

**WSR 13-13-003**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 13-117—Filed June 5, 2013, 4:22 p.m., effective June 5, 2013, 4:22 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900C and 232-28-61900E; 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: The hatchery brood stock goal has been met, allowing the Lewis River to reopen for hatchery spring chinook. 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 5, 2013.

Philip Anderson  
 Director

NEW SECTION

**WAC 232-28-61900I Freshwater exceptions to state-wide rules.** Notwithstanding the provisions of WAC 232-28-619, effective immediately, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

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

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

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

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

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

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

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

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

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

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

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

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

Lewis River (Clark/Cowlitz County) from mouth to mouth of East Fork:

a) Effective immediately through June 6, release all Chinook.

(b) Effective June 7 through July 31, the salmon daily limit is 6 hatchery Chinook of which no more than 2 may be adults. Release all salmon other than hatchery Chinook. Minimum size is 12 inches.

Lewis River, North Fork (Clark/Cowlitz County) from mouth of East Fork to overhead powerlines below Merwin Dam:

(a) Effective immediately through June 6, release all Chinook.

(b) Effective June 7 through July 31, the salmon daily limit is 6 hatchery Chinook of which no more than 2 may be adults. Release all salmon other than hatchery Chinook. Minimum size is 12 inches.

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

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

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

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

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

## REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 232-28-61900C Exceptions to statewide rules—Columbia River and tributaries. (13-109)

WAC 232-28-61900E Exceptions to statewide rules—Skagit River. (13-56)

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

[Order 13-118—Filed June 7, 2013, 4:25 p.m., effective June 8, 2013, 6:00 a.m.]

Effective Date of Rule: June 8, 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 220-32-05100G; and amending WAC 220-32-051.

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

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

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of

notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this finding: Allows the sale of fish caught from platform/hook and line in the Zone 6 area. Fisheries are consistent with the 2008-2017 management agreement and the associated biological opinion. Rule is consistent with action of the Columbia River compact on May 23 and June 7, 2013. Conforms state rules with tribal rules. There is insufficient time to adopt permanent regulations.

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

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

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

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

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

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

Date Adopted: June 7, 2013.

Philip Anderson  
Director

NEW SECTION

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

1. Open Area: SMCRA 1F, 1G, 1H (Zone 6):
  - a. Season: Open 6:00 AM June 8 until 11:59 PM July 31.
  - b. Gear: Hoop nets, dip bag nets, and rod and reel with hook and line.
  - c. Allowable sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon caught in the Dalles Pool upstream to the elevator at Rufus, Oregon, between 43-54 inches in fork length may be sold until 6:00 PM June 15. All sanctuaries for these gear types are in effect.
2. Columbia River Tributaries upstream of Bonneville Dam:
  - a. Season: Immediately until further notice, and only during those days and hours when the tributaries listed below are open under lawfully enacted Yakama Nation tribal subsistence fishery regulations for enrolled Yakama Nation members.
  - b. Area: Drano Lake, Wind River, Klickitat River, and Yakima River.
  - c. Gear: Hoop nets, dip bag nets, and rod and reel with hook-and-line. Gillnets may only be used in Drano Lake.
  - d. Allowable sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sales are allowed only when lawfully enacted by Yakama Nation regulations.
  - e. 24-hour quick reporting required for Washington wholesale dealers, WAC 220-69-240, for all areas.

**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. June 8, 2013:

WAC 220-32-05100G Columbia River salmon seasons above Bonneville Dam. (13-111)

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

[Order 13-119—Filed June 7, 2013, 4:31 p.m., effective June 8, 2013]

Effective Date of Rule: June 8, 2013.

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

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

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

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

Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in treaty

and nontreaty Columbia River fisheries governed by the 2008-2017 *U.S. v. Oregon* Management Agreement. The Washington and Oregon fish and wildlife commissions have developed policies to guide the implementation of such biological opinions in the states' regulation of nontreaty fisheries.

Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, the ESA, and commission guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached. Carson National Fish Hatchery is expected to meet its escapement goal of 1,500 fish. Surplus hatchery origin fish are available for harvest in the Wind River.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 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 1, Amended 0, Repealed 1.

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

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

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

Date Adopted: June 7, 2013.

Philip Anderson  
Director

#### NEW SECTION

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

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

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

Columbia River from a line projected line from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank (Rocky Point/Tongue Point line) to the Oregon/Washington border:

(a) Effective immediately through June 15, open for fishing for salmonids from the Tongue Point/Rocky Point line upstream to 600 feet downstream of the fish ladder at the new Bonneville Dam powerhouse (#2).

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

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

(c) Effective June 8 through June 15, open for fishing salmonids from Tower Island power lines (approximately 6 miles below The Dalles Dam) upstream to Oregon/Washington border, and the Oregon and Washington banks between Bonneville Dam and the Tower Island power lines.

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

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

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

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

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

(b) Until further notice, the stationary gear restriction is rescinded.

Lewis River (Clark/Cowlitz County) from mouth to mouth of East Fork:

(a) Effective June 7 through July 31, the salmon daily limit is 6 hatchery Chinook of which no more than 2 may be adults. Release all salmon other than hatchery Chinook. Minimum size is 12 inches.

Lewis River, North Fork (Clark/Cowlitz County) from mouth of East Fork to overhead powerlines below Merwin Dam:

(a) Effective June 7 through July 31, the salmon daily limit is 6 hatchery Chinook of which no more than 2 may be adults. Release all salmon other than hatchery Chinook. Minimum size is 12 inches.

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

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

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

**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 June 8, 2013:

WAC 232-28-61900I Exceptions to statewide rules. (13-117)

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

[Order 13-120—Filed June 11, 2013, 9:45 a.m., effective June 13, 2013]

Effective Date of Rule: June 13, 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 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: As of June 10, a total of three hundred fifty-one adult spring chinook have returned to the Klickitat Salmon Hatchery. The Klickitat Salmon Hatchery is expected to meet its escapement goal of five hundred fish, which will allow additional recreational 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: June 11, 2013.

Philip Anderson  
Director

### NEW SECTION

**WAC 232-28-61900L Exceptions to statewide rules—Klickitat River.** Notwithstanding the provisions of WAC 232-28-619, effective June 13 through July 31, 2013, a person may fish for salmon in waters of the Klickitat River from 400 feet upstream of the #5 fishway to boundary markers below the Klickitat Salmon Hatchery. Daily limit 6 salmon, of which no more than 2 may be adults. Release wild Chinook.

### REPEALER

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

WAC 232-28-619000L Exceptions to statewide rules—Klickitat River.

**Reviser's note:** The section above appears as filed by the agency pursuant to RCW 34.08.040; however, the reference to WAC 232-28-619000L is probably intended to be WAC 232-28-61900L.

**WSR 13-13-026  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 13-121—Filed June 12, 2013, 3:12 p.m., effective June 16, 2013, 6:00 a.m.]

Effective Date of Rule: June 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 220-32-05100H; and amending WAC 220-32-051.

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

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

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

Reasons for this Finding: Sets the first two weeks of treaty Indian commercial gillnet fishing in the mainstem Columbia River for upper Columbia summer chinook. Allows the sale of fish caught from platform/hook and line in

the Zone 6 area and immediately downstream of Bonneville Dam. Continues to allow the sale of fish caught in Yakama Nation tributary fisheries. Fisheries are consistent with the 2008-2017 management agreement and the associated biological opinion. Rule is consistent with action of the Columbia River compact on May 20, June 7, and June 11, 2013. Conforms state rules with tribal rules. There is insufficient time to adopt permanent regulations.

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

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

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

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

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

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

Date Adopted: June 12, 2013.

Joe Stohr  
for Philip Anderson  
Director

## NEW SECTION

**WAC 220-32-051001 Columbia River salmon seasons above Bonneville Dam.** Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052 and WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch taken for commercial purposes in the Wind River, Klickitat River, Yakima River, and Drano Lake. However, those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch under the following provisions:

1. Open Area: SMCRA 1F, 1G, 1H (Zone 6):
  - a. Season: 6:00 a.m. June 17 through 6:00 p.m. June 21, 2013.  
6:00 a.m. June 24 through 6:00 p.m. June 27, 2013.
  - b. Gear: 7-inch minimum mesh gillnets.
  - c. Allowable sales: 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 only. Sales of fish caught during open gillnet periods are allowed after the end of the open period, as long as the fish were landed during the open period.
  - d. Sanctuaries: All sanctuaries for this gear type in effect, except Spring Creek.
2. Open Area: SMCRA 1F, 1G, 1H (Zone 6):
  - a. Season: Open until 11:59 p.m. July 31, 2013.
  - b. Gear: Hoop nets, dip bag nets, and rod and reel with hook and line.
  - c. Allowable sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon between 38-54 inches in fork length in the Bonneville Pool, between 43-54 inches in fork length in The Dalles and John Day pools, may be retained for subsistence purposes only.
  - d. All sanctuaries for these gear types are in effect.
3. 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, and only within any specific regulations set by each tribe.
  - a. 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.
  - b. Season: Open 6:00 a.m. June 16 until 11:59 p.m. July 31, 2013.
  - c. Gear: Hoop nets, dip bag nets, and rod and reel with hook and line.

d. Allowable sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon retention is prohibited, and 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. Columbia River Tributaries upstream of Bonneville Dam:

a. Season: Immediately until further notice, and only during those days and hours when the tributaries listed below are open under lawfully enacted Yakama Nation tribal subsistence fishery regulations for enrolled Yakama Nation members.

b. Area: Drano Lake, Wind River, Klickitat River, and Yakima River.

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

d. Allowable sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sales are allowed only when lawfully enacted by Yakama Nation regulations.

e. 24-hour quick reporting required for Washington wholesale dealers, WAC 220-69-240, for all areas.

**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. June 16, 2013:

WAC 220-32-05100H Columbia River salmon seasons above Bonneville Dam. (13-118)

**WSR 13-13-027**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 13-122—Filed June 12, 2013, 3:15 p.m., effective June 16, 2013, 9:00 p.m.]

Effective Date of Rule: June 16, 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 220-33-01000B and 220-33-01000C; and amending WAC 220-33-010.

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

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v.*

*Oregon Management Agreement* (Aug. 12, 2008) (Doc. No. 2546); *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River compact).

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

Reasons for this Finding: Sets the first 2013 summer season non-Indian mainstem commercial salmon season. Based on preseason forecasts and management guidelines, a total of two thousand five hundred eighty-five adult upper Columbia summer chinook have been allocated to mainstem commercial non-Indian fisheries. The fishery is consistent with the *U.S. v. Oregon Management Agreement* and the associated biological opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with compact action of June 11, 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 2; Federal Rules or Standards: New 1, Amended 0, Repealed 2; 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 2.

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

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

Date Adopted: June 12, 2013.

Joe Stohr  
for Philip Anderson  
Director

### NEW SECTION

**WAC 220-33-0100C Columbia River seasons below Bonneville.** Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, it is unlawful for a person to take or possess salmon, sturgeon, and shad for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, 1E and Select Areas, except during the times and conditions listed below:

**1. Mainstem Columbia River**

a) **Dates:** 9:00 p.m. June 16 to 5:00 a.m. June 17, 2013.

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

c) **Gear:** Drift gillnets only. 8-inch minimum mesh size.

Nets not specifically authorized for use in these areas may be onboard a vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

d) **Allowable Sales:** Chinook, sockeye, shad and white sturgeon. A maximum of 5 white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open.

e) **Sanctuaries:** Grays River, Elochoman-A, Cowlitz River, Kalama-A, Lewis-A, Washougal, and Sandy rivers.

f) **Miscellaneous Regulations:** 24-hour quick reporting is required for Washington wholesale dealers, per WAC 220-69-240.

### REPEALER

The following section of the Washington Administrative Code is repealed effective 7:01 AM June 14, 2013:

WAC 220-33-01000B Columbia River seasons below Bonneville. (13-115)

The following section of the Washington Administrative Code is repealed effective 5:01 a.m. June 17, 2013:

WAC 220-33-01000C Columbia River seasons below Bonneville.

### WSR 13-13-028 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 13-124—Filed June 12, 2013, 3:40 p.m., effective June 16, 2013, 6:00 a.m.]

Effective Date of Rule: June 16, 2013, 6:00 a.m.

Purpose: Amend commercial fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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

Reasons for this Finding: The 2013 state/tribal shrimp harvest management plans for the Strait of Juan de Fuca and Puget Sound require adoption of harvest seasons contained in this emergency rule. This emergency rule also opens the beam trawl fishery in Shrimp Management Areas 1B-20B. 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: June 12, 2013.

Philip Anderson  
Director

### NEW SECTION

**WAC 220-52-05100A Puget Sound shrimp pot and beam trawl fishery—Season.** Notwithstanding the provisions of WAC 220-52-051, effective immediately until further notice, it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp pot gear:

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



i) All waters of Marine Fish/Shellfish Management and Catch Reporting Areas (catch areas) 23A-E, 23A-W, 23A-C and the Discovery Bay Shrimp District are closed.

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

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

(2) Shrimp beam trawl gear:

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

(b) Those portions of catch areas 21A and 22A within SMA 1B are open, effective immediately, until further notice.

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

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 a.m. June 16, 2013:

WAC 220-52-05100Z Puget Sound shrimp beam trawl fishery—Season. (13-113)

**WSR 13-13-029**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 13-123—Filed June 12, 2013, 3:53 p.m., effective June 14, 2013]

Effective Date of Rule: June 14, 2013.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: 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: Based on the updated run prediction (now at 115,000 spring chinook at the mouth of the Columbia River) the available harvest allocation for nontribal fisheries in the Snake River has been modestly increased. Fishery managers expect to remain within available harvest and Endangered Species Act allocations with the projected increase for the spring chinook run. 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: June 12, 2013.

Philip Anderson  
Director

#### NEW SECTION

**WAC 232-28-61900P Exceptions to statewide rules—Snake River.** Notwithstanding the provisions of WAC 232-28-619:

(1) Effective June 17, 2013, until further notice, a person may fish for and possess salmon in waters of the Snake River from the South Bound Highway 12 Bridge at Pasco upstream about 7 miles to the fishing restriction boundary below Ice Harbor Dam. Open Mondays only. Daily limit of five hatchery Chinook, of which not more than one may be an adult hatchery Chinook. Minimum size for Chinook is 12 inches in length.

(a) All Chinook with the adipose fin intact, and all steelhead, must be released immediately, unharmed. Beginning June 16, 2013, up to three adipose clipped hatchery steelhead may be retained.

(b) Hooks must be barbless when fishing for all species, and only single barbless hooks are allowed when fishing for sturgeon.

(c) It is unlawful to use any hook larger than 5/8-inch (point of hook to shank) for all species except sturgeon.

(d) Night closure is in effect for salmon and sturgeon.

(e) For all areas open for Chinook retention anglers must cease fishing for Chinook when the adult limit has been retained for the day.

(2) Effective June 18, 2013, until further notice, a person may fish for and possess salmon in the following waters of the Snake River from Texas Rapids boat launch (south side of the river approximately 3.5 miles upstream of the mouth of Tucannon River) to the fishing restriction boundary below Little Goose Dam. Minimum size for Chinook is 12 inches in length. This zone includes the area between the juvenile bypass return pipe and Little Goose Dam along the south shoreline of the facility (includes the walkway area locally known as "the wall" in front of the juvenile collection facility). Open Tuesdays only. Daily limit of five hatchery Chinook, of which not more than one may be an adult hatchery Chinook.

(a) All Chinook with the adipose fin intact, and all steelhead, must be released immediately, unharmed. Beginning June 16, 2013, up to three adipose clipped hatchery steelhead may be retained.

(b) Hooks must be barbless when fishing for all species, and only single barbless hooks are allowed when fishing for sturgeon.

(c) It is unlawful to use any hook larger than 5/8-inch (point of hook to shank) for all species except sturgeon.

(d) Night closure is in effect for salmon and sturgeon.

(e) For all areas open for Chinook retention anglers must cease fishing for Chinook when the adult limit has been retained for the day.

(f) When fishing along "the wall" and walkway area upstream of the juvenile fish bypass return pipe below Little Goose Dam, the daily limit is one adult hatchery Chinook and one hatchery jack salmon. Anglers must cease fishing when the one allowed adult is retained. Minimum size for Chinook is 12 inches in length.

(3) Effective June 14, 2013, until further notice, a person may fish for and possess salmon in the following waters of the Snake River from the intersection of Steptoe Canyon Road with Wawawai River Road on the Whitman County shore, upriver approximately 12 miles to the Idaho state line (from the east levee of the Greenbelt boat launch in Clarkston, northwest across the Snake River to the WA/ID boundary marker on the Whitman County shore). Open Fridays and Saturdays only. Daily limit of five hatchery Chinook, of which not more than one may be an adult hatchery Chinook. Minimum size for Chinook is 12 inches in length.

(a) All Chinook with the adipose fin intact, and all steelhead, must be released immediately, unharmed. Beginning June 16, 2013, up to three adipose clipped hatchery steelhead may be retained.

(b) Hooks must be barbless when fishing for all species, and only single barbless hooks are allowed when fishing for sturgeon.

(c) It is unlawful to use any hook larger than 5/8-inch (point of hook to shank) for all species except sturgeon.

(d) Night closure is in effect for salmon and sturgeon.

(e) For all areas open for Chinook retention anglers must cease fishing for Chinook when the adult limit has been retained for the day.

**WSR 13-13-039**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 13-125—Filed June 14, 2013, 12:11 p.m., effective June 14, 2013, 12:11 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-03000M and 220-52-03000N; and amending WAC 220-52-030.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of

notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Based on historical catches and on-site inspection, there should be adequate clams to support an extension for commercial razor clams. Biotxin levels currently fall below the regulatory threshold. 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 2.

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

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

Date Adopted: June 14, 2013.

Joe Stohr  
for Philip Anderson  
Director

**NEW SECTION**

**WAC 220-52-03000N Commercial razor clams.** Notwithstanding the provisions of WAC 220-52-030, effective immediately through 11:59 p.m. July 12, 2013, a person may dig for and possess razor clams for commercial purposes only in those waters and detached beaches of Razor Clam Area 2 lying south of the Willapa Bay Ship Channel, west of Ellen Sands, and north of the tip of Leadbetter Point, defined by a line of boundary markers consisting of four fluorescent orange posts with the eastern-most post located at N 46° 39.655; W 124° 03.340, and the western-most post located at N 46° 39.425; W 124° 03.954.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 220-52-03000M Commercial razor clams. (13-88)

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. July 13, 2013:

WAC 220-52-03000N Commercial razor clams.

**WSR 13-13-057**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 13-126—Filed June 17, 2013, 4:56 p.m., effective June 19, 2013, 10:02 p.m.]

Effective Date of Rule: June 19, 2013, 10:02 p.m.

Purpose: Amend recreational fishing rules.

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

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: Previous in-season run analysis predicted that about four thousand salmon were enroute to the Icicle River. Current in-season run analysis has reduced that estimate to three thousand or fewer. Currently, the majority of these fish are thought to have entered the Icicle River, with few remaining. To assist in preventing a potential shortage of spring chinook needed in the broodstock requirement, it is necessary to close the sport fishery at this time. 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 0, Amended 0, Repealed 1.

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

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

Date Adopted: June 17, 2013.

Joe Stohr  
 for Philip Anderson  
 Director

**REPEALER**

The following section of the Washington Administrative Code is repealed at 10:02 p.m. on June 19, 2013:

WAC 232-28-61900N Exceptions to statewide rules—Icicle River. (13-95)

**WSR 13-13-070**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 13-127—Filed June 18, 2013, 2:02 p.m., effective June 18, 2013, 2:02 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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

Reasons for this Finding: The 2013 state/tribal shrimp harvest management plans for the Strait of Juan de Fuca and Puget Sound require adoption of harvest seasons contained in this emergency rule. This emergency rule closes the pot fishery season for nonspot shrimp in Shrimp Management Areas 1A, 1B and 1C2, 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: June 18, 2013.

Joe Stohr  
 for Philip Anderson  
 Director

**NEW SECTION**

**WAC 220-52-05100B Puget Sound shrimp pot and beam trawl fishery—Season.** Notwithstanding the provisions of WAC 220-52-051, effective immediately until further notice, it is unlawful to fish for shrimp for commercial purposes in Puget Sound, except as provided for in this section:

(1) Shrimp pot gear:

(a) All waters of Shrimp Management Areas 1A, 1B, 1C, 2W, 3, 4, and 6 are open to the harvest of all non-spot shrimp

species, effective immediately, until further notice, except as provided for in this section:

i) All waters of Marine Fish/Shellfish Management and Catch Reporting Areas (catch areas) 23A-E, 23A-W, 23A-C and the Discovery Bay Shrimp District are closed.

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

iii) Effective 6:00 p.m. June 21, 2013, all waters of Shrimp Management Areas 1A, 1B and 1C are closed.

(b) Effective immediately until 6:00 p.m. June 21, 2013, it is unlawful for the combined total harvest of non-spot shrimp by a fisher and/or the fisher's alternate operator to exceed 170 pounds from Shrimp Management Areas 1A, 1B and 1C.

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

(2) Shrimp beam trawl gear:

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

(b) Those portions of catch areas 21A and 22A within SMA 1B are open, effective immediately, until further notice.

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

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-05100A Puget Sound shrimp beam trawl fishery—Season. (13-124)