

WSR 16-21-005
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 16-274—Filed October 6, 2016, 2:11 p.m., effective October 6, 2016, 2:11 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend Puget Sound commercial crab fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04000V and 220-52-04600T; and amending WAC 220-52-040 and 220-52-046.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

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 provisions of this rule will close the commercial harvest in Regions 2 East, 2 West and 3-2. The state commercial fishery has reached the initial target in these regions. Regions 1, 3-1 and 3-3 will remain open since there is sufficient allocation available in these regions to accommodate additional fishing. These provisions are in conformity with agreed management plans with applicable tribes. These management plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: October 6, 2016.

J. W. Unsworth
Director

NEW SECTION

WAC 220-52-04000W Commercial crab fishery—Lawful and unlawful gear, methods, and other unlawful acts. Notwithstanding the provisions of WAC 220-52-040:

(1) Effective immediately, until further notice, it is unlawful for any person to fish for crabs for commercial purposes

with more than 50 pots per license per buoy tag number in Crab Management Regions 1, Region 3-1 or Region 3-3. These regions include Marine Fish-Shellfish Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B, 23A, 23B, 23C and 29.

(2) All remaining buoy tags per license per region must be onboard the designated vessel and available for inspection.

(3) Effective 6:00 p.m. October 7, 2016, until further notice, Crab Management Regions 2 East, Region 2 West or Region 3-2 are closed. These regions include Marine Fish-Shellfish Catch Reporting Areas 24A, 24B, 24C, 24D, 26A-E, 25B, 25D, 26A-W, 23D, 25A and 25E.

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.

NEW SECTION

WAC 220-52-04600U Puget Sound crab fishery—Seasons and areas. Notwithstanding the provisions of WAC 220-52-046:

(1) Effective immediately, until further notice, it is permissible to fish for Dungeness crab for commercial purposes in the following areas:

(a) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 20A between a line from the boat ramp at the western boundary of Birch Bay State Park to the western point of the entrance of the Birch Bay Marina and a line from the same boat ramp to Birch Point.

(b) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22B in Fidalgo Bay south of a line projected from the red number 4 entrance buoy at Cape Sante Marina to the northern end of the eastern most oil dock.

(c) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Deer Harbor north of a line projected from Steep Point to Pole Pass.

(2) Effective immediately, until further notice, the following areas are closed to commercial crab fishing:

(a) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 25A west of the 123° 7.0' longitude line projected from the new Dungeness light due south to the shore of Dungeness Bay.

(b) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 23D west of a line from the eastern tip of Ediz Hook to the ITT Rayonier Dock.

(c) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24A east of a line projected true north from the most westerly tip of Skagit Island and extending south to the most westerly tip of Hope Island, thence southeast to Seal Rocks, thence southeast to the green can buoy at the mouth of Swinomish Channel, thence easterly to the west side of Goat Island.

REPEALER

The following sections of the Washington Administrative code are repealed:

- WAC 220-52-04000V Commercial crab fishery—Lawful and unlawful gear, methods, and other unlawful acts (16-265)
- WAC 220-52-04600T Puget Sound crab fishery—Seasons and areas (16-265)

WSR 16-21-007
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 16-271—Filed October 6, 2016, 4:07 p.m., effective October 7, 2016, 6:00 p.m.]

Effective Date of Rule: October 7, 2016, 6:00 p.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 220-32-05100E; and amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 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 fish during the treaty commercial gillnet fisheries in SMCRA 1F, 1G, 1H commonly known as Zone 6. The regulation continues to allow the sale of fish caught in Zone 6 Columbia River tribal net, platform and hook and line gear, in the Yakama Nation tributary fisheries when open under Yakama Nation regulations and in the area downstream of Bonneville Dam (SMCRA 1E1) when open under tribal regulations. The inseason update for fall Chinook is eight hundred sixty thousand two hundred fish. 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 July 27 and October 6, 2016. Conforms state rules with tribal rules. 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 allow[s] 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 1, Amended 0, Repealed 1.

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: October 6, 2016.

J. W. Unsworth
 Director

NEW SECTION

WAC 220-32-05100F 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 Columbia River Salmon Management and Catch Reporting Areas 1E1, 1F, 1G, and 1H, and in the Wind River, Klickitat River, Drano Lake, Yakima River and Icicle Creek. However, those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla, and Nez Perce treaties

may fish for salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch under the following provisions.

(1) Open Area: SMCRA 1F, 1G, 1H (Zone 6):

(a) Season: 6:00 AM October 10 to 6:00 PM October 14, 2016

(b) Gear: Gill nets. No mesh restriction.

(c) Allowable sale: Salmon, steelhead, shad, yellow perch, bass, walleye, catfish, or carp. Sturgeon may not be sold. Sturgeon may be kept for subsistence if from 38 to 54 inches fork length in the Bonneville Pool and between 43-54 inches in fork length in The Dalles and John Day pools. Live release of all oversize and under-size sturgeon is required.

(d) All sanctuaries for this gear type are in effect, except the Spring Creek Hatchery sanctuary will be reduced to a 150 foot radius around the hatchery ladder.

(2) Open Area: SMCRA 1F, 1G, 1H (Zone 6):

(a) Season: immediately until further notice.

(b) Gear: Hoop nets, bag nets, dip nets, and rod and reel with hook and line.

(c) Allowable sale: Salmon, steelhead, shad, yellow perch, bass, walleye, catfish, or carp. Sturgeon may not be sold. Sturgeon may be kept for subsistence if from 38 to 54 inches fork length in the Bonneville Pool and between 43-54 inches in fork length in The Dalles and John Day pools. Live release of all oversize and under-size sturgeon is required.

(d) All sanctuaries for these gear types are in effect, including the Spring Creek Hatchery sanctuary.

(3) 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: Wind River, Drano Lake, and Klickitat River.

(c) Gear: Hoop nets, bag nets, dip nets, and rod and reel with hook and line. Gill nets may only be used in Drano Lake.

(d) Allowable Sale: Salmon, steelhead, shad, yellow perch, bass, walleye, catfish, or carp. Sturgeon may not be sold. Sturgeon may be kept for subsistence if from 38 to 54 inches fork length. Live release of all oversize and under-size sturgeon is required.

(4) Open Area: SMCRA 1E1. Each of the four Columbia River treaty tribes has an MOA or MOU with the Washington Department of Fish and Wildlife for tribal fisheries in the area just downstream of Bonneville Dam. Tribal fisheries in this area may only occur in accordance with the appropriate MOA or MOU specific to each tribe, and only within any specific regulations set by each tribe.

(a) Participants:

(i) Tribal members may participate under the conditions described in the 2007 Memorandum of Agreement (MOA) with the Yakama Nation (YN), in the 2010 Memorandum of Understanding (MOU) with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), in the 2010 MOU with the Confederated Tribes of the Warm Spring Reservation (CTWS), and in the 2013 MOU with the Nez Perce Tribe.

(ii) Tribal members fishing below Bonneville Dam must carry an official tribal enrollment card.

(b) Season: immediately until 11:59 PM October 31, 2016. Open only during those days and hours when allowed under lawfully enacted tribal subsistence fishery regulations for enrolled tribal members.

(c) Allowable gear: Hook and line and/or platform gear identified in tribal rules.

(d) Allowable Sales: Salmon, steelhead, shad, yellow perch, bass, walleye, catfish, or carp. Sturgeon retention is prohibited for any purpose. Sale of platform or hook-and-line-caught fish is allowed. Sales may not occur on USACE property.

(5) 24-hour quick reporting is required as provided in WAC 220-69-240, for Washington wholesale dealers for all areas, except that all landings from treaty fisheries described above must be reported within 24-hours of completing the fish ticket.

(6) Sales of fish are allowed after open period concludes, as long as the fish sold were landed during the open period.

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 6:00 p.m. October 7, 2016:

WAC 220-32-05100E Columbia River salmon seasons above Bonneville Dam. (16-269)

WSR 16-21-014

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 16-275—Filed October 7, 2016, 12:06 p.m., effective October 10, 2016]

Effective Date of Rule: October 10, 2016.

Purpose: Amend commercial sea cucumber fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-52-071.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

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 emergency rule is needed to reopen Sea Cucumber District 1 because harvestable surpluses of sea cucumbers exist to allow for commercial harvest. 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 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: October 7, 2016.

J. W. Unsworth
Director

NEW SECTION

WAC 220-52-07100V Sea cucumbers Notwithstanding the provisions of WAC 220-52-071, effective October 10, 2016, it is unlawful to take or possess sea cucumbers taken for commercial purposes except in the marine fish-shellfish catch reporting areas provided for in this section:

(1) Sea cucumber harvest using shellfish diver gear is allowed in the following areas of Sea Cucumber District 1 Monday through Friday of each week: 20A and B, 21A and B, and 22A and B.

(2) Sea cucumber harvest using shellfish diver gear is allowed in the following areas of Sea Cucumber District 3 Monday through Friday of each week: 26A and 24A, B, C, and D, provided that a designated representative of the Washington Department of Fish and Wildlife is on board the vessel during harvest.

(3) The maximum cumulative landing of sea cucumbers for each weekly fishery opening period is 1,200 pounds per valid designated sea cucumber harvest license. It is permissible for all or any fraction of the maximum 1,200 pound total to be harvested during any legal harvest date within any legal harvest area so long as the cumulative total for the fishery week does not exceed the maximum.

WSR 16-21-015

EMERGENCY RULES

BUILDING CODE COUNCIL

[Filed October 7, 2016, 3:16 p.m., effective October 7, 2016, 3:16 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: These emergency rules are being refiled to provide regulatory guidance to marijuana growing, processing or extraction facilities per chapter 51-54A WAC. The purpose of the emergency rule making is to ensure that all operations of the industry are conducted in a safe manner, to minimize risk to life safety. Early in 2016 the state building code council formed a special technical advisory group (TAG) to consider changes to the Fire Code. Marijuana industry representatives, local building and fire officials, and state agency partners collaboratively developed proposed permanent rules,

anticipated to be adopted in November, with an effective date in April 2017.

Citation of Existing Rules Affected by this Order: Amending WAC 51-54A-105; and new WAC 51-54A-3800 and 51-54A-5307.

Statutory Authority for Adoption: RCW 19.27.031, 19.27.074.

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: Marijuana growing, processing and extraction can involve explosive materials and dangerous processes that pose serious risks to public health, safety and welfare. These emergency rules provide: Operational and construction permit requirements for marijuana extraction; administrative direction; definitions; requirements for engineering reports and inspections; construction requirements; regulation for carbon dioxide system functions and electrical systems; and other administrative oversight to protect public safety. The state liquor and cannabis board's WAC 314-55-104 looks to state fire safety and building codes implemented by local building and fire officials to provide these protections. Given the potentially serious risks posed by activities regulated by this rule, observing permanent rule timing requirements would be contrary to the public interest. Permanent rule making is underway, with public hearings scheduled in September and October 2016.

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 2, 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 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: October 7, 2016.

Steve Simpson
Chair

AMENDATORY SECTION (Amending WSR 16-03-055, filed 1/16/16, effective 7/1/16)

WAC 51-54A-0105 Permits.

SECTION 105 SCOPE AND GENERAL REQUIREMENTS

105.1.1 Permits required. Any property owner or authorized agent who intends to conduct an operation or business, or install or modify systems and equipment, which is regulated by this code, or to cause any such work to be done shall

first make application to the fire *code official* and obtain the required permit.

105.6.4 Carbon dioxide systems. An operational permit is required for carbon dioxide systems having more than 100 pounds of carbon dioxide.

~~(105.6.4.9)~~ **105.6.49 Marijuana extraction systems.** An operational permit is required to use a marijuana/cannabis extraction system regulated under WAC 314-55-104.

105.7.19 Marijuana extraction systems. A construction permit is required to install a marijuana/cannabis extraction system regulated under WAC ~~((244-55-104 [WAC 314-55-104]))~~ 314-55-104.

105.7.20 Underground supply piping for automatic sprinkler system. A construction permit is required for the installation of the portion of the underground water supply piping, public or private, supplying a water-based fire protection system. The permit shall apply to all underground piping and appurtenances downstream of the first control valve on the lateral piping or service line from the distribution main to one foot above finished floor of the facility with the fire protection system. Maintenance performed in accordance with this code is not considered to be a modification and does not require a permit.

EXCEPTIONS: 1. When the underground piping is installed by the aboveground piping contractor.
2. Underground piping serves a fire protection system installed in accordance with NFPA 13D.

NEW SECTION

WAC 51-54A-3800 Marijuana processing or extraction facilities.

SECTION 3801—ADMINISTRATION

3801.1 Scope. Facilities used for marijuana processing or extraction that utilize chemicals or equipment as regulated by the International Fire Code shall comply with this chapter and the International Building Code. The extraction process includes the act of extraction of the oils and fats by use of a solvent, desolventizing of the raw material and production of the miscella, distillation of the solvent from the miscella and solvent recovery. The use, storage, transfilling, and handling of hazardous materials in these facilities shall comply with this chapter and the International Building Code.

3801.2 Application. The requirements set forth in this chapter are requirements specific only to marijuana processing and extraction facilities and shall be applied as exceptions or additions to applicable requirements set forth elsewhere in this code.

3801.2.1 For the purposes of this chapter, marijuana processing and extraction shall be limited to those processes and extraction methods that utilize chemicals defined as hazardous by the International Fire Code and are regulated as such. Such processes and extraction methods shall meet the requirements of this chapter and other applicable requirements elsewhere in this code and its referenced standards.

EXCEPTION: Provisions of WAC 314-55-104 do not apply to this chapter.

3801.2.2 The use of equipment regulated by the International Fire Code for either marijuana processing or marijuana extraction shall meet the requirements of this chapter and other applicable requirements elsewhere in this code.

3801.3 Multiple hazards. Where a material, its use or the process it is associated with poses multiple hazards, all hazards shall be addressed in accordance with Section 5001.1 and other material specific chapters.

3801.4 Existing building or facilities. Existing buildings or facilities used for the processing of marijuana shall comply with this chapter.

3801.5 Permits. Permits shall be required as set forth in Section 105.6 and 105.7.

SECTION 3802—DEFINITIONS

Desolventizing. The act of removing a solvent from a material.

Finding. The results of an inspection, examination, analysis or review.

Marijuana processing. Processing that uses chemicals or equipment as regulated by the International Fire Code; this does not include the harvesting, trimming, or packaging of the plant.

Miscella. A mixture, in any proportion, of the extracted oil or fat and the extracting solvent.

Observation. A practice or condition not technically non-compliant with other regulations or requirements, but could lead to noncompliance if left unaddressed.

Transfilling. The process of taking a gas source, either compressed or in liquid form (usually in bulk containers), and transferring it into a different container (usually a smaller compressed cylinder).

SECTION 3803—PROCESSING OR EXTRACTION OF MARIJUANA

3803.1 Location. Marijuana processing shall be located in a building complying with the International Building Code and this code. Requirements applied to the building shall be based upon the specific needs for mitigation of the specific hazards identified.

3803.2 Systems, equipment and processes. Systems, equipment, and processes shall be in accordance with Sections 3803.2.1 through 3803.2.7. In addition to the requirements of this chapter, electrical equipment shall be listed or evaluated for electrical fire and shock hazard in accordance with RCW 19.28.010(1).

3803.2.1 Application. Systems, equipment and processes shall include, but are not limited to, vessels, chambers, containers, cylinders, tanks, piping, tubing, valves, fittings, and pumps.

3803.2.2 General requirements. In addition to the requirements in Section 3803, systems, equipment and processes

shall also comply with Section 5003.2, other applicable provisions of this code, the International Building Code, and the International Mechanical Code. The use of ovens in post-process purification or winterization shall comply with Section 3803.2.7.

3803.2.3 Systems and equipment. Systems or equipment used for the extraction of oils from plant material shall be listed and approved for the specific use. If the system used for extraction of oils and products from plant material is not listed, then a technical report prepared by a Washington licensed engineer shall be provided to the code official for review and approval.

3803.2.4 Change of extraction medium. Where the medium of extraction or solvent is changed from the material indicated in the technical report, or as required by the manufacturer, the technical report shall be revised at the cost of the facility owner, and submitted for review and approval by the fire code official prior to the use of the equipment with the new medium or solvent.

3803.2.5 Required technical report. The technical report documenting the equipment design shall be submitted for review and approval by the fire code official prior to the equipment being installed at the facility.

3803.2.5.1 Content of technical report and engineering analysis. All, but not limited to, the items listed below shall be included in the technical report.

1. Manufacturer information.
2. Engineer of record information.
3. Date of review and report revision history.
4. Signature page shall include:
 - 4.1 Author of the report;
 - 4.2 Date of report;
 - 4.3 Seal, date and signature of engineer of record performing the design; and
5. Model number of the item evaluated. If the equipment is provided with a serial number, the serial number shall be included for verification at the time of site inspection.
6. Methodology of the design review process used to determine minimum safety requirements. Methodology shall consider the basis of design, and shall include a code analysis and code path to demonstrate the reason why specific codes or standards are applicable or not.
7. Equipment description. A list of all components and subassemblies of the system or equipment, indicating the material, solvent compatibility, maximum temperature and pressure limits.
8. A general flow schematic or general process flow diagram (PFD) of the process, including maximum temperatures, pressures and solvent state of matter shall be identified in each step or component. It shall provide maximum operating temperature and pressure in the system.
9. Analysis of the vessel(s) if pressurized beyond standard atmospheric pressure. Analysis shall include purchased and fabricated components.
10. Structural analysis for the frame system supporting the equipment.

11. Process safety analysis of the extraction system, from the introduction of raw product to the end of the extraction process.

12. Comprehensive process hazard analysis considering failure modes and points of failure throughout the process. This portion of the review should include review of emergency procedure information provided by the manufacturer of the equipment or process and not that of the facility, building or room.

13. Review of the assembly instructions, operational and maintenance manuals provided by the manufacturer.

14. Report shall include findings and observations of the analysis.

15. List of references used in the analysis.

3803.2.6 Building analysis. The technical report, provided by the engineer of record, shall include a review of the construction documents for location, room, space or building and include recommendations to the fire code official.

3803.2.6.1 Site inspection. The engineer of record of the equipment shall inspect the installation of the extraction equipment for conformance with the technical report and provide documentation to the fire code official that the equipment was installed in conformance with the approved design.

3803.2.7 Post-process purification and winterization. Post-processing and winterization involving the heating or pressurizing of the miscella shall be approved and performed in an appliance listed for such use. Domestic or commercial cooking appliances shall not be used. The use of industrial ovens shall comply with Chapter 30.

EXCEPTION: An automatic fire extinguishing system shall not be required for batch-type Class A ovens having less than 3.0 cubic feet of work space.

3803.3 Construction requirements.

3803.3.1 Location. Marijuana extraction shall not be located in any building containing a Group A, E, I or R occupancy.

3803.3.1.1 Extraction room. The extraction equipment and processes utilizing hydrocarbon solvents shall be located in a room or area dedicated to extraction.

3803.3.2 Egress. When a marijuana extraction room is provided, at least one exit, swinging in the direction of egress travel shall be provided with an automatic door closing device and panic hardware.

3803.3.2.1 Facility egress. Egress requirements shall be in compliance with Chapter 10 of the International Building Code.

3803.3.3 Ventilation. Ventilation shall be provided in compliance with Chapter 4 of the International Mechanical Code.

3803.3.4 Control area. Control areas shall comply with Section 5003.8.3.

3803.3.5 Ignition source control. Extraction equipment and processes using flammable or combustible gas or liquid solvents shall be provided with ventilation rates for the room to maintain the concentration of flammable constituents in air below 25% of the lower flammability limit of the respective

solvent. If not provided with the required ventilation rate, Class I Division II electrical requirements shall apply to the entire room.

3803.3.6 Interlocks. When a hazardous exhaust system is provided, all electrical components within the extraction room or area shall be interlocked with the hazardous exhaust system, and when provided, the gas detection system. When the hazardous exhaust system is not operational, then light switches and electrical outlets shall be disabled. Activation of the gas detection system shall disable all light switches and electrical outlets.

3803.3.7 Emergency power.

3803.3.7.1 Emergency power for extraction process. Where power is required for the operation of the extraction process, an automatic emergency power source in accordance with Section 5004.7 and 604 shall be provided. The emergency power source shall have sufficient capacity to allow safe shutdown of the extraction process plus an additional 2 hours of capacity beyond the shutdown process.

3803.3.7.2 Emergency power for other than extraction process. An automatic emergency power system in accordance with Section 604 shall be provided when any of the following items are installed:

1. Extraction room lighting;
2. Extraction room ventilation system;
3. Solvent gas detection system;
4. Emergency alarm systems;
5. Automatic fire extinguishing systems.

3803.3.8 Continuous gas detection system. For extraction processes utilizing gaseous hydrocarbon-based solvents, a continuous gas detection system shall be provided. The gas detection threshold shall not exceed 25% of the LEL/LFL limit of the materials.

3803.4 Carbon dioxide enrichment or extraction. Extraction processes using carbon dioxide shall comply with this section.

3803.4.1 Scope. Carbon dioxide systems with more than 100 pounds of carbon dioxide shall comply with Sections 3803.4 through 3803.4.3. This section is applicable to carbon dioxide systems utilizing compressed gas systems, liquefied-gas systems, dry ice, or on-site carbon dioxide generation.

3803.4.2 Permits. Permits shall be required as set forth in Sections 105.6 and 105.7.

3803.4.3 Signage. At the entrance to each area using or storing carbon dioxide, signage shall be posted indicating the hazard. Signs shall be durable and permanent in nature and not less than 7 inches wide by 10 inches tall. Signs shall bear the warning "DANGER! POTENTIAL OXYGEN DEFICIENT ATMOSPHERE." NFPA 704 signage shall be provided at the building main entry and the rooms where the carbon dioxide is used and stored.

3803.5 Flammable or combustible liquid. The use of a flammable or combustible liquid for the extraction of oils and fats from marijuana shall comply with this section.

3803.5.1 Scope. The use of flammable and combustible liquids for liquid extraction processes where the liquid is boiled, distilled, or evaporated shall comply with this section and NFPA 30.

3803.5.2 Location. The process using a flammable or combustible liquid shall be located within a hazardous exhaust fume hood, rated for exhausting flammable vapors. Electrical equipment used within the hazardous exhaust fume hood shall be listed or approved for use in flammable atmospheres. Heating of flammable or combustible liquids over an open flame is prohibited.

NEW SECTION

WAC 51-54A-5307 Carbon dioxide (CO₂) systems.

5307.1 General. Carbon dioxide systems with more than 100 pounds (45.4 kg) of carbon dioxide shall comply with Sections 5307.2 through 5307.5.2.

WSR 16-21-031 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 16-277—Filed October 10, 2016, 4:19 p.m., effective October 11, 2016]

Effective Date of Rule: October 11, 2016.

Purpose: Amend recreational fishing rules for the Snohomish, Skykomish, and Wallace rivers.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-19000V; and amending WAC 220-310-190.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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 rivers were originally closed to all fishing under a state and tribal comanager agreement to protect coho salmon. The comanagers agree that the coho return is strong enough to support limited sport and tribal fisheries. Opening the rivers for fishing will provide additional angling opportunity. The comanagers will continue to monitor this fishery and may make adjustments in the coming weeks. 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: October 10, 2016.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

WAC 220-310-19000V Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-310-190, effective October 11 through October 31, 2016, it is permissible to fish for salmon in the waters of the Snohomish River from the mouth (Burlington-Northern Railroad bridges) (including all channels, sloughs, and interconnected waterways, but excluding all tributaries) upstream to confluence of the Skykomish and Snoqualmie rivers (all channels), the Skykomish from the mouth upstream to confluence of the Wallace River and the Wallace River upstream to 200' upstream of the water intake for the salmon hatchery. The following rules apply:

- (1) Salmon: Daily limit 2 coho, minimum size 12 inches. All species other than coho must be released.
- (2) Night closure and anti-snagging rules are in effect.

REPEALER

The following section of the Washington Administrative Code is repealed effective November 1, 2016:

WAC 220-310-19000V Freshwater exceptions to statewide rules—Puget Sound.

**WSR 16-21-034
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 16-276—Filed October 11, 2016, 10:31 a.m., effective October 12, 2016]

Effective Date of Rule: October 12, 2016.

Purpose: Amend freshwater recreational fishing rules for the Columbia River.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-20000G; and amending WAC 220-310-200.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

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: Over thirty-five thousand Chinook primarily from the Hanford Reach fall Chinook hatchery programs have returned above Priest Rapids Dam, including over twenty-five thousand above Rock Island Dam. The intent of the fishery is the removal of excess hatchery fall Chinook from the upper Columbia River Basin while also providing additional angling opportunity. The population is not listed under the Endangered Species Act. 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: October 11, 2016.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

WAC 220-310-20000G Freshwater exceptions to statewide rules—Columbia River. Notwithstanding the provisions of WAC 220-310-200, effective October 12 through November 30, 2016, it is permissible to fish for salmon in waters of the Columbia River from Priest Rapids Dam to 400' below Chief Joseph Dam with the following restrictions:

- (1) Daily limit six Chinook salmon (marked or unmarked), of which only three may be adult Chinook. Release coho salmon.
- (2) Minimum size 12 inches.
- (3) Selective gear rules apply, except bait is permissible.
- (4) Night closure upstream of Rock Island Dam.
- (5) Release Chinook salmon that have a 1/4 inch diameter (round) hole punched in the upper lobe of the caudal (tail) fin.
- (6) Two poles allowed.

REPEALER

The following section of the Washington Administrative Code is repealed effective December 1, 2016:

WAC 220-310-20000G Freshwater exceptions to statewide rules—Columbia River.

WSR 16-21-037
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 16-278—Filed October 11, 2016, 4:01 p.m., effective October 11, 2016, 4:01 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational harvest rules for razor clams.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-36000S; and amending WAC 220-56-360.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

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: Survey results show that adequate clams are available for harvest in Razor Clam Areas 3, 4 and 5 for recreational harvest. Washington department of health has certified clams from this beach to be safe for human consumption. 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: October 11, 2016.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

WAC 220-56-36000S Razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-56-360, it is unlawful to take, dig for or possess razor clams taken for personal use from any beaches in any razor clam area except as provided for in this section:

(1) Effective 12:01 p.m. October 14, 2016 through 11:59 p.m. October 19, 2016, razor clam digging is permissible in Razor Clam Area 3. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(2) Effective 12:01 p.m. October 14, 2016 through 11:59 p.m. October 16, 2016, razor clam digging is permissible in Razor Clam Area 4. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(3) Effective 12:01 p.m. October 14, 2016 through 11:59 p.m. October 16, 2016, razor clam digging is permissible in Razor Clam Area 5. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(4) It is unlawful to dig for razor clams at any time in the Twin Harbors and Copalis Beach Clam sanctuaries defined in WAC 220-56-372.

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 a.m. October 20, 2016:

WAC 220-56-36000S Razor clams—Areas and seasons.

WSR 16-21-049
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 16-281—Filed October 12, 2016, 2:05 p.m., effective October 14, 2016, 6:00 p.m.]

Effective Date of Rule: October 14, 2016, 6:00 p.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 77.04.012, 77.04.020, 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 fish during the treaty commercial gillnet fisheries in SMCRA 1F, 1G, 1H commonly known as Zone 6. The regulation continues to allow the sale of fish caught in Zone 6 Columbia River tribal

net, platform and hook and line gear, in the Yakama Nation tributary fisheries when open under Yakama Nation regulations and in the area downstream of Bonneville Dam (SMCRA 1E1) when open under tribal regulations. The inseason update for fall Chinook is seven hundred seven thousand six hundred fish. 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 July 27 and October 11, 2016. Confirms state rules with tribal rules. 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 allow[s] 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 1, Amended 0, Repealed 1.

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: October 12, 2016.

Joe Stohr
for J. W. Unsworth
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 Columbia River Salmon Management and Catch Reporting Areas 1E1, 1F, 1G, and 1H, and in the Wind River, Klickitat River, Drano Lake, Yakima River and Icicle Creek. However, those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch under the following provisions.

(1) Open Area: SMCRA 1F, 1G, 1H (Zone 6):

(a) Season: 6:00 AM October 17 to 6:00 PM October 21, 2016

(b) Gear: Gill nets. No mesh restriction.

(c) Allowable sale: Salmon, steelhead, shad, yellow perch, bass, walleye, catfish, or carp. Sturgeon may not be sold. Sturgeon may be kept for subsistence if from 38 to 54 inches fork length in the Bonneville Pool and between 43-54 inches in fork length in The Dalles and John Day pools. Live release of all oversize and under-size sturgeon is required.

(d) All sanctuaries for this gear type are in effect, except the Spring Creek Hatchery sanctuary will be reduced to a 150 foot radius around the hatchery ladder.

(2) Open Area: SMCRA 1F, 1G, 1H (Zone 6):

(a) Season: immediately until further notice.

(b) Gear: Hoop nets, bag nets, dip nets, and rod and reel with hook and line.

(c) Allowable sale: Salmon, steelhead, shad, yellow perch, bass, walleye, catfish, or carp. Sturgeon may not be sold. Sturgeon may be kept for subsistence if from 38 to 54 inches fork length in the Bonneville Pool and between 43-54 inches in fork length in The Dalles and John Day pools. Live release of all oversize and under-size sturgeon is required.

(d) All sanctuaries for these gear types are in effect, including the Spring Creek Hatchery sanctuary.

(3) 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: Wind River, Drano Lake, and Klickitat River.

(c) Gear: Hoop nets, bag nets, dip nets, and rod and reel with hook and line. Gill nets may only be used in Drano Lake.

(d) Allowable Sale: Salmon, steelhead, shad, yellow perch, bass, walleye, catfish, or carp. Sturgeon may not be sold. Sturgeon may be kept for subsistence if from 38 to 54 inches fork length. Live release of all oversize and under-size sturgeon is required.

(4) Open Area: SMCRA 1E1. Each of the four Columbia River treaty tribes has an MOA or MOU with the Washington Department of Fish and Wildlife for tribal fisheries in the area just downstream of Bonneville Dam. Tribal fisheries in

this area may only occur in accordance with the appropriate MOA or MOU specific to each tribe, and only within any specific regulations set by each tribe.

(a) Participants:

(i) Tribal members may participate under the conditions described in the 2007 Memorandum of Agreement (MOA) with the Yakama Nation (YN), in the 2010 Memorandum of Understanding (MOU) with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), in the 2010 MOU with the Confederated Tribes of the Warm Spring Reservation (CTWS), and in the 2013 MOU with the Nez Perce Tribe.

(ii) Tribal members fishing below Bonneville Dam must carry an official tribal enrollment card.

(b) Season: immediately until 11:59 PM October 31, 2016. Open only during those days and hours when allowed under lawfully enacted tribal subsistence fishery regulations for enrolled tribal members.

(c) Allowable gear: Hook and line and/or platform gear identified in tribal rules.

(d) Allowable Sales: Salmon, steelhead, shad, yellow perch, bass, walleye, catfish, or carp. Sturgeon retention is prohibited for any purpose. Sale of platform or hook-and-line-caught fish is allowed. Sales may not occur on USACE property.

(5) 24-hour quick reporting is required as provided in WAC 220-69-240, for Washington wholesale dealers for all areas, except that all landings from treaty fisheries described above must be reported within 24-hours of completing the fish ticket.

(6) Sales of fish are allowed after open period concludes, as long as the fish sold were landed during the open period.

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 6:00 p.m. October 14, 2016:

WAC 220-32-05100F Columbia River salmon seasons above Bonneville Dam. (16-271)

**WSR 16-21-051
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 16-279—Filed October 12, 2016, 3:30 p.m., effective October 17, 2016]

Effective Date of Rule: October 17, 2016.

Purpose: Amend Puget Sound saltwater recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-62100L; and amending WAC 232-28-621.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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: Providing maximum season length is a priority for the recreational community and warrants a reduced daily limit based upon prior fishery performance and preliminary estimates. This emergency rule modifies Area 7 fisheries to ensure compliance with conservation objectives and agreed-to management 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: October 12, 2016.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

WAC 232-28-62100L Puget Sound salmon—Saltwater seasons and daily limits. Notwithstanding the provisions of WAC 232-28-621, effective October 17 through October 31, 2016, it is unlawful to violate the provisions below. Unless otherwise amended, all permanent rules remain in effect.

(1) Catch Record Card Area 7:

(a) Daily limit of 2 salmon, no more than 1 Chinook. Release coho and wild Chinook.

REPEALER

The following section of the Washington Administrative Code is repealed effective November 1, 2016:

WAC 232-28-62100L Puget Sound salmon—Saltwater seasons and daily limits.

WSR 16-21-053
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 16-282—Filed October 13, 2016, 10:50 a.m., effective October 16, 2016]

Effective Date of Rule: October 16, 2016.

Purpose: Amend recreational fishing rules for the Dungeness River.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-18000B; and amending WAC 220-310-180.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

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 emergency rule is needed to open the river because inseason information indicates coho salmon have returned in sufficient numbers to provide for hatchery broodstock needs and provide additional recreational angling opportunity. 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: October 13, 2016.

Kelly Cunningham
for J. W. Unsworth
Director

NEW SECTION

WAC 220-310-18000B Freshwater exceptions to statewide rules—Coastal. Notwithstanding the provisions of WAC 220-310-180, effective October 16 through November 27, 2016, it is permissible to fish for salmon in the waters of the Dungeness River from the mouth to the hatchery intake pipe at river mile 11.3. The following rules apply:

- (1) Daily limit of 4 hatchery coho (marked with an adipose fin clip) minimum size of 12 inches.
- (2) Release all wild coho and all other salmon.

REPEALER

The following section of the Washington Administrative Code is repealed effective November 28, 2016:

WAC 220-310-18000B Freshwater exceptions to statewide rules—Coastal.

WSR 16-21-057
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 16-283—Filed October 14, 2016, 9:37 a.m., effective October 16, 2016]

Effective Date of Rule: October 16, 2016.

Purpose: Amend recreational fishing rules for the Puyallup River.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-19000W; and amending WAC 220-310-190.

Statutory Authority for Adoption: RCW 77.04.020 and 77.12.047.

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 emergency rule is needed to allow for the retention of hatchery coho in the Puyallup River which will provide additional angling opportunity. Due to continued uncertainty surrounding wild coho escapement and conservation goals anglers are required to release wild coho and wild steelhead. 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: October 14, 2016.

Kelly Cunningham
for J. W. Unsworth
Director

NEW SECTION

WAC 220-310-19000W Exceptions to statewide rules—Puyallup River. Notwithstanding the provisions of WAC 220-310-190, effective October 16, through December 31, 2016, in those waters of the Puyallup River from the 11th Street Bridge to the Carbon River, daily limit of 2 adult salmon. Release Chinook and wild coho. Unless otherwise amended, all permanent rules remain in effect.

REPEALER

The following section of the Washington Administrative Code is repealed effective January 1, 2017:

WAC 220-310-19000W Exceptions to statewide rules—
Puyallup River.

WSR 16-21-058
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 16-284—Filed October 14, 2016, 1:34 p.m., effective October 14,
2016, 1:34 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules for Puget Sound salmon.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-47-31100A, 220-47-40100M and 220-47-41100V; and amending WAC 220-47-311, 220-47-401, and 220-47-411.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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 emergency rule is needed to close the commercial salmon fisheries in Salmon Management and Catch Reporting Areas 7 and 7A as per preseason agreement with tribal comanagers based on the nontreaty chum catch to date in these areas. 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 3, Amended 0, Repealed 3.

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: October 14, 2016.

J. W. Unsworth
Director

NEW SECTION

WAC 220-47-31100A Purse seine—Open periods. Notwithstanding the provisions of WAC 220-47-311, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except as provided in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas 7 and 7A: Closed on October 15 and 16

NEW SECTION

WAC 220-47-40100M Reef net—Open periods. Notwithstanding the provisions of WAC 220-47-401, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except as provided in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Area 7: Closed on October 15 and 16

NEW SECTION

WAC 220-47-41100V Gillnet—Open periods. Notwithstanding the provisions of WAC 220-47-411, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except as provided in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas 7 and 7A: Closed on October 15 and 16

REPEALER

The following sections of the Washington Administrative Code are repealed effective October 17, 2016:

WAC 220-47-31100A Purse seine—Open periods

WAC 220-47-40100M Reef net—Open periods

WAC 220-47-41100V Gillnet—Open periods

WSR 16-21-071
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 16-285—Filed October 17, 2016, 4:25 p.m., effective October 17,
2016, 4:25 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules for Puget Sound salmon.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-47-31100B, 220-47-40100N and 220-47-41100W; and amending WAC 220-47-311, 220-47-401, and 220-47-411.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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 majority of the nontreaty share of chum in Puget Sound Salmon Management and Catch Reporting Areas 7 and 7A is expected to be harvested by the date of this closure and there is not enough of the nontreaty share remaining to allow for multiple day openings. 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 3, Amended 0, Repealed 3.

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: October 17, 2016.

J. W. Unsworth
Director

NEW SECTION

WAC 220-47-31100B Purse seine—Open periods. Notwithstanding the provisions of WAC 220-47-311, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except as provided in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas 7 and 7A: Closed on October 18

NEW SECTION

WAC 220-47-40100N Reef net—Open periods. Notwithstanding the provisions of WAC 220-47-401, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting

Areas except as provided in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas 7: Closed on October 18

NEW SECTION

WAC 220-47-41100W Gillnet—Open periods. Notwithstanding the provisions of WAC 220-47-411, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except as provided in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas 7 and 7A: Closed on October 18

REPEALER

The following sections of the Washington Administrative Code are repealed effective October 19, 2016:

WAC 220-47-31100B Purse seine—Open periods

WAC 220-47-40100N Reef net—Open periods

WAC 220-47-41100W Gillnet—Open periods

**WSR 16-21-098
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 16-286—Filed October 19, 2016, 8:51 a.m., effective October 19, 2016, 8:51 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules for Puget Sound salmon.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-47-31100C, 220-47-40100P and 220-47-41100X; and amending WAC 220-47-311, 220-47-401, and 220-47-411.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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 majority of the nontreaty share of chum in Puget Sound Salmon Management and Catch Reporting Areas 7 and 7A is expected to be harvested by the date of this closure and there is not enough of the nontreaty share remaining to allow for multiple day openings. 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 3, Amended 0, Repealed 3.

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: October 19, 2016.

James B. Scott, Jr.
for J. W. Unsworth
Director

NEW SECTION

WAC 220-47-31100C Purse seine—Open periods.

Notwithstanding the provisions of WAC 220-47-311, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except as provided in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas 7 and 7A: Closed on October 20, 2016.

NEW SECTION

WAC 220-47-40100P Reef net—Open periods.

Notwithstanding the provisions of WAC 220-47-401, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except as provided in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Area 7: Closed on October 20, 2016.

NEW SECTION

WAC 220-47-41100X Gillnet—Open periods.

Notwithstanding the provisions of WAC 220-47-411, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except as provided in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas 7 and 7A: Closed on October 20, 2016.

REPEALER

The following sections of the Washington Administrative Code are repealed effective October 21, 2016:

WAC 220-47-31100C Purse seine—Open periods

WAC 220-47-40100P Reef net—Open periods

WAC 220-47-41100X Gillnet—Open periods