

**WSR 09-03-041**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 09-05—Filed January 12, 2009, 3:55 p.m., effective January 12, 2009, 3:55 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Harvestable amounts of red and green sea urchins exist in the areas described. Prohibiting all diving from licensed sea urchin harvest vessels within Sea Urchin District 3 when those vessels have red sea urchin on-board discourages the taking of red urchins from the district (currently closed to red urchin harvest) and reporting the catch to the adjacent harvest district. Prohibiting transport of urchins from Districts 1 and 2 to other districts will prevent spoiling of product, promote accurate catch accounting, and provide for an orderly fishery. Prohibition of all diving from licensed sea urchin harvest vessels prior to scheduled sea urchin openings discourages fishing on closed days and hiding the unlawful catch underwater until the legal opening. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: January 12, 2009.

Phil Anderson  
Director

**NEW SECTION**

**WAC 220-52-07300E 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) Green sea urchins: Sea Urchin Districts 1 and 2 are open only on January 14, 2009. The maximum daily landing of green sea urchins allowed in Sea Urchin Districts 1 and 2 is 600 pounds per valid designated sea urchin harvest vessel. Sea Urchin Districts 3, 4, 6 and 7 are open only on Monday through Friday of each week.

(2) Red sea urchins: Sea Urchin Districts 1, 2 and 4 are open only on Monday through Friday of each week.

(3) It is unlawful to dive for any purpose from a commercially licensed sea urchin fishing vessel in Sea Urchin District 3 when the vessel has red sea urchins on-board.

(4) Red and green sea urchins harvested in Sea Urchin Districts 1 and 2 must be landed within Sea Urchin Districts 1 and 2.

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

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 220-52-07300D      Sea urchins. (09-02)

**WSR 09-03-042**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 09-06—Filed January 12, 2009, 4:13 p.m., effective January 12, 2009, 4:13 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04600Z [and 220-52-04000D]; and amending WAC 220-52-046 [and 220-52-040].

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: Mandatory pick rate allowance for coastal crab will be achieved by the opening dates contained herein. The stepped opening periods/areas will also provide for fair start provisions. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: January 12, 2009.

Phil Anderson  
Director

### NEW SECTION

**WAC 220-52-04000E Commercial crab fishery. Lawful and Unlawful gear, methods and other unlawful acts.** (1) Notwithstanding the provisions of WAC 220-52-040, effective immediately until further notice, it is unlawful for any fisher or wholesale dealer or buyer to land or purchase Dungeness crab taken from Grays Harbor, Willapa Bay, Columbia River, Washington coastal or adjacent waters of the Pacific Ocean through January 31, 2009, from any vessel unless:

(a) A valid Washington crab vessel inspection certificate has been issued to the delivering vessel. Vessel hold inspection certificates dated from November 30, 2008 to December 25, 2008 are only valid for the area south of 46°28.00.

(b) The vessel inspection certificate numbers are recorded on all shellfish tickets completed for coastal Dungeness crab landings through January 31, 2009.

(2) Notwithstanding the provisions of WAC 220-52-040, it is lawful for a vessel not designated on a Dungeness crab coastal fishery license to transport or deploy up to 250 pots at any one time for deployment in the coastal crab fishery between Klipsan Beach (46°28.00) and the U.S. Canada Border. The primary operator of the vessel associated with the pots being transported must be aboard the vessel while they are being deployed. All other provisions of the permanent rule remain in effect.

(3) Notwithstanding the provisions of WAC 220-52-040, effective immediately through 12:00 AM January 15, 2009, it is unlawful for persons participating in the commercial Dungeness crab fishery in the Columbia River, Willapa Bay, or coastal fishery south of Klipsan Beach, Washington (46°28.00) to:

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

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

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

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

(a) Vessels that participated in the coastal Dungeness crab fishery from Klipsan Beach (46°28.00 North Latitude) to Point Arena, CA, including Willapa Bay and the Columbia

River, may possess crab for delivery into Washington ports south of 47°00.00 N. Lat. provided the crab were taken south of Klipsan (46°28.00 N. Lat.).

(b) The vessel does not enter the area north of 47°00.00 N. Lat. unless the operator of the vessel has contacted the Washington Department of Fish and Wildlife and provides a vessel hold inspection if requested by Fish and Wildlife officers prior to entering this area. Prior to entering the area north of 47°00.00 N. Lat., the vessel operator calls 360-581-3337, and reports the vessel name, operator name, estimated amount of crab to be delivered in pounds, and the estimated date, time and location of delivery 24 hours prior to entering the area.

### NEW SECTION

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

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

(2) For the purposes of this order, the waters of Willapa Bay are defined to include the marine waters east of a line connecting 46°44.76 N, 124°05.76 W and 46°38.93 N, 124°04.33 W.

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

- Fishing in the area between Klipsan Beach (46°28.00) and Oysterville (46°33.00) until 8:00 AM January 22, 2009.
- Fishing in the area between Oysterville (46°33.00) and Destruction Island (47°40.50') until 8:00 AM February 16, 2009.
- Fishing in the area from Destruction Island (47°40.50') to the U.S. Canada border until 8:00 AM February 1, 2009.

(4) Crab gear may be set in the area between Klipsan Beach (46°28.00) and the U.S. Canadian border including Grays harbor beginning at 8:00 a.m., January 12, 2009.

(5) It is lawful to pull crab gear in the area between Klipsan Beach and the U.S. Canadian border and Grays Harbor beginning at 12:00 A.M., January 15, 2009.

(6) The Quinalt Primary special management area (PSMA) is closed to fishing for Dungeness crab until further notice. The PSMA includes the area shoreward of a line approximating the 27-fathom depth curve between Raft River (47°28.00) and Copalis River (47°08.00) according to the following coordinates:

Northeast Corner (Raft River):	47°28.00 N. Lat.	124°20.70 W. Lon.
Northwest Corner:	47°28.00 N. Lat.	124°34.00 W. Lon.
Southwest Corner:	47°08.00 N. Lat.	124°24.75 W. Lon.
Southeast Corner (Copalis River):	47°08.00 N. Lat.	124°11.20 W. Lon.

(7) The Quileute Special Management area (SMA) is closed to fishing until further notice. The SMA includes the area shoreward of a line approximating the 30-fathom depth curve between Destruction Island and Cape Johnson according to the following points:

- Northeast Corner; Cape Johnson 47°58.00' N. Lat. - 124°40.40' W. Lon.
- Northwest Corner; 47°58.00' N. Lat. - 124°49.00' W. Lon.
- Southwest Corner; 47°40.50' N. Lat. - 124°40.00' W. Lon.
- Southeast Corner; Destruction Island; 47°40.50' N. Lat - 124°24.43' W. Lon.

(8) The Makah Special Management Area (SMA) is closed to fishing until further notice. The SMA includes the waters between 48°02.15 N. Lat. and 48°19.50 N. Lat. east of a line connecting those points approximating the 25-fathom line according to the following coordinates:

- Northeast Corner; Tatoosh Island
- Northwest Corner; 48°19.50 N. Lat. - 124°50.45 W. Lon.
- Southwest Corner; 48°02.15 N. Lat. - 124°50.45 W. Lon.
- Southeast Corner; 48°02.15 N. Lat. - 124°41.00 W. Lon.

(9) 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.

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

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

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- |                   |                                                                                              |
|-------------------|----------------------------------------------------------------------------------------------|
| WAC 220-52-04000D | Commercial crab fishery. Lawful and unlawful gear, methods and other unlawful acts. (08-298) |
| WAC 220-52-04600Z | Coastal crab seasons. (08-298)                                                               |

**WSR 09-03-055  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 09-04—Filed January 13, 2009, 1:00 p.m., effective January 13, 2009, 1:00 p.m.]

Effective Date of Rule: Immediately.  
Purpose: Amend commercial fishing rules.  
Citation of Existing Rules Affected by this Order: Repealing WAC 220-49-02000R; and amending WAC 220-49-020.

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: For conservation of the herring resource through minimizing fishery targeting of spawning adults, all documented herring spawning grounds in Puget Sound are closed by permanent rule to fishing by all gear types other than dip bag net during the herring spawning season. This emergency rule closes the more recently documented spawning grounds to herring fishing that are not covered in the permanent rules. There is insufficient time to adopt permanent rules.

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

Number of Sections Adopted at 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: January 13, 2009.

Phil Anderson  
Director

NEW SECTION

**WAC 220-49-0200R Herring and anchovy—Seasons—Lawful gear—Purposes.** Notwithstanding the provisions of WAC 220-49-020, effective immediately until further notice, it is unlawful to take, fish for or possess for commercial purposes herring or anchovy from the following areas of Puget Sound except as provided for in this section:

(1) The following areas are closed from January 16 through April 15, 2009, except to dip bag net gear:

(a) All waters of Catch Area 24C south of a line from North Bluff on Whidbey Island to East Point on Whidbey Island.

(b) All waters of Catch Area 28A west of a line projected true north-south through Treble Point on Anderson Island, including Henderson Inlet, and all waters east of the Fox Island Bridge and west of a line from Point Fosdick to Fox Point.

(c) All waters of Area 28B west of a line projected true north from Penrose Point, including Mayo Cove and Von Geldern Cove, and all waters east of a line projected true north from Allen Point in Henderson Bay.

**Reviser's note:** The section above appears as filed by the agency pursuant to RCW 34.08.040; however, the reference to WAC 220-49-0200R is probably intended to be WAC 220-49-02000R.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective April 16, 2009:

WAC 220-49-02000R      Herring and anchovy—Seasons—Lawful gear

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 4, 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 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, 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: January 13, 2009.

Nancy A. Andring  
Rules Coordinator

#### **WSR 09-03-057**

#### **EMERGENCY RULES COLUMBIA RIVER GORGE COMMISSION**

[Filed January 13, 2009, 3:23 p.m., effective January 13, 2009, 3:23 p.m.]

Effective Date of Rule: Immediately.

Purpose: These temporary rules clarify that the commission's consideration of applications to amend the management plan and revise urban area boundaries is a discretionary action, and specify that the commission will determine, as part of its biennial work planning, how many of these types of applications it will accept for review. The commission is concurrently proposing these or similar rules as permanent rules.

Citation of Existing Rules Affected by this Order: Amending 350-40-020, 350-40-040, 350-50-020, 350-120-0040, and 350-50-060.

**Reviser's note:** 350-120-0040 is referred to above; however, the text of the section was not included with the filing by the agency. cf. RCW 34.08.020 (1)(a).

Statutory Authority for Adoption: RCW 43.97.015.

Other Authority: 16 U.S.C. § 544b(f); 16 U.S.C. § 544d (h); ORS 196.150.

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

Reasons for this Finding: Recent budget information leads the commission to reduce the amount of discretionary work that it does. In the past, the commission has considered plan amendment and urban area boundary revisions applications as applicants submit them. These changes are necessary for the commission to manage its workload immediately and avoid a rush of applications prior to enacting the same or similar as permanent rules.

#### **Amendatory Section**

#### **350-40-020. Authority.**

(1) Consideration of requests to revise urban area boundaries is a discretionary action authorized by section 4(f) of the Act. The Act does not entitle a county, or any person or entity, to have the Commission review a request to revise any urban area boundary. The Commission may make "minor revisions" to the boundaries of an Urban Area [Scenic Area Act, Section 4(f)]. ~~Such revisions must comply with procedural requirements and criteria in the Scenic Area Act.~~

(2) Three procedural requirements are included in Section 4 (f)(1) of the Scenic Area Act:

(a) Requests to revise an Urban Area boundary are submitted to the Commission by a county government;

(b) The Commission must consult the Secretary of Agriculture before revising an Urban Area boundary; and

(c) Two-thirds of the Commission members, including a majority of the members appointed from each state, must approve a revision of an Urban Area boundary. In the event of recusal, the doctrine of necessity shall apply.

(3) Section 4 (f)(2) of the Scenic Area Act allows the Commission to revise the boundaries of an Urban Area only if the following criteria are satisfied:

(a) A demonstrable need exists to accommodate long-range urban population growth requirements or economic needs consistent with the Management Plan;

(b) Revision of Urban Area boundaries is consistent with the standards established in Section 6 and the purposes of the Scenic Area Act;

(c) Revision of Urban Area boundaries will result in maximum efficiency of land uses within and on the fringe of existing Urban Areas; and

(d) Revision of Urban Area boundaries will not result in the significant reduction of agricultural lands, forest lands, or open spaces.

**Reviser's note:** The brackets and enclosed material in the text of 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.

**Reviser's note:** The typographical error in the above material occurred in the copy filed by the Columbia River Gorge Commission and appears in the Register pursuant to the requirements of RCW 34.08.040.

### Amendatory Section

#### 350-40-040. Processing of Application.

~~Each application to revise the boundaries of an Urban Area is reviewed according to the priorities established by the Commission in the Management Plan [see Part IV, Chapter 1, section Revision of Urban Area Boundaries, Policy 5]. Within priority categories established in the Management Plan, applications are reviewed in the order received. Applications for revision of urban area boundaries shall be reviewed upon receipt and in the order in which they are received, except that the Commission may, as part of its work planning, set a limit on the number of urban area boundary revision applications it will process during the biennium and may set its limit at zero.~~

**Reviser's note:** The brackets and enclosed material in the text of 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.

**Reviser's note:** The typographical error in the above material occurred in the copy filed by the Columbia River Gorge Commission and appears in the Register pursuant to the requirements of RCW 34.08.040.

### Amendatory Section

#### 350-50-020. Authority.

(1) Consideration of amendments to the Management Plan is a discretionary action authorized by section 6(h) of the Act. The Act does not entitle any person or entity to have the Commission review an application to amend the Management Plan. The Commission ~~shall~~ may adopt an amendment to the Management Plan only if it is consistent with the purposes and standards of the Scenic Area Act, the provisions in section 6(h) of the Act, and this rule.

(2) The Act only allows the Commission to adopt a plan amendment:

(a) If the Commission determines at any time that conditions within the Scenic Area have significantly changed; and

(b) If the Commission approves the plan amendment by a majority vote of the members appointed, including approval by at least three members from each state. In the event of refusal, the doctrine of necessity shall apply.

**Reviser's note:** The typographical error in the above material occurred in the copy filed by the Columbia River Gorge Commission and appears in the Register pursuant to the requirements of RCW 34.08.040.

### Amendatory Section

#### 350-50-060. Processing of Application.

(1) Applications for quasi-judicial amendments shall be reviewed upon receipt and in the order in which they are received, except that the Commission may, as part of its work planning, set a limit on the number of quasi-judicial applications it will process during the biennium and may set its limit at zero. Applications shall be reviewed pursuant to sections 070 through 120 of this division.

(2) The Executive Director shall maintain requests for legislative amendments. The Commission shall review requested legislative amendments at least once each biennium

and determine which, if any, to handle as an application to amend the Management Plan. In determining which legislative amendments to handle, the Commission may consider such factors as: whether the issue has been the subject of appeals, whether the issue has been an implementation problem, whether the issue is a priority of federal, state, local, or tribal governments, and availability of data and resources necessary to analyze the issue. The Commission shall solicit public comment during its work planning concerning legislative amendments to initiate. The decision to initiate a legislative amendment is at the sole discretion of the Commission.

(3) For legislative amendments, the Executive Director shall hold a pre-application conference as provided in 350-50-045. Following the pre-application conference, the Executive Director shall process a legislative amendment pursuant to sections 080 through 120 of this division.

### WSR 09-03-079

#### EMERGENCY RULES

#### DEPARTMENT OF FISH AND WILDLIFE

[Order 09-08—Filed January 16, 2009, 10:51 a.m., effective January 16, 2009, 10:51 a.m.]

Effective Date of Rule: Immediately.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 232-28-61900U.

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: Reopening the fishery will allow anglers to selectively harvest hatchery steelhead, thereby reducing the genetic and ecological competition between hatchery and wild fish. There is insufficient time to adopt permanent rules.

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

Number of Sections Adopted at 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: January 16, 2009.

Loreva M. Preuss  
for Philip Anderson  
Director

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 232-28-61900U Exceptions to statewide rules—Carbon River (08-307)

**WSR 09-03-081**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 09-09—Filed January 16, 2009, 3:39 p.m., effective January 16, 2009, 3:39 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend wildlife rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-12-31500T; and amending WAC 232-12-315.

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: Weather conditions have forced deer and elk to lower elevations, where harassment by dogs has been observed. In order to protect deer, elk and big-horn sheep, it is necessary to allow officers to take dogs into custody, and if necessary, destroy dogs. It was necessary to add Klickitat County to the existing emergency rule as the agency has received complaints from residents. There is insufficient time to adopt permanent rules.

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

Number of Sections Adopted at 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: January 16, 2009.

Loreva M. Preuss  
for Philip Anderson  
Director

**NEW SECTION**

**WAC 232-12-31500U Emergency for custody or destruction of dogs harassing deer and elk.** Effective immediately until further notice, an emergency is declared in the following Washington State counties, making it permissible for Fish and Wildlife Officers to take into custody or destroy, if necessary, any dog that is pursuing, harassing, attacking or killing deer or elk.

- (1) Chelan County
- (2) Douglas County
- (3) Ferry County
- (4) Kitittas County
- (5) Klickitat County
- (6) Lincoln County
- (7) Okanogan County
- (8) Pend Oreille County
- (9) Spokane County
- (10) Stevens County
- (11) Yakima County

**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 232-12-31500T Emergency for custody or destruction of dogs harassing deer and elk. (08-319)

**WSR 09-03-088**  
**EMERGENCY RULES**  
**DEPARTMENT OF REVENUE**

[Filed January 20, 2009, 11:56 a.m., effective January 20, 2009, 11:56 a.m.]

Effective Date of Rule: Immediately.

Purpose: WAC 458-40-660 contains the stumpage values used by harvesters of timber to calculate the timber excise tax. The department has discovered a typographical error in the recently amended rule, which provides values to be used during the first half of 2009. The valuation for Ponderosa Pine Species Code PP Timber Quality Code 1 in Stumpage Value Area 5 should be \$134, not the \$135 amount reflected in the recently adopted rule. This amendment provides the correct \$134 value, which is the value discussed with stakeholders during the rule-making process.

Citation of Existing Rules Affected by this Order: Amending WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments.

Statutory Authority for Adoption: RCW 82.01.060(2), 82.32.300, and 84.33.096.

Other Authority: RCW 84.33.091.

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 values used in this rule are used to determine tax liability for the period beginning January 1, 2009, and ending June 30, 2009. An emergency rule is needed to provide the correct valuation.

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: January 20, 2009.

Alan R. Lynn  
Rules Coordinator

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 09-04 issue of the Register.