

WSR 13-12-001
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 13-109—Filed May 22, 2013, 12:01 p.m., effective May 23, 2013, 12:01 a.m.]

Effective Date of Rule: May 23, 2013, 12:01 a.m.

Purpose: The purpose of this rule making is to allow nontreaty recreational fishing opportunity in the Columbia River while protecting fish listed as threatened or endangered under the Endangered Species Act (ESA). This rule making implements federal court orders governing Washington's relationship with treaty Indian tribes, federal law governing Washington's relationship with Oregon, and Washington fish and wildlife commission policy guidance for Columbia River fisheries.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900I, 232-28-61900X and 232-28-61900Y; and amending WAC 232-28-619.

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546); *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River compact).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Reopens the 2013 spring recreational salmon season in the Columbia River in the area from Tongue Point/Rocky Point line upstream to Bonneville Dam. Based on the in season run size projection, upriver spring chinook remain available for harvest. Maintains the adjustment to the hatchery adult bag limit in Deep River so that it is consistent with the adjacent Columbia River when both areas are open. Prohibits full removal of nonlegal fish from the water. Regulation is consistent with guidance from Washington fish and wildlife commission and director, and compact/joint state action of January 30 and May 20, 2013. The fishery is consistent with the *U.S. v. Oregon* Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. There is insufficient time to adopt permanent rules.

Washington and Oregon jointly regulate Columbia River fisheries under the congressionally ratified Columbia River compact. Four Indian tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the tribes an opportunity to take a fair share of the available fish, and the states must manage other fisheries accordingly. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). A federal court order sets the current parameters for sharing between treaty Indians and others. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546).

Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in treaty and nontreaty Columbia River fisheries governed by the 2008-2017 *U.S. v. Oregon* Management Agreement. The Washington and Oregon fish and wildlife commissions have developed policies to guide the implementation of such biological opinions in the states' regulation of nontreaty fisheries.

Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, the ESA, and commission guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached.

Carson National Fish Hatchery is expected to meet its escapement goal of 1,500 fish. Surplus hatchery origin fish are available for harvest in the Wind River.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 3; Federal Rules or Standards: New 1, Amended 0, Repealed 3; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 1, Amended 0, Repealed 3.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 22, 2013.

Joe Stohr
for Philip Anderson
Director

NEW SECTION

WAC 232-28-61900C Freshwater exceptions to statewide rules—Columbia River and tributaries. Notwithstanding the provisions of WAC 232-28-619, effective immediately, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

Columbia River from the Megler-Astoria Bridge to a projected line from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank:

(a) Effective July 1 through July 31, release adult Chinook and sockeye.

Columbia River from a line projected line from Rocky Point on the Washington bank through Red Buoy 44 to the

navigation light at Tongue Point on the Oregon bank (Rocky Point/Tongue Point line) to Bonneville Dam:

(a) From the Rocky Point/Tongue Point line upstream to the I-5 Bridge: Effective immediately through May 24 release adult Chinook and sockeye.

(b) Effective May 25 through June 15, open for fishing for salmonids from the Tongue Point/Rocky Point line upstream to 600 feet downstream of the fish ladder at the new Bonneville Dam powerhouse (#2). However, closed to fishing from boats upstream of Beacon Rock (defined as a deadline marker on the Oregon bank, located approximately four miles downstream from Bonneville Dam Powerhouse #1, projecting a straight line through the western tip of Pierce Island to a deadline marker on the Washington bank at Beacon Rock).

(i) Daily salmonid limit is 6 fish (hatchery Chinook or hatchery steelhead), of which no more than 2 may be adults and no more than 1 may be an adult Chinook. Release all sockeye, wild Chinook and wild steelhead. Salmon minimum size is 12 inches.

(c) From the Rocky Point/Tongue Point line upstream to Bonneville Dam: Effective July 1 through July 31, release adult Chinook and sockeye.

Columbia River from the Rocky Point/Tongue Point line upstream to the Oregon/Washington border: Effective immediately through June 15, when open for salmon and steelhead it is unlawful when fishing from vessels which are less than 30 feet in length, substantiated by Coast Guard documentation or Marine Board registration, to totally remove from the water any salmon or steelhead required to be released.

Deep River (Wahkiakum Co.): Effective immediately through June 15, 2013: the hatchery adult Chinook daily limit will be the same as the adjacent mainstem Columbia River during those days when the mainstem Columbia River is open for adult Chinook retention. When the adjacent mainstem Columbia River is closed for adult Chinook retention, the salmon daily limit will revert to permanent rules for Deep River.

Kalama River from boundary markers at the mouth to 1,000 feet below the fishway at upper salmon hatchery:

(a) Effective immediately through July 31, release all Chinook.

(b) Until further notice, stationary gear restriction has been rescinded.

Lewis River (Clark/Cowlitz County) from mouth to mouth of East Fork: Effective immediately through July 31, release all Chinook.

Lewis River, North Fork (Clark/Cowlitz County) from mouth of East Fork to Johnson Creek: Effective immediately through July 31, release all Chinook.

Lewis River, North Fork (Clark/Cowlitz County) from Johnson Creek to overhead powerlines below Merwin Dam:

(a) Effective immediately through May 31, closed to all fishing.

(b) Effective immediately through July 31, release all Chinook.

(c) Trout: Effective June 1 until further notice, catch and release, except up to 2 hatchery steelhead may be retained.

(d) Other game fish: Effective June 1, statewide minimum size and daily limit are in effect.

(e) Night closure and anti-snagging rule will be in effect June 1 until further notice.

Washougal River (Clark County) from mouth to Salmon Falls: Until further notice, stationary gear restriction has been rescinded.

Wind River from the mouth (boundary line/markers) upstream, including all tributaries.

(a) Effective immediately until further notice, the two-pole endorsement has been rescinded.

Reviser's note: The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following sections of the Washington Administrative Code are repealed effective 12:01 a.m. May 23, 2013:

WAC 232-28-61900X	Exceptions to statewide rules—Wind River. (13-36)
WAC 232-28-61900I	Exceptions to statewide rules—Columbia River. (13-62)
WAC 232-28-61900Y	Exceptions to statewide rules—Columbia River and tributaries. (13-78)

WSR 13-12-009 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 13-111—Filed May 23, 2013, 2:22 p.m., effective May 24, 2013, 6:00 a.m.]

Effective Date of Rule: May 24, 2013, 6:00 a.m.

Purpose: The purpose of this rule making is to provide for treaty Indian fishing opportunity in the Columbia River while protecting salmon listed as threatened or endangered under the Endangered Species Act (ESA). This rule making implements federal court orders governing Washington's relationship with treaty Indian tribes and federal law governing Washington's relationship with Oregon.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100F; and amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 77.04.130, 77.12.045, and 77.12.047.

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546); *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River compact).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Allows sales of shad caught with hook and line. Hook and line gear has specific restrictions to help reduce salmonid catch. Continues to allow the sale of fish caught in Yakama Nation tributary fisheries. Fisheries are consistent with the 2008-2017 management agreement and the associated biological opinion. Rule is consistent with action of the Columbia River compact on May 20 and May 23, 2013. Conforms state rules with tribal rules. There is insufficient time to adopt permanent regulations.

The Yakama, Warm Springs, Umatilla, and Nez Perce Indian tribes have treaty fishing rights in the Columbia River and inherent sovereign authority to regulate their fisheries. Washington and Oregon also have some authority to regulate fishing by treaty Indians in the Columbia River, authority that the states exercise jointly under the congressionally ratified Columbia River compact. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). The tribes and the states adopt parallel regulations for treaty Indian fisheries under the supervision of the federal courts. A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allow for some incidental take of these species in the fisheries as described in the 2008-2017 *U.S. v. Oregon* Management Agreement. Columbia River fisheries are monitored very closely to ensure consistency with court orders and ESA guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. As required by court order, the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and invite tribal participation when considering proposals for new emergency rules affecting treaty fishing rights. *Sohappy*, 302 F. Supp. at 912. WDFW and ODFW then adopt regulations reflecting agreements reached.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 1; Federal Rules or Standards: New 1, Amended 0, Repealed 1; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 23, 2013.

Philip Anderson
Director

NEW SECTION

WAC 220-32-05100G Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052 and WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch taken for commercial purposes in the Wind River, Klickitat River, Yakima River and Drano Lake. However, those individuals possessing treaty fishing rights under the Yakama Nation treaty may fish for salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch under the following provisions:

1. Open Areas: SMCRA 1F, 1G, 1H (Zone 6):
 - a. Season: 6:00 am Friday May 24 through June 15, 2013.
 - b. Gear: Rod and reel with hook and line. Hook size restricted to #6 or smaller. Line restricted to 12-lb test or lighter.
 - c. Allowable sale: Shad.
 - d. 24-hour quick reporting required for Washington wholesale dealers, WAC 220-69-240.
2. Columbia River Tributaries upstream of Bonneville Dam:
 - a. Season: Immediately until further notice, and only during those days and hours when the tributaries listed below are open under lawfully enacted Yakama Nation tribal subsistence fishery regulations for enrolled Yakama Nation members.
 - b. Area: Drano Lake, Wind River, Klickitat River, and Yakima River.
 - c. Gear: Hoop nets, dip bag nets, and rod and reel with hook-and-line. Gillnets may only be used in Drano Lake.
 - d. Allowable Sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sales are allowed only when lawfully enacted by Yakama Nation regulations.
 - e. 24-hour quick reporting required for Washington wholesale dealers, WAC 220-69-240, for all areas.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 a.m. May 24, 2013:

WAC 220-32-05100F	Columbia River salmon seasons above Bonneville Dam. (13-107)
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WSR 13-12-010
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 13-112—Filed May 23, 2013, 2:23 p.m., effective May 24, 2013,
6:00 a.m.]

Effective Date of Rule: May 24, 2013, 6:00 a.m.

Purpose: The purpose of this rule making is to provide for treaty Indian fishing opportunity in the Columbia River while protecting salmon listed as threatened or endangered under the Endangered Species Act (ESA). This rule making implements federal court orders governing Washington's relationship with treaty Indian tribes and federal law governing Washington's relationship with Oregon.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05700I; and amending WAC 220-32-057.

Statutory Authority for Adoption: RCW 77.04.130, 77.12.045, and 77.12.047.

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546); *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River compact).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Adopts a sturgeon setline commercial treaty fishery in The Dalles Pool (SMCRA 1G). Allows sales only of sturgeon. Sturgeon remain available for harvest in The Dalles Pool based on the 2013 sturgeon guidelines. Conforms state rules to tribal rules. Consistent with compact action of May 23, 2013. There is insufficient time to promulgate permanent regulations.

The Yakama, Warm Springs, Umatilla, and Nez Perce Indian tribes have treaty fishing rights in the Columbia River and inherent sovereign authority to regulate their fisheries. Washington and Oregon also have some authority to regulate fishing by treaty Indians in the Columbia River, authority that the states exercise jointly under the congressionally ratified Columbia River compact. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). The tribes and the states adopt parallel regulations for treaty Indian fisheries under the supervision of the federal courts. A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in the fisheries as described in the 2008-2017 *U.S. v. Oregon* Management Agreement.

Columbia River fisheries are monitored very closely to ensure consistency with court orders and ESA guidelines.

Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. As required by court order, the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and invite tribal participation when considering proposals for new emergency rules affecting treaty fishing rights. *Sohappy*, 302 F. Supp. at 912. WDFW and ODFW then adopt regulations reflecting agreements reached.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 1; Federal Rules or Standards: New 1, Amended 0, Repealed 1; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 23, 2013.

Philip Anderson
Director

NEW SECTION

WAC 220-32-05700I Columbia River sturgeon seasons above Bonneville Dam Notwithstanding the provisions of WAC 220-32-057, effective immediately, it is unlawful to take, fish for or possess sturgeon for commercial purposes in Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, except that those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla, and Nez Perce treaties may fish for sturgeon with setline gear under the following provisions:

1. **Open period:** 6:00 AM Friday May 24 to 6:00 PM Saturday June 15, 2013.

2. **Area:** SMCRA 1G, upstream to the grain elevator at Rufus, Oregon.

3. **Gear:** Setlines. Fishers are encouraged to use circle hooks and avoid J-hooks. It is unlawful to use hooks less than the minimum size of 9/0.

4. **Allowable Sales:** White sturgeon only (43-54 inch fork length).

5. **Sanctuaries:** Standard sanctuaries applicable to these gear types.

6. **Additional Regulations:** 24-hour quick reporting required for Washington wholesale dealers, pursuant to WAC 220-69-240.

7. **Miscellaneous:** It is unlawful to sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of a sturgeon prior to sale of the sturgeon to a wholesale dealer licensed under chapter 77.65 RCW or to sell or barter sturgeon eggs at retail. It is unlawful to deliver to a wholesale dealer licensed under chap-

ter 77.65 RCW any sturgeon that are not in the round with the head and tail intact.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:01 PM June 15, 2013:

WAC 220-32-05700I Columbia River sturgeon seasons above Bonneville.

WSR 13-12-011
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 13-110—Filed May 23, 2013, 4:49 p.m., effective May 24, 2013, 12:01 a.m.]

Effective Date of Rule: May 24, 2013, 12:01 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-24-04000S; and amending WAC 220-24-040.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: A harvestable quota of salmon is available for the troll fleet. These rules are adopted at the recommendation of the Pacific Fisheries Management Council, in accordance with preseason fishing plans. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 23, 2013.

Philip Anderson
Director

NEW SECTION

WAC 220-24-04000T All-citizen commercial salmon troll. Notwithstanding the provisions of WAC 220-24-040, effective immediately until further notice, it is unlawful to fish for salmon with troll gear or to land salmon taken with troll gear into a Washington port except during the seasons provided for in this section:

(1) Salmon Management and Catch Reporting Areas 1 and 2, open: May 24 through June 30, 2013. Catch Reporting Areas 3 and that portion of Area 4 west of 125°05'00" W longitude and south of 48°23'00" N latitude, open: Friday, May 24 through Tuesday, May 28. Maximum of 28 Chinook per vessel for the entire 5-day open period for Areas 3 and 4.

(2) The Cape Flattery and Columbia River Control Zones are closed. Mandatory Yelloweye Rockfish Conservation Area is closed.

(3) Minimum size for Chinook salmon is 28 inches in length. No minimum size for pink, sockeye or chum salmon. It is unlawful to possess coho salmon.

(4) Lawful troll gear is restricted to all legal troll gear with single point, single shank barbless hooks.

(5) Fishers must land and deliver their catch within 24 hours of any closure of a fishery provided for in this section.

Vessels in possession of salmon north of the Queets River may not cross the Queets River line without first notifying WDFW by phone at (360) 902-2739 or by email at Douglas.Milward@dfw.wa.gov with Area fished, total Chinook and halibut catch on board, and destination.

Vessels in possession of salmon south of the Queets River may not cross the Queets River line without first notifying WDFW by phone at (360) 902-2739 or by email at Douglas.Milward@dfw.wa.gov with Area fished, total Chinook and halibut catch on board, and destination.

Any vessel with fish on board from either Area 3 or 4 may not possess more than 28 Chinook on board. Vessels fishing or in possession of salmon while fishing north of Leadbetter Point must land and deliver their fish within the area and North of Leadbetter Point. Vessels fishing or in possession of salmon while fishing south of Leadbetter Point must land and deliver their fish within the area and south of Leadbetter Point.

(6) The Cape Flattery Control Zone is defined as the area from Cape Flattery (48°23'00" N latitude) to the northern boundary of the U.S. Exclusive Economic Zone, and the area from Cape Flattery south to Cape Alava, 48°10'00" N latitude, and east of 125°05'00" W longitude.

(7) Columbia Control Zone - An area at the Columbia River mouth, bounded on the west by a line running north-east/southwest between the red lighted Buoy #4 (46°13'35" N. Lat., 124°06'50" W. long.) and the green lighted Buoy #7 (46°15'09" N. lat., 124°06'16" W. long.); on the east, by the Buoy #10 line which bears north/south at 357° true from the south jetty at 46°14'00" N. lat., 124°03'07" W. long. to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°15'48" N. lat., 124°05'20" W. long.), and then along the north jetty to the point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14'03" N. lat., 124°04'05" W.

long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

(8) Mandatory Yelloweye Rockfish Conservation Area - The area in Washington Marine Catch Area 3 from 48°00.00' N latitude; 125°14.00' W longitude to 48°02.00' N latitude; 125°14.00' W longitude to 48°02.00' N latitude; 125°16.50' W longitude to 48°00.00' N latitude; 125°16.50' W longitude and connecting back to 48°00.00' N latitude; 125°14.00' W longitude.

(9) It is unlawful to fish in Salmon Management and Catch Reporting Areas 1, 2, 3 or 4 with fish on board taken south of Cape Falcon, Oregon and all fish taken from Salmon Management and Catch Reporting Areas 1, 2, 3, and 4 must be landed before fishing south of Cape Falcon, Oregon.

(10) It is unlawful for wholesale dealers and trollers retailing their fish to fail to report their landing by 10:00 a.m. the day following landing. Ticket information can be telephoned in by calling 1-866-791-1279, or faxing the information to (360) 902-2949, or e-mailing to trollfishtickets@dfw.wa.gov. Report the dealer name, the dealer license number, the purchasing location, the date of purchase, the fish ticket numbers, the gear used, the catch area, the species, the total number for each species, and the total weight for each species, including halibut.

Reviser's note: The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 AM May 24, 2013:

WAC 220-24-04000S All-citizen commercial salmon troll. (13-71)

WSR 13-12-012 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 13-113—Filed May 23, 2013, 4:49 p.m., effective May 25, 2013, 12:00 p.m.]

Effective Date of Rule: May 25, 2013, 12:00 p.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-05100Y and 220-69-24000C; and amending WAC 220-52-051 and 220-69-240.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The 2013 state/tribal shrimp harvest management plans for the Strait of Juan de Fuca and Puget Sound require adoption of harvest seasons contained in this emergency rule. This emergency rule closes the pot fishery season for nonspot shrimp in Shrimp Management Area 2E, as the quota will be reached. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 23, 2013.

Philip Anderson
Director

NEW SECTION

WAC 220-52-05100Z Puget Sound shrimp pot and beam trawl fishery-Season. Notwithstanding the provisions of WAC 220-52-051, effective immediately until further notice, it is unlawful to fish for shrimp for commercial purposes in

Puget Sound except as provided for in this section:

(1) Shrimp pot gear:

(a) All waters of Shrimp Management Areas 1A, 1B, 1C, 2W, 3, 4, and 6 are open to the harvest of all non-spot shrimp species, effective immediately, until further notice, except as provided for in this section:

i) In Marine Fish/Shellfish Management and Catch Reporting Area (Catch Area) 22A, all waters inside and bounded by a line projected from Blakely Marina on the northwest corner of Blakely Island to Upright Head on Lopez Island, following the shoreline southerly on Lopez Island to intersect a line projected due west from Bald Bluff on Blakely Island, are closed until 7:00 a.m. June 16, 2013.

ii) All waters of Catch Areas 23A-E, 23A-W, 23A-C and the Discovery Bay Shrimp District are closed.

iii) All waters of Shrimp Management Area 1A north of a line projected at 48° 31.5' N latitude are closed.

(b) It is unlawful to pull shellfish pots in more than one catch area per day.

(2) Shrimp beam trawl gear:

(a) Shrimp Management Area (SMA) 3 (outside of the Discovery Bay Shrimp District, Sequim Bay and Catch Area 23D) is open, effective immediately, until further notice. Sequim Bay includes those waters of Catch Area 25A south of a line projected west from Travis Spit on the Miller Peninsula.

(b) That portion of Catch Area 22A within SMA 1B is open, effective immediately, until further notice.

(3) All shrimp taken under this section must be sold to licensed Washington wholesale fish dealers.

NEW SECTION

WAC 220-69-24000D Duties of commercial purchasers and receivers. Notwithstanding the provisions of WAC 220-69-240, effective immediately until further notice, it is unlawful for the original receiver of shrimp other than ghost shrimp taken from Puget Sound to fail to report in the following manner:

(1) For Puget Sound shrimp - Pot gear: All buyers of shrimp taken by pot gear (including fishers who buy their own catch) are no longer required to report the previous week's purchases by phone or FAX.

(2) Puget Sound shrimp - Trawl gear: All buyers of shrimp taken by trawl gear (including fishers who buy their own catch) must report the previous day's purchases by 10:00 a.m. the following morning. Reports must be made by text message, e-mail or FAX. Text message and e-mail reports must be submitted to shrimpreport@dfw.wa.gov, and FAX reports must be transmitted to FAX number 360-796-0108. Reports must include dealer name, fisher name, pounds sold per shrimp species, catch area, date sold, and the complete fish ticket serial number, including the first alphanumeric letter. Violation of this subsection is a gross misdemeanor, punishable under RCW [77.15.560](#).

Reviser's note: The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following sections of the Washington Administrative Code are repealed effective 12:00 p.m. May 25, 2013.

WAC 220-52-05100Y	Puget Sound shrimp beam trawl fishery—Season. (13-81)
WAC 220-69-24000C	Duties of commercial purchasers and receivers. (13-81)

**WSR 13-12-036
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 13-115—Filed May 29, 2013, 4:42 p.m., effective May 29, 2013, 7:00 p.m.]

Effective Date of Rule: May 29, 2013, 7:00 p.m.

Purpose: The purpose of this rule making is to allow nontreaty commercial fishing opportunities in the Columbia River while protecting fish listed as threatened or endangered under the Endangered Species Act (ESA). This rule making implements federal court orders governing Washington's relationship with treaty Indian tribes, federal law governing

Washington's relationship with Oregon, and Washington fish and wildlife commission policy guidance for Columbia River fisheries.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000A; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.04.130, 77.12.045, and 77.12.047.

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546); *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River compact).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Sets the fourth mainstem commercial salmon period for the 2013 winter/spring season. Adaptive management protocol within the current policy allows for adjustments to be made in order to meet conservation and fishery objectives. Based on the in season run size, upriver chinook are available for harvest in commercial fisheries. The weekly sturgeon landing limit is reduced to 3 fish to help ensure the fishery remains within allocation for the winter/spring season. Select Area seasons/limits remain in place unchanged. Based on the current forecasts for ESA-listed salmonids, impacts associated with the season are expected to remain within allowable limits. The fishery is consistent with the *U.S. v. Oregon* Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with compact action of January 30 and May 28, 2013. There is insufficient time to promulgate permanent rules.

Washington and Oregon jointly regulate Columbia River fisheries under the congressionally ratified Columbia River compact. Four Indian tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the tribes an opportunity to take a fair share of the available fish, and the states must manage other fisheries accordingly. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). A federal court order sets the current parameters for sharing between treaty Indians and others. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546).

Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in treaty and nontreaty Columbia River fisheries governed by the 2008-2017 *U.S. v. Oregon* Management Agreement. The Washington and Oregon fish and wildlife commissions have developed policies to guide the implementation of such bio-

logical opinions in the states' regulation of nontreaty fisheries.

Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, the ESA, and commission guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 1; Federal Rules or Standards: New 1, Amended 0, Repealed 1; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 29, 2013.

Philip Anderson
Director

NEW SECTION

WAC 220-33-01000B Columbia River seasons below Bonneville. Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, it is unlawful for a person to take or possess salmon, sturgeon, and shad for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, 1E and Select Areas, except during the times and conditions listed below:

1. Mainstem Columbia River

a) Area: SMCRA 1A, 1B, 1C, 1D, and 1E (Zones 1-5).

b) Dates: 7:00 PM Wednesday May 29 to 7:00 AM Thursday May 30, 2013.

c) Allowable Possession: Adipose fin-clipped Chinook salmon, shad and white sturgeon (43-54 inch fork length). A maximum of **3** white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. Limit applies to mainstem only. Select Areas remain open under a 2-white-sturgeon weekly retention limit.

d) Sanctuaries: Grays River, Elochoman-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B, Sandy, and Washougal rivers.

e) Gear: Drift nets only. 8" minimum mesh size. Monofilament is allowed. Net length not to exceed 150 fathoms. Nets not specifically authorized for use in these areas may be onboard a vessel if properly stored (WAC 220-33-001)(2)).

f) Miscellaneous Regulations:

Soak times, 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, must not exceed 45 minutes.

Red corks are required at 25-fathom intervals, and red corks must be in contrast to the corks used in the remainder of the net.

Lighted Buoys: Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required

Recovery Box: Each boat is required to have two operable recovery boxes or one box with two chambers, on board. Each chamber of the recovery box(es) must include an operating water pumping system capable of delivering a minimum flow of 16 gallons per minute, not to exceed 20 gallons per minute of freshwater per chamber. Each box and chamber and associated pump shall be operating during any time that the net is being retrieved or picked. Each chamber of the recovery box must meet the following dimensions as measured from within the box: the inside length measurement must be at or within 39 1/2 inches to 48 inches; the inside width measurements must be at or within 8 to 10 inches; and the inside height measurement must be at or within 14 to 16 inches.

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 end 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 that is at least 1 1/2 inches in diameter located on either the same or opposite end as the inlet. 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 WDFW and ODFW employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

All non-legal sturgeon, non-adipose fin-clipped salmon, and steelhead must be released immediately to the river with care and with the least possible injury to the fish, or placed into an operating recovery box.

Any salmonid that is bleeding or lethargic must be placed in the recovery box prior to being released. All fish placed in recovery boxes must be released to the river prior to landing or docking.

Observer program: As a condition of fishing, owners or operators of commercial fishing vessels must cooperate with department observers or observers collecting data for the department, when notified by the observer of his or her intent to board the commercial vessel for observation and sampling during an open fishery.

Live Capture workshop: Only licensed Columbia River commercial fishers that have completed the required state-sponsored workshop concerning live-capture commercial fishing techniques may participate in this fishery. At

least one fisher on each boat must have live-capture certification.

24-hour quick reporting is required for Washington wholesale dealers, per WAC 220-69-240.

2. Deep River Select Area

a) Dates: Monday and Thursday night immediately through June 14, 2013. Open hours are 7 PM to 7 AM.

b) Area: From the markers at USCG navigation marker #16, upstream to the Highway 4 Bridge.

c) Gear: Gillnets. 9 3/4-inch maximum mesh. Nets are restricted to 100 fathoms in length with no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed. Nets cannot be tied off to stationary structures. Nets may not fully cross navigation channel. It is unlawful to operate in any river, stream or channel any gillnet longer than three-fourths the width of the stream (WAC 220-20-015)(1)). It is unlawful in any area to use, operate, or carry aboard a commercial fishing vessel a licensed net or combination of such nets, whether fished singly or separately, in excess of the maximum lawful size or length prescribed for a single net in that area, except as otherwise provided for in the rules and regulations of the department (WAC 220-20-122)(1)). Nets not specifically authorized for use in these areas **may be onboard** a vessel if properly stored (WAC 220-33-001)(2)). Nets that are fished at any time between official sunset and official sunrise must have **lighted buoys** on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

d) Allowable Possession: Salmon, shad, and white sturgeon. The sturgeon landing limit is two fish. The sturgeon landing limit acts to limit the number of white sturgeon possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open.

Miscellaneous: Transportation or possession of fish outside the fishing area (except to the sampling station) is unlawful until WDFW staff has biologically sampled individual catches. After sampling, fishers will be issued a transportation permit by WDFW staff. A sampling station will be established at WDFW's Oneida Road boat ramp, about 0.5 miles upstream of the lower Deep River area boundary (USCG navigation marker #16).

e) 24-hour quick reporting is in effect for Washington buyers. (WAC 220-69-240) (14)(d)).

3. Tongue Point/South Channel

a) Dates: Monday and Thursday nights immediately through June 14, 2013. Open hours are 7:00 PM to 7:00 AM.

b) Area: Tongue Point fishing area includes all waters bounded by a line extended from the upstream (southern most) pier (#1) at the Tongue Point Job Corps facility, through navigation marker #6 to Mott Island (new spring lower deadline); a line from a marker at the southeast end of Mott Island, northeasterly to a marker on the northwest tip of Lois Island; and a line from a marker on the southwest end of Lois Island, westerly to a marker on the Oregon shore.

The South Channel area includes all waters bounded by a line from a marker on John Day Point through the green USCG buoy #7 to a marker on the southwest end of Lois Island, upstream to an upper boundary line from a marker on

Settler Point, northwesterly to the flashing red USCG marker #10, and northwesterly to a marker on Burnside Island defining the upstream terminus of South Channel.

c) Gear: Gillnets. 9 3/4-inch maximum mesh; maximum net length of 250 fathoms. In the Tongue Point fishing area: weight on net not to exceed two pounds on any one fathom. In the South Channel fishing area: no weight restriction on leadline, and use of additional weights or anchors attached directly to the leadline is allowed.

Nets not specifically authorized for use in these areas may be onboard a vessel if properly stored (WAC 220-33-001)(2)). Nets that are fished at any time between official sunset and official sunrise must have **lighted buoys** on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

d) Allowable Possession: Salmon, shad, and white sturgeon. The sturgeon landing limit is two fish. The sturgeon landing limit acts to limit the number of white sturgeon possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open.

e) Miscellaneous: Fishers are required to call 971-230-8247 and leave a message including name, catch, and where and when fish will be sold. Permanent transportation rules in effect.

f) 24-hour quick reporting is in effect for Washington buyers. (WAC 220-69-240) (14)(d)).

4. Blind Slough/Knappa Slough Select Area

a) Area: Blind Slough and Knappa Slough areas are both open. The lower boundary of the Knappa Slough fishing area is extended downstream to boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon Shore (fall season boundary).

b) Dates: Monday and Thursday nights immediately through June 14, 2013. Open hours are 7:00 PM to 7:00 AM.

c) Gear: Gillnets. 9 3/4-inch maximum mesh. Nets are restricted to 100 fathoms in length, with no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed.

Nets not specifically authorized for use in these areas may be onboard a vessel if properly stored (WAC 220-33-001)(2)). Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

d) Allowable Possession: Salmon, shad, and white sturgeon. The sturgeon landing limit is two fish. The sturgeon landing limit acts to limit the number of white sturgeon possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open.

e) 24-hour quick reporting is in effect for Washington buyers (WAC 220-69-240) (14)(d)). Permanent transportation rules in effect.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed effective 7:00 PM May 29, 2013:

WAC 220-33-01000A Columbia River seasons below Bonneville. (13-108)

WSR 13-12-037
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 13-114—Filed May 30, 2013, 11:32 a.m., effective May 30, 2013, 11:32 a.m.]

Effective Date of Rule: Immediately.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-32500G; and amending WAC 220-56-325.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation is needed to ensure an orderly fishery, manage within court-ordered sharing requirements, and to ensure conservation. Harvestable amounts of spot shrimp are available for one additional day of fishing in Marine Areas 8-1 and 11, in addition, harvestable amounts of nonspot shrimp are available in several marine areas, and the depth restrictions and area closures are in effect to protect spot shrimp. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 30, 2013.

Philip Anderson
Director

NEW SECTION

WAC 220-56-32500H Shrimp—Areas and seasons. Notwithstanding the provisions of WAC 220-56-325:

1) It is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Area 7, except as provided for in this section:

a. Effective immediately, until 11:59 p.m. June 1, 2013, all waters of Marine Area 7 are open to the harvest of all shrimp species.

b. Effective 12:01 a.m. June 2, 2013, until further notice, the portion of Marine Area 7 north of a line from Davis Point on Lopez Island to Cattle Point on San Juan Island, then north of a line due west from Lime Kiln Point light to the international boundary, then west of a line from the bell buoy at the international boundary to Point Doughty on Orcas Island, then west of a line projected true north and south from the western tip of Crane Island, then west of a line projected from the southern tip of Shaw Island to the number 2 buoy at the entrance to Fisherman Bay:

i. Open Thursday through Saturday each week to the harvest of all shrimp species.

c. Effective 12:01 a.m. June 2, 2013, until further notice, the portion of Marine Area 7 north of a line from the Biz Point on Fidalgo Island to Cape Saint Mary on Lopez Island, then east of a line projected from the number 2 buoy at the entrance to Fisherman Bay to the southern tip of Shaw Island, then east of a line projected true north and south from the western tip of Crane Island, then east of a line from Point Doughty on Orcas Island to the bell buoy at the international boundary:

i. Open to the harvest of all shrimp species except spot shrimp. It is unlawful to possess spot shrimp, and all spot shrimp must immediately be returned to the water unharmed.

ii. It is unlawful to set or pull shrimp gear in waters greater than 200 feet deep.

2) Effective immediately, until further notice, all waters equal to or less than 150 feet in depth in Marine Area 9 are open to the harvest of all shrimp species except spot shrimp. All spot shrimp caught must be immediately returned to the water unharmed. It is unlawful to set or pull shrimp gear in waters greater than 150 feet deep.

3) It is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Area 8-1, 8-2 and 11, except as provided for in this section:

i. Effective immediately, until 11:59 p.m. June 4, 2013, all waters equal to or less than 150 feet in depth are open to the harvest of all shrimp species except spot shrimp. All spot shrimp caught must be immediately returned to the water unharmed. It is unlawful to set or pull shrimp gear in waters greater than 150 feet deep

ii. Effective June 5, 2013, Marine Area 8-1 is open to the harvest of all shrimp species from 9:00 a.m. through 1:00 p.m., and Marine 11 is open to the harvest of all shrimp species from 7:00 a.m. through 3:00 p.m.

iii. Effective 12:01 a.m. June 6, 2013, until further notice, all waters equal to or less than 150 feet in depth are open to the harvest of all shrimp species except spot shrimp. All spot shrimp caught must be immediately returned to the water unharmed. It is unlawful to set or pull shrimp gear in waters greater than 150 feet deep.

4) Effective immediately until further notice, all waters of Marine Area 4 east of the Bonilla-Tatoosh line, and Marine Areas 5 and 6, are open to the harvest of all shrimp species.

REPEALER

The following section of the Washington Administrative Code is repealed June 1, 2013:

WAC 220-56-32500G Shrimp—Areas and seasons. (13-98)

WSR 13-12-039 EMERGENCY RULES OFFICE OF

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2013-12—Filed May 30, 2013, 12:06 p.m., effective May 30, 2013, 12:06 p.m.]

Effective Date of Rule: Immediately.

Purpose: The 2013 legislature enacted chapter 65, Laws of 2013 (HB 1035) which provides that title insurance companies and their agents must report financial information to a statistical reporting agent for use in the preparation of their title insurance rates to be filed with the commissioner. This emergency rule amends the existing rule to postpone the deadline by which title insurance agents must submit reports to their title insurance companies so that they will not incur unnecessary administrative cost and effort.

Citation of Existing Rules Affected by this Order: Amending WAC 284-29A-110.

Statutory Authority for Adoption: RCW 48.02.060 and 48.29.005.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Without an emergency rule, title insurance agents would be required to submit reports for the calendar years 2011 and 2012 to their title insurance company(s) in a manner that is not consistent with recently enacted legislation.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: May 30, 2013.

Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 2012-10, filed 7/16/12, effective 8/16/12)

WAC 284-29A-110 Title insurance agents must report data to title insurers. (1) Each title insurance agent must report premium, policy count, and expense data annually to each title insurer for which it produces business in the state of Washington by April 1st of each year, except as provided in subsection (4) of this section. These data must be reported following the instructions published by the commissioner on the commissioner's web site at www.insurance.wa.gov. These instructions, called the *Title Insurance Agent Annual Report*, are incorporated into this chapter by reference.

(2) Each annual report required by this section must include:

(a) The following premium and policy count data:

(i) Title insurance premiums for all of the agent's business; and

(ii) Title insurance premiums produced for the title insurer to which the report is sent.

(iii) Number of policies issued by all of the title insurers with which the agent does business; and

(iv) Number of policies issued by the title insurer to which the report is sent.

(b) The following expense data related to issuing title insurance policies and commitments for all of the agent's business, excluding all expenses related to escrow and other activities not directly related to title insurance:

(i) Employees' salaries and wages;

(ii) Owners' and partners' salaries and wages representing reasonable compensation for personal services actually performed by owners and partners;

(iii) Employee benefits;

(iv) Rent;

(v) Insurance;

(vi) Legal expense;

(vii) Licenses, taxes, and fees;

(viii) Title plant expense and maintenance;

(ix) Office supplies;

(x) Depreciation;

(xi) Automobile expense;

(xii) Communication expense;

(xiii) Education expense;

(xiv) Bad debts;

(xv) Interest expense;

(xvi) Employee travel and lodging;

(xvii) Loss and loss adjustment expense;

(xviii) Accounting and auditing expense;

(xix) Public relations expense; and

(xx) Other specifically identified expenses.

(c) An explanation that:

(i) Describes how expenses are allocated between the title operations and escrow or other operations of the title insurance agent; and

(ii) Demonstrates that the expenses described in WAC 284-29A-070(2) have been excluded.

(d) The estimated average cost to issue a title insurance commitment.

(3) If a title insurer does not receive a report required under this section by April 1st of each year, the title insurer must notify the commissioner by April 15th. This notice must include the name of the agent that did not send the report on time.

(4) For the 2011, 2012, and the 2013 calendar year reports, each title agent must submit the report to the title insurer(s) on or before (~~April~~) September 1, (~~(2013)~~) 2014.

Date Adopted: May 31, 2013.

Philip Anderson
Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-61900S Exceptions to statewide rules—Snake River. (13-99)

WSR 13-12-049

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 13-116—Filed May 31, 2013, 12:47 p.m., effective May 31, 2013, 12:47 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 232-28-61900S.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Based on the updated spring chinook run size estimate (about seventy-five percent of the preseason prediction), and the estimated harvest for the entire Snake River within Washington, the Snake River fisheries have nearly achieved the harvest Snake River allocation for the reduced run size, necessitating the closure.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.