

WSR 06-24-001
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-290—Filed November 22, 2006, 1:43 p.m., effective November 24, 2006]

Effective Date of Rule: November 24, 2006.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 232-28-61900F; 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: Hatchery coho runs in the Kalama, Klickitat, Lewis and Washougal rivers are strong and hatchery escapement goals will be met. 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: November 22, 2006.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 232-28-61900F Exceptions to statewide rules—Kalama, Klickitat, Lewis and Washougal rivers. Notwithstanding the provisions of WAC 232-28-619:

(1) Effective November 24 through December 31, 2006, in those waters of the Kalama River from boundary markers at the mouth to 1000' below fishway at upper salmon hatchery, special daily limit of 6 fish but no more than 3 adults, except only 2 adult chinook, minimum size 12 inches. Wild coho and chum must be released.

(2) Effective November 24 through December 31, 2006, in those waters of the Klickitat River from mouth to Fisher Hill Bridge, special daily limit of 6 fish but no more than 3 adults, except only 2 adult chinook. Minimum size 12 inches. Non-buoyant lure restriction in effect.

(3) Effective November 24 through December 31, 2006, in those waters of the Lewis River from boundary markers at mouth to mouth of East Fork and the North Fork Lewis River from mouth to Colvin Creek, special daily limit of 6 fish but no more than 3 adults, except only 2 adult chinook. Minimum size 12 inches. Wild coho and chum must be released.

(4) Effective November 24 through December 31, 2006, in those waters of the Washougal River from mouth to bridge at Salmon Falls, special daily limit of 6 fish but no more than 3 adults, except only 2 adult chinook. Minimum size 12 inches. Chinook must be released from the Little Washougal upstream on the Washougal River. Wild coho and chum must be released.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. January 1, 2007:

WAC 232-28-61900F	Exceptions to statewide rules—Kalama, Klickitat, Lewis and Washougal rivers.
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WSR 06-24-008
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-292—Filed November 27, 2006, 4:43 p.m., effective November 27, 2006]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-52-040 and 220-52-046.

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: Mandatory pick rate allowance for coastal crab will be achieved by the opening dates contained herein. The stepped opening periods/areas will also provide for fair start provisions. 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 2, 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: November 27, 2006.

Morris W. Barker
for Jeff Koenings
Director

NEW SECTION

WAC 220-52-04000C Commercial crab fishery. Lawful and unlawful gear, methods and other unlawful acts. (1) Notwithstanding the provisions of WAC 220-52-040, effective immediately until further notice it is unlawful for any fisher or wholesale dealer or buyer to land or purchase Dungeness crab taken from Grays Harbor, Willapa Bay, Columbia River, Washington coastal or adjacent waters of the Pacific Ocean through January 31, 2007 from any vessel unless:

(a) A valid Washington crab vessel inspection certificate has been issued to the delivering vessel. Vessel hold inspection certificates dated from November 30, 2006 to December 30, 2006 are only valid for the area south of 46°28.00.

(b) The vessel inspection certificate numbers are recorded on all shellfish tickets completed for coastal Dungeness crab landings through January 31, 2007.

(2) Notwithstanding the provisions of WAC 220-52-040, it is lawful for a vessel not designated on a Dungeness crab coastal fishery license to transport or deploy up to 250 pots at any one time for deployment in the coastal crab fishery. The primary operator of the vessel associated with the pots being transported must be aboard the vessel while they are being deployed. All other provisions of the permanent rule remain in effect.

NEW SECTION

WAC 220-52-04600T Coastal crab seasons. Notwithstanding the provisions of WAC 220-52-046, effective immediately until further notice it is unlawful to fish for Dungeness crab in Washington coastal waters, the Pacific Ocean, Grays Harbor, Willapa Bay, or the Columbia River except as provided for in this section.

(1) The area from Klipsan Beach (46°28.00) to the WA/OR border (46°15.00) and Willapa Bay.

(2) Crab gear may be set beginning at 8:00 a.m., November 28, 2006.

(3) It is lawful to pull crab gear beginning at 12:01 a.m., December 1, 2006.

(3) Vessels that participate in the coastal commercial Dungeness crab fishery in the waters from Point Arena, California to Klipsan Beach, Washington (46°28.00) including Willapa Bay before the area north of Klipsan Beach (46°28.00) opens are prohibited from:

a. Fishing in the area between Klipsan Beach (46°28.00) and Oysterville (46°33.00) until 10-days have elapsed from the time that the area north of Klipsan Beach opens.

b. Fishing in the area between Oysterville (46°33.00) and the U.S. Canadian border until 30-days have elapsed from the time that the area north of Klipsan Beach opens.

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

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

WSR 06-24-010

EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 06-293—Filed November 28, 2006, 1:26 p.m., effective November 28, 2006]

Effective Date of Rule: Immediately.

Purpose: Amend commercial use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04000C and 220-52-04600T; and amending WAC 220-52-040 and 220-52-046.

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: Mandatory pick rate allowance for coastal crab will be achieved by the opening dates contained herein. The stepped opening periods/areas will also provide for fair start provisions. Pot limits will reduce crowding effect in this restricted fishing area. 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 2, Amended 0, Repealed 2.

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

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

Date Adopted: November 28, 2006.

J. P. Koenings
Director

NEW SECTION

WAC 220-52-04000D Commercial crab fishery. Lawful and unlawful gear, methods and other unlawful acts. (1) Notwithstanding the provisions of WAC 220-52-

040, effective immediately until further notice it is unlawful for any fisher or wholesale dealer or buyer to land or purchase Dungeness crab taken from Grays Harbor, Willapa Bay, Columbia River, Washington coastal or adjacent waters of the Pacific Ocean through January 31, 2007 from any vessel unless:

(a) A valid Washington crab vessel inspection certificate has been issued to the delivering vessel. Vessel hold inspection certificates dated from November 30, 2006 to December 30, 2006 are only valid in Willapa Bay and the coastal waters south of 46°33.00.

(b) The vessel inspection certificate numbers are recorded on all shellfish tickets completed for coastal Dungeness crab landings through January 31, 2007.

(2) Notwithstanding the provisions of WAC 220-52-040, it is lawful for a vessel not designated on a Dungeness crab coastal fishery license to transport or deploy up to 250 pots at any one time for deployment in the coastal crab fishery. The primary operator of the vessel associated with the pots being transported must be aboard the vessel while they are being deployed. All other provisions of the permanent rule remain in effect.

(3) Notwithstanding the provisions of WAC 220-52-040, effective immediately until further notice it is unlawful for person participating in the Columbia River, Coastal or Willapa Bay commercial Dungeness crab fishery to:

(a) deploy or operate more than 400 shellfish pots if the permanent number of shellfish pots assigned to the Coastal commercial crab fishery license held by that person is 500

(b) deploy or operate more than 250 shellfish pots if the permanent number of shellfish pots assigned to the Coastal Dungeness crab fishery license held by that person is 300

(c) fail to maintain onboard any participating vessel the excess crab pot buoy tags assigned to the Coastal Dungeness crab fishery license being fished.

NEW SECTION

WAC 220-52-04600U Coastal crab seasons. Notwithstanding the provisions of WAC 220-52-046, effective immediately until further notice it is unlawful to commercially fish for Dungeness crab in Washington coastal waters of the Pacific Ocean, including Grays Harbor, Willapa Bay, and the Columbia River except as provided for in this section.

(1) The coastal waters from Klipsan Beach (46°28.00) to the WA/OR border (46°15.00), including the Columbia River and Willapa Bay are open to commercial fishing for Dungeness crab.

(2) Crab gear may be set beginning at 8:00 a.m., November 28, 2006.

(3) It is lawful to pull crab gear beginning at 12:01 a.m., December 1, 2006.

(4) Vessels that participate in the coastal commercial Dungeness crab fishery in the waters from Point Arena, California to Klipsan Beach, Washington (46°28.00) including the Columbia River and Willapa Bay before the area north of Klipsan Beach (46°28.00) opens are prohibited from:

(a) Fishing in the area between Klipsan Beach (46°28.00) and Oysterville (46°33.00) until 10-days have

elapsed from the time that the area north of Klipsan Beach opens.

(b) Fishing in the area between Oysterville (46°33.00) and the U.S. Canadian border until 30-days have elapsed from the time that the area north of Klipsan Beach opens.

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

REPEALER

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

WAC 220-52-04000C	Commercial crab fishery. Lawful and unlawful gear, methods and other unlawful acts. (06-292)
WAC 220-52-04600T	Coastal crab seasons. (06-292)

**WSR 06-24-014
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 06-294—Filed November 29, 2006, 8:16 a.m., effective December 2, 2006, 12:01 p.m.]

Effective Date of Rule: December 2, 2006, 12:01 p.m.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-36000W; 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.

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 Mak-

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

Date Adopted: November 28, 2006.

J. P. Koenings
Director

NEW SECTION

WAC 220-56-36000W 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. December 2 through 11:59 p.m. December 3, 2006, razor clam digging is allowed in Razor Clam Area 1.

2. Effective 12:01 p.m. December 2 through 11:59 p.m. December 4, 2006, razor clam digging is allowed in Razor Clam Area 2.

3. Effective 12:01 p.m. December 2 through 11:59 p.m. December 3, 2006, 2006, razor clam digging is allowed in that portion Razor Clam Area 3 that is between the Copalis River and the southern boundary of the Quinalt 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).

4. Digging is allowed from 12:01 p.m. to 11:59 p.m. only during open days.

5. 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.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. December 5, 2006:

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

WSR 06-24-015
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-291—Filed November 29, 2006, 8:16 a.m., effective December 1, 2006, 12:01 a.m.]

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

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order:
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: ESA-listed steelhead stage in this area near the mouth of the Methow River, especially in March. Steelhead fishing is not open in the Methow River this year due to low numbers of returning wild fish. This emergency regulation is consistent with our federal permit "special conditions" to manage recreational fisheries to minimize impacts on ESA-listed salmonids and necessary to eliminate potential impacts to these listed fish. This regulation has been proposed as part of the permanent fishing rule package that takes effect May 1, 2007. 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: November 28, 2006.

J. P. Koenings
Director

NEW SECTION

WAC 232-28-61900G Exceptions to statewide rules—Methow River Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. December 1, 2006 until further notice, from mouth (Hwy. 97 Bridge) to Gold Creek, closed to all fishing.

WSR 06-24-031
EMERGENCY RULES
HOME CARE
QUALITY AUTHORITY

[Filed November 29, 2006, 2:59 p.m., effective December 21, 2006]

Effective Date of Rule: December 21, 2006.

Purpose: Amending WAC 257-05-160 Who is required to complete safety training and when must it be completed? and 257-05-240 Will DSHS deny payment of an individual provider who does not complete safety training?, to remove the safety training requirement for individual providers working for a consumer prior to December 1, 2004.

Citation of Existing Rules Affected by this Order:
Amending WAC 257-05-160 and 257-05-240.

Statutory Authority for Adoption: RCW 74.39A.280(3).

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 current WAC would require individual providers already caring for consumers of in-home care services prior to December 1, 2004, to complete safety training conducted by and through the home care quality authority. Without the emergency rule, if this WAC were to be applied on or after January 1, 2007, to all the workers in this category who have not completed the training, DSHS must deny payment to these workers who continue to care for consumers of in-home care services. Without payment, care providers might not provide continued care, which could jeopardize the health and safety of those consumers.

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 2, Repealed 0.

Date Adopted: November 28, 2006.

Rick Hall
Executive Director

AMENDATORY SECTION (Amending WSR 05-01-158, filed 12/20/04, effective 1/20/05)

WAC 257-05-160 Who is required to complete safety training and when must it be completed? (1) Individual providers must complete safety training no later than one hundred twenty calendar days after beginning to work with their first DSHS consumer. Safety training must be provided by appropriate HCQA staff or contracted entities, or by approved trainers who meet DSHS requirements outlined in WAC 388-71-05875.

(2) ~~((Individual providers who are already working for a consumer as of December 1, 2004, have two calendar years to complete safety training.~~

(3)) Individual providers who are not required to complete basic core training, such as revised fundamentals of caregiving, identified in WAC 388-71-0500 through 388-71-05952 may complete safety training via distance learning. Alternate methods to complete safety training will be pro-

vided that could include innovative learning strategies such as:

- (a) CD, video, DVD, or other electronic method.
- (b) Internet-based or other computerized method.
- (c) Workbook of printed subject matter.

AMENDATORY SECTION (Amending WSR 05-01-158, filed 12/20/04, effective 1/20/05)

WAC 257-05-240 Will DSHS deny payment of an individual provider who does not complete safety training? HCQA will notify DSHS of an individual provider's noncompliance. DSHS will deny payment of an individual provider who does not return the attestation form and complete safety training within one hundred twenty calendar days after beginning to work with their first DSHS consumer.

~~((DSHS will deny payment of an individual provider who is already caring for a consumer as of December 1, 2004, and who does not complete the safety training by December 31, 2006.))~~

WSR 06-24-033

EMERGENCY RULES

DEPARTMENT OF FISH AND WILDLIFE

[Order 06-295—Filed November 30, 2006, 8:39 a.m., effective December 1, 2006]

Effective Date of Rule: December 1, 2006.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-52-07300E; and 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 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: November 29, 2006.

J. P. Koenings
Director

NEW SECTION

WAC 220-52-07300F Sea urchins. Notwithstanding the provisions of WAC 220-52-073, effective December 1, 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, 6, and 7 are open only on Sunday and Monday of each week. Sea Urchin Districts 3 and 4 are open only on Sunday, Monday and Tuesday 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.

REPEALER

The following section of the Washington Administrative Code is repealed effective December 1, 2006:

WAC 220-52-07300E Sea urchins. (06-286)

WSR 06-24-037
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-296—Filed November 30, 2006, 1:13 p.m., effective December 1, 2006]

Effective Date of Rule: December 1, 2006.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-44-05000M; and amending WAC 220-44-050.

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: These rules were adopted by the Pacific Fisheries Management Council and provide harvest of available stocks of bottom fish, while reserving brood stock for future fisheries. 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: November 30, 2006.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-44-05000N Coastal bottom fish catch limits. Notwithstanding the provisions of WAC 220-44-050, effective December 1, 2006 until further notice: (1) It is unlawful to possess, transport through the waters of the state, or land into any Washington port bottom fish taken from Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 60A-1, 60A-2, 61, 62, or 63 in excess of the amounts or less than the minimum sizes, or in violation of any gear, handling or landing requirement, established by the Pacific Fisheries Management Council and published in the Federal Register, Vol. 71, No. 229, published November 29, 2006. Therefore, persons must consult the federal regulations, which are incorporated by reference and made a part of Chapter 220-44 WAC. Where rules refer to the fishery management area, that area is extended to include Washington State waters coterminous with the Exclusive Economic Zone.

(a) Effective immediately until further notice, it is unlawful to possess, transport through the waters of the state, or land into any Washington port, walleye pollock taken with trawl gear from Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 60A-1, 60A-2, 61, 62, or 63, except by trawl vessels participating in the directed Pacific whiting fishery and the directed coastal groundfish fishery.

(b) Effective immediately until further notice, it is unlawful for trawl vessels participating in the directed Pacific whiting and/or the directed coastal groundfish fishery to land incidental catches of walleye pollock greater than forty per-

cent of their total landing by weight, not to exceed 10,000 pounds.

(2) At the time of landing of coastal bottom fish into a Washington port, the fish buyer receiving the fish is required to clearly mark on the fish receiving ticket, in the space reserved for dealer's use, all legally defined trawl gear aboard the vessel at the time of delivery. The three trawl gear types are: midwater trawl, roller trawl and small foot rope trawl (foot rope less than eight inches in diameter). The notation of the gear type(s) aboard the vessel is required prior to the signing of the fish receiving ticket by the vessel representative.

(3) Vessels engaged in chartered research for National Marine Fisheries Service (NMFS) may land and sell bottomfish caught during that research without the catch being counted toward any trip or cumulative limit for the participating vessel. Vessels that have been compensated for research work by NMFS with an Exempted Fishing Permit (EFP) to land fish as payment for such research may land and sell fish authorized under the EFP without the catch being counted toward any trip or cumulative limit for the participating vessel. Any bottomfish landed during authorized NMFS research or under the authority of a compensating EFP for past chartered research work must be reported on a separate fish receiving ticket and not included on any fish receiving ticket reporting bottomfish landed as part of any trip or cumulative limit. Bottomfish landed under the authority of NMFS research work or an EFP compensating research with fish must be clearly marked "NMFS Compensation Trip" on the fish receiving ticket in the space reserved for dealer's use. The NMFS scientist in charge must sign the fish receiving ticket in the area reserved for dealer's use if any bottomfish are landed during authorized NMFS research. If the fish are landed under the authority of an EFP as payment for research work, the EFP number must be listed in the dealer's use space.

REPEALER

The following section of the Washington Administrative Code is repealed effective December 1, 2006:

WAC 220-44-05000M Coastal bottomfish catch limits. (06-261)

WSR 06-24-062
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-297—Filed December 4, 2006, 2:50 p.m., effective December 4, 2006]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04000D; and amending WAC 220-52-040 and 220-52-075.

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: Mandatory pick rate allowance for coastal crab will be achieved by the opening dates contained herein. The stepped opening periods/areas will also provide for fair start provisions. Pot limits will reduce crowding effect in this restricted fishing area. This will allow delivery of Dungeness crab into closed ports with adequate notice on vessel record keeping. 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 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: December 4, 2006.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-52-04000E Commercial crab fishery. Lawful and unlawful gear, methods and other unlawful acts. (1) Notwithstanding the provisions of WAC 220-52-040, effective immediately until further notice it is unlawful for any fisher or wholesale dealer or buyer to land or purchase Dungeness crab taken from Grays Harbor, Willapa Bay, Columbia River, Washington coastal or adjacent waters of the Pacific Ocean through January 31, 2007 from any vessel unless:

(a) A valid Washington crab vessel inspection certificate has been issued to the delivering vessel. Vessel hold inspection certificates dated November 30, 2006 to December 30, 2006 are only valid in Willapa Bay and the coastal waters south of 46°33.00.

(b) The vessel inspection certificate numbers are recorded on all shellfish tickets completed for coastal Dungeness crab landings through January 31, 2007.

(2) Notwithstanding the provisions of WAC 220-52-040, it is lawful for a vessel not designated on a Dungeness crab coastal fishery license to transport or deploy up to 250 pots at any one time for deployment in the coastal crab fishery. The primary operator of the vessel associated with the pots being transported must be aboard the vessel while they are being

deployed. All other provisions of the permanent rule remain in effect.

(3) Notwithstanding the provisions of WAC 220-52-040, effective immediately until further notice it is unlawful for person participating in the Columbia River, Coastal waters or Willapa Bay commercial Dungeness crab fishery to:

(a) deploy or operate more than 400 shellfish pots if the permanent number of shellfish pots assigned to the Coastal commercial crab fishery license held by that person is 500

(b) deploy or operate more than 250 shellfish pots if the permanent number of shellfish pots assigned to the Coastal Dungeness crab fishery license held by that person is 300

(c) fail to maintain onboard any participating vessel the excess crab pot buoy tags assigned to the Coastal Dungeness crab fishery license being fished.

(4) Notwithstanding the provisions of WAC 220-52-040, effective immediately until further notice, it is unlawful to possess or deliver Dungeness crab unless the following conditions are met:

(a) Vessels that participated in the coastal Dungeness crab fishery from Klipsan Beach (46°28.00 North Latitude) to Point Arena CA, including Willapa Bay and the Columbia River may possess crab for delivery into Washington ports south of 47°00.00 N. Lat. provided the crab were taken south of Klipsan (46°28.00 N. Lat.).

(b) The vessel does not enter the area north of 47°00.00 N. Lat. unless the operator of the vessel has contacted the Washington Department of Fish and Wildlife and provides a vessel hold inspection if requested by Fish and Wildlife officers prior to entering this area. Prior to entering the area north of 47°00.00 N. Lat., the vessel operator calls 360-249-4628 extension 253 and reports the vessel name, operator name, estimated amount of crab to be delivered in pounds, and the estimated date, time and location of delivery 24 hours prior to entering the area.

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.

NEW SECTION

WAC 220-52-07500F Shellfish harvest logs reporting requirements for the coastal Dungeness crab fishery. Notwithstanding the provisions of WAC 220-52-075, effective immediately it is unlawful for any vessel operator engaged in fishing Dungeness crab in the coastal commercial fishery to fail to complete a department-issued logbook for all fishing activity occurring in Grays Harbor, Willapa Bay, Columbia River and the Pacific Ocean waters adjacent to the state of Washington. It is unlawful for any vessel operator engaged in fishing to fail to comply with the following method and time frame related to harvest logbook submittal and record keeping:

(a) The department must receive a copy of the completed logbook sheets within ten days following any calendar month in which fishing occurred. Completed Dungeness crab harvest logs must be sent to the following address: Washington Department of Fish and Wildlife, 48 Devonshire Rd., Montesano, WA. ATTN. COASTAL DUNGENESS CRAB MANAGER.

(b) Vessel operators engaged in fishing Dungeness crab in the coastal commercial fishery must complete a logbook entry for each day fished prior to offloading. Vessel operators responsible for submitting logs to the department must maintain a copy of all submitted logs for up to three years after the fishing activity ended.

(c) Vessel operators can obtain logbooks by contacting the WDFW coastal Dungeness crab manager at 360-249-4628.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-04000D Coastal crab seasons. (06-293)