

**WSR 19-16-004**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 19-163—Filed July 24, 2019, 3:32 p.m., effective July 24, 2019, 3:32 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational salmon fishing rules for Marine Area 12.

Citation of Rules Affected by this Order: 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 rule is necessary to require the release of sockeye salmon in Hood Canal. An effort to reintroduce sockeye salmon to Lake Cushman is underway. As this is the first year sockeye are returning to this program from a small release in 2017. Managers anticipate the total return to be small in number and are seeking to maximize broodstock available for the program. Therefore, sockeye retention is being closed in the marine area. Future fisheries for sockeye salmon in Marine Area 12 will be considered when a healthy sockeye run is established. 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: July 24, 2019.

Kelly Susewind  
 Director

NEW SECTION

**WAC 220-313-06000D Puget Sound salmon—Salt-water seasons and daily limits.** Notwithstanding the provisions of WAC 220-313-060, effective July 26 through September 30, 2019: Catch Record Card Area 12: Release all sockeye.

**WSR 19-16-005**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 19-166—Filed July 24, 2019, 3:34 p.m., effective July 24, 2019, 3:34 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial beach seine rules for Puget Sound.

Citation of Rules Affected by this Order: Amending WAC 220-354-210.

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

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

Reasons for this Finding: This rule is necessary to require the release of sockeye salmon in Hood Canal. An effort to reintroduce sockeye salmon to Lake Cushman is underway. As this is the first year sockeye are returning to this program from a small release in 2017. Managers anticipate the total return to be small in number and are seeking to maximize broodstock available for the program. Therefore, sockeye retention is being closed in the marine area. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: July 24, 2019.

Kelly Susewind  
 Director

NEW SECTION

**WAC 220-354-21000E Puget Sound salmon—Beach seine—Open periods.** Notwithstanding the provisions of WAC 220-354-210, effective immediately until further notice: It is unlawful to retain sockeye salmon taken with beach seine gear within Areas 12A and 12C.

**WSR 19-16-009**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed July 25, 2019, 8:52 a.m., effective July 28, 2019]

Effective Date of Rule: July 28, 2019.

Purpose: The department is amending WAC 388-310-1600 WorkFirst—Sanctions, 388-400-0005 Who is eligible for temporary assistance for needy families?, and 388-484-0006 TANF/SFA time limit extensions.

These changes are necessary to implement 2SHB 1603 (chapter 343, Laws of 2019), effective July 28, 2019, removing permanent disqualification after three WorkFirst non-compliance sanction terminations and adding homelessness to the criteria for hardship time limit extensions beyond the sixty-month TANF lifetime limit.

The department is concurrently proceeding with the permanent rule-making process.

Citation of Rules Affected by this Order: Amending WAC 388-310-1600, 388-400-0005, and 388-484-0006.

Statutory Authority for Adoption: RCW 41.05.021, 74.04.050, 74.04.055, 74.04.057, 74.08.025, 74.08.090, chapter 74.08A RCW, RCW 74.09.035, 74.09.530, chapter 74.12 RCW, RCW 74.62.030, 2SHB 1603 (chapter 343, Laws of 2019).

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

Reasons for this Finding: These changes are required by state law (chapter 343, Laws of 2019), effective July 28, 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 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 0, Amended 3, Repealed 0.

Date Adopted: July 22, 2019.

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-20-104, filed 9/30/14, effective 11/1/14)

**WAC 388-310-1600 WorkFirst—Sanctions.** (~~Effective November 1, 2014.~~)

**(1) What WorkFirst requirements do I have to meet?**

You must do the following when you are a mandatory WorkFirst participant:

(a) Give the department the information we need to develop your individual responsibility plan (IRP) (see WAC 388-310-0500);

(b) Show that you are participating fully to meet all of the requirements listed on your individual responsibility plan;

(c) Go to scheduled appointments listed in your individual responsibility plan;

(d) Follow the participation and attendance rules of the people who provide your assigned WorkFirst services or activities; and

(e) Accept available paid employment when it meets the criteria in WAC 388-310-1500.

**(2) What happens if I don't meet WorkFirst requirements?**

(a) If you do not meet WorkFirst requirements, we will send you a letter telling you what you did not do, and inviting you to a noncompliance case staffing. The letter will also schedule a home visit that will happen if you don't attend your noncompliance case staffing. We may schedule an alternative meeting, instead of a home visit, when there are safety or access issues.

(i) A noncompliance case staffing is a meeting with you, your case manager, and other people who are working with your family, such as representatives from tribes, community or technical colleges, employment security, the children's administration, family violence advocacy providers or limited-English proficient (LEP) pathway providers to review your situation and compliance with your participation requirements.

(ii) You will be notified when your noncompliance case staffing is scheduled so you can attend.

(iii) You may invite anyone you want to come with you to your noncompliance case staffing.

(b) You will have ten days to contact us so we can talk with you about your situation. You can contact us in writing, by phone, by going to the noncompliance case staffing appointment described in the letter, or by asking for an individual appointment.

(c) If you do not contact us within ten days, we will make sure you have been screened for family violence and other barriers to participation and that we provided necessary supplemental accommodations as required by chapter 388-472 WAC. We will use existing information to decide whether:

(i) You were unable to do what was required; or

(ii) You were able, but refused, to do what was required.

(d) If you had a good reason not to do a required activity we will work with you and may change the requirements in your individual responsibility plan if a different WorkFirst activity would help you move towards independence and employment sooner. If you have been unable to meet your WorkFirst requirements because of family violence, you and your case manager will develop an individual responsibility

plan to help you with your situation, including referrals to appropriate services.

(e) If you do not attend your noncompliance case staffing, and we determine you did not have a good reason, we will conduct the home visit (or alternative meeting) to review your circumstances and discuss next steps and options.

**(3) What is considered a good reason for not doing what WorkFirst requires?**

You have a good reason if you were not able to do what WorkFirst requires (or get an excused absence, described in WAC 388-310-0500(5)) due to a significant problem or event outside your control. Some examples of good reasons include, but are not limited to:

(a) You had an emergent or severe physical, mental or emotional condition, confirmed by a licensed health care professional that interfered with your ability to participate;

(b) You were threatened with or subjected to family violence;

(c) You could not locate child care for your children under thirteen years that was:

(i) Affordable (did not cost you more than your copayment would under the working connections child care program in chapter 170-290 WAC);

(ii) Appropriate (licensed, certified or approved under federal, state or tribal law and regulations for the type of care you use and you were able to choose, within locally available options, who would provide it); and

(iii) Within a reasonable distance (within reach without traveling farther than is normally expected in your community).

(d) You could not locate other care services for an incapacitated person who lives with you and your children.

(e) You had an immediate legal problem, such as an eviction notice; or

(f) You are a person who gets necessary supplemental accommodation (NSA) services under chapter 388-472 WAC and your limitation kept you from participating. If you have a good reason because you need NSA services, we will review your accommodation plan.

**(4) What happens in my noncompliance case staffing?**

(a) At your noncompliance case staffing we will ensure you were offered the opportunity to participate and discuss with you:

(i) Whether you had a good reason for not meeting WorkFirst requirements.

(ii) What happens if you are sanctioned;

(iii) How you can participate and get out of sanction status;

(iv) How you and your family benefit when you participate in WorkFirst activities;

(v) That your case may be closed after you have been in sanction status for two months in a row;

(vi) How you plan to care for and support your children if your case is closed. We will also discuss the safety of your family, as needed, using the guidelines under RCW 26.44-.030; and

(vii) How to reapply if your case is closed(=and

~~(viii) That upon your third sanction case closure after March 1, 2007, you may be permanently disqualified from~~

~~receiving TANF/SFA. If you are permanently disqualified, your entire household is ineligible for TANF/SFA).~~

(b) If you do not come to your noncompliance case staffing, we will make a decision based on the information we have and send you a letter letting you know whether we found that you had a good reason for not meeting WorkFirst requirements.

**(5) What happens if we do a home visit because you didn't attend your noncompliance case staffing?**

If you didn't attend your noncompliance case staffing, and we determined you did not have a good reason for failure to meet WorkFirst requirements, we will attempt to contact you during your scheduled home visit (or alternative meeting).

(a) If we are able to contact you, we will review the information that we planned to discuss at your noncompliance case staffing, including whether you had a good reason for failing to meet WorkFirst requirements and how you can participate and get out of sanction status. If you don't have a good reason, we will follow the process to place you in sanction status.

(b) If we are unable to contact you, we will follow the process to place you in sanction status based on the determination we made at your noncompliance case staffing.

**(6) What if we decide that you did not have a good reason for not meeting WorkFirst requirements?**

(a) Before you are placed in sanction, a supervisory level employee will review your case to make sure:

(i) You knew what was required;

(ii) You were told how to end your sanction;

(iii) We tried to talk to you and encourage you to participate; and

(iv) You were given a chance to tell us if you were unable to do what we required.

(b) If we decide that you did not have a good reason for not meeting WorkFirst requirements, and a supervisory level employee approves the sanction and sanction penalties, we will send you a letter that tells you:

(i) What you failed to do;

(ii) That you are in sanction status;

(iii) Penalties that will be applied to your grant;

(iv) When the penalties will be applied;

(v) How to request an administrative hearing if you disagree with this decision; and

(vi) How to end the penalties and get out of sanction status.

(c) If your case is closed because you failed to attend your noncompliance case staffing and home visit (or alternative meeting), this information will be included in your termination letter.

(d) We will also provide you with information about resources you may need if your case is closed. If you are sanctioned, then we will actively attempt to contact you another way so we can talk to you about the benefits of participation and how to end your sanction.

**(7) What is sanction status?**

When you are a mandatory WorkFirst participant, you must follow WorkFirst requirements to qualify for your full grant. If you or someone else on your grant doesn't do what is

required and you can't prove that you had a good reason, you are placed in WorkFirst sanction status.

**(8) Are there penalties when you or someone in your household goes into sanction status?**

When you or someone in your household is in sanction status, we impose penalties. The penalties last until you or the household member meet WorkFirst requirements. There are different penalties depending on if you attended your non-compliance case staffing or home visit (or alternative meeting). Your household will only enter sanction status if we determine that you or someone else in your household did not have a good reason for failing to meet the WorkFirst requirements.

(a) If you attended your noncompliance case staffing or home visit (or alternative meeting) and entered sanction status, you will receive a grant reduction sanction penalty.

(i) Your grant is reduced by one person's share or forty percent, whichever is more.

(ii) The reduction is effective the first of the month following ten-day notice from the department; and

(iii) Your case may be closed effective the first of the month after your grant has been reduced for two months in a row.

(b) If you did not attend your noncompliance case staffing or home visit (or alternative meeting) and entered sanction status you will receive a case closure sanction penalty.

(i) Your case may be closed the first of the month following the ten-day notice from the department.

(ii) If your case is reopened under subsection (14)(b), you will remain in sanction status and receive a grant reduction sanction penalty.

(A) Your grant is reduced by one person's share or forty percent, whichever is more.

(B) The reduction is effective the first of the month that your grant is reopened; and

(C) Your case may be closed effective the first of the month after your grant has been reduced for two months in a row.

**(9) What happens before your case is closed due to sanction?**

Before we close your case due to sanction status, we will send you a letter to tell you:

(a) What you failed to do;

(b) When your case will be closed;

(c) How you can request an administrative hearing if you disagree with this decision;

(d) How you can end your penalties and keep your case open (if you are able to participate for four weeks in a row before we close your case); and

(e) How your participation before your case is closed can be used to meet the participation requirement in subsection (13).

**(10) What happens if my sanction grant reduction penalty started before November 1, 2014?**

If you are in sanction and entered sanction before November 1, 2014, your case may be closed after you have been in sanction for four months in a row.

**(11) How do I end the penalties and get out of sanction status?**

To end the penalties and get out of sanction status:

(a) You must provide the information we requested to develop your individual responsibility plan; and/or

(b) Start and continue to do your required WorkFirst activities for four weeks in a row (that is, twenty-eight calendar days). The four weeks starts on the day you complete your comprehensive evaluation and you agree to your individual responsibility plan activities.

**(12) What happens when I get out of sanction status before my case is closed?**

When you get out of sanction status before your case is closed, your grant will be restored to the level you are eligible for beginning the first of the month following your four weeks of participation. For example, if you finished your four weeks of participation on June 15, your grant would be restored on July 1.

**(13) What if I reapply for TANF or SFA and I was in sanction status when my case closed?**

If your case closed due to sanction, you will need to follow the sanction reapplication process in subsection (14). If your case closed for another reason while you were in sanction status and is reopened, you will reopen in month two of sanction status.

**(14) What if I reapply for TANF or SFA after my case is closed due to sanction?**

(a) Except as specified in subsection (14)(b) if you reapply for TANF or SFA after your case is closed due to sanction, you must participate for four weeks in a row before you can receive cash. Once you have met your four week participation requirement, your cash benefits will start, going back to the date we had all the other information we needed to make an eligibility decision.

(b) We will take the actions below if you received the sanction penalty in subsection (8)(b), you reapply for TANF or SFA after your case is closed due to sanction and you complete the interview required under WAC 388-452-0005 by the end of the month that your benefits stopped. For example, if your benefits stop effective July 1, you must reapply and complete the interview by July 31. If you meet this time-frame:

(i) We will undo your case closure sanction penalty ~~(and we will not count the closure toward permanent disqualification under subsection (15));~~ and ~~(;)~~

(ii) If you are determined eligible, we will reopen your grant in sanction status with a grant reduction sanction penalty, going back to the effective date of your case closure.

~~**((15) What happens if a supervisory level employee approves case closure for the third time?**~~

~~If we close your case for sanction at least three times after March 1, 2007, you will be permanently disqualified from receiving TANF/SFA. If you are permanently disqualified, any household you are in will also be ineligible for TANF/SFA.)~~

AMENDATORY SECTION (Amending WSR 14-10-046, filed 4/30/14, effective 6/1/14)

**WAC 388-400-0005 Who is eligible for temporary assistance for needy families?** (1) You can get temporary assistance for needy families (TANF), if you:

(a) Can be in a TANF/SFA assistance unit as allowed under WAC 388-408-0015 through 388-408-0030;

(b) Meet the citizenship/alien status requirements of WAC 388-424-0010;

(c) Live in the state of Washington. A child must live with a caretaker relative, guardian, or custodian who meets the state residency requirements of WAC 388-468-0005;

(d) Do not live in a public institution unless specifically allowed under RCW 74.08.025;

(e) Meet TANF/SFA:

(i) Income requirements under chapter 388-450 WAC;

(ii) Resource requirements under chapter 388-470 WAC; and

(iii) Transfer of property requirements under chapter 388-488 WAC.

(f) Assign your rights to child support as required under WAC 388-422-0005;

(g) Cooperate with the division of child support (DCS) as required under WAC 388-422-0010 by helping them:

(i) Prove who is the father of children applying for or getting TANF or SFA; and

(ii) Collect child support.

(h) Tell us your Social Security number as required under WAC 388-476-0005;

(i) Cooperate in a review of your eligibility as required under WAC 388-434-0005;

(j) Cooperate in a quality assurance review as required under WAC 388-464-0001;

(k) Participate in the WorkFirst program as required under chapter 388-310 WAC;

(l) Report changes of circumstances as required under WAC 388-418-0005; and

(m) Complete a mid-certification review and provide proof of any changes as required under WAC 388-418-0011.

(2) If you apply for TANF, have not received TANF or SFA within the past thirty days, and will be a mandatory WorkFirst participant as described in WAC 388-310-0200 once approved, you must complete a WorkFirst orientation before we approve your application.

(3) If you are an adult, you must have an eligible child living with you or you must be pregnant and meet the requirements of WAC 388-462-0010.

(4) If you are an unmarried pregnant teen or teen parent:

(a) Your living arrangements must meet the requirements of WAC 388-486-0005; and

(b) You must attend school as required under WAC 388-486-0010.

(5) In addition to rules listed in subsection (1) of this section, a child must meet the following rules to get TANF:

(a) Meet the age requirements under WAC 388-404-0005; and

(b) Live in the home of a relative, court-ordered guardian, court-ordered custodian, or other adult acting *in loco parentis* as required under WAC 388-454-0005; or

(c) If the child lives with a parent or other adult relative that provides care for the child, that adult cannot have used up their sixty-month lifetime limit of TANF or SFA cash benefits as defined in WAC 388-484-0005(~~(5) or~~

~~(d) If the child lives with a parent who provides care for the child, that adult cannot have been permanently disqualified from receiving TANF/SFA due to noncompliance sanction as defined in WAC 388-310-1600).~~

(6) You cannot get TANF if you have been:

(a) Convicted of certain felonies and other crimes under WAC 388-442-0010; or

(b) Convicted of unlawful practices to get public assistance under WAC 388-446-0005 or 388-446-0010.

(7) If you are a client in a household which is eligible for a tribal TANF program, you cannot receive state and tribal TANF in the same month.

AMENDATORY SECTION (Amending WSR 15-24-056, filed 11/24/15, effective 1/1/16)

**WAC 388-484-0006 TANF/SFA time limit extensions.** (1) **What happens after I receive sixty or more months of TANF/SFA cash assistance?**

After you receive sixty or more months of TANF/SFA cash assistance according to WAC 388-484-0005, you may qualify for additional months of cash assistance. We call these additional months of TANF/SFA cash assistance a hardship TANF/SFA time limit extension.

(2) **Who is eligible for a hardship TANF/SFA time limit extension?**

You are eligible for a hardship TANF/SFA time limit extension if you are on TANF, are otherwise eligible for TANF, or are an ineligible parent, and you have received sixty cumulative months of TANF and:

(a) You are approved for one of the exemptions from mandatory participation according to WAC 388-310-0350 (1)(a) through (d) or you are an ineligible parent who meets the criteria for an exemption from mandatory WorkFirst participation; or

(b) You:

(i) Are a supplemental security income recipient or a Social Security disability insurance recipient; or

(ii) Are at least sixty-five years old, blind as defined by the Social Security Administration or disabled as determined under chapter 388-449 WAC; or

(iii) Have an open child welfare case with a state or tribal government and this is the first time you have had a child dependent under RCW 13.34.030 in this or another state or had a child a ward of a tribal court; or

(iv) Are working in unsubsidized employment for thirty-two hours or more per week; or

(v) Document that you meet the family violence option criteria in WAC 388-61-001 and are participating satisfactorily in specialized activities needed to address your family violence according to a service plan developed by a person trained in family violence or have a good reason, as described in WAC 388-310-1600(3) for failure to participate satisfactorily in specialized activities; or

(vi) Are homeless as described in RCW 43.185C.010 (12).

**(3) Who reviews and approves a hardship time limit extension?**

(a) Your case manager or social worker will review your case and determine whether a hardship time limit extension type will be approved.

(b) This review will not happen until after you have received at least fifty-two months of assistance but before you reach your time limit or lose cash assistance due to the time limit.

(c) Before you reach your time limit or lose cash assistance due to the time limit, the department will send you a notice that tells you whether a hardship time limit extension will be approved when your time limit expires and how to request an administrative hearing if you disagree with the decision.

**(4) When I have an individual responsibility plan, do my WorkFirst participation requirements change when I receive a hardship TANF/SFA time limit extension?**

(a) Even if you qualify for a hardship TANF/SFA time limit extension you will still be required to participate as required in your individual responsibility plan (WAC 388-310-0500). You must still meet all of the WorkFirst participation requirements listed in chapter 388-310 WAC while you receive a hardship TANF/SFA time limit extension.

(b) If you do not participate in the WorkFirst activities required by your individual responsibility plan, and you do not have a good reason under WAC 388-310-1600, the department will follow the sanction rules in WAC 388-310-1600.

**(5) Do my benefits change if I receive a hardship TANF/SFA time limit extension?**

(a) You are still a TANF/SFA recipient or an ineligible parent who is receiving TANF/SFA cash assistance on behalf of your child and your cash assistance, services, or supports will not change as long as you continue to meet all other TANF/SFA eligibility requirements.

(b) During the hardship TANF/SFA time limit extension, you must continue to meet all other TANF/SFA eligibility requirements. If you no longer meet TANF/SFA eligibility criteria during your hardship time limit extension, your benefits will end.

**(6) How long will a hardship TANF/SFA time limit extension last?**

(a) We will review your hardship TANF/SFA time limit extension and your case periodically for changes in family circumstances:

(i) If you are extended under WAC 388-484-0006 (2)(a), (b)(i) or (ii) then we will review your extension at least every twelve months;

(ii) If you are extended under WAC 388-484-0006 (2)(b)(iii), (iv), or (v) then we will review your extension at least every six months.

(b) Your hardship TANF/SFA time limit extension may be renewed for as long as you continue to meet the criteria to qualify for a hardship time limit extension.

(c) If during the extension period we get proof that your circumstances have changed, we may review your case and determine if you continue to qualify for a hardship TANF/SFA time limit extension. When you no longer qualify for a hardship TANF/SFA time limit extension we will stop your

TANF/SFA cash assistance. You will be notified of your case closing and will be given the opportunity to request an administrative hearing before your benefits will stop.

**WSR 19-16-011****EMERGENCY RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed July 25, 2019, 9:23 a.m., effective July 28, 2019]

Effective Date of Rule: July 28, 2019.

Purpose: The department is amending by emergency adoption WAC 388-482-0005 How does being a student of higher education impact my eligibility for the Washington basic food program?, to implement changes to state law effective July 28, 2019. These changes are necessary to implement 2SHB 1893 (chapter 407, Laws of 2019).

The department is concurrently proceeding with the permanent rule-making process and filed a CR-101, Preproposal statement of inquiry on June 19, 2019, as WSR 19-13-099.

Citation of Rules Affected by this Order: Amending WAC 388-482-0005.

Statutory Authority for Adoption: RCW 74.04.500, 74.04.510, 74.08A.120; and chapter 407, Laws of 2019.

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 changes are required to implement state law (chapter 407, Laws of 2019), effective July 28, 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; and 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.

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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: July 23, 2019.

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-19-025, filed 9/12/18, effective 10/13/18)

**WAC 388-482-0005 How does being a student of higher education (~~impact~~) affect my eligibility for the**

**Washington basic food program?** (1) For basic food, we consider you a student of higher education if you are:

(a) Age eighteen through forty-nine;  
 (b) Physically and mentally able to work (we determine if you are unable to work);

(c) Enrolled in an institution of higher education at least half-time as defined by the institution; and

(d) Enrolled in coursework considered to be higher education.

(2) An institution of higher education is:

(a) Any educational institution that requires a high school diploma or high school equivalency certificate;

(b) A business, trade, or vocational school that requires a high school diploma or high school equivalency; or

(c) A two-year or four-year college or university that offers a degree but does not require a high school diploma or high school equivalency.

(3) If you are a student of higher education, you must also meet one of the following conditions to be eligible for basic food:

(a) You have paid employment and work an average of at least twenty hours per week each month;

(b) You are self-employed, work, and earn at least the amount you would earn working an average of twenty hours per week at the federal minimum wage each month; or

(c) You were participating in a state or federal work study program during the regular school year.

(i) To qualify under this condition, you must:

(A) Have approval for work study at the time of application for basic food;

(B) Have work study that is approved for the school term; and

(C) Anticipate actually working during that time.

(ii) The work study exemption begins:

(A) The month in which the school term starts; or

(B) The month work study is approved, whichever is later.

(iii) Once begun, the work study exemption shall continue until:

(A) The end of the month in which the school term ends; or

(B) We find out you refused a work study assignment.

(d) You are responsible for more than half the care of a dependent person in your assistance unit (AU) who is age five or younger;

(e) You are responsible for more than half the care of a dependent person in your AU who is between age six and eleven, if we have determined that there is not adequate child care available during the school year to allow you to:

(i) Attend class and satisfy the twenty-hour work requirement; or

(ii) Take part in a work study program.

(f) You are a single parent responsible for the care of your natural, step, or adopted child who is eleven or younger;

(g) You are an adult who has the parental responsibility of a child who is age eleven or younger if none of the following people live in the home:

(i) The child's parents; or

(ii) Your spouse.

(h) You participate in the WorkFirst program under WAC 388-310-0200;

(i) You receive TANF or SFA benefits;

(j) You attend an institution of higher education through:

(i) The Workforce Investment Act (WIA);

(ii) The basic food employment and training program under chapter 388-444 WAC;

(iii) An approved state or local employment and training program; or

(iv) Section 236 of the Trade Act of 1974.

~~(4) ((If you are a student of higher education and the only reason you are eligible for basic food is because you are participating in work study, you are only eligible while you work and receive money from work study. If your work study stops during the summer months, you must meet another condition to be an eligible student during this period.~~

~~(5))~~ (5) If you are a student of higher education, your status as a student:

(a) Begins the first day of the school term; and

(b) Continues through vacations. This includes the summer break if you plan to return to school for the next term.

~~((6))~~ (5) We do not consider you a student of higher education if you:

(a) Graduate;

(b) Are suspended or expelled;

(c) Drop out; or

(d) Do not intend to register for the next normal school term other than summer school.

### WSR 19-16-013

#### EMERGENCY RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed July 25, 2019, 10:45 a.m., effective July 28, 2019]

Effective Date of Rule: July 28, 2019.

Purpose: The department of social and health services, division of child support (DCS) files this CR-103E, Rule-making order, to adopt an emergency rule amending WAC 388-14A-3903 in order to implement ESHB 1916, sections 2 and 3, chapter 275, Laws of 2019, which takes effect on July 28, 2019.

At the same time, DCS is filing a CR-101, Preproposal statement of inquiry, to commence the regular rule-making process to permanently amend WAC 388-14A-3903. DCS hopes that the regular rule-making process can be completed within the span of this emergency filing, but recognizes that the timelines under chapter 34.05 RCW may require the adoption of a second emergency rule to maintain the status quo if the final rule cannot be made effective within that time.

Citation of Rules Affected by this Order: Amending WAC 388-14A-3903.

Statutory Authority for Adoption: Emergency rule making is authorized under RCW 34.05.350 (1)(a) and (b) in order to implement ESHB 1916 (chapter 275, Laws of 2019), which takes effect on July 28, 2019. Further authority is found in RCW 26.09.105, 26.18.170, 34.05.220 (1)(a),

34.05.322, 74.04.055, 74.08.090, 74.20.040(9), and 74.20A.-310.

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

Reasons for this Finding: ESHB 1916 (chapter 275, Laws of 2019), which takes effect on July 28, 2019, amended RCW 26.09.170 and 74.20A.059 to change the criteria for modification or adjustment of child support orders. This change potentially allows more families to benefit from modification of their child support orders by reducing the requirement that the child support amount change as a result of the review by twenty-five percent to fifteen percent. Another change, adopted due to federal requirements, provides that incarceration of the noncustodial parent in and of itself can serve as a reason for modification review of the child support order at any time, without a showing of a substantial change in circumstances or a fifteen percent change in the order amount. In order to implement ESHB 1916, DCS must amend WAC 388-14A-3903.

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

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

Date Adopted: July 22, 2019.

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

**WAC 388-14A-3903 How does DCS decide whether to petition for modification of a support order?** (1) The division of child support (DCS) petitions to modify a support order when DCS finds during the review that each of the following conditions are present:

(a) The proposed change in child support based on the Washington state child support schedule:

(i) Is at least ~~((twenty-five))~~ fifteen percent above or below the current support obligation;

(ii) Is at least one hundred dollars per month above or below the current support obligation; and

(iii) Is at least a two thousand four hundred dollar change over the remaining life of the support order; or

(iv) Will provide enough income to:

(A) Make the family ineligible for public assistance if the noncustodial parent (NCP) pays the full amount due under the proposed order; or

(B) Allow a family, otherwise eligible for public assistance, to remain off of assistance.

(b) The case meets the legal requirements for modification under RCW 26.09.170, 74.20A.059, or WAC 388-14A-3925.

(2) DCS may petition to modify the order without regard to subsection (1)(a)(i) of this section if the reason DCS reviewed the order is the noncustodial parent's incarceration.

(3) DCS may petition to modify the order without regard to subsection (1)(a) of this section when:

(a) The order does not require the NCP to provide health insurance coverage for the children; and

(b) Health insurance coverage is available through the NCP's employer or union at a reasonable cost; or

(c) Both parties agree to an order modifying the support amount.

## WSR 19-16-014

### EMERGENCY RULES

### DEPARTMENT OF

### FISH AND WILDLIFE

[Order 19-164—Filed July 25, 2019, 3:08 p.m., effective August 1, 2019]

Effective Date of Rule: August 1, 2019.

Purpose: Amends recreational fishing rules for the Chehalis, Newaukum, and Skookumchuck rivers.

Citation of Rules Affected by this Order: Repealing WAC 220-312-02000S; 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 set openings of fishing seasons for the Chehalis River and select tributaries. Staggered openings are necessary to protect spring Chinook returning to the Chehalis system. The abundance of spring Chinook is far below the escapement goal of one thousand four hundred fish. As returning fish move farther upstream, it is possible to begin opening lower sections to angling while upstream and tributary closures achieve conservation objectives by protecting staging spring Chinook from fishing pressure.

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



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

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

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

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

Date Adopted: July 25, 2019.

Kelly Susewind  
Director

### NEW SECTION

**WAC 220-312-02000U Freshwater exceptions to statewide rules—Coast.** Notwithstanding the provisions of WAC 220-312-020:

(1) Chehalis River (Grays Harbor County):

(a) from South Elma Bridge (Wakefield Rd.) to Black River, including all channels, sloughs, and interconnected waterways, effective August 1 through September 15, 2019: Closed Waters.

(b) from Black River upstream, effective August 1 through September 30: Closed Waters.

(2) Chehalis River, South Fork (Grays Harbor County), effective August 1 through September 30: Closed Waters.

(3) Newaukum River, including North and South Forks (Lewis County), effective August 1 through October 15, 2019: Closed Waters.

(4) Skookumchuck River (Lewis/Thurston County), effective August 1 through October 15, 2019: Closed Waters.

### REPEALER

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

WAC 220-312-02000S Freshwater exceptions to statewide rules—Coast. (19-149)

**WSR 19-16-016**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 19-167—Filed July 25, 2019, 4:12 p.m., effective July 26, 2019, 6:00 a.m.]

Effective Date of Rule: July 26, 2019, 6 a.m.

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

Citation of Rules Affected by this Order: Repealing WAC 220-359-02000I; and amending WAC 220-359-020.

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: This rule opens the tribal commercial setline fishery in John Day Pool. This rule is consistent with actions of the Columbia River Compact on June 12, June 27, and July 25, 2019. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

The Yakama, Warm Springs, Umatilla, and Nez Perce Indian tribes have treaty fishing rights in the Columbia River and inherent sovereign authority to regulate their fisheries. Washington and Oregon also have some authority to regulate fishing by treaty Indians in the Columbia River, authority that the states exercise jointly under the congressionally ratified Columbia River Compact. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). The tribes and the states adopt parallel regulations for treaty Indian fisheries under the supervision of the federal courts. A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 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.

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

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

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

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

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

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

Date Adopted: July 25, 2019.

Kelly Susewind  
Director

#### NEW SECTION

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

(1) Open Areas: Zone 6 tributary fisheries

(a) Season: Immediately until further notice, and only during those days and hours when the tributaries listed below are open under lawfully enacted Yakama Nation tribal subsistence fishery regulations for enrolled Yakama Nation members

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

(c) Allowable sale: Salmon (any species), steelhead, shad, carp, catfish, walleye, bass, and yellow perch. Sturgeon from 38 to 54 inches fork length in the Bonneville Pool may be kept for subsistence. Sales of fish are allowed after the open period concludes, as long as the fish were landed during the open period.

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

(a) Season: Immediately through 11:59 PM July 31, 2019

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

(c) Allowable sale: Salmon (any species), steelhead may be sold or kept for subsistence. Shad, yellow perch, bass, walleye, catfish and carp may also be sold or retained for subsistence. Sturgeon may not be sold, but sturgeon from 38 to 54 inches fork length in the Bonneville Pool and sturgeon from 43 to 54 inches fork length in The Dalles and John Day Pools and may be kept for subsistence purposes. Fish landed during the open periods are allowed to be sold after the period concludes.

(d) Standard sanctuaries in place for this gear type, except the Spring Creek Hatchery sanctuary is not in effect.

(3) Open Area: SMCRA 1H (John Day Pool only)

(a) Season: 6 AM Friday July 26 to 6 PM Saturday, August 17, 2019

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

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

(d) Standard sanctuaries in place for this gear type.

(4) 24-hour quick reporting is required for Washington wholesale dealers for all areas as provided in WAC 220-352-315, except that all landings from treaty fisheries described above must be reported within 24-hours of completing the fish ticket (not 24-hours after the period concludes).

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

**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 6:00 a.m. July 26, 2019:

WAC 220-359-02000I Columbia River salmon seasons above Bonneville Dam. (19-146)

### **WSR 19-16-017 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE**

[Order 19-160—Filed July 25, 2019, 4:22 p.m., effective August 1, 2019]

Effective Date of Rule: August 1, 2019.

Purpose: Amend recreational salmon fishing rules for Marine Areas 2-1 and 2-2, as well as Naselle, North Nemah, Willapa, and South Fork Willapa rivers.

Citation of Rules Affected by this Order: Repealing WAC 220-312-02000S and 220-313-07000Q; and amending WAC 220-312-020 and 220-313-070.

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: The department is in the process of adopting permanent rules that are necessary to implement the state's share of the fishing plans agreed to with resource comanagers at the 2019 North of Falcon proceedings. These emergency rules are necessary to take advantage

of the state's fishing opportunity that is imminent and will be available prior to the permanent rule, in a manner consistent with comanager agreed fisheries.

The reason[s] for the emergency rules are to meet conservation objectives and because the current 2018 permanent rule is inconsistent with the agreed 2019 North of Falcon fishery sharing package.

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

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

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

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

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

Date Adopted: July 25, 2019.

Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-312-02000S Freshwater exceptions to statewide rules—Coast.** Notwithstanding the provisions of WAC 220-312-020, effective August 1 through August 12, 2019:

**1) Naselle River:** From Hwy. 101 Bridge to the Hwy. 4 Bridge: Salmon daily limit is 6, up to 2 adults may be retained. Release wild Chinook.

**2) Nemah River, North:**

**(a) From Hwy. 101 Bridge upstream to bridge on Nemah Valley Rd:** Salmon daily limit is 6, up to 2 adults may be retained. Release wild Chinook.

**(b) From Hancock property line upstream to the temporary weir (approx. 210' upstream of the Nemah Hatchery Bridge):** Salmon daily limit is 6, up to 2 adults may be retained. Release wild Chinook. Open only for salmon for anglers that possess a senior's license.

**3) Willapa River:**

**(a) From mouth (City of South Bend boat launch) to WDFW access at mouth of Ward Creek/Wilson Creek:** Salmon daily limit is 6, up to 2 adults may be retained. Release wild Chinook.

**(b) From WDFW access at mouth of Ward Creek/Wilson Creek to the second bridge on Camp One Rd.:** Salmon daily limit is 6, up to 2 adults may be retained. Release wild Chinook.

**(c) From the second bridge on Camp One Rd. upstream to mouth of Mill Creek, approx. 0.5 miles:** Salmon daily limit is 6, up to 2 adults may be retained. Release wild Chinook.

**(d) From Mill Creek to Hwy 6 Bridge, approx. 2 miles below mouth of Trap Creek:** Salmon daily limit is 6, up to 2 adults may be retained. Release wild Chinook.

**4) Willapa River, South Fork: From mouth to 400' downstream of falls/fish ladder in Sec. 6 to Pehl Rd. Bridge:** Salmon daily limit is 6, up to 2 adults may be retained. Release wild Chinook.

#### NEW SECTION

**WAC 220-313-07000Q Coastal salmon—Saltwater seasons and daily limits.** Notwithstanding the provisions of WAC 220-313-070:

**1) Catch Record Card Area 2-1;** effective August 1 through August 12, 2019:

(a) Salmon daily limit is 6, up to 2 adults may be retained. Release wild Chinook.

(b) Willapa Bay control zone: open, area 2-1 salmon rules apply.

**2) Catch Record Card Area 2-2, Humptulips North Bay Fishery (northerly of a line running from the south end of the eastern jetty at Ocean Shores Marina, then to a fishing boundary marker on Sand Island (46°57.52'N, 124°03.36'W) then to the Tripod Station located at 46°59.12'N, 124°00.72'W on Brackenridge Bluff);** effective August 1 through August 12, 2019: Salmon daily limit is 6, up to 1 adult may be retained. Release wild Chinook and wild coho.

**3) Catch Record Card Area 2-2, west of the Buoy 13 line;** effective August 12 through August 13, 2019: Closed.

#### REPEALER

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

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

The following section of the Washington Administrative Code is repealed August 14, 2019:

WAC 220-313-07000Q Coastal salmon—Saltwater seasons and daily limits.

#### **WSR 19-16-023**

#### **EMERGENCY RULES**

#### **DEPARTMENT OF**

#### **CHILDREN, YOUTH, AND FAMILIES**

[Filed July 26, 2019, 11:16 a.m., effective July 28, 2019]

Effective Date of Rule: July 28, 2019.

Purpose: Section 2 of SSB 5815 (concerning individuals placed in minimum security status by the Department of Children, Youth, and Families (DCYF)), effective July 28, 2019, amends RCW 72.05.405: (1) To provide that the unlawful use or possession of a controlled substance or an alcoholic beverage while in a community facility are excluded from a list of serious infractions requiring manda-

tory return to an institution; and (2) to direct DCYF to adopt and implement rules based on empirically validated best practices to appropriately address offenses involving unlawful use or possession of a controlled substance and unlawful use or possession of alcohol committed by individuals placed in juvenile community facilities.

This emergency rule ensures that WAC 110-730-0070, is in compliance with RCW 72.05.405, as amended by SSB 5815, by removing the "possession, use, or distribution of drugs or alcohol, or use of inhalants" from the definition of "serious violations" in subsection (1)(i) (requiring mandatory return to an institution under subsection (3)(a)), and inserting that language in subsection (2) in the definition of "other violations," which may, but does not require, transfer of a juvenile to a higher security facility (under subsection (3)(d)).

DCYF is concurrently developing "empirically validated best practices," which will be included in DCYF's permanent rule-making filing. The development of empirically validated best practices will require a two-step process, namely: (1) Developing a literature review to identify the best practices for responding to youth who use substances while in a community facility; and (2) developing policies or standards that are based on those best practices. This is not included in this emergency rule filing because of the additional time needed to complete the literature review and development of policies or standards based on those best practices.

Citation of Rules Affected by this Order: Amending WAC 110-730-0070.

Statutory Authority for Adoption: Section 2 of SSB 5815, codified as chapter 468, Laws of 2019 (effective July 28, 2019).

Other Authority: Chapters 43.216, 34.05 RCW.

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

Reasons for this Finding: As noted above, SSB 5815 directs DCYF to adopt and implement rules pursuant to that law.

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

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

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

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

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

Date Adopted: July 26, 2019.

Brenda Villarreal  
Rules Coordinator

[AMENDATORY SECTION] (Amending WSR 19-14-079, filed 7/1/19, effective 7/1/19)]

**WAC 110-730-0070 Residential disciplinary standards.** (1) Serious violations by a juvenile include:

- (a) Escape or attempted escape;
- (b) Violence toward others with intent to harm and/or resulting in significant bodily injury;
- (c) Involvement in or conviction of a criminal offense under investigation by law enforcement or awaiting adjudication for behavior that occurred during current placement;
- (d) Extortion or blackmail that threatens the safety or security of the facility or community;
- (e) Setting or causing an unauthorized fire with intent to harm self, others, or property, or with reckless disregard for the safety of others;
- (f) Possession or manufacture of weapons or explosives, or tools intended to assist in escape;
- (g) Interfering with staff or service providers in performing duties relating to the security and/or safety of the facility or community;
- (h) Intentional property damage in excess of one thousand five hundred dollars;
- ~~(i) Possession, use, or distribution of drugs or alcohol, or use of inhalants;~~
- ~~(j) (i) Rioting or inciting others to riot;~~
- ~~(k) (i) Refusal of urinalysis or search; or~~
- ~~(l) (k) Other behaviors which threaten the safety or security of the facility, its staff, or residents or the community.~~

(2) Other violations by a juvenile placed in a community facility or residential treatment and care program include:

- (a) Unaccounted for time when a juvenile is away from the community facility or residential treatment and care program;
- (b) Violation of conditions of authorized leave;
- (c) Intimidation or coercion against any person;
- (d) Misuse of medication such as hoarding medication or taking another person's medication;
- (e) Self-mutilation, self tattooing, body piercing, or assisting others to do the same;
- (f) Intentional destruction of property valued at less than fifteen hundred dollars;
- (g) Fighting;
- (h) Unauthorized withdrawal of funds with intent to commit other violations;
- (i) Suspensions or expulsions from school or work;
- (j) Violations of school, employment or volunteer work agreements related to custody and security concerns;
- (k) Escape talk;
- (l) Sexual contact or any other behavior, not defined as a serious violation, resulting in a referral to the department of licensing, child protective services, or law enforcement; ~~or~~
- (m) Lewd or disruptive behavior in the community; ~~or~~
- (n) Possession, use, or distribution of drugs or alcohol, or use of inhalants.

(3) Juveniles must be held accountable when there is reasonable cause to believe they have committed a violation.

(a) Whenever a juvenile placed in a community facility or residential treatment and care program commits a serious violation, the juvenile must be returned to an institution. The JRA program administrator who receives a service provider

report of a serious violation must make arrangements to transfer the juvenile to an institution as soon as possible. Juveniles may be placed in a secure JRA or contracted facility pending transportation to an institution.

(b) Sanctions for serious violations committed by juveniles in an institution, and additional sanctions for serious violations committed by juveniles returned to an institution, must include one or more of the following:

- (i) Loss of privileges for up to thirty days;
  - (ii) Loss of program level; or
  - (iii) Room confinement up to seventy-two hours.
- (c) Sanctions for serious violations may also include, but are not limited to, one or more of the following:

- (i) Change in release date;
- (ii) Referral for prosecution;
- (iii) Transfer to an intensive management unit;
- (iv) Increase in security classification;
- (v) Reprimand and loss of points;
- (vi) Restitution; or
- (vii) Community service.

(d) Sanctions for violations listed in WAC 388-730-0070(2) may include transfer to a higher security facility and must include one or more of the following:

- (i) Loss or privileges;
- (ii) Loss of program level;
- (iii) Room confinement up to seventy-two hours;
- (iv) Change in release date;
- (v) Reprimand and/or loss of points;
- (vi) Additional restitution; or
- (vii) Community service.

(4) When a sanction is imposed, the juvenile must also receive a counseling intervention to address the violation.

(5) If the proposed sanctions for any violation includes extending the juvenile's established release date, the juvenile must be entitled to:

(a) Notice of an administrative review to consider extension of the release date and a written statement of the incident;

(b) An opportunity to be heard before a neutral review chairperson;

(c) Present oral or written statements, and call witnesses unless testimony of a witness would be irrelevant, repetitive, unnecessary, or would disrupt the orderly administration of the facility;

(d) Imposition of the sanction only if the administrative review chairperson finds by a preponderance of the evidence that the serious violation did occur; and

(e) A written decision, stating the reasons for the decision, by the administrative review chairperson.

(6) Each superintendent, regional administrator and service provider must clearly post, or make readily available, the list of serious violations and possible sanctions in all living units.

(7) Each program administrator must adopt procedures for implementing the requirements of this section.

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

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

**WSR 19-16-027**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 19-162—Filed July 26, 2019, 2:40 p.m., effective August 1, 2019]

Effective Date of Rule: August 1, 2019.

Purpose: Amend recreational salmon fishing rules for Puget Sound.

Citation of Rules Affected by this Order: Repealing WAC 220-313-06000B and 220-313-06000C; 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: The department is in the process of adopting permanent rules that are necessary to implement the state's share of the fishing plans agreed to with resource comanagers at the 2019 North of Falcon proceedings. These emergency rules are necessary to take advantage of the state's fishing opportunity that is imminent and will be available prior to the permanent rule, in a manner consistent with comanager agreed fisheries.

The reason for the emergency rules are to meet conservation objectives and because the current 2018 permanent rule is inconsistent with the agreed 2019 North of Falcon fishery sharing package.

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

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

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

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

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

Date Adopted: July 25, 2019.

Kelly Susewind  
Director

**NEW SECTION**

**WAC 220-313-06000C Puget Sound salmon—Salt-water seasons and daily limits.** Notwithstanding the provisions of WAC 220-313-060, effective August 1, 2019:

(1) Catch Record Card Area 6: Immediately through August 12, 2019:

(a) Daily limit of 2 salmon.

- (b) Release chum, wild Chinook and wild coho.
- (2) Catch Record Card Area 7: August 1 through August 12: Closed.
- (3) Catch Record Card Area 9: Immediately through August 12, 2019
- (a) Daily limit of 2 salmon;
- (b) Release Chum, wild coho, and Chinook
- (4) Catch Record Card Area 10: Immediately through August 12, 2019:
- (a) Daily limit of 2 salmon; no more than one may be a Chinook salmon.
- (b) Release chum and wild Chinook.
- (5) Catch Record Card Area 11: Immediately through August 12, 2019:
- (a) Daily limit of 2 salmon of which one may be a hatchery Chinook.
- (b) Release wild Chinook.
- (c) Fishing for salmon from a vessel is prohibited Thursdays and Fridays of each week.

#### REPEALER

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

WAC 220-313-06000B Puget Sound salmon—Saltwater seasons and daily limits. (19-113)

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

WAC 220-313-06000C Puget Sound salmon—Saltwater seasons and daily limits.

#### **WSR 19-16-029 EMERGENCY RULES**

#### **OFFICE OF FINANCIAL MANAGEMENT**

[Filed July 26, 2019, 4:59 p.m., effective July 28, 2019]

Effective Date of Rule: July 28, 2019.

Purpose: SSB 5955, enacted in the 2019 legislative session, addresses various provisions for the department of children, youth, and families (DCYF) effective July 28, 2019. SSB 5955, Section 6 amends RCW 41.04.674 removing the requirement for the office of financial management (OFM) to adopt rules and policies governing the donation and use of shared leave from the foster parent shared leave pool (FPSLP) in consultation with the department of social and health services, and requires OFM to adopt rules and policies governing the donation and use of shared leave from the FPSLP with DCYF.

Citation of Rules Affected by this Order: Amending WAC 357-31-840, 357-31-885, and 357-31-920.

Statutory Authority for Adoption: Chapter 470, Laws of 2019.

Other Authority: RCW 41.04.674.

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: To align Title 357 WAC with the changes made to RCW 41.04.674 effective July 28, 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 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 0, Amended 3, Repealed 0.

Date Adopted: July 26, 2019.

Roselyn Marcus  
Assistant Director of  
Legal and Legislative Affairs

AMENDATORY SECTION (Amending WSR 18-03-081, filed 1/15/18, effective 2/16/18)

**WAC 357-31-840 Who shall administer the foster parent shared leave pool?** The department of ~~((social and health services))~~ children, youth, and families, in consultation with office of financial management, shall administer the foster parent shared leave pool.

AMENDATORY SECTION (Amending WSR 18-03-081, filed 1/15/18, effective 2/16/18)

**WAC 357-31-885 May employees donating leave for the purpose of the foster parent shared leave pool direct the donation to a specific individual?** Leave donated under this section is donated to the foster parent shared leave pool and cannot be directed to a specific individual. Foster parent shared leave is withdrawn from the pool by eligible employees according to priorities established by the department of ~~((social and health services))~~ children, youth, and families. All employees who donate must specifically direct their leave donation to the foster parent shared leave pool.

AMENDATORY SECTION (Amending WSR 18-03-081, filed 1/15/18, effective 2/16/18)

**WAC 357-31-920 When an employer and/or the department of ~~((social and health services))~~ children, youth, and families has determined that abuse of the foster parent shared leave pool has occurred will the employee be required to repay the shared leave drawn from the pool?** Employers and/or the department of ~~((social and health services))~~ children, youth, and families must investigate any alleged abuse of the foster parent shared leave pool and on a finding of wrongdoing the employee may be

required to repay all of the shared leave received from the foster parent shared leave pool. The only time an employee will have to repay leave credits is when there is a finding of wrongdoing.

**WSR 19-16-030**  
**EMERGENCY RULES**  
**OFFICE OF**  
**FINANCIAL MANAGEMENT**

[Filed July 26, 2019, 5:02 p.m., effective July 28, 2019]

Effective Date of Rule: July 28, 2019.

Purpose: Chapter 134, Laws of 2019 (SHB 1930) was passed during the 2019 legislative session with an effective date of July 28, 2019. This bill adds the requirement for employers to provide reasonable break time for an employee to express breast milk for two years after the child's birth each time the employee has need to express the milk and providing a private location, other than a bathroom, if such a location exists at the place of business or worksite, which may be used by the employee to express breast milk.

Citation of Rules Affected by this Order: Amending WAC 357-26-035.

Statutory Authority for Adoption: Chapter 134, Laws of 2019.

Other Authority: RCW 43.10.005.

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: To align Title 357 WAC with the changes made to RCW 43.10.005 effective July 28, 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 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: July 26, 2019.

Roselyn Marcus  
Assistant Director of  
Legal and Legislative Affairs

AMENDATORY SECTION (Amending WSR 19-05-056, filed 2/15/19, effective 3/29/19)

**WAC 357-26-035 What actions must an employer take to provide reasonable pregnancy accommodations?**

(1) An employer must provide employees who are pregnant or have a pregnancy-related health condition a reasonable pregnancy accommodation(~~(, which includes the following:~~

~~(a) Providing more frequent, longer, or flexible restroom breaks;~~

~~(b) Modifying a no food or drink policy;~~

~~(c) Providing seating or allowing an employee to sit more frequently if the job requires standing;~~

~~(d) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, or acquiring or modifying equipment, devices, or an employee's work station;~~

~~(e) Providing a temporary transfer to a less strenuous or less hazardous position;~~

~~(f) Providing assistance with manual labor and limits on lifting;~~

~~(g) Scheduling flexibility for prenatal visits; and~~

~~(h) Any further pregnancy accommodation an employee may request and to which an employer must give reasonable consideration in consultation with information provided on pregnancy accommodation by the department of labor and industries or the employee's attending health care provider)) for reasons as required in RCW 43.10.005.~~

(2) An employer cannot require an employee who is pregnant or has a pregnancy-related health condition to take leave if another reasonable pregnancy accommodation can be provided.

(3) The employer is not required to create additional employment that the employer would not otherwise have created, unless the employer does so or would do so for other classes of employees who need accommodation.

**WSR 19-16-033**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 19-170—Filed July 29, 2019, 8:12 a.m., effective August 1, 2019]

Effective Date of Rule: August 1, 2019.

Purpose: Amend recreational salmon and steelhead rules for the Columbia River.

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

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

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

Reasons for this Finding: This rule is needed in order to have reciprocal rules with Oregon where the Columbia River shares a common border by allowing jack salmon retention in the portion of the river between the Rocky Point/Tongue Point line and West Puget Island.

The department is in the process of adopting permanent rules that are necessary to implement the state's share of the fishing plans agreed to with resource comanagers at the 2019

North of Falcon proceedings. These emergency rules are necessary to take advantage of the state's fishing opportunity that is imminent and will be available prior to the permanent rule, in a manner consistent with comanager agreed fisheries.

The reason[s] for the emergency rules are to meet conservation objectives and because the current 2018 permanent rule is inconsistent with the agreed 2019 North of Falcon fishery sharing package.

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

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

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

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

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

Date Adopted: July 26, 2019.

Nate Pamplin  
for Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-312-06000T Freshwater exceptions to statewide rules—Columbia** Notwithstanding the provisions of WAC 220-312-060, effective August 1, 2019:

**(1) From Buoy 10 upstream to Megler-Astoria Bridge;** salmon and steelhead; effective August 1 through August 13:

- (a) Night closure.
- (b) Daily limit 2.
- (c) No more than 1 Chinook may be retained.
- (d) Release all salmon and steelhead except Chinook and hatchery coho.

**(2) From Megler-Astoria Bridge to a projected line from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon Bank;** salmon and steelhead; effective August 1 through August 13, 2019:

- (a) Night closure.
- (b) Daily limit 2.
- (c) No more than 1 Chinook may be retained.
- (d) Release all salmon and steelhead except Chinook and hatchery coho.

**(3) From a projected line from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon Bank upstream to a line at the west end of Puget Island projected from green navigation marker 39 on the Washington bank to green navigation marker 41 then to red navigation marker 42 and terminating at red navigation marker 44A on the**

**Oregon bank;** salmon and steelhead; effective August 1 through August 20, 2019:

- (a) Night closure.
- (b) Daily limit 6.
- (c) Up to 1 adult salmon may be retained.
- (d) Release all salmon and steelhead except Chinook and hatchery coho.

**(4) From a line at the west end of Puget Island projected from green navigation marker 39 on the Washington bank to green navigation marker 41 then to red navigation marker 42 and terminating at red navigation marker 44A on the Oregon bank to the Hood River Bridge;** salmon and steelhead; effective August 1 through August 13:

- (a) Night closure.
- (b) Daily limit 6.
- (c) Up to 1 adult salmon may be retained.
- (d) Release all salmon and steelhead except Chinook and hatchery coho.

**(5) From Hood River Bridge to John Day Dam;** salmon and steelhead; effective August 1 through August 13:

- (a) Night closure.
- (b) Daily limit 6.
- (c) Up to 1 adult salmon may be retained.
- (d) Release all salmon and steelhead except Chinook and coho.

**(6) From John Day Dam upstream to Hwy 395 at Pasco, WA;** salmon and steelhead; effective August 1 through August 13:

- (a) Night closure.
- (b) Daily limit 6.
- (c) Up to 1 adult salmon may be retained.
- (d) Release all salmon and wild steelhead except Chinook and coho.

**(7) From Hwy 395 Bridge at Pasco, WA upstream to Priest Rapids Dam:** Salmon and steelhead closed immediately through August 15.

**(8) From the upstream line of Rocky Reach Dam to the boundary markers 400' below the spawning channel discharges (on Chelan County side) and the fish ladder (on Douglas County side) at Wells Dam;** salmon; effective immediately through October 15, 2019:

- (a) Daily limit 6.
- (b) No more than 2 adult Chinook may be retained.
- (c) Release wild adult Chinook, sockeye, and coho.
- (d) Anglers who possess a valid two-pole endorsement may fish for salmon with two lines.

**(9) From the Highway 173 Bridge at Brewster upstream to the Highway 17 Bridge near Bridgeport;** salmon; effective August 1, 2019 until further notice:

- (a) Daily limit 6.
- (b) No more than 2 adult Chinook may be retained.
- (c) Release wild adult Chinook, sockeye, and coho.
- (d) Anglers who possess a valid two-pole endorsement may fish for salmon with two lines.



REPEALER

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

WAC 220-312-06000S Freshwater exceptions to statewide rules—Columbia (19-161)

**WSR 19-16-041  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 19-165—Filed July 29, 2019, 2:53 p.m., effective August 11, 2019]

Effective Date of Rule: August 11, 2019.

Purpose: Amend commercial gillnet rules for Puget Sound.

Citation of Rules Affected by this Order: Repealing WAC 220-354-16000R; and amending WAC 220-354-160.

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 rule is needed to open the commercial gillnet fishery in Areas 7B and 7C per comanager agreement. This rule adjusts the opening date to be consistent with the 2019 calendar. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: July 29, 2019.

Amy Windrope  
for Kelly Susewind  
Director

NEW SECTION

**WAC 220-354-16000R Puget Sound salmon—Gillnet—Open periods.** Notwithstanding the provisions of WAC 220-354-160:

Areas	Open Periods
7B, 7C	Open 6 AM to 8 PM 8/11

REPEALER

The following section of the Washington Administrative Code is repealed effective August 12, 2019:

WAC 220-354-16000R Puget Sound salmon—Gillnet—Open periods. (19-165)

**WSR 19-16-044  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 19-168—Filed July 29, 2019, 3:55 p.m., effective August 1, 2019]

Effective Date of Rule: August 1, 2019.

Purpose: Amend recreational salmon fishing rules for the Cowlitz Falls Reservoir, as well as Cowlitz, Cispus, Kalama, and Klickitat rivers.

Citation of Rules Affected by this Order: Repealing WAC 220-312-03000X; 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 is needed to open salmon seasons for Cowlitz, Cispus, Klickitat, Kalama, Lewis rivers, as well as Cowlitz Falls Reservoir.

All but the Lewis River and North Fork Toutle River will open under permanent rules as listed in the 2019/2020 Washington sport fishing regulations pamphlet.

Salmon fishing on the Lewis has been closed as a spring Chinook conservation measure as the Lewis River Hatchery is not expected to meet broodstock goals. At this time, spring Chinook have moved into the upper sections of the Lewis River allowing Washington department of fish and wildlife to open the lower river for fall Chinook harvest opportunity. Spring Chinook conservation measures remain in place upstream of Johnson Creek to achieve conservation objectives by maximizing the number of hatchery fish available for broodstock.

Coho and fall Chinook salmon returning to the North Toutle Hatchery, located on the Green River, must first migrate through the North Fork Toutle River. The 2019 coho salmon run to the North Fork Toutle Hatchery is forecast to be large, allowing for an increase in the adult daily limit. The fall Chinook forecast is too low to support a fishery in this area. Implementing this conservation measure for fall Chinook will maximize the number of hatchery fish available for broodstock and help ensure fishing opportunities in future years. These regulation changes will also align regulations in

the North Fork Toutle River with regulations already in place for the Toutle and Green rivers.

For the other waters listed, spring Chinook conservation objectives have been met and emergency closures are no longer needed. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: July 29, 2019.

Amy Windrope  
for Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-312-03000Y Freshwater exceptions to statewide rules—Southwest.** Notwithstanding the provisions of WAC 220-312-030:

**(1) Lewis River (Clark/Cowlitz Co.):**

(a) From the mouth to the mouth of the East Fork Lewis River, effective August 1 through August 12:

(i) Night Closure for salmon and steelhead fishing.

(ii) Salmon:

(A) Daily limit 6; up to 4 may be adults, of which 2 may be Chinook.

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

(iii) Release all steelhead.

(b) From the mouth of the East Fork Lewis River to Johnson Creek, effective August 1 through August 12: Salmon:

(i) Daily limit 6; up to 4 may be adults, of which 2 may be Chinook.

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

(c) From Johnson Creek to the overhead power lines below Merwin Dam, effective August 1, 2019 until further notice: Salmon:

(i) Daily limit 6; up to 4 may be adults.

(ii) Release all salmon other than hatchery coho.

**(2) Toutle River, North Fork (Cowlitz Co.),** from the mouth (confluence with South Fork) to posted markers downstream of the fish collection facility; salmon, effective August 1 until further notice:

(a) Daily limit 6; up to 4 may be adults.

(b) Release all salmon other than hatchery coho.

#### REPEALER

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

WAC 220-312-03000X Southwest—Freshwater exceptions to statewide rules. (19-154)

**WSR 19-16-045**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 19-169—Filed July 29, 2019, 4:02 p.m., effective July 29, 2019, 4:02 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational salmon fishing rules for Marine Area 2-2.

Citation of Rules Affected by this Order: Repealing WAC 220-313-07000Q; and amending WAC 220-313-070.

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 rule corrects a previous filing that listed an incorrect daily limit for the Humptulips North Bay Fishery.

The department is in the process of adopting permanent rules that are necessary to implement the state's share of the fishing plans agreed to with resource comanagers at the 2019 North of Falcon proceedings. These emergency rules are necessary to take advantage of the state's fishing opportunity that is imminent and will be available prior to the permanent rule, in a manner consistent with comanager agreed fisheries.

The reason for the emergency rules are to meet conservation objectives and because the current 2018 permanent rule is inconsistent with the agreed 2019 North of Falcon fishery sharing package.

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

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

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

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

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

Date Adopted: July 29, 2019.

Amy Windrope  
for Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-313-0700R Coastal salmon—Saltwater seasons and daily limits.** Notwithstanding the provisions of WAC 220-313-070:

1) **Catch Record Card Area 2-1;** effective August 1 through August 12, 2019:

(a) Salmon daily limit is 6, up to 2 adults may be retained. Release wild Chinook.

(b) Willapa Bay control zone: open, area 2-1 salmon rules apply.

2) **Catch Record Card Area 2-2, Humptulips North Bay Fishery (northerly of a line running from the south end of the eastern jetty at Ocean Shores Marina, then to a fishing boundary marker on Sand Island (46°57.52'N, 124°03.36'W) then to the Tripod Station located at 46°59.12'N, 124°00.72'W on Brackenridge Bluff);** effective August 1 through August 12, 2019: Salmon daily limit is 1. Release wild Chinook and wild coho.

3) **Catch Record Card Area 2-2, west of the Buoy 13 line;** effective August 12 through August 13, 2019: Closed.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-313-07000Q Coastal salmon—Saltwater seasons and daily limits. (19-160)

**WSR 19-16-047**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 19-172—Filed July 30, 2019, 8:18 a.m., effective August 1, 2019]

Effective Date of Rule: August 1, 2019.

Purpose: Amend recreational fishing rules for southwest Washington waters.

Citation of Rules Affected by this Order: Repealing WAC 220-312-03000Z; 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: The department is in the process of adopting permanent rules that are necessary to implement the state's share of the fishing plans agreed to with resource comanagers at the 2019 North of Falcon proceed-

ings. These emergency rules are necessary to take advantage of the state's fishing opportunity that is imminent and will be available prior to the permanent rule, in a manner consistent with comanager agreed fisheries.

The reason[s] for the emergency rules are to meet conservation objectives and because the current 2018 permanent rule is inconsistent with the agreed 2019 North of Falcon fishery sharing package.

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

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

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

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

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

Date Adopted: July 29, 2019.

Amy Windrope  
for Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-312-03000Z Freshwater exceptions to statewide rules—Southwest.** Notwithstanding the provisions of WAC 220-312-030, effective August 1 through August 12, 2019:

**1. Cowlitz River (Cowlitz Co.):**

(a) From the boundary markers at mouth to Lexington Bridge:

(i) Steelhead: Catch and release.

(ii) Salmon: Daily limit 6, up to 4 adults may be retained. Release all salmon other than hatchery coho.

(b) From Lexington Bridge to 400 feet or posted markers below the Cowlitz Salmon hatchery barrier dam: Salmon: Daily limit 6, up to 4 adults may be retained. Release all salmon other than hatchery coho.

**2. Drano Lake (Skamania Co.):**

(a) Night closure.

(b) Salmon and steelhead: Daily limit 6; up to 1 adult salmon may be retained. Release all steelhead.

**3. Elochoman River (Wahkiakum Co.):** Salmon: Release all salmon other than hatchery Chinook.

**4. Grays River (Wahkiakum Co.):** Salmon: Release all salmon other than hatchery Chinook.

**5. Grays River, West Fork (Wahkiakum Co.):** Salmon: Release all salmon other than hatchery Chinook.

**6. Green River (Cowlitz Co.):** From the mouth to Miner's Creek: Salmon: Daily limit 6, up to 4 adults may be retained. Release all salmon other than hatchery coho.

**7. Kalama River (Cowlitz Co.):**

(a) From the mouth to railroad bridge below I-5:

(i) Night closure.

(ii) Steelhead: Release all steelhead.

(b) From the railroad bridge below I-5 to 1000 feet below the fishway at the upper salmon hatchery:

(i) From Modrow Bridge downstream to the markers approximately 1,000 feet below the temporary rack when the rack is installed below Modrow Bridge: Closed waters.

(ii) Salmon: Daily limit 6, up to 3 adults may be retained. Release all salmon other than hatchery Chinook and hatchery coho.

**8. Klickitat River (Klickitat Co.):** From the mouth to Fishery Hill Bridge: Steelhead: Release all steelhead.**9. Swift Reservoir (Skamania Co.):** From the dam to posted markers approximately 3/8 mile below Eagle Cliff Bridge: Salmon:

(a) Salmon count toward trout daily limit.

(b) Minimum length: 8 inches.

(c) No catch record card required.

**10. Tilton River (Lewis Co.):** From mouth to West Fork: Salmon: Daily limit 6, up to 2 adults may be retained. Release all salmon other than hatchery coho.**11. Toutle River (Cowlitz Co.):** From the mouth to the forks: Salmon: Daily limit 6, up to 4 adults may be retained. Release all salmon other than hatchery coho.**12. Washougal River (Clark Co.):**

(a) From the mouth to the boat ramp at the WDFW county line access site:

(i) Steelhead: Catch and release.

(ii) Salmon: Closed.

(b) From the boat ramp at the WDFW county line access site to the bridge at Salmon Falls:

(i) From 1,000 feet (or posted markers) below to 200 feet above the temporary weir when the weir is installed in the river: Closed waters.

(ii) Salmon: Release all salmon other than hatchery coho.

**13. White Salmon River (Klickitat/Skamania Co.):**

(a) From the mouth (Burlington Northern Railroad Bridge) to the county road bridge below the former location of the powerhouse: Salmon and steelhead:

(i) Night closure.

(ii) Daily limit 6, up to 2 adult salmon may be retained. Release all salmon and steelhead other than hatchery Chinook and hatchery coho.

**14. Wind River (Skamania Co.):** From the mouth to 400 feet downstream of Shipherd Falls fish ladder: Salmon and steelhead:

(a) Night closure.

(b) Daily limit 6, up to 2 adult salmon may be retained. Release all salmon and steelhead other than hatchery Chinook and hatchery coho.

REPEALER

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

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

**WSR 19-16-055****EMERGENCY RULES****DEPARTMENT OF****FISH AND WILDLIFE**

[Order 19-173—Filed July 30, 2019, 10:39 a.m., effective July 31, 2019]

Effective Date of Rule: July 31, 2019.

Purpose: Amends recreational Puget Sound salmon rules.

Citation of Rules Affected by this Order: Repealing WAC 220-313-06000B, 220-313-06000C and 220-313-06000E; 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: Sufficient quota is available to reopen Marine Area 9 to hatchery Chinook salmon retention from July 31 - August 3, 2019. This action is being taken to increase angling opportunities while ensuring compliance with conservation objectives. This emergency rule also covers Puget Sound marine areas until permanent rules agreed to at North of Falcon proceedings take effect.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 3.

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

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

Date Adopted: July 30, 2019.

Nate Pamplin  
for Kelly Susewind  
Director

NEW SECTION

**WAC 220-313-06000E Puget Sound salmon—Saltwater seasons and daily limits.** Notwithstanding the provisions of WAC 220-313-060, effective July 31, 2019:

(1) Catch Record Card Area 6: Immediately through August 12, 2019:

- (a) Daily limit of 2 salmon.
- (b) Release chum, wild Chinook and wild coho.

(2) Catch Record Card Area 7:

(a) Immediately through July 31, 2019:

- (i) Daily limit of 2 salmon
- (ii) Release chum and wild Chinook.

(iii) Closed to salmon fishing in the Southern Rosario Strait and Eastern Strait of Juan de Fuca closure area described in WAC 220-313-020(7).

(b) August 1 through August 12: Closed.

(3) Catch Record Card Area 9:

(a) Immediately through August 3, 2019:

(i) Daily limit of 2 salmon of which one may be a hatchery Chinook.

(ii) Release chum and wild coho.

(b) August 4 through August 12, 2019

(i) Daily limit of 2 salmon;

(ii) Release Chum, wild coho, and Chinook

(4) Catch Record Card Area 10: Immediately through August 12, 2019:

(a) Daily limit of 2 salmon; no more than one may be a Chinook salmon.

(b) Release chum and wild Chinook.

(5) Catch Record Card Area 11: Immediately through August 12, 2019:

(a) Daily limit of 2 salmon of which one may be a hatchery Chinook.

(b) Release wild Chinook.

(c) Fishing for salmon from a vessel is prohibited Thursdays and Fridays of each week.

REPEALER

The following section of the Washington Administrative Code is repealed July 31, 2019:

WAC 220-313-06000B Puget Sound salmon—Saltwater seasons and daily limits. (19-113)

The following section of the Washington Administrative Code is repealed July 31, 2019:

WAC 220-313-06000C Puget Sound salmon—Saltwater seasons and daily limits. (19-162)

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

WAC 220-313-06000E Puget Sound salmon—Saltwater seasons and daily limits.

**WSR 19-16-059**  
**EMERGENCY RULES**  
**DEPARTMENT OF ECOLOGY**

[Order 19-04—Filed July 30, 2019, 2:19 p.m., effective July 30, 2019, 2:19 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department of ecology (ecology) is adopting an emergency rule, chapter 173-443 WAC, Hydrofluorocarbons (HFCs), to establish a program to implement and enforce the requirements of chapter 284, Laws of 2019 (E2SHB 1112) related to reducing greenhouse gasses by transitioning to the use of less damaging HFCs or suitable substitutes.

The emergency rule will be effective through November 27, 2019. If needed, ecology may adopt subsequent emergency rules until we adopt a permanent rule.

The emergency rule making establishes chapter 173-443 WAC, Hydrofluorocarbons (HFCs), and will establish the means by which manufacturers, importers, and distributors of various products and equipment containing HFCs need to submit to ecology an initial notification by December 31, 2019, and to submit status update notifications when additional restrictions take effect. The restriction deadline for the new and existing vending machine end-use category is modified from January 1, 2020, to January 1, 2022.

We are beginning a rule-making process for the permanent adoption of the rule. Please visit our web site for information and to participate in the rule-making process <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC173-443>.

Citation of Rules Affected by this Order: New chapter 173-443 WAC, Hydrofluorocarbons (HFCs).

Statutory Authority for Adoption: Chapter 284, Laws of 2019 (E2SHB 1112) Hydrofluorocarbons Greenhouse Gas Emissions; chapter 70.235 RCW, Limiting greenhouse gas emissions; chapter 70.94 RCW, Washington Clean Air Act.

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: Chapter 284, Laws of 2019 (E2SHB 1112) was signed into law on May 7, 2019, and it amends chapters 70.235 and 70.94 RCW. It established a deadline of December 31, 2019, for manufacturers, importers, and distributors of various products and equipment containing HFCs to submit initial reports to ecology, and sets restriction deadlines for specific end-use categories. This rule establishes the method for providing notice to ecology by the deadlines. Additionally, the rule modifies the restriction deadline for the new and existing vending machine end-use category from January 1, 2020, to January 1, 2022.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 7, Amended 0, Repealed 0.

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

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

Date Adopted: July 30, 2019.

Maia D. Bellon  
Director

## Chapter 173-443 WAC

### HYDROFLUOROCARBONS (HFCs)

#### NEW SECTION

**WAC 173-443-010 Policy and purpose.** (1) It is the policy of the department of ecology (ecology) under the authority vested in it by chapter 43.21A RCW to provide for the systematic control of air pollution from air contaminant sources and for the proper development of the state's natural resources.

(2) As authorized by chapter 284, Laws of 2019 (E2SHB 1112, Hydrofluorocarbon greenhouse gas emissions), it is the purpose of this chapter to establish the requirements for the transition to the use of less damaging hydrofluorocarbons or suitable substitutes in various applications in Washington in a manner similar to regulations adopted by the Environmental Protection Agency, and that have been subsequently adopted or will be adopted in other states.

#### NEW SECTION

**WAC 173-443-020 Definitions.** "Manufacturer" means the same as defined in chapter 284, Laws of 2019: Any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces any product that contains or uses hydrofluorocarbons or is an importer or domestic distributor of such a product.

"Product class" means the same as end-use, as defined in Subpart G of 40 C.F.R. Part 82, as it read on January 3, 2017: Processes or classes of specific applications within major industrial sectors where a substitute is used to replace an ozone-depleting substance.

#### NEW SECTION

**WAC 173-443-030 Manufacturer notification.** (1) The manufacturer of products that contain or use hydrofluorocarbons or other restricted substitutes under chapter 284, Laws of 2019, or a trade organization on behalf of its member manufacturers, must report to the department consistent with WAC 173-443-040 and 173-443-050.

(2) It is only necessary for one person or entity to report with respect to a particular product that contains or uses hydrofluorocarbons or other restricted substitutes under chapter 284, Laws of 2019.

(3) In the event of a failure by at least one person to provide a complete, accurate and timely report for a product within a product class, ecology will require information from

manufacturers associated with a product in the following order of precedence:

(a) The person or entity that had the product manufactured, unless it has no presence in the United States.

(b) The person or entity that marketed the product under its name or trademark, unless it has no presence in the United States.

(c) The first person or entity, whether an importer or a distributor, that owned the product in the United States.

(d) This hierarchy in no way limits the liability of any manufacturer as defined in subsection (2) of this section associated with a product from enforcement under chapter 284, Laws of 2019, or rules promulgated thereunder.

#### NEW SECTION

**WAC 173-443-040 Initial notification.** (1) By December 31, 2019, each manufacturer or its representative must provide ecology an initial status notification of the status of products within each product class using hydrofluorocarbons or other substitutes covered under chapter 284, Laws of 2019. This must include all covered products that the manufacturer offers for sale, leases, rents, or installs in Washington. All manufacturers must notify ecology by completing and submitting ecology's notification form. The current version of the form may be obtained at ecology's web site.

(2) Using a form provided by ecology, this initial status notification must include:

(a) Contact information on the manufacturer.

(b) The name of the party authorized to represent the manufacturer for purposes of providing initial status notifications and status updates.

(c) All product classes that are applicable to the manufacturer.

(d) Which hydrofluorocarbons or other substitutes are being used by products within each product class applicable to the manufacturer.

(e) Signature and certification by the authorized representative for the manufacturer.

#### NEW SECTION

**WAC 173-443-050 Status update notification.** Within one hundred twenty days after the date of a restriction put in place by chapter 284, Laws of 2019, each manufacturer affected by the restriction or its representative must provide ecology with an updated status notification using ecology's form. This notification must include:

(1) Whether the manufacturer has ceased the use of hydrofluorocarbons or substitutes restricted under chapter 284, Laws of 2019 within each product class.

(2) What, if any, hydrofluorocarbons or other restricted substitutes remain in use.

(3) Updated responses on all information requested in the initial status notification under WAC 173-443-040.

#### NEW SECTION

**WAC 173-443-060 Restriction modification.** The product class restriction for new and existing vending machines is modified to January 1, 2022, based on ecology's

determination, in accordance with RCW 70.235.--- (3)(a) (section 3 (3)(a), chapter 284, Laws of 2019).

#### NEW SECTION

**WAC 173-443-070 Severability.** If any provision of the rule or its application to any covered party, person, or circumstance is held invalid, the remainder of the rule or application of the provision to other covered parties, persons, or circumstances is not affected.

**WSR 19-16-064**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 19-177—Filed July 30, 2019, 3:28 p.m., effective July 31, 2019]

Effective Date of Rule: July 31, 2019.

Purpose: Amends Puget Sound commercial shrimp rules.

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

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

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

Reasons for this Finding: The 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) continues the pot fishery season for spot shrimp; (2) implements a spot shrimp weekly limit for all areas; (3) implements a minimum mesh size restriction for spot shrimp gear; (4) implements two hundred pounds weekly limits in Shrimp Management Areas 1A and 1C for spot shrimp harvest; and (5) maintains the previous regulations and restrictions for the nonspot trawl and pot fisheries. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: July 30, 2019.

Amy Windrope  
for Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-340-52000E Puget Sound shrimp pot and trawl fishery—Season.** Notwithstanding the provisions of WAC 220-340-520, effective 12:01 a.m., July 31, 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 shrimp species, effective immediately, until further notice, except as provided for in this section:
    - (i) All waters of the Discovery Bay Shrimp District are closed.
    - (ii) All waters of Shrimp Management Area 1A are open to harvest of spot shrimp and closed to the harvest of all other species of shrimp.
    - (iii) All waters of Shrimp Management Area 1B are closed to the harvest of all species of shrimp.
    - (iv) All waters of Shrimp Management Area 1C are open to harvest of spot shrimp and closed to the harvest of all other species of shrimp.
    - (v) All waters of Shrimp Management Area 2E are closed to the harvest of spot shrimp and open to the harvest of non-spot shrimps.
    - (vi) All waters of Shrimp Management Area 2W are closed to the harvest of spot shrimp and open to the harvest of non-spot shrimps.
    - (vii) All waters of 23A East in Shrimp Management Area 3 are closed to the harvest of spot shrimp and open to the harvest of non-spot shrimps.
  - (b) Effective immediately, until further notice, it is unlawful for the combined total harvest of non-spot shrimp by a fisher or the fisher's alternate operator to exceed 600 pounds *per weekly management period* from Shrimp Management Area 2W and 2E combined.
  - (c) Effective immediately, until further notice, the shrimp weekly management period is Wednesday through Tuesday.
  - (d) Effective immediately, until further notice, it is unlawful for the combined total harvest of spot shrimp by a fisher or the fisher's alternate operator to exceed 600 pounds per weekly management period. No more than 200 pounds of the 600 pound weekly limit can come from SMA 1A or SMA 1C.
  - (e) Effective immediately, until further notice, the remaining spot shrimp weekly management periods are (1) July 31 to August 6; (2) August 7 to August 13; (3) August 14 to August 20; (4) August 21 to August 27; (5) August 28 to September 3; and (6) September 4 to September 10.
  - (f) Only pots with a minimum mesh size of 1 inch may be pulled on calendar days when fishing for or retaining spot shrimp. Mesh size of 1 inch is defined as a mesh opening that a 7/8-inch square peg will pass through, excluding the

entrance tunnels, except for flexible (web) mesh pots, where the mesh must be a minimum of 1 3/4-inch stretch measure. Stretch measure is defined as the distance between the inside of one knot to the outside of the opposite vertical knot of one mesh, when the mesh is stretched vertically. There is no size restriction for spot shrimp.

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

(2) Shrimp trawl gear:

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

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

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

(d) That portion of Catch Area 21A within SMA 1B is open.

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

#### REPEALER

The following section of the Washington Administrative Code is repealed July 31, 2019:

WAC 220-340-52000D Puget Sound shrimp pot and beam trawl fishery—Season. (19-134)

#### **WSR 19-16-065 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE**

[Order 19-171—Filed July 30, 2019, 4:35 p.m., effective August 1, 2019]

Effective Date of Rule: August 1, 2019.

Purpose: Amend recreational fishing rules for Puget Sound freshwater areas.

Citation of Rules Affected by this Order: Repealing WAC 220-312-04000L and 220-312-04000V; 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: The department is in the process of adopting permanent rules that are necessary to implement the state's share of the fishing plans agreed to with resource comanagers at the 2019 North of Falcon proceedings. These emergency rules are necessary to take advantage of the state's fishing opportunity that is imminent and will be

available prior to the permanent rule, in a manner consistent with comanager agreed fisheries.

The reason[s] for the emergency rules are to meet conservation objectives and because the current 2018 permanent rule is inconsistent with the agreed 2019 North of Falcon fishery sharing package.

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

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

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

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

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

Date Adopted: July 30, 2019.

Amy Windrope  
for Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-312-04000V Freshwater exceptions to statewide rules—Puget Sound.** Notwithstanding the provisions of WAC 220-312-040, effective August 1 through August 12, 2019:

**1. Big Soos Creek (King Co.):** Steelhead: daily limit 2 hatchery steelhead.

**2. Chambers Creek (Pierce Co.):** Anti-snagging rule is not in effect.

**3. Green (Duwamish) River (King County):** Steelhead: In areas open for gamefish; daily limit 2 hatchery steelhead.

**4. McAllister Creek (Thurston County):** Salmon: Release chum, wild coho, and wild Chinook.

**5. Nisqually River (Thurston County):** Salmon: Release all chum and wild Chinook.

**6. Nooksack River (Whatcom County):** Salmon: Closed.

**7. Pass Lake (Skagit County):** Gamefish: Statewide minimum length/daily limit, except: Release all trout.

**8. Samish River (Skagit County),** from mouth to the I-5 Bridge: Salmon: Release pink salmon and wild coho.

**9. Sammamish River (Slough) (King County),** from the 68th Ave. NE Bridge to Lake Sammamish: It is lawful to fish from a floating device equipped with an internal combustion motor.

**10. Snohomish River (Snohomish County),** from the Burlington-Northern Railroad to Hwy. 9 Bridge, including all channels, sloughs, and interconnecting waterways, but excluding all tributaries: Salmon: Closed.



**11. Whatcom Creek (Whatcom County)**, from the mouth to the markers below the footbridge below Dupont Street in Bellingham: Salmon: Daily limit 2.

#### REPEALER

The following sections of the Washington Administrative Code is repealed effective August 13, 2019:

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

WAC 220-312-04000L Freshwater exceptions to statewide rules—Puget Sound. (19-88)

**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 19-16-069**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 19-175—Filed July 31, 2019, 8:37 a.m., effective July 31, 2019, 8:37 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend Nisqually River recreational fishing rules.

Citation of Rules Affected by this Order: Repealing WAC 220-312-04000W; 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 rule is needed to close angling in the lower portion of the Nisqually River on Sundays of each week; it complies with agreements made with comanagers during North of Falcon proceedings and is needed to avoid gear conflicts between tribal and recreational fishers. There is insufficient time to adopt permanent rules.

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

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

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

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

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

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

Date Adopted: July 31, 2019.

Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-312-04000W Freshwater exceptions to statewide rules—Puget Sound.** Notwithstanding the provisions of WAC 220-312-040 and WAC 220-312-04000V, effective August 1 through November 15, 2019:

**Nisqually River (Thurston County)**, from the mouth to the military tank crossing bridge (located one mile upstream of the mouth of Muck Creek): Closed to angling for all species on Sunday of each week.

#### REPEALER

The following sections of the Washington Administrative Code is repealed effective November 16, 2019:

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

**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 19-16-082**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 19-174—Filed July 31, 2019, 5:03 p.m., effective August 1, 2019]

Effective Date of Rule: August 1, 2019.

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

Citation of Rules Affected by this Order: Repealing WAC 220-359-02000J; and amending WAC 220-359-020.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047.

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 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: This rule extends existing tribal commercial fisheries above Bonneville Dam while opening additional fall fisheries above and below the dam. This rule is consistent with actions of the Columbia River Compact on June 12, June 27, July 25, and July 30, 2019. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

The Yakama, Warm Springs, Umatilla, and Nez Perce Indian tribes have treaty fishing rights in the Columbia River and inherent sovereign authority to regulate their fisheries. Washington and Oregon also have some authority to regulate fishing by treaty Indians in the Columbia River, authority that the states exercise jointly under the congressionally ratified Columbia River Compact. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). The tribes and the states adopt parallel regulations for treaty Indian fisheries under the supervision of the federal courts. A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 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.

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

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

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

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

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

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

Date Adopted: July 31, 2019.

Kelly Susewind  
Director

## NEW SECTION

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

(1) Open Areas: Zone 6 tributary fisheries

(a) Season: Immediately until further notice, and only during those days and hours when the tributaries listed below are open under lawfully enacted Yakama Nation tribal subsistence fishery regulations for enrolled Yakama Nation members

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

(c) Allowable sale: Salmon (any species), steelhead, shad, carp, catfish, walleye, bass, and yellow perch. Sturgeon from 38 to 54 inches fork length in the Bonneville Pool may be kept for subsistence. Sales of fish are allowed after the open period concludes, as long as the fish were landed during the open period.

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

(a) Season: Immediately through 11:59 PM July 31, 2019

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

(c) Allowable sale: Salmon (any species), steelhead may be sold or kept for subsistence. Shad, yellow perch, bass, walleye, catfish and carp may also be sold or retained for subsistence. Sturgeon may not be sold, but sturgeon from 38 to 54 inches fork length in the Bonneville Pool and sturgeon from 43 to 54 inches fork length in The Dalles and John Day Pools and may be kept for subsistence purposes. Fish landed during the open periods are allowed to be sold after the period concludes.

(d) Standard sanctuaries in place for this gear type, except the Spring Creek Hatchery sanctuary is not in effect.

(3) Open Area: SMCRA 1H (John Day Pool only)

(a) Season: Immediately through 6 PM Saturday, August 17, 2019

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

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

(d) Standard sanctuaries in place for this gear type.

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

(a) Season: 12:01 AM August 1, 2019 until further notice.

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

(c) Allowable sale: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Sturgeon of legal size may be sold if landed during the open area and period for the set-line fishery within that pool, otherwise sturgeon from 38 to 54 inches fork length in the Bonneville Pool and sturgeon from 43 to 54 inches fork length in The Dalles and John Day Pools may be kept for subsistence purposes.

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

(5) Open Areas: Drano Lake and Klickitat River

(a) Season: 12:01 AM August 1, 2019 until further notice, and only during days and times open under lawfully enacted Yakama Nation tribal subsistence fishery regulations for enrolled Yakama Nation members.

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

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

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

(a) Season: 12:01 AM August 1 through 11:59 PM October 31.

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

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

(7) 24-hour quick reporting is required for Washington wholesale dealers for all areas as provided in WAC 220-352-315, except that all landings from treaty fisheries described above must be reported within 24-hours of completing the fish ticket (not 24-hours after the period concludes).

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

**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 12:01 a.m. August 1, 2019:

WAC 220-359-02000J Columbia River salmon seasons above Bonneville Dam. (19-167)

### WSR 19-16-086 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 19-178—Filed August 1, 2019, 9:46 a.m., effective August 5, 2019]

Effective Date of Rule: August 5, 2019.

Purpose: Amend Puget Sound commercial sea cucumber rules.

Citation of Rules Affected by this Order: Amending WAC 220-340-730.

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 the Puget Sound commercial sea cucumber fishery. Harvestable surpluses of sea cucumbers remain in districts specified. 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: July 31, 2019.

Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-340-73000L Commercial sea cucumber fishery.** Notwithstanding the provisions of WAC 220-340-730, effective August 5, 2019 until further notice, it is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section:

(1) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber District 1, Monday through Sunday of each week.

(2) Sea cucumber harvest using shellfish diver gear is allowed in the following catch record areas of Sea Cucumber District 2, Monday through Sunday of each week: 29, 25A, 25B, 25C, 25D, 25E, 23A, 23D, and 23C east of a line projected true north from the shoreline at 123 degrees 48.3 minutes west longitude, and west of a line projected true north

from the shoreline at 123 degrees 52.7 minutes west longitude.

(3) Sea cucumber harvest using shellfish diver gear is allowed in the following catch record areas of Sea Cucumber District 5, Monday through Sunday of each week: 28B, 28C, 28D, and 28A except for all waters of Hale Passage and Wollochet Bay within the following lines: west of a line projected true south from the shoreline near Point Fosdick at 122 degrees 35 minutes west longitude to 47 degrees 14 minutes north latitude, and thence projected true west to the shoreline of Fox Island, and east of a line projected true south from the shoreline near Green Point at 122 degrees 41 minutes west longitude to 47 degrees 16.5 minutes north latitude, and thence projected true east to the shoreline of Fox Island.

(4) The maximum cumulative landing of sea cucumbers for each weekly fishery opening period is 1,800 pounds per valid designated sea cucumber harvest license.

**WSR 19-16-089**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 19-179—Filed August 1, 2019, 11:39 a.m., effective August 1, 2019, 11:39 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends recreational Puget Sound salmon rules.

Citation of Rules Affected by this Order: Repealing WAC 220-313-06000E and 220-313-06000F; 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 rule is needed to close the waters of Marine Area 9 south of a line from Olele Point to Foulweather Bluff while Chinook retention is allowed in the remaining portion of Marine Area 9. This conservation measure is needed to comply with measures agreed to with comanagers at the North of Falcon proceedings. This emergency rule also covers other Puget Sound areas for permanent rules agreed to at the North of Falcon proceedings until those permanent rules take effect.

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

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

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

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

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

Date Adopted: August 1, 2019.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-313-06000F Puget Sound salmon—Saltwater seasons and daily limits.** Notwithstanding the provisions of WAC 220-313-060, effective immediately:

(1) Catch Record Card Area 6: Immediately through August 12, 2019:

- (a) Daily limit of 2 salmon.
- (b) Release chum, wild Chinook and wild coho.

(2) Catch Record Card Area 7:

(d) Immediately through August 12: Closed.

(3) Catch Record Card Area 9:

(a) Immediately through August 3, 2019:

(i) Waters of Area 9 south of a line from Foulweather Bluff to Olele Point: Closed to fishing for salmon.

(ii) Daily limit of 2 salmon of which one may be a hatchery Chinook.

(iii) Release wild Chinook, chum, and wild coho.

(b) August 4 through August 12, 2019

(i) Daily limit of 2 salmon;

(ii) Release Chum, wild coho, and Chinook

(4) Catch Record Card Area 10: Immediately through August 12, 2019:

(a) Daily limit of 2 salmon; no more than one may be a Chinook salmon.

(b) Release chum and wild Chinook.

(5) Catch Record Card Area 11: Immediately through August 12, 2019:

(a) Daily limit of 2 salmon of which one may be a hatchery Chinook.

(b) Release wild Chinook.

(c) Fishing for salmon from a vessel is prohibited Thursdays and Fridays of each week.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-313-06000E Puget Sound salmon—Saltwater seasons and daily limits. (19-173)

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

WAC 220-313-06000F Puget Sound salmon—Saltwater seasons and daily limits.

**WSR 19-16-090**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 19-180—Filed August 1, 2019, 11:55 a.m., effective August 1, 2019, 11:55 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The proposal will amend existing WAC 220-415-090 until the filed CR-103P becomes permanent.

Citation of Rules Affected by this Order: Amending WAC 220-415-090.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.020, and 77.04.055.

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 agency filed a CR-103P, WSR 19-15-028 allowing a hunting opportunity in eastern Washington to increase the bag limit to two bears per license year. This season date opens August 1 statewide.

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: August 1, 2019.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-415-09000A 2018-2020 Fall black bear hunting seasons and regulations** Notwithstanding the provisions of WAC 220-415-09000A Fall black bear hunting seasons and regulations, effective immediately.

**Bag Limit:** Two (2) black bear per annual hunting season

**Area Restriction:** Special deer permit required to hunt black bear in GMU 485. GMUs 410 and 422 are closed for black bear hunting. Hunters that choose to hunt in GMUs located in grizzly bear recovery areas, as identified by the department, must successfully complete the WDFW online bear identification test or equivalent test from another state and carry proof of successful completion.

**WSR 19-16-108**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 19-181—Filed August 2, 2019, 2:29 p.m., effective August 2, 2019, 2:29 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends recreational Puget Sound salmon rules.

Citation of Rules Affected by this Order: Repealing WAC 220-313-06000F and 220-313-06000G; 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 rule is needed to open Chinook retention in a portion of Marine Area 9 for an additional day. Sufficient quota remains available to allow for this fishery and is consistent with comanager agreed to fisheries. This emergency rule also covers other Puget Sound areas for permanent rules agreed to at the North of Falcon proceedings until those permanent rules take effect. There is insufficient time to adopt permanent rules.

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

Number of Sections Adopted at 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: August 2, 2019.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-313-06000G Puget Sound salmon—Saltwater seasons and daily limits.** Notwithstanding the provisions of WAC 220-313-060, effective immediately:

(1) Catch Record Card Area 6: Immediately through August 12, 2019:

- (a) Daily limit of 2 salmon.
- (b) Release chum, wild Chinook and wild coho.
- (2) Catch Record Card Area 7:
- (d) Immediately through August 12: Closed.
- (3) Catch Record Card Area 9:
- (a) Immediately through August 4, 2019:

(i) Waters of Area 9 south of a line from Foulweather Bluff to Olele Point: Closed to fishing for salmon.

(ii) Daily limit of 2 salmon of which one may be a hatchery Chinook.

(iii) Release wild Chinook, chum, and wild coho.

(b) August 5 through August 12, 2019

(i) Daily limit of 2 salmon;

(ii) Release Chum, wild coho, and Chinook

(4) Catch Record Card Area 10: Immediately through August 12, 2019:

(a) Daily limit of 2 salmon; no more than one may be a Chinook salmon.

(b) Release chum and wild Chinook.

(5) Catch Record Card Area 11: Immediately through August 12, 2019:

(a) Daily limit of 2 salmon of which one may be a hatchery Chinook.

(b) Release wild Chinook.

(c) Fishing for salmon from a vessel is prohibited Thursdays and Fridays of each week.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-313-06000F Puget Sound salmon—Saltwater seasons and daily limits. (19-179)

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

WAC 220-313-06000G Puget Sound salmon—Saltwater seasons and daily limits.

**WSR 19-16-121  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 19-181—Filed August 5, 2019, 2:46 p.m., effective August 6, 2019]

Effective Date of Rule: August 6, 2019.

Purpose: Amends recreational Puget Sound salmon rules.

Citation of Rules Affected by this Order: Repealing WAC 220-313-06000G and 220-313-06000H; 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 rule is needed to open Chinook retention in a portion of Marine Area 9. Sufficient quota remains available to allow for this fishery and is consistent with comanager agreed to fisheries. This emergency rule also covers other Puget Sound areas for permanent rules agreed to at the North of Falcon proceedings until those permanent rules take effect. There is insufficient time to adopt permanent rules.

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

Number of Sections Adopted at 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: August 5, 2019.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-313-06000H Puget Sound salmon—Saltwater seasons and daily limits.** Notwithstanding the provisions of WAC 220-313-060, effective August 6, 2019:

(1) Catch Record Card Area 6: Immediately through August 12, 2019:

- (a) Daily limit of 2 salmon.
- (b) Release chum, wild Chinook and wild coho.
- (2) Catch Record Card Area 7:
- (d) Immediately through August 12: Closed.
- (3) Catch Record Card Area 9:
- (a) Immediately through August 9, 2019:

(i) Waters of Area 9 south of a line from Foulweather Bluff to Olele Point: Closed to fishing for salmon.

(ii) Daily limit of 2 salmon of which one may be a hatchery Chinook.

(iii) Release wild Chinook, chum, and wild coho.

(b) August 10 through August 12, 2019

(i) Daily limit of 2 salmon;

(ii) Release Chum, wild coho, and Chinook

(4) Catch Record Card Area 10: Immediately through August 12, 2019:

(a) Daily limit of 2 salmon; no more than one may be a Chinook salmon.

(b) Release chum and wild Chinook.

(5) Catch Record Card Area 11: Immediately through August 12, 2019:

(a) Daily limit of 2 salmon of which one may be a hatchery Chinook.

(b) Release wild Chinook.

(c) Fishing for salmon from a vessel is prohibited Thursdays and Fridays of each week.

**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 August 6, 2019:

WAC 220-313-06000G Puget Sound salmon—Saltwater seasons and daily limits. (19-181)

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

WAC 220-313-06000H Puget Sound salmon—Saltwater seasons and daily limits.

### WSR 19-16-139 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 19-176—Filed August 6, 2019, 3:44 p.m., effective August 26, 2019]

Effective Date of Rule: August 26, 2019.

**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 220-358-03000C; 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:** Sets the 2019 fall select area commercial seasons. Impacts to nonlocal stocks are expected to be minimal and local Chinook stocks reared for the select area sites are available for harvest. The fishery is consistent with the *U.S. v. Oregon* Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with the compact action of July 30, 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 federal court order sets the current parameters for sharing between treaty Indians and others. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546).

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

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

**Number of Sections Adopted in Order to Comply with Federal Statute:** New 1, Amended 0, Repealed 1; **Federal Rules or Standards:** New 1, Amended 0, Repealed 1; or **Recently Enacted State Statutes:** New 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: August 6, 2019.

Nate Pamplin  
for Kelly Susewind  
Director

## NEW SECTION

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

### **(1) Tongue Point/South Channel**

(a) **Dates:** Monday and Wednesday nights August 26-29, 2019.

Monday, Tuesday, Wednesday, and Thursday nights September 2 - October 25

Open Hours: 7 PM - 7 AM through September 6 and 4 PM - 10 AM thereafter

(b) **Area:** The Tongue Point Select Area is defined as waters of the Columbia River bounded by a line from a regulatory marker on the eastern shore of Tongue Point (midway between the red USCG light "2" at the tip of Tongue Point and the northern-most pier (#8) at the Tongue Point Job Corps facility) to the flashing green USCG light "3" on the rock jetty at the northwest tip of Mott Island, a line from a regulatory marker at the southeast end of Mott Island northeasterly to a regulatory marker on the northwest shore of Lois Island, and a line from a regulatory marker 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.

(i) If the marker on the eastern shore of Tongue Point is not in place, the downstream boundary is defined by a line projecting from a point (46°12'31.1"N latitude 123°45'34.0"W longitude) on the eastern shore of Tongue Point to the flashing green USCG light "3" on the rock jetty at the northwest tip of Mott Island.

(ii) If the marker on the Oregon shore is not in place, the upstream boundary is defined by a line projecting 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 projecting easterly to a regulatory marker on Lois Island.

The South Channel 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 with a 6-inch maximum mesh size restriction. Maximum net length of 250 fathoms.

In the Tongue Point Select Area, the lead line weight may not exceed two pounds per any one fathom; however, unstored gillnets legal for use in South Channel may be onboard.

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.

(d) **Allowable Sales:** Salmon (except Chum), white sturgeon, and shad. A maximum of three white sturgeon with a fork length of 44-50 inches may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday).

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

### **(2) Blind Slough/Knappa Slough Select Area**

(a) **Dates:** Monday and Wednesday nights August 26-29, 2019

Monday, Tuesday, Wednesday, and Thursday nights September 2 - October 25

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

#### **(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 Barendse 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.

#### **(c) Gear:**

Gillnets with a maximum mesh size restriction of 9 3/4-inch through September 6, and a 6-inch maximum thereafter. Maximum net length is 100 fathoms. There is no lead line weight limit and attachment of additional weight and anchors directly to the lead line is permitted.

(d) **Allowable sales:** Salmon (except Chum), white sturgeon, and shad. A maximum of three white sturgeon with a fork length of 44-50 inches may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday).

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

### **(3) Deep River Select Area**

(a) **Dates:** Monday and Wednesday nights during August 26-29, 2019.

Monday, Tuesday, Wednesday, Thursday, and Friday nights September 2-21

Monday, Tuesday, Wednesday, and Thursday nights September 23-27



Monday and Wednesday nights during September 30-October 3

Monday, Tuesday, Wednesday, and Thursday nights October 7-18

Monday, Tuesday, Wednesday, Thursday, and Friday nights Oct. 21-Nov. 16

Monday, Tuesday, Wednesday, and Thursday nights November 18-further notice.

Open hours: 7 PM - 7 AM August 26-29, 6 PM - 9 AM September 2 to November 2, and 5 PM - 8 AM thereafter

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

(c) **Gear:** Gillnets. Maximum mesh size restriction is 9 3/4-inch through September 7, and a 6-inch maximum thereafter. Maximum net length is 100 fathoms. No weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed. No nets can be tied off to stationary structures. Nets may not fully cross the navigation channel. It is unlawful to operate in any river, stream, or channel any gillnet gear longer than three-fourths the width of the river, stream, or channel. "River, stream, or channel width" is defined as bank-to-bank, where the water meets the banks, regardless of the time of tide or the water level.

(d) **Allowable sales:** Salmon (except Chum), white sturgeon, and shad. A maximum of three white sturgeon with a fork length of 44-50 inches may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday).

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

(4) The white sturgeon possession and sales limit includes all open Select Area fisheries.

(5) **24-hour** quick reporting is in effect for Washington buyers WAC 220-352-315. Permanent transportation rules in effect.

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

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

#### REPEALER

The following section of the Washington Administrative Code is repealed August 26, 2019:

WAC 220-358-03000C Columbia River seasons below Bonneville. (18-124)

### WSR 19-16-149 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 19-183—Filed August 7, 2019, 9:47 a.m., effective August 7, 2019, 9:47 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The proposal will amend existing WAC 220-415-090 until the filed CR-103P becomes permanent.

Citation of Rules Affected by this Order: Amending WAC 220-415-090.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.020, and 77.04.055.

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 agency filed a CR-103P, WSR 19-15-028 allowing a hunting opportunity in eastern Washington to increase the bag limit to two bears per license year. This season date opens August 1 statewide.

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 [1].

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

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

Date Adopted: August 7, 2019.

Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-415-09000B 2018-2020 Fall black bear hunting seasons and regulations.** Notwithstanding the provisions of WAC 220-415-090, effective immediately until further notice the following rules apply:

**Bag Limit:** Two (2) black bear per annual hunting season.

**Area Restriction:** Special deer permit required to hunt black bear in GMU 485. GMUs 410 and 422 are closed for black bear hunting. Hunters that choose to hunt in GMUs located in grizzly bear recovery areas, as identified by the department, must successfully complete the WDFW online bear identification test or equivalent test from another state and carry proof of successful completion.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-415-09000A 2018-2020 Fall black bear hunting seasons and regulations.