

**THE NATIONAL MARINE FISHERIES SERVICE REPORT  
ON THE PROPOSAL FOR MORE FLEXIBLE SHARING OF THE CANARY  
ROCKFISH ANNUAL CATCH LIMIT**

The National Marine Fisheries Service (NMFS) reviewed the Washington Department of Fish and Wildlife's (WDFW) "Preliminary Analysis of the Proposal for more Flexible Sharing of the Canary Rockfish Annual Catch Limit" (Agenda Item C.7.a WDFW Report 1 April 2026, hereafter referred to as "Proposal"), and offers the following commentary to facilitate Pacific Fishery Management Council (Council) discussion.

NMFS understands that WDFW would like the Council and NMFS to incorporate this proposal into the 2027-28 groundfish harvest specifications and management measures process and implement it through the corresponding rulemaking. NMFS appreciates that WDFW initially brought this concept forward early in the biennial process; our initial feedback on the November 2025 report was delayed due to the furlough.

As written, this proposal would constitute a new management measure, and therefore is not eligible for implementation through the biennial specifications rulemaking (justification explained below). Although new management measures have historically been a typical component of the Council's biennial harvest specifications and management measures process and the corresponding rulemaking that NMFS publishes, NMFS West Coast Region has been advised that new management measures, if adopted, will need to be bifurcated into separate regulatory packages. New management measures are not being included in the 2027-28 rulemaking package because in order to be exempt from [Executive Order \(E.O.\) 14192](#) (*i.e.* the "10 for 1" E.O.), an action must be designated as "routine." New management measures are in of themselves, new, and not routine, and therefore necessitate additional analyses that may designate them as regulatory or deregulatory, which would then subject them to the additional requirements of E.O. 14192. The consequence of not being exempt from E.O. 14192 poses significant risk to the implementation timeline of the rulemaking package, which must be in place by January 1, 2027. Implementing the rulemaking late, even for a small amount of time, delays the dispersal of full fishery allocations to their respective sectors, carries over harvest specifications that are either too low or too high, and delays corresponding state partner processes that react to Federal regulation changes.

NMFS has designated WDFW's Proposal in its current iteration as a new management measure because it would establish new considerations the Council would use to evaluate sector attainment of targets and set different triggers for taking action - actions which would change the Council's accountability measure (AM) system. The National Standard 1 guidelines require AMs to be specified in the FMP ([50 CFR 600.310\(c\)\(5\)](#)). The Pacific Coast Groundfish FMP

primarily describes the Council's system of AMs in Section 6.2.1.1 (Routine Management Measures), though parts of Section 6.7 also speak to how AMs are utilized. In order to guide action, these measures must also be codified in regulation.

The Proposal, as written, also raises concerns regarding its consistency with the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and its implementing regulations, including National Standard 1. Similar approaches to modeling, planning, and identifying annual catch limits by regional fishery management councils have been rejected by federal courts. If this Proposal were to move forward, the Council would need to carefully review the Proposal and, at a minimum, likely revise the AMs in the FMP and regulations to provide for these new considerations for canary rockfish. The Proposal describes the need to specify "if-then" conditions that would trigger evaluation of a sector or annual catch limit (ACL) overage and the subsequent use of management measures to address the overage. At a minimum, further development of this "if-then" framework would be necessary, as well as consideration of "if-then" conditions across multiple sectors if attainment were to reach allocations (whether formal or informal) of multiple sectors in the same year. While NMFS agrees that the development of strategies to increase attainment to achieve, but not exceed ACLs, is a worthy area of development, such strategies must be carefully considered in the context of MSA requirements. Thus, this Proposal is better suited for a consideration outside of the biennial specifications and management measures process. NMFS welcomes feedback from Council staff and other Council representatives as to a process and action where this Proposal can be more fully developed, and its merits, alternatives, and legal concerns more fully explored, if desired.