

**WSR 14-15-002**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 14-159—Filed July 2, 2014, 2:21 p.m., effective July 15, 2014]

Effective Date of Rule: July 15, 2014.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:  
 Amending WAC 220-49-005.

Statutory Authority for Adoption: RCW 77.04.012, 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 fish and wildlife commission have taken action to implement a sixty thousand pound annual quota for the Puget Sound commercial smelt fishery. This regulation requires commercial smelt fishers to report smelt harvest no later than 10:00 a.m. the day following harvest to give Washington department of fish and wildlife the capability to manage the fishery within this quota. This emergency rule is interim until permanent rules take effect.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: July 2, 2014.

Joe Stohr  
 for Philip Anderson  
 Director

NEW SECTION

**WAC 220-49-00500A Puget Sound forage fish—Smelt harvest reporting.** Notwithstanding the provisions of WAC 220-49-005, effective July 15, 2014, until further notice, it is unlawful for vessel operators engaged in commercial harvest of smelt from Puget Sound to fail to report their daily catch by e-mail, or fax to WDFW by 10:00 a.m. the day after the smelt are harvested. E-mail daily catch reports must be submitted to [smeltreport@dfw.wa.gov](mailto:smeltreport@dfw.wa.gov), fax reports must be transmitted to fax number 360-902-2940, and phone messages transmitted to phone number 360-902-2601. Daily catch reports must include the following information as it is

recorded on the fish receiving ticket: fisher name, wholesale fish dealer name, pounds of smelt landed, catch area, date of harvest, date of sale, and complete fish ticket serial number, including the first alphanumeric letter. If the fish receiving ticket is faxed as the daily harvest report, the date of harvest must be recorded on the bottom half of the ticket.

**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.

**WSR 14-15-003**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 14-161—Filed July 2, 2014, 2:35 p.m., effective July 3, 2014]

Effective Date of Rule: July 3, 2014.

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 220-310-20000N and amending WAC 220-310-200.

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 summer chinook sport fishery from the Astoria-Megler Bridge upstream to Bonneville Dam for four days. Also allows the retention of sockeye in the same area for the remainder of the 2014 summer season (through July 31). In-season run updates for summer chinook and sockeye are at or above preseason expectations. Chinook catch in the sport fishery downstream of Bonneville was less than expected during June 16-30, so harvestable chinook remain on the guideline. The improved sockeye forecast combined with lower than expected catch allows for additional angler opportunity to access sockeye available to sport 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 July 1, 2014. 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 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: July 2, 2014.

Joe Stohr  
for Philip Anderson  
Director

#### NEW SECTION

**WAC 220-310-2000N Freshwater exceptions to statewide rules—Columbia River.** Notwithstanding the

provisions of WAC 220-310-200, effective July 3 through July 31, 2014:

(1) It is permissible to fish in waters of the Columbia River from the Astoria-Megler Bridge upstream to Bonneville Dam.

(2) Daily salmonid limit is 6 fish; minimum size is 12 inches. Up to 2 may be adult salmon or hatchery steelhead or 1 of each. Release all salmon other than hatchery Chinook and sockeye.

(3) Effective July 7 through July 31: Release all adult Chinook.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective August 1, 2014:

WAC 220-310-2000N Freshwater exceptions to statewide rules—Columbia River.

**WSR 14-15-004**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 14-162—Filed July 2, 2014, 2:49 p.m., effective July 7, 2014]

Effective Date of Rule: July 7, 2014.

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 220-33-01000W; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047.

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

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

Reasons for this Finding: Sets the second summer season non-Indian mainstem commercial salmon season. Based on preseason forecasts and management guidelines, a total of 1,893 adult upper Columbia summer chinook have been allocated to mainstem commercial non-Indian fisheries. Around

five hundred chinook remain available for commercial harvest. 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. These rules are consistent with compact action as of July 1, 2014. 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 rules 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: July 2, 2014.

Joe Stohr  
for Philip Anderson  
Director

#### NEW SECTION

**WAC 220-33-01000W 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:

#### **Mainstem Columbia River**

- (1) **Season:** 7:00 p.m. July 7 to 7:00 a.m. July 8, 2014.
- (2) **Open area:** SMCRA 1A, 1B, 1C, 1D, and 1E (Zones 1-5).
- (3) **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.
- (4) **Allowable Possession and Sales:** Chinook, sockeye and shad.
- (5) **Sanctuaries:** Cowlitz River, Kalama-A, Lewis-A, Washougal, and Sandy rivers.
- (6) **Miscellaneous:** 24-hour quick reporting is required for Washington wholesale dealers, as provided in WAC 220-69-240.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 7:01 a.m. July 8, 2014:

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

**WSR 14-15-005**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 14-152—Filed July 2, 2014, 3:01 p.m., effective July 2, 2014, 3:01 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules.

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

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

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

Reasons for this Finding: This emergency rule sets a second summer white sturgeon retention period in Bonneville

Reservoir. A total of four hundred sixty-eight fish remain available for harvest from the one thousand one hundred fish annual guideline. Conforms Washington state rules with Oregon state rules. 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: July 2, 2014.

Joe Stohr  
for Philip Anderson  
Director

#### NEW SECTION

**WAC 220-310-2000M Exceptions to statewide rules—Columbia River sturgeon.** Notwithstanding the provisions of WAC 220-310-200:

(1) July 11 through July 12 and July 18 through July 19, 2014, it is permissible to retain white sturgeon between 38-inches minimum and 54-inches maximum fork length caught in those waters of the Columbia River and in all adjacent Washington tributaries from Bonneville Dam upstream to the sturgeon spawning Sanctuary boundary located 1.8 miles downstream of The Dalles Dam and described in subsection (3) of this section.

(2) Effective immediately until further notice, except for the specific dates described in subsection (1) of this section, it is unlawful to retain sturgeon caught in those waters of the Columbia River and tributaries from Bonneville Dam upstream to The Dalles Dam. Catch and release is permissible except from May 1 through July 31, 2014 in the sturgeon spawning Sanctuary located from The Dalles Dam downstream 1.8 miles as described in subsection (3) of this section.

(3) Effective immediately through July 31, 2014, sturgeon spawning sanctuary in effect: angling for sturgeon is prohibited from The Dalles Dam downstream 1.8 miles to a line from the east (upstream) dock at the Port of The Dalles boat ramp straight across to a marker on the Washington shore.

(4) Effective immediately until further notice, it is unlawful to retain white sturgeon caught in those waters of the Columbia River and in all adjacent Washington tributaries from John Day Dam upstream to McNary Dam.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-310-20000L Exceptions to statewide rules—  
Columbia River sturgeon. (14-135)

**WSR 14-15-007  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 14-160—Filed July 2, 2014, 3:51 p.m., effective July 5, 2014]

Effective Date of Rule: July 5, 2014.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-19500T; and amending WAC 220-310-195.

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: Based on modest angler participation and harvest rates during an initial four day pilot fishery and a continuing availability of hatchery origin fish to provide for harvest opportunity, an additional three day fishery will be opened in the Washington portion of the lower Grande Ronde River. The Washington fishery will run concurrently with a chinook fishery opening on the Oregon portion of the Grande Ronde River. 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: July 2, 2014.

Joe Stohr  
for Philip Anderson  
Director

NEW SECTION

**WAC 220-310-19500T Freshwater exceptions to statewide rules—Grande Ronde River.** Notwithstanding the provisions of WAC 220-310-195, effective July 5 through July 7, 2014:

(1) It is permissible to fish in waters of the Grande Ronde River from the Highway 129 Bridge upstream approximately 12 miles to the furthest upstream Oregon - Washington boundary line.

(2) Daily limit 7 hatchery Chinook, of which no more than two may be an adult hatchery Chinook salmon. Immediately release all wild (non-adipose fin clipped) Chinook, wild steelhead and all bull trout with care. Chinook minimum size is 12 inches.

(3) Anglers must cease fishing for Chinook when the adult daily limit has been retained.

(4) Barbless hooks only when fishing for all species during times and in locations open for salmon fishing and retention.

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

(6) Night closure is in effect for salmon.

REPEALER

The following section of the Washington Administrative code is repealed effective July 8, 2014:

WAC 220-310-19500T Freshwater exceptions to statewide rules—Grande Ronde River.

**WSR 14-15-011**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 14-164—Filed July 3, 2014, 1:37 p.m., effective July 3, 2014, 1:37 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To prevent new and multiple wildfires on department lands during this period of extreme fire danger; protect wildlife and wildlife habitat; and prevent the severe deterioration of air quality, which exacerbates the risk to life, health, and property.

Citation of Existing Rules Affected by this Order: Amending WAC 232-13-050, 232-13-070, and 232-13-150.

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: These emergency rules are needed to prevent new and multiple wildfires on department lands that could also spread to privately owned lands, to protect wildlife and wildlife habitat from wildfires, and protect

public health and safety. 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 3, 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: July 3, 2014.

Joe Stohr  
for Phil Anderson  
Director

NEW SECTION

**WAC 232-13-05000A Operating chainsaws, welding, or operating an acetylene or other torch with open flame.**

(1) Effective immediately until further notice, in wildlife areas and access sites in eastern Washington owned or controlled by the department, it is unlawful to:

(a) Operate a chainsaw without a permit or approval from the director; or

(b) Weld or operate an acetylene torch or other open flame without a permit or approval from the director.

(2) A violation of this section is an infraction punishable under RCW 77.15.160 (5)(b).

NEW SECTION

**WAC 232-13-07000C Fires, campfires and smoking.**

(1) Notwithstanding the provisions of WAC 232-13-070, effective immediately until further notice, it is unlawful to build, start, or maintain fires or campfires in wildlife areas and access sites owned or controlled by the department in eastern Washington without a permit or approval from the director. However, it is permissible to use personal camp stoves or lanterns fueled by liquid petroleum, liquid petroleum gas, or propane.

(2) Effective immediately until further notice, it is unlawful to smoke in wildlife areas and access sites owned or controlled by the department in eastern Washington, except in an enclosed vehicle.

(3) A violation of this section is an infraction punishable under RCW 77.15.160 (5)(b).

NEW SECTION

**WAC 232-13-15000B Operating a motor vehicle off developed roadways.**

(1) Effective immediately until further notice, it is unlawful to operate a motor vehicle off developed

roadways in wildlife areas and access sites owned or controlled by the department in eastern Washington. However, it is permissible to park in an area devoid of vegetation within 10 feet of the roadway, and to park overnight in developed campgrounds and at trailheads.

(2) A violation of this section is an infraction punishable under RCW 77.15.160 (5)(b).

**WSR 14-15-014**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 14-163—Filed July 3, 2014, 3:35 p.m., effective July 3, 2014, 3:35 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules.

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

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

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

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

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

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

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

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

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

Date Adopted: July 3, 2014.

Nate Pamplin  
for Philip Anderson  
Director

**NEW SECTION**

**WAC 220-24-04000H 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, 2, 3, and that portion of Area 4 west of 125°05'00" W longitude and south of 48°23'00" N latitude, open:

- (a) Immediately through July 8, 2014;
- (b) July 11 through July 15, 2014;
- (c) July 18 through July 22, 2014;
- (d) July 25 through July 29, 2014;
- (e) August 1 through August 5, 2014;
- (f) August 8 through August 12, 2014;
- (g) August 15 through August 19, 2014;
- (h) August 22 through August 26, 2014;
- (i) August 29 through September 2, 2014;
- (j) September 5 through September 9, 2014; and
- (k) September 12 through September 15, 2014.

(2) Landing and possession limit of 60 Chinook and 60 coho per boat per each entire open period for Catch Areas 1, 2, 3 and 4.

(3) The Cape Flattery and Columbia River Control Zones are closed. Mandatory Yelloweye Rockfish Conservation Area is 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, except no chum retention north of Cape Alava, Washington, in August and September. 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. Vessels in possession of salmon north of the Queets River may not cross the Queets River line without first notifying WDFW by phone at (360) 902-2739 or by email at [Douglas.Milward@dfw.wa.gov](mailto:Douglas.Milward@dfw.wa.gov) with area fished, total Chinook and halibut catch on board, and destination. Vessels in possession of salmon south of the Queets River may not cross the Queets River line without first notifying WDFW by phone at (360) 902-2739 or by email at [Douglas.Milward@dfw.wa.gov](mailto:Douglas.Milward@dfw.wa.gov) with Area fished, total Chinook and halibut catch on board, and destination. Any vessel with fish on board from either Area 3 or 4 may not possess more than 60 Chinook or 60 coho on board.

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

(8) Columbia Control Zone 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) Mandatory Yelloweye Rockfish Conservation Area is defined as the area in Salmon Management and Catch Reporting Area 3 from 48°00.00' N latitude; 125°14.00' W longitude to 48°02.00' N latitude; 125°14.00' W longitude to 48°02.00' N latitude; 125°16.50' W longitude to 48°00.00' N latitude; 125°16.50' W longitude and connecting back to 48°00.00' N latitude; 125°14.00' W longitude.

(10) 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.

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

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

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

## REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-24-04000G All-citizen commercial salmon troll.  
(13-145)

**WSR 14-15-020  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 14-165—Filed July 8, 2014, 11:41 a.m., effective July 8, 2014, 11:41 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:  
Amending WAC 220-44-095.

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

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

Reasons for this Finding: There is a higher abundance of mackerel off the coast this year and sardine fishermen are having difficulty catching sardines and avoiding mackerel. Fishermen are trying their best to adhere to the current forty-five percent restriction, but self-reported landings are in the sixty-nine percent range (Ilwaco) and forty-nine percent range (Westport). The Pacific Fishery [Fisheries] Management Council has set an annual catch target of 24,170 metric tons for the July 1, 2014, through June 30, 2015, fishing season; therefore, there is sufficient harvestable surplus of mackerel to accommodate this incidental landing increase. Maintaining a per landing limit of seventy-five percent and a seasonal limit of fifty percent helps ensure that the fishery remains targeted toward sardines, rather than mackerel, which is the intent of the license approved by the legislature. 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: July 8, 2014.

Philip Anderson  
Director

## NEW SECTION

**WAC 220-44-09500B Coastal sardine purse seine fishery.** Notwithstanding the provisions of WAC 220-44-095, effective immediately until further notice, it is unlawful to retain mackerel (Scombridae) or jacks (Carangidae) taken incidental to a lawful sardine fishery that in combination exceeds seventy-five percent of the weight of the total landing or fifty percent of the cumulative weight of landings on the license across the fishing season.

**WSR 14-15-028****EMERGENCY RULES****BUILDING CODE COUNCIL**

[Filed July 9, 2014, 8:39 a.m., effective July 9, 2014, 8:39 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This change will redefine "*portable school classrooms*" and add a definition of "cluster" of such classrooms, and will modify the requirements for fire sprinklers in clusters of portable school classrooms below six thousand square feet for the purpose of improving fire safety and egress for school occupants.

**NOTE:** This filing is to renew the emergency rule filed on March 14, 2014, as WSR 14-07-058, which will expire on July 12, 2014. The state building code council will enter permanent rule making on this matter with public hearings scheduled in September and October 2014.

Citation of Existing Rules Affected by this Order: Amending WAC 51-54A-0202 and 51-54A-0903.

Statutory Authority for Adoption: RCW 19.27.031, 19.27.074.

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

Reasons for this Finding: The current WAC language has become obsolete, and does not reflect the needs of school districts regarding fire safety in portable school classrooms. The existing rules negatively impact building plans for school districts throughout the state. This modification will provide immediate economic relief to school districts planning to add portable classrooms for the next school year, and will provide a safer environment for building occupants.

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 1, Repealed 0.

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

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

Date Adopted: March 7, 2014.

C. Ray Allshouse  
Chair

AMENDATORY SECTION (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

**WAC 51-54A-0202 General definitions.****SECTION 202 GENERAL DEFINITIONS**

**ADULT FAMILY HOME.** A dwelling, licensed by Washington state, in which a person or persons provide personal care, special care, room and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services.

**ALERT SIGNAL.** A distinctive signal indicating the need for trained personnel and occupants to initiate a specific action, such as shelter-in-place.

**ALERT SYSTEM.** Approved devices, equipment and systems or combinations of systems used to transmit or broadcast an alert signal.

**CHILD CARE.** For the purposes of these regulations, child care is the care of children during any period of a 24-hour day.

**CHILD CARE, FAMILY HOME.** A child care facility, licensed by Washington state, located in the dwelling of the person or persons under whose direct care and supervision the child is placed, for the care of twelve or fewer children, including children who reside at the home.

**CLUSTER.** Clusters are multiple *portable school classrooms separated by less than the requirements of the building code for separate buildings.*

**COVERED BOAT MOORAGE.** A pier or system of floating or fixed access ways to which vessels on water may be secured and any portion of which are covered by a roof.

**ELECTRICAL CODE.** The National Electrical Code, promulgated by the National Fire Protection Association, as adopted by rule or local ordinance under the authority of chapter 19.28 RCW.

**EMERGENCY DRILL.** An exercise performed to train staff and occupants and to evaluate their efficiency and effectiveness in carrying out emergency procedures.

**EXISTING.** Buildings, facilities or conditions that are already in existence, constructed or officially authorized prior to the adoption of this code.

**GRAVITY-OPERATED DROP OUT VENTS.** Automatic smoke and heat vents containing heat-sensitive glazing designed to shrink and drop out of the vent openings when exposed to fire.

**HOSPICE CARE CENTER.** A building or portion thereof used on a 24-hour basis for the provision of hospice services to terminally ill inpatients.

**MOTOR VEHICLE.** Includes, but not limited to, a vehicle, machine, tractor, trailer or semitrailer, or any combination thereof, propelled or drawn by mechanical power and designed for use upon the highways in the transportation of passengers or property. It does not include a vehicle, locomotive or car operated exclusively on a rail or rails, or a trolley



bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service. The term "motor vehicle" also includes freight containers or cargo tanks used, or intended for use, in connection with motor vehicles.

**NIGHTCLUB.** An A-2 Occupancy use under the 2006 International Building Code in which the aggregate area of concentrated use of unfixed chairs and standing space that is specifically designated and primarily used for dancing or viewing performers exceeds three hundred fifty square feet, excluding adjacent lobby areas. "Nightclub" does not include theaters with fixed seating, banquet halls, or lodge halls.

**OCCUPANCY CLASSIFICATION.** For the purposes of this code, certain occupancies are defined as follows:

**Group I-2.** This occupancy shall include buildings and structures used for medical care on a 24-hour basis for more than five persons who are incapable of self-preservation. This group shall include, but not be limited to, the following:

- Foster care facilities
- Detoxification facilities
- Hospice care centers
- Hospitals
- Nursing homes
- Psychiatric hospitals

**Five or fewer persons receiving care.** A facility such as the above with five or fewer persons receiving such care shall be classified as Group R-3 or shall comply with the *International Residential Code* provided an *automatic sprinkler system* is installed in accordance with Section 903.3.1.3 or with Section P2904 of the *International Residential Code*.

**Licensed care facility.** A facility such as the above providing licensed care to clients in one of the categories listed in Section 310.1 of the International Building Code licensed by Washington state shall be classified as Group R-2.

**Family home child care.** Family home child care licensed by Washington state for the care of twelve or fewer children shall be classified as Group R-3 or shall comply with the *International Residential Code*.

**Adult care facility.** A facility that provides accommodations for less than 24 hours for more than five unrelated adults and provides supervision and personal care services shall be classified as Group I-4.

**EXCEPTION:** Where the occupants are capable of responding to an emergency situation without physical assistance from the staff, the facility shall be classified as Group R-3.

**Child care facility.** Child care facilities that provide supervision and personal care on a less than 24-hour basis for more than five children 2 1/2 years of age or less shall be classified as Group I-4.

**EXCEPTIONS:**

1. A child day care facility that provides care for more than five but no more than 100 children 2 1/2 years or less of age, where the rooms in which the children are cared for are located on a level of exit discharge serving such rooms and each of these child care rooms has an exit door directly to the exterior, shall be classified as Group E.

2. Family child care homes licensed by Washington state for the care of 12 or fewer children shall be classified as Group R-3.

**Residential Group R.** Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I or when not regulated by the *International Residential Code*. This group shall include:

**R-1** Residential occupancies containing sleeping units where the occupants are primarily transient in nature, including:

- Boarding houses (transient) with more than 10 occupants
- Congregate living facilities (transient) with more than 10 occupants

- Hotels (transient)

- Motels (transient)

**R-2** Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including:

- Apartment houses

- Assisted living facilities as licensed by Washington state under chapter 388-78A WAC

- Boarding houses (nontransient) with more than 16 occupants

- Congregate living facilities (nontransient) with more than 16 occupants

- Convents

- Dormitories

- Fraternities and sororities

- Hotels (nontransient)

- Live/work units

- Monasteries

- Motels (nontransient)

- Residential treatment facilities as licensed by Washington state under chapter 246-337 WAC

- Vacation timeshare properties

**R-3** Residential occupancies where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, or I, including:

- Buildings that do not contain more than two dwelling units.

- Boarding houses (nontransient) with 16 or fewer occupants.

- Boarding houses (transient) with 10 or fewer occupants.

- Care facilities that provide accommodations for five or fewer persons receiving care.

- Congregate living facilities (nontransient) with 16 or fewer occupants.

- Congregate living facilities (transient) with 10 or fewer occupants.

**Care facilities within a dwelling.** Care facilities for five or fewer persons receiving care that are within a single-family dwelling are permitted to comply with the *International Residential Code* provided an automatic sprinkler system is installed in accordance with Section 903.3.1.3 or with Section P2904 of the *International Residential Code*.

**Adult family homes, family home child care.** Adult family homes and family home child care facilities that are within a single-family home are permitted to comply with the *International Residential Code*.

**Foster family care homes.** Foster family care homes licensed by Washington state are permitted to comply with the *International Residential Code*, as an accessory use to a dwelling, for six or fewer children including those of the resident family.

**R-4** Classification is not adopted. Any reference in this code to R-4 does not apply.

**PORTABLE SCHOOL CLASSROOM.** A prefabricated structure(;) consisting of one or more rooms with direct exterior egress from the classroom(s). The structure is transportable in one or more sections, (~~which requires a chassis to be transported~~) and is designed to be used as an educational space with or without a permanent foundation. The structure shall be (~~trailerable and~~) capable of being demounted and relocated to other locations as needs arise.

**RECALL SIGNAL.** An electrically or mechanically operated signal used to recall occupants after an emergency drill or to terminate a shelter-in-place event that shall be distinct from any alarm or alert signal used to initiate an emergency plan, or other signals.

**SHELTER-IN-PLACE.** An emergency response used to minimize exposure of facility occupants to chemical or environmental hazards by taking refuge in predetermined interior rooms or areas where actions are taken to isolate the interior environment from the exterior hazard.

**AMENDATORY SECTION** (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

**WAC 51-54A-0903 Automatic sprinkler systems.**

**903.2.1.6 Nightclub.** An automatic sprinkler system shall be provided throughout Group A-2 nightclubs as defined in this code.

**903.2.3 Group E.** An automatic sprinkler system shall be provided for Group E occupancies.

EXCEPTIONS:

1. Portable school classrooms with an occupant load of 50 or less calculated in accordance with Table 1004.1.2, provided that the aggregate area of any cluster of portable classrooms does not exceed ((5,000)) 6,000 square feet (((4465 m<sup>2</sup>))) (557 m<sup>2</sup>); and clusters of portable school classrooms shall be separated as required by the building code(-); or
2. Portable school classrooms with an occupant load from 51 through 98, calculated in accordance with Table 1004.1.2, and provided with two means of direct independent exterior egress from each classroom in accordance with Chapter 10, and one exit from each classroom shall be accessible, provided that the aggregate area of any cluster of portable classrooms does not exceed 6,000 square feet (557 m<sup>2</sup>); and clusters of portable school classrooms shall be separated as required by the building code; or
3. Group E occupancies with an occupant load of 50 or less, calculated in accordance with Table 1004.1.2.

**903.2.8 Group R.** An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

EXCEPTION:

Group R-1 if all of the following conditions apply:

1. The Group R fire area is no more than 500 square feet and is used for recreational use only.
2. The Group R fire area is on only one story.
3. The Group R fire area does not include a basement.
4. The Group R fire area is no closer than 30 feet from another structure.
5. Cooking is not allowed within the Group R fire area.
6. The Group R fire area has an occupant load of no more than 8.
7. A hand-held (portable) fire extinguisher is in every Group R fire area.

**903.2.11.1.3 Basements.** Where any portion of a basement is located more than 75 feet (22,860 mm) from openings required by Section 903.2.11.1, or where new walls, partitions or other similar obstructions are installed that increase the exit access travel distance to more than 75 feet, the basement shall be equipped throughout with an approved automatic sprinkler system.

**WSR 14-15-029  
EMERGENCY RULES  
BUILDING CODE COUNCIL**

[Filed July 9, 2014, 9:57 a.m., effective July 9, 2014, 9:57 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This rule change will resolve conflicts in the residential code regarding fire sprinkler requirements for townhouse construction. The current language is unclear and leads to misinterpretation of the code requirements for the building industry and code officials.

**NOTE:** This filing is to renew the emergency rule filed on March 17, 2014, as WSR 14-07-080, which will expire on July 15, 2014. The state building code council will enter permanent rule making on this matter with public hearings scheduled in September and October 2014.

Citation of Existing Rules Affected by this Order: Amending WAC 51-51-0302.

Statutory Authority for Adoption: RCW 19.27.031, 19.27.074.

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

Reasons for this Finding: The 2012 Residential Code does not adequately address fire safety requirements for townhouse construction; an error in the current code creates confusion for builders and code officials regarding fire separation and sprinkler requirements. It is not the intent of the code to allow reduced fire protection in nonsprinklered townhouses. This rule clarifies that a two-hour wall is required for fire separation when sprinklers are not present in townhouses.

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 1, Repealed 0.

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

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

Date Adopted: March 7, 2014.

C. Ray Allshouse  
Chair

**AMENDATORY SECTION** (Amending WSR 13-23-084, filed 11/19/13, effective 4/1/14)

**WAC 51-51-0302 Section R302—Fire-resistant construction.**

**R302.1 Exterior walls.** Construction, projections, openings and penetrations of exterior walls of dwellings and accessory buildings shall comply with Table R302.1(1); or *dwellings* equipped throughout with an *automatic sprinkler system* installed in accordance with Section P2904 shall comply with Table R302.1(2).

- EXCEPTIONS:
1. Walls, projections, openings or penetrations in walls perpendicular to the line used to determine the fire separation distance.
  2. Walls of dwellings and accessory structures located on the same lot.
  3. Detached tool sheds and storage sheds, playhouses and similar structures exempted from permits are not required to provide protection based on location on the lot. Projections beyond the exterior wall shall not extend over the lot line.
  4. Detached garages accessory to a dwelling located within 2 feet (610 mm) of a lot line are permitted to have roof eave projections not exceeding 4 inches (102 mm).
  5. Foundation vents installed in compliance with this code are permitted.

**TABLE R302.1(1)  
EXTERIOR WALLS**

Exterior Wall Element		Minimum Fire-Resistance Rating	Minimum Fire Separation Distance
Walls	Fire-resistance rated	1-hour tested in accordance with ASTM E 119 or UL 263 with exposure from both sides	< 5 feet
	Not fire-resistance rated	0 hours	≥ 5 feet
Projections	Fire-resistance rated	1 hour on the underside <sup>a, b</sup>	≥ 2 feet to < 5 feet
	Not fire-resistance rated	0 hours	≥ 5 feet
Openings in walls	Not allowed	N/A	< 3 feet
	25% maximum of wall area per story	0 hours	3 feet
	Unlimited	0 hours	5 feet
Penetrations	All	Comply with Section R302.4	< 5 feet
		None required	5 feet

For IS: 1 foot = 304.8 mm. N/A = Not Applicable

<sup>a</sup> Roof eave fire-resistance rating shall be permitted to be reduced to 0 hours on the underside of the eave if fire blocking is provided from the wall top plate to the underside of the roof sheathing.

<sup>b</sup> Roof eave fire-resistance rating shall be permitted to be reduced to 0 hours on the underside of the eave provided no gable vent openings are installed.

**Table R302.1(2)  
Exterior Walls—Dwellings with Fire Sprinklers**

Exterior Wall Element		Minimum Fire-Resistance Rating	Minimum Fire Separation Distance
Walls	Fire-resistance rated	1-hour tested in accordance with ASTM E 119 or UL 263 with exposure from the outside	0 feet
	Not fire-resistance rated	0 hours	3 feet <sup>a</sup>
Projections	Fire-resistance rated	1 hour on the underside <sup>b, c</sup>	2 feet <sup>a</sup>
	Not fire-resistance rated	0 hours	3 feet
Openings in walls	Not allowed	N/A	< 3 feet

Exterior Wall Element		Minimum Fire-Resistance Rating	Minimum Fire Separation Distance
	Unlimited	0 hours	3 feet <sup>a</sup>
Penetrations	All	Comply with Section R302.4	< 3 feet
		None required	3 feet <sup>a</sup>

For IS: 1 foot = 304.8 mm. N/A = Not Applicable

<sup>a</sup> For residential subdivisions where all dwellings are equipped throughout with an automatic sprinkler system installed in accordance with P2904, the fire separation distance for nonrated exterior walls and rated projections shall be permitted to be reduced to 0 feet, and unlimited unprotected openings and penetrations shall be permitted, where the adjoining lot provides an open setback yard that is 6 feet or more in width on the opposite side of the property line.

<sup>b</sup> Roof eave fire-resistance rating shall be permitted to be reduced to 0 hours on the underside of the eave if fire blocking is provided from the wall top plate to the underside of the roof sheathing.

<sup>c</sup> Roof eave fire-resistance rating shall be permitted to be reduced to 0 hours on the underside of the eave provided no gable vent openings are installed.

**R302.2 Townhouses.** Each townhouse shall be considered a separate building and shall be separated by one of the following methods:

1. A common 1-hour fire-resistance-rated wall assembly tested in accordance with ASTM E 119 or UL 263 and a fire sprinkler system in accordance with Section P2904 in both townhouses shall be provided. The cavity of the common wall shall not contain plumbing or mechanical equipment, ducts or vents. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against exterior walls and the underside of the roof sheathing. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4.

2. A common 2-hour fire-resistance-rated wall assembly tested in accordance with ASTM E 119 or UL 263 shall be provided. The cavity of the common wall shall not contain plumbing or mechanical equipment, ducts or vents. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against exterior walls and the underside of the roof sheathing. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4.

3. Two wall assemblies meeting the requirements of Section R302.1 for exterior walls shall be provided.

**R302.2.1 Continuity.** The fire-resistance-rated wall or assembly separating townhouses shall be continuous from the foundation to the underside of the roof sheathing, deck or slab. The fire-resistance rating shall extend the full length of the wall or assembly, including wall extensions through and separating attached enclosed accessory structures.

Where a story extends beyond the exterior wall of a story below:

1. The fire-resistance-rated wall or assembly shall extend to the outside edge of the upper story; or

2. The underside of the exposed floor-ceiling assembly shall be protected as required for projections in Section R302.

**R302.2.4 Structural independence.** Each individual townhouse shall be structurally independent.

- EXCEPTIONS:
1. Foundation supporting exterior walls or common walls.
  2. Structural roof and wall sheathing from each unit may be fastened to the common wall framing.
  3. Nonstructural wall and roof coverings.
  4. Flashing at termination of roof covering over common wall.
  5. Townhouses separated by a common (~~1-hour fire-resistance-rated~~) wall as provided in Section R302.2, Item 1 or 2.
  6. Floor sheathing may fasten to the floor framing of both units.

**R302.3.1 Supporting construction.** When floor assemblies are required to be fire-resistance rated by Section R302.3, the supporting construction of such assemblies shall have an equal or greater fire-resistance rating.

- EXCEPTION:
- The supporting construction is not required to be fire-resistance rated where:
1. Automatic fire sprinklers are installed in accordance with appendix R in both dwelling units;
- or
2. All required smoke alarms in both dwelling units are interconnected in such a manner that the actuation of one alarm will activate all alarms in both dwelling units.

**WSR 14-15-038  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 14-168—Filed July 10, 2014, 2:05 p.m., effective July 11, 2014]

Effective Date of Rule: July 11, 2014.

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 220-310-2000N and 220-310-2000Q; and amending WAC 220-310-200.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047.

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

mission 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 summer chinook sport fishery from the Astoria-Megler Bridge upstream to Bonneville Dam for the remainder of the summer season. In-season run updates for summer chinook and sockeye are above preseason expectations. Both chinook and sockeye remain available for recreational harvest. 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 July 1 and 9, 2014. 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 1, Amended 0, Repealed 2.

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: July 10, 2014.

Philip Anderson  
Director

### NEW SECTION

**WAC 220-310-20000Q Freshwater exceptions to statewide rules—Columbia River.** Notwithstanding the provisions of WAC 220-310-200, effective July 11 through July 31, 2014:

(1) It is permissible to fish in the waters of the Columbia River from the Astoria-Megler Bridge upstream to the Bonneville Dam.

(2) Daily salmonid limit is 6 fish; minimum size is 12 inches. Up to 2 may be adult salmon or hatchery steelhead, or one of each. Release all salmon other than hatchery Chinook and sockeye.

### REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. July 10, 2014:

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

The following section of the Washington Administrative Code is repealed effective August 1, 2014:

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

## **WSR 14-15-039**

### **EMERGENCY RULES**

### **DEPARTMENT OF FISH AND WILDLIFE**

[Order 14-169—Filed July 10, 2014, 2:07 p.m., effective July 11, 2014, 6:01 p.m.]

Effective Date of Rule: July 11, 2014, 6:01 p.m.

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

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

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047.

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

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

Reasons for this Finding: Sets a 4.5 day treaty commercial gillnet salmon period. Continues to allow the sale of platform and hook and line caught fish from mainstem tribal fisheries in Zone 6. Sales of fish landed in the area downstream of Bonneville Dam (consistent with tribal MOU/MOAs) may also occur if the area is lawfully open for sales under tribal regulations. Similarly, the sale of fish caught in Yakama Nation tributary fisheries are allowed when open under Yakama Nation regulations. Over twenty thousand adult summer chinook are available to the treaty tribes for harvest based on the inseason forecast of seventy-four thousand fish. Over thirty-two thousand sockeye are available to the treaty tribes for harvest based on the inseason forecast of five hundred sixty thousand sockeye to the Columbia River. Harvestable fish remain available based on these guidelines. The minimum mesh restriction was lifted given the ample balance of sockeye available for harvest. The quick-reporting rule continues to be modified to require quick reporting within twenty-four hours of completing the fish ticket. The intent is that all landings in Areas 1F, 1G and 1H are quick reported within twenty-four hours of completion. Because treaty fisheries can be two to four days long, the modification will allow harvest to be tracked as the fishing period progresses. 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 5, June 3, and July 9, 2014. Conforms state rules with tribal rules. There is insufficient time to adopt permanent rules.

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 rules for treaty Indian fisheries under the supervision of the federal courts. A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allow[s] for some incidental take of these species in the fisheries as described in the 2008-2017 *U.S. v. Oregon* Management Agreement.

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

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 1; Federal Rules or Standards: New 1, Amended 0, Repealed 1; or Recently Enacted State Statutes: New 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: July 10, 2014.

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 Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H, and in the Wind River, Klickitat River, and Drano Lake and specific areas of SMCRA 1E. 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. July 14 to 6:00 p.m. July 18, 2014.
  - (b) Gear: Gillnets only; no mesh restriction.
  - (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 and sturgeon between 43-54 inches in fork length in The Dalles and John Day pools may be retained for subsistence purposes only. Sales of fish are allowed after open period concludes, as long as the fish sold were landed during the open period.
  - (d) All sanctuaries for this gear type are in effect, except Spring Creek.

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

(a) Season: Open immediately until further notice.

(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 and sturgeon between 43-54 inches in fork length in The Dalles and John Day pools may be retained for subsistence purposes only.

(d) All dam 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 for tribal fisheries in the area just downstream of Bonneville Dam. Tribal fisheries in this area may only occur in accordance with the appropriate MOA or MOU specific to each tribe, and only within any specific regulations set by each tribe.

(a) Participants:

(i) Tribal members may participate under the conditions described in the 2007 Memorandum of Agreement (MOA) with the Yakama Nation (YN), in the 2010 Memorandum of Understanding (MOU) with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), in the 2010 MOU with the Confederated Tribes of the Warm Spring Reservation (CTWS), and in the 2011 MOU with the Nez Perce Tribe.

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

(b) Season: Open immediately until further notice. Open only during those days and hours when open under lawfully enacted tribal subsistence fishery regulations for enrolled tribal members.

(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 for any purpose. 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: Open immediately until further notice, and only during those days and hours when the tributaries listed in subsection (4)(b) of this section are open under lawfully enacted Yakama Nation tribal subsistence fishery regulations for enrolled Yakama Nation members.

(b) Area: Drano Lake, Wind River and Klickitat River.

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

(d) Allowable Sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon between 43-54 inches fork length harvested in tributaries within The Dalles or John Day Pools and sturgeon between 38-54 inches fork length harvested in tributaries within Bonneville pool may not be sold but may be kept for subsistence purposes only.

(5) 24-hour quick reporting is required as provided in WAC 220-69-240, for Washington wholesale dealers for all areas, except that all landings from treaty fisheries described

above must be reported within 24-hours of completing the fish ticket (not 24-hours after the period concludes).

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

### REPEALER

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. July 11, 2014:

WAC 220-32-05100G Columbia River salmon seasons above Bonneville Dam. (14-158)

### **WSR 14-15-040**

#### **EMERGENCY RULES**

#### **DEPARTMENT OF**

#### **FISH AND WILDLIFE**

[Order 14-167—Filed July 10, 2014, 2:55 p.m., effective July 11, 2014]

Effective Date of Rule: July 11, 2014.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-19500U; and amending WAC 220-310-195.

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: Sockeye salmon returns above Zosel Dam are predicted to be in excess of needs for wild fish escapement to the spawning grounds. Allowing the retention of sockeye salmon in Lake Osoyoos will provide additional angling opportunity. The population is not listed under the Endangered Species Act. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: July 10, 2014.

Philip Anderson  
Director

NEW SECTION

**WAC 220-310-19500U Freshwater exceptions to statewide rules—Lake Osoyoos.** Notwithstanding the provisions of WAC 232-28-619:

(1) Effective July 11 through October 15, 2014, it is permissible to fish for salmon in waters of Lake Osoyoos south of the 49<sup>th</sup> parallel (US-Canadian border, which is marked with large fluorescent orange signs).

(2) Daily limit six sockeye, minimum size 12 inches in length.

(3) Release all Chinook salmon and all sockeye with colored anchor (floy) tag attached.

(4) Statewide freshwater gear rules apply.

(5) It is permissible to fish with two poles with a Two-Pole Endorsement through August 31, 2014.

REPEALER

The following section of the Washington Administrative code is repealed effective October 16, 2014:

WAC 220-310-19500U Freshwater exceptions to statewide rules.—Lake Osoyoos.

**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.

**WSR 14-15-041**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 14-166—Filed July 10, 2014, 2:57 p.m., effective July 11, 2014]

Effective Date of Rule: July 11, 2014.

Purpose: Amend recreational fishing rules.

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

Statutory Authority for Adoption: RCW 77.04.012, 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: Sockeye salmon returns above Priest Rapids Dam are predicted to be far in excess of needs for wild fish escapement to the spawning grounds. The population is not listed under the Endangered Species Act. Increasing the sockeye daily limit will provide additional recreational fishing 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: July 10, 2014.

Philip Anderson  
Director

NEW SECTION

**WAC 220-310-20000P Freshwater exceptions—Columbia River.** Notwithstanding the provisions of WAC 220-310-200, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

(1) In the areas and during the times listed in the subsections below, the following limits and restrictions apply:

(a) Daily limit eight salmon, up to two may be adult hatchery Chinook and up to six may be sockeye.

(b) Release coho and wild adult Chinook.

(c) Minimum size 12 inches.

(d) Release all sockeye with colored anchor (floy) tag attached.

(2) July 11 through August 31, 2014, from Priest Rapids Dam to Wanapum Dam.

(3) July 11 through October 15, 2014, from Wanapum Dam to Wells Dam.

(4) July 16 through August 31, 2014, from Wells Dam to Hwy 173 Bridge in Brewster.

(5) July 11 through October 15, 2014, from Hwy 173 Bridge in Brewster to Chief Joseph Dam.

REPEALER

The following section of the Washington Administrative Code is repealed effective October 16, 2014:

WAC 220-310-20000P Freshwater exceptions—Columbia River.

**WSR 14-15-042**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 14-171—Filed July 10, 2014, 3:08 p.m., effective July 10, 2014, 3:08 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules.



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

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

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

Reasons for this Finding: A harvestable quota of salmon is available for the troll fleet. A reduction in the chinook cap is necessary to spread the fishery out over the summer season. These rules are adopted at the recommendation of the Pacific Fisheries Management Council, in accordance with preseason fishing plans. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: July 10, 2014.

Philip Anderson  
Director

## NEW SECTION

**WAC 220-24-04000I 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, 2, 3, and that portion of Area 4 west of 125°05'00" W longitude and south of 48°23'00" N latitude, open:

July 11 through July 15, 2014;  
July 18 through July 22, 2014;  
July 25 through July 29, 2014;  
August 1 through August 5, 2014;  
August 8 through August 12, 2014;  
August 15 through August 19, 2014;  
August 22 through August 26, 2014;  
August 29 through September 2, 2014;  
September 5 through September 9, 2014; and  
September 12 through September 15, 2014.

(2) Landing and possession limit of 35 Chinook and 60 coho per boat per each entire open period for the entire Catch Areas 1 and 2. Landing and possession limit of 35 Chinook and 40 coho per boat per each entire open period for the entire Catch Areas 3 and 4. The Cape Flattery and Columbia River Control Zones are closed.

(3) Mandatory Yelloweye Rockfish Conservation Area is 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, except no chum retention north of Cape Alava, Washington, in August and September. 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. Vessels in possession of salmon north of the Queets River may not cross the Queets River line without first notifying WDFW by phone at (360) 902-2739 or by email at [Douglas.Milward@dfw.wa.gov](mailto:Douglas.Milward@dfw.wa.gov) with area fished, total Chinook and halibut catch on board, and destination. Vessels in possession of salmon south of the Queets River may not cross the Queets River line without first notifying WDFW by phone at (360) 902-2739 or by email at [Douglas.Milward@dfw.wa.gov](mailto:Douglas.Milward@dfw.wa.gov) with Area fished, total Chinook and halibut catch on board, and destination. Any vessel in area 3 or 4 with fish on board from any Area 1, 2, 3 or 4 may not possess more than 35 Chinook or 40 coho on board.

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

(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) Mandatory Yelloweye Rockfish Conservation Area – This is defined as the area in Salmon Management and Catch Reporting Area 3 from 48°00.00' N latitude; 125°14.00' W longitude to 48°02.00' N latitude; 125°14.00' W longitude to

48°02.00' N latitude; 125°16.50' W longitude to 48°00.00' N latitude; 125°16.50' W longitude and connecting back to 48°00.00' N latitude; 125°14.00' W longitude.

(10) 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.

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

**Reviser's note:** The 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.

**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:

WAC 220-24-04000H All-citizen commercial salmon troll.  
(13-163)

**WSR 14-15-043**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 14-170—Filed July 10, 2014, 3:19 p.m., effective July 10, 2014, 3:19 p.m.]

Effective Date of Rule: Immediately upon filing.

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 220-33-01000X; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047.

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

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

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

Reasons for this Finding: Sets two additional summer season non-Indian mainstem commercial salmon season[s]. Based on the inseason forecast and management guidelines, a total of two thousand three hundred adult upper Columbia summer chinook have been allocated to mainstem commercial non-Indian fisheries. Around five hundred chinook remain available for commercial harvest. 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. These rules are consistent with compact action as of July 9, 2014. 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 rules 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: July 10, 2014.

Philip Anderson  
Director

#### NEW SECTION

**WAC 220-33-01000X 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 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:

#### **Mainstem Columbia River**

(1) **Season:** 7:00 p.m. July 14 to 7:00 a.m. July 15, and 7:00 p.m. July 21 to 7:00 a.m. July 22, 2014.

(2) **Open area:** SMCRA 1A, 1B, 1C, 1D, and 1E (Zones 1-5).

(3) **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.

(4) **Allowable Possession and Sales:** Chinook, sockeye and shad.

(5) **Sanctuaries:** Cowlitz River, Kalama-A, Lewis-A, Washougal, and Sandy rivers.

(6) **Miscellaneous:** 24-hour quick reporting is required for Washington wholesale dealers, as provided in WAC 220-69-240.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 7:01 a.m. July 22, 2014:

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

**WSR 14-15-050**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 14-172—Filed July 11, 2014, 2:07 p.m., effective July 11, 2014, 2:07 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules.

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

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

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

Reasons for this Finding: The 2014 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 1B-21A beam trawl fishery; (2) implements a four hundred pound spot shrimp biweekly limit effective July 15, 2014, in 23A-E; and (3) implements a minimum mesh size restriction for spot shrimp. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: July 11, 2014.

Philip Anderson  
Director

#### NEW SECTION

**WAC 220-52-05100S 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, 2W, 3, 4, 5 and 6 are open to the harvest of all shrimp species, except as provided for in this section:

i) All waters of the Discovery Bay Shrimp District are closed.

ii) All waters of Shrimp Management Areas 2W, 4 and 6 are closed to the harvest of spot shrimp.

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

(b) The spot shrimp catch accounting biweekly management periods are as follows:

i) July 1-15, July 16-29 and July 30-August 12.

(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 1,200 pounds per biweekly management period, 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 600 pounds per biweekly management period in Marine Fish/Shellfish Management and Catch Reporting Area (Catch Area) 23A-E with the following exception:

(1) Effective 11:59 p.m. July 15, 2014 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 biweekly management period.

(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. 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. 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) Shrimp beam trawl gear:

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

(b) Effective immediately until further notice, those portions of Catch Areas 20B, 21A and 22A within SMA 1B are open.

(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 220-52-05100R Puget Sound shrimp pot and beam trawl fishery—Season. (14-154)

**WSR 14-15-060**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 14-174—Filed July 14, 2014, 1:39 p.m., effective July 15, 2014]

Effective Date of Rule: July 15, 2014.

Purpose: Amend recreational fishing rules.

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

Statutory Authority for Adoption: RCW 77.04.012, 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: Sockeye salmon returns above Priest Rapids Dam are predicted to be far in excess of needs for wild fish escapement to the spawning grounds. The population is not listed under the Endangered Species Act. Increasing the sockeye daily limit will provide additional recreational fishing 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: July 14, 2014.

Nate Pamplin  
 for Philip Anderson  
 Director

NEW SECTION

**WAC 220-310-20000R Exceptions to statewide rules—Columbia River.** Notwithstanding the provisions of WAC 220-310-200:

(1) Effective July 15 through July 31, 2014; it is permissible to fish for salmon in waters of the Columbia River from the Highway 395 Bridge at Pasco to Priest Rapids Dam.

(2) Daily limit of eight (8) salmon, of which no more than two (2) may be adult hatchery Chinook and no more than six (6) may be sockeye.

(3) Release wild adult chinook.

REPEALER

The following section of the Washington Administrative Code is repealed effective August 1, 2014:

WAC 220-310-20000R Exceptions to statewide rules—  
Columbia River.

**WSR 14-15-080**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 14-175—Filed July 16, 2014, 2:58 p.m., effective July 19, 2014]

Effective Date of Rule: July 19, 2014.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order:  
Amending WAC 220-310-195.

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

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

Reasons for this Finding: The 2014 return of sockeye will be sufficient to provide for the Lake Wenatchee spawning escapement goal. This means that additional fish will be present to provide for sportfishing 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 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: July 16, 2014.

Philip Anderson  
Director

NEW SECTION

**WAC 220-310-19500V Freshwater exceptions to statewide rules—Lake Wenatchee.** Notwithstanding the provisions of WAC 220-310-195, effective July 19, 2014, one hour before official sunrise, until further notice, it is permissible to fish for sockeye salmon in Lake Wenatchee:

(1) Daily limit six sockeye, minimum size 12 inches in length.

(2) Selective gear rules and night closure in effect for all species.

(3) Anglers may fish with 2 poles so long as they possess a valid two-pole endorsement.

(4) Bull trout, steelhead, and Chinook salmon must be released unharmed without removing the fish from the water.

**WSR 14-15-088**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 14-176—Filed July 17, 2014, 4:55 p.m., effective July 21, 2014, 6:00 a.m.]

Effective Date of Rule: July 21, 2014, 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 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047.

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

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

Reasons for this Finding: Sets a 4.5 day treaty commercial gillnet salmon period. Continues to allow the sale of platform and hook and line caught fish from mainstem tribal fisheries in Zone 6. Sales of fish landed in the area downstream of Bonneville Dam (consistent with tribal MOU/MOAs) may also occur if the area is lawfully open for sales under tribal regulations. Similarly, the sale of fish caught in Yakama Nation tributary fisheries are allowed when open under Yakama Nation regulations. Over 22,000 adult summer chinook are available to the treaty tribes for harvest based on the inseason forecast of 77,000 fish. Over 46,000 sockeye are available to the treaty tribes for harvest based on the inseason forecast of 600,000 sockeye to the Columbia River. Harvestable fish remain available based on these guidelines. The quick reporting rule continues to be modified to require quick reporting within twenty-four hours of completing the fish ticket. The intent is that all landings in Areas 1F, 1G and 1H

are quick reported within twenty-four hours of completion. Because treaty fisheries can be two to four days long, the modification will allow harvest to be tracked as the fishing period progresses. 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 5, June 3, and July 17, 2014. Conforms state rules with tribal rules. There is insufficient time to adopt permanent rules.

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

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 1; Federal Rules or Standards: New 1, Amended 0, Repealed 1; or Recently Enacted State Statutes: New 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: July 17, 2014.

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 Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H, and in the Wind River, Klickitat River, and Drano Lake and specific areas of SMCRA 1E. 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. July 21 to 6:00 p.m. July 25, 2014.

(b) Gear: Gillnets only; no mesh restriction.

(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 and sturgeon between 43-54 inches in fork length in The Dalles and John Day pools may be retained for subsistence purposes only. Sales of fish are allowed after open period concludes, as long as the fish sold were landed during the open period.

(d) All sanctuaries for this gear type are in effect, except Spring Creek.

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

(a) Season: Open immediately until further notice.

(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 and sturgeon between 43-54 inches in fork length in The Dalles and John Day pools may be retained for subsistence purposes only.

(d) All dam 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 for tribal fisheries in the area just downstream of Bonneville Dam. Tribal fisheries in this area may only occur in accordance with the appropriate MOA or MOU specific to each tribe, and only within any specific regulations set by each tribe.

(a) Participants:

(i) Tribal members may participate under the conditions described in the 2007 Memorandum of Agreement (MOA) with the Yakama Nation (YN), in the 2010 Memorandum of Understanding (MOU) with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), in the 2010 MOU with the Confederated Tribes of the Warm Spring Reservation (CTWS), and in the 2011 MOU with the Nez Perce Tribe.

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

(b) Season: Open immediately until further notice. Open only during those days and hours when open under lawfully enacted tribal subsistence fishery regulations for enrolled tribal members.

(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 for any purpose. 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: Open immediately until further notice, and only during those days and hours when the tributaries listed in subsection (4)(b) of this section are open under lawfully enacted Yakama Nation tribal subsistence fishery regulations for enrolled Yakama Nation members.

(b) Area: Drano Lake, Wind River and Klickitat River.

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

(d) Allowable Sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon between 43-54 inches fork length harvested in tributaries within The Dalles or John Day Pools and sturgeon between 38-54 inches fork length harvested in tributaries within Bonneville pool may not be sold but may be kept for subsistence purposes only.

(5) 24-hour quick reporting is required as provided in WAC 220-69-240, for Washington wholesale dealers for all areas, except that all landings from treaty fisheries described above must be reported within 24-hours of completing the fish ticket (not 24-hours after the period concludes).

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

### REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 a.m. July 21, 2014:

WAC 220-32-05100H Columbia River salmon seasons above Bonneville Dam. (14-169)

### **WSR 14-15-120**

#### **EMERGENCY RULES**

#### **HEALTH CARE AUTHORITY**

(Washington Apple Health)

[Filed July 22, 2014, 1:25 p.m., effective July 22, 2014, 1:25 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: **Medicaid expansion rule.** WAC 182-504-0135 is a new rule to support the implementation of the federal Patient Protection and Affordable Care Act which began January 1, 2014. This new WAC provision explains what a Washington apple health client's rights are in getting his or her health care coverage reinstated while pending an appeal with the agency.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Other Authority: Patient Protection and Affordable Care Act (Public Law 111-148); 42 C.F.R. § 431, 435, and 457; and 45 C.F.R. § 155.

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; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: See Purpose above. The agency worked with client advocates to craft this emergency rule and will continue working with them and other stakeholders in completing the permanent rule-making process.

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

Date Adopted: July 22, 2014.

Kevin M. Sullivan  
Rules Coordinator

### NEW SECTION

**WAC 182-504-0135 Washington apple health—Reinstated coverage pending an appeal.** (1) If you disagree with a Washington apple health (WAH) decision that we (the agency or its designee) made, you have the right to appeal under RCW 74.09.741. The appeal rules are found in chapter 182-526 WAC.

(2) If we end or change your WAH coverage without the advance notice required by WAC 182-518-0025(3) and you appeal on or before the tenth day after the date you receive the written notice of the WAH decision, WAH coverage will be reinstated and continue until the appeals process ends, unless otherwise specified in this section. This is called reinstated coverage.

(3) We will treat the fifth day after the date on the notice as the date you received the notice; however, if you show that you received the notice more than five days after the date on the notice, we will use the actual date you received the notice for counting the ten-day appeal period for the purpose of providing continued coverage. If the tenth day falls on a weekend or holiday, you have until the next business day to appeal and still be able to receive continued coverage.

(4) You receive reinstated coverage through the end of the month an administrative hearing decision is sent to you unless:

(a) An administrative law judge or our presiding officer serves an order ending reinstated coverage; or

(b) You:

(i) Tell us in writing that you do not want reinstated coverage; or

(ii) Withdraw your appeal in writing or at an administrative proceeding.

(5) You cannot receive reinstated coverage when a change in your WAH coverage is the result of a mass change. A mass change is when rules change that impact coverage for a class of applicants and recipients or due to a legislative or statutory change.

(6) A person receiving WAH medically needy coverage is not eligible for reinstated coverage beyond the end of the original certification period described in WAC 182-504-0020.

(7) If we end your WAH coverage because mail we sent to you was returned to us with no forwarding address, your WAH coverage will be reinstated if you continue to meet eligibility requirements and if we receive notification from you of your new address.

**WSR 14-15-121**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 14-178—Filed July 22, 2014, 1:35 p.m., effective July 29, 2014, 4:30]

Effective Date of Rule: July 29, 2014, 4:30.

Purpose: Amend rules in the recreational spot shrimp fishery.

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

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

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

Reasons for this Finding: This rule is needed to ensure an orderly fishery, manage within court ordered sharing requirements, and to ensure conservation. Harvestable amounts of spot shrimp are available for six additional days of fishing in a portion of Marine Area 7 South. 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: July 22, 2014.

Joe Stohr  
for Philip Anderson  
Director

NEW SECTION

**WAC 220-56-32500N Shrimp—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-325, effective immediately, until further notice:

(1) Marine Areas 4 (east of the Bonilla-Tatoosh line), 5 and 6 (excluding the Discovery Bay Shrimp District) are open to the harvest of all shrimp species.

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

(a) The portion of Marine Area 7 north of a line from Davis Point on Lopez Island to Cattle Point on San Juan Island, then north of a line due west from Lime Kiln Point light to the international boundary, then west of a line from the bell buoy at the international boundary to Point Doughty on Orcas Island, then west of a line projected true north and south from the western tip of Crane Island, then west of a line projected from the southern tip of Shaw Island to the number 2 buoy at the entrance to Fisherman Bay: Open to the harvest of all shrimp species.

(b) The portion of Marine Area 7 north of a line from Biz Point on Fidalgo Island to Cape Saint Mary on Lopez Island, then east of a line projected from the number 2 buoy at the entrance to Fisherman Bay to the southern tip of Shaw Island, then east of a line projected true north and south from the western tip of Crane Island, then east of a line from Point Doughty on Orcas Island to the bell buoy at the international boundary:

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

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

(c) Effective immediately through 10:30 p.m. August 3, 2014, the portion of Marine Area 7 west of a line projected due south from Point Colville on Lopez Island, then south of a line from Davis Point on Lopez Island to Cattle Point on San Juan Island, then south of a line projected due west from Lime Kiln Point light to the international boundary: Open to the harvest of all shrimp species.

(3) All waters equal to or less than 150 feet in depth in Marine Areas 8-1, 8-2, 9 and 11 are open to the harvest of all shrimp species except spot shrimp. All spot shrimp caught must be immediately returned to the water unharmed. It is



unlawful to set or pull shrimp gear in waters greater than 150 feet deep.

Kevin M. Sullivan  
Rules Coordinator

### REPEALER

The following section of the Washington Administrative Code is repealed effective 4:30 a.m. July 29, 2014:

WAC 220-56-32500M Shrimp—Areas and seasons. (14-130)

**WSR 14-15-122**  
**EMERGENCY RULES**  
**HEALTH CARE AUTHORITY**  
(Washington Apple Health)

[Filed July 22, 2014, 1:36 p.m., effective July 29, 2014]

Effective Date of Rule: July 29, 2014.

Purpose: Pursuant to section 213(44) of ESSB 6002, the legislature reinstated the breast and cervical cancer treatment program. WAC 182-505-0120 must be revised to reflect this legislative directive.

Citation of Existing Rules Affected by this Order: Amending WAC 182-505-0120.

Statutory Authority for Adoption: RCW 41.05.021.

Other Authority: Patient Protection and Affordable Care Act (Public Law 111-148); 42 C.F.R. § 431, 435, and 457; and 45 C.F.R. § 155.

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; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: State law (ESSB 6002) reestablishes the breast and cervical cancer treatment program effective April 1, 2014. This filing continues the emergency rule in effect since April 1, 2014, under WSR 14-08-063 while the agency completes the permanent rule process.

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

Date Adopted: July 22, 2014.

AMENDATORY SECTION (Amending WSR 12-02-034, filed 12/29/11, effective 1/1/12)

**WAC 182-505-0120 Washington apple health breast and cervical cancer treatment program (BCCTP) for women—Client eligibility.** (1) Effective ~~((July 1, 2001))~~ April 1, 2014, a woman is eligible for categorically needy (CN) coverage under the Washington apple health (WAH) breast and cervical cancer treatment program (BCCTP) only when she:

(a) Has been screened for breast or cervical cancer under the ~~((center for disease control (CDC)))~~ department of health's breast ((and)), cervical ((cancer early detection)), and colon health program ((BCCEDP)) (BCCHP);

(b) Is found to require treatment for either breast or cervical cancer or for a related precancerous condition;

(c) Is under sixty-five years of age;

(d) Is not ~~((eligible for))~~ covered by another WAH-CN ((medicaid)) program;

(e) Is uninsured or does not otherwise have creditable coverage;

(f) Meets residency requirements as described in WAC ~~((388-468-0005))~~ 182-503-0520;

(g) Meets Social Security number requirements as described in WAC ~~((388-476-0005))~~ 182-503-0515; ((and))

(h) Meets the requirements for citizenship or U.S. national status ~~((as defined in WAC 388-424-0001))~~ or "qualified alien" status as described in WAC ~~((388-424-0006 (1) or (4)))~~ 182-503-0535; and

(i) Meets the income standard set by the BCCHP.

(2) The certification period ~~((s described in WAC 388-416-0015 (1), (4), and (6) apply to the BCCTP. Eligibility))~~ for ~~((medicaid continues throughout the full course of treatment as certified by the CDC-BCCEDP))~~ breast and cervical cancer treatment covered under this section is twelve months as provided in WAC 182-504-0015. Renewal of eligibility must be completed prior to the end of each certification period to remain continuously enrolled. Eligibility for BCCTP coverage under subsection (1)(b) of this section continues throughout the course of treatment as certified by the BCCHP.

~~((3) Income and asset limits are set by the CDC-BCCEDP.))~~

**WSR 14-15-123**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 14-179—Filed July 22, 2014, 1:43 p.m., effective July 22, 2014, 1:43 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules.

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

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

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

Reasons for this Finding: The 2014 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 Catch Areas 23A-E and 25A to spot shrimp fishing, as the quotas 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: July 22, 2014.

Joe Stohr  
for Philip Anderson  
Director

#### NEW SECTION

**WAC 220-52-05100T 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, 2W, 3, 4, 5 and 6 are open to the harvest of all shrimp species, except:

i) All waters of the Discovery Bay Shrimp District are closed.

ii) All waters of Shrimp Management Areas 2W, 4, 6 and Catch Area 23A-E are closed to the harvest of spot shrimp.

iii) Effective 11:59 p.m. July 29, 2014, all waters of Catch Area 25A are closed to the harvest of spot shrimp.

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

(b) The spot shrimp catch accounting biweekly management periods are July 16-29 and July 30-August 12.

(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 1,200 pounds per biweekly management period.

(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. 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. 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) Shrimp beam trawl gear:

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

(b) Effective immediately until further notice, those portions of Catch Areas 20B, 21A and 22A within SMA 1B are open.

(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 220-52-05100S Puget Sound shrimp pot and beam trawl fishery—Season. (14-172)

#### **WSR 14-15-127**

#### **EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE**

[Order 14-177—Filed July 22, 2014, 2:20 p.m., effective August 1, 2014]

Effective Date of Rule: August 1, 2014.

Purpose: Amend recreational fishing rules.

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

Statutory Authority for Adoption: RCW 77.04.012, 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 fall chinook forecast for the Hanford Reach area of the Columbia River is expected to be in excess of two hundred thousand adults, well in excess of the spawning escapement and hatchery broodstock needs. In addition, record returns of hatchery chinook to Priest Rapids and Ringold Spring hatcheries are anticipated. Enhancement

of this fishery will allow 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: July 22, 2014.

Joe Stohr  
for Philip Anderson  
Director

#### NEW SECTION

**WAC 220-310-20000S Freshwater exceptions to statewide rules—Columbia River.** Notwithstanding the provisions of WAC 220-310-200, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

(1) Effective August 1 in the Columbia River from the Highway 395 Bridge in Pasco to Priest Rapids Dam:

(a) Daily limit 6 salmon, up to 3 may be adult salmon. Once the daily limit of adult salmon is retained, anglers may not continue to fish for any species for the remainder of the day.

(b) Anglers may fish with two poles if they possess a valid two-pole endorsement.

(2) From the Hwy. 395 Bridge to the Old Hanford town-site wooden powerline towers: Open for salmon from August 1 through October 31, 2014.

(3) The area of the Columbia River along the Franklin county shoreline between the markers located 100 feet upstream and 100 feet downstream of the Ringold Springs Hatchery Creek and extending in a 100 foot radius (arc) towards mid-river is closed to all fishing.

(4) The Esquatzel Coulee (Block 1) irrigation wasteway embayment at the Columbia River in Franklin Co. (Sec. 13, T10N, R28E) is closed to all fishing from September 1, 2014, until further notice.

**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 November 1, 2014:

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

#### **WSR 14-15-129 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE**

[Order 14-182—Filed July 22, 2014, 2:22 p.m., effective July 25, 2014]

Effective Date of Rule: July 25, 2014.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-19500W; and amending WAC 220-310-195.

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

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

Reasons for this Finding: Hatchery summer chinook returning to the Entiat River are predicted to be in excess of hatchery broodstock needs. The population is not listed under the Endangered Species Act. The majority of spring chinook and bull trout will have migrated to the upper reaches of the Entiat River, and few steelhead will be present during this fishery. Opening the Entiat River for hatchery chinook will provide 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: July 22, 2014.

Joe Stohr  
for Philip Anderson  
Director

NEW SECTION

**WAC 220-310-19500W Freshwater exceptions to statewide rules—Entiat River.** Notwithstanding the provisions of WAC 220-310-195:

- (1) Effective July 25 through September 30, 2014, it is permissible to fish for salmon in waters of the Entiat River upstream from the Alternate Highway 97 Bridge near the mouth of the Entiat River to the upper Roaring Creek Road Bridge downstream of the Entiat National Fish Hatchery.
- (2) Daily limit two hatchery Chinook salmon, minimum size 12 inches.
- (3) Selective gear rules and night closure apply.

REPEALER

The following section of the Washington Administrative code is repealed effective October 1, 2014:

WAC 220-310-19500W Freshwater exceptions to statewide rules—Entiat River.

**WSR 14-15-132**  
**EMERGENCY RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed July 22, 2014, 3:38 p.m., effective July 22, 2014, 3:38 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: A grammatical change is needed as well as adding the requirement that school districts need to review the driving record of their school bus drivers annually to ensure they are in compliance with chapter 392-144 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 392-144-160.

Statutory Authority for Adoption: Chapter 28A.210 RCW.

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: Before the 2014-15 school year starts, it's important for school districts to review the driving records of their school bus drivers to make sure they are properly licensed, and their driving records do not show any disqualifying citations.

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 1, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 22, 2014.

Randy Dorn  
State Superintendent  
of Public Instruction

AMENDATORY SECTION (Amending WSR 14-09-031, filed 4/9/14, effective 9/1/14)

**WAC 392-144-160 School district—Verification of driver's continuing compliance.** (1) Every school district shall annually evaluate each authorized school bus driver for continuing compliance with the provisions of this chapter (~~annually~~). The results of this evaluation of all drivers shall be submitted to the superintendent or their designee no later than the last business day in October of each year.

(2) This annual evaluation shall certify that the district has verified the following:

(a) That each authorized school bus driver's medical examination certificate expiration date, first-aid expiration date, driver's license expiration date and most recent school bus driver in-service training date has been updated in compliance with procedures established by the superintendent;

(b) That each authorized school bus driver's abstract of driving record provided by the department of licensing has been reviewed and is in compliance with WAC 392-144-103;

(c) That each authorized school bus driver has made an updated disclosure in writing and signed and sworn under penalty of perjury which updates the disclosure required in WAC 392-144-102(4); and

~~((c))~~ (d) That each authorized school bus driver remains in compliance with the physical requirements of WAC 392-144-102(5).