

WSR 07-10-001
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-61—Filed April 18, 2007, 12:38 p.m., effective May 1, 2007]

Effective Date of Rule: May 1, 2007.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-24-040.

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: A harvestable quota of salmon is available for the troll fleet. These rules are adopted at the recommendation of the Pacific Fisheries Management Council, in accordance with preseason fishing plans. 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: April 13, 2007.

J. P. Koenings
Director

NEW SECTION

WAC 220-24-04000E All-citizen commercial salmon troll. Notwithstanding the provisions of WAC 220-24-040, effective immediately until further notice, it is unlawful to fish for salmon with troll gear or to land salmon taken with troll gear into a Washington port except during the seasons provided for in this section:

(1) Salmon Management and Catch Reporting Areas 1, 2, 3, and that portion of Area 4 west of 125°05'00" W longitude and south of 48°23'00" N latitude, open:

May 1 through May 2, 2007;

May 5 through May 8, 2007;

May 12 through May 15, 2007;

May 19 through May 22, 2007;

May 26 through May 29, 2007;

June 2 through June 5, 2007;

June 9 through June 12, 2007;

June 16 through June 19, 2007;

June 23 through June 26, 2007;

(2) The Cape Flattery and Columbia River Control Zones are closed. Mandatory Yelloweye Rockfish Conservation Area is closed.

(3) Landing and possession limit of 60 chinook per boat per entire open period for openings from May 1 through June 26 for catch areas 2, 3 and 4.

(4) Landing and possession limit of 40 chinook per boat per entire open period for openings from May 1 through May 2 and for May 5 through May 8 for catch area 1. Landing and possession limit of 30 chinook per boat per entire open period for openings from May 12 through June 26. Minimum size for chinook salmon is 28 inches in length. No minimum size for pink, sockeye or chum salmon. It is unlawful to possess coho salmon.

(5) Lawful troll gear is restricted to all legal troll gear with single point, single shank barbless hooks.

(6) Fishers must land and deliver their catch within 24 hours of any closure of a fishery provided for in this section, and vessels fishing north of Leadbetter Point must land and deliver their fish within the area and North of Leadbetter point. Vessels fishing south of Leadbetter Point must land and deliver their fish within the area and south of Leadbetter Point.

(7) The Cape Flattery Control Zone is defined as the area from Cape Flattery (48°23'00" N latitude) to the northern boundary of the U.S. Exclusive Economic Zone, and the area from Cape Flattery south to Cape Alava, 48°10'00" N latitude, and west of 125°05'00" W longitude.

(8) Columbia Control Zone - An area at the Columbia River mouth, bounded on the west by a line running northeast/southwest between the red lighted Buoy #4 (46°13'35" N. Lat., 124°06'50" W. long.) and the green lighted Buoy #7 (46°15'09" N. lat., 124°06'16" W. long.); on the east, by the Buoy #10 line which bears north/south at 357° true from the south jetty at 46°14'00" N. lat., 124°03'07" W. long, to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°14'48" N. lat., 124°05'20" W. long.), and then along the north jetty to the point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14'03" N. lat., 124°04'05" W. long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

(9) Mandatory Yelloweye Rockfish Conservation Area - The area in Washington Marine Catch Area 3 from 48°00.00' N latitude; 125°14.00' W longitude to 48°02.00' N latitude; 125°14.00' W longitude to 48°02.00' N latitude; 125°16.50' W longitude to 48°00.00' N latitude; 125°16.50' W longitude and connecting back to 48°00.00' N latitude; 125°14.00' W longitude.

(10) It is unlawful to fish in Salmon Management and Catch Reporting Areas 1, 2, 3 or 4 with fish on board taken south of Cape Falcon, Oregon: and all fish taken from Salmon Management and Catch Reporting Areas 1, 2, 3, and 4 must be landed before fishing south of Cape Falcon, Oregon.

(11) It is unlawful for wholesale dealers and trollers retailing their fish to fail to report their landing by 10:00 a.m. the day following landing. Ticket information can be telephoned in by calling 1-866-791-1279, or faxing the information to (360) 902-2949, or e-mailing to trollfishtickets@dfw.wa.gov. Report the dealer name, the purchasing location, the date of purchase, the fish ticket numbers, the gear used, the catch area, the species, the total number for each species, and the total weight for each species, including halibut.

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

WSR 07-10-002
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-63—Filed April 18, 2007, 12:41 p.m., effective April 19, 2007]

Effective Date of Rule: April 19, 2007.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-36000B; 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: April 17, 2007.

J. P. Koenings
Director

NEW SECTION

WAC 220-56-36000B 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 a.m. April 20, 2007 through 11:59 a.m. April 22, 2007, razor clam digging is allowed in Razor Clam Area 1. Digging is allowed from 12:01 a.m. to 11:59 a.m. only.

2. Effective 12:01 a.m. April 19, 2007 through 11:59 a.m. April 22, 2007, razor clam digging is allowed in Razor Clam Area 2. Digging is allowed from 12:01 a.m. to 11:59 a.m. only.

3. Effective 12:01 a.m. April 21, 2007 through 11:59 a.m. April 22, 2007, 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). Digging is allowed from 12:01 a.m. to 11:59 a.m. only.

4. Effective 12:01 a.m. April 21, 2007 through 11:59 a.m. April 21, 2007, razor clam digging is allowed in 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 a.m. to 11:59 a.m. only.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 p.m. April 22, 2007.

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

WSR 07-10-003
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-64—Filed April 18, 2007, 12:42 p.m., effective April 18, 2007, 12:42 p.m.]

Effective Date of Rule: Immediately.

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 220-33-01000F and 220-33-01000G; 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.

Reasons for this Finding: Delays spring season in select areas by one week, in order to avoid additional handling of upriver spring chinook. Impacts to ESA-listed stocks in these fisheries are covered under the biological opinion for the 2005-2007 interim management agreement. This rule is consistent with actions of the Columbia River compact hearings of April 17, 2007, and conforms Washington and Oregon state rules. There is insufficient time to promulgate permanent rules.

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 (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached.

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

Recently Enacted State Statutes: New 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: April 17, 2007.

J. P. Koenings
Director

NEW SECTION

WAC 220-33-0100G Columbia River seasons below Bonneville. Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, it is unlawful for a person to take or possess salmon, sturgeon, and shad for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E, except during the times and conditions listed:

1. Blind Slough/Knappa Slough Select Area

a) Area: Open waters of Blind Slough extend from markers at the mouth of Gnat Creek located approximately 1/2 mile upstream of the county road bridge, and downstream to markers at the mouth of Blind Slough. Concurrent Washington/Oregon waters extend downstream of the railroad bridge.

Knappa Slough is open to fishing in all waters bounded by a line from the northernly most marker at the mouth of Blind Slough, westerly to a marker on Karlson Island, downstream to a north-south line defined by a marker on the eastern end of Minaker Island, to markers on Karlson Island and the Oregon shore.

During May 3 through June 15, the lower boundary of the Knappa Slough fishing area is extended downstream to boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon Shore (fall-season boundary).

b) Dates: 7:00 p.m. Mondays to 7:00 a.m. Tuesdays, and 7:00 p.m. Thursdays to 7:00 a.m. Fridays, from April 23 until June 15, 2007.

c) Gear: 8-inch maximum mesh. Monofilament nets are allowed. Nets are restricted to 100 fathoms in length, with no weight restriction on headline. Use of additional weights or anchors attached directly to the headline is allowed.

d) Allowable sale: salmon, sturgeon, and shad. A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period.

2. Deep River Select Area

a) Area: From the markers at USCG navigation marker #16, upstream to the Highway 4 Bridge.

b) Dates: 7:00 p.m. Mondays to 7:00 a.m. Tuesdays, and 7:00 p.m. Thursdays to 7:00 a.m. Fridays, from April 23 through June 15, 2007.

c) Gear: 8-inch maximum mesh. Monofilament nets are allowed. Nets are restricted to a maximum length of 100 fathoms, and no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed. Nets cannot be tied off of any stationary structures. Nets may not fully cross the navigation channel.

d) Allowable sale: salmon, white sturgeon, and shad. A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period.

e) Miscellaneous: Transportation or possession of fish outside the fishing area (except to the sampling station) is unlawful until department staff has biologically sampled individual catches. After sampling, fishers will be issued a transportation permit by agency staff.

3. In the Columbia River downstream of Bonneville Dam and in the Select Areas (described in WAC 220-22-010(9)), it shall be lawful to have onboard a commercial fishing vessel more than one licensed net in excess of the lawful size or length prescribed for a single net as long as the net or nets are of legal size for the fishery, or the net has a minimum mesh size of 9 inches, and the length of any one net does not exceed 1,500 feet in length.

Reviser's note: The spelling 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:

WAC 220-33-01000F Columbia River seasons below Bonneville. (07-47)

The following section of the Washington Administrative Code is repealed effective June 16, 2007:

WAC 220-33-01000G Columbia River seasons below Bonneville.

**WSR 07-10-009
EMERGENCY RULES
BOARD OF**

PILOTAGE COMMISSIONERS

[Filed April 19, 2007, 12:15 p.m., effective April 19, 2007, 12:15 p.m.]

Effective Date of Rule: Immediately.

Purpose: To modify the procedure for lifting pilot license limitations for a Grays Harbor pilot, during his/her second license year. It is intended to separate the two types of required vessel upgrade trips so that as each requirement is fulfilled the appropriate limitation is lifted independently of the other.

Citation of Existing Rules Affected by this Order: Amending WAC 363-116-082 Limitations on new pilots.

Statutory Authority for Adoption: RCW 88.16.105.

Other Authority: RCW 88.16.035.

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: Currently there is only one pilot who holds an unlimited license in the Grays Harbor pilotage district. A second pilot has been licensed but with a five-year-spread of license limitations. In the event the pilot without license limitations is not available, a safety concern could result if the new pilot is limited as to the size of tank vessels he can pilot. Tank vessels are expected to begin calling more often at the Port of Grays Harbor.

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 1, Repealed 0.

Date Adopted: April 18, 2007.

Peggy Larson
Administrator

AMENDATORY SECTION (Amending WSR 05-18-021, filed 8/29/05, effective 10/1/05)

WAC 363-116-082 Limitations on new pilots. (1) The following limitations and pilot license upgrade requirements shall apply to a newly licensed pilot during his/her first five years of active service. For purposes of this section, the term "tank vessel" shall, in addition to tank ships, include any articulated or integrated tug and tank barge combinations, and any tonnage restrictions thereon shall be calculated by including the gross tonnage of the tug and tank barge combined. For purposes of this section, the term "petroleum products" shall include crude oil, refined products, liquefied natural gas, and propane gas. GT (ITC) as used in this section refers to gross tonnages measured in accordance with the requirements of the 1969 International Convention on Tonnage Measurement of Ships.

(2) Puget Sound pilotage district - license limitation periods. Except for trips being made for pilot license upgrades, licenses issued in the Puget Sound pilotage district shall have the following limitations:

License Year	Maximum Size of Tank Vessels Carrying Petroleum Products as Bulk Cargo	Maximum Size of Other Vessels
1	Piloting on vessels of any size prohibited	30,000 GT (ITC) or 660 feet except for passenger vessels which may only have a maximum size of 5000 GT (ITC)
2	30,000 GT (ITC)	38,000 GT (ITC)
3	38,000 GT (ITC)	48,000 GT (ITC)
4	45,000 GT (ITC)	60,000 GT (ITC)
5	55,000 GT (ITC)	75,000 GT (ITC)

(3) Puget Sound pilotage district - pilot license upgrade requirements. Progressive lifting of tonnage limitations requires a newly licensed pilot to satisfactorily pilot vessels on the trips specified in this section. The trainee evaluation committee shall recommend to the board a series of eight trips to be made by each pilot in the last one hundred twenty days of each year of the license limitation periods specified in subsection (2) of this section, except that pilots whose license anniversary date is less than one hundred twenty days after the effective date of this section shall only be required to make three such trips prior to the first license anniversary subsequent to the effective date of this section. As to these trips, the trainee evaluation committee shall specify the size and type of the vessel; origin and destination, whether the transit is to include a docking, waterway transit or other particular maneuvering requirement, whether any tank vessel trips are to be made while in ballast or loaded and whether the trip shall be taken with training pilots, trainee evaluation committee member pilots or pilots with a specified experience level. To the extent practical, the trips shall be on vessels of at least a size that falls between the upper limit in the expiring license limitation and the upper limit in the upcoming license limitation period. All of these trips shall be complete trips between one port and another port, or between the pilot station and a port. The supervising pilots shall complete and submit to the board an evaluation form provided by the board for each trip a new pilot performs.

(4) Grays Harbor pilotage district - license limitation periods. Pilots licensed in the Grays Harbor pilotage district shall not pilot vessels in violation of the restrictions set forth in the table below during the indicated license year.

License Year	Maximum Size of Tank Vessels Carrying Petroleum Products	Maximum Size of Other Vessels
1	Piloting on vessels of any size prohibited	25,000 GT (ITC) except that piloting on vessels of any size is prohibited through the Chehalis River

License Year	Maximum Size of Tank Vessels Carrying Petroleum Products	Maximum Size of Other Vessels
		Bridge unless vessel is in ballast and does not exceed 25,000 GT (ITC)
2	10,000 GT (ITC)	30,000 GT (ITC)
3	45,000 GT (ITC)	45,000 GT (ITC)
4	60,000 GT (ITC)	60,000 GT (ITC)
5	75,000 GT (ITC)	75,000 GT (ITC)

Notwithstanding subsection (7) of this section, upon determination that a bona fide safety concern may result from no pilot without license restrictions being available within a reasonable time to pilot a vessel requiring pilotage services, the chairperson or acting chairperson of the board, on a single trip basis, may authorize a newly licensed pilot holding a restricted license to provide pilotage services to the vessel, irrespective of the tonnage, service or location of the assigned berth of the vessel.

(5) Grays Harbor pilotage district - pilot license upgrade requirements.

(a) Prior to the expiration of the first license year, a new pilot must make five license upgrade trips. Three of these trips shall be through the Chehalis River bridge on loaded or partially loaded vessels. The other trips shall be on vessels in excess of 25,000 GT (ITC) and involve docking and passage to or from the sea buoy; and one of these trips shall involve turning the vessel in the waterway.

(b) Prior to the expiration of the second license year, a new pilot must make ~~((three))~~ two license upgrade trips on tank vessels in excess of 10,000 GT (ITC) and one trip on a vessel(§) in excess of 30,000 GT (ITC). Two of these trips shall involve docking and passage to or from the sea buoy; and one of these trips shall involve turning the vessel in the waterway. Upon satisfactory completion of the two upgrade trips upon tank vessels and completion of the second license year, the pilot will be authorized to pilot tank vessels in accordance with the limitations specified in subsection (4) of this section. Upon satisfactory completion of the one upgrade trip upon a vessel in excess of 30,000 GT (ITC) and completion of the second license year, the pilot will be authorized to pilot vessels in accordance with the limitations specified in subsection (4) of this section.

(c) Prior to the expiration of the third license year, a new pilot must make three license upgrade trips on vessels in excess of 45,000 GT (ITC) or on the nearest larger size vessels available. Two of these trips shall involve docking and passage to or from the sea buoy; and one of these trips shall involve turning the vessel in the waterway.

(d) Prior to the expiration of the fourth license year, a new pilot must make two license upgrade trips on vessels in excess of 60,000 GT (ITC) or on the nearest larger size vessels available.

(e) Prior to the expiration of the fifth license year, a new pilot must make two license upgrade trips on vessels in excess of 75,000 GT (ITC) or on the nearest larger size vessels available.

(f) Notwithstanding (c), (d), and/or (e) of this subsection not being accomplished due to unavailability of vessels, in the sixth license year a pilot will be issued a license without limitations.

(6) The initial license shall contain the limitations contained above and list the date of commencement and expiration of such periods. If a newly licensed pilot is unable to pilot for forty-five days or more in any one of the five years, he/she shall notify the board and request a revised schedule of limitations.

(7) Except as provided in subsection (4) of this section, no pilot shall be dispatched to, or accept an assignment on, any vessel which exceeds the limitations of his/her license. On vessels in which there is more than one pilot assigned, the license limitations shall apply only to the pilot in charge.

(8) All limitations on a pilot's license shall be lifted at the beginning of the sixth year of piloting provided he/she has submitted to the board a statement attesting to the fact that he/she has completed all the required license upgrade trips and the vessel simulator courses.

WSR 07-10-010
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-65—Filed April 19, 2007, 2:15 p.m., effective May 1, 2007, 6:00 a.m.]

Effective Date of Rule: May 1, 2007, 6:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-52-05100C; and amending WAC 220-52-051.

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: The 2007 state/tribal shrimp harvest management plans for the Strait of Juan de Fuca and North Puget Sound require adoption of harvest seasons and the prohibition on nighttime fishing contained in this emergency rule. This emergency rule opens the pot fishery season for nonspot shrimp. 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: April 18, 2007.

J. P. Koenings
Director

NEW SECTION

WAC 220-52-05100D Puget Sound shrimp pot and beam trawl fishery—Season. Notwithstanding the provisions of WAC 220-52-051, effective immediately until further notice, it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp pot gear:

(a) All waters of Marine Fish-Shellfish Management and Catch Reporting Area 29 are open to harvest of all shrimp species from 6:00 a.m. May 1, 2007, until further notice.

(b) All waters of Shrimp Management Areas 1B, 1C, and Crustacean Management Regions 2, 3, 4, and 6 outside the Discovery Bay Shrimp District are open to the harvest of all non-spot shrimp species from 6:00 a.m. May 1, 2007, until further notice, except as provided for in this section:

i) In Marine Fish/Shellfish Management and Catch Reporting Area 22A, closed through June 15 in waters inside and bounded by a line projected from Blakely Marina on the northwest corner of Blakely Island to Upright Head on Lopez Island, following the shoreline southerly on Lopez Island to intersect a line projected due west from Bald Bluff on Lopez Island.

ii) All waters of Catch Areas 23A-E, 23A-W, and 23A-C are closed.

(c) The shrimp accounting week is Monday through Sunday.

(d) It is unlawful to fish for shrimp for commercial purposes in Puget Sound using shellfish pot gear in more than one Marine Fish-Shellfish Management and Catch Reporting Area per day. Fishers may move all of their shellfish pot gear from one Marine Fish-Shellfish Management and Catch Reporting Area to another Marine Fish-Shellfish Management and Catch Reporting Area if a harvest report is made before the shellfish pot gear is moved. The harvest activity report must be made consistent with the provisions of WAC 220-52-075 and must also include the following additional information.

(i) The number of pots being moved to a new area, and the Marine Fish-Shellfish Management and Catch Reporting Area that the pots are being moved to.

(e) It is unlawful to set or pull shellfish pots in one Marine Fish-Shellfish Management and Catch Reporting Area while in possession of shrimp harvested from another Marine Fish-Shellfish Management and Catch Reporting Area, except shellfish pots may be set in a new fishing area subsequent to making a report as indicated in Section 1(d) above.

(2) Shrimp beam trawl gear:

(a) Crustacean Management Region 3 (outside of the Discovery Bay Shrimp District, Sequim Bay, and Catch Area

23D) is open immediately until further notice. Sequim Bay includes those waters of Catch Area 25A south of a line projected west from Travis Spit on the Miller Peninsula.

(b) That portion of Catch Area 22A within Shrimp Management Area 1B will open at 6:00 a.m. on May 16, 2007, until further notice.

(3) It is unlawful to set or pull shrimp beam trawl gear from one hour after official sunset to one hour before official sunrise.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 a.m. May 1, 2007:

WAC 220-52-05100C Puget Sound shrimp beam trawl fishery—Season (07-54)

**WSR 07-10-011
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 07-66—Filed April 19, 2007, 2:16 p.m., effective April 19, 2007, 2:16 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-44-05000P; 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 bottomfish, 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 Mak-

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

Date Adopted: April 18, 2007.

J. P. Koenings
Director

NEW SECTION

WAC 220-44-05000Q Coastal bottom fish catch limits. Notwithstanding the provisions of WAC 220-44-050, effective immediately 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, Volume 72, Number 74 published on April 18, 2007. 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 percent 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 the 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:

WAC 220-44-05000P Coastal bottomfish catch limits. (07-01)

WSR 07-10-048
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-67—Filed April 26, 2007, 1:52 p.m., effective May 1, 2007]

Effective Date of Rule: May 1, 2007.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-116, 220-56-122, 220-56-195, 232-28-619, 232-28-620, and 232-28-621.

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: The department is in the process of adopting permanent rules that are necessary to implement the personal use fishing plans agreed-to with resource comanagers at the North of Falcon proceedings. These emergency rules are necessary to comply with agreed-to management plans, and are interim until permanent rules take effect.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 6, 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: April 24, 2007.

J. P. Koenings
Director

NEW SECTION

WAC 220-56-11600C Statewide saltwater hook rules—2007 North of Falcon. Notwithstanding the provisions of WAC 220-56-116, effective May 1, 2007, until further notice:

(1) It is unlawful to use more than two hooks to fish in saltwater, except for forage fish jigger gear and squid jig gear, and when fishing from the north jetty of the Columbia River.

(2) It is unlawful to use barbed hooks in Marine Areas 5-13, except for forage fish jigger gear.

(3) It is unlawful to use other than one single barbless hook to fish for sturgeon.

(4) It is unlawful to use other than single barbless hooks to fish for salmon in Marine Areas 1-4, except in the Ocean Shores and Westport Boat Basins, and in Marine Area 2-1 from August 1 until further notice, as provided for in this section.

(5) It is unlawful to fish for or possess salmon taken with terminal gear hooks in violation of non-buoyant lure restrictions in the following saltwater areas during the periods indicated:

(a) Budd Inlet waters south of a line projected true west from the KGY radio station to the mainland and north of the closed zone provided for in WAC 220-56-128 - July 16, until further notice.

(b) Ocean Shores Boat Basin - August 16 until further notice.

(c) Westport Boat Basin - August 16 until further notice.

(6) Use of gear in violation of this section is an infraction, punishable under RCW 77.15.160.

(7) It is unlawful to possess fish or shellfish taken with gear in violation of the provisions of this section. Possession of fish or shellfish while using gear in violation of the provisions of this section is a rebuttable presumption that the fish or shellfish were taken with such gear. Possession of such fish or shellfish is punishable under RCW 77.15.380 Unlawful recreational fishing in the second degree — Penalty, unless the fish or shellfish are taken in the amounts or manner to constitute a violation of RCW 77.15.370 Unlawful recreational fishing in the first degree — Penalty.

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

NEW SECTION

WAC 220-56-12200A Statewide bait rules—2007 North of Falcon. Notwithstanding the provisions of WAC 220-56-122, effective May 1, 2007, until further notice, it is lawful to use bait in saltwater.

[NEW SECTION]

WAC 220-56-19500R Closed saltwater salmon areas—2007 North of Falcon. Notwithstanding the provisions of WAC 220-56-195, effective June 1 through July 31, 2007, it is unlawful to fish in those waters of Commencement Bay east of a line projected from the Sperry Ocean Dock, to landfall below the Cliff House Restaurant on the north shore of Commencement Bay.

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

NEW SECTION

WAC 232-28-61900B Exceptions to statewide rules—2007 North of Falcon. Notwithstanding the provisions of WAC 232-28-619, effective May 1, 2007, until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

Baker River (Skagit County): Mouth to Highway 20 Bridge: Salmon: Open only July 1 through July 31, except closed 12:01 a.m. July 5 through 2:00 p.m. July 6, and 12:01 a.m. July 10 through 2:00 p.m. July 11. Non-buoyant lure restriction and night closure. Daily limit 2 sockeye salmon.

Big Beef Creek (Kitsap County): Waters within 100 feet of the Seabeck Highway NW Bridge closed to all fishing August 1 until further notice.

Cascade River (Skagit County): From the mouth to the Rockport-Cascade Road Bridge: Salmon: Open June 1 through July 8. Non-buoyant lure restriction and night closure. Daily limit 2 hatchery chinook.

McAllister Creek (Thurston County): Salmon: Open only July 1 until further notice, from mouth to Olympia - Steilacoom Road Bridge. Daily limit 6 fish, of which no more than 2 may be adult salmon.

McLane Creek (Thurston County), from a line 50 feet north of and parallel to the Mud Bay Road Bridge, to a line 100 feet upstream and parallel to the south bridge on Highway 101: Salmon: closed.

Naselle River (Pacific/Wahkiakum counties), from Highway 101 Bridge upstream, including all forks: Salmon: Open only August 1 until further notice, from Highway 101 Bridge to Highway 4 Bridge. Daily limit 6 fish, of which no more than 3 may be adult salmon; and of these 3 adult fish, no more than 1 may be a wild adult coho and not more than 2 may be adult chinook. Release chum.

Nemah River, Middle, and South: Salmon: Open only August 1 until further notice, on Middle Nemah from mouth to DNR Bridge, and on South Nemah from mouth to confluence with Middle Nemah. Daily limit 6 fish, of which no more than 2 may be adult salmon; and of the two adult fish, no more than one may be a wild adult coho. Release chum.

Purdy Creek (Mason County): June 1 through July 31 season. Selective gear rules. All species: Release all fish.

Skagit River (Skagit/Whatcom counties): From the Dalles Bridge at Concrete to the Highway 530 Bridge at Rockport - Salmon open July 1 through July 31, except closed 12:01 a.m. July 5 until 2:00 p.m. July 6, and 12:01 a.m. July 10 until 2:00 p.m. July 11, and closed from 200 feet above the mouth of the Baker River to the Cascade River.

Daily limit two sockeye salmon. Release all salmon except sockeye salmon.

From the Highway 530 Bridge at Rockport to the Cascade River - Salmon open June 1 through July 8. Nonbuoyant lure restriction and night closure. Daily limit two salmon. Release all salmon except hatchery chinook.

Skokomish River (Mason County), mouth to forks: Night closure, non-buoyant lure restriction, and single point barbless hooks required August 1 until further notice, mouth to Highway 101. Mouth to Highway 101: June 1 through July 31 season. Highway 101 to Forks: June 1 until further notice. All game fish: Release all fish. Selective gear rules from Highway 101 Bridge to forks. Salmon: Open only August 1 until further notice, mouth to Highway 101 Bridge. Terminal gear restricted to no closer than 25 feet of a tribal gill net. Daily limit 1 salmon. Release chum salmon.

Skykomish River (Snohomish County): From mouth to mouth of Wallace River: Salmon: Open August 16 until further notice, mouth to Lewis Street Bridge in Monroe. Daily limit 2 salmon plus 2 additional pink salmon. Release chinook. Open June 1 through July 31, Lewis Street Bridge in Monroe to Wallace River. Daily limit 2 hatchery chinook.

Snohomish River (Snohomish County), including all channels, sloughs, and interconnected waterways, but excluding all tributaries: Salmon: Open August 16 until further notice. Daily limit 2 salmon plus 2 additional pink salmon. Release chinook

Wallace River (Snohomish County): From its mouth to 200 feet upstream of the water intake of the salmon hatchery, June 1 to August 31, closed from 363rd Avenue Southeast/Reece Road (Dike Road) to a point two hundred feet upstream of the water intake of the salmon hatchery.

Willapa River (Pacific County): Mouth to Highway 6 Bridge: Salmon: Open only August 1 until further notice, from mouth to Highway 6 Bridge approximately 2 miles below mouth of Trap Creek. Daily limit 6 fish, of which no more than 3 may be adult salmon; and of the adult salmon not more than one may be a wild adult coho and not more than two may be adult chinook. Release chum.

NEW SECTION

WAC 232-28-62000J Coastal salmon seasons—2007 North of Falcon. Notwithstanding the provisions of WAC 232-28-620, effective May 1, 2007, until further notice, it is unlawful to fish for salmon in coastal waters except as provided for in this section, provided that unless otherwise amended, all permanent rules remain in effect:

(1) **Area 1** - Open July 1 until further notice, daily limit 2 salmon, not more than 1 of which may be a chinook, except release wild coho.

(2) **Areas 2, 2-1, and 2-2:**

(a) **Area 2** - Open July 1 until further notice: open Sunday through Thursday of each week, daily limit 2 salmon, not more than 1 of which may be a chinook, except release wild coho.

(b) **Area 2-1** - Open July 1 through July 31: open Sunday through Thursday of each week, daily limit 2 salmon, not more than 1 of which may be a chinook, except release wild coho. Open August 1 through August 15: daily limit 6

salmon, not more than two of which may be adult salmon. Open August 16 until further notice, daily limit 6 salmon, not more than three of which may be adult salmon, of which only 2 may be chinook. Release chum.

(c) Area 2-2 west of the Buoy 13 line:

(i) Open July 1 through July 31: open Sunday through Thursday of each week, daily limit 2 salmon, not more than 1 of which may be a chinook, except release wild coho.

(ii) Closed August 1 until further notice.

(d) Those waters within a line from the lighthouse 1 mile south of the south jetty to Buoy No. 2, then to Buoy No. 3, then to the tip of the north jetty, then to the exposed end of the south jetty, are closed August 1 until further notice.

(3) Area 3 - Open July 3 until further notice: open Tuesday through Saturday of each week, daily limit 2 salmon, not more than one of which may be a chinook, except release wild coho. Effective beginning August 1, daily limit may include 1 additional pink.

(4) Area 4:

(a) Open July 3 until further notice, with the following area rules, limits, and species restrictions: open Tuesday through Saturday of each week, daily limit 2 salmon, not more than one of which may be a chinook, except release wild coho.

(i) Effective July 3 through July 31, closed to salmon angling east of a true north/south line through Sail Rock.

(ii) Effective beginning August 1, release chinook east of the Bonilla-Tatoosh Line.

(iii) Effective beginning August 1, release chum.

(iv) Effective beginning August 1, daily limit may include 1 additional pink.

[NEW SECTION]

WAC 232-28-62100W Puget Sound salmon seasons—2007 North of Falcon. Notwithstanding the provisions of WAC 232-28-621, WAC 220-56-128, and WAC 220-56-195, effective May 1, 2007 until further notice, it is unlawful to fish for salmon in Puget Sound except as provided for in this section, provided that unless otherwise amended, all permanent rules remain in effect:

(1) Area 5 - Open July 1 until further notice - Daily limit 2 salmon plus 2 additional pink, except release chum, wild chinook, and wild coho. Single-point barbless required.

(2) Area 6 - Open July 1 until further notice - Daily limit 2 salmon plus 2 additional pink, except release chum and wild coho; release wild chinook west of a true north-south line through Buoy #2 immediately east of Ediz Hook; and release all chinook east of a true north-south line through Buoy #2 immediately east of Ediz Hook. Single-point barbless hooks required.

(3) Area 7:

(a) Waters of Bellingham Bay described in WAC ~~220-56-195~~(1) closed July 1 through August 15. Open August 16 until further notice - Daily limit 4 salmon, not more than 2 of which may be chinook salmon; release pink.

(b) All other waters of Area 7 - Open July 1 until further notice, daily limit 2 salmon plus 2 additional pink, not more than one of which may be a chinook salmon; and effective

beginning August 1, release chum and wild coho, and single-point barbless hooks required.

(4) Area 8-1 - Open August 1 until further notice, daily limit 2 salmon, except release chinook and pink.

(5) Area 8-2:

(a) Effective June 2 through June 22, and June 24 until further notice - Waters adjacent to Tulalip Bay west of the line from Mission Point to Hermosa Point, and within 2,000 feet of shore, north of pilings at old Bower's Resort and south of the fishing marker 1.4 miles northwest of Hermosa Point, open Friday through 11:59 a.m. the following Monday of each week. Daily limit 2 salmon plus 2 additional pink.

(b) Effective August 1 until further notice - All other waters of Area 8-2 open. Daily limit 2 salmon plus 2 additional pink, except release chinook.

(6) Area 9:

(a) Salmon fishing open year-round from the Edmonds fishing pier. Daily limit 2 salmon, not more than one of which may be a chinook, and effective beginning August 1, release chum. Effective July 1 until further notice, daily limit may include 2 additional pink.

(b) Effective July 16 until further notice - All other waters of Area 9 open with the following area rules, limits, and species restrictions:

(i) July 16 through August 15, daily limit 2 salmon plus 2 additional pink, except release wild chinook and chum. Single-point barbless hooks required. Closed south of a line from Foulweather Bluff to Olele Point.

(ii) August 16 until further notice, daily limit 2 salmon plus 2 additional pink, except release chinook and chum.

(7) Area 10:

(a) Salmon fishing open year-round from the Elliott Bay public fishing pier, Seacrest pier, Waterman pier, Bremerton boardwalk, and Illahee State Park pier. Daily limit 2 salmon, not more than one of which may be a chinook, and effective beginning August 1, release chum. Effective July 1 until further notice, daily limit may include 2 additional pink.

(b) Effective June 1 through June 30, closed; except open north of a line from Meadow Point to Point Monroe, and release all salmon. Single-point barbless hooks required.

(c) Effective July 1 until further notice, all other waters of Area 10 open with the following area rules, limits, and species restrictions:

(i) July 1 through July 15, daily limit 2 salmon plus 2 additional pink, except release chinook.

(ii) July 16 through August 15, daily limit 2 salmon plus 2 additional pink, except release wild chinook; and effective August 1, release chum. Single-point barbless hooks required.

(iii) August 16 until further notice, daily limit 2 salmon plus 2 additional pink, except release chinook and chum.

(iv) Shilshole Bay east of a line from Meadow Point to West Point is closed.

(v) Waters of Sinclair Inlet and Port Orchard south of the Manette Bridge, south of a line projected true west from Battle Point and west of a line projected true south from Point White: daily limit 2 salmon, lawful to retain any chinook; and effective August 1, release chum.

(vi) During the period July 1 through August 21, Elliott Bay east of a line from West Point to Alki Point is closed;

except July 6 through 11:59 a.m. August 20 - Open east of a line from Pier 91 to Duwamish Head, Friday through Monday of each week - Daily limit of 2 salmon plus 2 additional pink, lawful to retain any chinook, and release chum August 1 through August 20.

(vii) Effective July 1 until further notice, Duwamish waterway downstream from the First Avenue South Bridge to an east-west line through Southwest Hanford Street on Harbor Island parallel to Southwest Spokane Street where it crosses Harbor Island: Night closure, only 1 single-point barbless hook may be used, and only fish hooked inside the mouth may be retained.

(8) Area 11:

(a) Salmon fishing open year-round from the Les Davis public fishing pier, Des Moines public fishing pier, Redondo public fishing pier, Dash Point dock, and Point Defiance Boathouse dock. Daily limit 2 salmon, not more than one of which may be a chinook. Effective July 1 until further notice, daily limit may include 2 additional pink.

(b) Effective June 1 through June 30 - All other waters of Area 11 open. Daily limit 2 salmon, except release wild chinook. Except those waters east of a line projected from the Sperry Ocean Dock to landfall below the Cliff House Restaurant on the north shore of Commencement Bay are closed. Single-point barbless hooks required.

(c) Effective July 1 until further notice - All other waters of Area 11 open. Daily limit 2 salmon plus 2 additional pink, except release wild chinook. Those waters east of a line projected from the Sperry Ocean Dock to landfall below the Cliff House Restaurant on the north shore of Commencement Bay are closed July 1 through July 31. Single-point barbless hooks required.

(9) Area 13:

(a) Salmon fishing open year-round from the Fox Island public fishing pier. Daily limit 2 salmon, not more than one of which may be a chinook; and effective July 1, release wild coho, and single-point barbless hooks required.

(b) All other waters of Area 13, open May 1 until further notice, with the following area rules, limits and species restrictions:

(i) May 1 through June 30 - Daily limit 2 salmon, except release wild chinook. Single-point barbless hooks required.

(ii) July 1 until further notice - Daily limit 2 salmon, except release wild coho and wild chinook. Single-point barbless hooks required.

(iii) Carr Inlet - those waters of Carr Inlet north of a line from Green Point to Penrose Point, open to salmon angling July 1 through July 31, terminal gear restricted to fly fishing only, daily limit 2 hatchery coho.

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

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

**WSR 07-10-049
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 07-70—Filed April 26, 2007, 1:53 p.m., effective April 26, 2007, 1:53 p.m.]

Effective Date of Rule: Immediately.

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 220-33-01000G and 220-33-01000H; 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.

Reasons for this Finding: Sets additional fishing periods in the Deep River select area. Impacts to ESA-listed stocks in these fisheries are covered under the biological opinion for the 2005-2007 interim management agreement. This rule is consistent with actions of the Columbia River compact hearings of April 25, 2007, and conforms Washington and Oregon state rules. There is insufficient time to promulgate permanent rules.

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 (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached.

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

Number of Sections Adopted at 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: April 26, 2007.

Loreva M. Preuss
for Jeff Koenings
Director

NEW SECTION

WAC 220-33-01000H Columbia River seasons below Bonneville. Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, it is unlawful for a person to take or possess salmon, sturgeon, and shad for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E, except during the times and conditions listed:

1. Blind Slough/Knappa Slough Select Area

a) Area: Open waters of Blind Slough extend from markers at the mouth of Gnat Creek located approximately 1/2 mile upstream of the county road bridge, and downstream to markers at the mouth of Blind Slough. Concurrent Washington/Oregon waters extend downstream of the railroad bridge.

Knappa Slough is open to fishing in all waters bounded by a line from the northernly most marker at the mouth of Blind Slough, westerly to a marker on Karlson Island, downstream to a north-south line defined by a marker on the eastern end of Minaker Island, to markers on Karlson Island and the Oregon shore.

During May 3 through June 15, the lower boundary of the Knappa Slough fishing area is extended downstream to boundary lines defined by markers on the west end of

Minaker Island to markers on Karlson Island and the Oregon Shore (fall-season boundary).

b) Dates: 7:00 p.m. Mondays to 7:00 a.m. Tuesdays, and 7:00 p.m. Thursdays to 7:00 a.m. Fridays, immediately until June 15, 2007.

c) Gear: 8-inch maximum mesh. Monofilament nets are allowed. Nets are restricted to 100 fathoms in length, with no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed.

d) Allowable sale: salmon, sturgeon, and shad. A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period.

2. Deep River Select Area

a) Area: From the markers at USCG navigation marker #16, upstream to the Highway 4 Bridge.

b) Dates: 7:00 p.m. Sundays to 7:00 a.m. Mondays, 7:00 p.m. Mondays to 7:00 a.m. Tuesdays, 7:00 p.m. Wednesdays to 7:00 a.m. Thursdays, and 7:00 p.m. Thursdays to 7:00 a.m. Fridays, immediately through June 15, 2007

c) Gear: 8-inch maximum mesh. Monofilament nets are allowed. Nets are restricted to a maximum length of 100 fathoms, and no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed. Nets cannot be tied off of any stationary structures. Nets may not fully cross the navigation channel.

d) Allowable sale: salmon, white sturgeon, and shad. A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period.

e) Miscellaneous: Transportation or possession of fish outside the fishing area (except to the sampling station) is unlawful until department staff has biologically sampled individual catches. After sampling, fishers will be issued a transportation permit by agency staff.

3. In the Columbia River downstream of Bonneville Dam and in the Select Areas (described in WAC 220-22-010(9)), it shall be lawful to have onboard a commercial fishing vessel more than one licensed net in excess of the lawful size or length prescribed for a single net as long as the net or nets are of legal size for the fishery, or the net has a minimum mesh size of 9 inches, and the length of any one net does not exceed 1,500 feet in length.

Reviser's note: The spelling 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:

WAC 220-33-01000G Columbia River seasons below Bonneville. (07-47)

The following section of the Washington Administrative Code is repealed effective June 16, 2007:

WAC 220-33-01000H Columbia River seasons below Bonneville.

WSR 07-10-050
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-72—Filed April 26, 2007, 1:54 p.m., effective April 26, 2007,
1:54 p.m.]

Effective Date of Rule: Immediately.

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 232-28-61900L and 232-28-61900D; 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.

Reasons for this Finding: Extends the fishery beyond the previously adopted scheduled closure date of May 1, 2007. The extended season is expected to allow for harvest of hatchery chinook while minimizing impacts to ESA-listed species. Rule is consistent with joint state actions of the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife on April 25, 2007. There is insufficient time to promulgate permanent regulations. The season is consistent with Washington fish and wildlife commission guidance for 2006-2007 and the 2005-2007 *U.S. v. Oregon* interim management agreement.

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 fed-

eral 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 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.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 0; Federal Rules or Standards: New 1, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 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: April 26, 2007.

Loreva M. Preuss
for Jeff Koenings
Director

NEW SECTION

WAC 232-28-61900D Exceptions to statewide rules—Columbia River. Notwithstanding the provisions of WAC 232-28-619, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

1. Columbia River:

i. From Tower Island power lines in Bonneville Pool upstream to McNary Dam, (except for those waters closed under permanent regulations). Salmon, steelhead and shad: Open immediately through May 3, 2007. Daily limit 6 salmon of which no more than 2 may be adult salmon. Release all wild Chinook, sockeye and chum. Minimum size 12 inches. Daily limit 2 trout; release wild steelhead. Minimum size 12-inches.

ii. For the mainstem Columbia River salmon and steelhead fishery upstream of the Rocky Point/Tongue Point line, effective through May 15, 2007, salmon and steelhead required to be released may not be totally removed from the water; except anglers fishing from vessels thirty feet or longer shown on their state registration or Coast Guard documentation are exempt from this subsection.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-61900L Exceptions to statewide rules—Columbia River. (07-12)

The following section of the Washington Administrative Code is repealed effective May 16, 2007:

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

WSR 07-10-051**EMERGENCY RULES****DEPARTMENT OF
FISH AND WILDLIFE**

[Order 07-74—Filed April 26, 2007, 1:55 p.m., effective May 1, 2007]

Effective Date of Rule: May 1, 2007.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-52-07100G.

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: The term period of the 2006-2007 harvest management plan for the commercial sea cucumber fishery concludes after April 30, 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 0, Amended 0, Repealed 1.

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

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

Date Adopted: April 26, 2007.

Loreva M. Preuss
for Jeff Koenings
Director

REPEALER

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

WAC 220-52-07100G Sea cucumbers. (07-29)

WSR 07-10-057**EMERGENCY RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Children's Administration)

[Filed April 27, 2007, 9:31 a.m., effective April 27, 2007, 9:31 a.m.]

Effective Date of Rule: Immediately.

Purpose: To meet the requirements of ESSB 5922 (chapter 512, Laws of 2005), the department is amending WAC 388-15-009 What is child abuse or neglect? and 388-15-049 When must the department notify the alleged perpetrator of allegations of child abuse or neglect?

Citation of Existing Rules Affected by this Order:
Amending WAC 388-15-009 and 388-15-049.

Statutory Authority for Adoption: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW.

Other Authority: ESSB 5922 (chapter 512, Laws of 2005).

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 new language is essential for children's administration to implement the legislature's intent in ESSB 5922 by its January 1, 2007, effective date. The new language is essential for determining what constitutes child abuse under the statute, and is necessary for the protection of health, safety and welfare of children. There is not time to complete the regular rule-making steps in chapter 34.05 RCW to adopt this new language by January 1 and still have adequate and effective public participation in the rule-making process. The department has initiated the regular rule-making process by publishing preproposal statements of inquiry as WSR 06-21-080 and 06-21-081. The department has also filed a proposed rule notice (CR-102) as WSR 07-08-095 and is holding a public hearing on May 8, 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 2, 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 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: April 20, 2007.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 02-15-098 and 02-17-045, filed 7/16/02 and 8/14/02, effective 2/10/03)

WAC 388-15-009 What is child abuse or neglect?

Child abuse or neglect means the injury, sexual abuse, or sexual exploitation (~~(, negligent treatment, or maltreatment)~~) of a child by any person under circumstances which indicate that the child's health, welfare, ~~((and))~~ or safety is harmed, or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

(1) Physical abuse means the nonaccidental infliction of physical injury or physical mistreatment on a child. Physical abuse includes, but is not limited to, such actions as:

- (a) Throwing, kicking, burning, or cutting a child;
- (b) Striking a child with a closed fist;
- (c) Shaking a child under age three;
- (d) Interfering with a child's breathing;
- (e) Threatening a child with a deadly weapon;

(f) Doing any other act that is likely to cause and which does cause bodily harm greater than transient pain or minor temporary marks or which is injurious to the child's health, welfare ~~((and))~~ or safety.

(2) Physical discipline of a child, including the reasonable use of corporal punishment, is not considered abuse when it is reasonable and moderate and is inflicted by a parent or guardian for the purposes of restraining or correcting the child. The age, size, and condition of the child, and the location of any inflicted injury shall be considered in determining whether the bodily harm is reasonable or moderate. Other factors may include the developmental level of the child and the nature of the child's misconduct. A parent's belief that it is necessary to punish a child does not justify or permit the use of excessive, immoderate or unreasonable force against the child.

(3) Sexual abuse means committing or allowing to be committed any sexual offense against a child as defined in the criminal code. The intentional touching, either directly or through the clothing, of the sexual or other intimate parts of a child or allowing, permitting, compelling, encouraging, aiding, or otherwise causing a child to engage in touching the sexual or other intimate parts of another for the purpose of gratifying the sexual desire of the person touching the child, the child, or a third party. A parent or guardian of a child, a person authorized by the parent or guardian to provide child-care for the child, or a person providing medically recognized services for the child, may touch a child in the sexual or other intimate parts for the purposes of providing hygiene, child care, and medical treatment or diagnosis.

(4) Sexual exploitation includes, but is not limited to, such actions as allowing, permitting, compelling, encouraging, aiding, or otherwise causing a child to engage in:

(a) Prostitution;

(b) Sexually explicit, obscene or pornographic activity to be photographed, filmed, or electronically reproduced or transmitted; or

(c) Sexually explicit, obscene or pornographic activity as part of a live performance, or for the benefit or sexual gratification of another person.

(5) Negligent treatment or maltreatment means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, on the part of a child's parent, legal custodian, guardian, or caregiver that shows a serious disregard of the consequences to the child of such magnitude that it creates a clear and present danger to the child's health, welfare, ~~((and))~~ or safety. A child does not have to suffer actual damage or physical or emotional harm to be in circumstances which create a clear and present danger to the child's health, welfare, ~~((and))~~ or safety. Negligent treatment or maltreatment includes, but is not limited, to:

(a) Failure to provide adequate food, shelter, clothing, supervision, or health care necessary for a child's health, welfare, ~~((and))~~ or safety. Poverty and/or homelessness do not constitute negligent treatment or maltreatment in and of themselves;

(b) Actions, failures to act, or omissions that result in injury to or which create a substantial risk of injury to the physical, emotional, and/or cognitive development of a child; or

(c) The cumulative effects of ~~((consistent))~~ a pattern of conduct, behavior or inaction ((or behavior)) by a parent or guardian in providing for the physical, emotional and developmental needs of a child's, or the effects of chronic failure on the part of a parent or guardian to perform basic parental functions, obligations, and duties, when the result is to cause injury or create a substantial risk of injury to the physical, emotional, and/or cognitive development of a child.

AMENDATORY SECTION (Amending WSR 02-15-098 and 02-17-045, filed 7/16/02 and 8/14/02, effective 2/10/03)

WAC 388-15-049 When must the department notify the ~~((alleged perpetrator))~~ parent, guardian or legal custodian of allegations of child abuse or neglect made against them? ~~((CPS))~~ The department must ((attempt to)) notify the ((alleged perpetrator)) parent, guardian or legal custodian of a child of the allegations of child abuse or neglect ((at the earliest point in the investigation that will not jeopardize the safety and protection of the child or the investigation process)) made against that person at the initial point of contact with that person, in a manner consistent with the laws maintaining the confidentiality of the persons making the allegations. Investigations of child abuse and neglect should be conducted in a manner that will not jeopardize the safety or protection of the child or the integrity of the investigation process.

WSR 07-10-067
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-75—Filed April 30, 2007, 4:26 p.m., effective May 1, 2007, 8:00 a.m.]

Effective Date of Rule: May 1, 2007, 8:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04600E; and amending WAC 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: California Assembly Bill 2773 (effective January 1, 2007) limits the geographic area where a California coastal Dungeness crab license is valid to the state and federal waters adjacent to the coast of California. Washington department of fish and wildlife agreed to adopt reciprocal regulations limiting the area that Washington coastal Dungeness crab licenses are valid to the state and federal waters adjacent to the coast of Washington. Similar reciprocal rules between Oregon and Washington were in place at the beginning of the 2005-2006 season. Special management areas for tribal fishing are included as part of the crab management plan agreements. 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: April 30, 2007.

J. P. Koenings
 Director

NEW SECTION

WAC 220-52-04600G Coastal crab season. Notwithstanding the provisions of WAC 220-52-046, effective 8:00 a.m. on May 1, 2007, until further notice, it is unlawful to commercially fish for Dungeness crab in the following areas:

(1) A Quinalt special management area (QIN SSMA): The QIN SSMA includes the coastal waters shoreward of a line approximating the 25-fathom depth curve from Copalis

River to Point Grenville as described by the following coordinates:

- Northeast Corner: 47°18.35 N Lat. - 124°16.00 W Lon.
- Northwest Corner: 47°18.35 N Lat. - 124°28.40 W Lon.
- Southwest Corner: 47°08.00 N. Lat. - 124°23.50 W Lon.
- Southeast Corner: 47°08.00 N. Lat. - 124°11.20 W Lon.

(2) A Quinalt special management area (QIN SSMA): The QIN SSMA includes the coastal waters shoreward of a line approximating the 30-fathom depth curve from Point Grenville to Split Rock as described by the following coordinates:

- Northeast corner: 47°24.50 N Lat. - 124°20.00 W Lon.
- Northwest corner: 47°24.50 N Lat. - 124°33.70 W Lon.
- Southwest corner: 47°18.35 N Lat. - 124°31.20 W Lon.
- Southeast corner: 47°18.35 N Lat. - 124°16.00 W Lon.

(3) It is unlawful for a vessel to use more than 100 pots in the Quileute SMA (described by the coordinates below) from 8:00 a.m. on May 1, 2007 through 7:59 a.m. on May 31, 2007. Fishers must pre-register with the Department of Fish and Wildlife 24 hours prior to deploying gear in this area by one of the three following methods:

- Fax transmission to Brandon Bryant at 360-664-0689;
- Email to Brandon Bryant at: bryanblb@dfw.wa.gov or
- Telephone call to: Brandon Bryant at 360-249-4628, ext. 229

Quileute SMA:

1. Cape Johnson: 47°58.00 N. Lat. - 124°40.40 W. Lon.
2. 47°58.00 N. Lat. - 124°49.00 W. Lon.
3. 47°54.293 N. Lat. - 124°47.089 W. Lon.
4. 47°54.293 N. Lat. - 124°48.817 W. Lon.
5. 47°40.50 N. Lat. - 124°44.218 W. Lon.

Destruction Island: 47°40.50 N. Lat. - 124°24.43 W. Lon.

(4) It is unlawful to fish for or possess Dungeness crabs or to set crab gear in waters of the Pacific Ocean adjacent to the states of Oregon or California without the licenses or permits required to commercially fish for Dungeness crab within the state waters of Oregon or California. Washington coastal Dungeness crab permits are valid only in Washington state waters, the Columbia River, Willapa Bay, Grays Harbor, and the Pacific Ocean in federal waters north of the Washington/Oregon border (46°15.00 N. Latitude), extending 200 nautical miles westward.

(5) 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.

REPEALER

The following section of the Washington Administrative Code is repealed effective 8:00 a.m. on May 1, 2007:

WAC 220-52-04600E Coastal crab season. (07-37)

WSR 07-10-068
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-76—Filed April 30, 2007, 4:28 p.m., effective May 4, 2007, 12:01 a.m.]

Effective Date of Rule: May 4, 2007, 12:01 a.m.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-36000C; 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: April 30, 2007.

J. P. Koenings
Director

NEW SECTION

WAC 220-56-36000C 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 a.m. May 5, 2007 through 11:59 a.m. May 6, 2007, razor clam digging is allowed in Razor Clam Area 1. Digging is allowed from 12:01 a.m. to 11:59 a.m. only.

2. Effective 12:01 a.m. May 4, 2007 through 11:59 a.m. May 6, 2007, razor clam digging is allowed in Razor Clam Area 2. Digging is allowed from 12:01 a.m. to 11:59 a.m. 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 p.m. May 6, 2007.

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

WSR 07-10-091
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-69—Filed May 1, 2007, 2:38 p.m., effective May 5, 2007, 7:00 a.m.]

Effective Date of Rule: May 5, 2007, 7:00 a.m.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-325.

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 needed to ensure an orderly fishery, manage within court-ordered sharing requirements, and to ensure conservation. The Discovery Bay Shrimp District closure is necessary as insufficient shrimp are available to conduct a fishery. The closure of Marine Area 11 at the end of the day, May 5, is necessary because the recreational harvest share of spot shrimp will have been harvested, by that time. 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: May 1, 2007.

J. P. Koenings
Director

NEW SECTION

WAC 220-56-32500Q Shrimp—Areas and seasons. Notwithstanding the provisions of WAC 220-56-325:

- 1) Effective immediately, until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of the Discovery Bay Shrimp District.
- 2) Effective 3:00 p.m., May 5, 2007, it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Area 11.

**WSR 07-10-129
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 07-71—Filed May 2, 2007, 11:04 a.m., effective May 4, 2007, 12:01 a.m.]

Effective Date of Rule: May 4, 2007, 12:01 a.m.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900C; 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 needed to eliminate premature harvest of catchable trout dedicated to the "Fishing Kids" event and to assure a safe and successful event. 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: May 1, 2007.

J. P. Koenings
Director

NEW SECTION

WAC 232-28-61900C Exceptions to statewide rules—Columbia Park Pond (Benton Co.) Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. May 4 through 4:00 p.m. May 5, 2007, it is unlawful to fish in those waters of Columbia Park Pond, except that juveniles participating in the Fishing Kids Event may fish from 8:00 a.m. to 4:00 p.m. on May 5, 2007.

REPEALER

The following section of the Washington Administrative Code is repealed effective 4:01 p.m. May 5, 2007:

WAC 232-28-61900C Exceptions to statewide rules—Columbia Park Pond.