

WSR 15-04-008
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-12—Filed January 22, 2015, 1:16 p.m., effective January 26, 2015]

Effective Date of Rule: January 26, 2015.

Purpose: Amends cougar hunting rules described in WAC 232-28-297.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-29700P; and amending WAC 232-28-297.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, and 77.12.150.

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 change closes specific cougar hunt areas that have met or exceeded the area harvest guideline. Immediate action is necessary to protect cougars from overharvest in hunt areas that have met or exceeded the area harvest guideline. 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: January 22, 2015.

Philip Anderson
Director

NEW SECTION

WAC 232-28-29700Q 2012-2013, 2013-2014, and 2014-2015 Cougar hunting seasons and regulations. Notwithstanding the provisions of WAC 232-28-297, effective January 26, 2015, until further notice:

General cougar seasons in Game Management Units (GMUs) 105, 108, 101, 111, 113, 117, 121, 145, 166, 175, 178, 574, 578 and 667 are closed.

REPEALER

The following section of the Washington Administrative Code is repealed as of January 26, 2015.

WAC 232-28-29700P 2012-2013, 2013-2014, and 2014-2015 Cougar hunting seasons and regulations.

WSR 15-04-025
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-13—Filed January 26, 2015, 4:23 p.m., effective January 30, 2015, 12:01 p.m.]

Effective Date of Rule: January 30, 2015, 12:01 p.m.

Purpose: Amend recreational fishing rules for razor clams.

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

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

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

Reasons for this Finding: Survey results show that adequate razor clams are available for recreational harvest in Razor Clam Areas 1, 3, 4 and 5. Washington department of health has certified clams from these beaches are safe for human consumption. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: January 26, 2015.

Philip Anderson
Director

NEW SECTION

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

(1) Effective 12:01 p.m. January 30, 2015 through 11:59 p.m. February 6, 2015, razor clam digging is permissible in Razor Clam Area 1. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(2) Effective 12:01 p.m. January 30, 2015 through 11:59 p.m. February 6, 2015, razor clam digging is permissible in Razor Clam Area 3. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(3) Effective 12:01 p.m. January 31, 2015 through 11:59 p.m. January 31, 2015 razor clam digging is permissible in Razor Clam Area 4. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(4) Effective 12:01 p.m. January 30, 2015 through 11:59 p.m. February 1, 2015 razor clam digging is permissible in Razor Clam Area 5. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. February 7, 2015:

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

WSR 15-04-036
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)
(Community Services Division)

[Filed January 27, 2015, 2:02 p.m., effective January 27, 2015, 2:02 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department is amending the following WAC to implement annual adjustments to standards for the Washington Basic Food program: WAC 388-412-0015 General information about your food assistance allotments, 388-450-0185 What income deductions does the department allow when determining if I am eligible for food benefits and the amount of my monthly benefits?, 388-450-0190 How does the department figure my shelter cost income deduction for Basic Food?, 388-450-0195 Does the department use my utility costs when calculating my Basic Food or WASHCAP benefits?, 388-478-0060 What are the income limits and maximum benefit amounts for Basic Food?, and 388-470-0005 How do resources affect my eligibility for cash assistance and Basic Food?

Citation of Existing Rules Affected by this Order: Amending WAC 388-412-0015, 388-450-0185, 388-450-0190, 388-450-0195, 388-478-0060, and 388-470-0005.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, 7 C.F.R. § 273.9 (d)(6).

Other Authority: Amendments:

- Support the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS), per Supplemental Nutrition Assistance Program (SNAP) Administrative Notice 14-48: SNAP - Fiscal Year (FY) 2015 Cost-of-Living Adjustments (COLAS) dated August 4, 2014.
- Update Basic Food standards for federal FY 2015.
- Update the Basic Food standard utility allowance (SUA) and limited utility allowance (LUA) used when determining Basic Food benefits, to implement SNAP 10-6-WA-SUA dated July 24, 2014.
- Update the Basic Food resource limit adjustments for federal FY 2015 in accordance with USDA FNS, SNAP Administrative Notice 14-56 – FY 2015 resource limit adjustments.

Under RCW 34.05.350 the agency for good cause finds 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: The amendments update Basic Food standards for federal FY 2015 in order to comply with USDA FNS Administrative Notice 14-48: *SNAP - Fiscal Year (FY) 2015 Cost-of-Living Adjustments (COLAS)* and USDA SNAP 10-6-WA-SUA dated July 24, 2014, approving the proposed SUA.

These amendments are already in effect via emergency adoption, filed on September 30, 2014, as WSR 14-20-103. The emergency rules are scheduled to expire on January 28, 2015. The department has filed the permanent rule as WSR 15-02-041 on January 2, 2015, which takes effect February 2, 2015.

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 6, 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 6, Repealed 0.

Date Adopted: January 22, 2015.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-04-050, filed 1/27/14, effective 2/27/14)

WAC 388-412-0015 General information about your food assistance allotments. (1) Your monthly allotment under the Washington Basic Food program, food assistance program for legal immigrants (FAP), Washington combined application project (WASHCAP), or the transitional food assistance (TFA) programs is the total dollar value of benefits your assistance unit (AU) receives for a calendar month.

(2) How we determine monthly allotments:

(a) We calculate your monthly allotment for federally funded Basic Food as described under WAC 388-450-0162;

(b) We calculate your monthly allotment for state-funded food assistance as described under WAC 388-400-0050.

(3) Maximum allotment:

(a) The maximum allotment for the number of people in your AU eligible for federally funded Basic Food benefits is described under WAC 388-478-0060.

(b) The maximum allotment for the number of people in your AU eligible for state-funded FAP benefits is set by the legislature in the biennial operating budget as described in WAC 388-400-0050.

(4) Prorated benefits in the first month - If we determine you are eligible for food assistance, your first month's benefits are calculated from the date you applied through the end of the month of your application. This is called proration and is based on a thirty-day month:

(a) If your prorated benefits for the first month are under ten dollars, you will not receive an allotment for the first month.

(b) If there was a delay in processing your application, we determine when your benefits start under WAC 388-406-0055.

(5) Combined allotment for first and second month's benefits - If you apply for benefits on or after the sixteenth of the month, and we determine you are eligible for food assistance, we issue both the first and second months benefits in one allotment if you are eligible for both months.

(6) Minimum allotment - Unless it is the first month of your certification period and your benefits are prorated as described in subsection (4) of this section, your monthly allotment will be at least:

(a) ~~((Fifteen))~~ Sixteen dollars if your AU has one or two members, and at least one person is eligible for federally funded Basic Food.

(b) ~~((Eleven))~~ Twelve dollars if your AU has one or two members, and all members of your AU are eligible for state-funded FAP.

(7) Use of food assistance benefits - Your food assistance benefits may only be used to buy eligible food items as described under WAC 388-412-0046. If you use your benefits in any other way, it is an intentional program violation under WAC 388-446-0015 and could result in fines, imprisonment, disqualification from receiving food assistance benefits, or any combination of these penalties.

AMENDATORY SECTION (Amending WSR 14-04-050, filed 1/27/14, effective 2/27/14)

WAC 388-450-0185 What income deductions does the department allow when determining if I am eligible for food benefits and the amount of my monthly benefits?

We determine if your assistance unit (AU) is eligible for Basic Food and calculate your monthly benefits according to requirements of the Food and Nutrition Act of 2008 and federal regulations related to the supplemental nutrition assistance program (SNAP).

These federal laws allow us to subtract **only** the following amounts from your AU's total monthly income to determine your countable monthly income under WAC 388-450-0162:

(1) A standard deduction based on the number of eligible people in your AU under WAC 388-408-0035:

Eligible AU members	Standard deduction
1	\$ ((452)) <u>155</u>
2	\$ ((452)) <u>155</u>
3	\$ ((452)) <u>155</u>
4	\$ ((463)) <u>165</u>
5	\$ ((494)) <u>193</u>
6 or more	\$ ((219)) <u>221</u>

(2) Twenty percent of your AU's gross earned income (earned income deduction);

(3) Your AU's expected monthly dependent care expense needed for an AU member to:

(a) Keep work, look for work, or accept work;

(b) Attend training or education to prepare for employment; or

(c) Meet employment and training requirements under chapter 388-444 WAC.

(4) Medical expenses over thirty-five dollars a month owed or anticipated by an elderly or disabled person in your AU as allowed under WAC 388-450-0200.

(5) A portion of your shelter costs as described in WAC 388-450-0190.

AMENDATORY SECTION (Amending WSR 14-04-050, filed 1/27/14, effective 2/27/14)

WAC 388-450-0190 How does the department figure my shelter cost income deduction for Basic Food? The department calculates your shelter cost income deduction as follows:

(1) First, we add up the amounts your assistance unit (AU) must pay each month for shelter. We do not count any overdue amounts, late fees, penalties or mortgage payments you make ahead of time as an allowable cost. We count the following expenses as an allowable shelter cost in the month the expense is due:

(a) Monthly rent, lease, and mortgage payments;

(b) Property taxes;

(c) Homeowner's association or condo fees;

(d) Homeowner's insurance for the building only;

(e) Utility allowance your AU is eligible for under WAC 388-450-0195;

(f) Out-of-pocket repairs for the home if it was substantially damaged or destroyed due to a natural disaster such as a fire or flood;

(g) Expense of a temporarily unoccupied home because of employment, training away from the home, illness, or abandonment caused by a natural disaster or casualty loss if your:

- (i) AU intends to return to the home;
- (ii) AU has current occupants who are not claiming the shelter costs for Basic Food purposes; and
- (iii) AU's home is not being leased or rented during your AU's absence.

(2) Second, we subtract all deductions your AU is eligible for under WAC 388-450-0185 (1) through (4) from your AU's gross income. The result is your AU's countable income.

(3) Finally, we subtract one-half of your AU's countable income from your AU's total shelter costs. The result is your excess shelter costs. Your AU's shelter cost deduction is the excess shelter costs:

- (a) Up to a maximum of four hundred (~~seventy-eight~~) ninety dollars if no one in your AU is elderly or disabled; or
- (b) The entire amount if an eligible person in your AU is elderly or disabled, even if the amount is over four hundred (~~seventy-eight~~) ninety dollars.

AMENDATORY SECTION (Amending WSR 14-04-050, filed 1/27/14, effective 2/27/14)

WAC 388-478-0060 What are the income limits and maximum benefit amounts for Basic Food? If your assistance unit (AU) meets all other eligibility requirements for Basic Food, your AU must have income at or below the limits in column B and C to get Basic Food, unless you meet one of the exceptions listed below. The maximum monthly food assistance benefit your AU could receive is listed in column D.

EFFECTIVE (~~(1-1-2013)~~) 10/1/2014

Column A Number of Eligible AU Members	Column B Maximum Gross Monthly Income	Column C Maximum Net Monthly Income	Column D Maximum Allotment	Column E 165% of Poverty Level
1	\$(1,245) <u>1,265</u>	\$(958) <u>973</u>	\$(189) <u>194</u>	\$(1,580) <u>1,605</u>
2	((1,681)) <u>1,705</u>	((1,293)) <u>1,311</u>	((347)) <u>357</u>	((2,133)) <u>2,163</u>
3	((2,116)) <u>2,144</u>	((1,628)) <u>1,650</u>	((497)) <u>511</u>	((2,686)) <u>2,722</u>
4	((2,552)) <u>2,584</u>	((1,963)) <u>1,988</u>	((632)) <u>649</u>	((3,239)) <u>3,280</u>
5	((2,987)) <u>3,024</u>	((2,298)) <u>2,326</u>	((750)) <u>771</u>	((3,791)) <u>3,838</u>
6	((3,423)) <u>3,464</u>	((2,633)) <u>2,665</u>	((900)) <u>925</u>	((4,344)) <u>4,396</u>
7	((3,858)) <u>3,904</u>	((2,968)) <u>3,003</u>	((995)) <u>1,022</u>	((4,897)) <u>4,955</u>
8	((4,294)) <u>4,344</u>	((3,303)) <u>3,341</u>	((1,137)) <u>1,169</u>	((5,450)) <u>5,513</u>
9	((4,730)) <u>4,784</u>	((3,638)) <u>3,680</u>	((1,279)) <u>1,315</u>	((6,003)) <u>6,072</u>
10	((5,166)) <u>5,224</u>	((3,973)) <u>4,019</u>	((1,421)) <u>1,461</u>	((6,556)) <u>6,631</u>
Each Additional Member	+((436)) <u>440</u>	+((335)) <u>339</u>	+((142)) <u>146</u>	+((553)) <u>559</u>

Exceptions:

(1) If your AU is categorically eligible as under WAC 388-414-0001, your AU does not have to meet the gross or net income standards in columns B and C. We do budget your AU's income to decide the amount of Basic Food your AU will receive.

(2) If your AU includes a member who is sixty years of age or older or has a disability, your income must be at or below the limit in column C only.

(3) If you are sixty years of age or older and cannot buy and cook your own meals because of a permanent disability, we will use column E to decide if you can be a separate AU.

(4) If your AU has zero income, your benefits are the maximum allotment in column D, based on the number of eligible members in your AU.

AMENDATORY SECTION (Amending WSR 14-12-085, filed 6/3/14, effective 7/4/14)

WAC 388-450-0195 Does the department use my utility costs when calculating my Basic Food or WASH-CAP benefits? (1) The department uses utility allowances instead of the actual utility costs your assistance unit (AU) pays when we determine your:

(a) Monthly benefits under WAC 388-492-0070 if you receive WASHCAP; or

(b) Shelter cost income deduction under WAC 388-450-0190 for Basic Food.

(2) For Basic Food, "utilities" include the following:

(a) Heating or cooling fuel;

(b) Electricity or gas;

(c) Water (~~and sewer~~);

(d) Sewer;

(e) Well (~~or septic tank~~) installation/maintenance;

~~((e))~~ (f) Septic tank installation/maintenance;

(g) Garbage/trash collection; and

~~((f))~~ (h) Telephone service.

(3) We use the amounts below if you have utility costs separate from your rent or mortgage payment:

(a) If your AU has heating or cooling costs ~~or~~ receives more than twenty dollars in Low Income Home Energy Assistance Act (LIHEAA) benefits each year, you get a standard utility allowance (SUA) of four hundred ~~((nine))~~ fifteen dollars.

(b) If your AU does not qualify for the SUA and you have any two utility costs listed in subsection (2) of this section, you get a limited utility allowance (LUA) of three hundred thirty six dollars.

(c) If your AU has only telephone costs and no other utility costs, you get a telephone utility allowance (TUA) of sixty-five dollars.

~~((4) If your AU receives Basic Food on March 9, 2014, you receive the SUA through October 2014 regardless of your household's utility expenses unless you have a lapse in your Basic Food benefits.)~~

AMENDATORY SECTION (Amending WSR 13-18-005, filed 8/22/13, effective 10/1/13)

WAC 388-470-0005 How do resources affect my eligibility for cash assistance and Basic Food? (1) The following definitions apply to this chapter:

(a) **"We"** means the department of social and health services.

(b) **"You"** means a person applying for or getting benefits from the department.

(c) **"Fair market value (FMV)"** means the price at which you could reasonably sell the resource.

(d) **"Equity value"** means the FMV minus any amount you owe on the resource.

(e) **"Community property"** means a resource in the name of the husband, wife, or both.

(f) **"Separate property"** means a resource of a married person that one of the spouses:

(i) Had possession of and paid for before they were married;

(ii) Acquired and paid for entirely out of income from separate property; or

(iii) Received as a gift or inheritance.

(2) We count a resource to decide if your assistance unit (AU) is eligible for cash assistance or Basic Food when:

(a) It is a resource we must count under WAC 388-470-0045 and 388-470-0055;

(b) You own the resource. We consider you to own a resource if:

(i) Your name is on the title to the property; or

(ii) You have property that doesn't have a title; and

(c) You have control over the resource, which means the resource is actually available to you; and

(d) You could legally sell the resource or convert it into cash within twenty days.

(3) For cash assistance, you must try to make your resources available even if it will take you more than twenty days to do so, unless:

(a) There is a legal barrier; or

(b) You must petition the court to release part or all of a resource.

(4) When you apply for assistance, we count your resources as of:

(a) The date of your interview, if you are required to have an interview; or

(b) The date of your application, if you are not required to have an interview.

(5) If your total countable resources are over the resource limit in subsection (6) through (13) of this section, you are not eligible for benefits.

(6) For cash assistance, we use the equity value as the value of your resources.

(a) Applicants can have countable resources up to one thousand dollars.

(b) Recipients of cash assistance can have an additional three thousand dollars in a savings account.

(7) If your AU is categorically eligible (CE) as described in WAC 388-414-0001, you do not have a resource limit for Basic Food.

(8) If your AU is not CE under WAC 388-414-0001, your AU may have countable resources up to the following amount and be eligible for Basic Food:

(a) Three thousand two hundred fifty dollars if your AU has either an elderly or disabled individual; or

(b) Two thousand two hundred fifty dollars for all other AUs.

(9) If you own a countable resource with someone who is not in your AU, we count the portion of the resource that you own. If we cannot determine how much of the resource is yours:

(a) For cash assistance, we count an equal portion of the resource that belongs to each person who owns it.

(b) For Basic Food, we count the entire amount unless you can prove that the entire amount is not available to you.

(10) We assume that you have control of community property and you can legally sell the property or convert it to cash unless you can show that you do not.

(11) We may not consider an item to be separate property if you used both separate and community funds to buy or improve it.

(12) We do not count the resources of victims of family violence when:

(a) The resource is owned jointly with members of the former household; or

(b) Availability of the resource depends on an agreement of the joint owner; or

(c) Making the resource available would place the client at risk of harm.

(13) You may give us proof about a resource anytime, including when we ask for it or if you disagree with a decision we made, about:

(a) Who owns a resource;

(b) Who has legal control of the resource;

(c) The value of a resource;

(d) The availability of a resource; or

(e) The portion of a property you or another person owns.

WSR 15-04-037
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-14—Filed January 27, 2015, 2:36 p.m., effective January 29, 2015]

Effective Date of Rule: January 29, 2015.

Purpose: Amend recreational fishing rules.

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

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

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

Reasons for this Finding: Catch rates have continued to be higher than expected. This regulation closes salmon fishing in Area 7 Monday through Thursdays to ensure compliance with conservation objectives and agreed-to management plans. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: January 27, 2015.

Philip Anderson
Director

NEW SECTION

WAC 232-28-62100L Puget Sound salmon—Saltwater seasons and daily limits. Notwithstanding the provisions of WAC 232-28-621, effective January 29 through April 30, 2015:

(1) Waters of Catch Record Card Area 7 are closed for salmon fishing except Fridays, Saturdays, and Sundays.

(2) The daily limit for salmon is one; however anglers must release wild Chinook.

REPEALER

The following section of the Washington Administrative Code is repealed effective January 29, 2015:

WAC 232-28-62100K Puget Sound salmon—Saltwater seasons and daily limits. (15-07)

The following section of the Washington Administrative Code is repealed effective May 1, 2015:

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

WSR 15-04-038
EMERGENCY RULES
DEPARTMENT OF AGRICULTURE

[Filed January 27, 2015, 2:54 p.m., effective January 27, 2015, 2:54 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This rule-making order repeals sections of chapter 16-51 WAC adopted on January 7, 2015, to establish a quarantine zone in Benton and Franklin counties protecting the commercial poultry industry, small poultry farms and poultry fanciers in Washington state from highly pathogenic avian influenza (HPAI).

Citation of Existing Rules Affected by this Order: Repealing WAC 16-51-010, 16-51-100, 16-51-200, 16-51-300, 16-51-400, 16-51-500, 16-51-600, 16-51-700, and 16-51-800.

Statutory Authority for Adoption: RCW 16.36.040.

Other Authority: Chapter 34.05 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: HPAI has recently been found in domestic poultry within Washington state. HPAI is an extremely infectious and fatal form of avian influenza that affects many species of birds and is of particular concern when it affects poultry. It has been determined that the quarantine in Benton and Franklin counties was successful in the containment and eradication of HPAI in the designated zone. Immediate repeal of the movement restrictions on poultry and poultry products in the designated zone is necessary to protect Washington's poultry industry from long-term disruption.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 9.

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: January 27, 2015.

Mark Streuli
Deputy Director

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-51-010	Definitions and acronyms.
WAC 16-51-100	Necessity of establishing a quarantine zone for notifiable avian influenza (NAI)—Purpose.
WAC 16-51-200	Zone under quarantine for NAI.
WAC 16-51-300	Prohibition on moving poultry, eggs, and poultry products, and specified farm products within or from the quarantine zone established for NAI.
WAC 16-51-400	Restrictions on vehicles, poultry equipment, wood crates and poultry products leaving from any premises in the quarantine zone established for NAI.
WAC 16-51-500	Testing of living poultry within the quarantine zone.
WAC 16-51-600	Destruction of birds testing positive or exposed to birds testing positive for NAI.
WAC 16-51-700	Disposal of dead poultry originating within the quarantine zone.

WAC 16-51-800 Special permits—Quarantine zone.

WSR 15-04-054 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 15-16—Filed January 29, 2015, 3:04 p.m., effective February 2, 2015, 7:00 a.m.]

Effective Date of Rule: February 2, 2015, 7:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-04000M; and amending WAC 220-33-040.

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: Sets a limited Columbia River commercial fishery for eulachon smelt. The regulation is consistent with a reduced level one fishery as described in the "Washington and Oregon Eulachon Management Plan" for the Columbia River. Returns of eulachon to the Columbia River have improved since 2010, with a large return expected in 2015. The fishery serves as an important test fishery to monitor run strength and timing and to collect biological data. NOAA fisheries concurs that the limited fishery is consistent with recovery of eulachon smelt. Rule is consistent with Columbia River compact action of January 28, 2015. There is insufficient time to adopt permanent regulations.

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: January 29, 2015.

Philip Anderson
Director

NEW SECTION

WAC 220-33-04000N Smelt—Areas and seasons. Notwithstanding the provisions of WAC 220-33-040, the

Columbia River and Washington tributaries are closed to fishing for eulachon smelt except as provided below:

Open Dates: February 2 through February 26, 2015, open Mondays and Thursdays only, 7:00 a.m. to 2:00 p.m. (7-hour periods).

Open Area: Columbia River - SMCRA 1A, 1B, 1C.

Gear: It is unlawful to use anything other than gillnets. Gillnets must meet the following specifications per WAC 220-33-040: mesh size not to exceed 2 inches stretch measure; not to exceed 1,500 feet in length along the cork line. Use of monofilament nets is permissible.

Allowable sales: Smelt.

Other: 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 7:00 a.m. February 2, 2015:

WAC 220-33-04000M Smelt—Areas and seasons. (14-346)

WSR 15-04-055
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-17—Filed January 29, 2015, 3:05 p.m., effective February 2, 2015, 6:00 a.m.]

Effective Date of Rule: February 2, 2015, 6:00 a.m.

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

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

Statutory Authority for Adoption: RCW 77.04.012, 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: Opens the treaty winter fishery for commercial sales to Washington wholesale buyers and the public. The Columbia River treaty tribes have delayed the

use of gillnets in SMCRA 1F until February 23, however sales of fish caught with platform/hook and line gear in that area is allowed (as described in section 2c [subsection (2)(c)]). The Dalles and John Day Pool are expected to continue through February 20 based on past catch rates and current catch guidelines. Harvestable sturgeon are available under the current harvest guidelines for each pool. The season is consistent with the 2008-2017 Management Agreement and the associated biological opinion. Rule is consistent with action of the Columbia River compact on January 28, 2015. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

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

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

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 2; Federal Rules or Standards: New 1, Amended 0, Repealed 2; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: January 29, 2015.

Philip Anderson
Director

NEW SECTION

WAC 220-32-05100R Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052 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. However, those individuals possessing treaty fishing rights under the Yakima, 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 Areas: SMCRA 1G and 1H (The Dalles Pool and John Day Pool):

(a) Season: 6:00 a.m. February 2 through 6:00 p.m. February 20, 2015.

(b) Gear: Gill nets, hoop nets, dip bag nets, and rod and reel with hook and line. No mesh restriction on gillnets.

(c) Allowable sale: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon between 43-54 inches in fork length in SMCRA 1G and 1H may be sold or kept for subsistence. Live release of all oversize and under-size sturgeon is required.

2. Open Areas: SMCRA 1F (Bonneville Pool):

(a) Season: 6:00 a.m. February 2 through 5:59 a.m. February 23, 2015.

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

(c) Allowable sale: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon may not be sold. Sturgeon between 43-54 inches in fork length in SMCRA 1F may only be kept for subsistence. Live release of all oversize and under-size sturgeon is required.

3. Open Areas: SMCRA 1F (Bonneville Pool):

(a) Season: 6:00 a.m. February 23 through 6:00 p.m. March 21, 2015.

(b) Gear: Gill nets, hoop nets, dip bag nets, and rod and reel with hook and line. No mesh restriction on gillnets.

(c) Allowable sale: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon between 43-54 inches in fork length in SMCRA 1G and 1H may be sold or kept for subsistence. Live release of all oversize and under-size sturgeon is required. Fish caught during the open period may be sold after the period concludes.

4. 24-hour quick reporting is required for Washington wholesale dealers for all areas as provided in WAC 220-69-240, 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).

5. Fish caught during the open period may be sold after the period concludes.

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 effective 6:00 a.m. February 2, 2015:

WAC 220-32-05100Q Columbia River salmon seasons above Bonneville Dam. (14-312)

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. March 21, 2015:

WAC 220-32-05100R Columbia River salmon seasons above Bonneville Dam.

WSR 15-04-056
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-18—Filed January 29, 2015, 3:05 p.m., effective February 2, 2015, 6:00 a.m.]

Effective Date of Rule: February 2, 2015, 6:00 a.m.

Purpose: Amend Puget Sound commercial smelt rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-27000M; and amending WAC 220-56-270.

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: Sets a limited sport fishery for eulachon smelt. The regulations are consistent with a reduced level one fishery as described in the "Washington and Oregon Eulachon Management Plan" for the Columbia River. Returns of eulachon to the Columbia River have improved since 2010, with a large return expected in 2015. The fishery serves as an important test fishery to monitor run strength and timing and to collect biological data. NOAA fisheries concurs that the limited fishery is consistent with recovery of eulachon smelt. Rule is consistent with Columbia River compact action of January 28, 2015. 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: January 29, 2015.

Philip Anderson
Director

NEW SECTION

WAC 220-56-27000M Smelt—Areas and seasons. Notwithstanding the provisions of WAC 220-56-270, WAC 220-56-240, WAC 220-56-265, and WAC 220-56-275, effective February 7 through February 14, 2015, it is unlawful to fish for or possess eulachon smelt in those waters of the Columbia River and Washington tributaries except as provided below:

Open Dates: Saturday February 7 and Saturday February 14, 2015.

Hours: 6:00 a.m. to 12:00 p.m. (Noon) each Saturday (6-hour periods).

Open Area: Cowlitz River (bank only).

Daily limit: 10 pounds. Possession limit equal to one daily limit.

Gear: Dip net.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 p.m. February 14, 2015:

WAC 220-56-27000M Smelt—Areas and seasons.

WSR 15-04-057

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE

[Filed January 29, 2015, 3:19 p.m., effective January 29, 2015, 3:19 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: In the interest of protecting the commercial poultry industry, small poultry farms and poultry fanciers in Washington state from highly pathogenic avian influenza (HPAI), movement restrictions are being placed on poultry and poultry products in a designated quarantine zone.

Statutory Authority for Adoption: RCW 16.36.040.

Other Authority: Chapter 34.05 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: HPAI has recently been found in domestic poultry within Washington state. HPAI is an extremely infectious and fatal form of avian influenza that affects many species of birds and is of particular concern when it affects poultry. It has been determined that the containment and eradication of HPAI is necessary to protect Washington's poultry industry.

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 9, 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: January 29, 2015.

Mark Streuli
Deputy Director

Quarantine Zone for Notifiable Avian Influenza

NEW SECTION

WAC 16-800-005 Definitions. "Department" means the Washington state department of agriculture.

"Director" means the director of the Washington state department of agriculture.

"HPAI" means highly pathogenic avian influenza.

"LPAI" means low pathogenic avian influenza.

"NAI" means notifiable avian influenza, which consists of highly pathogenic avian influenza and low pathogenic avian influenza.

"Poultry" means chickens, turkeys, ratites, waterfowl, pigeons, doves and other domestic fowl. For purposes of this chapter, poultry also means game birds such as pheasants, partridge, chukars, quail, and grouse that are raised in confinement. Poultry does not mean free ranging birds defined as wildlife in Title 77 RCW.

"Premises" means any property where poultry are raised, held, or boarded.

"USDA, APHIS" means the United States Department of Agriculture Animal and Plant Health Inspection Service.

NEW SECTION

WAC 16-800-010 Necessity of establishing a quarantine zone for notifiable avian influenza (NAI)—Purpose.

This chapter is authorized by RCW 16.36.040. On December 24, 2014, the department received positive diagnosis of highly pathogenic avian influenza (HPAI) H5 found in domestic poultry within Washington State. HPAI is an extremely infectious and fatal form of avian influenza that affects many species of birds and is of particular concern when it affects poultry. Low pathogenic avian influenza strains H5 and H7 (LPAI H5/H7) are also of concern because of the ability of the influenza virus to mutate to a highly pathogenic strain. HPAI and LPAI H5/H7 are defined as a notifiable avian influenza (NAI).

The establishment of HPAI would be costly to the poultry industry, consumers and taxpayers. Eradication of an HPAI outbreak in the northeastern states in the mid-1980s resulted in the destruction of 17 million birds at a cost of

nearly \$65 million. The disease can spread rapidly from flock to flock. In some instances, strains of HPAI can be infectious to people. The USDA, APHIS works to keep NAI from becoming established in the United States. The director of the department of agriculture, pursuant to authorities in chapter 16.36 RCW, has determined that the containment and eradication of NAI is necessary to protect the commercial poultry industry, small poultry farms and poultry fanciers of the state of Washington.

Birds species that are potential hosts for NAI include chickens, turkeys, ratites, waterfowl, pigeons, doves and other domestic fowl as well as game birds including pheasants, partridge, chukars, quail, and grouse. Migratory waterfowl have proved to be the natural reservoir for this disease.

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.

NEW SECTION

WAC 16-800-015 Zone under quarantine for NAI.

(1) A quarantine zone is created within Okanogan County. All premises lying within the boundaries outlined in (1)(a) of this section fall under movement restrictions per WAC 16-800-020. See map below.

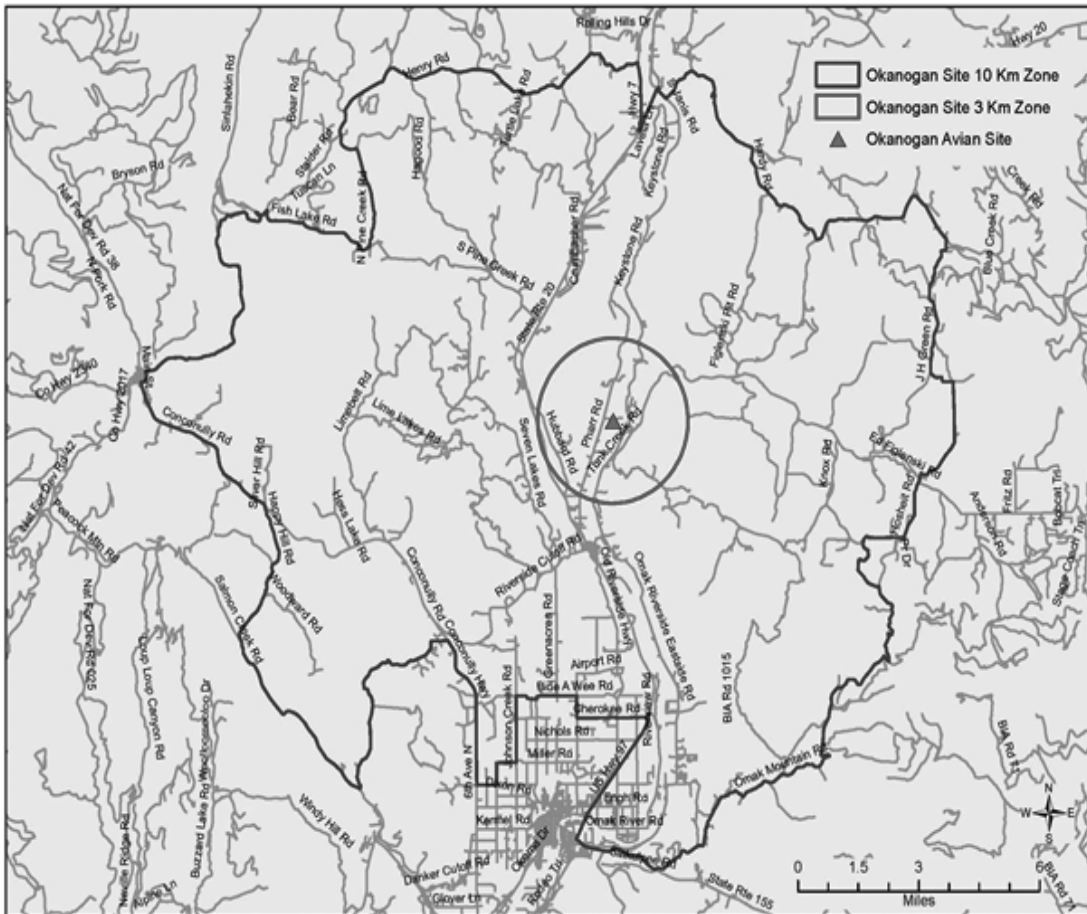
(a) Northern boundary. Beginning at the intersection of US 97 WA 20 and S. Janis Road, turn right onto S. Janis

Road. Turn left onto McLaughlin Canyon Road, then right onto Hardy Road, then turn left onto Chewilken Valley Road.

(b) Eastern boundary. From Chewilken Valley Road, turn right onto JH Green Road, then left onto Hosheit Road, then left onto Tedrow Trail Road, then left onto Brown Pass Road, then right onto an unnamed road, then left onto Omak Mountain Road, then right onto an unnamed road, then right onto Coulee Corridor Scenic Byway – WA 155.

(c) Southern boundary. From Coulee Corridor Scenic Byway – WA 155, turn right onto US 97 WA 20, then left onto Cherokee Road, then right onto Robinson Canyon Road. Turn left onto Bide A Wee Road, then left onto Duck Lake Road, then right onto Soren Peterson Road, then left onto Johnson Creek Road, then right onto George Road. Turn left onto Wetherstone Road, then right onto Eplay Road.

(d) Western boundary. From Eplay Road, turn right onto Conconully Road/6th Avenue N., then left onto Green Lake Road, then right onto Salmon Creek Road, then right onto Happy Hill Road, then left onto Conconully Road (turns into Main Street). Turn right onto Broadway, then left onto C Street, then right onto Lake Street E, then right onto Sinlahekin Road, then right onto S. Fish Lake Road, then right onto Fish Lake Road. Turn left onto N. Pine Creek Road, then right onto Henry Road (turns into N. Pine Creek Road), then right onto Indian Springs Road, then right onto Hwy 7, ending at US 97 WA 20.



(2) A map of the quarantine zone can be obtained through a request to the department at toll-free number (800) 606-3056 or email at ahealth@agr.wa.gov.

NEW SECTION

WAC 16-800-020 Prohibition on moving poultry, eggs, and poultry products, and specified farm products within or from the quarantine zone established for NAI.

(1) Movement of living or dead poultry, eggs, or poultry products within or from the quarantine zone for NAI is prohibited, unless a permit has been issued by the department pursuant to WAC 16-800-045. Poultry may be moved within property that is one premises under the control of one person so long as that movement does not cross the boundary of a quarantine zone established by this chapter. Dead poultry or other dead birds may be transported to an approved landfill or an incinerator for disposal when secured within two plastic bags in compliance with WAC 16-51-935.

(2) Poultry shows or sales may not be held within the quarantine zone unless permissible per WAC 16-800-015 or by a special permit issued under WAC 16-800-045.

NEW SECTION

WAC 16-800-025 Restrictions on vehicles, poultry equipment, wood crates and poultry products leaving from any premises in the quarantine zone established for NAI.

(1) The following articles are declared to be able to carry NAI, and their movement or transportation from any premises in the quarantine zone is prohibited prior to being disinfected:

- (a) Vehicles;
- (b) The outer surfaces of diagnostic samples collected in approved containers;
- (c) Sampling equipment made of metal, glass, or plastic such as totes, scissors, knives, specimen bottles, or specimen vials;
- (d) Non-disposable personal protective equipment capable of being disinfected such as rubber boots or shoes, respirators or reusable protective clothing;
- (e) Poultry equipment made of metal, plastic polymer, non-natural materials; and,
- (f) Water resistant data recording materials.

(2) The following are the required practices for adequate disinfecting the items listed in subsection (1) above:

- (a) Thoroughly scrub to free the item of visible, dirt, manure, or other organic material;
- (b) Apply disinfectant using brushes, sponges or spray units; and
- (c) Use all disinfectants according to the manufacturer's label, state laws and local regulations.

The USDA, APHIS Web site at (http://www.aphis.usda.gov/animal_health/birdbiosecurity/biosecurity/) may be consulted for the latest recommendations concerning poultry biosecurity or the department may be contacted by calling (800) 606-3056 or by email at ahealth@agr.wa.gov.

(3) The following articles are declared capable of carrying NAI, and their movement or transportation from any premises in the quarantine zone is prohibited since they cannot be adequately sanitized:

- (a) Disposable sampling equipment including syringes, needles, swabs;
- (b) Non-water resistant data recording materials including writing utensils, notepads, clipboards, or paper;
- (c) Disposable personal protective equipment such as clothing, masks, and boots; and,
- (d) All other items that may have come in contact with infected secretions from poultry and are not capable of being disinfected.

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

NEW SECTION

WAC 16-800-030 Testing living poultry within the quarantine zone. When requested by the department, poultry or eggs on any premises in the quarantine zone must be presented to the department for testing. Results from the testing will be provided as soon as practical to the owner of the birds.

NEW SECTION

WAC 16-800-035 Destruction of birds testing positive or exposed to birds testing positive for NAI. Poultry that test positive or are exposed to birds that test positive for NAI must be destroyed promptly after a plan for indemnity and flock management has been accepted by the department, the USDA, APHIS and the flock owner. Euthanasia must be humanely handled in accordance with practices recommended by the department. A list of approved euthanasia practices can be obtained through a request to the department by calling (800) 606-3056 or by email at ahealth@agr.wa.gov.

NEW SECTION

WAC 16-800-040 Disposal of dead poultry originating within the quarantine zone. Dead poultry or other dead birds may only be disposed of by one of the following options:

- (1) Dead poultry or other dead birds may be transported to an approved landfill for disposal when secured within two plastic bags and outer surfaces are disinfected.
- (2) Dead poultry or other dead birds may be composted on site or as part of a recognized composting operation. On-site composting shall be managed and monitored by the department or other suitable state agency.
- (3) Dead poultry or other dead birds may be incinerated at an approved facility. Transport requirements are as in subsection (1) above.
- (4) Dead poultry or other dead birds may be disposed of by other method only by special permit issued under WAC 16-800-045.

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.

NEW SECTION

WAC 16-800-045 Special permits—Quarantine zone. The department may issue special permits for actions otherwise forbidden under provisions of this chapter. These special permits shall be conditioned to minimize the risk of spreading NAI.

WSR 15-04-069
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-20—Filed January 30, 2015, 12:17 p.m., effective March 1, 2015]

Effective Date of Rule: March 1, 2015.

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: 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 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 2015 spring recreational salmon season in the Columbia River in the area from Buoy 10 upstream to the Oregon/Washington border. The regulation adjusts the hatchery adult bag limit in Deep River to be consistent with the adjacent Columbia River when both areas are open. The regulation allows for the retention of shad and hatchery steelhead during days and in areas that are open for hatchery chinook. ESA impacts for wild fish are available to recreational fisheries in order to access hatchery fish. The fishery is consistent with the *U.S. v. Oregon* Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with compact action of January 28, 2015. 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 0; Federal Rules or Standards: New 1, 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 1, Amended 0, Repealed 0.

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

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

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

Date Adopted: January 30, 2015.

Philip Anderson
Director

NEW SECTION

WAC 220-310-20000A 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) Columbia River: Effective March 1 through April 10, 2015

(a) Open for fishing for salmonids and shad. From a true north-south line through Buoy 10 upstream to 600 feet down-

stream of the fish ladder at the new Bonneville Dam powerhouse (#2), except closed March 24, March 31 and April 7.

(b) HOWEVER, closed to fishing from boats upstream of Beacon Rock (defined as a deadline marker on the Oregon bank, located approximately four miles downstream from Bonneville Dam Powerhouse #1, projecting a straight line through the western tip of Pierce Island to a deadline marker on the Washington bank at Beacon Rock).

(c) Daily salmonid limit is 6 fish (hatchery Chinook or hatchery steelhead), of which no more than 2 may be adults and no more than 1 may be an adult Chinook.

(d) Release all wild Chinook and wild steelhead.

(e) Salmon minimum size is 12 inches.

(f) Effective March 16 through May 6, 2015:

(i) Open to fishing from the Tower Island power lines in Bonneville Pool (located approximately 6 miles below The Dalles Dam) upstream to the Oregon and Washington border, plus the Washington bank between Bonneville Dam and the Tower Island power lines (except for those waters closed under permanent regulations).

(ii) Daily salmonid limit is 6 fish (hatchery Chinook or hatchery steelhead), of which no more than 2 may be adults and no more than 1 may be an adult Chinook.

(iii) Release all wild Chinook and wild steelhead.

(iv) Salmon minimum size is 12 inches.

(2) Deep River (Wahkiakum Co.): Effective March 1, 2015, until further notice: the hatchery adult Chinook daily limit is the same as the adjacent mainstem Columbia River during those days when the mainstem Columbia River is open for adult Chinook retention. When the adjacent mainstem Columbia River is closed for adult Chinook retention, the salmon daily limit is the same as provided in the permanent rules for Deep River.

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 15-04-070
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-19—Filed January 30, 2015, 12:18 p.m., effective February 9, 2015, 7:00 p.m.]

Effective Date of Rule: February 9, 2015, 7:00 p.m.

Purpose: This emergency rule will 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 implements federal court orders governing Washington's relationship with treaty Indian tribes, federal law governing Washington's relationship with Oregon, and Washington fish and wildlife commission policy guidance for Columbia River fisheries.

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

Statutory Authority for Adoption: RCW 77.04.012, 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 2015 winter and spring select area commercial seasons. Impacts to nonlocal stocks are expected to be minimal and local chinook stocks reared for the select area sites are available for 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 January 28, 2015. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

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

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

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

Date Adopted: January 30, 2015.

Philip Anderson
Director

NEW SECTION

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

1. Deep River Select Area

a) **Dates:** Winter Season: Open hours are 7:00 PM to 7:00 AM Monday and Thursday nights from February 9 through March 31, 2015. Spring Season: Open hours are 7 PM to 7 AM Tuesday and Thursday nights from April 16 through May 1, 2015, and Monday and Thursday nights from May 4 until further notice.

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

c) **Gear:** Gillnets. Winter season: 7-inch minimum mesh. Spring season: 9 3/4-inch maximum mesh. Nets are restricted to 100 fathoms in length with no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed. Nets cannot be tied off to stationary structures. Nets may not fully cross navigation channel. It is unlawful to operate in any river, stream or channel any gillnet longer than three-fourths the width of the stream (WAC 220-20-015)(1). It shall be unlawful in any area to use, operate, or carry aboard a commercial fishing vessel a licensed net or combination of such nets, whether fished singly or separately, in excess of the maximum lawful size or length prescribed for a single net in that area, except as otherwise provided for in the rules and regulations of the department (WAC 220-20-010)(17).

d) **Miscellaneous:** Transportation or possession of fish outside the fishing area (except to the sampling station) is unlawful until WDFW staff has biologically sampled individual catches. After sampling, fishers will be issued a transportation permit by WDFW staff. **During the winter season, fishers are required to call 360-795-0319** to confirm the place and time of sampling. In the spring season, a sampling station will be established at WDFW's Oneida Road boat ramp, about 0.5 miles upstream of the lower Deep River area boundary (USCG navigation marker #16).

2. Tongue Point/South Channel

a) **Dates:** Winter Season: Open hours are 7:00 PM to 7:00 AM. Monday and Thursday nights from February 9 through March 13, 2015.

Spring Season: April 21 from 8 PM- midnight, Thursday night April 23 from 9 PM-3 AM. Tuesday night April 28 from 7 PM-7 AM. Thursday night April 30 from 7 PM to 7 AM and Monday and Thursday nights from May 4 until further notice.

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

The South Channel area includes all waters bounded by a line from a marker on John Day Point through the green USCG buoy #7 to a marker on the southwest end of Lois Island, upstream to an upper boundary line from a marker on Settler Point, northwesterly to the flashing red USCG marker #10, and northwesterly to a marker on Burnside Island defining the upstream terminus of South Channel.

c) **Gear:** Gillnets. Winter season: 7-inch minimum mesh. Spring season: 9 3/4-inch maximum mesh. In the Tongue Point fishing area, gear restricted to a maximum net length of 250 fathoms, and weight not to exceed two pounds on any one fathom. In the South Channel fishing area, gear restricted to a maximum net length of 250 fathoms, no weight restriction on leadline, and use of additional weights or anchors attached directly to the leadline is allowed.

d) **Miscellaneous:** Permanent transportation rules in effect.

3. Blind Slough/Knappa Slough Select Area

a) **Dates:** Winter Season: Monday and Thursday nights from February 9 through March 31, 2015. Open hours are 7:00 PM to 7:00 AM.

Spring Season: Tuesday and Thursday nights from April 21 through May 1 and Monday and Thursday nights from May 4 until further notice. Open hours are 7:00 PM to 7:00 AM.

b) **Area:** Winter season: Blind Slough and Knappa Slough are both open through March 20 and only Blind Slough is open thereafter. Spring season: Blind Slough and Knappa Slough areas are both open. From May 4 until further notice, the lower boundary of the Knappa Slough fishing area is extended downstream to boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon Shore (fall season boundary).

c) **Gear:** Gillnets. Winter season: 7-inch minimum mesh. Spring Season: 9 3/4-inch maximum mesh. Nets are restricted to 100 fathoms in length, with no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed.

4. Allowable Possession: Salmon and shad

5. 24-hour quick reporting is in effect for Washington buyers (WAC 220-69-240 (14)(d)). Permanent transportation rules in effect.

6. Multi-Net Rule: Nets not specifically authorized for use in these areas may be onboard a vessel if properly stored (WAC 220-33-001(2)).

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

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

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 7:00 p.m. February 9, 2014:

WAC 220-33-01000G Columbia River seasons below Bon-neville. (14-311)

WSR 15-04-071

EMERGENCY RULES

HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed January 30, 2015, 1:59 p.m., effective January 30, 2015, 1:59 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To bring the rule into compliance with federal law.

Citation of Existing Rules Affected by this Order: Amending WAC 182-512-0770.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Other Authority: Patient Protection and Affordable Care Act established under Public Law 111-148; and Code of Federal Regulations at 42 C.F.R. § 431, 435, and 457, and at 45 C.F.R. § 155.

Under RCW 34.05.350 the agency for good cause finds 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: The rule regarding excluded income and resources of American Indians and Alaska Natives is not compliant with federal law.

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

Date Adopted: January 30, 2015.

Jason R. P. Crabbe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-07-059, filed 3/14/14, effective 4/14/14)

WAC 182-512-0770 SSI-related medical—American Indian(†) or Alaska Native excluded income and resources. (1) The agency excludes the following types of income from being considered when determining eligibility for Washington apple health (WAH) categorically needy (CN) and medically needy (MN) SSI-related programs for American Indians(†) or Alaska Natives:

(a) ~~((Distributions received by an individual Alaska Native or descendant of an Alaska Native from an Alaska Native Regional and Village Corporation pursuant to the Alaska Native Claims Settlement Act, P.L. 92-203 and 100-241, as follows:~~

~~(i) Cash, including cash dividends on stock received from a Native Corporation, to the extent that it does not, in the aggregate, exceed two thousand dollars per person each calendar year;~~

~~(ii) Stock, including stock issued or distributed by a Native Corporation as a dividend or distribution on stock;~~

~~(iii) A partnership interest;~~

~~(iv) Land or an interest in land, including land or an interest in land received from a Native Corporation as a dividend or distribution on stock; and~~

~~(v) An interest in a settlement trust.~~

~~(b) Income received from Indian trust funds or lands held in trust by the Secretary of the Interior for an Indian tribe or individual tribal member, P.L. 98-64, including any interest and investment income accrued while such funds are held in trust;~~

~~(c) Income received from Indian judgment funds held in trust by the Secretary of the Interior or distributed per capita under P.L. 93-134 as amended by P.L. 97-458, including any interest and investment income accrued while such funds are held in trust;~~

~~(d) Up to two thousand dollars per person per calendar year received from individual interests in trust or restricted lands under section 13736 of P.L. 103-66; and~~

~~(e) Income received by members of specific Indian tribes and groups that is excluded by federal law (as more fully listed in Appendix to Subpart K of Title 20, Part 416 of the Code of Federal Regulations) including, but not limited to, the following:~~

~~(i) Payments from an annuity fund established by the Puyallup Tribe of Indians Settlement Act of 1989, P.L. 101-41, made to a Puyallup tribe member upon reaching twenty-one years of age;~~

~~(ii) Payments from the trust fund established by P.L. 101-41 made to a Puyallup tribe member;~~

~~(iii) Payments under the White Earth Reservation Land Settlement Act of 1985, P.L. 99-264, Section 16;~~

~~(iv) Payments made from submarginal land held in trust for certain Indian tribes as designated by P.L. 94-114; and~~

~~(v) Payments under the Seneca Nation Settlement Act, P.L. 101-503-)) Distributions from Alaska Native corporations and settlement trusts;~~

(b) Distributions from any property held in trust, subject to federal restrictions, located within the most recent boundaries of a prior federal reservation, or otherwise under the supervision of the Secretary of the Interior;

(c) Distributions and payments from rents, leases, rights of way, royalties, usage rights, or natural resource extraction and harvest from:

(i) Rights of ownership or possession in any lands described in (b) of this subsection; or

(ii) Federally protected rights regarding off-reservation hunting, fishing, gathering, or usage of natural resources.

(d) Distributions resulting from real property ownership interests related to natural resources and improvements that are:

(i) Located on or near a reservation or within the most recent boundaries of a prior federal reservation; or

(ii) Resulting from the exercise of federally protected rights relating to such real property ownership interests.

(e) Payments resulting from:

(i) Ownership interests in or usage rights to items that have unique religious, spiritual, traditional, or cultural significance; or

(ii) Rights that support subsistence or a traditional lifestyle according to applicable tribal law or custom.

(f) Student financial assistance provided under the Bureau of Indian Affairs education programs; and

(g) Any other applicable income exclusion as provided by federal law, regulation, or rule.

(2) The agency excludes the following types of resources from being considered when determining eligibility for WAH-CN and WAH-MN SSI-related programs for American Indians~~(/)~~ or Alaska Natives:

(a) Property, including real property and improvements, that is:

(i) Held in trust, subject to federal restrictions, or otherwise under the supervision of the Secretary of the Interior; and

(ii) Located on a reservation, including any federally recognized Indian tribe's reservation, pueblo, or colony, including:

(A) Former reservations in Oklahoma~~(/)~~;

(B) Alaska Native regions established by the Alaska Native Claims Settlement Act; and

(C) Indian allotments on or near a reservation as designated and approved by the Bureau of Indian Affairs of the Department of the Interior~~(/)~~;

(b) ((For any federally recognized tribe not described in (a) of this subsection,)) Property located within the most recent boundaries of a prior federal reservation for any federally recognized tribe not described in (a) of this subsection;

(c) Ownership interests in rents, leases, royalties, or usage rights related to natural resources (including, but not limited to, extraction of natural resources or harvesting of timber, other plants and plant products, animals, fish and shellfish) resulting from the exercise of federally protected rights; and

(d) Ownership interests in or usage rights to items not covered in (a), (b), or (c) of this subsection that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable tribal law or custom.

(3) When determining eligibility for WAH-CN and WAH-MN SSI-related programs for American Indians~~(/)~~ or Alaska Natives, the agency counts ~~((of excluded))~~ or excludes amounts received by tribal members from exercise of gaming revenues (per capita distributions) that are retained after the month of receipt based on the type of resource in which the money is retained. If the amounts are retained in a countable resource (for example, cash, checking account, or savings account), the agency treats the amounts as a countable resource. If the amounts are converted to an excluded resource (for example, personal property like a refrigerator), the agency treats the amounts as excluded resources.

WSR 15-04-076

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE

[Filed January 30, 2015, 4:15 p.m., effective January 30, 2015, 4:15 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: In the interest of protecting the commercial poultry industry, small poultry farms and poultry fanciers in Washington state from highly pathogenic avian influenza, movement restrictions were placed on poultry and poultry products in a designated quarantine zone. The boundaries of the quarantine zone incorrectly included Colville tribal land; therefore the department is repealing this rule.

Citation of Existing Rules Affected by this Order: Repealing WAC 16-800-005, 16-800-010, 16-800-015, 16-800-020, 16-800-025, 16-800-030, 16-800-035, 16-800-040, and 16-800-045.

Statutory Authority for Adoption: RCW 16.36.040.

Other Authority: Chapter 34.05 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: Boundaries of the quarantine zone incorrectly included Colville tribal land; therefore the department is repealing this rule.

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 9.

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: January 30, 2015.

Mark Streuli
Deputy Director

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 16-800-005 Definitions.
- WAC 16-800-010 Necessity of establishing a quarantine zone for notifiable avian influenza (NAI)—Purpose.
- WAC 16-800-015 Zone under quarantine for NAI.
- WAC 16-800-020 Prohibition on moving poultry, eggs, and poultry products, and specified farm products within or from the quarantine zone established for NAI.
- WAC 16-800-025 Restrictions on vehicles, poultry equipment, wood crates and poultry products leaving from any premises in the quarantine zone established for NAI.
- WAC 16-800-030 Testing living poultry within the quarantine zone.
- WAC 16-800-035 Destruction of birds testing positive or exposed to birds testing positive for NAI.
- WAC 16-800-040 Disposal of dead poultry originating within the quarantine zone.
- WAC 16-800-045 Special permits.

WSR 15-04-077

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE

[Filed January 30, 2015, 4:19 p.m., effective January 30, 2015, 4:19 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: In the interest of protecting the commercial poultry industry, small poultry farms and poultry fanciers in Washington state from highly pathogenic avian influenza (HPAI), movement restrictions are being placed on poultry and poultry products in a designated quarantine zone in Okanogan County.

Statutory Authority for Adoption: RCW 16.36.040.

Other Authority: Chapter 34.05 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: HPAI has recently been found in domestic poultry within Washington state. HPAI is an extremely infectious and fatal form of avian influenza that affects many species of birds and is of particular concern when it affects poultry. It has been determined that the containment and eradication of HPAI is necessary to protect Washington's poultry industry.

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 9, 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: January 30, 2015.

Mark Streuli
Deputy Director

Quarantine Zone for Notifiable Avian Influenza

NEW SECTION

WAC 16-805-005 Definitions. "Department" means the Washington state department of agriculture.

"Director" means the director of the Washington state department of agriculture.

"HPAI" means highly pathogenic avian influenza.

"LPAI" means low pathogenic avian influenza.

"NAI" means notifiable avian influenza, which consists of highly pathogenic avian influenza and low pathogenic avian influenza.

"Poultry" means chickens, turkeys, ratites, waterfowl, pigeons, doves and other domestic fowl. For purposes of this chapter, poultry also means game birds such as pheasants, partridge, chukars, quail, and grouse that are raised in confinement. Poultry does not mean free ranging birds defined as wildlife in Title 77 RCW.

"Premises" means any property where poultry are raised, held, or boarded.

"USDA, APHIS" means the United States Department of Agriculture Animal and Plant Health Inspection Service.

NEW SECTION**WAC 16-805-010 Necessity of establishing a quarantine zone for notifiable avian influenza (NAI)—Purpose.**

This chapter is authorized by RCW 16.36.040. On December 24, 2014, the department received positive diagnosis of highly pathogenic avian influenza (HPAI) H5 found in domestic poultry within Washington State. HPAI is an extremely infectious and fatal form of avian influenza that affects many species of birds and is of particular concern when it affects poultry. Low pathogenic avian influenza strains H5 and H7 (LPAI H5/H7) are also of concern because of the ability of the influenza virus to mutate to a highly pathogenic strain. HPAI and LPAI H5/H7 are defined as a notifiable avian influenza (NAI).

The establishment of HPAI would be costly to the poultry industry, consumers and taxpayers. Eradication of an HPAI outbreak in the northeastern states in the mid-1980s resulted in the destruction of 17 million birds at a cost of nearly \$65 million. The disease can spread rapidly from flock to flock. In some instances, strains of HPAI can be infectious to people. The USDA, APHIS works to keep NAI from becoming established in the United States. The director of the department of agriculture, pursuant to authorities in chapter 16.36 RCW, has determined that the containment and eradication of NAI is necessary to protect the commercial poultry industry, small poultry farms and poultry fanciers of the state of Washington.

Birds species that are potential hosts for NAI include chickens, turkeys, ratites, waterfowl, pigeons, doves and other domestic fowl as well as game birds including pheasants, partridge, chukars, quail, and grouse. Migratory waterfowl have proved to be the natural reservoir for this disease.

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.

NEW SECTION**WAC 16-805-016 Zone under quarantine for NAI.**

(1) A quarantine zone is created within Okanogan County. All premises lying within the boundaries outlined in (1)(a) through (1)(d) of this section, excluding tribal land, fall under movement restrictions per WAC 16-800-020. See map below.

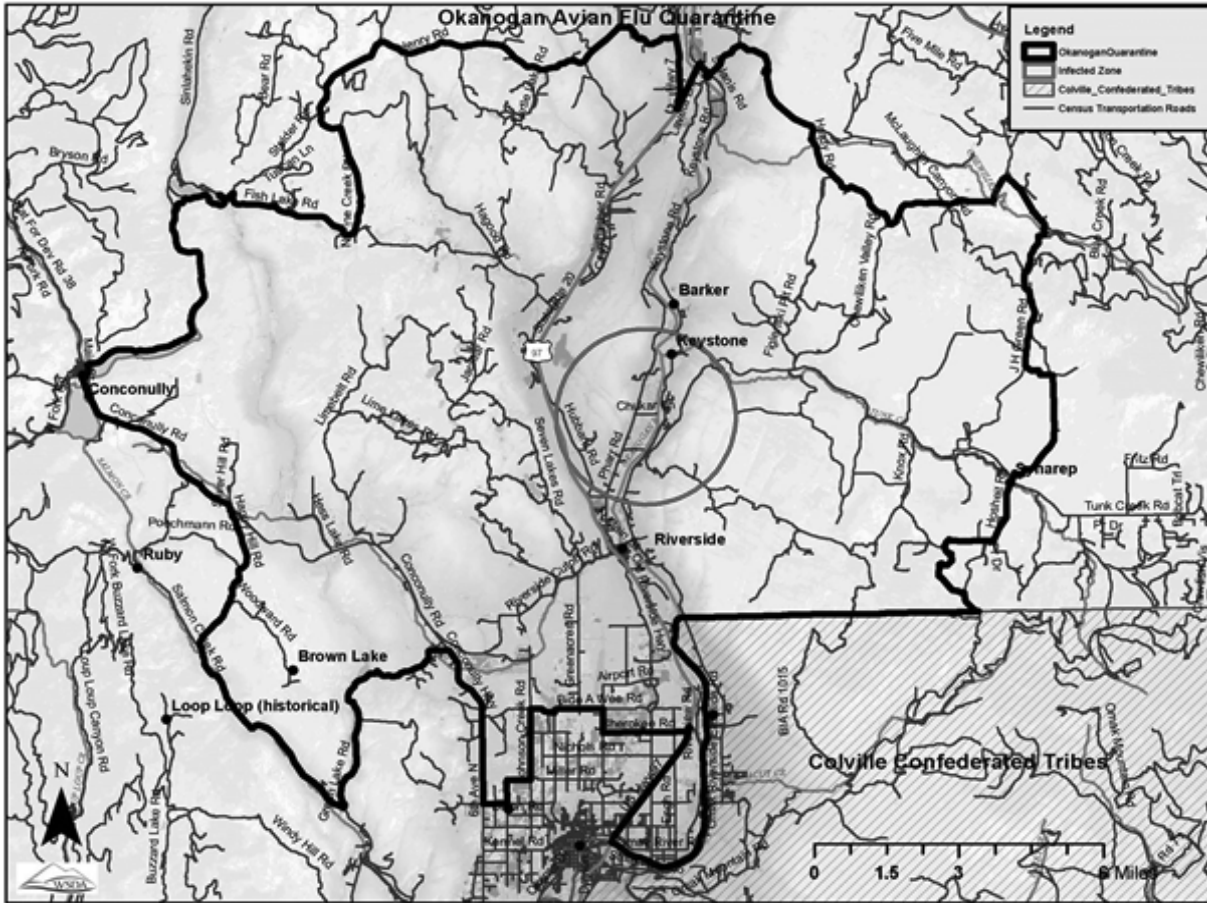
(a) Northern boundary. Beginning at the intersection of US 97 WA 20 and S. Janis Road, turn right onto S. Janis Road. Turn left onto McLaughlin Canyon Road, then right onto Hardy Road, then turn left onto Chewilken Valley Road.

(b) Eastern boundary. From Chewilken Valley Road, turn right onto JH Green Road, then left onto Hosheit Road, then left onto Tedrow Trail Road, then left onto Brown Pass Road to the boundary line of the Colville Tribe. Follow the Colville Tribe boundary west and then south until it crosses US 97 WA 20.

(c) Southern boundary. Turn right onto US 97 WA 20, then left onto Cherokee Road, then right onto Robinson Canyon Road. Turn left onto Bide A Wee Road, then left onto Duck Lake Road, then right onto Soren Peterson Road, then left onto Johnson Creek Road, then right onto George Road.

Turn left onto Wetherstone Road, then right onto Eplay Road.

(d) Western boundary. From Eplay Road, turn right onto Conconully Road/6th Avenue N., then left onto Green Lake Road, then right onto Salmon Creek Road, then right onto Happy Hill Road, then left onto Conconully Road (turns into Main Street). Turn right onto Broadway, then left onto C Street, then right onto Lake Street E, then right onto Sinlahkin Road, then right onto S. Fish Lake Road, then right onto Fish Lake Road. Turn left onto N. Pine Creek Road, then right onto Henry Road (turns into N. Pine Creek Road), then right onto Indian Springs Road, then right onto Hwy 7, ending at US 97 WA 20.



(2) A map of the quarantine zone can be obtained through a request to the department at toll-free number (800) 606-3056 or email at ahealth@agr.wa.gov.

NEW SECTION

WAC 16-805-020 Prohibition on moving poultry, eggs, and poultry products, and specified farm products within or from the quarantine zone established for NAI.

(1) Movement of living or dead poultry, eggs, or poultry products within or from the quarantine zone for NAI is prohibited, unless a permit has been issued by the department pursuant to WAC 16-800-045. Poultry may be moved within property that is one premises under the control of one person so long as that movement does not cross the boundary of a quarantine zone established by this chapter. Dead poultry or other dead birds may be transported to an approved landfill or an incinerator for disposal when secured within two plastic bags in compliance with WAC 16-51-935.

(2) Poultry shows or sales may not be held within the quarantine zone unless permissible per WAC 16-800-015 or by a special permit issued under WAC 16-800-045.

NEW SECTION

WAC 16-805-025 Restrictions on vehicles, poultry equipment, wood crates and poultry products leaving from any premises in the quarantine zone established for NAI. (1) The following articles are declared to be able to

carry NAI, and their movement or transportation from any premises in the quarantine zone is prohibited prior to being disinfected:

- (a) Vehicles;
- (b) The outer surfaces of diagnostic samples collected in approved containers;
- (c) Sampling equipment made of metal, glass, or plastic such as totes, scissors, knives, specimen bottles, or specimen vials;
- (d) Non-disposable personal protective equipment capable of being disinfected such as rubber boots or shoes, respirators or reusable protective clothing;
- (e) Poultry equipment made of metal, plastic polymer, non-natural materials; and,
- (f) Water resistant data recording materials.

(2) The following are the required practices for adequate disinfecting the items listed in subsection (1) above:

- (a) Thoroughly scrub to free the item of visible, dirt, manure, or other organic material;
- (b) Apply disinfectant using brushes, sponges or spray units; and
- (c) Use all disinfectants according to the manufacturer's label, state laws and local regulations.

The USDA, APHIS Web site at (http://www.aphis.usda.gov/animal_health/birdbiosecurity/biosecurity/) may be consulted for the latest recommendations concerning poultry biosecurity or the department may be contacted by calling (800) 606-3056 or by email at ahealth@agr.wa.gov.

(3) The following articles are declared capable of carrying NAI, and their movement or transportation from any premises in the quarantine zone is prohibited since they cannot be adequately sanitized:

(a) Disposable sampling equipment including syringes, needles, swabs;

(b) Non-water resistant data recording materials including writing utensils, notepads, clipboards, or paper;

(c) Disposable personal protective equipment such as clothing, masks, and boots; and,

(d) All other items that may have come in contact with infected secretions from poultry and are not capable of being disinfected.

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

NEW SECTION

WAC 16-805-030 Testing living poultry within the quarantine zone. When requested by the department, poultry or eggs on any premises in the quarantine zone must be presented to the department for testing. Results from the testing will be provided as soon as practical to the owner of the birds.

NEW SECTION

WAC 16-805-035 Destruction of poultry testing positive or exposed to birds testing positive for NAI. Poultry that test positive or are exposed to birds that test positive for NAI must be destroyed promptly after a plan for indemnity and flock management has been accepted by the department, the USDA, APHIS and the flock owner. Euthanasia must be humanely handled in accordance with practices recommended by the department. A list of approved euthanasia practices can be obtained through a request to the department by calling (800) 606-3056 or by email at ahealth@agr.wa.gov.

NEW SECTION

WAC 16-800-040 Disposal of dead poultry originating within the quarantine zone. Dead poultry or other dead birds may only be disposed of by one of the following options:

(1) Dead poultry or other dead birds may be transported to an approved landfill for disposal when secured within two plastic bags and outer surfaces are disinfected.

(2) Dead poultry or other dead birds may be composted on site or as part of a recognized composting operation. On-site composting shall be managed and monitored by the department or other suitable state agency.

(3) Dead poultry or other dead birds may be incinerated at an approved facility. Transport requirements are as in subsection (1) above.

(4) Dead poultry or other dead birds may be disposed of by other method only by special permit issued under WAC 16-800-045.

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.

NEW SECTION

WAC 16-800-045 Special permits—Quarantine zone. The department may issue special permits for actions otherwise forbidden under provisions of this chapter. These special permits shall be conditioned to minimize the risk of spreading NAI.

WSR 15-04-078

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 15-21—Filed January 30, 2015, 4:48 p.m., effective February 2, 2015, 6:00 a.m.]

Effective Date of Rule: February 2, 2015, 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 220-32-05100R and 22-32-05100S; 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: Opens the treaty winter fishery for commercial sales to Washington wholesale buyers and the public. The Columbia River treaty tribes have delayed the use of gillnets in SMCRA 1F until February 23, however sales of fish caught with platform/hook and line gear in that area is allowed (as described in section 2c). The Dalles and John Day Pool [pools] are expected to continue through February 20 based on past catch rates and current catch guidelines. Harvestable sturgeon are available under the current harvest guidelines for each pool. The season is consistent with the 2008-2017 management agreement and the associ-

ated biological opinion. Rule is consistent with action of the Columbia River compact on January 28, 2015. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

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

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

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 2; Federal Rules or Standards: New 1, Amended 0, Repealed 2; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: January 30, 2015.

Philip Anderson
Director

NEW SECTION

WAC 220-32-05100S 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. However, those individuals possessing treaty fishing rights under the Yakima, 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 Areas: SMCRA 1G and 1H (The Dalles Pool and John Day Pool):

(a) Season: 6:00 a.m. February 2 through 6:00 p.m. February 20, 2015.

(b) Gear: Gill nets, hoop nets, dip bag nets, and rod and reel with hook and line. No mesh restriction on gillnets.

(c) Allowable sale: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon between 43-54 inches in fork length in SMCRA 1G and 1H may be sold or kept for subsistence. Live release of all oversize and under-size sturgeon is required.

(2) Open Areas: SMCRA 1F (Bonneville Pool):

(d) Season: 6:00 a.m. February 2 through 5:59 a.m. February 23, 2015.

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

(f) Allowable sale: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon may not be sold. Sturgeon between 38-54 inches in fork length in SMCRA 1F may only be kept for subsistence. Live release of all oversize and under-size sturgeon is required.

(3) Open Areas: SMCRA 1F (Bonneville Pool):

(g) Season: 6:00 a.m. February 23 through 6:00 p.m. March 21, 2015.

(h) Gear: Gill nets, hoop nets, dip bag nets, and rod and reel with hook and line. No mesh restriction on gillnets.

(i) Allowable sale: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon between 38-54 inches in fork length in SMCRA 1G and 1H may be sold or kept for subsistence. Live release of all oversize and under-size sturgeon is required. Fish caught during the open period may be sold after the period concludes.

(4) 24-hour quick reporting is required for Washington wholesale dealers for all areas as provided in WAC 220-69-240, 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).

(5) Fish caught during the open period may be sold 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.

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 effective 6:00 a.m. February 2, 2015:

WAC 220-32-05100R Columbia River salmon seasons above Bonneville Dam. (15-17)

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. March 21, 2015:

WAC 220-32-05100S Columbia River salmon seasons above Bonneville Dam.

WSR 15-04-079
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-15—Filed January 30, 2015, 5:15 p.m., effective February 5, 2015, 8:00 a.m.]

Effective Date of Rule: February 5, 2015, 8:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-69-24000K; and amending WAC 220-52-043, 220-12-020, and 220-69-240.

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

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

Reasons for this Finding: This emergency rule will allow the retention of Tanner crab as bycatch in the Puget Sound commercial Dungeness crab fishery. Only male Tanner crab with a carapace width of 4.5 inches or more may be retained as bycatch. Surveys by state and treaty biologists have determined that nearly all Tanner crabs encountered in Puget Sound are *Chionoecetes bairdi* and not *Chionoecetes tanneri* as indicated in the permanent rule. Due to this finding, an adjustment has been made to WAC 220-12-020 in order to correct this error. These provisions are in conformity with agreed management plans with applicable tribes, entered into as required by court order. There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 3, Amended 0, Repealed 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: January 30, 2015.

Philip Anderson
Director

NEW SECTION

WAC 220-52-04000A Commercial crab fishery—Unlawful acts. Notwithstanding the provisions of WAC 220-52-040, WAC 220-52-043 and WAC 220-52-046, effective 8:00 a.m. February 5, 2015, until further notice, incidental catch may not be retained. It is unlawful to retain salmon, food fish, or any shellfish other than octopus and Tanner crabs (*Chionoecetes* spp.) that is taken incidental to any commercial crab fishing. Additionally, Tanner crabs may only be retained in Crab Region 1 (defined as all waters of Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, and 22B) and Crab Region 3-1 (defined as all waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23A and 23B.) Tanner crabs retained must be males with a minimum width of 4.5 inches across the widest point in the carapace.

NEW SECTION

WAC 220-12-02000A Shellfish—Classification. Notwithstanding the provisions of WAC 220-12-020, effective 8:00 a.m. February 5, 2015, until further notice, the following specie is classified as shellfish under RCW 77.12.047 and is subject to the provisions of this title:

Crab

Tanner crab *Chionoecetes* spp.

NEW SECTION

WAC 220-69-24000L Duties of commercial purchasers and receivers. Notwithstanding the provisions of WAC 220-69-240, effective at 8:00 am, February 5, 2015, until further notice, it is unlawful for any wholesale dealer acting in the capacity of an original receiver of Dungeness crab taken by non-treaty fishers from Puget Sound, to fail to report to the department the previous day's purchases by 10:00 a.m. the following day. Reports must be made by fax to (425) 338-1066 or by e-mail at crabreport@dfw.wa.gov, and must specify the dealer name, dealer phone number, date of delivery of crab to the original receiver, total number of pounds of crab caught by non-treaty fishers, by Crab Management Region or by Marine Fish-Shellfish Management and Catch Reporting Area. This rule also applies to the incidental take of Tanner crabs (*Chionoecetes* spp.) during the Dungeness crab fishery.

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

Don R. Hover
Director

The following sections of the Washington Administrative Code are repealed effective 8:00 a.m., February 5, 2015:

WAC 220-69-24000K Duties of commercial purchasers and receivers (14-335)

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.

WSR 15-04-097**EMERGENCY RULES****DEPARTMENT OF AGRICULTURE**

[Filed February 2, 2015, 4:58 p.m., effective February 2, 2015, 4:58 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: In the interest of protecting the commercial poultry industry, small poultry farms and poultry fanciers in Washington state from highly pathogenic avian influenza (HPAI), movement restrictions are being placed on poultry and poultry products in a designated quarantine zone in Okanogan county.

Citation of Existing Rules Affected by this Order: Repealing WAC 16-800-040, 16-800-045, 16-805-005, 16-805-010, 16-805-016, 16-805-020, 16-805-025, 16-805-030, and 16-805-035.

Statutory Authority for Adoption: RCW 16.36.040.

Other Authority: Chapter 34.05 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: HPAI has recently been found in domestic poultry within Washington state. HPAI is an extremely infectious and fatal form of avian influenza that affects many species of birds and is of particular concern when it affects poultry. It has been determined that the containment and eradication of HPAI is necessary to protect Washington's poultry industry.

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 9, Amended 0, Repealed 9.

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: February 2, 2015.

Quarantine Zones for Notifiable Avian Influenza in Okanogan County

NEW SECTION

WAC 16-810-005 Definitions. "Department" means the Washington state department of agriculture.

"Director" means the director of the Washington state department of agriculture.

"HPAI" means highly pathogenic avian influenza.

"LPAI" means low pathogenic avian influenza.

"NAI" means notifiable avian influenza, which consists of highly pathogenic avian influenza and low pathogenic avian influenza.

"Poultry" means chickens, turkeys, ratites, waterfowl, pigeons, doves and other domestic fowl. For purposes of this chapter, poultry also means game birds such as pheasants, partridge, chukars, quail, and grouse that are raised in confinement. Poultry does not mean free ranging birds defined as wildlife in Title 77 RCW.

"Premises" means any property where poultry are raised, held, or boarded.

"USDA, APHIS" means the United States Department of Agriculture Animal and Plant Health Inspection Service.

NEW SECTION

WAC 16-810-010 Necessity of establishing a quarantine zone for notifiable avian influenza (NAI)—Purpose. This chapter is authorized by RCW 16.36.040. On December 24, 2014, the department received positive diagnosis of highly pathogenic avian influenza (HPAI) H5 found in domestic poultry within Washington State. HPAI is an extremely infectious and fatal form of avian influenza that affects many species of birds and is of particular concern when it affects poultry. Low pathogenic avian influenza strains H5 and H7 (LPAI H5/H7) are also of concern because of the ability of the influenza virus to mutate to a highly pathogenic strain. HPAI and LPAI H5/H7 are defined as a notifiable avian influenza (NAI).

The establishment of HPAI would be costly to the poultry industry, consumers and taxpayers. Eradication of an HPAI outbreak in the northeastern states in the mid-1980s resulted in the destruction of 17 million birds at a cost of nearly \$65 million. The disease can spread rapidly from flock to flock. In some instances, strains of HPAI can be infectious to people. The USDA, APHIS works to keep NAI from becoming established in the United States. The director of the department of agriculture, pursuant to authorities in chapter 16.36 RCW, has determined that the containment and eradication of NAI is necessary to protect the commercial poultry industry, small poultry farms and poultry fanciers of the state of Washington.

Birds species that are potential hosts for NAI include chickens, turkeys, ratites, waterfowl, pigeons, doves and other domestic fowl as well as game birds including pheas-

ants, partridge, chukars, quail, and grouse. Migratory waterfowl have proved to be the natural reservoir for this disease.

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.

NEW SECTION

WAC 16-810-015 Zone 1 under quarantine for NAI.

(1) A quarantine zone is created within Okanogan County. All premises lying within the boundaries outlined in (1)(a) through (1)(d) of this section, excluding tribal land, fall under movement restrictions per WAC 16-810-020. See map below.

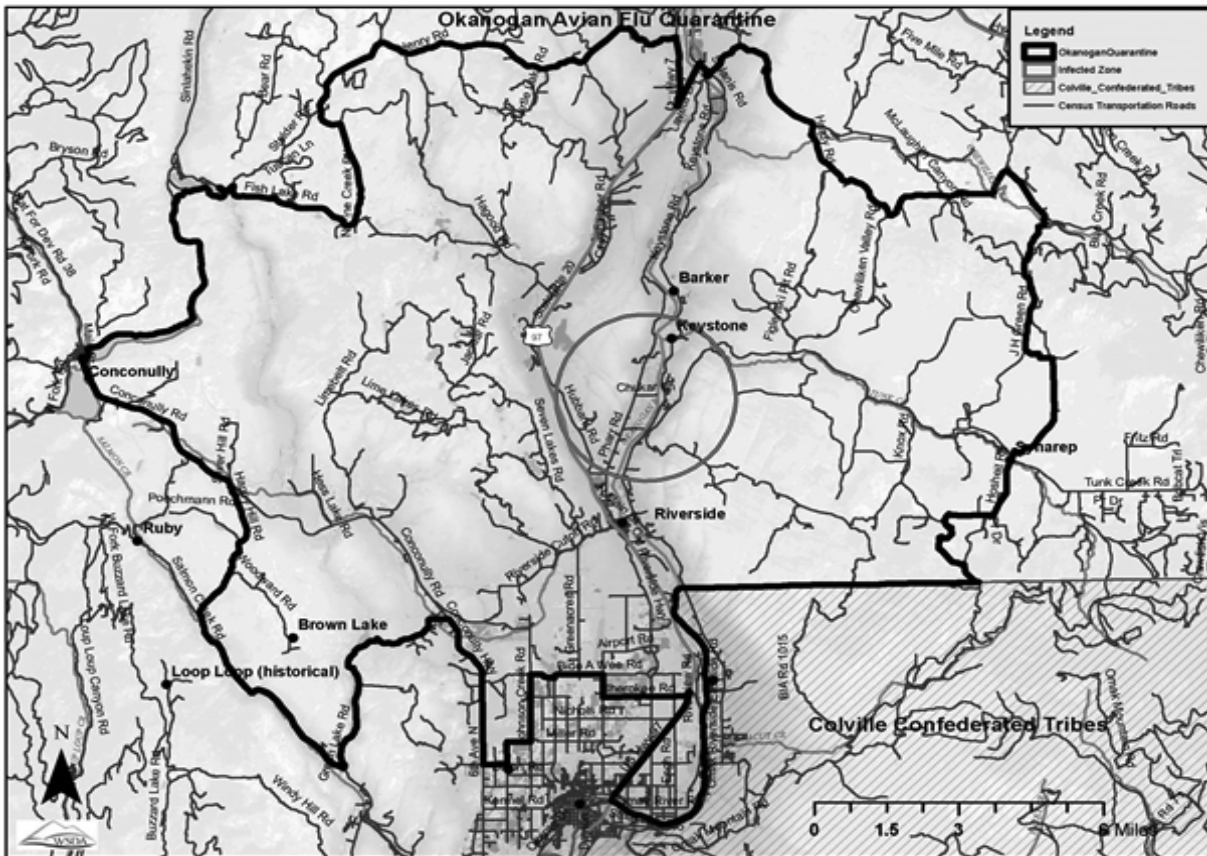
(a) Northern boundary. Beginning at the intersection of US 97 WA 20 and S. Janis Road, turn right onto S. Janis Road. Turn left onto McLaughlin Canyon Road, then right onto Hardy Road, then turn left onto Chewilken Valley Road.

(b) Eastern boundary. From Chewilken Valley Road, turn right onto JH Green Road, then left onto Hosheit Road, then left onto Tedrow Trail Road, then left onto Brown Pass

Road to the boundary line of the Colville Tribe. Follow the Colville Tribe boundary west and then south until it crosses US 97 WA 20.

(c) Southern boundary. Turn right onto US 97 WA 20, then left onto Cherokee Road, then right onto Robinson Canyon Road. Turn left onto Bide A Wee Road, then left onto Duck Lake Road, then right onto Soren Peterson Road, then left onto Johnson Creek Road, then right onto George Road. Turn left onto Wetherstone Road, then right onto Eplay Road.

(d) Western boundary. From Eplay Road, turn right onto Conconully Road/6th Avenue N., then left onto Green Lake Road, then right onto Salmon Creek Road, then right onto Happy Hill Road, then left onto Conconully Road (turns into Main Street). Turn right onto Broadway, then left onto C Street, then right onto Lake Street E, then right onto Sinlahekin Road, then right onto S. Fish Lake Road, then right onto Fish Lake Road. Turn left onto N. Pine Creek Road, then right onto Henry Road (turns into N. Pine Creek Road), then right onto Indian Springs Road, then right onto Hwy 7, ending at US 97 WA 20.



(2) A map of the quarantine zone can be obtained through a request to the department at toll-free number (800) 606-3056 or e-mail at ahealth@agr.wa.gov.

NEW SECTION

WAC 16-810-016 Zone 2 under quarantine for NAI.

(1) A second quarantine zone is created within Okanogan County. All premises lying within the boundaries outlined in (1)(a) through (1)(d) of this section, excluding tribal land, fall under movement restrictions per WAC 16-810-020. See map below.

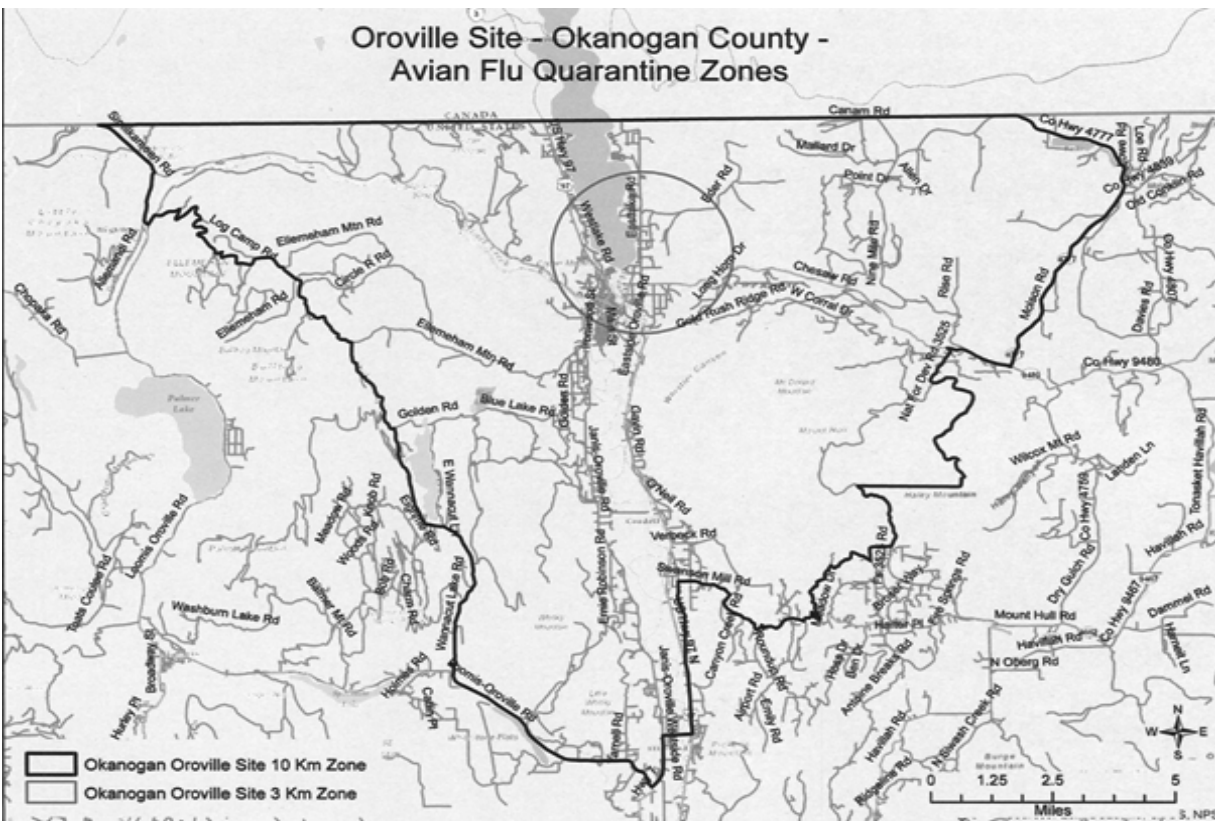
(a) Northern boundary. Beginning where US Hwy 95 intersects with the Canadian border, continue East along the Canadian border, then turn right onto 9 Mile Road (County Hwy 4777).

(b) Eastern boundary. From 9 Mile Road, turn right onto Old Hwy 4777, which turns South onto Molson Road. Turn right onto Chesaw Road, then left onto Forest Service 3525, then left onto Forest Development Road 350, which turns into Forest Development Road 3625. From there, head due

west and turn left onto Forest Service 3525, then right onto Rone Road, then right onto Box Spring Road, then left onto Mosquito Creek Road, and then right onto Swanson Mill Road.

(c) Southern boundary. From Swanson Mill Road, turn left onto O'Neil Road, then merge south onto 97N. Turn right onto Ellis Forde Bridge Road, then left onto Janis Oroville (SR 7), then right onto Loomis Oroville Road, then right onto Wannact Lake Road, then left onto Ellemeham Mountain Road, then left onto Earth Dam Road, then left onto an unnamed road, then right onto an unnamed road, then right onto another unnamed road, then left onto an unnamed road, and then left onto another unnamed road.

(d) Western boundary. From the unnamed road, turn right onto Loomis Oroville Road, then left onto Smilkameen Road to the Canadian Border.



(2) A map of the quarantine zone can be obtained through a request to the department at toll-free number (800) 606-3056 or e-mail at ahealth@agr.wa.gov.

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

[NEW SECTION]

WAC 16-810-020 Prohibition on moving poultry, eggs, and poultry products, and specified farm products within or from the quarantine zone established for NAI.

(1) Movement of living or dead poultry, eggs, or poultry products within or from the quarantine zone for NAI is prohibited, unless a permit has been issued by the department pursuant to WAC 16-810-045. Poultry may be moved within

property that is one premises under the control of one person so long as that movement does not cross the boundary of a quarantine zone established by this chapter. Dead poultry or other dead birds may be transported to an approved landfill or an incinerator for disposal when secured within two plastic bags in compliance with WAC 16-51-935.

(2) Poultry shows or sales may not be held within the quarantine zone unless allowed by a special permit issued under this chapter.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

NEW SECTION

WAC 16-810-025 Restrictions on vehicles, poultry equipment, wood crates and poultry products leaving from any premises in the quarantine zone established for NAI. (1) The following articles are declared to be able to carry NAI, and their movement or transportation from any premises in the quarantine zone is prohibited prior to being disinfected:

- (a) Vehicles;
 - (b) The outer surfaces of diagnostic samples collected in approved containers;
 - (c) Sampling equipment made of metal, glass, or plastic such as totes, scissors, knives, specimen bottles, or specimen vials;
 - (d) Non-disposable personal protective equipment capable of being disinfected such as rubber boots or shoes, respirators or reusable protective clothing;
 - (e) Poultry equipment made of metal, plastic polymer, non-natural materials; and,
 - (f) Water resistant data recording materials.
- (2) The following are the required practices for adequate disinfecting the items listed in subsection (1) above:

- (a) Thoroughly scrub to free the item of visible, dirt, manure, or other organic material;
- (b) Apply disinfectant using brushes, sponges or spray units; and
- (c) Use all disinfectants according to the manufacturer's label, state laws and local regulations.

The USDA, APHIS Web site at (http://www.aphis.usda.gov/animal_health/birdbiosecurity/biosecurity/) may be consulted for the latest recommendations concerning poultry biosecurity or the department may be contacted by calling (800) 606-3056 or by e-mail at ahealth@agr.wa.gov.

(3) The following articles are declared capable of carrying NAI, and their movement or transportation from any premises in the quarantine zone is prohibited since they cannot be adequately sanitized:

- (a) Disposable sampling equipment including syringes, needles, swabs;
- (b) Non-water resistant data recording materials including writing utensils, notepads, clipboards, or paper;
- (c) Disposable personal protective equipment such as clothing, masks, and boots; and,
- (d) All other items that may have come in contact with infected secretions from poultry and are not capable of being disinfected.

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

NEW SECTION

WAC 16-810-030 Testing living poultry within the quarantine zone. When requested by the department, poultry or eggs on any premises in the quarantine zone must be presented to the department for testing. Results from the test-

ing will be provided as soon as practical to the owner of the birds.

NEW SECTION

WAC 16-810-035 Destruction of poultry testing positive or exposed to birds testing positive for NAI. Poultry that test positive or are exposed to birds that test positive for NAI must be destroyed promptly after a plan for indemnity and flock management has been accepted by the department, the USDA, APHIS and the flock owner. Euthanasia must be humanely handled in accordance with practices recommended by the department. A list of approved euthanasia practices can be obtained through a request to the department by calling (800) 606-3056 or by e-mail at ahealth@agr.wa.gov.

NEW SECTION

WAC 16-810-040 Disposal of dead poultry originating within the quarantine zone. Dead poultry or other dead birds may only be disposed of by one of the following options:

- (1) Dead poultry or other dead birds may be transported to an approved landfill for disposal when secured within two plastic bags and outer surfaces are disinfected.
- (2) Dead poultry or other dead birds may be composted on site or as part of a recognized composting operation. On-site composting shall be managed and monitored by the department or other suitable state agency.
- (3) Dead poultry or other dead birds may be incinerated at an approved facility. Transport requirements are as in subsection (1) above.
- (4) Dead poultry or other dead birds may be disposed of by other method only by special permit issued under WAC 16-810-045.

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.

NEW SECTION

WAC 16-810-045 Special permits—Quarantine zone. The department may issue special permits for actions otherwise forbidden under provisions of this chapter. These special permits shall be conditioned to minimize the risk of spreading NAI.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 16-805-005 Definitions.
- WAC 16-805-010 Necessity of establishing a quarantine zone for notifiable avian influenza.
- WAC 16-805-016 Zone under quarantine for NAI.

WAC 16-805-020	Prohibition on moving poultry, eggs, and poultry products, and specified farm products within or from the quarantine zone established for NAI.
WAC 16-805-025	Restrictions on vehicles, poultry equipment, wood crates and poultry products leaving from any premises in the quarantine zone established for NAI.
WAC 16-805-030	Testing living poultry within the quarantine zone.
WAC 16-805-035	Destruction of birds testing positive or exposed to birds testing positive for NAI.
WAC 16-800-040	Disposal of poultry originating within the quarantine zone.
WAC 16-800-045	Special permits.

WSR 15-04-124**EMERGENCY RULES****DEPARTMENT OF AGRICULTURE**

[Filed February 3, 2015, 2:00 p.m., effective February 3, 2015, 2:00 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This rule-making order amends chapter 16-470 WAC by:

(1) Establishing a special permit to allow transportation and distribution of solid waste for disposal at a solid waste landfill or disposal facility in the apple maggot and plum curculio pest-free area from the area under quarantine.

(2) Establishing a special permit to allow transportation and distribution of yard debris, organic feedstocks, organic materials, and agricultural wastes for disposal at a solid waste landfill or treatment at a composting facility in the apple maggot and plum curculio pest-free area from the area under quarantine; and

(3) Adding municipal solid waste, yard debris, organic feedstocks, organic materials, and agricultural wastes to the list of commodities regulated under the apple maggot quarantine.

Citation of Existing Rules Affected by this Order: Amending WAC 16-470-101, 16-470-108, 16-470-111, 16-470-113, 16-470-115, and 16-470-118.

Statutory Authority for Adoption: RCW 17.24.011, 17.24.041.

Other Authority: Chapter 34.05 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: The agency had been working with the solid waste industry and other stakeholders regarding reissuance of a special permit under WAC 16-470-130

when it determined that section applied only to special permits for transport of fresh fruit. Without the emergency adoption of a rule allowing issuance of special permits for transport of municipal solid waste, yard debris, organic feedstocks, organic materials, and agricultural wastes to solid waste disposal facilities or composting facilities in the pest-free area, the affected industry stakeholder(s) would lack alternatives to properly dispose of existing waste, creating storage and disposal back-ups with potential health risks and financial risks to the municipal corporations dependent on their contractors to properly and timely dispose of the waste.

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 6, 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 6, Repealed 0.

Date Adopted: February 3, 2015.

Don R. Hover
Director

AMENDATORY SECTION (Amending WSR 06-14-004, filed 6/22/06, effective 8/1/06)

WAC 16-470-101 Establishing quarantine for apple maggot and plum curculio. Apple maggot (*Rhagoletis pomonella*) and plum curculio (*Conotrachelus nenuphar*) are insects with a larval (worm) stage that develops within fruit. These insects are capable of attacking many fruit crops grown in Washington. Apple maggot is not established in significant portions of the major fruit production areas east of the Cascade Mountains, and plum curculio is not established anywhere in the state. An increased range for either insect would cause decreased environmental quality and economic loss to the agricultural industries of the state by increasing production inputs and jeopardizing foreign and domestic markets.

(1) The director of agriculture, pursuant to chapter 17.24 RCW, has determined that the regulation and/or exclusion of fresh fruits grown or originating from areas infested with apple maggot or plum curculio is necessary to protect the environmental quality and agricultural crops of the state.

(2) The director of agriculture, pursuant to chapter 17.24 RCW, has determined that municipal solid waste originating from areas infested with apple maggot is a host medium for apple maggot and is a "regulated commodity" as provided in WAC 16-470-111. The exclusion of such municipal solid waste from the pest free area is necessary to protect the environmental quality and agricultural crops of the state. The transport into and disposition of such municipal solid waste

in the pest free area may be allowed by a special permit as provided in WAC 16-470-124(1).

(3) The director of agriculture, pursuant to chapter 17.24 RCW, has determined that yard debris, organic feedstocks, organic materials, and agricultural wastes as defined in WAC 173-350-100 originating from areas infested with apple maggot is a host medium for apple maggot and is a "regulated commodity" as provided in WAC 16-470-111. The exclusion of such waste from the pest free area is necessary to protect the environmental quality and agricultural crops of the state. The transport into and disposition of yard debris, organic feedstocks, organic materials, and agricultural wastes in the pest free area may be allowed by a special permit as provided in WAC 16-470-124(2).

AMENDATORY SECTION (Amending WSR 01-14-075, filed 7/3/01, effective 8/3/01)

WAC 16-470-108 Distribution of infested or damaged fruit is prohibited. Regulated commodities (~~((described))~~) specified in WAC 16-470-111(1) and 16-470-125(2) that are known or found to be infested or damaged by apple maggot or plum curculio may not be distributed, sold, held for sale, or offered for sale, unless the fruit has undergone cold storage treatment, in compliance with WAC 16-470-113 (1)(a) and (b) or 16-470-127 (1)(a) and (b), and the necessary certificate has been issued by the appropriate plant protection organization.

AMENDATORY SECTION (Amending WSR 06-14-004, filed 6/22/06, effective 8/1/06)

WAC 16-470-111 (~~What~~) Commodities (~~are~~) regulated for apple maggot(~~?~~). (1) All fresh fruit of apple (including crab apple), cherry (except cherries that are commercial fruit), hawthorn (haw), pear (except pears that are commercial fruit from California, Idaho, Oregon, Utah, and Washington), plum, prune, and quince are regulated under quarantine for apple maggot.

(2) Municipal solid waste as defined in WAC 173-350-100 is regulated under quarantine for apple maggot. Municipal solid waste from the quarantine areas is a host medium for apple maggot containing or likely to contain those fruits listed under subsection (1) of this section.

(3) Yard debris, organic feedstocks, organic materials, and agricultural wastes as defined in WAC 173-350-100 are regulated under quarantine for apple maggot. Yard debris, organic feedstocks, organic materials, and agricultural wastes from quarantine areas are host mediums for apple maggot containing or likely to contain those fruits listed under subsection (1) of this section.

AMENDATORY SECTION (Amending WSR 01-14-075, filed 7/3/01, effective 8/3/01)

WAC 16-470-113 (~~What do you need~~) Requirements to ship commodities regulated for apple maggot from a state under quarantine into the pest free area for apple maggot(~~?~~). Shipment of (~~((regulated commodities))~~) fruit, as (~~((described))~~) specified in WAC 16-470-111(1), from an area under quarantine, as (~~((described))~~) specified in WAC

16-470-105(3), into the pest free area for apple maggot, as (~~((described))~~) specified in WAC 16-470-105(1), is prohibited, unless at least one of the following conditions is met:

(1) The shipment is accompanied by an official certificate issued by the plant protection organization of the state of origin evidencing at least one of the following:

(a) The shipment is composed of apples, which (~~((have))~~) has undergone cold treatment for a continuous period of at least ninety days. During this ninety days, the temperature within the storage room must be maintained at thirty-seven and nine-tenths (37.9) degrees Fahrenheit or less.

(b) The shipment is composed of (~~((regulated commodities))~~) fresh fruit specified in WAC 16-470-111(1) other than apples, which (~~((have))~~) has undergone cold treatment for a continuous period of forty days or more. During this forty days, the temperature within the storage room must be maintained at thirty-two (32) degrees Fahrenheit or less.

(c) The shipment is composed of (~~((regulated commodities))~~) fresh fruit specified in WAC 16-470-111(1) from Oregon, Idaho, or Utah, certified by the state of origin in compliance with WAC 16-470-122.

(d) Each lot or shipment consists of repacked fruit, which was grown outside the area under quarantine and has been (~~((identity))~~) identified and maintained (~~((while))~~) separately from any fruit specified in WAC 16-470-111(1) grown within the area under quarantine. For repacked fruit, the certificate must show the following information:

- (i) State in which the fruit was grown;
- (ii) Point of repacking and reshipping;
- (iii) Amount and kind of commodities comprising the lot or shipment; and
- (iv) Names and addresses of the shipper and consignee.

(2) The fruit originated outside the area under quarantine for apple maggot and is a reshipping in original, unopened containers. The containers must each bear labels or other identifying marks evidencing origin outside the area under quarantine.

(3) The fruit is frozen solid.

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.

AMENDATORY SECTION (Amending WSR 06-14-004, filed 6/22/06, effective 8/1/06)

WAC 16-470-115 (~~Within Washington state, what is required to ship fruit~~) Requirements for shipment of regulated commodities from the quarantine area for apple maggot into the pest free area (~~(for apple maggot from quarantined areas?)~~) within Washington state. Shipment of regulated commodities, as (~~((described))~~) specified in WAC 16-470-111, from an area under quarantine, as (~~((described))~~) specified in WAC 16-470-105(2), into the pest free area for apple maggot, as (~~((described))~~) specified in WAC 16-470-105(1), is prohibited, unless one of the following conditions is met:

(1) The shipment of fresh fruit is accompanied by a permit for movement of fruit issued by the department verifying one of the following:

(a) The fruit came from orchards and production sites that are not threatened with infestation; or

(b) The fruit has completed treatment as specified in WAC 16-470-118(3). If records of treatment verifying compliance with conditions specified in WAC 16-470-118(3) are made available to the department, no reinspection is required by the department.

(2) The shipment of fresh fruit is accompanied by a permit issued by the department in fulfillment of WAC 16-470-118 (2) and (3), which specifies conditions for shipment from orchards and production sites that are infested or threatened with infestation.

(3) The shipment of municipal solid waste from the quarantine area to the pest free area for purposes of disposal in a municipal solid waste landfill or appropriate disposal or treatment facility may be allowed under a special permit as provided in WAC 16-470-124(1).

(4) The shipment of yard debris, organic feedstocks, organic materials, or agricultural wastes from the quarantine area to the pest free area for purposes of disposal in a municipal solid waste landfill or appropriate treatment or composting facility may be allowed under a special permit as provided in WAC 16-470-124(2).

AMENDATORY SECTION (Amending WSR 06-14-004, filed 6/22/06, effective 8/1/06)

WAC 16-470-118 Requirements within Washington state ~~(, what is required)~~ **to ship fruit into, within, or through the pest free area for apple maggot from an orchard or production site that is infested or threatened with infestation** ~~(?)~~. All ~~((regulated commodities))~~ fresh fruit, as ~~((described))~~ specified in WAC 16-470-111(1), from an orchard or production site that is infested or threatened with infestation by apple maggot must be inspected ~~((except graded culls—See subsection (4) of this section))~~ by the department following accepted agency standards.

(1) ~~((regulated commodities are))~~ the fruit is inspected and found free of apple maggot, the shipment must be accompanied by a permit for movement of fruit issued by the department.

(2) ~~((regulated commodities are))~~ the fruit is found to be infested with apple maggot, a permit from the department, which specifies conditions for handling and shipment, is required to transport the fruit within or through the pest free area. No permit may be issued under this subsection for transportation of ~~((regulated commodities))~~ fresh fruit found to be infested with apple maggot into the pest free area for apple maggot.

(3) ~~((regulated commodities are))~~ the fruit is found to be infested with apple maggot, one or more of the following treatments must be performed and verified by the department as specified in WAC 16-470-115 (1)(b) before the ~~((commodity))~~ fruit is moved from area(s) designated or quarantined by the department:

(a) Apples (including crab apples) cold treated as specified in WAC 16-470-113 (1)(a).

(b) ~~((Regulated commodities))~~ Fruit other than apples cold treated as specified in WAC 16-470-113 (1)(b).

(c) Other methods as prescribed in writing by the department.

(4) If the shipment contains graded culls, it must comply with the conditions specified in WAC 16-470-113 (1)(a) ~~((and))~~ or (b) dependent on the category of fruit.

NEW SECTION

WAC 16-470-124 Special permits for solid waste transport and distribution. (1) The director may issue special permits admitting or allowing transportation and distribution of municipal solid waste for disposal at a solid waste landfill or appropriate disposal facility in the pest free area from the area under quarantine established in WAC 16-470-101, subject to conditions and provisions which the director may prescribe to prevent introduction, escape, or spread of the quarantined pests. For purposes of this section "solid waste" and "solid waste landfill" or "disposal facility" refer to solid waste and solid waste facilities regulated under chapters 70.95 RCW and 173-351 WAC by the Washington state department of ecology.

(2) The director may issue special permits admitting or allowing transportation and distribution of yard debris, organic feedstocks, organic materials, or agricultural wastes for treatment at a composting facility in the pest free area from the area under quarantine established in WAC 16-470-101, subject to conditions and provisions which the director may prescribe to prevent introduction, escape, or spread of the quarantined pests. For purposes of this section "yard debris", "organic feedstocks", "organic materials", and "agricultural wastes" or "composting facility" refer to waste and composting facilities regulated under chapters 70.95 RCW and 173-350 WAC by the Washington state department of ecology.

(3) When the owner of the waste identified in subsections (1) and (2) of this section transfers ownership of the waste to a different person receiving the waste for disposal or treatment in the pest free area, both owners must apply for and receive special permits under this section. A special permit to transport will not be issued to the transporting owner unless a special permit is concurrently issued to the receiving facility owner under conditions specified by the director.

**WSR 15-04-132
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-22—Filed February 4, 2015, 10:21 a.m., effective February 4, 2015, 10:21 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules for sea urchins.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-52-07300M; and amending WAC 220-52-073.

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

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

Reasons for this Finding: Harvestable surpluses of green and red sea urchins exist in the sea urchin districts specified to allow for commercial harvest. There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 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: February 4, 2015.

J. W. Unsworth
Director

NEW SECTION

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

(1) The following areas are open to red sea urchin harvest seven days-per-week: district 1, district 2, and district 4 west of a line projected true north from the shoreline at 123 degrees 52.7 minutes west longitude. It is unlawful to harvest red sea urchins smaller than 3.25 inches or larger than 5.0 inches (size is largest test diameter exclusive of spines).

(2) The following areas are open to green urchin harvest seven days-per-week: district 1, district 2, district 3 east of a line projected true north from the shoreline at 123 degrees 48.3 minutes west longitude, and district 4 west of a line projected true north from the shoreline at 123 degrees 52.7 minutes west longitude. It is unlawful to harvest green sea urchins smaller than 2.25 inches (size is largest test diameter exclusive of spines).

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-07300M Sea urchins. (14-343)