

**Concise Explanatory Statement**  
**Grays Harbor Commercial Salmon Regulations for 2017**

**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) 220-354-290. 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 original CR-102 to the supplemental CR-102 and 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 2017 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 220-535-030, for the 2016 season ending October 31, 2016 – WAC 220-354-290.

WAC 220-354-290 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 for one 7-hour and seven 12-hour days in late October and early November. 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 four 12-hour days during in late October and early November.

***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; 2017-2018 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 2017-2018 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 2017 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 and Humptulips River natural-origin Chinook, fisheries will be managed with the intent of achieving the escapement goal.WDFW managed.
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 4, 2017 as WSR 17-02-079. 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 2017 NOF process began with a joint public meeting for both Grays Harbor and Willapa Bay on February 22, 2017 at the Montesano City Hall in Montesano, WA. This meeting was designed to present forecasted returns for local salmon stocks with historical data for each area and salmon species. WDFW presented the 2017 run forecasts for stocks originating from rivers of Puget Sound, coastal Washington, and the Columbia River on February 28, 2017 at the General Administration Building in Olympia, WA. Resource utilization implications of the 2017 forecasts were discussed broadly in a statewide context. This was followed by regional break-out sessions where WDFW staff further discussed 2017 forecasts and resource utilization implications in greater detail and solicited fishery suggestions for those in attendance.

There were two Grays Harbor Advisory Group meeting and one conference call held in March and April. The first meeting was held on March 7, 2017 at the WDFW regional Office in Montesano, WA. The purpose of this meeting was to provide management objectives for the 2017 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 2017 planning process. The modeling exercise is to show predicted harvest and sharing for the different suggested fishing struction senarios. A conference call was held on April 11, 2017 to review the progress of the PFMC meetings in Sacramento Ca. A second Grays

Harbor Advisory Group meeting was held on April 14, 2017 to review the conclusions of the process. These meetings were open to the public with an opportunity for public testimony at the end of each meeting. 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 28, 2017 in Montesano, WA. During this meeting WDFW provided the public with information on the 2017 season planning process, discussed 2017 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 2017 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 17, 2017 and published as WSR 17-11-072, provided WDFW's initial rule-making proposal for 2017 Grays Harbor commercial salmon fisheries.

Following publication of the CR-102, a formal rule making public hearing was held on July 10, 2017. 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 17-11-072. The hearing was attended by one member of the public, but no testimony was provided. The public comment period was open May 17, 2017 through July 10, 2017. WDFW did not receive any 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.

A supplemental CR-102 was filed on July 13, 2017 and published as WSR 17-15-065 as a result of information received from the Quinault Tribe. This proposed rule reflex adjustments to the fishing schedule originally proposed in WSR 11-11-072.

A second formal rule making public hearing was held on August 22, 2017 for the supplemental CR-102 was filed on July 13, 2017 and published as WSR 17-15-065. 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 17-15-065. The hearing was attended by one member of the public who provided verbal testimony. The public comment period was open July 13, 2017 through August 22, 2017. WDFW did not receive any 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.

Changes made in the supplemental CR-102 WSR 17-15-065 are in catch are 2A and 2D and are as follows:

- October 24, 2017, adjusting the hours to open 12:01 p.m. and closed 7:00 p.m.
- November 6, 7, 8, and 9, 2017, open from 7:00 a.m to 7:00 p.m.
- November 13, 14, 15, and 16, 2017, closed

These changes were made to address scheduling conflicts between QIN and State managed commercial fisheries in Grays Harbor catch areas 2A and 2D during the week of November 12 to 18, 2017. The original proposed rule, WSR 17-11-072, contained 4 days on non-treaty commercial fishing during this week. The QIN has scheduled two 24-hours days during this week. These fisheries typically opens starting at noon Sundays to avoid weekend recreational fisheries and continues straight through for 48 hours. This schedule spans three calendar days, starting noon Sunday and continues through noon Tuesday. That leaves only part of Tuesday and Wednesday available for non-treaty commercial opportunity to meet the Policy guideline objective number 2 discussed above. The QIN will not agree to a management plan that includes schedules that include days of fishing in common, commercial fishing during the same day. Both Treaty and Non-treaty commercial fisheries in Grays Harbor occur in the same areas. These areas are fairly small and two commercial fleets fishing during the same time period would not provide a meaningful opportunity for either sector. QIN are not subject to the Policy guidelines. The adjustments are within the Policy guidelines discussed below. No other action to any other WDFW-managed fisheries were make as a result of these changes.

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 2017 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 2017 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 Chehalis River natural-origin Coho and Humptulips River natural-origin Chinook.. Chehalis River natural-origin Chinook are forecast to return at a level that is less than 10 percent above the goal. . The Humptulips River natural-origin Coho stocks is forecasted to return at a level that is below 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, In these circumstances, the adopted rules do not allow any directed fisheries on either stock and 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 natural-origin Chinook 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 Chinook	Escapement Goal	≤ 5.0%	4.4%
Chehalis Natural-origin Coho	Escapement Goal	28,506	29,616
Humptulips Natural-origin Chinook	Escapement Goal	3,573	4,591
Humptulips Natural-origin Coho	Exploitation Rate	≤ 5.0%	3.52%
Grays Harbor Chum	Escapement Goal	21,000	17,444

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 4,591 Humpulips 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 Humpulips River Chinook in both the marine area and the Humpulips 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 encounters 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 in the adopted rules and including all terminal WDFW managed recreational fisheries is 4.4%.

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 0.35%.



- 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 3.5%. The abundance of nature-origin Humptulips Chinook is forecast to be 5,841.

7. For Chehalis River basin natural-origin Coho and Humptulips River natural-origin fall Chinook, the WDFW managed fisheries will be managed with the intent of achieving escapement goals. WDFW managed

The scheduled fisheries in the adopted rule are expected to result in 29,616 Chehalis River natural-origin Coho spawners compared to a spawning goal of 28,506, and 4,591 Humptulips River natural-origin Chinook spawners compared to a spawning goal of 3,573.

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 in the adopted rules and including all terminal WDFW managed recreational fisheries is 3.52%.

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 an impact of 4,201 Grays Harbor Chum. This, combined with the predicted catch of Grays Harbor Chum during WDFW managed recreational fisheries in the Grays Harbor terminal area is expected to impact less than half the available surplus. The forecasted return of Grays Harbor chum to the terminal area is 31,300 compared to the goal of 21,000.

To address the second part of the objective, scheduled fisheries in the adopted rule achieve the policy objective guidelines, including achieving the escapement goal for Chehalis River natural-origin Coho and minimizing total WDFW managed fisheries to 5 percent or less impact on Humptulips River natural-origin Coho, and therefore Coho impacts remain allowing for directed Chum fisheries to occur.

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 \$66,190. 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 Chinook and Coho stocks to Grays Harbor, the expectation to achieve the average ex-vessel value during 2002 to 2008 cannot be met.

## **II. Changes from the proposed rule to the adopted rule**

There are no changes from the proposed rule to the adopted rule. They are the same.

## **III. Responses to Public Comments received during Rulemaking Process**

One person provided testimony during the Supplemental CR-102 (WSR 17-15-065) public hearing. This testimony provide two comments on the proposed rule.

*Comment 1: commenter was frustrated that they were not contacts when the supplemental CR-102 was filed.*

One of the guiding principles of the Policy states that “salmon management will be well documented, transparent, well-communitcated, and accountable.” The department will strive to make ongoing improvements in the transparency of fishery management in Grays Harbor. A notification to interested parties was sent out on July 27<sup>th</sup>, 2017 in the form of an email and post cards to those without email addresses. This notification of proposed rule making included the location were the proposed rule could be found on the internet, the public heading location and date, and information on how to submit comment.

*Comment 2: Commenter feels that the non-treaty commercial fleet needs to be fishing in catch area 2B for Chum. He feels fishing in 2A, 2B, and 2D would minimize impacts to Humptulips natural Coho, spread out the fleet, and provide a more broad based opportunity for Chum.*

As discussed above, the process for salmon fisheries development in the Grays Harbor basin provides for ample public input for fisheries recommendations. There were no requests to include a 2B fishery during any modeling options during the NOF process. A Grays Harbor fishing package was developed following the guidance of the Policy and through public input and recommendations. Therefore, there is no basis to change the proposed rule.

## **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 through pubic and Advisory meetings. One written comment specific to the proposed rule was received during the the NOF process.

*Comment 1: As long as the commission remains with the same Policy, non-treaty commercial fishing in Grays Harbor will remain poor. It is not an economically viable season. This is, in part, due to limiting commercial nets to only four days within a week.*

The economic viability of all Grays Harbor fisheries, commercial and recreational, are important to WDFW. The Policy states “In a manner consistent with conservation objectives, seek to

enhance the overall economic well-being and stability of Grays Harbor Basin fisheries.” Conservation and sharing objectives set forth in the Policy for Grays Harbor are being met.

***Conclusion***

WDFW has considered all the facts and circumstances surrounding the 2017 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 salmon 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 2017 Grays Harbor commercial salmon fishing regulations comply with its statutory mandate and are consistent with WDFW’s management objectives for these fisheries.