

WSR 14-22-001
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-303—Filed October 22, 2014, 12:05 p.m., effective November 1, 2014]

Effective Date of Rule: November 1, 2014.

Purpose: Amend recreational fishing rules for trout in Cases Pond.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-18000I; 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: Washington department of fish and wildlife will increase winter recreational opportunity in inland waters throughout the Puget Sound and southwest Washington regions by stocking more than three hundred thousand catchable size (ten to twelve inches) or larger rainbow trout. Changes to rules are needed to provide for the additional angling opportunity enabled by the stocking. 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: October 22, 2014.

Joe Stohr
for Philip Anderson
Director

NEW SECTION

WAC 220-310-18000I Freshwater exceptions to statewide rules—Coast. Notwithstanding the provisions of WAC 220-310-180, effective November 1 through November 30, 2014, in the waters of Cases Pond (Pacific Co.):

- (1) Daily limit of 10 trout.
- (2) No size restriction.

REPEALER

The following section of the Washington Administrative Code is repealed effective December 1, 2014:

WAC 220-310-18000I Freshwater exceptions to statewide rules—Coast.

WSR 14-22-004
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-310—Filed October 22, 2014, 4:28 p.m., effective October 22, 2014, 4:28 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules for Puget Sound commercial shrimp.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-05100Z.

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 2014 state/tribal shrimp harvest management plans for the Strait of Juan de Fuca and Puget Sound require adoption of harvest seasons contained in this emergency rule. This emergency rule closes the Region 3 beam trawl fishery season eight days early due to unusually high by catch of spot shrimp, which is a prohibited species for beam trawl gear. 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 0, Amended 0, Repealed 1.

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

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

Date Adopted: October 22, 2014.

James B. Scott, Jr.
for Philip Anderson
Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-05100Z Puget Sound shrimp pot and beam trawl fishery—Season. (14-247)

WSR 14-22-013
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-311—Filed October 23, 2014, 2:32 p.m., effective October 24, 2014, 7:00 p.m.]

Effective Date of Rule: October 24, 2014, 7:00 p.m.

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 220-33-01000F; 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 additional mainstem commercial salmon seasons in SMCRA 1D and 1E for chinook directed fisheries and in SMCRA 1A-1C for 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 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 through October 31. 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 October 23, 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: October 23, 2014.

Joe Stohr
for Philip Anderson
Director

NEW SECTION

WAC 220-33-01000G Columbia River season below Bonneville. Notwithstanding the provisions of WAC 220-33-010, it is unlawful 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 – Chinook directed

(a) SEASON: Sunday, Tuesday, and Thursday nights October 26 through October 31, 2014. Open hours are 7 PM to 7 AM.

(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 – Coho-directed

(a) SEASON: Open Monday through Friday October 27, 28, 29, 30, and 31, 2014. Open hours are 7 AM to 7 PM.

(b) AREA: SMCRA 1A, 1B and 1C. The deadline at the upper end of SMCRA 1C 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: Grays Bay, Elokomina-A, Cowlitz, Kalama-A and Lewis-A.

(d) GEAR: Drift gillnets only. 6-inch maximum mesh size restriction. Unslackened floater nets only. Nets legal for the coho tanglenet fishery are considered legal nets for the purposes of this subsection.

(e) ALLOWABLE POSSESSION: Salmon and shad, except it is unlawful to retain chum salmon.

(3) 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 unstored 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.

(4) 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 permissible. 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) Allowable possession for Select Areas specified in subsections (3) and (4) of this section: Salmon and shad, except it is unlawful to retain chum salmon.

(6) Additional requirements for all areas opened in this section:

(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 effective 7:00 p.m. October 24, 2014:

WAC 220-33-01000F Columbia River season below Bonneville. (14-297)

WSR 14-22-014**EMERGENCY RULES****DEPARTMENT OF****FISH AND WILDLIFE**

[Order 14-312—Filed October 23, 2014, 2:33 p.m., effective October 23, 2014, 2:33 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 220-32-05100P; 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: Establishes a closing date for the sale of platform and hook and line caught fish from mainstem tribal fisheries in Zone 6 and in the area downstream of Bonneville Dam (consistent with tribal MOU/MOAs). The sale of fish caught in Yakama Nation tributary fisheries continue to be allowed when open under (and consistent with) Yakama Nation regulations. Allows legal-sized sturgeon to be sold if caught in The Dalles Pool if landed during times when SMCRA 1G is open for sturgeon set-line season. Adult fall chinook remain available to the treaty tribes for harvest based on the inseason forecast of 1,150,000 fish. Steelhead harvest is expected to remain within the guideline based on the inseason forecast of 45,000 Group B fish. Harvestable sturgeon remain on the guideline for The Dalles Pool. 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 October 23, 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: October 23, 2014.

Joe Stohr
for Philip Anderson
Director

NEW SECTION

WAC 220-32-05100Q 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 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) Area: SMCRA 1F, 1G, 1H (Zone 6)

(a) Season: Open immediately until 6:00 PM December 31, 2014

(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. In The Dalles pool (SMCRA 1G) only, sturgeon between 43-54 inches in fork length may only be sold only if sales are concurrently allowed in the fall sturgeon set-line season. Sturgeon may be kept for subsistence in all pools if between 38-54 inches in fork length in the Bonneville Pool and 43-54 inches in fork length in The Dalles and the John Day pools.

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

(2) 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 Reserva-

tion (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 6:00 PM December 31, 2014. Open only during those days and hours (and consistent with) 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.

(3) 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 (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. Mesh restrictions consistent with tribal regulations.

(d) Allowable Sales: Consistent with tribal regulations: 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.

(4) 24-hour quick reporting is required for Washington wholesale dealers for all areas as provided in WAC 220-69-240, except that all landings from treaty fisheries described above must be reported within 24-hours of completing the fish ticket (not 24-hours after the period concludes).

(5) Sales of fish are permissible after an open period concludes, as long as the fish offered for sale 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 220-32-05100P Columbia River salmon seasons above Bonneville Dam. (14-298)

WSR 14-22-015 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 14-313—Filed October 23, 2014, 3:08 p.m., effective October 27, 2014, 6:00 a.m.]

Effective Date of Rule: October 27, 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 220-32-05700J; and amending WAC 220-32-057.

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: Adopts a sturgeon set line commercial treaty fishery in The Dalles Pool (SMCRA 1G). Allow sales only of sturgeon, (including platform and hook and line). Sturgeon remain available for harvest based on the current sturgeon guidelines. Conforms state rules to tribal rules. Consistent with compact action of October 23, 2014. There is insufficient time to promulgate permanent regulations.

The Yakama, Warm Springs, Umatilla, and Nez Perce Indian tribes have treaty fishing rights in the Columbia River and inherent sovereign authority to regulate their fisheries. Washington and Oregon also have some authority to regulate fishing by treaty Indians in the Columbia River, authority that the states exercise jointly under the congressionally ratified Columbia River compact. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). The tribes and the states adopt parallel 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: October 23, 2014.

Joe Stohr
for Philip Anderson
Director

NEW SECTION

WAC 220-32-05700J Columbia River sturgeon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-057, effective immediately, it is unlawful to take, fish for or possess sturgeon for commercial purposes in Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, except that those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla, and Nez Perce treaties may fish for sturgeon with set line gear under the following provisions:

(1) Open period: 6:00 AM Monday October 27 to 6:00 PM Saturday November 29, 2014.

(2) Area: SMCRA 1G (The Dalles Pool)

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

(4) Allowable Sales: White Sturgeon (43 to 54 inches in fork length) may be sold. Sturgeon within the legal size limit and caught in platform and hook and line fishery may be sold if caught during the open period and open area of the set line fishery. Sales of fish landed during the open period are allowed after the period concludes.

(5) Sanctuaries: Standard sanctuaries applicable to these gear types.

(6) Additional Regulations: 24-hour quick reporting required for Washington wholesale dealers, pursuant to WAC 220-69-240, **except** that landings must be reported within 24-hours of completing the fish ticket.

(7) Miscellaneous: It is unlawful to sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of a sturgeon prior to sale of the sturgeon to a wholesale dealer licensed under chapter RCW 75.28, or to sell or barter sturgeon eggs at retail. It is unlawful to deliver to a wholesale dealer licensed under chapter RCW 75.28 any sturgeon that are not in the round with the head and tail intact.

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 effective 6:01 p.m. November 29, 2014:

WAC 220-32-05700J Columbia River sturgeon seasons above Bonneville Dam.

WSR 14-22-019
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-314—Filed October 24, 2014, 4:28 p.m., effective October 28, 2014]

Effective Date of Rule: October 28, 2014.

Purpose: Amend commercial fishing rules for Puget Sound Salmon Management and Catch Reporting Areas 7 and 7A.

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

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 nontreaty share of chum in Puget Sound Salmon Management and Catch Reporting Areas 7 and 7A is expected to be harvested by the date of this closure. 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: October 24, 2014.

Joe Stohr
for Philip Anderson
Director

NEW SECTION

WAC 220-47-50100M Puget Sound all-citizen commercial salmon fishery. Notwithstanding the provisions of Chapter 220-47 WAC, effective October 28, 2014, until further notice, it is unlawful to fish for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas 7 and 7A.

REPEALER

The following section of the Washington Administrative Code is repealed effective November 9, 2014:

WAC 220-47-50100M Puget Sound all-citizen commercial salmon fishery.

WSR 14-22-025
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-315—Filed October 27, 2014, 4:46 p.m., effective October 27, 2014, 4:46 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing for Puget Sound salmon.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-47-30700K and 220-47-50100M; and amending WAC 220-47-307.

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

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

Reasons for this Finding: This rule is necessary to implement the commercial fishing plans as agreed to with the comanagers during the North of Falcon process. There is remaining nontreaty share of chum salmon in Puget Sound Salmon Management and Catch Reporting Areas 7 and 7A for the commercial fishery to remain open. 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: October 27, 2014.

James B. Scott, Jr.
for Philip Anderson
Director

NEW SECTION

WAC 220-47-30700K Closed areas—Puget Sound salmon. Notwithstanding the provisions of WAC 220-47-307, 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.

Area 12:

(1) Those waters of Area 12 south and west of a line projected 94 degrees true from Hazel Point to the light on the opposite shore, bounded on the west by the Area 12/12B boundary line are closed to purse seines except this area is open for purse seines on October 28, 2014.

(2) Those waters of Area 12 within 2 miles of the Hood Canal Bridge are closed to purse seines on October 28, 2014.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. October 29, 2014:

WAC 220-47-30700K Closed areas—Puget Sound salmon.

The following section of the Washington Administrative Code is repealed:

WAC 220-47-50100M Puget Sound all-citizen commercial salmon fishery.

**WSR 14-22-026
EMERGENCY RULES
DEPARTMENT OF
EARLY LEARNING**

[Filed October 28, 2014, 8:35 a.m., effective October 28, 2014, 8:35 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To remove language governing the duration of basic state training and registry system (STARS) training required for family home child care primary staff.

Citation of Existing Rules Affected by this Order: Amending WAC 170-296A-1175, 170-296A-1910, 170-296A-1975, and 170-296A-2075.

Statutory Authority for Adoption: RCW 43.215.060, 43.215.070, chapter 43.215 RCW.

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: Emergency rules are necessary for the preservation of the public health, safety, and general welfare because the new STARS curriculum for providers contains additional training on safe sleep practices for infants to prevent sleep related incidents. Further, the new curriculum incorporates new research, updated child guidance training aligned with best practices, and additional information tied to early brain and biological development, and is aligned with department of early learning's child care quality framework. Removal of language regarding duration of the training is needed because the new curriculum requires more than twenty hours to complete. Observing the time requirements of notice and opportunity to comment on adoption of permanent rules would be contrary to the public interest as it would delay improved provider training.

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 4, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Date Adopted: October 28, 2014.

Elizabeth M. Hyde
Director

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

WAC 170-296A-1175 Basic ((~~twenty-hour~~)) STARS training. A license applicant must complete the basic ((~~twenty-hour~~)) STARS training prior to an initial license being granted by the department.

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

WAC 170-296A-1910 Basic ((~~twenty-hour~~)) STARS training. A primary staff person must complete the basic ((~~twenty hours of~~)) STARS training prior to working unsupervised with the children.

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

WAC 170-296A-1975 Licensee/staff qualifications and requirements table. The following table summarizes the licensee and staff qualifications and requirements found in WAC 170-296A-1700 through 170-296A-1950, and 170-296A-7675. An "X" indicates a requirement.

Licensee and Staff Qualifications Table

Position	Minimum age	High school diploma or equivalent	Background check	TB test	DEL orientation	Basic ((20-hour)) STARS	Ongoing training 10-hours per year	Fire safety training	First aid/ CPR	HIV/ AIDS	Food handler permit
Licensee	18	X	X	X	X	X	X	X	X	X	X
Primary staff person	18		X	X		X	X	X	X	X	See WAC 170-296A-7675(3) regarding when other staff must have a food handler permit
Assistant/volunteer	14		X Noncriminal background check only age 14-15	X				X	X	X	See WAC 170-296A-7675(3) regarding when other staff must have a food handler permit

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

WAC 170-296A-2075 Licensee and staff records.

Records on file for the licensee and each staff person must include documentation of:

- (1) Current first aid and infant, child and adult CPR training certification;
- (2) HIV/AIDS training certification;
- (3) TB test results or documentation as required under WAC 170-296A-1750;
- (4) Current state food handler permit for the licensee, and for other staff if required under WAC 170-296A-7675(3);
- (5) Completed background check form, or noncriminal background check form if applicable under WAC 170-296A-1225, and copy of the department-issued authorization;
- (6) Copy of a current government issued picture identification;
- (7) Emergency contact information;
- (8) Completed application form or resume for staff when hired;
- (9) Documentation for the licensee's and primary staff person only of:
 - (a) Basic (~~twenty-hour~~) STARS training;
 - (b) Ongoing training completed; and
 - (c) Registration in MERIT.
- (10) Record of training provided by the licensee to staff and volunteers; and
- (11) Resume for the licensee only.

**WSR 14-22-027
EMERGENCY RULES
DEPARTMENT OF
EARLY LEARNING**

[Filed October 28, 2014, 8:40 a.m., effective October 28, 2014, 8:40 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To remove language governing the duration of basic training approved by the Washington state training and registry system (STARS) required for child care center staff.

Citation of Existing Rules Affected by this Order: Amending WAC 170-295-1060.

Statutory Authority for Adoption: RCW 43.215.060, 43.215.070, chapter 43.215 RCW.

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: Emergency rules are necessary for the preservation of the public health, safety, and general welfare because the new STARS curriculum for providers contains additional training on safe sleep practices for infants to prevent sleep related incidents. Further, the new curriculum incorporates new research, updated child guidance training aligned with best practices, and additional information tied to early brain and biological development, and is aligned

with department of early learning's child care quality framework. Removal of language regarding duration of the training is needed because the new curriculum requires more than twenty hours to complete. Observing the time requirements of notice and opportunity to comment on adoption of permanent rules would be contrary to the public interest as it would delay improved provider training.

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 1, 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: October 28, 2014.

Elizabeth M. Hyde
Director

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-295-1060 What initial and ongoing state training and registry system (STARS) training is required for child care center staff? The director, program supervisor and lead teachers must register with the STARS registry and complete one of the following trainings within the first six months of employment or of being granted an initial license:

(1) (~~Twenty clock hours or two college quarter credits of~~) Basic training approved by the Washington state training registry system (STARS);

(2) Current child development associate certificate (CDA) or equivalent credential, or twelve or more college credits in early childhood education or child development; or

(3) Associate of arts (AA), associate of arts and sciences or higher college degree in early childhood education or child development.

**WSR 14-22-028
EMERGENCY RULES
DEPARTMENT OF
EARLY LEARNING**

[Filed October 28, 2014, 8:42 a.m., effective October 28, 2014, 8:42 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To remove language governing the duration of basic state training and registry system (STARS) training required for school-age child care program staff.

Citation of Existing Rules Affected by this Order: Amending WAC 170-297-1710, 170-297-1715, 170-297-1720, 170-297-1775, and 170-297-2075.

Statutory Authority for Adoption: RCW 43.215.060, 43.215.070, chapter 43.215 RCW.

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: Emergency rules are necessary for the preservation of the general welfare. The new STARS curriculum incorporates needed training improvements based on new research, updated child guidance training aligned with best practices, and additional information tied to early brain and biological development, and is aligned with department of early learning's child care quality framework. Removal of language regarding duration of the training is needed because the new curriculum requires more than twenty hours to complete. Observing the time requirements of notice and opportunity to comment on adoption of permanent rules would be contrary to the public interest as it would delay improved provider training.

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 5, 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 5, Repealed 0.

Date Adopted: October 28, 2014.

Elizabeth M. Hyde
Director

AMENDATORY SECTION (Amending WSR 12-23-057, filed 11/19/12, effective 12/20/12)

WAC 170-297-1710 Program director. (1) The licensee must serve as or employ a program director who is responsible for the overall management of the child care program and operation.

(2) The program director must have the understanding, ability, physical health, emotional stability and good judgment to meet the needs of the children in care.

(3) The program director must:

(a) Be at least twenty-one years of age;

(b) Have two years' experience in management, supervision, or leadership;

(c) Attend a department orientation within six months of employment or assuming the position;

(d) Have a TB test as required under WAC 170-297-1750;

(e) Have a background clearance as required under chapter 170-06 WAC;

(f) Have current CPR and first-aid certification as required under WAC 170-297-1825;

(g) Complete HIV/AIDS training and annual bloodborne pathogens training as required under WAC 170-297-1850;

(h) Have a high school diploma or equivalent;

(i) Have a minimum of forty-five college credits (or thirty college credits and one hundred fifty training hours) in approved school-age credits as specified in the Washington state guidelines for determining related degree and approved credits; and

(j) Have completed (~~twenty hours of~~) basic STARS training or possess an exemption.

(4) A program director must be on the premises as needed.

(5) When the program director is not on-site the program director must leave a competent, designated staff person in charge. This staff person must meet the qualifications of a site coordinator and may also serve as child care staff when that role does not interfere with management and supervisory responsibilities.

AMENDATORY SECTION (Amending WSR 12-23-057, filed 11/19/12, effective 12/20/12)

WAC 170-297-1715 Site coordinator. (1) A child care program may employ a site coordinator responsible for being on-site with children, program planning, and program implementation. The site coordinator must provide regular supervision of staff and volunteers.

(2) The site coordinator must have the understanding, ability, physical health, emotional stability and good judgment to meet the needs of the children in care.

(3) Site coordinator staff must:

(a) Be twenty-one years of age;

(b) Have two years management experience in a related field;

(c) Attend a department orientation within six months of employment or assuming the position;

(d) Have a high school diploma or equivalent;

(e) Have completed thirty college credits in approved school-age credits as specified in the Washington state guidelines for determining related degree and approved credits, or twenty college credits and one hundred clock hours of related community training;

(f) Have completed (~~twenty hours of~~) basic STARS training or possess an exemption;

(g) Complete ongoing training hours as required under WAC 170-297-1800;

(h) Develop an individual training plan;

(i) Have a food worker card, if applicable; and

(j) Attend an agency orientation as required under WAC 170-297-5800.

(4) A site coordinator must be on the premises for the majority of hours that care is provided each day. If temporarily absent from the program, the site coordinator must leave a

competent, designated staff person in charge who meets the qualifications of a site coordinator.

(5) The site coordinator may also serve as child care staff when the role does not interfere with management and supervisory responsibilities.

AMENDATORY SECTION (Amending WSR 13-23-075, filed 11/19/13, effective 12/20/13)

WAC 170-297-1720 Lead teachers. (1) Lead teachers may be employed to be in charge of a child or a group of children.

(2) The lead teacher must have the understanding, ability, physical health, emotional stability and good judgment to meet the needs of the children in care.

(3) Lead teachers must:

(a) Be eighteen years of age or older;

(b) Have one year experience in school-age care;

(c) Have a TB test as required under WAC 170-297-1750;

(d) Have a background clearance as required under chapter 170-06 WAC;

(e) Have current CPR and first-aid certification as required under WAC 170-297-1825;

(f) Complete HIV/AIDS training and annual bloodborne pathogens training as required under WAC 170-297-1850;

(g) Have a high school diploma or equivalent;

(h) Complete (~~twenty hours of~~) **basic** STARS training within three months of assuming the position of lead teacher;

(i) Complete ongoing training hours as required under WAC 170-297-1800;

(j) Have a food worker card, if applicable; and

(k) Attend an agency orientation as required under WAC 170-297-5800.

(4) Lead teachers are counted in the staff-to-child ratio.

(5) When the site coordinator is off-site or unavailable, lead teachers may assume the duties of site coordinator when they meet the site coordinator minimum qualifications, and may also serve as child care staff when the role does not interfere with management and supervisory responsibilities.

AMENDATORY SECTION (Amending WSR 13-23-075, filed 11/19/13, effective 12/20/13)

WAC 170-297-1775 Basic (~~twenty-hour~~) STARS training. (1) Prior to working unsupervised with children the director, site coordinator, and lead teacher must register in MERIT.

(2) The director, site coordinator, and lead teacher must complete the basic (~~twenty hours of~~) STARS training within three months of assuming the position.

(3) If the director, site coordinator, or lead teacher qualifies for an exemption to the STARS training requirement, he or she must request an exemption to the requirement within ten days of assuming the position.

AMENDATORY SECTION (Amending WSR 12-23-057, filed 11/19/12, effective 12/20/12)

WAC 170-297-2075 Staff records. Records for each staff person must include documentation of:

(1) Current first aid, child and adult CPR training certification;

(2) Bloodborne pathogens training certification;

(3) HIV/AIDS training certification;

(4) TB test results or documentation as required under WAC 170-297-1750;

(5) Current state food worker card for staff if required under WAC 170-297-7675;

(6) Completed background check form if applicable under WAC 170-297-1200 and a copy of the department-issued authorization letter;

(7) Copy of a current government issued picture identification;

(8) Emergency contact information;

(9) Completed application form or resume for staff when hired;

(10) Documentation for staff of:

(a) (~~Twenty-hour~~) **Basic** STARS training;

(b) Ongoing training completed; and

(c) Registration in MERIT;

(11) Record of training provided to staff and volunteers.

WSR 14-22-029

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 14-316—Filed October 28, 2014, 10:56 a.m., effective October 28, 2014, 10:56 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing for Puget Sound salmon.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-47-30700K and 220-47-30700L; and amending WAC 220-47-307.

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

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

Reasons for this Finding: This rule is necessary to implement the commercial fishing plans as agreed to with the comanagers during the North of Falcon process. 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: October 28, 2014.

James B. Scott, Jr.
for Philip Anderson
Director

NEW SECTION

WAC 220-47-30700L Closed areas—Puget Sound salmon. Notwithstanding the provisions of WAC 220-47-307, effective immediately until further notice, the following rules apply while fishing for commercial purposes in Puget Sound Salmon Management and Catch Reporting Area 12. Unless otherwise amended, all permanent rules remain in effect.

(1) Those waters of Area 12 south and west of a line projected 94 degrees true from Hazel Point to the light on the opposite shore, bounded on the west by the Area 12/12B boundary line are closed to purse seines except this area is open for purse seines on October 28, 2014.

(2) Those waters of Area 12 within 2 miles of the Hood Canal Bridge are closed to purse seines on October 28, 2014.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-47-30700K Closed areas—Puget Sound salmon.
(14-315)

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. October 29, 2014:

WAC 220-47-30700L Closed areas—Puget Sound salmon.

WSR 14-22-031
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed October 28, 2014, 12:39 p.m., effective October 28, 2014, 12:39 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule making extends the emergency rule making filed on June 30, 2014, as WSR 14-14-080.

The department is amending via emergency adoption WAC 388-449-0001 What are the disability requirements for the aged, blind, or disabled (ABD) program?, 388-449-0035 How does the department assign severity ratings to my impairment?, 388-449-0060 Sequential evaluation process step II—How does the department review medical evidence to determine if I am eligible for benefits?, and 388-449-0080

Sequential evaluation process step IV—How does the department evaluate if I am able to perform relevant past work?

These changes are necessary to conform to SB 6573, Laws of 2014, which restores the more restrictive ABD disability standard previously in place until December 31, 2013, by increasing the minimum duration from nine to twelve months and consideration of an individual's ability to perform past work from ten to fifteen years.

Citation of Existing Rules Affected by this Order: Amending WAC 388-449-0001, 388-449-0035, 388-449-0060, and 388-449-0080.

Statutory Authority for Adoption: SB 6573, chapter 218, Laws of 2014, and 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, SB 6573, and RCW 41.05.021, 74.04.050, 74.08.090, 74.09.035, 74.09.530.

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: SB 6573 requires the department to implement a more restrictive ABD disability standard. These proposed amendments are currently in effect via emergency adoption WSR 14-14-080, effective July 1, 2014. The department is proposing amendments to these WACs via the permanent rule-making process CR-102 filed October 20, 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 0, Amended 4, 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 4, Repealed 0.

Date Adopted: October 23, 2014.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-24-040, filed 11/26/13, effective 1/1/14)

WAC 388-449-0001 What are the disability requirements for the aged, blind, or disabled (ABD) program?

(1) For the purposes of this chapter, the following definitions apply:

(a) "We" and "us" refer to the department of social and health services.

(b) "You" means the applicant or recipient.

(c) "Disabled" means the inability to engage in any substantial gainful activity (SGA) by reason of any medically

determinable physical or mental impairment(s) which has lasted or can be expected to last for a continuous period of not less than ~~((nine))~~ twelve months with available treatment or result in death.

(d) "Physical impairment" means a diagnosable physical illness.

(e) "Mental impairment" means a diagnosable mental disorder. We exclude any diagnosis of or related to alcohol or drug abuse or addiction.

(2) We determine if you are likely to be disabled when:

(a) You apply for ABD cash benefits;

(b) You become employed;

(c) You obtain work skills by completing a training program; or

(d) We receive new information that indicates you may be employable.

(3) We determine you are likely to be disabled if:

(a) You are determined to meet SSA disability criteria by the Social Security Administration (SSA);

(b) You are determined to meet SSA disability criteria by disability determination services (DDDS) based on the most recent DDDS determination;

(c) The Social Security Administration (SSA) stops your supplemental security income (SSI) payments solely because you are not a citizen;

(d) You are eligible for long-term care services from aging and long-term support administration for a medical condition that is expected to last ~~((nine))~~ twelve months or more or result in death; or

(e) You are approved through the sequential evaluation process (SEP) defined in WAC 388-449-0005 through 388-449-0100. The SEP is the sequence of five steps. Step 1 considers whether you are currently working. Steps 2 and 3 consider medical evidence and whether you are likely to meet or equal a listed impairment under Social Security's rules. Steps 4 and 5 consider your residual functional capacity and vocational factors such as age, education, and work experience in order to determine your ability to do your past work or other work.

(4) If you have a physical or mental impairment and you are impaired by alcohol or drug addiction and do not meet the other disability criteria in subsection (2)(a) through (d) above, we decide if you are eligible for ABD cash by applying the sequential evaluation process described in WAC 388-449-0005 through 388-449-0100. You aren't eligible for ABD cash benefits if you are disabled primarily because of alcoholism or drug addiction.

(5) In determining disability, we consider only your ability to perform basic work-related activities. "Basic work-related activities" are activities that anyone would be required to perform in a work setting. They consist of: sitting, standing, walking, lifting, carrying, handling, and other physical functions (including manipulative or postural functions such as pushing, pulling, reaching, handling, stooping, or crouching), seeing, hearing, communicating, remembering, understanding and following instructions, responding appropriately to supervisors and coworkers, tolerating the pressures of a work setting, maintaining appropriate behavior, and adapting to changes in a routine work setting.

(6) We determine you are not likely to meet SSI disability criteria if SSA denied your application for SSI or Social Security Disability Insurance (SSDI) based on disability in the last twelve months unless:

(a) You file a timely appeal with SSA;

(b) SSA decides you have good cause for a late appeal; or

(c) You give us medical evidence of a potentially disabling condition that SSA did not consider or medical evidence confirming your condition has deteriorated.

AMENDATORY SECTION (Amending WSR 13-24-040, filed 11/26/13, effective 1/1/14)

WAC 388-449-0035 How does the department assign severity ratings to my impairment? (1) "Severity rating" is a rating of the extent of your impairment and how it impacts your ability to perform basic work activities. The following chart provides a description of limitations on work activities and the severity ratings assigned to each.

Effect on Work Activities	Degree of Impairment	Numerical Value
(a) There is no effect on your performance of one or more basic work-related activities.	None	1
(b) There is no significant limit on your performance of one or more basic work-related activities.	Mild	2
(c) There are significant limits on your performance of one or more basic work-related activities.	Moderate	3
(d) There are very significant limits on your performance of one or more basic work-related activities.	Marked	4
(e) You are unable to perform basic work-related activities.	Severe	5

(2) We use the description of how your condition impairs your ability to perform work activities given by the acceptable medical source or your treating provider, and review other evidence you provide, to establish severity ratings when the impairments are supported by, and consistent with, the objective medical evidence.

(3) A contracted doctor reviews your medical evidence and the ratings assigned to your impairment when:

(a) The medical evidence indicates functional limitations consistent with at least a moderate physical or mental health impairment;

(b) Your impairment has lasted or is expected to last, (~~nine~~) twelve months or more with available medical treatment; and

(c) You are not an active ABD recipient previously determined likely to be disabled as defined in WAC 388-449-0010 through 388-449-0100.

(4) The contracted doctor reviews your medical evidence, severity rating, and functional assessment to determine whether:

(a) The Medical evidence is objective and sufficient to support the findings of the provider;

(b) The description of the impairment(s) is supported by the medical evidence; and

(c) The severity rating, duration, and assessment of functional limitations assigned by DSHS are consistent with the medical evidence.

(5) If the medical provider's description of your impairment(s) is not consistent with the objective evidence, we will:

(a) Assign a severity rating, duration, and functional limitations consistent with the objective medical evidence; and

(b) Clearly describe why we rejected the medical evidence provider's opinion; and

(c) Identify the medical evidence used to make the determination.

AMENDATORY SECTION (Amending WSR 13-24-040, filed 11/26/13, effective 1/1/14)

WAC 388-449-0060 Sequential evaluation process step II—How does the department review medical evidence to determine if I am eligible for benefits? When we receive your medical evidence, we review it to determine if it is sufficient to decide whether your circumstances meet disability requirements.

(1) We require written medical evidence to determine disability. The medical evidence must:

(a) Contain sufficient information as described under WAC 388-449-0015;

(b) Be written by an acceptable medical source or treating provider described in WAC 388-449-0010;

(c) Document the existence of a potentially disabling condition by an acceptable medical source described in WAC 388-449-0010; and

(d) Document the impairment has lasted or is expected to last (~~nine~~) twelve continuous months or more with available treatment, or result in death.

(2) If the information received isn't clear, we may require more information before we determine whether you meet ABD disability requirements. As examples, we may require you to get more medical tests or be examined by a medical specialist.

(3) We deny disability if:

(a) We don't have evidence that your impairment is of at least moderate severity as defined in WAC 388-449-0035, 388-449-0040, 388-449-0045, or 388-449-0050;

(b) Your impairment hasn't lasted or isn't expected to last (~~nine~~) twelve or more months with available treatment or result in death; or

(c) We have evidence drug or alcohol abuse or addiction is material to your impairment(s).

AMENDATORY SECTION (Amending WSR 13-24-040, filed 11/26/13, effective 1/1/14)

WAC 388-449-0080 Sequential evaluation process step IV—How does the department evaluate if I am able to perform relevant past work? (1) If we neither deny disability at Step 1 or 2 nor approve it at Step 3, we consider our assessment of your physical and/or mental functional capacity, per WAC 388-449-0020 and 388-449-0030, to determine if you can do work you have done in the past.

(2) We evaluate your work experience to determine if you have relevant past work and transferable skills. "Relevant past work" means work:

(a) Defined as substantial gainful activity per WAC 388-449-0005;

(b) You have performed in the past (~~ten~~) fifteen years; and

(c) You performed long enough to acquire the knowledge and skills necessary to continue performing the job. You must meet the specific vocational preparation level as defined in Appendix C of the Dictionary of Occupational Titles.

(3) For each relevant past work situation, we compare:

(a) The exertional, nonexertional, and skill requirements of the job based on the Appendix C of the Dictionary of Occupational Titles; and

(b) Current cognitive, social, exertional, and nonexertional factors that significantly limit your ability to perform past work.

(4) We deny disability when we determine that you are able to perform any of your relevant past work.

(5) We approve disability when you are fifty-five years of age or older and don't have the physical, cognitive, or social ability to perform past work.

WSR 14-22-037

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 14-318—Filed October 28, 2014, 4:44 p.m., effective October 28, 2014, 4:44 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing for Puget Sound salmon.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-47-31100J, 220-47-40100J and 220-47-41100B; and amending WAC 220-47-311, 220-47-401, and 220-47-411.

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 nontreaty share of chum in Puget Sound Salmon Management and Catch Reporting

Areas 7 and 7A is expected to be harvested by the date of this closure. 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 3.

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

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

Date Adopted: October 28, 2014.

Philip Anderson
Director

NEW SECTION

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

Notwithstanding the provisions WAC 220-47-311, effective 1:00 p.m. October 29 through November 8, 2014, it is unlawful to fish for, or possess salmon taken for commercial purposes with purse seine gear in Puget Sound Salmon Management and Catch Reporting Areas 7 and 7A.

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.

NEW SECTION

WAC 220-47-40100J Reef nets—Open periods.

Notwithstanding the provisions of WAC 220-47-401, effective midnight October 29 through November 8, 2014, it is unlawful to fish for, or possess salmon taken for commercial purposes with reef net gear in Puget Sound Salmon Management and Catch Reporting Areas 7 and 7A.

NEW SECTION

WAC 220-47-41100B Gillnet—Open periods.

Notwithstanding the provisions of WAC 220-47-411, effective midnight October 29 through November 8, 2014, it is unlawful to fish for, or possess salmon taken for commercial purposes with gillnet gear in Puget Sound Salmon Management and Catch Reporting Areas 7 and 7A.

REPEALER

The following sections of the Washington Administrative Code are repealed effective 12:01 a.m. November 9, 2014:

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

WAC 220-47-40100J Reef net—Open periods.

WAC 220-47-41100B Gillnet—Open periods.

WSR 14-22-059 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 14-317—Filed October 30, 2014, 4:18 p.m., effective November 4, 2014, 12:00 p.m.]

Effective Date of Rule: November 4, 2014, 12:00 p.m.

Purpose: Amend recreational fishing rules for razor clams.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-36000R; and amending WAC 220-56-360.

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

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

Number of Sections Adopted at 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: October 30, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-56-36000R Razor clams—Area and seasons. Notwithstanding the provisions of WAC 220-56-360, it is unlawful to dig for or possess razor clams taken for personal use from any beach in Razor Clam Areas 1, 3, 4, or 5, except as provided for in this section:

1. Effective 12:01 p.m. November 4 through 11:59 p.m. November 11, 2014, razor clam digging is permissible in

Razor Clam Area 1. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

2. Effective 12:01 p.m. November 4 through 11:59 p.m. November 11, 2014, razor clam digging is permissible in Razor Clam Area 3. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

3. Effective 12:01 p.m. November 8 through 11:59 p.m. November 8, 2014, razor clam digging is permissible in Razor Clam Area 4. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

4. Effective 12:01 p.m. November 7 through 11:59 p.m. November 9, 2014, razor clam digging is permissible in Razor Clam Area 5. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

5. It is unlawful to dig for razor clams at any time in Long Beach, Twin Harbors Beach or Copalis Beach Clam sanctuaries defined in WAC 220-56-372.

REPEALER

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

WAC 220-56-36000R Razor clams—Areas and seasons.

WSR 14-22-065
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-304—Filed October 31, 2014, 9:59 a.m., effective November 1, 2014]

Effective Date of Rule: November 1, 2014.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-310-185.

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: Washington department of fish and wildlife planted twenty thousand hatchery winter steelhead smolts into Rock Creek in the spring of 2013, these fish will provide for a recreational winter fishery by extending the season. 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: October 31, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-310-18500M Freshwater exceptions to statewide rules—Southwest. Notwithstanding the provisions of WAC 220-310-185, effective November 1, 2014, until further notice, it is permissible to fish in waters of Rock Creek from the mouth upstream to the falls. Unless otherwise amended, all permanent rules remain in effect.

WSR 14-22-067
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed October 31, 2014, 10:16 a.m., effective November 1, 2014]

Effective Date of Rule: November 1, 2014.

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 September 24, 2014, as WSR 14-20-042.

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 is eliminating 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.

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, 388-450-0170, 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 is eliminating corresponding rules and medical references 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 recipients 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.

These amendments plus amendments made to WAC 388-450-0162 How does the department count my income to determine if my assistance unit is eligible and how does the department calculate the amount of my cash and Basic Food benefits? are currently in effect via emergency adoption (WSR 14-20-043 filed on September 24, 2014). WAC 388-450-0162 is not part of this emergency rule filing. It is being amended permanently, effective November 1, 2014, as WSR 14-20-042 and therefore, no longer needs to be included in this emergency rule filing. The department has filed a CR-101 and CR-102 and is undertaking the appropriate procedures to adopt the rule as a 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 14, 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 14, Repealed 0.

Date Adopted: October 24, 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 14-23 issue of the Register.

WSR 14-22-069
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-319—Filed October 31, 2014, 11:01 a.m., effective November 1, 2014]

Effective Date of Rule: November 1, 2014.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-18000J; 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: This emergency rule is needed to provide additional protection for the late wild coho in the Naselle River by reducing the retention limit to no more than two. 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: October 31, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-310-18000J Freshwater exceptions to statewide rules—Coastal. Notwithstanding the provisions of WAC 220-310-180, effective November 1, 2014 through January 31, 2015, only two wild coho may be retained as part of the daily limit in the waters of the Naselle River from the Highway 101 Bridge to the Crown Mainline (Salme) Bridge.

REPEALER

The following section of the Washington Administrative Code is repealed effective February 1, 2015:

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

WSR 14-22-070
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-321—Filed October 31, 2014, 2:52 p.m., effective November 4, 2014, 6:00 p.m.]

Effective Date of Rule: November 4, 2014, 6:00 p.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04000P and 220-52-04600C; and amending WAC 220-52-040 and 220-52-046.

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 emergency rule closes Region 1 on November 4, 2014. The state will have reached its initial allocation in this region. Regions 2-east and 2-west will remain closed. All remaining commercial harvest areas in Puget Sound will remain open as sufficient allocation is available in these additional commercial regions. This emergency rule conforms with agreed management plans with applicable tribes, 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 2, Amended 0, Repealed 2.

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

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

Date Adopted: October 31, 2014.

James B. Scott, Jr.
for Philip Anderson
Director

NEW SECTION

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

NEW SECTION

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

(1) The following areas are closed to commercial crab fishing:

(a) Effective 6:00 p.m., Tuesday, November 4, 2014, until further notice, Crab Management Region 1. Region 1 includes Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A and 22B.

(b) Effective 7:00 p.m., Wednesday, October 15, 2014, until further notice, Crab Management Regions 2-east and 2-west. Region 2-east includes Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D, and 26A-E. Region 2-west includes Marine Fish-Shellfish Management and Catch Reporting Areas 25B, 25D, and 26A-West.

(c) Effective immediately, until further notice, 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 true south to the shore of Dungeness Bay.

(d) Effective immediately, until further notice, 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.

REPEALER

The following section[s] of the Washington Administrative code is [are] repealed effective 6:00 p.m. November 4, 2014:

WAC 220-52-04000P Commercial crab fishery—Lawful and unlawful gear, methods, and other unlawful acts (14-302)

WAC 220-52-04600C Puget Sound crab fishery—Seasons and areas (14-302)

WSR 14-22-071
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-320—Filed October 31, 2014, 4:52 p.m., effective October 31,
2014, 4:52 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing for Puget Sound salmon.

Citation of Existing Rules Affected by this Order: Amending WAC 220-47-311 and 220-47-411.

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: Beginning the week of October 12, 2014, purse seine and gillnet openers have occurred weekly in Puget Sound Salmon Management and Catch Reporting Areas 12 and 12B. In addition to Areas 12 and 12B Puget Sound Salmon Management and Catch Reporting Area 12C was scheduled to open during the week of November 2, 2014. Based on current catch numbers the nontreaty share is expected to be achieved without opening 12C. 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 2, Amended 0, Repealed 0.

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

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

Date Adopted: October 31, 2014.

James B. Scott, Jr.
for Philip Anderson
Director

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.

NEW SECTION

WAC 220-47-41100C Gillnet—Open periods. Notwithstanding the provisions of WAC 220-47-411, effective immediately until further notice, it is unlawful to fish for, or possess salmon taken for commercial purposes with gillnet gear in Puget Sound Salmon Management and Catch Reporting Area 12C.

NEW SECTION

WAC 220-47-31100K Purse seine—Open periods. Notwithstanding the provisions WAC 220-47-311, effective immediately until further notice, it is unlawful to fish for, or possess salmon taken for commercial purposes with purse seine gear in Puget Sound Salmon Management and Catch Reporting Area 12C.