

# **Grays Harbor Commercial Salmon Regulations for 2018 Concise Explanatory Statement**



## **Concise Explanatory Statement** **Grays Harbor Commercial Salmon Regulations for 2018**

### **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 three 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 discusses comments received during rulemaking and the agency's analysis and resolution of those comments. Section III 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 2018 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 WAC 220-354-290 that opened the commercial salmon fisheries in Grays Harbor, as defined in WAC 220-301-020.

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 five 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 three 12-hour days during 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 2018 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:
  - Fisheries will be managed with the intent of achieving escapement goals for wild Chinook. 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% or does not achieve the natural-origin spawner goals in 3 of the past 5 years.
  - 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. 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.
6. For Humptulips River natural-origin Chinook, fisheries will be managed with the intent of achieving the escapement goal.
7. Grays Harbor Coho will be managed to no more than a 20.7 percent total exploitation rate as worked through the Pacific Salmon Commission process. This is Guiding Principle #3 in the Grays Harbor Salmon Management Policy.
8. Fisheries will be managed with the intent of achieving the escapement goal for 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.

### ***Rule Development Process:***

The CR 101 notice of intended rule-making was filed on January 19, 2018 as WSR 18-03-129. 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 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 2018 NOF process began with a joint public meeting for both Grays Harbor and Willapa Bay on February 26, 2018 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 2018 run forecasts for stocks originating from rivers of Puget Sound, coastal Washington, and the Columbia River on February 27, 2018 at the Lacey Community Center in Lacey, WA. Resource utilization implications of the 2018 forecasts were discussed broadly in a statewide context. This was followed by regional break-out sessions where WDFW staff further discussed 2018 forecasts and resource utilization implications in greater detail and solicited fishery suggestions for those in attendance.

There were two Grays Harbor Advisory Group meetings, one held in March and one in April. The first meeting was held on March 19, 2018 at the WDFW regional Office in Montesano, WA. The purpose of this meeting was to provide management objectives for the 2018 season, discuss resource utilization implications, and collect input on fishing season structure for commercial and recreational fisheries. Also, during this meeting modeled outputs from fishery suggestions received to date were shared with the advisory group as well as information on the status and schedule of the 2018 planning process. The second Grays Harbor Advisory Group meeting was held on April 4, 2018 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 public meetings was available on the WDFW website by early February and was also provided in a news release.

WDFW held a Grays Harbor public NOF meeting on March 27, 2018 in Montesano, WA. During this meeting WDFW provided the public with information on the 2018 season planning process, discussed 2018 forecasts and resource utilization implications, engaged the public in dialog regarding fisheries, collected input on fishing season structure for commercial and recreational fisheries, possible rule changes, and provided the public with information on the status of the 2018 planning process.

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 20, 2018 and published as WSR 18-13-110, provided WDFW's initial rule-making proposal for 2018 Grays Harbor commercial salmon fisheries.

Following publication of the CR-102, a formal rule making public hearing was held on August 1, 2018. 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 18-13-110. The hearing was attended by three members of the public, with one testimony provided. The public comment period was open June 20, 2018 to August 1, 2018. WDFW received one written comment during this 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 2018 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 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 treaty commercial, non-treaty commercial, and recreational fisheries.

WDFW concludes the final adopted 2018 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 stock 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.

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 providing opportunity on the more abundant natural-origin and hatchery stocks. The adopted rule has a minimal impact on Chehalis natural-origin Chinook and will meet the criteria of objective 4 as shown in table below.

Stock	Objective Type	Objective Criteria	Expected Modeled Results
Chehalis Natural-origin fall Chinook	Harvest Impact Rate	≤ 5.0%	3.1%
Grays Harbor Natural-origin Coho	Total Southern U.S. Exploitation Rate	≤ 20.7%	20.7%
Humptulips Natural-origin Chinook	Escapement Goal	3,573	3909
Grays Harbor Chum	Escapement Goal	21,000	36,347

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.

WDFW managed commercial fisheries in the adopted rule are planned so that in any calendar week there are a minimum of three consecutive days when neither treaty nor state-managed commercial fisheries are scheduled to be prosecuted.

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 observation, daily fish ticket evaluation, and sampling of the landed catch. These data will be used to compare actual catch to the preseason predictions in the Grays Harbor Terminal Area

Management Model (TAMM or pre-season planning model). In-season management actions will be initiated, if necessary, in an effort to attain management and conservation objectives identified in the 2018 NOF process.

4. The fishery management objectives for fall Chinook salmon:

- Fisheries will be managed with the intent of achieving escapement goals for wild Chinook. 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% or does not achieve the natural-origin spawner goals in 3 of the past 5 years.
  - The scheduled fisheries in the adopted rule are expected to result in 3,909 Humptulips River natural-origin spawners compared to a spawning goal of 3,573.
  - Chehalis River natural-origin fall Chinook are forecast less than 10% above the escapement goal and are restricted to a terminal exploitation cap of 5%. In the adopted rules, the predicted impact from WDFW managed fisheries, both commercial and recreational, on Chehalis River natural-origin fall Chinook is 3.1%.
- Achieve spawner goals;
  - The scheduled fisheries in the adopted rule are expected to result in 3,909 Humptulips 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 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 encounters of Chinook is less than the predicted catch of the target species in all weeks of fishing.

5. 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 0.21%.



- 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 2.5%. The terminal abundance of natural-origin Humptulips fall Chinook is forecast to be 5,592.

6. For Humptulips River natural-origin fall Chinook, the WDFW managed fisheries will be managed with the intent of achieving the escapement goal.

The scheduled fisheries in the adopted rule are expected to result in an escapement of 4,214 Humptulips River natural-origin spawners compared to a spawning goal of 3,573.

7. Grays Harbor natural-origin Coho will be managed to no more than a 20.7% total exploitation rate as worked through the Pacific Salmon Commission process. This is Guiding Principle #3 in the Grays Harbor Salmon Management Policy.

Impacts from the proposed rule, in combination with other expected fishing mortalities, predict a total exploitation of no more than 20.7%.

8. Fisheries will be managed with the intent of achieving the escapement goal for 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 a harvest of 5,406 Grays Harbor Chum. The forecasted return of Grays Harbor chum is 61,144 and predicted escapement after all Grays Harbor fisheries, treaty and non-treaty, is 36,347 compared to the goal of 21,000. Remaining Coho impacts allow for directed Chum fisheries to occur.

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

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

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

A CR-102 (WSR 18-13-110) was filed on June 20, 2018. A formal public review period and public hearing were held to receive comments after filing of the CR-102. A formal rule making public hearing was held on August 1, 2018 as part the rules making process for WSR 18-13-110. This hearing provided the public with an opportunity to comment on the proposed rule published in WSR 18-13-110. The hearing was attended by three members of the public, with only one providing verbal testimony. One written testimony was also provided during the public comment that was open from June 20, 2018 through August 1, 2018.

Written Comment: *commenter is concerned that salmon mortality caused by pinnipeds is not considered in the proposed rule, and the proposed rule “could not be justified if the significant pinniped losses were properly accounted”.*

WDFW understands that pinniped predation occurs during fisheries in marine waters. With this in mind, during the development of the proposed rule, an additional “drop-out” mortality rate of 3% for Chinook and 2% for Coho were added to the harvest rates, which includes losses caused by pinnipeds. The Chinook rate was recommended by the Pacific Salmon Commission (PSC 1997).

PSC 1997, indicates that there is a correlation between longer soak times for nets and higher drop-out rates. The limited soak times are restricted to 45 minutes or less. On-board monitoring data collected during the past three seasons has shown that the average soak time per set was just over 25 minutes.

Verbal Comment: *The schedule is not fair with the availability of Chum. Fish a day here and a day there is difficult.*

The proposed rule maximized harvest opportunity for Grays Harbor Chum within the constraints of Coho impacts consistent with the Grays Harbor policy (C-3621). There was a maximum exploitation rate of 20.7% for Grays Harbor Coho affecting all fisheries.

#### **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 public and advisory meetings. One comment that was heard at several meetings was to open opportunity for the non-treaty commercial fishery in catch area 2B to access available Chum.

Area 2B had a higher Coho encounter rate, which would have further restricted commercial fishing opportunities. There was not consensus among all commercial fishers for this fishery suggestion.

#### **Conclusion**

WDFW has considered all the facts and circumstances surrounding the 2018 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 Chinook and Coho 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 2018 Grays Harbor commercial salmon fishing regulations comply with its statutory mandate and are consistent with WDFW’s management objectives for these fisheries.