

WSR 19-06-004
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-32—Filed February 21, 2019, 8:20 a.m., effective March 1, 2019]

Effective Date of Rule: March 1, 2019.

Purpose: Amend recreational salmon fishing rules for the Cispus River, Cowlitz Falls Reservoir (Lake Scanewa), Cowlitz River, Kalama River, and Lewis River.

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 rule is needed to close salmon fishing for the Cowlitz River, Cispus River and Lake Scanewa, [and] reduce the daily adult salmon limit for the Kalama River.

The 2019 Cowlitz River spring Chinook run forecast is one thousand three hundred fish. Based on this forecast, the Cowlitz Salmon Hatchery is not expected to meet its broodstock goals. Closing the salmon fishing season in the lower Cowlitz River will increase the number of hatchery fish available for broodstock and help ensure future hatchery returns. Based on the forecast, we do not expect to have hatchery Chinook to transport above Cowlitz Falls Dam to support a salmon fishery.

An estimated one thousand four hundred adult spring Chinook are forecast to return to the Kalama River in 2019. Managers need to reduce the adult salmon daily limit to ensure hatchery broodstock goals are achieved. Reducing the adult salmon daily limit will provide continued opportunity for anglers to harvest spring Chinook and help ensure future hatchery returns.

The 2019 Lewis River spring Chinook run forecast is one thousand five hundred fish. Based on this forecast, there is not expected to be enough fish above the hatchery broodstock need to support a fishery. Closing the salmon fishing season in the Lewis River will increase the number of hatchery fish available for broodstock and help ensure future hatchery returns.

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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.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: February 20, 2019.

Nate Pamplin
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-03000K Southwest—Freshwater exceptions to statewide rules. Notwithstanding the provisions of WAC 220-312-030, effective March 1, 2019 until further notice:

- 1) **Cispus River (Lewis Co.):** Salmon: closed.
- 2) **Cowlitz Falls Reservoir (Lake Scanewa) (Lewis Co.):** Salmon: closed.
- 3) **Cowlitz River (Cowlitz Co.):** Salmon: closed.
- 4) **Kalama River (Cowlitz Co.):** From the mouth upstream to 1000 feet below the fishway at the upper salmon hatchery: Salmon: Daily limit 6; up to 1 may be an adult. Release all salmon other than hatchery Chinook and hatchery coho.
- 5) **Lewis River (Clark/Cowlitz Co.):** Salmon: closed.

WSR 19-06-005
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-33—Filed February 21, 2019, 8:28 a.m., effective March 1, 2019]

Effective Date of Rule: March 1, 2019.

Purpose: The purpose of this rule making is to allow nontreaty recreational fishing opportunity in the Columbia River while protecting fish 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, 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: 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: Sets the 2019 spring recreational salmon season in the Columbia River in the area upstream of the Lewis River to the Oregon/Washington border, including shad and hatchery steelhead. ESA impacts for wild fish are available to recreational fisheries in order to access hatchery fish. The fishery is consistent with the *U.S. v.*

Oregon Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with compact action of February 20, 2019.

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 2008-2017 Management Agreement (MA) and biological opinion (BO) have been extended through February 2018 while the MA and BO covering 2018-2027 are finalized. 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, 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 promulgate permanent rules.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 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: February 20, 2019.

Nate Pamplin
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-06000E 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:

(1) **From a true north-south line through Buoy 10, upstream to a line from the Warrior Rock lighthouse on the Oregon shore to red USCG buoy #4, then to the piling dolphin on the lower end of Bachelor Island (Warrior Rock line):** Salmon and steelhead: Effective March 1, 2019 until further notice: Closed.

(2) **From a line from the Warrior Rock lighthouse on the Oregon shore to red USCG buoy #4, then to the piling dolphin on the lower end of Bachelor Island (Warrior Rock line) to Beacon Rock:**

(a) Salmon and steelhead:

(i) Effective March 1 through April 10, 2019:

(A) Open for boat and bank fishing for salmon and steelhead from a line from the Warrior Rock lighthouse on the Oregon shore to red USCG buoy #4, then to the piling dolphin on the lower end of Bachelor Island (Warrior Rock line) to Beacon Rock.

(B) Legal upstream boat boundary defined as: A deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse One) in a straight line through the western tip of Pierce Island to a deadline marker on the Washington bank at Beacon Rock.

(C) Daily limit is 6 adipose fin clipped salmonids, no more than 2 adults of which no more than 1 may be an adult Chinook.

(D) Release all wild Chinook, wild coho and wild steelhead.

(E) Salmon minimum size is 12 inches.

(ii) Effective April 11 through May 15, 2019: Closed.

(b) Shad: Effective March 1 through May 15, 2019: On days open to fishing for salmon; fishing for shad is allowed.

(3) **From Beacon Rock to Bonneville Dam deadline:**

(a) Salmon and steelhead:

(i) Effective March 1 through April 10, 2019:

(A) Open for bank fishing only.

(B) Daily limit is 6 adipose fin clipped salmonids, no more than 2 adults of which no more than 1 may be an adult Chinook.

(C) Release all wild Chinook, wild coho and wild steelhead.

(D) Salmon minimum size is 12 inches.

(ii) Effective April 11 through May 15, 2019: Closed.

(b) Shad: Effective March 1 through May 15, 2019: On days open to fishing for salmon; fishing for shad is allowed.

(4) **From the Tower Island power lines in Bonneville Pool (located approximately 6 miles below the Dalles Dam) upstream to the Oregon and Washington border, plus the Washington bank between Bonneville Dam and the Tower Island power lines (except for those water closed under permanent rule):** Effective April 1 through May 5, 2019:

(a) Open to fishing for salmon and steelhead.

(b) Daily limit is 6 adipose fin clipped salmonids, no more than 2 adults of which no more than 1 may be an adult Chinook.

(c) Release all wild Chinook, wild coho and wild steelhead.

(d) Salmon minimum size is 12 inches.

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

WSR 19-06-008
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-23—Filed February 22, 2019, 10:44 a.m., effective March 1, 2019]

Effective Date of Rule: March 1, 2019.

Purpose: Amends recreational fishing rules for the Yakima River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-05000A; 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: The Yakima/Klickitat fisheries project managers (Yakama Nation and the Washington department of fish and wildlife) are using the two main gravel pit ponds at Easton to acclimate and release hatchery-reared coho salmon smolts this spring. This emergency rule is needed to temporarily close the ponds during the smolt acclimation period. Both ponds will be stocked with catchable trout before reopening. 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: February 22, 2019.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-05000A Freshwater exceptions to statewide rules—Eastside. Notwithstanding the provisions of WAC 220-312-050, effective March 1 through April 26, 2019, it is unlawful to fish in the waters of Easton Ponds 1 and 2 (Kittitas Co.).

REPEALER

The following section of the Washington Administrative Code is repealed effective April 27, 2019:

WAC 220-312-05000A Freshwater exceptions to statewide rules—Eastside.

WSR 19-06-009
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-34—Filed February 22, 2019, 10:58 a.m., effective February 25, 2019, 8:00 a.m.]

Effective Date of Rule: February 25, 2019, 8:00 a.m.

Purpose: Amends Puget Sound commercial crab fishing and reporting rules.

Citation of Rules Affected by this Order: Repealing WAC 220-340-45500S; and amending WAC 220-340-455 and 220-352-230.

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

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

Reasons for this Finding: This rule reopens the Puget Sound commercial crab fishery in Region 1. It will maintain the current closures of Region 2 East and Region 2 West. It will continue the Puget Sound commercial crab harvest in Region 1, 3-1, 3-2, 3-3 East and 3-3 West. This rule implements the pot limits in Region 1 at thirty-five pots per license. Pot limits in Region 3-2, 3-3 East and 3-3 West will remain at sixty pots per license. In Region 3-1, fishers are still allowed to use their maximum of one hundred pots per license. An additional reporting requirement has been added in Region 1 to increase the timeliness of crab landings not immediately recorded on a fish receiving ticket. There is sufficient allocation available in the commercial regions to accommodate the continued opening. These provisions are in conformity with agreed management plans with applicable tribes. These management plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. There is insufficient time to adopt permanent rules.

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

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at 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 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: February 21, 2019.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-45500T Commercial crab fishery—Seasons and areas—Puget Sound. Notwithstanding the provisions of WAC 220-340-455:

(1) Effective at 8:00 a.m. February 25, 2019, until further notice, it is unlawful for any license holder or alternate operator to fish for crabs for commercial purposes with more than 35 pots per license in Crab Management Region 1. Region 1 includes Marine Fish-Shellfish Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, and 22B.

(2) Effective immediately, until further notice, Crab Management Region 2 West is closed. Region 2 West includes Marine Fish-Shellfish Catch Reporting Areas 25B, 25D and 26AW.

(3) Effective immediately until further notice, Crab Management Region 2 East is closed. Region 2 East includes Marine Fish-Shellfish Catch Reporting Areas 24A, 24B, 24C, 24D and 26A East.

(4) Effective immediately, until further notice, it is unlawful for any license holder or alternate operator to fish for crabs for commercial purposes with more than 60 pots per license in Crab Management Region 3-2, Region 3-3 East or Region 3-3 West. These regions include Marine Fish-Shellfish Catch Reporting Areas 25A, 25E, 23D, 23C and 29.

(5) Effective immediately, until further notice, it is unlawful for any license holder or alternate operator to fish for crabs for commercial purposes with more than 100 pots per license in Crab Management Region 3-1. This region includes Marine Fish-Shellfish Catch Reporting Area 23A and 23B.

(6) All remaining buoy tags per license must be onboard the designated vessel and available for immediate inspection.

(7) Effective at 8:00 a.m. February 25, 2019, until further notice, it is permissible to fish for Dungeness crab for commercial purposes in the following areas:

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

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

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

(8) Effective immediately, until further notice, the following areas are closed to commercial crab fishing:

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

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

[NEW SECTION]

WAC 220-352-2300A Commercial fish and shellfish transportation ticket Notwithstanding the provisions of WAC 220-352-230:

Effective at 8:00 a.m. February 25, 2019, until further notice, license holders or alternate operators fishing for crab in Region 1 (MFSF Catch Areas 20A, 20B, 21A, 21B, 22A and 22B) who do not deliver their crab to an original receiver within 24 hours of harvest, must immediately complete and submit a copy of a transportation ticket to the department. Copies of transportation tickets must be submitted via fax (425-338-1066) or email (crabreport@dfw.wa.gov). A reliable contact phone number for the harvester must also be provided on the submitted copy of the transportation ticket. Once the fisher delivers the crab to an original receiver, a copy of the transportation ticket must be attached to the shellfish receiving ticket or the transportation ticket number must be written on the shellfish receiving ticket.

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

REPEALER

The following section of the Washington Administrative code is repealed effective 8:00 a.m. February 25, 2019:

WAC 220-340-45500S Commercial crab fishery—Seasons and areas—Puget Sound. (19-05)

WSR 19-06-013

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 19-29—Filed February 25, 2019, 3:36 p.m., effective March 1, 2019]

Effective Date of Rule: March 1, 2019.

Purpose: Amend recreational clam, mussel, and oyster rules in Puget Sound.

Citation of Rules Affected by this Order: Repealing WAC 220-330-11000G; and amending WAC 220-330-110 and 220-330-140.

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

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

Reasons for this Finding: This emergency rule is necessary to open the clam, mussel, and oyster seasons at North Bay (Case Inlet) and Oak Bay. At North Bay (Case Inlet), an earlier opening date provides daylight recreational harvest opportunity and aligns with capacity of beach facilities. The oyster fishery is supported by a limited enhancement bed and the oyster season should coincide with the clam season at this location. At Oak Bay County Park, a decrease in the little-neck and butter clam populations requires adjusting the season. The season is structured to meet conservation objectives agreed to with tribal comanagers while providing recreational opportunity in this region. The oyster season should align with the clam season at this location. Maintains clam and mussel closure at Dosewallips State Park. 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 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: February 25, 2019.

Kelly Susewind
Director

NEW SECTION

WAC 220-330-11000H Clams other than razor clams, mussels—Areas and seasons. Notwithstanding the provisions of WAC 220-330-110, effective March 1, 2019 until further notice:

(1) North Bay (Case Inlet): All state-owned tidelands north of the power transmission lines and those extending 1900 feet south of the power transmission lines along the eastern shore are open March 1 through April 30, daylight hours only.

(2) Oak Bay County Park: Open April 1 through April 30 only.

(3) Dosewallips State Park, as defined by boundary markers and signs posted on the beach, is closed until further notice.

NEW SECTION

WAC 220-330-14000G Oysters—Areas and seasons. Notwithstanding the provisions of WAC 220-330-140, effective February 28 until further notice:

(1) North Bay (Case Inlet): All state-owned tidelands north of the power transmission lines and those extending 1900 feet south of the power transmission lines along the eastern shore are open March 1 through April 30, daylight hours only.

(2) Oak Bay County Park: Open April 1 through April 30 only.

REPEALER

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

WAC 220-3330-11000G Clams other than razor clams, mussels—Areas and seasons. (19-21)

Reviser's note: The section above appears as filed by the agency pursuant to RCW 34.08.040; however, the reference to WAC 220-3330-11000G is probably intended to be WAC 220-330-11000G.

WSR 19-06-015
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed February 26, 2019, 9:31 a.m., effective February 26, 2019, 9:31 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department is amending WAC 388-412-0020 When do I get my benefits? The amended language will allow the department to issue March 2019 basic food benefits early to some of the households that received February 2019 benefits in January 2019. The March early issuance will reduce the number of days between issuance cycles for the affected households.

Citation of Rules Affected by this Order: Amending WAC 388-412-0020.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.541, 74.08.090.

Other Authority: 7 U.S.C. § 2016 (g)(1), 7 C.F.R. § 274.2 (d)(1).

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

Reasons for this Finding: Implementation of the above-referenced rule is necessary to reduce the days between benefit issuances for a large population of public food assistance recipients. Reducing the number of days between issuances is

necessary to reduce food insecurity for the affected households. These households would otherwise have up to fifty-eight days between issuance dates, when they would normally have thirty days between issuance dates. Implementing this rule also allows the department to remain within federal regulations of no more than forty days between benefit issuances. February 2019 public food assistance benefits were issued early due to impacts of the partial federal government shutdown that began in late 2018.

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

Date Adopted: February 20, 2019.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-20-087, filed 10/4/16, effective 2/1/17)

WAC 388-412-0020 When do I get my benefits? (1) If you get your cash benefits on an electronic benefits card (EBT), you get your cash benefits deposited on the first of each month.

(2) If you get your cash benefits deposited directly to your bank account by electronic funds transfer (EFT), your money is deposited on the first working day of the month. When the first of the month is a federal holiday or a Sunday, the benefits are deposited the following day.

(3) If you get basic food, your benefits are issued by the twentieth day of each month. Our eligibility system automatically assigns the day you get your benefits when we approve your basic food. We tell you the date you will get your monthly benefits on your approval letter.

(4) We will issue basic food benefits early for some households in March 2019.

WSR 19-06-017

EMERGENCY RULES

HEALTH CARE AUTHORITY

[Filed February 26, 2019, 10:35 a.m., effective February 26, 2019, 10:35 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To implement a premium assistance program for Pacific Islanders residing in Washington under a compact of free association (COFA).

Citation of Rules Affected by this Order: New chapter 182-524 WAC.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, SSB 5683, 65th legislature, 2018 regular session.

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

Reasons for this Finding: This emergency is necessary to comply with the requirements in SSB 5683, which directed the agency to implement a premium assistance program for Pacific Islanders residing in Washington under COFA. The first open enrollment period for the COFA premium assistance program began November 1, 2018. This emergency continues the emergency rules filed under WSR 18-22-050 on October 11, 2018, which are set to expire. The agency is currently working through the permanent rule-making process for these rules and has filed proposed rule making under WSR 19-04-006 on January 23, 2019. The agency will hold a public hearing on the proposed rules on March 12, 2019.

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

Date Adopted: February 26, 2019.

Wendy Barcus
Rules Coordinator

Chapter 182-524 WAC

COFA ISLANDER HEALTH CARE

NEW SECTION

WAC 182-524-0100 General. Compact of Free Association (COFA) islander health care is a state-funded program administered by the health care authority (the agency) to pay the monthly premiums and out-of-pocket expenses for silver level qualified health plans for eligible COFA islanders.

For the purpose of this chapter, "our," "us," and "we" refer to the agency or the agency's designee and "you" refers to the applicant for, or recipient of, COFA islander health care.

You have the right to appeal any adverse agency action regarding COFA islander health care as described in chapter 182-526 WAC.

NEW SECTION

WAC 182-524-0200 Definitions. This section defines terms used in this chapter. See chapter 182-500 WAC for additional definitions.

"Advance premium tax credit (APTC)" - A tax credit taken in advance to lower a monthly health insurance payment (or premium).

"COFA islander" - A person who is a citizen of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau.

"COFA islander health care" - An agency-administered program that pays the premium and out-of-pocket costs for a silver level qualified health plan for eligible COFA islanders.

"Compact of Free Association (COFA)" - A legal agreement between the government of the United States and the governments of the Federated States of Micronesia (U.S. Pub. L. 108-188); the Republic of the Marshall Islands (U.S. Pub. L. 108-188); and the Republic of Palau (U.S. Pub. L. 99-658).

"Cost-sharing funds" - Agency-provided funds for out-of-pocket costs.

"Out-of-pocket costs" - Copayments, coinsurance, deductibles, and other cost-sharing requirements imposed under a qualified health plan for services, pharmaceuticals, devices, and other health benefits covered by the plan and rendered as in-network. Excludes premiums, balance billing amounts for out-of-network providers, and spending for non-covered services.

"Premium cost" - A person's premium for a qualified health plan, minus the amount of the person's advanced premium tax credit.

"Silver level qualified health plan (QHP)" - Silver level indicates the category of a qualified health plan (QHP) offered by the Washington health benefit exchange (HBE). For a definition of QHP, see WAC 182-500-0090.

NEW SECTION

WAC 182-524-0300 Eligibility. In order to be eligible for state-funded COFA islander health care, you must enroll in a silver level qualified health plan (QHP) through the Washington health benefit exchange (HBE) during open enrollment or when you qualify for a special enrollment period as described in 45 C.F.R. 155.410 and 45 C.F.R. 155.420.

(1) You are eligible for state-funded COFA islander health care administered by us no earlier than January 1, 2019, if you:

- (a) Are a COFA islander;
- (b) Meet the residency requirements as described under WAC 182-524-0400;

(c) Have household income, as defined under 26 C.F.R. 1.36B-1(e), under one hundred thirty-three percent of the federal poverty level (FPL);

(d) Do not qualify for another federal or state medical assistance program as described under chapter 74.09 RCW, which provides minimum essential coverage such as Washington apple health for adults;

(e) Qualify for, and accept, the maximum advance premium tax credit available under 45 C.F.R. 155.305(f); and

(f) Enroll in a silver level QHP.

(2) Eligibility for COFA islander health care is subject to the availability of amounts appropriated for this specific purpose.

(3) You may be disenrolled from COFA islander health care if you:

(a) Do not meet the eligibility criteria under subsection (1) of this section;

(b) Fail to remain enrolled in a silver level QHP; or

(c) Withdraw your application or request a termination of coverage.

(4) You may be disqualified from COFA islander health care if you:

(a) Perform an act, practice, or omission that constitutes fraud, and an insurer rescinds your QHP policy; or

(b) Use your COFA islander health care cost-sharing funds to purchase anything other than out-of-pocket costs.

(5) Your COFA islander health care begins the first day of the month you meet the eligibility requirements as described in subsection (1) of this section.

(6) Your COFA islander health care ends the day your enrollment in a silver level QHP ends or the last day of the month your COFA islander health care eligibility ends, whichever is earlier.

NEW SECTION

WAC 182-524-0400 Residency requirements. (1) This section applies only to residency requirement for COFA islander health care.

(2) A resident is a person who currently lives in Washington and:

(a) Intends to reside here, including people without a fixed address; or

(b) Entered the state looking for a job; or

(c) Entered the state with a job commitment.

(3) You do not need to live in the state for a specific period of time to meet the requirements in subsection (1) of this section.

(4) You can be temporarily out-of-state and remain on COFA islander health care if you:

(a) Intend to return once the purpose of your absence concludes; and

(b) Meet the eligibility requirements as described under WAC 182-524-0300.

NEW SECTION

WAC 182-524-0500 Notice requirements. (1) This section applies only to notices and letters that we send regarding COFA islander health care.

- (2) We send you written notices (letters) when we:
- Approve you for COFA islander health care;
 - Deny you for COFA islander health care;
 - Change or terminate your eligibility from COFA islander health care; and
 - Ask you for more information.
- (3) All written notices we send to you include:
- The date of the notice;
 - Specific contact information for you if you have questions or need help with the notice;
 - The nature of the action;
 - The effective date of the action;
 - The facts and reasons for the action;
 - Your appeal rights, if an appeal is available; and
 - Other information required by the state.
- (4) If we request information from you, we allow at least ten calendar days for you to submit requested information.
- If the due date falls on a weekend or a legal holiday as described in RCW 1.16.050, the due date is the next business day.
 - We do not deny or terminate your eligibility when we ask you to provide information.
 - If we do not receive your information by the due date, we make a determination based on all the information available.
- (5) We send a written notice to you at least ten days before taking any adverse action. The ten-day notice period starts on the day we send the notice.
- (6) We may send a notice fewer than ten days before the date of the action if:
- You request the action;
 - You request termination;
 - A change in statute, federal regulation, or administrative rule is the sole cause of the action;
 - You are incarcerated and expect to remain incarcerated at least thirty days;
 - Mail sent to you is returned without a forwarding address and we do not have a more current address for you;
 - You move out-of-state;
 - You move to a county where your current silver level qualified health plan (QHP) is not available and you fail to select a new plan;
 - You are eligible for medicare;
 - You die;
 - You begin receiving other state or federal medical assistance, which provides minimum essential coverage; or
 - Your silver level QHP is closed.

NEW SECTION

WAC 182-524-0600 Payments. (1) We pay your silver level qualified health plan (QHP) premium costs directly to the QHP carrier unless we determine good cause exists to reimburse you for the premium costs.

(2) We pay your mandatory out-of-pocket costs separate from your premium costs through cost-sharing funds.

(3) Cost-sharing funds are only for your out-of-pocket costs.

(4) We will not pay for, or reimburse you for, costs not considered as out-of-pocket costs or expenses incurred by people not covered under COFA islander health care.

(5) You are responsible for ensuring the services you receive are covered under your QHP and rendered as in-network.

(6) We may stop payments of your silver level QHP premium costs and your cost-sharing funds when you:

(a) Fail to provide verification of payments through us or an agency-contracted vendor;

(b) Fail to respond to a request for information from us or an agency-contracted vendor;

(c) Misuse your cost-sharing funds by:

(i) Purchasing anything not considered an out-of-pocket cost; or

(ii) Allowing another person access to your cost-sharing funds.

(d) Are no longer eligible for COFA islander health care as described under WAC 182-524-0300.

(7) You must follow the requirements of any agency-contracted vendor that provides services enabling you to access your cost-sharing funds.

(8) We monitor payments and cost-sharing transactions under COFA islander health care.

WSR 19-06-024

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 19-37—Filed February 27, 2019, 12:04 p.m., effective March 4, 2019, 8:00 a.m.]

Effective Date of Rule: March 4, 2019, 8:00 a.m.

Purpose: Amends coastal commercial crab rules.

Citation of Rules Affected by this Order: Repealing WAC 220-340-42000N and 220-340-45000K; and amending WAC 220-340-420 and 220-340-450.

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

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

Reasons for this Finding: This rule is needed to revise the area that is open to state Dungeness crab fishers in the comanaged area north of Point Chehalis per state/tribal harvest management agreements and inseason action necessary to achieve state/tribal harvest sharing goals. Mandatory pick rate allowance for coastal crab will be achieved by the opening dates contained herein. The agreed to criteria to include the area north of Destruction Island has been achieved. The stepped opening periods/areas will also provide for fair start provisions. Pot limits will reduce the crowding effect in this restricted area and language improves enforcement of pot limits. A longer gear set period will allow for safer fishing conditions. A delay due to elevated marine toxins aligns with the Tri-State Crab Agreement and similar rules in Oregon

and California. Provisions in state/tribal management agreements will be achieved by the opening dates contained herein. The special management areas are listed in accordance with state/tribal management agreements or inseason action. 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: February 27, 2019.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-42000P Commercial crab fishery—Unlawful acts. Notwithstanding the provisions of WAC 220-340-420:

(1) It is unlawful for a vessel to use more than 200 pots in the Makah SMA until 8:00 A.M. March 13, 2019. Fishers must pre-register with the Department of Fish and Wildlife 24 hours prior to deploying gear in this area by one of the three following methods:

- Fax transmission to Robert Morgan at 360-249-1229;
- E-mail to Robert Morgan at Robert.Morgan@dfw.wa.gov; or
- Telephone call to Robert Morgan at 360-249-1206.

(2) It is unlawful for a vessel to use more than 200 pots in the area between Split Rock (47°24.50') and Raft River (47°28.00) seaward of a line approximating the 27-fathom depth curve. It is unlawful for a vessel to use more than 100 pots in the in the area between the Copalis River (47°08.00) and Joe Creek (47°12.11) seaward of a line approximating the 27-fathom depth curve. These pot limits are effective beginning 8:00 A.M. March 4, 2019, until 8:00 A.M. April 3, 2019. Fishers must pre-register with the Department of Fish and Wildlife 24 hours prior to deploying gear in this area by one of the three following methods:

- Fax transmission to Robert Morgan at 360-249-1229;
- E-mail to Robert Morgan at Robert.Morgan@dfw.wa.gov; or
- Telephone call to Robert Morgan at 360-249-1206.

(3) All other provisions of the permanent rule remain 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.

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

NEW SECTION

WAC 220-340-45000L Commercial crab fishery—Seasons and areas—Coastal. Notwithstanding the provisions of WAC 220-340-450, 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 in this section.

(1) Open area: The area from the WA/OR border (46°15.00') to the U.S. Canada border including Grays Harbor and Willapa Bay.

(2) For waters of the Pacific Ocean north of Point Arena, California, it is unlawful for a person to use a vessel to fish in any area where the season opening is delayed due to marine biotoxins for the first 30 days following the opening of the area if the vessel was employed in the coastal crab fishery during the previous 45 days.

(3) The Quinault primary special management area (SSMA) is closed to fishing for Dungeness crab until further notice. The SSMA includes the area shoreward of a line approximating the 27-fathom depth curve between Split Rock (47°24.50') and Joe Creek (47°12.11') according to the following coordinates:

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

(b) Northwest Corner: 47°28.00' N. Lat. 124°34.00' 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) The Quileute special management area (SMA) is closed to fishing for Dungeness crab until further notice. The SMA includes the area shoreward of a line approximating the 30-fathom depth curve between Destruction Island and Cape Johnson according to the following points:

(a) Northeast Corner (Cape Johnson): 47°58.00' N. Lat. 124°40.40' W. Lon.

(b) Northwest Corner: 47°58.00' N. Lat. 124°49.00' W. Lon.

(c) Southwest Corner: 47°40.50' N. Lat. 124°40.00' W. Lon.

(d) Southeast Corner (Destruction Island): 47°40.50' N. Lat. 124°24.43' W. Lon.

(5) The Makah special management area (SMA) is open to fishing. The SMA includes the waters between 48°02.15' N. Lat. and 48°19.50' N. Lat. east of a line connecting those points and approximating the 25-fathom line according to the following coordinates:

(a) Northeast Corner: Tatoosh Island

(b) Northwest Corner: 48°19.50' N. Lat. 124°50.45' W. Lon.

(c) Southwest Corner: 48°02.15' N. Lat. 124°50.45' W. Lon.

(d) Southeast Corner: 48°02.15' N. Lat. 124°41.00' W. Lon.

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

REPEALER

The following sections of the Washington Administrative Code are repealed effective 8:00 a.m. March 4, 2019:

WAC 220-340-42000N Commercial crab fishery—Unlawful acts. (19-24)

WAC 220-340-45000K Commercial crab fishery—Seasons and areas—Coastal. (19-24)

WSR 19-06-031
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-38—Filed February 28, 2019, 1:30 p.m., effective March 1, 2019, 6:00 a.m.]

Effective Date of Rule: March 1, 2019, 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 Rules Affected by this Order: Repealing WAC 220-359-02000D; and amending WAC 220-359-020.

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

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* Management Agreement (February 26, 2018) (Doc. No. 2607-1). *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River Compact).

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

Reasons for this Finding: This rule is needed because a sufficient number of fish are available on the harvest guideline for the commercial gillnet fishery in the Bonneville Pool. This rule is consistent with actions of the Columbia River compacts on January 29, February 12, 19, and 28, 2019. Confirms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

The Yakama, Warm Springs, Umatilla, and Nez Perce Indian tribes have treaty fishing rights in the Columbia River and inherent sovereign authority to regulate their fisheries. Washington and Oregon also have some authority to regulate fishing by treaty Indians in the Columbia River, authority that the states exercise jointly under the congressionally ratified Columbia River Compact. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). The tribes and the states adopt parallel regulations for treaty Indian fisheries under the supervision of the federal courts. A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* Management Agreement (February 26, 2018) (Doc. No. 2607-1). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under the federal ESA. On February 23, 2018, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in the fisheries as described in the 2018-2027 *U.S. v. Oregon* Management Agreement.

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

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

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

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

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

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

Date Adopted: February 28, 2019.

Nate Pamplin
for Kelly Susewind
Director

NEW SECTION

WAC 220-359-02000E Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-359-010, WAC 220-359-020, WAC 220-359-030, and WAC 220-359-090, it is unlawful for a person to take or possess salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch taken for commercial purposes in Columbia River Salmon Management and Catch

Reporting Areas 1F, 1G, and 1H. However, those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch under the following provisions:

(1) Open Areas: SMCRA 1F (Bonneville pool only)

(a) Season: 6 AM Friday, March 1 to 6 PM Tuesday, March 12, 2019

(b) Gear: Gillnets with no minimum mesh size restriction.

(c) Allowable sale: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Sturgeon from 38 to 54 inches fork length in the Bonneville Pool may be sold or 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.

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

(a) Season: Immediately to 6 PM Thursday, March 21, 2019.

(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 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. Further, sturgeon within the legal size limit and caught in the platform and hook and line fishery may only be sold if caught during the open period and open pool of an open gillnet fishery. 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) 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).

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

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 AM March 1, 2019:

WAC 220-359-02000D Columbia River salmon seasons above Bonneville Dam. (19-31)

WSR 19-06-033 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 19-27—Filed February 28, 2019, 4:04 p.m., effective February 28, 2019, 4:04 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends recreational bottomfish possession limits, lingcod and halibut.

Citation of Rules Affected by this Order: Amending WAC 220-314-020, 220-314-030, and 220-314-040.

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 to implement state regulations that conform to federal action taken by the Pacific Fisheries Management Council and the National Marine Fisheries Service. 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 3, Amended 0, Repealed 0.

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

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

Date Adopted: February 28, 2019.

Nate Pamplin
for Kelly Susewind
Director

NEW SECTION

WAC 220-314-02000E Possession limits—Bottomfish. Notwithstanding the provisions of WAC 220-314-020, it is unlawful for any person to fish for or take bottomfish for personal use except within the seasons, daily quantities and possession limits prescribed as follows:

(1) Coastal areas (Catch Record Card Areas 1 through 3 and 4 west of the Bonilla-Tatoosh line):

(a) Bottomfish fishing is open the second Saturday in March through the third Saturday in October, except fishing for surfperch from the shore is allowed year-round.

(b) Limit of surfperch is 12 per person per day. For all other bottomfish, limit is 9 fish total per person per day, which may include no more than:

- (i) Lingcod: 2 fish, no minimum length.
- (ii) Rockfish: 7 fish in aggregate. The possession limit for yelloweye rockfish is 0.
- (iii) Wolf-eel: 0 fish from Catch Record Card Area 4.
- (iv) Cabezon: Marine Areas 1 through 4: 1 fish, no minimum size.

(c) Additional flatfish: In addition to the limits in (1)(b), anglers may take 3 flatfish per person per day, not to be counted towards the bottomfish limit but in addition to it.

(2) Inner Puget Sound (Catch Record Card Areas 4 east of the Bonilla-Tatoosh line, and 5 through 13):

(a) Catch Record Card Area 4 east of the Bonilla-Tatoosh line: Limit 10 fish total, which may include no more than:

- (i) Lingcod: 2 fish, minimum length of 22 inches.
- (ii) Rockfish: 6 fish. Only black or blue rockfish may be retained.
- (iii) Wolf-eel: 0 fish.
- (iv) Cabezon: 1 fish; the minimum size limit is 18 inches.

(b) Catch Record Card Areas 5 and 6: 15 fish total for all species and species groups of bottomfish, which may include no more than:

Rockfish in Marine Area 5 except in Marine Area 5 west of Slip Point	1 fish May 1 through September 30. Only black or blue rockfish may be retained.
in Marine Area 6.	0 fish
Surfperch	10 fish
Pacific cod	2 fish
Pollock	2 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	0 fish
Cabezon	1 fish
Pacific hake	2 fish

(c) Catch Record Card Area 7: 15 fish total for all species of bottomfish, which may include no more than:

Rockfish	0 fish
Surfperch	10 fish
Pacific cod	2 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	0 fish
Cabezon	1 fish
Pollock	2 fish
Pacific hake	2 fish

(d) Catch Record Card Areas 8-1 through 11 and 13: 15 fish total for all species and species groups of bottomfish, which may include no more than:

Rockfish	0 fish
Surfperch	10 fish
Pacific cod	0 fish
Pollock	0 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	0 fish
Cabezon	1 fish
Pacific hake	0 fish

(e) Catch Record Card Area 12: 15 fish total for all species and species groups of bottomfish, which may include no more than:

Rockfish	0 fish
Surfperch	0 fish
Pacific cod	0 fish
Pollock	0 fish
Flatfish (except halibut)	15 fish
Lingcod	0 fish
Wolf-eel	0 fish
Cabezon	0 fish
Pacific hake	0 fish

(f) The possession limit for lingcod taken by angling gear is 26 to 36 inches in length. For spear fishing, lingcod may not be possessed that exceed 36 inches in length.

(g) In Marine Areas 5 through 11 and 13, the minimum size limit for cabezon is 18 inches. All cabezon must be released in Catch Record Card Areas 5 through 11 and 13 from December 1 through April 30.

(h) In Catch Record Card Area 5, the daily limit for rockfish is the first legal rockfish caught, except that west of Slip Point, the daily limit for rockfish is the first three legal rockfish caught. Only black or blue rockfish may be retained. After the daily limit of rockfish is caught, all subsequent rockfish must be released.

(i) In Catch Record Card Area 5, it is unlawful to take rockfish by spear fishing except when this area is open to spear fishing for lingcod.

(3) The possession limit at any time may not exceed the equivalent of two daily limits in fresh, frozen or processed form.

(4) Unless otherwise provided, bottomfish fishing is open the entire year.

(5) Daily limits include bottomfish caught in adjacent areas bordering other states, such as Oregon.

(6) It is unlawful to fish for, retain, or possess sixgill, sevengill, or thresher sharks.

[NEW SECTION]

WAC 220-314-03000Q Halibut—Seasons—Daily and possession limits. Notwithstanding the provisions of WAC 220-314-030:

(1) It is unlawful to fish for or possess halibut taken for personal use except from the areas or in excess of the amounts provided for in this section:

(a) Catch Record Card Area 1: Closed except as provided by emergency rule. By-catch restriction: It is unlawful during any vessel trip to bring into port or land bottomfish, except flatfish, sablefish and Pacific cod, if the vessel has brought halibut into port or landed halibut.

(b) Catch Record Card Area 2:

(i) The northern near shore fishery takes place in those waters from 47°31.70'N. lat. south to 46°58.00'N. lat. and east of a boundary line approximating the 30 fathom depth contour as defined by the following coordinates:

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.
46°58.00'N. lat., 124°24.24'W. long.

Closed except as provided by emergency rule.

(ii) All other waters in Area 2 - Closed except as provided by emergency rule.

(iii) From March 9 through May 31, it is unlawful to fish for or possess lingcod, seaward of line approximating the 30-fathom depth contour as defined by the coordinates below. However, a person may fish for and retain lingcod on days open during the primary halibut season as described in (b)(ii) of this subsection, seaward of a line approximating the 30-fathom depth contour as defined by the coordinates below:

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.
46°52.94'N. lat., 124°22.58'W. long.
46°44.18'N. lat., 124°18.00'W. long.
46°38.17'N. lat., 124°15.88'W. long.

(c) Catch Record Card Areas 3 and 4 - Closed except as provided by emergency rule. The following area southwest of Cape Flattery is closed to halibut fishing at all times:

Those waters within an eastward-facing C-shaped closed area defined as: Beginning at 48°18'N. lat., 125°18'W. long.; thence to 48°18'N. lat., 124°59'W. long.; thence to 48°11'N. lat., 124°59'W. long.; thence to 48°11'N. lat., 125°11'W. long.; thence to 48°04'N. lat., 125°11'W. long.; thence to 48°04'N. lat., 124°59'W. long.; thence to 48°00'N. lat., 124°59'W. long.; thence to 48°00'N. lat., 125°18'W. long.; thence to the point of origin.

It is unlawful to fish for or possess bottomfish seaward of a line approximating the 20-fathom depth contour as defined by the following coordinates, from June 1 through Labor Day except, on days and times open to halibut fishing, when only lingcod, sablefish and Pacific cod can be retained:

48°23.9'N. lat., 124°44.2'W. long.
48°23.6'N. lat., 124°44.9'W. long.
48°18.6'N. lat., 124°43.6'W. long.
48°18.6'N. lat., 124°48.2'W. long.

48°10.0'N. lat., 124°48.8'W. long.

48°02.4'N. lat., 124°49.3'W. long.

47°37.6'N. lat., 124°34.3'W. long.

47°31.7'N. lat., 124°32.4'W. long.

(d) Catch Record Card Areas 5 through 13 - On days that the halibut fishery is open, it is lawful to fish for, retain, and possess lingcod and Pacific cod seaward of 120 feet in Catch Record Card Areas 5 and 6. Closed except as provided by emergency rule.

(2) Daily limit is one halibut taken from state or offshore waters. This does not include Canadian waters; see WAC 220-310-210 for limits on Canadian-origin halibut.

(3) The possession limit is two daily limits of halibut in any form, except the possession limit aboard the fishing vessel is one daily limit. See WAC 220-310-210 for rules on Canadian-origin halibut possession.

(4) The annual limit is four halibut taken from state or offshore waters. This does not include Canadian waters; see WAC 220-310-210 for limits on Canadian-origin halibut.

(5) It is unlawful to fish for, retain, possess, or land halibut into a port located within an area that is closed to halibut fishing. This does not include halibut caught in Canadian waters. See WAC 220-310-210 for rules on Canadian-origin halibut possession.

(6) A violation of this section is punishable under RCW 77.15.370 or 77.15.380, depending on the violation.

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

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

NEW SECTION

WAC 220-314-04000A Lingcod—Areas and seasons. Notwithstanding the provisions of WAC 220-314-040, it is unlawful to take, fish for, or possess lingcod for personal use except during the following seasons and areas:

(1) Coastal area:

(a) Catch Record Card Areas 1 through 3 and 4 west of the Bonilla-Tatoosh line: From the second Saturday in March, through the third Saturday in October; and

(b) Catch Record Card Area 4 east of the Bonilla-Tatoosh line: April 16 through October 15.

(c) It is unlawful to fish for, retain, or possess lingcod in Catch Record Card Area 1 seaward of a line extending from 46°38.17'N. lat., 124°21.00'W. long. to 46°33.00'N. lat., 124°21.00'W. long. when lingcod is open.

(d) It is unlawful to fish for, retain, or possess lingcod in Catch Record Card Area 2 seaward of a line extending from 47°31.70'N. lat., 124°45.00'W. long. south to 46°38.17'N. lat., 124°30.00'W. long. when lingcod is open, except that lingcod may be taken, retained and possessed seaward of the line on days the primary halibut season is open.

(2) Catch Record Card Areas 5 through 13: May 1 through June 15 by angling, and May 21 through June 15 by spear fishing.

WSR 19-06-058
RECISSION OF EMERGENCY RULES
EMPLOYMENT SECURITY DEPARTMENT

[Filed March 5, 2019, 8:56 a.m.]

Effective immediately, the employment security department hereby rescinds the emergency rule currently codified at WAC 192-210-201 adopted under WSR 19-04-008. The emergency that necessitated WAC 192-210-201 no longer exists with the enactment of P.L. 116-6, Consolidated Appropriations Act, 2019, funding the federal government through September 30, 2019. Therefore, WAC 192-210-201 is no longer necessary.

Scott E. Michael
 Legal Services Coordination Manager
 Agency Rulemaking Coordinator

WSR 19-06-064
EMERGENCY RULES
DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

[Filed March 5, 2019, 10:45 a.m., effective March 5, 2019, 10:45 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 246-840-035 Initial licensure for registered nurses, regarding nurses who complete out-of-state nontraditional nursing education (repeal). WAC 246-840-048 Students enrolled in a nontraditional nursing program (new). The nursing care quality assurance commission (commission) repeals WAC 246-840-035 because the legislature repealed the authorizing statute. The commission also creates a new section of rules addressing the needs of students effected by the repeal of RCW 18.79.380. Anticipated to be the last, this fifth emergency rule making, with the exact same rule language, replaces the fourth emergency rule filed on November 6, 2018, as WSR 18-22-114, that expires on March 5, 2019. Permanent rule making is nearing completion with a CR-101 filed on February 23, 2018, as WSR 18-06-009, a CR-102 filed on November 28, 2018, as WSR 18-24-049, with a public hearing on January 11, 2019, and a CR-103P progressing towards intended filing by early spring 2019.

Citation of Rules Affected by this Order: New WAC 246-840-048; and repealing WAC 246-840-035.

Statutory Authority for Adoption: RCW 18.79.110.

Other Authority: HB 1721 (chapter 203, Laws of 2017) repealing RCW 18.79.380, 18.79.180, 18.79.200.

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 repeal of RCW 18.79.380 Licensed practical nurse/nontraditional registered nurse program—Obtaining required clinical experience, effective July 23, 2017, leaves a number of students currently enrolled in nontraditional nursing programs without an avenue to apply for licensure in Washington state after their graduation. Cur-

rent national and state nursing education standards require faculty-directed clinical practice experiences at all levels of nursing education to develop both practical and clinical reasoning skills necessary for quality, safe patient care. No mechanism exists for these students to complete the required registered nurse practice experience in a safe, supervised manner. The commission establishes standards to ensure these students complete the required clinical practice experience. Ultimately, patient and public protection are most important. Supervision of students by qualified faculty members assures students receive quality learning experiences necessary to practice at a level to protect the public when the student obtains licensure as a registered nurse. This rule only impacts students currently enrolled in a nontraditional nursing program.

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

Date Adopted: March 4, 2019.

Paula R. Meyer, MSN, RN, FRE
 Executive Director
 Nursing Care Quality
 Assurance Commission

NEW SECTION

WAC 246-840-048 Students enrolled in a nontraditional nursing program. This section applies to a licensed practical nurse (LPN) enrolled in a nontraditional LPN to registered nurse (RN) program on July 27, 2017, and describes the eligibility requirements for obtaining an interim permit.

(1) Graduates may apply for interim permits after degree confirmation by the nontraditional program.

(a) An LPN enrolled in a nontraditional nursing program on July 27, 2017, has until July 27, 2020, to complete the nontraditional program, as defined in WAC 246-840-010.

(b) An LPN successfully completing a nontraditional nursing program after July 27, 2020, must obtain licensure by endorsement by completing at least one thousand hours of practice as an RN and without discipline on the registered nurse license.

(2)(a) An LPN successfully completing the nontraditional nursing program and passing the National Council of State Boards of Nursing Registered Nurse Licensing Examination (NCLEX-RN®) may be eligible to receive an interim

permit for the purpose of completing one thousand hours of clinical practice experience in the role of an RN.

(b) Only students licensed as an LPN in Washington state and identified by the nontraditional program on July 27, 2017, will be considered eligible to obtain initial licensure from the commission under this section.

(3) An LPN successfully completing a nontraditional nursing program as identified in subsection (2)(b) of this section must:

(a) Submit a completed RN application indicating the need for an interim permit with the required fee, as defined in WAC 246-840-990;

(b) Request an official transcript be sent directly to the commission from the nontraditional nursing education program confirming a conferred associate degree in nursing;

(c) Successfully pass the National Council of State Boards of Nursing Registered Nurse Licensing Examination (NCLEX-RN®);

(d) Complete one thousand hours of practice under an interim permit in the role of an RN; and

(e) Provide documented evidence from a commission approved supervising licensed RN documenting the interim permit holder successfully completed the one thousand hours of practice in an RN role.

(4) The supervising RN from the acute care, skilled nursing, or transitional care facility must:

(a) Submit a commission approved application;

(b) Have an active, unencumbered RN license;

(c) Attest to not being related to or personal friends of the interim permit holder;

(d) Have three years experience as an RN;

(e) Have demonstrated teaching and mentoring skills; and

(f) Be able to evaluate, with input from others, the practice of the interim permit holder in the role of an RN.

(5) The interim permit expires one year after the submission of the application and is not renewable.

(6) An interim permit holder who does not successfully fulfill the practice requirements, as identified in subsection (3)(c) and (d) of this section, does not meet the requirements for licensure by examination as an RN in the state of Washington.

(7) The holder of the interim permit is subject to chapter 18.130 RCW, Regulation of health professionals—Uniform Disciplinary Act.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-840-035 Initial licensure for registered nurses—
Out-of-state nontraditional nursing education program approved by another United States nursing board as defined by WAC 246-840-010(16).

WSR 19-06-084 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 19-39—Filed March 6, 2019, 9:50 a.m., effective March 6, 2019, 9:50 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial sea urchin rules in Puget Sound.

Citation of Rules Affected by this Order: Repealing WAC 220-340-75000M; and amending WAC 220-340-750.

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 increase the weekly trip limit for sea urchins from one thousand five hundred to two thousand pounds per species per valid designated sea urchin harvest license. This will allow the few remaining active harvesters to reach the quota for sea urchins in District 4 in a more timely and efficient manner. Harvestable surpluses of sea urchin exist in the districts specified. There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 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: March 6, 2019.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-75000N Commercial sea urchin fishery. Notwithstanding the provisions of WAC 220-340-750, effective immediately, until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) The following areas are open for red sea urchin harvest seven days-per-week: District 4 west of a line projected true north from the shoreline at 123 degrees 52.7 minutes west longitude.

(2) The following areas are open for green sea urchin harvest seven days-per-week: Sea Urchin District 3 east of a line projected true north from the shoreline at 123 degrees 48.3 minutes west longitude, District 4 west of a line projected true north from the shoreline at 123 degrees 52.7 minutes west longitude, District 6, and District 7 except all waters of Hale Passage and Wollochet Bay within the following lines: west of a line projected true south from the shoreline near Point Fosdick at 122 degrees 35 minutes west longitude to 47 degrees 14 minutes north latitude, and thence projected true west to the shoreline of Fox Island, and east of a line projected true south from the shoreline near Green Point at 122 degrees 41 minutes west longitude to 47 degrees 16.5 minutes north latitude, and thence projected true east to the shoreline of Fox Island.

(3) The maximum cumulative landings for red sea urchin and green sea urchin for each weekly fishery opening period is 2,000 pounds per species per valid designated sea urchin harvest license. Each fishery week begins Monday and extends through Sunday.

(4) It is unlawful to fish for, take, or possess red sea urchins smaller than 3.25 inches or larger than 5.0 inches. It is unlawful to fish for, take, or possess green sea urchins smaller than 2.25 inches. Sea urchin size is the largest test diameter exclusive of spines.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-340-75000M Commercial sea urchin fishery.
(19-30)