

WSR 18-19-012
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-231—Filed September 7, 2018, 1:59 p.m., effective September 7, 2018, 1:59 p.m.]

Effective Date of Rule: Immediately upon filing.

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

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

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

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 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: This rule extends tribal fall salmon fisheries, along with continuing commercial sales to Washington wholesale buyers and the public. The season is consistent with the 2008-2017 Management Agreement and the associated biological opinion. This rule is consistent with action of the Columbia River Compact on July 26, August 14, and September 6, 2018. 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 allows 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 1, Amended 0, Repealed 1.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 7, 2018.

Kelly Susewind
Director

NEW SECTION

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

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

(a) Season: 6 AM Monday, September 3 to 6 PM Friday, September 7, 2018

6 AM Monday, September 10 to 6 PM Friday, September 14, 2018

(b) Gear: Set and Drift gillnets with an 8-inch minimum mesh restriction

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

(d) Standard river mouth and dam closed areas applicable to gillnet gear, including the Spring Creek Hatchery sanctuary are in effect.

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

(a) Season: Effective immediately until further notice.

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

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

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

(3) Open Areas: Drano Lake and Klickitat River

(a) Season: Effective immediately until further notice and only during days and times open under lawfully enacted Yakama Nation tribal subsistence fishery regulations for enrolled Yakama Nation members.

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

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

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

(a) Season: Effective immediately through 11:59 PM Wednesday, October 31, 2018 and only during days and times opened under tribal rules.

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

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

(5) 24-hour quick reporting is required for Washington wholesale dealers for all areas as provided in WAC 220-352-315, except that all landings from treaty fisheries described above must be reported within 24-hours of completing the fish ticket (not 24-hours after the period concludes).

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-359-02000V Columbia River salmon seasons above Bonneville Dam. (18-200)

WSR 18-19-016

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 18-234—Filed September 7, 2018, 4:32 p.m., effective September 7, 2018, 4:32 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend coastal commercial crab rules.

Citation of Rules Affected by this Order: Repealing WAC 220-340-45000H and 220-340-49000B; and amending WAC 220-340-450 and 220-340-490.

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

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

Reasons for this Finding: This emergency rule is necessary to protect crab during the typical fall molting period and to meet the stipulations found in state tribal agreements it is necessary to close the commercial crab fishery. Washington department of fish and wildlife permitted gear recovery is allowed by permanent regulation fifteen days following the close of the commercial season to allow fish and wildlife officers time to enforce rules relative to fishing during the closed season. An earlier start to the permitted gear recovery gives participants more time to recover lost gear before weather conditions become prohibitive to safe gear recovery efforts. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 7, 2018.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-45000H Commercial crab fishery—Seasons and areas—Coastal. Notwithstanding the provisions of WAC 220-340-450, effective immediately until 11:59 pm September 15, 2018, 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 and the U.S./Canada border to the WA/OR border (46°15.00) and Willapa Bay is open.

(2) For the purposes of this section, 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 area of Quinault Secondary Special Management Area (SSMA) is closed until further notice, from the area shoreward of a line approximating the 27-fathom depth curve between the mouth of the Raft River (47°28.00) and 47°02.70. This SSMA is described by the following coordinates:

Northeast Corner (Split Rock): 47°24.50' N. Lat. 124°20.00' W. Lon.

Northwest Corner: 47°24.50' N. Lat. 124°32.40' W. Lon.

Southwest Corner: 47°12.25' N. Lat. 124°27.50' W. Lon.

Southeast Corner (Joe Creek): 47°12.25' N. Lat. 124°12.28' W. Lon.

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

Reviser's note: The section above appears as filed by the agency pursuant to RCW 34.08.040; however, the reference to WAC 220-340-45000H is probably intended to be WAC 220-340-45000H.

NEW SECTION

WAC 220-340-49000B Coastal crab fishery—Coastal crab gear recovery permit. Notwithstanding the provisions of WAC 220-340-490:

(1) Effective 8:01 am September 21, 2018 until 11:59 PM October 31, 2018, a coastal crab gear recovery permit may be granted by the director or his or her designee for licensed coastal Dungeness crab fishers to recover crab pots belonging to state licensed fishers that remain in the ocean in the coastal waters between the Washington/Oregon border (46°15.00) and the US/Canada border, including the Columbia River, Willapa Bay and Grays Harbor.

(2) No crab may be retained on any vessel engaged in permitted gear recovery activities or while recovered gear is on board the vessel.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. September 15, 2018:

WAC 220-340-45000H Commercial crab fishery—Seasons and areas—Coastal. (18-234)

The following section of the Washington Administrative Code is repealed effective November 1, 2018:

WAC 220-340-49000B Coastal crab fishery—Coastal crab gear recovery permit. (18-234)

**WSR 18-19-022
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 18-235—Filed September 11, 2018, 11:56 a.m., effective September 15, 2018]

Effective Date of Rule: September 15, 2018.

Purpose: Amend recreational fishing rules for the Columbia River.

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

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

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

Reasons for this Finding: This emergency rule is needed because projected Upper Columbia coho returns are very low. The coho return to the Upper Columbia River is estimated at 1,600 to 2,762 adults this fall. This low return of coho in 2018 will likely result in the failure to meet hatchery broodstock needs or meet natural spawner escapement goals in the Upper Columbia River tributaries including the Wenatchee and Methow systems. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 10, 2018.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-06000W Freshwater exceptions to statewide rules—Columbia River. Notwithstanding the provisions of WAC 220-312-060, it is unlawful to violate the

following provisions, provided that unless otherwise amended, all permanent rules remain in effect: effective September 15, 2018 until further notice:

(a) Mouth of the Columbia River from Buoy 10 to the HWY 395 Bridge at Pasco.

(i) Salmon and steelhead, immediately until further notice: release all steelhead.

(ii) Closed to fishing at night for salmon and steelhead immediately until further notice.

(b) HWY 395 Bridge at Pasco to Priest Rapids Dam:

(i) Salmon, immediately through October 31, 2018:

(A) Daily limit 6, up to 2 may be adults.

(B) Release coho.

(c) Rock Island Dam to Rocky Reach Dam:

(i) Salmon, immediately through October 15, 2018:

(A) Daily limit 6, no more than 3 sockeye may be retained.

(B) Release adult Chinook and coho.

(d) Rocky Reach Dam to Wells Dam:

(i) Salmon, immediately through October 15, 2018:

(A) Daily limit 6, no more than 2 adult Chinook and 3 sockeye may be retained.

(B) Release wild adult Chinook and coho.

(e) Hwy. 173 Bridge at Brewster to Chief Joseph Dam:

(i) Salmon, immediately through October 15, 2018:

(A) Daily limit 6, no more than 2 adult Chinook and 3 Sockeye may be retained.

(B) Release wild adult Chinook and coho.

REPEALER

The following section of the Washington Administrative Code is repealed effective September 15, 2018:

WAC 220-312-06000V Freshwater exceptions to statewide rules—Columbia River. (18-215)

WSR 18-19-023 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 18-239—Filed September 11, 2018, 3:39 p.m., effective September 11, 2018, 3:39 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends Puget Sound commercial shrimp rules.

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

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

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

Reasons for this Finding: The 2018 state/tribal shrimp harvest management plans for the Strait of Juan de Fuca and

Puget Sound require adoption of harvest seasons contained in this emergency rule. This emergency rule (1) opens spot shrimp for the final clean-up fishery in three subareas of SMA 3 from 8 a.m., Tuesday, 9/12 to 7 p.m., Saturday 9/15; (2) implements a nonspot and spot shrimp weekly limit for remaining open areas; (3) implements a minimum mesh size restriction for spot shrimp gear; (4) retains the opening of the 1B-21A trawl fishery season; (5) maintains the closure of SMA 3 (25A) to all shrimp trawl fishing; (6) maintains the closures of SMA 1A and SMA 3 (25A) to spot prawn harvest; (7) sets a weekly trip limit of six hundred pounds for spot shrimp in the three remaining subareas of SMA 3 (23A South, 23D), SMA 3 (23C) and SMA 3 (29); (8) sets a weekly trip limit of six hundred pounds for nonspot shrimp in SMA 1, SMA 2 East, SMA 2 West and SMA 3; and (9) maintains other previous provisions and restrictions for the nonspot trawl and pot fisheries. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 11, 2018.

Joe Stohr
for Kelly Susewind
Director

NEW SECTION

WAC 220-340-52000X Puget Sound shrimp pot and trawl fishery—Season. Notwithstanding the provisions of WAC 220-340-520, 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) Non-spot shrimp are closed in all Shrimp Management Areas (SMA) with the following exceptions:

(i) Waters of Shrimp Management Area 1 (20A, 20B, 21A, 21B, 22A and 22B) are open. The total harvest for this area cannot exceed 1,690 pounds of non-spot shrimp.

(ii) Waters of Shrimp Management Area 2 East (24A, 24B, 24C, 24D and 26A East) are open. The total harvest for this area cannot exceed 1,358 pounds of non-spot shrimp.

(iii) Waters of Shrimp Management Area 2 West (25B, 25C, 25D and 26A West) are open. The total harvest for this area cannot exceed 4,473 pounds of non-spot shrimp.

(iv) Waters of Shrimp Management Area 3 (23A, 23B, 23C, 23D, 25A and 29) are open. The total harvest for this area cannot exceed 3,667 pounds of non-spot shrimp.

(b) Spot shrimp are closed in all Shrimp Management Areas (SMA) with the following exception:

(i) Waters of Shrimp Management Area 3 (23A South, 23D) are open from 8:00 AM, Wednesday, September 12, 2018 until 7:00 PM, Saturday, September 15, 2018. The total harvest for this area cannot exceed 1,367 pounds of spot shrimp.

(ii) Waters of Shrimp Management Area 3 (23C) are open from 8:00 AM, Wednesday, September 12, 2018 until 7:00 PM, Saturday, September 15, 2018. The total harvest for this area cannot exceed 1,200 pounds of spot shrimp.

(iii) Waters of Shrimp Management Area 3 (29) are open from 8:00 AM, Wednesday, September 12, 2018 until 7:00 PM, Saturday, September 15, 2018. The total harvest for this area cannot exceed 500 pounds of spot shrimp.

(c) Effective immediately, until further notice, it is unlawful for a fisher or the fisher's alternate operator to exceed 600 pounds of non-spot shrimp per weekly management period.

(d) Effective immediately, until further notice, it is unlawful for the combined total harvest of spot shrimp by a fisher or the fisher's alternate operator to exceed 600 pounds for the period 8:00 AM, Wednesday, September 12, 2018 until 7:00 PM, Saturday, September 15, 2018.

(e) The current weekly management period for shrimp is September 12 to September 18.

(f) Only pots with a minimum mesh size of 1 inch may be pulled when fishing for or retaining spot shrimp. Mesh size of 1 inch is defined as a mesh opening that a 7/8-inch square peg will pass through, excluding the entrance tunnels, except for flexible (web) mesh pots, where the mesh must be a minimum of 1 3/4-inch stretch measure. Stretch measure is defined as the distance between the inside of one knot to the outside of the opposite vertical knot of one mesh, when the mesh is stretched vertically. There is no size restriction for spot shrimp.

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

(2) Shrimp trawl gear:

(a) Shrimp Management Area (SMA) 3 (not including the Discovery Bay Shrimp District, Sequim Bay and Catch Area 23D) is open, effective immediately, until further notice. Sequim Bay includes that portion of Catch Area 25A south of a line projected west from Travis Spit on the Miller Peninsula.

(b) Marine Fish Shellfish Catch Area 25A is closed to trawl activity for the season.

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

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

(e) That portion of Catch Area 21A within SMA 1B is open until further notice.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-340-52000W Puget Sound shrimp pot and beam trawl fishery—Season. (18-228)

WSR 18-19-024 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 18-237—Filed September 11, 2018, 4:55 p.m., effective September 11, 2018, 4:55 p.m.]

Effective Date of Rule: Immediately upon filing.

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

Citation of Rules Affected by this Order: Repealing WAC 220-358-03000U; and amending WAC 220-358-030.

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

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 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: Action is being taken to reduce Chinook impacts due to a reduced run-size, and resulting in exceeding allowable impacts. Washington and Oregon jointly regulate Columbia River fisheries under the congressionally ratified Columbia River Compact. Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, ESA, and commission guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached. There is insufficient time to adopt permanent rules.

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

Recently Enacted State Statutes: New 1, Amended 0, Repealed 1.

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

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

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

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

Date Adopted: September 11, 2018.

Joe Stohr
for Kelly Susewind
Director

NEW SECTION

WAC 220-358-03000V Columbia River seasons below Bonneville. Notwithstanding the provisions of WAC 220-358-030, WAC 220-358-040, and WAC 220-358-050, it is unlawful for a person to take or possess salmon, sturgeon, and shad for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, 1E and Select Areas, except during the times and conditions listed below:

(1) Tongue Point/South Channel

(a) **Dates:** Tuesday and Wednesday nights through September 12, 2018, closed effective 12:00 p.m. September 13, 2018.

Open Hours: 4 PM - 10 AM

(b) **Area:** The Tongue Point Area is defined as those waters of the Columbia River bounded by a line from a regulatory marker (46.20863 degrees N, -123.75944 degrees W) on the eastern shore of Tongue Point to the flashing green USCG light "3" on the rock jetty at the northwest tip of Mott Island, a line from a regulatory marker at the southeast end of Mott Island northeasterly to a regulatory marker on the northwest shore of Lois Island, and a line from a regulatory marker (46.18270 degrees N, -123.74313 degrees W) located on the Oregon shore 300 yards northwest of the railroad bridge crossing the John Day River projecting easterly to a regulatory marker on Lois Island.

The South Channel Area is defined as those waters of South Channel bounded by a line from a regulatory marker on the Oregon shore at John Day Point projecting northeasterly to a regulatory marker on Lois Island, and a line from a regulatory marker on Settler Point projecting northwesterly to the flashing red USCG light "10" then projecting westerly to the eastern tip of Burnside Island.

(c) **Gear:** Gillnets with a 6-inch maximum mesh size. Maximum net length of 250 fathoms.

In the Tongue Point fishing area: weight not to exceed two pounds in any one fathom. Fishers participating in the Tongue Point fishery may have un-stored gillnets legal for the South Channel fishing area onboard their fishing vessel.

In the South Channel fishing area: no weight restriction on leadline. Use of additional weights and/or anchors attached directly to the leadline is allowed.

Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Nets fished any time between official sunset and official sunrise must have lighted buoys on both ends of the net. If the net is attached to the boat, then one lighted buoy on the end of the net opposite the boat is required.

(d) **Allowable Sales:** Chinook, coho, pink, and sockeye salmon, white sturgeon, and shad. A maximum of **four** white sturgeon with a fork length of 44-50 inches may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday). The white sturgeon possession and sales limit includes all Select Area fisheries.

(e) **Miscellaneous:** Permanent transportation rules in effect.

(2) Blind Slough/Knappa Slough Select Area

(a) **Dates:** Tuesday and Wednesday nights through September 12, 2018, closed effective 12:00 p.m. September 13, 2018.

Open Hours: 6 PM - 10 AM.

(b) Area:

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

The Knappa Slough Area is defined as those waters of Knappa Slough, Calendar Slough, and Big Creek Slough bounded to the north (upstream) by a line projecting from a regulatory marker on the eastern shore of Karlson Island to the northernmost regulatory marker at the mouth of Blind Slough and bounded to the west (downstream) by a line projecting southerly from a regulatory marker on the southwestern tip of Karlson Island through markers on the western tips of Minaker Island to a marker on the Oregon shore.

The waters of Knappa Slough within a 100-foot radius of the railroad bridge crossing Big Creek are closed.

(c) Gear:

Gillnets. Maximum mesh size restriction is 6-inch. Maximum net length of 100 fathoms and no weight restriction on leadline. Use of additional weights and/or anchors attached directly to the leadline is allowed.

Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Nets fished any time between official sunset and official sunrise must have lighted buoys on both ends of the net. If the net is attached to the boat, then one lighted buoy on the end of the net opposite the boat is required.

(d) **Allowable sales:** Chinook, coho, pink, and sockeye salmon, white sturgeon, and shad. A maximum of **four** white sturgeon with a fork length of 44-50 inches may be possessed or sold by each participating vessel during each calendar

week (Sunday through Saturday). The white sturgeon possession and sales limit includes all Select Area fisheries.

(e) **Miscellaneous:** Permanent transportation rules in effect.

(3) **Deep River Select Area**

(a) **Dates:** Tuesday and Wednesday nights through September 12, 2018, closed effective 12:00 p.m. September 13, 2018.

Open hours: 6 PM-9 AM.

(b) **Area:** The Deep River fishing area includes all waters from West Deep River Road Bridge at the town of Deep River downstream to the mouth defined by a line from USCG navigation marker #16 southwest to a marker on the Washington shore.

(c) **Gear:** Gillnets. Maximum mesh size restriction is 6-inch. Maximum net length is 100 fathoms. No weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed. No nets can be tied off to stationary structures. Nets may not fully cross the navigation channel. It is unlawful to operate in any river, stream or channel with any gillnet gear longer than three-fourths the width of the river, stream, or channel. "River, stream, or channel width" is defined as bank-to-bank, where the water meets the banks, regardless of the time of tide or the water level. This emergency provision shall supersede the permanent regulation and all other regulations that conflict with it.

Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Nets fished any time between official sunset and official sunrise must have lighted buoys on both ends of the net. If the net is attached to the boat, then one lighted buoy on the end of the net opposite the boat is required.

(d) **Allowable sales:** Chinook, coho, pink, and sockeye salmon, white sturgeon, and shad. A maximum of **four** white sturgeon with a fork length of 44-50 inches may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday). The white sturgeon possession and sales limit includes all Select Area fisheries.

(e) **Miscellaneous:** Permanent transportation rules in effect.

(4) **24-hour** quick reporting is in effect for Washington buyers WAC 220-352-315. Permanent transportation rules in effect.

(5) **Multi-Net Rule:** Nets not specifically authorized for use in these areas may be onboard a vessel if properly stored (WAC 220-358-010(2)).

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-358-03000U Columbia River seasons below Bonneville. (18-222)

WSR 18-19-027
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Filed September 12, 2018, 1:31 p.m., effective September 12, 2018, 1:31 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Due to fire closures, this change will allow holders of current goat hunting permits in the Goat Rocks East (5-5) to obtain reissued permits for the 2019 season.

Citation of Rules Affected by this Order: Amending WAC 220-415-130.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.047, and 77.12.150.

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: Due to recent forest fires, the United States Forest Service has closed access to most of the Goat Rocks East (5-5) mountain goat hunting area. This closure will likely remain in effect for most of the 2018 hunting season. By this emergency rule, the department seeks to allow holders of mountain goat hunting permits for the 2018 season for Goat Rocks East hunt area the opportunity to return their permits to the department and have them reissued for September 15-November 30, 2019.

The department has specifically decided to reissue goat hunting permits for the following reasons: (1) The small geographic area in which goat hunts typically occur; (2) the likelihood that the entire Goat Rocks East area will be legally closed to entry during the 2018 hunting season; and (3) the unlikelihood of mountain goat special permits holders to draw a goat permit again in the future.

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

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

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

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

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

Date Adopted: September 12, 2018.

Kelly Susewind
Director

ATTACHMENT A [NEW SECTION]

WAC 220-415-13000B Mountain goat seasons and permit quotas. Notwithstanding the provisions of WAC 220-415-130, effective immediately, until further notice, the following rules apply:

(1) Due to the recent forest fires, the U.S Forest Service has closed access to most of the Goat Rocks East (5-5) mountain goat hunt. This closure will likely remain in effect for most of the 2018 hunting season.

(2) This rule allows current holders of mountain goat hunting permits for the Goat Rocks East mountain goat hunting area (5-5) the option to return their permits to the department, which will then re-issue these permits to the same holders for the 2019 mountain goat hunting season.

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

**WSR 18-19-029
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 18-240—Filed September 12, 2018, 5:06 p.m., effective September 16, 2018, 5:00 a.m.]

Effective Date of Rule: September 16, 2018, 5:00 a.m.

Purpose: Amends Puget Sound commercial salmon fisheries for Puget Sound Salmon Management and Catch Reporting Area 7.

Citation of Rules Affected by this Order: Repealing WAC 220-354-18000E; and amending WAC 220-354-180.

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: Effective September 16, 2018, the Fraser River Panel under the Pacific Salmon Commission will relinquish regulatory control in Areas 7 and 7A. Per agreement with comanagers, the reef net fishery begins following relinquishment of regulatory control by the Fraser River Panel and surplus hatchery coho salmon are available for harvest. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 12, 2018.

Joe Stohr
for Kelly Susewind
Director

NEW SECTION

WAC 220-354-18000E Reef net open periods. Notwithstanding the provisions of WAC 220-354-180, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except as provided in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Open Areas	Open Periods
7	5 AM - 9 PM daily September 16 through September 22

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 PM September 22, 2018:

WAC 220-354-18000E Reef net open periods.

**WSR 18-19-032
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 18-241—Filed September 13, 2018, 9:20 a.m., effective September 13, 2018]

Effective Date of Rule: September 13, 2018.

Purpose: Amend recreational salmon fishing rules for the Columbia River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-06000X [see Reviser's note below]; and amending WAC 220-312-060.

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

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

Reasons for this Finding: This emergency rule is needed because at the current harvest rate, quota for the Hanford Reach area will be reached within three weeks. By lowering the daily limit to one adult Chinook there is sufficient quota to last the duration of the scheduled season; through October 31 from Hwy. 395 Bridge at Pasco to the Hanford townsite wooden powerline towers and October 15 from the powerline towers to Priest Rapids Dam. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 12, 2018.

Joe Stohr
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-06000Y Freshwater exceptions to statewide rules—Columbia River. Notwithstanding the provisions of WAC 220-312-060, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect: effective September 13, 2018 until further notice:

(a) Mouth of the Columbia River from Buoy 10 to the HWY 395 Bridge at Pasco: Salmon and steelhead, immediately until further notice: Closed.

(b) HWY 395 Bridge at Pasco to the Old Hanford townsite powerline towers:

(i) Salmon, September 15 through October 31, 2018:

(A) Daily limit 6, up to 1 may be an adult.

(B) Release coho.

(c) The Old Hanford townsite powerline towers to Priest Rapids Dam:

(i) Salmon, September 15 through October 15, 2018:

(A) Daily limit 6, up to 1 may be an adult.

(B) Release coho.

(d) Rock Island Dam to Rocky Reach Dam:

(i) Salmon, immediately through October 15, 2018:

(A) Daily limit 6, no more than 3 sockeye may be retained.

(B) Release adult Chinook and coho.

(e) Rocky Reach Dam to Wells Dam:

(i) Salmon, immediately through October 15, 2018:

(A) Daily limit 6, no more than 2 adult Chinook and 3 sockeye may be retained.

(B) Release wild adult Chinook and coho.

(f) Hwy. 173 Bridge at Brewster to Chief Joseph Dam:

(i) Salmon, immediately through October 15, 2018:

(A) Daily limit 6, no more than 2 adult Chinook and 3 Sockeye may be retained.

(B) Release wild adult Chinook and coho.

REPEALER

The following section of the Washington Administrative Code is repealed effective September 13, 2018:

WAC 220-312-06000X Freshwater exceptions to statewide rules—Columbia River. (18-238)

Reviser's note: The repealer appears above as filed by the agency pursuant to RCW 34.08.040; however WAC 220-312-06000X was not filed as a new section so cannot be repealed. This repealer will not appear in the WAC/WSR table.

WSR 18-19-033

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 18-236—Filed September 13, 2018, 9:32 a.m., effective September 15, 2018]

Effective Date of Rule: September 15, 2018.

Purpose: Amend recreational fishing rules for the Samish River.

Citation of Rules Affected by this Order: Amending WAC 220-312-040.

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

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

Reasons for this Finding: This emergency rule is needed because the return of fall Chinook to the Samish Hatchery is currently projected to be below the number needed to meet egg take goals for 2018. Closing the fishing season in the lower Samish River will increase the number of hatchery fish available for broodstock and ensure future hatchery returns. This hatchery, due to its location, is part of the overall effort to ensure adequate prey for southern resident killer whales. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 12, 2018.

Joe Stohr
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000U Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-312-040, effective September 15, 2018, until further notice, it is unlawful to fish in the waters of the Samish River from the mouth (Bayview-Edison Road) to the I-5 Bridge. Unless otherwise amended, all other permanent rules remain in effect.

WSR 18-19-034
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-238—Filed September 13, 2018, 10:13 a.m., effective September 13, 2018]

Effective Date of Rule: September 13, 2018.

Purpose: Amend recreational fishing rules for the Columbia and Deep rivers.

Citation of Rules Affected by this Order: Amending WAC 220-312-030.

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

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

Reasons for this Finding: This emergency rule is needed to reduce Chinook impacts due to a revised run-size projection. Counts of fall Chinook at Bonneville Dam are thirty-one percent below preseason forecasts, on-going fisheries are approaching the allowable catch limits under the Endangered Species Act. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 11, 2018.

Joe Stohr
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-03000D Freshwater exceptions to statewide rules—Southwest. Notwithstanding the provisions of WAC 220-312-030, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect: Deep River (Wahkiakum County): Salmon and steelhead, effective immediately until further notice: Closed.

WSR 18-19-048
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-243—Filed September 14, 2018, 10:51 a.m., effective September 14, 2018, 10:51 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules for the Columbia River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-06000W.

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

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

Reasons for this Finding: This emergency rule is needed for housekeeping purposes. The agency unintentionally omitted repealing this rule in a previous filing resulting in conflicting rules being in place. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 13, 2018.

Kelly Susewind
Director

REPEALER

The following section of the Washington Administrative Code is repealed effective immediately:

WAC 220-312-06000W Freshwater exceptions to statewide rules—Columbia River. (18-235)

WSR 18-19-055
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-244—Filed September 14, 2018, 3:24 p.m., effective September 15, 2018]

Effective Date of Rule: September 15, 2018.

Purpose: To repeal WAC 220-500-14000A.

Citation of Rules Affected by this Order: Repealing WAC 220-500-14000A.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.047, 77.15.020, and 77.15.160.

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: The recent change in weather with forecasting precipitation, lower temperatures and higher humidity levels, have abated high fire hazard conditions for the foreseeable future.

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

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

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

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

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

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

Date Adopted: September 14, 2018.

Kelly Susewind
Director

REPEALER

The following section of the Washington Administrative Code is repealed effective September 15, 2018:

WAC 220-500-14000A Firearms and target practicing. (18-186)

WSR 18-19-061
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-245—Filed September 17, 2018, 10:05 a.m., effective September 17, 2018, 10:05 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules for the Columbia River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-06000Y; and amending WAC 220-312-06000Z [220-312-060].

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

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

Reasons for this Finding: The department is in the process of adopting permanent rules that are necessary to implement personal use fishing plans compliant with fisheries authorized by NOAA Fisheries under the Endangered Species Act (ESA). Permit 1395 is issued under section 10 (a)(1)(A) of ESA and authorizes direct take of ESA listed Upper Columbia River steelhead associated with steelhead hatchery program for the Wenatchee, Methow, and Okanogan basins. Authorization related to this permit is currently being consulted on with NOAA Fisheries for incorporation into a related hatchery and genetic management plan. These emergency rules are necessary to comply with federal requirements as stipulated in Permit 1395 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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: September 14, 2018.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-06000Z Freshwater exceptions to statewide rules—Columbia River. Notwithstanding the provisions of WAC 220-312-060, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

(a) Mouth of the Columbia River from Buoy 10 to the HWY 395 Bridge at Pasco: Salmon and steelhead, immediately until further notice: Closed.

(b) HWY 395 Bridge at Pasco to the Old Hanford town-site powerline towers:

(i) Salmon, September 15 through October 31, 2018:

(A) Daily limit 6, up to 1 may be an adult.

(B) Release coho.

(c) The Old Hanford townsite powerline towers to Priest Rapids Dam:

(i) Salmon, September 15 through October 15, 2018:

(A) Daily limit 6, up to 1 may be an adult.

(B) Release coho.

(ii) Steelhead, immediately until further notice: Release all steelhead.

(d) Rock Island Dam to Rocky Reach Dam:

(i) Salmon, immediately through October 15, 2018:

(A) Daily limit 6, no more than 3 sockeye may be retained.

(B) Release adult Chinook and coho.

(e) Rocky Reach Dam to Wells Dam:

(i) Salmon, immediately through October 15, 2018:

(A) Daily limit 6, no more than 2 adult Chinook and 3 sockeye may be retained.

(B) Release wild adult Chinook and coho.

(f) Hwy. 173 Bridge at Brewster to Chief Joseph Dam:

(i) Salmon, immediately through October 15, 2018:

(A) Daily limit 6, no more than 2 adult Chinook and 3 Sockeye may be retained.

(B) Release wild adult Chinook and coho.

REPEALER

The following section of the Washington Administrative Code is repealed immediately:

WAC 220-312-06000Y Freshwater exceptions to statewide rules—Columbia River. (18-241)

WSR 18-19-073
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-247—Filed September 17, 2018, 4:53 p.m., effective September 17, 2018, 4:53 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial salmon reef net fishery rules for Puget Sound.

Citation of Rules Affected by this Order: Repealing WAC 220-354-18000E and 220-354-18000F; and amending WAC 220-354-180.

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

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

Reasons for this Finding: The Fraser River Panel under the Pacific Salmon Commission relinquished regulatory control in Area 7 on September 16, 2018. Per agreement with comanagers, the reef net fishery begins following relinquishment of regulatory control by the Fraser River Panel and surplus hatchery coho salmon are available for harvest. Additionally there is no harvestable United States share of Fraser River sockeye salmon remaining. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 17, 2018.

Joe Stohr
for Kelly Susewind
Director

NEW SECTION

WAC 220-354-18000F Reef net open periods. Notwithstanding the provisions of Chapter 220-354-180 WAC, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except as provided in this section, provided

that unless otherwise amended, all permanent rules remain in effect:

1)

Open Areas	Open Periods
7	5 AM - 9 PM daily 9/16 - 9/22

2) It is unlawful to retain sockeye.

REPEALER

The following section of the Washington Administrative Code are repealed effective immediately:

WAC 220-354-18000E Reef net open periods. (18-240)

The following section of the Washington Administrative Code are repealed effective 11:59 PM September 22, 2018:

WAC 220-354-18000F Reef net open periods. (18-250)

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 18-19-087
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 18-250—Filed September 18, 2018, 3:37 p.m., effective September 18, 2018, 3:37 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends Puget Sound commercial shrimp rules.

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

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

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

Reasons for this Finding: The 2018 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 commercial spot shrimp fishery for the season; (2) implements a nonspot weekly limit per fisher for the remaining open areas of eight hundred pounds; (3) restricts the nonspot landings in SMA 1 to a maximum weekly limit of five hundred pounds; (4) retains the opening of the 1B-21A trawl fishery season; (5) maintains the closure of SMA 3 (25A) to all shrimp trawl fishing; and (6) maintains other previous provisions and restrictions for the nonspot trawl and pot fisheries. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 18, 2018.

Joe Stohr
for Kelly Susewind
Director

NEW SECTION

WAC 220-340-52000Y Puget Sound shrimp pot and trawl fishery—Season. Notwithstanding the provisions of WAC 220-340-520, 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) Non-spot shrimp are closed in all Shrimp Management Areas (SMA) with the following exceptions:

(i) Waters of Shrimp Management Area 1 (20A, 20B, 21A, 21B, 22A and 22B) are open. The total harvest for this area cannot exceed 1,168 pounds of non-spot shrimp.

(ii) Waters of Shrimp Management Area 2 East (24A, 24B, 24C, 24D and 26A East) are open. The total harvest for this area cannot exceed 810 pounds of non-spot shrimp.

(iii) Waters of Shrimp Management Area 2 West (25B, 25C, 25D and 26A West) are open. The total harvest for this area cannot exceed 4,473 pounds of non-spot shrimp.

(iv) Waters of Shrimp Management Area 3 (23A, 23B, 23C, 23D, 25A and 29) are open. The total harvest for this area cannot exceed 3,459 pounds of non-spot shrimp.

(b) Spot shrimp are closed in all Shrimp Management Areas (SMA).

(c) Effective immediately, until further notice, it is unlawful for a fisher or the fisher's alternate operator to exceed 800 pounds of non-spot shrimp per weekly management period. Only 500 pounds of the 800 pound weekly non-spot limit can be landed from SMA 1 (20A, 20B, 21A, 21B, 22A and 22B).

(d) The current weekly management period for shrimp is September 19 to September 25.

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

(2) Shrimp trawl gear:

(a) Shrimp Management Area (SMA) 3 (not including the Discovery Bay Shrimp District, Sequim Bay and Catch Area 23D) is open, effective immediately, until further notice. Sequim Bay includes that portion of Catch Area 25A

south of a line projected west from Travis Spit on the Miller Peninsula.

(b) Marine Fish Shellfish Catch Area 25A is closed to trawl activity for the season.

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

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

(e) That portion of Catch Area 21A within SMA 1B is open until further notice.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-340-52000X Puget Sound shrimp pot and beam trawl fishery—Season. (18-239)

WSR 18-19-091
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-249—Filed September 18, 2018, 4:48 p.m., effective September 18, 2018, 4:48 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational salmon rules for the Yakima River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-05000X; and amending WAC 220-312-050.

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: Fall Chinook and coho salmon are returning to the Yakima and Columbia rivers well below the forecast. The reduction of the daily limit to one adult will contribute in efforts to meet escapement and hatchery broodstock for fall Chinook and coho salmon in the Yakima River. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 18, 2018.

Joe Stohr
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-05000X Freshwater exceptions to statewide rules—Eastside. Notwithstanding the provisions of WAC 220-312-050, effective September 22 through October 31, 2018:

Yakima River (Benton Co.): From mouth (Hwy. 240 Bridge in Richland) to the Grant Avenue Bridge at Prosser: Salmon daily limit is 6, no more than 1 adult may be retained.

REPEALER

The following section of the Washington Administrative Code is repealed effective November 1, 2018:

WAC 220-3112-05000X Freshwater exceptions to statewide rules—Eastside. (18-249)

Reviser's note: The repealer appears above as filed by the agency pursuant to RCW 34.08.040; however the reference to WAC 220-3112-05000X is probably intended to be WAC 220-312-05000X.

WSR 18-19-092
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-248—Filed September 18, 2018, 4:48 p.m., effective September 18, 2018, 4:48 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules for Cowlitz and Washougal rivers.

Citation of Rules Affected by this Order: Amending WAC 220-312-030.

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

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

Reasons for this Finding: This emergency rule is necessary because the Cowlitz and Washougal rivers fall Chinook salmon runs are tracking far below the preseason forecast and currently projected not to meet the hatchery broodstock goals. Closing the lower Cowlitz and Washougal rivers to Chinook salmon retention will increase the number of hatchery fish available for broodstock and help ensure fishing opportunities in future years.

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

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

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

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

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

Date Adopted: September 18, 2018.

Nate Pamplin
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-03000E Southwest—Freshwater exceptions to statewide rules. Notwithstanding the provisions of WAC 220-312-030, effective September 22, 2018 until further notice:

(1) **Cowlitz River and tributaries except Toutle River (Cowlitz Co.):** from mouth to the Barrier Dam: Release Chinook.

(2) **Washougal River (Clark Co.):** from the mouth to the bridge at Salmon Falls: Release Chinook.

WSR 18-19-095
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-251—Filed September 18, 2018, 5:11 p.m., effective September 18, 2018, 5:11 p.m.]

Effective Date of Rule: Immediately upon filing.

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

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

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

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 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 wild-

life commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River Compact).

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

Reasons for this Finding: This rule extends tribal fall salmon fisheries, along with continuing commercial sales to Washington wholesale buyers and the public. The URB run-size was downgraded on September 17, 2018, but room is still available for the current expected harvest. The season is consistent with the 2008-2017 Management Agreement and the associated biological opinion. This rule is consistent with action of the Columbia River Compact on July 26, August 14, September 6, and 18, 2018. 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 allows 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 1, Amended 0, Repealed 1.

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

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

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

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

Date Adopted: September 18, 2018.

Nate Pamplin
for Kelly Susewind
Director

NEW SECTION

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

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

(a) Season: 6 AM Wednesday September 19 to 6 PM Saturday September 22

(b) Gear: Set and Drift gillnets with an 8-inch minimum mesh restriction

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

(d) Standard river mouth and dam closed areas applicable to gillnet gear, including the large Spring Creek Hatchery sanctuary are in effect.

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

(a) Season: Effective immediately until further notice.

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

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

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

(3) Open Areas: Drano Lake and Klickitat River

(a) Season: Effective immediately until further notice and only during days and times open under lawfully enacted

Yakama Nation tribal subsistence fishery regulations for enrolled Yakama Nation members.

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

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

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

(a) Season: Effective immediately through 11:59 PM Wednesday, October 31, 2018 and only during days and times opened under tribal rules.

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

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

(5) 24-hour quick reporting is required for Washington wholesale dealers for all areas as provided in WAC 220-352-315, except that all landings from treaty fisheries described above must be reported within 24-hours of completing the fish ticket (not 24-hours after the period concludes).

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-359-02000W Columbia River salmon seasons above Bonneville Dam. (18-231)

WSR 18-19-100 EMERGENCY RULES SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed September 19, 2018, 9:24 a.m., effective September 19, 2018, 9:24 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to revise the office of superintendent of public instruction's (OSPI) learning assistance program (LAP) carryover and recovery calculation to allow districts to carryover one hundred percent of unspent LAP high poverty funds from the 2017-18 school year to the 2018-19 school year only.

Citation of Rules Affected by this Order: Amending WAC 392-122-900.

Statutory Authority for Adoption: RCW 28A.150.290, 28A.710.220.

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

Reasons for this Finding: This rule revision is necessary to ensure that funding for students in need of additional support as appropriated by the legislature can be utilized as the legislature intended.

OSPI is actively undertaking the appropriate procedures to adopt the rule as a permanent rule. The public hearing was held on September 5, 2018. Written comments were also accepted through that day.

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

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

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

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

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

Date Adopted: September 18, 2018.

Chris P. S. Reykdal
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 15-18-078, filed 8/28/15, effective 9/28/15)

WAC 392-122-900 General provision—Indirect cost limitations, carryover limitations and recoveries. Categorical apportionment moneys shall be expended for allowable categorical program costs. Indirect cost charges to categorical programs are limited as provided in this section. Categorical moneys may be carried over from one school district or charter school fiscal year to another only as provided in this section.

(1) The superintendent of public instruction shall recover categorical program allocations made pursuant to this chapter if not expended by the school district or charter school during the school year for allowable program costs.

(2) For the 2000-01 school year and thereafter, "allowable program costs" means direct program expenditures plus allowable indirect program charges.

(a) Direct program expenditures are expenditures directly traceable to the program for the school year reported consistent with the *Accounting Manual for Public School Districts in the State of Washington* and instructions provided by the superintendent of public instruction including the *Administrative Budgeting, and Financial Reporting Handbook*.

(b) For the purposes of this section, special education program expenditures shall be reduced (abated) by revenues to account 7121 special education revenues from other districts or charter schools.

(c) For special education, highly capable, and transitional bilingual, allowable indirect program charges equal direct program expenditures times the percentage calculated from the school district's or charter school's annual financial statements (Report F-196) for two school years prior as follows:

(i) Divide direct expenditures for program 97 (~~districtwide~~) district-wide support by;

(ii) Total general fund direct expenditures for all programs minus direct expenditures for program 97 (~~districtwide~~) district-wide support; and

(iii) Round to three decimal places.

(d) For the learning assistance program, allowable indirect program charges equal the direct program expenditures times the federal restricted indirect rate calculated by the superintendent of public instruction.

(e) For the institutional education program, allowable indirect program charges equal the state institutional education program allocation times the percentage allocated for indirect costs pursuant to the biennial operating appropriations act and the state funding formula.

(3) Commencing with the 1994-95 school year allocation, a school district or charter school may carry over from one school district fiscal year to the next up to ten percent of the state learning assistance program allocation. For the 2017-18 school year only, a school district or charter school may carry over all unspent learning assistance program high poverty allocations to the 2018-19 school year. Carryover moneys shall be expended solely for allowable learning assistance program costs.

(4) Commencing with the 1997-98 school year allocation, a district or charter school may carry over from one school fiscal year to the next up to ten percent of state special education program allocation. Carryover moneys shall be expended solely for allowable state special education program costs.

(5) Commencing with the 1998-99 school year allocation, a school district may carry over from one school district fiscal year to the next up to ten percent of the state institutional education program allocation. Carryover moneys shall be expended solely for allowable state institutional education program costs.

(6) The amount recovered pursuant to this section for special education, highly capable, bilingual, and learning assistance programs shall be determined as follows:

(a) Sum the state allocation for the categorical program for the school year and any carryover from the prior school year if applicable;

(b) Determine the district's or charter school's allowable program costs for the school year pursuant to this section;

(c) If the result of (a) of this subsection exceeds the result of (b) of this subsection, the difference less any allowable carryover shall be recovered.

(7) For the 2017-18 school year only, learning assistance program high poverty allocations are not subject to the recov-

ery provisions outlined in WAC 392-122-900 (6)(a) through (c).

(8) The amount recovered pursuant to this section for the institutional education program shall be determined as follows:

(a) Sum the state allocation for the institutional education program for the school year excluding any amount provided for indirect costs, and any carryover from the prior school year if applicable;

(b) Determine the school district's direct expenditures for the institutional education program as reported on Report F-196 or such other document filed pursuant to instructions provided by the superintendent of public instruction;

(c) If the amount of (a) of this subsection exceeds the amount of (b) of this subsection, the difference less any allowable carryover shall be recovered.

~~((8))~~ (9) This section applies to categorical program allocations to school districts, educational service districts and, in the case of institutional education programs, entities contracting to provide an institutional education program funded under this chapter.