

# **Concise Explanatory Statement (CES)**

## **2020 North of Falcon Recreational Fisheries Rulemaking**

The Washington Department of Fish and Wildlife (WDFW) filed the Preproposal Statement of Inquiry (CR-101) on January 17, 2020 (WSR 20-03-127), and the Proposed Rule-making (CR-102) for the 2020 Coastal Commercial Salmon Fishery on May 6, 2020 (WSR 20-10-115). This proposed rule-making package is comprised of:

### **Rules amended as part of this rulemaking:**

- WAC 220-220-160 – Two-pole endorsement
- WAC 220-312-020 – Freshwater exceptions to statewide rules – Coast
- WAC 220-312-030 – Freshwater exceptions to statewide rules – Southwest
- WAC 220-312-040 – Freshwater exceptions to statewide rules – Puget Sound
- WAC 220-312-050 – Freshwater exceptions to statewide rules – Eastside
- WAC 220-312-060 – Freshwater exceptions to statewide rules – Columbia River
- WAC 220-313-060 – Puget Sound salmon – Saltwater seasons and daily limits
- WAC 220-313-070 – Coastal salmon – Saltwater seasons and daily limits

### **Rules repealed as part of this rulemaking:**

N/A

### **Rules created as part of this rulemaking:**

N/A

#### **1. Background/Summary of Project:**

This Concise Explanatory Statement (CES) describes the Washington Department of Fish and Wildlife's (WDFW's) reasons for adopting the 2020-2021 recreational salmon fishing rules and responds to public comments received on the proposed rules. The rules, once adopted, will be set forth in the Washington Administrative Codes (WACs) listed above. The management period for each fishing season typically ends in April and begins anew each May.

Rulemaking by the Department is guided by resource management policies adopted by the Fish and Wildlife Commission at its regularly or specially scheduled meetings that are open to the public. Those policies can be found at: <https://wdfw.wa.gov/about/commission/policies>

In addition, the Department's Director and staff interact with the Commission by reporting on policy implementation, and the effect of rule development and implementation, as part of the Commission's public meetings. Commission meeting agendas, and staff reports to the Commission, are available at: <https://wdfw.wa.gov/about/commission/meetings>

Due to the complexity of the annual salmon season setting process, the Commission typically delegates the authority to the Director, as authorized by law, to adopt the rules to implement the outcomes of the process while providing policy guidance as described above. For example, the

North of Falcon Policy (C-3608) contains policy objectives to guide fishery rulemaking and provides an expressed delegation of rulemaking authority to the Director.

As discussed below, the Administrative Procedures Act (APA) envisions a rule making process by which input is solicited from the public during the preproposal phase to aid in the development of proposed rules. This public process is then carried through as the rules, once proposed, undergo additional public review and comment. The Director employs agency staff to assist in the rule-making process but retains the final delegated decision-making authority on such rules. After consideration of the public comment received and staff recommendations, the Director signs the CR-103 rule making order adopting the final rules.

The APA process for these proposed rules began when the CR-101 notice of intended rulemaking was filed on January 17, 2020 (WSR 20-03-127). Thereafter, the Department relied upon several forums to gather information and interact with regional fishery managers and constituent groups in order to develop the proposed rules that were presented in the CR-102 filed on May 6, 2020 (WSR 20-10-115) and available for formal public review and comment.

These rule-making processes are described in more detail as follows:

**North of Falcon (NOF)/Pacific Fishery Management Council (PFMC) processes used to develop proposed rules (the “Pre-notice Inquiry” stage of rulemaking)**

State, federal, and tribal fishery managers, and the Oregon Department of Fish and Wildlife (ODFW) work collaboratively with recreational and commercial stakeholders during the NOF and PFMC meetings to develop fishery options based on the best available science. Data and information examined and considered include expected annual salmon returns, Endangered Species Act (ESA) requirements – expressed as annual stock-specific exploitation rates, treaty fishing rights of Northwest Tribes, and resource management policies of the Fish and Wildlife Commission. The name "North of Falcon" refers to Cape Falcon, Oregon, which is the southern border of active management for Washington salmon stocks. This process consists of a series of public meetings involving federal, state, and tribal representatives, who work together with input from recreational, commercial fishing, and conservation interests.

The NOF planning process deliberately overlaps with the March and April meetings of the PFMC, the federal authority responsible for setting ocean salmon seasons within the Exclusive Economic Zone, which extends from 3 to 200 miles off the Pacific coast. Work with federal fishery managers and fishing interests in offshore waters is essential to ensure coordinated state and federal fisheries for salmon stocks that migrate freely between state and federal waters.

In addition to the two PFMC meetings, the states of Washington and Oregon, and the Treaty Tribes, sponsor additional meetings to discuss alternative fishing seasons that meet conservation and harvest sharing objectives. Additionally, WDFW solicits input from advisory groups whose representatives represent a diverse range of user group interests.

The development of salmon fishing seasons begins with the completion of surveys of the previous year’s spawning grounds and hatchery return estimates by state and tribal biologists. These biologists apportion catch in each area to specific management groups and calculate a total run-size for each group. Biologists complete this analysis, also known as a run-reconstruction, each fall or early winter. Based on total run size, and the associated survival rates, state and tribal biologists forecast the number of salmon and steelhead returning for the coming year. State and

tribal biologists, in coordination with PFMC participants, typically complete the forecasts each year by late-February. From the run-size forecasts, fisheries managers determine the amount of fish available for directed or incidental harvest according to the management objectives. Once the forecasts and the number of fish available for harvest are determined, state and tribal fisheries managers begin the process of developing specific annual fishing regulation proposals to achieve, but not exceed, those harvest levels.

The 2020 North of Falcon kickoff meetings occurred on February 27 and 28 at the Montesano City Hall and Office Building 2 in Olympia respectively. WDFW staff presented and reviewed the 2020 pre-season forecasts of salmon abundance with interested stakeholders. Additional public meetings were scheduled as shown below in Table 1. Note that due to the COVID-19 pandemic, all meetings were held using online formats beginning in mid-March.

Table 1. Public meetings for 2020 North of Falcon season setting process.

Geographic Area	Date(s)	Location
Willapa/Grays	February 27	Montesano, WA
All	February 28	Olympia, WA
Ocean - PFMC	March 3-9	Rohnert Park, CA
Willapa Bay	March 12	Raymond, WA
All	March 16	Zoom webinar
Columbia/Ocean	March 18	Teleconference
Ocean – PFMC	March 23	RingCentral webinar
Grays Harbor	March 24	Zoom webinar
Puget Sound	March 25	Zoom webinar
Northeast of McNary	March 30	YouTube video
All	March 31	Zoom webinar
Columbia/Ocean	April 2	Zoom webinar
All / PFMC	April 4-10	RingCentral & GoTo Meeting webinars
Willapa Bay	April 6	Zoom Webinar
All - Public Hearing	June 9	Zoom Webinar
All – Rule Adoption	June 22	Zoom Webinar

During these public meetings, WDFW gathered input from stakeholders on the structuring of fishing seasons, reviewed possible rule changes, and provided the public with information on the status of the 2020 planning process. WDFW considered the fishing regulation proposals shared at public meetings as a work in progress (i.e., not final proposals) that would be further informed by comments received from meeting participants. Additionally, fishing proposals were informed by the public comments received online via WDFW’s website and submitted by e-mail, providing an alternate avenue, particularly for those individuals who could not attend the scheduled public meetings and webinars, to provide comment.

During the 2020 NOF season planning process for Puget Sound, the tribal co-managers and WDFW also conducted technical meetings and policy level discussions to agree upon conservation objectives, run size forecasts, and estimates of the allowable tribal and non-tribal catch shares for the various salmon runs considered in defining fishing levels. WDFW and the

tribes also developed fishing schedules for both tribal- and state-managed salmon fisheries. A summary of some of the larger issues confronted in these government-to-government is included in the Puget Sound marine and freshwater rationale for rules below. Written and oral comments received during this process were considered in the development WDFW's rulemaking package.

The recreational salmon fishing seasons proposed for adoption by WDFW in 2020 are a product of both the government-to-government tribal-state negotiations and the open public process component of the annual North of Falcon process.

In the Columbia River, the fisheries are managed under the current ten-year *U.S. v. Oregon* Management Agreement (2018-27) that was adopted as an order of the United States District Court for the District of Oregon. This agreement outlines the escapement goals, ESA limits and tribal and non-tribal harvest sharing. Tribal fisheries in the Columbia River are determined at in-season hearings and are developed by the four Columbia River Treaty Tribes. Written and oral comments received during the NOF process were considered in the development of WDFW's proposed rules.

The Columbia River recreational salmon fishing seasons proposed for adoption by WDFW in 2020 are a product of the *U.S. v. Oregon* Management Agreement, agency and commission policy guidance and the open public process component of the annual North of Falcon process. In addition, rule proposals developed in connection with these processes have been vetted based upon public input obtained in the public rule-making process undertaken by WDFW pursuant to the Administrative Procedures Act.

### **CR-102 rule proposal phase with comment period and formal rule-making hearing**

Based upon all the information and outreach generated through these forums, draft fishery rules were developed for consideration in the public rule-making process that follows the filing of a proposed rule. Accordingly, the CR-102 was filed on May 6, 2020 (WSR 20-10-115), as part of WDFW's initial rule-making proposals for 2020-21. The filing included changes to the WAC sections listed at the top of this document. The package of rules is expressed as a suite of amendments to the pre-existing Washington Administrative Code sections that are referenced. However, the rules packages reflect a unitary fishing season proposal. In essence, the amended rules reflect the 2020-21 proposed fishing season, expressed largely as time, place and manner regulations for fishing activity, given the most recent conservation and allocation objectives. Functionally, the amended rules package is a unitary seasonal fishing package and replaces the prior year (2019-20) suite of fishing season rules.

Information regarding the proposed rule changes were electronically sent to participants in the North of Falcon process who provided their contact information at meetings as well as posting it on WDFW's website. A news release on public comment opportunities associated with the CR-102 was also produced and sent to press and constituent distribution lists.

A formal Administrative Procedures Act rule-making public hearing was held on June 9, 2020 via Zoom webinar to provide an additional opportunity for comments to be received on the proposed rules as published in the Washington State Register. A total of 37 individuals attended the rule-making hearing, and 5 of them provided testimony. A summary of the public hearing, the comments provided, and WDFW's responses to those comments has been provided to the Director for his consideration in adopting these rules. In addition to input during the public hearing, comments received by letter, electronic mail, and online on the WDFW North of Falcon

webpage during the North of Falcon process and CR-102 comment period were considered throughout the rule-making process.

## **2. Reasons for adopting the rules:**

WDFW considered all the facts and circumstances surrounding the proposed 2020-21 recreational salmon season. The agency carefully reviewed all input from the general public regarding preferred fishing rules during North of Falcon public meetings (the APA Pre-notice Inquiry stage) and the rule-making process used to provide notice and comment on proposed rules (CR 102 filing of proposed rules, additional comment solicitation, and a rulemaking hearing). WDFW considered and relied upon the best technical and scientific information available to tribal and state fishery management experts, including pre-season forecasts of the abundance of salmon stocks and data that will be used during the season to update forecasts. Important characteristics of the recreational salmon fishery were considered, including the catch likely to result from the proposed rules, providing significant harvest opportunities, and the economic value of these fisheries. WDFW also considered fishing schedules of state commercial fisheries and the schedules of tribal fisheries, as in some cases these schedules must be coordinated with the state's recreational fishing schedules as part of the co-management process developed under sub-proceedings of *U.S. v. Washington* and *U.S. v. Oregon*.

Regulations for the 2020-21 recreational salmon fisheries were considered with respect to established objectives. These objectives include generally applied statewide objectives, together with detailed regional specific objectives described within regional sections below. WDFW shared these objectives with recreational angler representatives during the 2020 North of Falcon and APA public processes, and they are listed below in order of priority:

1. Conserve the wildlife and food fish, game fish, and shellfish resources in a manner that does not impair the resource (RCW 77.04.012) by achieving conservation objectives for all species and stocks.
  - a. Ensure primary stocks meet escapement goals and/or management objectives (e.g., exploitation rate).
  - b. Manage fisheries consistent with Fish and Wildlife Commission Policies C3608 (2019-2023 North of Falcon) and C3619 (Hatchery and Fishery Reform).
  - c. Monitor fisheries to ensure a & b are met.
2. Harvest the non-treaty share of harvestable salmon.
3. WDFW shall promote orderly fisheries and shall enhance and improve recreational and commercial fishing in this state.
4. WDFW shall seek to maintain the economic well-being and stability of the fishing industry in the state.

## **Region/Rule Specific Rationale**

### **Ocean (220-313-070 – Coastal salmon – Saltwater seasons and daily limits)**

Recreational (and commercial) fisheries in the Pacific Ocean off the coast of Washington occur in both state waters (0-3 miles from shore) and federal waters within the Exclusive Economic Zone (3-200 miles from shore). Regulations for Federal fisheries are developed each year through the PFMC March and April meetings, and submitted to the U.S. Secretary of Commerce for adoption as federal rules. Fisheries in state waters off the coast are typically managed using concurrent regulations, because having different regulations or seasons inside and out of 3 miles from shore would be difficult to enforce, and fishery catch and stock impact data are not of fine enough resolution to support separate regulations inside and outside of 3 miles. Moreover, to the extent WDFW desires to enforce its own rules for fishing activity in offshore waters (pursuant to RCW 77.12.045), principles of federal preemption, and the provisions of the Magnuson-Stevens Fishery Conservation and Management Act, require the state's regulations to conform to federal law.

For similar reasons, recreational fisheries in portions of the coastal marine waters inside Grays Harbor and Willapa Bay are managed consistent with adjacent ocean waters early in the fishing season, prior to the migration of local stocks into those waters which affects the stock composition of catch.

Accordingly, the fishery regulations in this rule for CRC areas 1-4 are identical to those developed and adopted through the Pacific Fishery Management Council process and adopted by the Department of Commerce (Fisheries Off West Coast States; West Coast Salmon Fisheries; 2020 Management Measures, 85 Fed. Reg. 27317, May 8, 2020). CRC area 2-1 and the portion of CRC area 2-2 west of the Buoy 13 line are managed under concurrent regulations with CRC Area 2 for a portion of the fishery, then revert to area specific rules for Willapa Bay and Grays Harbor described below.

### **North Coast rivers (220-312-020 – Freshwater exceptions to statewide rules – Coast)**

Modifications to the North Coastal sport fishing regulations adopted for 2020 through the rulemaking process were:

- Hoh River will be closed to all fishing through September 15. This closure is to protect summer Chinook which are forecast to return below the escapement goal.
- Quillayute River will require the release of wild fall coho September 16 through November 30 and the retention of up to 4 salmon September 1 through November 30. The dates closed to avoid gear conflict with treaty fisheries were changed to Mondays between August 31 and October 12.
- Sol Duc River will require the release of wild fall coho September 16 through November 30 and will allow the retention of up to 4 salmon September 1 through November 30 due to a strong forecast for hatchery fall coho returning to the Sol Duc hatchery.

- Bogachiel River will require the release of wild fall coho September 16 through November 30.
- Calawah River will require the release of wild fall coho September 16 through November 30.
- Dickey River will require the release of wild fall coho September 16 through November 30.
  - Modifications to fishing rules in the Quillayute system (Quillayute, Sol Duc, Bogachiel, Calawah, and Dickey rivers) are due to a low forecast of wild fall coho and an abundant forecast of hatchery fall coho returning to the Sol Duc hatchery. The season modifications are a non-retention fishery for of wild fall coho and an increased bag limit directed at fall hatchery fall coho.
- Clearwater River (tributary to the Queets River), will have a daily limit of 3 salmon, up to 1 may be an adult. Release wild coho.
- Salmon River (tributary to the Queets River), will have a daily limit of 6 salmon, up to 2 may be adults, of which only 1 may be a Chinook. Release wild coho.
  - Modifications to sport fishing was due to lower forecasted coho abundances for 2020.
  - Daily limits in the Clearwater and Salmon Rivers reflect a conservative approach for wild coho salmon.
- Quinault River: sport season regulation structure did not change for 2020.

**Grays Harbor (220-313-070 – Coastal salmon – Saltwater seasons and daily limits and 220-312-020 – Freshwater exceptions to statewide rules – Coast)**

The Fish and Wildlife Commission adopted the Grays Harbor Basin Salmon Management policy (C-3621) 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 conservation objectives and sharing between the recreational and commercial sectors. While the policy details specific objectives, it also recognizes uncertainty inherent in fishery management, which provides guidance on the utilization of adaptive management to facilitate appropriate flexibility in the implementation of the policy guidance.

Regulations for the 2020 Grays Harbor freshwater and marine recreational salmon fisheries were evaluated with respect to objectives in the policy and in coordination with the NOF/PFMC process. These objectives were shared with industry representatives, members of the Grays

Harbor Salmon Advisory Group, and the public during the North of Falcon public process. In addition, the Commission policy provided recommendations for “meaningful” opportunities for both recreational anglers and commercial harvesters. The rules were proposed, as noticed in the CR-102, based upon a conclusion that fisheries would be produced consistent with the overriding conservation objectives.

WDFW believes that the 2020 Grays Harbor recreational freshwater and marine fishing regulations are consistent with general, or recreational-specific, pre-season planning and policy management objectives based on the following rationale:

- Fisheries will be managed with the intent of achieving escapement goals for natural-origin salmon. In no case, shall WDFW-managed fisheries result in an impact of more than 5% of the return when the natural-origin adult forecast exceeds the spawner objective by less than 10% or the number of natural-origin spawners was less than the goal 3 out of the last 5 years.

The Humptulips River natural-origin coho and Chinook did not have forecasts exceeding 10% above the escapement goal, which limited WDFW-managed fisheries to not exceed impacts of 5% or greater according to policy C-3621. Therefore, the proposed rules do not allow any directed fisheries on either stock. Modeled impacts from proposed WDFW-managed fisheries in Grays Harbor basin for both stocks are less than 5% and listed in Table 2.

- The adopted rules do not include a directed freshwater recreational fishery on Chehalis spring Chinook due to a forecasted abundance less than the goal and spawning abundances less than the goal in three of the last five years.

The fishery management objectives for fall Chinook salmon, in priority order, are to:

- Achieve spawning goals.

The adopted rules were developed based upon the available harvestable surpluses of the forecasted run size for the Humptulips and Chehalis river stocks.

- Provide meaningful recreational fishing opportunities.

Within the constraints of the policy, recreational fishing opportunities have been provided for Humptulips hatchery-origin fall Chinook in both the marine area and the Humptulips River. Management objectives were to limit the impact rate of Humptulips natural-origin fall Chinook to < 5% or less. The predicted impact on Humptulips River natural-origin fall Chinook during the scheduled fisheries in the adopted rule is 3.02%.

The forecasted terminal run size of Chehalis natural-origin fall Chinook during the scheduled fisheries in the adopted rule is 11,144. The predicted impact on

Chehalis River natural-origin fall Chinook during the scheduled fisheries in the adopted rule is 237 fish. The scheduled combined terminal fisheries in Grays Harbor basin (WDFW-managed recreational and commercial fisheries plus the treaty fisheries) are expected to result in 9,298 Chehalis River natural-origin spawning fall Chinook compared to the spawning goal of 9,753. While the predicted spawning escapement resulting from fisheries prosecution is below the goal, the predicted impact rate of WDFW fisheries on natural-origin Chehalis fall Chinook is 2.3%.

- The forecasted terminal run size of Chehalis natural-origin coho is 43,478. The predicted impact by the adopted rule on Chehalis natural-origin coho is 3,792 fish. The scheduled combined terminal fisheries in Grays Harbor basin (WDFW-managed recreational and commercial fisheries plus the treaty fisheries) are expected to result in 31,800 Chehalis River natural-origin spawning coho compared to a spawning goal of 28,506 (Table 2).
- The forecast terminal run size for Humptulips natural-origin coho is 3,630, which is less than the escapement goal of 6,894. Therefore, the management objectives are to limit incidental impacts from WDFW-managed fisheries targeting other stocks to 5% or less. The expected impact of the adopted rule on Humptulips natural-origin coho will be 2.09%. The predicted impact by the adopted rule for all WDFW fisheries on Humptulips natural-origin coho will be 2.31%.

Table 2. Grays Harbor salmon management policy objectives.

Natural-origin Stocks	Objective Type	Objective Criteria	Modeled Results
Chehalis fall Chinook	Escapement Goal*	9,753	9,298
Chehalis spring Chinook	Escapement Goal*	1,400	1,236
Humptulips Chinook	Harvest Impact Rate	≤5%	3.02%
Chehalis Coho	Escapement Goal*	28,506	31, 800
Humptulips Coho	Harvest Impact Rate	≤ 5%	2.09%
Grays Harbor Chum	Escapement Goal*	21,000	23,683

\*Expected escapement after all Grays Harbor WDFW managed recreational and commercial fisheries plus treaty fisheries.

- 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 spawning 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 607 Grays Harbor chum. The forecasted return of Grays Harbor chum is 32,649 and predicted escapement after all Grays Harbor fisheries, treaty and non-treaty, is 23,683 compared to the goal of 21,000.

Scheduled fisheries in the adopted rule achieves the policy objective guideline via reaching or exceeding the escapement goal for Chehalis River natural-origin coho and minimizing total WDFW-managed fisheries impact to 5% or less on Humptulips River natural-origin coho. Therefore, coho impacts are expected to remain, allowing for directed chum fisheries to occur.

**Willapa Bay (220-313-070 – Coastal salmon – Saltwater seasons and daily limits and 220-312-020 – Freshwater exceptions to statewide rules – Coast)**

The Washington Fish and Wildlife Commission adopted the Willapa Bay Salmon Management Policy (C-3622) in June of 2015. This action followed an extensive public process with multiple public comment periods. The policy provides general management guidance to WDFW in terms of sharing between the recreational and commercial sectors, and achievement of conservation objectives.

On February 7, 2020, during a regularly scheduled open public meeting, the Commission provided WDFW with additional guidance on the implementation of Policy C-3622 for the 2020 salmon planning process. The general guidance provided by the Commission directed WDFW to carryover the 2019 guidance for 2020, with the exception that the 20% impact rate cap to natural original Chinook salmon would be decreased to 14% as described in Policy C-3622.

Conservation and management objectives for fisheries in the Willapa Bay Basin are based on Policy C-3622 and interim guidance received from the Commission include:

- Actively manage to not exceed 14% total impacts for natural-origin Chinook salmon on Willapa River;
- Actively manage to not exceed 14% total impacts for natural-origin Chinook salmon on Naselle River;
- Actively manage to meet aggregate escapement goals for coho;
- Actively manage to not exceed 10% total impacts for chum;
- Suspend the fishery management #6 of the Fall Chinook salmon species-specific guidance in the Willapa Bay Policy that states:
  - Limit the fishery impact rate on Willapa and Naselle river natural origin fall Chinook salmon to no more than 14%;
  - No commercial fisheries shall occur within areas 2T and 2U prior to September 16; and
  - No commercial Chinook salmon fisheries shall occur in areas 2M, 2N, 2P, and 2R until after September 7.
- Allow WDFW the appropriate flexibility to determine the bag limits for Chinook salmon and coho in the recreational fishery that stays within the 14% harvest rate.

- Species harvest prioritization
  - Chinook salmon harvest for recreational sector
  - Coho and chum for commercial sector
- Provide for hatchery broodstock necessary for a Chinook salmon smolt release of:
  - 400,000 at Forks Creek Hatchery
  - 3.3 million at Nemah Hatchery
  - 5 million at Naselle Hatchery

Initially, the 14% impact rate cap was interpreted to apply to Willapa Bay natural origin Chinook in the aggregate. Based on input received from the Willapa Bay Salmon Advisory Group (WBSAG) members, WDFW reviewed the 14% terminal impact rate cap to Chinook salmon. After review, WDFW determined the terminal impact rate cap of 14% would apply to both Willapa River and Naselle River natural origin Chinook salmon. The objective was amended, and this change was communicated in email to all WBSAG members on March 31, 2020.

This additional guidance applies only to 2020. All other items in the Willapa Bay Salmon Management Policy, C-3622, will remain in effect for 2020, together with the various other policy guidance positions adopted by the Commission that inform and are considered by the Director when developing and adopting annual fishing seasons/regulations.

Regulations for the 2020 Willapa Bay recreational salmon fisheries were evaluated with respect to the objectives in the policy and the additional guidance provided by the FWC for 2020-21 season only. These objectives were shared with industry representatives, members of WBSAG, and the public during the NOF process. General or recreational specific pre-season planning objectives are:

1. The recreational fishery management objectives for fall Chinook salmon in 2020, in priority order, are to:
  - a. Not exceed a 14% impact rate on Willapa and Naselle rivers natural origin fall Chinook salmon during Willapa Bay fisheries. Within the impact rate cap, the priority shall be to maintain a full season of recreational fisheries for Chinook salmon in the Willapa Bay Basin; and
  - b. Provide enhanced recreational fishing opportunities.
    - i. Increase participation and/or catch including earlier openings, open areas previously closed, and the expansion of areas with use of multiple rods (two- pole endorsement);
    - ii. Conservation actions, as necessary, shall be shared equally between marine and freshwater fisheries.
2. The recreational fishery management objectives for coho and chum salmon, in priority order, are to:
  - a. Achieve spawner goals; and
  - b. Provide recreational fishing opportunities.

Regulation changes in the adopted rules will continue to increase participation and/or catch during the 2020-21 season. The adult salmon bag limit for the 2020-21 recreational salmon marine and freshwater fisheries throughout Willapa Bay is two adult salmon. Willapa Bay needs

additional conservation for unmarked Chinook salmon and coho. To address this concern, all recreational fisheries, both marine and freshwater, are mark selective and require the release of unmarked Chinook salmon and all recreational freshwater fisheries require the release of unmarked coho. Marine Area 2.1 regulations are similar to 2019 with a start date of August 1, 2020. Prior to August 1, 2020, Willapa Bay will follow the rules for Ocean Area 2, which are scheduled to begin June 20, 2020.

Beginning August 1, 2020, the Willapa Bay Control Zone (WBCZ) at the mouth of Marine Area 2.1 will be open to salmon fishing. The WBCZ is defined as having a westerly boundary line from Leadbetter Point (46° 39.20' N, 124° 3.516' W) due west to 46° 39.20' N, 124° 5.3' W then north to the westerly most landfall on Cape Shoalwater (46° 44.66' N, 124° 5.3' W) and from Leadbetter Point through green marker 11 to landfall. Recreational freshwater fisheries within Willapa Bay for the 2020 fall season are mark selective for unmarked Chinook salmon and unmarked coho. Low preseason forecasts and concerns for natural origin coho prompted this additional conservation measure.

Preseason modeling of planned recreational and commercial fisheries is estimated to result in an impact rate of 13.2% and 13.7% on Willapa River and Naselle River natural origin Chinook, respectively. Combined fisheries modeled in Willapa Bay are expected to result in achievement of escapement goals for both Willapa Bay coho and chum stocks. The Willapa Bay escapement goal for natural origin coho is 13,600 fish. The modeled fisheries predict escapement of 13,840 natural origin coho and 29,601 hatchery origin coho. This predicted escapement exceeds the 17,200 coho escapement goal established by PFMC. The number of Willapa Bay chum predicted to escape in the adopted fishery is 38,867, exceeding the spawner escapement goal of 35,400.

Modifications proposed for 2020 Willapa Bay marine and freshwater recreational fisheries through this rule-making process include:

- Three systems closed to salmon fishing; Smith Creek, North River, and Bear River;
- Limited salmon fishing in three systems to provide hatchery Chinook salmon harvest, limits harvest related impacts to natural origin coho, and provides the broodstock necessary to achieve hatchery production goals; South Fork Willapa River, Nemah River (Middle, North, and South), and a section of the Naselle River; and
- Allowed retention of hatchery coho in all freshwater systems that are open to salmon fishing.

The rules, as originally noticed in the CR-102, WSR 20-10-115, were proposed based upon a conclusion they would produce fisheries consistent with conservation objectives, the Willapa Bay Salmon Management Policy C-3622, and the 2020 FWC guidance on the implementation of the Willapa Bay Salmon Management Policy C-3622, for the 2020 fall salmon season.

WDFW believes that adoption of the 2020 Willapa Bay recreational fishing regulations will be consistent with the management objectives previously listed.

**Columbia River (220-312-060 – Freshwater exceptions to statewide rules – Columbia River and 220-312-050 – Freshwater exceptions to statewide rules – Eastside)**

For the 2020-21 management period, Columbia River fisheries are driven primarily by certain key constraining stocks. The 2020 Upriver Bright (URB) Chinook run size forecast is 227,600 and is a surrogate for the Snake River Wild Fall Chinook ESA limit for non-treaty fisheries. Considering recent year forecast errors, an average error applied to the 2020 forecast may result in a run size for URB of less than 200,000 and would therefore reduce the allowable harvest rate included in the *U.S. v. Oregon 2018-2027 Management Agreement* harvest rate schedule. The non-treaty allowable URB impacts for URB run sizes less than 200,000 is 8.25%. The allowable impacts for URB run sizes greater than 200,000 is 15.0%. There is substantial risk of an in-season run size downgrade depending on the URB return which would require all non-treaty fisheries to be closed at that time. The 2020 run size forecast for Lower River Hatchery Chinook (LRH) also referred to as Tule Fall Chinook is 50,200. At this return size, the ESA impact limit is 38%. In-season adjustments are made by Washington and Oregon via emergency regulations within the Columbia River Compact process.

The 2020 NOF salmon season setting process allowed for public input and led to the adoption of a conservative split season approach for fall fisheries. The agreed split season approach would reduce risk and allow for URB harvest at the lower return run size harvest schedule prior to the in-season run size update. Assuming the in-season URB run size update, occurring mid-September, supports the minimum return of 200,000 URB, all non-treaty fisheries will proceed at the 15% harvest schedule stated in the *U.S. v. Oregon 2018-2027 Management Agreement*.

Harvest allocations by recreational and commercial sectors were adopted based upon concurrence between Washington and Oregon Columbia River policies. Due to efforts with rule simplification, public input led fishery managers to provide concurrent regulations between the two states.

2020 Constraining Stock Table

<b>Stock</b>	<b>Objective Type</b>	<b>Objective Criteria</b>	<b>Modeled Result</b>
Upper Columbia summer Chinook	Harvest Rate/Escapement	50% of surplus above 29,000	50% of surplus above 29,000
Tule Fall Chinook	ESA impact rate	<38.0% total	38.0%
Snake River Wild Fall Chinook	In-river ESA impact rate	<15.0%	15.0%
Lower Columbia Natural Coho	ESA impact rate	<18.0%	16.9%

Buoy 10 to Bonneville Dam mainstem

1. All proposed modifications below from the mouth to the Oregon-Washington state line upstream of McNary Dam are occurring, in addition to the reasoning provided, to reach concurrency with Oregon on annual regulations and policy guidance.
2. Due to low summer Chinook forecasts, from the Astoria-Megler Bridge upstream to Bonneville Dam, June 16 through July 31, Chinook retention is prohibited.

3. The 2020 Columbia River Sockeye forecast is 246,300. Sockeye retention is allowed June 16 through July 31 and the daily limit is 2.
4. Due to low steelhead forecasts of stocks destined to areas above Bonneville Dam, conservation measures including reduced bag limits and closures will be in effect for 2020.
  - A night closure remains in effect for salmon and steelhead fishing.
  - From June 16 through July 31, the steelhead daily limit is 1.
  - August 1 through October 31 is closed to steelhead retention.
  - From November 1 through December 31, the steelhead daily limit is 1.
5. The Buoy 10 recreational fishery will begin on August 14 with a 1 salmon limit through August 27. From August 28 through September 22, Chinook retention will be prohibited, the daily limit is 1 adult hatchery coho. From September 23 through December 31, Chinook retention will be open if in-season URB returns support additional harvest opportunities.
6. The mainstem recreational fishery from the Rocky Point/Tongue Point line upstream to Bonneville Dam will be open August 1 through December 31, but Chinook retention seasons vary by river section based on area-specific sub-allocations for URB Chinook. Late September Chinook retention seasons are dependent upon in-season URB returns.
  - From the Rocky Point/Tongue Point line upstream to the west end of Puget Island will open concurrent with Buoy 10 August 14 through August 27 with 1 salmon daily limit. August 28 through September 22, fishing for salmon and steelhead is prohibited. From September 23 through December 31, salmon retention is open with the daily limit 6, no more than 1 adult salmon.
  - From the west end of Puget Island upstream to the Lewis River/Warrior Rock line, Chinook retention is allowed August 1 through August 31 with the daily limit 6, no more than 1 adult salmon. Beginning September 1 through September 22, fishing for salmon and steelhead is prohibited. From September 23 through December 31, salmon retention is open with the daily limit 6, no more than 1 adult salmon.
  - From the Lewis River/Warrior Rock line upstream to Bonneville Dam is closed to salmon and steelhead fishing from August 1-6. Chinook retention opens August 7 through September 6 on Friday, Saturday and Sunday only. The daily limit is 6, no more than 1 adult salmon. September 7 through September 22, fishing for salmon and steelhead is prohibited. September 23 through December 31, salmon retention reopens seven days a week with the daily limit 6, no more than 1 adult salmon.

#### Bonneville Dam to Hwy. 395 Bridge at Pasco mainstem

1. All proposed modifications below from the mouth to the Oregon-Washington state line upstream of McNary Dam are occurring, in addition to the reasoning provided, to reach concurrency on annual regulations and policy guidance.
2. Due to low summer Chinook forecasts, from Bonneville Dam upstream to Hwy. 395 Bridge at Pasco, June 16 through July 31, Chinook retention is prohibited.

3. The 2020 Columbia River Sockeye forecast is 246,300. Sockeye retention is allowed June 16 through July 31 and the daily limit is 2.
4. Due to low steelhead forecasts of stocks destined to areas above Bonneville Dam, conservation measures including reduced bag limits and rolling closures will be in effect for 2020.
  - A night closure remains in effect for salmon and steelhead fishing.
  - The daily bag limit is 1 hatchery steelhead from June 16 through December 31 with the exception of the following closures:
    - Bonneville Dam upstream to The Dalles Dam August 1 through October 31.
    - The Dalles Dam upstream to John Day Dam August 1 through December 31.
    - John Day Dam upstream to Hwy. 395 Bridge at Pasco September 1 through December 31.
5. From August 1 through September 8 Chinook retention is allowed with the daily limit 6, no more than 1 adult salmon. September 9 through September 22 fishing for salmon and steelhead is prohibited. Chinook retention will reopen September 23 through December 31 with the daily limit 6, no more than 1 adult salmon.

Hwy. 395 Bridge upstream to Old Hanford townsite powerline crossing - mainstem

1. Due to low forecasts of summer Chinook and sockeye, salmon retention is prohibited June 16 through August 15.
2. The 2020 Columbia River Sockeye forecast is 246,300. Sockeye retention is allowed June 16 through July 31 and the daily limit is 2.
3. The fall salmon fishery will be open August 16 through October 31. This area of the Columbia River has limited spawning habitat and the extension of the fishery through October 31 will provide additional angler opportunity without impacting spawn success of Hanford Reach up-river bright fall Chinook. October 1 through March 31, the daily limit is 1 Ringold Springs Hatchery-origin steelhead. Steelhead released from Ringold Springs Hatchery are adipose and right ventral fin clipped. Anglers are restricted to harvesting only Ringold Springs Hatchery steelhead to reduce impacts to Upper Columbia River (UCR) hatchery and wild steelhead migrating through the Hanford Reach. The same steelhead rule rationale applies in the Ringold Area Bank Fishery that is open April 1-15.

Old Hanford townsite wooden powerline towers to Priest Rapids Dam – mainstem

1. Due to low forecasts of summer Chinook and sockeye, salmon retention is prohibited June 16 through August 15.
2. The 2020 Columbia River Sockeye forecast is 246,300. Sockeye retention is allowed June 16 through July 31 and the daily limit is 2.
3. The fall Chinook salmon fishery will be open August 16 through October 15. This area of the Columbia River is the primary spawning grounds for Hanford Reach Up-River

Bright fall Chinook. Fall Chinook begin spawning in this section of the Columbia River approximately the third week of October.

## Columbia River tributaries

Proposals developed through the 2020 North of Falcon process for recreational fisheries occurring in Columbia River tributaries include:

1. Modified steelhead fishing and retention rules in the following tributaries reaches below Bonneville Dam to provide enhanced conservation of steelhead stocks forecast to return to the Columbia Basin in low abundances:

- Cowlitz – downstream of Lexington Drive/Sparks Road bridge
- Kalama River – downstream of the railroad bridge below I-5
- Lewis River – waters downstream of confluence with the East Fork

The conservation strategies adopted in these areas include:

- Night closure for salmon and steelhead from July 1 through September 30
- Daily limit of 1 hatchery steelhead during July and September
- Steelhead fishing closure during August

2. Modified steelhead fishing and retention rules in the following tributaries reaches above Bonneville Dam to provide enhanced conservation of steelhead stocks forecast to return to the Columbia Basin in low abundances:

- Wind River – waters downstream of Shipherd Falls, including area outside of the Highway 14 bridge
- Drano Lake
- White Salmon River – downstream of the county road bridge
- Klickitat River – waters downstream of Fisher Hill Bridge

The conservation strategies adopted in these areas include:

- Night closure for salmon and steelhead from July 1 through October 31
- Steelhead fishing closure from July 1 through October 31

3. Opened retention of hatchery Coho in the mainstem Grays River and West Fork Grays rivers due to discontinuation of the hatchery Coho program and associated broodstock collection at Grays River hatchery. Opening retention of hatchery Coho provides anglers with opportunity to harvest out of basin salmon and potentially reduce interactions between hatchery and natural origin fish in spawning areas.
4. Opened retention of hatchery salmon and gamefish in the Grays River from August 1 through the end of December between the Highway 4 bridge and mouth of the South Fork, to provide concurrency in rules between adjacent stream reaches.
5. Opened hatchery Coho retention on the Elochoman River above the Beaver Creek Road Bridge with a 1 or 2 adult daily limit, to provide anglers with fishing opportunity, while also allowing WDFW to achieve broodstock goals and continue evaluating harvest opportunity in lower river areas.

6. Modified hatchery salmon harvest rules in the Elochoman River to include ventral fin mark retention language, which provides additional opportunity for anglers to harvest Chinook straying from out of basin releases.
7. Modified the adult salmon daily limit to 2 hatchery Coho and release all other adult salmon on the Lower Cowlitz River. This allows for upriver transport to the Tilton and Upper Basin for reintroduction and provide opportunity for hatchery-origin Coho harvest in both upper basins.
8. Modified the closed waters definition on the Tilton River to read “within posted ‘CLOSED WATERS’ signs around the adult fish release sites”, to account for the addition of a new adult salmonid release site on Bremer Road and need for pluralization in the definition.
9. Modified the adult salmon daily limit to 1 hatchery Chinook or hatchery Coho on the Toutle and Green Rivers, to provide a conservative management approach that balances angling opportunity with hatchery broodstock needs.
10. Modified the adult salmon daily limit on the Lewis River to 2 Chinook or hatchery Coho through mid-October, then implement Coho closure beginning in mid-October, to allow harvest opportunity for early returning Coho, achieve hatchery escapement goals, meet US-v-Oregon obligations, and also allow Coho transport to the upper Lewis Basin for reintroduction.
11. Modified the adult Coho daily limit to 2 hatchery fish on the Kalama River, to align fishery rules with preseason forecasts, expected sport harvest, and hatchery broodstock needs.
12. Modified the Washougal River adult salmon daily limit to 1 hatchery Chinook or hatchery Coho from August 1 to December 31, to provide a conservative management approach that balances angling opportunity with hatchery broodstock needs. Standardized the Klickitat River salmon daily limit to 6 fish, 2 adults in upper and lower river areas, to simplify angling rules by aligning adult salmon limits in adjacent areas.

**Puget Sound Marine and Freshwater (220-313-060 – Puget Sound salmon – Saltwater seasons and daily limits and 220-312-040 – Freshwater exceptions to statewide rules – Puget Sound)**

State and tribal salmon seasons in Puget Sound are driven primarily by the need to maintain conservation objectives for key constraining stocks before achieving harvest goals (see e.g. Objectives 1a, 1b, and 2, pg. 5 above). Key constraining stocks in state and tribal fisheries in these areas for 2020 include Nooksack spring natural Chinook, Mid-Hood Canal natural Chinook, Stillaguamish natural and hatchery Chinook, Snohomish natural coho, and Strait of Juan de Fuca natural coho. For example, the management objective for Stillaguamish natural Chinook is a Southern U.S. exploitation rate ceiling of 8% based on the returning forecasted abundances in 2020. The basis for the coho management objective is the Comprehensive Coho Management Plan (1998), sections of the Pacific Salmon Treaty, and co-manager agreement.

2020 Constraining Stock Table

Stock	Objective Type	Objective Criteria	Modeled Result
Stillaguamish natural Chinook	Southern U.S. Exploitation Rate	8.0%	7.2%
Stillaguamish Hatchery Chinook	Southern U.S. Exploitation Rate	<u>12.0%</u>	12.0%
Nooksack spring natural Chinook	Southern U.S. Exploitation Rate	≤ 10.5%	10.5%
Mid-Hood Canal natural Chinook	Pre-terminal Southern U.S. Exploitation Rate	12.0-12.4%	12.2%
Snohomish natural coho	Southern U.S. Exploitation Rate	≤ 10% SUS	≤ 9.9%
	Escapement Goal	50,000	34,152
Strait of Juan de Fuca natural coho	Southern U.S. Exploitation Rate	≤ 10.0%	5.8%

Long term declines in salmon abundance and resulting listing of stock groups like Puget Sound Chinook under the Endangered Species Act have led to decreased fishing opportunities for treaty and non-treaty fishermen over the past 3 decades. Designing fisheries that meet all the conservation limits on harvest for the multiple species and multitude of stocks and allow sufficient numbers of fish to return to the usual and accustomed fishing areas of each of the treaty tribes is extremely difficult. Until we start seeing better salmon returns, we anticipate that fisheries will be constrained with less fishing opportunity than in the past.

Since the listing of Puget Sound Chinook under the Endangered Species Act, WDFW has had to obtain exemptions from ESA take prohibitions for salmon fisheries in Puget Sound that impact listed Chinook. The primary way WDFW received that exemption historically was through limit 6 of the salmon 4(d) rule, which applies to joint tribal-state resource management plans. Since the expiration of the last multi-year plan in 2014, the state and tribes have sought authorization for Puget Sound through a Section 7 consultation between the Bureau of Indian Affairs (BIA) and NOAA, using the nexus of the BIA funding of tribal fishery management activities. This process proceeds based upon the tribes and the state reaching agreement on a fishery package each year that will meet ESA requirements and receive approval by NOAA.

The challenges in reaching agreement with tribal co-managers on fisheries have become more difficult as salmon abundances of key wild stocks have declined in recent years. Each year the abundance and corresponding harvest guidelines for different stocks limit the amount of pre-terminal and terminal fishing that can occur in different areas within Washington. Focusing on Puget Sound, fishery planning for 2020-21 was affected most by the low forecasts and corresponding restricted allowable harvest on Snohomish coho, Mid Hood Canal (MHC) Chinook and Stillaguamish Chinook. Snohomish coho have experienced low abundances regularly in recent years and have had a rebuilding plan adopted by the Pacific Fishery Management Council in response. Reductions in state and tribal coho fisheries, particularly in

the marine areas closest to the Snohomish River were needed and agreed to by co-managers to maximize the number of coho escaping to spawn in 2020.

The forecast of MHC Chinook returning in 2020 was less than 40 fish, and fisheries were thus managed to a critical exploitation rate ceiling (CERC) in response to that low abundance. In the past, the CERC was a limit of 12% in all pre-terminal southern United States (SUS) fisheries. Because of changes to the Fishery Regulation Assessment Model (FRAM), WDFW proposed an adjustment to the 12% to a rate of 12.4%. The revised rate would represent the same level of impact to the stock when planning fisheries with the revised model as the old rate did when planning with the old model when the rate was originally developed. Some tribes opposed the revision of the MHC CERC, and WDFW entered a formal meet and confer dispute resolution process, as part of the federal district court's ongoing jurisdiction in *U.S. v. Washington*, in an attempt to resolve the differences.

As changes to proposed fisheries were made to meet conservation objectives for other stocks, the projected rate for MHC Chinook dropped into the range of 12% to 12.4%. With these agreed fishery reductions, the co-managers were then able to agree to move forward with fisheries that exceeded the MHC CERC of 12% for one year, along with co-manager commitment to undertake a habitat assessment of the Mid-Hood Canal stocks, and then commence work on a new experimental hatchery restoration program. Going forward the co-managers understand the need to give further study and discussion to issues related to management model changes, and management objective updates in the Puget Sound Chinook resource management plan.

Part of the progress made towards attaining MHC Chinook conservation objectives was the byproduct of winter fishery closures being considered in relation to other salmon stocks, which are discussed next.

The 2020-21 forecasted abundance for Stillaguamish Chinook was similar to the abundance predicted in 2019-20, and triggered a CERC of 8% in SUS fisheries for unmarked (wild) Stillaguamish Chinook. In addition, the co-managers' current approach to a resource management plan calls for a harvest limit of 12% in SUS fisheries on marked (hatchery released) Stillaguamish Chinook at the predicted abundance. While the total abundance forecast was similar for both 2019 and 2020, the age structure of the hatchery fish was different, with a higher prediction for age 3 fish and a lower prediction for age 4 fish in 2020. This resulted in a much higher exploitation rate being predicted for preterminal sport fisheries in 2020, particularly for the marked portion of the stock. As the co-managers negotiated fishing packages and made reductions to proposed fisheries aimed at reducing impacts on Stillaguamish Chinook, the CERC for unmarked Chinook of 8% was projected to be met, while the rate on marked Chinook still exceeded 12%. WDFW brought multiple proposals to the tribes to attempt to resolve this issue without further affecting non-treaty fisheries.

Given the unusual circumstances, WDFW proposed planning fisheries that would exceed the 12% CERC on marked Stillaguamish Chinook, as this was not a requirement included from NOAA in their annual ESA guidance letter to the PFMC. No co-manager agreement could be reached with a fishery package that exceeded an ER of 12%. WDFW proposed a combination of fishery reductions, coupled with an increase in the size limit for the Area 7 summer recreational fishery to 28 inches. These measures were considered based upon the work of WDFW staff and input from citizens participating in the NOF process. That change, along with the other proposed fishery reductions, would reduce the projected ER on marked Stillaguamish Chinook

below 12%. No co-manager agreement could be reached on a fishery package that included an increased size limit in the Area 7 fishery. The primary tribal concerns expressed about the proposed size limit change were the uncertainty in how well the FRAM would predict the actual change in impact, and that the larger size limit could result in increased effort, as anglers would have to spend more time fishing to catch daily limits. WDFW believes that size limit change modeling has been vetted and approved through the PFMC methodology review process and could have been implemented with strong scientific backing. In addition, in-season monitoring and planned on limits on catch and encounters would have nullified the risk of any problem with the FRAM performance using the modified size limit. Similarly, in-season monitoring and limits on catch and encounters would have addressed any changes in effort and limited impacts to preseason planned levels.

Ultimately WDFW was unable to secure agreement with tribal co-managers on any options other than additional reduction of fishing opportunity for marine sport fisheries that met the 12% SUS ER target for marked Stillaguamish Chinook. WDFW strongly weighed the benefits and risks of agreeing to additional reductions versus leaving the April PFMC meeting without a co-manager agreement. Given the need for a joint suite of fisheries for NOAA to evaluate for ESA coverage, and the past experience of blanket non-treaty fishery closures in absence of a co-manager agreement for NOAA evaluation seen in 2016, WDFW proposed additional fishery reductions that resulted in agreement on a fishery package with the tribal co-managers. This was primarily in the form of a closure of winter blackmouth (Chinook that do not migrate outside of Puget Sound) fishing in areas 6, 7, 9 and 12.

While other co-manager conversations helped shape agreed fisheries, these two issues had the most significant impact on limiting fishing opportunity. Commenters have expressed frustration at the inability to see or participate directly in these co-manager discussions. WDFW shares in that frustration and continues to have dialogue with tribal co-managers about greater transparency. However, it is inaccurate to call the substance of these government-to-government meetings “secret.” The Department has, for several years, developed and utilized communication strategies with constituents so the issues being discussed are shared in caucuses with participating citizens. In these meetings with citizen participants, the issues being considered are discussed, the tribal position is shared, and options for responding and achieving the state’s fishery objectives are considered and debated. For example, this year we developed and shared a fishery-modeling tool that allowed citizens to see and consider the effect of various fishery configurations. That tool was applauded and used to debate how much of an increase in summer Area 7 fishing was desired and what fishing would be lost to provide that opportunity. Another example is the 28-inch size limit option that was developed, in conjunction with active citizen involvement, to try to preserve winter blackmouth fishing while meeting the co-manager 12% constraints for marked Stillaguamish Chinook arising from the unusual year-class issue.

The proposed fishing regulations for Puget Sound marine and freshwater salmon fisheries in 2020 are more restrictive compared to the 2019 regulation package and were crafted to reduce mortality on constraining stocks. For example, fisheries were reduced in Marine Areas 6, 7, 8-1, 8-2, 9, 11 and 12 to help meet Chinook management objectives for Stillaguamish natural and hatchery Chinook, as well as, Mid-Hood Canal natural Chinook. Fisheries were reduced in Marine Areas 8-1 and 8-2 for coho salmon to protect Snohomish and Skagit natural coho. The forecast of Lake Washington sockeye salmon was well below the escapement goal objective. The 2020 sockeye recreational fishery in Lake Washington will not open unless sufficient sockeye pass through the Ballard Locks, as was the case in 2019. Because protective regulations were

already in the permanent rules, we did not propose a change to the Lake Washington sockeye salmon regulations in this rule-making package.

Changes to some fisheries are to reduce conflict with tribal fisheries and/or to ensure orderly fisheries (Objective 3, pg. 5 above).

Overall, the Puget Sound regulations for 2020-21 are based upon North of Falcon discussions with stakeholders and tribal co-managers. The intent of these changes is to maximize recreational opportunities while meeting conservation objectives.

Modifications proposed for 2020 Puget Sound Marine Area recreational fisheries through this rule-making process include:

- Area 6 winter Chinook season was closed to protect Stillaguamish Hatchery and Mid-Hood Canal Chinook.
- Area 7 Summer fishery added August fishing opportunity for Coho and Chinook. Area 7 winter Chinook seasons closed to protect Stillaguamish hatchery and Mid-Hood Canal Chinook. The Eastern Rosario Strait is closed from July through September to protect a number of natural Puget Sound Chinook stocks.
- Areas 8-1 and 8-2 summer season directed at coho is closed to meet Snohomish natural coho management objectives.
- Areas 8-1 and 8-2 winter Chinook seasons closed to meet Mid-Hood Canal and Stillaguamish Chinook management objectives.
- Area 9 winter Chinook season closed to meet Stillaguamish Chinook and Mid-Hood Canal natural Chinook management objectives.
- Opening of Elliot Bay to Chinook retention the first weekend in August due to a relatively strong forecast of Chinook to the Green River.
- Area 11 had added fishing in time in October while winter Chinook seasons closed November through April to meet Mid-Hood Canal natural and Stillaguamish Chinook management objectives.
- Area 12 north of Ayock Point coho fishery opens in September.
- Area 12 north and south of Ayock point closed to Chinook retention starting in October and closed to salmon fishing starting in December.

Modifications proposed for 2020 Puget Sound Freshwater recreational fisheries through this rule-making process include:

- Samish River closed on September 16 due to weak expected returns and the need to meet broodstock goals for Chinook and to protect the weak coho and chum expected returns.
- Skagit River coho decreased to a daily limit of 2 fish.
- There are a reduced number of days scheduled for the Cascade river to avoid tribal conflict during Spring Chinook and coho management.
- Skagit River sockeye fishery closed dates adjusted to reflect co-manager agreement and low forecasted runsize.

- Snohomish, Skykomish, and Snoqualmie, rivers will be closed to coho retention, except in the Wallace River from September 16 through September 30, with a reduced daily limit of 1 hatchery coho only, to reduce impacts on wild coho. Continuation of the fishery past September 30 is dependent on an in-season update to forecast coho run size and hatchery rack counts.
- Stillaguamish River coho fishery open September 1 through November 15 with a 2 coho limit, due to increased coho returns expected. Stillaguamish and associated tributary gamefish closures to protect wild Chinook salmon due to low returns expected. Additional gamefish opportunity was added to Pilchuck creek.
- Apply the two-pole fishing regulation to Lake Washington and Lake Sammamish.
- Puyallup and Carbon rivers opened with adjusted day closures to reflect tribal fisheries and maximize harvest of surplus hatchery Chinook.
- Puyallup and Carbon rivers have reduced seasons to protect low expected returns of natural coho.
- Puyallup and Carbon rivers closed to the retention of chum to meet escapement goals.
- Nisqually River closes to salmon fishing after November 15<sup>th</sup> to protect winter chum.
- Nisqually river is mark-selective for coho salmon.

### **220-220-160– Two-pole endorsement**

Changes to the Two-pole WAC brought the season dates into alignment with the seasons as listed in the upper Columbia River and the Yakima River.

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

#### **Ocean (220-313-070 – Coastal salmon – Saltwater seasons and daily limits)**

The regulations proposed in the CR-102 failed to include the closure of CRC area 2 on Fridays and Saturdays for the June 29 through September 30 season. That omission was corrected in the final rule.

#### **Columbia River (220-312-060 – Freshwater exceptions to statewide rules – Columbia River and 220-312-050 – Freshwater exceptions to statewide rules – Eastside)**

1. Buoy 10 upstream to west Puget Island fall Chinook retention proposed season start date was August 16. The rule as adopted has the fall Chinook retention season for this area starting on August 14.
  - The final FRAM run occurred after the 2020 Buoy 10 recreational season had initially been set given the previous FRAM output, and were submitted to the CR-102 for rule making. Columbia River managers were able to identify additional LRH impacts to provide to the Buoy 10 recreational fishery based on the final PFMC FRAM run. Staff determined two additional days could be added, August 14 and 15, to the beginning of the Buoy 10 recreational fishing season.
2. Buoy 10 upstream to west Puget Island proposed closure period, April 1 through August 15 was corrected. Closure period April 1 through August 13 will be adopted for this area.

3. Buoy 10 upstream to Rocky Point/Tongue Point proposed open period September 23 through October 31 was corrected. Open period September 23-30 will be adopted for this area. The rules for this season did not change.
  - The seasons and rules were in development when the CR-102 was submitted as the Columbia River is co-managed with Oregon Department of Fish and Wildlife. Standard rules were submitted to meet process deadlines. The rule as adopted allows jack Chinook retention as part of the daily limit starting October 1 and reaches concurrency with ODFW for joint state waters.
4. Buoy 10 upstream to Rocky Point/Tongue Point proposed open period September 23 through October 31 was corrected. October 1-31 season will be adopted. Additionally, rules were added to this season and will also be adopted.
  - The daily limit is 6, up to 1 adult salmon may be retained. Release all salmon and steelhead except Chinook and hatchery coho. Coho min. length 16 inches.
5. Buoy 10 upstream to Rocky Point/Tongue Point November 1 through December 31 season daily limit and Chinook min. size was corrected. The proposed daily limit is 1 salmon or 1 hatchery steelhead. Release all salmon except Chinook and hatchery coho. Chinook min. length 24 inches. Coho min. length 16 inches. The adopted rule will be daily limit 6, up to 1 adult may be retained. Release all salmon except Chinook and hatchery coho. Coho min. length 16 inches.
  - The rule as adopted allows jack Chinook retention as part of the daily limit from November 1 through December 31 and reaches concurrency with ODFW for joint state waters.
6. Megler/Astoria Bridge upstream to Rocky Point/Tongue Point proposed open period May 16 through July 31 was corrected. The season as adopted will be June 16 through July 31. The rules for this season did not change.
  - The proposed open period May 16 through July 31 had an incorrect start date when the CR-102 was submitted. The correct start date is June 16 and reaches concurrency with ODFW joint state waters.
7. Rocky Point/Tongue Point upstream to west Puget Island proposed rules for open period August 16 through August 27 are daily limit 1, release all salmon and steelhead except Chinook and hatchery coho. The rules as adopted for the corrected season of August 14 through August 27 will be daily limit 1, release all salmon and steelhead except Chinook and hatchery coho. Chinook min. length 24 inches. Coho min. length 16 inches.
  - Chinook and coho min. sizes were added to this season to align with Buoy 10 rules for this period and reach concurrency with ODFW for joint state waters.
8. Rocky Point/Tongue Point upstream to I-5 Bridge proposed open period May 16 through July 31 was corrected. The season as adopted will be May 16 through June 15.
  - The proposed daily limit is 2 salmon or 1 salmon and 1 hatchery steelhead may be retained. Release all salmon except sockeye. The rule as adopted will be daily limit 6, up to 2 adult salmon or 2 hatchery steelhead or 1 of each may be retained. Release all salmon except sockeye and hatchery jack Chinook.
9. Rocky Point/Tongue Point upstream to I-5 Bridge proposed open period May 16 through July 31 was corrected. The season as adopted will be June 16 through July 31.

- The proposed daily limit is 2 salmon or 1 salmon and 1 hatchery steelhead may be retained. Release all salmon except sockeye. The rule as adopted will remain the same for this open period.
10. Rocky Point/Tongue Point upstream to I-5 Bridge open period January 1 through March 31 proposed daily limit 6, up to 2 adult hatchery Chinook, or 1 hatchery steelhead, or one of each may be retained. Release all salmon except hatchery Chinook was corrected. The rule as adopted will be daily limit 6, up to 2 adult salmon or 1 hatchery steelhead may be retained. Release all salmon except hatchery Chinook.
  11. Sand Island Area (near Rooster Rock) open period June 16 through July 31 proposed daily limit 2 salmon or 1 salmon and 1 hatchery steelhead may be retained. Release all salmon except sockeye. The rule as adopted will be daily limit 2, up to 2 adult salmon or 1 salmon and 1 hatchery steelhead may be retained. Release all salmon except sockeye.
  12. Sand Island Area (near Rooster Rock) proposed closed period September 7 through October 31 was corrected. The closed period adopted will be September 7 through September 22.
- McNary Dam upstream to Highway 395 Bridge at Pasco August 1 through October 15 anti-snagging rule was added. The rule as adopted when open August 1 through October 15: Anti-snagging rule applies. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

#### Columbia River Tributaries:

1. Grays River (Wahkiakum County)
  - Mouth to the Highway 4 Bridge, open period August 1 through December 31 proposed daily limit 6, up to 2 may be adults. Only hatchery Chinook may be retained. All Chinook must be adipose and/or ventral clipped to be retained. The proposed rule was corrected. The rule as adopted for season August 1 through December 31 will be daily limit 6, up to 2 may be adults. Only hatchery Chinook and hatchery coho may be retained. All Chinook must be adipose and/or ventral clipped to be retained.
2. Wind River (Skamania County)
  - Highway 14 Bridge to 400 feet below Shiphherd Falls, open period March 16 through June 30 proposed daily limit 6, up to 2 salmon, or 2 hatchery steelhead, or one of each, may be retained. Release wild Chinook and wild coho. The proposed rule was corrected. The rule as adopted for season March 16 through June 30 will be daily limit 6, up to 2 adult salmon, or 2 hatchery steelhead, or one of each, may be retained. Release wild Chinook and wild coho.
  - Highway 14 Bridge to 400 feet below Shiphherd Falls, open period July 1 through July 31 proposed daily limit 6, up to 2 adult salmon or 1 adult salmon and 1 hatchery steelhead. Release wild Chinook and wild coho. The proposed rule was corrected. The rule as adopted for season July 1 through July 31 will be daily limit 6, up to 2 adult salmon. Release steelhead, wild Chinook and wild coho.

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

##### **Ocean (220-313-070 – Coastal salmon – Saltwater seasons and daily limits)**

The majority of public comment provided on the recreational ocean salmon fishing seasons off the coast of Washington went to the Pacific Fishery Management Council during their development of ocean fishing seasons for the west coast. Comments received by PFMC were generally supportive of seasons that utilize the largest quota levels possible while meeting conservation objectives, supportive of setting regulations to give the broadest fishing opportunity, especially given the uncertainty on when fisheries might begin given the COVID-19 pandemic, and supportive of the change to a 22” size limit for CRC areas 1 and 2.

A single comment was received during the CR-102 comment period. That comment asked for compression of the season in CRC areas 3 and 4 into June-August, and to allow for the retention of the two first salmon caught regardless of species and mark status, to minimize encounters with fish that must be released. The compression of the season is counter to most of the input received through the PFMC process, and because these fisheries are managed to quotas, could result in unnecessary limiting fishing time for the recreational fishery. Allowing the first two fish caught to be retained would also reduce the amount of fishing opportunity. Unmarked coho release in ocean fisheries is required to maximize harvest of hatchery coho, and minimize mortalities on wild coho, including ESA-listed Columbia River coho and coastal coho stocks returning at low abundances. Allowable quota levels for coho this year would be even smaller and seasons even shorter if wild coho retention was allowed.

##### **North Coast rivers (220-312-020 – Freshwater exceptions to statewide rules – Coast)**

The Queets River, Quinault River, Hoh River, Quillayute River, and associated tributaries received no written or oral comments during the CR-102 open public comment period from May 20, 2020 through June 8, 2020 or during the June 9, 2020 public hearing.

##### **Grays Harbor (220-313-070 – Coastal salmon – Saltwater seasons and daily limits and 220-312-020 – Freshwater exceptions to statewide rules – Coast)**

Two comments were received during the open public comment period from May 20, 2020 through June 8, 2020. One comment pertained to the two-pole endorsement and the second comment pertained to Grays Harbor freshwater recreational fisheries. There were no oral comments pertaining to the proposed rule during the June 9, 2020 public hearing.

###### Comment 1: Return two-pole endorsement to Chehalis River.

Language pertaining to the use of the two-pole endorsement in the Chehalis River was removed from WAC 220-312-020. Two-pole endorsement rules are addressed in a separate WAC 220-220-160, and therefore, additional language is not needed in WAC 220-312-020. Within WAC 220-220-160, the use of the two-pole endorsement is allowed in the Chehalis River from Highway 101 Bridge in Aberdeen to South Elma Bridge (Wakefield Road) from August 1 through December 30. This is consistent with use of two pole endorsement historically and does not represent a change from past fishery practice.

Comment 2: One fish bag limit in Chehalis Basin hardly worth effort/expense to fish.

During the NOF process, many fishery suggestions and recommendations were received. Evaluations of various suggestions and recommendations were conducted for compliance with Department policy guidance and conservation needs. One recurring recommendation from many constituents stated season length was more important than bag limits if conservation constraints were limiting opportunities. Forecasts for many Grays Harbor 2020 salmon stocks were not robust, and opportunities were limited. In order to meet management and conservation objectives, a season length through December with more than a one fish bag limit was not possible. A shorter season with more than a one fish bag would achieve objectives, however, most of the public were in favor of a longer season.

The Department provided significant opportunity for the public to supply input on recreational and commercial fishing seasons in Grays Harbor through public and advisory meetings. During this process, there were many fishery suggestions and recommendations. As discussed above, many of these suggestions and recommendations were evaluated for compliance with Department policy guidance and conservation needs. The proposed rule was developed based on a culmination of public input, compliance with Department policies, and achievement of conservation objectives.

There were two notable un-adopted fishery suggestions discussed below.

During the NOF process, there was a fishery suggestion to open a section of the East Fork Satsop River that is currently closed to salmon fishing. The suggestion was to open salmon fishing and restrict fishing gear to fly fishing only. The intent of this suggestion was to provide a unique fishing opportunity in the Chehalis basin, a wilderness-like setting, and additional access to hatchery coho. The section of river in question is remote and would require hiking to access the fishing area, thus providing a wilderness-like setting. However, this section of the East Fork Satsop River contains the highest densities of spawning Chinook salmon in the entire Chehalis Basin. Salmon fishing has historically not been opened in this area due to concerns of anglers disturbing Chinook spawning activity. In addition, adding new fisheries during a year with low forecasted salmon abundances does not meet management or conservation objectives.

Another fishery suggestion was to manage the East Bay marine Area 2-2 fishery differently for the north and south channels, a portion of these two channels are separated by Rennie Island. The thought behind the suggestion implies fishery impacts to Chinook and coho differ within each channel. Both channels are inclusive within one fishery marine area catch record card code, Marine Area 2-2. Recreational fishery data are not available to identify which channel within the area 2-2 catch is occurring. Without this information, assessment of fishery impacts cannot be made. There is anecdotal information Chinook are more commonly encountered in the south channel, however, commercial harvest data shows Chinook are caught in the north channel. Managing the two channels within recreational marine area catch record card 2-2 would require additional data and resources not currently available. Finally, there was little support for this suggestion.

**Willapa Bay (220-313-070 – Coastal salmon – Saltwater seasons and daily limits and 220-312-020 – Freshwater exceptions to statewide rules – Coast)**

One written comment was received during the public comment period regarding the proposed Willapa Bay recreational fisheries through the Rules Coordinator. No public comments were received using WDFW's online portal and one individual provided testimony during the public hearing. In addition, the Department considered substantive comments received during the 2020 NOF salmon season setting process.

*Comment #1: Commenters are concerned about closing some freshwater systems in Willapa Bay for the 2020 fall salmon fisheries, closures believed to be unnecessary.*

The management objectives listed in the Willapa Bay Salmon Management Policy C-3622 for the 2020 fishery specifically states the Department will “*actively manage to not exceed 14% total impacts for natural-origin Chinook salmon on Willapa River, actively manage to not exceed 14% total impacts for natural-origin Chinook salmon on Naselle River, actively manage to meet aggregate escapement goals for coho, actively manage to not exceed 10% total impacts for chum, provide species harvest prioritization for the recreational and commercial sectors, and finally provide for hatchery broodstock needs across all hatcheries.*” With low forecasted returns of natural origin Chinook salmon and coho, time and area closures in certain river systems were necessary to stay within the management objectives set forth in the Policy C-3622 and as well as achieve spawning escapement objectives. The forecasted natural origin coho run size was 16,074. This is only 2,474 coho above the management spawner escapement goal of 13,600 and is the total number of fish that can be harvested between the recreational and commercial sectors combined. Policy guidance gives coho priority to the commercial sector, therefore, Department staff supported closures of some river systems to allow for opportunity where abundant hatchery Chinook salmon and coho could be harvested. This is further supported by not allowing for additional catch and release mortality on wild Chinook salmon and coho stocks that have not been meeting spawning escapement objectives. This would apply to locations where little opportunity to harvest hatchery fish exists such as in Smith Creek, North and Bear Rivers.

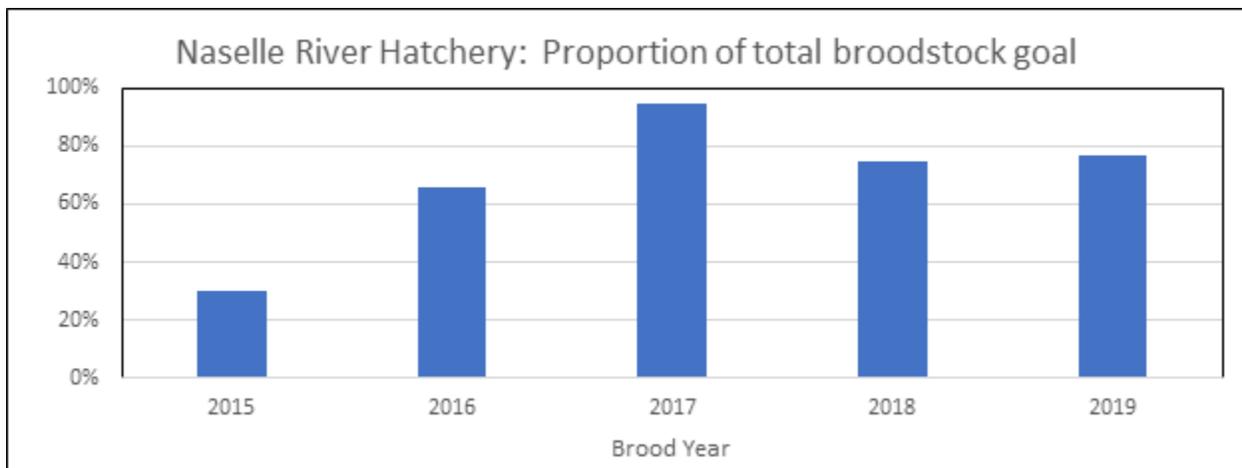
*Comment #2: Commenter disagrees with closing the section below the Naselle Hatchery, Hwy 4 Bridge to 300' below the upstream entrance of the Naselle Hatchery attraction channel, from August 1 through October 16.*

The section of the Naselle River from the Highway 4 Bridge to 300' below the upstream entrance of the Naselle Hatchery attraction channel has been closed to recreational salmon fishing for a multitude of reasons over the last decade. Historically, this section of river did not open until October 16 and only opened during the months of August and September beginning in 2015 with the adoption of the Willapa Bay Salmon Management Policy C-3622. Given the environmental conditions, low flows and turbidity associated with the Naselle River during the late summer/early fall timeframe, fish are highly visible and easily targeted in this section of the river. Reports of an unruly and disorderly fishery began in 2015, similar to what had precipitated the historic closure. Beginning in 2017, additional fishing regulations were added to this section

of the river. This additional regulation, commonly referred to as the “float rule” specified that “*bait or lure must be suspended below a float*”. This regulation was put in place to discourage the practice of snagging fish or foul hooking fish illegally. As noted above, the “float rule” did provide some assistance to improve snagging issues, but reports of confrontations with landowners, lack of landowners providing access, trespassing, littering, and wastage due to some anglers targeting females for eggs, all persisted. The persistent nature of these issues supports a closure to this section of the Naselle River.

Broodstock collection concerns further supports a closure in this section of the Naselle River. The Department has a hatchery production target of five million Chinook salmon smolts to be released from the Naselle Hatchery for the 2020 brood year. The Chinook salmon release goal for Naselle River hatchery in 2015 was 800,000 smolts and for 2016 through 2019, the Chinook salmon smolt release goal has been 2.5 million smolts. The Naselle River hatchery has not met its Chinook salmon production goal in any of the last five years. Staff will continue to evaluate the number of Chinook salmon adults returning in-season to the Naselle River hatchery in relation to hatchery production goals and if the Department is confident Chinook salmon broodstock necessary is achieved, adaptive in-seasons actions may be considered.

Naselle River hatchery proportion of total broodstock production goals from 2015-2019.



*Comment #3: Commenter disagrees with closing chum harvest opportunity in the North Nemah River after October 1<sup>st</sup> as well as would like to have two chum and one coho (wild or hatchery) in the bag limit.*

The retention of chum in the Willapa Bay recreational fishery, filed in WSR 20-10-115, is allowed during times when salmon is open. The recreational freshwater bay wide bag limit is two adults, release wild Chinook salmon and wild coho, which allows for chum harvest within the adult bag limit. The closure of chum harvest in the Nemah River is a result of analysis from the catch record card (CRC) data from 2010 - 2018, which shows most of the harvest in this timeframe after October 1 is historically natural origin coho. The Nemah River hatchery does not produce coho, only Chinook salmon and chum. Therefore, any hatchery coho harvested in the Nemah River would be considered a stray to this system. The preseason forecast for the total natural origin Chinook salmon in Willapa Bay was 2,914 and natural origin coho was 16,074.

These low preseason forecasts for both natural origin Chinook salmon and coho result in low abundances of harvestable wild Chinook salmon and coho available. Mark selective fisheries, requiring the release of unmarked Chinook salmon and unmarked coho, were proposed for all Willapa Bay recreational freshwaters fisheries. This will focus harvest opportunity on the abundant hatchery Chinook salmon and hatchery coho, and limit encounters and impacts on natural origin stocks. Thus, if the Nemah River systems were to remain open after October 1, natural origin coho would accrue more impacts than chum. The policy also specifies species prioritization, with coho priority belonging to the commercial sector. While the main objective of the policy is to restore and conserve salmon, it also provides for economic stability of both the commercial and recreational fisheries. This data coupled with the fact that the Nemah River hatchery does not produce coho, further supports the release of natural origin coho in the Nemah River systems for the 2020 fall salmon season. The Department will continue to use the best available science to make decisions that improve meeting management and conservation objectives.

*Comment #4: Commenters object to not including a conservation buffer to Willapa Bay Chinook salmon, coho, and chum natural origin impact rates and management objectives.*

The Department understands the concept regarding the creation of a buffer to promote conservation but does not support its creation for two reasons. First, the harvest control rules or impact rate caps, described in Policy C-3622, are intended to provide the appropriate conservation actions to achieve the policy objective of “*conservation and restoration of wild salmon in Willapa Bay*”. There is no language concerning buffers in Policy C-3622 or in the interim policy guidance that has subsequently been provided by the FWC as a result of the annual policy review briefings. Also, buffers are generally used to deal with uncertainty in harvest predictions versus actual harvest estimates lacking robust monitoring programs that can produce in-season harvest estimates in a timely manner. Willapa Bay fisheries in the estuary, both recreational and commercial, are robustly monitored and provide fishery managers with the ability to produce timely estimates by statistical week. This allows for comparison of harvest/impacts predicted preseason versus actual in-season estimates in order to apply the adaptive management principles described in Policy C-3622 to ensure attainment of conservation objectives.

*Comment #5: Commenter is concerned regarding the lack of support by the members of the Willapa Bay Salmon Advisor Group for the fishery proposal shared with the group during the April 16, 2020 discussion.*

The WBSAG is not a decision-making body. It is meant to provide input to the Department regarding public feedback and fishery values, as fisheries are shaped and scoped to meet conservation and management objectives.

*Comment #6: Commenter believes the Department failed to follow the Willapa Bay Salmon Management Policy (C-3622).*

The interim guidance provided by the FWC for 2020 set the management objective for Chinook salmon as “actively manage to not exceed 14% total impacts for natural origin Chinook salmon on Willapa and Naselle Rivers separately.” The predicted preseason impact rate on Willapa River and Naselle River fall Chinook salmon terminal fisheries is estimated to be 13.2% and 13.7%, respectively. This meets the interim guidance provided for Chinook salmon by the FWC for 2020. The management objective for natural origin coho is to achieve the aggregate natural origin spawner escapement goal of 13,600. The combined fisheries model for Willapa Bay natural origin coho are expected to result in a spawner goal of 13,840. Lastly, the management objective for chum in Willapa Bay is to “actively manage to not exceed 10% total impacts for chum.” The combined fisheries model for Willapa Bay chum are projected to result in an estimated impact rate of 4.7%. The adopted fishery for Willapa Bay Chinook salmon, coho, and chum meet all management objectives set forth by the FWC for 2020.

Comment #7: Commenter expressed concern that the modeled fishery proposal (in model K) was delivered to the advisory group at the last minute.

Department staff presented nine fishery models, which had been developed based on input received from the general public and advisory meetings to-date at the March 26<sup>th</sup> WBSAG meeting. Thereafter, at the next WBSAG discussion held on April 6, Department staff presented a reduced set of three fishery model options based upon public and advisory input received to-date, and after considering discussions from the previous discussion of the WBSAG. Department staff described, in detail, the general fishery paradigms associated with each modeled fishery. This discussion included description of model “K”, which used time and area closures and reduced freshwater recreational bag limit to attain conservation and management objectives. Department staff noted that model “K” was developed based on the comments provided at the March 26, 2020 WBSAG discussion. The other models presented embodied historical geospatial and temporal recreational fisheries, with the only differences being a more robust or reduced recreational adult bag limit. A final fishery proposal presented to the WBSAG was similar in structure to model “K”, however, took in to account important feedback from the public, advisory group, and policy guidance, resulting in a mark selective fishery for Chinook salmon and coho throughout Willapa Bay. This model was presented along other model options at one of the earlier WBSAG meetings, and therefore, staff do not agree that it was presented last minute as suggested in the comment.

**Columbia River (220-312-060 – Freshwater exceptions to statewide rules – Columbia River and 220-312-050 – Freshwater exceptions to statewide rules – Eastside)**

WDFW received public comments via scheduled public meetings regarding 2020-21 Columbia River fishing seasons prior to the CR-102 filing throughout the 2020 NOF season setting process for both the lower/westside and upper/eastside Columbia River fishing seasons. Public input was used to draft 2020-21 Columbia River seasons. Comments received after the CR-102 filing:

1. Allow barbed hooks during the Buoy 10 and Hanford Reach fall salmon season (2 comments).
  - WDFW Commission Policy C-3620 modification resulting from the director delegation for the 2020 season requires barbless hooks when fishing for salmon and steelhead in concurrent Oregon and Washington waters, including Buoy 10. Tributaries and waters upstream of the OR/WA state line remain unchanged and largely allow barbed hooks, including the Hanford Reach.
2. Allow jack Chinook retention above Megler/Astoria Bridge (1 comment).
  - Jack Chinook retention will be allowed above the Megler/Astoria Bridge upstream to Rocky Point/Tongue Point starting October 1 through December 31 as agreed in the 2020 Columbia River fisheries plan developed through the 2020 NOF season setting process. The rule as proposed prohibited jack Chinook retention from September 23 through December 31. This was incorrect and was corrected post CR-102. The rule as adopted will allow jack Chinook retention October 1 through December 31.
3. Reduce or eliminate commercial fishing in the Columbia River, including for the treaty tribes (2 comments).
  - The policy guidance received from the Commission includes continuing to allow the use of gillnets for the 2020-2021 season; therefore, WDFW views a complete removal of gillnets for 2020-2021 to be outside the scope of the policy guidance we have been given. Such a major consideration would require a separate policy discussion and action outside of annual season setting. This rulemaking is not considering any modifications to the non-treaty commercial fisheries within the Columbia River, and any change the results in concurrent regulations would necessitate conversations with the State of Oregon.
  - US vs Oregon court order provides assurance that the treaty tribes co-manage the Columbia River and provide sufficient impacts to prosecute tribal fisheries in the manner that can be managed to meet conservation and tribal obligations. This rulemaking is not considering any modifications to treaty fisheries within the Columbia River.
4. Modify daily and/or annual limits for chinook to 1 daily/10 annual (1 comment).
  - The majority of the Columbia River has a 1 fish limit approach, while as the Hanford Reach is starting at a 2 fish limit. The Hanford Reach has no Chinook ESA impacts as the ESA stock for the Upriver Bright returns to the Snake River, but instead has an abundance-based approach. Under the abundance-based approach, WDFW believes that conservation goals will be achieved in 2020 with a 2 fish limit. Salmon fisheries will also be tracked and can be modified in-season based on catches, impacts, and run sizes.
  - Current catch record card data indicates a low proportion of the anglers harvest more than 10 fish annually, so it is unlikely that an annual bag limit of 10 would achieve additional conservation benefits or increased fishing opportunity.

There are also challenges associated with implementing and enforcing an annual limit, including having differential regulations for OR and WA license holders and anglers choosing to not retain their tenth fish so that they may continue fishing as “catch and release,” which results in increased encounters and potentially increased handling mortality. Additionally, anglers currently are allowed to purchase multiple catch record cards; WDFW would need to secure authority through the Legislature to limit anglers to one catch record card to ensure the annual limit of 10 fish is not exceeded.

**Puget Sound Marine and Freshwater (220-313-060 – Puget Sound salmon – Saltwater seasons and daily limits and 220-312-040 – Freshwater exceptions to statewide rules – Puget Sound)**

Comments received regarding salmon fishing seasons in Puget Sound prior to May 6, 2020 were received in Public Meetings, through an on-line commenting porthole on WDFW’s website, and through communications received by individual staff within the agency. The comments received prior to and after May 6 generally fell into the following categories:

- Maintaining or increasing fishing opportunity for coho salmon
- Maintaining opportunity for Chinook salmon, primarily in winter seasons
- Misc/Other
  - Boundary moves
  - Annual limits

Maintaining or increasing fishing opportunity for coho salmon. Numerous comments were received advocating for either maintaining or increasing recreational fishing opportunities on coho salmon. The majority of comments related to maintaining coho fishing opportunity were in response to the proposed fishing closure for coho salmon in Marine Areas 8-1 and 8-2. This fishing closure has been proposed to increase the amount of natural coho returning to the both the Snohomish river and the Skagit River. WDFW also considered the 2019 preliminary escapement estimate for the Skagit River natural coho population which was estimated to be below 15,000 fish with the escapement goal of 23,000 fish. Closing the recreational coho fisheries in these areas benefits the natural coho populations in the Skagit, Stillaguamish and Snohomish basins. There were comments related to allowing the retention of natural or unmarked coho salmon in the Strait of Juan de Fuca in a part of the month of September. In recent years both the Strait of Juan de Fuca natural and Snohomish natural coho populations are depressed and are under rebuilding plans through the Pacific Fisheries Management Council. Directed fisheries in these areas on natural coho stocks could exacerbate conservation concerns on stocks of concern.

Maintaining opportunity for Chinook salmon, primarily in winter seasons: A majority of the comments received focus on the constituents’ desire for maintaining opportunity to fish for Chinook salmon, primarily in the winter seasons. WDFW is proposing to close Chinook fishing in a number of Marine Areas during the winter time period for the upcoming 2020-21 fishing year in order to meet management objectives on Stillaguamish Chinook, and Mid-Hood Canal natural Chinook,

All salmon fishing opportunities are first limited by the abundances that are forecasted to return in any given year and how many fish are needed to meet the hatchery and natural escapement

goals for any given stock and system. The number of impacts that are predicted to occur on ESA listed Chinook and Summer Chum stocks also limits most salmon fisheries in Puget Sound. Salmon fisheries are further constrained by international treaty obligations with Canada under the Pacific Salmon Treaty (PST). Finally, fisheries are constrained by what sharing agreement can be negotiated with tribal co-managers on a final fishing package.

A number of natural Chinook stocks are forecasted to return in low numbers in the 2020-21 fishing season as shown in the constraining stock table. Hatchery Chinook salmon fishing opportunity had to be reduced in Marine Areas 6, 7, 8-1, 8-2, 9, 11, and 12 compared to the 2019 fishing package in order to meet management objectives. Through engagement with advisory groups and through public comment, WDFW considered adding fishing opportunity in the month of August in Marine Area 7 a priority for the 2020-21 fishing package. Because there are significant impacts on Stillaguamish Chinook in Marine Area 7 throughout the year, reductions in other fisheries needed to be considered in order to provide this opportunity. Increasing opportunity was also considered in Areas that did not have a large impact on any of the constraining stocks, such as adding October in Marine Area 11, which had been closed in 2019. Other regulation changes to expand opportunity such as adding a 2-pole endorsement in Area 11 or additional time in other Marine Areas were considered, but rejected, because such measures would have resulted in additional impacts on Chinook stocks that were already at their respective ESA-related exploitation limit.

*Miscellaneous Comments and considerations:* WDFW received several comments around 2 other general topics. Changing boundaries for closure areas and/or marine areas to provide an increase in opportunity or to reduce conflict were suggested. WDFW considered whether to move or remove the boundaries of existing closure areas but determined that there was not sufficient data to evaluate the effects on ESA-listed stocks of concern. WDFW believes that such area closures should remain in place absent data and analysis that would either quantify the effects of a change on ESA-listed stocks or qualitatively demonstrate that such a change would be impact-neutral or have a positive effect. The other boundary change proposal was sought for the boundary area between Marine Areas 10 and 11. WDFW considered this proposal; however, we decided to retain the current boundary because we do not see a need for a change. WDFW respectfully disagrees that such a change is warranted to address a safety concern. Given that this boundary has been in effect for decades, changing it would have significant effects on the fishery data that has been collected and a method to reconcile the data pre- and post-boundary change would need to be developed and agreed to by the co-managers. Therefore, WDFW decided to retain the current boundaries until it can be clearly demonstrated that the benefits of changing them outweigh the potential costs of doing so.

Another suggestion that was received during the process was to implement an annual limit on Chinook salmon to reduce the overall impact on Chinook stocks of concern and be able to provide longer and/or more stable opportunity to access fish. A preliminary analysis conducted in 2019 showed the overall number of anglers that retain 10 or more Chinook salmon in a given year (as proposal at the time was an annual limit of 10 fish) within Puget Sound is a small percentage of the overall angling population; therefore, it is unlikely that the effect of an annual limit of 10 would be sufficient to provide additional fishing opportunity. WDFW considered this suggestion again in 2020 and came to the same conclusion as it did in 2019. Implementation of an annual limit would be a complex process potentially affecting multiple WAC sections, would require redesign of catch record cards, and would require careful review of applicable RCWs to ensure any changes proposed are within WDFW's authority. Because of these complexities,

such a change would move forward through a rule-making process separate from the annual season setting process.

Written comments were received from Patrick Pattillo on June 8 that did not fit into one of the general categories mentioned above. These comments were critical of the North of Falcon process, and specifically included: 1) criticism for the lack of documentation describing co-manager discussions of proposals or describing technical faults or policy justifications for tribal rejection of proposals, 2) an assertion that closures were not consistent with expected abundances and conservation goals and resulted in no additional adult Chinook salmon delivered to the spawning grounds, 3) a claim that winter fishery closures were not simply a reduced fishing opportunity and there is no evidence of improved summer sport fisheries, 4) that WDFW's authority to manage non-treaty fisheries was confounded by the need for co-manager agreement to obtain ESA authorization and WDFW needs to find another way to obtain ESA coverage, and 5) that it is difficult to understand how the agreed fisheries equate to fair sharing on constraining stocks and other abundant stocks.

WDFW has consistently tried to work with the tribal co-managers to allow members of the public to attend our government-to-government negotiations that occur during the North of Falcon process. While WDFW has been unable to achieve that outcome, we make every effort to relay results of those meetings to the public as quickly as possible. During the final week of the North of Falcon process, we convened caucuses regularly with interested citizens that are participating to discuss the issues being raised with and by tribes, as they occur, and to obtain input and ideas. We utilized that information as best we can to develop fisheries that are of interest to recreational and commercial harvesters. The fast timing of the multiple concurrent meetings that occur make extensive documentation of every step of the negotiations impractical if not impossible. This document summarizes the major issues that had to be resolved in the context of Mr. Pattillo's comments. Additional discussion of co-manager issues was presented at the rule-making hearing.

Summer catch quotas for CRC areas 6 through 13 in 2020 are larger than quotas used in 2019. In fact, some quotas increased substantially, such as those in areas 9, 10, and 11, which are modeled as 187%, 135%, and 149% relative to last year's quota, respectively. Low catch quotas in 2019 summer fisheries resulted in many recreational restrictions designed to reduce catch impacts, such as the closure of area 11 Thursday and Friday, a precautionary approach to opening area 9 for 4 days initially rather than the entire season, and reduced Chinook bag limits in some areas.

Quotas embodied in the proposed rules are not the end point for fishery implementation in 2020-21. Within-season management affects how those quotas are utilized to best effect in terms of fishing opportunity. While the best implementation of fisheries for 2020-2021 will be a topic that is discussed by recreational sport advisors and WDFW staff, the larger quotas established for 2020-21 affords the opportunity to relax some of the summer restrictions that occurred during the 2019 fishing season. Additionally, CRC 7, which was closed in August in 2019, is open in 2020. Therefore, we believe 2020 summer fisheries represent an enhanced marine recreational fishing opportunity relative to 2019.

The fishing seasons in the proposed rule, including the closures implemented in winter fisheries, do meet all conservation goals based upon expected abundances. The fishing package initially proposed by WDFW this year (model run Chin1420b), provided additional fishing time in CRC

area 7, and similar, though slightly modified, winter fisheries to 2019. However, this proposal produced non-treaty exploitation rates on the marked Stillaguamish stock that consumed 10.4% of the 12% objective allowed for collective state and tribal fishing activity. Thus, reductions in proposed non-treaty fishing were needed to achieve a better balance of state and tribal harvest. Given the need for non-treaty fishing reductions, WDFW sought input during public and recreational advisor meetings. In these meetings, WDFW explored various options for reductions, considering overall landings, overall angler trips, and equitable sharing of reductions across CRC areas, to avoid disproportionate reductions within an individual region. For example, in the North of Falcon 2 Public webinar (<https://www.youtube.com/watch?v=58C7a2Xg3Ts&t=>; beginning around 43:00) specific scenarios of maximizing time on the water, versus not having a disproportionate effect on individual areas, were explored. Mr. Pattillo is correct that the closure of winter fisheries represents a substantial reduction in angler trips relative to the past. However, reductions in state fishing were necessary to meet conservation objectives. When considering which reductions to make, the consistent public message that WDFW received was to preserve summer fisheries and not have closures specifically targeted in certain areas, such as in CRC area 7, even if that resulted in not maximizing landed catch or angler trips.

Mr. Pattillo asserts that closing winter Blackmouth fishing has no conservation value. WDFW disagrees, but acknowledges that the degree of conservation value is a point of debate. The value of conserving Stillaguamish hatchery Chinook has been debated and explained, both during NOF, and afterwards. The Department would have taken a more flexible approach to the Stillaguamish CERC for marked Chinook given the unique circumstances this year, but was unable to secure co-manager agreement. Moreover, it is incorrect to say there are absolutely no conservation benefits to Chinook escapement in other stocks that may be associated with limits on winter Blackmouth fisheries. While FRAM modeling may not disclose escapement benefits, other fishery knowledge and science must be considered.

The structure of the FRAM model represents a fishery management year. During the 2020 North of Falcon process, fisheries from May 2020 through April 2021 were modeled. Most managed stocks in the model, including Stillaguamish and Mid Hood Canal, are summer or fall stocks that are returning to their natal rivers primarily between June and September. Therefore, fisheries occurring during the modeled winter period (from October 2020 through April 2021) would not be expected to affect escapement in the summer or fall management periods (May 2020 through September 2020) as they occur after modeled escapement. Instead, reductions to winter fisheries would positively impact the escapement of fish that would mature and spawn in future years.

There were other fishery proposals made to the tribal co-managers that were rejected, as described in other parts of this CES. Ultimately, additional reductions to sport fisheries were proposed to gain co-manager agreement and assurance that non-treaty fisheries would obtain ESA authorization for the year under a joint proposal submitted for NMFS review. WDFW has been very clear publicly that we need to find a way end the risky and unwieldy annual Section 7 consultation process and obtain long-term ESA authorization for Puget Sound salmon fisheries, and have been working towards that for several years. A long-term resource management plan (RMP) was completed by the co-managers and submitted to NOAA in December 2017. That plan was deemed insufficient by NOAA and received extensive criticism from many members of the public due to its limitations on harvest. While work continues on revisions to that RMP, completion of a plan that will meet ESA sufficiency, that addresses criticism with the previous version, and that is acceptable to all state and tribal co-managers is

extremely difficult. WDFW has and will continue to evaluate this and other options for obtaining long-term ESA coverage.

Fair sharing of impacts on constraining stocks is a complex topic, particularly with marine recreational fisheries having impacts on multiple stocks. Slide 30 of the presentation given on June 9th at the hearing for these rules shows how projected impacts for Puget Sound Chinook are split between treaty and non-treaty fisheries. The split ranges from Snohomish, with more than 75% of the impact occurring in non-treaty fisheries, to White River spring, with less than 20% of the impact occurring in non-treaty fisheries. For the stocks that created the most constraint on fisheries, impacts were split much closer to 50%. For Mid Hood Canal, the final projection was 51% non-treaty and 49% treaty, and for Stillaguamish it was 45% non-treaty and 55% treaty.

Furthermore, 50/50 sharing of catch, as envisioned by Judge Boldt (actually the allocation of “fair shares” as articulated later by the United States Supreme Court) is not as simple a proposition as it appears on the surface. Most significantly, the 50/50 paradigm was articulated at a time when there were no ESA listings. More than ever before, because there is still a strong desire to engage in pre-terminal marine harvest, we now manage based upon weak stocks that intermingle with healthier populations in marine water harvest areas. To achieve state policy objectives on preferred fishery utilization, there are often scenarios where segments of the fishery do not play out with a precise 50/50 take (kill) of salmon. Furthermore, whether an outcome is “fair” is often based upon individual perceptions of whether one segment of the public’s interests ends up yielding to another segment’s preferred fishery outcome. WDFW’s sense this year is that there was a strong preference for summer Area 7 fisheries. To achieve an increase in summer MA7 fisheries, needed cuts were thus made to winter fisheries.

Furthermore, whether an outcome is “fair” is often based upon individual perceptions of whether one segment of the public’s interests ends up yielding to another segment’s preferred fishery outcome. One example during NOF 2020 was the value constituents placed on summer CRC area 7 fisheries. During the initial season proposal described in sections above (Chin1420b), the magnitude of impact summer CRC area 7 was clearly presented to the constituents and that the impact cost of retaining a summer fishery in that area would necessitate severe reductions to winter fisheries across a number of areas. In that initial modeling proposal, the impact of the area 7 summer fishery was approximately equivalent to the area 5, 6, 8, 9 and 10 impacts combined. The total area 7 summer quota was 1,737 Chinook. However, the combined areas 5, 6, 8, 9, and 10 winter quotas represented 4,089 Chinook. The public feedback received throughout the NOF process was that the value of area 7 summer was greater than that of the winter areas, even if large reductions or closures to many areas were necessary. This is one example of where the public’s interest and choices had foregone available share of Chinook to produce an outcome that was more desirable to the constituency as a whole.

## **Puget Sound Freshwater**

Comments received regarding salmon fishing for freshwater seasons in Puget Sound prior to May 6, 2020 were received in public meetings, through an online commenting portal on WDFW’s website, and through communications received by individual staff within the agency. The comments received prior to and after May 6 generally fell into the following categories:

- Expanded Fishing Opportunity
- Puyallup River Seasons

- Gamefish seasons, primarily on the Stillaguamish River.

*Expanded Fishing Opportunity:* Numerous comments were received in support of expanded opportunity to fish for both salmon and gamefish in freshwater systems throughout Puget Sound. Support for expanded fishing opportunity was asked for in the Nooksack, Stillaguamish, Snohomish, and Puyallup systems.

*Puyallup River seasons:* Several comments were received regarding salmon seasons on the Puyallup River. Comments received called for expanded fishing in areas and days that are currently closed to fishing.

### **Two Pole Endorsement (220-220-160 – Two-pole endorsement)**

One public comment suggested that the two-pole fishing regulation should be extended to Lake Washington and Lake Sammamish. The two-pole regulation does not apply to these lakes currently. This regulation would enhance angler's ability to catch coho salmon, as well as many of the other abundant fish species such as perch, cutthroat trout, and bass, that inhabit Lakes Washington and Sammamish.

1. Allow 2-pole in more locations when fishing for warmwater species in various locations within the Columbia River (2 comments)
  - These proposed rules pertain to salmon/steelhead seasons. A separate rule-making process for warmwater species would be needed to consider this change in conjunction with discussions with Oregon to address concurrent waters.
2. Support 2-pole additions (1 comment), concern about rule simplification (1 comment), and expand 2-pole use in more salmon fishing waters (2 comments)
  - These proposed rules increase uniformity between areas within Washington-only waters. Additional discussions with Oregon would be required to address consistency in concurrent Oregon waters as both states recognize there are compliance and enforcement issues associated with differential regulations between the two states. Further, anecdotal data indicates an increase, albeit slight, in impacts to modeled fisheries when using two poles instead of one pole, which would need to be taken into account.