

Concise Explanatory Statement (CES)

Concise Explanatory Statement for Ocean salmon troll and recreational fishing regulations

Rules amended as part of this rulemaking:

WAC 220-313-010 Salmon statewide rules.
WAC 220-313-020 Closed areas—Saltwater salmon angling.
WAC 220-313-070 Coastal salmon—Saltwater seasons and daily limits.
WAC 220-350-220 Definitions—Troll line.
WAC 220-350-230 Definitions—Troll spread.
WAC 220-354-300 Coastal salmon troll seasons—Commercial.

Rules repealed as part of this rulemaking:

N/A

Rules created as part of this rulemaking:

Chapter 220-306 WAC FISH—SALMON CONTROL ZONES
WAC 220-306-010 – Cape Flattery Control Zone.
WAC 220-306-020 – Salmon Troll Yelloweye Rockfish Conservation Area.
WAC 220-306-030 – Grays Harbor Control Zone.
WAC 220-306-040 – Columbia River Control Zone.
WAC 220-313-075 – Pacific Ocean Salmon.

1. Background/Summary of Project:

The purpose of the proposal is to update the department's ocean salmon troll and ocean salmon recreational fishing regulations for consistency with the NMFS federal regulations and reorganize them for clarity and understanding by participants in those fisheries.

Specifically, the proposed reorganization includes: 1) having a discrete set of regulations just for the Control Zones and conservation areas closed to ocean salmon fishing; 2) separating the ocean (i.e., Marine Areas 1-4) recreational salmon fishing regulations from the broader "coastal recreational salmon" regulations, which includes Willapa Bay (Area 2-1) and Grays Harbor (Area 2-2). Annual regulations for these subareas 2-1 and 2-2 will continue to be developed and considered through the state's NOF process with the intent of maintaining consistency with Marine Area 2 (ocean) for the western portion of those areas; 3) Updating outdated ocean troll regulations; and 4) updating definitions and regulations to match federal regulations.

It is our intent to include in the permanent rules only those provisions that are not likely to be subject to annual changes. Provisions that are likely to be subject to annual changes, such as season dates and effective date of the Grays Harbor Control Zone, and items that

have varied recently and may vary in the future (e.g., area-specific chinook size limits) will continue to be addressed via emergency rule.

Due to the timing of annual adoption of federal rules for ocean salmon fisheries, and the length of time required under the Administrative Procedure Act to adopt matching permanent state regulations, WDFW typically opens ocean salmon seasons by emergency rule. Given that the season opening dates and regulations change annually and that the timing of the NOF and PFMC processes and the NMFS regulatory process are not likely to change significantly, WDFW intends to continue to open both the salmon troll and ocean recreational fisheries via emergency rule.

2. Reasons for adopting the rule:

As noted above, WDFW typically opens the salmon troll and ocean recreational salmon fisheries via emergency rule and, with the adoption of these proposed rules, that process is not expected to change. Through those emergency rules, WDFW has included all of the long-standing regulations (e.g., Control Zones, restrictions and notification requirements regarding fishing north and south of Leadbetter Point) that were considered and approved through the North of Falcon and PFMC processes and adopted by NMFS in federal regulations. This practice has essentially made our permanent rules for these fisheries obsolete and results in disparity between federal and state regulations outside of the fishing season, which can be misleading and cause confusion for individuals reviewing and comparing those rules. Further, including all of the long-standing regulations in the emergency rules is time-consuming and may result in disparities between federal and state fishing regulations.

In summary, WDFW believes that updating our permanent rules to include all of the long-standing regulations that are not likely to change: 1) helps ensure consistency between federal and state regulations; 2) promotes greater understanding and predictably for the fishing public; 3) reduces work for staff who develop, review, and file the emergency rules; and 4) enhances enforcement of our regulations.

3. Differences between the text of the proposed rule and the rule as adopted:

In WAC 220-350-230, the word “detachable” was added to the definition of troll spread as a clarification and as suggested by public comment.

In WAC 220-354-300, the sentence “When troll gear is authorized under emergency regulation, the following provisions shall also apply unless expressly modified by the emergency rule:” was added to the first paragraph. This is intended to clarify that the provisions of the permanent rule do apply unless modified by emergency rule, even if the provisions are not restated in emergency rules opening the fishery.

In WAC 220-313-070, the intent was to remove only the ocean area fisheries from this section, but the August 1-January 31 season in Area 2-1 (Willapa Bay) was accidentally

removed from the draft rule. It was reinserted in subsection (b) of the final rule, with the applicable provisions listed in (b) i-v.

4. **Public comments, response to comments, and consideration of comments**

One commenter asked via email to reconsider the prohibition of landing troll caught salmon east of the Sekiu River in WAC 220-354-300. This restriction was altered by emergency rule for the 2020 season to allow landings further east, so that vessels could land salmon in Sekiu or Port Angeles while the ports of Neah Bay and La Push were closed. Such emergency measures will be considered in the future should those ports remain closed or close again but will not be included as part of these permanent rules.

One commenter suggested via phone that the word “detachable” should be retained in the definition of troll spread in WAC 220-350-230 for clarity. While the original intent was to make the definition consistent with the definition in federal rules, using the word “detachable” does provide a clearer description of the gear being defined, and that word is used in the final rule.

Other written comments were received on portions of WAC 220-313-010 that were outside the geographic scope of this rule-making process, and therefore were not considered for modification.

No comment was received during the public hearing.