

Concise Explanatory Statement
Grays Harbor Commercial Salmon Regulations for 2016

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 2016 fall commercial gillnet salmon fisheries (Chinook, Coho, and Chum) in Grays Harbor.

Brief Summary of the Adopted Rule:

The rule being adopted amends the existing permanent rule that opened the commercial salmon fisheries in Grays Harbor, as defined in WAC 220-22-020, for the 2015 season ending November 4, 2015 – 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 36 hours during 3 openers in October. Selective fishing gear and techniques are employed to improve survival of unclipped Chinook which are required to be released. Area 2C will open a total of 48 hours during four openers in October.

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 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 2015-2016 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, Implementation, and Overview of the Grays Harbor Basin Salmon Management Policy (C-3621)

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.

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.

Regulations for the 2016 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) will generally 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 is directed to 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 will be managed with the intent of operating within 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 Chehalis natural-origin Coho, the predicted fishery impact in WDFW-managed fisheries will not exceed 5% of the adult return to Grays Harbor because the forecasted return is less than 110% of the goal.
8. 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.
9. 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.

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

Rule Development Process:

The CR 101 notice of intended rule-making was filed on January 6, 2016 as WSR 16-02-117. 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 introduced 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 process, and includes a series of public meetings, and 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 2016 NOF process began with a joint public meeting for both Grays Harbor and Willapa Bay on February 24, 2016 at the Montesano City Hall in Montesano, WA. This meeting was designed to present local stock run forecasts with historical data for each area and salmon species. WDFW presented the 2016 run forecasts for stocks originating from rivers of Puget Sound, coastal Washington, and the Columbia River on March 1, 2016 at the Natural Resources Building in Olympia, WA. Resource utilization implications of the 2016 forecasts were discussed broadly in a statewide context. This was followed by regional break-out sessions where WDFW staff further discussed 2016 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 9, 2016 at the WDFW regional Office in Montesano, WA. The purpose of this meeting was to provide management objectives for the 2016 season, discuss resource utilization implications, collect input on fishing season structures for the commercial and recreational fisheries, conduct modeling exercise with specific fishery suggestions from the members of the advisory group for both the commercial and recreational fisheries in the Chehalis and Humptulips basins, and provided information on the status and schedule of the 2016 planning 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.

WDFW held a Grays Harbor regionally focused public NOF meeting on March 24, 2016 in Montesano, WA. During this meeting WDFW provided the public with information on the 2016 season planning process, discussed 2016 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 2016 planning process.

The result of all the meetings and input received, 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. They were crafted to minimize encounters with stocks of concern. In addition, the season structure and areas open for fishing were shaped to reduce the interaction between sport and commercial fisheries. This furthers 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.

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 May 18, 2016 and published as WSR 16-11-102, provided WDFW's initial rule-making proposal for 2016 Grays Harbor commercial salmon fisheries.

Following publication of the CR-102, a formal rule making public hearing was held on June 22, 2016. 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, WSR 16-11-102. The hearing was attended by five members of the public with three providing verbal testimony. No members of the public provided written testimony to accompany their verbal testimony. The public comment period was open May 18, 2016 through June 22, 2016. WDFW received two written comments 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.

As a result of the extensive review of all the information and the additional comments received during the formal review process and further assessments, three additional adjustments to the proposed rule, WSR 16-11-102, were made. These changes are summarized and discussed in Section II, below. In accordance with the process, a Supplemental CR-102 was filed as WSR 16-15-064 on July 18, 2016. Following publication of the Supplemental CR-102, a formal rule making public hearing was held on August 24, 2016. This hearing was attended by one person who did not provide comment. 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 WSR 16-15-064. No comments were received during the public comment period.

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 2016 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.

WDFW concludes that the final adopted 2016 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 three of the five natural-origin salmon stocks; Chehalis River Chinook, Humptulips River Chinook, and Grays Harbor basin Chum. The Chehalis and Humptulips river natural-origin Coho stocks are forecasted to return at a level that is below or less than 10 percent above the escapement goal. That is, the natural-origin Coho returning to the Humptulips River are not expected to meet the goal regardless of whether fisheries occur or not, while natural-origin Chehalis River Coho may not meet the goal even with restricted fisheries. In these circumstances, fishery openings are evaluated to limit the mortality impact on the stock of fish that will not or may not attain its escapement goal while provided opportunity for more abundant natural-origin and hatchery stocks. The adopted rule has a minimal impact on both Chehalis and Humptulips river natural-origin Coho and will meet the criteria in objective 7 and 8 below.

Stock	Objective Type	Objective Criteria	Expected Modeled Results
Chehalis Natural-origin	Escapement Goal	9,753	11,837

Chinook			
Chehalis Natural-origin Coho	Escapement Goal	≤ 5.0%	3.60%
Humtulpils Natural-origin Chinook	Escapement Goal	3,573	4,790
Humtulpils Natural-origin Coho	Exploitation Rate	≤ 5.0%	4.97%
Grays Harbor Chum	Escapement Goal	21,000	27,829

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 put 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 11, 837 Chehalis River natural-origin Chinook spawners compared to a spawning goal of 9,753 and 4, 790 Humtulpils River natural-origin spawners compared to a spawning goal of 3,573.

- 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 Humtulpils River Chinook in both the marine area and the Humtulpils River. Opportunities are also provided for hatchery-origin Chinook in the Chehalis and Satsop rivers and in the marine area 2-2.

- 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 4.36%.

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 0.08%.

- 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 is 4.10%. The abundance of nature-origin Humptulips Chinook is forecast to be 8,300.

7. For Chehalis River 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 is forecasted to be less than 110% of the escapement goal.

The predicted impact on Chehalis River natural-origin Coho in WDFW-managed fisheries is 3.60%.

8. 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 4.97%.

9. 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 27,829 Grays Harbor Chum spawners. This exceeds the state-tribal spawning goal of 21,000.

The adopted rule does not provide a non-treaty commercial fishery directed at Coho.

10. 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 \$58,229. 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. However, to be consistent with conservation objectives due to the small forecasted return of Coho stocks to Grays Harbor, the expectation to achieve the average ex-vessel value during 2002 to 2008 cannot be met.

Conclusion

WDFW has considered all the facts and circumstances surrounding the 2016 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 rule maximizes ex-vessel value within the constraints brought about due to the small forecast return of Grays Harbor Coho stocks. 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 2016 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 (WSR 16-11-102)

WDFW evaluates all information gathered during the NOF process. As discussions continue and different perspectives are shared, season structures during the development process may change, as long as they are in line with the guidance of the Policy. During the formal review process of proposed rule, WSR 16-11-102, several comments were received that promoted further evaluation. As a result, three adjustments were made to the proposed rule and are included in the adopted rule, WSR 16-15-064.

The three adjustments that were made based only affect catch area 2C and are as follows: 1) allow the retention of all Coho encountered, 2) reduce the length of openers on October 17th and 18th from 16 hours to 12-hour days, and 3) remove the 45 minute net soak time limitation.

The following table outlines the changes to WSR 16-11-102 and are reflected in the final rule adopted (Table 1).

Table 1. Changes from the Proposed Grays Harbor Commercial Gillnet Season Filed May 18, 2016.

Statistical week	Proposed rule			Adopted rule		
	Openers	Coho release requirement	Maximum soak time	Openers	Coho release requirement	Maximum soak time
43 (Oct. 16 – 22)	two 16-hr days	Wild Coho	45 Min	two 12-hr days	None	None
45 (Oct. 30 – Nov. 5)	two 12-hr days	Wild Coho	45 Min	two 12-hr days	None	None

Reason: After reviewing comments received concerning the proposed rule, WDFW reviewed alternatives. An alternative that balances the ease versus the length of prosecuting the commercial fishery that meets the conservation and management objectives of the Policy was administered. This alternative addresses comments that requested prioritizing ease of prosecution and does not require the release of Coho. As a result of removing the release requirement for salmon, the limitation on net soak times wasn't needed because this is a tool to improve survival of fish required to be released. To offset the increase in wild Coho mortality as a result of allowing them to be retained, fishing time in Week 43 was reduced. The planning model used to predict catch and evaluates impacts was updated to reflect the adjustments made in the adopted rule.

Other considerations evaluated during the process of making the adjustments were; is there a difference in the daily harvest rates if maximum soak times were changed and what impact would there be on steelhead. The harvest rates used to evaluate fisheries in catch area 2C for the adopted rule, WSR 16-15-064, were developed using data from years when soak times was not limited. There are no recent harvest data during Weeks 43 and 45 in catch area 2C during years when soak time limitations were enforced. So the current harvest rates apply. Soak time limitations is a tool used during more recent fisheries, since 2009, and there hasn't been fisheries in catch area 2C during weeks 43 and 45 since 2009.

The number of steelhead encounters in catch area 2C in October is small. There are no steelhead encounter data available during WDFW-managed commercial fisheries in catch area 2C. However, there are data available during treaty commercial fisheries. Reviewing QIN harvest data during the past 10 years shows that steelhead catch during weeks 43 and 45 range from 0 to 3 steelhead per year. These fisheries typically involve 20 to 30 days per year of fishing. The adopted rule only allows for four days. Expected encounters during fisheries in the adopted rules are less than what is encountered during treaty fisheries. The forecast for Humptulips River steelhead for this next season's return is 2,800 natural origin fish. That is 1,200 fish above the goal of 1,600 spawnings. The adjustments to the proposed rule is not expected to increase the encounters of steelhead.

III. Summary of Public Comments during Rulemaking Process and WDFW's Response

A CR-102 (WSR 16-11-102) was filed on May 18, 2016. A Supplemental CR-102 (WSR 16-15-064) was filed on July 18, 2016. Both filings were followed by a formal public review period and public hearings to receive comments. A formal rule making public hearing was held on June 22,

2016 as part the rules making process for WSR 16-11-102. This hearing provided the public with an opportunity to comment on the proposed rule published in WSR 16-11-102. The hearing was attended by five members of the public, with three providing verbal testimony. Two written testimonies were also provided during the public comment that was open from May 18, 2016 through June 22, 2016. In general the comments received during this comment period focused on release mortality rates for Coho and the small forecasted return of Coho. All testimony and comments 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. No comments were received during the formal comment period or during public hearing held on August 24, 2016, for the Supplemental CR-102 (WSR 16-15-064).

- 1) *Several commenters opposed the proposed rules because of the use of 56 percent release mortality rate for Coho encountered during the non-treaty commercial fishery in the catch area 2C.*

As discussed above, WDFW reviewed alternatives to the proposed rule and determined that conservation and management objective guidelines in the Policy are achieved by allowing the retention of unmarked Coho during fisheries in catch area 2C. To compensate for the increase in wild Coho mortalities associated with that approach, the duration of the two fishery openers during statistical Week 43 (Oct 16 – 22) were reduced from 16 hours to 12 hour fishing days. Therefore, a release mortality rate for Coho based upon selective fishing is not used during non-treaty commercial fisheries in catch area 2C in the adopted rule, WSR 16-15-064. Instead, all fish are retained and counted as mortalities. Total fishing effort is reduced to manage for desired impact rates.

WDFW conducted extensive literature searches to bolster understanding and acquire more information to evaluate Coho net release mortalities during gill net.

- 2) *Several commenters oppose the proposed rule because it does not follow the intent of the Policy. They argue that a Chum directed fishery should not occur because the forecast of wild Coho is less than 10 percent above the goal.*

One of the guiding principles of the Policy for Chum management states, “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.”

To evaluate the commenter's concern, WDFW staff reviewed the Policy. The second sentence in the Policy direction provides an option for fisheries if impacts remain. If the Commission intent was that fisheries cannot occur unless escapement was being met, there would not be a need for the second sentence. The Policy would simply say the agency cannot authorize a fishery unless escapement was being met. Moreover, the Policy provides guidance, not prescriptions that can never vary. Adaptive management based upon an examination of facts that emerge during rule-making is part of the Policy.

The Policy acknowledges that impacts on Coho may occur even when they were not meeting escapement objectives.

A 5% mortality rate is acceptable to provide harvest access to healthy stocks, even when escapement is not being met.

The Policy guides the Department to consider anticipated impacts from both Quinault Indian Nation and non-treaty fisheries when establishing seasons. The Department made those considerations and developed the adopted rule that is within the conservation and management objectives and is consistent with the intent of the Policy.

- 3) *There should not be a commercial fishery in the North Bay (2C) this year, there are not enough Coho.*

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 2C.

A formal rule making public hearing was held on August 24, 2016 as part the rules making process for WSR 16-15-064. This hearing provided the public with an opportunity to comment on the proposed rule published in WSR 16-15-064. No comments were received during this hearing. No comments or written testimonies were were received during the public comment that was open from July 18, 2016 through August 24, 2016.

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 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.

- 2) *One comment opposes the management of 5 percent harvest rate when stocks are not achieving escapement goals.*

One of the focuses during the development of the Policy was to maintain long-term viability of Grays Harbor salmon and steelhead stocks. Limiting impacts to 5 percent or less during WDFW-managed fisheries when stocks aren't routinely achieving escapement goals provides sufficient protection while providing opportunity for stocks with harvestable surplus. The long-

term population trend, since the 1970s, for all salmon and steelhead stocks in Grays Harbor are either maintaining or increasing in escapements despite short-term population fluctuations.

- 3) *Several comments were received stating that there should be no Coho fisheries by any group this year due to the small forecasted return and the smaller than forecasted return last year.*

As discussed above, the Policy was developed to achieve long-term viability for all salmonid stocks. Although there are annual fluctuations in escapements, Chehalis River natural origin Coho have routinely achieved escapement goals. However, with the conservation guidance provided in the Policy, long-term stability of salmon stocks are expected.