitted a CR-102, which incorporated two of the three suggested edits proposed by Mr. Croonquist, and scheduled this briefing on the Commission's agenda to afford Mr. Croonquist and others the opportunity for public comment.

The Commission received a briefing and public comment on these proposed rule changes at their meeting on September 14, 2018. At that time, we had proposed that the Commission consider these rule changes and the public comments we receive, and schedule the official public hearing and rule adoption for the Commission's conference call on October 5, 2018.

Suggested Edits and Rationale for Those Considered, but Not Included

WDFW received comments and suggested edits from Mr. Croonquist on July 25, 2018. These included two editorial suggestions, which we incorporated into the proposed rule changes.

The third suggestion from Mr. Croonquist is to require anglers to submit the halibut portion of their CRC back to WDFW within 30 days following the last day of the halibut season, rather than by April 30th when the entire CRC is required to be returned.

As we noted in September, because the halibut fishery is managed by federal sub-area quotas that need to be monitored during the season, adding the 30-day requirement would not be useful from a management perspective, and there are a few concerns with this proposal. Our concerns included: 1) the halibut season end date is a moving target, 2) there is no penalty for non-submittal, so enforcement would be difficult, 3) there would be more work for staff to develop a separate halibut catch estimate, which would likely have higher uncertainty due to assumptions we would need to make for non-submittals.

Following the September Commission meeting, Mr. Croonquist revised his proposal to require anglers to submit the halibut portion of the CRC back to WDFW by September 30th, rather than April 30th when the entire CRC is required to be returned. The revision from 30 days after the season ends to September 30th addresses the first concern described above, but still does not address the other two concerns.

Given these concerns, and the fact that requiring the CRCs to be returned by September 30th would not help us meet our catch accounting and management needs, we are recommending the Commission not add this requirement to the proposed rule.

Staff recommendation:

WDFW staff recommend the Commission consider the public comments we receive and adopt the proposed rule changes to WACs 220-220-020, 220-220-200, 220-310-010, and 220-310-020 as described in the attached CR-102.

Policy issue(s) and expected outcome:

There are no policy issues associated with the staff recommendation; however, there may be policy issues raised by comments provided by the public.

Fiscal impacts of agency implementation:

Licensing staff will work with the agency contractor for the WILD system that currently manages the online CRC system for Puget Sound crab and wildlife harvest reporting to add the other CRC fish species. There may be minor costs associated with expanding the online CRC reporting system and educating the public about the catch reporting options available.

Public involvement process used and what you learned:

Staff distributed the proposed rule changes to our recreational halibut mailing list, which includes charterboat owners and operators, recreational anglers, community and port representatives, and sportfishing groups, including Puget Sound Anglers and the Coastal Conservation Association, from throughout the state. The only comments we have received that included specific suggested edits to the proposed rule changes were those provided by Mr. Dave Croonquist, which are described above. At the meeting, staff will brief the Commission on any additional comments that were received after this staff summary was submitted.

In the past, WDFW has received public input and comments from fishery advisory groups, through the Wild Future Initiative, and stakeholder correspondence about the desire for online catch reporting systems in general, and for halibut specifically.

Action requested and/or proposed next steps:

The public hearing and rule adoption has been scheduled for the Commission's conference call on October 5, 2018.

Draft motion language:

I move that the Commission adopt the proposed rule changes to WACs 220-220-020, 220-220-200, 220-310-010, and 220-310-020 as described in the attached CR-102, and presented by staff.

Post decision communications plan:

Staff will communicate the Commission's decision regarding the proposed rule changes to our recreational halibut mailing list, post the results of the decision on the WDFW website, and work with Licensing to educate anglers about the catch reporting options available.

Form revised 2-15-18



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: August 22, 2018

TIME: 9:43 AM

WSR 18-17-179

Agency: Washington Department of Fish and Wildlife (WDFW)

Original Notice

Supplemental Notice to WSR 18-16-114 on August 1, 2018

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR _____ ; 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)

Amendments made to the following WACs:

WAC 220-220-020 Recreational license.

WAC 220-220-200 Valid catch record card.

WAC 220-310-010 Description of catch record cards and required information

WAC 220-310-020 Catch record cards

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
October 5, 2018	8:30 am	Commission Conference Call	Contact Commission Executive Secretary Tami Lininger at (360) 902-2267 for more information about participating in the conference call.

Date of intended adoption: October 5, 2018 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Scott Bird, WDFW Rules Coordinator

Address: 43200, MS 43153, Olympia, WA 98504

Email: Rules.Coordinator@dfw.wa.gov

Fax: 360-902-2155

Other:

By (date) _____

Assistance for persons with disabilities:

Contact Dolores Noyes

Phone: (360) 902-2349

Fax: (360) 902-2179

TTY:

Email: Dolores.noyes@dfw.wa.gov

Other:

By (date) October 1, 2018

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The department seeks to make additional amendments to the rules that include a \$5 fee for catch record cards that was previously approved by the legislature in Engrossed Substitute Senate Bill 6127 during the 2018 legislative session.

Reasons supporting proposal: The proposed changes to the current rules are necessary to make the rules consistent with request legislation passed in 2018 and recommendations made by the Pacific Fishery Management Council. The proposed modification to WAC 220-310-020(6)(a) would facilitate online catch reporting for species in addition to Puget Sound crab, which already has this capability. This would be a more convenient catch reporting method for anglers and could help increase compliance with catch reporting requirements.

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

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

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" 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:

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

Name of proponent: (person or organization) WDFW

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Michele Culver	1111 Washington St SE, Olympia WA	360-902-2182
Implementation:	Michele Culver	1111 Washington St SE, Olympia WA	360-902-2182
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)(e)
(Dictated by statute)

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

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

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

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: August 21, 2018

Name: Scott Bird

Title: Rules Coordinator

Signature:

Scott Bird

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

WAC 220-310-010 Description of catch record cards and required information. (1) The department shall prepare and distribute a catch record card for the following:

- (a) Anadromous salmon (salmon);
- (b) Dungeness crab taken from Catch Record Card Area 4 east of the Bonilla-Tatoosh line and Catch Record Card Areas 5-13;
- (c) Halibut;
- (d) Steelhead; and
- (e) Sturgeon.

(2) Each catch record card shall contain space for the following information (~~(, which must be recorded prior to the catch record card being separated from the underlying copy of the catch record card)~~):

- (a) Name of fisher;
- (b) Home address, or mailing address for a catch record card issued with a one-day charter boat or guide operator stamp license;
- (c) City, state, and zip code;
- (d) Date of issuance;
- (e) (~~Or, for automated licenses~~) When the catch record card is issued with a one-day charter boat or guide operator stamp license, the catch record card shall contain space for ((the appropriate validation sticker)) that stamp.

(3) Each catch record card shall contain space for the following information:

- (a) Month of catch;
- (b) Day of catch;
- (c) (~~((Catch record card area, river code, or stream: Location of catch;))~~) Location of catch by Marine Area, River, or Lake Code;
- (d) A species code for salmon and sturgeon and a marked or unmarked space for salmon;
- (e) A space for designating the type of vessel from which halibut was taken, either charter ("c") or (~~((personal/kicker (k) boat))~~) private ("p");
- (f) A space for the length of sturgeon;
- (g) For Dungeness crab:
- (i) The type of crab fishery as described on the Dungeness crab catch record card;
- (ii) The total crab retained by fishery type;
- (iii) A tally mark for each crab retained.

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

WAC 220-310-020 Catch record cards. It is unlawful for any person to fail to comply with the catch record requirements as provided for in this section:

(1) An angler must obtain and have in his or her personal possession a valid and appropriate Puget Sound Dungeness crab catch record card as described in WAC 220-310-010 to fish for or possess for personal use any Dungeness crab in Catch Record Card Area 4 east of the Bonilla-Tatoosh Line, and in Catch Record Card Areas 5-13.

(2) An angler must obtain and have in his or her personal possession a valid and appropriate catch record card as described in WAC 220-310-010 to fish for or possess for personal use any anadromous salmon, sturgeon, halibut, or steelhead except a catch record card is not required for:

(a) Commercially caught salmon retained for personal use, as provided in WAC 220-354-030, and commercially caught sturgeon retained for personal use, as provided in WAC 220-353-110; and

(b) Landlocked steelhead or for salmon in waters designated as "landlocked salmon rules apply" in WAC 220-312-010 through 220-312-060.

(3) Unless the catch record card is issued by the automated licensing system, anglers must completely, accurately, and legibly complete all personal identification information in ink on the catch record card ((before detaching the card from its underlying copy or, for automated licenses, affixing the appropriate validation sticker to the catch record card to validate a catch record card)). A catch record card remains valid as long as there is one or more unfilled spaces available for the species being fished for, except:

(a) A catch record card remains valid for catch-and-release sturgeon fishing when the sturgeon portion of the card is full in the mainstem Columbia River downstream from where the river forms the common boundary between Oregon and Washington.

(b) It is unlawful to use a second or subsequent catch record card to retain halibut, sturgeon, or wild steelhead after the first card is full.

(4) The fee for a catch record card for halibut is five dollars when purchased with an annual saltwater fishing license, an annual combination fishing license, or an annual fish Washington license. There is no charge for a catch record card for halibut with a temporary combination fishing license that is valid for one to three consecutive days, or with a one-day charter boat or guide operator stamp license, or with a youth license.

(5) Immediately upon catching and possessing a salmon, steelhead, sturgeon or halibut, anglers must enter, in ink, in the appropriate space on the card, the place, date of catch, and species (catch type). For sturgeon, anglers also must record the length of the fish; for halibut, anglers also must record the vessel type; and for salmon, anglers also must indicate whether or not the fish was marked by having a clipped adipose fin((s)).

((+5)) (6) Immediately upon retaining a Puget Sound Dungeness crab aboard a vessel or on the shore, fishers must enter, in ink, in the appropriate space on the Puget Sound Dungeness crab catch record card, the place and date of catch, the fishery type, and a tally mark for each Dungeness crab retained from each catch record card area fished. At the end of the fishing day, the fisher must enter the total number of crab tally marks for each fishery type.

((+6)) (7)(a) Every person issued a catch record card must, by April 30 of the year after they used the card, return the card to the department of fish and wildlife or report the card information at the designated internet site by dates indicated on the card. People issued a Puget Sound Dungeness crab catch record card must return the card to the Washington department of fish and wildlife or report the card information at the designated internet site by the dates indicated on the card.

(b) Failure to return a Dungeness crab catch record card or to report the Dungeness crab catch record card information at the desig-

nated internet site by the dates indicated on the card will result in a ten-dollar administrative fee. The administrative fee will be collected from anglers when they acquire a subsequent Puget Sound Dungeness crab endorsement.

((+7+)) (8) Any person possessing a catch record card must show the card to any law enforcement officer or authorized department employee who asks to inspect the card.

((+8+)) (9) A catch record card must not be transferred, borrowed, altered, or loaned to another person, except as authorized under RCW 77.32.565.

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

WAC 220-220-020 Recreational license. A recreational license is ~~((a license document or))~~ a valid internet or telephone ~~((authorization))~~ transaction number issued by the department ~~((The license document is invalid unless the personal identification information on the license has been completed and the licensee has signed the license except that a temporary fishing license is issued either as a license document requiring personal identification information or as a stamp, which is invalid unless the two consecutive days for which it is valid are entered, in permanent ink, on the stamp))~~ or a valid license.

With the exception of razor clam licenses and one-day charter boat or guide operator stamp licenses, to be valid, a license must be signed by the licensee, must contain the licensee's personal identification information, and, if a catch record card is required, must be accompanied by a valid catch record card.

To be valid, a razor clam license must be signed by the licensee.

When a catch record card is not required for use with a one-day charter boat or guide operator stamp license, the stamp license is valid only if the issue date is written in ink on the stamp and the stamp is signed by the licensee. When a catch record card is required for use with a one-day charter boat or guide operator stamp license, the license is valid only if the issue date is written in ink on the stamp, the stamp is affixed to the catch record card, the catch record card is signed by the licensee, and the catch record card contains the licensee's completed personal identification information.

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

WAC 220-220-200 Valid catch record card. For a catch record card ~~((shall be invalid unless))~~ to be valid:

(1) The angler ~~((has))~~ must have in physical possession the appropriate ~~((recreational))~~ license and catch record card for the area in which the angler is participating, if a license and/or a catch record card is required.

(2) The catch record card ~~((number is written in ink in the appropriate space on the back of the recreational license, if a license is required, and))~~ must contain the personal information ~~((has been entered on the catch record card as))~~ required under WAC ~~((220-310-020, or, if an automated license is issued, the catch record card has attached to it a validation sticker containing the name and license number))~~ 220-310-010.

(3) The license issuance date ~~((is))~~ must be legible and not altered, and the license ~~((has not been))~~ must not be mutilated.