

WSR 19-10-002
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-81—Filed April 17, 2019, 5:14 p.m., effective May 9, 2019]

Effective Date of Rule: May 9, 2019.

Purpose: Amend recreational fishing rules for South Lewis County Park Pond.

Citation of Rules Affected by this Order: Repealing WAC 220-312-03000P; 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: This rule change closes South Lewis County Park Pond. It is necessary to ensure a successful kids fishing event. Several thousand rainbow trout will be stocked two days prior to the event. This will give the fish time to acclimate to the pond and encourage them to bite during the kids fishing event. 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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 17, 2019.

Kelly Susewind
 Director

NEW SECTION

WAC 220-312-03000P Exceptions to statewide rules—South Lewis County Park Pond. Notwithstanding the provisions of WAC 220-312-030, effective 12:01 a.m. May 9 through 2:00 p.m. May 11, 2019, it is unlawful to fish in South Lewis County Park Pond, except as provided below:

Open to fishing 8:00 a.m. to 1:00 p.m. May 11, 2019, by juvenile anglers participating in the kids fishing event.

REPEALER

The following section of the Washington Administrative Code is repealed effective 2:01 p.m. May 11, 2019:

WAC 220-312-03000P Exceptions to statewide rules—
 South Lewis County Park Pond.

WSR 19-10-003
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-78—Filed April 17, 2019, 5:14 p.m., effective April 17, 2019, 5:14 p.m.]

Effective Date of Rule: Immediately upon filing.

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

Citation of Rules Affected by this Order: Repealing WAC 220-358-03000Z; 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 2018-2027 *United States v. Oregon* Management Agreement (February 26, 2018) (Doc. No. 2607-1), *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: Rescinds fisheries in Tongue Point and modifies fisheries in the South Channel and Knappa Slough Select Area commercial season due to higher than anticipated impacts. Fishery modifications are necessary to slow the accrual of upriver impacts while still providing fishing opportunity. 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 actions of January 29, March 28, and April 16, 2019. 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 court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* Management Agreement (February 26, 2018) (Doc. No. 2607-1). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under the federal ESA. On February 23, 2018, 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 2018-2027 *U.S. v. Oregon* Management Agreement.

Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under the federal ESA. The Washington and Oregon fish and wildlife commissions have developed policies to guide the implementation of such biological opinions in the states' regulation of nontreaty fisheries.

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

Number of Sections Adopted in Order to Comply with Federal Statute: New 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 17, 2019.

Kelly Susewind
Director

NEW SECTION

WAC 220-358-03000A Columbia River seasons below Bonneville. Notwithstanding the provisions of WAC 220-358-030, WAC 220-358-040, and WAC 220-335-050, 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:

South Channel only:

Spring/Summer Season:

Thursday night April 18 from 7 PM to 11 PM (4 hours),
Tuesday night April 23 from 10 PM to 2 AM April 24 (4 hours),

Friday April 26 from midnight to 4 AM (4 hours), and
Monday and Thursday nights (7 PM to 7 AM) from
April 29 through May 29

(b) Area:

The Tongue Point Winter-Spring Subarea is defined as waters of the Columbia River bounded by a line from the end of the southern-most pier (#1) at the Tongue Point Job Corps facility projecting in a straight line through flashing red USCG light "6" to the shore 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 located on the Oregon shore approximately 300 yards northwest of the railroad bridge crossing the John Day River projecting easterly to a regulatory marker on the southwest shore of Lois Island. If the marker on the Oregon shore is not in place, the upper boundary is defined by a line projecting easterly from a point (46°10'57.7"N latitude 123°44'35.3"W longitude) on the Oregon shore approximately 300 yards northwest of the railroad bridge crossing the John Day River to a regulatory marker on the southwest shore of Lois Island.

The South Channel Select Area is defined as waters of the Columbia River bounded by a line from a regulatory marker on the Oregon shore at John Day Point projecting northeasterly to a regulatory marker on the southwest shore of 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.

Winter season: 7-inch minimum mesh size restriction

Spring and Summer seasons: 9 3/4-inch maximum mesh size restriction

The maximum net length is 1,500 feet (250 fathoms).

In the Tongue Point winter-spring subarea the lead line weight may not exceed two pounds per any one fathom;

In the South Channel Select Area, there is no lead line weight limit and attachment of additional weight and anchors directly to the lead line is permitted.

Nets not specifically authorized for use may be onboard a vessel if properly stored, however, unstored gillnets legal for use in South Channel may be onboard. 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.

(d) Allowable sales: Salmon (except Chum) and shad. Retention and sale of sturgeon is prohibited

(e) Miscellaneous:

Permanent regulations including rules related to transportation and lighted buoys remain in effect.

24-hour quick reporting required for Washington buyers, pursuant to WAC 220-352-315.

Oregon buyers are required to submit fish receiving tickets electronically pursuant to OAR 635-006-0210.

(2) Blind Slough/Knappa Slough Select Area**(a) Dates:**Spring Season:

Monday, Wednesday, and Thursday nights (7 PM to 7 AM) from April 29 through June 14.

Knappa Slough only

Thursday night April 18 from 7 PM - 11 PM

Tuesday night April 23 10 PM - Wednesday morning April 24 2 AM

Friday April 26 midnight to 4 AM

Blind Slough only

Thursday April 18 7 PM - Friday April 19 7 AM

Tuesday April 23 7 PM - Wednesday April 24 7 AM

Thursday April 25 7 PM - Friday April 26 7 AM

Summer Season:

Monday and Thursday nights (7 PM to 7 AM) from June 17 through June 28.

(b) Area:

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

The Knappa Slough Select Area is defined as 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 regulatory 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.

Prior to May 6, the downstream (western) boundary in Knappa Slough is a north-south line projecting through the easternmost tip of Minaker Island and regulatory markers on Karlson Island and the Oregon shore.

(c) Gear: Gillnets.

Winter season: 7-inch minimum mesh size restriction.

Spring and Summer seasons: 9 3/4-inch maximum mesh size restriction.

The maximum net length is 600 feet (100 fathoms).

There is no lead line weight limit and attachment of additional weight or anchors directly to the lead line is permitted.

(d) Miscellaneous: Permanent transportation rules in effect. In accordance with WACs 220-352-040 and WAC 220-301-010, commercial fishers are expected, and fish dealers are required, to report landings for winter-summer fisheries in Knappa Slough and Blind Slough separately using appropriate zone codes. Fish dealers are requested to keep landings from these two sites separate to aid in sampling.

(3) Allowable Possession: Salmon (except chum), white sturgeon, and shad. A maximum of four white sturgeon with a fork length of 44-50 inches fork length may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday). The four white sturgeon possession and sales limit includes all Select Area fisheries.

(4) 24-hour quick reporting is in effect for Washington buyers (WAC 220-352-315)). Permanent transportation rules in effect. Oregon buyers are required to submit fish receiving tickets electronically pursuant to OAR 635-006-0210. Unique catch reporting codes have been established for Blind Slough and Knappa Slough to facilitate separation of landings and sampling for winter/spring fisheries.

(5) Multi-Net Rule: Nets not specifically authorized for use in these areas may be onboard a vessel if properly stored (WAC 220-358-030(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.

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

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-358-03000Z Columbia River seasons below
Bonneville (19-65)

WSR 19-10-004**EMERGENCY RULES****DEPARTMENT OF****FISH AND WILDLIFE**

[Order 19-80—Filed April 17, 2019, 5:14 p.m., effective April 20, 2019]

Effective Date of Rule: April 20, 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 220-312-06000I; 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. The preseason run-size has not yet been updated, but ESA impacts for wild fish continue to be 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 17, 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 biological opinions in the states' regulation of nontreaty fisheries.

Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, ESA, and commission guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached. 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 17, 2019.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-06000K 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 20 and Sunday, April 21, 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 22 through May 15, 2019: Closed.

(b) Shad: Effective immediately through May 15, 2019: On days and area 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 20 and Sunday, April 21, 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 22 through May 15, 2019: Closed.

(b) Shad: Effective immediately through May 15, 2019: On days and area 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 20, 2019:

WAC 220-312-06000I Exceptions to statewide rules—
Columbia River. (19-74)

WSR 19-10-007

RECISSION OF EMERGENCY RULES DEPARTMENT OF HEALTH

[Filed April 18, 2019, 3:24 p.m.]

The department of health (department) is immediately rescinding the emergency rule, CR-103E, for WAC 246-70-050 and 246-70-060 regarding suspension of heavy metals testing requirements in marijuana products and labeling of such products, which was filed January 24, 2019, and published as WSR 19-04-010.

The department is rescinding this CR-103E rule because of the recent licensure action by the liquor and cannabis board approving new facilities to perform this type of testing for marijuana products. Since heavy metals testing capabilities are now back in place, the department is reinstating the original testing requirements without delay.

Individuals requiring information on this rule should contact Shelly Rowden, at 360-236-2820.

John Wiesman, DrPH, MPH
Secretary

WSR 19-10-008

EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 19-82—Filed April 19, 2019, 10:27 a.m., effective May 1, 2019]

Effective Date of Rule: May 1, 2019.

Purpose: Amend recreational fishing rules for the Skagit [River].

Citation of Rules Affected by this Order: Repealing WAC 220-312-04000K; 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 a portion of the Skagit River to recreational salmon fishing providing additional angling opportunity. Sufficient hatchery spring Chinook are projected to return, allowing 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 19, 2019.

Joe Stohr
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000K Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-312-040, effective May 1 through May 31, 2019, it is permissible to fish for salmon in those waters of the Skagit River from the highway 536 bridge (Memorial Highway Bridge) in Mount Vernon to Gilligan Creek.

(1) Daily limit of two hatchery (adipose fin clipped) Chinook salmon.

(2) Release all other species.

(3) Night closure is in effect.

REPEALER

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

WAC 220-312-04000K Freshwater exceptions to statewide rules—Puget Sound.

WSR 19-10-009
EMERGENCY RULES
HEALTH CARE AUTHORITY

[Filed April 19, 2019, 10:45 a.m., effective April 19, 2019, 10:45 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The agency is amending WAC 182-501-0060 Health care coverage—Program benefit packages—Scope of service categories, to implement E2SSB 5179, which restores coverage of hearing instruments for adults.

Citation of Rules Affected by this Order: Amending WAC 182-501-0060.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, E2SSB 5179, 65th legislature, 2018 regular session.

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

Reasons for this Finding: This emergency is necessary to continue the current emergency filed under WSR 19-02-022, which is set to expire on April 20, 2019, while the agency completes the permanent rule-making process. This emergency implements the requirements of E2SSB 5179, 65th legislature, 2018 regular session, effective January 1, 2019. Since the last emergency filing, the agency has completed the internal review, external review, and plans to file the CR-102 Proposed rule making in the near future.

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 1, Repealed 0.

Date Adopted: April 19, 2019.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-07-083, filed 3/17/15, effective 4/17/15)

WAC 182-501-0060 Health care coverage—Program benefit packages—Scope of service categories. (1) This rule provides a table that lists:

(a) The following Washington apple health (WAH) programs:

- (i) The alternative benefits plan (ABP) medicaid;
- (ii) Categorically needy (CN) medicaid;
- (iii) Medically needy (MN) medicaid; and

(iv) Medical care services (MCS) programs (includes incapacity-based and aged, blind, and disabled medical care services), as described in WAC 182-508-0005; and

(b) The benefit packages showing what service categories are included for each program.

(2) Within a service category included in a benefit package, some services may be covered and others noncovered.

(3) Services covered within each service category included in a benefit package:

(a) Are determined in accordance with WAC 182-501-0050 and 182-501-0055 when applicable.

(b) May be subject to limitations, restrictions, and eligibility requirements contained in agency rules.

(c) May require prior authorization (see WAC 182-501-0165), or expedited authorization when allowed by the agency.

(d) Are paid for by the agency or its designee and subject to review both before and after payment is made. The agency or the client's managed care organization may deny or recover payment for such services, equipment, and supplies based on these reviews.

(4) The agency does not pay for covered services, equipment, or supplies that:

(a) Require prior authorization from the agency or its designee, if prior authorization was not obtained before the service was provided;

(b) Are provided by providers who are not contracted with the agency as required under chapter 182-502 WAC;

(c) Are included in an agency or its designee waiver program identified in chapter 182-515 WAC; or

(d) Are covered by a third-party payor (see WAC 182-501-0200), including medicare, if the third-party payor has not made a determination on the claim or has not been billed by the provider.

(5) Programs not addressed in the table:

(a) Alien emergency medical (AEM) services (see chapter 182-507 WAC); and

(b) TAKE CHARGE program (see WAC 182-532-700 through 182-532-790);

(c) Postpartum and family planning extension (see WAC 182-523-0130(4) and 182-505-0115(5));

(d) Eligibility for pregnant minors (see WAC 182-505-0117); and

(e) Kidney disease program (see chapter 182-540 WAC).

(6) **Scope of service categories.** The following table lists the agency's categories of health care services.

(a) Under the ABP, CN, and MN headings there are two columns. One addresses clients twenty years of age and younger and the other addresses clients twenty-one years of age and older.

(b) The letter "Y" means a service category is included for that program. Services within each service category are subject to limitations and restrictions listed in the specific medical assistance program rules and agency issuances.

(c) The letter "N" means a service category is not included for that program.

(d) Refer to WAC 182-501-0065 for a description of each service category and for the specific program rules containing the limitations and restrictions to services.

Service Categories	ABP 20-	ABP 21+	CN ¹ 20-	CN 21+	MN 20-	MN 21+	MCS
Ambulance (ground and air)	Y		Y	Y	Y	Y	Y
Applied behavior analysis (ABA)	Y	N	Y	N	Y	N	N
Behavioral health services							
• Mental health (MH) inpatient care	Y	Y	Y	Y	Y	Y	Y
• MH outpatient community care	Y	Y	Y	Y	Y	Y	Y ²
• MH psychiatric visits	Y	Y	Y	Y	Y	Y	Y ³
• MH medication management	Y	Y	Y	Y	Y	Y	Y
• Substance use disorder (SUD) detoxification	Y	Y	Y	Y	Y	Y	Y
• SUD diagnostic assessment	Y	Y	Y	Y	Y	Y	Y
• SUD residential treatment	Y	Y	Y	Y	Y	Y	Y
• SUD outpatient treatment	Y	Y	Y	Y	Y	Y	Y
Blood/blood products/related services	Y	Y	Y	Y	Y	Y	Y
Dental services	Y	Y	Y	Y	Y	Y	Y
Diagnostic services (lab and X-ray)	Y	Y	Y	Y	Y	Y	Y
Early and periodic screening, diagnosis, and treatment (EPSDT) services	Y	N	Y	N	Y	N	N
Habilitative services	Y	Y	N	N	N	N	N
Health care professional services	Y	Y	Y	Y	Y	Y	Y
Hearing evaluations	Y	Y	Y	Y	Y	Y	Y
Hearing aids	Y	(N) Y	Y	(N) Y	Y	(N) Y	(N) Y
Home health services	Y	Y	Y	Y	Y	Y	Y
Hospice services	Y	Y	Y	Y	Y	Y	N
Hospital services Inpatient/outpatient	Y	Y	Y	Y	Y	Y	Y
Intermediate care facility/services for persons with intellectual disabilities	Y	Y	Y	Y	Y	Y	Y
Maternity care and delivery services	Y	Y	Y	Y	Y	Y	Y
Medical equipment, durable (DME)	Y	Y	Y	Y	Y	Y	Y
Medical equipment, nondurable (MSE)	Y	Y	Y	Y	Y	Y	Y
Medical nutrition services	Y	Y	Y	Y	Y	Y	Y
Nursing facility services	Y	Y	Y	Y	Y	Y	Y
Organ transplants	Y	Y	Y	Y	Y	Y	Y
Orthodontic services	Y	N	Y	N	Y	N	N
Out-of-state services	Y	Y	Y	Y	Y	Y	N
Outpatient rehabilitation services (OT, PT, ST)	Y	Y	Y	Y	Y	N	Y
Personal care services	Y	Y	Y	Y	N	N	N
Prescription drugs	Y	Y	Y	Y	Y	Y	Y
Private duty nursing	Y	Y	Y	Y	Y	Y	N
Prosthetic/orthotic devices	Y	Y	Y	Y	Y	Y	Y
Reproductive health services	Y	Y	Y	Y	Y	Y	Y
Respiratory care (oxygen)	Y	Y	Y	Y	Y	Y	Y
School-based medical services	Y	N	Y	N	Y	N	N
Vision care Exams, refractions, and fittings	Y	Y	Y	Y	Y	Y	Y
Vision hardware Frames and lenses	Y	N	Y	N	Y	N	N

- 1 Clients enrolled in the Washington apple health for kids and Washington apple health for kids with premium programs, which includes the children's health insurance program (CHIP), receive CN-scope of health care services.
- 2 Restricted to incapacity-based MCS clients enrolled in managed care.
- 3 Incapacity-based MCS clients can receive one psychiatric diagnostic evaluation per year and eleven monthly visits per year for medication management.

WSR 19-10-010
EMERGENCY RULES
HEALTH CARE AUTHORITY

[Filed April 19, 2019, 10:46 a.m., effective April 19, 2019, 10:46 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The agency is creating new sections and amending others within chapter 182-547 WAC, Hearing aids, to restore coverage of hearing instruments for adults.

Citation of Rules Affected by this Order: New WAC 182-547-0750, 182-547-0850, 182-547-0950 and 182-547-1050; and amending WAC 182-547-0100, 182-547-0200, and 182-547-1100.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, E2SSB 5179, 65th legislature, 2018 regular session.

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

Reasons for this Finding: This emergency is necessary to continue the current emergency filed under WSR 19-02-010, which is set to expire on April 19, 2019, while the agency completes the permanent rule-making process. This emergency implements the requirements of E2SSB 5179, 65th legislature, 2018 regular session, effective January 1, 2019. Since the last emergency filing, the agency has completed the internal review, external review, and plans to file the CR-102 Proposed rule making in the near future.

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 4, Amended 3, 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 4, Amended 3, Repealed 0.

Date Adopted: April 19, 2019.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-20-013, filed 9/20/13, effective 10/21/13)

WAC 182-547-0100 (~~(Hearing aids)~~)General(~~(For clients twenty years of age and younger)~~). Unless otherwise defined in WAC 182-547-0200, the terms within this chapter are intended to correspond with the terms in chapter 18.35 RCW.

(1) The medicaid agency covers the hearing aids listed in this chapter, according to agency rules and subject to the lim-

itations and requirements in this chapter. See also WAC 182-531-0375 audiology services.

(2) The agency pays for hearing aids when:

(a) Covered;

(b) Within the scope of an eligible client's medical care program;

(c) Medically necessary as defined under WAC 182-500-0070;

(d) Authorized, as required within this chapter, chapters 182-501 and 182-502 WAC, and the agency's published billing instructions and provider notices;

(e) Billed according to this chapter, chapters 182-501 and 182-502 WAC, and the agency's published billing instructions and provider notices; and

(f) The client (~~(is twenty years of age or younger and)~~) completes a hearing evaluation, including an audiogram and/or developmentally appropriate diagnostic physiologic test results performed and/or interpreted by a hearing health care professional.

(3) The agency requires prior authorization for covered hearing aids when the clinical criteria set forth in this chapter are not met. The agency evaluates these requests on a case-by-case basis to determine whether they are medically necessary, according to the process found in WAC 182-501-0165.

AMENDATORY SECTION (Amending WSR 13-20-013, filed 9/20/13, effective 10/21/13)

WAC 182-547-0200 (~~(Hearing aids)~~)Definitions.

The following definitions and those found in chapter 182-500 WAC apply to this chapter.

"Bone-anchored hearing aid (BAHA)" or "bone conduction hearing device" means a type of hearing aid that transmits sound vibrations through bones in the head. The inner ear translates the vibrations the same way a normal ear translates sound waves. These devices can be surgically implanted or worn on headbands.

"Cochlear implant" means an electronic hearing device designed to produce useful hearing sensations to a person with severe to profound deafness by electrically stimulating nerves inside the inner ear. A cochlear implant has a surgically implanted receiver and electrode system in the inner ear and an external microphone, sound processor, and transmitter system. The external system may be worn entirely behind the ear or its parts may be worn in a pocket, belt pouch, or harness.

"Digital hearing aids"(~~(Hearing aids)~~) means wearable sound-amplifying devices that use a digital circuit to analyze and process sound.

"Hearing aids"(~~(Hearing aids)~~) means wearable sound-amplifying devices that are intended to compensate for hearing loss. Hearing aids are described by where they are worn in the ear as in-the-ear (ITE), behind-the-ear (BTE), etc. Hearing aids can also be described by how they process the amplified signal. This would include analog conventional, analog programmable, digital conventional, and digital programmable.

"Hearing health care professional"(~~(Hearing aids)~~) means an audiologist or hearing aid fitter/dispenser licensed under chapter 18.35 RCW, or an otorhinolaryngologist or otologist licensed under chapter 18.71 RCW.

"Maximum allowable fee"~~(—)~~ means the maximum dollar amount that the agency will pay a provider for specific services, supplies and equipment.

"Prior authorization"~~(—)~~ means a form of authorization used by the provider to obtain approval for a specific hearing aid and service(s). The approval is based on medical necessity and must be received before the service(s) are provided to clients as a precondition for payment.

AMENDATORY SECTION (Amending WSR 13-20-013, filed 9/20/13, effective 10/21/13)

WAC 182-547-1100 ~~((Hearing aids—))~~**Reimbursement—General.** (1) The medicaid agency's payment for purchased hearing aids includes all of the following:

- (a) ~~((A prefitting))~~ The audiometric evaluation;
- (b) An impression for an ear mold;
- (c) The ear mold; ~~((and~~
- ~~(e) A minimum of three post-fitting consultations.))~~
- (d) The dispensing fee;
- (e) A conformity evaluation, if done;
- (f) Three batteries; and
- (g) Up to three follow-up visits for the fitting, orientation, and checking of the hearing aid.

(2) The agency denies payment for hearing aids and/or services when claims are submitted without the prior authorization number, when required, or the appropriate diagnosis or procedure code(s).

(3) The agency does not pay for hearing aid charges paid by insurance or other payer source.

(4) To receive payment, the provider must keep documentation in the client's medical file to support the medical necessity for the specific make and model of the hearing aid ordered for the client. This documentation must include the record of the audiology testing providing evidence that the client's hearing loss meets the eligibility criteria for a hearing aid.

NEW SECTION

WAC 182-547-0750 Eligibility—Clients age twenty-one and older. (1) Clients age twenty-one and older who are receiving services under one of the following medical assistance programs are eligible for hearing aids and related services:

- (a) A categorically needy (CN) medicaid program;
- (b) The medical care services (MCS) program; or
- (c) An alternative benefit plan (ABP) program.

(2) Clients enrolled in a medicaid agency-contracted managed care organization (MCO) must arrange for hearing aid and related services directly through the client's MCO. Additionally, clients enrolled in an agency-contracted MCO must obtain replacement parts for cochlear implants and bone-anchored hearing aids (Baha®), including batteries, through their MCO.

NEW SECTION

WAC 182-547-0850 Coverage—Clients age twenty-one and older. (1) **Nonrefurbished, monaural hearing aids.** The medicaid agency covers one new nonrefurbished

monaural hearing aid, which includes the ear mold, every five years for clients age twenty-one and older.

(a) The client must have an average decibel loss of forty-five or greater in the better ear, based on a pure-tone audiometric evaluation by a licensed audiologist or a licensed hearing aid specialist at 1000, 2000, 3000, and 4000 hertz (Hz) with effective masking as indicated.

(b) The hearing aid must meet the client's specific hearing needs and carry a manufacturer's warranty for a minimum of one year.

(2) **Binaural hearing aids.** The agency covers binaural hearing aids with prior authorization (PA).

(3) **Replacement.** The agency covers the following replacements if the need for replacement is not due to the client's carelessness, negligence, recklessness, deliberate intent, or misuse under WAC 182-501-0050:

(a) One replacement hearing aid, including the ear mold, in a five-year period when the client's hearing aid(s) is lost or broken and cannot be repaired, and the warranty is expired; and

(b) One replacement ear mold, per year, when the client's existing ear mold is damaged or no longer fits the client's ear.

(4) **Repair of hearing aids.** The agency covers two repairs, per hearing aid, per year, when the cost of the repair is less than fifty percent of the cost of a new hearing aid. To receive payment, all of the following must be met:

(a) All warranties are expired; and

(b) The repair is under warranty for a minimum of ninety days.

(5) **Repair or replacement of external parts of cochlear devices and bone-anchored hearing aids (BAHAs).** The agency covers the following with PA.

(a) Repair or replacement of external parts of cochlear devices. If the client has bilateral cochlear devices, both devices are eligible for repair and replacement of external parts; and

(b) Repair or replacement of external parts of BAHAs, whether implanted or worn with a headband. If the client has bilateral BAHAs, both devices are eligible for repair and replacement of external parts.

(6) **Rental of hearing aids.** The agency covers rental hearing aid(s) for up to two months while the client's own hearing aid(s) is being repaired. For rental hearing aid(s) only, the agency pays separately for an ear mold(s).

(7) **Second hearing aid.** The agency pays for a second hearing aid when the client meets the following expedited prior authorization clinical criteria or PA for a limitation extension is requested:

(a) The client tries one hearing aid for a six-month period, but the hearing aid does not adequately meet the client's hearing need; and

(b) One of the following reasons is documented in the client's record:

(i) Inability to hear has caused difficulty with job performance;

(ii) Inability to hear has caused difficulty in functioning in the school environment; or

(iii) Client is legally blind.

NEW SECTION

WAC 182-547-0950 Noncovered services—Clients age twenty-one and older. (1) The medicaid agency does not cover the following items for clients age twenty-one and older:

- (a) Batteries;
 - (b) Tinnitus maskers;
 - (c) Frequency modulation (FM) systems, including the computer-aided hearing devices for FM systems; and
 - (d) Nonprescription hearing aids or similar devices including, but not limited to:
 - (i) Personal sound amplification products (PSAPs);
 - (ii) Hearables; and
 - (iii) Pocket talkers or similar devices.
- (2) The agency evaluates requests for noncovered hearing aids and related services according to WAC 182-501-0160.

NEW SECTION

WAC 182-547-1050 Prior authorization—Clients age twenty-one and older. (1) For covered services that require prior authorization (PA), the provider must properly request authorization in accordance with the medicaid agency's rules and billing instructions.

(2) The agency evaluates requests for covered services that are subject to limitations or other restrictions and considers such services beyond those limitations or restrictions as described in WAC 182-501-0169.

(3) When the agency authorizes hearing aids or hearing aid-related services, the PA indicates only that the specific service is medically necessary; it is not a guarantee of payment. The client must be eligible for covered services at the time those services are provided.

(4) To receive payment, providers must order and dispense hearing aids and hearing aid-related services within the authorized time frame.

**WSR 19-10-015
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 19-83—Filed April 22, 2019, 2:47 p.m., effective May 6, 2019]

Effective Date of Rule: May 6, 2019.

Purpose: Amend commercial salmon troll fishery rules.

Citation of Rules Affected by this Order: 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: This rule is needed to open coastal commercial troll fishery seasons. A harvestable quota

of salmon is available for the troll fleet. 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 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: April 22, 2019.

Nate Pamplin
for Kelly Susewind
Director

NEW SECTION

WAC 220-354-3000P Coastal salmon troll seasons—Commercial. Notwithstanding the provisions of WAC 220-354-300, effective immediately until further notice, it is unlawful to fish for salmon with troll gear or to land salmon taken with troll gear into a Washington port except during the seasons provided 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:

May 6 through June 28, 2019.

(2) May 6 through May 15, in Washington Catch Reporting Areas 1, 3 and 4, landing and possession limit of 100 Chinook per vessel for the open period.

(3) May 16 through June 28, in Washington Catch Reporting Areas 1, 3 and 4, landing and possession limit of 50 Chinook 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.

(5) Minimum size for Chinook salmon is 28 inches in length. No minimum size for pink, sockeye or chum salmon. It is unlawful to possess coho salmon.

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

(7) 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 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 and halibut catch aboard, and destination. Vessels fishing, or in possession of salmon north of Leadbetter Point must land and deliver all species of fish in a Washington port and must possess a Washington troll license. For delivery to Washington ports south of Leadbetter Point, vessels must notify WDFW at (360) 249-1215 or by email at Wendy.Beehley@dfw.wa.gov prior to crossing the Leadbetter Point line with area fished, total Chinook and halibut catch aboard, and destination with approximate time of delivery. Vessels may not land fish east of the Sekiu River or east of the Megler-Astoria bridge. During any single trip, only one side of the Leadbetter Point line may be fished. Vessels fishing or in possession of salmon south of Leadbetter Point must land and deliver their fish within the area and south of Leadbetter Point.

(8) 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.

(9) 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.

(10) 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.

(11) 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.

(12) 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 trollfishtickets@dfw.wa.gov. Report the dealer name, the dealer license number, the purchasing location, the date of purchase, the fish ticket numbers, the gear used, the catch area, the species, the total num-

ber 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.

WSR 19-10-035
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-84—Filed April 24, 2019, 1:56 p.m., effective April 24, 2019,
1:56 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial shrimp rules for Puget Sound.

Citation of Rules Affected by this Order: Amending WAC 220-340-520 and 220-340-030.

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 2019 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 Region 1 and Region 3 trawl fishery season; (2) opens the pot fishery season for nonspot shrimp with weekly harvest limits; and (3) reflects changes to the shrimp catch reporting and purchase reporting requirements. 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 2, 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: April 24, 2019.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-52000A Puget Sound shrimp pot and trawl fishery—Season. Notwithstanding the provisions of WAC 220-340-520, effective 6:00 a.m. May 1, 2019, 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 1A, 1B, 1C, 2E, 2W and 3 are open to the harvest of all non-spot shrimp species, effective immediately, until further notice, except as provided for in this section:

(i) All waters of Marine Fish/Shellfish Management and Catch Reporting Area (Catch Area) 23A-E, 23A-W, 23A-C and the Discovery Bay Shrimp District are closed.

(ii) In Catch Area 22A, all waters inside and bounded by a line projected from Blakely Marina on the northwest corner of Blakely Island to Upright Head on Lopez Island, following the shoreline southerly on Lopez Island to intersect a line projected due west from Bald Bluff on Blakely Island, are closed until 6:00 a.m. June 16, 2019.

(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 east of a line projected 122.47°W longitude and west of a line projected 122.43°W longitude in Rosario Strait is open.

(c) The remaining portion of Catch Area 22A within SMA 1B will open effective 6:00 a.m. May 16, 2019, until further notice.

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

NEW SECTION

WAC 220-340-03000D Shellfish harvest logs. Notwithstanding the provisions of WAC 220-340-030, effective immediately, until further notice, it is unlawful for vessel operators engaged in commercial harvest of shrimp from Puget Sound with shellfish pot gear to fail to report their daily catch by text message, e-mail or FAX to WDFW by 10:00 a.m. the day after the shrimp are harvested. Text message and e-mail daily catch reports must be submitted to shrimpreport@dfw.wa.gov, and FAX reports must be transmitted to FAX number 360-302-3031. Daily catch reports must include the following information as it is recorded on the fish receiving ticket: fisher name, buyer name, pounds landed per shrimp species, catch area, date of harvest, date of sale, and complete fish ticket serial number, including the first alphanumeric letter. If the fish receiving ticket is faxed as the daily harvest report, the date of harvest must be recorded on the bottom half of the ticket.

WSR 19-10-036
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-85—Filed April 25, 2019, 9:08 a.m., effective April 27, 2019]

Effective Date of Rule: April 27, 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 220-312-06000K; 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. The preseason run-size has not yet been updated, but ESA impacts for wild fish continue to be 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 24, 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 24, 2019.

Joe Stohr
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-06000L 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 27 and Sunday, April 28, 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 29 through May 15, 2019: Closed.

(b) Shad: Effective immediately through May 15, 2019: On days and area 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 27 and Sunday, April 28, 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 29 through May 15, 2019: Closed.

(b) Shad: Effective immediately through May 15, 2019: On days and area 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 27, 2019:

WAC 220-312-06000K Exceptions to statewide rules—Columbia River. (19-80)

WSR 19-10-048

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed April 29, 2019, 10:58 a.m., effective May 1, 2019]

Effective Date of Rule: May 1, 2019.

Purpose: The department is amending WAC 388-106-1920 What is the maximum amount of step three services I

may receive a month?, as a result of a rate change effective January 1, 2019. This emergency is in effect until the permanent rule is effective May 5, 2019.

Citation of Rules Affected by this Order: Amending WAC 388-106-1920.

Statutory Authority for Adoption: RCW 74.08.090, 74.39A.030, 34.05.350 (1)(b).

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 amending WAC 388-106-1920 to increase the step three benefit level for medicaid alternative care and tailored supports for older adults participants. This benefit level is tied to the home care agency rate that typically increases every six months. The department recently received notice of the new rate for home care agencies effective January 1, 2019.

The department filed a CR-103 Rule-making order as WSR 19-09-003 on April 4, 2019. This extension of the emergency rule supersedes the CR-103E filed as WSR 19-02-083 on December 31, 2018, until the permanent rule filed as WSR 19-09-003 becomes effective on May 5, 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 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 1, Repealed 0.

Date Adopted: April 24, 2019.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-20-001, filed 9/19/18, effective 10/20/18)

WAC 388-106-1920 What is the maximum amount of step three services I may receive a month? (1) Unless the department authorizes additional funds through an exception to rule under WAC 388-440-0001, beginning January 1, 2019, the maximum amount of step three services you and your caregiver may receive in MAC and TSOA will be published on the ALTSA/HCS rates website found on the MAC and TSOA tab at:

~~((a) From January 1, 2018 through June 30, 2018 is an average of five hundred fifty-eight dollars per month not to exceed three thousand three hundred forty-eight dollars in a six month period.~~

~~(b) Beginning July 1, 2018 is an average of five hundred seventy-three dollars per month not to exceed three thousand four hundred thirty-eight dollars in a six month period))~~ https://www.dshs.wa.gov/sites/default/files/ALTSA/msd/documents/All_HCS_Rates.xls.

(2) If you are a care receiver who does not have an available unpaid caregiver, you are receiving TSOA personal assistance services, and the department has not authorized additional funds through an exception to rule under WAC 388-440-0001, beginning January 1, 2019, the maximum amount of step three services you may receive will be published on the ALTSA/HCS rates website found on the MAC and TSOA tab at:

~~((a) From January 1, 2018 through June 30, 2018 is five hundred fifty-eight dollars per month.~~

~~(b) Beginning July 1, 2018 is five hundred seventy-three dollars per month))~~ https://www.dshs.wa.gov/sites/default/files/ALTSA/msd/documents/All_HCS_Rates.xls.

WSR 19-10-052

EMERGENCY RULES

PUBLIC DISCLOSURE COMMISSION

[Filed April 29, 2019, 2:07 p.m., effective May 1, 2019]

Effective Date of Rule: May 1, 2019.

Purpose: The 2018 legislature passed SSB 5991, chapter 111, Laws of 2018, the "Disclose Act," pertaining to campaign finance disclosure. These emergency rules are necessary to implement the act **by its January 1, 2019, effective date**. The commission has completed the permanent rule-making process with an effective date of May 4, 2019. This emergency rule is required to cover the period of the expiration of the first emergency rule which expires April 30, 2019, and the permanent rule with the effective date of May 4, 2019.

Citation of Rules Affected by this Order: New WAC 390-05-521, 390-05-535, 390-16-013, and 390-16-013A.

Statutory Authority for Adoption: RCW 42.17A.110(1) and chapter 111, Laws of 2018.

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

Reasons for this Finding: The act takes [took] effect on January 1, 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 4, 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 4, Amended 0, Repealed 0.

Date Adopted: April 25, 2019.

B. G. Sandahl
Deputy Director

NEW SECTION

WAC 390-05-521 Definition—Payments received by incidental committees. For purpose of reporting the top ten largest sources of payments to an incidental committee, pursuant to RCW 42.17A.235, a "payment" means any monetary transfers or in-kind value accepted by the incidental committee, regardless of the donative intent or benefit received by the person making the transfer.

NEW SECTION

WAC 390-05-535 Definition—Nonprofit organization within the meaning of incidental committee. A "nonprofit organization," as the term is used in the definition of incidental committee in RCW 42.17A.005, means an entity that meets one or more of the following criteria:

(1) An entity that is eligible for an exemption from income tax under section 501(c) of the federal Internal Revenue Code;

(2) An organization, association or corporation whose income is not paid directly or indirectly to its members, stockholders, officers, directors or trustees except in the form of services rendered by the organization, association, or corporation in accordance with its purposes and bylaws and the salary or compensation paid to officers of such organization, association or corporation is for actual services rendered and compares to the salary or compensation of like positions within the public services of the state; or

(3) A limited partnership or limited liability company where an entity described in subsection (1) or (2) of this section is a general partner or managing member, respectively.

NEW SECTION

WAC 390-16-013 Incidental committees—Registration and reporting for incidental committees. (1) The official form for providing the statement of organization by incidental committees is designated the incidental committee registration "C-1-IC."

(2) The official form for reporting top ten payments and expenditures by incidental committees as required under RCW 42.17A.240 is designated "C-8." Reports must be filed electronically where the commission has provided an electronic option.

(3) For purposes of reporting the sources of the top ten largest cumulative payments of ten thousand dollars or greater, and payments received by an incidental committee, as required under RCW 42.17A.240, the C-8 report must include:

(a) The top ten sources of payments within the current calendar year through the applicable reporting period, including any changes to the top ten sources from the previous reporting period; and

(b) The total cumulative payment value, within the current calendar year through the applicable reporting period, made from a person who is reported on the current report as a source of a top ten payment.

(4) An incidental committee may request a modification or suspension of reporting requirements in cases of manifestly unreasonable hardship pursuant to RCW 42.17A.120, as set forth in these rules under chapter 390-28 WAC.

(5) Each incidental committee is automatically dissolved at the end of the calendar year in which it was registered, or upon completion of all reporting requirements for that year, whichever is later. Dissolution does not absolve the nonprofit organization that registered as an incidental committee from responsibility for any obligations resulting from the finding before or after dissolution of a violation committed prior to dissolution.

NEW SECTION

WAC 390-16-013A Incidental committees—Filing reports for incidental committees. All incidental committees required to file reports under chapter 42.17A RCW must file them electronically where the commission has provided an electronic option. The executive director may make exceptions on a case-by-case basis for an incidental committee that lacks the technological ability to file reports electronically. To the extent an electronic option is not provided, copies of this form are available on the PDC's web site, www.pdc.wa.gov, and at the PDC office, Olympia, Washington.

WSR 19-10-055

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 19-91—Filed April 29, 2019, 4:49 p.m., effective May 1, 2019]

Effective Date of Rule: May 1, 2019.

Purpose: Amends coastal commercial crab rules.

Citation of Rules Affected by this Order: Repealing WAC 220-340-42000R and 220-340-45000M; and amending WAC 220-340-420 and 220-340-450.

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 reduce the size of the special management area that is closed to state fishers. The pot limits reduce the number of lines in the water to reduce the risk of marine mammal interactions and reduce the crowding effect in this restricted 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 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: April 29, 2019.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-42000S Commercial crab fishery—Unlawful acts. Notwithstanding the provisions of WAC 220-340-420:

(1) Effective May 1, 2019 at 8:00 a.m. until further notice, it is unlawful for a vessel to use more than 200 pots in the area between the Raft River (47°28.00) and the Copalis River (47°08.00) shoreward of a line approximating the 27-fathom depth curve. Fishers must pre-register with the Department of Fish and Wildlife 24 hours prior to deploying gear in this area by one of the three following methods:

- Fax transmission to Robert Morgan at 360-249-1229;
- E-mail to Robert Morgan at Robert.Morgan@dfw.wa.gov; or
- Telephone call to Robert Morgan at 360-249-1206.

(2) Effective May 1, 2019 at 8:00 a.m. until further notice, it is unlawful for a vessel to use more than 100 pots in the Quileute SMA. The SMA includes the area shoreward of a line approximating the 30-fathom depth curve between Cape Johnson (47°58.00') and Destruction Island (47°40.50'). Fishers must pre-register with the Department of Fish and Wildlife 24 hours prior to deploying gear in this area by one of the three following methods:

- Fax transmission to Robert Morgan at 360-249-1229;
- E-mail to Robert Morgan at Robert.Morgan@dfw.wa.gov; or
- Telephone call to Robert Morgan at 360-249-1206.

(3) All other provisions of the permanent rule remain in effect.

NEW SECTION

WAC 220-340-45000N Commercial crab fishery—Seasons and areas—Coastal. Notwithstanding the provisions of WAC 220-340-450, it is unlawful to fish for Dungeness crab in Washington coastal waters, the Pacific Ocean, Grays Harbor, Willapa Bay, or the Columbia River, except as provided in this section.

(1) Open area: The area from the WA/OR border (46°15.00') to the U.S. Canada border including Grays Harbor and Willapa Bay.

(2) For waters of the Pacific Ocean north of Point Arena, California, it is unlawful for a person to use a vessel to fish in any area where the season opening is delayed due to marine biotoxins for the first 30 days following the opening of the area if the vessel was employed in the coastal crab fishery during the previous 45 days.

(3) The Quinalt primary Special Management Area (SMA) will open to fishing for Dungeness crab at 8:00 a.m. on May 1, 2019. The SMA includes the area shoreward of a line approximating the 27-fathom depth curve between the Raft River (47°28.00') and the Copalis River (47°08.00') according to the following points:

(a) Northeast Corner (Raft River): 47°28.00' N. Lat. - 124°20.70' W. Lon.

(b) Northwest Corner: 47°28.00' N. Lat. - 124°34.00' W. Lon.

(c) Southwest Corner: 47°08.00' N. Lat. - 124°25.50' W. Lon.

(d) Southeast Corner (Copalis River): 47°08.00' N. Lat. - 124°11.20' W. Lon.

(4) The Quileute special management area (SMA) will open to fishing for Dungeness crab at 8:00 a.m. on May 1, 2019. The SMA includes the area shoreward of a line approximating the 30-fathom depth curve between Cape Johnson (47°58.00') and Destruction Island (47°40.50') according to the following points:

(a) Northeast Corner (Cape Johnson): 47°58.00' N. Lat. 124°40.40' W. Lon.

(b) Northwest Corner: 47°58.00' N. Lat. 124°49.00' W. Lon.

(c) Southwest Corner: 47°40.50' N. Lat. 124°40.00' W. Lon.

(d) Southeast Corner (Destruction Island): 47°40.50' N. Lat. 124°24.43' W. Lon.

(5) All other provisions of the permanent rule remain in effect.

REPEALER

The following sections of the Washington Administrative Code are repealed effective 8:00 a.m. May 1, 2019:

WAC 220-340-42000R Commercial crab fishery—Unlawful acts. (19-67)

WAC 220-340-45000M Commercial crab fishery—Seasons and areas—Coastal. (19-67)

WSR 19-10-068

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 19-86—Filed April 30, 2019, 4:22 p.m., effective June 1, 2019]

Effective Date of Rule: June 1, 2019.

Purpose: Amend recreational fishing rules for the Hoh River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-02000N; 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 necessary to open salmon and gamefish seasons for this portion of the Hoh River. The Hoh River wild spring/summer Chinook are projected to return in numbers sufficient to allow incidental release impacts on this stock while allowing a sport fishery to target trout and dip-in hatchery Chinook during June. 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 30, 2019.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-02000N Freshwater exceptions to statewide rules—Coast. Notwithstanding the provisions of WAC 220-312-020, effective June 1 through June 30, 2019:

Hoh River from the Olympic National Park boundary upstream to the boat launch at the DNR's Oxbow Campground:

- (1) Salmon open June 1 through June 30, 2019:
 - (a) Daily limit 1, minimum length 12 inches.
 - (b) Release all salmon other than hatchery Chinook.
- (2) Gamefish open June 1 through June 30, 2019:
 - (a) Trout: daily limit 2, minimum length 14 inches.
 - (b) Release wild rainbow trout and wild steelhead.
- (3) Only 1 barbless hook may be used.
- (4) Bait is prohibited.

REPEALER

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

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

WSR 19-10-069 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 19-87—Filed April 30, 2019, 4:26 p.m., effective May 6, 2019]

Effective Date of Rule: May 6, 2019.

Purpose: Amend recreational salmon rules for the Quillayute and Sol Duc rivers.

Citation of Rules Affected by this Order: 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 necessary to close sockeye retention on the Quillayute and Sol Duc rivers. Sockeye salmon returns to Lake Pleasant, and to other coastal waters were very low in 2018 and are expected to be low in 2019. This action will increase the number of sockeye returning to spawn in Lake Pleasant. 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 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: April 30, 2019.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-02000P Freshwater exceptions to statewide rules—Coast. Notwithstanding the provisions of WAC 220-312-020, effective May 6, 2019 until further notice:

1. Quillayute River: Release all sockeye.
2. Sol Duc River: Release all sockeye.