

WSR 15-13-001
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 12-154—Filed June 3, 2015, 2:32 p.m., effective June 6, 2015]

Effective Date of Rule: June 6, 2015.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-310-19000V; and amending WAC 220-310-190.

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

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

Reasons for this Finding: Catchable fish planted in Rattlesnake Lake in the fall of 2014 remain abundant. Rescinding the catch and release restriction and allowing a daily limit of 5 trout will provide additional angling opportunity. 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: June 3, 2015.

J. W. Unsworth
 Director

NEW SECTION

WAC 220-310-19000V Freshwaters exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-310-190, effective June 6 through September 20, 2015, it is unlawful to violate the following provisions, provided that unless amended, all permanent rules remain in effect:

Rattlesnake Lake (King Co.)

- (1) The catch and release restriction is rescinded.
- (2) Daily limit of 5 trout with no size restriction.
- (3) Selective rules are in effect.

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

REPEALER

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

WAC 220-310-19000V Freshwaters exceptions to statewide rules—Puget Sound.

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

WSR 15-13-005
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-158—Filed June 3, 2015, 3:19 p.m., effective June 3, 2015, 3:19 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules for the Skagit River.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-310-19000W; and amending WAC 220-310-190.

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

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

Reasons for this Finding: The department is in the process of adopting permanent rules that are necessary to implement the personal use fishing plans agreed-to with resource comanagers at the North of Falcon proceedings. These emergency rules are necessary to comply with agreed-to management plans, and are interim until permanent rules take effect.

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

Number of Sections Adopted at 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: June 3, 2015.

J. W. Unsworth
 Director

NEW SECTION

WAC 220-310-19000W Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-310-190, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

(1) **Skagit River** - Effective immediately through July 31, 2015, it is permissible for anglers fishing for sturgeon to use single-point barbless hooks of any size in the waters of the Skagit River from the mouth to Hwy. 536 at Mt. Vernon (Memorial Hwy. Bridge) and from Highway 536 at Mt. Vernon (Memorial Hwy. Bridge) to the mouth of Gilligan Creek.

(2) **Skagit River** - Effective June 16 through July 15, 2015, it is permissible to fish for and retain a daily limit of three sockeye salmon from Hwy. 536 at Mt. Vernon (Memorial Hwy. Bridge) to the mouth of Gilligan Creek.

REPEALER

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

WAC 220-310-19000W Freshwater exceptions to statewide rules—Puget Sound.

WSR 15-13-006
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-156—Filed June 3, 2015, 4:18 p.m., effective June 3, 2015, 4:18 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules for the Wenatchee and Icicle rivers.

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

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

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

Reasons for this Finding: Hatchery-origin spring chinook in excess of desired escapement are forecast to return to the Wenatchee River. The fishery will reduce the number of excess hatchery-origin spring chinook and consequently increase the proportion of natural-origin spring chinook on the spawning grounds. Opening two sections of the Wenatchee River and a section of the Icicle River will provide additional fishing opportunity. 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: June 3, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-310-19500Y Freshwaters exceptions to statewide rules—Wenatchee and Icicle rivers. Notwithstanding the provisions of WAC 220-310-195, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

(1) Effective immediately, until further notice, it is permissible to fish in waters of the Wenatchee River from the Washington State Parks foot bridge at Confluence Park (just upstream from the confluence with the Columbia River) to 400 feet below Dryden Dam and it is permissible to fish in waters of the Wenatchee River from the confluence with Peshastin Creek and from that point to a line perpendicular with the river to the opposite river bank (approximately 1,000 feet above Dryden Dam), then to the upstream point of the confluence with the Icicle River and from that point to a line perpendicular with the Wenatchee River to the marker on the opposite river bank.

(a) Daily limit two hatchery Chinook. Mandatory retention of adipose fin clipped Chinook applies.

(b) Anglers must release adipose present Chinook unharmed and cannot be removed from the water prior to release.

(c) Anglers must release all Chinook with one or more round 1/4 inch diameter holes punched in the caudal (tail) fin.

(d) Anglers may fish with one line with up to two single point barbless hooks, knotless nets, and bait is allowed

(e) Night closure is in effect.

(2) Effective immediately through July 31, 2015, it is permissible to fish in waters of the Icicle River from the closure signs located 800 feet upstream of the mouth to 500 feet downstream of the Leavenworth National Fish Hatchery Barrier Dam.

(a) Daily limit two hatchery Chinook. Mandatory retention of adipose fin clipped Chinook applies.

(b) Anglers must release adipose present Chinook unharmed and cannot be removed from the water prior to release.

(c) Anglers must release all Chinook with one or more round 1/4 inch diameter holes punched in the caudal (tail) fin.

(d) No gear restrictions. Night closure is in effect.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-310-19500T Freshwater exceptions to statewide rules—Wenatchee River.

WSR 15-13-009
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-160—Filed June 4, 2015, 3:19 p.m., effective June 5, 2015, 12:01 a.m.]

Effective Date of Rule: June 5, 2015, 12:01 a.m.

Purpose: Amend commercial salmon troll fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-24-04000T; and amending WAC 220-24-040.

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

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

Reasons for this Finding: A small amount of the quota for Areas 1, 3 and 4, remain available for the fishery. A large harvestable quota of salmon remains available for the troll fleet in Area 2. These rules are adopted at the recommendation of the Pacific Fisheries Management Council and the National Marine Fisheries Service, in accordance with pre-season fishing plans. There is insufficient time to adopt permanent rules.

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

Number of Sections Adopted at 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: June 4, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-24-04000U All-citizen commercial salmon troll. Notwithstanding the provisions of WAC 220-24-040, effective 12:01 a.m. June 5, 2015, until further notice, it is unlawful to fish for salmon with troll gear or to land salmon taken with troll gear into a Washington port except during the seasons provided below:

(1) Salmon Management and Catch Reporting Area 1 open:

June 5 - 9, 2015,
June 12 - 16, 2015,
June 19 - 23, 2015,
June 26 - 30, 2015.

(2) Salmon Management and Catch Reporting Area 2 open through June 30, 2015.

(3) That portion of Salmon Management and Catch Reporting Area 4 west of 125°05'00" W longitude and south of 48°23'00" N latitude, open:

June 5 - 9, 2015,
June 12 - 16, 2015,
June 19 - 23, 2015,
June 26 - 30, 2015.

(4) All fish from Area 1 must be landed before crossing into the area north of Leadbetter point. All fish from Area 1 must be landed before fishing any other Area. No fish from other Areas may be in possession with fish from Area 1. Landing and possession limit of 40 Chinook in Area 1 per vessel per entire open period.

(5) All fishers intending to fish Area 4 must declare that intention before fishing by notifying WDFW at 360-902-2739 with boat name and approximate time they intend to fish in Area 4 and destination at the end of the trip. All fish from Area 4 must be landed before fishing any other Area. No fish from other Areas may be in possession with fish from Area 4. Landing and possession limit of 20 Chinook in Area 4 per vessel per entire open period.

(6) Cape Flattery and Columbia River Control Zones are closed.

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

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

(9) Fishers must land and deliver their catch within 24 hours of any closure of a fishery provided for in this section. Vessels in possession of fish from Area 2 must stay in the closed areas to transit through Areas 3 and 4 to land in La Push or Neah Bay. All fish must be landed in Areas 1, 2, 3 or 4. Vessels in possession of salmon north or south of the Queets River may not cross the Queets River line without first notifying WDFW by phone at (360) 902-2739 or by email at Douglas.Milward@dfw.wa.gov with Area fished, total Chinook and halibut catch aboard, and destination.

Vessels fishing or in possession of salmon while fishing north of Leadbetter Point must land and deliver their fish within the area and North of Leadbetter Point. Vessels fishing or in possession of salmon while fishing south of Leadbetter Point must land and deliver their fish within the area and south of Leadbetter Point.

(10) The Cape Flattery Control Zone is defined as the area from Cape Flattery (48°23'00" N latitude) to the northern boundary of the U.S. Exclusive Economic Zone, and the area from Cape Flattery south to Cape Alava, 48°10'00" N latitude, and east of 125°05'00" W longitude.

(11) The Columbia Control Zone is defined as an area at the Columbia River mouth, bounded on the west by a line running northeast/southwest between the red lighted Buoy #4 (46°13'35" N. Lat., 124°06'50" W. long.) and the green lighted Buoy #7 (46°15'09" N. lat., 124°06'16" W. long.); on the east, by the Buoy #10 line which bears north/south at 357° true from the south jetty at 46°14'00" N. lat., 124°03'07" W. long, to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°15'48" N. lat., 124°05'20" W. long.), and then along the north jetty to the point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14'03" N. lat., 124°04'05" W. long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

(12) It is unlawful to fish in Salmon Management and Catch Reporting Areas 1, 2 or 4 with fish on board taken south of Cape Falcon, Oregon and all fish taken from Salmon Management and Catch Reporting Areas 1, 2 or 4 must be landed before fishing south of Cape Falcon, Oregon.

(13) It is unlawful for wholesale dealers and trollers retailing their fish to fail to report their landing by 10:00 a.m. the day following landing. Ticket information can be telephoned in by calling 1-866-791-1279, faxing the information to (360) 902-2949, or e-mailing to trollfishtickets@dfw.wa.gov. Report the dealer name, the dealer license number, the purchasing location, the date of purchase, the fish ticket numbers, the gear used, the catch area, the species, the total number for each species, and the total weight for each species, including halibut.

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

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. June 5, 2015:

WAC 220-24-04000T All-citizen commercial salmon troll.
(15-148)

WSR 15-13-010 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 15-163—Filed June 4, 2015, 3:33 p.m., effective June 13, 2015]

Effective Date of Rule: June 13, 2015.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-310-195.

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

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

Reasons for this Finding: Based on the preseason run prediction for upper Grande Ronde River spring chinook populations, there are sufficient numbers of returning fish to support a sport fishery for hatchery origin fish. Consistent with the joint Washington department of fish and wildlife and Oregon department of fish and wildlife Grande Ronde fish management and evaluation plan, and federal Endangered Species Act (ESA) permits, a fishery will be open June 13 on the lower Grande Ronde River in Washington. This will be a concurrent fishery with Oregon. Inseason run updates, estimates of harvest, and ESA impacts will determine the duration of this fishery. 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: June 4, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-310-19500Z Freshwater exceptions to statewide rules—Eastside. Notwithstanding the provisions of WAC 220-310-195, effective June 13, 2015, until further notice:

(1) It is permissible to fish in waters of the Grande Ronde River from the mouth of Buford Creek (approximately 1/2

mile downstream of the Highway 129 Bridge at Boggan's Oasis) upstream to the Washington/Oregon state line.

(2) Daily limit 7 hatchery Chinook, of which no more than two may be adult hatchery Chinook salmon. Immediately release all wild (non-adipose fin clipped) Chinook, steelhead and all bull trout with care. Chinook minimum size is 12 inches.

(3) Anglers must cease fishing when the adult daily limit has been retained.

(4) Barbless hooks only, bait use allowed when fishing for all species during times and in locations open for salmon fishing and retention.

(5) It is unlawful to use any hook larger than 5/8-inch (point of hook to shank) when fishing for all species.

(6) Night closure is in effect for salmon.

WSR 15-13-017

EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 15-165—Filed June 5, 2015, 3:00 p.m., effective June 5, 2015, 3:00 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules for the coastal crab fishery.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-330.

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

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

Reasons for this Finding: A closure is needed after routine testing showed domoic acid levels in crab exceeded standards established by the Washington department of health. Domoic acid, a natural toxin produced by certain types of marine algae, can be harmful or even fatal if consumed in sufficient quantities. 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: June 5, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-56-33000R Crab—Areas and seasons. Notwithstanding the provisions of WAC 220-56-330:

(1) Effective immediately until further notice, it is unlawful to fish for Dungeness crab in Marine Area 1 adjacent to Washington and that portion of Marine Area 2 south of Point Chehalis (46°53.18), Washington including Marine Area 2-1 (Willapa Bay), and the Columbia River.

(2) Effective 12:01 a.m. June 10, 2015, it is unlawful to set, maintain, operate, or possess in those waters, any baited or unbaited shellfish pots or ring nets for any reason.

WSR 15-13-018

EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 15-166—Filed June 5, 2015, 3:00 p.m., effective June 5, 2015, 3:00 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend coastal commercial crab fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04500F; and amending WAC 220-52-045.

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: Test results from the Washington department of health show that crab tested in the area between the Washington/Oregon border and Point Chehalis are not safe for human consumption. Levels of domoic acid, detected through routine testing have exceeded the federally established action level. 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: June 5, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-52-04500G Commercial crab fishery—Seasons and areas—Coastal. Notwithstanding the provisions of WAC 220-52-045, effective immediately until further notice, it is unlawful to fish for Dungeness crab in Washington coastal waters, the Pacific Ocean, Grays Harbor, Willapa Bay, or the Columbia River, except as provided for in this section.

(1) The area from Point Chehalis (46°53.18), Washington to the U.S./Canada Border, including Grays Harbor: Open.

(2) For the purposes of this order, the waters of Willapa Bay are defined to include the marine waters east of a line connecting 46°44.76 N, 124°05.76 W and 46°38.93 N, 124°04.33 W.

(3) The Quinault Secondary Special Management Area (SSMA) is closed to fishing for Dungeness crab from the area shoreward of a line approximating the 27-fathom depth curve between Split Rock (47°24.50) and the mouth of the Joe Creek (47°12.11). This area is closed until further notice. The legal modified SSMA is defined by the following coordinates:

- (a) Northeast Corner (Split Rock): 47°24.50 N. Lat. 124°20.00 W. Lon.
- (b) Northwest Corner: 47°24.50 N. Lat. 124°32.40 W. Lon.
- (c) Southwest Corner: 47°12.11 N. Lat. 124°27.33 W. Lon.
- (d) Southeast Corner (Joe Creek): 47°12.11 N. Lat. 124°12.28 W. Lon.

(4) Notwithstanding the provisions of WAC 220-52-045, effective immediately, it is unlawful to:

(a) Fish for Dungeness crab in the coastal waters of the Pacific Ocean between the Washington/Oregon border (46°15.00) and Point Chehalis (46°53.18), Washington;

(b) Fish for Dungeness crab in Willapa Bay and the Columbia River;

(c) Effective 12:01 a.m. June 10 2015, it is unlawful to set, maintain, operate, or possess in those waters listed in subsections (9)(a) and (b) of this section, any baited or unbaited shellfish pots or ring nets for any reason; and

(d) Possess, transport or deliver Dungeness crab within the waters closed in this section unless the following conditions are met:

(i) Vessels that participate in the coastal Dungeness crab fishery from north of Point Chehalis (46°53.18) or south of the WA/OR border may possess crab for delivery into Washington ports south of Point Chehalis (46°53.18), provided the crab were taken north of Point Chehalis (46°53.18) or south of the WA/OR border.

(ii) Prior to entering Washington coastal waters of the Pacific Ocean between the WA/OR border (46°15.00) and Point Chehalis, Washington (46°53.18), including Willapa Bay and the Columbia River, the vessel operator must call 360-581-3337 and report the vessel name, operator name, estimated amount of crab to be delivered in pounds, and the

estimated date, time, and location of delivery 24 hours prior to entering the area.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-52-04500F Coastal crab seasons. (15-93)

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

WSR 15-13-019

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 15-164—Filed June 5, 2015, 3:00 p.m., effective June 9, 2015, 6:00 a.m.]

Effective Date of Rule: June 9, 2015, 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 220-32-05100Z; and amending WAC 220-32-051.

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

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

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

Reasons for this Finding: Allows the sale of fish caught in Zone 6 Columbia River tribal fisheries with gillnets, platform and hook and line gear. The sale of fish caught in Yakama Nation tributary fisheries is also allowed when open under Yakama Nation regulations. The area downstream of Bonneville Dam (SMCRA 1E1) remains closed to sales of fish. The upriver spring chinook has been updated to two hundred seventy-one thousand fish, and harvestable fish are available to the treaty tribes. 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 May 5 and June 4, 2015. Conforms

state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

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

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: June 5, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-32-05100A Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052 and WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch taken for commercial purposes in

Columbia River Salmon Management and Catch Reporting Areas 1E1, 1F, 1G, and 1H, and in the Wind River, Klickitat River, and Drano Lake. However, those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch under the following provisions.

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

(a) Season: 6:00 a.m. June 9 to 6:00 p.m. June 11, 2015.

(b) Gear: Gillnets.

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

(d) All sanctuaries for this gear type are in effect, except Spring Creek.

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

(a) Season: Immediately until further notice.

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

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

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

(3) Columbia River Tributaries upstream of Bonneville Dam:

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

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

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

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

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

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

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 a.m. June 9, 2015:

WAC 220-32-05100Z Columbia River salmon seasons above Bonneville Dam. (15-150)

WSR 15-13-034
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-159—Filed June 8, 2015, 1:07 p.m., effective July 1, 2015]

Effective Date of Rule: July 1, 2015.

Purpose: Amend recreational fishing rules.

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

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

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

Reasons for this Finding: The department is in the process of adopting permanent rules that are necessary to implement the personal use fishing plans agreed-to with resource comanagers at the North of Falcon proceedings. These emergency rules are necessary to comply with agreed-to management plans, and are interim until permanent rules take effect.

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

Number of Sections Adopted at 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: June 8, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-310-19000X Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-310-190, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

(1) Nisqually River (Pierce Co.) Effective July 1, 2015, until further notice, it is unlawful to fish with barbed hooks in waters of the Nisqually River from the mouth to the Military Tank Crossing Bridge.

(2) Chambers Creek (Pierce Co.) Effective July 1, 2015, until further notice, daily limit of 6 salmon of which no more than 4 may be adult salmon in the waters of Chambers Creek from the mouth (Burlington Northern Bridge) to the markers 400 feet below the Boise-Cascade Dam.

WSR 15-13-035
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-162—Filed June 8, 2015, 1:09 p.m., effective June 8, 2015, 1:09 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend rules in the recreational spot shrimp fishery.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-56-32500T; and amending WAC 220-56-325.

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 regulation is needed to ensure an orderly fishery, manage within court-ordered sharing requirements, and to ensure conservation. Harvestable amounts of spot shrimp are available for divers on the June 24 opener in Marine Area 8-2, however the permanent rules only covered the nighttime dive harvest of spot shrimp during the month of May. 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: June 8, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-56-32500U Shrimp—Areas and seasons. Notwithstanding the provisions of WAC 220-56-325, effective immediately, until further notice:

(1) Marine Areas 4 (east of the Bonilla-Tatoosh line), 5 and 6 (excluding the Discovery Bay Shrimp District) are open to the harvest of all shrimp species.

(2) It is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Area 7, except as follows:

(a) The portion of Marine Area 7 north of a line from Davis Point on Lopez Island to Cattle Point on San Juan Island, then north of a line due west from Lime Kiln Point light to the international boundary, then west of a line from the bell buoy at the international boundary to Point Doughty on Orcas Island, then west of a line projected true north and south from the western tip of Crane Island, then west of a line projected from the southern tip of Shaw Island to the number 2 buoy at the entrance to Fisherman Bay: Open to the harvest of all shrimp species.

(b) The portion of Marine Area 7 north of a line from the Biz Point on Fidalgo Island to Cape Saint Mary on Lopez Island, then east of a line projected from the number 2 buoy at the entrance to Fisherman Bay to the southern tip of Shaw Island, then east of a line projected true north and south from the western tip of Crane Island, then east of a line from Point Doughty on Orcas Island to the bell buoy at the international boundary:

(i) Open to the harvest of all shrimp species except spot shrimp. It is unlawful to possess spot shrimp, and all spot shrimp must immediately be returned to the water unharmed.

(ii) It is unlawful to set or pull shrimp gear in waters greater than 200 feet deep.

(3) It is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Area 8-1 and 8-2, except as follows:

(a) Effective immediately, until 11:59 p.m. June 23, 2015, all waters equal to or less than 150 feet in depth are open to the harvest of all shrimp species except spot shrimp. All spot shrimp caught must be immediately returned to the water unharmed. It is unlawful to set or pull shrimp gear in waters greater than 150 feet deep.

(b) Effective June 24, 2015, all waters are open to the harvest of all shrimp species from 9:00 a.m. through 1:00 p.m., except that in Marine Area 8-2 it is lawful for divers to take shrimp by hand or hand-held device from 7:00 p.m. until midnight.

(c) Effective 12:01 a.m. June 25, 2015, until further notice, all waters equal to or less than 150 feet in depth are open to the harvest of all shrimp species except spot shrimp. All spot shrimp caught must be immediately returned to the water unharmed. It is unlawful to set or pull shrimp gear in waters greater than 150 feet deep.

(4) All waters equal to or less than 150 feet in depth in Marine Areas 9 and 11 are open to the harvest of all shrimp species except spot shrimp. All spot shrimp caught must be immediately returned to the water unharmed. It is unlawful to set or pull shrimp gear in waters greater than 150 feet deep.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-32500T Shrimp—Areas and seasons. (15-162)

WSR 15-13-040
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-161—Filed June 9, 2015, 8:56 a.m., effective June 15, 2015, 6:00 a.m.]

Effective Date of Rule: June 15, 2015, 6:00 a.m.

Purpose: Amend recreational fishing rules.

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

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

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

Reasons for this Finding: Recent test fisheries in Marine Area 12 indicate the peak molting period has occurred and the crab are ready for harvest. Opening the area will give crab harvesters an extra two weeks of summer crabbing opportunity. The season will be open five days a week to achieve the 50/50 harvest defined by the federal court order. There is insufficient time to promulgate 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: June 9, 2015.

J. W. Unsworth
 Director

NEW SECTION

WAC 220-56-33000Q Crab—Areas and seasons. Notwithstanding the provisions of WAC 220-56-330:

(1) **Marine Area 12:** Effective 6:00 a.m. June 15 until 11:59 p.m. September 7, 2015, it is permissible to fish for crab for personal use five days a week, Thursday through Monday of each week.

(2) **Marine Area 13:** Effective immediately, until 11:59 p.m. September 7, 2015, it is permissible to fish for crab for personal use seven days a week.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 a.m. June 15, 2015:

WAC 220-56-33000P Crab—Areas and seasons. (15-140)

WSR 15-13-044
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-168—Filed June 9, 2015, 11:58 a.m., effective June 9, 2015, 11:58 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend coastal commercial crab fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04500G; and amending WAC 220-52-045.

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: Test results from the Washington department of health show that crab tested in the area between the Washington/Oregon border and Point Chehalis are not safe for human consumption. Levels of domoic acid, detected through routine testing have exceeded the federally established action level. There is insufficient time to adopt permanent rules. The extension of the deadline for removing commercial crab gear from the closed area is to address ocean conditions and allow gear to be recovered safely and does not affect the closure date or compromise public health.

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: June 9, 2015.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

WAC 220-52-04500H Commercial crab fishery—Seasons and areas—Coastal. Notwithstanding the provisions of WAC 220-52-045, effective immediately until further notice, it is unlawful to fish for Dungeness crab in Washington coastal waters, the Pacific Ocean, Grays Harbor, Willapa Bay, or the Columbia River, except as provided for in this section.

(1) The area from Point Chehalis (46°53.18), Washington to the U.S./Canada Border, including Grays Harbor: Open.

(2) For the purposes of this order, the waters of Willapa Bay are defined to include the marine waters east of a line connecting 46°44.76 N, 124°05.76 W and 46°38.93 N, 124°04.33 W.

(3) The Quinault Secondary Special Management Area (SSMA) is closed to fishing for Dungeness crab from the area shoreward of a line approximating the 27-fathom depth curve between Split Rock (47°24.50) and the mouth of the Joe Creek (47°12.11). This area is closed until further notice. The legal modified SSMA is defined by the following coordinates:

- (a) Northeast Corner (Split Rock): 47°24.50 N. Lat. 124°20.00 W. Lon.
- (b) Northwest Corner: 47°24.50 N. Lat. 124°32.40 W. Lon.
- (c) Southwest Corner: 47°12.11 N. Lat. 124°27.33 W. Lon.
- (d) Southeast Corner (Joe Creek): 47°12.11 N. Lat. 124°12.28 W. Lon.

(4) Notwithstanding the provisions of WAC 220-52-045, effective immediately, it is unlawful to:

(a) Fish for Dungeness crab in the coastal waters of the Pacific Ocean between the Washington/Oregon border (46°15.00) and Point Chehalis (46°53.18), Washington;

(b) Fish for Dungeness crab in Willapa Bay and the Columbia River;

(c) Effective 12:01 a.m. June 17, 2015, it is unlawful to set, maintain, operate, or possess in those waters listed in subsections (9)(a) and (b) of this section, any baited or unbaited shellfish pots or ring nets for any reason; and

(d) Possess, transport or deliver Dungeness crab within the waters closed in this section unless the following conditions are met:

(i) Vessels that participate in the coastal Dungeness crab fishery from north of Point Chehalis (46°53.18) or south of the WA/OR border may possess crab for delivery into Washington ports south of Point Chehalis (46°53.18), provided the crab were taken north of Point Chehalis (46°53.18) or south of the WA/OR border.

(ii) Prior to entering Washington coastal waters of the Pacific Ocean between the WA/OR border (46°15.00) and Point Chehalis, Washington (46°53.18), including Willapa Bay and the Columbia River, the vessel operator must call

360-581-3337 and report the vessel name, operator name, estimated amount of crab to be delivered in pounds, and the estimated date, time, and location of delivery 24 hours prior to entering the area.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-52-04500G Coastal crab seasons. (15-166)

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

WSR 15-13-045
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-169—Filed June 9, 2015, 11:59 a.m., effective June 9, 2015,
11:59 p.m.]

Effective Date of Rule: June 9, 2015, 11:59 p.m.

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

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-05100B; and amending WAC 220-52-051.

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 2015 state/tribal shrimp harvest management plans for the Strait of Juan de Fuca and Puget Sound require adoption of harvest seasons contained in this emergency rule. This emergency rule (1) closes the pot fishery season for nonspot shrimp in Shrimp Management Areas 1A, 1B and 1C, as the quota will be reached; and (2) implements a trip limit of one hundred pounds in Shrimp Management Areas 1A, 1B and 1C until the 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: June 9, 2015.

June 9, 2015
Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

WAC 220-52-05100C Puget Sound shrimp pot and beam trawl fishery—Season. Notwithstanding the provisions of WAC 220-52-051, effective immediately, until further notice, it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp pot gear:

(a) All waters of Shrimp Management Areas 1A, 1B, 1C, 2W, 3, 4, and 6 are open to the harvest of all non-spot shrimp species, effective immediately, until further notice, except as provided for in this section:

(i) In Marine Fish/Shellfish Management and Catch Reporting Area (Catch Area) 22A, all waters inside and bounded by a line projected from Blakely Marina on the northwest corner of Blakely Island to Upright Head on Lopez Island, following the shoreline southerly on Lopez Island to intersect a line projected due west from Bald Bluff on Blakely Island, are closed until 7:00 a.m. June 16, 2015.

(ii) All waters of Catch Areas 23A-E, 23A-W, 23A-C and the Discovery Bay Shrimp District are closed.

(iii) Effective 12:00 p.m. June 13, 2015, all waters of Shrimp Management Areas 1A, 1B and 1C are closed.

(iv) All waters of Shrimp Management Area 1A north of a line projected at 48°31.5' N latitude are closed.

(b) Effective immediately, until further notice, it is unlawful for the combined total harvest of non-spot shrimp by a fisher and/or the fisher's alternate operator to exceed 1,000 pounds per week from Shrimp Management Area 2W.

(c) Effective immediately until 12:00 p.m. June 13, 2015, it is unlawful for the combined total harvest of non-spot shrimp by a fisher or the fisher's alternate operator to exceed 100 pounds from Shrimp Management Areas 1A, 1B and 1C.

(d) The shrimp catch accounting week is Wednesday through Tuesday.

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

(2) Shrimp beam trawl gear:

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

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

(c) That portion of Catch Area 20B within SMA 1B is open effective 6:00 a.m. June 16, 2015, until further notice.

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

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. June 9, 2015:

WAC 220-52-05100B Puget Sound shrimp pot and beam trawl fishery—Season. (15-141)

WSR 15-13-048
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-171—Filed June 9, 2015, 3:32 p.m., effective June 10, 2015, 7:00 p.m.]

Effective Date of Rule: June 10, 2015, 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 220-33-01000Q; 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 a mainstem commercial fishing period for hatchery spring chinook. The upriver spring chinook return has been upgraded by TAC to two hundred eighty-two thousand fish. This update allows additional fish to be available for harvest in mainstem commercial fisheries. Allows sales of sockeye salmon. The commercial allocation of sockeye totals nearly one thousand two hundred sockeye available for harvest. The fisheries are consistent with the *U.S. v. Oregon* Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with compact action of January 28 and June 9, 2015. There is insufficient time to promulgate permanent rules.

Washington and Oregon jointly regulate Columbia River fisheries under the congressionally ratified Columbia River compact. Four Indian tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the tribes an opportunity to take a fair share of the available fish, and the states must manage other fisheries accordingly. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). A federal court order sets the current parameters for sharing between treaty Indians and others. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546).

Some Columbia River basin salmon and steelhead stocks are listed as threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in treaty and nontreaty Columbia River fisheries governed by the 2008-2017 *U.S. v. Oregon* Management Agreement. The Washington and Oregon fish and wildlife commissions have developed policies to guide the implementation of such biological opinions in the states' regulation of nontreaty fisheries.

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

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 1; Federal Rules or Standards: New 1, Amended 0, Repealed 1; or Recently Enacted State Statutes: New 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: June 9, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-33-01000R Columbia River seasons below Bonneville. Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, it is unlawful for a person to take or possess salmon, sturgeon, and shad for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, 1E and

Select Areas, except during the times and conditions listed below:

(1) Mainstem Columbia River

(a) **Dates:** 7:00 PM June 10 to 7:00 AM June 11, 2015.

(b) **Area:** SMCRA 1A, 1B, 1C, 1D, and 1E (Zones 1-5).

(c) **Sanctuaries:** Grays River, Elochoman-B, Cowlitz River, Kalama-B, Lewis-B, Sandy, and Washougal rivers.

(d) **Allowable Possession:** Adipose fin-clipped Chinook salmon, sockeye and shad.

(e) **Gear:** Drift nets only. 8-inch minimum mesh size. Net length not to exceed 150 fathoms. There are no restrictions on the use of slackers or stringers to slacken the net vertically. There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net and is determined by the length of the web per length of the corkline.

(f) Miscellaneous Regulations:

(i) **Soak times** are defined as the time elapsed from when the first of the gillnet web is deployed into the water until the gillnet web is fully retrieved from the water, must not exceed 45 minutes.

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

(iii) **Recovery Box:** Each boat will be required to have on board two operable recovery boxes or one box with two chambers. Each chamber of the recovery box(es) must include an operating water pumping system capable of delivering a minimum flow of 16 gallons per minute, not to exceed 20 gallons per minute of freshwater per chamber. Each box and chamber and associated pump shall be operating during any time that the net is being retrieved or picked. Each chamber of the recovery box must meet the following dimensions as measured from within the box: the inside length measurement must be at or within 39 1/2 inches to 48 inches; the inside width measurements must be at or within 8 to 10 inches; and the inside height measurement must be at or within 14 to 16 inches.

Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or end wall of the chamber and 1 3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole that is at least 1 1/2 inches in diameter located on either the same or opposite end as the inlet. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber.

The fisher must demonstrate to WDFW and ODFW employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

All sturgeon, non-adipose fin-clipped salmon, and steelhead must be released immediately to the river with care and with the least possible injury to the fish, or placed into an operating recovery box.

Any salmonid that is bleeding or lethargic must be placed in the recovery box prior to being released. All fish placed in recovery boxes must be released to the river prior to landing or docking.

(iv) **Observer program:** As a condition of fishing, owners or operators of commercial fishing vessels must cooperate with department observers or observers collecting data for the department, when notified by the observer of his or her intent to board the commercial vessel for observation and sampling during the fishery. In addition, cooperation with department personnel prior to a fishing period is expected.

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

(2) Deep River Select Area

(a) **Dates:** Open 7:00 PM to 7:00 AM on Monday and Thursday nights immediately through June 12, 2015.

(b) **Area:** From USCG navigation marker #16 upstream to the Highway 4 Bridge.

(c) **Gear:** Gillnets. 9 3/4-inch maximum mesh. Nets are restricted to 100 fathoms in length with no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is permissible. It is unlawful to tie off nets to stationary structures. It is unlawful for a net to fully cross a navigation channel. It is unlawful to operate in any river, stream or channel any gillnet longer than three-fourths the width of the stream (WAC 220-20-015)(1)). It is unlawful in any area to use, operate, or carry aboard a commercial fishing vessel a licensed net or combination of such nets, whether fished singly or separately, in excess of the maximum lawful size or length prescribed for a single net in that area, except as otherwise provided for in department rule (WAC 220-20-010)(17)).

(d) **Miscellaneous:** Except for transport of fish to the sampling station, it is unlawful to transport or possess fish unless and until WDFW has biologically sampled individual catches. After sampling, fishers will be issued a transportation permit by WDFW staff. A sampling station will be established at WDFW's Oneida Road boat ramp, approximately 0.5 miles upstream of the lower Deep River area boundary (USCG navigation marker #16).

(e) **Allowable possession:** Salmon and shad.

(3) Tongue Point/South Channel

(a) **Dates:** Open 7:00 PM to 7:00 AM on Monday and Thursday nights immediately through June 12, 2015.

(b) **Area:**

(i) The Tongue Point fishing area includes all waters bounded by a line extended from the upstream (southern most) pier (#1) at the Tongue Point Job Corps facility, through navigation marker #6 to Mott Island; a line from a marker at the southeast end of Mott Island, northeasterly to a marker on the northwest tip of Lois Island; and a line from a marker on the southwest end of Lois Island, westerly to a marker on the Oregon shore.

(ii) The South Channel area includes all waters bounded by a line from a marker on John Day Point through the green USCG buoy #7 to a marker on the southwest end of Lois Island, upstream to an upper boundary line from a marker on

Settler Point, northwesterly to the flashing red USCG marker #10, and northwesterly to a marker on Burnside Island defining the upstream terminus of South Channel.

(c) **Gear:** Gillnets. 9 3/4-inch maximum mesh. In the Tongue Point fishing area, gear is restricted to a maximum net length of 250 fathoms, and weight must not exceed two pounds on any one fathom. In the South Channel fishing area, gear is restricted to a maximum net length of 250 fathoms, there is no weight restriction on leadline, and the use of additional weights or anchors attached directly to the leadline is permissible.

(d) **Miscellaneous:** Permanent transportation rules are in effect.

(e) **Allowable possession:** Salmon and shad.

(4) Blind Slough/Knappa Slough Select Area

(a) **Dates:** Open 7:00 PM to 7:00 AM on Monday and Thursday nights immediately through June 12, 2015.

(b) **Area:** Blind Slough and Knappa Slough areas are both open. The lower boundary of the Knappa Slough fishing area is extended downstream to boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon Shore (fall season boundary).

(c) **Gear:** Gillnets. 9 3/4-inch maximum mesh. Nets are restricted to 100 fathoms in length, with no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is permissible.

(d) **Allowable possession:** Salmon and shad

(5) The following provisions apply to all seasons listed above:

(a) **24-hour** quick reporting is in effect for Washington buyers (WAC 220-69-240 (14)(d)). Permanent transportation rules are in effect.

(b) **Multi-Net Rule:** It is permissible to possess onboard a vessel nets not specifically authorized for use in these areas so long as they are properly stored (WAC 220-33-001(2)).

(c) **Lighted Buoys:** Nets fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is fished while attached to a boat, then one lighted buoy on the opposite end of the net from the boat is required.

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

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 7:00 p.m. June 10, 2015:

WAC 220-33-01000Q Columbia River seasons below Bon-neville. (15-151)

WSR 15-13-052
EMERGENCY RULES
HEALTH CARE AUTHORITY
(Washington Apple Health)

[Filed June 10, 2015, 9:12 a.m., effective June 10, 2015, 9:12 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The agency is amending this rule to ensure that clients who receive cost-of-living adjustments (COLA) to their Social Security benefits remain eligible for the kidney disease program (KDP). In some cases, a COLA puts clients slightly above the KDP income limit. This amendment will exempt Social Security benefit COLAs and the first \$20 of monthly unearned income from KDP eligibility, consistent with SSI-related medical rules.

Citation of Existing Rules Affected by this Order: Amending WAC 182-540-022.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

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

Reasons for this Finding: This emergency rule is necessary to ensure that clients are not removed from KDP if they receive a COLA that would otherwise put them above the income limit.

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

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

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

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

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

Date Adopted: June 10, 2015.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-23-065, filed 11/18/13, effective 1/1/14)

WAC 182-540-022 Kidney disease program (KDP)—Income eligibility. (1) A household must have ((~~net~~)) countable gross income at or below two hundred twenty percent of the federal poverty level ((~~in order~~)) for a person to be eligible for the kidney disease program (KDP). See WAC 182-540-021 to determine who must be included in the household and whose income counts.

(2) The KDP contractor (~~((makes the determination of))~~ determines the household's income based upon the information reported in the KDP application and may request additional verification if the information in the application is not clear. A KDP applicant must provide verification of all household income (and expenses, if self-employed) to the KDP contractor (~~((in order))~~) for eligibility for KDP to be determined.

(3) The following income is not counted:

(a) The first twenty dollars per month of unearned income for the entire household:

(b) Cost-of-living adjustments (COLAs) to Social Security disability benefits and supplemental security income (SSI) benefits;

(c) The medicaid agency also disregards Social Security COLAs received by the applicant's spouse and other family members included in the household size;

(d) Fifty percent of the gross earned income of any person included in the household size;

~~((b))~~ (e) Income received by a dependent child age eighteen (~~((years of age and))~~) or younger who is not included in the household size;

~~((e))~~ (f) Any income source which is specifically excluded by federal law.

(4) The agency follows rules for SSI-related (~~((medicaid))~~) medical described in chapter 182-512 WAC to determine what income types count when determining eligibility for KDP.

Reasons for this Finding: Immediate adoption of these rules is necessary for the preservation of the public health and safety. Marijuana infused products must not be appealing to children.

Clarity is needed so licenses [licensees] operate their marijuana businesses within the law to ensure public safety.

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 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 2, 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: June 10, 2015.

Jane Rushford
Chairman

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-010 Definitions. Following are definitions for the purpose of this chapter. Other definitions are in RCW 69.50.101.

(1) "Applicant" or "marijuana license applicant" means any person or business entity who is considered by the board as a true party of interest in a marijuana license, as outlined in WAC 314-55-035.

(2) "Batch" means a quantity of marijuana-infused product containing material from one or more lots of marijuana.

(3) "Business name" or "trade name" means the name of a licensed business as used by the licensee on signs and advertising.

(4) "Child care center" means an entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington state department of early learning under chapter 170-295 WAC.

(5) "Consultant" means an expert who provides advice or services in a particular field, whether a fee is charged or not. A consultant who is in receipt of, or has the right to receive, a percentage of the gross or net profit from the licensed business during any full or partial calendar or fiscal year is a true party of interest and subject to the requirements of WAC 314-55-035. A consultant who exercises any control over an applicant's or licensee's business operations is also subject to the requirements of WAC 314-55-035(4).

(6) "Elementary school" means a school for early education that provides the first four to eight years of basic education and recognized by the Washington state superintendent of public instruction.

WSR 15-13-055

EMERGENCY RULES

LIQUOR CONTROL BOARD

[Filed June 10, 2015, 10:49 a.m., effective June 10, 2015, 10:49 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Emergency rules are needed to provide additional clarity to the marijuana rules regarding marijuana-infused products, specifically products that are appealing to children. The mission of the board is to keep alcohol, tobacco, and marijuana out of the hands of youth. Many marijuana-infused products on the medical marijuana market today are appealing to children. Products such as lollipops, gummy bears, and cotton candy are very appealing to children too young to read a label. Confusion exists in the recreational marijuana market on what is considered the "selling price," "paraphernalia," "consultants," and "intermediate products." Emergency rules are needed to define these areas. Marijuana licensees also need clarification on prohibited practices between the marijuana license tiers.

Citation of Existing Rules Affected by this Order: Amending WAC 314-55-010 and 314-55-077.

Statutory Authority for Adoption: RCW 69.50.328, 69.50.342, 69.50.345.

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.

~~((6))~~ (7) "Financier" means any person or entity, other than a banking institution, that has made or will make an investment in the licensed business. A financier can be a person or entity that provides money as a gift, loans money to the applicant/business and expects to be paid back the amount of the loan with or without interest, or expects any percentage of the profits from the business in exchange for a loan or expertise.

~~((7))~~ (8) "Game arcade" means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.

~~((8))~~ (9) "Intermediate product" means marijuana flower lots or other material lots that have been converted by a marijuana processor to a marijuana concentrate or marijuana-infused product that must be further processed prior to retail sale.

(10) "Library" means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

~~((9))~~ (11) "Licensee" or "marijuana licensee" means any person or entity that holds a marijuana license, or any person or entity who is a true party of interest in a marijuana license, as outlined in WAC 314-55-035.

~~((10))~~ (12) "Lot" means either of the following:

(a) The flowers from one or more marijuana plants of the same strain. A single lot of flowers cannot weigh more than five pounds; or

(b) The trim, leaves, or other plant matter from one or more marijuana plants. A single lot of trim, leaves, or other plant matter cannot weigh more than fifteen pounds.

~~((11))~~ (13) "Marijuana strain" means a pure breed or hybrid variety of Cannabis reflecting similar or identical combinations of properties such as appearance, taste, color, smell, cannabinoid profile, and potency.

~~((12))~~ (14) "Member" means a principal or governing person of a given entity, including but not limited to: LLC member/manager, president, vice-president, secretary, treasurer, CEO, director, stockholder, partner, general partner, limited partner. This includes all spouses of all principals or governing persons named in this definition and referenced in WAC 314-55-035.

~~((13))~~ (15) "Paraphernalia" means items used for the storage or use of usable marijuana, marijuana concentrates, or marijuana-infused products, such as, but not limited to, lighters, roach clips, pipes, rolling papers, bongs, and storage containers. Items for growing, cultivating, and processing marijuana, such as, but not limited to, butane, lights, and chemicals are not considered "paraphernalia."

(16) "Pesticide" means, but is not limited to: (a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest; (b) any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and (c) any spray adjuvant. Pesticides include substances commonly referred to as herbicides, fungicides, and insecticides.

~~((14))~~ (17) "Perimeter" means a property line that encloses an area.

~~((15))~~ (18) "Plant canopy" means the square footage dedicated to live plant production, such as maintaining mother plants, propagating plants from seed to plant tissue, clones, vegetative or flowering area. Plant canopy does not include areas such as space used for the storage of fertilizers, pesticides, or other products, quarantine, office space, etc.

~~((16))~~ (19) "Playground" means a public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, or federal government.

~~((17))~~ (20) "Public park" means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government, or metropolitan park district. Public park does not include trails.

~~((18))~~ (21) "Public transit center" means a facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state, or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.

~~((19))~~ (22) "Recreation center" or "facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable non-profit organization, city, county, state, or federal government.

~~((20))~~ (23) "Residence" means a person's address where he or she physically resides and maintains his or her abode.

~~((21))~~ (24) "Secondary school" means a high and/or middle school: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington state superintendent of public instruction.

~~((22))~~ (25) "Selling price" has the same meaning as in RCW 82.08.010, except when the product is sold under circumstances where the total amount of consideration paid for the product is not indicative of its true value. For such purposes, "selling price" means the true value of the product sold as determined or agreed to by the board. For purposes of this subsection:

(a) "Product" means marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products; and

(b) "True value" means market value based on sales at comparable locations in this state of the same or similar product of like quality and character sold under comparable conditions of sale to comparable purchasers. However, in the absence of such sales of the same or similar product, true value means the value of the product sold as determined by all of the seller's direct and indirect costs attributed to the product.

(26) "Unit" means an individually packaged marijuana-infused solid or liquid product meant to be eaten or swallowed, not to exceed ten servings or one hundred milligrams of active tetrahydrocannabinol (THC), or Delta 9.

NEW SECTION

WAC 314-55-017 Conditional sales prohibited. Conditional sales of marijuana products are prohibited.

(1) Marijuana producers and processors are prohibited from requiring the purchase of other products and/or services by another marijuana licensee as a condition of a transaction of marijuana product. Products and services include, but are not limited to, paraphernalia, lighters, promotional items, unreasonable processing and/or packaging charges.

(2) Marijuana retailers are prohibited from requiring a customer to purchase other products and/or services as a condition to purchasing marijuana product. Products and services include, but are not limited to, paraphernalia, lighters, promotional items, memberships, and bags, boxes, or containers.

(3) The selling price of marijuana product must be indicative of the true value when sold without any other products or services.

NEW SECTION

WAC 314-55-018 Prohibited practices—Money advances—Contracts—Gifts—Rebates, etc. (1) No industry member or marijuana retailer shall enter into any agreement which causes undue influence over another retailer or industry member. This rule shall not be construed as prohibiting the placing and accepting of orders for the purchase and delivery of marijuana that are made in accordance with usual and common business practice and that are otherwise in compliance with the rules.

(2) No marijuana producer or processor shall advance and no marijuana retailer shall receive money or moneys' worth under an agreement written or unwritten or by means of any other business practice or arrangement such as:

- (a) Gifts;
- (b) Discounts;
- (c) Loans of money;
- (d) Premiums;
- (e) Rebates;

(f) Free product of any kind except as allowed by WAC 314-55-083; or

(g) Treats or services of any nature whatsoever except such services as are authorized in this rule.

(3) "Industry member" means a licensed marijuana producer, marijuana processor, marijuana retailer, their authorized representatives, and any affiliates, subsidiaries, officers, partners, financiers, agents, employees, and representatives of any industry member.

(4) No industry member or employee thereof shall sell to any retail licensee or solicit from any such licensee any order for any marijuana tied in with, or contingent upon, the retailer's purchase of some other marijuana, or any other merchandise, paraphernalia, property, or service.

(5) If the board finds in any instance that any licensee has violated this regulation, then all licensees involved shall be held equally responsible for such violation.

AMENDATORY SECTION (Amending WSR 14-10-044, filed 4/30/14, effective 5/31/14)

WAC 314-55-077 What is a marijuana processor license and what are the requirements and fees related to a marijuana processor license? (1) A marijuana processor license allows the licensee to process, dry cure, package, and label usable marijuana, marijuana concentrates, and marijuana-infused products for sale at wholesale to marijuana retailers. A marijuana processor license also allows the licensee to process and package marijuana into intermediate products for sale at wholesale to other marijuana processors.

(2) A marijuana processor is allowed to blend tested usable marijuana from multiple lots into a single package for sale to a marijuana retail licensee providing the label requirements for each lot used in the blend are met and the percentage by weight of each lot is also included on the label.

(3) A marijuana processor licensee must obtain approval from the liquor control board for all marijuana-infused edible products, labeling, and packaging prior to offering these items for sale to a marijuana retailer. The marijuana processor licensee must submit a photo of the product, label, and package to the liquor control board for approval. If the liquor control board denies a marijuana-infused edible product for sale in marijuana retail outlets, the marijuana processor may request an administrative hearing per chapter 34.05 RCW, Administrative Procedure Act.

(4) Marijuana-infused edible products in solid form must meet the following requirements:

(a) If there is more than one serving in the package, each serving must be packaged individually in childproof packaging (see WAC 314-55-105(7)) and placed in the outer package.

(b) The label must prominently display the number of servings in the package.

(c) Marijuana-infused solid edible products must be homogenized to ensure uniform disbursement of cannabinoids throughout the product.

(d) All marijuana-infused solid edibles must prominently display on the label "This product contains marijuana."

(5) Marijuana-infused edible products in liquid form must meet the following requirements:

(a) If there is more than one serving in the package, a measuring device must be included in the package with the product.

(b) The label must prominently display the number of servings in the package and the amount of product per serving.

(c) Marijuana-infused liquid edibles must be homogenized to ensure uniform disbursement of cannabinoids throughout the product.

(d) All marijuana-infused liquid edibles must prominently display on the label, "This product contains marijuana."

(6) A marijuana processor is limited in the types of food or drinks they may infuse with marijuana (~~to create an infused edible product~~). Marijuana-infused products that are especially appealing to children are prohibited. Marijuana-infused products such as, but not limited to, gummy candies, lollipops, cotton candy, or brightly colored products, are prohibited.

~~(a)~~ To reduce the risk to public health, ~~(food defined as)~~ potentially hazardous food as defined in WAC ~~((246-215-0115(88)))~~ 246-215-01115 may not be infused with marijuana. ~~((These foods are))~~ Potentially hazardous ~~((as they))~~ foods require time-temperature control to keep them safe for human consumption and prevent the growth of pathogenic microorganisms or the production of toxins. ~~((The board may designate other food items that may not be infused with marijuana.))~~ Any food that requires refrigeration, freezing, or a hot holding unit to keep it safe for human consumption may not be infused with marijuana.

~~((4))~~ (b) Other food items that may not be infused with marijuana to be sold in a retail store are:

(i) Any food that has to be acidified to make it shelf stable;

(ii) Food items made shelf stable by canning or retorting;

(iii) Fruit or vegetable juices (this does not include shelf stable concentrates);

(iv) Fruit or vegetable butters;

(v) Pumpkin pies, custard pies, or any pies that contain eggs;

(vi) Dairy products of any kind such as butter, cheese, ice cream, or milk; and

(vii) Dried or cured meats.

(c) Vinegars and oils derived from natural sources may be infused with dried marijuana if all plant material is subsequently removed from the final product. Vinegars and oils may not be infused with any other substance, including herbs and garlic;

(d) Marijuana-infused jams and jellies made from scratch must utilize a standardized recipe in accordance with 21 C.F.R. Part 150, revised as of April 1, 2013.

(e) Per WAC 314-55-104, a marijuana processor may infuse dairy butter or fats derived from natural sources and use that extraction to prepare allowable marijuana-infused solid or liquor products meant to be ingested orally, but the dairy butter or fats derived from natural sources may not be sold as stand-alone products.

(f) The liquor control board may designate other food items that may not be infused with marijuana.

(7) The recipe for any ~~((food infused with marijuana to make an edible product))~~ marijuana-infused solid or liquid products meant to be ingested orally must be kept on file at the marijuana ~~((producer's))~~ processor's licensed premises and made available for inspection by the ~~((WSLCB or their))~~ liquor control board or its designee.

~~((5))~~ (8) The application fee for a marijuana processor license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

~~((6))~~ (9) The annual fee for issuance and renewal of a marijuana processor license is one thousand dollars. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee will be responsible for all fees required for the criminal history checks.

~~((7))~~ (10) A marijuana processor producing a marijuana-infused solid or liquid product meant to be ingested orally in a processing facility as required in WAC 314-55-

015(10) must pass a processing facility inspection. Ongoing annual processing facility compliance inspections may be required. The liquor control board will contract with the department of agriculture to conduct required processing facility inspections. All costs of inspections are borne by the licensee and the hourly rate for inspection is sixty dollars. A licensee must allow the liquor control board or its designee to conduct physical visits and inspect the processing facility, recipes, and required records per WAC 314-55-087 without advance notice. Failure to pay for the processing facility inspection or to follow the processing facility requirements outlined in this section and WAC 314-55-015 will be sufficient grounds for the board to suspend or revoke a marijuana license.

(11) The board will initially limit the opportunity to apply for a marijuana processor license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana processor application license to be considered it must be received no later than thirty days after the effective date of the rules adopted by the board. The board may reopen the marijuana processor application window after the initial evaluation of the applications that are received and processed, and at subsequent times when the board deems necessary.

~~((8))~~ (12) Any entity and/or principals within any entity are limited to no more than three marijuana processor licenses.

~~((9))~~ (13) Marijuana processor licensees are allowed to have a maximum of six months of their average useable marijuana and six months average of their total production on their licensed premises at any time.

~~((10))~~ (14) A marijuana processor must accept returns of products and sample jars from marijuana retailers for destruction, but is not required to provide refunds to the retailer.

**WSR 15-13-062
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-175—Filed June 10, 2015, 4:28 p.m., effective June 12, 2015]

Effective Date of Rule: June 12, 2015.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-310-19000Y; and amending WAC 220-310-190.

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

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

Reasons for this Finding: Closing Long's Pond is necessary to ensure a safe and successful kids fish-in event; the Shelton school district special services DD program as hosted

by the Lacey Community Center, Lacey, Washington. 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: June 10, 2015.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

WAC 220-310-19000Y Exceptions to statewide rules—Long's Pond (Thurston Co.) Notwithstanding the provisions of WAC 220-310-190, effective 12:01 a.m. June 12, 2015, it is unlawful to fish in those waters of Long's Pond, except as provided in this section:

(1) Open to fishing 6:00 a.m. to 2:00 p.m. June 12, 2015, to anglers participating in the Puget Teacher Student Organization, Special Services K-12 Fishing Event.

(2) Statewide rules apply.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 2:01 p.m. June 12, 2015:

WAC 220-310-19000Y Exceptions to statewide rules—
Long's Pond (Thurston Co.)

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

**WSR 15-13-063
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-172—Filed June 11, 2015, 9:12 a.m., effective June 11, 2015,
9:12 a.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 220-32-05100A; and amending WAC 220-32-051.

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

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

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

Reasons for this Finding: Allows the sale of fish caught in Zone 6 Columbia River tribal fisheries with gillnets, platform and hook and line gear for an additional day during the spring season. The spring chinook return has been updated to two hundred eighty-two thousand fish, and harvestable fish are available to the treaty tribes. The sale of fish caught in Yakama Nation tributary fisheries is also allowed when open under Yakama Nation regulations. The area downstream of Bonneville Dam (SMCRA 1E1) is open to sales of fish beginning June 16 when open under tribal regulations. Three weekly fishing periods during the summer season have also been set. The preseason forecast for summer chinook is seventy-three thousand fish, and twenty-one thousand harvestable fish are available to the treaty tribes. 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 May 5 and June 10, 2015. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

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

logical 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.

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: June 11, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-32-05100B Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052 and WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch taken for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1E1, 1F, 1G, and 1H, and in the Wind River, Klickitat River, and Drano Lake. However, those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch under the following provisions.

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

(a) Season: Immediately through 6:00 PM June 12, 2015.

(b) Gear: Gillnets.

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

(d) All sanctuaries for this gear type are in effect, except Spring Creek.

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

(a) Season:

6:00 AM Tuesday June 16 to 6:00 PM Friday June 19, 2015

6:00 AM Monday June 22 to 6:00 PM Thursday June 25, 2015

6:00 AM Monday June 29 to 6:00 PM Thursday July 2, 2015

(b) Gear: Gillnets. 7-inch minimum mesh size.

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

(d) All sanctuaries for this gear type are in effect, except Spring Creek.

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

(a) Season: Immediately until further notice.

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

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

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

(4) Columbia River Tributaries upstream of Bonneville Dam:

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

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

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

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

(5) Open Area: SMCRA 1E1. Each of the four Columbia River treaty tribes has an MOA or MOU with the Washington Department of Fish and Wildlife for tribal fisheries in the area just downstream of Bonneville Dam. Tribal fisheries in this area may only occur in accordance with the appropriate MOA or MOU specific to each tribe, and only within any specific regulations set by each tribe.

(a) Participants:

(i) Tribal members may participate under the conditions described in the 2007 Memorandum of Agreement (MOA) with the Yakama Nation (YN), in the 2010 Memorandum of Understanding (MOU) with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), in the 2010 MOU with the Confederated Tribes of the Warm Spring Reservation (CTWS), and in the 2013 MOU with the Nez Perce Tribe.

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

(b) Season: June 16-July 31, 2015. Open only during those days and hours when open under lawfully enacted tribal subsistence fishery regulations for enrolled tribal members.

(c) Allowable 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.

(6) 24-hour quick reporting is required as provided in WAC 220-69-240, for Washington wholesale dealers for all areas, except that all landings from treaty fisheries described above must be reported within 24-hours of completing the fish ticket (not 24-hours after the period concludes).

(7) Sales of fish are allowed after open period concludes, as long as the fish sold were landed during the 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 220-32-05100A Columbia River salmon seasons above Bonneville Dam. (15-164)

WSR 15-13-064
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-174—Filed June 11, 2015, 9:23 a.m., effective June 12, 2015, 7:01 a.m.]

Effective Date of Rule: June 12, 2015, 7:01 a.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 220-33-01000R; 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 a mainstem commercial fishing period for summer chinook. The preseason summer chinook forecast is seventy-three thousand fish. A run of this size allocates one thousand six hundred chinook available for harvest in mainstem commercial fisheries. The preseason sockeye forecast is three hundred ninety-four thousand fish. A run of this size allocates one thousand two hundred sockeye available for harvest in mainstem commercial fisheries. The fisheries are consistent with the *U.S. v. Oregon* Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with compact action of June 10, 2015. There is insufficient time to promulgate permanent rules.

Washington and Oregon jointly regulate Columbia River fisheries under the congressionally ratified Columbia River compact. Four Indian tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the tribes an opportunity to take a fair share of the available fish, and the states must manage other fisheries accordingly. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). A federal court order sets the current parameters for sharing between treaty Indians and others. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546).

Some Columbia River basin salmon and steelhead stocks are listed as threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in treaty and nontreaty Columbia River fisheries governed by the 2008-2017 *U.S. v. Oregon* Management Agreement. The Washington and Oregon fish and wildlife commissions have developed policies to guide the implementation of such biological opinions in the states' regulation of nontreaty fisheries.

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

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 1; Federal Rules or Standards: New 1, Amended 0, Repealed 1; or Recently Enacted State Statutes: New 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: June 11, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-33-01000S Columbia River seasons below Bonneville. Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, it is unlawful for a person to take or possess salmon, sturgeon, and shad for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, 1E and Select Areas, except during the times and conditions listed below:

(1) Mainstem Columbia River

(a) **Dates:** 9:00 PM June 17 to 5:00 AM June 18, 2015.

(b) **Area:** SMCRA 1A, 1B, 1C, 1D, and 1E (Zones 1-5).

(c) **Sanctuaries:** Elochoman-A, Cowlitz River, Kalama-A, Lewis-A, Sandy, and Washougal rivers.

(d) **Allowable Possession:** Chinook, sockeye and shad.

(e) **Gear:** Drift nets only. 8-inch minimum mesh size.

(2) Blind Slough/Knappa Slough Select Area

(a) **Dates:** Open 7:00 PM Tuesday June 16 to 7:00 AM Wednesday June 17, and 7:00 PM Thursday June 18 to 7:00 AM Friday June 19, 2015.

(b) **Area:** Blind Slough and Knappa Slough areas are both open. The lower boundary of the Knappa Slough fishing area is extended downstream to boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon Shore (fall boundary).

(c) **Gear:** Gillnets. 9 3/4-inch maximum mesh. Nets are restricted to 100 fathoms in length, with no weight restriction on headline. Use of additional weights or anchors attached directly to the headline is permissible.

(d) **Allowable possession:** Salmon and shad

(3) The following provisions apply to all seasons listed above:

(a) **24-hour** quick reporting is in effect for Washington buyers (WAC 220-69-240 (14)(d)). Permanent transportation rules are in effect.

(b) **Multi-Net Rule:** It is permissible to possess onboard a vessel nets not specifically authorized for use in these areas so long as they are properly stored (WAC 220-33-001(2)).

(c) **Lighted Buoys:** Nets fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is fished while attached to a boat, then one lighted buoy on the opposite end of the net from the boat is required.

REPEALER

The following section of the Washington Administrative Code is repealed effective 7:01 a.m. June 12, 2015:

WAC 220-33-01000R Columbia River seasons below Bonneville. (15-171)

WSR 15-13-066

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 15-173—Filed June 11, 2015, 1:50 p.m., effective June 15, 2015]

Effective Date of Rule: June 15, 2015.

Purpose: Amend recreational fishing rules for the halibut fishery.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-25500B; and amending WAC 220-56-255.

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: There is sufficient quota set aside for the nearshore recreational Pacific halibut fishery in Marine Area 1 to open the fishery seven days per week until further notice. In addition, opening the nearshore recreational halibut fishery seven days per week following the closure of the all depth fishery will avoid any enforcement issues associated with having the all depth fishery open at the same time that groundfish retention is allowed with halibut on board during the nearshore fishery. This rule conforms to federal action taken by the National Marine Fisheries Service and the International Pacific Halibut Commission. 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: June 11, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-56-25500C Halibut—Seasons—Daily and possession limits. Notwithstanding the provisions of WAC 220-56-255, 220-56-250, and 220-56-230, effective June 15, 2015, until further notice, it is unlawful to fish for or possess halibut taken for personal use, except as provided in this section:

(1) **Catch Record Card Area 1:** Closed

(2) **Catch Record Card Area 1 (Nearshore fishery):**

Those waters shoreward from 46°38.17'N. lat., 124°15.88'W. long., to the WA/OR border at 46°16.00'N. lat., 124°15.88'W. long. (then connecting to the 40 fathom depth contour in Oregon).

(a) Open seven days per week until further notice.

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

(3) **Catch Record Card Area 2:** Closed.

(a) **Catch Record Card Area 2 (Northern Nearshore fishery):** Those waters from 47°31.70'N. latitude south to 46°58.00'N latitude and east of a line approximating the 30 fathom depth contour as defined by the following coordinates, open seven days per week until further notice:

47°31.70' N. lat, 124°37.03' W. long

47°25.67' N. lat, 124°34.79' W. long

47°12.82' N. lat, 124°29.12' W. long

47°58.00' N. lat, 124°24.24' W. long

(b) It is permissible to take, retain and possess lingcod seaward of the 30 fathom line on any day open to the primary halibut fishery as provided in subsection (2) above.

(4) **Catch Record Card Areas 3 through 13 - Closed**

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

(6) Unless otherwise amended, all other permanent rules remain in effect.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective June 15, 2015:

WAC 220-56-25500B Halibut—Seasons—Daily and possession limits. (15-155)

WSR 15-13-122
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-180—Filed June 16, 2015, 4:26 p.m., effective June 18, 2015]

Effective Date of Rule: June 18, 2015.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: 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: Low water is causing a delay in migration past the hatchery, resulting in greater vulnerability of the wild spring/summer chinook to fishing pressure. This is likely to remain a problem until stream flows increase in the fall. The Quileute Tribe is implementing a similar closure to subsistence fishing in the vicinity of the hatchery. This closure is needed to protect wild chinook. 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: June 16, 2015.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

WAC 220-310-18000R Freshwater exceptions to statewide rules—Coastal Notwithstanding the provisions of WAC 220-310-180, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

Sol Duc River (Clallam County) Effective June 18, 2015, until further notice it is unlawful to fish in those waters of the Sol Duc River from 200 feet below the Sol Duc Hatchery outfall creek upstream to the concrete pump station at Sol Duc Hatchery.

WSR 15-13-129
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-149—Filed June 17, 2015, 9:11 a.m., effective July 1, 2015]

Effective Date of Rule: July 1, 2015.

Purpose: Amend recreational fishing rules for Puget Sound salmon.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-62100N; and amending WAC 232-28-621.

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

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

Reasons for this Finding: The department is in the process of adopting permanent rules that are necessary to implement the personal use fishing plans agreed-to with resource comanagers at the North of Falcon proceedings. These emergency rules are necessary to comply with agreed-to management plans, and are interim until permanent rules take effect.

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

Number of Sections Adopted at 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: June 17, 2015.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

WAC 232-28-62100N Puget Sound salmon—Saltwater seasons and daily limits. Notwithstanding the provisions of WAC 232-28-621, effective July 1, 2015, until further notice, it is unlawful to violate the provisions below. Unless otherwise amended, all permanent rules remain in effect:

(1) **Catch Record Card Area 5:** Daily limit may include 2 additional pink.

(2) **Catch Record Card Area 6:** Daily limit may include 2 additional pink.

(3) **Catch Record Card Area 7:** Daily limit may include 2 additional pink.

(4) **Catch Record Card Area 10:** Free-flowing freshwaters are closed in Gorst and Chico creeks.

(5) **Catch Record Card Area 12: North of Ayock Point -** Daily limit of 4 salmon. Release chum and Chinook. Bait prohibited, and only one single-point barbless hook measuring one-half inch or less from point to shank may be used.

(6) **Catch Record Card Area 12:** Free-flowing freshwaters are closed in Dewatto, Dosewallips, Duckabush, Hamma Hamma, and Skokomish rivers.

REPEALER

The following section of the Washington Administrative Code is repealed effective July 14, 2015:

WAC 232-28-62100N Puget Sound salmon—Saltwater seasons and daily limits.