

WSR 08-11-001
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 08-95—Filed May 7, 2008, 1:29 p.m., effective May 8, 2008]

Effective Date of Rule: May 8, 2008.

Purpose: Amend commercial rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-40-03100E; and amending WAC 220-40-031.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Harvestable white sturgeon are available within the Willapa Bay management guideline for a commercial fishery extension. 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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 7, 2008.

Loreva M. Preuss
 for Jeff Koenings
 Director

NEW SECTION

WAC 220-40-03100E Willapa Bay spring white sturgeon fishery. Notwithstanding the provisions of WAC 220-40-031, effective immediately until further notice, it is unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon taken from those waters for commercial purposes, except that

Fishing periods

- (1) Gill net gear may be used to fish for sturgeon:

Time	Area
Open through 11:59 p.m. May 14, 2008	Area 2G easterly of a line from the most northerly upland at Leadbetter Point (approximately 46 degrees 39' N) to the eastern most upland at Toke Point (approximately 123 degrees 58' W); and areas 2H, 2J and 2M.

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

Gear

- (2) Gill net gear restrictions - All areas:
 - (a) Drift gill net gear only. It is unlawful to use set net gear.
 - (b) 9-inch minimum mesh.
 - (c) Each boat will be required to have two operable recovery boxes or one box with two chambers. Each box shall be operating during any time that the net is being retrieved or picked. The flow in the recovery box will be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute. Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39 1/2 inches to 48 inches, the inside width measurements must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of the chamber and 1 3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is at least 1 1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to department employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river/bay water into each chamber.

- (d) All Chinook, non-legal sturgeon, and steelhead must be handled with care to minimize injury to fish and released immediately to the river/bay or to an operating recovery box.
- (e) Any Chinook or steelhead that is bleeding or lethargic must be placed in the recovery box prior to being released to the river/bay.
- (f) All fish placed in recovery boxes must be released to the river/bay prior to landing or docking.

Other

- (3) Quick reporting is required for wholesale dealers and fishers retailing their fish (WAC 220-69-240) by 10:00 am the day following landing.

(4) Fishers must allow WDFW staff on-board as observers if required by WDFW staff when participating in these openings.

(5) Notice of Intent to Participate to Quick Reporting by phone, fax or email, WAC 220-69-240, prior to 10:00 a.m. May 7, 2008 for May 8 - 14, 2008.

(6) Green sturgeon retention is prohibited.

(7) Report ALL encounters of Chinook, Green Sturgeon and Steelhead (Your name, Date of encounter, and Number of species encountered) to Quick Reporting by phone (866) 771-1280, fax (360) 664-0689, or email harborfishtickets@dfw.wa.gov.

(8) Retrieve any information from spaghetti tags near dorsal fin on Green or White Sturgeon. For Green Sturgeon do NOT remove tags. For White Sturgeon retained, please submit tag to Washington Department of Fish and Wildlife, 48 Devonshire Rd., Montesano, WA, 98563.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. May 15, 2008:

WAC 220-44-03100E Willapa Bay spring white sturgeon fishery.

Reviser's note: The repealer appears above as filed by the agency pursuant to RCW 34.08.040; however, the reference to WAC 220-44-03100E is probably intended to be WAC 220-40-03100E.

**WSR 08-11-002
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 08-93—Filed May 7, 2008, 1:32 p.m., effective May 16, 2008, 12:01 a.m.]

Effective Date of Rule: May 16, 2008, 12:01 a.m.
Purpose: Amend fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900G; 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 emergency rule is necessary to assure a safe and successful event. Closing the lake will ensure safety for the public as well as the event participants and ensure fish are available for the juvenile fishing 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; and 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 7, 2008.

Loreva M. Preuss
for Jeff Koenings
Director

NEW SECTION

WAC 232-28-61900G Exceptions to statewide rules—Kress Lake (Cowlitz Co.) Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. May 16 through 6:00 p.m. May 17, 2008, it is unlawful to fish in those waters of Kress Lake, except open to fishing 10:00 a.m. through 3:00 p.m. May 17, 2008 to juvenile anglers participating in the juvenile and Safety Day Event.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. May 17, 2008:

WAC 232-28-61900G Exceptions to statewide rules—Kress Lake

**WSR 08-11-005
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 08-98—Filed May 8, 2008, 4:28 p.m., effective May 10, 2008, 8:00 a.m.]

Effective Date of Rule: May, 10, 2008, 8:00 a.m.
Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07300V; and amending WAC 220-52-073.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Harvestable amounts of red sea urchins exist in the areas described. Prohibition of all diving from licensed sea urchin harvest vessels within one day of scheduled sea urchin openings discourages the practice of fishing on closed days and hiding the unlawful catch

underwater until the legal opening. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: May 8, 2008.

Phil Anderson
for Jeff Koenings
Director

NEW SECTION

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

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

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 8:00 a.m. May 10, 2008:

WAC 220-52-07300V Sea urchins. (08-11)

**WSR 08-11-009
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 08-96—Filed May 9, 2008, 1:54 p.m., effective May 15, 2008]

Effective Date of Rule: May 15, 2008.

Purpose: Amend fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900H; 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: In-season run analyses predict that about 7,000 salmon are currently enroute to the Icicle River. Although upper Columbia River spring chinook have been listed as endangered under the Endangered Species Act (ESA),

the salmon returning to the Icicle River are not listed under the ESA. About 1,000 salmon are needed to meet hatchery broodstock. The 2008 return suggests that the hatchery will meet its escapement needs; the remaining fish will be available for harvest. 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 9, 2008.

Phil Anderson
for Jeff Koenings
Director

NEW SECTION

WAC 232-28-61900H Exceptions to statewide rules—Icicle River (Chelan Co.) Notwithstanding the provisions of WAC 232-28-619, effective May 15 through July 31, 2008, a person may fish for salmon in those waters of the Icicle River from the closure signs located 800 feet upstream of the mouth to 500 feet downstream of the Leavenworth National Fish Hatchery Rack. Daily limit, two salmon; minimum size, 12 inches. Night closure and non-buoyant lure restrictions in effect.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. August 1, 2008:

WAC 232-28-61900H Exceptions to statewide rules—Icicle River (Chelan Co.)

WSR 08-11-010
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 08-99—Filed May 9, 2008, 1:57 p.m., effective May 9, 2008, 1:57 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-32500Z; and 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 state recreational share of spot shrimp will be taken by 3:00 p.m., May 10 in Marine Areas 8-1 and 8-2. 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 9, 2008.

Phil Anderson
for Jeff Koenings
Director

NEW SECTION

WAC 220-56-32500A 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 Marine Areas 9, 10, 11 and the Discovery Bay Shrimp District.

2) Effective 3:00 p.m., May 10, 2008 until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Areas 8-1 and 8-2.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-32500Z Shrimp—Areas and seasons
(08-94)

WSR 08-11-011
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 08-100—Filed May 9, 2008, 4:36 p.m., effective May 11, 2008, 6:00 p.m.]

Effective Date of Rule: May 11, 2008, 6:00 p.m.

Purpose: The purpose of this rule making is to provide for treaty Indian fishing opportunity in the Columbia 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 and federal law governing Washington's relationship with Oregon.

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

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); *Puget Sound Gillnetters Ass'n v. Moos*, 92 Wn.2d 939, 603 P.2d 819 (1979); 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: Closes mainstem commercial platform and hook and line fishery. Continues sale of fish caught in Yakama Nation tributary fisheries to be sold only when those tributaries are open under Yakama Nation rules. The Columbia River treaty tribes will close all mainstem platform and hook and line subsistence fisheries. The TAC updated the upriver run size to 180,000 fish at the river mouth. Based on this run size, there are no spring chinook available for harvest in mainstem fisheries under the ESA limit. Rule is consistent with action of the Columbia River compact on May 9, 2008. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 1; Federal Rules or Standards: New 1, Amended 0, Repealed 1; 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 9, 2008.

Loreva M. Preuss
for Jeff Koenings
Director

NEW SECTION

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

1. Effective 6:00 p.m. May 11, the following areas will be closed to commercial fishing:

- a) Open Areas: SMCRA 1F, 1G, 1H
- b) Gear: hoop nets, dip bag nets, and rod and reel with hook-and-line.

2. Open Periods: 6:00 a.m. May 12, 2008 until further notice, and only during those days and hours when those tributaries are open under lawfully enacted Yakama Nation tribal subsistence fisheries for enrolled Yakama Nation members.

- a) Open Areas: Wind, Little White Salmon (Drano Lake), White Salmon, and Klickitat rivers
- b) Gear: hoop nets, dip bag nets, and rod and reel with hook-and-line (gillnets in Drano Lake only).
- c) Allowable sale includes: Chinook, coho, steelhead, walleye, shad, and carp. Sockeye may be retained but not sold. Sturgeon may not be sold.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 p.m. May 11, 2008:

WAC 220-32-05100T Columbia River salmon seasons above Bonneville Dam. (08-92)

WSR 08-11-012 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 08-101—Filed May 9, 2008, 5:00 p.m., effective May 11, 2008, 11:59 p.m.]

Effective Date of Rule: May 11, 2008, 11:59 p.m.

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

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900X; 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: Closes the ongoing recreational fisheries effective 11:59 p.m., Sunday, May 11, 2008. On May 9, 2008, the TAC downgraded runsize projection to 180,000 upriver spring chinook at the river mouth. At a run of this size, harvestable numbers of salmon are not available under the ESA guideline. The fishery may exceed allocation and guidelines of the 2008-2017 management agreement if allowed to continue. Rule is consistent with action of the Columbia River compact on May 9, 2008. There is insufficient time to promulgate permanent regulations. The action is consistent with Washington fish and wildlife commission guidance for 2008 and the 2008-2017 *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. *Shappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). A federal court order sets the current parameters for sharing between treaty Indians and others.

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 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 0, Amended 0, Repealed 1; Federal Rules or Standards: New 0, Amended 0, Repealed 1; 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: May 9, 2008.

Loreva M. Preuss
for Jeff Koenings
Director

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. May 11, 2008:

WAC 232-28-61900X Exceptions to statewide
rules—Columbia River. (08-
73)

WSR 08-11-013 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 08-102—Filed May 9, 2008, 5:03 p.m., effective May 11, 2008,
11:59 p.m.]

Effective Date of Rule: May 11, 2008, 11:59 p.m.

Purpose: The purpose of this rule making is to allow fishing opportunity in the Columbia River while protecting salmon listed as threatened or endangered under the Endangered Species Act. This rule making implements federal court orders governing Washington's relationship with treaty

Indian tribes, federal law governing Washington's relationship with Oregon, and Washington fish and wildlife commission policy guidance for Columbia River fisheries.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900C; 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: Closes the ongoing recreational fisheries effective 11:59 p.m., Sunday, May 11, 2008. On May 9, 2008, the TAC downgraded runsize projection to 180,000 upriver spring chinook at the river mouth. At a run of this size, harvestable numbers of salmon are not available under the ESA guideline. The fishery may exceed allocation and guidelines of the 2008-2017 management agreement if allowed to continue. Rule is consistent with action of the Columbia River compact on May 9, 2008. There is insufficient time to promulgate permanent regulations. The action is consistent with Washington fish and wildlife commission guidance for 2008 and the 2008-2017 *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.

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 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 0, Amended 0, Repealed 1; Federal Rules or Standards: New 0, Amended 0, Repealed 1; 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: May 9, 2008.

Loreva M. Preuss
for Jeff Koenings
Director

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. May 11, 2008:

WAC 232-28-61900C Exceptions to statewide
rules—Snake River. (08-80)

WSR 08-11-021
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 08-106—Filed May 12, 2008, 4:43 p.m., effective May 12, 2008,
4:43 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: Closes SAFE commercial fisheries for the week of May 12, 2008. The upriver runsize has been downgraded to 180,000 fish. There is a slight chance that SAFE fisheries could incur additional ESA impacts to upriver spring chinook through mid-May. Impacts to ESA-listed stocks in these fisheries are covered under the biological opinion for the 2008-2017 management agreement. Season is consistent with Washington fish and wildlife commission guidance for 2006-2008 sturgeon fishery management. This rule is consistent with actions of the Columbia River compact hearings of February 15, April 24, and May 12, 2008. This rule 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).

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: May 12, 2008.

Phil Anderson
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** Select Area

a) Area: Blind Slough and Knappa Slough areas. From May 1 through June 13, 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 boundary). Concurrent Washington/Oregon waters extend downstream of the railroad 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 immediately through June 13, 2008, EXCEPT closed May 12-13 and May 15-16, 2008.

c) Gear: 8-inch maximum mesh. 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 sales: salmon, white sturgeon, and shad.

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 immediately through June 13, 2008, EXCEPT closed May 12-13 and May 15-16, 2008

c) Gear: 8-inch maximum. Nets are restricted to a maximum length of 100 fathoms with 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 sales: salmon, white sturgeon, and shad.

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. **Tongue Point/South Channel** Select Area

a) Area: Reduced Tongue Point and South Channel areas open entire season. The reduced Tongue Point fishing area includes all waters bounded by a line extended from the upstream (southern most) pier (#1) at the Tongue Point Job Corps facility through navigation marker #6 to Mott Island, a line from a marker at the southeast end of Mott Island north-easterly to a marker on the northwest tip of Lois Island, and a line from a marker on the southwest end of Lois Island westerly to a marker on the Oregon shore. The South Channel area includes all waters bounded by a line from a marker on John Day Point, through the green USCG buoy #7 to a marker on the southwest end of Lois Island, upstream to an upper boundary line from a marker on Settler Point, north-westerly to the flashing red USCG marker #10, northwesterly to a marker on Burnside Island defining the upstream terminus of South Channel.

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 28 through June 13, 2008, EXCEPT closed May 12-13 and May 15-16, 2008.

c) Gear: In the reduced Tongue Point fishing area, gear restricted to 8-inch maximum mesh size, maximum net length of 250 fathoms, and weight not to exceed two pounds on any one fathom. In the South Channel fishing area, gear restricted to 8-inch maximum mesh size, maximum net length of 100 fathoms, and no weight restriction on leadline.

d) Additional gear regulations: Multiple Net Rule: It will be legal to have onboard a commercial vessel more than one net, provided the nets are of a mesh size legal 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.

Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

e) Allowable sales: salmon, white sturgeon, and shad.

f) Fishers are required to call 503-325-3418 and leave a message including name, catch, and location and time for sale of fish caught.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-01000G Columbia River seasons below Bonneville. (08-86)

The following section of the Washington Administrative Code is repealed effective June 14, 2008:

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

WSR 08-11-024
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 08-105—Filed May 12, 2008, 5:00 p.m., effective May 12, 2008,
5:00 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 232-28-61900Y and 232-28-61900J; 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: Closes the recreational steelhead and jack chinook fisheries scheduled to occur beginning May 16 in the area from the Rocky Point/Tongue Point line upstream to the I-5 Bridge. The upriver spring chinook run size has been downgraded to 180,000 fish. Closing the fishery is necessary in order to not accrue additional impacts to ESA-listed chinook. Rule is consistent with joint state actions of Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife on May 12, 2008. The season is consistent with Washington fish and wildlife commission guidance for 2008 and the 2008-2017 *U.S. v Oregon* management agreement. There is insufficient time to promulgate permanent regulations.

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). 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 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 2; Federal Rules or Standards: New 1, Amended 0, Repealed 2; 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: May 12, 2008.

Phil Anderson
for Jeff Koenings
Director

NEW SECTION

WAC 232-28-61900J 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 a line projected from the Rocky Point on the Washington shore through Red Buoy 44 to the navigation light at the Tongue Point on the Oregon bank upstream to the I-5 Bridge: Steelhead and jack Chinook. Closed through June 15, 2008.

ii. For the mainstem Columbia River salmon and steelhead fishery upstream of the Rocky Point/Tongue Point line, effective through June 15, 2008, salmon and steelhead required to be released may not be totally removed from the water; except, anglers fishing from vessels thirty feet or longer as 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 232-28-61900Y Exceptions to statewide rules—Columbia River. (08-74)

The following section of the Washington Administrative Code is repealed effective June 16, 2008:

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

WSR 08-11-025
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 08-103—Filed May 13, 2008, 8:54 a.m., effective May 13, 2008, 8:54 a.m.]

Effective Date of Rule: Immediately.

Purpose: Amend fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-19500S; and amending WAC 220-56-195.

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 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 13, 2008.

Phil Anderson
for Jeff Koenings
Director

NEW SECTION

WAC 220-56-19500S Closed areas—Saltwater salmon angling—North of Falcon. Notwithstanding the provisions of WAC 220-56-195, effective immediately, until further notice, provided that unless otherwise amended, all permanent rules remain in effect:

Carr Inlet:

(a) Those waters of Carr Inlet north of a line from Green Point to Penrose Point are open to salmon angling through July 31.

(b) Those waters of Carr Inlet within 1,000 feet of the outer oyster stakes at the mouth of Minter Creek are closed to salmon angling July 1 until further notice.

REPEALER

The following section of the Washington Administrative Code is repealed effective August 1, 2008:

WAC 220-56-19500S Closed areas—Saltwater salmon angling—North of Falcon.

WSR 08-11-029
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 08-104—Filed May 13, 2008, 9:43 a.m., effective May 13, 2008, 9:43 a.m.]

Effective Date of Rule: Immediately.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-32500A; 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. Harvestable amounts of spot shrimp are available in a portion of Marine Area 10. 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 13, 2008.

Loreva M. Preuss
for Jeff Koenings
Director

NEW SECTION

WAC 220-56-32500B 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 Marine Areas 8-1, 8-2, 9, 11 and the Discovery Bay Shrimp District.

2) It is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Area 10, except open from 7:00 a.m. through 3:00 p.m. on May 14, 2008, in all waters of Marine Area 10 westerly of a line from West Point to Alki Point.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-32500A Shrimp—Areas and seasons (08-99)

**WSR 08-11-039
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 08-107—Filed May 14, 2008, 11:51 a.m., effective May 14, 2008, 11:51 a.m.]

Effective Date of Rule: Immediately.

Purpose: Amend hunting rules.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-353.

Statutory Authority for Adoption: RCW 77.12.047, 77.12.020, 77.12.570, 77.12.210.

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

Reasons for this Finding: The Yakima Training Center's training schedule has changed and will not allow the department to conduct any public hunts on their facility for this year's hunting season.

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

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

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

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

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

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

Date Adopted: May 14, 2008.

Loreva M. Preuss
for Jeff Koenings
Director

NEW SECTION

WAC 232-28-35300C 2008 Deer special permits. Notwithstanding the provisions of WAC 232-28-353, effective immediately, the following deer special permit hunts have been cancelled:

Alkali A	Nov. 15-23	Any buck	GMU 371	53 permits
Alkali B	Nov. 15-23	Antlerless	GMU 371	35 permits
Alkali C	Nov. 29-Dec. 6	Any buck	GMU 371	8 permits
Alkali D	Nov. 29-Dec. 6	Antlerless	GMU 371	10 permits
Alkali E	Dec. 7-25	Any deer	GMU 371	46 permits

**WSR 08-11-040
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 08-108—Filed May 14, 2008, 11:52 a.m., effective May 14, 2008, 11:52 a.m.]

Effective Date of Rule: Immediately.

Purpose: Amend hunting rules.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-354.

Statutory Authority for Adoption: RCW 77.12.047, 77.12.020, 77.12.570, 77.12.210.

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

Reasons for this Finding: The Yakima Training Center's training schedule has changed and will not allow the department to conduct any public hunts on their facility for this year's hunting season.

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

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

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

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

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

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

Date Adopted: May 14, 2008.

Loreva M. Preuss
for Jeff Koenings
Director

NEW SECTION

WAC 232-28-354001 2008 Elk special permits. Notwithstanding the provisions of WAC 232-28-354, effective immediately, the following elk special permit hunts have been cancelled:

Alkali A	Oct. 18- Nov. 2	Any elk	EF	GMU 371	20 permits
Alkali B	Oct. 1- 15	Any elk	EM	GMU 371	10 permits
Alkali C	Oct. 18- Nov. 2	Any elk	EF	GMU 371	5 permits

**WSR 08-11-041
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 08-109—Filed May 14, 2008, 11:53 a.m., effective May 14, 2008, 3:00 p.m.]

Effective Date of Rule: May 14, 2008, 3:00 p.m.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-32500B; and 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. Harvestable amounts of spot shrimp are available in Hood Canal. 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 14, 2008.

Loreva M. Preuss
for Jeff Koenings
Director

NEW SECTION

WAC 220-56-32500C 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 Marine Areas 8-1, 8-2, 9, 10, 11 and the Discovery Bay Shrimp District.

2) It is unlawful to fish for or possess shrimp taken for personal use in all waters of the Hood Canal Shrimp District (Marine Area 12), except open from 9:00 a.m. through 1:00 p.m., on May 17, 2008 and May 21, 2008.

REPEALER

The following section of the Washington Administrative Code is repealed effective 3:00 p.m. May 14, 2008:

WAC 220-56-32500B Shrimp—Areas and seasons
(08-104)

**WSR 08-11-048
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Health and Recovery Services Administration)

[Filed May 15, 2008, 8:22 a.m., effective May 15, 2008, 8:22 a.m.]

Effective Date of Rule: Immediately.

Purpose: This action is necessary because the department did not provide sufficient notice to stakeholders, as required by the Administrative Procedure Act (APA), of changes to WAC 388-544-0250 that eliminated certain covered services as then set forth in new WAC 388-544-0475 Noncovered services, eyeglasses, and contact lenses.

The department filed preproposal statements of inquiry (CR-101) as WSR 07-22-082 and 07-10-125 to begin the permanent rule-making process for the noncovered services, eyeglasses, and contact lenses portion of chapter 388-544 WAC to correct this matter.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-544-0475.

Statutory Authority for Adoption: RCW 74.08.090.

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: To bring the department into compliance with state law, APA.

This continues the emergency rule that is currently in effect under WSR 08-03-094 while the department completes the permanent rule-making process begun under WSR 07-22-082 and 07-10-125. The department filed the permanent rule proposal (CR-102) on April 21, 2008, under WSR 08-09-110. The public hearing will be held on June 10, 2008.

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

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

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

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

Date Adopted: May 7, 2008.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-13-038, filed 6/6/05, effective 7/7/05)

WAC 388-544-0475 Vision care—Noncovered services, eyeglasses, and contact lenses. ~~((The medical assistance administration (MAA) does not cover the following:~~

- ~~(1) Executive style eyeglass lenses;~~
- ~~(2) Bifocal contact lenses;~~
- ~~(3) Daily and two week disposable contact lenses;~~
- ~~(4) Extended wear soft contact lenses, except when used as therapeutic contact bandage lenses or for aphakic clients;~~
- ~~(5) Services for cosmetic purposes only;~~
- ~~(6) Glass lenses including those that darken when exposed to light;~~
- ~~(7) Group vision screening for eyeglasses;~~
- ~~(8) Nonglare or anti reflective lenses;~~
- ~~(9) Orthoptics and visual training therapy;~~
- ~~(10) Progressive lenses;~~
- ~~(11) Refractive surgery of any type that changes the eye's refractive error. The intent of the refractive surgery procedure is to reduce or eliminate the need for eyeglass or contact lens corrections. This does not include intraocular lens implantation following cataract surgery.~~

~~(12) Sunglasses and accessories that function as sunglasses (e.g., "clip-ons");~~

~~(13) Upgrades at private expense to avoid MAA's contract limitations (e.g., frames that are not available through MAA's contract or noncontract frames or lenses for which the client or other person pays the difference between MAA's payment and the total cost))) Reserved.~~

WSR 08-11-050

EMERGENCY RULES

UNIVERSITY OF WASHINGTON

[Filed May 15, 2008, 2:14 p.m., effective May 24, 2008]

Effective Date of Rule: May 24, 2008.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: As required by RCW 34.05.350(2) when filing a second emergency rule-making order, the University of Washington is actively continuing the permanent rule-making process; filing a preproposal statement of inquiry (WSR 08-05-101) on February 15, 2008, and a proposed rule making (WSR 08-09-059) on April 15, 2008, for these rules.

Purpose: Establish a new chapter that provides for a fair, open, and efficient development agreement method by which the University of Washington may, under limited circumstances, move expeditiously and efficiently to contract for capital projects in a way that protects the best interests of the university and assures the delivery of quality work and products at a reasonable price under the most advantageous terms.

Statutory Authority for Adoption: RCW 28B.20.130 and 28B.20.140.

Other Authority: University of Washington Board of Regent's Standing Orders, Chapter 1, Section 2.

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 proposed alternative contracting process for the University of Washington is necessary because it will provide the university with a process that is sufficiently flexible to (1) allow the pending Husky Stadium project to proceed expeditiously; and (2) provide a cost-effective construction process that is equipped to deal with schedule conflicts that are likely to arise with construction of the Husky Stadium Sound Transit light rail station project being built adjacent to Husky Stadium.

Conflicts between construction schedules for these two large projects can increase costs to both projects. Failure to manage these conflicts will not only increase costs but will also increase traffic congestion including potential negative impacts to ingress and egress to the University of Washington Medical Center for patients, staff, and visitors.

Expediting the schedule for construction of Husky Stadium will also reduce the time frame required to restore, renovate, and bring up to code older areas of the stadium. Emergency adoption of the WAC is in the public interest because

it will save costs, expedite necessary repairs, and ensure safe usage of the stadium.

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 5, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 5, 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 14, 2008.

Rebecca Goodwin Deardorff
Director of Rules Coordination

Chapter 478-350 WAC

ALTERNATIVE CONTRACTING PROCESS FOR THE UNIVERSITY OF WASHINGTON

NEW SECTION

WAC 478-350-010 Authority. The University of Washington adopts these rules pursuant to RCW 28B.20.140.

NEW SECTION

WAC 478-350-020 Purpose. The purpose of this chapter is to establish a fair, open, and efficient method by which the university may, under certain circumstances, contract for the erection and construction of university buildings or improvements thereto, in lieu of other statutorily authorized contracting methods. These rules are intended to protect the best interests of the university and assure the delivery of quality work and products at a reasonable price under the most advantageous terms.

NEW SECTION

WAC 478-350-030 Applicability. The contracting method set forth in this chapter may be used only when the president of the university finds that all of the following criteria are met:

(1) The building or improvement involved has a total project cost in excess of twenty-five million dollars;

(2) The design or construction of the building or improvement or its construction schedule may be directly impacted by large construction projects being planned or constructed by other agencies or private developers;

(3) Postponing the building or improvement or delaying it through the use of other contracting methods is likely to have a significant adverse effect on the operation, mission, or financial interests of the university; and

(4) The building or improvement may benefit from a contracting method that integrates services including but not limited to a developer, designer, construction manager and contractor being on the same team and working collaboratively.

A finding by the university president that a project meets all of the above criteria shall be subject to review by the University of Washington board of regents at their discretion.

NEW SECTION

WAC 478-350-040 Contracting method. Upon an approved finding that a project meets the criteria set forth above, the president or the president's designee may proceed to conduct a competitive process that is open, fair, and unbiased and results in one or more contracts with a qualified entity or team on the most advantageous terms. The process must include at least the following elements:

(1) RFQ/RFP. Contracts will be awarded through either a Request for Qualifications (RFQ) or a Request for Proposals (RFP) process or a combination thereof. The RFQ/RFP will include a clear description of what the university believes to be most important about the project as well as the weight of selection criteria.

(2) Public notice. The university shall publish at least once in a legal newspaper of general circulation published in, or as near as possible to, that part of the county in which the project will be constructed, a notice of its RFQ/RFP, and information regarding the availability and location of the RFQ/RFP documents.

(3) Selection criteria. Selection criteria shall include, but are not limited to, qualifications of the project team, technical excellence and competence, experience, capacity to accomplish the work, ability to deliver a quality project, past performance of the team or its constituent members, and price or fee, taking into consideration the estimated cost of construction as well as the long-term performance, operation and maintenance of the building or improvement.

(4) Negotiations. The university shall first attempt to negotiate a contract with the entity deemed to have submitted the best overall response. If such negotiations are not successful, the university may proceed to negotiate with the entity deemed to have submitted the next best response.

NEW SECTION

WAC 478-350-050 Prevailing wages, bonds and retainage. Any contract awarded pursuant to these rules shall require full compliance with applicable sections of chapters 39.08, 39.12, and 60.28 RCW. The selected entity shall also be encouraged to work closely with the university's business diversity program.

WSR 08-11-052
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 08-112—Filed May 16, 2008, 9:08 a.m., effective May 17, 2008]

Effective Date of Rule: May 17, 2008.

Purpose: Amend fishing rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 232-28-61900N; 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: In the Cowlitz River through May 13, just 117 hatchery adult spring chinook had returned to the salmon hatchery. The hatchery brood stock goal is a minimum of 1,150 fish. In the Kalama River through May 12, just 4 hatchery adult spring chinook had returned to the salmon hatchery. The hatchery brood stock goal is 450 fish. In addition, up to 500 fish are needed for natural spawning above the hatchery. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: May 16, 2008.

Loreva M. Preuss
 for Jeff Koenings
 Director

NEW SECTION

WAC 232-28-61900N Exceptions to statewide rules—Cowlitz and Kalama rivers. Notwithstanding the provisions of WAC 232-28-619, effective May 17 through July 31, 2008, it is unlawful to retain Chinook salmon in the following waters:

(1) Cowlitz River - from boundary markers at the mouth to Mayfield Dam

(2) Kalama River - from boundary markers at the mouth to the upper salmon hatchery.

REPEALER

The following section of the Washington Administrative Code is repealed effective August 1, 2008:

WAC 232-28-61900N Exceptions to statewide rules—Cowlitz and Kalama rivers.

WSR 08-11-058
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 08-110—Filed May 16, 2008, 1:56 p.m., effective May 17, 2008]

Effective Date of Rule: May 17, 2008.

Purpose: Amend fishing rules.

Citation of Existing Rules Affected by this Order:
 Amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: There have been strong returns of hatchery late stock winter run steelhead and a good early showing of hatchery summer runs to date. Through May 7, nearly 1,000 hatchery late stock winter steelhead and 30 hatchery summer run steelhead had returned to the salmon hatchery. Excess hatchery fish are available for harvest. 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 16, 2008.

J. P. Koenings
 Director

NEW SECTION

WAC 232-28-61900L Exceptions to statewide rules—Cowlitz River. Notwithstanding the provisions of WAC 232-28-619, effective May 17, 2008 until further notice, in those waters of the Cowlitz River from the High-

way 4 Bridge at Kelso upstream to Mayfield Dam, special daily limit of three hatchery steelhead may be retained.

WSR 08-11-059
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 08-111—Filed May 16, 2008, 1:58 p.m., effective May 17, 2008]

Effective Date of Rule: May 17, 2008.

Purpose: Amend fishing rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: There has been a good early showing of hatchery summer runs to date. Through May 7, nearly 50 hatchery summer run steelhead had returned to the trap at the dam. Excess hatchery fish are available for harvest. 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 16, 2008.

J. P. Koenings
Director

NEW SECTION

WAC 232-28-61900M Exceptions to startwide rules—North Fork Lewis River. Notwithstanding the provisions of WAC 232-28-619, effective May 17, 2008 until further notice, in those waters of the North Fork Lewis River from the I-5 Bridge upstream to the overhead powerlines below Merwin Dam, special daily limit of three hatchery steelhead may be retained.

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.

WSR 08-11-082
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 08-113—Filed May 19, 2008, 4:18 p.m., effective May 20, 2008, 11:59 p.m.]

Effective Date of Rule: May 20, 2008, 11:59 p.m.

Purpose: Amend fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-56-25500C; and amending WAC 220-56-255.

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 North Coast (Neah Bay and La Push) recreational halibut fishery is projected to attain the May portion of the Pacific halibut quota allocated to this area. There is insufficient time to promulgate permanent rules.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 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 19, 2008.

Phil Anderson
for Jeff Koenings
Director

NEW SECTION

WAC 220-56-25500D Halibut—Seasons—Daily and possession limits. (1) Notwithstanding the provisions of WAC 220-56-255, effective immediately until further notice, it is unlawful to fish for or possess halibut taken for personal use, except as provided in this section:

(a) Catch Record Card Area 1 - Open until further notice, seven days a week.

(b) Catch Record Card Area 2 - Open until further notice, 12:01 a.m. through 11:59 p.m. on Sundays and Tuesdays only, except waters from 47°25.00'N latitude (Queets River) south to 46°58.00'N latitude and east of 124°30.00'W longitude, open until further notice, 12:01 a.m. through 11:59 p.m., Fridays through Sundays and Tuesdays only.

(c) Catch Record Card Areas 3 and 4 - Effective 11:59 p.m. May 20, 2008, until further notice, it is unlawful to fish for or possess halibut.

(d) Catch Record Card Areas 6 through 11 and Catch Record Card Area 13 - Open through June 13, 2008, 12:01 a.m. through 11:59 p.m., Thursdays through Mondays only.

(e) Catch Record Card Area 5 - Open May 22 through July 21, 2008, 12:01 a.m. through 11:59 p.m., Thursdays through Mondays only.

(f) Daily limit one halibut. The possession limit is two daily limits of halibut in any form, except the possession limit aboard the fishing vessel is one daily limit.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. May 20, 2008:

WAC 220-56-25500C Halibut—Seasons—Daily and possession limits. (08-85)

WSR 08-11-115
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 08-114—Filed May 21, 2008, 9:11 a.m., effective May 24, 2008, 12:01 a.m.]

Effective Date of Rule: May 24, 2008, 12:01 a.m.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-36000M; 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 in Razor Clam Areas 2 and 3 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: May 21, 2008.

J. P. Koenings
Director

NEW SECTION

WAC 220-56-36000M 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. through 11:59 a.m. May 24, 2008, razor clam digging is allowed in Razor Clam Area 2 and that portion of 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.

2. 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 24, 2008:

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