



# PROPOSED RULE MAKING

**CR-102 (August 2017)**  
**(Implements RCW 34.05.320)**  
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: June 20, 2018

TIME: 8:35 AM

**WSR 18-13-110**

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

**Original Notice**

**Supplemental Notice to WSR** \_\_\_\_\_

**Continuance of WSR** \_\_\_\_\_

**Preproposal Statement of Inquiry was filed as WSR 18-03-129 on January 19, 2018 ; or**

**Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_; or**

**Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).**

**Proposal is exempt under RCW \_\_\_\_\_.**

**Title of rule and other identifying information:** (describe subject) WAC 220-354-290, Grays Harbor salmon fall fishery.

**Hearing location(s):**

**Date:**                      **Time:**                      **Location:** (be specific)                      **Comment:**

August 1, 2018	10:00 a.m. to 12:00 p.m.	Region 6 Fish and Wildlife Office, Conference Room 48 Devonshire Road Montesano, WA 98563	
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**Date of intended adoption:** August 2, 2018 (Note: This is **NOT** the effective date)

**Submit written comments to:**

Name: Scott Bird, WDFW Rules Coordinator  
Address: P.O. Box 43200, Olympia, WA 98504-3200  
Email: [Rules.Coordinator@dfw.wa.gov](mailto:Rules.Coordinator@dfw.wa.gov)  
Fax: (360) 902-2155  
Other:  
By (date) August 1, 2018

**Assistance for persons with disabilities:**

Contact Delores Noyes  
Phone: (360) 902-2349  
Fax:  
TTY: (360) 902-2207  
Email: [Dolores.Noyes@dfw.wa.gov](mailto:Dolores.Noyes@dfw.wa.gov)  
Other:  
By (date) August 1, 2018

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** These rules incorporate the recommendations of the North of Falcon sub-group of the Pacific Fisheries Management Council for taking harvestable numbers of salmon during the commercial salmon fisheries in Grays Harbor, while protecting species of fish listed as endangered.

**Reasons supporting proposal:** This rule will protect salmon species while also supporting commercial salmon fishing in Grays Harbor.

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

**Statute being implemented:** RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047

**Is rule necessary because of a:**

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** None

**Name of proponent:** (person or organization) WDFW

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Kim Figlar-Barnes	48 Devonshire Rd., Montesano, WA 98563	(360) 249-4628
Implementation:	Kirt Hughes	1111 Washington Street SE, Olympia, WA 98501	(360) 902-2705
Enforcement:	Chief Steve Bear	1111 Washington Street SE, Olympia, WA 98501	(360) 902-2373

**Is a school district fiscal impact statement required under RCW 28A.305.135?**  Yes  No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

No: Please explain: These rule proposals do not affect hydraulics.

**Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- RCW 34.05.310 (4)(b) (Internal government operations)
- RCW 34.05.310 (4)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW \_\_\_\_.

Explanation of exemptions, if necessary:

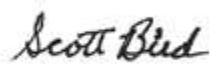
**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency’s analysis showing how costs were calculated. The proposed rule changes will not affect the number of salmon available to harvest for licensed commercial fisheries in Grays Harbor. Therefore, the proposed rule changes are not expected to cause loss of sales or revenue.
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name: Kim Figlar-Barnes  
 Address: 48 Devonshire Rd., Montesano, WA 98563  
 Phone: 360-249-4628  
 Fax: 360-249-1229  
 TTY:  
 Email: Kim.Figlar-Barnes@dfw.wa.gov  
 Other:

<b>Date:</b> June 20, 2018	<b>Signature:</b>  
<b>Name:</b> Scott Bird	
<b>Title:</b> Rules Coordinator	

AMENDATORY SECTION (Amending WSR 18-11-052, filed 5/10/18, effective 6/10/18)

**WAC 220-354-290 Grays Harbor salmon fall fishery.** From August 16 through December 31 of each year, it is unlawful to fish for salmon in Grays Harbor for commercial purposes or to possess salmon taken from those waters for commercial purposes, except that:

**Fishing periods:**

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

Time:	Areas:
<u>((12:01 p.m. through 7:00 p.m. October 24;</u>	<u>Area 2A and Area 2D</u>
<u>7:00 a.m. through 7:00 p.m. October 25;</u>	
<u>6:00 a.m. through 6:00 p.m. October 30;</u>	
<u>6:00 a.m. through 6:00 p.m. October 31;</u>	
<u>7:00 a.m. through 7:00 p.m. November 6;</u>	
<u>7:00 a.m. through 7:00 p.m. November 7;</u>	
<u>7:00 a.m. through 7:00 p.m. November 8;</u>	
<u>AND</u>	
<u>7:00 a.m. through 7:00 p.m. November 9;</u>	
<u>6:00 a.m. through 6:00 p.m. October 23;</u>	<u>Area 2C</u>
<u>6:00 a.m. through 6:00 p.m. November 2;</u>	
<u>7:00 a.m. through 7:00 p.m. November 6;</u>	
<u>AND</u>	
<u>7:00 a.m. through 7:00 p.m. November 7.))</u>	
<u>7:00 a.m. through 7:00 p.m. October 22;</u>	<u>Area 2A and Area 2D</u>
<u>12:00 p.m. through 11:59 p.m. October 30;</u>	
<u>7:00 a.m. through 7:00 p.m. October 31;</u>	
<u>7:00 a.m. through 7:00 p.m. November 12;</u>	
<u>AND</u>	
<u>7:00 a.m. through 7:00 p.m. November 13;</u>	
<u>12:01 a.m. through 12:00 p.m. October 21;</u>	<u>Area 2C</u>
<u>12:00 p.m. through 11:59 p.m. October 24;</u>	

Time:

Areas:

AND

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

October 31.

**Gear:**

(2) Gear restrictions:

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

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

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

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

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

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

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

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

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

(iii) Mesh size must not exceed nine inches.

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

**Other:**

(3) Recovery boxes and soak times:

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

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

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

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

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

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

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

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

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

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

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

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

(5) Retention of any species other than Chinook, chum, coho or shad, is prohibited in Area 2C from October 1 through November 30.

(6) Quick reporting is required for original receivers. According to WAC 220-352-320, reports must be made by 10:00 a.m. the day following landing, unless otherwise specified in an electronic fish receiving ticket reporting agreement (see WAC 220-352-035(3)).

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

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

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

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

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

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