

WSR 13-19-002
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed September 4, 2013, 2:43 p.m., effective September 4, 2013, 2:43 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Chapter 392-502 WAC requires updating to comply with changes made by ESSB [ESSB] 5946 (2013) and to possibly clarify questions on current requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 392-502-001, 392-502-010, 392-502-020, 392-502-030, 392-502-050, and 392-502-080.

Statutory Authority for Adoption: RCW 28A.250.020 and 28A.150.290.

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 changes to chapter 392-502 WAC are necessary to implement changes to chapter 28A.250 RCW, the online learning statute, made by the legislature in ESSB 5946 (2013). The changes must be effective by the start of the 2013-14 school year in order to provide school districts with (a) a consistent regulatory environment, and (b) the ability to comply with the alternative learning experience (ALE) requirements that were also modified by ESSB 5946.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 6, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 6, Repealed 0.

Date Adopted: July 10, 2013.

Randy Dorn
State Superintendent

AMENDATORY SECTION (Amending WSR 12-03-067, filed 1/12/12, effective 2/12/12)

WAC 392-502-001 Authority. ~~The authority for these rules is RCW ((7.60.055, which authorizes the superintendent of public instruction to adopt rules defining minimum requirements and accountability for alternative learning experience online programs)) 28A.150.290 and ((RCW)) 28A.250.020, which authorizes the superintendent~~

to adopt by rule criteria and processes for approving online providers.

AMENDATORY SECTION (Amending WSR 12-15-025, filed 7/11/12, effective 8/11/12)

WAC 392-502-010 Definitions. As used in this chapter, the term:

(1) "Multidistrict online provider" means:

(a) A private or nonprofit organization that enters into a contract with a school district to provide online courses or programs to K-12 students from more than one school district;

(b) A private or nonprofit organization or a school district that enters into contracts with multiple school districts to provide online courses or programs to K-12 students from those districts; or

(c) Except as provided in (c)(i) and (ii) of this subsection, a school district that provides online courses or programs to students who reside outside the geographic boundaries of the school district.

(i) "Multidistrict online provider" does not include a school district online learning program in which fewer than ten percent of the students enrolled in the program are from other districts under the interdistrict student transfer provisions of RCW 28A.225.225.

(ii) "Multidistrict online provider" also does not include regional online learning programs that are jointly developed and implemented through an interdistrict cooperative program between two or more school districts or between one or more school districts and an educational service district, unless the annual average headcount of students who reside outside the geographic boundaries of those school districts and who are enrolled in the regional online program is ten percent or more of the total program enrollment headcount. Any agreement establishing such a program must address, at minimum, how the districts share student full-time equivalency for state basic education funding purposes and how categorical education programs, including special education, are provided to eligible students.

(2) "Online course" means a course, or grade-level course work, in which:

(a) More than half of the course content is delivered electronically using the internet or other computer-based methods; and

(b) More than half of the teaching is conducted from a remote location through an online course learning management system or other online or electronic tools; and

(c) A certificated teacher has the primary responsibility for the student's instructional interaction pertaining to the online course. Primary responsibility means the teacher is the principal individual who provides instructional interactions that may include, but are not limited to, direct instruction, review of assignments, assessment, testing, progress monitoring, and educational facilitation; and

(d) Students have access to the teacher synchronously, asynchronously, or both.

An online course may be delivered to students at school as part of the regularly scheduled school day. An online course also may be delivered to students, in whole or in part,

independently from a regular classroom schedule. (~~Online courses delivered to students independently of a regular classroom schedule must comply with RCW 28A.150.262 and WAC 392-121-182 to qualify for state basic education funding.~~)

(3) "Online school program" means a school program that(~~(-~~

(a) ~~Offers courses or grade-level course work that are delivered primarily electronically using the internet or other computer-based methods;~~

(b) ~~Offers courses or grade-level course work that are taught by a teacher primarily from a remote location using online or other electronic tools. Students enrolled in an online program may have access to the teacher synchronously, asynchronously, or both;~~

(c) ~~Offers a sequential set of online courses or grade-level course work that may be taken in a single school term or throughout the school year in a manner that could provide a full-time basic education program if so desired by the student. Students may enroll in the program as part-time or full-time students(~~(-and

(d) ~~Has an online component of the program with online lessons and tools for student and data management).~~

An online school program may be delivered to students at school as part of the regularly scheduled school day. An online school program also may be delivered to students, in whole or in part, independently from a regular classroom schedule. (~~Online programs delivered to students independently of a regular classroom schedule must comply with RCW 28A.150.262 and WAC 392-121-182 to qualify for state basic education funding.~~)

(4) "Online provider" means any provider of an online course or program, multidistrict online providers, all school district online learning programs, and all regional online learning programs.

(5) "Accrediting organizations" means the designated bodies identified by the superintendent of public instruction (~~after consultation with the Washington council for online learning~~) and published on the superintendent of public instruction web site. Accrediting organizations are for providers to use to satisfy the accreditation qualification for being an approved online provider.

(6) "Affiliate provider" means a school district that:

(a) Provides online courses offered by one or more approved online provider that provides the course content, the technology platform, and the instructional component of the courses; and

(b) Does not modify the content or instruction of the approved provider's offerings. An affiliate provider may not offer to its students any online course or courses that are provided by a nonapproved online provider.

(7) "Single-district provider" means a school district online provider that is not a multidistrict online provider or an affiliate provider.

(8) For the purposes of this section, "primarily" is defined as more than half.

AMENDATORY SECTION (Amending WSR 12-15-025, filed 7/11/12, effective 8/11/12)

WAC 392-502-020 Online provider approval process and timeline. (1) This section sets forth the process that online providers must follow to be approved in accordance with RCW 28A.250.020. Beginning with the 2013-14 school year, all online providers must be approved by the superintendent of public instruction for districts to collect state funding, to the extent otherwise allowed by state law, for courses offered by those providers in accordance with WAC 392-502-080.

(2) (~~If at the end of the 2011-12 school year, the annual average headcount for that school year of students who reside outside the geographic boundaries of a school district or regional online learning program and are enrolled in a school district online program or regional online learning program increases to ten percent or more of the total online program enrollment headcount, the program:~~

(a) ~~Must seek approval prior to November 1, 2013.~~

(b) ~~May continue operating during the 2012-13 school year, but not the following school year unless approved as a multidistrict online provider.~~

(3) ~~Prior to the 2012-13 school year, multidistrict online providers seeking approval must submit an application for approval. The application form is outlined on the superintendent of public instruction web site. The superintendent or his or her designee will review submitted applications for compliance with the assurances and designated approval criteria set forth in WAC 392-502-030 and must meet or exceed the acceptable defined score.~~

(4) ~~Beginning with the 2013-14 school year,~~) All online providers seeking approval must apply to the superintendent of public instruction for approval as follows:

(a) Multidistrict online providers must submit an application as outlined on the superintendent of public instruction web site which will be reviewed for compliance with the designated approval criteria and must meet or exceed the acceptable defined score. Multidistrict online providers must comply with the superintendent of public instruction's required assurances.

(b) Affiliate providers must submit an affiliate provider application as outlined on the superintendent of public instruction web site. Affiliate providers must also comply with the superintendent of public instruction's required assurances.

(c) Single-district providers must submit a single-district provider application as outlined on the superintendent of public instruction web site. Single-district providers must also comply with the superintendent of public instruction's required assurances.

If, at the end of a school year, the annual average headcount for that school year of students who reside outside the geographic boundaries of a single-district provider and are enrolled in an online program offered by the single-district provider increases to ten percent or more of the total program enrollment headcount, the program shall be required to apply as a multidistrict online provider in the next approval cycle. The program may continue operating the year of the required approval review, but not the following school year unless approved as a multidistrict online provider.

~~((5))~~ (3) The superintendent of public instruction makes decisions regarding approval of multidistrict provider applications submitted pursuant to this chapter no later than November 1st of each year. A multidistrict online provider's approval status takes effect the beginning of the school year following the date of the superintendent's approval of the online provider's application. Single-district and affiliate providers may apply at any point, and, subject to the requirements of approval, can be approved immediately by the superintendent of public instruction.

~~((6) For the 2011-12 school year, final modifications to the conditions for approval, required assurances, approval criteria, and application forms will appear on the superintendent of public instruction's web site by February 15, 2012.~~

(7)) (4) Beginning with the 2012-13 school year, any proposed modifications to the conditions for approval, required assurances, approval criteria, and application forms will appear on the superintendent of public instruction web site by October 1st of each year. The superintendent will accept feedback ~~((from))~~ on the proposed modifications from any interested parties prior to November 1st of each year. Any final modifications to the conditions for approval, required assurances, approval criteria, and application forms will appear on the superintendent of public instruction's web site by January 1st of each year.

AMENDATORY SECTION (Amending WSR 12-15-025, filed 7/11/12, effective 8/11/12)

WAC 392-502-030 Approval assurances and criteria.

(1) This section sets forth the assurances and criteria that online providers must meet to be approved under this chapter.

(a) To be approved, online providers must provide the following assurances to the superintendent of public instruction:

(i) The online provider is accredited through an accrediting body as defined in WAC 392-502-010 and agrees to maintain accredited status for the duration of the approval period. Online providers may be candidates for accreditation at the time of application for approval provided that the provider earns full accreditation on the standard timeline.

(ii) Each course and program the online provider offers is aligned with at least eighty percent of the current applicable grade/subject area of Washington state standards. For courses with content that is not included in state standards, the online provider's courses are aligned with at least eighty percent of nationally accepted content standards set for the relevant subjects. Online providers must submit information to the superintendent regarding the standards alignment and the standards aligned.

(iii) All instruction delivered to Washington state students is delivered by Washington state certificated teachers who are assigned to instruct courses in a manner which meets the "highly qualified" definition under the No Child Left Behind Act and in a manner which meets the requirements set forth in chapter 181-82 WAC.

(iv) For online providers that offer high school courses, the courses offered by the online provider must be eligible for high school credit pursuant to WAC 180-51-050.

(v) All of the online provider's current and future courses in the applicable areas meet the credit/content requirements in chapter 392-410 WAC.

(vi) All advanced placement courses offered by the online provider have been approved in accordance with the college board advanced placement course audit. For advanced placement courses not yet offered at the time of application, the online provider must assure that those courses will be approved by the college board prior to offering those courses to students.

(vii) The online provider's data management systems ensure all student information remains confidential, as required by the Family Educational Rights and Privacy Act of 1974, as amended.

(viii) The online provider's web systems and content meet accessibility conformance levels specified in the list of approved provider assurances on the office of superintendent of public instruction's web site.

(ix) The online provider provides all information as directed or as requested by the office of superintendent of public instruction, the secretary for the department of education, and other federal officials for audit, program evaluation compliance, monitoring, and other purposes and to maintain all records for the current year and three previous years.

(x) The online provider informs the office of superintendent of public instruction in writing of any significant changes to the program including, but not limited to, changes in assurances, program description, fiscal status, or ownership.

(xi) The online provider upholds any pertinent federal or state laws, rules or regulations, in the delivery of the online courses or programs.

(xii) The online provider retains responsibility for the quality of courses and content offered, regardless of any third-party contractual arrangements, partnerships or consortia, contributing to the content or delivery of the online courses or programs.

(xiii) The online provider complies with the state assessment requirements including, but not limited to, the requirements of chapter 28A.655 RCW and WAC 392-121-182, as applicable.

(xiv) All of the provider's current and future career and technical education (CTE) courses are aligned to Washington state CTE program standards and have been approved by the office of superintendent of public instruction's CTE office. CTE courses must be taught by a Washington certificated teacher who is also CTE-certificated in the subject area of the course.

(xv) The online provider agrees to abide by any additional assurances required by the superintendent of public instruction.

(xvi) The online provider agrees that all programs delivered as alternative learning experiences comply with the requirements of WAC 392-121-182. The online provider agrees to disclose to OSPI the manner in which it supports the requirements of WAC 392-121-182 for online courses delivered outside of an online school program.

(b) Multidistrict online providers must meet the following approval criteria by a preponderance of evidence submitted with the online provider's application:

(i) Course content and instructional design incorporating course goals and outcomes, materials and content organization, and student engagement.

(ii) Classroom management incorporating grading and privacy policies, internet etiquette, and expectations for communications.

(iii) Student assessment incorporating various types, frequent feedback, and appropriateness for the online learning environment.

(iv) Course evaluation and management incorporating strategies for obtaining feedback about the courses/programs and processes for quality assurance and updating content.

(v) Student support incorporating policies and systems to enhance the students' learning experience and their success.

(vi) School-based support incorporating strategies and systems to allow school-based staff to support student success.

(vii) Technology elements, requirements and support including descriptions and ease of navigation.

(viii) Staff development and support including training and online instructor performance reviews conducted on a planned and regularly scheduled basis.

(ix) Program management including timeliness and quality of teachers' responses to students, handling of fees, prompt distribution of materials and processing of enrollments, and handling fees and payments.

(x) The superintendent may require additional approval criteria pursuant to WAC 392-502-080.

(2) After review by the online learning advisory committee, the approval criteria with explanations and suggested supporting evidence will be posted on the superintendent of public instruction web site on or before the date the application is made available.

(3) Online provider's application will be reviewed by reviewers selected by the superintendent of public instruction for their experience and expertise. The reviewers will be provided orientations and training to review and score the online provider applications using the approval criteria and scoring protocols.

(4) Single-district provider online programs must incorporate the approval criteria developed by the superintendent of public instruction into the program design.

AMENDATORY SECTION (Amending WSR 12-03-067, filed 1/12/12, effective 2/12/12)

WAC 392-502-050 Approval duration and conditions for continued approval. Approvals will be for the four subsequent consecutive full school years.

(1) ~~((Grandfathered multidistrict online providers are granted their initial approval only until August 31, 2012, and must be approved in a renewal process prior to that date in order to continue offering their courses/school programs for the 2012-13 school year.~~

(2)) Online providers that have been approved must annually provide the superintendent of public instruction information regarding the following:

(a) Online provider's overall instructional program;

(b) Content of individual online courses and online school programs;

(c) Direct link to the online provider's web site;

(d) Registration information for online learning programs and courses;

(e) Teacher qualifications;

(f) Student-to-teacher ratios as defined by the superintendent of public instruction;

(g) Course completion and pass rates as defined by the superintendent of public instruction; and

(h) Other evaluative and comparative information requested by the superintendent of public instruction.

((3)) (2) Online providers must carry out the program/courses described in the approval application, abide by the assurances listed in WAC 392-502-030 and certified in the application process and maintain the approval criteria listed in WAC 392-502-030.

AMENDATORY SECTION (Amending WSR 12-03-067, filed 1/12/12, effective 2/12/12)

WAC 392-502-080 Approval required for state funding. (1) ~~((Beginning with the 2011-12 school year, school districts may claim state basic education funding, to the extent otherwise allowed by state law, for students enrolled in online courses or programs only if the online courses or programs are:~~

~~(a) Offered by a multidistrict)) School districts may claim state funding under ESSB 5946, section 503, to the extent otherwise allowed by state law, for students enrolled in online courses or programs only if the online courses or programs are offered by an online provider approved under RCW 28A.250.020 by the superintendent of public instruction(;~~

~~(b) Offered by a school district online learning program if the program serves students who reside within the geographic boundaries of the school district, including school district programs in which fewer than ten percent of the program's students reside outside the school district's geographic boundaries; or~~

~~(c) Offered by a regional online learning program jointly developed and offered by two or more school districts or an educational service district through an interdistrict cooperative or consortium program agreement in which fewer than ten percent of the program's students reside outside the school districts' geographic boundaries)).~~

(2) ~~((Beginning with the 2013-14 school year,)) School districts may claim state funding under RCW 28A.150.260, to the extent otherwise allowed by state law, for students enrolled in online courses or programs only if the online courses or programs are (a) offered by an online provider approved under RCW 28A.250.020 by the superintendent of public instruction(;~~

~~(3))~~, or (b) meet specific criteria ((shall be)) established by the superintendent of public instruction to allow online courses offered by providers that have not been approved by the superintendent of public instruction to be eligible for state funding if the course is in a subject matter in which no approved provider offers courses ((have been approved))

and, if it is a high school course, the course meets Washington high school graduation requirements. These criteria will be posted on the superintendent of public instruction web site by December 31, 2009, and any modifications to those will appear by July 1, 2010, and April 1st each subsequent year after review by the online learning advisory committee and the state board of education.

WSR 13-19-004
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 13-218—Filed September 4, 2013, 4:35 p.m., effective September 4, 2013, 4:35 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-05100I; and amending WAC 220-52-051.

Statutory Authority for Adoption: RCW 77.04.020, 77.04.055, 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 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 (1) reopens Shrimp Management Areas 1A and 1C to spot shrimp fishing; and (2) closes Catch Area 20B to beam trawl fishing, 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 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: September 4, 2013.

Philip Anderson
Director

NEW SECTION

WAC 220-52-05100J 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, 1C, 3, 4, and 6 are open to the harvest of all shrimp species, effective immediately, until further notice, except as provided for in this section:

i) All waters of the Discovery Bay Shrimp District and Catch Area 23A-W east of the W 123°03' longitude line are closed;

ii) All waters of Shrimp Management Areas 4 and 6 and Marine Fish/Shellfish Management and Catch Reporting Area (Catch Area) 23A-C, 23A-E, 23B and 25A are closed to the harvest of spot shrimp; and

iii) All waters of Shrimp Management Areas 1A and 1C are closed to the harvest of all shrimp species other than spot shrimp.

(b) The spot shrimp catch accounting week is Wednesday through Tuesday.

(c) Effective immediately until further notice, it is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 600 pounds per week.

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

(e) Only pots with a minimum mesh size of 1 inch may be pulled on calendar days when fishing for or retaining spot shrimp.

i) Mesh size of 1 inch is defined as a mesh opening that a 7/8-inch square peg will pass through, excluding the entrance tunnels, except for flexible (web) mesh pots, where the mesh must be a minimum of 1 3/4-inch stretch measure.

ii) Stretch measure is defined as the distance between the inside of one knot to the outside of the opposite vertical knot of one mesh, when the mesh is stretched vertically.

(2) The following areas are open to Shrimp beam trawl gear, effective immediately, until further notice.

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

(b) Those portions of Catch Areas 20B, 21A and 22A within SMA 1B, with the following exception:

i. Effective 9:00 p.m. September 6, 2013, that portion of Catch Area 20B within SMA 1B is closed.

(c) All waters of Catch Area 20A.

(3) It is unlawful to sell shrimp taken under this section to any person who is not a licensed Washington wholesale fish dealer.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-05100I Puget Sound shrimp beam trawl fishery—Season. (13-209)

WSR 13-19-009
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 13-222—Filed September 5, 2013, 4:05 p.m., effective September 5, 2013, 4:05 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.045, 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 in Areas 1 and 2, and catches have been lower than expected. The northern areas remain closed to stay within the preseason cap on chinook and meet the season objectives. These rules are adopted at the recommendation of the Pacific Fisheries Management Council, in accordance with preseason fishing plans and the National Marine Fisheries Service from an in-season call. 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: September 5, 2013.

Philip Anderson
Director

NEW SECTION

WAC 220-24-04000Z 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:

September 6 through September 10, 2013; and
September 13 through September 17, 2013.

(2) Landing and possession limit of 75 Chinook and 50 coho per boat per each entire open period for the entire Catch Areas 1 and 2. Catch Areas 3 and 4 are closed to commercial salmon trolling. Under no circumstance can a boat land more than a total of 75 Chinook or 50 coho in any open period.

(3) The Grays Harbor and Columbia River Control Zones are closed.

(4) Minimum size for Chinook salmon is 28 inches in length. Minimum size for Coho salmon is 16 inches in length. No minimum size for pink, sockeye, or chum salmon. It is unlawful to possess wild coho salmon.

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

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

(7) Grays Harbor Control Zone is defined as the area inside a line from the Westport Lighthouse (46°53.18' N latitude; 124°07.01' W longitude) to Buoy #2 (46°52.42' N latitude; 124°12.42' W longitude) to Buoy #3 (46°55.00' N latitude; 124°14.48' W longitude) to the Grays Harbor north jetty (46°36.00' N latitude; 124°10.51' W longitude).

(8) Columbia Control Zone – This is defined as an area at the Columbia River mouth, bounded on the west by a line running northeast/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°14'48" 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.

(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 trollfish tickets@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 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:

WAC 220-24-04000Y All-citizen commercial salmon troll.
(13-195)

WSR 13-19-011
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 13-223—Filed September 6, 2013, 12:01 p.m., effective September 7, 2013]

Effective Date of Rule: September 7, 2013.

Purpose: Amend recreational fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.045, 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: Hatchery summer chinook returns to the Wenatchee River are predicted to be in excess of spawning escapement needs. Opening this additional section will provide expanded opportunity for anglers to harvest these hatchery fish. 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: September 6, 2013.

Philip Anderson
Director

NEW SECTION

WAC 232-28-61900H Exceptions to statewide rules—Wenatchee River. Notwithstanding the provisions of WAC 232-28-619, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

(1) Effective September 7 through September 30, 2013, it is permissible to fish for salmon in waters of the Wenatchee River from the Hwy. 2 Bridge in Leavenworth upstream to the Icicle River Road Bridge; daily limit of four hatchery Chinook, of which only two may be adult hatchery Chinook. Selective gear rules and night closure is in effect.

REPEALER

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

WAC 232-28-61900H Exceptions to statewide rules—
Wenatchee River.

WSR 13-19-013
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 13-219—Filed September 6, 2013, 3:10 p.m., effective September 6, 2013, 3:10 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To lift the burn ban on lands owned or controlled by the department, with the exception of bans on campfires. It remains unlawful without a permit or approval from the director to build, start, or maintain fires or campfires in wildlife areas and access sites in eastern Washington (as defined in WAC 232-12-809) that are owned or controlled by the department of fish and wildlife. However, it is permissible in those wildlife areas and access sites to use personal camp stoves or lanterns that are fueled by liquid petroleum, liquid petroleum gas, or propane.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-13-07500B, 232-13-13000B, 232-13-14300B, 232-13-14500B, and 232-13-15500B.

Statutory Authority for Adoption: RCW 77.12.210.

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: Rain has helped to decrease the fire danger on department-owned and controlled lands in eastern Washington. It is safe to lift the burn ban, except for the ban on campfires, on these lands at this time.

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 5.

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: September 6, 2013.

Philip Anderson
Director

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 232-13-07500B Smoking.
- WAC 232-13-13000B Firearms and target practicing.
- WAC 232-13-14300B Chainsaws and other power equipment.
- WAC 232-13-14500B Welding or operating an acetylene or other torch with open flame.
- WAC 232-13-15500B Operating a motor vehicle off developed roadways. (13-199)

WSR 13-19-014
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 13-220—Filed September 6, 2013, 4:11 p.m., effective September 10, 2013, 6:00 a.m.]

Effective Date of Rule: September 10, 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 220-32-05100P; and amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 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: Sets a 4.5 day commercial gillnet fishing period for treaty Indian fisheries in the mainstem Columbia River. The regulation also continues to allow the sales of fish caught in platform/hook and line fisheries in Zone 6 and the area immediately downstream of Bonneville Dam (consistent with MOUs/MOAs) and in Yakama Nation tributary fisheries, consistent with Yakama Nation regulations. Harvest/ESA limits are expected to remain within the limits and guidelines of the 2008-2017 management agreement. Rule is consistent with action of the Columbia River compact on August 8 and September 5, 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 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 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: September 6, 2013.

Philip Anderson
Director

NEW SECTION

WAC 220-32-05100Q Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052, WAC 220-32-055 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 (SMCRA) 1E, 1F, 1G, and 1H, and in the Klickitat River and Drano Lake, except as provided in the following subsections. However, individuals who possess treaty fishing rights under the Yakama, Warm Springs, Umatilla, or Nez Perce treaties may fish for salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch under the following provisions:

1. Mainstem Columbia River

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

b. Season: 6:00 AM Tuesday September 10 through 6:00 PM Saturday September 14, 2013

c. Gear: Gillnet. 8-inch minimum mesh restriction

d. Allowable sale: salmon, steelhead, shad, yellow perch, bass, walleye, catfish, and carp. Sturgeon may not be sold. Sturgeon between 38-54 inches in fork length in the Bonneville Pool, and between 43-54 inches in fork length in The Dalles and John Day pools may be retained for subsistence purposes. Sales of fish caught during the open period are allowed after the period concludes.

e. Standard sanctuaries in effect for this gear type.

2. Mainstem Columbia River Platform and Hook and Line upstream of Bonneville Dam

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

b. Season: open until further notice.

c. Gear: Hoop nets, dip nets, set bag nets, and rod and reel with hook and line.

d. Allowable sale: salmon, steelhead, shad, carp, catfish, walleye, bass, and yellow perch. Sturgeon between 38-54 inches in fork length in the Bonneville Pool, and between 43-54 inches in fork length in The Dalles and John Day pools may be retained for subsistence purposes.

e. Standard sanctuaries in effect for this gear type.

3. Mainstem Columbia River Platform and Hook and Line downstream of Bonneville Dam

a. Open Area: SMCRA 1E. Each of the four Columbia River treaty tribes has an MOA or MOU with the Washington Department of Fish and Wildlife regarding 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.

b. Participants: 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 2011 MOU with the Nez Perce Tribe. Tribal members fishing below Bonneville Dam must carry an official tribal enrollment card.

c. Season: open until further notice.

d. Gear: Hoop nets, dip nets, set bag nets and rod and reel with hook and line, or as defined by each tribe's MOU or MOA.

e. Allowable Sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, and yellow perch. Sturgeon retention is prohibited; sturgeon may not be sold or retained for ceremonial or subsistence purposes. Sale of platform or hook-and-line-caught fish is allowed. Sales may not occur on USACE property.

4. Yakama Nation Tributary Fisheries

a. Open Area: Columbia River Tributaries upstream of Bonneville Dam.

b. Season: open 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.

c. Area: Drano Lake and Klickitat River.

d. Gear: Hoop nets, dip nets, set bag nets and rod and reel with hook and line. Gillnets may only be used in Drano Lake.

e. Allowable Sales: Salmon, steelhead, shad, yellow perch, bass, walleye, catfish and carp which may be sold or retained for subsistence. Sturgeon may not be sold, but sturgeon from 38 to 54 inches fork length may be kept for subsistence purposes.

5. 24-hour quick reporting is required for Washington wholesale dealers, as provided in WAC 220-69-240, for all areas.

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 a.m. September 10, 2013:

WAC 220-32-05100P Columbia River salmon seasons above Bonneville Dam. (13-195)

WSR 13-19-015
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 13-224—Filed September 6, 2013, 4:33 p.m., effective September 9, 2013]

Effective Date of Rule: September 9, 2013.

Purpose: Amend recreational fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047, 77.12.045, 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: There is a surplus of hatchery fish available for harvest, allowing the Samish River to reopen for additional 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: September 6, 2013.

James B. Scott, Jr.
for Philip Anderson
Director

NEW SECTION

WAC 232-28-61900L Exceptions to statewide rules—Samish River. Notwithstanding the provisions of WAC 232-28-619, effective September 9 through November 30, 2013, it is unlawful to violate the following provisions,

provided that unless otherwise amended, all permanent rules remain in effect:

(1) It is permissible to fish in waters of the Samish River from the mouth (Bayview-Edison Road Bridge) to I-5 Bridge. Salmon daily limit is two, minimum size 12 inches. Trout daily limit is two, minimum size 14 inches. Night closure and only one single point hook allowed. Only fish hooked inside the mouth may be retained.

REPEALER

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

WAC 232-28-61900L Exceptions to statewide rules—Samish River.

WSR 13-19-016
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 13-225—Filed September 6, 2013, 4:33 p.m., effective September 7, 2013, 5:00 a.m.]

Effective Date of Rule: September 7, 2013, 5:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-47-50100U.

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 provides for Pacific Salmon Commission authorized fisheries in Areas 7 and 7A targeting the United States' share of Fraser River pink salmon. 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: September 6, 2013.

James B. Scott, Jr.
for Philip Anderson
Director

NEW SECTION

WAC 220-47-50100U Puget Sound all-citizen commercial salmon fishery—Open periods. Notwithstanding the provisions of Chapter 220-47 WAC, 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 in accordance with the open periods, mesh size, areas, species restrictions, notification, and landing requirements set forth in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas 7 and 7A:

(1) **Purse Seines** - Open to purse seine gear according to the times, dates, and conditions as prescribed and listed here:

Hours	Dates
5:00 AM - 9:00 PM	9/9

(a) It is unlawful to retain sockeye, Chinook, coho, chum and rockfish.

(b) Purse seine are required to brail and fishers must also use a recovery box in compliance with WAC 220-47-301 (7)(a) through (f).

(c) All salmon and rockfish must be immediately sorted, and those required to be released must be placed in an operating recovery box or released into the water before the next brail may be brought on the deck. However, small numbers of fish may be brought on board the vessel by pulling the net in without mechanical or hydraulic assistance.

(d) It is unlawful to fish for salmon with purse seine gear in Areas 7 and 7A unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and is in possession of a department issued certification card.

(2) **Gill Nets** - Open to gill net gear with 5 inch minimum and 5 1/2 inch maximum mesh size according to the times, dates, and conditions as prescribed and listed here:

Hours	Dates
8:15 AM - 11:59 PM	9/9

(a) It is unlawful to retain sockeye and rockfish.

(b) It is unlawful to fish for salmon with gill net gear in Areas 7 and 7A unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and is in possession of a department issued certification card.

(3) **Reef Nets** - Open to reef net gear according to the times, dates, and conditions as prescribed and listed here:

Hours	Dates
5:00 AM - 9:00 PM	9/7, 9/8, 9/9, 9/10

(a) It is unlawful to retain sockeye, unmarked Chinook, unmarked coho, and chum.

(b) It is unlawful to retain marked Chinook unless the reef net operator is in immediate possession of a Puget Sound Reef Net Logbook. All retained marked Chinook must be recorded in the log book in accordance with requirements of WAC 220-47-401.

(c) It is unlawful to fish for salmon with reef net gear in Areas 7 and 7A unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and is in immediate possession of a department issued certification card.

(4) "Quick Reporting Fisheries":

All fisheries opened under this section, and any fishery opening under authority of the Fraser Panel for sockeye in Puget Sound Salmon Management and Catch Reporting Areas (WAC 220-22-030), are designated as "Quick Reporting Required" per WAC 220-47-001.

REPEALER

The following section of the Washington Administrative Code is repealed effective 9:01 p.m. September 10, 2013:

WAC 220-47-50100U Puget Sound all-citizen commercial salmon fishery—Open periods

WSR 13-19-026

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 13-226—Filed September 9, 2013, 3:06 p.m., effective September 16, 2013]

Effective Date of Rule: September 16, 2013.

Purpose: Amend recreational fishing rules.

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

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 minimum escapement of five hundred wild summer steelhead is needed to allow the opening of the catch-and-release fishery above Shiphord Falls. Based on recent survey results and average run timing, the wild escapement is projected to be about three hundred fish, which is well below the escapement objective. 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: September 9, 2013.

James B. Scott, Jr.
for Philip Anderson
Director

NEW SECTION

WAC 232-28-61900M Exceptions to statewide rules—Wind River. Notwithstanding the provisions of WAC 232-28-619, effective September 16 through November 30, 2013, it is unlawful to fish in waters of the Wind River from 100 feet above Shipherd Falls to Moore Bridge.

REPEALER

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

WAC 232-28-61900M Exceptions to statewide rules—
Wind River.

**WSR 13-19-035
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 13-228—Filed September 10, 2013, 3:00 p.m., effective September 11, 2013, 5:00 a.m.]

Effective Date of Rule: September 11, 2013, 5:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-47-50100V.

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 provides for Pacific Salmon Commission authorized fisheries in Areas 7 and 7A targeting the United States' share of Fraser River pink salmon. 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: September 10, 2013.

Nate Pamplin
for Philip Anderson
Director

NEW SECTION

WAC 220-47-50100V Puget Sound all-citizen commercial salmon fishery—Open periods. Notwithstanding the provisions of Chapter 220-47 WAC, 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 in accordance with the open periods, mesh size, areas, species restrictions, notification, and landing requirements set forth in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas 7 and 7A:

(1) **Purse Seines** - Open to purse seine gear according to the times, dates, and conditions as prescribed and listed here:

Hours	Dates
8:30 AM - 4:30 PM	9/13

(a) It is unlawful to retain sockeye, Chinook, coho, chum and rockfish.

(b) Purse seine are required to brail, and fishers must also use a recovery box in compliance with WAC 220-47-301 (7)(a) through (f).

(c) All salmon and rockfish must be immediately sorted, and those required to be released must be placed in an operating recovery box or released into the water before the next brail may be brought on the deck. However, small numbers of fish may be brought on board the vessel by pulling the net in without mechanical or hydraulic assistance.

(d) It is unlawful to fish for salmon with purse seine gear in Areas 7 and 7A unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and is in possession of a department issued certification card.

(2) **GillNets** - Open to gillnet gear with 5 inch minimum and 5 1/2 inch maximum mesh size according to the times, dates, and conditions as prescribed and listed here:

Hours	Dates
8:20 AM - 11:59 PM	9/13

(a) It is unlawful to retain sockeye and rockfish.

(b) It is unlawful to fish for salmon with gillnet gear in Areas 7 and 7A unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and is in possession of a department issued certification card.

(3) **Reef Nets** - Open to reef net gear according to the times, dates, and conditions as prescribed and listed here:

Hours	Dates
5:00 AM - 9:00 PM	9/11, 9/12, 9/13

(a) It is unlawful to retain sockeye, unmarked Chinook, unmarked coho, and chum.

(b) It is unlawful to retain marked Chinook unless the reef net operator is in immediate possession of a Puget Sound Reef Net Logbook. All retained marked Chinook must be recorded in the log book in accordance with requirements of WAC 220-47-401.

(c) It is unlawful to fish for salmon with reef net gear in Areas 7 and 7A unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and is in immediate possession of a department issued certification card.

(4) **"Quick Reporting Fisheries":**

All fisheries opened under this section, and any fishery opening under authority of the Fraser Panel for sockeye in Puget Sound Salmon Management and Catch Reporting Areas (WAC 220-22-030), are designated as "Quick Reporting Required" per WAC 220-47-001.

REPEALER

The following section of the Washington Administrative Code is repealed effective 9:01 p.m. September 13, 2013:

WAC 220-47-50100V Puget Sound all-citizen commercial salmon fishery—Open periods.

WSR 13-19-040
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 13-229—Filed September 12, 2013, 11:05 a.m., effective September 12, 2013, 11:05 a.m.]

Effective Date of Rule: Immediately upon filing.
 Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-05100J; and amending WAC 220-52-051.

Statutory Authority for Adoption: RCW 77.04.020, 77.04.055, 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 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 (1) opens the spot shrimp pot "clean up" fishery in SMA 1B, 2E and Catch Areas 23A-C, 23A-E, and 26B-1/26C for three days with catch limits; (2) lowers the spot shrimp weekly limits in several areas to harvest the relatively small amounts of quota remaining; and (3) closes all areas remaining open for spot shrimp on September 15 to protect female spot shrimp at the onset of the egg-bearing period. 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: September 12, 2013.

Pat Pattillo
 for Philip Anderson
 Director

NEW SECTION

WAC 220-52-05100K 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, 2E, 3, 4, and 6 are open to the harvest of all shrimp species, effective immediately, until further notice, except as provided for in this section:

i) All waters of the Discovery Bay Shrimp District and Catch Area 23A-W east of the W 123°03' longitude line are closed;

ii) All waters of Shrimp Management Area 6 and Marine Fish/Shellfish Management and Catch Reporting Area (Catch Area) 23B, 25A and 26B-2 are closed to the harvest of spot shrimp;

iii) All waters of Shrimp Management Areas (SMA) 1A, 1B and 1C are closed to the harvest of all shrimp species other than spot shrimp until 6:00 p.m. September 15, when all waters are closed; and

iv) Effective 6:00 p.m. September 15, all waters of SMA 3 are closed to the harvest of spot shrimp, and all waters of SMA 2E, 4 and 6 are closed.

(b) The spot shrimp catch accounting week is Wednesday through Sunday.

(c) Effective immediately until 6:00 p.m. September 15, it is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 400 pounds per week, with the following exceptions:

i) It is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 325 pounds per week in SMA 1A, or to exceed 260 pounds per week in SMA 1B, or to exceed 500 pounds per week in SMA 1C, or to exceed 225 pounds per week in SMA 2E, or to exceed 130 pounds per week in Catch Area 23A-E, or to exceed 370 pounds per week in Catch Area 23A-C, or to exceed 810 pounds per week in Catch Area 23A-W, or to exceed 650 pounds per week in Catch Area 26B-1/26C.

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

(e) Only pots with a minimum mesh size of 1 inch may be pulled on calendar days when fishing for or retaining spot shrimp.

i) Mesh size of 1 inch is defined as a mesh opening that a 7/8-inch square peg will pass through, excluding the entrance tunnels, except for flexible (web) mesh pots, where the mesh must be a minimum of 1 3/4-inch stretch measure.

ii) Stretch measure is defined as the distance between the inside of one knot to the outside of the opposite vertical knot of one mesh, when the mesh is stretched vertically.

(2) The following areas are open to Shrimp beam trawl gear, effective immediately, until further notice.

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

(b) Those portions of Catch Areas 21A and 22A within SMA 1B.

(c) All waters of Catch Area 20A.

(3) It is unlawful to sell shrimp taken under this section to any person who is not a licensed Washington wholesale fish dealer.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-05100J Puget Sound shrimp beam trawl fishery—Season. (13-218)

WSR 13-19-042
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 13-232—Filed September 12, 2013, 5:02 p.m., effective September 13, 2013]

Effective Date of Rule: September 13, 2013.

Purpose: Amend recreational fishing rules.

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

Statutory Authority for Adoption: RCW 77.04.020, 77.04.055, 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: Record breaking abundance of upriver fall chinook returns to the Columbia River have resulted in additional chinook being available for harvest in non-Indian fisheries. Increasing both area and daily bag limits in recreational fisheries provides opportunity to access these chinook, while remaining within Endangered Species Act constraints. 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: September 12, 2013.

Pat Pattillo
for Philip Anderson
Director

NEW SECTION

WAC 232-28-61900F 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:

1. Abernathy Creek (Cowlitz Co.) from mouth (Hwy. 4 Bridge) to posted markers 500 feet below salmon hatchery: Effective immediately until further notice, barbless hooks required for steelhead.

2. Blue Creek (Lewis Co.) from mouth to posted sign above rearing pond outlet: Effective immediately until further notice, barbless hooks required for steelhead.

3. Camas Slough: Effective immediately until further notice, barbless hooks required for salmon and steelhead.

4. Cedar Creek (tributary of North Fork Lewis River) (Clark Co.): Effective immediately until further notice, barbless hooks required for steelhead.

5. Cispus River (Lewis Co.) from mouth to North Fork: Effective immediately until further notice, barbless hooks required for steelhead.

6. Coal Creek (Cowlitz Co.) from mouth to 400 feet below falls: Effective immediately until further notice, barbless hooks required for steelhead.

7. Columbia River from a true north/south line through Buoy 10 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 immediately until further notice, barbless hooks required for salmon and steelhead.

(b) Effective September 13 through September 30, 2013, hatchery Chinook retention allowed. For the purposes of this regulation, the only Chinook that can be retained are those with a clipped adipose fin and a healed scar at the location of the fin. Release all wild Chinook.

a. Chinook minimum size 24-inches. Coho minimum size 16-inches.

b. Daily limit 2 hatchery salmon or hatchery steelhead, or 1 of each.

(c) Effective October 1 through December 31, 2013: Minimum size 12-inches. Daily limit 6. Up to 2 may be adult salmon or hatchery steelhead, or 1 of each. Release all salmon except Chinook and hatchery coho.

8. Columbia River from a line projected 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) Effective immediately until further notice, barbless hooks required for salmon and steelhead.

(b) Effective immediately until further notice, barbless hooks required for cutthroat trout from the Rocky Point/Tongue Point line upstream to the I-5 Bridge.

(c) Downstream of a line from a line projected from the Warrior Rock lighthouse through Red Buoy #4 to the orange marker atop the dolphin on the Washington shore:

i. Effective September 13 through September 30, release wild Chinook.

ii. Daily limit 6 salmon or steelhead. Up to 2 may be adult hatchery salmon or hatchery steelhead, or 1 of each.

(d) Effective October 1 through December 31, 2013, until further notice: Daily limit 6. Up to 2 may be adult salmon or hatchery steelhead or 1 of each. Release all salmon other than Chinook and hatchery coho.

9. Columbia River from the Tongue Point/Rocky Point Line upstream to the Highway 395 Bridge near Pasco, Washington. Effective September 13 through December 31, 2013: Each (legal) angler aboard a vessel may continue to deploy angling gear until the daily limit of salmon/steelhead for all licensed and juveniles anglers aboard has been achieved.

10. Columbia River from Bonneville Dam to Chief Joseph Dam: Salmon open until further notice. Effective immediately until further notice, barbless hooks required for salmon and steelhead.

11. Coweeman River (Cowlitz Co.): Effective immediately until further notice, barbless hooks required for steelhead.

12. Cowlitz Falls Reservoir (Lake Scanewa) (Lewis Co.): Effective immediately until further notice, barbless hooks required for salmon and steelhead.

13. Cowlitz River (Cowlitz Co.) from mouth to 400 feet below Mayfield Powerhouse: Effective immediately until further notice, barbless hooks required for salmon, steelhead, and cutthroat trout.

14. Cowlitz River (Cowlitz Co.) from posted PUD sign on Peters Rd. to the mouth of Ohanepecosh and mouth of Muddy Fork: Effective immediately until further notice, barbless hooks required for salmon and steelhead.

15. Drano Lake (waters downstream of markers on point of land downstream and across from Little White Salmon National Fish Hatchery) (Skamania Co.): Effective immediately until further notice, barbless hooks required for salmon and steelhead.

16. Elochoman River (Wahkiakum Co.) from mouth to West Fork: Effective immediately until further notice, barbless hooks required for salmon and steelhead.

17. Germany Creek (Cowlitz Co.) from mouth to end of Germany Creek Road (approximately 5 miles): Effective immediately until further notice, barbless hooks required for steelhead.

18. Grays River (Wahkiakum Co.) from mouth to mouth of South Fork: Effective immediately until further notice, barbless hooks required for salmon and steelhead.

19. Grays River, West Fork (Wahkiakum Co.) from mouth to hatchery intake/footbridge: Effective immediately until further notice, barbless hooks required for salmon and steelhead.

20. Green River (Cowlitz Co.) from mouth to Miner's Creek: Effective immediately until further notice, barbless hooks required for salmon and steelhead.

21. Hamilton Creek (Skamania Co.): Effective immediately until further notice, barbless hooks required for steelhead.

22. Kalama River (Cowlitz Co.) from boundary markers at the mouth to 1,000 feet below the fishway at upper salmon hatchery:

(a) Effective immediately until further notice, barbless hooks required for salmon and steelhead.

(b) Effective immediately until further notice, stationary gear restriction has been rescinded.

23. Klickitat River (Klickitat Co.) from mouth to Yakama reservation boundary: Effective immediately until further notice, barbless hooks required for salmon and steelhead.

24. Lacamas Creek (tributary of Cowlitz River) (Lewis Co.): Effective immediately until further notice, barbless hooks required for steelhead.

25. Lewis River (Clark Co.) from mouth to forks: Effective immediately until further notice, barbless hooks required for salmon and steelhead.

26. Lewis River, East Fork (Clark/Skamania counties) from mouth to 400 feet downstream of Horseshoe Falls: Effective immediately until further notice, barbless hooks required for steelhead.

27. Lewis River, North Fork (Clark/Skamania counties) from mouth to overhead powerlines below Merwin Dam:

(a) Effective immediately until further notice, barbless hooks required for salmon and steelhead.

(b) Effective immediately through September 30, open for salmon. Daily limit 6 hatchery salmon, of which no more than 2 may be adult Chinook. Release all salmon except hatchery Chinook and hatchery coho.

(c) Effective immediately until further notice, Colvin Creek to powerlines, anti-snagging rule is in effect.

28. Little Washougal River (Clark Co.): Effective immediately until further notice, barbless hooks required for steelhead.

29. Mill Creek (Cowlitz Co.): Effective immediately until further notice, barbless hooks required for steelhead.

30. Mill Creek (tributary of Cowlitz River) (Lewis Co.) from mouth to hatchery road crossing culvert: Effective immediately until further notice, barbless hooks required for steelhead.

31. Olequa Creek (Lewis/Cowlitz counties): Effective immediately until further notice, barbless hooks required for steelhead.

32. Rock Creek (Skamania Co.): Effective immediately until further notice, barbless hooks required for steelhead.

33. Salmon Creek (Clark Co.) from mouth to 72nd Ave. Bridge: Effective immediately until further notice, barbless hooks required for steelhead.

34. Skamokawa Creek (Wahkiakum Co.) from mouth (Hwy. 4 Bridge) to forks below Oatfield and Middle Valley Road: Effective immediately until further notice, barbless hooks required for steelhead.

35. Tilton River (Lewis Co.) from mouth to West Fork: Effective immediately until further notice, barbless hooks required for salmon and steelhead.

36. Toutle River (Cowlitz Co.) from mouth to forks: Effective immediately until further notice, barbless hooks required for salmon and steelhead.

37. Toutle River, North Fork (Cowlitz Co.) from mouth to posted deadline downstream of the fish collection facility: Effective immediately until further notice, barbless hooks required for salmon and steelhead.

38. Toutle River, South Fork (Cowlitz Co.): Effective immediately until further notice, barbless hooks required for steelhead.

39. Washougal River (Clark County) from mouth to Salmon Falls:

(a) Effective immediately until further notice, barbless hooks required for salmon and steelhead.

(b) Effective immediately until further notice, stationary gear restriction has been rescinded.

40. Washougal River, West (North) Fork (Clark/Skamania counties) from water intake at WDFW hatchery upstream: Effective immediately until further notice, barbless hooks required for steelhead.

41. White Salmon River (Klickitat/Skamania counties) from mouth to county road bridge below the powerhouse: Effective immediately until further notice, barbless hooks required for salmon and steelhead.

42. Wind River (Skamania Co.) from mouth to 400 feet below Shipherd Falls: Effective immediately until further notice, barbless hooks required for salmon and steelhead.

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.

Reviser's note: The spelling 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 September 13, 2013:

WAC 232-28-61900F Exceptions to statewide rules—
Columbia River and tributaries.

WSR 13-19-045 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 13-230—Filed September 13, 2013, 11:25 a.m., effective September 16, 2013, 6:00 a.m.]

Effective Date of Rule: September 16, 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 220-32-05100Q; and amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 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: Sets another weekly commercial gillnet fishing period for treaty Indian fisheries in the mainstem Columbia River. The regulation also continues to allow the sales of fish caught in platform/hook-and-line fisheries in Zone 6 and the area immediately downstream of Bonneville Dam (consistent with MOUs/MOAs) and in Yakama Nation tributary fisheries, consistent with Yakama Nation regulations. Harvest/ESA limits are expected to remain within the limits and guidelines of the 2008-2017 management agreement. Rule is consistent with action of the Columbia River compact on August 8 and

September 12, 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 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 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: September 13, 2013.

James B. Scott, Jr.
for Philip Anderson
Director

NEW SECTION

WAC 220-32-05100R Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052, WAC 220-32-055 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 (SMCRA) 1E, 1F, 1G, and 1H, and in the Klickitat River and Drano Lake, except as provided in the following subsections. However, individuals who possess treaty fishing rights under the Yakama, Warm Springs, Umatilla, or Nez Perce treaties may fish for salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch under the following provisions:

1. Mainstem Columbia River

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

b. Season: 6:00 AM Monday September 16 through 6:00 PM Friday September 20, 2013:

c. Gear: Gillnet. 8-inch minimum mesh restriction

d. Allowable sale: salmon, steelhead, shad, yellow perch, bass, walleye, catfish, and carp. Sturgeon may not be sold. Sturgeon between 38-54 inches in fork length in the Bonneville Pool, and between 43-54 inches in fork length in The Dalles and John Day pools may be retained for subsistence purposes. Sales of fish caught during the open period are allowed after the period concludes.

e. Standard sanctuaries in effect for this gear type, except the Spring Creek Hatchery sanctuary, is defined as those waters of the Columbia River within a radius of 150 feet of the Spring Creek Hatchery ladder.

2. Mainstem Columbia River Platform and Hook and Line upstream of Bonneville Dam

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

b. Season: Open until further notice.

c. Gear: Hoop nets, dip nets, set bag nets, and rod and reel with hook and line.

d. Allowable sale: salmon, steelhead, shad, carp, catfish, walleye, bass, and yellow perch. Sturgeon between 38-54 inches in fork length in the Bonneville Pool, and between 43-54 inches in fork length in The Dalles and John Day pools may be retained for subsistence purposes.

e. Standard sanctuaries in effect for this gear type.

3. Mainstem Columbia River Platform and Hook and Line downstream of Bonneville Dam

a. Open Area: SMCRA 1E. Each of the four Columbia River treaty tribes has an MOA or MOU with the Washington Department of Fish and Wildlife regarding 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.

b. Participants: 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 2011 MOU with the Nez Perce Tribe. Tribal members fishing below Bonneville Dam must carry an official tribal enrollment card.

c. Season: Open until further notice.

d. Gear: Hoop nets, dip nets, set bag nets and rod and reel with hook and line, or as defined by each tribe's MOU or MOA.

e. Allowable Sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, and yellow perch. Sturgeon retention is prohibited; sturgeon may not be sold or retained for ceremonial or subsistence purposes. Sale of platform or hook-and-line-caught fish is allowed. Sales may not occur on USACE property.

4. Yakama Nation Tributary Fisheries

a. Open Area: Columbia River Tributaries upstream of Bonneville Dam.

b. Season: Open 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.

c. Area: Drano Lake and Klickitat River.

d. Gear: Hoop nets, dip nets, set bag nets and rod and reel with hook and line. Gillnets may only be used in Drano Lake.

e. Allowable Sales: Salmon, steelhead, shad, yellow perch, bass, walleye, catfish and carp which may be sold or retained for subsistence. Sturgeon may not be sold, but sturgeon from 38 to 54 inches fork length may be kept for subsistence purposes.

5. 24-hour quick reporting is required for Washington wholesale dealers, as provided in WAC 220-69-240, for all areas.

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 a.m. September 16, 2013

WAC 220-32-05100Q Columbia River salmon seasons above Bonneville Dam. (13-220)

**WSR 13-19-046
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 13-233—Filed September 13, 2013, 11:56 a.m., effective September 13, 2013, 11:56 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-52-044.

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: Washington department of fish and wildlife permitted gear recovery is allowed by permanent regulation fifteen days following the close of the commercial season to allow fish and wildlife officers time to enforce rules relative to fishing during the closed season. An earlier start to the permitted gear recovery gives participants more time to recover lost gear before weather conditions become prohibitive to safe gear recovery efforts. 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: September 13, 2013.

James B. Scott, Jr.
for Philip Anderson
Director

NEW SECTION

WAC 220-52-04400A Commercial crab fishery—Coastal gear recovery permits. Notwithstanding the provisions of WAC 220-52-044, effective immediately until further notice, five days after the close of the primary coastal commercial crab season, a coastal crab gear recovery permit may be granted by the director or his or her designee for licensed coastal Dungeness crab fishers to recover crab pots belonging to state licensed fishers that remain in the ocean.

**WSR 13-19-047
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 13-231—Filed September 13, 2013, 1:33 p.m., effective September 15, 2013, 9:00 p.m.]

Effective Date of Rule: September 15, 2013, 9:00 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 220-33-01000G; 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 two fishing period[s] for the 2013 fall season for non-Indian commercial fisheries in the mainstem Columbia River. The seasons are consistent with the 2008-2017 interim management agreement. Salmon and sturgeon are available for harvest during fall season fisheries. The regulation is consistent with compact action of July 25, 2013, and September 12, 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 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.

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: September 13, 2013.

James B. Scott, Jr.
for Philip Anderson
Director

NEW SECTION

WAC 220-33-01000H Columbia River season below Bonneville. Notwithstanding the provisions of WAC 220-33-010 and WAC 220-33-020, it is unlawful for a person to take or possess salmon or sturgeon for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas (SMCRA) 1A, 1B, 1C, 1D, and 1E, except as provided in the following subsections.

1. Mainstem Columbia River

a. SEASON: 9 PM Sunday September 15 to 3 AM Monday September 16, 2013.

9 PM Tuesday September 17 to 5 AM Wednesday September 18, 2013.

b. AREA: SMCRA 1D, 1E. The deadline at the lower end of SMCRA 1D is defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation buoy #1 and continuing to the Washington shore.

c. GEAR: Drift gillnets only. 8-inch minimum mesh size.

d. SANCTUARIES: Washougal and Sandy Rivers.

e. ALLOWABLE POSSESSION: Salmon and white sturgeon. A maximum of two white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday). The Sturgeon landing limit is specific to the mainstem only.

2. Blind Slough/Knappa Slough Select Area.

a. SEASON: Monday, Tuesday, Wednesday, and Thursday nights immediately through October 31. Open hours are 7 PM to 7 AM through September 13, and 6 PM to 8 AM thereafter.

b. AREA: Blind Slough and Knappa Slough. An area closure of an approximately 100-foot radius at the mouth of Big Creek is in effect. Concurrent jurisdiction waters include all areas in Knappa Slough and downstream of the Railroad Bridge in Blind Slough.

c. GEAR: Gillnet. Monofilament gear is allowed. 9 3/4-inch maximum mesh size. Maximum net length of 100 fathoms. No weight restriction on lead line. Use of additional

weights and/or anchors attached directly to the lead line is allowed.

3. Tongue Point/South Channel Select Area.

a. SEASON: Monday, Tuesday, Wednesday, and Thursday nights immediately through October 31, 2013. Open 7 PM to 7 AM through September 13, and 4 PM to 10 AM thereafter.

b. AREA: Tongue Point and South Channel. All waters in this fishing area are concurrent-jurisdiction waters.

c. GEAR: Gillnet. 6-inch maximum mesh. Maximum length of 250 fathoms maximum

Tongue Point fishing area: Weight not to exceed two pounds on any one fathom. Fishers participating in the Tongue Point fishery may have onboard un-stored gillnets legal for the South Channel fishing area.

South Channel area: No weight restriction on lead line. Use of additional weights and/or anchors attached directly to the lead line is allowed.

4. Deep River Select Area.

a. SEASON: Open hours are 7 PM to 7 AM

Monday, Tuesday, Wednesday and Thursday nights immediately through September 13.

Sunday, Monday, Tuesday, Wednesday and Thursday nights from September 15-27.

Monday, Tuesday, Wednesday and Thursday nights from September 30- October 11.

Monday and Thursday nights, October 14 and October 17, 2013.

b. AREA: The Deep River Select Area. Concurrent-jurisdiction waters extend downstream of the Highway 4 Bridge.

c. GEAR: Gillnet. Monofilament gear is allowed. 9 3/4-inch maximum mesh size through September 13, and 6-inch maximum mesh thereafter. Net length, 100 fathoms maximum. No weight restriction on the lead line. Use of additional weights or anchors attached directly to the lead line is allowed. Nets may not be tied off to stationary structures. Nets may not fully cross the navigation channel. It is unlawful to operate in any river, stream or channel any gillnet gear longer than three-fourths the width of the river, stream, or channel. "River, stream, or channel width" is defined as bank-to-bank, where the water meets the banks, regardless of the time of tide or the water level. This emergency provision shall supersede the permanent regulation and all other regulations that conflict with it. All other provisions of the permanent regulation remain in effect (WAC 220-20-015(1)).

5. Additional regulations for all Select Area commercial fisheries:

a. Nets not specifically authorized for use may be onboard the vessel if properly stored, consistent with WAC 220-33-001.

b. **Allowable possession:** Salmon and white sturgeon. A maximum of two white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday). Sturgeon landing limit specific to Select Areas only.

6. Quick Reporting: 24-hour quick-reporting required for Washington wholesale dealers, pursuant to WAC 220-69-240. When quick-reporting is required, Columbia River

reports must be submitted within 24 hours of the closure of each fishing period. This quick-reporting requirement applies to all seasons described above (Columbia River and Select Areas).

7. Miscellaneous: Nets fished any time between official sunset and official sunrise must have lighted buoys on both ends of the net. If the net is attached to the boat, then one lighted buoy on the end of the net opposite the boat is required.

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 section of the Washington Administrative Code is repealed 9:00 p.m. September 15, 2013:

WAC 220-33-01000G Columbia River season below
Bonnevile. (13-211)

**WSR 13-19-049
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 13-235—Filed September 13, 2013, 3:32 p.m., effective September 14, 2013, 5:00 a.m.]

Effective Date of Rule: September 14, 2013, 5:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-47-50100W.

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 provides for Pacific Salmon Commission authorized fisheries in Areas 7 and 7A targeting the United States' share of Fraser River pink salmon. 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: September 13, 2013.

James B. Scott, Jr.
for Philip Anderson
Director

NEW SECTION

WAC 220-47-50100W Puget Sound all-citizen commercial salmon fishery—Open periods. Notwithstanding the provisions of Chapter 220-47 WAC, 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 in accordance with the open periods, mesh size, areas, species restrictions, notification, and landing requirements set forth in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas 7 and 7A:

(3) **Reef Nets** - Open to reef net gear according to the times, dates, and conditions as prescribed and listed here:

Hours	Dates
5:00 AM – 9:00 PM	Daily 9/14-9/28

(a) It is unlawful to retain sockeye, unmarked Chinook, unmarked coho, and chum.

(b) It is unlawful to retain marked Chinook unless the reef net operator is in immediate possession of a Puget Sound Reef Net Logbook. All retained marked Chinook must be recorded in the log book in accordance with requirements of WAC 220-47-401.

(c) It is unlawful to fish for salmon with reef net gear in Areas 7 and 7A unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and is in immediate possession of a department issued certification card.

(4)"Quick Reporting Fisheries":

All fisheries opened under this section, and any fishery opening under authority of the Fraser Panel for sockeye in Puget Sound Salmon Management and Catch Reporting Areas (WAC 220-22-030), are designated as "Quick Reporting Required" per WAC 220-47-001.

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 9:01 p.m. September 28, 2013:

WAC 220-47-50100W Puget Sound all-citizen commercial salmon fishery—Open periods

**WSR 13-19-050
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 13-236—Filed September 13, 2013, 3:34 p.m., effective September 19, 2013, 12:01 p.m.]

Effective Date of Rule: September 19, 2013, 12:01 p.m.
Purpose: Amend recreational fishing rules.

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

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: Survey results show that adequate clams are available for harvest in Razor Clam Area 3. Washington department of health has certified clams from these beaches 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: September 13, 2013.

James B. Scott, Jr.
for Philip Anderson
Director

NEW SECTION

WAC 220-56-36000Y Razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-56-360, it is unlawful to dig for or possess razor clams taken for personal use from any beach in Razor Clam Areas 1, 3, 4, or 5, except as provided for in this section:

1. Effective 12:01 p.m. September 19 through 11:59 p.m. September 23, 2013, razor clam digging is allowed in Razor Clam Area 3. Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

2. It is unlawful to dig for razor clams at any time in Long Beach, Twin Harbors Beach or Copalis Beach Clam sanctuaries defined in WAC 220-56-372.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. September 24, 2013:

WAC 220-56-3600Y Razor clams—Areas and seasons.

Reviser's note: The section above appears as filed by the agency pursuant to RCW 34.08.040; however, the reference to WAC 220-56-3600Y is probably intended to be WAC 220-56-36000Y.

WSR 13-19-080
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 13-234—Filed September 17, 2013, 2:56 p.m., effective September 23, 2013]

Effective Date of Rule: September 23, 2013.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-52-073.

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: Harvestable amounts of red and green sea urchins exist in the areas described. Prohibiting all diving from licensed sea urchin harvest vessels within Sea Urchin District 3 when those vessels have red sea urchin on-board discourages the taking of red urchins from the district and reporting the catch to the adjacent harvest district. 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: September 17, 2013.

Philip Anderson
Director

NEW SECTION

WAC 220-52-07300G Sea urchins Notwithstanding the provisions of WAC 220-52-073, effective September 23, 2013, until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) Red sea urchins: Sea Urchin Districts 1, 2, and 4 are open seven days-per-week. It is unlawful to harvest red sea urchins smaller than 3.25 inches or larger than 5.0 inches (size is largest test diameter exclusive of spines).

(2) Green sea urchins: Sea Urchin Districts 1, 2, 3, 4, 6, and 7 are open seven days-per-week. It is unlawful to harvest green sea urchins smaller than 2.25 inches (size is largest test diameter exclusive of spines).

(3) It is unlawful to dive for any purpose from a commercially licensed sea urchin fishing vessel in Sea Urchin District 3 when the vessel has red sea urchins on-board.