

WSR 19-09-002
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-66—Filed April 3, 2019, 3:21 p.m., effective April 17, 2019]

Effective Date of Rule: April 17, 2019.

Purpose: Amends freshwater recreational rules for Sarg Hubbard Park Pond.

Citation of Rules Affected by this Order: Repealing WAC 220-312-05000E; 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: This rule change is necessary to ensure a successful youth fishing event. Several thousand rainbow trout will be stocked prior to the event for acclimation. This helps ensure they will bite while the kids are fishing. During the event, only registered kids will be allowed to fish. 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: April 3, 2018.

Joe Stohr
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-05000E Exceptions to statewide rules—Sarg Hubbard Park (aka Reflection) Pond. Notwithstanding the provisions of and WAC 220-312-050, effective 12:01 a.m. April 17, through 4:00 p.m. April 20, 2019, it is unlawful to fish in Sarg Hubbard Park Pond, except as provided in the sections below:

(a) Open to fishing 8:00 a.m. to 4:00 p.m. April 20, 2019, by juvenile anglers participating in the Yakima Greenway Association's "Kids' Fish-In" event.

(b) The daily limit is reduced to two (2) trout during the youth fishing event.

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 4:01 p.m. April 20, 2019:

WAC 220-312-05000E Exceptions to statewide rules—
Sarg Hubbard Park Pond.

WSR 19-09-009
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-48—Filed April 5, 2019, 9:00 a.m., effective April 20, 2019]

Effective Date of Rule: April 20, 2019.

Purpose: Amends freshwater recreational rules for Langlois Lake.

Citation of Rules Affected by this Order: Repealing WAC 220-312-04000J; and amending WAC 220-312-040.

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

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

Reasons for this Finding: This emergency rule is needed to open Langlois Lake for one day of fishing to provide angling opportunity for Project Healing Waters which is dedicated to the physical and emotional rehabilitation of disabled active military service personnel and disabled veterans through fishing. 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: April 5, 2019.

Joe Stohr
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000J Freshwater exceptions to statewide rules—Langlois Lake. Notwithstanding the provisions of WAC 220-312-040, effective one hour before official sunrise to one hour after official sunset on April 20, 2019, it is permissible for anglers participating in the Project Healing Waters fishing event to fish in the waters of Langlois Lake. Statewide size and daily limits apply.

REPEALER

The following section of the Washington Administrative Code is repealed effective April 21, 2019:

WAC 220-312-04000J Freshwater exceptions to statewide rules—Langlois Lake.

WSR 19-09-011
RECISSION OF EMERGENCY RULES
DEPARTMENT OF HEALTH

[Filed April 5, 2019, 1:13 p.m.]

The pharmacy quality assurance commission (commission) is requesting to rescind the CR-103E for WAC 246-887-134, filed January 7, 2019, and published in WSR 19-03-038.

The commission filed a CR-103E to update the rules related to the Controlled Substances Act, adding fentanyl derivatives not approved by the Food and Drug Administration, synthetic cannabinoids, synthetic cathinones and synthetic opioids to Schedule I. The commission has now adopted permanent rules which incorporate this emergency rule and, as such, it is no longer necessary.

Individuals requiring information on this rule should contact Caitlin Gates, pharmacy commission rules and legislative consultant, at 360-236-2932.

Tami M. Thompson
Regulatory Affairs Manager

WSR 19-09-017
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-69—Filed April 8, 2019, 4:40 p.m., effective April 11, 2019]

Effective Date of Rule: April 11, 2019.

Purpose: Amends recreational salmon fishing rules for Puget Sound.

Citation of Rules Affected by this Order: Repealing WAC 220-313-06000Y and 220-313-06000Z; 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 recreational salmon fishing in Marine Catch Record Areas 8-1 and 8-2. Preliminary estimates indicate that the total encounters of Chinook salmon is approaching the fishery guideline and encounters of legal-sized fish have exceeded preseason predictions. The fishery is being closed to avoid exceeding the allowable limit of total encounters including both retained and released fish, and to control impacts on stocks of concern while ensuring compliance with conservation objectives. 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: April 8, 2019.

Joe Stohr
for Kelly Susewind
Director

NEW SECTION

WAC 220-313-06000Z Puget Sound salmon—Salt-water seasons and daily limits. Notwithstanding the provisions of WAC 220-313-060, the following rules apply effective April 11, 2019:

1. Catch Record Card Area 5, effective immediately through April 30, 2019:

- a. Daily limit two salmon.
- b. Release wild coho and wild Chinook.

2. Catch Record Card Area 6, effective immediately through April 15, 2019:

- a. Daily limit two salmon.
- b. Release wild coho and wild Chinook.

3. Catch Record Card Area 8-1, effective immediately through April 30, 2019: Salmon closed.

4. Catch Record Card Area 8-2, effective immediately through April 30, 2019: Salmon closed.

REPEALER

The following section of the Washington Administrative Code is repealed effective April 11, 2019:

WAC 220-313-06000Y Puget Sound salmon—Saltwater seasons and daily limits. (19-42)

The following section of the Washington Administrative Code is repealed effective May 1, 2019:

WAC 220-313-06000Z Puget Sound salmon—Saltwater seasons and daily limits. (19-69)

WSR 19-09-022
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-71—Filed April 9, 2019, 2:07 p.m., effective May 1, 2019]

Effective Date of Rule: May 1, 2019.

Purpose: Amends recreational fishing rules for the Chehalis River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-02000M; 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: This emergency rule is needed to close a portion of the Chehalis River to salmon angling because the forecasted abundance of spring Chinook salmon returning to the Chehalis River Basin is less than the spawning escapement goal. There are no fish available for recreational harvest. There is insufficient time to adopt permanent rules.

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

Number of Sections Adopted at 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: April 9, 2019.

Joe Stohr
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-02000M Freshwater exceptions to statewide rules—Coast. Notwithstanding the provisions of WAC 220-312-020, effective May 1 through June 30, 2019, it is unlawful to fish for salmon in those waters of the Chehalis River from the mouth (Hwy 101 Bridge) to the Hwy 6 Bridge in the town of Adna.

REPEALER

The following section of the Washington Administrative Code is repealed effective July 1, 2019:

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

WSR 19-09-025
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-70—Filed April 10, 2019, 8:57 a.m., effective April 10, 2019, 8:57 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational shrimp rules for Puget Sound.

Citation of Rules Affected by this Order: Repealing WAC 220-330-07000M; and amending WAC 220-330-070.

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

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

Reasons for this Finding: This regulation is needed to ensure an orderly fishery, manage the fishery within court-ordered sharing requirements, and ensure conservation. Harvestable amounts of spot shrimp are available, but only enough recreational shares exist for a limited number of open days in the marine areas listed in this section. In addition, this emergency regulation opens the Marine Area 4, 5, 6 and 7 seasons one hour before sunrise to one hour after sunset, which is the default daily start time and times for those areas. Marine Area 13 will remain closed for spot shrimp for conservation reasons. 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: April 9, 2019.

Joe Stohr
for Kelly Susewind
Director

NEW SECTION

WAC 220-330-07000M Shrimp—Areas and seasons.

Notwithstanding the provisions of WAC 220-330-070, effective immediately through June 2, 2019, it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Areas 4 (east of the Bonilla-Tatoosh line), 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12, 13 and the Discovery Bay Shrimp District, except as provided for in this section:

(1) Marine Areas 4 (east of the Bonilla-Tatoosh line) and 5: Open May 11 through June 2.

(2) Marine Areas 7 South:

- a. Open May 11 through May 12;
- b. Open May 16 through May 19;
- c. Open May 23 through May 24.

(3) Marine Areas 7 East:

- a. Open May 11 through May 12;
- b. Open May 16 through May 19;
- c. Open May 23 through May 26;
- d. Open May 30 through June 2.

(4) Marine Areas 6 (excluding the Discovery Bay Shrimp District) and 7 West:

- a. Open May 11 through May 12;
- b. Open May 16 through May 19;
- c. Open May 23 through May 26;
- d. Open May 30 through June 2.

(5) Marine Areas 8-1 and 8-2:

a. Open May 11 from 7:00 a.m. through 1:00 p.m., and May 15 from 7:00 a.m. through 1:00 p.m.

b. Divers may take shrimp by hand or hand-held device from 7:00 p.m. until midnight on those open days in Marine Area 8-2.

(6) Marine Area 9: Open May 11 from 7:00 a.m. through 11:00 a.m. and May 15 from 7:00 a.m. through 11:00 a.m.

(7) Marine Area 10 west of a line from West Point to Alki Point: Open May 11 from 7:00 a.m. through 11:00 a.m.

(8) Marine Area 10 east of a line from West Point to Alki Point: Open May 11 from 7:00 a.m. through 1:00 p.m.

(9) Marine Area 11: Open May 11 from 7:00 a.m. through 1:00 p.m.

(10) Marine Area 12: Open May 11, 15, 29 and June 1 from 9:00 a.m. through 1:00 p.m.

(11) Discovery Bay Shrimp District: Open May 11, 15, 29 and June 1 from 9:00 a.m. through 3:00 p.m.

(12) Marine Area 13: CLOSED

REPEALER

The following section of the Washington Administrative Code is repealed effective 8:00 p.m. June 2, 2019:

WAC 220-330-07000M Shrimp—Areas and seasons.

WSR 19-09-026

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed April 10, 2019, 9:08 a.m., effective April 11, 2019]

Effective Date of Rule: April 11, 2019.

Purpose: The department is amending WAC 388-825-091 Am I eligible for residential habilitation center (RHC) services? and creating WAC 388-837-9010 Must a client in an ICF/IID be able to benefit from active treatment?, on an emergency basis to correctly reflect federal ICF/IID eligibility requirements.

Citation of Rules Affected by this Order: New WAC 388-837-9010; and amending WAC 388-825-091.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: 42 C.F.R. 483.440.

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: These rules are necessary to comply with federal medicaid law. Failure to enact these rules immediately jeopardizes the receipt of federal funds. This is the third emergency rule filing on these rules. The department revised the language between the second and third filings in response to community stakeholder feedback received during external review. This subsequent filing is necessary to keep the rule effective until the permanent rule-making process is complete.

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

Date Adopted: March 27, 2019.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-17-094, filed 8/18/15, effective 9/18/15)

WAC 388-825-091 Am I eligible for residential habilitation center (RHC) services? (1) If you are twenty-one years of age or over, you are eligible to receive residential habilitation center (RHC) services if:

(a) You have been determined to meet DDA eligibility criteria;

(b) You choose to receive services in the RHC;

(c) ~~((You need the level of care provided at the RHC; and~~
~~(d)))~~ DDA has determined that you can be supported safely in an RHC environment and will not pose a danger to other residents of the RHC; ~~((~~or~~))~~ and

(d) You need the level of care provided at the RHC, which is either:

(i) Nursing facility level of care under WAC 388-106-0355 for a client admitted to a state-operated nursing facility;
or

(ii) Intermediate care facility for individuals with intellectual disabilities (ICF/IID) level of care under WAC 388-828-1020 for a client admitted to a state-operated ICF/IID.

(2) If you are sixteen through twenty years of age, and meet (1)(a) through (d) above you may not be admitted to receive services at a residential habilitation center unless there are no service options available in the community to appropriately meet your needs. Such admission is limited to the provision of short-term respite or crisis stabilization services.

(3) If you are under age sixteen you are not eligible to receive services at a residential habilitation center.

(4) Admission to a nursing facility at a RHC also requires completion of preadmission screening and resident review (PASRR) requirements as described in chapter 388-97 WAC.

NEW SECTION

WAC 388-837-9010 Must a client in an ICF/IID be able to benefit from active treatment? An individual admitted to a residential habilitation center's intermediate care facility for individuals with intellectual disabilities must be in need of and able to benefit from continuous and aggressive active treatment.

WSR 19-09-028
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-68—Filed April 10, 2019, 10:49 a.m., effective April 10, 2019, 10:49 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules for the halibut fishery.

Citation of Rules Affected by this Order: Repealing WAC 220-314-03000Q; and amending WAC 220-314-030.

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

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

Reasons for this Finding: This rule is in line with federal action taken by the Pacific Fisheries Management Council, International Pacific Halibut Commission and the interim final rule adopted by the National Marine Fisheries Service. The recreational halibut quota is sufficient to provide for these seasons. 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: April 10, 2019.

Joe Stohr
for Kelly Susewind
Director

NEW SECTION

WAC 220-314-03000R Halibut—Seasons—Daily and possession limits. Notwithstanding the provisions of WAC 220-314-030, 220-314-040, and 220-314-010, effective immediately until further notice, it is unlawful to fish for or possess halibut taken for personal use, except as provided in this section:

(1) Catch Record Card Area 1:

(a) Open Thursday, May 2; Sunday May 5; Thursday, May 9; Sunday, May 12; Friday, May 24; Sunday, May 26.

(b) It is unlawful during any vessel trip to bring into port or land bottomfish except sablefish, Pacific Cod, or flat fish species when halibut are on board.

(c) Lingcod can be retained when halibut are on board, during the halibut season north of the Washington-Oregon border.

(2) Catch Record Card Area 1 (Nearshore fishery); Those waters shoreward from 46°38.17'N. lat., 124°15.88'W. long., to the WA/OR border at 46°16.00'N. lat., 24°15.88'W. long. (then connecting to the 40 fathom depth contour in Oregon):

(a) Open May 6, 2019, until further notice, Mondays through Wednesdays.

(b) It is permissible to retain bottomfish while possessing halibut onboard boats in the nearshore area.

(3) **Catch Record Card Area 2:** Open Thursday, May 2; Sunday May 5; Thursday, May 9; Sunday, May 12; Friday, May 24.

(a) From the second Saturday in March through May 31, it is unlawful to fish for or possess lingcod, seaward of line approximating the 30-fathom depth contour as defined by the coordinates below. However, a person may fish for and retain lingcod on days open during the primary halibut season seaward of a line approximating the 30-fathom depth contour as defined by the coordinates below:

47°31.70'N. lat., 124°37.03'W. long.
 47°25.67'N. lat., 124°34.79'W. long.
 47°12.82'N. lat., 124°29.12'W. long.
 46°52.94'N. lat., 124°22.58'W. long.
 46°44.18'N. lat., 124°18.00'W. long.
 46°38.17'N. lat., 124°15.88'W. long.

(4) Card Areas 3 and 4:

(a) Open Thursday, May 2; Saturday, May 4; Thursday, May 9; Saturday, May 11; Saturday, May 18; Friday, May 24; Sunday, May 26; Thursday, June 6; Saturday, June 8; Thursday, June 20; Saturday, June 22

(b) The following area southwest of Cape Flattery is closed to fishing for halibut at all times:

Beginning at 48°18' N., 125°18' W.; thence to 48°18'N., 124°59'W.; thence to 48°11'N., 124°59'W.; thence to 48°11'N., 125°11'W.; thence to 48°04'N., 125°11'W.; thence to 48°04'N., 124°59'W.; thence to 48°N., 124°59'W.; thence to 48°N., 125°18'W.; thence to point of origin.

(c) In Marine Areas 3 and 4 (west of the Bonille-Tatoosh Line); effective June 1: it is unlawful to fish for or possess bottomfish seaward of a line approximating the 20-fathom depth contour except, on days open to the Pacific halibut fishery in these areas, it is permissible to retain lingcod, sablefish and Pacific cod seaward of the 20 fathom depth contour as defined by the following coordinates:

48°23.9'N. lat., 124°44.2'W. long.
 48°23.6'N. lat., 124°44.9'W. long.
 48°18.6'N. lat., 124°43.6'W. long.
 48°18.6'N. lat., 124°48.2'W. long.
 48°10.0'N. lat., 124°48.8'W. long.
 48°02.4'N. lat., 124°49.3'W. long.
 47°37.6'N. lat., 124°34.3'W. long.
 47°31.7'N. lat., 124°32.4'W. long.

(d) In Marine Area 4 (east of the Bonilla-Tatoosh Line) it is unlawful to fish for or possess bottomfish seaward of a line approximating 120-feet (20 fathoms), except, on days open to the Pacific halibut fishery in this area, it is permissible to retain lingcod, and Pacific cod seaward of the 120 feet (20 fathoms) as defined by WAC 220-314-010.

(5) Catch Record Card Area 5 through 10:

(a) Open Thursday, May 2; Saturday, May 4; Thursday, May 9; Saturday, May 11; Saturday, May 18; Friday, May 24; Sunday, May 26; Thursday, June 6; Saturday, June 8; Thursday, June 20; Saturday, June 22

(b) It is permissible for halibut anglers to retain lingcod and Pacific cod caught while fishing for halibut in waters deeper than 120 feet on days when halibut fishing is open in Area 5.

(6) **Catch Record Card Areas 11, 12 and 13:** Closed.

(7) Daily limit one halibut, no minimum size limit. The possession limit is two daily limits of halibut in any form, except the possession limit aboard the fishing vessel is one daily limit.

(8) It is unlawful to land halibut in a port within an area closed to halibut fishing.

(9) Annual halibut limit is four.

(10) All other permanent rules remain in effect.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-312-03000Q Halibut—Seasons—Daily and possession limits. (19-27)

Reviser's note: The section above appears as filed by the agency pursuant to RCW 34.08.040; however, the reference to WAC 220-312-03000Q is probably intended to be WAC 220-314-03000Q.

WSR 19-09-035

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 19-72—Filed April 10, 2019, 4:34 p.m., effective April 10, 2019, 4:34 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational shrimp rules for Puget Sound.

Citation of Rules Affected by this Order: Repealing WAC 220-330-07000M and 220-330-07000N; and amending WAC 220-330-070.

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

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

Reasons for this Finding: This regulation is needed to ensure an orderly fishery, manage the fishery within court-ordered sharing requirements, and ensure conservation. This rule corrects an error in the previous emergency rule filing, allowing shrimpers to begin at 7 a.m. on days open in the Discovery Bay shrimp district. Harvestable amounts of spot shrimp are available, but only enough recreational shares exist for a limited number of open days in the marine areas listed in this section. In addition, this emergency regulation

opens the Marine Area 4, 5, 6 and 7 seasons one hour before sunrise to one hour after sunset, which is the default daily start time and times for those areas. Marine Area 13 will remain closed for spot shrimp for conservation reasons. 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: April 10, 2019.

Joe Stohr
for Kelly Susewind
Director

NEW SECTION

WAC 220-330-07000N Shrimp—Areas and seasons.

Notwithstanding the provisions of WAC 220-330-070, effective immediately through June 2, 2019, it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Areas 4 (east of the Bonilla-Tatoosh line), 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12, 13 and the Discovery Bay Shrimp District, except as provided for in this section:

(1) Marine Areas 4 (east of the Bonilla-Tatoosh line) and 5: Open May 11 through June 2.

(2) Marine Areas 7 South:

- a. Open May 11 through May 12;
- b. Open May 16 through May 19;
- c. Open May 23 through May 24.

(3) Marine Areas 7 East:

- a. Open May 11 through May 12;
- b. Open May 16 through May 19;
- c. Open May 23 through May 26;
- d. Open May 30 through June 2.

(4) Marine Areas 6 (excluding the Discovery Bay Shrimp District) and 7 West:

- a. Open May 11 through May 12;
- b. Open May 16 through May 19;
- c. Open May 23 through May 26;
- d. Open May 30 through June 2.

(5) Marine Areas 8-1 and 8-2:

a. Open May 11 from 7:00 a.m. through 1:00 p.m., and May 15 from 7:00 a.m. through 1:00 p.m.

b. Divers may take shrimp by hand or hand-held device from 7:00 p.m. until midnight on those open days in Marine Area 8-2.

(6) Marine Area 9: Open May 11 from 7:00 a.m. through 11:00 a.m. and May 15 from 7:00 a.m. through 11:00 a.m.

(7) Marine Area 10 west of a line from West Point to Alki Point: Open May 11 from 7:00 a.m. through 11:00 a.m.

(8) Marine Area 10 east of a line from West Point to Alki Point: Open May 11 from 7:00 a.m. through 1:00 p.m.

(9) Marine Area 11: Open May 11 from 7:00 a.m. through 1:00 p.m.

(10) Marine Area 12: Open May 11, 15, 29 and June 1 from 9:00 a.m. through 1:00 p.m.

(11) Discovery Bay Shrimp District: Open May 11, 15, 29 and June 1 from 7:00 a.m. through 3:00 p.m.

(12) Marine Area 13: CLOSED

REPEALER

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

WAC 220-330-07000M Shrimp—Areas and seasons.

The following section of the Washington Administrative Code is repealed effective 8:00 p.m. June 2, 2019:

WAC 220-330-07000N Shrimp—Areas and seasons.

WSR 19-09-037

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 18-75—Filed April 11, 2019, 1:41 p.m., effective April 11, 2019, 1:41 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends Columbia River recreational sturgeon rules.

Citation of Rules Affected by this Order: Repealing WAC 220-312-06000H; 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: This rule is needed to close white sturgeon retention in Bonneville Pool. Harvest projections indicate the quota of five hundred white sturgeon will be reached within the next week. This measure is necessary to prevent overharvest of the population. This action is consistent with decisions made by the states of Washington and Oregon on April 10, 2019. 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: April 11, 2019.

Joe Stohr
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-06000J Freshwater exceptions to statewide rules—Columbia River. Notwithstanding the provisions of WAC 220-312-060, it is unlawful to violate the provisions, provided that unless otherwise amended, all permanent rules remain in effect:

(1) From Buoy 10 upstream to Wauna powerlines, including Youngs Bay, and all adjacent Washington tributaries:

(a) It is permissible to retain white sturgeon on the following dates: May 13, May 15, May 18, May 20, May 22, May 25, May 27, May 29, June 1, June 3, and June 5, 2019.

(i) The daily limit of white sturgeon is one fish between 44-inches minimum and 50-inches maximum fork length.

(ii) Closed to angling for sturgeon at 2:00 p.m. daily on dates open to sturgeon retention.

(b) Catch and release angling is permissible on days not open to sturgeon retention.

(2) From The Dalles Dam to McNary Dam, including adjacent tributaries:

(a) Retention of white sturgeon is prohibited.

(b) Catch and release angling is permissible on days not open to sturgeon retention.

(3) Effective 12:01 a.m. April 13, 2019, from Bonneville Dam to The Dalles Dam, including adjacent tributaries:

(a) Retention of white sturgeon is prohibited.

(b) Catch and release angling is permissible on days not open to sturgeon retention.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-312-06000H Freshwater exceptions to statewide rules—Columbia River. (19-60)

WSR 19-09-038 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 19-74—Filed April 11, 2019, 2:30 p.m., effective April 13, 2019]

Effective Date of Rule: April 13, 2019.

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

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

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.130, 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: Extends the 2019 spring recreational salmon season in the Columbia River in the area upstream of the Lewis River to Bonneville Dam, including shad and hatchery steelhead. ESA impacts for wild fish are available to recreational fisheries in order to access hatchery fish. The fishery is consistent with the *U.S. v. Oregon Management Agreement* and the associated biological opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with compact action on February 20 and April 10, 2019.

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 2008-2017 Management Agreement (MA) and Biological Opinion (BO) have been extended through February 2018 while the MA and BO covering 2018-2027 are finalized. The Washington and Oregon fish and wildlife commissions have developed policies to guide the implementation of such bio-

logical opinions in the states' regulation of nontreaty fisheries.

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

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 1; Federal Rules or Standards: New 1, Amended 0, Repealed 1; or Recently Enacted State Statutes: New 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: April 11, 2019.

Joe Stohr
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-06000I 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:

(1) **From a line from the Warrior Rock lighthouse on the Oregon shore to red USCG buoy #4, then to the piling dolphin on the lower end of Bachelor Island (Warrior Rock line) to Beacon Rock:**

(a) Salmon and steelhead:

(i) Effective Saturday, April 13 and Sunday, April 14, 2019:

(A) Open for boat and bank fishing for salmon and steelhead from a line from the Warrior Rock lighthouse on the Oregon shore to red USCG buoy #4, then to the piling dolphin on the lower end of Bachelor Island (Warrior Rock line) to Beacon Rock.

(B) Legal upstream boat boundary defined as: A deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse One) in a straight line through the western tip of Pierce Island to a deadline marker on the Washington bank at Beacon Rock.

(C) Daily limit is 6 adipose fin clipped salmonids, no more than 2 adults of which no more than 1 may be an adult Chinook.

(D) Release all wild Chinook, wild coho and wild steelhead.

(E) Salmon minimum size is 12 inches.

(ii) Effective April 15 through May 15, 2019: Closed.

(b) Shad: Effective April through May 15, 2019: On days open to fishing for salmon; fishing for shad is allowed.

(2) **From Beacon Rock to Bonneville Dam deadline:**

(a) Salmon and steelhead:

(i) Effective Saturday, April 13 and Sunday, April 14, 2019:

(A) Open for bank fishing only.

(B) Daily limit is 6 adipose fin clipped salmonids, no more than 2 adults of which no more than 1 may be an adult Chinook.

(C) Release all wild Chinook, wild coho and wild steelhead.

(D) Salmon minimum size is 12 inches.

(ii) Effective April 15 through May 15, 2019: Closed.

(b) Shad: Effective April through May 15, 2019: On days open to fishing for salmon; fishing for shad is allowed.

(4) **From the Tower Island power lines in Bonneville Pool (located approximately 6 miles below the Dalles Dam) upstream to the Oregon and Washington border, plus the Washington bank between Bonneville Dam and the Tower Island power lines (except for those water closed under permanent rule):** Effective immediately through May 5, 2019:

(a) Open to fishing for salmon and steelhead.

(b) Daily limit is 6 adipose fin clipped salmonids, no more than 2 adults of which no more than 1 may be an adult Chinook.

(c) Release all wild Chinook, wild coho and wild steelhead.

(d) Salmon minimum size is 12 inches.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective April 13, 2019:

WAC 220-312-06000E Exceptions to statewide rules—Columbia River. (19-33)

WSR 19-09-047

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed April 11, 2019, 11:33 a.m., effective April 30, 2019]

Effective Date of Rule: April 30, 2019.

Purpose: The department is amending WAC 388-101D-0025 and repealing WAC 388-101D-0120 to remove requirements for hourly staffing schedules.

Citation of Rules Affected by this Order: Repealing WAC 388-101D-0120; and amending WAC 388-101D-0025.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.120.

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: ESSB 6032 (2018) directs the department to replace hourly payment methodology with a tiered rate methodology for residential services providers. Amended language in WAC 388-101D-0025 is necessary to implement the tiered rate methodology because providers will no longer need to staff within contracted hours, and will instead receive a daily rate. Repealing WAC 388-101D-0120 removes the requirement for providers to obtain approval for staffing schedules, which is no longer necessary under the tiered rate methodology. The Centers for Medicare and Medicaid Services approved developmental disabilities administration's waiver amendments, which require implementation of the tiered rate system on January 1, 2019.

This is the second emergency rule filing on these rules. This subsequent filing is necessary to keep the emergency rules effective until the permanent rules filed as WSR 19-09-033 are effective on May 11, 2019.

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 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 0, Amended 1, Repealed 1.

Date Adopted: April 11, 2019.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-14-058, filed 6/30/16, effective 8/1/16)

WAC 388-101D-0025 Service provider responsibilities. (1) Service providers must meet the requirements of:

- (a) This chapter;
- (b) Each contract and statement of work entered into with the department;
- (c) Each client's individual support plan when the individual support plan identifies the service provider as responsible; and
- (d) Each client's individual instruction and support plan.

(2) The service provider must:

- (a) Have a designated administrator and notify the department when there is a change in administrator;
- (b) Ensure that clients have immediate access to staff, or the means to contact staff, at all times;
- (c) Provide adequate staff ~~((within contracted hours to administer the program and))~~ to meet the needs of clients as identified in their person-centered service plans;
- (d) Not routinely involve clients in the unpaid instruction and support of other clients;
- (e) Not involve clients receiving crisis diversion services in the instruction and support of other clients; and
- (f) Retain all records and other material related to the residential services contract for six years after expiration of the contract.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-101D-0120 Approval of staff-coverage schedules.

**WSR 19-09-048
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 19-76—Filed April 12, 2019, 1:39 p.m., effective April 15, 2019, 7:00 p.m.]

Effective Date of Rule: April 15, 2019, 7:00 p.m.

Purpose: Amends Puget Sound commercial crab rules.

Citation of Rules Affected by this Order: Repealing WAC 220-340-45500V.

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 the Puget Sound commercial crab fishery in all regions for the season. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. The management plans are entered into as required by court order. There is insufficient time to adopt permanent rules.

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

Number of Sections Adopted at 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: April 12, 2019.

Joe Stohr
for Kelly Susewind
Director

REPEALER

The following section of the Washington Administrative code is repealed effective 7:00 p.m. April 15, 2019:

WAC 220-340-45500V Commercial crab fishery—Seasons and areas—Puget Sound. (19-61)

WSR 19-09-053
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-73—Filed April 12, 2019, 3:45 p.m., effective April 15, 2019]

Effective Date of Rule: April 15, 2019.

Purpose: Amend recreational clam and mussel rules in Puget Sound.

Citation of Rules Affected by this Order: Repealing WAC 220-330-11000H; and amending WAC 220-330-110.

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 close the clam and mussel season at Point Whitney Tidelands and Point Whitney Lagoon, and to maintain the open clam and mussel seasons at North Bay (Case Inlet) and Oak Bay County Park. A decrease in the clam populations at Point Whitney Lagoon and Point Whitney Tidelands requires a reduced season to meet conservation objectives agreed upon with tribal comanagers. At North Bay (Case Inlet), an earlier opening date provides daylight recreational harvest opportunity and aligns with capacity of beach facilities. At Oak Bay County Park, a decrease in the littleneck and butter clam populations requires adjusting the season to meet conservation objectives agreed upon with tribal comanagers, while providing recreational opportunity in this region. Maintains the clam and mussel closure at Dosewallips State Park. 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: April 12, 2019.

Joe Stohr
for Kelly Susewind
Director

NEW SECTION

WAC 220-330-11000I Clams other than razor clams, mussels—Areas and seasons. Notwithstanding the provisions of WAC 220-330-110, effective April 15, 2019 until further notice:

- (1) Point Whitney Lagoon: Closed until further notice.
- (2) Point Whitney Tidelands: Closed until further notice.
- (3) North Bay (Case Inlet): All state-owned tidelands north of the power transmission lines and those extending 1900 feet south of the power transmission lines along the eastern shore are open immediately through April 30, from one hour before official sunrise until one hour after official sunset only.
- (4) Oak Bay County Park: Open immediately through April 30 only.
- (5) Dosewallips State Park, as defined by boundary markers and signs posted on the beach, is closed until further notice.

REPEALER

The following section of the Washington Administrative Code is repealed effective April 15, 2019:

WAC 220-330-11000H Clams other than razor clams, mussels—Areas and seasons. (19-29)

WSR 19-09-055
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-77—Filed April 15, 2019, 1:16 p.m., effective April 15, 2019, 1:16 p.m.]

Effective Date of Rule: Immediately upon filing.
Purpose: Amend recreational razor clam rules.

Citation of Rules Affected by this Order: Repealing WAC 220-330-16000D; and amending WAC 220-330-160.

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 open the recreational razor clam season. Survey results show that adequate clams are available for harvest in Razor Clam Areas 1, 3, 4 and 5 for recreational harvest. Washington department of health has certified clams from this beach to be safe for human consumption. There is insufficient time to adopt permanent rules.

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

Number of Sections Adopted at 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: April 15, 2019.

Joe Stohr
for Kelly Susewind
Director

Razor Clam Area 5. Digging is permissible from 12:01 a.m. to 11:59 a.m. each day only.

(5) It is unlawful to dig for razor clams at any time in the Twin Harbors Razor Clam sanctuaries defined in WAC 220-320-130.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 p.m. April 22, 2019:

WAC 220-330-16000D Razor clams—Areas and seasons.

NEW SECTION

WAC 220-330-16000D Razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-330-160, it is unlawful to take, dig for or possess razor clams taken for personal use from any beaches in any razor clam area except as provided for in this section:

(1) Effective 12:01 a.m. April 20, 2019 through 11:59 a.m. April 21, 2019, razor clam digging is permissible in Razor Clam Area 1. Digging is permissible from 12:01 a.m. to 11:59 a.m. each day only.

(2) Effective 12:01 a.m. April 20, 2019 through 11:59 a.m. April 22, 2019, razor clam digging is permissible in Razor Clam Area 3. Digging is permissible from 12:01 a.m. to 11:59 a.m. each day only.

(3) Effective 12:01 a.m. April 20, 2019 through 11:59 a.m. April 20, 2019, razor clam digging is permissible in Razor Clam Area 4. Digging is permissible from 12:01 a.m. to 11:59 a.m. each day only.

(4) Effective 12:01 a.m. April 21, 2019 through 11:59 a.m. April 22, 2019, razor clam digging is permissible in