

**8WSR 18-15-003**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 18-154—Filed July 5, 2018, 3:18 p.m., effective July 7, 2018]

Effective Date of Rule: July 7, 2018.

Purpose: Amend recreational salmon fishing rules for Columbia River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-06000L; 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 action closes adult Chinook retention below Priest Rapids Dam based on an updated runsize of summer Chinook passage of forty-four thousand at Bonneville Dam. The updated runsize of summer Chinook is thirty-five percent below the preseason forecast. This reduction in the runsize decreases the allowable catch for each fishery and has already been achieved in fisheries below Priest Rapids Dam. The fishery is consistent with the *U.S. v. Oregon* Management Agreement and the associated biological opinion. This action conforms Washington state rules with Oregon state rules. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: July 5, 2018.

Joe Stohr  
Director

**NEW SECTION**

**WAC 220-312-06000N 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) From the Megler-Astoria Bridge upstream to HWY 395 Bridge at Pasco:

(i) Salmon and Steelhead, effective July 7 through July 31, 2018:

(A) Daily limit 6, no more than 2 adult salmon or hatchery steelhead or 1 of each may be retained.

(B) Release all salmon other than hatchery jack Chinook and sockeye.

(C) Salmon minimum length is 12 inches.

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

(i) Salmon, effective July 7 through August 15, 2018:

(A) Daily limit 6, no more than 2 adults may be retained.

(B) Release all salmon other than hatchery jack Chinook and sockeye.

(C) Salmon minimum length is 12 inches.

(c) Priest Rapids Dam to Wells Dam:

(i) Salmon, effective July 7 until further notice:

(A) Daily limit 6, no more than 4 adults may be retained of which up to 2 may be adult hatchery Chinook and up to 2 may be sockeye.

(B) Release wild adult Chinook and coho.

(C) Salmon minimum length is 12 inches.

(d) Wells Dam to HWY 173 at Brewster:

(i) Salmon, effective July 16 until further notice:

(A) Daily limit 6, no more than 4 adults may be retained of which up to 2 may be adult hatchery Chinook and up to 2 may be sockeye.

(B) Release wild adult Chinook and coho.

(C) Salmon minimum length is 12 inches.

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

(i) Salmon, effective July 7 until further notice:

(A) Daily limit 6, no more than 4 adults may be retained of which up to 2 may be adult hatchery Chinook and up to 2 may be sockeye.

(B) Release wild adult Chinook and coho.

(C) Salmon minimum length 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.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective July 7, 2018:

WAC 220-312-06000L Freshwater exceptions to statewide rules—Columbia River. (18-141)

**WSR 18-15-006**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 18-152—Filed July 6, 2018, 9:24 a.m., effective July 6, 2018, 9:24 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends recreational fishing rules for possession and delivery of Canadian-origin food fish and shellfish.

Citation of Rules Affected by this Order: Amending WAC 220-310-210.

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: Canadian Customs and Border Security regulations related to requirement for obtaining a customs clearance number have recently changed. This regulation is needed to provide an alternate means for persons seeking to possess and/or land Canadian caught fish in Washington waters or ports of call. The regulation helps ensure the viability of fishing related resort owners in Washington who want to act as a port of call for Washington fishers seeking to fish in adjacent Canadian waters. The modification to existing permanent regulations also maintains the enforceability of Washington fishing regulations established to meet conservation objectives by ensuring that fish possessed in Washington waters or ports of call are caught consistent with the rules and regulations for the waters from where they are harvested and that there is minimal opportunity for fishers in areas of international water boundaries to confuse their regulatory responsibilities. The department of fish and wildlife will be adopting this rule through the permanent rule-making process.

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: July 6, 2018.

Joe Stohr  
Director

#### NEW SECTION

**WAC 220-310-21000D Possession and delivery of Canadian-origin food fish and shellfish** Notwithstanding the provisions of WAC 220-310-210, effective immediately until further notice, it is unlawful to possess in marine waters or deliver into Washington any fresh salmon taken for personal use from Canadian waters unless such salmon meet current salmon regulations for the waters of the applicable department of fish and wildlife catch record card area. However, if the vessel operator has a valid Canadian Customs and Border Protection clearance number obtained while the vessel was moored at a Canadian government dock in Ucluelet,

Victoria, Sydney, White Rock, or Bedwell Harbour, British Columbia, OR has submitted the information listed below to the department; at [http://wdfw.wa.gov/licensing/canadian\\_catch.php](http://wdfw.wa.gov/licensing/canadian_catch.php); trip date (departure and return dates if more than one day); number of individuals onboard; Vessel Registration Number; and Primary Operators information to include: WILD ID and email address OR Name, Date of Birth, phone number, physical address, and email address, fishers aboard the vessel may deliver Canadian-origin salmon into Washington that are lawfully taken in Canada, regardless of whether the salmon meet the current salmon regulations for the area where delivered.

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

#### **WSR 18-15-008 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE**

[Order 18-151—Filed July 6, 2018, 11:30 a.m., effective July 6, 2018, 9:00 p.m.]

Effective Date of Rule: July 6, 2018, 9:00 p.m.

Purpose: Amend recreational shrimping rules in Puget Sound.

Citation of Rules Affected by this Order: Repealing WAC 220-330-07000J and 220-330-01000D; and amending WAC 220-330-070.

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 ensure an orderly fishery, manage the fishery within court-ordered sharing requirements, and ensure conservation. In addition, harvestable amounts of nonspot shrimp are available in several marine areas, and the depth restrictions and area closures are in effect to protect spot shrimp. 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: July 6, 2018.

Ron Warren  
for Joe Stohr  
Director

#### NEW SECTION

##### **WAC 220-330-07000K Shrimp—Areas and seasons.**

Notwithstanding the provisions of WAC 220-330-070, effective 9:00 p.m. July 6, 2018, it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Areas 4 (east of the east of the Bonilla-Tatoosh line), 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12, 13 and the Discovery Bay Shrimp District, except as provided for in this section:

(1) Marine Areas 4 (east of the Bonilla-Tatoosh line) and 5 are open to the harvest of all shrimp species.

(2) All waters equal to or less than 200 feet in depth in Marine Areas 6 (excluding the Discovery Bay Shrimp District) and 7 East are open to the harvest of all shrimp species except spot shrimp. All spot shrimp caught must be immediately returned to the water unharmed. It is unlawful to set or pull shrimp gear in waters greater than 200 feet deep.

(3) All waters equal to or less than 150 feet in depth in Marine Areas 8-1, 8-2, 9 and 11 are open to the harvest of all shrimp species except spot shrimp. All spot shrimp caught must be immediately returned to the water unharmed. It is unlawful to set or pull shrimp gear in waters greater than 150 feet deep.

(4) All waters equal to or less than 250 feet in depth in Marine Area 13 are open to the harvest of all shrimp species except spot shrimp. All spot shrimp caught must be immediately returned to the water unharmed. It is unlawful to set or pull shrimp gear in waters greater than 250 feet deep.

**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 sections of the Washington Administrative Code are repealed effective 9:00 p.m. July 6, 2018:

WAC 220-330-07000J Shrimp—Areas and seasons. (18-128)

WAC 220-330-01000D Shellfish—Daily limits. (18-109)

**WSR 18-15-011**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 18-153—Filed July 6, 2018, 1:56 p.m., effective July 6, 2018, 1:56 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend Puget Sound commercial scallop rules.

Citation of Rules Affected by this Order: Amending WAC 220-340-610.

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: Department of health has closed the Burrows Bay growing area due to high paralytic shellfish poisoning test results, a harvestable surplus of pink and spiny scallops exists in the areas specified, and small landings for the purpose of public health testing should be allowed in approved and restricted growing areas during summer months. 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: July 6, 2018.

Joe Stohr  
Director

#### NEW SECTION

**WAC 220-340-61000E Commercial scallop fishery—Puget Sound.** Notwithstanding the provisions of WAC 220-340-610, effective immediately until further notice, it is unlawful to take or possess pink or spiny scallops taken for commercial purposes except as provided for in this section:

(1) Pink or spiny scallop harvest is limited to 10 pounds per day for the sole purpose of submitting a sample to the Washington Department of Health for public health testing.

(2) It is unlawful to fish for, take, or possess pink or spiny scallops with shellfish dive gear without a commercial scallop dive fishery license holder on board the designated harvest vessel.

(3) Pink or spiny scallop harvest using shellfish diver gear, for the purpose of public health testing, is allowed in Washington Department of Health (DOH) Approved and Restricted Commercial Shellfish Growing Areas of Marine Fish/Shellfish Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B, 23A, 23B, 25A and 25B.

(4) It is unlawful for more than two divers from a harvest vessel to be in the water at any one time during pink or spiny

scallop harvest operations or when commercial quantities of pink or spiny scallops are on board the vessel.

**WSR 18-15-027**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 18-155—Filed July 10, 2018, 3:50 p.m., effective July 11, 2018, 6:00 a.m.]

Effective Date of Rule: July 11, 2018, 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 220-359-02000S; 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: Continues the treaty fishery for commercial sales to Washington wholesale buyers and the public. Based on inseason run size estimates as of July 9 for summer Chinook (44,000) and sockeye (209,000), harvestable fish are available under the current harvest guidelines. 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 compacts on June 5, 2018, June 28, 2018, and July 10, 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 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: July 10, 2018.

Joe Stohr  
Director

NEW SECTION

**WAC 220-359-02000T 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, and 1H (Zone 6)

(a) Season: 6 AM Wednesday July 11 to 6 PM Friday, July 13

(b) Gear: Set and drift gill nets 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 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 and may be kept for subsistence purposes. Fish landed during the open periods are allowed to be sold after the period concludes.

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

(a) Season: Immediately through 11:59 p.m. July 31.

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

(c) Allowable sale: Salmon (any species), steelhead caught after 6:00 a.m. on June 16 may be sold or kept for subsistence. Shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. 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 and 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 except Spring Creek Hatchery.

(3) Open Areas: Areas defined in tribal/state MOU's/MOA's.

(a) Season: Immediately through 11:59 p.m. July 31 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.

(4) Columbia River Tributaries upstream of Bonneville Dam:

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

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

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

(d) Allowable Sale: Salmon, steelhead, shad, yellow perch, bass, walleye, catfish, or carp. Sturgeon between 38 to 54 inches fork length harvested in tributaries within Bonneville pool may not be sold but may be kept for subsistence purposes only. Sales of fish are allowed after the open period concludes, as long as fish were landed during the open period.

(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.

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

## REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 a.m. July 11, 2018:

WAC 220-359-02000S Columbia River salmon seasons above Bonneville Dam. (18-139)

## **WSR 18-15-029 EMERGENCY RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed July 11, 2018, 9:56 a.m., effective July 12, 2018]

Effective Date of Rule: July 12, 2018.

Purpose: The department is extending emergency amendments to WAC 388-400-0060 Who is eligible for aged, blind or disabled (ABD) cash assistance?, 388-400-0070 Who is eligible for referral to the housing and essential needs (HEN) program?, 388-447-0001 What are the incapacity requirements for referral to the housing and essential needs (HEN) program?, 388-447-0040 Progressive evaluation process step II—How does the department determine the severity of mental impairments?, and 388-447-0060 Progressive evaluation process step IV—How does the department determine the severity of multiple impairments?

These amendments are currently in effect via emergency adoption filed as WSR 18-07-048 on March 14, 2018, which expires on July 12, 2018. The department has filed notice of its intent to adopt a permanent rule and is actively working to adopt the rule as a permanent rule.

These amendments are necessary to comply with changes mandated by ESHB [SHB] 2667 (chapter 48, Laws of 2018). These amendments expand eligibility criteria for a referral to the HEN program and clarify the eligibility process to support this change.

Citation of Rules Affected by this Order: Amending WAC 388-400-0060, 388-400-0070, 388-447-0001, 388-447-0040, and 388-447-0060.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055 [74.04.055], 74.04.057, 74.08.090.

Other Authority: ESHB [SHB] 2667 (chapter 48, Laws of 2018).

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: ESHB [SHB] 2667 (chapter 48, Laws of 2018) mandates the department to adopt rules for immediate implementation in order to preserve the health, safety, and general welfare of the public. These amendments seek to ensure qualified individuals have greater access to acquire new and maintain existing housing supports. These

rules are proposed under WSR 18-030-080 [18-13-080] and have a hearing scheduled July 25, 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 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 5, 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 5, Repealed 0.

Date Adopted: June 28, 2018.

Katherine I. Vasquez  
Rules Coordinator

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

**WAC 388-400-0060 Who is eligible for aged, blind or disabled (ABD) cash assistance?** (1) ~~((Effective November 1, 2014,))~~ The aged, blind, or disabled (ABD) cash assistance program provides a state-funded cash stipend and a referral to the housing and essential needs (HEN) program under WAC 388-400-0065 to eligible low-income individuals.

~~((2))~~ (2) You are eligible for ~~((aged, blind, or disabled (ABD) cash benefits))~~ ABD if you:

- (a) Are:
  - (i) At least sixty-five years old;
  - (ii) Blind as defined by the Social Security Administration (SSA); or
  - (iii) Likely to be disabled as defined in WAC 388-449-0001 through 388-449-0100; and
- (b) Are at least eighteen years old or, if under eighteen, a member of a married couple;
- (c) Are in financial need according to ABD cash income and resource rules in chapters 388-450, 388-470 and 388-488 WAC. We determine who is in your assistance unit according to WAC 388-408-0060;
- (d) Have countable income, as defined in WAC 388-450-0162, at or below the monthly income limits defined in WAC 388-478-0090;
- (e) Meet the citizenship/alien status requirements under WAC 388-424-0015;
- (f) Provide a Social Security number as required under WAC 388-476-0005;
- (g) Reside in the state of Washington as required under WAC 388-468-0005;
- (h) Sign an interim assistance reimbursement authorization agreeing to repay the monetary value of general assistance, disability lifeline, or aged blind or disabled benefits subsequently duplicated by supplemental security income benefits as described under WAC 388-449-0200, 388-449-0210 and 388-474-0020;

(i) Report changes of circumstances as required under WAC 388-418-0005; and

(j) Complete a mid-certification review and provide proof of any changes as required under WAC 388-418-0011.

~~((2))~~ (3) You aren't eligible for ~~((aged, blind, or disabled cash benefits))~~ ABD if you:

- (a) Are eligible for temporary assistance for needy families (TANF) benefits;
- (b) Are eligible for state family assistance (SFA) benefits;
- (c) Refuse or fail to meet a TANF or SFA eligibility rule;
- (d) Refuse or fail to pursue federal aid assistance, including but not limited to medicaid, without good cause;
- (e) Refuse or fail to participate in drug or alcohol treatment as required in WAC 388-449-0220 without good cause;
- (f) Refuse or fail to follow through with the SSI application as required in WAC 388-449-0200 without good cause;
- (g) Refuse or fail to participate in vocational rehabilitation services as required in WAC 388-449-0225 without good cause;
- (h) Are eligible for supplemental security income (SSI) benefits;
- (i) Are an ineligible spouse of an SSI recipient; or
- (j) Failed to follow a Social Security Administration (SSA) program rule or application requirement and SSA denied or terminated your benefits.

~~((3))~~ (4) If you reside in a public institution and meet all other requirements, your eligibility for ABD ~~((cash))~~ depends on the type of institution. A "public institution" is an institution that is supported by public funds, and a governmental unit either is responsible for it or exercises administrative control over it.

(a) You may be eligible for ABD ~~((cash))~~ if you are:

- (i) A patient in a public medical institution; or
- (ii) A patient in a public mental institution and:
  - (A) Sixty-five years of age or older; or
  - (B) Twenty years of age or younger.

~~((4))~~ (5) You aren't eligible for ABD ~~((cash))~~ when you are in the custody of or confined in a public institution such as a state penitentiary or county jail including placement:

- (a) In a work release program; or
- (b) Outside of the institution including home detention.

AMENDATORY SECTION (Amending WSR 13-24-044, filed 11/26/13, effective 1/1/14)

**WAC 388-400-0070 Who is eligible for referral to the housing and essential needs (HEN) program?** (1) You are eligible for referral to the housing and essential needs (HEN) program if you:

- (a) Apply for cash assistance as detailed in WAC 388-406-0010;
- (b) Complete an interview with the department;
- (c) Are incapacitated as defined in WAC 388-447-0001 through 388-447-0100;
- (d) Are at least eighteen years old or, if under eighteen, legally emancipated or a member of a married couple;
- (e) Are in financial need according to income rules in chapter 388-450 WAC and resource requirements in RCW

74.04.005 and chapter 388-470 WAC. We determine who is in your assistance unit according to WAC 388-408-0070;

(f) Have countable income, as defined in WAC 388-450-0162, at or below the monthly income limits defined in WAC 388-478-0090;

(g) Meet the citizenship/alien status requirement for ABD cash assistance under WAC 388-424-0015;

(h) Meet the Social Security number verification requirement for cash assistance under WAC 388-476-0005;

(i) Meet the residency requirement for cash assistance under WAC 388-468-0005;

(j) Meet verification requirements for cash assistance detailed in WAC 388-490-0005.

(k) To remain eligible for HEN referral, you must also:

(i) Report changes in your circumstances as required for cash assistance under WAC 388-418-0007; and

(ii) Complete and return eligibility reviews we send you under WAC 388-434-0005.

(2) You are not eligible for referral to the HEN program if you:

~~((a))~~ ~~(Are eligible for the aged, blind, or disabled (ABD) cash assistance program;~~

~~((b))~~ Are eligible for the pregnant women assistance (PWA) program;

~~((c))~~ (b) Are eligible for temporary assistance for needy families (TANF) program;

~~((d))~~ (c) Refuse or fail to meet a TANF rule without good cause;

~~((e))~~ (d) Refuse or fail to cooperate in obtaining federal aid assistance, including but not limited to medicaid, without good cause;

~~((f))~~ (e) Refuse or fail to participate in drug or alcohol treatment as required in WAC 388-447-0120;

~~((g))~~ (f) Are eligible for supplemental security income (SSI) benefits and receiving a state supplemental payment (SSP) under WAC 388-474-0012;

~~((h))~~ (g) Are an ineligible spouse of an SSI recipient;

~~((i))~~ (h) Refuse or fail to follow a Social Security Administration (SSA) program rule or application requirement without good cause and SSA denied or terminated your benefits;

~~((j))~~ (i) Are terminated from ABD for refusing or failing to sign an interim assistance reimbursement authorization agreement under WAC 388-400-0060; ~~((k))~~

~~((l))~~ (j) Are fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony as described in WAC 388-442-0010~~((-)); or~~

~~((m))~~ (k) Are disqualified from receiving cash assistance due to a conviction related to unlawful practices in obtaining cash assistance as described in WAC 388-446-0005.

(3) If you reside in a public institution and meet all other requirements, your eligibility for referral to the HEN program depends on the type of institution. A "public institution" is an institution that is supported by public funds, and a governmental unit either is responsible for it or exercises administrative control over it.

(a) You may be eligible for referral to the HEN program if you are:

(i) A patient in a public medical institution; or

(ii) A patient in a public mental institution and are sixty-five years of age or older.

(b) You aren't eligible for referral to the HEN program if you are in the custody of or confined in a public institution such as a state penitentiary or county jail, including placement:

(i) In a work release program; or

(ii) Outside of the institution including home detention.

AMENDATORY SECTION (Amending WSR 13-24-044, filed 11/26/13, effective 1/1/14)

**WAC 388-447-0001 What are the incapacity requirements for referral to the housing and essential needs (HEN) program?** (1) For the purposes of this chapter, the following definitions apply:

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

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

(c) "Incapacitated" means you cannot be gainfully employed due to a physical or mental impairment that is expected to continue for at least ninety days from the date you apply.

(d) "Mental impairment" means a diagnosable mental disorder.

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

(2) You must be incapacitated in order to receive a HEN referral.

(3) We determine if you are incapacitated when:

(a) You apply for a referral to the HEN program;

(b) You become gainfully employed;

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

(d) We receive new information that indicates you may be able to work; or

(e) Your incapacity authorization period ends.

(4) We deny your HEN referral if you are gainfully employed at the time of application for referral to the HEN program. "Gainfully employed" means you are performing, in a regular predictable manner, an activity usually done for pay or profit and earning more than the substantial gainful activity standard defined by the Social Security Administration (SSA).

(5) We do not consider you to be gainfully employed if you are working:

(a) Under special conditions that go beyond providing reasonable accommodation; or

(b) Occasionally or part-time because your impairment limits the hours you are able to work compared to unimpaired workers in the same job.

(6) We determine you are incapacitated if you are:

(a) Eligible for the aged, blind, or disabled (ABD) cash assistance program;

(b) Approved through the progressive evaluation process (PEP). The PEP is a sequence of eight steps described in WAC 388-447-0030 through 388-447-0100;

~~((b))~~ (c) Eligible for services from the Developmental Disabilities Administration (DDA);

~~((e))~~ (d) Diagnosed as having an intellectual disability based on a full scale score of seventy or lower on the Wechsler adult intelligence scale (WAIS);

~~((d))~~ (e) Eligible for long-term care services from Aging and Long-term Support Administration (AL TSA);

~~((e))~~ (f) Released from a medical institution where you received services from AL TSA within the past 90 days; or

~~((f))~~ (g) Released from inpatient treatment for a mental impairment within the past 90 days if:

(i) The release from inpatient treatment was not against medical advice; and

(ii) You were discharged into outpatient mental health treatment.

(7) If you have a physical or mental impairment~~((s))~~ or are impaired ~~((by alcohol or drug addiction))~~ due to a substance use disorder, and do not meet the other incapacity criteria in section 6 ~~((b))~~ (c) through ~~((f))~~ (g), we decide if you are incapacitated by applying the PEP. ~~((We do not consider symptoms related to substance use or a diagnosis of chemical dependency when determining incapacity when we have evidence substance use is material to your impairment(s).))~~

(8) ~~((We consider substance use material to your impairment(s) if you are disabled primarily because of drug or alcohol addiction.))~~

~~((9))~~ If your impairment will persist at least sixty days after you stop using drugs or alcohol, we do not consider substance use to be material to your impairment(s).

~~((10))~~ In determining incapacity, we consider only your ability to perform basic work-related activities. "Basic work-related activities" are activities that anyone would be required to perform in a work setting. They consist of: Sitting, standing, walking, lifting, carrying, handling; and other physical functions (including manipulative or postural functions such as pushing, pulling, reaching, handling, stooping, or crouching), seeing, hearing, communicating, remembering, understanding and following instructions, responding appropriately to supervisors and co-workers, tolerating the pressures of a work setting, maintaining appropriate behavior, using judgment, and adapting to changes in a routine work setting.

**AMENDATORY SECTION** (Amending WSR 13-24-044, filed 11/26/13, effective 1/1/14)

**WAC 388-447-0040 Progressive evaluation process step II—How does the department determine the severity of mental impairments?** If you are diagnosed with a mental impairment by a professional described in WAC 388-447-0005, we use information from the medical evidence provider to determine how the impairment limits work-related activities.

(1) We review the following psychological evidence to determine the severity of your mental impairment:

- (a) Psychosocial and treatment history records;
- (b) Clinical findings of specific abnormalities of behavior, mood, thought, orientation, or perception;
- (c) Results of psychological tests; and
- (d) Symptoms observed by the examining professional that show how your impairment affects your ability to perform basic work-related activities.

~~(2) ((We do not consider diagnoses or symptoms of alcohol or substance use or dependency when the only impairment supported by objective medical evidence is drug or alcohol addiction.))~~

~~((3))~~ If you are diagnosed with an intellectual disability, the diagnosis must be based on the Wechsler adult intelligence scale (WAIS). The following test results determine the severity rating:

Intelligence Quotient (IQ) Score	Severity Rating
85 or above	1
71 to 84	3
70 or lower	5

~~((4))~~ (3) If you are diagnosed with a mental impairment with physical causes, we assign a severity rating based on the most severe of the following four areas of impairment:

- (a) Short term memory impairment;
- (b) Perceptual or thinking disturbances;
- (c) Disorientation to time and place; or
- (d) Labile, shallow, or coarse affect.

~~((5))~~ (4) We base the severity of an impairment diagnosed as a mood, anxiety, thought, memory, personality, or cognitive disorder on a clinical assessment of the intensity and frequency of symptoms that:

- (a) Affect your ability to perform basic work-related activities; and
- (b) Are consistent with a diagnosis of a mental impairment as listed in the most recent version of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM).

~~((6))~~ (5) We base the severity rating for a functional mental impairment on accumulated severity ratings for the symptoms in subsection (5) of this section as follows:

Condition	Severity Rating	
(a) The clinical findings and objective evidence are consistent with a significant limitation on performing one or more basic work activities.	Moderate	(3)
(b) You are diagnosed with a functional disorder with psychotic features;	Marked	(4)
(c) You have had two or more hospitalizations for psychiatric reasons in the past two years;		
(d) You have had more than six months of continuous psychiatric inpatient or residential treatment in the past two years;		
(e) The clinical findings and objective evidence are consistent with very significant limitations on ability to perform		



Condition	Severity Rating	
one or more basic work activities.		
(f) The clinical findings and objective evidence are consistent with an inability to perform one or more basic work activities.	Severe	(5)

~~((7))~~ (6) If you are diagnosed with any combination of mental retardation, mental impairment with physical causes, or functional mental impairment, we assign a severity rating as follows:

Condition	Severity Rating	
(a) Two or more disorders with moderate severity (3) ratings; or	Marked	(4)
(b) One or more disorders rated moderate severity (3), and one rated marked severity (4).		
(c) Two or more disorders rated marked severity (4).	Severe	(5)

~~((8))~~ (7) We deny incapacity when you haven't been diagnosed with a significant physical impairment and the overall severity of your mental impairment is one or two;

~~((9))~~ (8) We approve incapacity when your overall mental severity rating is severe (5).

**AMENDATORY SECTION** (Amending WSR 13-24-044, filed 11/26/13, effective 1/1/14)

**WAC 388-447-0060 Progressive evaluation process step IV—How does the department determine the severity of multiple impairments?** (1) If you have more than one impairment, we determine the overall severity rating by deciding if your impairments have a combined effect on your ability to be gainfully employed.

(2) When you have two or more diagnosed impairments that limit work activities, we assign an overall severity rating as follows:

Condition	Severity Rating	
(a) All impairments are mild and there is no cumulative effect on basic work activities.	Mild	2
(b) All impairments are mild and there is a significant cumulative effect on one or more basic work activities.	Moderate	3
(c) Two or more impairments are of moderate severity and there is a very significant cumula	Marked	4

Condition	Severity Rating	
tive effect on basic work activities.		
(d) Two or more impairments are of marked severity.	Severe	5

(3) We deny incapacity at this step when ~~((a))~~ the overall severity rating is two ~~((b))~~ Substance use is material to your impairment under WAC 388-447-0001 and your overall severity rating is two when symptoms related to substance use or a diagnosis of chemical dependency are not considered).

(4) We approve incapacity at this step when the overall severity rating is five.

**WSR 18-15-032  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 18-149—Filed July 11, 2018, 11:11 a.m., effective July 11, 2018, 11:11 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend aquatic invasive species rules.

Citation of Rules Affected by this Order: Amending WAC 220-630-010 [220-640-010], 220-640-020, 220-640-030, 220-640-040, 220-640-050, 220-640-060, 220-640-070, 220-640-080, 220-640-100, 220-640-110, 220-640-120, 220-640-130, and 220-640-200.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, 77.12.047, 77.15.568, and 77.65.510.

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: During the 2014 legislative session, the legislature made substantial changes to the laws concerning invasive species and enacted chapter 77.135 RCW, Invasive species. The department needs to amend and add to its current rules concerning aquatic invasive species (AIS) contained in chapter 220-640 WAC to reflect statutory changes. The wrong version of the WAC changes was inadvertently filed and the department is now in the process of going through expedited rule making. These rules are interim until permanent rules take effect.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 13, 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: July 11, 2018.

Nate Pamplin  
for Joe Stohr  
Director

#### NEW SECTION

**WAC 220-640-01000A Aquatic invasive species—Provisions.** The following provisions apply to all nonnative aquatic animal species except nonnative species in ballast water, which are provided for in chapter 220-650 WAC. The definitions of invasive species, prohibited species, and regulated species, as used in this section are the same as in RCW 77.135.010.

**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 220-640-02000A Aquatic invasive species classification.** Prior to or at the time of classifying species by rule as prohibited or regulated, the department, in consultation with the invasive species council, must adopt rules establishing standards for determining invasive risk levels and criteria for determining beneficial use that take into consideration environmental impacts, and especially effects on the preservation of native species, salmon recovery, and threatened or endangered species.

#### NEW SECTION

**WAC 220-640-03000A Prohibited level 1 species.** The following species are classified as prohibited level 1 species:

- (1) Molluscs: Family Dreissenidae: Zebra and quagga mussels: *Dreissena polymorpha* and *Dreissena rostriformis bugensis*.
- (2) Crustaceans:
  - (a) Family Grapsidae: Mitten crabs: All members of the genus *Erochier*.
  - (b) Family Portunidae: European green crab, *Carcinus maenas*.
- (3) Fish:
  - (a) Family Channidae: China fish, snakeheads: All members of the genus *Channa*.
  - (b) Family Clariidae: All members of the walking catfish family.
  - (c) Family Cyprinidae:
    - (i) Carp, Bighead, *Hypophthalmichthys nobilis*.
    - (ii) Carp, Black, *Mylopharyngodon piceus*.
    - (iii) Carp, Silver, *Hypophthalmichthys molitrix*.
    - (iv) Carp, Largescale Silver, *Hypophthalmichthys harmandi*.

#### NEW SECTION

**WAC 220-640-04000A Prohibited level 2 species.** The following are classified as prohibited level 2 species: None

#### NEW SECTION

**WAC 220-640-05000A Prohibited level 3 species** The following species are classified as prohibited level 3 species:

- (1) Amphibians:
  - (a) In the family Hylidae: Cricket frog, in the genus *Hyla* species in the group Arborea including: *Hyla annectans*, *Hyla arborea*, *Hyla chinensis*, *Hyla hallowellii*, *Hyla immaculata*, *Hyla japonica*, *Hyla meridionalis*, *Hyla sanchiangensis*, *Hyla simplex*, *Hyla suweonensis*, *Hyla tsinlingensis*, and *Hyla zhaopingensis*.
  - (b) In the family Pelobatidae, spadefoots, all species of the genus *Pelobates* including *P. cultripes*, *P. fuscus*, *P. syriacus*, and *P. varaldii*. All species of the genus *Scaphiopus* including: *S. couchii*, *S. holbrookii*, and *S. hurterii*. All species of the genus *Spea* including: *S. bombifrons*, *S. hammondi*, and *S. multiplicata* with the exception of the native species: *Spea intermontana* the great basin spade-foot.
  - (c) In the family Pipidae: African clawed frog, all members of the genera *Silurana*, and *Xenopus*.
  - (d) In the family Ranidae:
    - (i) American Bull frog, *Rana (Lithobates) catesbeiana*.
    - (ii) Holarctic brown frogs and Palearctic green frogs of the genus *Rana*, including the following: *Rana arvalis* group (*R. arvalis*, *R. chaochiaensis*, *R. chevronta*); *Rana chensinensis* group (*R. altaica*, *R. chensinensis*, *R. dybowskii*, *R. kukunoris*, *R. kunyuensis*, *R. ornativentris*, *R. pirica*); *Rana graeca* group (*R. graeca*, *R. italica*); *Rana japonica* group (*R. amurensis*, *R. aragonensis*, *R. japonica*, *R. omeimontis*, *R. zhenhaiensis*); the subgenus *Rugosa* (*Rana rugosa*, *Rana emeljanovi*, *Rana tientaiensis*); *Rana tagoi* group (*R. sakuraii*, *R. tagoi*); *Rana temporaria* group (*R. asiatica*, *R. dalmatina*, *R. honnorate*, *R. huanrenensis*, *R. iberica*, *R. latastei*, *R. macrocnemis*, *R. okinavana*, *R. pyrenaica*, *R. tsushimensis*, *R. zhengi*); and in the *Rana* Pelophylax section, the subgenus *Pelophylax* (*R. bedriagae*, *R. bergeri*, *R. cerigensis*, *R. chosonica*, *R. cretensis*, *R. demarchii*, *R. epeirotica*, *R. fukiensis*, *R. grafti*, *R. hubeiensis*, *R. lateralis*, *R. lessonae*, *R. nigrolineata*, *R. nigromaculata*, *R. perezi*, *R. plancyi*, *R. porosa*, *R. ridibunda*, *R. saharica*, *R. shqiperica*, *R. shuchinae*, *R. terentievi*, *R. tenggerensis*); and the *Rana* *ridibunda*-*Rana lessonae* hybridogenetic complex species *R. esculenta* and *R. hispanica*.
    - (e) In the family Ambystomatidae: Mole salamanders. In the genus *Ambystomata*: *A. californiense*, *A. laterale*, *A. opacum*, *A. rosaceum*, *A. tigrinum*, except for the native species *A. tigrinum mavortium* Western tiger salamander, and *A. tigrinum melanostictum* Tiger salamander.
    - (f) In the family Amphiumidae one, two, and three toed salamanders or congo eels: All members of the genus *Amphiuma*.
    - (g) In the family Cryptobranchidae: Giant salamanders and hellbenders, all members of the genera *Andrias* and *Cryptobranchus*.
    - (h) In the family Dicamptodontidae, American giant salamanders, all members of the genus *Dicamptodon*, except for

the native species: *Dicamptodon tenebrosus*, Pacific giant salamander, and *Dicamptodon copei*, Cope's giant salamander.

(i) In the family Hynobiidae: Mountain salamanders, all members of the genera *Batrachuperus*, *Hynobius*, *Liua*, *Onychodactylus*, *Pachyhynobius*, *Pseudohynobius*, *Ranodon*, and *Salamandrella*.

(j) In the family Plethodontidae, subfamily Desmognathinae: All members of the genus *Desmognathus*, dusky salamander.

(k) In the family Plethodontidae, subfamily Plethodontinae: All members of the genera *Eurycea* (American brook salamanders); *Gyrinophilus* (cave salamanders); *Hemidactylium* (four-toed salamanders); *Hydromantes* and *Pseudotriton* (mud or red salamanders).

(l) In the family Proteidae, mudpuppies, all members of the genus *Necturus* and *Proteus*.

(m) In the family Salamandridae: Newts, all members of the genera *Chioglossa*; *Eichinotriton* (mountain newts); *Euproctus* (European mt. salamander); *Neurergus* (Kurdistan newts); *Notophthalmus* (red-spotted newts); *Pachytriton* (Chinese newts); *Paramesotriton* (warty newts); *Salamandrina* (speckled salamander); *Taricha* except for the native species *Taricha granulosa granulosa* the Northern rough-skin newt, and *Ichthyosaura* and *Triturus* (alpine newts).

(n) In the family Sirenidae, sirens, all species of the genera *Pseudobranchius* and *Siren*.

(2) Reptiles:

(a) In the family Chelydridae, snapping turtles, all species.

(b) In the family Emydidae:

(i) Chinese pond turtles, all members of the genus *Chinemys*.

(ii) Pond turtles, all members of the genus *Clemmys*.

(iii) European pond turtle, *Emys orbicularis*.

(iv) Asian pond turtle, all members of the genus *Mauremys*.

(c) In the family Trionychidae, American soft shell turtles, all members of the genus *Apalone*.

(3) Crustaceans:

(a) Family Cercopagidae:

(i) Fish hook water flea, *Cercopagis pengoi*.

(ii) Spiny water flea, *Bythotrephes cederstroemi*.

(b) Family Cambaridae: Crayfish: All genera.

(c) Family Parastacidae: Crayfish: All genera except *Engaeos*, and except the species *Cherax quadricarinatus*, *Cherax papuanus*, and *Cherax tenuimanus*.

(d) Family Spheromatidae: Burrowing isopod, *Sphaeroma quoyanum*.

(4) Fish:

(a) Family Amiidae: Bowfin, grinnel, or mudfish, *Amia calva*.

(b) Family Characidae: Piranha or caribe: All members of the genera *Pygocentrus*, *Rooseveltiella*, and *Serrasalmus*.

(c) Family Cyprinidae:

(i) Fathead minnow, *Pimephales promelas*.

(ii) Carp, Grass (in the diploid form), *Ctenopharyngodon idella*.

(iii) Ide, silver orfe or golden orfe, *Leuciscus idus*.

(iv) Rudd, *Scardinius erythrophthalmus*.

(d) Family Gobiidae: Round goby, *Neogobius melanostomus*.

(e) Family Esocidae: Northern pike, *Esox lucius*.

(f) Family Lepisosteidae: Gar-pikes: All members of the family.

(5) Mammals: Family Myocastoridae: Nutria, *Myocastor coypu*.

(6) Molluscs:

(a) Family Dreissenidae: All members of the genus *Dreissena* except the species zebra mussel, *Dreissena polymorpha*, and the quagga mussel, *Dreissena rostriformis bugensis*.

(b) Family Gastropoda: New Zealand mud snail, *Potamopyrgus anti-podarum*.

### NEW SECTION

**WAC 220-640-06000A Regulated type A species.** The following species are classified as regulated type A species:

(1) Fish:

(a) All nonnative fish classified as food fish under WAC 220-300-370 and game fish under WAC 220-300-380.

(b) Family Cichlidae: Tilapia: All members of the genera *Tilapia*, *Oneochromis*, and *Sartheradon*.

(c) Family Clupeidae: Alewife, *Alosa pseudoharengus*.

(d) Family Cyprinidae:

(i) Common carp, koi, *Cyprinus carpio*.

(ii) Goldfish, *Carassius auratus*.

(iii) Tench, *Tinca tinca*.

(iv) Grass carp (in the triploid form), *Ctenopharyngodon idella*.

(e) Family Poeciliidae: Mosquito fish, *Gambusia affinis*.

(2) Shellfish: All nonnative shellfish classified under WAC 220-320-010.

### NEW SECTION

**WAC 220-640-07000A Regulated type B species.** The following species are automatically classified as regulated type B species and do not require listing by rule:

(1) A nonnative aquatic animal species not listed under WAC 220-640-030 Prohibited level 1 species, WAC 220-640-040 Prohibited level 2 species, WAC 220-640-050 Prohibited level 3 species, or WAC 220-640-060 Regulated type A species; and

(2) A nonnative aquatic animal species possessed for personal or commercial purposes, such as for aquariums, live food markets, or as nondomesticated pets.

### NEW SECTION

**WAC 220-640-08000A Regulated type C species.** The following species are automatically classified as regulated type C species and do not require listing by rule:

(1) A nonnative aquatic animal species not listed under WAC 220-640-030 Prohibited level 1 species, WAC 220-640-040 Prohibited level 2 species, WAC 220-640-050 Prohibited level 3 species, or WAC 220-640-060 Regulated type A species; and

(2) All other nonnative aquatic animal species that do not meet the criteria for automatic classification as a regulated type B species.

#### NEW SECTION

**WAC 220-640-10000A Scientific research/display permits and monitoring and control programs—Requirements for possession of prohibited species.** It is unlawful to introduce into the state or possess a prohibited level 1, level 2, or level 3 species except as provided in this section.

(1) Scientific research or display permit: The director may authorize, by prior written permit, a person to possess prohibited level 1, prohibited level 2, or prohibited level 3 species specimens for scientific research or display, provided that:

(a) Specimens are confined to a secure facility, defined as an enclosure that will prevent the escape or release of the prohibited species to include all stages of species development and body parts;

(b) Facility is not a natural watercourse, and is also inaccessible to wildlife or other animals that could transport prohibited species to include all stages of species development and body parts;

(c) Specimens are not transferred to any other facility without written approval by the director or designee;

(d) All zebra and quagga mussels are incinerated or chemically preserved at the conclusion of the project, and the enclosure, holding waters and all equipment are decontaminated. All other prohibited species must be killed at the conclusion of the project and either chemically preserved or disposed of in a landfill; and

(e) The permittee must provide an annual report to the department, no later than January 31st of the following year, on a form provided by the department, describing the number, size, and location of prohibited species enclosures and general nature of the research.

(2) Monitoring and control programs: The director may authorize persons working within the scope and supervision of a department-sponsored monitoring and control program to capture, possess and destroy prohibited level 1, prohibited level 2, or prohibited level 3 species specimens provided that:

(a) The persons have completed a mandatory training program and are certified by the department;

(b) The persons have a permit authorized by the director or designee in possession;

(c) All prohibited species are disposed of in accordance with the monitoring and control program; and

(d) Participants must submit a report to the department within thirty days of any monitoring or control activity in accordance with the specifications outlined in the monitoring and control program.

**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.

#### NEW SECTION

**WAC 220-640-11000A Importation of live aquatic organisms—Required certification of "zebra/quagga mussel free."** (1) It is unlawful to import live aquatic organisms, including plants, for release into state waters from any state or Canadian province east of the Continental Divide without each importation being accompanied by a zebra mussel (*Dreissena polymorpha*)/Quagga mussel (*Dreissena rostriformis bugensis*) free certificate issued by the department and signed by the supplier of the aquatic organisms.

(2) The original receiver in the state of Washington of the shipment of aquatic organisms is required to retain the zebra and quagga mussel-free certificate for two years.

(3) Secondary receivers, while in possession of live aquatic organisms, are required to retain invoices or other records showing who the original receiver was.

#### NEW SECTION

**WAC 220-640-12000A Capture of prohibited species in Washington waters—Requirements.** (1) Capture of prohibited species in state waters: Any prohibited level 1, level 2, or level 3 species that are captured in state waters must be:

(a) Immediately killed and removed from within the riparian perimeter of the body of water; or

(b) Immediately returned to the water from which the species was captured.

(2) The riparian perimeter includes all boat launch, park, private residences, or commercial businesses within a quarter-mile from the edge of the state water.

(3) It is lawful to possess dead prohibited species taken from state waters and it is lawful to possess chemically preserved nonvertebrate prohibited species from any source.

(4) It is unlawful to use live or dead prohibited species as bait.

#### NEW SECTION

**WAC 220-640-13000A Allowable possession of prohibited species if acquired prior to classification—Requirement of documentation.** A person who possessed a prohibited level 1, level 2, or level 3 species prior to the time the species was classified as prohibited may continue to hold the animal or animals for the life of the animals, provided that:

(1) The person must maintain proof of possession prior to the classification.

(2) The animals may not be transferred to another owner within the state.

(3) The person must comply with all provisions of this section.

(4) The animals must be prevented from reproducing, or if prevention is impracticable, the progeny must be destroyed.

#### NEW SECTION

**WAC 220-640-20000A Deleterious exotic wildlife.** (1) The following animals are hereby designated as deleterious exotic wildlife:

(a) Birds: In the family Anatidae, the mute swan (*Cygnus olor*).

(b) Mammals:

(i) In the family Viverridae, the mongoose (all members of the genus *Herpestes*).

(ii) In the family Suidae, the wild boar (*Sus scrofa* and all wild hybrids).

(iii) In the family Tayassuidae, the collared peccary (javelina) (*Tayassu tajacu*).

(iv) In the family Bovidae, all members and hybrids of the following genera: *Rupicapra* (Chamois); *Hemitragus* (Tahr); *Capra* (goats, ibexes except domestic goat *Capra hircus*); *Ammotragus* (Barbary sheep or Aoudad); *Ovis* (sheep), except domestic sheep *Ovis aries*; *Damaliscus* (Sassabies); *Alcelaphus buselaphus* (Hartebeest); and *Connochaetes* (Wildebeests).

(v) In the family Cervidae, the European red deer (*Cervus elaphus elaphus*), all nonnative subspecies of *Cervus elaphus*, and all hybrids with North American elk; Fallow deer (*Dama dama*), Axis deer (*Axis axis*), Rusa deer or Sambar deer (*Cervus unicolor*, *Cervus timorensis*, *Cervus mariannus* and *Cervus alfredi*), Sika deer (*Cervus nippon*), Rein-deer (all members of the genus *Rangifer* except *Rangifer tarandus caribou*), and Roedeer (all members of the genus *Capreolus*).

(2) It is unlawful to import into the state, hold, possess, propagate, offer for sale, sell, transfer, or release live specimens of deleterious exotic wildlife, their gametes and/or embryo, except as provided under subsection (3), (4), (5), (6), or (7) of this section, and as provided in WAC 220-640-020.

(3) Scientific research or display: The director may authorize, by written approval, a person to import into the state, hold, possess, and propagate live specimens of deleterious exotic wildlife for scientific research or for display by zoos or aquariums who are accredited institutional members of the association of zoos and aquariums (AZA), provided:

(a) The specimens are confined to a secure facility;

(b) The specimens will not be transferred to any other location within the state, except to other AZA-accredited facilities with written director approval or as otherwise authorized in writing by the director;

(c) The specimens will be euthanized and all parts incinerated at the end of the project, except for federally listed endangered or threatened species, which may be retained or transferred where in compliance with federal law;

(d) The person will keep such records on the specimens and make such reports as the director may require; and

(e) The person complies with other requirements of this section.

(4) Retention or disposal of existing specimens lawfully in captivity:

(a) Specimens lawfully in captivity prior to January 18, 1991: A person holding exotic wildlife specimens in captivity that were classified by the fish and wildlife commission as deleterious exotic wildlife on or before January 18, 1991, may retain the specimens of such deleterious exotic wildlife such person lawfully possessed prior to January 18, 1991, provided such person complies with (c) through (h) of this subsection hereunder and the other requirements of this section;

(b) Specimens lawfully in captivity prior to June 20, 1992: A person holding the following deleterious exotic wildlife specimens in captivity that were classified by the fish and wildlife commission as deleterious exotic wildlife by operation of emergency rule filed June 19, 1992, (in the family Bovidae, *Sassabies* (all members of the genus *Damaliscus*), *Hartebeest* (*Alcelaphus buselaphus*), *Wildebeests* (all members of the genus *Connochaetes*), *Markhor* (*Capra falconeri*), and *Marco-polo sheep* (*Ovis ammon*); and in the family Cervidae, *Fallow deer* (*Dama dama*), *Axis deer* (*Axis axis*), *Sika deer* (*Cervus nippon*), and *Rusa deer* or *Sambar deer* (*Cervus unicolor*, *Cervus timorensis*, *Cervus mariannus* and *Cervus alfredi*)), may retain the specimens of such deleterious exotic wildlife such person lawfully possessed prior to June 20, 1992, and the lawful progeny thereof, provided such person complies with (c) through (h) of this subsection and the other requirements of this section and except as provided under subsection (7) of this section;

(c) The person reported to the director, in writing, the species, number, and location of the specimens, as required;

(d) The specimens are confined to a secure facility at the location reported;

(e) Live specimens are not propagated, except at AZA-accredited facilities with the written permission of the director or as otherwise authorized in writing by the director;

(f) Live specimens shall be neutered, physically separated by sex, and/or rendered infertile by means of contraception, except at AZA-accredited facilities with the written permission of the director;

(g) Live specimens are not released; and

(h) Live specimens are not sold or transferred, except:

(i) Live specimens in lawful possession may be permanently removed from the state of Washington or transported directly to slaughter where in accordance with other applicable law;

(ii) Federally listed endangered or threatened species may be transferred to AZA-accredited facilities where in compliance with federal law;

(iii) Live specimens may be moved to the new primary residence of the possessor with the written approval of the director, provided that all other requirements are satisfied and the total number of locations where animals are held is not increased; and

(iv) AZA facilities may sell and/or transfer live specimens within the state with the written permission of the director.

(5) Retention or disposal of existing specimens lawfully in captivity prior to February 13, 1993: A person holding exotic wildlife specimens in captivity that are newly classified by the fish and wildlife commission as deleterious exotic wildlife by operation of this section (*Reindeer* (all members of the genus *Rangifer*, except *Rangifer tarandus caribou*), and *Roedeer* (all members of the genus *Capreolus*)), may retain the specimens of such deleterious exotic wildlife such person lawfully possessed prior to February 13, 1993, provided:

(a) The person reports to the director in writing by March 31, 1993, and reports annually thereafter, or as otherwise required by the director, the species, number, and location of such specimens; and

(b) The person complies with subsection (4)(d) through (h) of this section and the other requirements of this section.

(6) The provisions of this section shall not prohibit the importation, possession, propagation, sale, transfer, or release of live specimens of federally listed threatened or endangered species, their gametes and/or embryo, where in compliance with federal law.

(7) Notwithstanding the provisions of subsection (2) of this section, Fallow deer (*Dama dama*) and reindeer (all members of the genus *Rangifer*, except *Rangifer tarandus caribou*) may be imported into the state, held, possessed, propagated, offered for sale, sold, and/or transferred, provided:

(a) The person complies with subsection (4)(c) through (g) of this section and the other requirements of this section, except for subsection (4)(e), (f), and (h) of this section; and

(b) The person complies with the department of agriculture per WAC 16-54-180 as now or hereafter amended, except: Animals that have resided at any time east of a line drawn through the eastern boundaries of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and the 100th Meridian where it passes through Texas, or that have had contact with or shared common ground with animals which have resided at any time east of such line, shall not be imported into the state of Washington unless specifically authorized in writing by the director of the department of agriculture and the department of fish and wildlife;

(c) No specimens affected with any infectious or communicable disease shall be imported into the state unless in compliance with all applicable laws and regulations and unless written permission is obtained from the directors of the department of agriculture and the department of fish and wildlife;

(d) The specimens are confined to a secure facility; and

(e) Reindeer may not be imported into, held, or possessed in Ferry, Stevens, or Pend Oreille counties or that portion of Spokane County north of Spokane River.

(8) Escaped animals:

(a) Escaped deleterious exotic wildlife, including Fallow deer (*Dama dama*) and reindeer (all members of the genus *Rangifer*, except *Rangifer tarandus caribou*) will be considered a public nuisance. The department or any peace officer may seize, capture, or destroy deleterious exotic wildlife that have escaped the possessor's control. The former possessor shall be responsible for costs incurred by the department in recovering, maintaining, or disposing of such animals, as well as any damage to the state's wildlife or habitat.

(b) Escapes of deleterious exotic wildlife must be reported immediately to the department.

(c) The recapture or death of escaped deleterious exotic wildlife must be reported immediately to the department.

(9) Secure facility:

(a) All deleterious exotic wildlife will be held in a secure facility. For the purpose of this section, a secure facility is an enclosure so constructed as to prevent danger to the environment or wildlife of the state, including escape of deleterious exotic wildlife specimens or ingress of resident wildlife ungulates (hoofed animals). The adequacy of the facility shall be determined by the director or agents of the director.

(b) For deleterious exotic wildlife listed in subsection (1)(b)(iv) and (v) of this section, the "secure facility" must comply with the fencing requirements in subsection (10) of this section, unless otherwise authorized by the director in writing.

(10) Fencing requirements:

(a) Perimeter fences must be, at a minimum, eight feet above ground level for their entire length. The bottom six feet must be mesh of sufficient size to prevent resident wildlife ungulates (hoofed animals) from entering and deleterious exotic wildlife from escaping. Supplemental wire required to attain a height of eight feet may be smooth, barbed, or woven wire (at least twelve and one-half gauge) with strands spaced not more than six inches apart.

(b) Perimeter fences constructed of high tensile wire must be supported by a post or stay at minimum intervals of eight feet.

(c) Perimeter fences must be at least twelve and one-half gauge woven wire, fourteen and one-half gauge high-tensile woven wire, chain link, nonclimbable woven fence, or other fence approved by the director.

If the wire used is not a full eight feet in height, it must be overlapped one row and securely fastened at every other vertical row or woven together with cable.

(d) Electric fencing materials may be used on perimeter fences only as a supplement to conventional fencing materials.

(e) All gates in the perimeter fences must be self-closing, equipped with two locking devices, and installed only in locations that have been approved by the director. Double gates may be required at points in the perimeter fences subject to frequent vehicle traffic that is not related to activities involving the holding of deleterious exotic wildlife.

(f) Posts used in the perimeter fences must be:

(i) Wood (pressure treated), five-inch minimum diameter or an equivalent as approved by the director;

(ii) Spaced no more than twenty-four feet apart with stays or supports at eight foot intervals between the posts;

(iii) Extended at least eight feet above ground level; and

(iv) Have corners braced with wood or with an equivalent material as approved by the director.

(g) Fences must be maintained at all times to prevent deleterious exotic wildlife from escaping or resident wildlife ungulates (hoofed animals) from entering the enclosure. If such animals do pass through, under, or over the fence because of any topographic feature or other conditions, the person possessing deleterious exotic wildlife must immediately supplement the fence to prevent continued passage.

(h) For any fence existing prior to February 13, 1993, a person may petition the director in writing for a variance from the above fencing requirements. Any such petition must be filed no later than May 31, 1993, and must identify all aspects in which the existing fence does not meet the fencing requirements contained herein. On approval of the director, such person may maintain such existing fence with normal repair. However, any extension or relocation of existing fence must meet the fencing requirements contained herein.

(11) Marking requirements:

(a) All live specimens of deleterious exotic wildlife, except those listed in subsection (1)(a) and (b) of this section,

shall be permanently and individually identified by methods approved by the director.

(b) Identification assigned to an individual animal may not be transferred to any other animal.

(c) All specimens of deleterious exotic wildlife identified in subsection (1)(b)(iv) and (v) of this section must be individually identified by the methods specified below:

(i) All live specimens of such deleterious exotic wildlife shall be marked with USDA official ear tags or with ear tags supplied or approved by the department. Tags shall be applied in sequential order; and

(ii) All live specimens of such deleterious exotic wildlife shall be marked with a tattoo with an identifying number that has been recorded with the director. The tattoo must be placed on the left ear of the animal.

(d) All lawful progeny of deleterious exotic wildlife must be tagged and tattooed by December 31st of the year of birth or upon leaving the holding facility, whichever is earlier.

(e) Where allowed, if an animal is sold or transferred within the state, the tag and tattoo must accompany the animal. The new owner or possessor shall not renumber the animal.

(f) Where allowed, live specimens of deleterious exotic wildlife shall be marked prior to importation.

(g) No unmarked deleterious exotic wildlife may be sold or otherwise transferred from the holding facility.

(12) Testing of specimens:

(a) Where allowed, prior to entry into the state of Washington, a person importing any member of the genus *Cervus*, which is identified in subsection (1)(b)(v) of this section, must submit records of genetic tests conducted by a professionally recognized laboratory to identify red deer genetic influence (genetic material from any member of any subspecies, race, or species of the elk-red deer-wapiti complex *Cervus elaphus* not indigenous to the state of Washington). Such testing shall be at the possessor's expense. Animals that are deemed by department of wildlife biologists upon examination to exhibit either: Behavioral (vocalization), morphological (size, rump patch, color), or biochemical indications of such influence (hemoglobin, superoxide dismutase, transferrin and post-transferrin, or others to be developed) may not be imported.

(b) The director may require a person currently possessing any member of the genus *Cervus* that are identified in subsection (1)(b)(v) of this section to submit records of genetic tests conducted by a professionally recognized laboratory to identify red deer genetic influence (genetic material from any member of any subspecies, race, or species of the elk-red deer-wapiti complex *Cervus elaphus* not indigenous to the state of Washington) for each individual cervid to the department. Such testing shall be at the possessor's expense. The director may require that any animal identified as a red deer or having nonindigenous genetic influence be destroyed, removed from the state, or neutered.

(c) The director may require that all specimens of deleterious exotic wildlife lawfully in captivity be tested for brucellosis (*brucellaabortus*), tuberculosis (*mycobacterium bovis* and *mycobacterium tuberculosis*), meningeal worm (*Paralophostrongylus tenuis*), and muscle worm (*Elaphostrongylus*

*cervis*) in accordance with the procedures specified in department of agriculture per WAC 16-54-180 as now or hereafter amended and/or for other disease or parasites determined to pose a risk to wildlife. The results of such tests shall be filed with the director as required.

(13) Reporting:

(a) A person holding deleterious exotic wildlife in captivity shall submit a completed report no later than March 30, 1993, and then no later than January 31st of each year, or as otherwise required by the director, on a form provided by the department.

(b) Persons possessing deleterious exotic wildlife must notify the director within ten days of any change of such persons' address and/or location of the holding facility.

(14) Inspection:

(a) All holding facilities for deleterious exotic wildlife located in the state are subject to inspection for compliance with the provisions of this section.

(b) Such inspections shall be conducted at reasonable times.

(15) Notification and disposition of diseased animals:

(a) Any person who has reason to believe that deleterious exotic wildlife being held pursuant to this section have or have been exposed to a dangerous or communicable disease or parasite shall notify the department immediately.

(b) Upon having reason to believe that deleterious exotic wildlife held pursuant to this section have been exposed to or contracted a dangerous or contagious disease or parasite, the director may order inspection of such animals by a licensed, accredited veterinarian or inspection agent. Inspection shall be at the expense of the possessor.

(c) The director shall determine when destruction of animals, quarantine, or disinfection is required at any facility holding deleterious exotic wildlife, pursuant to this section. If the director determines that destruction, quarantine, or disinfection is required, a written order shall be issued to the possessor describing the procedure to be followed and the time period for carrying out such actions. Such activities shall be at the expense of the possessor.

(16) Quarantine area:

(a) Any facility holding deleterious exotic wildlife must have an approved quarantine facility within its exterior boundary or submit an action plan to the director that guarantees access to an approved quarantine facility within the state of Washington:

(i) An approved quarantine facility is one that meets criteria set by the Washington state department of agriculture;

(ii) The quarantine area must meet the tests of isolation, separate feed and water, escape security, and allowances for the humane holding and care of its occupants for extended periods of time.

(b) Should the imposition of a quarantine become necessary, the possessor must provide an on-site quarantine facility or make arrangements at such possessor's expense to transport the animals to the approved quarantine facility named in the quarantine action plan.

(17) Seizure:

(a) The department of wildlife may seize any unlawfully possessed deleterious exotic wildlife.

(b) The cost of any seizure and/or holding of deleterious exotic wildlife may be charged to the possessor of such animals.

**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 18-15-035**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 18-157—Filed July 12, 2018, 12:15 p.m., effective July 16, 2018, 12:01 a.m.]

Effective Date of Rule: July 16, 2018, 12:01 a.m.

Purpose: Amend recreational salmon fishing regulations for the Columbia, Wenatchee, Chelan, Okanogan, and Similkameen rivers.

Citation of Rules Affected by this Order: Repealing WAC 220-312-06000N; and amending WAC 220-312-050 and 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 necessary because the summer Chinook run was downsized to a total of forty-four thousand, which is thirty-five percent below the preseason forecast. This reduction in the Chinook run decreased the allowable catch in recreational fisheries above Priest Rapids Dam. Anglers are expected to catch their allocation by July 15, 2018. There is insufficient time to promulgate permanent rules.

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

Number of Sections Adopted at 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: July 12, 2018.

Joe Stohr  
Director

NEW SECTION

**WAC 220-312-06000P 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 12:01 AM July 16 through October 15, 2018:

(a) From the Megler-Astoria Bridge upstream to HWY 395 Bridge at Pasco:

(i) Salmon and Steelhead, immediately through July 31, 2018:

(A) Daily limit 6, no more than 2 adult salmon or hatchery steelhead or 1 of each may be retained.

(B) Release all salmon other than hatchery jack Chinook and sockeye.

(C) Salmon minimum length is 12 inches.

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

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

(A) Daily limit 6, no more than 2 adults may be retained.

(B) Release all salmon other than hatchery jack Chinook and sockeye.

(C) Salmon minimum length is 12 inches.

(c) Priest Rapids Dam to Rock Island Dam:

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

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

(B) Release adult Chinook and coho.

(C) Salmon minimum length is 12 inches.

(d) Rock Island Dam to Wells Dam:

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

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

(B) Release adult Chinook and coho.

(C) Salmon minimum length is 12 inches.

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

(i) Salmon, effective immediately through August 31, 2018:

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

(B) Release adult Chinook and coho.

(C) Salmon minimum length is 12 inches.

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

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

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

(B) Release adult Chinook and coho.

(C) Salmon minimum length is 12 inches.

NEW SECTION

**WAC 220-312-05000P Freshwater exceptions to statewide rules—Eastside.** Notwithstanding the provisions of WAC 220-312-050, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect. Effective 12:01 AM July 16 through October 15, 2018:



(1) Chelan River (Chelan Co.): from railroad bridge upstream to Chelan P.U.D. safety barrier below the powerhouse:

(a) Salmon, effective immediately through October 31, 2018:

- (i) Daily limit 6.
- (ii) Release adult Chinook, coho, and sockeye.
- (iii) Salmon minimum length is 12 inches.

(2) Okanogan River (Okanogan Co.):

(a) From mouth upstream to Hwy. 97 Bridge immediately upstream of mouth:

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

- (A) Daily limit 6.
- (B) Release adult Chinook, coho, and sockeye.
- (C) Salmon minimum length is 12 inches.

(b) From Hwy. 97 Bridge immediately upstream of mouth to the second Hwy. 97 Bridge in Oroville:

(i) Salmon, effective immediately through September 15, 2018:

- (A) Daily limit 6.
- (B) Release adult Chinook, coho, and sockeye.
- (C) Salmon minimum length is 12 inches.

(3) Similkameen River (Okanogan Co.): from mouth upstream to 400 feet below Enloe Dam:

(a) Salmon, effective immediately through September 15, 2018:

- (i) Daily limit 6.
- (ii) Release adult Chinook, coho, and sockeye.
- (iii) Salmon minimum length is 12 inches.

(4) Wenatchee River (Chelan Co.): from mouth to Icicle Road Bridge:

(a) Salmon, effective August 1 through September 30, 2018:

- (i) Daily limit 6.
- (ii) Release adult Chinook, coho, and sockeye.
- (iii) Salmon minimum length is 12 inches.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 AM July 16, 2018:

WAC 220-312-06000N Freshwater exceptions to statewide rules—Columbia River. (18-154)

**WSR 18-15-039**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 18-159—Filed July 12, 2018, 3:33 p.m., effective July 14, 2018, 12:01 a.m.]

Effective Date of Rule: July 14, 2018, 12:01 a.m.

Purpose: Amend recreational salmon fishing rules for Marine Area 4.

Citation of Rules Affected by this Order: Repealing WAC 220-313-07000F; and amending WAC 220-313-070.

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 a 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 there is limited coho quota remaining in Catch Area 4 for the recreational fishery, but sufficient Chinook quota to allow retention of two Chinook per day. These rules are adopted at the recommendation of the Pacific Fisheries Management Council. 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: July 12, 2018.

Nate Pamplin  
for Joe Stohr  
Director

#### NEW SECTION

**WAC 220-313-07000G Coastal salmon—Saltwater seasons and daily limits.** Notwithstanding the provisions of WAC 220-313-070, effective immediately until further notice, it is unlawful to violate the provisions below. Unless otherwise amended, all permanent rules remain in effect:

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

(a) Immediately through September 3:

(i) Daily limit of 2 salmon; no more than one may be a Chinook.

(ii) Release wild coho.

(b) September 4 until further notice: Closed.

(c) Closed in the Columbia River Mouth Control Zone 1 during all open periods. See WAC 220-56-195.

(2) **Catch Record Card Area 2:**

(a) Immediately through September 3:

(i) Open Sundays through Thursdays, closed Fridays and Saturdays

(ii) Daily limit of 2 salmon; no more than one may be a Chinook.

(iii) Release wild coho.

(iv) Beginning August 13, the Grays Harbor Control Zone is closed. Grays Harbor Control Zone - The area

defined by a line drawn from the Westport Lighthouse (46°53.18'N latitude, 124°07.01'W longitude) to Buoy #2 (46°52.42'N latitude, 124°12.42'W longitude) to Buoy #3 (46°55.00'N latitude, 124°14.48'W longitude) to the Grays Harbor north jetty (46°55.36'N latitude, 124°10.51'W longitude).

(b) September 4 until further notice - Closed.

**(3) Willapa Bay (Catch Record Card Area 2-1):**

(a) Immediately through July 31: Open concurrent with Area 2 when Area 2 is open for salmon angling. Area 2 rules apply.

(b) August 1 until further notice:

(i) Daily limit of 6 salmon; no more than 3 may be adult salmon of which only 1 may be a coho.

(ii) Release wild Chinook.

(iii) Beginning August 1, the Willapa Bay Control Zone is closed. The Willapa Bay Control Zone area is defined as waters east of a line drawn from Leadbetter Point (46°39.20'N, 124°3.516'W) due west to 46°39.20'N, 124°5.3'W then due north to the westerly most landfall on Cape Shoalwater (46°44.66'N, 124°5.3'W) and west of a line drawn from Leadbetter Point (46°39.20'N, 124°3.516'W) through green marker 11 to landfall.

(iv) Anglers may fish with two poles August 1, 2018 through January 31, 2019, provided they possess a valid two-pole endorsement.

(v) Waters north of a line from Toke Point channel marker 3 easterly through Willapa Harbor channel marker 13 (green) then, northeasterly to the power transmission pole located at 46°43.19'N, 123°50.83'W are closed August 1 through September 30.

**(4) Grays Harbor (Catch Record Card Area 2-2 east of the Buoy 13 line):**

(a) Immediately through July 31: Closed.

(b) August 1 until further notice:

(i) Daily limit of 2 salmon.

(ii) Release wild coho.

(iii) Waters south of a line running from the south end of the eastern jetty at Ocean Shores Marina to the fishing boundary marker on Sand Island (46°57.52'N, 124°03.36'W) to the Tripod Station on Brackenridge Bluff (46°59.12'N, 124°00.72'W) are closed.

(c) The Westport Boat Basin and Ocean Shores Boat Basin are open August 16 until further notice.

(i) Daily limit of 6 salmon; no more than 4 may be adult salmon.

(ii) Release Chinook.

(iii) Night closure and anti-snagging rule in effect.

**(5) Grays Harbor (Catch Record Card Area 2-2 west of the Buoy 13 line):**

(a) Immediately through August 12: Open concurrent with Area 2 when Area 2 is open for salmon angling. Area 2 rules apply.

(b) August 13 until further notice: Closed.

**(6) Catch Record Card Area 3:**

(a) Immediately through September 3:

(i) Daily limit of 2 salmon.

(ii) Release wild coho.

(c) September 4 until further notice: Closed.

**(7) Catch Record Card Area 4:**

(a) Immediately through September 3:

(ii) Daily limit of 2 salmon.

(iv) Release wild coho.

(v) Waters east of a true north-south line through Sail Rock are closed.

(vi) No chinook retention in waters east of the Bonilla-Tatoosh line beginning August 1.

(vii) Release chum salmon beginning August 1.

(c) September 4 until further notice: Closed.

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

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 12:01 AM July 14, 2018:

WAC 220-313-07000F Coastal salmon—Saltwater seasons and daily limits. (18-125)

**WSR 18-15-049**

**EMERGENCY RULES**

**DEPARTMENT OF**

**FISH AND WILDLIFE**

[Order 18-160—Filed July 13, 2018, 2:38 p.m., effective July 13, 2018, 2:38 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational salmon fishing rules for Marine Area 11.

Citation of Rules Affected by this Order: Amending WAC 220-313-060.

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 preliminary estimates indicate that under the current daily catch rates, the harvest quota will be exceeded prior to the September 30 season closure. The salmon fishery is being partly closed to control impacts on stocks of concern and ensure compliance with conservation objectives. 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: July 13, 2018.

Joe Stohr  
Director

#### NEW SECTION

**WAC 220-313-06000R Puget Sound salmon—Salt-water seasons and daily limits.** Notwithstanding the provisions of WAC 220-313-060, the following rules apply:

Catch Record Card Area 11: Anglers may not fish for or retain salmon from a vessel Tuesdays through Thursdays each week.

**WSR 18-15-050**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 18-158—Filed July 13, 2018, 2:58 p.m., effective July 13, 2018, 2:58 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Closes Elwah River and tributaries to all fishing.

Citation of Rules Affected by this Order: Amending WAC 220-312-020.

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

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

Reasons for this Finding: This rule is necessary to close the Elwah River and its tributaries, which were intended to remain closed as part of the fishing moratorium that is currently in effect on the Elwha mainstem and all tributaries to help facilitate the recolonization of the Elwha River system following removal of two dams. 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: July 13, 2018.

Joe Stohr  
Director

#### NEW SECTION

**WAC 220-312-02000D Freshwater exceptions to statewide rules—Coastal.** Notwithstanding the provisions of WAC 220-312-020, effective immediately through October 31, 2018:

Elwah River (Clallam/Jefferson Co.) and tributaries outside of Olympic National Park: Closed waters.

**WSR 18-15-078**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 18-165—Filed July 17, 2018, 3:18 p.m., effective July 17, 2018, 3:18 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial salmon beach seine eligibility rules for Puget Sound.

Citation of Rules Affected by this Order: Amending WAC 220-354-200.

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 allow for additional permits in 2018 due to increased available harvest as agreed to with comanagers through North of Falcon proceedings. 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: July 17, 2018.

Jeff Davis  
for Joe Stohr  
Director

NEW SECTION

**WAC 220-354-20000B Puget Sound—Beach seine—Emerging commercial fishery—Eligibility—Lawful gear.** Notwithstanding the provisions of WAC 220-354-200, effective immediately until further notice the following rules apply. Unless otherwise amended, all permanent rules remain in effect:

The department will issue 6 salmon beach seine experimental fishery permits.