



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (August 2017) (Implements RCW 34.05.360)

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STATE OF WASHINGTON
FILED

DATE: July 02, 2021

TIME: 11:28 AM

WSR 21-14-069

Agency: Washington Department of Fish and Wildlife (WDFW) (Order: 21-93)

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: The purpose of this rulemaking is to regulate the commercial salmon fisheries in Willapa Bay and Grays Harbor. These rules are part of a comprehensive suite of rulemaking packages to implement the new 2021-2022 salmon seasons for Washington State, developed through the broader North of Falcon process pursuant to the Fish and Wildlife Commission's North of Falcon Policy C-3608 for 2019-2023.

The North of Falcon process typically begins in January and consists of government-to-government meetings involving the National Marine Fisheries Service (NMFS), treaty tribes, and WDFW representatives. Separate meetings are held with stakeholders—both at a statewide and regional level—to review preseason run size forecasts, NMFS guidance relative to allowable impacts for species listed under the Endangered Species Act, which includes salmon, but other protected species as well, such as Southern Resident Killer Whales.

Stakeholder meetings specific to the Willapa Bay and Grays Harbor fisheries were held in February, March, and April, and the public hearing on the proposed rules was held on June 22, 2021. The comprehensive North of Falcon meeting schedule and the meeting agendas, handouts, and audio recordings of the public meetings are available on WDFW's website at: <https://wdfw.wa.gov/fishing/management/north-falcon/public-meetings>

While these rules regulate only commercial fisheries, the seasons specified in these rules are an integral part of implementing commercial and recreational fisheries in a coordinated manner pursuant to the Willapa Bay Salmon Management Policy C-3622 and Grays Harbor Basin Salmon Management Policy C-3621. As such, the commercial fisheries for 2021-22 are structured in a manner intended to consider and provide both commercial and recreational fishing opportunities in Willapa Bay and Grays Harbor, while ensuring conservation requirements and management objectives in federal and state laws and regulations, state/tribal harvest management agreements, and Fish and Wildlife Commission policies are met.

Even though drafted as amendments to preceding rules, these new amendments function as a coordinated and unitary fishery rulemaking package for the 2021-22 fishery season, and thus substantively replace prior years' fisheries in Willapa Bay and Grays Harbor. Specifically, these rules replace and supersede the language in WAC 220-354-250 for the Willapa Bay salmon fall fishery and WAC 220-354-290 for the Grays Harbor salmon fall fishery in their entirety.

Included in the Fish and Wildlife Commission's North of Falcon Policy C-3608 for 2019-2023 is a delegation of authority to the Director of the Washington Department of Fish and Wildlife to adopt the implementing regulations, including this rulemaking, resulting from the North of Falcon process.

Citation of rules affected by this order:

- New:
- Repealed:
- Amended: WAC 220-354-250, 220-354-290
- Suspended:

Statutory authority for adoption:

RCWs 77.04.012, 77.04.020, 77.04.055, and 77.12.047

Other authority: N/A

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 21-11-103 on May 19, 2021 (date).

Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Web site:

Other:

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	___	Repealed	___
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The number of sections adopted in the agency's own initiative:

New	___	Amended	2	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	___	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	___	Repealed	___

Date adopted: July 1, 2021

Name: Kelly Susewind

Title: Director

Signature:



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

Fishing periods:

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

Time:	Areas:
((7:00 a.m. through 7:00 p.m. October 21;	<u>Area 2A and Area 2D</u>
7:00 a.m. through 7:00 p.m. October 26;	
7:00 a.m. through 7:00 p.m. October 27;	
AND	
7:00 a.m. through 7:00 p.m. October 28.))	
<u>7:00 a.m. through 7:00 p.m. October 25;</u>	<u>Area 2A and Area 2D</u>
<u>7:00 a.m. through 7:00 p.m. October 26;</u>	
<u>7:00 a.m. through 7:00 p.m. October 27;</u>	
<u>Noon through 11:59 p.m. November 2;</u>	
AND	
<u>7:00 a.m. through 7:00 p.m. November 3;</u>	
AND	
<u>Noon October 17 through noon October 20;</u>	<u>Area 2C</u>
AND	
<u>6:00 a.m. October 24 through 6:00 a.m. October 26.</u>	

Gear :

(2) Gillnet gear restrictions - All areas:

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

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

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

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

(iii) Mesh size must not exceed six and one-half inch maximum.

(iv) It is unlawful to use a gillnet to fish for salmon if the lead line weighs more than two pounds per fathom of net as measured on the cork line. It is permissible to have a gillnet with a lead line weighing more than two pounds per fathom aboard a vessel when the vessel is fishing in or transiting through Grays Harbor.

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

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

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

(iii) Mesh size must not exceed nine inches.

(iv) It is unlawful to use a gillnet to fish for salmon if the lead line weighs more than two pounds per fathom of net as measured on the cork line. It is permissible to have a gillnet with a lead line weighing more than two pounds per fathom aboard a vessel when the vessel is fishing in or transiting through Grays Harbor.

Other:

(3) Recovery boxes and soak times:

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

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

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

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

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

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

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

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

(c) When fishing in Grays Harbor Area 2C, all steelhead must be placed in an operating recovery box which meets the requirements in

(a) of this subsection prior to being released to the river/bay as set forth in (d) of this subsection.

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

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

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

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

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

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

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

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

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

(b) Fishers also must provide notice of intent to participate by contacting Quick Reporting by phone, fax or email. Notice of intent must be given prior to ((12:00)) 5:00 p.m. on October ((9)) 11, for openings in Areas 2A, 2C, or 2D.

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

WAC 220-354-250 Willapa Bay salmon fall fishery. From August 16 through December 31 of each year, it is unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon taken from those waters for commercial purposes, except that:

Fishing periods:

(1) Gillnet gear may be used to fish for coho salmon, chum salmon, and Chinook salmon:

Area	Time	Date(s)	Maximum Mesh Size
((2U	6:00 a.m. through 6:00 p.m.	9/8	4.25"
2N	6:00 a.m. through 6:00 p.m.	9/9	4.25"
2T	6:00 a.m. through 6:00 p.m.	9/11	4.25"
2N, 2M, 2T, 2U	6:00 a.m. through 6:00 p.m.	9/14, 9/17	6.5"
2N, 2M, 2T, 2U	6:00 a.m. through 6:00 p.m.	9/21, 9/24	6.5"
2N, 2M, 2T, 2U	7:00 a.m. through 7:00 p.m.	9/28, 10/1	6.5"
2N, 2M, 2T, 2U	7:00 a.m. through 7:00 p.m.	10/5, 10/8	6.5"
2N, 2M, 2U	7:00 a.m. through 7:00 p.m.	10/12	6.5"
2N, 2M	7:00 a.m. through 7:00 p.m.	10/15	6.5"))
<u>2N</u>	<u>6:00 a.m. through 6:00 p.m.</u>	<u>8/20</u>	<u>4.25"</u>
<u>2N, 2M</u>	<u>6:00 a.m. through 6:00 p.m.</u>	<u>8/27</u>	<u>4.25"</u>
<u>2N, 2M</u>	<u>6:00 a.m. through 6:00 p.m.</u>	<u>9/3</u>	<u>4.25"</u>
<u>2N, 2M</u>	<u>6:00 a.m. through 6:00 p.m.</u>	<u>9/10</u>	<u>4.25"</u>
<u>2N</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/12, 9/14</u>	<u>4.25"</u>
<u>2M</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/14</u>	<u>4.25"</u>
<u>2N, 2M, 2T, 2U</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/16</u>	<u>4.25"</u>
<u>2N, 2T, 2U</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/18</u>	<u>4.25"</u>
<u>2N, 2M, 2T, 2U</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/21, 9/24</u>	<u>6.5"</u>
<u>2N, 2T, 2U, 2R</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/22</u>	<u>6.5"</u>
<u>2N, 2T</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/25</u>	<u>6.5"</u>
<u>2N, 2M, 2U</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/28, 10/1</u>	<u>6.5"</u>
<u>2N, 2R, 2T, 2U</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/29</u>	<u>6.5"</u>
<u>2T</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>10/1</u>	<u>6.5"</u>
<u>2N, 2U</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>10/2</u>	<u>6.5"</u>
<u>2N, 2M, 2R, 2T, 2U</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>10/5</u>	<u>6.5"</u>
<u>2N, 2M, 2U</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>10/7</u>	<u>6.5"</u>
<u>2N, 2M, 2R, 2T, 2U</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>10/12</u>	<u>6.5"</u>
<u>2N, 2T, 2U</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>10/14</u>	<u>6.5"</u>
<u>2N, 2M, 2R, 2T, 2U</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>10/19</u>	<u>6.5"</u>
<u>2N, 2T, 2U</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>11/1</u>	<u>6.5"</u>
<u>2N, 2M, 2T, 2U</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>11/8</u>	<u>6.5"</u>
<u>2N, 2M, 2U</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>11/15</u>	<u>6.5"</u>

Gear :

(2) Gillnet gear restrictions - All areas:

(a) Drift gillnet gear only. It is unlawful to use set net gear.

(b) It is permissible to have on-board a commercial vessel more than one net, provided the nets are of a mesh size that is legal for the fishery, and the length of any one net does not exceed one thousand five hundred feet in length.

(c) It is unlawful to use a gillnet to fish for salmon if the lead line weighs more than two pounds per fathom of net as measured on the cork line.

(d) It is permissible to have a gillnet with a lead line weighing more than two pounds per fathom aboard a vessel when the vessel is fishing in or transiting through Willapa Bay, provided the net is properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope that is 3/8 (0.375) inches or greater.

(e) From 12:01 a.m. (~~(September 8)~~) August 20 through 11:59 p.m. (~~(October)~~) November 15, (~~(2020)~~) 2021: Mesh size must not exceed six and one-half inches stretched, except mesh size must not exceed four and one-quarter inches stretched in Area (~~(2U)~~) 2N on (~~(September 8)~~) August 20, 27, September 3, 10, 12, 14, 16, and 18, Area (~~(2N)~~) 2M on August 27, September (9) 3, 10, 14, and 16, and Areas 2T and 2U on ~~September (11, 2020)~~ 16 and 18, 2021.

Other:

(3) Recovery boxes and soak time limits described in this section are required from 12:01 a.m. (~~(September 8)~~) August 20 through 11:59 p.m. (~~(October)~~) November 15, (~~(2020)~~) 2021:

(a) Each boat must have two operable recovery boxes or one box with two chambers on board when fishing in Willapa Bay Areas 2M, 2N, 2R, 2T, and 2U.

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

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

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

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

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

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

(b) From 12:01 a.m. (~~(September 8)~~) August 20 through 11:59 p.m. (~~(October)~~) November 15, (~~(2020)~~) 2021, all steelhead and all wild (unmarked) Chinook must be placed in an operating recovery box, which meets the requirements in (a) of this subsection prior to being released to the river/bay as set forth in (c) of this subsection.

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

(d) Soak time must not exceed 45 minutes. Soak time is defined as the time elapsed from when the first of the gillnet web is deployed into the water until the gillnet web is fully retrieved from the water.

(4) Quick reporting is required for wholesale dealers and fishers retailing their catch under a "limited fish seller endorsement." According to WAC 220-352-320, reports must be submitted by 10:00 a.m. on the day after the purchase date, unless otherwise specified in a voluntary electronic fish receiving ticket reporting agreement (see WAC 220-352-035(3)).

(5) Retention prohibitions:

(a) All green and white sturgeon and all steelhead, except as provided in subsection (3) of this section, must be handled with care to minimize injury to the fish and must be released immediately to the river/bay.

(b) Retention of any species other than coho, Chinook, or chum salmon is prohibited.

(c) From 12:01 a.m. (~~(September 8)~~) August 20 through 11:59 p.m. (~~(October)~~) November 15, (~~(2020)~~) 2021, retention of any species other than coho salmon, hatchery Chinook salmon marked by a healed scar at the site of the adipose fin, or chum salmon is prohibited.

(6) Report all encounters of green sturgeon, white sturgeon, and steelhead, (your name, date of encounter, and number of species encountered) to the quick reporting office via phone at #866-791-1280, fax at #360-249-1229, or email at harborfishtickets@dfw.wa.gov. Fishers may have wholesale dealers use the "buyer only" portion of the fish ticket and have encounters included with each day's quick reporting.

(7) Do not remove tags from white sturgeon. Please obtain available information from tags without removing tags. Submit tag information to the Washington Department of Fish and Wildlife, 48 Devonshire Rd., Montesano, WA 98563.

(8) Those waters of Area 2T, north of a line from Toke Point channel marker 3 easterly through Willapa Harbor channel marker 13 (green), then northeasterly to the power transmission pole located at 46°43.1907'N, 123°50.83134'W are closed from 12:01 a.m. September (~~(8)~~) 16, (~~(2020)~~) 2021, through 11:59 p.m., September 30, (~~(2020)~~) 2021.

(9) It is unlawful to fish with gillnet gear in Areas 2M, 2N, 2R, 2T, and 2U unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and has in their possession while fishing a department-issued certification card.

(10) Fishers must take department observers, if requested by department staff, when participating in these openings. Fishers also must provide notice of intent to participate by contacting quick reporting by phone, fax or email, listed in subsection (6) of this section. Notice of intent must be given prior to 5:00 p.m. on August (~~(31, 2020)~~) 6, 2021.