



# 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 14-268**

31 days after filing.

Other (specify) \_\_\_\_\_ (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:

**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Repealed:  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 14-15-139 on July 23, 2014 (date).  
Describe any changes other than editing from proposed to adopted version:

In 2A-D, the following changes were made: 1) The 12-hour opening during week 40 was deleted from the schedule; 2) There were two 8-hour openers, one each, added to week 43 and 44; 3) Instead of one 48-hour fishery, week 45 consists of one 8-hour opener and two 12-hour openers; and 4) The 36-hour opener during week 46 is broken into two pieces, one 8-hour and one 12-hour opener. The final 12-hour opening is reserved as a compliance incentive day and will only be open if compliance with regulations meets standards.

Language is added to the gillnet restrictions and regulations as follows: "The lead line cannot rest on the bottom in such a manner as to limit the ability for net to drift" and "It is unlawful to utilize any object to impede a gill net or its attached line or float from drifting."

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 19, 2014

**NAME (TYPE OR PRINT)**  
Philip Anderson

**SIGNATURE**

**TITLE**  
Director

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: September 19, 2014**

**TIME: 4:52 PM**

**WSR 14-20-023**

**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	_____

AMENDATORY SECTION (Amending WSR 13-19-027, filed 9/9/13, effective 10/10/13)

**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 white sturgeon)~~), and shad as provided (~~((for))~~) in this section and in the times and area identified in the chart below.

Time:	Areas:
<del>((7:00 a.m. October 10 through 7:00 p.m. October 10, 2013;</del>	Area 2A and that portion of Area 2D lying easterly of a north-south line from the confluence of the Hoquiam (N 46.96978, W 123.88022) and Chehalis rivers to Renney Island, then easterly to "Range Marker G," located on the south shore of Grays Harbor, then to the eastern boundary of Area 2D at the Highway 101 Bridge.
<del>7:00 a.m. October 24 through 7:00 p.m. October 24, 2013;</del>	Area 2A and Area 2D.
<del>7:00 a.m. October 25 through 7:00 p.m. October 25, 2013;</del>	
<del>7:00 a.m. October 29 through 7:00 p.m. October 29, 2013;</del>	
<del>6:00 p.m. November 7 through 6:00 p.m. November 9, 2013; and</del>	
<del>6:00 p.m. November 10 through 6:00 p.m. November 12, 2013.</del>	
<del>7:00 a.m. November 1 through 7:00 p.m. November 1, 2013;</del>	Area 2C
<del>7:00 a.m. November 2 through 7:00 p.m. November 2, 2013;</del>	
<del>7:00 a.m. November 6 through 7:00 p.m. November 6, 2013; and</del>	
<del>7:00 a.m. November 14 through 7:00 p.m. November 14, 2013.))</del>	
<del>12:00 p.m. October 22 through 8:00 p.m. October 22;</del>	Area 2A and Area 2D
<del>6:00 a.m. October 23 through 6:00 p.m. October 23;</del>	
<del>12:00 p.m. October 28 through 8:00 p.m. October 28;</del>	
<del>7:00 a.m. October 29 through 7:00 p.m. October 29;</del>	
<del>12:00 p.m. November 3 through 8:00 p.m. November 3;</del>	
<del>7:00 a.m. November 4 through 7:00 p.m. November 4;</del>	
<del>7:00 a.m. November 5 through 7:00 p.m. November 5;</del>	
<del>AND</del>	
<del>12:00 p.m. November 11 through 8:00 p.m. November 11.</del>	
<del>12:00 p.m. October 28 through 11:59 p.m. October 29;</del>	Area 2C
<del>12:00 p.m. November 4 through 11:59 p.m. November 5;</del>	
<del>AND</del>	

Time:

Areas:

12:00 p.m. November 12 through  
11:59 p.m. November 12.

**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 1 through October 15, 2013, tangle net gear only. Single wall nets are required. Maximum mesh size must not exceed four and one quarter inches. Mesh size is determined by placing three consecutive meshes under hand tension and taking the measurement from the inside of one vertical knot to the outside of the opposite vertical knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact. Strings/slackers are required, and nets may hang no more than 28 feet from cork line to lead line. It is unlawful to use set net gear. Net construction must include sufficient floatation to ensure the cork line remains at the surface when in the act of fishing.~~

~~(e))~~ Areas 2A and 2D from October ((16)) 21 through November 30(~~(, 2013.))~~): 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 (~~(or white sturgeon))~~ 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.

~~((d))~~ (c) Area 2C ((August 16)) from October 21 through November 30(~~(, 2013.))~~): 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 ((eight and one half inch maximum)) nine inches.

(iv) It is unlawful to use a gillnet to fish for salmon (~~(or white sturgeon))~~ 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.

~~((b) Any steelhead or salmon that is required to be released and is bleeding or lethargic must be placed in a recovery box prior to being released to the river/bay. The recovery box must meet the requirements in (d) of this subsection.~~

~~(c) All fish placed in recovery boxes must be released to the river/bay prior to landing or docking.~~

~~(d) Each boat must have two operable recovery boxes or one box with two chambers on board when fishing Areas 2A and 2D. Each box must be operating during any time the net is being retrieved or picked. 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. Each chamber of the recovery box must meet the following dimensions as measured from within the box: The inside length measurement must be at~~

or within 39 1/2 inches to 48 inches, the inside width measurements must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

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/bay water into each chamber.))

(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 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 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.

((+5)) (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 ((4, 2013)) 21, for openings in Areas 2A ((and)), 2C, or 2D.

((6) Retention of any species other than coho or chum, or white sturgeon with a fork length measure of not less than 43 inches and not more than 54 inches, or hatchery Chinook marked by a healed scar at the site of the adipose fin, is prohibited in Areas 2A and 2D from October 1 through November 30, 2013.

(7) Retention of any species other than Chinook, coho, and chum, and white sturgeon with a fork length measure of not less than 43 inches and not more than 54 inches, is prohibited in Area 2C.

(8) Report ALL encounters of green sturgeon, steelhead, and wild (unmarked) Chinook (your name, date of encounter, and number of species encountered) 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.

~~(9) White sturgeon, when lying on their side, are measured from the tip of the nose to the fork of the tail. This measurement is referred to as the fork length. All white sturgeon to be retained must have a fork length measure of no less than 43 inches and no more than 54 inches.~~

~~(10) Do ~~NOT~~ remove tags from white sturgeon that are not allowed to be retained. For white sturgeon that can be retained, please submit tags to the Washington Department of Fish and Wildlife, 48 Devonshire Rd., Montesano, WA 98563. For white sturgeon not of a legal size, and all green sturgeon, obtain available information from tags without removing the tags.~~

~~(11))~~ (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.