

**Concise Explanatory Statement**  
**Grays Harbor Commercial Salmon Regulations for 2015**

**Introduction**

This Concise Explanatory Statement (CES) relates to the rule being adopted by the Washington Department of Fish and Wildlife (WDFW or Department) to amend Washington Administrative Code (WAC) 220-36-023. The CES contains four principle sections. Section I describes the rule being adopted, the process used in adopting the rule, and the resource management objectives advanced by adoption of the rule. Section II describes the changes from the proposed rule to the adopted rule. Section III discusses comments received during rulemaking and the agency’s analysis and resolution of those comments. Section IV briefly discusses other comments received during the North of Falcon process that were germane to the development of the proposed rule noticed in the CR 102.

**I. The Adopted Rule, Rule-making Process and WDFW’s Resource Management Objectives Overview of the Rule Adopted**

The rule being adopted provides a schedule to open the 2015 fall commercial gillnet salmon fisheries (Chinook, coho, and chum) in Grays Harbor. Without the proposed rule, commercial fishing for salmon would be the same as in 2014 (See WAC 220-36-023).

***Brief Summary of the Adopted Rule:***

The rule being adopted amends the existing permanent rule that opened the fall commercial salmon fisheries in Grays Harbor as defined in WAC 220-36-023.

WAC 220-36-023 specifies the permissible commercial gear and methods of harvest that must be utilized, the locations, and the duration of the fall commercial salmon season, for fisheries occurring between August 16 and December 31 annually. Areas 2A and 2D will open a total of 81 hours during ten openers in October and November of 2015. Area 2C will open a total of 18 hours during two openers in October. Commercial harvest authorized during the fall period requires selective fishing gear and techniques (i.e., only hatchery-origin Chinook salmon with a clipped adipose fin can be retained in areas 2A and 2D and only hatchery-origin coho salmon with a clipped adipose fin can be retained in area 2C). The rule also addresses retention of chum salmon.

***Fishery mandates and Commission Policy:***

The rule is being adopted pursuant to the authorities found in RCW Title 77, including those provisions in RCW 77.04.012 that establish conservation as the paramount objective: “to conserve the wildlife and food fish, game fish, and shellfish resources in a manner that does not impair the resource.” Where consistent with that conservation objective, the Department must also “seek to maintain the economic well-being and stability of the fishing industry in the state”; “promote orderly fisheries”; and “enhance and improve recreational and commercial fishing in

this state.” These are broad state-wide objectives and do not necessarily focus on one region, one fish species, or one segment of harvesters. The term “fishing industry of the state” includes both commercial and recreational interests. While these objectives are ultimately applied on a state-wide basis, the agency considers regional interests, individual fishing sectors, and the interests of varying gear-type groups when undertaking its efforts to promote state-wide management interests. Accordingly, while the agency considered sharing of fishing opportunity for various species and gear groups in Grays Harbor, those evaluations are made against a backdrop of historical Pacific Coast fishing opportunities throughout the year as discussed below.

The rule being adopted implements policies of the Fish and Wildlife Commission, including those aimed at promoting the conservation and recovery of wild salmon and sustainable fisheries (Hatchery and Fishery Reform – C-3619; 2015-16 North of Falcon Policy – C-3608; Grays Harbor Basin Salmon Management – C-3621).

The adopted rule also incorporates the recommendations from the North of Falcon (NOF)/Pacific Fishery Management Council (PFMC) process that included significant public input. WDFW’s objectives for those processes are outlined in the 2015-16 North of Falcon (NOF) policy and the Policy Guidelines for PFMC Representation adopted by the Fish and Wildlife Commission (C-3603). The NOF/PFMC process is the forum in which Washington works with other states, tribal co-managers, federal fishery managers and stakeholder groups to plan for, and execute, fisheries of interest to state, tribal and federal entities. Through that process, the management entities identify the predicted abundance of fish, desired escapement objectives, the harvestable surplus, shares available to state and tribal harvesters, and set the stage for subsequent development of Washington State’s commercial and recreational fishing seasons, including time, manner, and method regulations that will be used to implement those seasons.

### ***Development and Implementation of the 2014 Grays Harbor Basin Salmon Management Policy (C-3621)***

In the fall of 2013, the Department initiated the development of a policy to advance the conservation and restoration of wild salmon, to maintain or enhance the economic well-being and stability of the fishing industry in the state, to provide the public with outdoor recreational experiences, to provide a fair distribution of fishing opportunities throughout the Grays Harbor Basin, and to improve the technical rigor of fishery management. This policy (Grays Harbor Basin Salmon Management Policy, C-3621) was approved and made effective as of March 1, 2014.

This policy provides a cohesive set of principles and guidance to promote the conservation of wild salmon and steelhead and improve the Department’s management of salmon in the Grays Harbor Basin. The Commission recognized that management decisions must be informed by fishery monitoring (biological and economic), and that innovation and adaptive management will be necessary to achieve the stated purpose of this policy.

State commercial and recreational fisheries will need to increasingly focus on the harvest of abundant hatchery fish. Mark-selective fisheries are a tool that permits the harvest of abundant

hatchery fish while reducing impacts on wild stocks needing protection. As a general policy, the Department is instructed to implement mark-selective salmon fisheries, unless the wild populations substantially affected by the fishery are meeting spawner objectives (e.g., escapement goals), and broodstock (hatchery) management objectives. In addition, the Department may consider other management approaches provided they are as or more effective than a mark-selective fishery in achieving spawner and broodstock management objectives.

***Rule Development Process:***

The CR 101 notice of intended rule-making was filed on December 23, 2014 (WSR 15-01-157). Thereafter, the Department relied upon several forums to gather information and interact with regional fishery managers and constituent groups in order to develop a draft rule that would be presented in the CR-102 filing for formal public review and comment.

As noted above, state, federal and tribal fishery managers gather each year to plan the Northwest's recreational and commercial salmon fisheries. This pre-season planning process is generally known as the "North of Falcon" (NOF) process, and includes a series of public meetings with federal, state, and tribal fishery managers, together with citizens that have an interest in these fisheries, both recreational and commercial. The NOF planning process coincides with the March and April meetings of the PMFC, the federal authority responsible for setting ocean salmon seasons 3 to 200 miles off the Pacific coast from the US – Canada border in the north to the US – Mexico border to the south. In addition to the two PFMC meetings, the states of Washington and Oregon, and Treaty Tribes, sponsor additional meetings to discuss alternative fishing seasons that meet conservation and sharing objectives. In addition to public meetings, WDFW also solicits input from advisory groups whose representatives represent a diverse range of user group interests. For this rule making process, the Grays Harbor Advisory Group was consulted.

The 2015 NOF process began with a joint public meeting for both Grays Harbor and Willapa Bay on February 25, 2015 at the Montesano City Hall in Montesano, WA. This meeting was designed to present run forecasts with historical data for each area and salmon species. WDFW presented the 2015 run forecasts for stocks originating from rivers of Puget Sound, coastal Washington, and the Columbia River on March 2, 2015 at the Natural Resources Building in Olympia, WA. Resource utilization implications of the 2015 forecasts were discussed broadly in a statewide context. This was followed by regional break-out sessions where WDFW staff further discussed 2015 forecasts and resource utilization implications in greater detail and solicited fishery suggestions for those in attendance.

A Grays Harbor Advisory Group meeting was held March 5, 2015 at the Montesano High School Commons in Montesano, WA. The purpose of this meeting was to provide operating protocols and guidelines for advisory groups assisting the agency (see WDFW Operating Protocols and Guidelines for Advisory Groups, April 2010) in the development of rules that open fisheries. This meeting allowed WDFW to establish a schedule of meetings for the group to occur during March in alignment with other portions of the NOF process. Notice of all NOF meetings open to the public was available on the WDFW website by early February and was also provide in a news release on February 24, 2015-.

WDFW held Grays Harbor regionally focused public NOF meetings on March 11, 2015 and March 26, 2015 both in Montesano, WA. During these meetings WDFW provided the public with information on the 2015 season planning process, discussed 2015 forecasts and resource utilization implications, engaged the public in dialog regarding fisheries, collected input on fishing season structures for the commercial and recreational fisheries, possible rule changes, and provided the public with information on the status of the 2015 planning process.

An additional Grays Harbor Advisory Group meeting was held March 17, 2015 at the Montesano Public Library in Montesano, WA. WDFW presented fishery modeling with specific suggestions from the members of the advisory group for both the commercial and recreational fisheries in the Chehalis and Humptulips basins. Model results were provided of fishery suggestions to show the effects on conservation objectives and catch.

Based upon all of the information and outreach generated through these forums, a draft rule was developed for consideration in the public rule-making process that follows the filing of a proposed rule. Accordingly, the CR-102 filed on June 3, 2015 and published in WSR 15-12-116, provided WDFW's initial rule-making proposal for 2015 Grays Harbor commercial salmon fisheries.

Fisheries in the proposed rule were shaped by conservation guidance in the Grays Harbor Basin Salmon Management Policy. The Grays Harbor Policy generally prescribes that WDFW managed fisheries will utilize a 5% mortality limit when:

- "...the natural-origin adult return exceeds the spawner objective by less than 10%," or
- "...the number of natural-origin spawners was less than the escapement goal in 3 out of the last 5 years (beginning in 2009).

In summary, where either of those two conditions is present for a given stock of salmon, the Department will construct a set of fishery rules – for recreational and commercial fishing combined – so that the predicted fishery impact for that stock in WDFW-managed fisheries in the Grays Harbor Basin will not exceed 5% of the adult return to Grays Harbor.”

Based on the forecast run-sizes and previous years' escapements, the 5% impact (or mortality) limit is appropriate for both Humptulips River natural-origin coho and Chehalis River natural-origin Chinook in 2015. Natural-origin fish are determined by the presence of an intact adipose fin (unmarked fish). Natural-origin fish can be conserved by requiring the release unmarked fish and taking into account release mortality (i.e. a selective fishery), or by implementing a shorter season that allows retention of the natural-origin fish. The rule, as proposed, is 100% selective and requires the release of natural-origin (unmarked) Chinook in areas 2A and 2D and natural-origin (unmarked) coho in area 2C.

Fishing dates and locations were modeled to propose a meaningful commercial fishery that is consistent with conservation objectives considering that there will be harvest mortality arising from the incidental catch of non-target salmon. In addition, the season structure and areas open for fishing were shaped to reduce the interaction between sport and commercial fisheries. This

further the objective of maintaining orderly fisheries. Sharing between commercial and recreational harvest groups was also considered to provide meaningful harvest opportunity for both groups within the context of historic sharing patterns in this area of the Washington Coast.

Following publication of the CR-102, a formal rule making public hearing was held on July 7, 2015. This hearing, in conjunction with the noticed comment period, represented the formal comment period of the rule-making process as required by the Administrative Procedures Act and provided the public with opportunity to comment on the proposed rule as published in WSR 15-12-116. The hearing was attended by seven members of the public with five providing verbal testimony. No members of the public provided written testimony to accompany their verbal testimony. The public comment period was open June 3, 2015 through July 3, 2015. WDFW only received verbal comments at the public hearing and no written comments were received during this period. In addition to the formal rule making comments, comments received during the North of Falcon process that were substantive to the adopted rule were also considered.

WDFW carefully reviewed the information gathered during the rule development process together with all input (verbal and written) from fishing industry representatives, recreational anglers, the Grays Harbor Salmon Advisory Group, and the general public. This includes all information obtained during both the 2015 North of Falcon salmon season process and the state's formal rule making process. WDFW also considered and relied on technical and scientific expertise within the agency and as part of the PFMC planning process. This included data and information available to the state's fishery management experts, including pre-season forecast abundance of salmon stocks returning to Grays Harbor and historic harvest data from fisheries occurring in Grays Harbor and its tributaries. Important characteristics of the Grays Harbor commercial salmon fishery were considered, including:

- total number of licensed vessels potentially participating in each fishery;
- number of vessels that have actually participated in each fishery in recent years;
- outcomes in terms of target and non-target species catch in recent years;
- tidal cycles;
- potential for transfer of effort from other fisheries in other areas, e.g. Willapa Bay;
- catch likely to result from the proposed rule and associated conservation impacts;
- economic value of these commercial fisheries; and
- relationship between commercial and recreational fisheries.

The Department also considered fishing preferences of the sport fishery in terms of time, area, tidal cycles, and potential for gear or fishing sector conflict.

### ***Overview of WDFW's Management Objectives for the Grays Harbor Salmon Management Policy (C3621)***

The Washington Fish and Wildlife Commission adopted a new Grays Harbor Basin Salmon Management policy (C3621) in February of 2014 (effective starting March 1, 2014). This action followed an extensive public process with multiple public comment opportunities. The policy provides management guidance to WDFW in terms of sharing between the recreational and

commercial sectors, and achievement of conservation objectives. While the policy details specific objectives, it also recognizes the uncertainty inherent in fishery management and provides guidance on the utilization of adaptive management to provide appropriate flexibility in the implementation of the policy guidance.

Regulations for the 2015 Grays Harbor commercial salmon fisheries were evaluated with respect to objectives in the policy. These objectives were shared with industry representatives, members of the Advisory Group, and the general public during the North of Falcon public process. General or commercial specific pre-season planning objectives were:

1. Fisheries will be managed with the intent of achieving escapement goals for natural origin salmon.
2. WDFW-managed commercial gillnet fisheries in a fishing area or aggregate area (i.e., Area 2A/2B/2D; or Area 2C) shall be scheduled, if possible, so that in any given calendar week there are a minimum of three consecutive days when no treaty or state-managed commercial fisheries occur.
3. If it becomes apparent that a scheduled fishery will exceed its preseason catch expectation, and the overage will put at risk the attainment of conservation objectives, the Department shall implement in-season management actions that are projected to enhance the effectiveness of fishery management relative to the attainment of the conservation objectives and impact sharing in the preseason fishery plan.
4. The fishery management objectives for fall Chinook salmon, in priority order, are to:
  - achieve spawner goals;
  - provide meaningful recreational fishing opportunities; and
  - limit commercial fishery impacts to the incidental harvest of fall Chinook during fisheries directed at other species.
5. For Chehalis River basin natural-origin fall Chinook, the predicted fishery impact in WDFW-managed fisheries will not exceed 5% of the adult return to Grays Harbor because the number of natural-origin spawners was less than the goal in 3 out of the last 5 years.
6. WDFW-managed commercial fisheries in the Grays Harbor Basin shall have the following impact limits:
  - Areas 2A, 2B, 2D: the impact rate of the state-managed commercial fishery shall be 0.8% or less on natural-origin Chehalis fall Chinook
  - Area 2C: the impact rate of the state-managed commercial fishery shall be 5.4% or less on natural-origin Humptulips fall Chinook.
7. For Humptulips natural-origin coho, the predicted fishery impact in WDFW-managed fisheries will not exceed 5% of the adult return to Grays Harbor because the number of natural-origin spawners was less than the goal in 3 out of the last 5 years.

8. Fisheries will be managed with the intent of achieving escapement goals for wild and hatchery chum salmon. No fisheries directed at chum salmon shall occur unless the adult coho salmon return exceeds spawner objectives, or if coho salmon impacts remain after coho and Chinook salmon fisheries.

9. Provide meaningful opportunities for both recreational and commercial fishers.

The rule, as originally noticed in the CR-102, was proposed based upon a conclusion that it would produce fisheries consistent with the overriding conservation objectives identified above, and with the Commission policy direction to provide “meaningful” opportunities for both recreational and commercial fishers.

However, the rule noticed in the CR-102 was proposed as a point of departure for further public review and comment during the formal rule-making process that followed filing of the CR-102. The rule now being adopted builds upon the work that led to the CR-102 filing, and reflect additional consideration of the testimony and comments received.

Tribal fishing season regulations are not yet fully finalized, but are part of the overall impact on fish stocks and affect whether objectives are achieved. A schedule of Quinault Indian Tribe fisheries was modeled based on the information provided to date to account for their potential impacts and allow evaluation of compliance with Commission policy and objectives. Chehalis Tribe fisheries were modeled based on harvestable shares or highest catches.

WDFW concludes that the final adopted 2015 Grays Harbor commercial fishing regulations are consistent the Department’s statutory management mandates, and with identified agency management objectives, based upon the following rationale:

1. Fisheries will be managed with the intent of achieving escapement goals for natural origin salmon.

Fisheries modeled in Grays Harbor are expected to result in achievement of escapement goals for four of the five natural-origin salmon stocks; Chehalis River Chinook, Humptulips River Chinook, Chehalis River coho, and Grays Harbor basin chum. Humptulips River natural-origin coho are forecast to return at a level that is below the escapement goal. That is, the coho are not expected to meet the goal regardless of whether fisheries occur or not. In these circumstances, fishery openings are evaluated to limit the mortality impact on the stock of fish that will not attain its escapement goal. The adopted rule has a minimal impact on Humptulips River natural-origin coho and will meet the criteria in objective 6 below.

Stock	Objective Type	Objective Criteria	Expected Modeled Results
Chehalis Natural-origin Chinook	Escapement Goal	9,880	9,947
Chehalis Natural-origin Coho	Escapement Goal	28,506	66,652
Humptulips Natural-origin Chinook	Escapement Goal	3,620	4,024
Humptulips Natural-origin Coho	Exploitation Rate	≤ 5.0%	1.81%
Grays Harbor Chum	Escapement Goal	21,000	21,029

2. WDFW-managed commercial gillnet fisheries in a fishing area or aggregate area (i.e., Area 2A/2B/2D; or Area 2C) shall be scheduled, if possible, so that in any given calendar week there are a minimum of three consecutive days when no treaty or state-managed commercial fisheries occur.

Commercial fisheries in the adopted rule are scheduled so that in any calendar week with WDFW managed commercial fisheries, there are a minimum of three consecutive days when no treaty or state-managed commercial fisheries occur.

3. If it becomes apparent that a scheduled fishery will exceed its preseason catch expectation, and the overage will put at risk the attainment of conservation objectives, the Department shall implement in-season management actions that are projected to enhance the effectiveness of fishery management relative to the attainment of the conservation objectives and impact sharing in the preseason fishery plan.

Commercial fisheries in the adopted rule will be monitored using a combination of on-board sampling, daily fish ticket evaluation, and sampling of the landed catch. These data will be used to evaluate actual catch versus what was projected in the Grays Harbor Terminal Area Management Model (TAMM or pre-season planning model). If commercial landings exceed expected catch and puts the attainment of conservation objectives at risk, in season management actions will be initiated.

4. The fishery management objectives for fall Chinook salmon, in priority order, are to:

- achieve spawner goals;

The scheduled fisheries in the adopted rule are expected to result in 9,947 Chehalis River natural-origin Chinook spawners compared to a spawning goal of 9,880, and 4,024 Humptulips River natural-origin spawners compared to a spawning goal of 3,620.

- provide meaningful recreational fishing opportunities;

In a manner that is consistent with identified conservation objectives and other complementary fishery policy objectives, recreational fishing opportunities have been provided for Humptulips River Chinook in both the marine area and the Humptulips River.

- limit commercial fishery impacts to the incidental harvest of fall Chinook during fisheries directed at other species.

There are no Chinook directed commercial fisheries in the adopted rule. All commercial fisheries occur after the Chinook management period. The predicted catch of Chinook is less than the predicted catch of the target species in all weeks of fishing.

5. For Chehalis River basin natural-origin fall Chinook, the predicted fishery impact in WDFW-managed fisheries will not exceed 5% of the adult return to Grays Harbor because the number of natural-origin spawners was less than the goal in 3 out of the last 5 years.

The predicted impact on Chehalis River natural-origin fall Chinook in WDFW managed fisheries is 4.44%.

6. WDFW-managed commercial fisheries in the Grays Harbor Basin shall have the following impact limits:

- Areas 2A, 2B, 2D: the impact rate of the state-managed commercial fishery shall be 0.8% or less on natural-origin Chehalis fall Chinook

The predicted impact on Chehalis River natural-origin fall Chinook in WDFW managed commercial fisheries is 0.77%.

- Area 2C: the impact rate of the state-managed commercial fishery shall be 5.4% or less on natural-origin Humptulips fall Chinook when abundance reaches 3,779.

The predicted impact on Humptulips River natural-origin fall Chinook in WDFW managed commercial fisheries in Area 2C is 0.68%. The abundance of natural-origin Humptulips Chinook is forecast to be 7,403.

7. For Humptulips natural-origin coho, the predicted fishery impact in WDFW-managed fisheries will not exceed 5% of the adult return to Grays Harbor because the number of natural-origin spawners was less than the goal in 3 out of the last 5 years.

The predicted impact on Humptulips River natural-origin coho in WDFW managed fisheries is 1.81%.

8. Fisheries will be managed with the intent of achieving escapement goals for wild and hatchery chum salmon. No fisheries directed at chum salmon shall occur unless the adult coho salmon return exceeds spawner objectives, or if coho salmon impacts remain after coho and Chinook salmon fisheries.

The scheduled fisheries in the adopted rule are expected to result in 21,029 Grays Harbor chum spawners compared to a state-tribal spawning goal of 21,000.

9. Provide meaningful opportunities for both recreational and commercial fishers.

The adopted regulations provide meaningful fishing opportunities with commercial fishers projected to have an ex-vessel value of \$121,385. During development of the Grays Harbor Salmon Management policy, consideration was given to achieving the ex-vessel value at the 2002-2008 average of \$74,042 as part of the Department's mandate to "seek to maintain the economic well-being and stability of the fishing industry in the state" where consistent with conservation objectives. As previously described, the adopted rule meets all conservation objectives. The projected ex-vessel value for 2015 suggests that the adopted rules are consistent with maintaining the economic well-being and stability of the fishing industry.

### *Conclusion*

WDFW has considered all the facts and circumstances surrounding the 2015 Grays Harbor commercial salmon season schedule. The adopted regulations meet the primary conservation objectives identified in the Grays Harbor Salmon Management policy. The adopted rules minimize conflict between the recreational and commercial sectors. Finally, the adopted rules are expected to result in over \$120,000 of ex-vessel value for the commercial sector, which is higher than the average of ex-vessel values seen from 2000-2008 (approximately \$74,000). The agency carefully reviewed all input from industry representatives during the North of Falcon public meetings and the state's rule making process. The agency's 2015 Grays Harbor commercial salmon fishing regulations comply with its statutory mandate and are consistent with WDFW's management objectives for these fisheries.

## **II. Changes from the Proposed Rule**

The proposed rule noticed in the CR-102 had an option of fishing on the morning of October 11 or evening of October 14. The adopted rule authorizes fishing on the morning of October 11 rather than the evening of October 14 (Table 1).

Table 1. Adopted Grays Harbor Commercial Gillnet Season.

Time:	Areas:
7:00 a.m. through 1159 a.m. October 11	Area 2A and Area 2D
12:30 p.m. through 4:30 p.m. October 14	Area 2A and Area 2D
8:30 a.m. through 5:30 p.m. October 18	Area 2A and Area 2D
8:30 a.m. through 5:30 p.m. October 19	Area 2A and Area 2D
8:00 a.m. through 5:00 p.m. October 20	Area 2A and Area 2D
8:00 a.m. through 5:00 p.m. October 21	Area 2A and Area 2D
8:00 a.m. through 5:00 p.m. November 1	Area 2A and Area 2D
8:00 a.m. through 5:00 p.m. November 2	Area 2A and Area 2D
8:00 a.m. through 5:00 p.m. November 3	Area 2A and Area 2D
8:00 a.m. through 5:00 p.m. November 4	Area 2A and Area 2D
6:30 a.m. through 3:30 p.m. October 26	Area 2C
6:30 a.m. through 3:30 p.m. October 27	Area 2C

### **III. Summary of Public Comments during Rulemaking Process and WDFW’s Response**

A formal rule making public hearing was held on July 7, 2015. This hearing provided the public with an opportunity to comment on the proposed rule published in WSR 15-12-116. The hearing was attended by seven members of the public, with five providing verbal testimony. No written testimony was provided. Public comment period for this proposed rule was open from June 3, 2015 through July 7, 2015. In general the comments received during this comment period focused on gear conflict with recreational or tribal fishery, set net issue, and what should be included this CES. All testimony and comment received during the formal rule-making period following issuance of the proposed rule via the CR-102 has been categorized into the following points with WDFW’s response(s) below.

*1) Commenter expressed concern that one or two commercial vessels have been using the sunken boat just west of the Hwy 101 Bridge to set their gillnet.*

Commenter expressed concern that commercial fishers were not fishing in compliance with rules prohibiting nets from being temporarily anchored. Commenter urged enforcement action if a lack of compliance is noted. Commenter further suggested that the rules prohibiting set nets remain for 2015. The Department agrees that enforcement of the existing rules is necessary. WDFW did not propose nor adopt a change to the rules prohibiting nets from being temporarily anchored. Instead, the focus will be on close monitoring of fishery activities and enforcement of existing regulations.

*2) Commenter is opposed to any non-treaty gill net fishery in Area 2A.*

The recently adopted Commission policy clearly envisions both recreational and commercial fisheries in Grays Harbor. Conservation and sharing objectives set forth in Commission Policy for Grays Harbor are being met. The balance of state-managed commercial and recreational fishing opportunity for Grays Harbor is consistent with past practice in this area as well as the Commission Policy. Accordingly, there is no basis for eliminating gill net fisheries in Area 2A.

*3) It is inappropriate for the non-treaty commercial fishery to fish prior to the tribal fishery.*

Quinault Indian Tribe requested that the non-treaty commercial fishery not fish on September 24, a date previously proposed by WDFW to QIN. The Department indicated to QIN a willingness to fish from 7 a.m. to noon on October 11 and from 12:30 p.m. to 4:30 p.m. on October 14 to accommodate their request. Quinault Indian Tribe has not expressed concern with the fishing on the morning of October 11 nor on the afternoon of October 14.

*4) Starting the non-treaty commercial fishery prior to noon on Sunday will create more conflict.*

The recreational season in Area 2A begins July 1 and continues through January 31, or over 200 days of fishing. The recreational season in 2D begins on September 16 and continues through November 30, or 75 days of fishing. Commercial fisheries are only scheduled for 10 days in Areas 2A and 2D; about 4% of the time Area 2 is open for recreational fishing and about 13% of the time Area 2D is open for recreational fishing. Only 3 days of commercial fishing were proposed for weekend days. The very low level of commercial fishing already minimizes gear conflict between the recreational and commercial sectors.

Nonetheless, adaptive management principles expressed in the Grays Harbor policy allow for the exploration of alternate fishing regimes. In that spirit, WDFW sought input from the recreational sector to gauge whether there was support for an adjustment to the fishing schedule in weeks 43 and 45 – moving fishing to Monday through Thursday, rather than Sunday through Wednesday. This adjustment would have further reduced gear conflict. The portion of the recreational sector that was interested enough to provide input on this subject did not support the Monday through Thursday schedule because it would only leave 2.5 consecutive calendar days in those weeks without commercial or tribal fishing, rather than the 3 consecutive days specified by policy. This issue can be explored again in 2016.

Finally, the targeted species during weeks 43 and 45 is Coho salmon. Coho salmon are caught more efficiently during daylight hours and the pre-season planning model predicts that all conservation objectives listed in the Policy will be met while leaving a large portion of the non-treaty share of coho unharvested. Fishing as much daylight hours for commercial fisheries on each day scheduled provides the maximum opportunity for the commercial fishers to harvest abundant Coho salmon.

Based on the lack of support for fishing Monday through Thursday, and the improved opportunity for commercial fishers, the Department concludes that the proposed schedule is the most appropriate to meet the multitude of management objectives.

*5) There needs to be three consecutive days in the fishery left for the recreational fleet.*

This comment does not address the proposed rule. Commercial fisheries in both the proposed and adopted rules are scheduled so that in any calendar week with WDFW managed commercial fisheries, there are a minimum of three consecutive days when no treaty or state-managed commercial fisheries occur. It does, however, reinforce the lack of support for adaptive management as described in response 4) above.

#### **IV. Public Comment Received during North of Falcon and WDFW's Response**

The Department provided significant opportunity for the public to provide input on recreational and commercial fishing seasons in Grays Harbor. A number of comments were received verbally, written, and electronically. Many were carried forward to the formal rule-making period and are addressed above. Responses to the major substantive comments that are not addressed in Section III above are provided below in this section.

*1) Commenter is unclear how WDFW is interpreting the 5% adult return limitation and whether it is for the individual basin (Chehalis and Humptulips) or for the aggregate Grays Harbor total return.*

The commenter contends that the 5% limitation is for the aggregate of streams flowing into all of Grays Harbor in total not the individual Chehalis or Humptulips river basins. At the beginning of the North of Falcon process, WDFW calculated and presented forecasts for individual natural and hatchery stocks for the Chehalis and Humptulips river basins. The Grays Harbor Policy states, "the predicted fishery impact for that stock in WDFW-managed fisheries in Grays Harbor basin will not exceed 5% of the adult return to Grays Harbor". It also states "fisheries will be managed with the intent of achieving escapement goals for wild and hatchery salmon. In no case, shall WDFW-managed fisheries result in an impact of more than 5% of the return when the natural-origin adult return exceeds the spawner objective by less than 10%." The policy envisions that Chehalis River and Humptulips River Chinook and Coho salmon will be managed as separate stocks. The policy further identifies that the 5% limit will be applied to each "stock", (i.e. Chehalis natural-origin fall Chinook or Humptulip natural-origin fall coho). The Department has not aggregated forecasts or escapement goals for the two river basins when looking at a specific stock of concern for many years.

*2) Commenter suggests that WDFW is misinterpreting the Grays Harbor Salmon Management Policy where it states, "Areas 2A, 2B, 2D: the impact rate of the state-managed commercial fishery shall be 0.8% on natural-origin Chehalis fall Chinook when the impact of the recreational fishery is equal to or greater than 4.2%".*

The commenter notes that the commercial impact rate of 0.8% is 19% of the 4.2% recreational impact rate. The commenter thus argues that the commercial fishery should be set to 19% of the final recreational fishery impact rate especially if the recreational fishery is scheduled at a rate less than 4.2%. According to the commenter the impact rate at which the commercial fishery should be limited to is a maximum of 0.675% rather than the 0.8%.

The policy guidance provides that “the impact rate of the WDFW-managed commercial fishery may be less than 0.8% when conservation concerns for natural-origin Chehalis fall Chinook result in a less than 4.2% impact rate in the recreational fishery”. These objectives do not establish a quantified or proportional relationship between the commercial and recreational impact rates; only maximum allowable rates and an indication that the commercial rate may be less than 0.8%.

The non-treaty commercial fishery as adopted is predicted to have a 0.77% impact on the Chehalis River natural-origin fall Chinook in areas 2A, 2B and 2D while the recreational fisheries are predicted to have an impact of 3.55%. Both fisheries are currently scheduled with impacts less than what the Commission Policy allows. The total WDFW-managed impact rate for fisheries on natural-origin Chehalis fall chinook as adopted is 4.44%. Based on the lack of a defined proportional relationship in the policy, the Department concludes that the adopted rule is consistent with the conservation and management objectives in the Commission Policy.