

WSR 06-20-003
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-246—Filed September 21, 2006, 3:43 p.m., effective September 21, 2006]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-40-02700G; and amending WAC 220-40-027.

Statutory Authority for Adoption: RCW 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 regulation is necessary because an agreement was not reached during the expedited rule process at North of Falcon. Negotiations have continued and now we need to adopt our nontreaty commercial fishery regulations for the upcoming fall season. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 21, 2006.

J. P. Koenings
 Director

NEW SECTION

WAC 220-40-02700H Salmon—Willapa Bay fall fishery. Notwithstanding the provisions of WAC 220-40-027, effective immediately through December 31, 2006, it is unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon taken from those waters for commercial purposes, except that:

Fishing periods

(1) Gill net gear may be used to fish for salmon and sturgeon. All non-legal sturgeon and steelhead must be handled with care to minimize injury to fish and released immediately to the river/bay:

Time	Area
6:00 p.m. September 17 through 6:00 p.m. September 23, 2006	Area 2G east of a line drawn true south from the most waterward exposed end of the rock jetty located near Washaway Beach, Area 2H west of Willapa Channel Marker 40, Area 2J north of a true east-west line drawn through the North Entrance Marker to the Nahcotta Boat Basin (RF #2), and Area 2M.
6:00 p.m. September 21, 2006, through 6:00 p.m. September 22, 2006, 6:00 p.m. September 27, 2006, through 6:00 p.m. September 28, 2006	Area 2K.
6:00 p.m. September 23, 2006, through 6:00 p.m. September 28, 2006	Area 2G east of a line drawn true south from the most waterward exposed end of the rock jetty located near Washaway Beach, Area 2H, Area 2J north of a true east-west line drawn through the North Entrance Marker to the Nahcotta Boat Basin (RF #2), and Area 2M.
6:00 p.m. October 1, 2006 through 6:00 p.m. October 7, 2006	Area 2G east of a line drawn true south from the most waterward exposed end of the rock jetty located near Washaway Beach, Area 2H, Area 2J north of a true east-west line drawn through the North Entrance Marker to the Nahcotta Boat Basin (RF #2), and Area 2M.
6:00 a.m. October 22, 2006, through 6:00 p.m. October 22, 2006	Area 2G west of a line drawn true north-south through Willapa Channel Marker 10 and east of a line projected true south from the most waterward exposed end of the rock jetty located near Washaway Beach but excluding the area southerly and easterly of a line from Island Sands Light to Ramsey Point, Area 2J north of a true east-west line drawn through the North Entrance Marker to the Nahcotta Boat Basin (RF #2), and Area 2M.

Time	Area
6:00 p.m. November 15, 2006, through 6:00 p.m. November 17, 2006	Area 2G east of a line drawn true south from the most waterward exposed end of the rock jetty located near Washaway Beach, Area 2H west of Willapa Channel Marker 40, Area 2J north of a true east-west line drawn through the North Entrance Marker to the Nahcotta Boat Basin (RF #2), and Area 2M.
Noon, November 6, 2006, through 6:00 p.m. November 15, 2006 and 6:00 p.m. November 17, 2006 through Noon November 30, 2006	Areas 2G, 2H, 2J and 2M

(2) The Tokeland Boat basin is closed to commercial fishing during the openings in SMCRA 2G described in this section. The Tokeland Boat basin means that portion of SMCRA 2G bounded on the south by the shoreline of the boat basin, on the west by the seawall and on the north and east by a line from the Tokeland Channel Marker "3" (flashing green, 4-second) to Tokeland Channel Marker "4" to the tip of the seawall.

Gear

(3) Gill net gear restrictions - All areas:

(a) Drift gill net gear only. It is unlawful to use set net gear.

(b) September 1 through October 7, 2006 - 6-inch maximum mesh, no more than 55 meshes deep. Net must hang straight from top to bottom. Strings may only be used to secure breakaway panels.

(c) October 8 through October 31, 2006 - 6 1/2 inch maximum mesh.

(d) November 1 through November 30, 2006 - 9-inch minimum mesh except 6:00 p.m. November 15 through 6:00 p.m. November 17, 2006 (coho directed) use 6-inch maximum mesh, no more than 55 meshes deep. Net must hang straight from top to bottom. Strings may only be used to secure breakaway panels

Other

(4) Quick Reporting required for wholesale dealers and fishers retailing their fish (WAC 220-69-240) by 10:00 a.m. the day following landing.

(5) The NOAA Fisheries listed the southern population of green sturgeon as threatened under the Endangered Species Act effective July 6, 2006. Most of the green sturgeon taken in Washington fisheries are from the southern population. Therefore, **the retention of green sturgeon is prohibited to protect this federally listed stock**

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-40-02700G Willapa Bay salmon—Fall fishery. (06-226)

**WSR 06-20-014
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 06-247—Filed September 22, 2006, 2:39 p.m., effective September 22, 2006]

Effective Date of Rule: Immediately.

Purpose: Amend hunting rules.

Citation of Existing Rules Affected by this Order: Amending WAC 232-12-243.

Statutory Authority for Adoption: RCW 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 extend the public safety cougar removal application date from October 1, 2006, until October 15, 2006. GMU's and permits levels for the public safety cougar removal in eastern Washington were delayed for additional reporting of public safety situations and that information was reviewed to include a new permit area in Region 3. The deadline for the application is insufficient to plan and finish the licensing requirements as provided for in WAC 232-12-243. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: September 22, 2006.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 232-12-24300C Public safety cougar removals—Application date extension. Notwithstanding the provisions of WAC 232-12-243, applications for public safety cougar removal for 2006-2007 will be accepted if received or postmarked no later than October 15, 2006.

WSR 06-20-015
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-248—Filed September 22, 2006, 2:40 p.m., effective September 25, 2006, 12:01 a.m.]

Effective Date of Rule: September 25, 2006, 12:01 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-47-50100Y; and amending WAC 220-47-501.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: This regulation names the boat to participate in a limited participation purse seine fishery in Area 8A. This fishery was agreed to preseason calling for two purse seine vessels to fish in Area 8A for one day during the weeks starting September 24 and October 1. Fishers apply for a drawing and are offered a chance to participate based on the order drawn. This year fourteen entries were made but only one fisher wanted to participate. Consequently, this fisher will be allowed to fish both weeks. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: September 22, 2006.

J. P. Koenings
 Director
 by Larry Peck

NEW SECTION

WAC 220-47-50100Y Puget Sound all-citizen commercial salmon fishery. Notwithstanding the provisions of WAC 220-47-311 effective 12:01 a.m. September 25, 2006, until further notice, it is unlawful to take, fish for or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Area 8A except in accordance with the open periods, mesh size, areas, species restrictions, notification, and landing requirements set forth in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas 8A:

Purse Seines - (a) Open only to the purse seine vessel POLARLAND from 7:00 a.m. to 7:00 p.m. September 25 and October 2, 2006.

Prior to October 1, 2006, Area 8A waters south of a line from the Mukilteo ferry dock to the ferry dock at Clinton are closed to commercial fishing. It is unlawful to retain chinook salmon, and any chinook salmon caught with purse seine gear must be released immediately.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. October 3, 2006:

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

WSR 06-20-016
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-249—Filed September 22, 2006, 2:42 p.m., effective September 25, 2006, 7:00 a.m.]

Effective Date of Rule: September 25, 2006, 7:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000W; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Sets one sturgeon target period and one coho target period. Impacts to ESA-listed stocks in these fisheries are covered under the biological opinion for the interim management agreement. Harvestable salmon and sturgeon are available. The season is consistent with the 2005-2007 interim management agreement and the 2006 non-Indian allocation agreement. Regulation is consistent with compact action of September 22, 2006. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: September 22, 2006.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-33-0100X Columbia River season below Bonneville. Notwithstanding the provisions of WAC 220-33-010, and 220-33-020, it is unlawful for a person to take or possess salmon or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E, except as provided in the following subsections.

1. Mainstem Columbia River

a. OPEN AREA: SMCRA 1A, 1B, 1C, 1D, 1E

b. SEASON: 7:00 a.m. to 7:00 p.m. Monday September 25, 2006

c. GEAR: 9-inch minimum mesh size. Drift gillnets only. Monofilament gear is allowed.

d. SANCTUARIES: Elokomin-B, Abernathy, Cowlitz, Kalama-B, Lewis-B, Sandy and Washougal.

2. Mainstem Columbia River

a. OPEN AREA: SMCRA 1A, 1B, 1C

b. SEASON: 7:00 a.m. to 7:00 p.m. Wednesday September 27, 2006

c. GEAR: 6-inch maximum mesh size, unslackened floater gillnet. Drift gillnets only. Monofilament gear is allowed.

d. SANCTUARIES: Elokomin-B, Abernathy, Cowlitz, Kalama-B, Lewis-B.

3. Mainstem Columbia River

a. OPEN AREA: SMCRA 1D, 1E

b. SEASON: 9:00 p.m. Wednesday September 27 to 2:00 a.m. Thursday September 28, 2006

c. GEAR: 8-inch minimum mesh size. Drift gillnets only. Monofilament gear is allowed.

d. SANCTUARIES: Lewis-B, Sandy and Washougal.

4. Blind Slough/Knappa Slough Select Area.

a. OPEN AREA: Blind Slough fishing area includes all waters from markers at the mouth of Gnat Creek located approximately 0.5 mile upstream of the county road bridge downstream to markers at the mouth of Blind Slough. Concurrent waters extend downstream of the railroad bridge.

Knappa Slough fishing area includes all waters bounded by a line from the north marker at the mouth of Blind Slough, westerly to a marker on Karlson Island, downstream to boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon shore. An area closure of about a 100-foot radius at the mouth of Big Creek defined by markers. All waters in Knappa Slough are under concurrent jurisdiction.

b. SEASON: Monday, Tuesday, Wednesday, and Thursday nights immediately through October 27, 2006. Open hours are 6:00 p.m. to 8:00 a.m.

c. GEAR: Gillnet. Monofilament gear is allowed. 6-inch maximum mesh size. Maximum net length of 100 fathoms. No weight restriction on lead line. Use of additional weights or anchors attached directly to the lead line is allowed.

5. Tongue Point/South Channel Select Area.

a. OPEN AREA: Tongue Point fishing area includes all waters bounded by a line from a marker midway between the red USCG navigation light #2 at the tip of Tongue Point and the downstream (northern most) pier (#8) at the Tongue Point Job Corps facility, to the flashing green USCG navigation light #3 on the rock jetty at the west end of Mott Island, a line from a marker at the southeast end of Mott Island northeasterly to a marker on the northwest tip of Lois Island, and a line from a marker on the southwest end of Lois Island westerly to a marker on the Oregon shore. All waters are under concurrent jurisdiction. South Channel area includes all waters bounded by a line from a marker on John Day Point through the green USCG buoy #7 to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to the flashing red USCG marker #10, northwesterly to a marker on Burnside Island defining the upstream terminus of South Channel. All waters are under concurrent jurisdiction.

b. SEASON: Monday, Tuesday, Wednesday, and Thursday nights immediately through October 27, 2006. Open hours are 4:00 p.m. to 8:00 a.m.

c. GEAR: Gillnet. Monofilament gear is allowed. 6-inch maximum mesh. In the Tongue Point area: Net length maximum of 250 fathoms, and weight not to exceed two pounds on any one fathom on the lead line. Participants in the Tongue Point fishery may have stored onboard their boats gill nets with leadline in excess of two pounds per any one fathom. In the South Channel area: Net length maximum of 100 fathoms, and no weight restriction on lead line. Use of additional weights or anchors attached directly to the lead line is allowed.

6. Deep River Select Area.

a. OPEN AREA: Deep River fishing area includes all waters downstream of the town of Deep River to the mouth defined by a line from USCG navigation marker #16 southwest to a marker on the Washington shore. Concurrent waters extend downstream of the Highway 4 bridge

b. SEASON: Monday Tuesday, Wednesday, and Thursday nights immediately through October 27, 2006. Open hours are 7:00 p.m. to 7:00 a.m. through September 22 and 4:00 p.m. to 8:00 a.m. thereafter.

c. GEAR: Monofilament gear is allowed. The mesh size is restricted to 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on the lead line.

Use of additional weights or anchors attached directly to the lead line is allowed. Nets may not be tied off to stationary structures. Nets may not fully cross the navigation channel.

7. ALLOWABLE SALES: Applies to all seasons stated in sections 1-6: Salmon and sturgeon. A maximum of eight white sturgeon may be possessed or sold by each vessel participating each calendar week (Sunday through Saturday). The possession and sales limit includes mainstem and Select Area fisheries. Green sturgeon retention is prohibited.

8. MISCELLANEOUS REGULATIONS: Applies to all seasons stated in sections 1-4: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

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 7:00 a.m. September 25, 2006:

WAC 220-33-01000W Columbia River season below Bonneville. (06-243)

WSR 06-20-044

EMERGENCY RULES

DEPARTMENT OF LICENSING

[Filed September 27, 2006, 8:31 a.m., effective September 27, 2006]

Effective Date of Rule: Immediately.

Purpose: Rule making is a result of subsections (3)(a) say [which says] a court order is required when the vehicle/vessel is no longer in the possession of the person claiming the lien. However, RCW 60.08.010 says the chattel lien is valid even if the chattel is returned to the owner. RCW 60.08.020 also says a person has ninety days from the date of delivery of the chattel to the owner to file the lien. A rule change is required to bring these rules into compliance with applicable laws.

Citation of Existing Rules Affected by this Order: Amending WAC 308-93-445 and 308-56A-310.

Statutory Authority for Adoption: RCW 88.02.070 and 88.02.100.

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: Correct an error with these two rules.

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

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

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

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

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

Date Adopted: September 24, 2006.

Liz Luce
Director

AMENDATORY SECTION (Amending WSR 06-17-145, filed 8/22/06, effective 9/22/06)

WAC 308-56A-310 Personal property lien—Chattel.

(1) **What is a chattel lien?** For the purposes of this section a chattel lien is a process by which a person may sell or take ownership of a vehicle when:

(a) They provide services or materials for a vehicle at the request of the registered owner; and

(b) The person who provided the services and/or materials has not been compensated.

(2) **What documents are required to obtain a certificate of ownership for a vehicle?** The required documents include:

(a) A completed affidavit of sale chattel lien form provided or approved by the department; and

(b) A certified copy of the lien filing that is filed with the county auditor; and

(c) A copy of the letter(s) sent by the lien applicant via first class mail, and certified or registered mail, to the registered and legal owners of record, including the return receipt; and

(d) ~~((A copy of the certified or registered mail, including the return receipt, to the address of the current registered and legal owners of the lien filing; and~~

~~((e)))~~ Affidavit of service by mail; and

~~((f)))~~ ~~(e)~~ Application for certificate of ownership; and

~~((g)))~~ ~~(f)~~ Other documents that may be required by law or rule.

(3) **When is a Washington court order required to issue a certificate of ownership as a result of a chattel lien?** A Washington court order is required when:

(a) ~~((The vehicle is no longer in the possession of the person claiming the chattel lien; or~~

~~((b)))~~ Someone other than the owner of record requested the services and/or materials; or

~~((c)))~~ ~~(b)~~ There is no record of the vehicle on file with the department~~((; or~~).

(4) **What laws regulate chattel liens?** Chapter 60.08 RCW regulates chattel liens.

AMENDATORY SECTION (Amending WSR 06-17-145, filed 8/22/06, effective 9/22/06)

WAC 308-93-445 Personal property lien—Chattel.

(1) **What is a chattel lien?** For the purposes of this chapter,

a chattel lien is a process by which a person may sell or take ownership of a vessel when:

(a) They provide services or materials for the vessel at the request of the registered owner; and

(b) The person who provided the services and/or materials has not been compensated.

(2) **What documents are required to issue a certificate of ownership for a vessel?** The required documents include:

(a) A completed affidavit of sale chattel lien form provided or approved by the department; and

(b) A certified copy of the lien filing that is filed with the county auditor; and

(c) A copy of the letter(s) sent by the lien applicant via first class mail, and certified or registered mail, to the registered and legal owners of record, including the return receipt; and

(d) ~~((A copy of the certified or registered mail, including the return receipt, to the address of the current registered and legal owner notifying the current registered and legal owner of the lien filing, and an))~~ Affidavit of service by mail; and

(e) Application for certificate of ownership; and

(f) Other documents that may be required by law or rule.

(3) **When is a Washington court order required to issue a certificate of ownership as a result of a chattel lien?** A court order is required when:

(a) ~~((The vessel is no longer in the possession of the person claiming the chattel lien; or~~

~~((b)))~~ Someone other than the owner of record requested the services and/or materials; or

~~((c)))~~ (b) There is no record of the vessel on file with the department.

(4) **What laws regulate chattel liens?** Chapters 60.08 and 60.10 RCW regulate chattel liens.

WSR 06-20-045

EMERGENCY RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed September 27, 2006, 9:22 a.m., effective September 27, 2006]

Effective Date of Rule: Immediately.

Purpose: Chapter 296-46B WAC, Electrical safety standards, administration, and installation, the purpose of this emergency rule is to extend the emergency rule that was filed on May 31, 2006. The emergency rules is [are] needed because department adopted provisions from the 2005 National Electrical Code (NEC) regarding coordinated systems for new and existing buildings or structures. It was recently brought to the department's attention that upgrading existing buildings to a coordinated system is placing a significant economic burden on building owners and businesses. Also, due to the increased regulatory requirements associated with the coordinated systems, facilities such as hospitals and schools will have to be placed out-of-service for extended periods of time. The emergency rules will not require existing buildings to install a coordinated system. The emergency rule will provide building owners and businesses financial relief from having to upgrade the existing emergency systems

without compromising public safety. The emergency adoption of these changes is necessary to address issues associated with general welfare and public safety.

Citation of Existing Rules Affected by this Order: Amending WAC 296-46B-700 Special conditions—Emergency systems.

Statutory Authority for Adoption: Chapter 19.28 RCW, Electricians and electrical installations.

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

Reasons for this Finding: The emergency adoption of these changes is necessary to address issues associated with general welfare and public safety. It would be detrimental [to] the general welfare and public safety if hospitals and schools has to be shut down while the upgrades are being made or if such public facilities could not open because the cost of the upgrades would be a significant economic burden.

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

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

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

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

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

Date Adopted: September 27, 2006.

Gary Weeks
Director

AMENDATORY SECTION (Amending WSR 05-10-024, filed 4/26/05, effective 6/30/05)

WAC 296-46B-700 ((Special conditions—))Emergency systems.

001 Emergency systems - general.

(1) In all health or personal care facilities defined in this chapter, educational facilities, institutional facilities, hotels, motels, and places of assembly for one hundred or more persons, all exit and emergency lights must be installed in accordance with Article 700 NEC and located as required in standards adopted by the state building code council under chapter 19.27 RCW.

009 Emergency systems - equipment identification.

(2) All exit and emergency lights, whether or not required by the NEC, must be installed in accordance with Article 700 NEC.

(3) All boxes and enclosures, for Article 700 NEC systems, larger than six inches by six inches, including transfer

switches, generators, and power panels for emergency systems and circuits must be permanently identified with an identification plate that is substantially orange in color. All other device and junction boxes for emergency systems and circuits must be substantially orange in color, both inside and outside.

027 Coordination.

(4) The requirements for selective coordination described in NEC 700.27 are not required in existing buildings or structures. For new buildings or structures that are supplied from an existing building, structure, or system, the portion of the emergency system not within the existing building or structure must comply with NEC 700.27. The ground fault sensing function of overcurrent protective devices will only be required to selectively coordinate with the ground fault sensing functions of other overcurrent protective devices.

NEW SECTION

WAC 296-46B-701 Legally required standby systems.

018 Coordination.

The requirements for selective coordination described in NEC 701.18 are not required in existing buildings or structures. For new buildings or structures that are supplied from an existing building, structure, or system, the portion of the legally required standby system not within the existing building or structure must comply with NEC 701.18. The ground fault sensing function of overcurrent protective devices will only be required to selectively coordinate with the ground fault sensing functions of other overcurrent protective devices.

WSR 06-20-047

EMERGENCY RULES

EVERETT COMMUNITY COLLEGE

[Filed September 27, 2006, 9:23 a.m., effective September 27, 2006]

Effective Date of Rule: Immediately.

Purpose: To allow the college president to grant permission for liquor or alcoholic beverages on college property or at off-campus college events.

Citation of Existing Rules Affected by this Order: Amending WAC 132E-120-220 and 132E-120-400.

Statutory Authority for Adoption: RCW 34.05.350.

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: For changes to be in effect during the beginning of the 2006 academic year.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: September 21, 2006.

Juli Boyington
Records Officer
Rules Coordinator

AMENDATORY SECTION (Amending WSR 00-17-015, filed 8/3/00, effective 9/3/00)

WAC 132E-120-220 Student conduct code—Violations. (1) As members of Everett Community College, students are expected to abide by all college rules and regulations. Students shall be subject to disciplinary action as provided for by this code who, either as a principal actor, aider, or accomplice interferes with the personal rights or privileges of others or the educational process of the college; violates the provisions as set forth in this chapter; or commits any of the offenses as defined in this section.

(2) No sanction or other disciplinary action shall be imposed on a student by or in the name of the college except in accordance with this chapter.

(3) Disciplinary actions and/or sanctions may be imposed on a student for the commission of any of the following offenses:

(a) Academic cheating or plagiarism.

(b) Furnishing false information to the college with the intent to deceive including the filing of a formal complaint that falsely accuses another student of violating the student conduct code or a college employee with violating college rules/procedures.

(c) Forgery, alteration, or misuse of college documents, records or identification cards.

(d) Physical abuse, assault, reckless endangerment, intimidation, or interference of another person in the college community on college owned or controlled property or at functions sponsored or supervised by the college or its student organizations/clubs.

(e) Vandalism of college property, theft or conversion of another's property on college owned or controlled property or at functions sponsored or supervised by the college or its student organizations or clubs.

(f) Lewd or indecent conduct occurring on college owned or controlled property or at functions sponsored or supervised by the college or its student organizations or clubs.

(g) ~~(Furnishing alcoholic beverages without authorization and proper licenses or illegal drugs on property owned or controlled by the college or at functions sponsored or supervised by the college or its student organizations/clubs.~~

~~(h) Possession or consumption of alcoholic beverages except at authorized and properly licensed functions while on property owned or controlled by the college or at functions sponsored or supervised by the college or its student organizations/clubs.~~

~~(i)) Possessing or consuming any form of liquor or alcoholic beverage on college property or at off-campus college events is prohibited except as a participant of legal age at a college sponsored program which has the special permission of the college president.~~

~~(h) Illegal possession, ((or)) illegal consumption, selling, or distributing, or being demonstrably under the influence of any narcotic or controlled substance ((identified as prohibited by federal law)) as defined by RCW 69.50.101 as now or hereafter amended on property owned or controlled by the college or at functions sponsored or supervised by the college ((or its student organizations/clubs)) except when the use or possession of a drug is specifically prescribed as medication by an authorized doctor or dentist. For the purpose of this rule, "sale" shall include the statutory meaning defined in RCW 69.50.410 as now or hereafter amended.~~

~~((j)) (i) Disorderly, or abusive ((or bothersome)) conduct, including conduct resulting from drunkenness or drug influence on college owned or controlled property or at functions sponsored or supervised by the college ((or its student organizations or clubs)). Disorderly or abusive behavior also includes interfering with the right of others or obstructing or disrupting teaching, research, or administrative functions.~~

~~((k)) (i) Gambling on property owned or controlled by the college or at functions sponsored or supervised by the college or its student organizations/clubs.~~

~~((h)) (k) Violation of any condition imposed by the vice-president for student services or his/her designee or recommended by the student conduct committee for an infraction of which sanctions may be imposed under this code.~~

~~((m)) (l) Refusal to provide positive identification (e.g., valid driver's license or state identification card) in appropriate circumstances to any college employee in the lawful discharge of said employee's duties.~~

~~((n)) (m) Entering any administrative or other employee office that is normally not accessible to the public or any locked or otherwise closed college facility in any manner, at any time, without permission of the college employee or agent in charge thereof.~~

~~((o)) (n) Smoking in or on any college facility except those areas which have been identified as designated smoking areas.~~

~~((p)) (o) Failure to comply with the following rules governing firearms and weapons on campus:~~

(i) Carrying, exhibiting, displaying, or drawing any weapon, such as a slung shot, sand club, metal knuckles, dagger, sword, or swing blade knife, or any knife of which is automatically released by a spring mechanism or other mechanical device, or any knife having a blade which opens, or falls, or is ejected into position by force of gravity, or by outward, downward, or centrifugal thrust or movement, or any other cutting or stabbing instrument or club or any other weapon apparently capable of inflicting bodily harm and/or property damage is prohibited.

(ii) Explosives, incendiary devices, or any weapon fac-simile are prohibited in or on college facilities.

(iii) Carrying firearms on college facilities is prohibited except and unless the firearm is registered with campus safety and security for a designated period of time that the firearm is carried on campus.

(iv) The regulations in ~~((p)) (o)~~ (i) through (iii) of this subsection shall not apply to equipment or material owned, used or maintained by the college: Nor will they apply to law enforcement officers.

AMENDATORY SECTION (Amending WSR 00-17-015, filed 8/3/00, effective 9/3/00)

WAC 132E-120-400 Drug-free campus policy. Everett Community College's board of trustees have adopted a policy for the maintenance of a drug-free campus. The provisions of this policy as it relates to students are as follows:

(1) Students who report to class or work must do so unimpaired due to the use of alcohol or other drugs.

(2) Unlawful use, possession, delivery, dispensation, distribution, manufacture or sale of drugs on college property, in state vehicles or on official business is strictly prohibited. Documented evidence of illegal drug involvement will be given to law enforcement agencies.

(3) Possession ~~((of alcohol is prohibited on college property and in state vehicles))~~ or consuming any form of liquor or alcoholic beverage on college property or at off-campus college events is prohibited except as a participant of legal age at a college sponsored program which has the special permission of the college president.

(4) Students found in violation of this policy will be subject to formal disciplinary action, which could include completion of an appropriate rehabilitation program up to and/or including dismissal/expulsion.

(5) Students needing assistance with problems related to alcohol or drug abuse are encouraged to seek referral from a counselor in the counseling, advising and career center and/or appropriate off campus substance abuse agencies.

(6) Students must report any criminal drug ~~((abuse or alcohol))~~ statute conviction to the vice-president for student services within five school days after such conviction.

(7) The college will report the conviction to the appropriate federal or state agency within ten working days after having received notice that a student employed under a federally funded grant or contract or receiving grant funds has any drug statute conviction occurring on campus.

(8) All students, regardless of status, shall comply with this policy regarding a drug-free campus.

WSR 06-20-050

EMERGENCY RULES

WASHINGTON STATE UNIVERSITY

[Filed September 27, 2006, 12:35 p.m., effective September 27, 2006]

Effective Date of Rule: Immediately.

Purpose: The rules are being changed to allow authorized Washington State University residence hall, custodial, maintenance, operations, police, fire, and administrative staff

to have access to residence halls at all times while performing university duties.

Citation of Existing Rules Affected by this Order: Amending WAC 504-24-020 Social policies and procedures and adding new section WAC 504-24-025 University staff access to residence halls.

Statutory Authority for Adoption: RCW 28B.30.150.

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

Reasons for this Finding: Current rules do not provide for staff access to residence halls.

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

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

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

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

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

Date Adopted: September 25, 2006.

Ralph T. Jenks, Director
Procedures, Records, and Forms
and University Rules Coordinator

Chapter 504-24 WAC

POLICIES AND REGULATIONS FOR STUDENT LIVING GROUPS

AMENDATORY SECTION (Amending Order 87-1, filed 5/26/87)

WAC 504-24-020 Social policies and procedures. (1) Security hours.

(a) Living groups are secured during the following hours: 11:00 p.m. - 6:30 a.m. daily.

(b) It is understood that a living group has the prerogative of maintaining additional security hours if decided by a vote of the living group. The living group's current security hours should be on file in the department of residence living.

(2) Guest rules.

(a) Guests must comply with the regulations of the living groups they are visiting.

(b) Keys or card keys will not be issued to guests.

(c) The host or hostess shall be responsible for the action(s) of guests.

(d) All guests must be escorted while in the building.

(e) Except for those persons authorized access by WAC 504-24-025, ((G)) guests are defined as anyone not residing in the residence hall.

(3) Visitation.

Each living group is permitted to develop its own visitation schedule for its main lounge and lobbies. No visitation on living floors is permitted between hours of 2:00 a.m. and 6:30 a.m.

NEW SECTION

WAC 504-24-025 University staff access to residence halls. University administrators or designees, officers, agents, or employees whose duties include working with residence hall residents or programs, performing custodial, maintenance, or operations of residence halls, or performing safety, emergency security, police, or fire protection services shall have access to residence halls at all times while in the performance of their assigned duties.

WSR 06-20-057

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 06-250—Filed September 29, 2006, 8:46 a.m., effective October 3, 2006, 6:00 a.m.]

Effective Date of Rule: October 3, 2006, 6:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100D; and amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Sets the seventh week of fishing for the 2006 fall treaty Indian commercial fishery. Continues to allow the sale of fish caught in platform and hook and line fishery in Zone 6. Also allows the sale of fish caught in Yakama Nation tributary fisheries to be sold when those tributaries are open under Yakama Nation rules, and allows sales of fish caught in the Drano Lake fishery, which begins October 3. Impacts to listed Snake River wild chinook are projected to be 22% through the end of this period, compared to the ESA guideline of 23.04%. Harvestable numbers of salmon and steelhead are available under the ESA guideline. The fishery catches are expected to remain within the allocation and guidelines of the 2005-2007 management agreement. Rule is consistent with action of the Columbia River compact on September 27, 2006. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

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

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

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

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

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

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

Date Adopted: September 28, 2006.

J. P. Koenings
Director

NEW SECTION

WAC 220-32-05100E Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052, WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, steelhead, walleye, shad, carp, or sturgeon taken for commercial purposes in Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, and Drano Lake, White Salmon River and Klickitat River, except those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, steelhead, walleye, shad, carp, or sturgeon under the following provisions, pursuant to lawfully enacted tribal rules:

1) **Open Periods:** 6:00 a.m. October 3 to 6:00 p.m. October 6, 2006

a) Open Areas: SMCRA 1F, 1G, 1H,

b) Gear: Gill Nets. 8-inch minimum mesh restriction.

c) Sanctuaries: All standard dam and river mouth sanctuaries are in effect.

d) Allowable sale: salmon, steelhead, walleye, shad, carp. Sockeye may be retained but not sold. Sturgeon may not be sold, but may be retained for subsistence purposes. Legal size limits for sturgeon retention are between 45 inches and 60 inches in the Bonneville Pool (SMCRA 1F) and between 48 inches and 60 inches in The Dalles and John Day pools (SMCRA 1G, 1H).

2. **Open Periods:** Effective immediately until further notice.

a) Open Areas: Those areas of SMCRA 1F, 1G, 1H, that are described in WAC 220-32-055 (2)(a).

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

c) Allowable sale: salmon, steelhead, walleye, shad, carp. Sockeye may be retained but not sold. Sturgeon may not be sold, but may be retained for subsistence purposes. Legal size limits for sturgeon retention are between 45 inches and 60 inches in the Bonneville Pool (SMCRA 1F) and between 48 inches and 60 inches in The Dalles and John Day pools (SMCRA 1G, 1H).

3. **Open Periods:** Immediately until further notice and only during those days and hours when those tributaries are open under lawfully enacted Yakama Nation tribal subsistence fisheries, for enrolled Yakama Nation members.

a) Open Areas: White Salmon and Klickitat rivers and Drano Lake.

b) Gear: hoop nets, dip bag nets, and rod and reel with hook and line. Gillnets in Drano Lake only

c) Allowable sale: salmon, steelhead, walleye, shad, carp. Sockeye may be retained but not sold. Sturgeon may not be sold, but may be retained for subsistence purposes. Legal size limits for sturgeon retention are between 45 inches and 60 inches in the Bonneville Pool (SMCRA 1F) and between 48 inches and 60 inches in The Dalles and John Day pools (SMCRA 1G, 1H). Fish taken in the Klickitat and White Salmon rivers, and Drano Lake may be sold when those rivers are open pursuant to lawfully enacted tribal rules.

4. **OTHER:** Yakama tribal members must have a permit issued by the Yakama Nation to fish in Drano Lake. Fisheries in Drano Lake will likely occur from Tuesday nights at 9:00 p.m. until Wednesdays at noon.

Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

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

REPEALER

The following section of the Washington Administration Code is repealed effective 6:00 a.m. October 3, 2006:

WAC 220-32-05100D	Columbia River salmon seasons above Bonneville Dam. (06-242)
-------------------	--------------------------------------------------------------

WSR 06-20-058 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 06-251—Filed September 29, 2006, 8:46 a.m., effective September 29, 2006]

Effective Date of Rule: Immediately.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-62000H and 232-28-62000I; and amending WAC 232-28-620.

Statutory Authority for Adoption: RCW 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: More recreational fishing opportunity can be provided in Marine Areas 1 and 3 while staying within quotas for chinook and coho. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: September 28, 2006.

J. P. Koenings
Director

NEW SECTION

WAC 232-28-62000I Coastal salmon seasons. Notwithstanding the provisions of WAC 232-28-620, effective immediately until further notice, it is unlawful to fish for salmon in coastal waters except as provided in this section, provided that unless otherwise amended all permanent rules remain in effect:

(1) **Area 1** - Effective August 11 through September 30, 2006, open seven days per week, daily limit 2 salmon, except release wild coho.

(2) **Area 3** - Those waters north of 47°50'00"N. latitude and south of 48°00'00"N. latitude, effective immediately through October 8, 2006, open seven days per week, daily limit 2 salmon, except release wild coho.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-62000H Coastal salmon seasons. (06-242)

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. October 9, 2006:

WAC 232-28-62000I Coastal salmon seasons.

WSR 06-20-065

EMERGENCY RULES

SECRETARY OF STATE

[Filed September 29, 2006, 12:22 p.m., effective September 29, 2006]

Effective Date of Rule: Immediately.

Purpose: To protect the constitutional right of privacy to an elector's vote while conducting the audit of results on direct recording electronic voting devices (DREs) as required by RCW 29A.60.185. Because audit results and the roll of voters who vote on DREs are public records, the public is

able to obtain records that will reveal how electors voted on the contests selected for the audit in cases where only a few people voted on the selected DREs and/or race. Furthermore, even if several people vote on a DRE, only one or two people may have voted on a contest if the randomly selected contest is one that encompasses only a portion of the county.

Citation of Existing Rules Affected by this Order: Amending WAC 434-262-105.

Statutory Authority for Adoption: RCW 29A.04.611.

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

Reasons for this Finding: The purpose of the rule set forth here is to protect the constitutional right of privacy to an elector's vote while conducting the paper trail audit trail (VVPAT) from direct recording electronic (DRE) units, required in RCW 29A.60.185. Since both the audit results and the roll of voters who voted on the DRE are public records, the public can obtain records that will reveal how electors voted on the contests selected for the audit in cases where only a few people voted on the selected DRE(s) and/or race. Furthermore, even if several people voted on the DRE, only one or two people may have voted on a contest if the contest randomly selected encompasses only part of a county.

RCW 29A.60.185 requires the VVPAT from three randomly selected (by lot) contests be audited from randomly selected (by lot) DRE units provided a minimum of one machine is selected.

This emergency rule requires:

- The pool of contests used for the random selection will only be ones which appear in all precincts in the county.
- Counties with an aggregate total of fewer than eleven votes on DREs in the 2006 fall elections will not conduct an audit of the VVPAT.
- In counties where more than one DRE was used, the county will randomly select DRE machines until the aggregate total of votes cast on the machines is greater than ten. These counties will also aggregate machines until the number of machines selected meets the minimum number of machines requirement in RCW 29A.60.185. The aggregate totals of the VVPAT audit results for each candidate in the selected races are subject to public disclosure.

Effective until January 1, 2007.

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

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

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

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

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

Date Adopted: September 29, 2006.

Steve Excell

Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 05-24-040, filed 11/30/05, effective 12/31/05)

WAC 434-262-105 Audit of results of votes cast on direct recording electronic device. (1) The audits required by RCW 29A.60.185 must use the same three races or issues, randomly selected by lot, for every direct recording electronic device subject to the audit and utilized in the election. If there are not three countywide races or issues on the ballot, the county must select the maximum number of contests available but no more than three contests from each of the devices randomly selected for the audit.

(2) Written procedures to perform audits of direct recording electronic devices as outlined in RCW 29A.60.185 must be promulgated by the county auditor.

(a) The procedures must provide for a process of randomly selecting by lot the direct recording electronic devices that will be audited. The pool of contests used for the random selection must only be contests that appear in all precincts in the county.

(b) The procedures for manually tabulating results must be conducted using a process that includes the following elements:

(i) A continuous paper record must be utilized in the audit; the paper record must not be cut into separate individual records; and

(ii) If a paper record indicates a ballot has been canceled, that ballot must be exempt from the audit;

(c) A county with an aggregate total of fewer than eleven votes cast on direct recording electronic devices in the 2006 primary and general elections must not conduct an audit of the voter verified paper audit trail as required by RCW 29A.60.185.

(d) In a county where more than one direct recording electronic device was used, the county must randomly select direct recording electronic devices until the aggregate total of votes cast on the devices is greater than ten votes. The devices must also be aggregated until the number of machines selected meet the minimum number of devices required by RCW 29A.60.185.

The aggregate totals of the voter verified paper audit trail results for each candidate in the selected races are subject to public disclosure.

(3) The county auditor must compare the paper records with the electronic records. The county auditor may take any necessary actions to investigate and resolve discrepancies.

(4) Prior to certification, and in time to resolve any discrepancies, the county auditor must alert the county canvassing board of discrepancies identified during the audit.

**WSR 06-20-070
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 06-252—Filed September 29, 2006, 3:00 p.m., effective October 1, 2006, 12:01 a.m.]

Effective Date of Rule: October 1, 2006, 12:01 a.m.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900V; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: This regulation is necessary to provide public the opportunity to harvest an unexpected surplus of hatchery reared cutthroat trout. These fish must be stocked this fall due to water and space limitations at the hatchery. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: September 29, 2006.

J. P. Koenings
Director

by Larry Peck

NEW SECTION

WAC 232-28-61900V Exceptions to statewide rules—Rock Island Ponds. Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. October 1 through December 31, 2006, in those waters of Rock Island Ponds the daily limit for trout is 15.

REPEALER

The following section of the Washington Administrative Code is repealed effective January 1, 2007:

WAC 232-28-61900V Exceptions to statewide rules—Rock Island Ponds.

WSR 06-20-071
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-253—Filed September 29, 2006, 3:01 p.m., effective October 2, 2006, 7:00 a.m.]

Effective Date of Rule: October 2, 2006, 7:00 a.m.

Purpose: The purpose of this rule making is to allow fishing opportunity in the Columbia River while protecting salmon listed as threatened or endangered under the Endangered Species Act. This rule making implements federal court orders governing Washington's relationship with treaty Indian tribes, federal law governing Washington's relationship with Oregon, and Washington fish and wildlife commission policy guidance for Columbia River fisheries.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000X; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 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 2005-2007 Interim Management Agreement For Upriver Chinook, Sockeye, Steelhead, Coho & White Sturgeon (May 11, 2005) (Doc. No. 2407); *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; 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: Washington and Oregon jointly regulate Columbia River fisheries under the congressionally-ratified Columbia River compact. Four Indian tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the tribes an opportunity to take a fair share of the available fish, and the states must manage other fisheries accordingly. *Sohappy v. Smith*, 302 F.Supp. 899 (D. Or. 1969). A federal court order sets the current parameters for sharing between treaty Indians and others. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2005-2007 Interim Management Agreement For Upriver Chinook, Sockeye, Steelhead, Coho & White Sturgeon (May 11, 2005) (Doc. No. 2407).

Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under the federal Endangered Species Act. The National Marine Fisheries Service has issued biological opinions under 16 U.S.C. § 1536 that allow for some incidental take of these species in treaty and nontreaty Columbia River fisheries. The Washington and Oregon fish and wildlife commissions have developed policies to guide the implementation of these biological opinions in the states' regulation of nontreaty fisheries.

Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, the Endangered Species Act, and commission guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from the Washington and Oregon departments of fish and wildlife (WDFW and ODFW) convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached. Regulation is consistent with compact action of September 29, 2006. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: September 29, 2006.

J. P. Koenings
 Director
 by Larry Peck

NEW SECTION

WAC 220-33-01000Y Columbia River season below Bonneville. Notwithstanding the provisions of WAC 220-33-010, and 220-33-020, it is unlawful for a person to take or possess salmon or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E, except as provided in the following subsections.

1. Mainstem Columbia River

a. OPEN AREA: SMCRA 1A, 1B, 1C, 1D, 1E

b. SEASON: 7:00 a.m. Monday October 2 to 7:00 a.m. Tuesday October 3, 2006

c. GEAR: SMCRA 1A, 1B, 1C - No minimum mesh size restriction.

SMCRA 1D, 1E - 8-inch minimum mesh size. Drift gill-nets only. Monofilament gear is allowed.

d. SANCTUARIES: Elokomin-B, Abernathy, Cowlitz, Kalama-B, Lewis-B, Sandy and Washougal.

2. Blind Slough/Knappa Slough Select Area.

a. OPEN AREA: Blind Slough fishing area includes all waters from markers at the mouth of Gnat Creek located approximately 0.5 mile upstream of the county road bridge downstream to markers at the mouth of Blind Slough. Concurrent waters extend downstream of the railroad bridge. Knappa Slough fishing area includes all waters bounded by a line from the north marker at the mouth of Blind Slough,

westerly to a marker on Karlson Island, downstream to boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon shore. An area closure of about a 100-foot radius at the mouth of Big Creek defined by markers. All waters in Knappa Slough are under concurrent jurisdiction.

b. SEASON: Monday, Tuesday, Wednesday, and Thursday nights immediately through October 27, 2006. Open hours are 6:00 p.m. to 8:00 a.m.

c. GEAR: Gillnet. Monofilament gear is allowed. 6-inch maximum mesh size. Maximum net length of 100 fathoms. No weight restriction on lead line. Use of additional weights or anchors attached directly to the lead line is allowed.

3. Tongue Point/South Channel Select Area.

a. OPEN AREA: Tongue Point fishing area includes all waters bounded by a line from a marker midway between the red USCG navigation light #2 at the tip of Tongue Point and the downstream (northern most) pier (#8) at the Tongue Point Job Corps facility, to the flashing green USCG navigation light #3 on the rock jetty at the west end of Mott Island, a line from a marker at the southeast end of Mott Island northeasterly to a marker on the northwest tip of Lois Island, and a line from a marker on the southwest end of Lois Island westerly to a marker on the Oregon shore. All waters are under concurrent jurisdiction. South Channel area includes all waters bounded by a line from a marker on John Day Point through the green USCG buoy #7 to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to the flashing red USCG marker #10, northwesterly to a marker on Burnside Island defining the upstream terminus of South Channel. All waters are under concurrent jurisdiction.

b. SEASON: Monday, Tuesday, Wednesday, and Thursday nights immediately through October 27, 2006. Open hours are 4:00 p.m. to 8:00 a.m.

c. GEAR: Gillnet. Monofilament gear is allowed. 6-inch maximum mesh.

In the Tongue Point area: Net length maximum of 250 fathoms, and weight not to exceed two pounds on any one fathom on the lead line. Participants in the Tongue Point fishery may have stored onboard their boats gill nets with leadline in excess of two pounds per any one fathom.

In the South Channel area: Net length maximum of 100 fathoms, and no weight restriction on lead line. Use of additional weights or anchors attached directly to the lead line is allowed.

4. Deep River Select Area.

a. OPEN AREA: Deep River fishing area includes all waters downstream of the town of Deep River to the mouth defined by a line from USCG navigation marker #16 southwest to a marker on the Washington shore. Concurrent waters extend downstream of the Highway 4 bridge

b. SEASON: Monday Tuesday, Wednesday, and Thursday nights immediately through October 27, 2006. Open hours are 7:00 p.m. to 7:00 a.m. through September 22 and 4:00 p.m. to 8:00 a.m. thereafter.

c. GEAR: Monofilament gear is allowed. The mesh size is restricted to 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on the lead line. Use of additional weights or anchors attached directly to the

lead line is allowed. Nets may not be tied off to stationary structures. Nets may not fully cross the navigation channel.

7. ALLOWABLE SALES: Applies to all seasons stated in sections 1-4: Salmon and sturgeon. A maximum of eight white sturgeon may be possessed or sold by each vessel participating each calendar week (Sunday through Saturday). The possession and sales limit includes mainstem and Select Area fisheries. Green sturgeon retention is prohibited.

8. MISCELLANEOUS REGULATIONS: Applies to all seasons stated in sections 1-4: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

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 7:00 a.m. October 2, 2006:

WAC 220-33-01000X Columbia River season below Bonneville. (06-249)

WSR 06-20-072
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-254—Filed September 29, 2006, 3:02 p.m., effective September 30, 2006, 12:01 a.m.]

Effective Date of Rule: September 30, 2006, 12:01 a.m.

Purpose: The purpose of this rule making is to allow fishing opportunity in the Columbia River while protecting salmon listed as threatened or endangered under the Endangered Species Act. This rule making implements federal court orders governing Washington's relationship with treaty Indian tribes, federal law governing Washington's relationship with Oregon and Washington fish and wildlife commission policy guidance for Columbia River fisheries.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900T and 232-28-61900W; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 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 2005-2007 Interim Management Agreement For Upriver Chinook, Sockeye, Steelhead, Coho & White Sturgeon (May 11, 2005) (Doc. No. 2407); *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; 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: Washington and Oregon jointly regulate Columbia River fisheries under the congressionally-ratified Columbia River compact. Four Indian tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the tribes an opportunity to take a fair share of the available fish, and the states must manage other fisheries accordingly. *Sohappy v. Smith*, 302 F.Supp. 899 (D. Or. 1969). A federal court order sets the current parameters for sharing between treaty Indians and others. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2005-2007 Interim Management Agreement For Upriver Chinook Sockeye, Steelhead, Coho & White Sturgeon (May 11, 2005) (Doc. No. 2407).

Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under the federal Endangered Species Act. The National Marine Fisheries Service has issued biological opinions under 16 U.S.C. § 1536 that allow for some incidental take of these species in treaty and nontreaty Columbia River fisheries. The Washington and Oregon fish and wildlife commissions have developed policies to guide the implementation of these biological opinions in the states' regulation of nontreaty fisheries.

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

Reopens the mainstem Columbia River from Bonneville Dam upstream to the Highway 395 bridge in Pasco to retention of chinook effective September 30, 2006. Rule is consistent with actions of the joint WDFW/ODFW sport hearing on September 29, 2006. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: September 29, 2006.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 232-28-61900W Exceptions to statewide rules—Columbia River. Notwithstanding the provisions of WAC 232-28-619, effective immediately through December 31, 2006, it is unlawful to retain Chinook salmon in those waters of the Columbia River from the Rocky Point/Tongue Point line upstream to Bonneville Dam.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. September 30, 2006:

WAC 232-28-61900T Exceptions to statewide rules—Columbia River. (06-239)

The following section of the Washington Administrative Code is repealed effective January 1, 2007:

WAC 232-28-61900W Exceptions to statewide rules—Columbia River.

WSR 06-20-100 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 06-255—Filed October 3, 2006, 1:52 p.m., effective October 6, 2006, 12:01 p.m.]

Effective Date of Rule: October 6, 2006, 12:01 p.m.

Purpose: Amend personal use rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Survey results show that adequate clams are available for harvest in Razor Clam Areas 1, 2 and those portions of Razor Clam Area 3 opened for harvest. Washington department of health has certified clams from these beaches to be safe for human consumption. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: October 3, 2006.

J. P. Koenings
Director

NEW SECTION

WAC 220-56-36000U Razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-56-360, it is unlawful to dig for or possess razor clams taken for personal use from any beach in Razor Clam Areas 1, 2, or 3, except as provided for in this section:

1. Effective 12:01 p.m. October 6 through 11:59 p.m. October 9, 2006, razor clam digging is allowed in Razor Clam Area 1 and Razor Clam Area 2. Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

2. Effective 12:01 p.m. October 6 through 11:59 p.m. October 8, 2006, razor clam digging is allowed in that portion Razor Clam Area 3 that is between the Grays Harbor North Jetty and the southern boundary of the Quinault Indian Nation (Grays Harbor County) and that portion of Razor Clam Area 3 that is between Olympic National Park South Beach Campground access road (Kalaloch area, Jefferson County) and Browns Point (Kalaloch area, Jefferson County). Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. October 10, 2006:

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

**WSR 06-20-101
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 06-256—Filed October 3, 2006, 1:53 p.m., effective October 6, 2006]

Effective Date of Rule: October 6, 2006.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-52-073.

Statutory Authority for Adoption: RCW 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: Harvestable amounts of red and green sea urchins exist in the areas described. Prohibition of all diving from licensed sea urchin and sea cucumber harvest vessels within two days of scheduled sea urchin openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: October 3, 2006.

J. P. Koenings
Director

NEW SECTION

WAC 220-52-07300D Sea urchins. Notwithstanding the provisions of WAC 220-52-073, effective October 6, 2006 until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) Green sea urchins: Sea Urchin Districts 1, 2, 3, 4, 6 and 7 are open only on Sunday and Monday of each week. The minimum size for green sea urchins is 2.25 inches (size in largest test diameter exclusive of spines).

(2) Red sea urchins: Sea Urchin Districts 1 and 2 are open only on Sunday, Monday and Tuesday of each week. In Sea Urchin Districts 1 and 2 it is unlawful to harvest red sea urchins smaller than 4.0 inches or larger than 5.5 inches (size in largest test diameter exclusive of spines).

(3) It is unlawful to dive for any purpose from a commercially licensed sea urchin or sea cucumber fishing vessel on Friday and Saturday of each week, except by written permission from the Director.

WSR 06-20-102
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-257—Filed October 3, 2006, 1:54 p.m., effective October 6, 2006]

Effective Date of Rule: October 6, 2006.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-52-07100C; and amending WAC 220-52-071.

Statutory Authority for Adoption: RCW 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: Harvestable amounts of sea cucumbers are available in sea cucumber districts listed. Prohibition of all diving from licensed sea urchin and sea cucumber harvest vessels within two days of scheduled sea urchin openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: October 3, 2006.

J. P. Koenings
 Director

NEW SECTION

WAC 220-52-07100D Sea cucumbers. Notwithstanding the provisions of WAC 220-52-071, effective October 6, 2006 until further notice, it is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section:

(1) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber District 1 on Wednesday and Thursday of each week. Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber District 5 on Tuesday, Wednesday and Thursday of each week.

(2) It is unlawful to dive for any purpose from a commercially licensed sea urchin or sea cucumber fishing vessel on

Friday and Saturday of each week, except by written permission from the Director.

REPEALER

The following section of the Washington Administrative Code is repealed effective October 6, 2006:

WAC 220-52-07100C Sea cucumbers. (06-222)