

WSR 14-20-001
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-259—Filed September 17, 2014, 4:27 p.m., effective September 17, 2014, 4:27 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-56-195.

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 #2 Red Buoy is no longer available as a physical boundary marker for a closed area in Dungeness Bay. GPS coordinates of the #2 Red Buoy are being used as the boundary marker until the buoy is reattached. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 17, 2014.

David Giglio
for Philip Anderson
Director

NEW SECTION

WAC 220-56-19500C Closed areas—Saltwater salmon angling Notwithstanding the provisions of WAC 220-56-195, effective immediately until further notice, those waters of Dungeness Bay westerly of a line from Dungeness Spit Light to 123° 5.61'W, 48° 11.55'N, and then to the Port Williams boat ramp are closed to salmon angling through September 30, 2014, and from November 1, 2014, until further notice.

WSR 14-20-002
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-260—Filed September 17, 2014, 4:27 p.m., effective September 17, 2014, 4:27 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 232-28-62000I and 232-28-62000J; and amending WAC 232-28-620.

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

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

Reasons for this Finding: This emergency rule is needed to close the fishery as the salmon quotas for Marine Areas 1 and 2 are expected to be taken by the end of September 21, 2014. There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 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: September 17, 2014.

David Giglio
for Philip Anderson
Director

NEW SECTION

WAC 232-28-62000J Coastal salmon—Saltwater seasons and daily limits. Notwithstanding the provisions of WAC 232-28-620, effective immediately through September 21, 2014, it is unlawful to violate the provisions below. Unless otherwise amended, all permanent rules remain in effect:

- (1) **Catch Record Card Areas 1:** Open through 11:59 p.m. Sunday, September 21; daily limit of 2 salmon.
- (2) **Catch Record Card Area 2:** Open through 11:59 p.m. Friday, September 19; daily limit of 2 salmon.
- (3) **Catch Record Card Area 3:** Open through 11:59 p.m. Sunday, September 21; daily limit of 2 salmon.

(4) **Catch Record Card Area 4:** Open through 11:59 p.m. Sunday, September 21; daily limit of 2 salmon.

(a) In waters east of the Bonilla – Tatoosh line release Chinook.

(b) The waters south of a line from Kydaka Point to Shipwreck Point are closed.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-62000I Coastal salmon—Saltwater seasons and daily limits. (14-239)

The following section of the Washington Administrative Code is repealed effective September 22, 2014:

WAC 232-28-62000J Coastal salmon—Saltwater seasons and daily limits.

**WSR 14-20-005
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 14-261—Filed September 18, 2014, 1:32 p.m., effective September 20, 2014]

Effective Date of Rule: September 20, 2014.

Purpose: Amend recreational fishing rules.

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

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

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

Reasons for this Finding: This section of the Yakima River is adjacent to the Yakama Nation's Prosser Fish Hatchery where over two million fall chinook smolts are released annually. Returning adult salmon congregate in this terminal area and attract many anglers during the Yakima River fall salmon season. Limiting fishing to bank angling only promotes an orderly, family-oriented fishery that prevents conflicts between boat and bank anglers competing for the same fishing spots. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 18, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-310-19500D Exceptions to statewide rules—Yakima River. Notwithstanding the provisions of WAC 220-310-195, effective September 20 through October 22, 2014, it is unlawful to fish from any floating device from the Grant Avenue Bridge in Prosser extending downstream to the downstream side of the westbound Interstate 82 Bridge.

REPEALER

The following section of the Washington Administrative Code is repealed effective October 23, 2014:

WAC 220-310-19500D Exceptions to statewide rules—Yakima River.

**WSR 14-20-007
EMERGENCY RULES
DEPARTMENT OF**

SOCIAL AND HEALTH SERVICES

(Behavioral Health and Service Integration Administration)

[Filed September 18, 2014, 2:14 p.m., effective September 18, 2014, 2:14 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department is amending WAC 388-865-0526 as a result of the Washington supreme court decision in *In re the Detention of D.W., et al.*, No. 90110-4. This section contains the department's rules for single bed certification which allows for the inpatient treatment of adults and children in facilities that are not certified as inpatient evaluation and treatment facilities. The amendment: (1) Allows residential treatment facilities, psychiatric hospitals, hospitals with a psychiatric unit, and hospitals that can provide psychiatric services to be recognized for single bed certification; (2) requires that any facility which is the site of a proposed single bed certification confirm that it is willing to provide treatment services; and (3) clarifies that the regional support networks retain responsibility for ensuring that the rights of patients are protected while in single bed certifications.

Citation of Existing Rules Affected by this Order: Amending WAC 388-865-0526.

Statutory Authority for Adoption: RCW 71.05.560, 71.24.035, and 71.34.380.

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 Washington supreme court agreed to stay its decision until December 26, 2014, upon assurances from the department that more inpatient bed capacity would be found. The emergency rule allows for certain appropriate consumers to be certified to facilities that they previously would not have been able to, thus creating new bed opportunities and preventing the inappropriate release of consumers who need involuntary mental health treatment. This emergency rule supersedes the emergency rule filed as WSR 14-17-011 on August 7, 2014. The department is in the process of filing a CR-101 for the permanent rule.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

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

Date Adopted: September 18, 2014.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 09-02-030, filed 12/30/08, effective 1/30/09)

WAC 388-865-0526 Single bed certification. At the discretion of the ~~((mental health division))~~ department, an exception may be granted to allow treatment to an adult on a seventy-two hour detention or fourteen-day commitment in a facility that is not certified under WAC 388-865-0500; or for a maximum of thirty days to allow a community facility to provide treatment to an adult on a ninety- or one hundred eighty-day inpatient involuntary commitment order. For involuntarily detained or committed children, the exception may be granted to allow treatment in a facility not certified under WAC 388-865-0500 until the child's discharge from that setting to the community, or until they transfer to a bed in a children's long-term inpatient program (CLIP).

(1) The regional support network or its designee must submit a written request for a single bed certification to the ~~((mental health division prior to the commencement of the order))~~ department. In the case of a child, the facility must submit the written request ~~((directly))~~ to the ~~((mental health division))~~ department. The request must be submitted and approved prior to the commencement of the detention. If the ~~((DSHS secretary))~~ department has assumed the duties

assigned to a nonparticipating regional support network, ~~((a single bed certification may be requested by a mental health division designee contracted to provide inpatient authorization or designated crisis response services))~~ an entity designated by the department will perform the functions described in this section.

(2) The facility receiving the single bed certification must meet all requirements of this section unless specifically waived by the ~~((mental health division))~~ department.

(3) A single bed certification may be issued when the following requirements are met in each instance where such certification is sought for an individual:

(a) The facility that is the site of the proposed single bed certification confirms that it is willing to provide directly, or by direct arrangement with other public or private agencies, treatment to the consumer suffering from a mental disorder for whom the single bed certification is sought; and

(b) The request for single bed certification ~~((must describe))~~ describes why the consumer meets at least one of the following criteria:

~~((a))~~ (i) The consumer requires services that are not available at a facility certified under this chapter or a state psychiatric hospital; ~~((or))~~

~~((b))~~ (ii) The consumer is expected to be ready for discharge from inpatient services within the next thirty days and being at a community facility would facilitate continuity of care, consistent with the consumer's individual treatment needs~~((:))~~;

(iii) The consumer can receive appropriate evaluation and treatment in a residential treatment facility, as defined under chapter 246-337 WAC, and the certification will be only to that facility; or

(iv) The consumer can receive appropriate evaluation and treatment in a hospital with a psychiatric unit, a hospital that can provide psychiatric services, or a psychiatric hospital, and the certification will be only to that facility.

(4) The ~~((mental health division director or the director's designee))~~ department makes the decision and gives written notification to the requesting entity in the form of a single bed certification. The single bed certification must not contradict a specific provision of federal law or state statute.

(5) The ~~((mental health division))~~ department may make site visits at any time to verify that the terms of the single bed certification are being met. Failure to comply with any term of this exception may result in corrective action. If the ~~((mental health division))~~ department determines that the violation places consumers in imminent jeopardy, immediate revocation of this exception can occur.

(6) The regional support network retains the responsibility for ensuring due process required by RCW 71.24.300 ~~((6))~~(b).

(7) Neither consumers nor facilities have fair hearing rights as defined under chapter 388-02 WAC regarding single bed certification decisions by ~~((mental health division))~~ department staff.

**WSR 14-20-010
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 14-263—Filed September 19, 2014, 10:31 a.m., effective September 20, 2014, 5:00 a.m.]

Effective Date of Rule: September 20, 2014, 5:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-47-50100J.

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 provides for Pacific Salmon Commission authorized fisheries in Areas 7 and 7A targeting the United States share of Fraser River sockeye salmon. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 19, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-47-50100J Puget Sound all-citizen commercial salmon fishery—Open periods. Notwithstanding the provisions of Chapter 220-47 WAC, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the open periods, mesh size, areas, species restrictions, notification, and landing requirements set forth in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas 7 and 7A:

(1) **Purse Seines** - Open to purse seine gear according to the areas, times, dates, and conditions listed below:

| Areas | Hours | Dates |
|----------|-------------------|--------------|
| 7 and 7A | 5:00 AM – 9:00 PM | September 20 |
| 7A | 5:00 AM – 9:00 PM | September 21 |

(a) It is unlawful to retain Chinook, coho, and chum.

(b) Purse seine are required to brail and fishers must also use a recovery box in compliance with WAC 220-47-301 (7)(a) through (f).

(c) All salmon and rockfish must be immediately sorted, and those required to be released must be placed in an operating recovery box or released into the water before the next brail may be brought on the deck. However, small numbers of fish may be brought on board the vessel by pulling the net in without mechanical or hydraulic assistance.

(d) It is unlawful to fish for salmon with purse seine gear in Areas 7 and 7A unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and is in possession of a department issued certification card.

(2) **Gill Nets** - Open to gill net gear with 5 inch minimum and 5 1/2 inch maximum mesh size according to the times, dates, and conditions listed below:

| Areas | Hours | Dates |
|----------|--------------------|--------------|
| 7 and 7A | 8:25 AM – 11:59 PM | September 20 |
| 7A | 8:30 AM – 11:59 PM | September 21 |

(a) It is unlawful to retain rockfish.

(b) It is unlawful to fish for salmon with gill net gear in Areas 7 and 7A unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and is in possession of a department issued certification card.

(3) **"Quick Reporting Fisheries"**: All fisheries opened under this section, and any fishery opening under authority of the Fraser Panel for sockeye in Puget Sound Salmon Management and Catch Reporting Areas (WAC 220-22-030), are designated as "Quick Reporting Required" as provided in WAC 220-47-001.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. September 22, 2014:

WAC 220-47-50100J Puget Sound all-citizen commercial salmon fishery—Open periods.

**WSR 14-20-011
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 14-264—Filed September 19, 2014, 10:41 a.m., effective September 19, 2014, 8:00 p.m.]

Effective Date of Rule: September 19, 2014, 8:00 p.m.

Purpose: Columbia River seine fishery emerging commercial fishery.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-88-07000C; and amending WAC 220-88-070.

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

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

Reasons for this Finding: Sets three additional days to the ongoing seine fishery. This will allow additional time for permit holders to reach their individual fishing quotas. An emerging commercial fishery with limited participants has been established using beach or purse seine gear in the Columbia River. This limited entry fishery is established consistent with RCW 77.70.160 and is implemented based on Policy C-3620 which includes guiding principles and a progressive series of actions to improve the management of salmon in the Columbia River Basin. The fisheries outlined here are part of a series of actions meant to be progressively implemented in 2013-2016 during the transitional period of the policy. This is a pilot fishery allowing seine gear in the Columbia River and is meant to inform fishery managers in how best to implement such fisheries. The seasons are consistent with the *U.S. v. Oregon* 2008-2017 Interim Management Agreement, commission guidance and the fall chinook allocation agreement developed through the North of Falcon process. The regulation is consistent with compact action of August 12, September 10, and September 18, 2014. There is insufficient time to adopt 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 Endangered Species Act (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 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: September 19, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-88-07000D Columbia River seine emerging commercial fishery—Season, area, and gear requirements. It is unlawful to fish for salmon for commercial purposes with beach or purse seine gear except as provided in the following section:

(1) Designation of Columbia River seine fishery as an emerging commercial fishery.

(a) The director designates the Columbia River seine salmon fishery as an emerging commercial fishery for which use of a vessel is required. The director has determined a need to limit the number of participants in this fishery.

(b) It is unlawful to fish for, possess, or deliver salmon taken for commercial purposes using beach or purse seine unless the fisher possesses a valid emerging commercial fishery license and a salmon experimental fishery permit for either beach seine or purse seine gear.

(2) Terms of Experimental Fishery Permit

(a) A limited number of experimental fishery permits have been issued by the director for participation in the 2014 Columbia River seine emerging commercial fishery.

(b) It is unlawful to violate the conditions of these experimental fishery permits.

(c) Conditions of each permit include, but are not limited to:

(i) Specific gear type (beach or purse seine) allowed under the permit.

(ii) Specific area (SMCRA) in which seine fishing is allowed under the permit

(iii) Individual Fish Quotas (IFQs) specific for each permit based on gear type.

(3) Season: Time, area and gear

(a) Open days are:

(i) Monday September 22 through Friday September 26, 2014, Open hours are 6:30 a.m. to 7:00 p.m. daily

(ii) Monday September 29 and Tuesday September 30, 2014, Open hours are 6:30 a.m. to 7:00 p.m. daily

(b) Open area: SMCRA 1A-1E

(c) Sanctuaries: Elochoman-A, Cowlitz, Kalama-A, Lewis A, Sandy, Washougal and Select Area commercial fishing sites.

(d) Gear type: Beach seines or purse seines only. Only one net per boat.

(i) Net length not to exceed 200 fathoms (including associated lead nets).

(ii) Net depth not to exceed 200 meshes (approximately 50 feet)

(iii) Mesh size restricted to a 3.5-inch maximum (inside of knot to outside of knot using hand tension stretched measure).

(iv) Net material to consist of 3-strand nylon; twine size \geq #12.

(v) Seines may include a bunt of 1.0-2.0 inch knotless mesh.

(vi) Seine and lead lines may not be connected. Lead nets must be retrieved daily.

(vii) No restrictions on corkline, leadline or use of stringers and slackers.

(viii) A chafing strip panel consisting of non-monofilament webbing (such as nylon seine web or polyethylene trawl web) is allowed on bottom of net; maximum panel depth is 5-feet. Chafing mesh not to exceed 3.5-inch stretched measure for beach and 5-inch stretched measure for purse. There are no restrictions associated with hangings used to connect the net to the chafing panel or the net or chafing panel to the leadline or corkline.

(ix) Red corks are required at 25-fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.

(4) Allowable possession and handling of catch

(a) Allowable possession and sales: Adipose or left ventral fin-clipped Chinook, adipose-clipped coho, pink and sockeye salmon. Subject to IFQs as defined on individual permits and fishery regulations, all legally-caught salmon must be landed.

(b) Hand sorting or use of a knotless dip net for sorting is required. All fish must be sorted and/or released prior to removing entire seine from water. Dry sorting not permitted.

(c) Sort time not to exceed 75 minutes.

(i) Beach seine - defined as the elapsed time from when the outer towed end of the net first contacts the shore or block until the net is emptied of fish.

(ii) Purse Seine - defined as the elapsed time from when all rings are pursed and out of the water until the net is emptied of fish.

(5) Observer Program - Agency observers must be present during all fishing operations as described in each experimental permit issued.

(6) 24-hour quick-report required pursuant to WAC 220-69-240.

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 8:00 p.m. September 19, 2014:

WAC 220-88-07000C Columbia River seine emerging commercial fishery—Season, area, and gear requirements. (14-250)

WSR 14-20-013

EMERGENCY RULES

PROFESSIONAL EDUCATOR

STANDARDS BOARD

[Filed September 19, 2014, 11:07 a.m., effective September 19, 2014, 11:07 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Adds new section to chapter 181-02 WAC addressing the state's transition to new content tests required in support of the adoption of common core state standards (CCSS).

Citation of Existing Rules Affected by this Order: Amending chapter 181-02 WAC.

Statutory Authority for Adoption: RCW 28A.410.210, 28A.305.130, and 28A.410.010.

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: Legislative adoption of CCSS in 2013 (RCW 28A.655.0611). Content tests required for certification of teachers in chapter 28A.410 RCW are now revised to address CCSS and new certificate endorsements issued will require the revised testing. Testing option[s] become available in September 2014.

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 Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

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

Date Adopted: September 18, 2014.

David Brenna
Senior Policy Analyst

NEW SECTION

WAC 181-02-003 WEST-E transition to other content area tests. The board will approve and publish schedules for other content area tests either as alternatives or replacements. On the scheduled dates of board approval, tests previously approved that were taken before the scheduled changes will be accepted as meeting the requirements, including subsections that substantially meet the content area requirements.

WSR 14-20-018
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-262—Filed September 19, 2014, 1:10 p.m., effective September 19, 2014, 1:10 p.m.]

Effective Date of Rule: Immediately upon filing.

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

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000C; and amending WAC 220-33-010.

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

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

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

Reasons for this Finding: Extends the open hours of individual fishing periods in Deep River and Blind Slough/Knappa Slough). Opens the Blind Slough/Knappa Slough and Tongue Point/South Channel select areas for an additional day each week. Escapement of chinook and coho to the select area sites has been greater than expectations. This action provides additional opportunity to access these hatchery fish. Harvest estimates are well within ESA limits. The seasons are consistent with the *U.S. v. Oregon* 2008-2017 Interim Management Agreement and the fall chinook allocation agreement. The rule is consistent with compact action of July 29, and September 18, 2014. There is insufficient time to adopt 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 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: September 19, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-33-01000D Columbia River season below Bonneville. Notwithstanding the provisions of WAC 220-33-010, it is unlawful for a person to take or possess salmon for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas (SMCRA) 1A, 1B, 1C, 1D, and 1E, except as provided in this section.

1) Deep River Select Area

a. SEASON: Open hours are 6 PM to 9 AM

i. Monday, Tuesday, Wednesday, Thursday and Friday nights immediately through September 27, 2014.

ii. Monday, Tuesday, Wednesday and Thursday nights September 29 through October 17, 2014. .

iii. Monday night, October 20, and Thursday night, October 23, 2014.

b. AREA: The Deep River Select Area. Concurrent-jurisdiction waters extend downstream of the Highway 4 Bridge.

c. GEAR: Gillnet. Monofilament gear is allowed. 6-inch maximum mesh. Net length: 100 fathoms maximum. No weight restriction on the lead line. Use of additional weights or anchors attached directly to the lead line is allowed. Nets may not be tied off to stationary structures. Nets may not fully cross the navigation channel. It is unlawful to operate in any river, stream or channel any gillnet gear longer than three-fourths the width of the river, stream, or channel. "River, stream, or channel width" is defined as bank-to-bank, where the water meets the banks, regardless of the time of tide or the water level. This emergency provision supersedes the permanent rule and all other rules that conflict with it.

2) Tongue Point/South Channel Select Area.

a. SEASON: Open 4 PM to 10 AM

i. Monday, Tuesday, Wednesday, and Thursday nights immediately through September 20, 2014.

ii. **Sunday**, Monday, Tuesday, Wednesday, and Thursday nights September 21 through October 31, 2014

b. AREA: Tongue Point and South Channel. All waters in this fishing area are concurrent-jurisdiction waters.

c. GEAR: Gillnet; 6-inch maximum mesh. Net length: 250 fathoms maximum.

i. Tongue Point fishing area: Weight must not exceed two pounds on any one fathom. Fishers participating in the Tongue Point fishery may have onboard un-stored gillnets legal for the South Channel fishing area.

ii. South Channel area: No weight restriction on lead line. Use of additional weights and/or anchors attached directly to the lead line is permissible.

3) Blind Slough/Knappa Slough Select Area.

(a) SEASON: Open hours are 7 PM to 7 AM through September 20, and 6 PM to 10 AM thereafter

i. Monday, Tuesday, Wednesday, and Thursday nights immediately through September 20, 2014.

ii. Sunday, Monday, Tuesday, Wednesday, and Thursday nights September 21 through October 31, 2014.

(b) AREA: Blind Slough and Knappa Slough. An area closure of an approximately 100-foot radius at the mouth of Big Creek is in effect. Concurrent jurisdiction waters include all areas in Knappa Slough and downstream of the Railroad Bridge in Blind Slough.

(c) GEAR: Gillnet. Monofilament gear is allowed. 9 3/4-inch maximum mesh size. Maximum net length of 100 fathoms. No weight restriction on lead line. Use of additional weights and/or anchors attached directly to the lead line is permissible.

(5) Additional requirements for all Select Area commercial fisheries:

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

(b) ALLOWABLE POSSESSION: Chinook, coho, pink and sockeye salmon and shad.

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

(7) Miscellaneous: Nets fished any time between official sunset and official sunrise must have lighted buoys on both ends of the net. If the net is attached to the boat, then one lighted buoy on the end of the net opposite the boat is required.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-01000C Columbia River season below Bonneville. (14-249)

**WSR 14-20-019
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 14-265—Filed September 19, 2014, 1:16 p.m., effective September 22, 2014, 6:00 a.m.]

Effective Date of Rule: September 22, 2014, 6:00 a.m.

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

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100K; and amending WAC 220-32-051.

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

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

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is

necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Allows the sale of fish caught during week 39 of the 2014 treaty commercial gillnet fall season. Reduces the sanctuary at Spring Creek Hatchery as the broodstock needs are expected to be met. Continues to allow the sale of platform and hook and line caught fish from mainstem tribal fisheries in Zone 6. Sales of fish landed in the area downstream of Bonneville Dam (consistent with tribal MOU/MOAs) may also occur if the area is lawfully open for sales under tribal regulations. Similarly, the sale of fish caught in Yakama Nation tributary fisheries are [is] allowed when open under Yakama Nation regulations. Over 72,000 adult fall chinook remain available to the treaty tribes for harvest based on the inseason forecast of 1,258,000 fish. Steelhead harvest is expected to remain within the guideline based on the in season forecast of 36,500 Group B fish. The quick reporting rule continues to be modified to require quick reporting within twenty-four hours of completing the fish ticket, which is intended to allow harvest to be tracked as the season progresses. Fisheries are consistent with the 2008-2017 management agreement and the associated biological opinion. Rule is consistent with action of the Columbia River compact on September 18, 2014. Conforms state rules with tribal rules. The Yakama, Warm Springs, Umatilla, and Nez Perce Indian tribes have treaty fishing rights in the Columbia River and inherent sovereign authority to regulate their fisheries. Washington and Oregon also have some authority to regulate fishing by treaty Indians in the Columbia River, authority that the states exercise jointly under the congressionally ratified Columbia River compact. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). The tribes and the states adopt parallel rules for treaty Indian fisheries under the supervision of the federal courts. A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allow[s] for some incidental take of these species in the fisheries as described in the 2008-2017 *U.S. v. Oregon* Management Agreement. Columbia River fisheries are monitored very closely to ensure consistency with court orders and ESA guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. As required by court order, the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and invite tribal participation when considering proposals for new emergency rules affecting treaty fishing rights. *Sohappy*, 302 F. Supp. at 912. WDFW and ODFW then adopt regulations reflecting agreements reached. There is insufficient time to adopt permanent rules.

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

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: September 19, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-32-05100L Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052 and WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch taken for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H, and in the Wind River, Klickitat River, and Drano Lake and specific areas of SMCRA 1E. However, those individuals possessing treaty fishing rights under the Yakama, 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 Area: SMCRA 1F, 1G, 1H (Zone 6):

(a) Season: 6:00 AM Monday Sept. 22 to 6:00 PM Thursday, Sept. 25, 2014

(b) Gear: Gillnets only; 8-inch minimum mesh restriction.

(c) Allowable Sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon between 38-54 inches in fork length in the Bonneville Pool and sturgeon between 43-54 inches in fork length in The Dalles and John Day pools may be retained for subsistence purposes only.

(d) Standard river mouth and dam sanctuaries applicable to gillnet gear. Spring Creek Hatchery sanctuary will be reduced to a 150 foot radius around the hatchery ladder.

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

(a) Season: Open immediately until further notice.

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

(c) Allowable Sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon between 38-54 inches in fork length in the Bonneville Pool and sturgeon between 43-54 inches in fork length in The Dalles and John Day pools may be retained for subsistence purposes only.

(d) All dam sanctuaries for these gear types are in effect.

(3) Open Area: SMCRA 1E. Each of the four Columbia River treaty tribes has an MOA or MOU with the Washington Department of Fish and Wildlife for tribal fisheries in the

area just downstream of Bonneville Dam. Tribal fisheries in this area may only occur in accordance with the appropriate MOA or MOU specific to each tribe, and only within any specific regulations set by each tribe.

(a) Participants:

(i) Tribal members may participate under the conditions described in the 2007 Memorandum of Agreement (MOA) with the Yakama Nation (YN), in the 2010 Memorandum of Understanding (MOU) with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), in the 2010 MOU with the Confederated Tribes of the Warm Spring Reservation (CTWS), and in the 2011 MOU with the Nez Perce Tribe.

(ii) Tribal members fishing below Bonneville Dam must carry an official tribal enrollment card.

(b) Season: Open immediately until further notice. Open only during those days and hours when open under lawfully enacted tribal subsistence fishery regulations for enrolled tribal members.

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

(d) Allowable Sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon retention is prohibited for any purpose. Sale of platform or hook-and-line-caught fish is allowed. Sales may not occur on USACE property.

(4) Columbia River Tributaries upstream of Bonneville Dam:

(a) Season: Open immediately until further notice, and only during those days and hours when the tributaries listed in subsection (4)(b) of this section are open under lawfully enacted Yakama Nation tribal subsistence fishery regulations for enrolled Yakama Nation members.

(b) Area: Drano Lake, Wind River and Klickitat River.

(c) Gear: Hoop nets, dip bag nets, and rod and reel with hook-and-line only, except gill nets may be used in Drano Lake.

(d) Allowable Sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon between 43-54 inches fork length harvested in tributaries within The Dalles or John Day Pools and sturgeon between 38-54 inches fork length harvested in tributaries within Bonneville pool may not be sold but may be kept for subsistence purposes only.

(5) 24-hour quick reporting is required as provided in WAC 220-69-240, for Washington wholesale dealers for all areas, 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).

(6) Sales of fish are allowed after an open period concludes, as long as the fish sold were landed during an open period.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 a.m. September 22, 2014:

WAC 220-32-05100K Columbia River salmon seasons above Bonneville Dam. (14-201)

**WSR 14-20-022
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 14-269—Filed September 19, 2014, 4:48 p.m., effective September 22, 2014, 12:01 a.m.]

Effective Date of Rule: September 22, 2014, 12:01 a.m.

Purpose: Amend recreational fishing rules.

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

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

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

Reasons for this Finding: An emergency rule is needed to close chinook retention as the abundance is down substantially from preseason forecasts, and hatchery egg take may not be attained. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 19, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-310-19000F Freshwater exceptions to statewide rules—Nisqually River. Notwithstanding the provisions of WAC 220-310-190, effective September 22, 2014, until further notice, it is unlawful to retain Chinook salmon as part of the daily limit in waters of the Nisqually

River downstream of the military tank crossing; and closed waters from 100 yards downstream to 100 yards upstream of both Clear Creek and Kalama Creek. Daily limit 6, of which only 2 may be adult salmon. Release Chinook.

WSR 14-20-024
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-270—Filed September 19, 2014, 7:34 p.m., effective September 21, 2014, 12:01 p.m.]

Effective Date of Rule: September 21, 2014, 12:01 p.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-40-02700W; and amending WAC 220-40-027.

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 twenty-four hour opening was included in the impact analysis and set aside as an incentive for compliance with fish handling rules developed as part of the 2014 Willapa Bay commercial fishery package. Data collected during onboard monitoring of the 2014 Willapa Bay commercial fishery to date indicate that the overall compliance rate is greater than ninety percent by participants of this fishery. As provided in the concise explanatory statement, this additional day is provided. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 19, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-40-02700W Salmon—Willapa Bay fall fishery. Notwithstanding the provisions of WAC 220-40-027: Effective 12:01 p.m. September 21, 2014 through 11:59 a.m. September 22, 2014, a person may fish for salmon for commercial purposes in waters of Willapa Bay Catch Areas 2N, 2U, 2T, 2R, and 2M, provided that unless otherwise amended, all permanent rules remain in effect.

REPEALER

The following section of the Washington Administrative code is repealed effective 12:01 p.m. September 22, 2014:

WAC 220-40-02700W Willapa Bay fall fishery.

WSR 14-20-028
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-271—Filed September 22, 2014, 4:19 p.m., effective September 24, 2014, 5:00 a.m.]

Effective Date of Rule: September 24, 2014, 5:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-47-50100K.

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 provides for Pacific Salmon Commission authorized fisheries in Areas 7 and 7A targeting the United States share of Fraser River sockeye salmon. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 22, 2014.

Joe Stohr
for Philip Anderson
Director

NEW SECTION

WAC 220-47-50100K Puget Sound all-citizen commercial salmon fishery—Open periods. Notwithstanding the provisions of Chapter 220-47 WAC, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except as provided in this section, provided that unless otherwise amended, all permanent rules remain in effect:

(1) Purse Seines - Open to purse seine gear according to the areas, times, dates, and conditions listed below:

Table with 3 columns: Area, Hours, Dates. Row 1: 7A, 5:00 AM - 9:00 PM, September 24

- (a) It is unlawful to retain Chinook, coho, and chum.
(b) Purse seines are required to brail and fishers must also use a recovery box in compliance with WAC 220-47-301 (7)(a) through (f).
(c) All salmon and rockfish must be immediately sorted, and those required to be released must be placed in an operating recovery box or released into the water before the next brail may be brought on the deck.
(d) It is unlawful to fish for salmon with purse seine gear in Areas 7 and 7A unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop...

(2) Gill Nets - Open to gill net gear with 5 inch minimum and 5 1/2 inch maximum mesh size according to the times, dates, and conditions listed below:

Table with 3 columns: Areas, Hours, Dates. Row 1: 7A, 8:35 AM - 11:59 PM, September 24

- (a) It is unlawful to retain rockfish.
(b) It is unlawful to fish for salmon with gill net gear in Areas 7 and 7A unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop...

(3) "Quick Reporting Fisheries": All fisheries opened under this section, and any fishery opening under authority of the Fraser Panel for sockeye in Puget Sound Salmon Management and Catch Reporting Areas (WAC 220-22-030), are designated as "Quick Reporting Required" as provided in WAC 220-47-001.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. September 25, 2014:

WAC 220-47-50100K Puget Sound all-citizen commercial salmon fishery—Open periods

WSR 14-20-037

EMERGENCY RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed September 24, 2014, 8:46 a.m., effective September 24, 2014, 8:46 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To remove the provision that allows members of the Teachers' Retirement System Plan 3 to select a new contribution rate option each year.

Citation of Existing Rules Affected by this Order: Amending WAC 415-111-220.

Statutory Authority for Adoption: RCW 41.50.050(5).

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

Reasons for this Finding: This rule change implements SB 6321 passed by the 2014 legislature and is necessary to meet plan qualification requirements in the Internal Revenue Code. The permanent rule change was adopted on September 24, 2014, and will become effective October 24, 2014. This emergency rule ensures continued compliance until the new rule is effective.

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 Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: September 24, 2014.

Marcie Frost
Director

AMENDATORY SECTION (Amending WSR 06-03-097, filed 1/17/06, effective 2/17/06)

WAC 415-111-220 How do I choose a defined contribution rate? (1) Contribution rates: If you are a member of the Teachers' Retirement System (TRS) Plan 3, the School Employees' Retirement System (SERS) Plan 3, or the Public Employees' Retirement System (PERS) Plan 3, you are required to contribute from your compensation according to one of the following rate structures:

| | Base Rate | Additional Rate | Total Contribution Rate |
|------------------|-----------|-----------------|-------------------------|
| Option A | | | |
| All ages | 5.0% | 0.0% | 5.0% |
| Option B | | | |
| Up to age 35 | 5.0% | 0.0% | 5.0% |
| Age 35 to 44 | 5.0% | 1.0% | 6.0% |
| Age 45 and above | 5.0% | 2.5% | 7.5% |
| Option C | | | |
| Up to age 35 | 5.0% | 1.0% | 6.0% |
| Age 35 to 44 | 5.0% | 2.5% | 7.5% |
| Age 45 and above | 5.0% | 3.5% | 8.5% |
| Option D | | | |
| All ages | 5.0% | 2.0% | 7.0% |
| Option E | | | |
| All ages | 5.0% | 5.0% | 10.0% |
| Option F | | | |
| All ages | 5.0% | 10.0% | 15.0% |

(2) **How do I make the choice?** Under WAC 415-111-110, it is your responsibility to complete the correct form for choosing a contribution rate and submitting the form in a timely manner to your employer as directed on the form.

(3) **Where do I get the form to make my choice?** Your employer must provide the appropriate form to choose a contribution rate if you are enrolling in Plan 3 or transferring from Plan 2 to Plan 3.

(4) **When do I have to choose?** You must choose a contribution rate within ninety calendar days from your date of hire in an eligible position. However, if you are transferring from Plan 2 to Plan 3, you must choose a contribution rate at the same time you transfer. The ninety-day period does not apply to a member transferring from Plan 2 to Plan 3.

(5) **When do contributions begin?**

(a) Once you choose a contribution rate, contributions will begin the first day of the pay cycle in which you make the choice.

(b) If the employer advises the department that you should be reported into Plan 3 membership retroactively, the ninety-day period starts from the date it is discovered that you should have been reported. The department will decide which date to use.

(6) **What if I work for more than one employer?** If you are a Plan 3 member working in eligible positions for more than one employer, you may select a different contribution rate with each employer.

(7) **What happens if I do not make a choice?** Under RCW 41.34.040, you will be assigned a base rate of 5% (Option A) if:

(a) You are a new employee or changing your employer, and do not choose a contribution rate within the ninety-day election period described in subsection (4) of this section; or

(b) You are transferring from Plan 2 to Plan 3 and do not choose a contribution rate at the time of transfer. Contributions required under subsection (a) or (b) will begin the first day of the pay cycle in which you are assigned to Option A.

(8) **Can I change my contribution rate?**

(a) If you are a PERS 3 or SERS 3 member, once you choose a contribution rate or are assigned the base rate of 5% (Option A), you cannot change that contribution rate unless you change employers. This rule is required by an IRS decision on the tax qualified status of PERS 2 and 3 and SERS 2 and 3.

(b) Each time you change employers, you must choose a new contribution rate within ninety days or you will be assigned a base rate of 5% (Option A). No contributions will be taken until you choose a rate or until the ninety-day period has elapsed, whichever occurs first.

(c) Each January, through January 2015, TRS Plan 3 members may change their contribution rate option by providing written notification to their employer as described in WAC 415-111-110(1). After January 2015, TRS Plan 3 members may only change their contribution rate option as provided in (b) of this subsection. The termination of TRS rate flexibility after January 2015 is necessary to meet plan qualification requirements in the Internal Revenue Code.

WSR 14-20-038

EMERGENCY RULES

**DEPARTMENT OF
FISH AND WILDLIFE**

[Order 14-246—Filed September 24, 2014, 9:55 a.m., effective September 24, 2014, 9:55 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-18000E; and amending WAC 220-310-180.

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: These rules were inadvertently omitted from the agencies [agency's] permanent rule filing for recreational fishing. An emergency rule is needed to allow anglers to retain chum salmon as part of their daily salmon limit. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 24, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-310-18000F Freshwater exceptions to statewide rules—Coast. Notwithstanding the provisions of WAC 220-310-180, retention of chum is allowed when open to salmon fishing; all permanent rules remain in effect:

(1) **Bear River (Pacific Co.):** From the mouth (Highway 101 Bridge) to Lime Quarry Road (approximately two river miles).

(2) **Fork Creek (Pacific Co.) (Willapa River tributary):** From Forks Creek Hatchery rack upstream 500 feet at fishing boundary sign: Open only for anglers with disabilities who permanently use a wheelchair and possess a designated harvester companion card.

(3) **Middle Nemah River (Pacific Co.):** From the mouth upstream to the department of natural resources bridge on the Middle Nemah A-Line Road.

(4) **Naselle River (Pacific/Wahkiakum counties):** From the Highway 101 Bridge to the Crown Mainline (Salme) Bridge.

(5) **Niawiakum River (Pacific Co.):** From Highway 101 Bridge to the South Bend/Palix Road Bridge.

(6) **North Nemah River (Pacific Co.):** From Highway 101 Bridge upstream to the bridge on Nemah Valley Road: Through November 30, 2014, anglers may also retain one additional adult hatchery Chinook as part of the daily limit.

(7) **North River (Grays Harbor/Pacific counties):** From the Highway 105 Bridge to Fall River.

(8) **Palix River, including all forks (Pacific Co.):** From the Highway 101 Bridge to the mouth of the Middle Fork:

(9) **Smith Creek (near North River) (Pacific Co.):** From the mouth to the Highway 101 Bridge.

(10) **South Nemah River (Pacific Co.):** From the mouth (Lynn Point, 117 degrees true to opposite shore) to the confluence with Middle Nemah River.

(11) **Willapa River (Pacific Co.):** From the mouth (city of South Bend boat launch) to Fork Creek.

(12) **Willapa River, South Fork (Pacific Co.):** From the mouth to the bridge on Pehl Road.

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 220-310-18000E Freshwater exceptions to statewide rules—Coastal. (14-243)

WSR 14-20-043

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed September 24, 2014, 1:05 p.m., effective September 24, 2014, 1:05 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amendments in Title 388 WAC remove medical references, support the creation of the housing and essential needs (HEN) referral program and remove references to the Alcohol and Drug Addiction Treatment and Support Act (ADATSA). These amendments are currently in effect via emergency rule making filed on May 29, 2014, as WSR 14-12-041.

2E2SHB 1738, Laws of 2011, designated the health care authority (HCA) as the single state agency responsible for the administration and supervision of Washington's medical assistance programs. HCA recodified medical assistance program rules to Title 182 WAC. Accordingly, the department must eliminate corresponding rules and medical references under Title 388 WAC. Amendments also support the creation of the new HEN referral program created under SHB 2069 (2013 legislative session) and also remove references related to ADATSA, as the legislature did not appropriate funds for ADATSA. Beginning January 1, 2014, ADATSA-related medical care services recipients are medicaid eligible under the Affordable Care Act.

Additional amendments spell out the acronym, ABD, identifying it as the aged, blind or disabled program. The department is in the process of proposing amendments to these rules permanently via the regular rule-making process. The CR-102 proposed rule making was filed on June 3, 2014, via WSR 14-12-076. The public hearing was held on July 22, 2014. The department is in the process of reviewing comments received during the public hearing comment period.

Citation of Existing Rules Affected by this Order: Amending WAC 388-406-0005, 388-406-0035, 388-406-0045, 388-418-0005, 388-424-0010, 388-424-0015, 388-436-0030, 388-450-0015, 388-450-0025, 388-450-0040, 388-450-0156, 388-450-0162, 388-450-0170, 388-472-0005, and 388-473-0010.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.100, 74.04.770, 74.62.030.

Other Authority: 2E2SHB 1738, chapter 15, Laws of 2011; SHB 2069; and RCW 41.05.021, 74.04.050, 74.08.090, 74.09.035, 74.09.530, and the 2013 biennial budget.

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: Amendments remove medical references. More specifically, 2E2SHB 1738, Laws of 2011, designated HCA as the single state agency responsible for the administration and supervision of Washington's medical assistance programs. DSHS worked with HCA to repeal medical assistance program rules under Title 388 WAC in support of HCA's efforts to recodify medical assistance program rules under Title 182 WAC. HCA recodified medical assistance program rules at Title 182 WAC, effective October 1, 2013. Accordingly, the department must eliminate corresponding rules under Title 388 WAC. Amendments remove references to the ADATSA program, because the legislature did not appropriate funds for the ADATSA program. Beginning January 1, 2014, ADATSA-related medical care services recipient[s] are medicaid eligible under the Affordable Care Act. Amendments also support the creation of the new HEN referral program created under SHB 2069, which was signed by the governor on June 30, 2013.

The department is in the process of proposing amendments to these rules permanently via the regular rule-making process. The CR-102 proposed rule making was filed on June 3, 2014, via WSR 14-12-076. The public hearing was held on July 22, 2014. The department is in the process of reviewing comments received during the public hearing comment period.

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 15, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 15, Repealed 0.

Date Adopted: September 22, 2014.

Katherine I. Vasquez
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 14-21 issue of the Register.

WSR 14-20-054
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-272—Filed September 25, 2014, 2:06 p.m., effective September 25, 2014, 2:06 p.m.]

Effective Date of Rule: Immediately upon filing.

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

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000D; and amending WAC 220-33-010.

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

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

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

Reasons for this Finding: Sets mainstem commercial salmon seasons in SMCRA 1D and 1E for chinook-directed fisheries and in SMCRA 1A-1C for hatchery coho-directed fisheries. Harvestable chinook and coho remain available based on the current runsizes and allocated ESA impacts. This rule also continues to extend the open hours of individual fishing periods in Deep River and Blind Slough/Knappa Slough and keeps the Blind Slough/Knappa Slough and Tongue Point/South Channel Select Areas open for an additional day each week. Harvest estimates are well within ESA limits for non-Indian fisheries. The seasons are consistent with the *U.S. v. Oregon* 2008-2017 Interim Management Agreement and the fall chinook allocation agreement. The rule is consistent with compact action of July 29, September 18, and September 24, 2014. There is insufficient time to adopt 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 Agree-

ment. 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 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: September 25, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-33-01000E Columbia River season below Bonneville. Notwithstanding the provisions of WAC 220-33-010, it is unlawful for a person to take or possess salmon for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas (SMCRA) 1A, 1B, 1C, 1D, and 1E, except as provided in this section.

(1) Mainstem Columbia River

(a) SEASON: Sunday, Tuesday, and Thursday nights from September 25 through October 15, 2014. Open hours are 8 PM to 6 AM through October 1 and 7 PM to 7 AM thereafter.

(b) AREA: SMCRA 1D and 1E. The deadline at the lower end of SMCRA 1D is defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation buoy #1 and continuing to the Washington shore.

(c) SANCTUARIES: Washougal and Sandy Rivers.

(d) GEAR: Drift gillnets only; 8-inch minimum mesh size.

(e) ALLOWABLE POSSESSION: Chinook, coho, pink and sockeye salmon and shad.

(2) Mainstem Columbia River

(a) SEASON: Open October 1, October 2, October 6, October 7 and October 8, 2014. Open hours are 6 AM to 6 PM.

(b) AREA: SMCRA 1A, 1B and 1C. The deadline at the upper end of SMCRA 1C is defined as a straight line pro-

jected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation buoy #1 and continuing to the Washington shore.

(c) SANCTUARIES: Elokomina-A, Cowlitz, Kalama-A and Lewis-A.

(d) GEAR: Maximum mesh size is 3-3/4 inches. Unslackened, single-wall, multi-filament floater nets only. Monofilament nets are not allowed. Net length not to exceed 150 fathoms.

(i) A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net.

(ii) There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline. The use of slackers or stringers to slacken the net vertically is prohibited. Rip lines are allowed providing they do not vertically slacken the net.

(iii) Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one knot to the inside of the opposite knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact.

(e) ALLOWABLE POSSESSION: Adipose fin-clipped coho salmon and pink salmon and Chinook salmon. It is unlawful to possess or sell white sturgeon and chum salmon.

(f) ADDITIONAL REGULATIONS: Regulations typically in place for mark-selective commercial fisheries are in effect, including but not limited to: net length, use of recovery boxes, limited soak times, red corks, tangle-net certification, etc.

(i) Soak times, defined as the time elapsed from when the first of the gill net web is deployed into the water until the gill net web is fully retrieved from the water, must not exceed 30 minutes.

(ii) Recovery Box: Each boat will be required to have on board two operable recovery boxes or one box with two chambers that meet the flow and size requirements standard for the winter/spring season. Each box and chamber and associated pump shall be operating during any time that the net is being retrieved or picked. All non-legal fish must be released immediately unharmed to the river or placed into an operating recovery box. All non-legal salmon and all steelhead that are bleeding, lethargic or appear lifeless must be placed in the recovery box prior to being released. All fish placed in recovery boxes must be released to the river prior to landing or docking.

(iii) Observer program: As a condition of fishing, owners or operators of commercial fishing vessels must cooperate with department observers or observers collecting data for the department, when notified by the observer of his or her intent to board the commercial vessel for observation and sampling during an open fishery.

(iv) Live Capture workshop: Licensed Columbia River commercial fishers that have completed the required state-sponsored workshop concerning live capture commercial fishing techniques may participate in this fishery. At least one fisher on each boat must have live capture certification.

(3) Deep River Select Area

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

(i) Monday, Tuesday, Wednesday, Thursday and Friday nights immediately through September 27, 2014.

(ii) Monday, Tuesday, Wednesday and Thursday nights from September 29 through October 17, 2014.

(iii) Monday night, October 20, and Thursday night, October 23, 2014.

(b) AREA: The Deep River Select Area. Concurrent-jurisdiction waters extend downstream of the Highway 4 Bridge.

(c) GEAR: Gillnet. Monofilament gear is allowed. 6-inch maximum mesh. Net length: 100 fathoms maximum. No weight restriction on the lead line. Use of additional weights or anchors attached directly to the lead line is allowed. Nets may not be tied off to stationary structures. Nets may not fully cross the navigation channel. It is unlawful to operate in any river, stream or channel any gillnet gear longer than three-fourths the width of the river, stream, or channel. "River, stream, or channel width" is defined as bank-to-bank, where the water meets the banks, regardless of the time of tide or the water level. This emergency provision supersedes the permanent rule and all other rules that conflict with it.

(4) Tongue Point/South Channel Select Area.

(a) SEASON: Sunday, Monday, Tuesday, Wednesday, and Thursday nights immediately through October 31, 2014. Open hours are 4 PM to 10 AM.

(b) AREA: Tongue Point and South Channel. All waters in this fishing area are concurrent-jurisdiction waters.

(c) GEAR: Gillnet; 6-inch maximum mesh. Net length: 250 fathoms maximum.

(i) Tongue Point fishing area: Weight must not exceed two pounds on any one fathom. Fishers participating in the Tongue Point fishery may have onboard un-stored gillnets legal for the South Channel fishing area.

(ii) South Channel area: No weight restriction on lead line. Use of additional weights and/or anchors attached directly to the lead line is permissible.

(5) Blind Slough/Knappa Slough Select Area.

(a) SEASON: Sunday, Monday, Tuesday, Wednesday, and Thursday nights immediately through October 31, 2014. Open hours are 6 PM to 10 AM.

(b) AREA: Blind Slough and Knappa Slough. An area closure of an approximately 100-foot radius at the mouth of Big Creek is in effect. Concurrent jurisdiction waters include all areas in Knappa Slough and downstream of the Railroad Bridge in Blind Slough.

(c) GEAR: Gillnet. Monofilament gear is allowed. 9 3/4-inch maximum mesh size. Maximum net length of 100 fathoms. No weight restriction on lead line. Use of additional weights and/or anchors attached directly to the lead line is permissible.

(6) ALLOWABLE POSSESSION for Select Areas: Chinook, coho, pink and sockeye salmon and shad.

(7) Additional requirements for all sections:

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

(b) Nets fished any time between official sunset and official sunrise must have lighted buoys on both ends of the net.

If the net is attached to the boat, then one lighted buoy on the end of the net opposite the boat is required

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

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-01000D Columbia River season below Bon-neville. (14-262)

**WSR 14-20-055
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 14-273—Filed September 25, 2014, 2:07 p.m., effective September 25, 2014, 2:07 p.m.]

Effective Date of Rule: Immediately upon filing.

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

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100L; and amending WAC 220-32-051.

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

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

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

Reasons for this Finding: Allows the sale of fish caught for one additional day (Sept. 26) during week 39 of the 2014 treaty commercial gillnet fall season. Allows the sale of fish caught during week 40 of the 2014 treaty commercial gillnet fall season. Maintains the small sanctuary at Spring Creek Hatchery as the broodstock needs are expected to be met. Continues to allow the sale of platform and hook and line caught fish from mainstem tribal fisheries in Zone 6. Sales of

fish landed in the area downstream of Bonneville Dam (consistent with tribal MOU/MOAs) may also occur if the area is lawfully open for sales under tribal regulations. Similarly, the sale of fish caught in Yakama Nation tributary fisheries are [is] allowed when open under Yakama Nation regulations. Adult fall chinook remain available to the treaty tribes for harvest based on the inseason forecast of 1,183,000 fish. Steelhead harvest is expected to remain within the guideline based on the inseason forecast of 37,500 Group B fish. The quick reporting rule continues to be modified to require quick reporting within twenty-four hours of completing the fish ticket, which is intended to allow harvest to be tracked as the season progresses. Fisheries are consistent with the 2008-2017 management agreement and the associated biological opinion. Rule is consistent with action of the Columbia River compact on September 18 and 24, 2014. Conforms state rules with tribal rules.

The Yakama, Warm Springs, Umatilla, and Nez Perce Indian tribes have treaty fishing rights in the Columbia River and inherent sovereign authority to regulate their fisheries. Washington and Oregon also have some authority to regulate fishing by treaty Indians in the Columbia River, authority that the states exercise jointly under the congressionally ratified Columbia River compact. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). The tribes and the states adopt parallel rules for treaty Indian fisheries under the supervision of the federal courts. A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allow[s] for some incidental take of these species in the fisheries as described in the 2008-2017 *U.S. v. Oregon* Management Agreement. Columbia River fisheries are monitored very closely to ensure consistency with court orders and ESA guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. As required by court order, the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and invite tribal participation when considering proposals for new emergency rules affecting treaty fishing rights. *Sohappy*, 302 F. Supp. at 912. WDFW and ODFW then adopt regulations reflecting agreements reached. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 25, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-32-05100M Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052 and WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch taken for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H, and in the Wind River, Klickitat River, and Drano Lake and specific areas of SMCRA 1E. However, those individuals possessing treaty fishing rights under the Yakama, 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 Area: SMCRA 1F, 1G, 1H (Zone 6):

(a) Season: Immediately until 6:00 PM September 26, 2014, and 6:00 AM September 29 until 6:00 PM October 3, 2014.

(b) Gear: Gillnets only; 8-inch minimum mesh restriction.

(c) Allowable Sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon between 38-54 inches in fork length in the Bonneville Pool and sturgeon between 43-54 inches in fork length in The Dalles and John Day pools may be retained for subsistence purposes only.

(d) Standard river mouth and dam sanctuaries applicable to gillnet gear. Spring Creek Hatchery sanctuary will be reduced to a 150 foot radius around the hatchery ladder.

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

(a) Season: Open immediately until further notice.

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

(c) Allowable Sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon between 38-54 inches in fork length in the Bonneville Pool and sturgeon between 43-54 inches in fork length in The Dalles and John Day pools may be retained for subsistence purposes only.

(d) All dam sanctuaries for these gear types are in effect.

(3) Open Area: SMCRA 1E. Each of the four Columbia River treaty tribes has an MOA or MOU with the Washington Department of Fish and Wildlife for tribal fisheries in the area just downstream of Bonneville Dam. Tribal fisheries in this area may only occur in accordance with the appropriate MOA or MOU specific to each tribe, and only within any specific regulations set by each tribe.

(a) Participants:

(i) Tribal members may participate under the conditions described in the 2007 Memorandum of Agreement (MOA) with the Yakama Nation (YN), in the 2010 Memorandum of

Understanding (MOU) with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), in the 2010 MOU with the Confederated Tribes of the Warm Spring Reservation (CTWS), and in the 2011 MOU with the Nez Perce Tribe.

(ii) Tribal members fishing below Bonneville Dam must carry an official tribal enrollment card.

(b) Season: Open immediately until further notice. Open only during those days and hours when open under lawfully enacted tribal subsistence fishery regulations for enrolled tribal members.

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

(d) Allowable Sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon retention is prohibited for any purpose. Sale of platform or hook-and-line-caught fish is allowed. Sales may not occur on USACE property.

(4) Columbia River Tributaries upstream of Bonneville Dam:

(a) Season: Open immediately until further notice, and only during those days and hours when the tributaries listed in subsection (4) (b) of this section are open under lawfully enacted Yakama Nation tribal subsistence fishery regulations for enrolled Yakama Nation members.

(b) Area: Drano Lake, Wind River and Klickitat River.

(c) Gear: Hoop nets, dip bag nets, and rod and reel with hook-and-line only, except gill nets may be used in Drano Lake.

(d) Allowable Sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon between 43-54 inches fork length harvested in tributaries within The Dalles or John Day Pools and sturgeon between 38-54 inches fork length harvested in tributaries within Bonneville pool may not be sold but may be kept for subsistence purposes only.

(5) 24-hour quick reporting is required as provided in WAC 220-69-240 for Washington wholesale dealers for all areas, 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).

(6) Sales of fish are allowed after an open period concludes, as long as the fish sold were landed during an open period.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05100L Columbia River salmon seasons above Bonneville Dam. (14-265)

WSR 14-20-056
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-274—Filed September 25, 2014, 3:39 p.m., effective September 29, 2014]

Effective Date of Rule: September 29, 2014.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-18000G; and amending WAC 220-310-180.

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

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

Reasons for this Finding: Returns of spring/summer chinook to the Hoh River have been low for several years, and escapements have consistently been below the floor escapement goal. This closure is needed to protect these chinook as they stage and spawn in the upper Hoh River. The Olympic National Park has closed the Hoh River to fishing within the park through October 15, 2014. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 25, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-310-18000G Freshwater exceptions to statewide rules—Coastal. Notwithstanding the provisions of WAC 220-310-180, effective September 29 through October 15, 2014, the following waters are closed to fishing:

(1) **Hoh River:** From Morgan's Crossing boat launch upstream to the Olympic National Park boundary.

(2) **South Fork Hoh River:** Waters outside the Olympic National Park.

REPEALER

The following section of the Washington Administrative code is repealed effective October 16, 2014:

WAC 220-310-18000G Freshwater exceptions to statewide rules—Coastal.

WSR 14-20-057
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-275—Filed September 25, 2014, 3:47 p.m., effective October 1, 2014]

Effective Date of Rule: October 1, 2014.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07300J; and amending WAC 220-52-073.

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

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

Reasons for this Finding: Harvestable surpluses of green and red sea urchins exist in the districts specified to allow for commercial harvest. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 25, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-52-07300K Sea urchins Notwithstanding the provisions of WAC 220-52-073, effective October 1, 2014, until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) Red sea urchins: Sea Urchin Districts 1, 2 and 4 are open Monday through Friday of each week. It is unlawful to harvest red sea urchins smaller than 3.25 inches or larger than 5.0 inches (size is largest test diameter exclusive of spines).

(2) Green sea urchins: Sea Urchin Districts 1, 2, 3 and 4 are open Monday through Friday of each week. It is unlawful to harvest green sea urchins smaller than 2.25 inches (size is largest test diameter exclusive of spines).

(3) It is unlawful to dive for any purpose from a commercially licensed sea urchin fishing vessel in Sea Urchin District 3 when the vessel has red sea urchins on-board.

REPEALER

The following section of the Washington Administrative Code is repealed effective October 1, 2014:

WAC 220-52-07300J Sea urchins. (14-222)

WSR 14-20-066
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Children's Administration)

[Filed September 26, 2014, 12:43 p.m., effective September 26, 2014, 12:43 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 388-160-0265 establishes notification requirements for licensed shelters and organizations for the safety of youth served. RCW 13.32A.082 was changed requiring staff to contact parents within seventy-two hours of a youth coming to a shelter without parental permission, unless there are compelling reasons. If compelling reasons exist, the department must be contacted. The law also requires staff to check information that is publicly available at Washington state patrol every eight hours to see if a youth is listed as a runaway.

Citation of Existing Rules Affected by this Order: Amending WAC 388-160-0265.

Statutory Authority for Adoption: RCW 13.32A.082.

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

Reasons for this Finding: RCW 13.32A.082 was passed in 2013, changes have not been made to WAC 388-160-0265 to reflect changes in legislation that specify reporting requirements for shelters and licensed organizations that serve youth. Therefore, these changes need to go into effect immediately.

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

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

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

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

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

Date Adopted: September 18, 2014.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 01-15-001, filed 7/5/01, effective 8/5/01)

WAC 388-160-0265 Do I need to report runaway youth who stay at the shelter? (1) If you are licensed as an overnight youth shelter or are otherwise licensed to provide residential services for runaway or homeless youth, and you learn that a youth in your facility does not have a parental permission to be there, you or your staff must:

~~(a) Within ((eight)) seventy-two hours ((of learning that a youth staying at a shelter does not have parental permission to be there, shelter staff must report the location of the youth to:~~

~~(a) The parent;~~

~~(b) The law enforcement agency having jurisdiction in the shelter's area; or~~

~~(c) The department.))~~

~~(2) The shelter staff must:))~~

~~(a) Make the report by telephone or other reasonable means; and))~~

~~(b) Document the report in writing in the youth's file.)) (preferably within twenty-four hours), notify the parent by telephone or other reasonable means unless compelling reasons exist. You must provide the youth's whereabouts, give a description of the youth's physical and emotional condition, and report the circumstances surrounding the youth's contact with your facility. You must document this notification in the youth's file.~~

~~(b) If compelling reasons exist, you must notify children's administration intake. This includes reason to believe notifying the youth's parents will result in abuse or neglect of the youth as defined in RCW 26.44.020.~~

~~(c) You or your staff must also review the public information on missing youth made available by the Washington state patrol at least once every eight hours while a youth is present at your facility. If a youth is listed as missing, you must immediately notify children's administration intake with the information listed in (1)(a) above.~~

WSR 14-20-071

EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 14-276—Filed September 26, 2014, 2:22 p.m., effective October 1, 2014]

Effective Date of Rule: October 1, 2014.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-52-040, 220-52-046, and 220-69-240.

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

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

Reasons for this Finding: The provisions of this rule will reopen the commercial harvest areas in Puget Sound. There is sufficient allocation available in all of the commercial regions to accommodate this opening. These provisions are in conformity with agreed management plans with applicable tribes. These management plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 3, 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: September 26, 2014.

Philip Anderson
Director

NEW SECTION

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

(1) It is permissible to deploy Dungeness crab pots for commercial purposes starting at 8:00 a.m. October 1, 2014 until 7:00 p.m. October 2, 2014, in Puget Sound waters from a vessel not designated on a person's Puget Sound crab license, provided that the primary or alternate operator designated on the license is on board the non-designated vessel

("barge" vessel), and prior notice has been given as provided below. Crab pots may only be deployed during daylight hours.

(2) The licensed owner must leave a telephone message at the Mill Creek annex office, (425) 379-2315 or send an email to crabreport@dfw.wa.gov, detailing the following information:

(a) Name and license number of licensed owner.

(b) Name of designated primary operator if different from licensed owner.

(c) Name of alternate operator if used to deploy pots from a non-designated vessel.

(d) Buoy brand number and number of pots to be deployed from a non-designated vessel.

(e) Name and identification numbers (WN and/or Coast Guard) of the non-designated vessel.

(3) Additional area gear limits. The following Marine Fish-Shellfish Management and Catch Reporting Areas are restricted in the number of pots fished, operated, or used by a person or vessel, and it is unlawful for any person to use, maintain, operate, or control pots in excess of the following limits:

(a) No commercial gear is allowed in that portion of Marine Fish-Shellfish Management and Catch Reporting Area 25A west of the 123°7.0' longitude line projected from the new Dungeness light due south to the shore of Dungeness Bay.

(4) Effective 8:00 a.m. October 1, 2014, until further notice it is unlawful for any person to fish for crabs for commercial purposes with more than 50 pots per license per buoy tag number in Crab Management Regions 1, Region 2 East, and Region 2 West. These regions include Marine Fish-Shellfish Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B, 24A, 24B, 24C, 24D, 25B, 25D, 26A-E and 26A-W.

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

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.

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

NEW SECTION

WAC 220-52-04600A Puget Sound crab fishery—Seasons and areas. Notwithstanding the provisions of WAC 220-52-046:

(1) Effective 8:00 a.m. October 1, 2014, until further notice, it is permissible to fish for Dungeness crab for commercial purposes in the following areas:

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

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

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

(d) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A-W in Useless Bay north and east of a line from the south end of the Double Bluff State Park seawall (47°58.782'N, 122°30.840'W) projected 110 degrees true to the boulder on shore (47°57.690'N, 122°26.742'W).

(e) Port Gardner: That portion of Marine Fish-Shellfish Catch Reporting Area 26A east of a line projected from the outermost tip of the ferry dock at Mukilteo, projected to the green #3 buoy at the mouth of the Snohomish River, and west of a line projected from that #3 buoy southward to the oil boom pier on the shoreline.

(f) Possession Point to Glendale: That portion of Marine Fish-Shellfish Management and Catch Reporting Area 26A east of a line that extends true north from the green #1 buoy at Possession Point to Possession Point, and west of a line from the green #1 buoy at Possession Point extending northward along the 200-foot depth contour to the Glendale dock.

(g) Langley: That portion of Marine Fish-Shellfish Management and Catch Reporting Area 24C shoreward of the 400-foot depth contour within an area described by two lines projected northeasterly from Sandy Point and the entrance to the marina at Langley.

(2) Effective 8:00 a.m. October 1, 2014, until further notice, the following areas are closed to commercial crab fishing:

(a) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 25A west of **the 123°7.0' longitude line** projected from the new Dungeness light due south to the shore of Dungeness Bay.

(b) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 23D west of a line from the eastern tip of Ediz Hook to the ITT Rayonier Dock.

(c) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24A east of a line projected **true north** from the most westerly tip of Skagit Island and extending south to the most westerly tip of Hope Island, thence southeast to Seal Rocks, thence southeast to the green can buoy at the mouth of Swinomish Channel, thence easterly to the west side of Goat Island.

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

NEW SECTION

WAC 220-69-24000J Duties of commercial purchasers and receivers. Notwithstanding the provisions of WAC 220-69-240, effective at 8:00 am, October 1, 2014, until further notice, it is unlawful for any wholesale dealer acting in the capacity of an original receiver of Dungeness crab taken by non-treaty fishers from Puget Sound, to fail to report to the department the previous day's purchases by 10:00 a.m. the following business day. Reports must be made by fax to (425) 338-1066 or by e-mail at crabreport@dfw.wa.gov, and must specify the dealer name, dealer phone number, date of delivery of crab to the original receiver, and the total number

of pounds of crab caught by non-treaty fishers, by Crab Management Region or by Marine Fish-Shellfish Management and Catch Reporting Area.

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

**WSR 14-20-074
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 14-279—Filed September 26, 2014, 4:03 p.m., effective September 29, 2014, 7:00 a.m.]

Effective Date of Rule: September 29, 2014, 7:00 a.m.
Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-47-42800J; and amending WAC 220-47-428.

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: There is [a] remaining harvestable surplus of coho available for commercial harvest in Salmon Management and Catch Reporting Area 12A. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 26, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-47-42800J Beach seine—Open periods.

Notwithstanding the provisions of WAC 220-47-428, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting

Areas except in accordance with the areas and open periods indicated below. Unless otherwise amended, all permanent rules remain in effect.

| Open Areas | Open Periods |
|------------|---|
| 12A | 7 AM – 7 PM daily September 29 through October 3 |

REPEALER

The following section of the Washington Administrative Code is repealed effective 7:01 p.m. October 3, 2014:

WAC 220-47-42800J Beach seine—Open periods.

**WSR 14-20-075
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 14-280—Filed September 26, 2014, 4:05 p.m., effective September 29, 2014, 7:00 a.m.]

Effective Date of Rule: September 29, 2014, 7:00 a.m.
Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-47-31100I; and amending WAC 220-47-311.

Statutory Authority for Adoption: RCW 77.04.020, 77.04.055, 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: Per inseason agreement with affected tribes, a limited participation purse seine fishery in [Area] 8A on September 29 has been authorized for two boats targeting harvestable surplus of coho. This emergency rule opens the season in that area for the two boats only as per the agreement with the tribes. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 26, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-47-31100I Purse seine—Open periods.

Notwithstanding the provisions of WAC 220-47-311 and WAC 220-47-500, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the areas and open periods indicated below. Unless otherwise amended, all permanent rules remain in effect.

| Open Areas | Open Periods |
|------------|--------------------------|
| 8A | 7 AM – 7 PM September 29 |

Limited participation, purse seine vessels Equator and Pacific Pursuit only.

REPEALER

The following section of the Washington Administrative Code is repealed effective 7:01 p.m. September 29, 2014:

WAC 220-47-31100I Purse seine—Open periods.

**WSR 14-20-093
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 14-277—Filed September 29, 2014, 3:27 p.m., effective October 1, 2014]

Effective Date of Rule: October 1, 2014.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-33000N; and amending WAC 220-56-330.

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

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

Reasons for this Finding: These rules reopen the recreational crab fishery in the specified marine areas and adjust the open days per week to allow for inclement winter weather. Available harvest shares allow the areas to be opened in this rule. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 29, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-56-33000N Crab—Areas and seasons.

Notwithstanding the provisions of WAC 220-56-330, effective 8:00 a.m. October 1 through 5:00 p.m. December 31, 2014, it is permissible to fish for crab for personal use seven days a week in Marine Areas 4 east of the Bonilla Tatoosh Line, 5, 6, 7, 8-1, 8-2, 9, 12 and 13.

REPEALER

The following section of the Washington Administrative Code will be repealed effective 5:01 p.m. December 31, 2014:

WAC 220-56-33000N Crab—Areas and seasons.

**WSR 14-20-103
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
(Community Services Division)**

[Filed September 30, 2014, 11:37 a.m., effective October 1, 2014]

Effective Date of Rule: October 1, 2014.

Purpose: The department is amending the following WACs to implement annual adjustments to standards for the Washington Basic Food program: WAC 388-412-0015 General information about your food assistance allotments, 388-450-0185 What income deductions does the department allow when determining if I am eligible for food benefits and the amount of my monthly benefits?, 388-450-0190 How does the department figure my shelter cost income deduction for Basic Food?, 388-450-0195 Does the department use my utility costs when calculating my Basic Food or WASHCAP benefits?, 388-478-0060 What are the income limits and maximum benefit amounts for Basic Food?, and 388-470-0005 How do resources affect my eligibility for cash assistance and Basic Food?

Citation of Existing Rules Affected by this Order: Amending WAC 388-412-0015, 388-450-0185, 388-450-0190, 388-450-0195, 388-478-0060, and 388-470-0005.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, 7 C.F.R. § 273.9 (d)(6).

Other Authority: Amendments:

- Support the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS), per supplemental nutrition assistance program (SNAP) Administrative Notice 14-48: SNAP - Fiscal Year (FY) 2015 cost-of-living adjustments (COLAS) dated August 4, 2014.
- Update Basic Food standards for federal FY 2015.
- Update the Basic Food standard utility allowance (SUA) and limited utility allowance (LUA) used when determining Basic Food benefits, to implement SNAP 10-6-WA-SUA dated July 24, 2014.
- Update the Basic Food resource limit adjustments for federal FY 2015 in accordance with USDA FNS, SNAP Administrative Notice 14-56 – FY 2015 resource limit adjustments.

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

Reasons for this Finding: The amendments update Basic Food standards for federal FY 2015 in order to comply with USDA FNS Administrative Notice 14-48: *SNAP - Fiscal Year (FY) 2015 Cost-of-Living Adjustments (COLAS)* and USDA SNAP 10-6-WA-SUA dated July 24, 2014, approving the proposed SUA.

The department is in the process of filing a proposed rule-making notice (CR-102).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 6, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 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 6, Repealed 0.

Date Adopted: September 24, 2014.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-04-050, filed 1/27/14, effective 2/27/14)

WAC 388-412-0015 General information about your food assistance allotments. (1) Your monthly allotment under the Washington Basic Food program, food assistance program for legal immigrants (FAP), Washington combined application project (WASHCAP), or the transitional food

assistance (TFA) programs is the total dollar value of benefits your assistance unit (AU) receives for a calendar month.

(2) How we determine monthly allotments:

(a) We calculate your monthly allotment for federally funded Basic Food as described under WAC 388-450-0162;

(b) We calculate your monthly allotment for state-funded food assistance as described under WAC 388-400-0050.

(3) Maximum allotment:

(a) The maximum allotment for the number of people in your AU eligible for federally funded Basic Food benefits is described under WAC 388-478-0060.

(b) The maximum allotment for the number of people in your AU eligible for state-funded FAP benefits is set by the legislature in the biennial operating budget as described in WAC 388-400-0050.

(4) Prorated benefits in the first month - If we determine you are eligible for food assistance, your first month's benefits are calculated from the date you applied through the end of the month of your application. This is called proration and is based on a thirty-day month:

(a) If your prorated benefits for the first month are under ten dollars, you will not receive an allotment for the first month.

(b) If there was a delay in processing your application, we determine when your benefits start under WAC 388-406-0055.

(5) Combined allotment for first and second month's benefits - If you apply for benefits on or after the sixteenth of the month, and we determine you are eligible for food assistance, we issue both the first and second months benefits in one allotment if you are eligible for both months.

(6) Minimum allotment - Unless it is the first month of your certification period and your benefits are prorated as described in subsection (4) of this section, your monthly allotment will be at least:

(a) ~~(Fifteen))~~ Sixteen dollars if your AU has one or two members, and at least one person is eligible for federally funded Basic Food.

(b) ~~(Eleven))~~ Twelve dollars if your AU has one or two members, and all members of your AU are eligible for state-funded FAP.

(7) Use of food assistance benefits - Your food assistance benefits may only be used to buy eligible food items as described under WAC 388-412-0046. If you use your benefits in any other way, it is an intentional program violation under WAC 388-446-0015 and could result in fines, imprisonment, disqualification from receiving food assistance benefits, or any combination of these penalties.

AMENDATORY SECTION (Amending WSR 14-04-050, filed 1/27/14, effective 2/27/14)

WAC 388-450-0185 What income deductions does the department allow when determining if I am eligible for food benefits and the amount of my monthly benefits? We determine if your assistance unit (AU) is eligible for Basic Food and calculate your monthly benefits according to requirements of the Food and Nutrition Act of 2008 and fed-

eral regulations related to the supplemental nutrition assistance program (SNAP).

These federal laws allow us to subtract **only** the following amounts from your AU's total monthly income to determine your countable monthly income under WAC 388-450-0162:

(1) A standard deduction based on the number of eligible people in your AU under WAC 388-408-0035:

| Eligible AU members | Standard deduction |
|---------------------|----------------------------------|
| 1 | \$ ((152)) <u>155</u> |
| 2 | \$ ((152)) <u>155</u> |
| 3 | \$ ((152)) <u>155</u> |
| 4 | \$ ((163)) <u>165</u> |
| 5 | \$ ((191)) <u>193</u> |
| 6 or more | \$ ((219)) <u>221</u> |

(2) Twenty percent of your AU's gross earned income (earned income deduction);

(3) Your AU's expected monthly dependent care expense needed for an AU member to:

- (a) Keep work, look for work, or accept work;
- (b) Attend training or education to prepare for employment; or
- (c) Meet employment and training requirements under chapter 388-444 WAC.

(4) Medical expenses over thirty-five dollars a month owed or anticipated by an elderly or disabled person in your AU as allowed under WAC 388-450-0200.

(5) A portion of your shelter costs as described in WAC 388-450-0190.

AMENDATORY SECTION (Amending WSR 14-04-050, filed 1/27/14, effective 2/27/14)

WAC 388-450-0190 How does the department figure my shelter cost income deduction for Basic Food? The department calculates your shelter cost income deduction as follows:

(1) First, we add up the amounts your assistance unit (AU) must pay each month for shelter. We do not count any overdue amounts, late fees, penalties or mortgage payments you make ahead of time as an allowable cost. We count the

following expenses as an allowable shelter cost in the month the expense is due:

- (a) Monthly rent, lease, and mortgage payments;
- (b) Property taxes;
- (c) Homeowner's association or condo fees;
- (d) Homeowner's insurance for the building only;
- (e) Utility allowance your AU is eligible for under WAC 388-450-0195;
- (f) Out-of-pocket repairs for the home if it was substantially damaged or destroyed due to a natural disaster such as a fire or flood;
- (g) Expense of a temporarily unoccupied home because of employment, training away from the home, illness, or abandonment caused by a natural disaster or casualty loss if your:
 - (i) AU intends to return to the home;
 - (ii) AU has current occupants who are not claiming the shelter costs for Basic Food purposes; and
 - (iii) AU's home is not being leased or rented during your AU's absence.

(2) Second, we subtract all deductions your AU is eligible for under WAC 388-450-0185 (1) through (4) from your AU's gross income. The result is your AU's countable income.

(3) Finally, we subtract one-half of your AU's countable income from your AU's total shelter costs. The result is your excess shelter costs. Your AU's shelter cost deduction is the excess shelter costs:

- (a) Up to a maximum of four hundred (~~((seventy-eight))~~ ninety) dollars if no one in your AU is elderly or disabled; or
- (b) The entire amount if an eligible person in your AU is elderly or disabled, even if the amount is over four hundred (~~((seventy-eight))~~ ninety) dollars.

AMENDATORY SECTION (Amending WSR 14-04-050, filed 1/27/14, effective 2/27/14)

WAC 388-478-0060 What are the income limits and maximum benefit amounts for Basic Food? If your assistance unit (AU) meets all other eligibility requirements for Basic Food, your AU must have income at or below the limits in column B and C to get Basic Food, unless you meet one of the exceptions listed below. The maximum monthly food assistance benefit your AU could receive is listed in column D.

EFFECTIVE (~~((11-1-2013))~~) 10/1/2014

| Column A Number of Eligible AU Members | Column B Maximum Gross Monthly Income | Column C Maximum Net Monthly Income | Column D Maximum Allotment | Column E 165% of Poverty Level |
|---|--|--|----------------------------------|--------------------------------------|
| 1 | \$ ((1,245)) <u>1,265</u> | \$ ((958)) <u>973</u> | \$ ((189)) <u>194</u> | \$ ((1,580)) <u>1,605</u> |
| 2 | ((1,681)) <u>1,705</u> | ((1,293)) <u>1,311</u> | ((347)) <u>357</u> | ((2,133)) <u>2,163</u> |
| 3 | ((2,116)) <u>2,144</u> | ((1,628)) <u>1,650</u> | ((497)) <u>511</u> | ((2,686)) <u>2,722</u> |

EFFECTIVE ~~((11-1-2013))~~ 10/1/2014

| Column A Number of Eligible AU Members | Column B Maximum Gross Monthly Income | Column C Maximum Net Monthly Income | Column D Maximum Allotment | Column E 165% of Poverty Level |
|--|---|---|----------------------------------|--------------------------------------|
| 4 | ((2,552)) 2,584 | ((1,963)) 1,988 | ((632)) 649 | ((3,239)) 3,280 |
| 5 | ((2,987)) 3,024 | ((2,298)) 2,326 | ((750)) 771 | ((3,791)) 3,838 |
| 6 | ((3,423)) 3,464 | ((2,633)) 2,665 | ((900)) 925 | ((4,344)) 4,396 |
| 7 | ((3,858)) 3,904 | ((2,968)) 3,003 | ((995)) 1,022 | ((4,897)) 4,955 |
| 8 | ((4,294)) 4,344 | ((3,303)) 3,341 | ((1,137)) 1,169 | ((5,450)) 5,513 |
| 9 | ((4,730)) 4,784 | ((3,638)) 3,680 | ((1,279)) 1,315 | ((6,003)) 6,072 |
| 10 | ((5,166)) 5,224 | ((3,973)) 4,019 | ((1,421)) 1,461 | ((6,556)) 6,631 |
| Each Additional Member | +((436)) 440 | +((335)) 339 | +((142)) 146 | +((553)) 559 |

Exceptions:

(1) If your AU is categorically eligible as under WAC 388-414-0001, your AU does not have to meet the gross or net income standards in columns B and C. We do budget your AU's income to decide the amount of Basic Food your AU will receive.

(2) If your AU includes a member who is sixty years of age or older or has a disability, your income must be at or below the limit in column C only.

(3) If you are sixty years of age or older and cannot buy and cook your own meals because of a permanent disability, we will use column E to decide if you can be a separate AU.

(4) If your AU has zero income, your benefits are the maximum allotment in column D, based on the number of eligible members in your AU.

AMENDATORY SECTION (Amending WSR 14-12-085, filed 6/3/14, effective 7/4/14)

WAC 388-450-0195 Does the department use my utility costs when calculating my Basic Food or WASH-CAP benefits? (1) The department uses utility allowances instead of the actual utility costs your assistance unit (AU) pays when we determine your:

(a) Monthly benefits under WAC 388-492-0070 if you receive WASHCAP; or

(b) Shelter cost income deduction under WAC 388-450-0190 for Basic Food.

(2) For Basic Food, "utilities" include the following:

(a) Heating or cooling fuel;

(b) Electricity or gas;

(c) Water ~~((and sewer))~~;

(d) Sewer;

(e) Well ~~((or septic tank))~~ installation/maintenance;

~~((e))~~ (f) Septic tank installation/maintenance;

(g) Garbage/trash collection; and

~~((f))~~ (h) Telephone service.

(3) We use the amounts below if you have utility costs separate from your rent or mortgage payment:

(a) If your AU has heating or cooling costs or receives more than twenty dollars in Low Income Home Energy Assistance Act (LIHEAA) benefits each year, you get a standard utility allowance (SUA) of four hundred ~~((nine))~~ fifteen dollars.

(b) If your AU does not qualify for the SUA and you have any two utility costs listed in subsection (2) of this section, you get a limited utility allowance (LUA) of three hundred thirty six dollars.

(c) If your AU has only telephone costs and no other utility costs, you get a telephone utility allowance (TUA) of sixty-five dollars.

~~((4))~~ If your AU receives Basic Food on March 9, 2014, you receive the SUA through October 2014 regardless of your household's utility expenses unless you have a lapse in your Basic Food benefits.)

AMENDATORY SECTION (Amending WSR 13-18-005, filed 8/22/13, effective 10/1/13)

WAC 388-470-0005 How do resources affect my eligibility for cash assistance and Basic Food? (1) The following definitions apply to this chapter:

(a) "**We**" means the department of social and health services.

(b) "**You**" means a person applying for or getting benefits from the department.

(c) "**Fair market value (FMV)**" means the price at which you could reasonably sell the resource.

(d) "**Equity value**" means the FMV minus any amount you owe on the resource.

(e) **"Community property"** means a resource in the name of the husband, wife, or both.

(f) **"Separate property"** means a resource of a married person that one of the spouses:

(i) Had possession of and paid for before they were married;

(ii) Acquired and paid for entirely out of income from separate property; or

(iii) Received as a gift or inheritance.

(2) We count a resource to decide if your assistance unit (AU) is eligible for cash assistance or Basic Food when:

(a) It is a resource we must count under WAC 388-470-0045 and 388-470-0055;

(b) You own the resource. We consider you to own a resource if:

(i) Your name is on the title to the property; or

(ii) You have property that doesn't have a title; and

(c) You have control over the resource, which means the resource is actually available to you; and

(d) You could legally sell the resource or convert it into cash within twenty days.

(3) For cash assistance, you must try to make your resources available even if it will take you more than twenty days to do so, unless:

(a) There is a legal barrier; or

(b) You must petition the court to release part or all of a resource.

(4) When you apply for assistance, we count your resources as of:

(a) The date of your interview, if you are required to have an interview; or

(b) The date of your application, if you are not required to have an interview.

(5) If your total countable resources are over the resource limit in subsection (6) through (13) of this section, you are not eligible for benefits.

(6) For cash assistance, we use the equity value as the value of your resources.

(a) Applicants can have countable resources up to one thousand dollars.

(b) Recipients of cash assistance can have an additional three thousand dollars in a savings account.

(7) If your AU is categorically eligible (CE) as described in WAC 388-414-0001, you do not have a resource limit for Basic Food.

(8) If your AU is not CE under WAC 388-414-0001, your AU may have countable resources up to the following amount and be eligible for Basic Food:

(a) Three thousand two hundred fifty dollars if your AU has either an elderly or disabled individual; or

(b) Two thousand two hundred fifty dollars for all other AUs.

(9) If you own a countable resource with someone who is not in your AU, we count the portion of the resource that you own. If we cannot determine how much of the resource is yours:

(a) For cash assistance, we count an equal portion of the resource that belongs to each person who owns it.

(b) For Basic Food, we count the entire amount unless you can prove that the entire amount is not available to you.

(10) We assume that you have control of community property and you can legally sell the property or convert it to cash unless you can show that you do not.

(11) We may not consider an item to be separate property if you used both separate and community funds to buy or improve it.

(12) We do not count the resources of victims of family violence when:

(a) The resource is owned jointly with members of the former household; or

(b) Availability of the resource depends on an agreement of the joint owner; or

(c) Making the resource available would place the client at risk of harm.

(13) You may give us proof about a resource anytime, including when we ask for it or if you disagree with a decision we made, about:

(a) Who owns a resource;

(b) Who has legal control of the resource;

(c) The value of a resource;

(d) The availability of a resource; or

(e) The portion of a property you or another person owns.