

WSR 15-21-003
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-376—Filed October 8, 2015, 2:26 p.m., effective October 8, 2015, 2:26 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 220-33-01000B; 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 during the late fall season. Select area sites remain open. Chinook and coho remain available for commercial harvest and harvest estimates are 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 October 7, 2015. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 1; Federal Rules or Standards: New 1, Amended 0, Repealed 1; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.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: October 8, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-33-01000C 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: 8:00 PM Thursday October 8, to 6:00 AM Friday October 9, 2015.

(b) AREA: SMCRA 1A, 1B, 1C, 1D, and 1E.

(c) SANCTUARIES: Elokomin-A, Cowlitz, Kalama-A, Lewis-A, Washougal and Sandy.

(d) GEAR: Drift nets only. Minimum mesh size is 8 inches.

(2) Mainstem Columbia River

(a) SEASON: 6:00 AM to 6:00 PM Monday October 12, 2015.

(b) AREA: SMCRA 1A, 1B and 1C. The deadline at the upper end of SMCRA 1C 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) SANCTUARIES: Elokomin-A, Cowlitz, Kalama-A and Lewis-A.

(d) GEAR: Unslackened floater drift nets only. Maximum mesh size is 6 inches.

(3) Deep River Select Area.

(a) SEASON: Open hours 6:00 PM to 9:00 AM.

(i) Monday, Tuesday, Wednesday, and Thursday nights effective immediately through October 16, 2015

(ii) 6:00 PM Monday October 19, to 9:00 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. 6-inch maximum mesh. 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.

(4) Tongue Point/South Channel Select Area.

(a) SEASON: Open hours 4:00 PM to 10:00 AM. Open days are Sunday, Monday, Tuesday, Wednesday, and Thursday nights immediately 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 lead-line. Use of additional weights and/or anchors attached directly to the leadline is allowed

(5) Blind Slough/Knappa Slough Select Area.

(a) SEASON: Open hours are: 6:00 PM to 10:00 AM. Open days are: Sunday, Monday, Tuesday, Wednesday, and Thursday nights immediately through October 30, 2015.

(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.

(6) ADDITIONAL REQUIREMENTS:

(a) ALLOWABLE POSSESSION: Coho, Chinook, Sockeye, and Pink salmon and shad. It is unlawful to possess or sell white sturgeon and chum salmon.

(b) 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.

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

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-01000B Columbia River season below Bonneville. (15-369)

**WSR 15-21-010
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-377—Filed October 9, 2015, 3:01 p.m., effective October 15, 2015]

Effective Date of Rule: October 15, 2015.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-19500E; and amending WAC 220-310-195 and 220-310-200.

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: Hatchery-origin steelhead in excess of desired escapement are forecast to return to the upper Columbia River. The fishery will reduce the number of excess hatchery-origin steelhead and consequently increase the proportion of natural-origin steelhead on the spawning grounds. Allowing retention of hatchery steelhead and rainbow trout will provide for additional angling opportunity. There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 2, 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: October 9, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-310-19500N Freshwater exceptions to statewide rules—Eastside. Notwithstanding the provisions of WAC 220-310-195, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

(1) Effective October 15, 2015, it is permissible to fish for steelhead in the Methow River from the mouth to the confluence with the Chewuch River in Winthrop. Fishing from a floating device is prohibited from the second powerline crossing (1 mile upstream from the mouth) to the first Hwy 153 Bridge (4 miles upstream from the mouth).

(2) Effective October 15, 2015, it is permissible to fish for steelhead in the Okanogan River from the mouth upstream to the Highway 97 Bridge in Oroville.

(3) Effective November 1, 2015, it is permissible to fish for steelhead in the Similkameen River from the mouth upstream to 400 feet below Enloe Dam.

(4) It is unlawful to violate the following provisions during the open times in the waters listed in this section:

(a) Night closure and selective gear rules are in effect.

(b) Daily limit:

(i) Two hatchery steelhead; 20 inch minimum size.

(ii) Five hatchery rainbow trout; less than 20 inches in total length.

(c) Mandatory retention of adipose fin clipped steelhead, except release all steelhead with a floy (anchor) tag attached or one or more round 1/4 inch in diameter holes punched in the caudal (tail) fin. Adipose present steelhead must be released unharmed and cannot be removed from the water prior to release.

(d) Anglers must cease fishing for the day when the daily limit of two hatchery steelhead are obtained, regardless of the number of hatchery rainbow trout obtained.

NEW SECTION

WAC 220-310-2000Y Freshwater exceptions to statewide rules—Columbia River. Notwithstanding the provisions of WAC 220-310-200, effective October 15, 2015, until further notice, it is permissible to fish for steelhead in the Columbia River from the powerlines crossing the Columbia River 3/4 mile downstream of Wells Dam to 400 feet below Chief Joseph Dam with the following restrictions:

(1) Night closure and selective gear rules are in effect, except bait is permissible.

(2) Daily limit:

(a) Two hatchery steelhead, 20 inch minimum size.

(b) Five hatchery rainbow trout, less than 20 inches in total length.

(3) Mandatory retention of adipose fin clipped steelhead, except release all steelhead with a floy (anchor) tag attached and/or one or more round 1/4 inch in diameter holes punched in the caudal (tail) fin. Adipose present steelhead must be released unharmed and cannot be removed from the water prior to release.

(4) Anglers must cease fishing for the day when the daily limit of two (2) hatchery steelhead are obtained, regardless of the number of hatchery rainbow trout obtained.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-310-19500E Freshwater exceptions to statewide rules—Eastside. (15-226)

WSR 15-21-013

EMERGENCY RULES

HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed October 12, 2015, 9:00 a.m., effective October 12, 2015, 9:00 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The agency is amending this rule to ensure that clients who receive cost of living adjustments (COLA) to their Social Security benefits remain eligible for the kidney disease program (KDP). In some cases, a COLA puts clients slightly above the KDP income limit. This amendment will exempt Social Security benefit COLAs and the first \$20 of

monthly unearned income from KDP eligibility, consistent with SSI-related medical rules.

Citation of Existing Rules Affected by this Order: Amending WAC 182-540-022.

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: This emergency rule is necessary to ensure that clients are not removed from the KDP if they receive a COLA that would otherwise put them above the income limit. The current emergency rule filed under WSR 15-13-052 is expiring before the permanent rules take effect. The permanent rules were filed on October 8, 2015, under WSR 15-21-001. This emergency filing covers the remaining period before the permanent rule takes effect in November.

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 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: October 12, 2015.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-23-065, filed 11/18/13, effective 1/1/14)

WAC 182-540-022 Kidney disease program (KDP)—Income eligibility. (1) A household must have ~~((net))~~ countable gross income at or below two hundred twenty percent of the federal poverty level ~~((in order))~~ for a person to be eligible for the kidney disease program (KDP). See WAC 182-540-021 to determine who must be included in the household and whose income counts.

(2) The KDP contractor ~~((makes the determination of))~~ determines the household's income based upon the information reported in the KDP application and may request additional verification if the information in the application is not clear. A KDP applicant must provide verification of all household income (and expenses, if self-employed) to the KDP contractor ~~((in order))~~ for eligibility for KDP to be determined.

(3) The following income is not counted:

(a) The first twenty dollars per month of unearned income for the entire household;

(b) Cost-of-living adjustments (COLAs) to Social Security disability benefits and supplemental security income (SSI) benefits;

(c) The medicaid agency also disregards Social Security COLAs received by the applicant's spouse and other family members included in the household size;

(d) Fifty percent of the gross earned income of any person included in the household size;

~~((b))~~ (e) Income received by a dependent child age eighteen ~~((years of age and))~~ or younger who is not included in the household size;

~~((c))~~ (f) Any income source which is specifically excluded by federal law.

(4) The agency follows rules for SSI-related ~~((medie-aid))~~ medical described in chapter 182-512 WAC to determine what income types count when determining eligibility for KDP.

WSR 15-21-029
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-380—Filed October 13, 2015, 2:49 p.m., effective October 13, 2015, 2:49 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 220-660-29000J; 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: This filing removes closure on the Black and Colville rivers and the 2 p.m. to one-half hour after official sunset restriction on Peshastin Creek and all tributaries due to improved conditions. Cooler weather has reduced water temperatures. Flows have remained above criteria for protection of fish. There is insufficient time to promulgate permanent rules.

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 dropped significantly and water temperatures have increased - conditions that are lethal to fish. In response, the Washington department of fish and wildlife (WDFW) initially 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: October 13, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-660-29000K 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:

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.

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.

Lewis County

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

Okanogan County

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.

Yakima County

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-660-29000J Aquatic plant removal and control.
(15-372)

**WSR 15-21-030
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-381—Filed October 13, 2015, 2:51 p.m., effective October 13, 2015, 2:51 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 220-660-30000J; 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: This filing removes closure on the Black and Colville rivers and the 2 p.m. to one-half hour after official sunset restriction on Peshastin Creek and all tributaries due to improved conditions. Cooler weather has reduced water temperatures. Flows have remained above cri-

teria for protection of fish. There is insufficient time to promulgate permanent rules.

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, the Washington department of fish and wildlife (WDFW) initially 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.

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: October 13, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-660-30000K 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:

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..

Kittitas County

Little Naches River: Closed to suction dredging.

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

Lewis County

Newaukum River and all tributaries: Closed to suction dredging.

Okanogan County

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.

Yakima County

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

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 220-660-30000J Mineral prospecting. (15-371)

**WSR 15-21-031
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-378—Filed October 13, 2015, 4:54 p.m., effective October 13, 2015, 4:54 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-19500H.

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 waters closed in emergency rule WAC 220-310-19500H were closed to protect fish during unusually low water conditions and higher than normal water temperatures. Recent rains and cooling temperatures have increased water levels, allowing fish to move more freely upriver and alleviating the need for additional protection. 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: October 13, 2015.

J. W. Unsworth
Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-310-19500H Freshwater exceptions to statewide rules—Eastside. (15-258)

**WSR 15-21-035
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-382—Filed October 15, 2015, 1:26 p.m., effective October 16, 2015]

Effective Date of Rule: October 16, 2015.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-25500D; 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: Coho broodstock collection efforts at Soos Creek Hatchery are well behind the goal and fecundity of females is low due to the small size of returning

coho. Nonretention of coho (adults and jacks) is needed to protect returning coho. The uppermost reaches of the Green River need to be closed to all fishing to protect Chinook redds, as there are conservation concerns regarding the Endangered Species Act listed Chinook salmon population in the Green River. Emergency rule WAC 220-56-25500D is being repealed as permanent rules are in effect. 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: October 15, 2015.

James B. Scott, Jr.
for J. W. Unsworth
Director

NEW SECTION

WAC 220-310-19000N Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-310-190, effective October 16, 2015, until further notice, it is unlawful to violate the provisions below. Unless otherwise amended, all permanent rules remain in effect:

(1) Green River (King Co.): From the mouth of the Green River upstream to the mouth of Cristy Creek (at Flaming Geyser State Park): Daily limit 3 adult salmon, release Chinook and coho.

(2) Green River from the mouth of Cristy Creek (at Flaming Geyser State Park) to the water pipeline walk bridge (1/2 mile downstream of Tacoma Headworks Dam): closed to all fishing.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-25500D Halibut—Areas and seasons. (15-211)

WSR 15-21-036
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-384—Filed October 15, 2015, 2:04 p.m., effective October 18, 2015]

Effective Date of Rule: October 18, 2015.

Purpose: Amend Puget Sound commercial crab fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04000F and 220-52-04600M; and amending WAC 220-52-040 and 220-52-046.

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 provisions of this rule will maintain openings for commercial harvest in certain areas of Puget Sound. There is sufficient state commercial allocation available in Region 1, Region 3-1 and Region 3-3 to remain open. Both Region 2 East and Region 2 West have reached the current state commercial allocation and are closed. Region 3-2 will reach the current state commercial allocation on October 18 and will be closed at that time. These provisions are in conformity with agreed management plans with applicable tribes. These management plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 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: October 15, 2015.

James B. Scott, Jr.
for J. W. Unsworth
Director

NEW SECTION

WAC 220-52-04000G Commercial crab fishery—Lawful and unlawful gear, methods, and other unlawful acts. Notwithstanding the provisions of WAC 220-52-040:

(1) Effective 6:00 p.m., Sunday, October 18, 2015, until further notice, it is unlawful for any person to fish for crabs for commercial purposes with more than 50 pots per license per buoy tag number in Crab Management Regions 1 or Region 3-1. These regions include Marine Fish-Shellfish Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B, 23A and 23B.

(2) The remaining buoy tags per license per region must be onboard the designated vessel and available for inspection.

(3) Effective immediately until further notice, Region 2 East and Region 2 West are closed. Region 2 East includes Marine Fish-Shellfish Catch Reporting Areas 24A, 24B, 24C, 24D and 26A-E. Region 2 West includes Marine Fish-Shellfish Catch Reporting Areas 25B, 25D and 26A-W.

(4) Effective 6:00 p.m., Sunday, October 18, 2015, until further notice Region 3-2 will be closed. Region 3-2 includes Marine Fish-Shellfish Catch Reporting Areas 23D, 25A and 25E.

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

NEW SECTION

WAC 220-52-04600N Puget Sound crab fishery—Seasons and areas. Notwithstanding the provisions of WAC 220-52-046, effective 6:00 p.m., Sunday, October 18, 2015, until further notice, it is permissible to fish for Dungeness crab for commercial purposes in the following areas:

(1) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 20A between a line from the boat ramp at the western boundary of Birch Bay State Park to the western point of the entrance of the Birch Bay Marina and a line from the same boat ramp to Birch Point.

(2) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22B in Fidalgo Bay south of a line projected from the red number 4 entrance buoy at Cape Sante Marina to the northern end of the eastern most oil dock.

(3) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Deer Harbor north of a line projected from Steep Point to Pole Pass.

REPEALER

The following sections of the Washington Administrative Code are repealed effective 6:00 p.m. October 18, 2015:

WAC 220-52-04000F Commercial crab fishery—Lawful and unlawful gear, methods, and other unlawful acts (15-365)

WAC 220-52-04600M Puget Sound crab fishery—Seasons and areas (15-365)

WSR 15-21-037
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-385—Filed October 15, 2015, 2:45 p.m., effective October 19, 2015, 6:00 a.m.]

Effective Date of Rule: October 19, 2015, 6:00 a.m.

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

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05700L; and amending WAC 220-32-057.

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: Adopts a sturgeon set line commercial treaty fishery in The Dalles Pool (SMCRA 1G) and Bonneville Pool (SMCRA 1F). Allows only sturgeon to be sold, (including platform and hook and line consistent with items #1 and #2). Sturgeon remain available for harvest based on the current sturgeon guidelines. Conforms state rules to tribal rules. Consistent with compact action of October 14, 2015. There is insufficient time to promulgate permanent regulations.

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

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

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: October 15, 2015.

James B. Scott, Jr.
for J. W. Unsworth
Director

NEW SECTION

WAC 220-32-05700L Columbia River sturgeon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-057, effective immediately, it is unlawful to take, fish for or possess sturgeon for commercial purposes in Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, except that those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla, and Nez Perce treaties may fish for sturgeon with set line gear under the following provisions:

(1) Open period #1: 6:00 AM Monday October 19 to 6:00 PM Friday October 30, 2015.

Area: SMCRA 1G (The Dalles Pool)

(2) Open period #2: 6:00 AM Monday November 2 to 6:00 PM Friday November 13, 2015.

Area: SMCRA 1F (Bonneville Pool)

(3) Gear: Setlines. Fishers are encouraged to use circle hooks and avoid J-hooks. It is unlawful to use setline gear with more than 100 hooks per set line, with hooks less than the minimum size of 9/0, with treble hooks, without visible buoys attached, and with buoys that do not specify operator and tribal identification.

(4) Allowable Sales: White Sturgeon from 43 to 54 inches in fork length in The Dalles Pool and White Sturgeon from 38 to 54 inches in fork length in Bonneville Pool may be sold. Sturgeon within the legal size limit and caught in platform and hook and line fishery may be sold if caught during

the open period and open area of the set line fishery. Sales of fish landed during the open period are allowed after the period concludes.

(5) Sanctuaries: Standard sanctuaries applicable to these gear types.

(6) Additional Regulations: 24-hour quick reporting required for Washington wholesale dealers, pursuant to WAC 220-69-240, **except** that landings must be reported within 24-hours of completing the fish ticket.

(7) Miscellaneous: It is unlawful to sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of a sturgeon prior to sale of the sturgeon to a wholesale dealer licensed under chapter RCW 75.28, or to sell or barter sturgeon eggs at retail. It is unlawful to deliver to a wholesale dealer licensed under chapter RCW 75.28 any sturgeon that are not in the round with the head and tail intact.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. November 13, 2015:

WAC 220-32-05700L Columbia River sturgeon seasons above Bonneville Dam.

WSR 15-21-038 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 15-383—Filed October 15, 2015, 2:49 p.m., effective October 15, 2015, 9:00 p.m.]

Effective Date of Rule: October 15, 2015, 9:00 p.m.

Purpose: This emergency rule will allow nontreaty commercial fishing opportunities in the Columbia River while protecting fish listed as threatened or endangered under the Endangered Species Act (ESA). This rule implements federal court orders governing Washington's relationship with treaty Indian tribes, federal law governing Washington's relationship with Oregon, and Washington fish and wildlife commission policy guidance for Columbia River fisheries.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000C; 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 during the late fall season. Select area sites remain open. Chinook and coho remain available for commercial harvest and harvest estimates are 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 October 14, 2015. There is insufficient time to adopt permanent rules.

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: October 15, 2015.

James B. Scott, Jr.
for J. W. Unsworth
Director

NEW SECTION

WAC 220-33-01000D 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: 7 AM to 7 PM Tuesday October 20, 2015.

(b) AREA: SMCRA 1A, 1B, and 1C. The deadline at the upper end of SMCRA 1C 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) SANCTUARIES: Elokomina-A, Cowlitz, Kalama-A, and Lewis-A.

(d) GEAR: Unslackened floater drift nets only. Maximum mesh size is 6 inches.

(2) Deep River Select Area

(a) SEASON: 6:00 PM Monday October 19, to 9:00 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. 6-inch maximum mesh. 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 4:00 PM to 10:00 AM. Open days are Sunday, Monday, Tuesday, Wednesday, and Thursday nights immediately 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: 6:00 PM to 10:00 AM. Open days are: Sunday, Monday, Tuesday, Wednesday, and Thursday nights immediately through October 30, 2015.

(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:

(a) ALLOWABLE POSSESSION: Coho, Chinook, Sockeye, and Pink salmon and shad. It is unlawful to possess or sell white sturgeon and chum salmon.

(b) 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.

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

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 9:01 p.m. October 16, 2015:

WAC 220-33-01000C Columbia River season below Bonneville. (15-376)

WSR 15-21-039
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-386—Filed October 15, 2015, 4:52 p.m., effective October 15, 2015, 4:52 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To change the penalties for taking a dusky Canada goose in Management Areas 2A and 2B.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-43600B; and amending WAC 232-28-436.

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

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

Reasons for this Finding: Currently the WAC is in conflict and is inconsistent with like or similar rules or statutes when a take is involved. Similar statutes and rules allow for a criminal charge when a take is involved. This rule is interim until permanent rules take effect.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, 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: October 15, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 232-28-43600C 2014-2015 Migratory waterfowl seasons and regulations. Notwithstanding the provi-

sions of WAC 232-28-436, effective immediately, until further notice, the following provisions apply:

It is unlawful for hunters in Goose Management Areas 2A and 2B to fail to comply with the directions of authorized department personnel related to the collection of goose subspecies information pursuant to RCW 77.12.071. A person who prevents department personnel from collecting samples of tissue or other bodily parts is subject to prosecution under RCW 77.15.360 Unlawful interfering in department operations—Penalty. If a hunter takes a dusky Canada goose or does not comply with requirements listed above regarding WDFW collection of subspecies information, authorization will be invalidated by the department and the hunter will not be able to hunt geese in Goose Management Areas 2A and 2B for the remainder of the season. It is unlawful to fail to comply with all provisions listed above for Goose Management Areas 2A and 2B. Violations of Area 2A or 2B goose hunting rules are punishable as an infraction under RCW 77.15.160 (2)(e) or as a misdemeanor or gross misdemeanor under RCW 77.15.400 unlawful hunting of wild birds, depending on the circumstances of the violation.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-43600B (15-319) 2014-2015 Migratory waterfowl seasons and regulations.

WSR 15-21-043
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-379—Filed October 16, 2015, 12:54 p.m., effective October 17, 2015]

Effective Date of Rule: October 17, 2015.

Purpose: Amend recreational fishing rules.

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

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: Over sixty thousand Chinook primarily from the Hanford Reach fall Chinook hatchery programs have returned above Priest Rapids Dam, including over twenty-five thousand above Rock Island Dam. The intent of the fishery is the removal of excess hatchery fall Chinook from the Upper Columbia River Basin while also providing additional angling opportunity. The population is not listed under the Endangered Species Act. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: October 16, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-310-20000Z Freshwater exceptions to statewide rules—Columbia River. Notwithstanding the provisions of WAC 220-310-200, effective October 17 through November 30, 2015, it is permissible to fish for salmon in waters of the Columbia River from Priest Rapids Dam to 400' below Chief Joseph Dam with the following restrictions:

(1) Daily limit six Chinook salmon (marked or unmarked), of which only three may be adult Chinook. Release coho salmon.

(2) Minimum size 12 inches.

(3) Selective gear rules apply, except bait is permissible.

(4) Night closure upstream of the powerlines crossing the Columbia River 3/4 mile downstream of Wells Dam.

REPEALER

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

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

WSR 15-21-050 EMERGENCY RULES

OFFICE OF INSURANCE COMMISSIONER

[Filed October 16, 2015, 2:17 p.m., effective October 29, 2015]

Effective Date of Rule: October 29, 2015.

Purpose: This emergency rule repeals some sections of the WAC that were to become effective on July 1, 2015, but will potentially be in conflict with recently enacted legislation.

Citation of Existing Rules Affected by this Order: Repealing WAC 284-17-800, 284-17-820, and 284-17-830.

Statutory Authority for Adoption: RCW 48.02.060 and 48.17.005.

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: In August 2014 the commissioner adopted rules providing guidance to licensed insurance producers as to what may or may not constitute sharing commissions with nonlicensed persons. These rules are to become effective on July 1, 2015. However, during the 2015 legislative session, legislation was enacted that amended some of the statutes regarding what constitutes rebates and inducements, which in turn impacts these rules. Therefore, the commissioner is repealing some of these rules that potentially will be in conflict with this new legislation.

The commissioner is in the CR-102 stage of permanent rule making that will permanently repeal these three sections and replace them with new sections. However this process will not be complete before the expiration of the first emergency rule repealing these sections, which was filed on June 29, 2015.

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

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: October 16, 2015.

Mike Kreidler
Insurance Commissioner

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 284-17-800 Charitable contributions.

WAC 284-17-820 Referrals.

WAC 284-17-830 Promotional games of chance.

WSR 15-21-054
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-387—Filed October 16, 2015, 2:43 p.m., effective October 19, 2015]

Effective Date of Rule: October 19, 2015.

Purpose: Amend recreational fishing rules for Puget Sound salmon.

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

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

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

Reasons for this Finding: The estimated number [of] encounters of Chinook salmon in Area 10 is approaching pre-season allowable limits. This emergency rule change is necessary to ensure compliance with conservation objectives and agreed-to management plans. There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 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: October 16, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 232-28-62100S Puget Sound salmon—Saltwater seasons and daily limits. Notwithstanding the provisions of WAC 232-28-621, effective October 19, 2015 through January 31, 2016, waters of Marine Area 10 are closed to salmon fishing.

REPEALER

The following section of the Washington Administrative Code is repealed effective February 1, 2016:

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

WSR 15-21-055
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-388—Filed October 16, 2015, 3:27 p.m., effective October 19, 2015]

Effective Date of Rule: October 19, 2015.

Purpose: Amend recreational fishing rules.

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

Statutory Authority for Adoption: RCW 77.04.012, 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: Nonretention of coho salmon is needed to protect returning coho runs to the Skagit and Stillaguamish rivers. Inseason run size assessments conducted by state and tribal comanagers indicate that coho run sizes are significantly below pre-season forecasts in these rivers. 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: October 16, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-310-19000P Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-310-190, effective October 19, 2015, until further notice, it is unlawful to violate the provisions below.

Unless otherwise amended, all permanent rules remain in effect:

(1) **Skagit River (Skagit County):** Closed to salmon fishing from the mouth of the Skagit River upstream to the Cascade River Road (Marblemount) Bridge.

(2) **Stillaguamish River:** Closed to salmon fishing from Marine Drive (South of Stanwood) upstream to the confluence of the North and South Forks.

WSR 15-21-056
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-389—Filed October 16, 2015, 4:34 p.m., effective October 16, 2015, 4:34 p.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 220-47-31100R and 220-47-41100L; 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: An emergency rule is needed to close the commercial fisheries as preseason agreement with tribal comanagers based on nontreaty chum catch to date in Areas 7 and 7A. 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 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: October 16, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-47-31100R Purse seine—Open periods. Notwithstanding the provisions of Chapter 220-47-311 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 as provided in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas 7 and 7A: Closed on October 17 and 18

NEW SECTION

WAC 220-47-41100L Gillnet—Open periods. Notwithstanding the provisions of Chapter 220-47-411 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 as provided in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas 7 and 7A: Closed on October 17 and 18

REPEALER

The following sections of the Washington Administrative Code is repealed effective 12:01 a.m. October 19, 2015:

WAC 220-47-31100R Purse seine—Open periods

WAC 220-47-41100L Gillnet—Open periods

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 15-21-059
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed October 19, 2015, 11:12 a.m., effective October 28, 2015]

Effective Date of Rule: October 28, 2015.

Purpose: The amendments under this filing incorporate the benefit level for the state-funded food assistance program (FAP) for legal immigrants under the approved 2015-2016 biennial operating budget. RCW 74.08A.120 provides that the legislature shall set the benefit level for FAP in the biennial operating budget.

These amendments are currently in effect via emergency rule making filed on June 30, 2015, as WSR 15-14-115.

Citation of Existing Rules Affected by this Order: Amending WAC 388-400-0050.

Statutory Authority for Adoption: RCW 74.08A.120.

Other Authority: State of Washington 2015-2017 biennial operating budget enacted on June 30, 2015 (amendment to SSB [ESSB] 6052) increased funding for FAP and set benefits at one hundred percent of the federal food benefit level beginning July 1, 2015.

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: The 2015 biennial budget enacted on June 30, 2015, requires the department to provide state-funded food assistance program benefits at one hundred percent of the Supplemental Nutrition Assistance Program federal benefit level effective July 1, 2015. These benefits affect public health and safety.

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 1, Repealed 0.

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

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

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

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

Date Adopted: September 22, 2015.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-02-037, filed 12/23/13, effective 1/23/14)

WAC 388-400-0050 If I am not eligible for federal benefits through Washington Basic Food program because of my alien status, can I receive benefits through the state-funded food assistance program? (1) If you are not eligible for federally funded Basic Food benefits solely because you do not meet the alien status requirements under WAC 388-424-0020, you may be eligible for the state-funded food assistance program (FAP) if you meet both of the following requirements:

- (a) You are a Washington state resident; and
- (b) You meet the alien status requirements under WAC 388-424-0030.

(2) FAP follows the same eligibility rules as federally funded Basic Food except for rules related to alien status. A summary of the rules for Basic Food is found in WAC 388-400-0040.

(3) Benefits for FAP are set by the biennial state operating budget as described in RCW 74.08A.120(3). These benefits are calculated as described in subsections (4) and (5) of this section.

(4) If your assistance unit (AU) includes both people who are eligible for federally funded Basic Food benefits and

people who are eligible for state-funded FAP benefits, we determine the amount of your federal and state food benefits by applying the following process:

(a) We calculate your AU's monthly benefits under WAC 388-450-0162 **as if** all the eligible persons in your AU could receive federally funded Basic Food benefits; and

(b) We then calculate your AU's monthly benefits under WAC 388-450-0162 for only the people in your AU **who are** eligible for federally funded benefits.

If (a) is more than (b)	If (b) is more than (a)
Your AU receives: <ul style="list-style-type: none"> • Basic Food benefits in the amount calculated using step (b); and • FAP benefits equal to ((three fourths)) the difference between (a) and (b), rounded down to the next whole dollar. 	Your AU receives Basic Food benefits in the amount calculated using step (b).

(5) If your AU only includes persons eligible for FAP, we determine the amount of your state-funded FAP benefits by:

(a) Applying the calculation for Basic Food under WAC 388-450-0162 **as if** all the persons in your AU were eligible to receive Basic Food; and

(b) Issuing FAP benefits to your AU equal to ~~((three fourths))~~ the amount calculated in subsection (5)(a), rounded down to the next whole dollar.

WSR 15-21-075
EMERGENCY RULES
BUILDING CODE COUNCIL

[Filed October 20, 2015, 12:37 p.m., effective October 20, 2015, 12:37 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This modification to WAC 51-54A-8000 is necessary to provide immediate implementation of certain fire safety requirements related to elevator shaft components, now scheduled to be effective on July 1, 2016.

Citation of Existing Rules Affected by this Order: Amending WAC 51-54A-8000.

Statutory Authority for Adoption: RCW 19.27.031, 19.27.074.

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

Reasons for this Finding: This emergency rule is needed to ensure elevator shafts in buildings will meet the safety standards established in NFPA 13-13 Installation of Sprinkler Systems, Section 8.15.5 Elevator Hoistways and Machine Rooms. This emergency rule further provides an exception for cables and belts meeting safety ratings. NFPA standard

13-13 is set to be effective on July 1, 2016, with adoption and implementation of the 2015 Fire Code. Immediate adoption is needed to ensure life safety for occupants of buildings being constructed before that date.

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

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

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

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

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

Date Adopted: October 16, 2015.

David F. Kokot
Chair

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

WAC 51-54A-8000 Referenced standards.

NFPA 13-10 Installation of Sprinkler Systems (except Section 8.15.5; NFPA 13-13 Installation of Sprinkler Systems, Section 8.15.5 Elevator Hoistways and Machine Rooms only) 903.3.1.1, 903.3.2, 903.3.5.1.1, 903.3.5.2, 904.11, 905.3.4, 907.6.3, 1009.3, 3201.1, 3204.2, Table 3206.2, 3206.9, 3207.2, 3207.2.1, 3208.2.2, 3208.2.2.1, 3208.4, 3210.1, 3401.1, 5104.1, 5106.5.7, 5704.3.3.9, Table 5704.3.6.3(7), 5704.3.7.5.1, 5704.3.8.4

NFPA 96-07 Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations 609.3

NFPA 720-12 Standard for the Installation of Carbon Monoxide (CO) Warning Equipment in Dwelling Units 908.7, 1103.9

**WSR 15-21-079
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-391—Filed October 20, 2015, 2:31 p.m., effective October 20, 2015, 2:31 p.m.]

Effective Date of Rule: Immediately upon filing.
Purpose: Amend recreational fishing rules.
Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-19500M.
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 waters closed in emergency rule WAC 220-310-19500M were closed to protect fish during unusually low water conditions. Recent rains and cooling temperatures have increased water levels, allowing fish to move more freely upriver and alleviating the need for additional protection. As such, WAC 220-310-19500M is no longer needed and should be repealed.

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: October 20, 2015.

Kelly Cunningham
for J. W. Unsworth
Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-310-19500M Freshwater exceptions to statewide rules—Eastside. (15-347)

**WSR 15-21-081
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-390—Filed October 20, 2015, 2:55 p.m., effective October 21, 2015]

Effective Date of Rule: October 21, 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: This emergency rule is necessary to protect returning coho runs to the Snohomish Watershed. Inseason run size assessments conducted by state and tribal comanagers indicate that coho run sizes are significantly below preseason forecasts in these rivers. 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: October 20, 2015.

Kelly Cunningham
for J. W. Unsworth
Director

NEW SECTION

WAC 220-310-19000Q Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-310-190, October 21, 2015, until further notice, it is unlawful to violate the provisions below. Unless otherwise amended, all permanent rules remain in effect:

(1) Snohomish River (Snohomish County): Closed to salmon fishing from the mouth of the Snohomish River upstream to the confluence of the Skykomish and Snoqualmie rivers.

(2) Skykomish River: Closed to salmon fishing from the mouth upstream to the confluence of the North and South Forks.

(3) Snoqualmie River: Closed to salmon fishing from the mouth upstream to Snoqualmie Falls.

(4) Wallace River: Closed to salmon fishing from the mouth upstream to 200 feet above the water intake for the salmon hatchery.

**WSR 15-21-082
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-394—Filed October 20, 2015, 3:01 p.m., effective October 20, 2015, 3:01 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-18000W.

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 waters closed in emergency rule WAC 220-310-18000W were closed to protect fish during unusually low water conditions. Recent rains and cooling temperatures have increased water levels, allowing fish to move more freely upriver and alleviating the need for additional protection. As such, WAC 220-310-18000W is no longer needed and should be repealed.

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: October 20, 2015.

October 20, 2015
Kelly Cunningham
for J. W. Unsworth
Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-310-18000W Freshwater exceptions to statewide rules—coastal. (15-246)

**WSR 15-21-083
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-393—Filed October 20, 2015, 3:02 p.m., effective October 20, 2015, 3:02 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To repeal the remaining drought-related amendments to the work times in the aquatic plants and fish pamphlet.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-660-29000K.

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 filing removes closures on the following rivers due to improved conditions:

- Little Naches River.
- Teanaway River, including the west, middle and north forks.
- Ahtanum Creek, including the north fork and middle fork.
- Wenatchee River from mouth to the Icicle River Road Bridge.
- Icicle River from the mouth to 500 feet downstream of the Leavenworth National Fish Hatchery Barrier Dam.
- Okanogan River from the Hwy 97 Bridge immediately upstream of the mouth to Zosel Dam.
- Similkameen River from the mouth upstream to Enloe Dam.
- Newaukum River and all tributaries.

Cooler weather has reduced water temperatures. Flows have remained above criteria for protection of fish. There is insufficient time to promulgate permanent rules.

A lack of snowpack from an unusually warm winter 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 dropped significantly and water temperatures had increased - conditions that were lethal to fish. In response, the Washington department of fish and wildlife initially placed drought-related fishing closures and restrictions on nearly sixty rivers and streams. This filing removes the remaining closures.

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: October 20, 2015.

Kelly Cunningham
for J. W. Unsworth
Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-660-29000K Aquatic plant removal and control.
(15-380)

**WSR 15-21-084
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-392—Filed October 20, 2015, 3:11 p.m., effective October 20, 2015, 3:11 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To repeal the remaining drought-related amendments to the 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 220-660-30000K.

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 filing removes closures on the following rivers due to improved conditions:

- Little Naches River.
- Teanaway River, including the west, middle and north forks.
- Ahtanum Creek, including the north fork and middle fork.
- Wenatchee River from mouth to the Icicle River Road Bridge.
- Icicle River from the mouth to 500 feet downstream of the Leavenworth National Fish Hatchery Barrier Dam.
- Okanogan River from the Hwy 97 Bridge immediately upstream of the mouth to Zosel Dam.
- Similkameen River from the mouth upstream to Enloe Dam.
- Newaukum River and all tributaries.

Cooler weather has reduced water temperatures. Flows have remained above criteria for protection of fish. There is insufficient time to promulgate permanent rules.

A lack of snowpack from an unusually warm winter 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 dropped significantly and water temperatures had increased - conditions that were lethal to fish. In response, the Washington department of fish and wildlife initially placed drought-related fishing closures and restrictions on nearly sixty rivers and streams. This filing removes the remaining closures.

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: October 20, 2015.

Kelly Cunningham
for J. W. Unsworth
Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-660-30000K Mineral prospecting. (15-381)

WSR 15-21-085
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-395—Filed October 20, 2015, 4:47 p.m., effective October 20, 2015, 5:01 p.m.]

Effective Date of Rule: October 20, 2015, 5:01 p.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-36-02300B; and amending WAC 220-36-023.

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: Department staff reviewed catches of salmon in the nontreaty commercial fishery in Area 2A and D and compared them to preseason expecta-

tions. With only two out of four scheduled days completed in week forty-three, an estimated three thousand nine hundred forty-three chum have been landed compared to a preseason expectation of two thousand six hundred eighty-nine. This demonstrates that fish harvest is exceeding the anticipated rate at this time. Another one thousand one hundred ten to one thousand two hundred fifty chum are expected to be caught on October 20 and October 21 if the fishery proceeds as originally opened. From the preseason planning model, twenty-one thousand twenty-nine chum were predicted to spawn compared to a goal of twenty-one thousand. That is, under preseason planning, we were only expecting to meet or exceed the conservation escapement goal by twenty-nine fish - a slim margin for any error in preseason forecasting. We believe that it is advisable to carefully meter continuing fishing opportunity to ensure that escapement goals can be met.

Coho catches were substantially lower than predicted preseason and few coho were reported anecdotally. Department staff examined QIN gillnet catch per landing in Area 2A and D through week forty-two from 1996 to 2014. A significant relationship existed between coho catch per landing and Chehalis Basin total run-size (excluding Humptulips Basin coho). Based on QIN catch per landing in 2015, the relationship predicted a run-size of fifty-two thousand two hundred eighty-five coho compared to a preseason forecast of nearly one hundred forty-nine thousand. While a significant relationship existed between coho catch and total run-size, a similar relationship was not evident for chum.

Considering all these factors, an update to the 2015 chum run-size is difficult to make at this time. It is possible that additional time and data may result in a useable chum inseason update and that the run will run out to be larger than forecast. Nevertheless, without the ability to update the chum run at this time, and considering the narrow margin for achieving the desired chum escapement, the data provides a reasoned basis to be concerned that the chum escapement will not be met with the current catches.

This preliminary inseason coho update was also plugged into the preseason planning model to examine the effect of actual 2015 treaty and nontreaty fisheries on the potential for reaching the coho escapement goal. Based on a run-size of fifty-two thousand two hundred eighty-five and the planned fishing schedules, the natural-origin coho escapement was predicted to be twenty-two thousand five hundred sixty-five compared to the goal of twenty-eight thousand five hundred six. That is, the preseason forecast already predicts that the coho escapement goal will be missed by nearly six thousand coho. Because the run-size for 2015 now appears to be far below the preseason forecast, there is a reasoned basis for slowing harvest to ensure the overall harvest rate objective is met and to provide some buffer against a serious underescapement of coho.

Based on all this information, an inseason reduction in the commercial fishery is warranted to help ensure that conservation goals are met. Such an inseason adjustment requires immediate action and cannot wait for the time required to adopt a permanent rule amendment.

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: October 20, 2015.

Kelly Cunningham
for J. W. Unsworth
Director

NEW SECTION

WAC 220-36-02300B Grays Harbor salmon—Fall fishery. Notwithstanding the provisions of WAC 220-36-023, effective 5:01 p.m. October 20 through 5:00 pm October 21, 2015, it is unlawful to fish for salmon in waters of Grays Harbor for commercial purposes.

REPEALER

The following section of the Washington Administrative Code is repealed effective 5:01 p.m. October 21, 2015:

WAC 220-36-02300B Grays Harbor salmon—Fall fishery.