

WSR 18-16-002
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-166—Filed July 19, 2018, 10:27 a.m., effective July 19, 2018, 10:27 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends recreational fishing rules for the Klickitat River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-03000U and 220-312-03000A; and amending WAC 220-312-030.

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: Fishery comanagers have indicated that the majority of the spring Chinook run has passed above Lyle Falls into the upper river, making continued closure of the hatchery Chinook fishery in the lower river unnecessary. Retention of hatchery spring Chinook remains closed above Fisher Hill Bridge to allow hatchery Chinook migrating through this area to return to Klickitat Salmon Hatchery for broodstock needs and to help ensure future hatchery returns. 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 19, 2018.

Joe Stohr
 Director

NEW SECTION

WAC 220-312-03000A Freshwater exceptions to statewide rules—Southwest. Notwithstanding the provisions of WAC 220-312-030, effective immediately through July 31, 2018, it is unlawful to retain hatchery adult Chinook in the waters of the Klickitat River from 400 feet upstream of #5 fishway to the boundary markers below Klickitat Salmon Hatchery. Unless otherwise amended, all permanent rules remain in effect.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-312-03000U Freshwater exceptions to statewide rules—Southwest. (18-122)

The following section of the Washington Administrative Code is repealed effective August 1, 2018:

WAC 220-312-03000A Freshwater exceptions to statewide rules—Southwest.

WSR 18-16-003
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed July 19, 2018, 1:39 p.m., effective July 19, 2018, 1:39 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to allow schools that participate in the National School Breakfast and Lunch Program's Community Eligibility Provision (CEP) meal service option and have historically been challenging high-poverty schools (challenging schools) for purposes of the National Board Certified Teaches [Teachers] (NBCT) bonus to continue to qualify as challenging schools for the 2017-2018 school year.

Citation of Rules Affected by this Order: Amending WAC 392-140-973.

Statutory Authority for Adoption: RCW 28A.150.290(1) and 28A.405.415.

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: CEP is a federal nonpricing meal service option for schools in low-income areas that allows high poverty schools to serve breakfast and lunch at no cost to all of their enrolled students. CEP schools do not need to collect household applications to determine students' school meal program eligibility. Instead, the schools are reimbursed using a formula based on the percentage of students categorically eligible for free meals based on their participation in other specific means-tested programs.

WAC 392-140-973 provides that NBCT certificated instructional staff who work in challenging schools are eligible for a salary bonus. Before this emergency rule change, challenging schools were defined as schools that meet a minimum threshold based on prior year headcount enrollment of students eligible for free of [or] reduced price meals (FRPL). Because CEP schools are not required to collect household applications, the office of superintendent of public instruction (OSPI) has not been able to consistently determine under the former rule whether high-poverty schools that were historically classified as challenging schools meet the FRPL headcount enrollment threshold for purposes of NBCT bonus

eligibility. Requiring the use of prior year data to determine FRPL headcount enrollment eligibility will cause individual teachers in some historically challenging CEP schools to lose the challenging schools bonus in the 2017-18 school year. To avoid this, the emergency rule bases the FRPL student headcount enrollment eligibility threshold for CEP schools on two school years immediately prior to the school's participation in CEP.

This amendment to WAC 392-140-973 will ensure that teachers receive the NBTC challenging schools bonus for their work in some of the most challenging schools in Washington for the 2017-18 school year. Because OSPI pays NBCT bonuses to districts in the July apportionment of each given year, it is necessary to immediately adopt this rule.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: July 19, 2018.

Chris P. S. Reykdal
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 18-14-103, filed 7/3/18, effective 8/3/18)

WAC 392-140-973 Salary bonus for teachers and other certificated instructional staff who hold current certification by the national board—Eligibility. Staff that are eligible for the bonus shall be limited to those meeting the following requirements:

(1) Hold current certification by the national board for professional teaching standards during the entire school year, unless otherwise specified in the state Biennial Operating Appropriations Act; and

(2) Who are:

(a) Teachers and other certificated instructional staff employed full time or part time under written contract by Washington public school districts or educational service districts pursuant to RCW 28A.405.210;

(b) Teachers and other certificated instructional staff employed full time or part time by a contractor pursuant to WAC 392-121-188 and 392-121-206 (2)(a);

(c) Teachers and other certificated instructional staff employed full time or part time by the Washington school for the deaf or Washington school for the blind; or

(d) Teachers and other certificated instructional staff employed full time or part time by a charter school.

(3) In addition to bonuses provided by subsection (2) of this section, teachers and other certificated instructional staff shall be eligible for additional bonuses if in an instructional assignment in challenging, high poverty schools, subject to the following conditions and limitations:

(a) Challenging, high poverty schools are schools where, for the prior year, the student headcount enrollment eligible for the federal free or reduced price lunch program was at least:

(i) 70 percent for elementary schools;

(ii) 60 percent for middle schools; or

(iii) 50 percent for high schools; as determined by the October 1st count of the comprehensive education data and research system (CEDARS) or successor data collection and reporting systems, of the office of superintendent of public instruction, on March 31st of that prior year: Provided, That schools operating during the current school year as their first year may qualify as challenging, high poverty schools based upon current year data, as determined by the October 1st count on March 31st of the current year.

(b) For purposes of the national board challenging, high poverty schools bonus, a school shall be categorized based upon the highest grade served as follows:

(i) A school whose highest grade served is 6th grade or lower shall be considered an elementary school;

(ii) A school whose highest grade served is either 7th, 8th, or 9th grade shall be considered a middle school;

(iii) A school whose highest grade served is either 10th, 11th, or 12th grade shall be considered a high school.

(c) A school shall be considered only if it serves thirty or more students, or is the largest school in the district serving its designated category.

(d) Schools that provide institutional education programs pursuant to WAC 392-122-205 shall be designated as challenging, high poverty schools with the student headcount enrollment eligible for the federal free or reduced price lunch program at one hundred percent and shall not be subject to the requirement in this subsection of serving thirty or more students.

(e) The student enrollment data used shall include the state-funded students in kindergarten through twelfth grade, plus prekindergarten students in special education.

(f) Teachers and other certificated instructional staff that meet the qualifications for the challenging, high poverty schools bonus under this subsection who are assigned for less than one full school year or less than full time for the school year shall receive the challenging, high poverty schools bonus in a prorated manner, subject to the following conditions and limitations:

(i) The portion of the employee's assignment to challenging, high poverty schools shall be determined as of June 15th of the school year.

(ii) If the employee's assignment to challenging, high poverty schools is less than 1.0 full-time equivalent, the proration shall use the methodology in WAC 392-121-212 and shall be rounded to three decimal places.

(g) A school participating in the community eligibility provision as authorized by section 11 (a)(1) of the Richard B. Russell National School Lunch Act may be designated as a challenging, high poverty school if the school was a challeng-

ing, high poverty school based on the student headcount enrollment eligible for the federal free or re-duced price lunch program in either of the two school years immediately prior to the school's participation in the community eligibility provision.

WSR 18-16-007
EMERGENCY RULES
HEALTH CARE AUTHORITY

[Filed July 20, 2018, 8:15 a.m., effective July 20, 2018, 8:15 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The agency is creating rules for coverage of a new model of care called collaborative care, which is part of the integration of mental health and physical health.

Citation of Rules Affected by this Order: New WAC 182-531-0425.

Statutory Authority for Adoption: SSB 5779, SSB 5883, RCW 41.05.021 and 41.05.160.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: As directed by SSB 5779 and funding authorized in SSB 5883, the agency is creating rules for the coverage of collaborative care, which is part of the integration of mental health and physical health. Emergency rules are necessary to implement this requirement while the permanent rule-making process is completed. This emergency filing continues the previous filing under WSR 18-08-017 which expires on July 21, 2018. The agency began the permanent rule-making process under WSR 18-02-089. To date, the agency has completed the drafting of the permanent rule and internal review. The proposed draft is currently at an external stakeholder review.

The text of this emergency differs from the previous filing under WSR 18-08-017. The agency made additions to the list of professionals who may participate on a collaborative care team to provide collaborative care to clients.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: July 20, 2018.

Wendy Barcus
Rules Coordinator

NEW SECTION

WAC 182-531-0425 Collaborative care. (1) Under the authority of RCW 74.09.497, and subject to available funds, the medicaid agency covers collaborative care provided in clinical care settings.

(2) For the purposes of this section:

(a) **Collaborative care** means a specific type of integrated care where medical providers and behavioral health providers work together to address behavioral health conditions, including mental health conditions and substance use disorders.

(b) **Collaborative care model** is a model of behavior health integration that enhances usual primary care by adding two key services:

(i) Care management support for clients receiving behavioral health treatment; and

(ii) Regular psychiatric consultation with the primary care team, particularly for clients whose conditions are not improving.

(c) **Collaborative care team** means a team of licensed behavioral health professionals operating within their scope of practice who participate on the primary care team along with the primary billing provider to provide collaborative care to eligible clients. These professionals include, but are not limited to:

(i) Advanced registered nurses;

(ii) Chemical dependency professionals;

(iii) Chemical dependency professional trainees under the supervision of a certified chemical dependency professional;

(iv) Marriage and family therapists;

(v) Marriage and family therapist associates under the supervision of a licensed marriage and family therapist or equally qualified mental health practitioner;

(vi) Mental health counselors;

(vii) Mental health counselor associates under the supervision of a licensed mental health counselor, psychiatrist, or physician;

(viii) Physicians;

(ix) Physician assistants under the supervision of a licensed physician;

(x) Psychiatrists;

(xi) Psychiatric advanced registered nurses;

(xii) Psychologists;

(xiii) Registered nurses;

(xiv) Social workers;

(xv) Social worker associate-independent clinical, under the supervision of a licensed independent clinical social worker or equally qualified mental health practitioner; and

(xvi) Social worker associate-advanced, under the supervision of a licensed independent clinical social worker, advanced social worker, or equally qualified mental health practitioner.

(3) The primary billing provider must meet all of the following:

(a) Be enrolled with the agency as one of the following:

(i) A physician licensed under Titles 18 RCW and 246 WAC;

(ii) An advanced registered nurse practitioner licensed under Titles 18 RCW and 246 WAC;

(iii) A clinic that is not a federally qualified health center (FQHC) or rural health clinic (RHC) that meets the requirements of Titles 70 RCW and 247 WAC;

(iv) An FQHC; or

(v) An RHC.

(b) Complete, sign, and return the Attestation for Collaborative Care Model, form HCA 13-0017, to the agency; and

(c) Agree to follow the agency's guidelines for practicing a collaborative care model.

(4) Providers of collaborative care must:

(a) Use a registry to track the client's clinical outcomes;

(b) Use a validated clinical rating scale;

(c) Ensure the registry is used in conjunction with the practice's electronic health records (EHR);

(d) Include a plan of care; and

(e) Identify outcome goals of the treatments.

(5) If a provider no longer meets the agreed upon requirements in the agency's Attestation for Collaborative Care Model, form HCA 13-0017, the provider must immediately notify the agency. The agency does not pay for collaborative care if a provider does not meet the agreed upon requirements.

(6) Providers are subject to post pay review by the agency. The agency may recoup payment if the provider is found to have not met the requirements for providing collaborative care as agreed to in the agency's Attestation for Collaborative Care Model, form HCA 13-0017.

WSR 18-16-009

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 18-167—Filed July 20, 2018, 1:52 p.m., effective July 23, 2018]

Effective Date of Rule: July 23, 2018.

Purpose: Amends recreational Puget Sound salmon rules.

Citation of Rules Affected by this Order: Repealing WAC 220-313-06000Q; and amending WAC 220-313-060.

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

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

Reasons for this Finding: This emergency rule is needed to close retention of Chinook salmon in Marine Area 9 because preliminary estimates indicate that anglers have caught over half of the summer quota since the fishery opened on Monday. The fishery will close to allow fishery managers to reevaluate the catch after the weekend of fishing to determine how much available quota remains. Should there be sufficient catch available, the fishery will reopen to harvest the remaining quota. 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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: July 20, 2018.

Joe Stohr
Director

NEW SECTION

WAC 220-313-06000S Puget Sound salmon—Salt-water seasons and daily limits. Notwithstanding the provisions of WAC 220-313-060, the following rules apply:

(1) Marine Area 5

(a) Open through August 15: Daily limit of 2 salmon. Release chum, wild Chinook and wild coho. 2 Additional sockeye salmon may be retained as part of the daily limit.

(b) Open August 16 through September 30. Daily limit of 2 salmon. Release chum, Chinook and wild coho. 2 Additional sockeye salmon may be retained as part of the daily limit.

(2) Marine Area 6

(a) Open through August 15: Daily limit of 2 salmon. Release chum, wild Chinook and wild coho. 2 Additional sockeye salmon may be retained as part of the daily limit. Release all Chinook east of a true north-south line through the Number 2 Buoy immediately east of Ediz Hook.

(b) Waters of Port Angeles Harbor west of a line from the tip of Ediz Hook to the ITT Rayonier Dock are closed through August 15.

(c) Open August 16 through September 30: Daily limit of 2 salmon. Release chum, Chinook and wild coho. 2 Additional sockeye salmon may be retained as part of the daily limit.

(3) Marine Area 7

(a) Open through July 31: Daily limit of 2 salmon. Release chum and wild Chinook. 2 Additional sockeye salmon may be retained as part of the daily limit. Closed to salmon fishing in the Southern Rosario Strait and Eastern Strait of Juan de Fuca closure area described in WAC 220-313-020(7).

(b) Open August 1 through September 3: Daily limit of 2 salmon; no more than one may be a Chinook salmon. Release chum. 2 Additional sockeye salmon may be retained as part of the daily limit. Closed to salmon fishing in the Southern Rosario Strait and Eastern Strait of Juan de Fuca closure area described in WAC 220-313-020(7).

- (c) Open September 4 through September 30:
- (i) Daily limit of 2 salmon.
 - (ii) Release chum and Chinook.
- (d) Closed to salmon fishing in Samish Bay area described in WAC 220-313-020(7).
- (e) Waters of Bellingham Bay described in WAC 220-313-020(1): Open through August 15. August 16 through September 30: Daily limit of 4 salmon; no more than 2 may be Chinook salmon.
- (4) Marine Area 8-1
- (a) Open August 1 through September 30: Daily limit 2 salmon. Release Chinook.
- (5) Marine Area 8-2
- (a) Open August 1 through September 23: Daily limit of 2 salmon. Release Chinook.
- (6) Marine Area 9
- (a) Open through August 15, except waters in this subsection: Daily limit of 2 salmon; Release Chinook, chum and wild coho. Closed south of a line from Foulweather Bluff to Olele Point through August 15 except it is permissible to fish from shore in waters south of a line from Foulweather Bluff to Olele Point: Daily limit of 2 salmon. Release Chinook, chum and wild coho.
 - (b) Open August 16 through September 30: Daily limit of 2 salmon. Release Chinook, chum and wild coho.
 - (c) Edmonds Fishing Pier: Open year-round. Daily limit of 2 salmon; No more than one may be a Chinook salmon. Release chum from August 1 through September 30.
- (7) Marine Area 10
- (a) Open through August 31: Daily limit of 2 salmon, no more than one may be a Chinook salmon. Release chum and wild Chinook.
 - (b) Open September 1, 2018, until further notice: Daily limit of 2 salmon. Release Chinook. Release chum September 1 through September 15.
 - (c) Waters of Shilshole Bay southeast of a line from Meadow Point to West Point: Closed through August 15.
 - (d) Waters of Elliott Bay east of a line from West Point to Alki Point: Closed through August 31, except: In years ending in odd numbers: Those waters north of a line from Jack Block Park through the north tip of Harbor Island to shore northeast of the North Waterway (47°35.47'N, 122°20.58'W), open August 15 through August 31 from Friday through Sunday of each week only. Daily limit of 2. Release Chinook, chum and wild coho.
 - (e) Waters of Sinclair Inlet and Port Orchard south of the Manette Bridge in Bremerton, south of a line true west from Battle Point, and west of a line drawn true south from Point White: Open through September 30. Daily limit of 3 salmon. Release wild Chinook and wild coho. Release chum from August 1 through September 15.
- (8) Marine Area 11
- (a) Open through September 30, Daily limit 2 salmon of which 1 may be a hatchery chinook. Release Wild Chinook.
 - (b) Waters of Commencement Bay east of a line from the Cliff House Restaurant to the Sperry Ocean Dock are closed through July 31.
 - (c) Dash Point Dock, Les Davis Pier, Des Moines Pier, Redondo Pier, and Point Defiance Boathouse Dock, open

year-round: Daily limit of 2 salmon; no more than one may be a Chinook salmon.

(9) Marine Area 12

(a) Open through September 30, in waters south of Ayock Point except waters listed in this subsection: Daily limit of 4 salmon. Release chum and wild Chinook.

(b) Waters within a 2,000-foot arc seaward of yellow buoys at the mouth of Finch Creek at Hoodspport Salmon Hatchery: Daily limit of 4 salmon. Release chum and wild Chinook. It is unlawful to fish for or possess salmon taken from these waters from one hour after sunset to one hour before sunrise. It is unlawful to fish from any Hoodspport Salmon Hatchery structure except persons with disabilities who permanently use a wheelchair and who have a designated harvester card under WAC 220-220-240 may fish from the ADA-access site at the Hoodspport Salmon Hatchery, as long as persons follow all applicable department rules.

REPEALER

The following section of the Washington Administrative Code is repealed effective July 23, 2018:

WAC 220-313-06000Q Puget Sound salmon—Saltwater seasons and daily limits. (18-136)

WSR 18-16-016

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 18-168—Filed July 23, 2018, 1:59 p.m., effective July 23, 2018, 1:59 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules for the Columbia River and tributaries from Priest Rapids Dam to Chief Joseph Dam.

Citation of Rules Affected by this Order: Repealing WAC 220-312-05000P and 220-312-06000P; and amending WAC 220-312-050 and 220-312-060.

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

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

Reasons for this Finding: This emergency rule is necessary because current and projected summer Chinook passage over Priest Rapids Dam and hatchery-wild mark rates confirm that surplus fish from the Chelan Falls, Entiat, and Chief Joseph hatchery programs are available for harvest. Removal of surplus hatchery fish will also help achieve conservation objectives on the spawning grounds. There is insufficient time to promulgate 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 the Request of a Non-governmental 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: July 23, 2018.

Joe Stohr
Director

NEW SECTION

WAC 220-312-06000Q Freshwater exceptions to statewide rules—Columbia River. Notwithstanding the provisions of WAC 220-312-060, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect. Effective immediately through October 15, 2018:

(a) From the Megler-Astoria Bridge upstream to HWY 395 Bridge at Pasco:

(i) Salmon and Steelhead, immediately through July 31, 2018:

(A) Daily limit 6, no more than 2 adult salmon or hatchery steelhead or 1 of each may be retained.

(B) Release all salmon other than hatchery jack Chinook and sockeye.

(C) Salmon minimum length is 12 inches.

(b) From HWY 395 Bridge at Pasco to Priest Rapids Dam:

(i) Salmon, immediately through August 15, 2018:

(A) Daily limit 6, no more than 2 adults may be retained.

(B) Release all salmon other than hatchery jack Chinook and sockeye.

(C) Salmon minimum length is 12 inches.

(c) Priest Rapids Dam to Rock Island Dam:

(i) Salmon, immediately through August 31, 2018:

(A) Daily limit 6, no more than 3 sockeye may be retained.

(B) Release adult Chinook and coho.

(C) Salmon minimum length is 12 inches.

(d) Rock Island Dam to Rocky Reach Dam:

(i) Salmon, effective immediately through October 15, 2018:

(A) Daily limit 6, no more than 3 sockeye may be retained.

(B) Release adult Chinook and coho.

(C) Salmon minimum length is 12 inches.

(e) Rocky Reach Dam to Wells Dam:

(i) Salmon, effective immediately through July 24, 2018:

(A) Daily limit 6, no more than 3 sockeye may be retained.

(B) Release adult Chinook and coho.

(C) Salmon minimum length is 12 inches.

(ii) Salmon, from July 25 through October 15, 2018:

(A) Daily limit 6, no more than 2 adult Chinook and 3 sockeye may be retained.

(B) Release wild Adult Chinook and coho.

(C) Salmon minimum length is 12 inches.

(f) Wells Dam to Hwy. 173 Bridge at Brewster:

(i) Salmon, effective immediately through July 24, 2018:

(A) Daily limit 6, no more than 3 sockeye may be retained.

(B) Release adult Chinook and coho.

(C) Salmon minimum length is 12 inches.

(ii) Salmon, from July 25 through August 31, 2018:

(A) Daily limit 6, no more than 2 adult Chinook and 3 Sockeye may be retained.

(B) Release wild adult Chinook and coho.

(C) Salmon minimum length is 12 inches.

(g) Hwy. 173 Bridge at Brewster to Chief Joseph Dam:

(i) Salmon, effective immediately through July 24, 2018:

(A) Daily limit 6, no more than 3 sockeye may be retained.

(B) Release adult Chinook and coho.

(C) Salmon minimum length is 12 inches.

(ii) Salmon, from July 25 through October 15, 2018:

(A) Daily limit 6, no more than 2 adult Chinook and 3 Sockeye may be retained.

(B) Release wild adult Chinook and coho.

(C) Salmon minimum length is 12 inches.

NEW SECTION

WAC 220-312-05000Q Freshwater exceptions to statewide rules—Eastside. Notwithstanding the provisions of WAC 220-312-050, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect. Effective immediately through October 15, 2018:

(1) Chelan River (Chelan Co.): from railroad bridge upstream to Chelan P.U.D. safety barrier below the powerhouse:

(a) Salmon, effective immediately through July 24, 2018:

(i) Daily limit 6.

(ii) Release adult Chinook, coho, and sockeye.

(iii) Salmon minimum length is 12 inches.

(b) Salmon, from July 25 through October 31, 2018:

(i) Daily limit 6, no more than 2 adult Chinook may be retained.

(ii) Release wild adult Chinook, coho, and sockeye.

(iii) Salmon minimum length is 12 inches.

(2) Okanogan River (Okanogan Co.):

(a) From mouth upstream to Hwy. 97 Bridge immediately upstream of mouth:

(i) Salmon, effective immediately through July 31, 2018:

(A) Daily limit 6.

(B) Release adult Chinook, coho, and sockeye.

(C) Salmon minimum length is 12 inches.

(i) Salmon, from August 1 through October 15, 2018:

(A) Daily limit 6, no more than 2 adult chinook may be retained.

(B) Release wild adult Chinook, coho, and sockeye.

- (C) Salmon minimum length 12 inches.
- (b) From Hwy. 97 Bridge immediately upstream of mouth to the second Hwy. 97 Bridge in Oroville:
- (i) Salmon, effective immediately through July 31, 2018:
- (A) Daily limit 6.
- (B) Release adult Chinook, coho, and sockeye.
- (C) Salmon minimum length is 12 inches.
- (ii) Salmon, from August 1 through September 15, 2018:
- (A) Daily limit 6, no more than 2 adult Chinook may be retained.
- (B) Release wild adult Chinook, coho, and sockeye.
- (C) Salmon minimum length is 12 inches.
- (3) Similkameen River (Okanogan Co.): from mouth upstream to 400 feet below Enloe Dam:
- (a) Salmon, effective immediately through July 31, 2018:
- (i) Daily limit 6.
- (ii) Release adult Chinook, coho, and sockeye.
- (iii) Salmon minimum length is 12 inches.
- (b) Salmon, from August 1 through September 15, 2018:
- (i) Daily limit 6, no more than 2 adult Chinook may be retained.
- (ii) Release wild adult Chinook, coho, and sockeye.
- (iii) Salmon minimum length is 12 inches.
- (4) Wenatchee River (Chelan Co.): from mouth to Icicle Road Bridge:
- (a) Salmon, effective August 1 through September 30, 2018:
- (i) Daily limit 6, no more than 2 adult Chinook may be retained.
- (ii) Release wild adult Chinook, coho, and sockeye.
- (iii) Salmon minimum length is 12 inches.

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 sections of the Washington Administrative Code are repealed effective immediately:

- WAC 220-312-06000P Freshwater exceptions to statewide rules—Columbia River. (18-157)
- WAC 220-312-05000P Freshwater exceptions to statewide rules—Eastside. (18-157)

WSR 18-16-017
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-156—Filed July 23, 2018, 2:29 p.m., effective August 1, 2018]

Effective Date of Rule: August 1, 2018.

Purpose: Amends freshwater recreational rules for the southwest region.

Citation of Rules Affected by this Order: Amending WAC 220-312-030.

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

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

Reasons for this Finding: The department is in the process of adopting permanent rules that are necessary to implement the personal use fishing plans agreed-to with resource comanagers at the North of Falcon proceedings. These emergency rules are necessary to comply with agreed-to management plans, and are interim until permanent rules take effect.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: July 23, 2018.

Joe Stohr
Director

NEW SECTION

WAC 220-312-03000Z Freshwater exceptions to statewide rules—Southwest Notwithstanding the provisions of WAC 220-312-030, effective August 1, 2018, until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

Cowlitz River, from the boundary markers at the mouth to 400' below Mayfield Powerhouse. Salmon daily limit 6; up to 3 may be adults, of which 2 may be Chinook. Only hatchery Chinook and hatchery coho may be retained.

Drano Lake, Salmon and steelhead daily limit 6; no more than 3 adult salmonids of which no more than 1 hatchery steelhead may be retained.

Green River, from the mouth to Miner's Creek. Salmon: Only hatchery Coho may be retained

Kalama River, from the mouth to 1,000 feet below fishway at upper salmon hatchery. Salmon daily limit 6; up to 3 may be adults, of which only 2 may be Coho. Only hatchery Chinook and hatchery Coho may be retained.

Kalama River,

(a) From 1,000 feet above the fishway at the upper salmon hatchery, upstream to Summers Creek:

(i) Open year-round.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Trout: Daily limit 2; minimum length 14 inches.

(B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(b) From the intersection of roads 6000 and 6420 to the 6600 Road bridge immediately downstream of Jack Creek

(i) Selective gear rules.

(ii) Open the Saturday before Memorial Day through November 30.

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Trout: Daily limit 2; minimum length 14 inches.

(B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

Toutle River, from the mouth to the forks. Salmon daily limit 6; up to 2 may be adults, of which 1 maybe a hatchery Chinook.

Toutle River, North Fork, From the mouth to the posted deadline below the fish collection facility. Salmon daily limit 6; up to 2 may be adults, of which only 1 may be a Chinook.

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 18-16-019
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-170—Filed July 23, 2018, 3:57 p.m., effective July 23, 2018, 3:57 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends Puget Sound commercial shrimp rules.

Citation of Rules Affected by this Order: Repealing WAC 220-340-52000Q; and amending WAC 220-340-520.

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 2018 state/tribal shrimp harvest management plans for the Strait of Juan de Fuca and Puget Sound require adoption of harvest seasons contained in this emergency rule. This emergency rule (1) opens the pot fishery season for spot shrimp; (2) implements a spot shrimp biweekly limit for all areas; (3) implements a minimum mesh size restriction for spot shrimp gear; (4) opens the 1B-21A trawl fishery season; (5) closes SMA 1A to spot prawn harvest; (6) opens SMA 5 Hood Canal for a maximum of four thousand seven hundred fifty pounds of spot prawns; and (7) maintains the previous regulations and restrictions for the

nonspot trawl and pot fisheries. 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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: July 23, 2018.

Joe Stohr
Director

NEW SECTION

WAC 220-340-52000R Puget Sound shrimp pot and trawl fishery—Season. Notwithstanding the provisions of WAC 220-340-520, effective immediately, until further notice, it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp pot gear:

(a) All waters of Shrimp Management Areas 1C, 2E, 2W, 3 and 5 are open to the harvest of all shrimp species, effective immediately, until further notice, except as provided for in this section:

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

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

(iii) All waters of Shrimp Management Area 5 are closed to the harvest of all species other than spot shrimp.

(iv) All waters of Shrimp Management Area 2E are closed to the harvest of spot shrimp

(v) All waters of Shrimp Management Area 2W are closed to the harvest of spot shrimp

(vi) All waters of Shrimp Management Area 3, 23A East are closed to the harvest of spot shrimp

(vii) All waters of Shrimp Management Area 1A, 20B and 22A West are closed to the harvest of spot shrimp

(b) Effective immediately, until further notice, it is unlawful for the combined total harvest of non-spot shrimp by a fisher or the fisher's alternate operator to exceed 600 pounds per weekly management period from Shrimp Management Area 2W and 2E combined.

(c) Effective immediately, until further notice, the shrimp weekly management period is Wednesday through Tuesday.

(d) Effective immediately, until further notice, it is unlawful for the combined total harvest of spot shrimp by a fisher or the fisher's alternate operator to exceed 1,200 pounds per biweekly management period.

(e) Effective immediately, until further notice, the current remaining spot shrimp biweekly management periods are (1) July 18 to July 31; and (2) August 1 to August 14.

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

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

(2) Shrimp trawl gear:

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

(b) That portion of Catch Area 22A within SMA 1B is open.

(c) That portion of Catch Area 20B within SMA 1B is open.

(d) That portion of Catch Area 21A within SMA 1B is open effective 6:00 a.m. July 1, 2018, until further notice.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-340-52000Q Puget Sound shrimp pot and beam trawl fishery—Season. (18-135)

WSR 18-16-020
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-168—Filed July 23, 2018, 4:59 p.m., effective July 23, 2018, 4:59 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules for the Columbia River and tributaries from Priest Rapids Dam to Chief Joseph Dam.

Citation of Rules Affected by this Order: Repealing WAC 220-312-05000Q and 220-312-06000Q; and amending WAC 220-312-050 and 220-312-060.

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

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

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

Reasons for this Finding: This emergency rule is necessary to correct an error in a previous filing. The opening date for adult hatchery Chinook retention from Wells Dam to Chief Joseph Dam is intended to be August 1. There is insufficient time to promulgate 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 the Request of a Non-governmental 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: July 23, 2018.

James B. Scott, Jr.
for Joe Stohr
Director

NEW SECTION

WAC 220-312-06000R Freshwater exceptions to statewide rules—Columbia River. Notwithstanding the provisions of WAC 220-312-060, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect. Effective immediately through October 15, 2018:

(a) From the Megler-Astoria Bridge upstream to HWY 395 Bridge at Pasco:

(i) Salmon and Steelhead, immediately through July 31, 2018:

(A) Daily limit 6, no more than 2 adult salmon or hatchery steelhead or 1 of each may be retained.

(B) Release all salmon other than hatchery jack Chinook and sockeye.

(C) Salmon minimum length is 12 inches.

(b) From HWY 395 Bridge at Pasco to Priest Rapids Dam:

(i) Salmon, immediately through August 15, 2018:

(A) Daily limit 6, no more than 2 adults may be retained.

(B) Release all salmon other than hatchery jack Chinook and sockeye.

(C) Salmon minimum length is 12 inches.

(c) Priest Rapids Dam to Rock Island Dam:

(i) Salmon, immediately through August 31, 2018:

(A) Daily limit 6, no more than 3 sockeye may be retained.

(B) Release adult Chinook and coho.

(C) Salmon minimum length is 12 inches.

(d) Rock Island Dam to Rocky Reach Dam:

(i) Salmon, effective immediately through October 15, 2018:

(A) Daily limit 6, no more than 3 sockeye may be retained.

(B) Release adult Chinook and coho.

(C) Salmon minimum length is 12 inches.

(e) Rocky Reach Dam to Wells Dam:

(i) Salmon, effective immediately through July 24, 2018:

(A) Daily limit 6, no more than 3 sockeye may be retained.

(B) Release adult Chinook and coho.

(C) Salmon minimum length is 12 inches.

(ii) Salmon, from July 25 through October 15, 2018:

(A) Daily limit 6, no more than 2 adult Chinook and 3 sockeye may be retained.

(B) Release wild Adult Chinook and coho.

(C) Salmon minimum length is 12 inches.

(f) Wells Dam to Hwy. 173 Bridge at Brewster:

(i) Salmon, effective immediately through July 31, 2018:

(A) Daily limit 6, no more than 3 sockeye may be retained.

(B) Release adult Chinook and coho.

(C) Salmon minimum length is 12 inches.

(ii) Salmon, from August 1 through August 31, 2018:

(A) Daily limit 6, no more than 2 adult Chinook and 3 Sockeye may be retained.

(B) Release wild adult Chinook and coho.

(C) Salmon minimum length is 12 inches.

(g) Hwy. 173 Bridge at Brewster to Chief Joseph Dam:

(i) Salmon, effective immediately through July 31, 2018:

(A) Daily limit 6, no more than 3 sockeye may be retained.

(B) Release adult Chinook and coho.

(C) Salmon minimum length is 12 inches.

(ii) Salmon, from August 1 through October 15, 2018:

(A) Daily limit 6, no more than 2 adult Chinook and 3 Sockeye may be retained.

(B) Release wild adult Chinook and coho.

(C) Salmon minimum length is 12 inches.

NEW SECTION

WAC 220-312-05000R Freshwater exceptions to statewide rules—Eastside. Notwithstanding the provisions of WAC 220-312-050, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect. Effective immediately through October 15, 2018:

(1) Chelan River (Chelan Co.): from railroad bridge upstream to Chelan P.U.D. safety barrier below the powerhouse:

(a) Salmon, effective immediately through July 24, 2018:

(i) Daily limit 6.

(ii) Release adult Chinook, coho, and sockeye.

(iii) Salmon minimum length is 12 inches.

(b) Salmon, from July 25 through October 31, 2018:

(i) Daily limit 6, no more than 2 adult Chinook may be retained.

(ii) Release wild adult Chinook, coho, and sockeye.

(iii) Salmon minimum length is 12 inches.

(2) Okanogan River (Okanogan Co.):

(a) From mouth upstream to Hwy. 97 Bridge immediately upstream of mouth:

(i) Salmon, effective immediately through July 31, 2018:

(A) Daily limit 6.

(B) Release adult Chinook, coho, and sockeye.

(C) Salmon minimum length is 12 inches.

(i) Salmon, from August 1 through October 15, 2018:

(A) Daily limit 6, no more than 2 adult chinook may be retained.

(B) Release wild adult Chinook, coho, and sockeye.

(C) Salmon minimum length 12 inches.

(b) From Hwy. 97 Bridge immediately upstream of mouth to the second Hwy. 97 Bridge in Oroville:

(i) Salmon, effective immediately through July 31, 2018:

(A) Daily limit 6.

(B) Release adult Chinook, coho, and sockeye.

(C) Salmon minimum length is 12 inches.

(ii) Salmon, from August 1 through September 15, 2018:

(A) Daily limit 6, no more than 2 adult Chinook may be retained.

(B) Release wild adult Chinook, coho, and sockeye.

(C) Salmon minimum length is 12 inches.

(3) Similkameen River (Okanogan Co.): from mouth upstream to 400 feet below Enloe Dam:

(a) Salmon, effective immediately through July 31, 2018:

(i) Daily limit 6.

(ii) Release adult Chinook, coho, and sockeye.

(iii) Salmon minimum length is 12 inches.

(b) Salmon, from August 1 through September 15, 2018:

(i) Daily limit 6, no more than 2 adult Chinook may be retained.

(ii) Release wild adult Chinook, coho, and sockeye.

(iii) Salmon minimum length is 12 inches.

(4) Wenatchee River (Chelan Co.): from mouth to Icicle Road Bridge:

(a) Salmon, effective August 1 through September 30, 2018:

(i) Daily limit 6, no more than 2 adult Chinook may be retained.

(ii) Release wild adult Chinook, coho, and sockeye.

(iii) Salmon minimum length is 12 inches.

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 sections of the Washington Administrative Code are repealed effective immediately:

WAC 220-312-06000Q Freshwater exceptions to statewide rules—Columbia River. (18-172)

WAC 220-312-05000Q Freshwater exceptions to statewide rules—Eastside. (18-172)

WSR 18-16-027
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed July 24, 2018, 12:07 p.m., effective July 24, 2018, 12:07 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of the emergency rule is to remove language that reduces state basic education apportionment payments by proceeds from the sale, rental or lease of stone, minerals, timber, forest products, other crops and matter, and improvements from or on tax title real property managed by a county pursuant to chapter 36.35 RCW.

Citation of Rules Affected by this Order: Amending WAC 392-121-415(1).

Statutory Authority for Adoption: RCW 28A.150.290, 28A.710.220.

Other Authority: RCW 42.56.070, 42.56.120.

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 immediate amendment to WAC 392-121-415 is necessary to ensure that local revenue does not offset the costs of basic education as prescribed in EHB 2242 (2017).

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: July 24, 2018.

Chris P. S. Reykdal
 State Superintendent
 of Public Instruction

AMENDATORY SECTION (Amending WSR 18-10-025, filed 4/24/18, effective 5/25/18)

WAC 392-121-415 Basic education allocation—Deductible revenues. In addition to those funds appropriated by the legislature for basic education allocation purposes, the following locally available general fund revenues shall be included in the computation of the total annual basic education allocation of each school district or charter school pursuant to RCW 28A.150.250 and 28A.150.260 and shall be

deducted from payments made pursuant to WAC 392-121-400:

(1) ~~((Proceeds from the sale, rental or lease of stone, minerals, timber, forest products, other crops and matter, and improvements from or on tax title real property managed by a county pursuant to chapter 36.35 RCW;~~

~~(2))~~ Federal in lieu of tax payments made pursuant to RCW 84.72.020; and

~~((3))~~ (2) Proceeds from the sale of lumber, timber, and timber products on military reservations or facilities in accordance with U.S.C. §2665, Title 10, and P.L. 97-99.

~~((4))~~ (3) Local in lieu of tax payments including but not limited to payments made pursuant to RCW 35.82.210, 35.83.040, and 79.19.110.

Otherwise deductible revenues from any of the foregoing sources received by a school district due solely to the district's levy of a capital projects fund or debt service fund excess tax levy shall constitute nongeneral fund revenues and shall not be deducted in the computation of the district's annual basic education allocation for that school year.

WSR 18-16-028
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed July 24, 2018, 12:08 p.m., effective July 24, 2018, 12:08 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to align the rules for the highly capable program to the statutory changes made to the program by E2SSB 6362 (2018).

Citation of Rules Affected by this Order: New WAC 392-170-083; and amending WAC 392-170-055.

Statutory Authority for Adoption: RCW 28A.185.030, 28A.185.050.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Section 105 of E2SSB 6362 (2018) amended chapter 28A.300 RCW to require that school district practices for identifying the most highly capable student must comply with additional criteria regarding multiple pathways for qualification, use of local norms for assessments, use of subjective measures, and use of assessments in native language of the student. These changes go into effect for the 2018-19 school year. This requires immediate adoption of the rule.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: July 24, 2018.

Chris P. S. Reykdal
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 18-03-012, filed 1/5/18, effective 2/5/18)

WAC 392-170-055 Assessment process for selection as highly capable student. (1) The superintendent of public instruction must require school districts to have identification procedures for their highly capable programs that are clearly stated and implemented by school districts using the following criteria:

(a) Districts must use multiple objective criteria to identify students who are among the most highly capable. Multiple pathways for qualifications must be available and no single criterion may disqualify a student from identification;

(b) Highly capable selection decisions must be based on consideration of criteria benchmarked on local norms, but local norms may not be used as a more restrictive criteria than national norms at the same percentile;

(c) Subjective measures such as teacher recommendations or report card grades may not be used to screen out a student from assessment. These data points may be used alongside other criteria during selection to support identification, but may not be used to disqualify a student from being identified; and

(d) To the extent practicable, screening and assessments must be given in the native language of the student. If native language screening and assessments are not available, a non-verbal screening and assessment must be used.

(2) Students nominated for selection as a highly capable student, unless eliminated through screening as provided in WAC 392-170-045, shall be assessed by qualified district personnel;

~~((2))~~ (3) Districts shall use multiple objective criteria for identification of students who are among the most highly capable. There is no single prescribed method for identification of students among the most highly capable;

~~((3))~~ (4) Districts shall have a clearly defined and written assessment process; and

~~((4))~~ (5) Consistent with RCW 28A.185.020, district practices for identifying the most highly capable students must prioritize equitable identification of low-income students.

NEW SECTION

WAC 392-170-083 Guidance aligned with evidence-based practices. The superintendent of public instruction must disseminate guidance on best practices for highly capable programs that includes: Referral, screening, assessment,

selection, and placement. The guidance must be regularly updated and aligned with evidence-based practices.

WSR 18-16-030
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-171—Filed July 24, 2018, 2:08 p.m., effective July 24, 2018, 2:08 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational salmon fishing rules for Puget Sound Catch Record Card Area 9.

Citation of Rules Affected by this Order: Repealing WAC 220-313-06000S; and amending WAC 220-313-060.

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

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

Reasons for this Finding: This emergency rule is needed because sufficient quota for hatchery Chinook is available for harvest in Marine Area 9. 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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: July 24, 2018.

James B. Scott, Jr.
for Joe Stohr
Director

NEW SECTION

WAC 220-313-06000S Puget Sound salmon—Salt-water seasons and daily limits. Notwithstanding the provisions of WAC 220-313-060, the following rules apply:

(1) Marine Area 5

(a) Open through August 15, 2018: Daily limit of 2 salmon. Release chum, wild Chinook and wild coho. 2 Additional sockeye salmon may be retained as part of the daily limit.

(b) Open August 16 through September 30. Daily limit of 2 salmon. Release chum, Chinook and wild coho. 2 Additional sockeye salmon may be retained as part of the daily limit.

(2) Marine Area 6

(a) Open through August 15, 2018: Daily limit of 2 salmon. Release chum, wild Chinook and wild coho. 2 Additional sockeye salmon may be retained as part of the daily limit. Release all Chinook east of a true north-south line through the Number 2 Buoy immediately east of Ediz Hook.

(b) Waters of Port Angeles Harbor west of a line from the tip of Ediz Hook to the ITT Rayonier Dock are closed through August 15, 2018.

(c) Open August 16 through September 30, 2018: Daily limit of 2 salmon. Release chum, Chinook and wild coho. 2 Additional sockeye salmon may be retained as part of the daily limit.

(3) Marine Area 7

(a) Open through July 31, 2018: Daily limit of 2 salmon. Release chum and wild Chinook. 2 Additional sockeye salmon may be retained as part of the daily limit. Closed to salmon fishing in the Southern Rosario Strait and Eastern Strait of Juan de Fuca closure area described in WAC 220-313-020(7).

(b) Open August 1 through September 3, 2018: Daily limit of 2 salmon; no more than one may be a Chinook salmon. Release chum. 2 Additional sockeye salmon may be retained as part of the daily limit. Closed to salmon fishing in the Southern Rosario Strait and Eastern Strait of Juan de Fuca closure area described in WAC 220-313-020(7).

(c) Open September 4 through September 30, 2018:

(i) Daily limit of 2 salmon.

(ii) Release chum and Chinook.

(d) Closed to salmon fishing in Samish Bay area described in WAC 220-313-020(7).

(e) Waters of Bellingham Bay described in WAC 220-313-020(1): Open August 16 through September 30, 2018: Daily limit of 4 salmon; no more than 2 may be Chinook salmon.

(4) Marine Area 8-1

(a) Open August 1 through September 30, 2018: Daily limit 2 salmon. Release Chinook.

(5) Marine Area 8-2

(a) Open August 1 through September 23, 2018: Daily limit of 2 salmon. Release Chinook.

(6) Marine Area 9

(a) Open through July 25, 2018, except waters in this subsection: Daily limit of 2 salmon; Release Chinook, chum and wild coho. Closed south of a line from Foulweather Bluff to Olele Point through August 15.

(b) Open July 26 through July 29, 2018, except waters in this subsection: Daily limit of 2 salmon, up to 1 may be a Chinook; Release wild Chinook, chum and wild coho. Closed south of a line from Foulweather Bluff to Olele Point through August 15, 2018.

(c) Open July 30 through August 15, 2018, except waters in this subsection: Daily limit of 2 salmon; Release Chinook, chum and wild coho. Closed south of a line from Foulweather Bluff to Olele Point through August 15.

(d) Open August 16 through September 30, 2018: Daily limit of 2 salmon. Release Chinook, chum and wild coho.

(e) Edmonds Fishing Pier: Open year-round. Daily limit of 2 salmon; No more than one may be a Chinook salmon. Release chum from August 1 through September 30, 2018.

(7) Marine Area 10

(a) Open through August 31, 2018: Daily limit of 2 salmon, no more than one may be a Chinook salmon. Release chum and wild Chinook.

(b) Open September 1, 2018, until further notice: Daily limit of 2 salmon. Release Chinook. Release chum September 1 through September 15, 2018.

(c) Waters of Shilshole Bay southeast of a line from Meadow Point to West Point: Closed through August 15, 2018.

(d) Waters of Elliott Bay east of a line from West Point to Alki Point: Closed through August 31, except: In years ending in odd numbers: Those waters north of a line from Jack Block Park through the north tip of Harbor Island to shore northeast of the North Waterway (47°35.47'N, 122°20.58'W), open August 15 through August 31, 2018 from Friday through Sunday of each week only. Daily limit of 2. Release Chinook, chum and wild coho.

(e) Waters of Sinclair Inlet and Port Orchard south of the Manette Bridge in Bremerton, south of a line true west from Battle Point, and west of a line drawn true south from Point White: Open through September 30, 2018. Daily limit of 3 salmon. Release wild Chinook and wild coho. Release chum from August 1 through September 15, 2018.

(8) Marine Area 11

(a) Open through September 30, 2018: Daily limit 2 salmon of which 1 may be a Chinook. Release Wild Chinook.

(b) Waters of Commencement Bay east of a line from the Cliff House Restaurant to the Sperry Ocean Dock are closed through July 31, 2018.

(c) Dash Point Dock, Les Davis Pier, Des Moines Pier, Redondo Pier, and Point Defiance Boathouse Dock, open year-round: Daily limit of 2 salmon; no more than one may be a Chinook salmon.

(9) Marine Area 12

(a) Open through September 30, 2018, in waters south of Ayock Point except waters listed in this subsection: Daily limit of 4 salmon. Release chum and wild Chinook.

(b) Waters within a 2,000-foot arc seaward of yellow buoys at the mouth of Finch Creek at Hoodspout Salmon Hatchery: Daily limit of 4 salmon. Release chum and wild Chinook. It is unlawful to fish for or possess salmon taken from these waters from one hour after sunset to one hour before sunrise. It is unlawful to fish from any Hoodspout Salmon Hatchery structure except persons with disabilities who permanently use a wheelchair and who have a designated harvester card under WAC 220-220-240 may fish from the ADA-access site at the Hoodspout Salmon Hatchery, as long as persons follow all applicable department rules.

(c) Waters north of a true east line from the mouth of Turner Creek to the Toandos Peninsula and south of a line true east of Broad Spit, open August 1 through August 31, 2018: Daily limit 4, no min. size. Release all salmon other than coho.

REPEALER

The following section of the Washington Administrative Code is repealed effective July 26, 2018:

WAC 220-313-06000S Puget Sound salmon—Saltwater seasons and daily limits. (18-167)

WSR 18-16-034
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-174—Filed July 24, 2018, 4:11 p.m., effective July 26, 2018]

Effective Date of Rule: July 26, 2018.

Purpose: Amends commercial coastal troll rules - seasons and areas.

Citation of Rules Affected by this Order: Repealing WAC 220-354-30000J; and amending WAC 220-354-300.

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: Sufficient harvestable quota of salmon is available for the troll fleet in Areas 1, 3 and 4 to increase weekly possession and landing limits. These rules are adopted at the recommendation of the Pacific Fisheries Management Council, in accordance with preseason fishing plans. There is insufficient time to adopt permanent rules.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: July 24, 2018.

James B. Scott, Jr.
for Joe Stohr
Director

NEW SECTION

WAC 220-354-30000K Coastal salmon troll seasons—Commercial. Notwithstanding the provisions of WAC 220-354-300, effective July 26, 2018, until further

notice, it is unlawful to fish for salmon with troll gear or to land salmon taken with troll gear into a Washington port except during the seasons provided below:

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

Immediately through September 19, 2018.

(2) In Washington Catch Reporting Areas 1, 3 and 4, landing and possession limit of 75 Chinook and 10 coho per vessel per landing week, defined as Thursday through Wednesday.

(3) In Washington Catch Reporting Area 2, landing and possession limit of 10 coho per vessel per landing week, defined as Thursday through Wednesday.

(4) The Cape Flattery and Columbia River Control Zones are closed. The Mandatory Yelloweye Rockfish Conservation Area is closed. The Grays Harbor Control Zone is closed beginning August 13.

(5) All retained coho must be marked with a healed adipose fin clip.

(6) No chum retention north of Cape Alava, WA in August and September.

(7) Minimum size for Chinook salmon is 28 inches in length. Minimum size for coho salmon is 16 inches in length. No minimum size for pink, sockeye or chum salmon.

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

(9) Fishers must land and deliver their catch within 24 hours of any closure of a fishery provided for in this section. Vessels in possession of salmon north of the Queets River may not cross the Queets River line without first notifying WDFW by phone at (360) 249-1215 or by email at Wendy.Beehley@dfw.wa.gov with Area fished, total Chinook, coho, and halibut catch aboard, and destination. Vessels in possession of salmon south of the Queets River may not cross the Queets River line without first notifying WDFW by phone at (360) 249-1215 or by email at Wendy.Beehley@dfw.wa.gov with Area fished, total Chinook, coho, and halibut catch aboard, and destination. Vessels fishing or in possession of salmon while fishing north of Leadbetter Point must land and deliver their fish within the area and North of Leadbetter Point. Vessels fishing or in possession of salmon while fishing south of Leadbetter Point must land and deliver their fish within the area and south of Leadbetter Point.

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

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

124°05'20" W. long.), and then along the north jetty to the point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14'03" N. lat., 124°04'05" W. long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

(12) The Grays Harbor Control Zone is defined as the area within and east of a line drawn from the Westport Lighthouse (46°53'18" N. lat., 124°07'01" W. long.) to Buoy #2 (46°52'42" N. lat., 124°12'42" W. long.) to Buoy #3 (46°55'00" N. lat., 124°14'48" W. long.) to the Grays Harbor north jetty (46°55'36" N. lat., 124°10'51" W. long.).

(13) The Mandatory Yelloweye Rockfish Conservation Area is defined as the area in Washington Marine Catch Area 3 from 48°00.00'N latitude; 125°14.00'W longitude to 48°02.00'N latitude; 125°14.00'W longitude to 48°02.00'N latitude; 125°16.50'W longitude to 48°00.00'N latitude; 125°16.50'W longitude and connecting back to 48°00.00'N latitude; 125°14.00'W longitude.

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

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

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

[REPEALER]

The following section of the Washington Administrative Code is repealed effective July 26, 2018:

WAC 220-354-30000J Coastal commercial salmon troll.
(18-174)

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

WSR 18-16-045
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-173—Filed July 25, 2018, 2:17 p.m., effective August 1, 2018]

Effective Date of Rule: August 1, 2018.

Purpose: Amends recreational coastal freshwater rules.

Citation of Rules Affected by this Order: Repealing WAC 220-312-02000E; and amending WAC 220-312-020.

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

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

Reasons for this Finding: The department is in the process of adopting permanent rules that are necessary to implement the personal use fishing plans agreed-to with resource comanagers at the North of Falcon proceedings. These emergency rules are necessary to comply with agreed-to management plans, and are interim until permanent rules take effect.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: July 25, 2018.

James B. Scott, Jr.
for Joe Stohr
Director

NEW SECTION

WAC 220-312-02000E Freshwater exceptions to statewide rules—Coast. Notwithstanding the provisions of WAC 220-312-020, effective August 1, 2018 until further notice, it is unlawful to violate the provisions below. Unless otherwise amended, all permanent rules remain in effect:

(1) Naselle River - Open for salmon August 1 until further notice from Hwy 101 Bridge to the South Fork. Min. size 12". Daily limit 6. Up to four adults may be retained, of which only one may be a wild, adult coho. Release wild Chinook. Anglers may fish with two poles provided they possess a valid two-pole endorsement. Night closure, anti-snagging rule, and barbless hooks required.

(2) Naselle River - Open for salmon August 1 until further notice from the confluence of the South Fork to the Hwy 4 Bridge. Min. size 12". Daily limit 6. Up to two adults may be retained, of which only one may be a wild, adult coho. Release wild Chinook. Night closure, anti-snagging rule, barbless hooks required, and stationary gear restriction.

(3) Nemah River, North - Open for salmon August 1 until further notice from Hwy 101 Bridge upstream to the bridge on Nemah Valley Road. Min. size 12". Daily limit 6. Up to four adults may be retained, of which only one may be a wild, adult coho. Release wild Chinook.

(4) **Nemah River, North** - Open for salmon August 1 until further notice from Hancock property line upstream to the temporary weir (approximately 210 feet above the Nemah Hatchery Bridge). Min. size 12". Daily limit 6. Up to four adults may be retained, of which only one may be a wild, adult coho. Release wild Chinook. Effective August 16, 2018: Night closure and anti-snagging rules in effect. Open only for salmon for anglers that possess a senior's license.

(5) **Nemah River, North** - from the temporary weir (approximately 210 feet above the Nemah Hatchery Bridge) upstream to the Nemah Hatchery Dam: Closed Waters.

(6) **Niawiakum River** - from Hwy 101 Bridge to the South Bend/Palix Road Bridge: Closed to salmon fishing.

(7) **Palix River, including all forks** - from Hwy 101 Bridge to the mouth of the Middle Fork: Closed to salmon fishing.

(8) **Willapa River** - Open for salmon August 1 until further notice from the mouth (City of South Bend boat launch) to Hwy 6 Bridge (approximately 2 miles below mouth of Trap Creek). Min. size 12". Daily limit 6. Up to four adults may be retained, of which only one may be a wild, adult coho. Release wild Chinook.

(9) **Willapa River, South Fork** - Open for salmon August 1 until further notice from mouth to bridge on Pehl Road. Min. size 12". Daily limit 6. Up to three adults may be retained, of which only one may be a wild, adult coho. Release wild Chinook.

[REPEALER]

The following section of the Washington Administrative Code is repealed effective August 16, 2018:

WAC 220-312-02000E Freshwater exceptions to statewide rules—Coast.

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

WSR 18-16-047
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-169—Filed July 25, 2018, 4:33 p.m., effective August 1, 2018]

Effective Date of Rule: August 1, 2018.

Purpose: Amends hunting and fishing rules that apply to individuals with disabilities.

Citation of Rules Affected by this Order: New WAC 220-200-180, 220-200-190 and 220-413-210; and amending WAC 220-200-160, 220-200-170, 220-305-120, and 220-413-140.

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

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

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

Reasons for this Finding: The department is creating new and amending existing hunting and fishing rules that apply to individuals with disabilities. These emergency rules are needed 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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 3, Amended 4, Repealed 0.

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

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

Date Adopted: July 25, 2018.

James B. Scott, Jr.
for Joe Stohr
Director

NEW SECTION

WAC 220-200-16000A Definition of a person with a disability. Notwithstanding the provisions of WAC 220-200-160, effective August 1, 2018, until further notice the following rules apply:

(1) "Person with a disability" for purposes of eligibility under disability designation means a person who has a permanent physical disability or permanent developmental disability which substantially impairs the person's ability to participate in recreational activities or to access department lands including, but not limited to:

(a) "Lower extremity disability," which means the person has a permanent lower extremity impairment and is not ambulatory over natural terrain without a lower extremity prosthesis or must permanently use a medically prescribed assistive device every time for mobility including, but not limited to, a wheelchair, crutch, walker, or oxygen bottle; or

(b) "Upper extremity disability," which means the person (~~who~~) has a permanent upper extremity impairment and is physically limited in their ability to hold and safely operate a legal hunting or harvesting device.

(c) These definitions include, but are not limited to, persons with a permanent upper or lower extremity impairment who have lost the use of one or both upper or lower extremities, or who have a severe physical limitation in the use of one or both upper or lower extremities, or who have a diagnosed permanent disease or disorder which substantially impairs or severely interferes with mobility or the use of one or both upper or lower extremities.

(2) "Blind" or "visually impaired," which means:

(a) Having a central visual acuity that does not exceed 20/200 in the better eye with corrective lenses, or the widest

diameter of the visual field does not exceed twenty degrees; or

(b) Having a severe loss of visual acuity ranging from 20/70 to 20/200 while retaining some visual function; or

(c) Having inoperable visual impairments including, but are not limited to: Albinism, aniridia, aphakia, cataracts, glaucoma, macular degeneration, or other similar diagnosed disease or disorder.

(3) "Developmental disability," which means a cognitive intellectual disability such as: Cerebral palsy, down syndrome, epilepsy, autism, or another neurological condition of an individual found to be closely related to an intellectual disability or to require treatment similar to that required for individuals with intellectual disabilities, which originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual.

Reviser's note: The unnecessary strikethrough 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 220-200-17000A Special use permits. Notwithstanding the provisions of WAC 220-200-170, effective August 1, 2018, until further notice, the following rules apply:

(1) A special use permit issued by the department sets forth terms and conditions to allow for reasonable accommodations for persons granted disability designation.

(2) A special use permit must be carried on the person acting under or using devices authorized by the special use permit.

(3) The terms for use granted by a special use permit, when provided as a reasonable modification, supersede department rules that conflict with the terms of the special use permit.

(4) It is unlawful to fail to abide by the conditions of a special use permit. Violation of this subsection is punishable under RCW 77.15.160 (6)(b), 77.15.230, or 77.15.750, or other statutes under chapter 77.15 RCW depending on the circumstances of the violation.

NEW SECTION

WAC 220-200-18000A Suspension of a special use permit—Appeal hearing. (1) The department may suspend a person's special use permit for the following reasons and corresponding lengths of time:

(a) Upon conviction or any outcome in criminal court whereby a person voluntarily enters into a disposition that continues or defers the case for dismissal upon the successful completion of specific terms or conditions or is found to have committed an infraction under Title 77 RCW or the department's rules for an act committed while the person is using the special use permit, the department shall suspend the person's special use permit for two years;

(b) Upon conviction or any outcome in criminal court whereby a person voluntarily enters into a disposition that continues or defers the case for dismissal upon the successful

completion of specific terms or conditions or is convicted of a misdemeanor or gross misdemeanor under Title 77 RCW or the department's rules for an act committed while the person is using the special use permit, the department shall suspend the person's special use permit for five years;

(c) Upon conviction or any outcome in criminal court whereby a person voluntarily enters into a disposition that continues or defers the case for dismissal upon the successful completion of specific terms or conditions or is convicted of trespass, reckless endangerment, criminal conspiracy, or making a false statement to law enforcement while hunting, fishing, or engaging in any activity regulated by the department, the department shall suspend the person's special use permit for life;

(d) Upon conviction or any outcome in criminal court whereby a person voluntarily enters into a disposition that continues or defers the case for dismissal upon the successful completion of specific terms or conditions or is convicted of a felony violation under Title 77 RCW for an act committed while the person is using the special use permit, the department shall suspend the person's special use permit for life;

(e) If the person has a hunting or fishing license revoked or has hunting or fishing license privileges suspended in another state, the department shall suspend the person's special use permit for the duration of the underlying suspension or revocation;

(f) If the person is cited, or charged by complaint, for an offense under Titles 76, 77, 79, 79A, 9, and 9A RCW; or for unlawful use of a department permit, trespass, reckless endangerment, criminal conspiracy, or making a false statement to law enforcement while hunting, fishing, or engaging in any activity regulated by the department for an act committed while the person is using the special use permit, the department shall immediately suspend the person's special use permit until the offense has been adjudicated; or

(g) If the person submits fraudulent information to the department related to the person's special use permit, the department shall suspend the person's special use permit for five years.

(2) The department may suspend a person's special use permit for two years if the person fails to abide by the terms or conditions of the special use permit issued to that person.

(3) Any person with a disability issued a special use permit, who is notified of an intended suspension may request an appeal hearing under chapter 34.05 RCW. A written request for hearing must be received within twenty days of the notice of suspension.

NEW SECTION

WAC 220-200-19000A Disability designation. (1) A person meeting the definition of "person with a disability" under WAC 220-200-160, and who submits the required application and accompanying documentation shall be granted a disability designation by the department.

(2) A person whose application for a disability designation is denied by the department may request a hearing to contest the denial. A written request for a hearing must be received within twenty days of the notice of suspension.

NEW SECTION

WAC 220-305-12000A Harvesting of shellfish, food fish or game fish by persons with a disability. Notwithstanding the provisions of WAC 220-305-120, effective August 1, 2018, until further notice, the following rules apply:

(1) Definitions:

(a) "Harvester with a disability" means a person who has been granted a disability designation and who possesses a valid disabled harvester endorsement issued by the department;

(b) "Disabled harvester endorsement" means an endorsement to a license issued by the department to a person who has been granted a disability designation;

(c) "Designated harvester companion" means a designated person who only assists with that physical function the harvester with a disability is unable to perform during his or her recreational activity in the taking of shellfish, food fish, or game fish;

(d) "Designated harvester companion card" means an identification card issued by the department to a harvester with a disability for use by another person in assisting or acting on the behalf of the harvester with a disability while engaging in fishing or harvesting activities.

(2) A designated harvester companion card will be issued to the holder of a disabled harvester endorsement along with the issuance of a harvesting license.

(3) It is unlawful for a harvester with a disability to fail to obtain all licenses, permits and catch record cards prior to fishing.

(4) The designated harvester companion, when accompanied by the harvester with a disability, may assist the harvester with a disability in taking shellfish, game fish and food fish or engage in the taking of shellfish, game fish, and food fish on behalf of the harvester with a disability.

(5) It is unlawful for a designated harvester companion to assist a harvester with a disability unless the harvester with a disability is present and participating in the fishing activity, except:

(a) The harvester with a disability is not required to be present at the location where the designated harvester companion is harvesting shellfish for the harvester with a disability. The harvester with a disability is required to be in the direct line of sight of the designated harvester companion who is harvesting shellfish for him or her, unless it is not possible to be in a direct line of sight because of a physical obstruction or other barrier. If such a barrier or obstruction exists, the harvester with a disability is required to be within one-quarter mile of the designated harvester companion who is harvesting shellfish for him or her and must have a form of reliable and direct communication.

(6) It is unlawful for a designated harvester companion to assist a harvester with a disability unless the designated harvester companion has a valid equivalent harvesting license issued by Washington state or another state.

(7) It is unlawful for a designated harvester companion to assist a harvester with a disability unless the designated harvester companion is licensed and has the designated harvester companion card on his or her person.

(8) Shellfish, game fish or food fish harvested by a designated harvester companion on behalf of a harvester with a disability becomes part of the harvester with a disability's daily or possession limit, and must be kept separate from the designated harvester companion's daily or possession limit.

(9) It is unlawful for a harvester with a disability to utilize spin casting gear during fly fishing only season, unless the harvester with a disability has been issued a special use permit from the department.

(a) Such person may use spin casting gear with a casting bubble and monofilament line with no limit on breaking strength; and

(b) Hook size and barb restrictions, fishing fly requirements, and bait and weight prohibitions as provided for in WAC 220-310-150, apply to both conventional fly fishing and spin casting fly fishing.

(10) A violation of this section is punishable under RCW 77.15.380, or other statutes under chapter 77.15 RCW depending on the circumstances of the violation.

NEW SECTION

WAC 220-413-14000A Hunting of game birds and animals by persons with a disability. Notwithstanding the provisions of WAC 220-413-140, effective August 1, 2018, until further notice, the following rules apply:

(1) Definitions:

(a) "Hunter with a disability" means a person who has been granted a disability designation and who possesses a valid disabled hunter endorsement issued by the department.

(b) "Disabled hunter endorsement" means an endorsement to a license issued by the department to a person granted a disability designation.

(c) "Designated hunter companion" means a designated person who only assists with that physical function the hunter with a disability is unable to perform, such as stalking, shooting, tracking, retrieving, or the tagging of game birds and game animals.

(d) "Designated hunter companion card" means an identification card issued by the department to a hunter with a disability for use by another person in assisting or acting on the behalf of the hunter with a disability while engaging in hunting activities.

(e) "Accompany" means the hunter with a disability and the designated hunter companion are in the physical presence of each other, not to exceed a 1/4-mile separation. While stalking or shooting an animal, the hunter with a disability and the designated hunter companion must have a form of reliable and direct communication.

(2) A designated hunter companion card will be issued to the holder of a disabled hunter endorsement upon purchase of a hunting license.

(3) It is unlawful for a hunter with a disability to fail to obtain all required licenses, tags, or stamps before hunting.

(4) It is unlawful for a designated hunter companion to assist a hunter with a disability unless the designated hunter companion has the designated hunter companion card on his or her person. A designated hunter companion must have a valid hunting license issued by Washington state or another state.

(a) The designated hunter companion must accompany the hunter with a disability when stalking or shooting game on behalf of the hunter with a disability.

(b) The designated hunter companion does not need to accompany the hunter with a disability while tracking an animal wounded by either hunter, or while tagging or retrieving a downed animal on behalf of the hunter with a disability.

(5) It is unlawful for the hunter with a disability or the designated hunter companion to fail to:

(a) Immediately cut, notch, or date any required tag upon harvesting a game bird or animal; and

(b) Affix the tag to the carcass of the game bird or animal as soon as reasonably possible after killing the game.

(6) Game birds or game animals killed, tagged or retrieved by a designated hunter companion on behalf of a hunter with a disability do not count against the designated hunter companion's bag or possession limit.

(7) It is unlawful for a hunter with a disability to possess a loaded firearm in a motor vehicle, or shoot from a motor vehicle, unless the hunter with a disability has been issued a special use permit from the department, and:

(a) The vehicle is stopped, the vehicle is removed from the maintained portion of the roadway, and the motor is turned off; and

(b) A valid blue disabled hunter "shooting from a vehicle" identification placard must be displayed and visible.

(8) It is unlawful for a hunter with a disability to utilize a crossbow in archery or muzzleloader season, unless the hunter with a disability has been issued a special use permit from the department.

(9) A violation of this section is punishable under RCW 77.15.400, 77.15.410, 77.15.430, or 77.15.750 or other statutes under chapter 77.15 RCW, depending on the circumstances of the violation.

NEW SECTION

WAC 220-413-21000A Trapping of furbearing animals by persons with a disability. (1) Definitions:

(a) "Trapper with a disability" means a person who has been granted a disability designation and who possesses a valid disabled trappers endorsement issued by the department.

(b) "Disabled trapper endorsement" means an endorsement to a license issued by the department to a person granted a disability designation.

(c) "Designated trapper companion" means a designated person who only assists with that physical function the trapper with a disability is unable to perform, such as trap placement, baiting, checking the trap(s), retrieving, or the tagging of furbearing animals during trapping season.

(d) "Designated trapper companion card" means an identification card issued by the department to a trapper with a disability for use by another person in assisting or acting on the behalf of the trapper with a disability while engaging in trapping activities.

(e) "Accompany" means the trapper with a disability and the designated trapper companion are in the physical presence of each other, not to exceed a 100-foot separation. The

trapper with a disability and the designated trapper companion must have a form of reliable and direct communication.

(2) A designated trapper companion card will be issued to the holder of a disabled trapper endorsement upon purchase of a trapping license.

(3) It is unlawful for a trapper with a disability to not follow all agency rules and to fail to possess all required licenses and permits before trapping.

(4) It is unlawful for a designated trapper companion to assist a trapper with a disability unless the designated trapper companion has the designated trapper companion card on his or her person. A designated trapper companion must have a valid trapper license issued by Washington state or another state.

(a) The designated trapper companion must accompany the trapper with a disability during trap placement, baiting, and checking the trap(s).

(5) Furbearing animals killed or retrieved by a designated trapper companion on behalf of a trapper with a disability do not count against the designated trapper companion's bag, daily, or possession limit.

(6) A violation of this section is punishable under WAC 220-417-010, 220-417-020, 220-417-030, or other statutes under chapter 77.15 RCW depending on the circumstances of the violation.

WSR 18-16-056

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 18-176—Filed July 26, 2018, 3:30 p.m., effective July 27, 2018, 6:00 a.m.]

Effective Date of Rule: July 27, 2018, 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 Rules Affected by this Order: Repealing WAC 220-359-02000T; and amending WAC 220-359-020.

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: This rule sets two tribal sturgeon setline fisheries and three tribal fall salmon fisheries, along with continuing treaty summer fisheries for commercial sales to Washington wholesale buyers and the public. The season is consistent with the 2008-2017 Management Agreement and the associated biological opinion. This rule is consistent with action of the Columbia River Compact on June 28 and July 26, 2018. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

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

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

Number of Sections Adopted in Order to Comply with Federal Statute: New 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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: July 26, 2018.

Joe Stohr
Director

NEW SECTION

WAC 220-359-02000U Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-359-010, WAC 220-359-020, WAC 220-359-030, and WAC 220-359-090, effective immediately until further notice, it is unlawful for a person to take or possess salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch taken for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H. However, those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch under the following provisions:

(1) Open Areas: SMCRA 1H (John Day Pool)

(a) Season: 6 AM Friday, July 27, 2018 to 6 PM Saturday, August 4, 2018

(b) Gear: Setline Gear. 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.

(c) Allowable sale: Sturgeon from 43 to 54 inches fork length in the John Day Pool may be sold or kept for subsistence purposes. Sturgeon within the legal size limit and caught in the platform and hook and line fishery may only be sold if caught during the open period and open area of the set line fishery. Fish landed during the open periods are allowed to be sold after the period concludes.

(d) Standard river mouth and dam sanctuary closures remain in place.

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

(a) Season: 6 AM Monday, August 6, 2018 to 6 PM Saturday, August 18, 2018

(b) Gear: Setline Gear. 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.

(c) Allowable sale: Sturgeon from 38 to 54 inches fork length in the Bonneville Pool may be sold or kept for subsistence purposes. Sturgeon within the legal size limit and caught in the platform and hook and line fishery may only be sold if caught during the open period and open area of the set line fishery. Fish landed during the open periods are allowed to be sold after the period concludes.

(d) Standard river mouth and dam sanctuary closures remain in place for this gear.

(3) Open Areas: SMCRA 1F, 1G, 1H (Zone 6)

(a) Season: Effective immediately until further notice.

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

(c) Allowable sale: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Sturgeon of legal size may be sold if landed during the open area and period for the setline fishery within that pool, otherwise sturgeon from 38 to 54 inches fork length in the Bonneville Pool and sturgeon from

43 to 54 inches fork length in The Dalles and John Day Pools may be kept for subsistence purposes. Fish landed during the open periods are allowed to be sold after the period concludes.

(d) Standard river mouth and dam sanctuary closures remain in place for this gear.

(4) Open Areas: Drano Lake and Klickitat River

(a) Season: Effective immediately until further notice and only during days and times open under lawfully enacted Yakama Nation tribal subsistence fishery regulations for enrolled Yakama Nation members.

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

(c) Allowable sale: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Sturgeon may not be sold. Sturgeon from 38 to 54 inches fork length may be kept for subsistence.

(5) Open Areas: Areas downstream of Bonneville Dam defined in tribal/state MOU's/MOA's.

(a) Season: Effective immediately through 11:59 PM Wednesday, October 31, 2018 and only during days and times opened under tribal rules.

(b) Gear: Hook and line and/or platform gear identified in tribal rules.

(c) Allowable sale: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Sturgeon may not be retained in fisheries downstream of Bonneville Dam. Sales of fish are not authorized on COE property downstream of Bonneville Dam. Fish must be transported elsewhere for sale. Fish landed during the open periods are allowed to be sold after the period concludes.

(6) 24-hour quick reporting is required for Washington wholesale dealers for all areas as provided in WAC 220-352-315, except that all landings from treaty fisheries described above must be reported within 24-hours of completing the fish ticket (not 24-hours after the period concludes).

(7) Fish caught during the open period may be sold after the period concludes.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 a.m. July 27, 2018:

WAC 220-359-02000T Columbia River salmon seasons above Bonneville Dam. (18-155)

WSR 18-16-057
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-177—Filed July 26, 2018, 3:32 p.m., effective July 28, 2018]

Effective Date of Rule: July 28, 2018.

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 Rules Affected by this Order: Repealing WAC 220-358-03000R; and amending WAC 220-358-030.

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

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

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

Reasons for this Finding: Sets the 2018 fall select area commercial seasons. Impacts to nonlocal stocks are expected to be minimal and local Chinook stocks reared for the select area sites are available for harvest. The fishery is consistent with the *U.S. v. Oregon* Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with the compact action of July 26, 2018. There is insufficient time to promulgate permanent rules.

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

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

Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, ESA, and commission guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife con-

vene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: July 26, 2018.

Joe Stohr
Director

NEW SECTION

WAC 220-358-03000S Columbia River seasons below Bonneville. Notwithstanding the provisions of WAC 220-358-030, WAC 220-358-040, and WAC 220-358-050, it is unlawful for a person to take or possess salmon, sturgeon, and shad for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, 1E and Select Areas, except during the times and conditions listed below:

(1) Tongue Point/South Channel

(a) **Dates:** Monday and Wednesday nights during August 27 through 30, 2018.

Monday, Tuesday, Wednesday and Thursday nights September 3 - October 26, 2018

Open Hours: 7 PM - 7 AM through September 7 and 4 PM - 10 AM thereafter

(b) **Area:** The Tongue Point Area is defined as those waters of the Columbia River bounded by a line from a regulatory marker (46.20863 degrees N, -123.75944 degrees W) on the eastern shore of Tongue Point to the flashing green USCG light "3" on the rock jetty at the northwest tip of Mott Island, a line from a regulatory marker at the southeast end of Mott Island northeasterly to a regulatory marker on the northwest shore of Lois Island, and a line from a regulatory marker (46.18270 degrees N, -123.74313 degrees W) located on the Oregon shore 300 yards northwest of the railroad bridge crossing the John Day River projecting easterly to a regulatory marker on Lois Island.

The South Channel Area is defined as those waters of South Channel bounded by a line from a regulatory marker on the Oregon shore at John Day Point projecting northeasterly to a regulatory marker on Lois Island, and a line from a regulatory marker on Settler Point projecting northwesterly to the flashing red USCG light "10" then projecting westerly to the eastern tip of Burnside Island.

(c) **Gear:** Gillnets with a 6-inch maximum mesh size. Maximum net length of 250 fathoms.

In the 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 their fishing vessel.

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

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

(d) **Allowable Sales:** Chinook, coho, pink, and sockeye salmon, white sturgeon, and shad. A maximum of **four** white sturgeon with a fork length of 44-50 inches may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday). The white sturgeon possession and sales limit includes all Select Area fisheries.

(e) **Miscellaneous:** Permanent transportation rules in effect.

(2) Blind Slough/Knappa Slough Select Area

(a) **Dates:** Monday and Wednesday nights August 27-30, 2018.

Monday, Tuesday, Wednesday, and Thursday nights September 3 - October 26, 2018

Open hours: 7 PM - 7 AM through September 7 and 6 PM - 10 AM thereafter.

(b) Area:

The Blind Slough Area is defined as those waters of Blind Slough and Gnat Creek from a north-south line formed by regulatory markers at the mouth of Blind Slough to a regulatory marker in Gnat Creek located approximately 0.5 miles southeasterly (upstream) of the Barendse Road Bridge.

The Knappa Slough Area is defined as those waters of Knappa Slough, Calendar Slough, and Big Creek Slough bounded to the north (upstream) by a line projecting from a regulatory marker on the eastern shore of Karlson Island to the northernmost regulatory marker at the mouth of Blind Slough and bounded to the west (downstream) by a line projecting southerly from a regulatory marker on the southwestern tip of Karlson Island through markers on the western tips of Minaker Island to a marker on the Oregon shore.

The waters of Knappa Slough within a 100-foot radius of the railroad bridge crossing Big Creek are closed.

(c) Gear:

Gillnets. Maximum mesh size restriction is 9 3/4-inch through September 7, and 6-inch thereafter. Maximum net length of 100 fathoms and no weight restriction on leadline. Use of additional weights and/or anchors attached directly to the leadline is allowed.

Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten

revolutions of rope with a diameter of 3/8 (0.375) inches or greater. 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.

(d) **Allowable sales:** Chinook, coho, pink, and sockeye salmon, white sturgeon, and shad. A maximum of **four** white sturgeon with a fork length of 44-50 inches may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday). The white sturgeon possession and sales limit includes all Select Area fisheries.

(e) **Miscellaneous:** Permanent transportation rules in effect.

(3) Deep River Select Area

(a) **Dates:** Monday and Wednesday nights during August 27-30, 2018.

Monday, Tuesday, Wednesday, Thursday, and Friday nights September 3-September 22, 2018

Monday, Tuesday, Wednesday, and Thursday nights September 24-October 12, 2018

Open hours: 7 PM-7 AM during August 27-30, and 6 PM-9 AM thereafter.

(b) **Area:** The Deep River fishing area includes all waters from West Deep River Road Bridge at the town of Deep River downstream to the mouth defined by a line from USCG navigation marker #16 southwest to a marker on the Washington shore.

(c) **Gear:** Gillnets. Maximum mesh size restriction is 9 3/4-inch through September 8, and 6-inch thereafter. Maximum net length is 100 fathoms. No weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed. No nets can 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 with 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 shall supersede the permanent regulation and all other regulations that conflict with it.

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

(d) **Allowable sales:** Chinook, coho, pink, and sockeye salmon, white sturgeon, and shad. A maximum of **four** white sturgeon with a fork length of 44-50 inches may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday). The white sturgeon possession and sales limit includes all Select Area fisheries.

(e) **Miscellaneous:** Permanent transportation rules in effect.

(4) 24-hour quick reporting is in effect for Washington buyers WAC 220-352-315. Permanent transportation rules in effect.

(5) Multi-Net Rule: Nets not specifically authorized for use in these areas may be onboard a vessel if properly stored (WAC 220-358-010(2)).

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

REPEALER

The following section of the Washington Administrative Code is repealed effective July 28, 2018:

WAC 220-358-03000R Columbia River seasons below Bonneville. (18-140)

WSR 18-16-065

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 18-160—Filed July 27, 2018, 2:07 p.m., effective July 27, 2018, 2:07 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational salmon fishing rules for Marine Area 11.

Citation of Rules Affected by this Order: Repealing WAC 220-312-06000R.

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

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

Reasons for this Finding: This emergency rule is needed because catch rates have slowed significantly for Marine Area 11 leaving sufficient quota to reinstate a seven day per week fishery. 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 the Request of a Non-governmental 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: July 25, 2018.

Nate Pamplin
for Joe Stohr
Director

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 27, 2018.

Nate Pamplin
for Joe Stohr
Director

REPEALER

The following section of the Washington Administrative Code is repealed effective immediately:

WAC 220-313-06000R Puget Sound salmon—Saltwater seasons and daily limits. (18-160)

WSR 18-16-069
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-178—Filed July 27, 2018, 5:52 p.m., effective August 1, 2018]

Effective Date of Rule: August 1, 2018.

Purpose: Amend recreational sturgeon fishing rules for Lake Roosevelt.

Citation of Rules Affected by this Order: Repealing WAC 220-312-05000G; and amending WAC 220-312-050.

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: Fishery managers in Washington state and British Columbia began sturgeon hatchery programs in the early 2000s in response to a decades-long decline in the white sturgeon population in Lake Roosevelt. Survival rates for those hatchery-produced juvenile sturgeon were much higher than was anticipated. As a result, there is a surplus of these fish available for harvest from Lake Roosevelt. The portion of Lake Roosevelt between China Bend and the Canadian border is managed as a spawning sanctuary for white sturgeon. Sturgeon spawning is completed by August 1, so a one month harvest fishery will be opened in this area. 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 the Request of a Non-governmental 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 SECTION

WAC 220-312-05000S Freshwater exceptions to statewide rules—Eastside. Notwithstanding the provisions of WAC 220-312-050:

(1) Effective immediately through August 31, 2018, it is permissible to fish for sturgeon in waters of Lake Roosevelt from Grand Coulee Dam upstream to the Canadian Border (including the Spokane River from Highway 25 Bridge upstream to 400' below Little Falls Dam, Colville River upstream to Meyers Falls and the Kettle River upstream to Barstow Bridge).

(a) Daily limit of one sturgeon between 53 and 63 inches fork length. Annual limit of two sturgeon.

(b) Anglers are required to record harvested sturgeon on a Catch Record Card.

(c) Anglers may fish with two poles with the purchase of a Two-Pole Endorsement license.

(d) Night closure is in effect. All other statewide rules for white sturgeon apply.

REPEALER

The following section of the Washington Administrative Code is repealed effective August 1, 2018:

WAC 220-312-05000G Freshwater exceptions to statewide rules—Eastside. (18-74)

WSR 18-16-084
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-179—Filed July 30, 2018, 2:56 p.m., effective August 1, 2018]

Effective Date of Rule: August 1, 2018.

Purpose: Amend recreational fishing rules for the Columbia River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-06000S; and amending WAC 220-312-060.

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

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

Reasons for this Finding: The department is in the process of adopting permanent rules that are necessary to implement the personal use fishing plans agreed-to with resource

comanagers at the North of Falcon proceedings. Fisheries have been adjusted and are needing continuing coverage. These emergency rules are necessary to comply with agreed-to management plans, and are interim until permanent rules take effect.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: July 30, 2018.

Joe Stohr
Director

NEW SECTION

WAC 220-312-06000S Freshwater exceptions to statewide rules—Columbia River. Notwithstanding the provisions of WAC 220-312-060, effective August 1 through August 16, 2018, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect.

(1) General Columbia River rules:

(a) From August 1 through August 16, from a true north-south line through Buoy 10 to the Old Hanford town site wooden powerline towers: Fishing at night is permitted in Washington waters.

(2) Rules by river section:

(a) From a true north-south line through Buoy 10 to a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank.

(i) Salmon and steelhead, August 1 through August 16, 2018.

(A) Daily limit 1.

(B) Release all salmonids except Chinook, hatchery coho and hatchery steelhead.

(b) From Rocky Point on the Washington bank through Red Buoy 44 to Bonneville Dam:

(i) Salmon and steelhead, August 1 through August 16, 2018:

(A) Daily limit 6, no more than 1 adult salmon or 1 hatchery steelhead may be retained.

(B) Release all salmon other than Chinook and hatchery coho.

(c) From Bonneville Dam to Hood River Bridge:

(i) Salmon and steelhead, August 1 through August 16, 2018:

(A) Daily limit 6, no more than 2 adult salmon or 1 adult salmon and 1 hatchery steelhead may be retained. No more than 1 salmon may be an adult Chinook.

(B) Release all salmon other than Chinook and hatchery coho.

(d) From Hood River Bridge to Hwy 395 Bridge at Pasco:

(i) Salmon and steelhead, August 1 through August 16, 2018:

(A) Daily limit 6, no more than 2 adult salmon or 1 adult salmon and 1 hatchery steelhead may be retained. No more than 1 salmon may be an adult Chinook.

(B) Release all salmon other than Chinook and coho.

(e) From HWY 395 Bridge at Pasco to Priest Rapids Dam:

(i) Salmon, August 16, 2018:

(A) Daily limit 6, no more than 2 adults may be retained.

REPEALER

The following section of the Washington Administrative Code is repealed effective August 17, 2018:

WAC 220-312-06000S Freshwater exceptions to statewide rules—Columbia River.

WSR 18-16-085

EMERGENCY RULES

DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

[Filed July 30, 2018, 4:01 p.m., effective July 30, 2018, 4:01 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Repealing WAC 246-840-035 Initial licensure for registered nurses, regarding nurses who complete out-of-state nontraditional nursing education and new WAC 246-840-048 Students enrolled in a nontraditional nursing program, the nursing care quality assurance commission (commission) repeals WAC 246-840-035 because the legislature repealed the authorizing statute. The commission also creates a new section of rules addressing the needs of students effected by the repeal of RCW 18.79.380. This third emergency rule making, with the exact same rule language, replaces the second emergency rule filed on April 4, 2018, as WSR 18-08-088. Permanent rule making has been initiated; a CR-101 was filed on February 23, 2018, as WSR 18-06-009, and rule drafting is in progress.

Citation of Rules Affected by this Order: New WAC 246-840-048; and repealing WAC 246-840-035.

Statutory Authority for Adoption: RCW 18.79.110.

Other Authority: HB 1721 (chapter 203, Laws of 2017), RCW 18.79.180, and 18.79.200.

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 repeal of RCW 18.79.380 Licensed practical nurse/nontraditional registered nurse program—Obtaining required clinical experience, effective July 23, 2017, under HB 1721 (chapter 203, Laws of 2017), leaves a number of students currently enrolled in nontraditional nursing programs without an avenue to apply for licensure in Washington state after their graduation. Current national and state nursing education standards require faculty-directed clinical practice experiences at all levels of nursing education to develop both practical and clinical reasoning skills necessary for quality, safe patient care. No mechanism exists for these students to complete the required registered nurse practice experience in a safe, supervised manner. The commission establishes standards to ensure these students complete the required clinical practice experience. Ultimately, patient and public protection are most important, and supervision of students by qualified faculty members assures students receive quality learning experiences necessary to practice at a level to protect the public when the student obtains licensure as a registered nurse. These rules only impact students who were enrolled in a nontraditional nursing program when HB 1721 took effect in July 2017.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: July 30, 2018.

Paula R. Meyer, MSN, RN, FRE
Executive Director
Nursing Care Quality
Assurance Commission

NEW SECTION

WAC 246-840-048 Students enrolled in a nontraditional nursing program. This section applies to a licensed practical nurse (LPN) enrolled in a nontraditional LPN to registered nurse (RN) program on July 27, 2017, and describes the eligibility requirements for obtaining an interim permit.

(1) Graduates may apply for interim permits after degree confirmation by the nontraditional program.

(a) An LPN enrolled in a nontraditional nursing program on July 27, 2017, has until July 27, 2020, to complete the nontraditional program, as defined in WAC 246-840-010.

(b) An LPN successfully completing a nontraditional nursing program after July 27, 2020, must obtain licensure by endorsement by completing at least one thousand hours of

practice as an RN and without discipline on the registered nurse license.

(2)(a) An LPN successfully completing the nontraditional nursing program and passing the National Council of State Boards of Nursing Registered Nurse Licensing Examination (NCLEX-RN®) may be eligible to receive an interim permit for the purpose of completing one thousand hours of clinical practice experience in the role of an RN.

(b) Only students licensed as an LPN in Washington state and identified by the nontraditional program on July 27, 2017, will be considered eligible to obtain initial licensure from the commission under this section.

(3) An LPN successfully completing a nontraditional nursing program as identified in subsection (2)(b) of this section must:

(a) Submit a completed RN application indicating the need for an interim permit with the required fee, as defined in WAC 246-840-990;

(b) Request an official transcript be sent directly to the commission from the nontraditional nursing education program confirming a conferred associate degree in nursing;

(c) Successfully pass the National Council of State Boards of Nursing Registered Nurse Licensing Examination (NCLEX-RN®);

(d) Complete one thousand hours of practice under an interim permit in the role of an RN; and

(e) Provide documented evidence from a commission approved supervising licensed RN documenting the interim permit holder successfully completed the one thousand hours of practice in an RN role.

(4) The supervising RN from the acute care, skilled nursing, or transitional care facility must:

(a) Submit a commission approved application;

(b) Have an active, unencumbered RN license;

(c) Attest to not being related to or personal friends of the interim permit holder;

(d) Have three years experience as an RN;

(e) Have demonstrated teaching and mentoring skills; and

(f) Be able to evaluate, with input from others, the practice of the interim permit holder in the role of an RN.

(5) The interim permit expires one year after the submission of the application and is not renewable.

(6) An interim permit holder who does not successfully fulfill the practice requirements, as identified in subsection (3)(c) and (d) of this section, does not meet the requirements for licensure by examination as an RN in the state of Washington.

(7) The holder of the interim permit is subject to chapter 18.130 RCW, Regulation of health professionals—Uniform Disciplinary Act.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-840-035 Initial licensure for registered nurses— Out-of-state nontraditional nursing education program approved by another United States nursing board as defined by WAC 246-840-010(16).

WSR 18-16-097**EMERGENCY RULES****DEPARTMENT OF HEALTH**

(Pharmacy Quality Assurance Commission)

[Filed July 31, 2018, 12:12 p.m., effective July 31, 2018, 12:12 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Chapter 246-873A WAC, Hospital pharmacy associated clinics, the pharmacy quality assurance commission (commission) is establishing standards supporting the regulation, inspection, and investigation of pharmacy services provided in individual practitioner offices and multipractitioner clinics owned and operated by a hospital based on a level of risk and the type of pharmacy services provided at a particular location. This filing supersedes and replaces emergency rules filed as WSR 18-08-070 on April 3, 2018.

Citation of Rules Affected by this Order: New WAC 246-873A-010, 246-873A-020, 246-873A-030, 246-873A-040, 246-873A-050, 246-873A-060, 246-873A-070, 246-873A-080, 246-873A-090, and 246-873A-095.

Statutory Authority for Adoption: RCW 18.64.043(6).

Other Authority: RCW 18.64.043, 18.64.005.

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: SSB 6558 (chapter 118, Laws of 2016) amended RCW 18.64.043 directing the commission to adopt emergency rules to implement the bill and to keep the emergency rules in effect until permanent rules are adopted. The standards in this emergency rule have not changed from the previous emergency rule. The commission has filed a preproposal statement of inquiry, WSR 16-16-025, and has initiated stakeholder work on developing proposed 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 10, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental 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 10, Amended 0, Repealed 0.

Date Adopted: June 29, 2018.

Tim Lynch, PharmD, MS, Chair
Pharmacy Quality Assurance Commission

Chapter 246-873A WAC**HOSPITAL PHARMACY ASSOCIATED CLINICS**NEW SECTION

WAC 246-873A-010 Definitions. The definitions in this section apply throughout this chapter, unless the context clearly indicates otherwise:

(1) "Clinic" means a facility that is established primarily to furnish outpatient health care services by an individual or group of practitioners.

(2) "Commission" means the Washington state pharmacy quality assurance commission.

(3) "Compounding" means the preparation or combining of any two or more active ingredients or components into a drug product as the result of a practitioner's prescription drug order or initiative based on the practitioner, patient, and pharmacist relationship in the course of professional practice or for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing. Compounding also includes the preparation of drugs in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns. Compounding does not include mixing, reconstituting or other such acts that are performed in accordance with the directions contained in approved labeling provided by the product's manufacturer.

(4) "Hospital pharmacy associated clinic" or "HPAC" means an individual practitioner's office or multipractitioner clinic owned, operated, or under common control of a parent hospital or health system, where the physical address of the office or clinic is identified on a hospital pharmacy license.

(5) "Parent hospital pharmacy" means a hospital pharmacy licensed under chapter 70.41 RCW, adding hospital pharmacy associated clinics to their hospital pharmacy license in accordance with chapter 18.64 RCW and this chapter.

(6) "Practice of pharmacy" shall have the same meaning as RCW 18.64.011.

(7) "Practitioner" has the same meaning as RCW 18.64.011, and those individuals authorized to possess drugs.

(8) "Prescription" has the same meaning as RCW 18.64.011.

(9) "Responsible manager" has the same meaning as WAC 246-869-070.

(10) "Transfer" means to move drugs from the parent hospital pharmacy to the hospital pharmacy associated clinic.

NEW SECTION

WAC 246-873A-020 Hospital pharmacy associated clinic—Licensing. (1) New hospital pharmacy license. A parent hospital pharmacy applying for a new hospital pharmacy license or submitting a change in hospital ownership must:

(a) Submit a full application to the department and identify any HPACs to be included under the hospital pharmacy license, along with the applicable fees established under WAC 246-907-030 and 246-907-040; and

(b) Pass an inspection by a commission pharmacist investigator in accordance with this chapter.

(2) Current hospital pharmacy license holders. The parent hospital pharmacy must notify the commission in writing of any change of HPAC ownership, location of HPACs, and addition or removal of HPACs from the parent hospital pharmacy license.

(a) Adding HPACs. A parent hospital pharmacy may add HPACs on a hospital pharmacy license at any time and must file a hospital pharmacy license addendum with the commission along with applicable fees set forth in WAC 246-907-0302. Added HPACs are subject to inspection in accordance with this chapter.

(b) Removing HPACs. A parent hospital pharmacy removing HPACs from the parent hospital pharmacy license must comply with WAC 246-873A-095.

(3) HPAC locations are identified as follows:

(a) Category 1 HPAC: Receives drugs transferred from the parent hospital pharmacy to the HPAC, and does not perform sterile or nonsterile compounding of drugs. This does not infer that pharmaceutical services are provided at this location.

(b) Category 2 HPAC: Receives drugs transferred from the parent hospital pharmacy to the HPAC, and performs sterile or nonsterile compounding of drugs.

(4) A HPAC licensed under the parent hospital pharmacy license must obtain a Drug Enforcement Administration (DEA) registration for purposes of possessing controlled substances.

NEW SECTION

WAC 246-873A-030 Responsible manager. The responsible manager shall comply with the requirements of WAC 246-873-080 (3), (4), (7) and (8).

NEW SECTION

WAC 246-873A-040 Physical requirements of a HPAC. Physical requirements must be consistent with the applicable subsections of WAC 246-873-070 according to the HPAC category type.

NEW SECTION

WAC 246-873A-050 HPAC drug transfer and control. The following apply to both Category 1 and Category 2 HPACs:

(1) General drug transfer. A licensed hospital pharmacy is permitted without a wholesaler license to engage in intra-

company sales, being defined as any transaction or transfer between any division, subsidiary, parent company, affiliated company, or related company under common ownership and control of the corporate entity;

(2) Patient specific drugs. A licensed hospital pharmacy dispensing appropriately labeled, patient specific drugs to a HPAC licensed under the parent hospital pharmacy may do so only pursuant to a valid patient order or prescription and the order or prescription information is authenticated in the medical record of the patient to whom the legend drug or controlled substance will be provided according to the policy and procedures of the parent hospital pharmacy.

(3) Storage. The parent hospital pharmacy's policy and procedures must specify HPAC drug storage parameters consistent with WAC 246-869-150.

(4) Drug samples. Nothing in this chapter prohibits a practitioner from dispensing drug samples in accordance with state and federal laws and regulations.

(5) Controlled substance accountability. The responsible manager of the parent hospital pharmacy must include accountability standards of controlled substances consistent with WAC 246-873-080(7) in the HPAC policies and procedures.

(6) Drug recall. A recall procedure must be in place to assure that potential harm to patients within a HPAC is prevented and that all drugs included on the recall are returned to the parent hospital pharmacy for proper disposition.

NEW SECTION

WAC 246-873A-060 Labeling. (1) Labels on medications dispensed to HPAC patients, including drug samples, must meet the requirements of RCW 69.41.050. This does not apply to HPAC administered medications.

(2) Parenteral and irrigation solutions in Category 2 HPACs. When drugs are added to intravenous solutions, a suitable label shall be affixed to the container and at a minimum should include the following:

(a) The name of the patient;

(b) Name and amount of drug(s) added;

(c) Beyond use date; and

(d) Initials of the personnel who prepared and checked the solution.

NEW SECTION

WAC 246-873A-070 Records. All transaction and inventory records must be maintained in compliance with applicable sections in chapter 246-875 WAC according to the HPAC category type.

NEW SECTION

WAC 246-873A-080 Administration of drugs. (1) Drugs administered in a HPAC shall only be administered by Washington state credentialed personnel, acting within their scope of practice, in accordance with state and federal laws and regulations governing such acts.

(2) Drugs must be administered only upon the valid order of a practitioner, as defined in RCW 69.50.101, who is licensed to prescribe legend drugs or controlled substances

and who has been granted clinical privileges to write such orders.

(3) All medications administered to HPAC patients must be recorded in the patient's medical record.

NEW SECTION

WAC 246-873A-090 Inspections of HPAC. The commission shall conduct inspections of HPACs in conjunction with associated hospital pharmacy inspections under WAC 246-869-190 and consistent with WAC 246-869-110. All deficiencies shall be noted on the hospital pharmacy inspection form.

(1) A representative sample of Category 1 HPACs not performing compounding are subject to inspection as determined by the commission investigator. Category 1 HPACs will be inspected to the standards established in this chapter.

(2) All Category 2 HPACs performing on-site sterile or nonsterile compounding will be inspected. Category 2 HPACs will be inspected to standards established in this chapter, RCW 18.64.270, and chapter 246-878 WAC.

NEW SECTION

WAC 246-873A-095 Removal of HPAC from a hospital pharmacy license. (1) The parent hospital pharmacy shall notify the commission of the removal of a HPAC from the hospital pharmacy license no later than fifteen days prior to the anticipated date of removal or closing of the HPAC. This notice must be submitted in writing and shall contain all of the following information:

(a) The date the HPAC will no longer be listed under the parent hospital pharmacy;

(b) The names and addresses of the person(s) who will have custody of the prescription files, the repackaging records, and the controlled substances inventory records of the HPAC being removed from the parent hospital pharmacy license or closed; and

(c) The names and addresses of any persons who will acquire any of the legend drugs, including controlled substances, from the HPAC.

(2) A written statement containing the following information must be filed with the commission no later than fifteen days after the planned removal of the HPAC:

(a) Confirmation that all legend drugs have been transferred to an authorized person(s) or destroyed. If the legend drugs were transferred, the names and addresses of the person(s), or alternate HPAC location(s) to whom they were transferred;

(b) If controlled substances were transferred, a list of the name(s) and address (or addresses) of the DEA registrant(s) to whom the substances were transferred, the substances transferred, the amount of each substance transferred, and the date on which the transfer took place;

(c) Confirmation that the DEA registration and all unused DEA 222 forms (order forms) were returned to the DEA;

(d) Confirmation that all labels and blank prescriptions in the possession of the HPAC were destroyed or otherwise accounted for; and

(e) Confirmation that all signs and symbols indicating the ownership or affiliation to the parent hospital pharmacy have been removed.

WSR 18-16-098

EMERGENCY RULES

DEPARTMENT OF HEALTH

(Pharmacy Quality Assurance Commission)

[Filed July 31, 2018, 12:17 p.m., effective July 31, 2018, 12:17 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 246-887-134 Adding fentanyl derivatives not approved by the Food and Drug Administration (FDA), synthetic cannabinoids, synthetic cathinones, and synthetic opioids to Schedule I, the pharmacy quality assurance commission (commission) is adopting a new section of rule to add fentanyl derivatives not approved by FDA, synthetic cannabinoids, synthetic cathinones, and synthetic opioids to Schedule I under the Uniform Controlled Substance[s] Act (CSA) making it illegal to sell, possess, manufacture, or deliver chemicals or products containing these substances. This filing replaces and supersedes emergency rules filed as WSR 18-09-019 filed on April 10, 2018. The requirements of this fourth emergency rule are the same as the requirements filed in previous emergency rule.

Citation of Rules Affected by this Order: New WAC 246-887-134.

Statutory Authority for Adoption: RCW 69.50.201 and 69.50.203.

Other Authority: RCW 18.64.005(7).

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: RCW 69.50.201(e) allows the commission to schedule substances that pose an imminent hazard to public safety by emergency rule. The substances added in rule present a clear and imminent danger to the public. Health warnings have been issued by a number of state public health departments and national poison control centers listing adverse health outcomes such as chest pains, anxiety, elevated blood pressure, seizures, extreme paranoia, delusions, hallucinations, and dependency. These effects are similar to the effects of some illegal drugs, such as heroin, cocaine, methamphetamine, and ecstasy. In addition, there have been reports of injuries and deaths linked to activities resulting from use of these substances. The commission intends to adopt permanent rules on the sales, possession, manufacture or delivery of chemicals or products containing fentanyl derivatives. The commission plans to file formal proposed rules in late 2018.

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 the Request of a Non-governmental 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 1, Amended 0, Repealed 0.

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

Date Adopted: June 29, 2018.

Tim Lynch, PharmD, MS, Chair
Pharmacy Quality Assurance Commission

NEW SECTION

WAC 246-887-134 Adding fentanyl derivatives not approved by the Food and Drug Administration (FDA), synthetic cannabinoids, synthetic cathinones, and synthetic opioids to Schedule I.

(1) The Washington state pharmacy quality assurance commission finds the following substances have high potential for abuse and have no medical use in treatment in the United States or they lack accepted safety for use in treatment under medical supervision. The commission, therefore, places each of the following substances in Schedule I.

(2) The controlled substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name, are included in Schedule I.

(a) Fentanyl derivatives not approved by the FDA. Unless specifically excepted or unless listed in another schedule, any of the following fentanyl derivatives, their salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(i) Acetyl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide)

(ii) Butyryl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide, also known as N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide)

(iii) Beta-Hydroxythiofentanyl (N-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-N-phenylpropionamide, also known as N-[1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl]-N-phenylpropanamide, (beta-hydroxythiofentanyl))

(iv) Furanyl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide)

(b) Synthetic cannabinoids (Spice) and its derivatives. Unless specifically excepted or unless listed in another schedule, any of the following synthetic cannabinoid derivatives, their salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(i) Cannabicyclohexanol, CP-47,497 C8 Homologue (5-(1,1-dimethyloctyl)-2-(3-hydroxycyclohexyl)-phenol

(ii) MAB-CHMINACA(N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide (also known as ADB-CHMINACA)

(iii) UR-144(1-pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone)

(iv) XLR11([1-(5-fluoro-pentyl)-1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone) (also known as 5-fluoro-UR-144)

(v) AKB48(N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide) (also known as APINACA)

(vi) PB-22 (quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate) (also known as QUPIC)

(vii) 5F-PB-22(quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (also known as 5-fluoro-PB-22)

(viii) AB-FUBINACA(N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)

(ix) ADB-PINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)

(x) AB-PINACA (N-[1-Amino-3-methyl-1-oxo-2-butan-1-yl]-1-pentyl-1H-indazole-3-carboxamide)

(xi) AB-CHMINACA (N-[1-Amino-3-methyl-1-oxo-2-butan-1-yl]-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide)

(xii) THJ-2201([1-(5-Fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone)

(xiii) 5F-ADB (methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate) (also known as 5F-MDMB-PINACA)

(xiv) 5F-AMB (methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate)

(xv) 5F-APINACA (N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide) (also known as 5F-AKB48)

(xvi) ADB-FUBINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)

(xvii) MDMB-CHMICA (methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate (also known as MMB-CHMINACA)

(xviii) MDMB-FUBINCACA (methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)

(c) Synthetic cathinones (Bath salts) and its derivatives. Unless specifically excepted or unless listed in another schedule, any of the following synthetic cathinones derivatives, their salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(i) 4-MEC (4-methyl-N-ethylcathinone)

(ii) 4-MePPP (4-methyl-alpha-pyrrolidinopropiophenone)

(iii) [alpha]-PVP (alpha-pyrrolidinopentiophenone)

(iv) Pentadone (2-(methylamino)-1-phenylpentan-1-one)

(v) 4-FMC, Flephedrone (4-fluoro-N-methylcathinone)

(vi) 3-FMC (3-fluoro-N-methylcathinone)

(vii) Naphyrone (1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one)

(viii) [alpha]-PBP (alpha-pyrrolidinobutiophenone)

(d) Synthetic opioids and its derivatives. Unless specifically excepted or unless listed in another schedule, any of the following synthetic opioid derivatives, their salts, isomers, and salts of isomers, whenever the existence of these salts,

isomers, and salts of isomers is possible within the specific chemical designation:

U-47700 (3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide)

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

WSR 18-16-111
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-181—Filed July 31, 2018, 5:19 p.m., effective July 31, 2018, 5:19 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial salmon beach seine rules in Catch Reporting Area 12C.

Citation of Rules Affected by this Order: Repealing WAC 220-354-21000A; and amending WAC 220-354-210.

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: Harvestable surplus of Chinook salmon is available in the Hoodspport Hatchery Zone for a commercial beach seine opening and only this portion of 12C is open. This emergency rule is necessary to define the geographic extent of the Hoodspport Hatchery Zone. 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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: July 31, 2018.

Joe Stohr
Director

NEW SECTION

WAC 220-354-21000A Puget Sound salmon—Beach seine—Open periods. Notwithstanding the provisions of

WAC 220-354-210, 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 Area 12C except in accordance with the area indicated below. Unless otherwise amended, all permanent rules remain in effect:

| Open Area |
|--|
| Hoodspport Hatchery Zone, as defined as that portion of Area 12C within 2,000 feet of the western shore between the dock at Glen Ayr Recreational Vehicle Park and the Hoodspport Marina dock. |

REPEALER

The following section of the Washington Administrative Code is repealed effective 7:01 PM September 5, 2018:

WAC 220-354-21000A Puget Sound salmon—Beach seine—Open periods.