



# RULE-MAKING ORDER

**CR-103P (May 2009)**  
**(Implements RCW 34.05.360)**

**Agency:** Washington Department of Fish and Wildlife

**Permanent Rule Only**

**Effective date of rule:**

**Permanent Rules 15-343**

31 days after filing.

Other (specify) October 11, 2015 (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

Yes  No If Yes, explain: Please see attachment A.

**Purpose:** Amends rules for commercial salmon fishing in Grays Harbor. These rules incorporate recommendations of the North of Falcon sub-group of the Pacific Fisheries Management Council for taking harvestable numbers of salmon during the commercial salmon fisheries in Grays Harbor, while protecting species of fish listed as endangered.

**Citation of existing rules affected by this order:**

Repealed:

Amended: WAC 220-36-023

Suspended:

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

**Other authority :**

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 15-12-116 on June 3, 2015.

Describe any changes other than editing from proposed to adopted version:

Removed option for fishing the evening of October 14.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: \_\_\_\_\_ phone ( ) \_\_\_\_\_  
Address: \_\_\_\_\_ fax ( ) \_\_\_\_\_  
e-mail \_\_\_\_\_

**Date adopted:** September 11, 2015

**NAME (TYPE OR PRINT)**

James Unsworth

**SIGNATURE**

**TITLE**

Director

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: September 16, 2015**

**TIME: 1:17 PM**

**WSR 15-19-086**

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	_____	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New		Amended	<u>1</u>	Repealed	
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	_____	Repealed	_____

## Attachment A

### Commercial salmon fishing rules for Grays Harbor, 2015

#### **Other findings required by other provisions of law as precondition to adoption or effectiveness of rule:**

Pursuant to RCW 34.05.380(3)(c), WDFW finds that an effective date earlier than the normal 31-day time period following the filing of this rule is needed to avoid imminent peril to the public welfare. In the agency's determination, there are significant direct and indirect economic impacts to Grays Harbor fishermen, their families, and that portion of the local economy supported through their activities, that would accrue if the contemplated fishery is not opened on October 11, 2015.

In support of this finding, the agency estimates that the ex-vessel value lost in delaying the start of the commercial fishery for 31 days following filing with the Code Reviser would be approximately \$10,000, or nearly 8% of the total ex-vessel value of the fishery. In addition to that direct economic loss, there would very likely be indirect, but nonetheless very real, economic losses to the local economy.

If days lost through a delay in starting the commercial fishery were redistributed via a reconfiguration of the October season using emergency rules or modifying the current proposed rules in conformity with RCW 34.05.240, a small portion of the loss might be recovered, yielding a net direct loss of approximately \$8,000 or approximately 7% of the estimated ex-vessel value. Additional indirect losses would also remain. In addition, compression of the commercial fishery into October would further result in unanticipated and unintended consequences for the recreational fishery and the economic benefits that the local economy is expected to receive from that fishery. These losses are not an acceptable alternative and would not fully address the imminent peril to public welfare. For these reasons, an earlier effective date of October 11, 2015, is established as necessary by these findings.

**WAC 220-36-023 Salmon—Grays Harbor fall fishery.** From August 16 through December 31 of each year, it is unlawful to fish for salmon in Grays Harbor for commercial purposes or to possess salmon taken from those waters for commercial purposes, except that:

**Fishing periods:**

(1) Gillnet gear may be used to fish for Chinook, coho, and chum salmon, and shad as provided in this section and in the times and area identified in the chart below.

Time:	Areas:
((12:00 p.m. October 22 through 8:00 p.m. October 22;	Area 2A and Area 2D
6:00 a.m. October 23 through 6:00 p.m. October 23;	
12:00 p.m. October 28 through 8:00 p.m. October 28;	
7:00 a.m. October 29 through 7:00 p.m. October 29;	
12:00 p.m. November 3 through 8:00 p.m. November 3;	
7:00 a.m. November 4 through 7:00 p.m. November 4;	
7:00 a.m. November 5 through 7:00 p.m. November 5;	
AND	
12:00 p.m. November 11 through 8:00 p.m. November 11.	
12:00 p.m. October 28 through 11:59 p.m. October 29;	Area 2C
12:00 p.m. November 4 through 11:59 p.m. November 5;	
AND	
12:00 p.m. November 12 through 11:59 p.m. November 12.))	
7:00 a.m. through 11:59 a.m. October 11;	Area 2A and Area 2D
12:30 p.m. through 4:30 p.m. October 14;	
8:30 a.m. through 5:30 p.m. October 18;	
8:30 a.m. through 5:30 p.m. October 19;	
8:00 a.m. through 5:00 p.m. October 20;	
8:00 a.m. through 5:00 p.m. October 21;	

Time: Areas:  
8:00 a.m. through 5:00 p.m.  
November 1;  
8:00 a.m. through 5:00 p.m.  
November 2;  
8:00 a.m. through 5:00 p.m.  
November 3;  
AND  
8:00 a.m. through 5:00 p.m.  
November 4.  
6:30 a.m. through 3:30 p.m. Area 2C  
October 26;  
AND  
6:30 a.m. through 3:30 p.m.  
October 27.

**Gear :**

(2) Gear restrictions:

(a) It is permissible to have on board a commercial vessel more than one net, provided that the length of any one net does not exceed one thousand five hundred feet in length. Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope that is 3/8 (0.375) inches in diameter or greater.

(b) Areas 2A and 2D from October ((21)) 1 through November 30: Gillnet gear only.

(i) It is unlawful to use set net gear.

(ii) It is unlawful to utilize any object, except the vessel deploying the gear, to impede a gillnet or its attached line or float from drifting.

(iii) Mesh size must not exceed six and one-half inch maximum. Nets may be no more than fifty-five meshes deep.

(iv) It is unlawful to use a gillnet to fish for salmon if the lead line weighs more than two pounds per fathom of net as measured on the cork line. The lead line must not rest on the bottom in such a manner as to prevent the net from drifting. It is permissible to have a gillnet with a lead line weighing more than two pounds per fathom aboard a vessel when the vessel is fishing in or transiting through Grays Harbor.

(c) Area 2C from October ((21)) 1 through November 30: Gillnet gear only.

(i) It is unlawful to use set net gear.

(ii) It is unlawful to utilize any object, except the vessel deploying the gear, to impede a gillnet or its attached line or float from drifting.

(iii) Mesh size must not exceed nine inches.

(iv) It is unlawful to use a gillnet to fish for salmon if the lead line weighs more than two pounds per fathom of net as measured on the cork line. The lead line must not rest on the bottom in such a manner as to prevent the net from drifting. It is permissible to have a gillnet with a lead line weighing more than two pounds per fathom aboard a vessel when the vessel is fishing in or transiting through Grays Harbor.

**Other:**

(3) Recovery boxes and soak times:

(a) Each boat must have two operable recovery boxes or one box with two chambers on board when fishing Areas 2A, 2C, and 2D.

(i) Each box and chamber must be operating during any time the net is being retrieved or picked and any time a fish is being held in accordance with (b) and (c) of this subsection. The flow in the recovery box must be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute.

(ii) Each chamber of the recovery box must meet the following dimensions as measured from within the box:

(A) The inside length measurement must be at or within 39-1/2 inches to 48 inches;

(B) The inside width measurements must be at or within 8 to 10 inches; and

(C) The inside height measurement must be at or within 14 to 16 inches.

(iii) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of the chamber and 1-3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to department employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river or fresh bay water into each chamber.

(b) When fishing in Grays Harbor Areas 2A and 2D, all steelhead and wild (unmarked) Chinook must be placed in an operating recovery box which meets the requirements in (a) of this subsection prior to being released to the river/bay as set forth in (d) of this subsection.

(c) When fishing in Grays Harbor Area 2C, all steelhead and wild (unmarked) coho must be placed in an operating recovery box which meets the requirements in (a) of this subsection prior to being released to the river/bay as set forth in (d) of this subsection.

(d) All fish placed in recovery boxes must remain until they are not lethargic and not bleeding and must be released to the river or bay prior to landing or docking.

(e) For Areas 2A, 2C, and 2D, soak time must not exceed 45 minutes. Soak time is defined as the time elapsed from when the first of the gillnet web is deployed into the water until the gillnet web is fully retrieved from the water.

(4) Retention of any species other than coho, chum, hatchery Chinook marked by a healed scar at the site of the adipose fin, or shad is prohibited in Areas 2A and 2D from October ((21)) 1 through November 30.

(5) Retention of any species other than Chinook, chum, or hatchery coho marked by a healed scar at the site of the adipose fin, or shad, is prohibited in Area 2C from October ((21)) 1 through November 30.

(6) Quick reporting is required for wholesale dealers and fishers retailing their catch under a "direct retail endorsement." According to WAC 220-69-240(14), reports must be made by 10:00 a.m. the day following landing.

(7) Report all encounters of green sturgeon to the quick reporting office via phone at 866-791-1280, fax at 360-249-1229, or e-mail at harborfishtickets@dfw.wa.gov. Fishers may have wholesale dealers use the "buyer only" portion of the fish ticket and include encounters with each day's quick reporting.

(8) Do NOT remove tags from white or green sturgeon. Please obtain available information from tags without removing tags. Submit tag information to:

Washington Department of Fish and Wildlife  
48 Devonshire Rd.  
Montesano, WA 98563.

(9)(a) Fishers must take department observers, if requested, by department staff when participating in these openings.

(b) Fishers also must provide notice of intent to participate by contacting Quick Reporting by phone, fax or e-mail. Notice of intent must be given prior to 12:00 p.m. on October ((21)) 1, for openings in Areas 2A, 2C, or 2D.

(10) It is unlawful to fish for salmon with tangle net or gillnet gear in Areas 2A, 2C, and 2D unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and has in his or her possession a department-issued certification card.