

they expect to be able to resell more of the rockfish they receive from fishers. Overall, this rule change would be expected to reduce waste by reducing discards. The permits, which will be issued at the discretion of the director, will include terms and conditions designed to ensure that the department maintains the ability to adequately sample rockfish for stock assessments.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.020, 77.12.045, 77.04.055, and 77.12.047.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington department of fish and wildlife, governmental.

Name of Agency Personnel Responsible for Drafting: Whitney Roberts, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2675; Implementation: Kelly Cunningham, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2325; and Enforcement: Chief Steve Bear, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2938.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. This proposal does not require a cost-benefit analysis under RCW 34.05.328.

Scope of exemption for rule proposal from Regulatory Fairness Act requirements:

Is not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The fishing businesses that would be affected by this proposed rule all qualify as small businesses under the Regulatory Fairness Act. The proposed change would reduce existing substantive regulatory requirements through a voluntary, permit-based program. Businesses would be expected to participate only if the opportunity to earn additional revenues from the improved quality of dressing fish at sea outweigh the costs of participating.

The department expects any additional costs of participation to be minor. Permits will be provided at no cost to applicants. New costs would arise only from the time needed to apply for the permit and to comply with permit terms and conditions, including training. Permit terms and conditions will not add reporting or recordkeeping requirements beyond those already required. Likewise, the time needed to interact with the department would be minimal compared to the time businesses already spend applying for fishery licenses and interacting with department port biologists. Neither the application process nor compliance would be expected to reduce time available for fishing.

The department collects information on revenues earned by fishing businesses delivering fish into the state (exvessel revenues) and has access to the equivalent information collected by our counterparts in Oregon and California. The set of businesses that would participate is unknown. Revenues vary widely among fishery sectors and individual businesses. The request to land dressed rockfish originated from participants in the primary fixed gear sablefish fishery. Businesses that participated in that fishery in 2021 earned, on average, exvessel revenues of \$309,042. The 0.3 percent minor cost threshold corresponding to this amount is \$927. As a measure of business earning lower than the 2021 west coast average, the minor cost threshold associated with the 20th percentile revenue value was \$259. Considering only west coast revenues leads to an understatement of revenues, as many businesses also fish in the Alaska sablefish and halibut fishery. The de-

partment does not have the same access to Alaska landings information. However, publicly available data show that the average per exvessel revenue earnings from that fishery were \$289,570 in 2021 (source: Pacific States Marine Fisheries Commission Alaska Fisheries Information Network).

Individuals from the salmon troll fishery sector have also expressed interest in participating in the proposed program. Many trollers choose to not land groundfish because of the added cost of federal vessel monitoring regulations. Only 14 landed groundfish in 2021. The minor cost threshold for those vessels, based on the average west coast exvessel revenues, was \$341. The 20th percentile value was \$109.

Finally, although the department has concluded that the costs of participating in the voluntary program will be minor, we will nonetheless work with participants to ensure that permit terms and conditions are kept to the minimum needed to ensure accurate data collection for stock assessment and catch accounting.

January 31, 2023

Chris Fredley

Acting Agency Rules Coordinator

OTS-4308.1

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

WAC 220-353-050 Possession of food fish and shellfish—Identification—Commercial. (1) It is unlawful to possess any food fish or shellfish in a condition where the species, length, weight, or sex cannot be determined if a species, species group or category, length, weight, or sex limit is prescribed for that species on a vessel engaging in commercial fishing or that has commercially caught fish aboard, except:

(a) It is permissible to possess fish or shellfish legally taken for commercial purposes, landed, and properly accounted for on a completed fish receiving ticket;

(b) It is permissible to possess, transport through the waters of the state, or land dressed sablefish;

(c) It is permissible to possess, transport through the waters of the Pacific Ocean, or land dressed salmon caught during a legal commercial salmon troll fishery, provided that frozen dressed Chinook salmon are 21 1/2 inches or more in length and frozen dressed coho salmon are 12 inches or more in length, measured from the midpoint of the clavicle arch to the fork of the tail;

(d) It is permissible to possess, transport through the waters of the Pacific Ocean, or land dressed halibut if allowed by International Pacific Halibut Commission (IPHC) rules and such fish meet any IPHC size requirements so long as halibut is landed with the heads still attached; ~~((and))~~

(e) It is permissible to possess, transport through the waters of the Pacific Ocean, or land dressed lingcod when taken during a lawful commercial fishery; and

(f) It is permissible to possess, transport through the waters of the Pacific Ocean, or land dressed rockfish if authorized by a permit issued by the director and in accordance with the permit's terms and conditions.

(2) Violation of this section is a gross misdemeanor under RCW 77.15.550, Violation of commercial fishing area or time—Penalty.

(3) "Dressed fish" is defined as provided in WAC 220-350-050.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-353-050, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.055, 77.12.045, and 77.12.047. WSR 13-03-153 (Order 13-16), § 220-20-121, filed 1/23/13, effective 2/23/13.]