

WSR 15-18-004
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-270—Filed August 19, 2015, 4:24 p.m., effective August 19, 2015, 4:24 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules for coastal salmon.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-62000N; and amending WAC 232-28-620.

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

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

Reasons for this Finding: This emergency rule change is necessary to allow harvest of remaining Chinook available under the catch guideline for Marine Area 4 while also providing additional angling opportunity. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 19, 2015.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

WAC 232-28-62000P Coastal salmon—Saltwater seasons and daily limits. Notwithstanding the provisions of WAC 232-28-620, effective immediately until further notice, it is unlawful to violate the provisions below. Unless otherwise amended, all permanent rules remain in effect:

(1) Catch Record Card Area 2:

(a) Effective immediately the Grays Harbor Control Zone is closed. Grays Harbor Control Zone - The area defined by a line drawn from the Westport Lighthouse (46°53.18' N latitude, 124°07.01' W longitude) to Buoy #2 (46°52.42' N latitude, 124°12.42' W longitude) to Buoy #3

(46°55.00' N latitude, 124°14.48' W longitude) to the Grays Harbor north jetty (46°55.36' N latitude, 124°10.51' W longitude).

(b) Effective immediately through September 30:

i. Daily limit of 2 salmon, both of which may be a Chinook salmon.

ii. Release wild coho.

(2) **Catch Record Card Area 3:** Open through September 30: Daily limit of 2 salmon of which not more than one may be a Chinook salmon, plus two additional pink salmon; release wild coho.

(3) Catch Record Card Area 4:

(a) Effective immediately until further notice, the waters south of a line from Kydaka Point to Shipwreck Point are closed.

(b) Open immediately through September 30: Daily limit of 2 salmon release Chinook salmon, plus two additional pink salmon; release chum and wild coho, except beginning August 21, one Chinook salmon may be retained as part of the daily limit.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-62000N Coastal salmon—Saltwater seasons and daily limits. (15-259)

WSR 15-18-005
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-269—Filed August 19, 2015, 4:26 p.m., effective August 19, 2015, 4:26 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial salmon troll fishing rules.

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

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

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

Reasons for this Finding: A small amount of Chinook quota remains for the troll fishery, requiring a reduction in weekly vessel Chinook limits. These rules are adopted at the recommendation of the Pacific Fisheries Management Council, in accordance with preseason fishing plans. There is insufficient time to adopt permanent rules.

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

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: August 19, 2015.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

WAC 220-24-0400B All-citizen commercial salmon troll. Notwithstanding the provisions of WAC 220-24-040, effective immediately until further notice, it is unlawful to fish for salmon with troll gear or to land salmon taken with troll gear into a Washington port except during the seasons provided for in this section:

(1) Salmon Management and Catch Reporting Areas 1, 2, 3, and that portion of Area 4 west of 125°05'00" W longitude and south of 48°23'00" N latitude, open:

August 21 through August 25, 2015;

August 28 through September 1, 2015;

September 4 through September 8, 2015;

September 11 through September 15, 2015;

September 18 through September 22, 2015.

(2) Landing and possession limits:

(a) 40 Chinook and 50 marked coho per boat per each entire open period for Catch Areas 1, 2, 3 and 4.

(b) No vessel may possess, land or deliver more than 40 chinook and 50 marked coho during any open period. The Cape Flattery and Columbia River Control Zones are closed. Mandatory Yelloweye Rockfish Conservation Area is closed. Beginning August 10 the Grays Harbor Control Zone is closed.

(3) Minimum size for Chinook salmon is 28 inches in length. Minimum size for Coho salmon is 16 inches in length. No minimum size for pink, sockeye, or chum salmon, except no chum retention north of Cape Alava, Washington, in August and September. It is unlawful to possess wild coho salmon.

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

(5) Fishers must land and deliver their catch within 24 hours of any closure of a fishery provided for in this section, and vessels fishing or in possession of salmon while fishing north of Leadbetter Point must land and deliver their fish within the area and north of Leadbetter Point. Vessels fishing or in possession of salmon while fishing south of Leadbetter Point must land and deliver their fish within the area and south of Leadbetter Point. Vessels in possession of salmon

north of the Queets River may not cross the Queets River line without first notifying WDFW by phone at (360) 902-2739 or by email at Douglas.Milward@dfw.wa.gov with area fished, total Chinook and halibut catch on board, and destination. Vessels in possession of salmon south of the Queets River may not cross the Queets River line without first notifying WDFW by phone at (360) 902-2739 or by email at Douglas.Milward@dfw.wa.gov with Area fished, total Chinook and halibut catch on board, and destination.

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

(7) Columbia Control Zone - This is defined as an area at the Columbia River mouth, bounded on the west by a line running northeast/southwest between the red lighted Buoy #4 (46°13'35" N. Lat., 124°06'50" W. long.) and the green lighted Buoy #7 (46°15'09" N. lat., 124°06'16" W. long.); on the east, by the Buoy #10 line, which bears north/south at 357° true from the south jetty at 46°14'00" N. lat., 124°03'07" W. long, to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°14'48" N. lat., 124°05'20" W. long.), and then along the north jetty to the point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14'03" N. lat., 124°04'05" W. long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

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

(9) Grays Harbor Control Zone - The area defined by a line drawn from the Westport Lighthouse (46°53.18' N latitude, 124°07.01' W longitude) to Buoy #2 (46°52.42' N latitude, 124°12.42' W longitude) to Buoy #3 (46°55.00' N latitude, 124°14.48' W longitude) to the Grays Harbor north jetty (46°55.36' N latitude, 124°10.51' W longitude).

It is unlawful to fish in Salmon Management and Catch Reporting Areas 1, 2, 3 or 4 with fish on board taken south of Cape Falcon, Oregon; and all fish taken from Salmon Management and Catch Reporting Areas 1, 2, 3, and 4 must be landed before fishing south of Cape Falcon, Oregon.

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

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

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-24-04000A All-citizen commercial salmon troll.
(15-269)

WSR 15-18-008

EMERGENCY RULES

HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed August 20, 2015, 2:34 p.m., effective August 20, 2015, 2:34 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This rule creates a habilitative services section (WAC 182-545-400) as required under the Patient Protection and Affordable Care Act. WAC 182-545-900 and 182-551-2110 must be updated to reflect the creation of habilitative services.

Citation of Existing Rules Affected by this Order: Amending WAC 182-545-900 and 182-551-2110.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Other Authority: Patient Protection and Affordable Care Act (Public Law 111-148).

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: This rule is necessary to create a habilitative services section by January 1, 2014, to timely comply with service requirements in the Patient Protection and Affordable Care Act, and to update related sections to reflect the creation of habilitative services. The agency has finalized the rule language that will be presented at a public hearing. The agency expects to hold the public hearing by October 2015 and should complete the permanent rule-making process in November 2015.

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

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 2, Repealed 0.

Date Adopted: August 20, 2015.

Wendy Barcus
Rules Coordinator

NEW SECTION

WAC 182-545-400 Habilitative services. (1) Habilitative services are medically necessary services to assist the client in partially or fully attaining, learning, maintaining, or improving developmental-age appropriate skills that were not fully acquired as a result of a congenital, genetic, or early acquired health condition, and are required to maximize, to the extent practical, the client's ability to function in his or her environment.

(2) Eligibility is limited to clients who are enrolled in the alternative benefits plan defined in WAC 182-501-0060 and who have a diagnosis which is one of the qualifying conditions listed in the medicaid provider guide for habilitative services. Clients enrolled in an agency-contracted managed care organization (MCO) must arrange for habilitative services through their MCO.

(3) The following licensed health professionals may enroll with the agency to provide habilitative services within their scope of practice to eligible clients:

- (a) Psychiatrists;
- (b) Occupational therapists;
- (c) Occupational therapy assistants supervised by a licensed occupational therapist;
- (d) Physical therapists;
- (e) Physical therapist assistants supervised by a licensed physical therapist;
- (f) Speech-language pathologists who have been granted a certificate of clinical competence by the American Speech, Hearing and Language Association; and

(g) Speech-language pathologists who have completed the equivalent educational and work experience necessary for such a certificate.

(4) The agency pays for habilitative services that are:

- (a) Covered within the scope of the client's alternative benefit plan under WAC 182-501-0060;
- (b) Medically necessary;
- (c) Within currently accepted standards of evidence-based medical practice;
- (d) Ordered by a physician, physician assistant, or an advanced registered nurse practitioner;
- (e) Begun within thirty calendar days of the date ordered;
- (f) Provided by one of the health professionals listed in subsection (3) of this section;

(g) Authorized under this chapter, chapters 182-501 and 182-502 WAC, and the agency's published medicaid provider guides and published provider notices;

(h) Billed under this chapter, chapters 182-501 and 182-502 WAC, and the agency's published medicaid provider guides and published provider notices; and

- (i) Provided as part of a habilitative treatment program:
 - (i) In an office or outpatient hospital setting;
 - (ii) In the home, by a home health agency as described in chapter 182-551 WAC; or
 - (iii) In a neurodevelopmental center, as described in WAC 182-545-900.
- (5) For billing purposes under this section:
 - (a) Each fifteen minutes of timed procedure code equals one unit.
 - (b) Each nontimed procedure code equals one unit, regardless of how long the procedure takes.
 - (c) Duplicate services for habilitative services are not allowed for the same client when both providers are performing the same or similar procedure on the same day.
 - (d) The agency does not reimburse a health care professional for habilitative services performed in an outpatient hospital setting when the health care professional is not employed by the hospital. The hospital must bill the agency for the services.
 - (6) For eligible clients twenty years of age and younger, the agency covers unlimited outpatient habilitative services.
 - (7) For eligible clients twenty-one years of age and older, the agency covers limited outpatient habilitative services that include an ongoing management plan for the client or the client's caregiver to support continued client progress. The agency limits outpatient habilitative services as follows:
 - (a) Occupational therapy, per client, per year:
 - (i) Without authorization:
 - (A) One occupational therapy evaluation;
 - (B) One occupational therapy reevaluation at time of discharge; and
 - (C) Twenty-four units of occupational therapy (which equals approximately six hours).
 - (ii) With expedited prior authorization, up to twenty-four additional units of occupational therapy may be available to continue treatment when the client's diagnosis is cerebral palsy and the therapy is required as part of a botulinum toxin injection protocol when botulinum toxin has been authorized by the agency.
 - (b) Physical therapy, per client, per year:
 - (i) Without authorization:
 - (A) One physical therapy evaluation;
 - (B) One physical therapy reevaluation at time of discharge; and
 - (C) Twenty-four units of physical therapy (which equals approximately six hours).
 - (ii) With expedited prior authorization, up to twenty-four additional units of occupational therapy may be available to continue treatment when the client's diagnosis is cerebral palsy and the therapy is required as part of a botulinum toxin injection protocol when botulinum toxin has been authorized by the agency.
 - (c) Speech therapy, per client, per year:
 - (i) Without authorization:
 - (A) One speech language pathology evaluation;
 - (B) One speech language pathology reevaluation at the time of discharge; and
 - (C) Six units of speech therapy (which equals approximately six hours).

(ii) With expedited prior authorization, up to twenty-four additional units of occupational therapy may be available to continue treatment when:

- (A) The client's diagnosis is cerebral palsy and the therapy is required as part of a botulinum toxin injection protocol when botulinum toxin has been authorized by the agency; or
- (B) The client has a speech deficit caused by the qualifying condition which requires a speech generating device.
- (d) Two durable medical equipment needs assessments, per client, per year. The agency covers devices and other durable medical equipment for habilitative purposes to treat qualified conditions under chapter 182-543 WAC.
- (e) Two program units of orthotics management and training of upper and lower extremities, per client, per day.
- (f) Two program units for checkout for prosthetic or orthotic use, per established client, per year.
- (g) One muscle testing procedure, per client, per day.
- (h) One wheelchair-needs assessment, per client, per year.

(8) The agency evaluates requests for outpatient habilitative services that exceed the limitations in this section under WAC 182-501-0169. Prior authorization is required for additional units when:

- (a) The criteria for expedited prior authorization do not apply;
- (b) The number of available units under the EPA have been used and services are requested beyond the limits; or
- (c) The provider requests it as a medically necessary service.
- (9) The following services are not covered:
 - (a) Day habilitation services designed to provide training, structured activities, and specialized services to adults;
 - (b) Chore services to assist basic needs;
 - (c) Vocational services;
 - (d) Custodial services;
 - (e) Respite;
 - (f) Recreational care;
 - (g) Residential treatment;
 - (h) Social services; and
 - (i) Educational services of any kind.

AMENDATORY SECTION (Amending WSR 11-21-066, filed 10/17/11, effective 11/17/11)

WAC 182-545-900 Neurodevelopmental centers. (1)

This section describes:

- (a) Neurodevelopmental centers that may be reimbursed by the agency;
- (b) Clients who may receive covered services at a neurodevelopmental center; and
- (c) Covered services that may be provided at and reimbursed to a neurodevelopmental center.

(2) In order to provide and be reimbursed for the services listed in subsection (4) of this section, the agency requires a neurodevelopmental center provider to do all of the following:

- (a) Be contracted with the department of health (DOH) as a neurodevelopmental center;
- (b) Provide documentation of the DOH contract to the agency; and

(c) Have an approved core provider agreement with the agency.

(3) Clients, twenty years of age or younger, may receive outpatient rehabilitation and habilitative services (occupational therapy, physical therapy, and speech therapy) in agency-approved neurodevelopmental centers.

(4) The agency reimburses neurodevelopmental centers for providing the following services to clients:

(a) Outpatient rehabilitation and habilitative services as described in chapter 182-545 WAC ((182-545-200)); and

(b) Specific pediatric evaluations and team conferences that are:

(i) Attended by the center's medical director; and

(ii) Identified as payable in the agency's billing instructions.

(5) In order to be reimbursed, neurodevelopmental centers must meet the agency's billing requirements in WAC 182-502-0020, 182-502-0100 and 182-502-0150.

AMENDATORY SECTION (Amending WSR 11-21-066, filed 10/17/11, effective 11/17/11)

WAC 182-551-2110 Home health services—Covered specialized therapy. The agency covers specialized therapy ((also known as outpatient rehabilitation)), including outpatient rehabilitation and habilitative services, in an in-home setting by a home health agency. ((See chapter 182-545 WAC outpatient rehabilitation for coverage and limitations.)) Outpatient rehabilitation and habilitative services are described in chapter 182-545 WAC. Specialized therapy is defined in WAC 182-551-2010.

**WSR 15-18-011
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-271—Filed August 21, 2015, 11:07 a.m., effective August 21, 2015, 11:07 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules for Puget Sound salmon.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-47-42800N; and amending WAC 220-47-428.

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

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

Reasons for this Finding: The department has adopted permanent rules necessary to implement the commercial fishing plans developed through the North of Falcon season setting process. These rules are interim until permanent rules take effect.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 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: August 21, 2015.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

WAC 220-47-42800N Beach seine—Open periods. Notwithstanding the provisions of WAC 220-47-428, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the areas and open periods indicated below. Unless otherwise amended, all permanent rules remain in effect.

Open Areas	Open Periods
12A	7 AM - 7 PM daily 8/21, 8/24 through 8/28, 8/31 through 9/4, 9/6 through 9/11

REPEALER

The following section of the Washington Administrative Code is repealed effective 7:01 p.m. September 11, 2015:

WAC 220-47-42800N Beach seine—Open periods.

**WSR 15-18-015
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-268—Filed August 21, 2015, 3:07 p.m., effective August 24, 2015]

Effective Date of Rule: August 24, 2015.

Purpose: Amend recreational fishing rules for the Columbia River Buoy 10 fishery.

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

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

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

Reasons for this Finding: The Buoy 10 recreational fishery at the mouth of the Columbia River is projected to reach the Endangered Species Act (ESA) impact allocation for Lower Columbia natural wild tule Chinook sooner than expected. In order to continue Chinook retention through the scheduled date of September 7 and remain within the guideline, only hatchery Chinook may be retained during August 24 through September 7. With the mark selective regulations, the fishery will be more likely to meet the preseason objective of having Chinook retention through Labor Day. The seasons are consistent with the *U.S. v. Oregon* 2008-2017 Interim Management Agreement and the fall Chinook allocation agreement developed through the North of Falcon process. The rule is consistent with compact action of August 21, 2015. There is insufficient time to adopt permanent rules.

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

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

Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, 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 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: August 21, 2015.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

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

Columbia River: From a true north/south line through Buoy 10 to a projected line from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank:

(1) Effective August 24 through September 7, 2015: It is unlawful to retain wild Chinook. For the purposes of this section, the only Chinook permissible to retain are those with a clipped adipose fin and a healed scar at the location of the fin.

(2) Effective September 8 through September 30, 2015: Release all Chinook.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-310-20000N Freshwater exceptions to statewide rules—Columbia River. (15-152)

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

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

**WSR 15-18-016
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-272—Filed August 21, 2015, 3:12 p.m., effective August 25, 2015, 6:00 a.m.]

Effective Date of Rule: August 25, 2015, 6:00 a.m.

Purpose: Amend commercial fishing rules for Puget Sound salmon.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-47-31100Q and 220-47-41100K; and amending WAC 220-47-311 and 220-47-411.

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

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

Reasons for this Finding: The department has adopted permanent rules necessary to implement the commercial fishing plans developed through the North of Falcon season setting process. These rules are interim until permanent rules take effect.

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

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

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

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

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

Date Adopted: August 21, 2015.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

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

Notwithstanding the provisions of WAC 220-47-311, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the areas and open periods indicated below. Unless otherwise amended, all permanent rules remain in effect.

Open Areas	Open Periods
8	6 AM - 8 PM daily 8/25, 9/2, 9/9/2015

[NEW SECTION]

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

Notwithstanding the provisions of WAC 220-47-411, effective immediately until further notice, it is permissible to take, fish for, or possess salmon taken with gillnet gear for commercial purposes from the following designated Puget Sound Salmon Management and Catch Reporting Areas during the times

and with the minimum mesh size indicated below. Unless otherwise amended, all permanent rules remain in effect.

Open Areas	Open Periods	Mesh Size
8	5 AM - 11 PM daily 8/26, 9/1, 9/8/ 2015	Minimum 5 inch

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 8:01 p.m. September 9, 2015:

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

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

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 15-18-017
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-273—Filed August 21, 2015, 3:23 p.m., effective August 21, 2015, 3:23 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial sea cucumber fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07100K; and amending WAC 220-52-071.

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

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

Reasons for this Finding: Harvestable surpluses of sea cucumbers exist in the 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: August 21, 2015.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

WAC 220-52-07100L Sea cucumbers Notwithstanding the provisions of WAC 220-52-071, effective immediately, it is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section:

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

(2) Sea cucumber harvest using shellfish diver gear is allowed in the following areas of Sea Cucumber District 2 on Monday, August 24, only: 29, 23A, 23D, and 23C east of a line projected true north from the shoreline at 123 degrees 48.3 minutes west longitude, and west of a line projected true north from the shoreline at 123 degrees 52.7 minutes west longitude.

(3) Sea cucumber harvest using shellfish diver gear is allowed in the following areas of Sea Cucumber Districts 1 and 2 Monday through Wednesday of each week: 23B and 25 A, B, C, D, and E.

(4) Sea cucumber harvest using shellfish diver gear is allowed in District 5 Monday through Friday of each week.

(5) The maximum cumulative landing of sea cucumbers for each weekly fishery opening period is 2,500 pounds per valid designated sea cucumber harvest license. It is permissible for all or any fraction of the maximum 2,500 pound total to be harvested during any legal harvest date within any legal harvest area so long as the cumulative total for the fishery week does not exceed the maximum.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-07100K Sea cucumbers. (15-229)

**WSR 15-18-022
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-274—Filed August 24, 2015, 2:37 p.m., effective August 25, 2015, 5:00 a.m.]

Effective Date of Rule: August 25, 2015, 5:00 a.m.

Purpose: Amend commercial fishing rules for Puget Sound salmon.

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

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

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

Reasons for this Finding: This regulation provides for Pacific Salmon Commission authorized fisheries in Areas 7 and 7A targeting the United States share of Fraser River pink salmon. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 24, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-47-50100R Puget Sound all-citizen commercial salmon fishery—Open periods. Notwithstanding the provisions of Chapter 220-47 WAC, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the open periods, mesh size, areas, species restrictions, notification, and landing requirements set forth in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas 7 and 7A:

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

Hours	Dates
5:00 AM - 9:00 PM	August 25 and August 26, 2015

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

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

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

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

Areas 7 and 7A:

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

Hours	Dates
8:00 AM - 11:59 PM	August 25 and August 26, 2015

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

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

Areas 7 and 7A:

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

Hours	Dates
5:00 AM - 9:00 PM	August 26 and August 27, 2015

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

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

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

(4) "Quick Reporting Fisheries":

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 9:01 p.m. August 27, 2015:

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

**WSR 15-18-030
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-277—Filed August 25, 2015, 2:16 p.m., effective August 26, 2015]

Effective Date of Rule: August 26, 2015.

Purpose: Amend commercial fishing rules for Puget Sound commercial shrimp.

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

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

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

Reasons for this Finding: The 2015 state/tribal shrimp harvest management plans for the Strait of Juan de Fuca and Puget Sound require adoption of harvest seasons contained in this emergency rule. This emergency rule (1) implements a spot shrimp weekly limit of 400 pounds in Catch Area 23A-C/23B; and (2) keeps Catch Area 23A-E open for one more week with a 150 pound spot shrimp weekly limit; and (3) implements a spot shrimp weekly limit of 600 pounds in Shrimp Management Area 1C and closes the area effective September 1. 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: August 25, 2015.

J. W. Unsworth
Director

NEW SECTION

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

(1) Shrimp pot gear:

(a) All waters of Shrimp Management Areas 1C, 2W, 3 and 6 are open to the harvest of all shrimp species, except:

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

(ii) Effective 11:59 p.m. September 1, 2015, until further notice, all waters of Marine Fish/Shellfish Management and Catch Reporting Area (Catch Area) 23A-E are closed to the harvest of spot shrimp.

(iii) All waters of Shrimp Management Areas 2W, 6 and Catch Area 25A are closed to the harvest of spot shrimp.

(iv) Effective immediately, until 11:59 p.m. September 1, 2015, all waters of Shrimp Management Area 1C are closed to the harvest of all species other than spot shrimp.

(v) Effective 11:59 p.m. September 1, 2015, until further notice, all waters of Shrimp Management Area 1C are closed.

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

(c) It is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 800 pounds per week, except it is unlawful for the total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 400 pounds per week in Catch Area 23A-C/23B, or to exceed 150 pounds per week in Catch Area 23A-E, or to exceed 600 pounds per week in Shrimp Management Area 1C.

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

(e) Only pots with a minimum mesh size of 1 inch may be pulled on calendar days when fishing for or retaining spot shrimp. Mesh size of 1 inch is defined as a mesh opening that a 7/8-inch square peg will pass through, excluding the entrance tunnels, except for flexible (web) mesh pots, where the mesh must be a minimum of 1 3/4-inch stretch measure. Stretch measure is defined as the distance between the inside of one knot to the outside of the opposite vertical knot of one mesh, when the mesh is stretched vertically. There is no size restriction for spot shrimp.

(2) Shrimp beam trawl gear:

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

(b) Those portions of Catch Areas 21A and 22A within Shrimp Management Area 1B are open.

(c) All waters of Catch Area 20A are open.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. August 25, 2015:

WAC 220-52-05100H Puget Sound shrimp pot and beam trawl fishery—Season. (15-267)

WSR 15-18-031 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 15-279—Filed August 25, 2015, 2:17 p.m., effective August 25, 2015, 2:17 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial sea cucumber fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07100L; and amending WAC 220-52-071.

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

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

Reasons for this Finding: A closure is needed in Sea Cucumber District 2 to avoid overharvest of the quota. Harvestable surpluses of sea cucumbers exist in Sea Cucumber Districts 1 and 5 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: August 25, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-52-07100M Sea cucumbers Notwithstanding the provisions of WAC 220-52-071, effective immediately until further notice, it is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section:

(1) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber Districts 1 and 5 Monday through Friday of each week.

(2) The maximum cumulative landing of sea cucumbers for each weekly fishery opening period is 2,500 pounds per valid designated sea cucumber harvest license. It is permissible for all or any fraction of the maximum 2,500 pound total to be harvested during any legal harvest date within any legal

harvest area so long as the cumulative total for the fishery week does not exceed the maximum.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-07100L Sea cucumbers. (15-273)

WSR 15-18-043
EMERGENCY RULES
HEALTH CARE AUTHORITY
(Washington Apple Health)

[Filed August 27, 2015, 8:52 a.m., effective August 27, 2015, 8:52 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To add prior authorization requirements for providers prescribing thickeners to clients younger than one year of age.

Citation of Existing Rules Affected by this Order: Amending WAC 182-554-500.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

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 Food and Drug Administration (FDA) has issued a warning not to give infants thickeners, particularly those born prematurely, because there is substantive evidence it puts them at risk of necrotizing enterocolitis. The recommendation is supported by American Academy of Pediatrics. This rule change is intended to follow the FDA's warning. The agency initiated permanent rule making under WSR 15-02-038 and is currently preparing an early draft of the rule for review by external parties and stakeholders.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, 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: August 27, 2015.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-554-500 Covered enteral nutrition products, equipment and related supplies—Orally administered—Clients twenty years of age and younger only. (1) The department covers orally administered enteral nutrition products for clients twenty years of age and younger only, as follows:

(a) The client's nutritional needs cannot be met using traditional foods, baby foods, and other regular grocery products that can be pulverized or blenderized and used to meet the client's caloric and nutritional needs;

(b) The client is able to manage their feedings in one of the following ways:

(i) Independently; or

(ii) With a caregiver who can manage the feedings; and

(c) The client meets one of the following clinical criteria:

(i) Acquired immune deficiency syndrome (AIDS). Providers must obtain prior authorization to receive payment. The client must:

(A) Be in a wasting state;

(B) Have a weight-for-length less than or equal to the fifth percentile if the client is three years of age or younger; or

(C) Have a body mass index (BMI) of:

(I) Less than or equal to the fifth percentile if the client is four through seventeen years of age; or

(II) Less than or equal to 18.5 if the client is eighteen through twenty years of age; or

(D) Have a BMI of:

(I) Less than or equal to twenty-five; and

(II) An unintentional or unexplained weight loss of five percent in one month, seven and a half percent in three months, or ten percent in six months.

(ii) Amino acid, fatty acid, and carbohydrate metabolic disorders.

(A) The client must require a specialized nutrition product; and

(B) Providers must follow the department's expedited prior authorization process to receive payment.

(iii) Cancer(s).

(A) The client must be receiving chemotherapy and/or radiation therapy or post-therapy treatment;

(B) The department pays for orally administered nutritional products for up to three months following the completion of chemotherapy or radiation therapy; and

(C) Providers must follow the department's expedited prior authorization process to receive payment.

(iv) Chronic renal failure.

(A) The client must be receiving dialysis and have a fluid restrictive diet in order to use nutrition bars; and

(B) Providers must follow the department's expedited prior authorization process to receive payment.

(v) Decubitus pressure ulcers.

(A) The client must have stage three or greater decubitus pressure ulcers and an albumin level of 3.2 or below; and

(B) Providers must follow the department's expedited prior authorization process to receive a maximum of three month's payment.

(vi) Failure to thrive or malnutrition/malabsorption as a result of a stated primary diagnosed disease.

(A) The provider must obtain prior authorization to receive payment; and

(B) The client must have:

(I) A disease or medical condition that is only organic in nature and not due to cognitive, emotional, or psychological impairment; and

(II) A weight-for-length less than or equal to the fifth percentile if the client is two years of age or younger; or

(III) A BMI of:

(aa) Less than or equal to the fifth percentile if the client is three through seventeen years of age; or

(bb) Less than or equal to 18.5, an albumin level of 3.5 or below, and a cholesterol level of one hundred sixty or below if the client is age eighteen through twenty years of age; or

(IV) Have a BMI of:

(aa) Less than or equal to twenty-five; and

(bb) An unintentional or unexplained weight loss of five percent in one month, seven and a half percent in three months, or ten percent in six months.

(vii) Medical conditions (e.g., dysphagia) requiring a thickener.

(A) The client must be older than one year of age and:

(I) Require a thickener to aid in swallowing or currently be transitioning from tube feedings to oral feedings; and

(II) Be evaluated by a speech therapist or an occupational therapist who specializes in dysphagia. The report recommending a thickener must be in the client's chart in the prescriber's office.

(B) Providers must follow the (~~department's~~) agency's expedited prior authorization process to receive payment.

(C) If prescribing for a child younger than one year of age, providers must request prior authorization and:

(I) Include clinical documentation that supports the medical necessity of the request; and

(II) Include the report recommending a thickener from a speech therapist or occupational therapist who specializes in dysphagia.

(d) If four years of age or younger.

(i) The client must:

(A) Have a certified registered dietitian (RD) evaluation with recommendations which support the prescriber's order for oral enteral nutrition products or formulas; and

(B) Have a signed and dated written notification from WIC indicating one of the following:

(I) Client is not eligible for the women, infants, and children (WIC) program; or

(II) Client is eligible for WIC program, but the need for the oral enteral nutrition product or formula exceeds WIC's allowed amount; or

(III) The requested oral enteral nutrition product or formula is not available through the WIC program. Specific, detailed documentation of the tried and failed efforts of similar WIC products, or the medical need for alternative products must be in the prescriber's chart for the client; and

(C) Meet one of the following clinical criteria:

(I) Low birth weight (less than 2500 grams);

(II) A decrease across two or more percentile lines on the CDC growth chart, once a stable growth pattern has been established;

(III) Failure to gain weight on two successive measurements, despite dietary interventions; or

(IV) Documented specific, clinical factors that place the child at risk for a compromised nutrition and/or health status.

(ii) Providers must follow the department's expedited prior authorization process to receive payment.

(e) If five years of age through twenty years of age.

(i) The client must:

(A) Have a certified RD evaluation, for eligible clients, with recommendations which support the prescriber's order for oral enteral nutrition products; and

(B) Meet one of the following clinical criteria:

(I) A decrease across two or more percentile lines on the CDC growth chart, once a stable growth pattern has been established;

(II) Failure to gain weight on two successive measurements, despite dietary interventions; or

(III) Documented specific, clinical factors that place the child at risk for a compromised nutrition and/or health status.

(ii) Providers must follow the department's expedited prior authorization process to receive payment.

(2) Requests to the department for prior authorization for orally administered enteral nutrition products must include a completed Oral Enteral Nutrition Worksheet Prior Authorization Request (DSHS 13-743), available for download at: <http://www1.dshs.wa.gov/msa/forms/eforms.html>. The DSHS 13-743 form must be:

(a) Completed by the prescribing physician, advanced registered nurse practitioner (ARNP), or physician assistant-certified (PA-C), verifying all of the following:

(i) The client meets the requirements listed in this section;

(ii) The client's physical limitations and expected outcome;

(iii) The client's current clinical nutritional status, including the relationship between the client's diagnosis and nutritional need;

(iv) For a client eighteen through twenty years of age, the client's recent weight loss history and a comparison of the client's actual weight to ideal body weight and current body mass index (BMI);

(v) For a client younger than eighteen years of age, the client's growth history and a comparison to expected weight gain, and:

(A) An evaluation of the weight-for-length percentile if the client is three years of age or younger; or

(B) An evaluation of the BMI if the client is four through seventeen years of age.

(vi) The client's medical condition and the exact daily caloric amount of needed enteral nutrition product;

(vii) The reason why the client is unable to consume enough traditional food to meet nutritional requirements;

(viii) The medical reason the specific enteral nutrition product, equipment, and/or supply is prescribed;

(ix) Documentation explaining why less costly, equally effective products or traditional foods are not appropriate;

(x) The number of days or months the enteral nutrition products, equipment, and/or necessary supplies are required; and

(xi) The client's likely expected outcome if enteral nutritional support is not provided.

(b) Written, signed (including the prescriber's credentials), and dated by the prescriber on the same day and before delivery of the enteral nutrition product, equipment, or related supply. This form must not be back-dated; and

(c) Be submitted within three months from the date the prescriber signs the prescription.

(3) Clients twenty years of age and younger must be evaluated by a certified RD within thirty days of initiation of enteral nutrition products and periodically (at the discretion of the certified RD) while receiving enteral nutrition products. The certified RD must be a current provider with the department.

WSR 15-18-045
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-282—Filed August 27, 2015, 9:15 a.m., effective August 27, 2015, 9:15 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules for the Nooksack River.

Citation of Existing Rules Affected by this Order: Amending WAC 220-310-190.

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: Nooksack River spring Chinook are experiencing high prespawn mortality rates and cannot enter the South Fork Nooksack River due to extremely low flows and high water temperatures. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 27, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-310-19000G Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-310-190, effective immediately until further notice it is unlawful to fish in the following waters:

(1) **North Fork Nooksack** from the mouth to North Fork Falls.

(2) **All tributaries draining into the North Fork Nooksack** from the mouth to North Fork Falls.

(3) **The Middle Fork Nooksack** from mouth to the City of Bellingham Diversion Dam.

(4) **All tributaries draining into the Middle Fork Nooksack** from the mouth to the Diversion Dam.

(5) **The mainstem Nooksack** from Slater Road to the forks.

(6) **South Fork Nooksack** (Whatcom Co.) From the mouth to Skookum Creek, and from Wanlick Creek to headwaters including Wanlick and all tributaries closed to all fishing until further notice.

WSR 15-18-046
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-280—Filed August 27, 2015, 9:16 a.m., effective September 1, 2015]

Effective Date of Rule: September 1, 2015.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-40-040 [220-44-040].

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: Prohibiting the retention of halibut is needed for this fishery as the quota is projected to be reached by September 1, 2015. This rule conforms to federal action taken by the National Marine Fisheries Service and the International Pacific Halibut Commission. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 27, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-44-04000A Coastal bottomfishing areas and seasons. Notwithstanding the provisions of WAC 220-44-040, effective September 1, 2015, until further notice, it is unlawful to retain halibut in the primary sablefish fishery in waters north of Point Chehalis.

**WSR 15-18-047
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-283—Filed August 27, 2015, 9:17 a.m., effective August 27, 2015, 9:17 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules for low water and elevated water temperatures.

Citation of Existing Rules Affected by this Order: Amending WAC 220-310-190.

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: Closing portions of the Sauk River is needed as the spring Chinook are extremely vulnerable to disturbance due to extreme low flows and high water temperatures. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 27, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-310-19000H Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-210-190, effective immediately until further notice, the following waters are closed to fishing:

(1) **Sauk River** (Skagit/Snohomish Co.) From the mouth of the Suiattle River to the Forks, closed to fishing.

(2) **The North Fork Sauk** from mouth to the North Fork Fall, closed to fishing.

(3) **The South Fork Sauk** from the mouth to Elliot Creek, closed to fishing.

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

WSR 15-18-053

**EMERGENCY RULES
DEPARTMENT OF**

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed August 27, 2015, 10:38 a.m., effective August 28, 2015]

Effective Date of Rule: August 28, 2015.

Purpose: The department is amending chapter 388-107 WAC in order to address concerns of the Center for Medicare/Medicaid Services (CMS) home and community based services (HCBS) and stakeholders with operationalization of the requirements stated therein.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-107-0930; and amending WAC 388-107-0001, 388-107-0020, 388-107-0080, 388-107-0100, 388-107-0110, 388-107-0120, 388-107-0130, 388-107-0140, 388-107-0150, 388-107-0160, 388-107-0180, 388-107-0190, 388-107-0200, 388-107-0210, 388-107-0240, 388-107-0280, 388-107-0370, 388-107-0390, 388-107-0400, 388-107-0410, 388-107-0420, 388-107-0430, 388-107-0560, 388-107-0770, 388-107-0810, 388-107-0830, 388-107-0890, 388-107-0940, 388-107-0960, 388-107-1000, and 388-107-1190.

Statutory Authority for Adoption: RCW 70.97.230.

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

Reasons for this Finding: After receiving input from stakeholders, DSHS's residential care services has revised chapter 388-107 WAC to operationalize the enhanced services facilities (ESF) program.

Immediate Adoption is Necessary for Public Safety and General Welfare: The Washington state operating budget directs the department to implement chapter 70.97 RCW, which requires the establishment of ESFs. ESFs are intended to relieve pressure on institutional mental health settings such as eastern and western state hospitals. If certain patients are relocated to ESFs, more beds will be available to those who need an institutional level of mental health care.

Due to shortage of beds at evaluation and treatment centers and western and eastern state hospitals, some patients have been kept in nonpsychiatric acute care hospital settings such as emergency rooms and medical surgical units. In the case known as *In re: the Detention of D.W., et al. v. Department of Social and Health Service*, the Washington state supreme court found these placements, known as "psychiatric boarding," to be unconstitutional. In order to comply with *D.W.*, DSHS needs to immediately develop alternatives to institutional mental health settings in order to reduce the need for psychiatric boarding. Therefore, adoption of these rules, which will allow ESFs to become licensed and begin operation, is an urgent and time-sensitive matter of public safety and general welfare.

Immediate Adoption is Necessary to Receive Federal Funds: In order to qualify for federal matching funds, the ESF program must conform to federal CMS HCBS requirements. These federal requirements became effective after the initial ESF rules were adopted. In order to ensure that payments for ESF services will qualify for federal funding under the HCBS requirements, the proposed rule amendments need to be adopted immediately.

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 1, Amended 31, Repealed 1.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 31, Repealed 1.

Date Adopted: August 20, 2015.

Katherine I. Vasquez
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 15-20 issue of the Register.

WSR 15-18-057
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-285—Filed August 27, 2015, 12:09 p.m., effective August 27, 2015, 12:09 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend authorized work times for suction dredging in the gold and fish rules for mineral prospecting and placer mining.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-660-30000A; and amending WAC 220-660-300.

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

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

Reasons for this Finding: A lack of snowpack from an unusually warm winter has resulted in drought conditions throughout much of Washington. A healthy snowpack slowly provides water to rivers and streams, helping to sustain fish through the drier summer months. But, with little or no snowpack, flows in many rivers have dropped significantly and water temperatures have increased - conditions that are lethal to fish. In response, Washington department of fish and wildlife (WDFW) has placed drought-related fishing closures and restrictions on over sixty rivers and streams.

Low water and higher than normal water temperatures are limiting fish movement and making them more susceptible to diseases. In addition, stream flows have fallen low enough to concentrate fish into small areas of refugia where they are highly susceptible to additional stress from disturbance caused by suction dredging. To protect fish life, WDFW is aligning the authorized work times for suction dredging in the gold and fish rules for mineral prospecting and placer mining with drought-related fishing closures or restrictions now in effect. There is insufficient time to adopt permanent rules.

Per permanent rule, work in the wetted perimeter or frequent scour zone is authorized from one-half hour before sunrise to one-half hour after sunset. The daily closures from 2 p.m. to one-half hour after sunset are intended to reduce additional stress to fish from suction dredging during periods of the day when fish are stressed from elevated temperatures. In addition, some streams are closed to suction dredging because of record low flows due to lack of winter snowpack and rainfall. Stream flows have fallen low enough to concentrate fish into small areas of refugia where they are highly susceptible to additional stress from disturbance at these temperatures [which] further reduces survival.

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: August 27, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-660-30000B Mineral prospecting Notwithstanding the provisions of WAC 220-660-300, effective immediately until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

You may leave excavation sites unfilled but you must level all tailing piles before moving to another excavation site or abandoning the exaction site. Tailing piles must not extend more than twelve inches above the surrounding bed.

Asotin County

Asotin Creek and tributaries from mouth to headwaters: Closed to suction dredging.

Chelan County

Wenatchee River from mouth to the Icicle River Road Bridge: Closed to suction dredging.

Icicle River from the mouth to 500 feet downstream of the Leavenworth National Fish Hatchery Barrier Dam: Closed to suction dredging.

Peshastin Creek and all tributaries: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Clallam County

Quillayute River from the confluence of the Sol Duc and Bogachiel Rivers downstream 475 yards: Closed to suction dredging.

Sol Duc River including all tributaries: Closed to suction dredging.

Bogachiel River including all tributaries: Closed to suction dredging.

Calawah River including all tributaries: Closed to suction dredging.

Dickey River including all tributaries: Closed to suction dredging.

Clark County

East Fork Lewis River from mouth upstream to top boat ramp at Lewisville Park: Closed to suction dredging.

East Fork Lewis River from top boat ramp at Lewisville Park upstream to 400 feet below Horseshoe Falls: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Washougal River from mouth upstream to Mt. Norway Bridge: Closed to suction dredging.

Washougal River from Mt. Norway Bridge upstream to the Salmon Falls Bridge: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Columbia County

Tucannon River (Columbia/Garfield Co.) From Highway 12 Bridge to Cow Camp Bridge: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Touchet River (Columbia/Walla Walla Co.) from mouth to the confluence of the North and South forks: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

(1) North Fork Touchet River from mouth to Spangler Creek: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

(2) North Fork Touchet River upstream from the confluence of Spangler Creek: Closed to suction dredging.

(3) South Fork Touchet River from mouth to Griffen Fork and above Griffen Fork: Closed to suction dredging.

(4) Wolf Fork Touchet River from mouth to Coates Creek and Robinson Fork: Closed to suction dredging.

Ferry County

Kettle River and all tributaries from Barstow Bridge to headwaters, all portions contained within the United States: Closed to suction dredging.

Garfield County

Tucannon River (Columbia/Garfield Co.) From Highway 12 Bridge to Cow Camp Bridge: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Grays Harbor County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to suction dredging.

Jefferson County

Clearwater River and its tributaries: Closed to suction dredging.

Queets River and its tributaries including Matheny Creek and the Salmon River outside Olympic National Park and the Quinalt Reservation: Closed to suction dredging.

Big Quilcene mainstem: Closed to suction dredging.

King County

Raging River from the mouth upstream: Closed to suction dredging.

Snoqualmie River from the mouth upstream to Snoqualmie Falls: Effective September 1, 2015, closed to suction dredging from 2 PM to on-half hour after official sunset.

South Fork Skykomish River (Snohomish/King Co.) from Sunset Falls upstream and all tributaries, including the Beckler, Foss, Miller and Rapid Rivers and their tributaries: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Kittitas County

Little Naches River: Closed to suction dredging.

Teaway River, including West, Middle and North Forks: Closed to suction dredging.

Swauk Creek and all tributaries downstream from the confluence of Williams Creek: Closed daily to suction dredging from 2 PM to until one-half hour after official sunset. Williams Creek and all tributaries and Swauk Creek and all tributaries upstream from the confluence of Williams Creek: Closed to suction dredging.

Lewis County

Newaukum River and all tributaries: Closed to suction dredging.

Lincoln County

Spokane River (Spokane/Lincoln Co.) from upstream Boundary at Plese Flats Day Use Area to Idaho State Boundary: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Okanogan County

Methow River from County Road 1535 Bridge (lower Burma Rd.) upstream to Weeman Bridge (8 miles upstream of Winthrop): Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Okanogan River from the Hwy 97 Bridge immediately upstream of the mouth to Zosel Dam: Closed to suction dredging.

Similkameen River from the mouth upstream to Enloe Dam: Closed to suction dredging.

Pend Oreille County

Sullivan Creek and all tributaries from mouth to headwaters: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Skagit County

Sauk River (Skagit/Snohomish Co.) From the confluence with the Suiattle River upstream including North Fork from mouth to North Fork Falls and South Fork from mouth to Elliot Creek: Closed to suction dredging.

Suiattle River Tributaries Buck, Downey and Sulpher Creeks: Closed to suction dredging.

Samish River from I-5 to headwaters and Friday Creek from the mouth upstream: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Stillaguamish River (Skagit/Snohomish Co.) from Marine Drive upstream including the North and South Forks and all tributaries: Closed to suction dredging.

Snohomish County

Skykomish River from mouth upstream: Closed to suction dredging except the section around Reiter Ponds remains open from the Gold Bar/Big Eddy Access (Hwy. 2 Bridge) upstream to the confluence of the North and South Forks.

North Fork Skykomish River from mouth upstream including all tributaries: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

South Fork Skykomish River (Snohomish/King Co.) from Sunset Falls upstream and all tributaries, including the Beckler, Foss, Miller and Rapid Rivers and their tributaries:

Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Wallace River from the mouth upstream including all tributaries: Closed to suction dredging.

Stillaguamish River (Skagit/Snohomish Co.) from Marine Drive upstream including the North and South Forks and all tributaries: Closed to all suction dredging.

Sauk River (Skagit/Snohomish Co.) From the confluence with the Suiattle River upstream including North Fork from mouth to North Fork Falls and South Fork from mouth to Elliot Creek: Closed to suction dredging.

Spokane County

Spokane River (Spokane/Lincoln Co.) from upstream Boundary at Plese Flats Day Use Area to Idaho State Boundary: Closed daily to suction dredging 2 PM to one-half hour after official sunset.

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Stevens County

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Colville River and all tributaries from mouth to headwaters: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Thurston County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to suction dredging.

Nisqually River (Thurston Co.) from the mouth to the military tank crossing bridge: Closed daily to suction dredging from 2 PM to one-half hour before official sunrise.

Walla Walla County

Walla Walla River from McDonald Road Bridge to Oregon State Boundary: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Mill Creek from Bennington Dam to State Line: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Whatcom County

Nooksack River from Slater Road to the forks: Closed to suction dredging.

Middle Fork Nooksack River from the mouth to the City of Bellingham Diversion Dam and all tributaries: Closed to suction dredging.

North Fork Nooksack River from the mouth to Nooksack Falls and all tributaries: Closed to suction dredging.

South Fork Nooksack River from the mouth to Skookum Creek and from Wanlick Creek to headwaters including Wanlick and all tributaries: Closed to suction dredging.

Yakima County

Ahtanum Creek, including North and Middle Forks: Closed to suction dredging.

American River: Closed to suction dredging.

Yakima River from Interstate 82 Bridge at Union Gap to South Cle Elum Bridge: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Naches River from Tieton River to Bumping River/Little Naches River: Closed daily to suction dredging from 2 PM until one-half hour after official sunset.

Rattlesnake Creek (mainstem): Closed daily to suction dredging from 2 PM until one-half hour after official sunset.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-660-30000A Mineral prospecting. (15-262)

WSR 15-18-058
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-284—Filed August 27, 2015, 12:10 p.m., effective August 27, 2015, 12:10 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend work times in the aquatic plants and fish pamphlet for all aquatic plant removal activities except hand pulling.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-660-29000A; and amending WAC 220-660-290.

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

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

Reasons for this Finding: A lack of snowpack from an unusually warm winter has resulted in drought conditions throughout much of Washington. A healthy snowpack slowly provides water to rivers and streams, helping to sustain fish through the drier summer months. But, with little or no snowpack, flows in many rivers have dropped significantly and water temperatures have increased - conditions that are lethal to fish. In response, Washington department of fish and wildlife (WDFW) has placed drought-related fishing closures and restrictions on nearly sixty rivers and streams.

Low water and higher than normal water temperatures are limiting fish movement and making them more susceptible to diseases. In addition, stream flows have fallen low enough to concentrate fish into small areas of refugia where

they are highly susceptible to additional stress from disturbance caused by aquatic plant removal. To protect fish life, WDFW is aligning the work times for all aquatic plant removal activities except hand pulling with the drought-related fishing closures or restrictions now in effect. There is insufficient time to adopt permanent rules.

The daily closures are intended to reduce additional stress to fish from aquatic plant removal activities during periods of the day when fish are stressed from elevated temperatures. In addition, some streams are closed to aquatic plant removal activities except hand pulling because of record low flows due to lack of winter snowpack and rainfall. Stream flows have fallen low enough to concentrate fish into small areas of refugia where they are highly susceptible to additional stress from disturbance at these temperatures [which] further reduces survival.

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: August 27, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-660-29000B Aquatic plant removal and control Notwithstanding the provisions of WAC 220-660-290, effective immediately until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

Asotin County

Asotin Creek and tributaries from mouth to headwaters: Closed to all aquatic plant removal activities except hand pulling.

Chelan County

Wenatchee River from mouth to the Icicle River Road Bridge: Closed to all aquatic plant removal activities except hand pulling.

Icicle River from the mouth to 500 feet downstream of the Leavenworth National Fish Hatchery Barrier Dam: Closed to all aquatic plant removal activities except hand pulling.

Peshastin Creek and all tributaries: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Clallam County

Quillayute River from the confluence of the Sol Duc and Bogachiel Rivers downstream 475 yards: Closed to all aquatic plant removal activities except hand pulling.

Sol Duc River including all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Bogachiel River including all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Calawah River including all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Dickey River including all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Clark County

East Fork Lewis River from mouth upstream to top boat ramp at Lewisville Park: Closed to all aquatic plant removal activities except hand pulling.

East Fork Lewis River from top boat ramp at Lewisville Park upstream to 400 feet below Horseshoe Falls: Closed daily to all aquatic plant removal activities from 2 PM to one hour before official sunrise except hand pulling.

Washougal River from mouth upstream to Mt. Norway Bridge: Closed to all aquatic plant removal activities except hand pulling.

Washougal River from Mt. Norway Bridge upstream to the Salmon Falls Bridge: Closed daily to all aquatic plant removal activities from 2 PM to one hour before official sunrise except hand pulling.

Columbia County

Tucannon River (Columbia/Garfield Co.) From Highway 12 Bridge to Cow Camp Bridge: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Touchet River (Columbia/Walla Walla Co.) from mouth to the confluence of the North and South forks: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

(1) North Fork Touchet River from mouth to Spangler Creek: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

(2) North Fork Touchet River upstream from the confluence of Spangler Creek: Closed to all aquatic plant removal activities except hand pulling.

(3) South Fork Touchet River from mouth to Griffen Fork and above Griffen Fork: Closed to all aquatic plant removal activities except hand pulling.

(4) Wolf Fork Touchet River from mouth to Coates Creek and Robinson Fork: Closed to all aquatic plant removal activities except hand pulling.

Ferry County

Kettle River and all tributaries from Barstow Bridge to headwaters, all portions contained within the United States: Closed to all aquatic plant removal activities except hand pulling.

Garfield County

Tucannon River (Columbia/Garfield Co.) From Highway 12 Bridge to Cow Camp Bridge: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Grays Harbor County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to all aquatic plant removal activities except hand pulling.

Jefferson County

Clearwater River and its tributaries: Closed to all aquatic plant removal activities except hand pulling.

Queets River and its tributaries including Matheny Creek and the Salmon River outside Olympic National Park and the Quinault Reservation: Closed to all aquatic plant removal activities except hand pulling.

Big Quilcene mainstem: Closed to all aquatic plant removal activities except hand pulling.

King County

Raging River from the mouth upstream: Closed to all aquatic plant removal activities except hand pulling.

Snoqualmie River from the mouth upstream to Snoqualmie Falls: Effective September 1, 2015, closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

South Fork Skykomish River (Snohomish/King Co.) from Sunset Falls upstream and all tributaries, including the Beckler, Foss, Miller and Rapid Rivers and their tributaries: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Kittitas County

Little Naches River: Closed to all aquatic plant removal activities except hand pulling.

Teaway River, including West, Middle and North Forks: Closed to all aquatic plant removal activities except hand pulling.

Swauk Creek and all tributaries except Williams Creek: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling. Williams Creek is closed to all aquatic plant removal activities except hand pulling.

Lewis County

Newaukum River and all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Lincoln County

Spokane River (Spokane/Lincoln Co.) from upstream Boundary at Plese Flats Day Use Area to Idaho State Boundary: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Okanogan County

Methow River from County Road 1535 Bridge (lower Burma Rd.) upstream to Weeman Bridge (8 miles upstream of Winthrop): Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Okanogan River from the Hwy 97 Bridge immediately upstream of the mouth to Zosel Dam: Closed to all aquatic plant removal activities except hand pulling.

Similkameen River from the mouth upstream to Enloe Dam: Closed to all aquatic plant removal activities except hand pulling.

Pend Oreille County

Sullivan Creek and all tributaries from mouth to headwaters: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Skagit County

Sauk River (Skagit/Snohomish Co.) From the confluence with the Suiattle River upstream including North Fork from mouth to North Fork Falls and South Fork from mouth to Elliot Creek: Closed to all aquatic plant removal activities except hand pulling.

Suiattle River Tributaries Buck, Downey and Sulpher Creeks: Closed to all aquatic plant removal activities except hand pulling.

Samish River from I-5 to headwaters and Friday Creek from the mouth upstream: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Stillaguamish River (Skagit/Snohomish Co.) from Marine Drive upstream including the North and South Forks and all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Snohomish County

Skykomish River from mouth upstream: Closed to aquatic plant removal activities except hand pulling with exception of the section around Reiter Ponds remains open from the Gold Bar/Big Eddy Access (Hwy. 2 Bridge) upstream to the confluence of the North and South Forks.

North Fork Skykomish River from mouth upstream including all tributaries: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

South Fork Skykomish River (Snohomish/King Co.) from Sunset Falls upstream and all tributaries, including the Beckler, Foss, Miller and Rapid Rivers and their tributaries: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Wallace River from the mouth upstream including all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Stillaguamish River (Skagit/Snohomish Co.) from Marine Drive upstream including the North and South Forks and all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Sauk River (Skagit/Snohomish Co.) From the confluence with the Suiattle River upstream including North Fork from mouth to North Fork Falls and South Fork from mouth to Elliot Creek: Closed to all aquatic plant removal activities except hand pulling.

Spokane County

Spokane River (Spokane/Lincoln Co.) from upstream Boundary at Plese Flats Day Use Area to Idaho State Boundary: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Stevens County

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Colville River and all tributaries from mouth to headwaters: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Thurston County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to all aquatic plant removal activities except hand pulling.

Nisqually River (Thurston Co.) from the mouth to the military tank crossing bridge: Closed daily to all aquatic plant removal activities from 2 PM to one hour before official sunrise except hand pulling.

Walla Walla County

Walla Walla River from McDonald Road Bridge to Oregon State Boundary: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Mill Creek from Bennington Dam to State Line: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Whatcom County

Nooksack River from Slater Road to the forks: Closed to all aquatic plant removal activities except hand pulling.

Middle Fork Nooksack River from the mouth to the City of Bellingham Diversion Dam and all tributaries: Closed to all aquatic plant removal activities except hand pulling.

North Fork Nooksack River from the mouth to Nooksack Falls and all tributaries: Closed to all aquatic plant removal activities except hand pulling.

South Fork Nooksack River from the mouth to Skookum Creek and from Wanlick Creek to headwaters including Wanlick and all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Yakima County

Ahtanum Creek, including North and Middle Forks: Closed to all aquatic plant removal activities except hand pulling.

American River: Closed to all aquatic plant removal activities except hand pulling.

Yakima River from Interstate 82 Bridge at Union Gap to South Cle Elum Bridge: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Naches River from Tieton River to Bumping River/Little Naches River: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Rattlesnake Creek (mainstem): Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-660-29000A Aquatic plant removal and control.
(15-261)

WSR 15-18-062
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-278—Filed August 27, 2015, 2:35 p.m., effective August 27,
2015, 2:35 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules for low water and elevated water temperatures.

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

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: Drought and the resulting low water flows have had detrimental impacts to these waters. Water temperatures in the rivers are exceeding the upper limit of tolerance for salmonids and native game fishes. Angling and handling of Endangered Species Act listed and/or wild salmon at these temperatures further reduces survival after release. The daily "hoot owl" closures are intended to reduce angling pressure and potential fish mortality by removing angling during periods of the day when fish are stressed from elevated temperatures. 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: August 27, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-310-19000F Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-310-190, effective immediately until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

(1) **Raging River** (King Co.) From the mouth upstream closed to all fishing until further notice.

(2) **Skykomish River** (Snohomish Co.) From mouth upstream closed to all fishing, except the section around Reiter Ponds remains open from the Gold Bar/Big Eddy Access (Hwy. 2 Bridge) upstream to the confluence of the North and South Forks.

(3) **North Fork Skykomish River** (Snohomish Co.) From mouth upstream including all tributaries closed to all fishing daily 2 PM to midnight.

(4) **South Fork Skykomish River** (Snohomish/King Co.) From Sunset Falls upstream and all tributaries, including the Beckler, Foss, Miller and Rapid rivers and their tributaries closed to all fishing daily 2 PM to midnight.

(5) **Wallace River** (Snohomish Co.) From the mouth upstream including all tributaries closed to all fishing.

(6) **Stillaguamish River** (Skagit/Snohomish Co.) From Marine Drive upstream including the North and South Forks and all tributaries closed to all fishing.

(7) **Suiattle River** (Skagit Co.) Tributaries Buck, Downey and Sulpher Creeks closed to all fishing.

(8) **Samish River** (Skagit Co.) From I-5 to headwaters and Friday Creek from the mouth upstream closed to all fishing daily 2:00 p.m. to midnight.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-310-19000C Freshwater exceptions to statewide rules—Puget Sound. (15-206)

WSR 15-18-063
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-276—Filed August 27, 2015, 2:44 p.m., effective September 1,
2015]

Effective Date of Rule: September 1, 2015.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-310-190.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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

Reasons for this Finding: Excessively warm water temperatures and low flows raise concern about increased mortality for released fish. Limiting fishing to cooler morning temperatures reduces hooking mortality. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 27, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-310-19000E Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-310-190, effective September 1, 2015, until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

Snoqualmie River: From the mouth to Snoqualmie Falls - Closed to fishing daily from 2:00 p.m. until one hour before official sunrise.

**WSR 15-18-066
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-288—Filed August 27, 2015, 3:12 p.m., effective September 1, 2015]

Effective Date of Rule: September 1, 2015.

Purpose: Amend commercial fishing rules for sea urchins.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-52-07300R.

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: An emergency rule is needed to close the sea urchin commercial fishery as the end of the 2014-15 Sea Urchin Management period is August 31, 2015. The commercial sea urchin fishery will revert to the permanent Washington Administrative Code.

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

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

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

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

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

Date Adopted: August 27, 2015.

J. W. Unsworth
Director

REPEALER

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

WAC 220-52-07300R Sea urchins. (15-212)

**WSR 15-18-067
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-286—Filed August 27, 2015, 4:20 p.m., effective August 27, 2015, 4:20 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial salmon troll fishing rules.

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

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

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is

necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: A small amount of Chinook quota remains for the troll fishery, requiring a reduction in weekly vessel Chinook limits. These rules are adopted at the recommendation of the Pacific Fisheries Management Council, in accordance with preseason fishing plans. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 27, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-24-0400C All-citizen commercial salmon troll. Notwithstanding the provisions of WAC 220-24-040, effective immediately until further notice, it is unlawful to fish for salmon with troll gear or to land salmon taken with troll gear into a Washington port except during the seasons provided for in this section:

(1) Salmon Management and Catch Reporting Areas 1, 2, 3, and that portion of Area 4 west of 125°05'00" W longitude and south of 48°23'00" N latitude, open:

August 28 through September 1, 2015;
September 4 through September 8, 2015;
September 11 through September 15, 2015;
September 18 through September 22, 2015.

(2) Landing and possession limits:

(a) 35 Chinook and 50 marked coho per boat per each entire open period for Catch Areas 1, 2, 3 and 4.

(b) No vessel may possess, land or deliver more than 35 chinook and 50 marked coho during any open period. The Cape Flattery and Columbia River Control Zones are closed. Mandatory Yelloweye Rockfish Conservation Area is closed. Beginning August 10 the Grays Harbor Control Zone is closed.

(3) Minimum size for Chinook salmon is 28 inches in length. Minimum size for Coho salmon is 16 inches in length. No minimum size for pink, sockeye, or chum salmon, except no chum retention north of Cape Alava, Washington, in

August and September. It is unlawful to possess wild coho salmon.

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

(5) Fishers must land and deliver their catch within 24 hours of any closure of a fishery provided for in this section, and vessels fishing or in possession of salmon while fishing north of Leadbetter Point must land and deliver their fish within the area and north of Leadbetter Point. Vessels fishing or in possession of salmon while fishing south of Leadbetter Point must land and deliver their fish within the area and south of Leadbetter Point. Vessels in possession of salmon north of the Queets River may not cross the Queets River line without first notifying WDFW by phone at (360) 902-2739 or by email at Douglas.Milward@dfw.wa.gov with area fished, total Chinook and halibut catch on board, and destination. Vessels in possession of salmon south of the Queets River may not cross the Queets River line without first notifying WDFW by phone at (360) 902-2739 or by email at Douglas.Milward@dfw.wa.gov with Area fished, total Chinook and halibut catch on board, and destination.

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

(7) Columbia Control Zone - This is defined as an area at the Columbia River mouth, bounded on the west by a line running northeast/southwest between the red lighted Buoy #4 (46°13'35" N. Lat., 124°06'50" W. long.) and the green lighted Buoy #7 (46°15'09" N. lat., 124°06'16" W. long.); on the east, by the Buoy #10 line, which bears north/south at 357° true from the south jetty at 46°14'00" N. lat., 124°03'07" W. long, to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°14'48" N. lat., 124°05'20" W. long.), and then along the north jetty to the point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14'03" N. lat., 124°04'05" W. long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

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

(9) Grays Harbor Control Zone - The area defined by a line drawn from the Westport Lighthouse (46°53.18' N latitude, 124°07.01' W longitude) to Buoy #2 (46°52.42' N latitude, 124°12.42' W longitude) to Buoy #3 (46°55.00' N latitude, 124°14.48' W longitude) to the Grays Harbor north jetty (46°55.36' N latitude, 124°10.51' W longitude).

It is unlawful to fish in Salmon Management and Catch Reporting Areas 1, 2, 3 or 4 with fish on board taken south of Cape Falcon, Oregon; and all fish taken from Salmon Management and Catch Reporting Areas 1, 2, 3, and 4 must be landed before fishing south of Cape Falcon, Oregon.

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

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

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-24-04000B All-citizen commercial salmon troll.
(15-269)

WSR 15-18-068
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-287—Filed August 27, 2015, 4:24 p.m., effective August 27,
2015, 4:24 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules for coastal salmon.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-62000P; and amending WAC 232-28-620.

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: Sufficient catch remains under the Marine Area 1 Chinook guideline to allow retention of two Chinook per day providing additional angling opportunity. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 27, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 232-28-62000Q Coastal salmon—Saltwater seasons and daily limits. Notwithstanding the provisions of WAC 232-28-620, effective immediately until further notice, it is unlawful to violate the provisions below. Unless otherwise amended, all permanent rules remain in effect:

(1) Catch Record Card Area 1: Effective August 29 through September 30:

(a) Daily limit of 2 salmon, both of which may be a Chinook salmon

(b) Release wild coho.

(2) Catch Record Card Area 2:

(a) Effective immediately, the Grays Harbor Control Zone is closed. Grays Harbor Control Zone is defined as the area defined by a line drawn from the Westport Lighthouse (46°53.18' N latitude, 124°07.01' W longitude) to Buoy #2 (46°52.42' N latitude, 124°12.42' W longitude) to Buoy #3 (46°55.00' N latitude, 124°14.48' W longitude) to the Grays Harbor north jetty (46°55.36' N latitude, 124°10.51' W longitude).

(b) Effective immediately through September 30:

(i) Daily limit of 2 salmon, both of which may be a Chinook salmon.

(ii) Release wild coho.

(3) Catch Record Card Area 3: Open through September 30: Daily limit of 2 salmon of which not more than one may be a Chinook salmon, plus two additional pink salmon; release wild coho.

(4) Catch Record Card Area 4:

(a) Effective immediately until further notice, the waters south of a line from Kydaka Point to Shipwreck Point are closed.

(b) Effective immediately through September 30: Open; daily limit of 2 salmon, one of which may be a Chinook, plus two additional pink salmon; release chum and wild coho.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-62000P Coastal salmon—Saltwater seasons and daily limits. (15-270)

WSR 15-18-069
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-290—Filed August 27, 2015, 9:12 a.m., effective August 27, 2015, 9:12 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules for the Nooksack River.

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

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: Nooksack River spring Chinook are experiencing high prespawn mortality rates and cannot enter the South Fork Nooksack River due to extremely low flows and high water temperatures. 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: August 28 [27], 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-310-19000I Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-310-190, effective immediately until further notice it is unlawful to fish in the following waters:

(1) **North Fork Nooksack** from the mouth to Nooksack Falls.

(2) **All tributaries draining into the North Fork Nooksack** from the mouth to Nooksack Falls.

(3) **The Middle Fork Nooksack** from mouth to the City of Bellingham Diversion Dam.

(4) **All tributaries draining into the Middle Fork Nooksack** from the mouth to the Diversion Dam.

(5) **The mainstem Nooksack** from Slater Road to the forks.

(6) **South Fork Nooksack** (Whatcom Co.) From the mouth to Skookum Creek, and from Wanlick Creek to headwaters including Wanlick and all tributaries closed to all fishing until further notice.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-310-19000G Freshwater exceptions to statewide rules—Puget Sound. (15-282)

WSR 15-18-073
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-291—Filed August 28, 2015, 12:03 p.m., effective August 29, 2015]

Effective Date of Rule: August 29, 2015.

Purpose: Amend recreational fishing rules for the Columbia River Buoy 10 fishery.

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

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

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

Reasons for this Finding: Closes the Buoy 10 fishery to Chinook retention. The Buoy 10 recreational fishery has reached the Endangered Species Act (ESA) impact allocation for Lower Columbia natural wild tule Chinook sooner than expected. The seasons are consistent with the *U.S. v. Oregon* 2008-2017 Interim Management Agreement and the fall Chinook allocation agreement developed through the North of Falcon process. The rule is consistent with compact action of August 27, 2015. There is insufficient time to adopt permanent rules.

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

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

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

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: August 28, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-310-20000W Freshwater exceptions to statewide rules—Columbia River. Notwithstanding the provisions of WAC 220-310-200, effective August 29 through September 30, 2015, it is unlawful to retain Chinook salmon in the waters of the Columbia River from a true north/south line through Buoy 10 to a projected line from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank.

REPEALER

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

WAC 220-310-20000V Freshwater exceptions to statewide rules—Columbia River. (15-268)

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

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

WSR 15-18-079
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-289—Filed August 28, 2015, 2:09 p.m., effective September 1, 2015]

Effective Date of Rule: September 1, 2015.

Purpose: Amend recreational fishing rules.

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

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

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

Reasons for this Finding: The 2015 Columbia River forecasted return of upriver bright adults is 518,300 with a significant portion of these fish are expected to return to the Snake River. A significant steelhead fishery also occurs in the area and some hatchery fall Chinook are expected to be caught during steelhead fishing. Retention of hatchery fall Chinook is not expected to increase impacts to ESA listed wild fall Chinook. Natural origin steelhead returns to the Tucannon River are not meeting management goals for conservation and therefore the fishery for hatchery steelhead must be modified to provide more protection of naturally produced steelhead in the Tucannon River. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 28, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-310-19500J Freshwater exceptions to statewide rules—Eastside. Notwithstanding the provisions of WAC 220-310-195:

(1) **Snake River** - Effective September 1 through October 31, 2015, open for salmon in waters of the Columbia River from the railroad bridge between Burbank and Kennebec upstream approximately 2.1 miles to the first power line crossing upstream of the navigation light on the point of Sacajawea State Park (Snake River Confluence Protection Area) and on the Snake River from the mouth to the Oregon State line.

(a) Daily limit of six adipose fin-clipped fall Chinook adults (24 inches in length and larger), and six adipose fin-clipped jack fall Chinook (less than 24 inches). Minimum size for Chinook is 12 inches.

(b) Anglers must cease fishing for salmon and steelhead for the day once they have retained 3 hatchery steelhead regardless of whether the salmon daily limit has been retained.

(c) All Chinook with the adipose fin intact, and all steelhead, must be released immediately, unharmed.

(d) Barbless hooks are required when fishing for Chinook or steelhead.

(e) It is unlawful to remove any Chinook or steelhead from the water unless it is retained as part of the daily limit.

(2) **Tucannon River** - Effective September 1, 2015, until further notice, the following rules apply:

(a) Daily Limit is reduced to 2 hatchery steelhead per day.

(b) Mandatory hatchery steelhead retention is required.

(c) Barbless hooks are required while fishing for steelhead.

(d) Release all wild steelhead.

(e) The area from Marengo (at Turner Road Bridge) upstream is closed to fishing.

WSR 15-18-080**EMERGENCY RULES****DEPARTMENT OF****FISH AND WILDLIFE**

[Order 15-294—Filed August 28, 2015, 4:27 p.m., effective August 28, 2015, 4:27 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-3300S [220-56-33000S]; and amending WAC 220-56-330.

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: Test results from the Washington department of health show that crab tested in the area between Point Chehalis and the United States/Canada border are safe for human consumption. Levels of domoic acid, detected through routine testing are below the federally established action level. 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: August 28, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-56-33000T Crab—Areas and seasons Notwithstanding the provisions of WAC 220-56-330, effective immediately until further notice:

(1) It is unlawful to fish for Dungeness crab in Marine Area 1 adjacent to Washington and that portion of Marine Area 2 south of Point Chehalis (46°53.18), including Marine Area 2-1 Willapa Bay and the Columbia River.

(2) It is unlawful to set, maintain, operate, or possess in those waters listed in subsections (1) of this section, any baited or unbaited shellfish pots or ring nets for any reason.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-33000S Crab—Areas and seasons. (15-239)

WSR 15-18-081**EMERGENCY RULES****DEPARTMENT OF****FISH AND WILDLIFE**

[Order 15-295—Filed August 28, 2015, 4:27 p.m., effective August 28, 2015, 4:27 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend Puget Sound commercial crab fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04500J; and amending WAC 220-52-045.

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: Test results from the Washington department of health show that crab tested in the area between Point Chehalis and the United States/Canada border are safe for human consumption. Levels of domoic acid, detected through routine testing are below the federally established action level. 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: August 28, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-52-04500K Commercial crab fishery—Seasons and areas—Coastal. Notwithstanding the provisions of WAC 220-52-045, effective immediately until further notice, it is unlawful to fish for Dungeness crab in Washington coastal waters, the Pacific Ocean, Grays Harbor, Willapa Bay, or the Columbia River, except as provided for in this section.

(1) The area from Point Chehalis (46°53.18), Washington, to the U.S./Canada Border, including Grays Harbor: Open.

(2) For the purposes of this section, the waters of Willapa Bay are defined to include the marine waters east of a line connecting 46°44.76 N, 124°05.76 W and 46°38.93 N, 124°04.33 W. Closed.

(3) The Quinault Secondary Special Management Area (SSMA) is closed to fishing for Dungeness crab from the area shoreward of a line approximating the 27-fathom depth curve between Split Rock (47°24.50) and the mouth of the Joe

Creek (47°12.11). The legal modified SSMA is defined by the following coordinates:

- (a) Northeast Corner (Split Rock): 47°24.50 N. Lat. 124°20.00 W. Lon.
- (b) Northwest Corner: 47°24.50 N. Lat. 124°32.40 W. Lon.
- (c) Southwest Corner: 47°12.11 N. Lat. 124°27.33 W. Lon.
- (d) Southeast Corner (Joe Creek): 47°12.11 N. Lat. 124°12.28 W. Lon.

(4) Notwithstanding the provisions of WAC 220-52-045, it is unlawful to:

(a) Fish for Dungeness crab in the coastal waters of the Pacific Ocean between the Washington/Oregon border (46°15.00) and Point Chehalis (46°53.18), Washington;

(b) Fish for Dungeness crab in Willapa Bay and the Columbia River;

(c) Set, maintain, operate, or possess in those waters listed in subsections (4)(a) and (b) of this section, any baited or unbaited shellfish pots or ring nets for any reason; and

(d) Possess, transport or deliver Dungeness crab within the waters closed in this section unless the following conditions are met:

(i) Vessels that participate in the coastal Dungeness crab fishery from north of Point Chehalis (46°53.18) may possess crab for delivery into Washington ports south of Point Chehalis (46°53.18), provided the crab were taken north of Point Chehalis (46°53.18).

(ii) Prior to entering Washington coastal waters of the Pacific Ocean between the WA/OR border (46°15.00) and Point Chehalis, Washington (46°53.18), including Willapa Bay and the Columbia River, the vessel operator must call 360-581-3337 and report the vessel name, operator name, estimated amount of crab to be delivered in pounds, and the estimated date, time, and location of delivery 24 hours prior to entering the area.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-52-04500J Coastal crab seasons. (15-238)

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 15-18-082
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-296—Filed August 28, 2015, 4:28 p.m., effective August 30, 2015, 5:00 a.m.]

Effective Date of Rule: August 30, 2015, 5:00 a.m.

Purpose: Amend commercial fishing rules for Puget Sound salmon.

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

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

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

Reasons for this Finding: This regulation provides for Pacific Salmon Commission authorized fisheries in Areas 7 and 7A targeting the United States share of Fraser River pink salmon. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 28, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-47-50100S Puget Sound all-citizen commercial salmon fishery—Open periods. Notwithstanding the provisions of Chapter 220-47 WAC, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the open periods, mesh size, areas, species restrictions, notification, and landing requirements set forth in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas 7 and 7A:

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

Hours	Dates
5:00 AM - 9:00 PM	August 30, 2015

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

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

(c) All salmon and rockfish must be immediately sorted, and those required to be released must be placed in an operating recovery box or released into the water before the next

brail may be brought on the deck. However, small numbers of fish may be brought on board the vessel by pulling the net in without mechanical or hydraulic assistance.

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

Areas 7 and 7A:

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

Hours	Dates
8:00 AM -11:59 PM	August 30, 2015

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

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

Areas 7 and 7A:

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

Hours	Dates
5:00 AM - 9:00 PM	August 30 and August 31, 2015

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

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

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

(4) "Quick Reporting Fisheries":

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 9:01 p.m. August 31, 2015:

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

WSR 15-18-083
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-292—Filed August 28, 2015, 4:28 p.m., effective August 28, 2015, 4:28 p.m.]

Effective Date of Rule: Immediately upon filing.

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 220-33-01000V; 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 an additional mainstem commercial fishing period. Select area sites remain open. Harvest in the mainstem commercial fishery is less than expected and Chinook remain available for commercial harvest. Harvest estimates are well within ESA limits and sharing guidelines. The seasons are consistent with the *U.S. v. Oregon* 2008-2017 Interim Management Agreement and the fall Chinook allocation agreement developed through the North of Falcon process. The rule is consistent with compact action of July 29 and August 27, 2015. There is insufficient time to adopt permanent rules.

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

Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536

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

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

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: August 28, 2015.

J. W. Unsworth
 Director

NEW SECTION

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

(1) Mainstem Columbia River

(a) SEASON: 2:00 AM to 6 AM Monday August 31, 2015

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

(c) GEAR: Drift gillnets only. 9-inch minimum mesh size.

(d) SANCTUARIES: Washougal and Sandy Rivers.

(e) ALLOWABLE POSSESSION: Chinook, Coho, Pink and Sockeye salmon and shad.

(2) Deep River Select Area.

(a) SEASON: Open hours are 7 PM to 7 AM through Sept. 12 and 6 PM to 9 AM thereafter.

(i) Monday, Tuesday, Wednesday, and Thursday nights August 31 - September 4, 2015

(ii) Monday, Tuesday, Wednesday, Thursday and Friday nights September 7 - 26, 2015

(iii) Monday, Tuesday, Wednesday, and Thursday nights Sept. 28 - October 16, 2015

(iv) 6 PM Monday October 19 to 9 AM Tuesday October 20, 2015

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

(c) GEAR: Gillnet. Monofilament gear is allowed. 9 3/4-inch maximum mesh size through September 12 and 6-inch maximum mesh thereafter. Net length: 100 fathoms maximum. No weight restriction on the lead line. Use of additional weights or anchors attached directly to the lead line is allowed. Nets may not be tied off to stationary structures. Nets may not fully cross the navigation channel. It is unlawful to operate in any river, stream or channel any gillnet gear longer than three-fourths the width of the river, stream, or channel. "River, stream, or channel width" is defined as bank-to-bank, where the water meets the banks, regardless of the time of tide or the water level. This emergency provision supersedes the permanent rule and all other rules that conflict with it.

(3) Tongue Point/South Channel Select Area.

(a) SEASON: Open hours are 7 PM to 7 AM through Sept 11, 2015, and 4 PM to 10 AM thereafter. Open days are Monday, Tuesday, Wednesday, and Thursday nights immediately through September 18, 2015, and Sunday, Monday, Tuesday, Wednesday, and Thursday nights from September 20 through October 30, 2015.

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

(c) GEAR: Gillnet; 6-inch maximum mesh. Net length: 250 fathoms maximum.

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

(ii) South Channel area: no weight restriction on leadline. Use of additional weights and/or anchors attached directly to the leadline is allowed

(4) Blind Slough/Knappa Slough Select Area.

(a) SEASON: Open hours are: 7 PM - 7 AM through Sept. 11 and 6 PM - 10 AM thereafter. Open days are: Monday, Tuesday, Wednesday, and Thursday nights immediately through September 18 and Sunday, Monday, Tuesday, Wednesday, and Thursday nights from September 20 through October 30

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

(c) GEAR: Gillnet. Monofilament gear is allowed. 9 3/4-inch maximum mesh size. Maximum net length of 100 fathoms. No weight restriction on lead line. Use of additional weights and/or anchors attached directly to the lead line is allowed.

(5) Additional requirements for all Select Area commercial fisheries:

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

(b) ALLOWABLE POSSESSION: Chinook, Coho, Pink and Sockeye salmon and shad.

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

(6) **Quick Reporting:** This quick-reporting requirement applies to all seasons in this section. 24-hour quick-reporting is required for Washington wholesale dealers, as provided in WAC 220-69-240. Columbia River reports must be submitted within 24 hours of the closure of each fishing period.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-01000V Columbia River season below Bonneville. (15-233)

WSR 15-18-084

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 15-293—Filed August 28, 2015, 4:30 p.m., effective September 1, 2015]

Effective Date of Rule: September 1, 2015.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-310-180.

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

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

Reasons for this Finding: The continued presence of summer Chinook in the lower Hoh River necessitates extending the current protections for this depressed stock, including releasing all Chinook, and requiring selective gear to discourage targeting of Chinook. These requirements will remain in place until river flows increase sufficiently to enable the summer Chinook to move upriver. There is insufficient time to adopt permanent rules.

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

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: August 28, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-310-1800Z Freshwater exceptions to statewide rules—Coastal. Notwithstanding the provisions of WAC 220-310-180, effective September 1, 2015, until further notice, it is unlawful to violate the provisions below. Unless otherwise amended, all permanent rules remain in effect.

Hoh River - From the DNR Oxbow Campground boat launch downstream to the Olympic National Park boundary near the mouth of the Hoh River.

- (1) Selective gear rules apply.
- (2) Release Chinook salmon.

WSR 15-18-092

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 15-302—Filed August 31, 2015, 4:13 p.m., effective August 31, 2015, 4:13 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend work times in the aquatic plants and fish pamphlet for all aquatic plant removal activities except hand pulling.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-660-29000B; and amending WAC 220-660-290.

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

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

Reasons for this Finding: A lack of snowpack from an unusually warm winter has resulted in drought conditions throughout much of Washington. A healthy snowpack slowly provides water to rivers and streams, helping to sustain fish through the drier summer months. But, with little or no snow-

pack, flows in many rivers have dropped significantly and water temperatures have increased - conditions that are lethal to fish. In response, Washington department of fish and wildlife (WDFW) has placed drought-related fishing closures and restrictions on nearly sixty rivers and streams.

Low water and higher than normal water temperatures are limiting fish movement and making them more susceptible to diseases. In addition, stream flows have fallen low enough to concentrate fish into small areas of refugia where they are highly susceptible to additional stress from disturbance caused by aquatic plant removal. To protect fish life, WDFW is aligning the work times for all aquatic plant removal activities except hand pulling with the drought-related fishing closures or restrictions now in effect. There is insufficient time to adopt permanent rules. As water temperatures and streamflows improve due to changing weather patterns, emergency rule changes for aquatic plant removal activities will be modified to return to permanent rule requirements.

The daily closures are intended to reduce additional stress to fish from aquatic plant removal activities during periods of the day when fish are stressed from elevated temperatures. In addition, some streams are closed to aquatic plant removal activities except hand pulling because of record low flows due to lack of winter snowpack and rainfall. Stream flows have fallen low enough to concentrate fish into small areas of refugia where they are highly susceptible to additional stress from disturbance at these temperatures [which] further reduces survival.

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: August 31, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-660-29000C Aquatic plant removal and control Notwithstanding the provisions of WAC 220-660-290, effective immediately until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

Asotin County

Asotin Creek and tributaries from mouth to headwaters: Closed to all aquatic plant removal activities except hand pulling.

Chelan County

Wenatchee River from mouth to the Icicle River Road Bridge: Closed to all aquatic plant removal activities except hand pulling.

Icicle River from the mouth to 500 feet downstream of the Leavenworth National Fish Hatchery Barrier Dam: Closed to all aquatic plant removal activities except hand pulling.

Peshastin Creek and all tributaries: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Clallam County

Quillayute River from the confluence of the Sol Duc and Bogachiel Rivers downstream 475 yards: Closed to all aquatic plant removal activities except hand pulling.

Sol Duc River including all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Bogachiel River including all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Calawah River including all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Dickey River including all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Clark County

East Fork Lewis River from mouth upstream to top boat ramp at Lewisville Park: Closed to all aquatic plant removal activities except hand pulling.

East Fork Lewis River from top boat ramp at Lewisville Park upstream to 400 feet below Horseshoe Falls: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Washougal River from mouth upstream to Mt. Norway Bridge: Closed to all aquatic plant removal activities except hand pulling.

Washougal River from Mt. Norway Bridge upstream to the Salmon Falls Bridge: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Columbia County

Tucannon River (Columbia/Garfield Co.) From Highway 12 Bridge to Cow Camp Bridge: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Touchet River (Columbia/Walla Walla Co.) from mouth to the confluence of the North and South forks: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

(1) North Fork Touchet River from mouth to Spangler Creek: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

(2) North Fork Touchet River upstream from the confluence of Spangler Creek: Closed to all aquatic plant removal activities except hand pulling.

(3) South Fork Touchet River from mouth to Griffen Fork and above Griffen Fork: Closed to all aquatic plant removal activities except hand pulling.

(4) Wolf Fork Touchet River from mouth to Coates Creek and Robinson Fork: Closed to all aquatic plant removal activities except hand pulling.

Ferry County

Kettle River and all tributaries from Barstow Bridge to headwaters, all portions contained within the United States: Closed to all aquatic plant removal activities except hand pulling.

Garfield County

Tucannon River (Columbia/Garfield Co.) From Highway 12 Bridge to Cow Camp Bridge: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Grays Harbor County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to all aquatic plant removal activities except hand pulling.

Jefferson County

Clearwater River and its tributaries: Closed to all aquatic plant removal activities except hand pulling.

Queets River and its tributaries including Matheny Creek and the Salmon River outside Olympic National Park and the Quinault Reservation: Closed to all aquatic plant removal activities except hand pulling.

Big Quilcene mainstem: Closed to all aquatic plant removal activities except hand pulling.

King County

Raging River from the mouth upstream: Closed to all aquatic plant removal activities except hand pulling.

Snoqualmie River from the mouth upstream to Snoqualmie Falls: Effective September 1, 2015, closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

South Fork Skykomish River (Snohomish/King Co.) from Sunset Falls upstream and all tributaries, including the Beckler, Foss, Miller and Rapid Rivers and their tributaries: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Kittitas County

Little Naches River: Closed to all aquatic plant removal activities except hand pulling.

Teanaway River, including West, Middle and North Forks: Closed to all aquatic plant removal activities except hand pulling.

Swauk Creek and all tributaries except Williams Creek: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling. Williams Creek is closed to all aquatic plant removal activities except hand pulling.

Lewis County

Newaukum River and all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Lincoln County

Spokane River (Spokane/Lincoln Co.) from upstream Boundary at Plese Flats Day Use Area to Idaho State Boundary: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Okanogan County

Methow River from County Road 1535 Bridge (lower Burma Rd.) upstream to Weeman Bridge (8 miles upstream

of Winthrop): Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Okanogan River from the Hwy 97 Bridge immediately upstream of the mouth to Zosel Dam: Closed to all aquatic plant removal activities except hand pulling.

Similkameen River from the mouth upstream to Enloe Dam: Closed to all aquatic plant removal activities except hand pulling.

Pend Oreille County

Sullivan Creek and all tributaries from mouth to headwaters: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Skagit County

Sauk River (Skagit/Snohomish Co.) From the confluence with the Suiattle River upstream including North Fork from mouth to North Fork Falls and South Fork from mouth to Elliot Creek:: Closed to all aquatic plant removal activities except hand pulling.

Suiattle River Tributaries Buck, Downey and Sulpher Creeks: Closed to all aquatic plant removal activities except hand pulling.

Samish River from I-5 to headwaters and Friday Creek from the mouth upstream: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Stillaguamish River (Skagit/Snohomish Co.) from Marine Drive upstream including the North and South Forks and all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Snohomish County

Skykomish River from mouth upstream: Closed to aquatic plant removal activities except hand pulling with exception of the section around Reiter Ponds remains open from the Gold Bar/Big Eddy Access (Hwy. 2 Bridge) upstream to the confluence of the North and South Forks.

North Fork Skykomish River from mouth upstream including all tributaries: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

South Fork Skykomish River (Snohomish/King Co.) from Sunset Falls upstream and all tributaries, including the Beckler, Foss, Miller and Rapid Rivers and their tributaries: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Wallace River from the mouth upstream including all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Stillaguamish River (Skagit/Snohomish Co.) from Marine Drive upstream including the North and South Forks and all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Sauk River (Skagit/Snohomish Co.) From the confluence with the Suiattle River upstream including North Fork from mouth to North Fork Falls and South Fork from mouth

to Elliot Creek:: Closed to all aquatic plant removal activities except hand pulling.

Spokane County

Spokane River (Spokane/Lincoln Co.) from upstream Boundary at Plese Flats Day Use Area to Idaho State Boundary: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Stevens County

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Colville River and all tributaries from mouth to headwaters: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Thurston County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to all aquatic plant removal activities except hand pulling.

Nisqually River (Thurston Co.) from the mouth to the military tank crossing bridge: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Walla Walla County

Walla Walla River from McDonald Road Bridge to Oregon State Boundary: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Mill Creek from Bennington Dam to State Line: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Whatcom County

Nooksack River from Slater Road to the forks: Closed to all aquatic plant removal activities except hand pulling.

Middle Fork Nooksack River from the mouth to the City of Bellingham Diversion Dam and all tributaries: Closed to all aquatic plant removal activities except hand pulling.

North Fork Nooksack River from the mouth to Nooksack Falls and all tributaries: Closed to all aquatic plant removal activities except hand pulling.

South Fork Nooksack River from the mouth to Skookum Creek and from Wanlick Creek to headwaters including Wanlick and all tributaries: Closed to all aquatic plant removal activities except hand pulling.

Yakima County

Ahtanum Creek, including North and Middle Forks: Closed to all aquatic plant removal activities except hand pulling.

American River: Closed to all aquatic plant removal activities except hand pulling.

Yakima River from Interstate 82 Bridge at Union Gap to South Cle Elum Bridge: Closed daily to all aquatic plant

removal activities from 2 PM to midnight except hand pulling.

Naches River from Tieton River to Bumping River/Little Naches River: Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

Rattlesnake Creek (mainstem): Closed daily to all aquatic plant removal activities from 2 PM to midnight except hand pulling.

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:

WAC 220-660-29000B Aquatic plant removal and control.
(15-284)

WSR 15-18-093
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-303—Filed August 31, 2015, 4:13 p.m., effective August 31,
2015, 4:13 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend authorized work times for suction dredging in the gold and fish rules for mineral prospecting and placer mining.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-660-30000B; and amending WAC 220-660-300.

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

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

Reasons for this Finding: A lack of snowpack from an unusually warm winter has resulted in drought conditions throughout much of Washington. A healthy snowpack slowly provides water to rivers and streams, helping to sustain fish through the drier summer months. But, with little or no snowpack, flows in many rivers have dropped significantly and water temperatures have increased - conditions that are lethal to fish. In response, Washington department of fish and wildlife (WDFW) has placed drought-related fishing closures and restrictions on over sixty rivers and streams.

Low water and higher than normal water temperatures are limiting fish movement and making them more susceptible to diseases. In addition, stream flows have fallen low enough to concentrate fish into small areas of refugia where they are highly susceptible to additional stress from disturbance caused by suction dredging. To protect fish life, WDFW is aligning the authorized work times for suction

dredging in the gold and fish rules for mineral prospecting and placer mining with drought-related fishing closures or restrictions now in effect. There is insufficient time to adopt permanent rules. As water temperatures and streamflows improve due to changing weather patterns, emergency rule changes for mineral prospecting will be modified to return to permanent rule requirements.

Per permanent rule, work in the wetted perimeter or frequent scour zone is authorized from one-half hour before sunrise to one-half hour after sunset. The daily closures from 2 p.m. to one-half hour after sunset are intended to reduce additional stress to fish from suction dredging during periods of the day when fish are stressed from elevated temperatures. In addition, some streams are closed to suction dredging because of record low flows due to lack of winter snowpack and rainfall. Stream flows have fallen low enough to concentrate fish into small areas of refugia where they are highly susceptible to additional stress from disturbance at these temperatures [which] further reduces survival.

Previous versions of these emergency rules allowed excavation sites to remain unfilled and tailing piles to remain only partly leveled. This version of the emergency rules returns these requirements to those in the permanent rules. With continued dropping of water levels in streams, unfilled excavation sites may become isolated from flowing water of the stream resulting in stranding of fish, making them more susceptible to predation or suffocation due to high water temperatures and low flows. Unleveled tailing piles may divert or alter streamflow out of the normal channel.

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: August 31, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-660-30000C Mineral prospecting Notwithstanding the provisions of WAC 220-660-300, effective immediately until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

Asotin County

Asotin Creek and tributaries from mouth to headwaters: Closed to suction dredging.

Chelan County

Wenatchee River from mouth to the Icicle River Road Bridge: Closed to suction dredging.

Icicle River from the mouth to 500 feet downstream of the Leavenworth National Fish Hatchery Barrier Dam: Closed to suction dredging.

Peshastin Creek and all tributaries: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Clallam County

Quillayute River from the confluence of the Sol Duc and Bogachiel Rivers downstream 475 yards: Closed to suction dredging.

Sol Duc River including all tributaries: Closed to suction dredging.

Bogachiel River including all tributaries: Closed to suction dredging.

Calawah River including all tributaries: Closed to suction dredging.

Dickey River including all tributaries: Closed to suction dredging.

Clark County

East Fork Lewis River from mouth upstream to top boat ramp at Lewisville Park: Closed to suction dredging.

East Fork Lewis River from top boat ramp at Lewisville Park upstream to 400 feet below Horseshoe Falls: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Washougal River from mouth upstream to Mt. Norway Bridge: Closed to suction dredging.

Washougal River from Mt. Norway Bridge upstream to the Salmon Falls Bridge: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Columbia County

Tucannon River (Columbia/Garfield Co.) From Highway 12 Bridge to Cow Camp Bridge: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Touchet River (Columbia/Walla Walla Co.) from mouth to the confluence of the North and South forks: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

(1) North Fork Touchet River from mouth to Spangler Creek: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

(2) North Fork Touchet River upstream from the confluence of Spangler Creek: Closed to suction dredging.

(3) South Fork Touchet River from mouth to Griffen Fork and above Griffen Fork: Closed to suction dredging.

(4) Wolf Fork Touchet River from mouth to Coates Creek and Robinson Fork: Closed to suction dredging.

Ferry County

Kettle River and all tributaries from Barstow Bridge to headwaters, all portions contained within the United States: Closed to suction dredging.

Garfield County

Tucannon River (Columbia/Garfield Co.) From Highway 12 Bridge to Cow Camp Bridge: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Grays Harbor County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to suction dredging.

Jefferson County

Clearwater River and its tributaries: Closed to suction dredging.

Queets River and its tributaries including Matheny Creek and the Salmon River outside Olympic National Park and the Quinalt Reservation: Closed to suction dredging.

Big Quilcene mainstem: Closed to suction dredging.

King County

Raging River from the mouth upstream: Closed to suction dredging.

Snoqualmie River from the mouth upstream to Snoqualmie Falls: Effective September 1, 2015, closed to suction dredging from 2 PM to one-half hour after official sunset.

South Fork Skykomish River (Snohomish/King Co.) from Sunset Falls upstream and all tributaries, including the Beckler, Foss, Miller and Rapid Rivers and their tributaries: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Kittitas County

Little Naches River: Closed to suction dredging.

Teanaway River, including West, Middle and North Forks: Closed to suction dredging.

Swauk Creek and all tributaries downstream from the confluence of Williams Creek: Closed daily to suction dredging from 2 PM to until one-half hour after official sunset.

Williams Creek and all tributaries and Swauk Creek and all tributaries upstream from the confluence of Williams Creek: Closed to suction dredging.

Lewis County

Newaukum River and all tributaries: Closed to suction dredging.

Lincoln County

Spokane River (Spokane/Lincoln Co.) from upstream Boundary at Plese Flats Day Use Area to Idaho State Boundary: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Okanogan County

Methow River from County Road 1535 Bridge (lower Burma Rd.) upstream to Weeman Bridge (8 miles upstream of Winthrop): Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Okanogan River from the Hwy 97 Bridge immediately upstream of the mouth to Zosel Dam: Closed to suction dredging.

Similkameen River from the mouth upstream to Enloe Dam: Closed to suction dredging.

Pend Oreille County

Sullivan Creek and all tributaries from mouth to headwaters: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Skagit County

Sauk River (Skagit/Snohomish Co.) From the confluence with the Suiattle River upstream including North Fork from mouth to North Fork Falls and South Fork from mouth to Elliot Creek: Closed to suction dredging.

Suiattle River Tributaries Buck, Downey and Sulpher Creeks: Closed to suction dredging.

Samish River from I-5 to headwaters and Friday Creek from the mouth upstream: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Stillaguamish River (Skagit/Snohomish Co.) from Marine Drive upstream including the North and South Forks and all tributaries: Closed to suction dredging.

Snohomish County

Skykomish River from mouth upstream: Closed to suction dredging except the section around Reiter Ponds remains open from the Gold Bar/Big Eddy Access (Hwy. 2 Bridge) upstream to the confluence of the North and South Forks.

North Fork Skykomish River from mouth upstream including all tributaries: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

South Fork Skykomish River (Snohomish/King Co.) from Sunset Falls upstream and all tributaries, including the Beckler, Foss, Miller and Rapid Rivers and their tributaries: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Wallace River from the mouth upstream including all tributaries: Closed to suction dredging.

Stillaguamish River (Skagit/Snohomish Co.) from Marine Drive upstream including the North and South Forks and all tributaries: Closed to all suction dredging.

Sauk River (Skagit/Snohomish Co.) From the confluence with the Suiattle River upstream including North Fork from mouth to North Fork Falls and South Fork from mouth to Elliot Creek: Closed to suction dredging.

Spokane County

Spokane River (Spokane/Lincoln Co.) from upstream Boundary at Plese Flats Day Use Area to Idaho State Boundary: Closed daily to suction dredging 2 PM to one-half hour after official sunset.

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Stevens County

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam:

Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Colville River and all tributaries from mouth to headwaters: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Thurston County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to suction dredging.

Nisqually River (Thurston Co.) from the mouth to the military tank crossing bridge: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Walla Walla County

Walla Walla River from McDonald Road Bridge to Oregon State Boundary: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Mill Creek from Bennington Dam to State Line: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Whatcom County

Nooksack River from Slater Road to the forks: Closed to suction dredging.

Middle Fork Nooksack River from the mouth to the City of Bellingham Diversion Dam and all tributaries: Closed to suction dredging.

North Fork Nooksack River from the mouth to Nooksack Falls and all tributaries: Closed to suction dredging.

South Fork Nooksack River from the mouth to Skookum Creek and from Wanlick Creek to headwaters including Wanlick and all tributaries: Closed to suction dredging.

Yakima County

Ahtanum Creek, including North and Middle Forks: Closed to suction dredging.

American River: Closed to suction dredging.

Yakima River from Interstate 82 Bridge at Union Gap to South Cle Elum Bridge: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Naches River from Tieton River to Bumping River/Little Naches River: Closed daily to suction dredging from 2 PM until one-half hour after official sunset.

Rattlesnake Creek (mainstem): Closed daily to suction dredging from 2 PM until one-half hour after official sunset.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-660-30000B Mineral prospecting. (15-285)

WSR 15-18-095
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-297—Filed August 31, 2015, 4:50 p.m., effective September 1, 2015]

Effective Date of Rule: September 1, 2015.

Purpose: Amend recreational fishing rules.

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

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

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

Reasons for this Finding: The department is in the process of adopting permanent rules that are necessary to implement the personal use fishing plans agreed-to with resource comanagers at the North of Falcon proceedings. These emergency rules are necessary to comply with agreed-to management plans, and are interim until permanent rules take effect.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 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: August 31, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-310-18000A Freshwater exceptions to statewide rules—Coastal. Notwithstanding the provisions of WAC 220-310-180, effective September 1, 2015, until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

(1) Quillayute River:

(a) Open for salmon from the fluorescent orange paint on rocks 475 yards downstream of the confluence of the Sol Duc and Bogachiel rivers to the Olympic National Park boundary near the mouth of the Quillayute River.

(b) Daily limit of 6 fish, up to 3 may be adults, of which only 1 may be wild.

(2) Humptulips River:

(a) Open for salmon from the mouth to the confluence of East and West forks.

(b) Daily limit of 6 fish, up to 2 may be adults, of which only 1 may be a wild Chinook. Release wild Coho.

(3) Niawiakum River:

(a) Open for salmon from Highway 101 Bridge to the South Bend/Palix Rd. Bridge.

(b) Retention of Chum is permissible.

(4) Palix River:

(a) Open for salmon from Highway 101 Bridge upstream to the mouth of the Middle Fork.

(b) Daily limit of 6 fish, up to 4 may be adults. Release wild Chinook.

(5) Nemah River, South:

(a) Open for salmon from the mouth (Lynn Pt. 117 degrees true to opposite shore) upstream to the confluence with Middle Nemah.

(b) Daily limit of 6 fish, up to 4 may be adults. Release wild Chinook.

(6) Nemah River, Middle:

(a) Open for salmon from the mouth to the Dept. of Natural Resources' bridge on Middle Nemah A-Line Rd.

(b) Daily limit of 6 fish, up to 4 may be adults. Release wild Chinook.

(7) Bear River:

(a) Open for salmon from the mouth (Hwy. 101 Bridge) to the Lime Quarry Rd. (approximately 2 river miles).

(b) Daily limit of 6 fish, up to 4 may be adults. Release wild Chinook.

REPEALER

The following section of the Washington Administrative Code is repealed effective September 7, 2015:

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

WSR 15-18-096
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-299—Filed August 31, 2015, 4:56 p.m., effective September 1, 2015, 5:00 a.m.]

Effective Date of Rule: September 1, 2015, 5:00 a.m.

Purpose: Amend commercial fishing rules for Puget Sound salmon.

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

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

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

Reasons for this Finding: This regulation provides for Pacific Salmon Commission authorized fisheries in Areas 7 and 7A targeting the United States share of Fraser River pink salmon. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 31, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-47-50100T Puget Sound all-citizen commercial salmon fishery—Open periods. Notwithstanding the provisions of Chapter 220-47 WAC, effective 5:00 a.m. September 1, 2015, until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the open periods, mesh size, areas, species restrictions, notification, and landing requirements set forth in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas 7 and 7A:

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

Hours	Dates
5:00 AM - 9:00 PM	September 1, 2015

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

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

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

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

Areas 7 and 7A:

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

Hours	Dates
8:00 AM - 11:59 PM	September 1, 2015

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

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

Areas 7 and 7A:

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

Hours	Dates
5:00 AM - 9:00 PM	September 1, 2015

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

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

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

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. September 2, 2015:

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

**WSR 15-18-097
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-305—Filed August 31, 2015, 4:57 p.m., effective August 31, 2015, 4:57 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules.

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

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: An emergency rule is needed to reopen the sturgeon fishery in the Columbia River as flows and water temperature in the river have responded positively to a change in the weather pattern. Lifting these closures will provide angling opportunity. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 31, 2015.

J. W. Unsworth
Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-310-20000S Columbia River—Freshwater exceptions to statewide rules. (15-213)

WSR 15-18-098
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed September 1, 2015, 10:16 a.m., effective September 1, 2015]

Effective Date of Rule: September 1, 2015.

Purpose: The department is repealing WAC 388-273-0010 Purpose of the Washington telephone assistance program, 388-273-0025 Benefits you receive as a WTAP participant, and 388-273-0035 What we reimburse the local telephone company.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-273-0010, 388-273-0025, and 388-273-0035.

Statutory Authority for Adoption: RCW 74.08.090, 80.36.470.

Other Authority: State of Washington 2015-17 biennial operating budget (ESSB 6052 [section] 207).

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: RCW 80.36.470 prohibits enrollment in the Washington telephone assistance program (WTAP) if program expenditures exceed the total amount of funds made available by the legislature. The department is repealing the above rules because the WTAP program is not funded in the state of Washington 2015-2017 biennium legislative budget (ESSB 6052 [section] 207).

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 3.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 3.

Date Adopted: August 26, 2015.

Katherine I. Vasquez
Rules Coordinator

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-273-0010 Purpose of the Washington telephone assistance program.
WAC 388-273-0025 Benefits you receive as a WTAP participant.
WAC 388-273-0035 What we reimburse the local telephone company.

WSR 15-18-101
EMERGENCY RULES
DEPARTMENT OF HEALTH

(Pharmacy Quality Assurance Commission)

[Filed September 1, 2015, 11:03 a.m., effective September 1, 2015, 11:03 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 246-869-105 Continuity of care refills in proclaimed emergencies, adopting a new rule allowing pharmacists to provide a temporary prescription refill for patients

when pharmacy access is disrupted during an event that result[s] in a governor's emergency proclamation.

Statutory Authority for Adoption: RCW 18.64.005.

Other Authority: RCW 18.64.500.

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: Governor Inslee, on June 25, 2015, issued State of Emergency Proclamation 15-11 for all thirty-nine counties of the state. The proclamation notes that the wildfire conditions anticipated to continue into autumn 2015 pose "the threat to life and property from wildfires (that) is significant and may cause extensive damage to homes, businesses, public facilities, resources, infrastructure and utilities, impacting the life and health of our citizens throughout the state; this threat may affect life, health, property, or the public peace, and is a public disaster demanding immediate action ..."

On August 18, 2015, there were one thousand two hundred active wildfires in Washington state, causing entire towns to be evacuated. Wildfires have destroyed homes and businesses in several Washington state counties, causing residents to live in emergency shelters or other temporary arrangements, sometimes leaving prescription medications or prescription records behind. In some cases the patient's prescriber or community pharmacy have been inaccessible due to wildfire evacuations or property destruction.

The rule allows a licensed pharmacist to legally provide a temporary prescription refill during a governor-proclaimed emergency when the patient's pharmacy access is disrupted.

Immediate adoption of the rule is necessary for the preservation of the public health, safety or welfare, and observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

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

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

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

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

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

Date Adopted: September 1, 2015.

A. J. Linggi, Chair
Pharmacy Quality Assurance Commission

NEW SECTION

WAC 246-869-105 Continuity of care refills in proclaimed emergencies. Notwithstanding WAC 246-869-100 (2)(f), when the governor issues an emergency proclamation for an event which prevents continuity of health care for persons and animals because their prescribed medications are no longer available to them due to the emergency event, pharmacists and pharmacies may provide emergency prescription supplies for medications during the period of the proclaimed emergency as provided below:

(1) An initial supply of up to thirty days of current prescriptions for legend drug (noncontrolled) medications or seven-day supply of current prescriptions for controlled substance medications in Schedules III, IV, and V may be provided to patients under the following conditions:

(a) Presentation of a valid prescription container complete with legible label indicating there are remaining refills, or confirmation of the prescribed medication and available refills by review of the patient's current medical records or pharmacy records; or

(b) If the prescription is expired and the pharmacist is unable to readily obtain refill authorization from the prescriber, the pharmacist may dispense a one-time emergency refill of up to a seventy-two hour supply of the prescribed medication as described in WAC 246-869-100 (2)(f).

(2) For each medication dispensed under this section, a pharmacist shall:

(a) Document the dispensing as a prescription, noting where the information from subsection (1)(a) of this section was obtained, whether from the prescription container, the patient's prescriber or from the pharmacy records;

(b) Inform the patient's provider and the pharmacy at which the patient obtains his or her medications of the dispensing within seven business days of the emergency dispensing;

(c) Mark the face of the prescription as an "emergency" prescription.

(3) Nothing in this rule modifies insurers' requirements for coverage and payment for prescribed medications.

WSR 15-18-102
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-304—Filed September 1, 2015, 11:04 a.m., effective September 4, 2015]

Effective Date of Rule: September 4, 2015.

Purpose: Amend recreational fishing rules for Puget Sound salmon.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-62100Q.

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: An emergency rule is needed to reopen the area as the Chinook brood stock collection efforts at the Tulalip and Wallace River Hatchery has improved with the recent rains. Reopening for Chinook retention will provide additional angling opportunity. There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 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: September 1, 2015.

J. W. Unsworth
Director

REPEALER

The following section of the Washington Administrative Code is repealed effective September 4, 2015:

WAC 232-28-62100Q Puget Sound salmon—Areas and seasons. (15-228)

WSR 15-18-107 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 15-301—Filed September 1, 2015, 11:54 a.m., effective September 2, 2015]

Effective Date of Rule: September 2, 2015.

Purpose: Amend commercial fishing rules for Puget Sound commercial shrimp.

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

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

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

Reasons for this Finding: The 2015 state/tribal shrimp harvest management plans for the Strait of Juan de Fuca and

Puget Sound require adoption of harvest seasons contained in this emergency rule. This emergency rule closes Catch Areas 23A-C/23B and 23A-W. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 1, 2015.

J. W. Unsworth
Director

NEW SECTION

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

(1) Shrimp pot gear:

(a) All waters of Shrimp Management Areas 2W, 3 and 6 are open to the harvest of all shrimp species, except:

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

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

(iii) Effective 11:59 p.m. September 8, 2015, until further notice, all waters of Catch Area 23A-S/23D are closed to the harvest of spot shrimp.

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

(c) It is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 800 pounds per week.

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

(e) Only pots with a minimum mesh size of 1 inch may be pulled on calendar days when fishing for or retaining spot shrimp. Mesh size of 1 inch is defined as a mesh opening that a 7/8-inch square peg will pass through, excluding the entrance tunnels, except for flexible (web) mesh pots, where the mesh must be a minimum of 1 3/4-inch stretch measure. Stretch measure is defined as the distance between the inside of one knot to the outside of the opposite vertical knot of one

mesh, when the mesh is stretched vertically. There is no size restriction for spot shrimp.

(2) Shrimp beam trawl gear:

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

(b) Those portions of Catch Areas 21A and 22A within Shrimp Management Area 1B are open.

(c) All waters of Catch Area 20A are open.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. September 1, 2015:

WAC 220-52-05100I Puget Sound shrimp pot and beam trawl fishery—Season. (15-277)