

**WSR 09-11-121**  
**EMERGENCY RULES**  
**DEPARTMENT OF REVENUE**

[Filed May 20, 2009, 9:15 a.m., effective May 20, 2009, 9:15 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 previously adopted an emergency rule (WSR 09-03-088) after discovering a typographical error in the permanent rule providing values to be used during the first half of 2009. The emergency rule's valuation for Ponderosa Pine Species Code PP Timber Quality Code 1 in Stumpage Value Area 5 was \$134, not the \$135 amount reflected in the permanent rule. The department is adopting a second emergency rule to provide the correct \$134 value through June 30, 2009. The department is currently in the rule-making process to adopt an amended permanent rule to provide valuations for the second half of 2009.

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.

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 through June 30, 2009. The department is engaged in rule making to adopt an amended rule effective July 1, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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 20, 2009.

Alan R. Lynn  
 Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 09-02-043, filed 12/31/08, effective 1/1/09)

**WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments. (1) Introduc-**

**tion.** This rule provides stumpage value tables and stumpage value adjustments used to calculate the amount of a harvester's timber excise tax.

(2) **Stumpage value tables.** The following stumpage value tables are used to calculate the taxable value of stumpage harvested from January 1 through June 30, 2009:

**TABLE 1—Proposed Stumpage Value Table**  
**Stumpage Value Area 1**  
 January 1 through June 30, 2009

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$288	\$281	\$274	\$267	\$260
		2	288	281	274	264	260
		3	288	281	274	267	260
		4	238	231	224	217	210
Western Redcedar <sup>(2)</sup>	RC	1	651	644	637	630	623
Western Hemlock <sup>(3)</sup>	WH	1	230	223	216	209	202
		2	230	223	216	209	202
		3	230	223	216	209	202
		4	230	223	216	209	202
Red Alder	RA	1	533	526	519	512	505
		2	473	466	459	452	445
Black Cottonwood	BC	1	38	31	24	17	10
Other Hardwood	OH	1	160	153	146	139	132
Douglas-Fir Poles & Piles	DFL	1	692	685	678	671	664
Western Redcedar Poles	RCL	1	1380	1373	1366	1359	1352
Chipwood <sup>(4)</sup>	CHW	1	10	9	8	7	6
RC Shake & Shingle Blocks <sup>(5)</sup>	RCS	1	279	272	265	258	251
RC & Other Posts <sup>(6)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(7)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(7)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

<sup>(2)</sup> Includes Alaska-Cedar.

<sup>(3)</sup> Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this table.

<sup>(4)</sup> Stumpage value per ton.

<sup>(5)</sup> Stumpage value per cord.

<sup>(6)</sup> Stumpage value per 8 lineal feet or portion thereof.

<sup>(7)</sup> Stumpage value per lineal foot.

**TABLE 2—Proposed Stumpage Value Table  
Stumpage Value Area 2**  
January 1 through June 30, 2009

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$316	\$309	\$302	\$295	\$288
		2	316	309	302	295	288
		3	316	309	302	295	288
		4	252	245	238	231	224
Western Redcedar <sup>(2)</sup>	RC	1	651	644	637	630	623
Western Hemlock <sup>(3)</sup>	WH	1	222	215	208	201	194
		2	222	215	208	201	194
		3	222	215	208	201	194
		4	222	215	208	201	194
Red Alder	RA	1	533	526	519	512	505
		2	473	466	459	452	445
Black Cottonwood	BC	1	38	31	24	17	10
Other Hardwood	OH	1	160	153	146	139	132
Douglas-Fir Poles & Piles	DFL	1	692	685	678	671	664
Western Redcedar Poles	RCL	1	1380	1373	1366	1359	1352
Chipwood <sup>(4)</sup>	CHW	1	10	9	8	7	6
RC Shake & Shingle Blocks <sup>(5)</sup>	RCS	1	279	272	265	258	251
RC & Other Posts <sup>(6)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(7)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(7)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Alaska-Cedar.
- (3) Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this table.
- (4) Stumpage value per ton.
- (5) Stumpage value per cord.
- (6) Stumpage value per 8 lineal feet or portion thereof.
- (7) Stumpage value per lineal foot.

**TABLE 3—Proposed Stumpage Value Table  
Stumpage Value Area 3**  
January 1 through June 30, 2009

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir <sup>(2)</sup>	DF	1	\$364	\$357	\$350	\$343	\$336
		2	364	357	350	343	336
		3	364	357	350	343	336
		4	316	309	302	295	288
Western Redcedar <sup>(3)</sup>	RC	1	651	644	637	630	623
Western Hemlock <sup>(4)</sup>	WH	1	241	234	227	220	213
		2	241	234	227	220	213
		3	241	234	227	220	213
		4	241	234	227	220	213
Red Alder	RA	1	533	526	519	512	505
		2	473	466	459	452	445
Black Cottonwood	BC	1	38	31	24	17	10
Other Hardwood	OH	1	160	153	146	139	132
Douglas-Fir Poles & Piles	DFL	1	692	685	678	671	664
Western Redcedar Poles	RCL	1	1380	1373	1366	1359	1352
Chipwood <sup>(5)</sup>	CHW	1	10	9	8	7	6
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	279	272	265	258	251
RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(8)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(8)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.
- (3) Includes Alaska-Cedar.
- (4) Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this table.
- (5) Stumpage value per ton.
- (6) Stumpage value per cord.
- (7) Stumpage value per 8 lineal feet or portion thereof.
- (8) Stumpage value per lineal foot.

**TABLE 4—Proposed Stumpage Value Table  
Stumpage Value Area 4**  
January 1 through June 30, 2009

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir <sup>(2)</sup>	DF	1	\$365	\$358	\$351	\$344	\$337
		2	365	358	351	344	337
		3	365	358	351	344	337
		4	294	287	280	273	266
Lodgepole Pine	LP	1	155	148	141	134	127
Ponderosa Pine	PP	1	134	127	120	113	106
		2	81	74	67	60	53
Western Redcedar <sup>(3)</sup>	RC	1	651	644	637	630	623
Western Hemlock <sup>(4)</sup>	WH	1	276	269	262	255	248
		2	276	269	262	255	248
		3	276	269	262	255	248
		4	276	269	262	255	248
Red Alder	RA	1	533	526	519	512	505
		2	473	466	459	452	445
Black Cottonwood	BC	1	38	31	24	17	10
Other Hardwood	OH	1	160	153	146	139	132
Douglas-Fir Poles & Piles	DFL	1	692	685	678	671	664
Western Redcedar Poles	RCL	1	1380	1373	1366	1359	1352
Chipwood <sup>(5)</sup>	CHW	1	10	9	8	7	6
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	279	272	265	258	251
RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(8)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(8)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

<sup>(2)</sup> Includes Western Larch.

<sup>(3)</sup> Includes Alaska-Cedar.

<sup>(4)</sup> Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.

<sup>(5)</sup> Stumpage value per ton.

<sup>(6)</sup> Stumpage value per cord.

<sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.

<sup>(8)</sup> Stumpage value per lineal foot.

**TABLE 5—Proposed Stumpage Value Table  
Stumpage Value Area 5**  
January 1 through June 30, 2009

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir <sup>(2)</sup>	DF	1	\$296	\$289	\$282	\$275	\$268
		2	296	289	282	275	268
		3	296	289	282	275	268
		4	269	262	255	248	241
Lodgepole Pine	LP	1	155	148	141	134	127
Ponderosa Pine	PP	1	((135	127	120	113	106
		2	81	74	67	60	53
Western Redcedar <sup>(3)</sup>	RC	1	651	644	637	630	623
Western Hemlock <sup>(4)</sup>	WH	1	211	204	197	190	183
		2	211	204	197	190	183
		3	211	204	197	190	183
		4	211	204	197	190	183
Red Alder	RA	1	533	526	519	512	505
		2	473	466	459	452	445
Black Cottonwood	BC	1	38	31	24	17	10
Other Hardwood	OH	1	160	153	146	139	132
Douglas-Fir Poles & Piles	DFL	1	692	685	678	671	664
Western Redcedar Poles	RCL	1	1380	1373	1366	1359	1352
Chipwood <sup>(5)</sup>	CHW	1	10	9	8	7	6
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	279	272	265	258	251
RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(8)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(8)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

<sup>(2)</sup> Includes Western Larch.

<sup>(3)</sup> Includes Alaska-Cedar.

<sup>(4)</sup> Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.

<sup>(5)</sup> Stumpage value per ton.

<sup>(6)</sup> Stumpage value per cord.

<sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.

<sup>(8)</sup> Stumpage value per lineal foot.

**TABLE 6—Proposed Stumpage Value Table  
Stumpage Value Area 6**  
January 1 through June 30, 2009

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir <sup>(2)</sup>	DF	1	\$187	\$180	\$173	\$166	\$159
Lodgepole Pine	LP	1	155	148	141	134	127
Ponderosa Pine	PP	1	134	127	120	113	106
		2	81	74	67	60	53
Western Redcedar <sup>(3)</sup>	RC	1	780	773	766	759	752
True Firs and Spruce <sup>(4)</sup>	WH	1	164	157	150	143	136
Western White Pine	WP	1	229	222	215	208	201
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	780	773	766	759	752
Small Logs <sup>(5)</sup>	SML	1	25	24	23	22	21
Chipwood <sup>(5)</sup>	CHW	1	10	9	8	7	6
RC Shake & Shingle Blocks <sup>(6)</sup>	<del>(RCF)</del> RCS	1	76	69	62	55	48
LP & Other Posts <sup>(7)</sup>	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees <sup>(8)</sup>	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(9)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25

**TABLE 7—Proposed Stumpage Value Table  
Stumpage Value Area 7**  
January 1 through June 30, 2009

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir <sup>(2)</sup>	DF	1	\$187	\$180	\$173	\$166	\$159
Lodgepole Pine	LP	1	155	148	141	134	127
Ponderosa Pine	PP	1	134	127	120	113	106
		2	81	74	67	60	53
Western Redcedar <sup>(3)</sup>	RC	1	780	773	766	759	752
True Firs and Spruce <sup>(4)</sup>	WH	1	164	157	150	143	136
Western White Pine	WP	1	229	222	215	208	201
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	780	773	766	759	752
Small Logs <sup>(5)</sup>	SML	1	25	24	23	22	21
Chipwood <sup>(5)</sup>	CHW	1	10	9	8	7	6
RC Shake & Shingle Blocks <sup>(6)</sup>	<del>(RCF)</del> RCS	1	76	69	62	55	48
LP & Other Posts <sup>(7)</sup>	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees <sup>(8)</sup>	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(9)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25

(1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.  
 (2) Includes Western Larch.  
 (3) Includes Alaska-Cedar.  
 (4) Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.  
 (5) Stumpage value per ton.  
 (6) Stumpage value per cord.  
 (7) Stumpage value per 8 lineal feet or portion thereof.  
 (8) Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.  
 (9) Stumpage value per lineal foot.

(1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.  
 (2) Includes Western Larch.  
 (3) Includes Alaska-Cedar.  
 (4) Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.  
 (5) Stumpage value per ton.  
 (6) Stumpage value per cord.  
 (7) Stumpage value per 8 lineal feet or portion thereof.  
 (8) Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.  
 (9) Stumpage value per lineal foot.

**TABLE 8—Proposed Stumpage Value Table  
Stumpage Value Area 10**  
January 1 through June 30, 2009

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir <sup>(2)</sup>	DF	1	\$351	\$344	\$337	\$330	\$323
		2	351	344	337	330	323
		3	351	344	337	330	323
		4	280	273	266	259	252
Lodgepole Pine	LP	1	155	148	141	134	127
Ponderosa Pine	PP	1	134	127	120	113	106
		2	81	74	67	60	53
Western Redcedar <sup>(3)</sup>	RC	1	637	630	623	616	609
Western Hemlock <sup>(4)</sup>	WH	1	262	255	248	241	234
		2	262	255	248	241	234
		3	262	255	248	241	234
		4	262	255	248	241	234
Red Alder	RA	1	519	512	505	498	491
		2	459	452	445	438	431
Black Cottonwood	BC	1	24	17	10	3	1
Other Hardwood	OH	1	146	139	132	125	118
Douglas-Fir Poles & Piles	DFL	1	678	671	664	657	650
Western Redcedar Poles	RCL	1	1366	1359	1352	1345	1338
Chipwood <sup>(5)</sup>	CHW	1	10	9	8	7	6
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	279	272	265	258	251
RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(8)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(8)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

<sup>(2)</sup> Includes Western Larch.

<sup>(3)</sup> Includes Alaska-Cedar.

<sup>(4)</sup> Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.

<sup>(5)</sup> Stumpage value per ton.

<sup>(6)</sup> Stumpage value per cord.

<sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.

<sup>(8)</sup> Stumpage value per lineal foot.

(3) **Harvest value adjustments.** The stumpage values in subsection (2) of this rule for the designated stumpage value areas are adjusted for various logging and harvest conditions, subject to the following:

(a) No harvest adjustment is allowed for special forest products, chipwood, or small logs.

(b) Conifer and hardwood stumpage value rates cannot be adjusted below one dollar per MBF.

(c) Except for the timber yarded by helicopter, a single logging condition adjustment applies to the entire harvest unit. The taxpayer must use the logging condition adjustment class that applies to a majority (more than 50%) of the acreage in that harvest unit. If the harvest unit is reported over more than one quarter, all quarterly returns for that harvest unit must report the same logging condition adjustment. The helicopter adjustment applies only to the timber volume from the harvest unit that is yarded from stump to landing by helicopter.

(d) The volume per acre adjustment is a single adjustment class for all quarterly returns reporting a harvest unit. A harvest unit is established by the harvester prior to harvesting. The volume per acre is determined by taking the volume logged from the unit excluding the volume reported as chipwood or small logs and dividing by the total acres logged. Total acres logged does not include leave tree areas (RMZ, UMZ, forested wetlands, etc.) over 2 acres in size.

(e) A domestic market adjustment applies to timber which meet the following criteria:

(i) **Public timber**—Harvest of timber not sold by a competitive bidding process that is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber that must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

Federal Timber Sales: All species except Alaska-cedar. (Stat. Ref. - 36 C.F.R. 223.10)

State, and Other Nonfederal, Public Timber Sales: Western Redcedar only. (Stat. Ref. - 50 U.S.C. appendix 2406.1)

(ii) **Private timber**—Harvest of private timber that is legally restricted from foreign export, under the authority of The Forest Resources Conservation and Shortage Relief Act (Public Law 101-382), (16 U.S.C. Sec. 620 et seq.); the Export Administration Act of 1979 (50 U.S.C. App. 2406(i)); a Cooperative Sustained Yield Unit Agreement made pursuant to the act of March 29, 1944 (16 U.S.C. Sec. 583-583i); or Washington Administrative Code (WAC 240-15-015(2)) is also eligible for the Domestic Market Adjustment.

The following harvest adjustment tables apply from January 1 through June 30, 2009:

**TABLE 9—Harvest Adjustment Table**  
**Stumpage Value Areas 1, 2, 3, 4, 5, and 10**  
January 1 through June 30, 2009

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of 30 thousand board feet or more per acre.	\$0.00

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 2	Harvest of 10 thousand board feet to but not including 30 thousand board feet per acre.	- \$15.00
Class 3	Harvest of less than 10 thousand board feet per acre.	- \$35.00
II. Logging conditions		
Class 1	Ground based logging a majority of the unit using tracked or wheeled vehicles or draft animals.	\$0.00
Class 2	Cable logging a majority of the unit using an overhead system of winch driven cables.	- \$50.00
Class 3	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	- \$145.00
III. Remote island adjustment:		
	For timber harvested from a remote island	- \$50.00
IV. Thinning		
Class 1	A limited removal of timber described in WAC 458-40-610(28)	- \$100.00

**TABLE 10—Harvest Adjustment Table  
Stumpage Value Areas 6 and 7  
January 1 through June 30, 2009**

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 8 thousand board feet per acre.	\$0.00
Class 2	Harvest of 8 thousand board feet per acre and less.	- \$8.00
II. Logging conditions		
Class 1	The majority of the harvest unit has less than 40% slope. No significant rock outcrops or swamp barriers.	\$0.00
Class 2	The majority of the harvest unit has slopes between 40% and 60%. Some rock outcrops or swamp barriers.	- \$50.00
Class 3	The majority of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs.	- \$75.00
Class 4	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	- \$145.00
Note:	A Class 2 adjustment may be used for slopes less than 40% when cable logging is required by a duly promulgated forest practice regulation. Written documentation of this requirement must be provided by the taxpayer to the department of revenue.	
III. Remote island adjustment:		
	For timber harvested from a remote island	- \$50.00

**TABLE 11—Domestic Market Adjustment**

Class	Area Adjustment Applies	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 1:	SVA's 1 through 6, and 10	\$0.00
Class 2:	SVA 7	\$0.00
Note:	The adjustment will not be allowed on special forest products.	

(4) **Damaged timber.** Timber harvesters planning to remove timber from areas having damaged timber may apply to the department of revenue for an adjustment in stumpage values. The application must contain a map with the legal descriptions of the area, an accurate estimate of the volume of damaged timber to be removed, a description of the damage sustained by the timber with an evaluation of the extent to which the stumpage values have been materially reduced from the values shown in the applicable tables, and a list of estimated additional costs to be incurred resulting from the removal of the damaged timber. The application must be received and approved by the department of revenue before the harvest commences. Upon receipt of an application, the department of revenue will determine the amount of adjustment to be applied against the stumpage values. Timber that has been damaged due to sudden and unforeseen causes may qualify.

(a) Sudden and unforeseen causes of damage that qualify for consideration of an adjustment include:

(i) Causes listed in RCW 84.33.091; fire, blow down, ice storm, flood.

(ii) Others not listed; volcanic activity, earthquake.

(b) Causes that do not qualify for adjustment include:

(i) Animal damage, root rot, mistletoe, prior logging, insect damage, normal decay from fungi, and pathogen caused diseases; and

(ii) Any damage that can be accounted for in the accepted normal scaling rules through volume or grade reductions.

(c) The department of revenue will not grant adjustments for applications involving timber that has already been harvested but will consider any remaining undisturbed damaged timber scheduled for removal if it is properly identified.

(d) The department of revenue will notify the harvester in writing of approval or denial. Instructions will be included for taking any adjustment amounts approved.

(5) **Forest-derived biomass.** Forest-derived biomass consists of tree limbs, tops, needles, leaves, and other woody debris that are residues from such activities as timber harvesting, forest thinning, fire suppression, or forest health. Forest-derived biomass does not include scalable timber products or firewood (defined in WAC 458-40-650). Forest-derived biomass has a \$0/ton stumpage value.

**WSR 09-12-007  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 09-87—Filed May 21, 2009, 9:03 a.m., effective May 22, 2009]

Effective Date of Rule: May 22, 2009.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900D; 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 5,000 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 2009 return ensures that the hatchery will meet its escapement needs; the remaining fish will be available for harvest. 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: May 21, 2009.

Philip Anderson  
Director

#### NEW SECTION

**WAC 232-28-61900D Exceptions to statewide rules—Icicle River (Chelan Co.)** Notwithstanding the provisions of WAC 232-28-619, effective May 22 through July 31, 2009, 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 in effect. All fish with one or more holes punched in the tail must be released.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. August 1, 2009:

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

#### **WSR 09-12-008**

#### **EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE**

[Order 09-90—Filed May 21, 2009, 9:11 a.m., effective May 21, 2009, 9:11 a.m.]

Effective Date of Rule: Immediately.

Purpose: The purpose of this rule making is to allow nontreaty recreational fishing opportunity in the Columbia River while protecting fish 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 232-28-61900Z; 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 2008-2017 *United States v. Oregon Management Agreement* (Aug. 12, 2008) (Doc. No. 2546); *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River compact).

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

Reasons for this Finding: 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. The previous emergency rule did not prohibit angling for salmon and steelhead in the area from the Rocky Point/Tongue Point line upstream to the I-5 Bridge during June 16 through July 15, but only had the requirement to release salmon and steelhead. As a result some anglers may have continued to target salmon and/or steelhead. This rule is necessary to protect ESA-listed spring chinook returning from a smaller than predicted run size. There is insufficient time to adopt permanent rules.

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 21, 2009.

Philip Anderson  
Director

#### NEW SECTION

**WAC 232-28-61900F Exceptions to statewide rules—2009 North of Falcon.** Notwithstanding the provisions of WAC 232-28-619, effective immediately until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

#### **Columbia River**

1. From a true north and south line through Buoy 10 to a projected line from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank: Effective August 1 until further notice, release all salmon other than Chinook and hatchery coho. Only one Chinook may be retained.

2. From a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank, to the I-5 Bridge: Effective immediately through June 15, angling for salmon and steelhead is prohibited. Effective June 16 through July 31, release all salmon other than Chinook and sockeye. Effective June 16 through June 21, and July 6 through July 31, release adult Chinook. Effective August 1 until further notice, release all salmon other than Chinook and hatchery coho. Only one may be an adult Chinook.

3. From the I-5 Bridge to Bonneville Dam: Effective June 16 through July 31, release all salmon other than Chinook and sockeye. Effective June 16 through June 21, and July 6 through July 31, release adult Chinook. Effective August 1 until further notice, release all salmon other than Chinook and hatchery coho. Only one may be an adult Chinook.

4. From Bonneville Dam to the Highway 395 Bridge at Pasco: Effective June 16 through July 31, release all salmon other than Chinook and sockeye. Effective June 16 through June 30, release adult Chinook. Effective August 1 until further notice, release all salmon other than Chinook and coho. Release wild coho from Bonneville Dam to Hood River Bridge.

5. From the Highway 395 Bridge at Pasco to Priest Rapids Dam: Effective July 1 until further notice, the salmon daily limit is 6 fish, of which no more than 2 may be adults. Release sockeye.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-61900Z Exceptions to statewide rules—2009 North of Falcon. (09-82)

#### **WSR 09-12-011 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE**

[Order 09-92—Filed May 21, 2009, 2:03 p.m., effective May 23, 2009]

Effective Date of Rule: May 23, 2009.

Purpose: Amend personal use 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 and 77.04.020.

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 recent years, spring chinook strays from the nearby select area fishery evaluation sites have been found in the system. These fish are not needed for broodstock. Select area commercial fisheries closed at the end of April and have since reopened with reduced areas and hours. This means there are more fish available in the Elochoman and Grays rivers for recreational harvest. 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: May 21, 2009.

Philip Anderson  
Director



NEW SECTION

**WAC 232-28-61900H Exceptions to statewide rules—Elochoman and Grays rivers.** Notwithstanding the provisions of WAC 232-28-619:

(1) Effective May 23 through July 31, 2009, a person may fish in those waters of the Elochoman River from the salmon hatchery bridge downstream. Daily limit six hatchery Chinook, of which no more than two may be adults; minimum size is 12 inches in length. Also may catch and retain up to two hatchery steelhead; minimum size is 20 inches. Release all wild Chinook and wild steelhead. Release all trout except hatchery steelhead.

(2) Effective May 23 through July 31, 2009, a person may fish in those waters of the Grays River from the mouth to South Fork, and in the West Fork Grays River from the mouth to the hatchery intake/footbridge. Daily limit six hatchery Chinook, of which no more than two may be adults; minimum size is 12 inches in length. Also may catch and retain up to two hatchery steelhead; minimum size is 20 inches. Release all wild Chinook and wild steelhead. Release all trout except hatchery steelhead.

REPEALER

The following section of the Washington Administrative Code is repealed effective August 1, 2009:

WAC 232-28-61900H      Exceptions to statewide rules—Elochoman and Grays rivers.

**WSR 09-12-012**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 09-93—Filed May 21, 2009, 2:08 p.m., effective May 23, 2009]

Effective Date of Rule: May 23, 2009.

Purpose: Amend personal use fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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

Reasons for this Finding: Hatchery summer-run steelhead are released into the South Fork Toutle and Green rivers and are not needed for broodstock. With the mainstem Columbia sport fishery closed for steelhead until further notice, this could result in more fish returning to these Toutle River tributaries. 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 21, 2009.

Philip Anderson  
Director

NEW SECTION

**WAC 232-28-61900I Exceptions to statewide rules—Toutle and Green rivers (Cowlitz Co.)** Notwithstanding the provisions of WAC 232-28-619:

(1) Effective May 23, 2009, until further notice, a person may fish in waters of the South Fork Toutle River from the mouth to the 4700 Road Bridge. Daily limit, two hatchery steelhead; minimum size is 20 inches. Wild steelhead and all other game fish must be released. Selective gear rules are in effect through June 5, 2009.

(2) Effective May 23, 2009, until further notice, a person may fish in waters of the Green River from the mouth to 400' below the water intake at the upper end of the hatchery. Daily limit, two hatchery steelhead; minimum size is 20 inches. Wild steelhead and all other game fish must be released. Selective gear rules are in effect through June 5, 2009.

**WSR 09-12-015**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 09-94—Filed May 21, 2009, 4:39 p.m., effective May 21, 2009, 4:39 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend personal use fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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: It is expected that the remaining halibut quota for Marine Area 1 will be taken by the end

of the day May 29, 2009. This rule conforms to federal action taken by Pacific Fisheries Management Council. 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: May 21, 2009.

Philip Anderson  
Director

#### NEW SECTION

**WAC 220-56-25500R Halibut—Seasons—Daily and possession limits.** 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:

(1) Catch Record Card Area 1 - Open through 11:59 p.m. May 29, 2009, Thursdays through Saturdays only. It is unlawful during any vessel trip to bring into port or land bottomfish except sablefish or Pacific Cod when halibut are on board.

(2) Catch Record Card Area 2 - Open until further notice, Sundays only.

(i) Catch Record Card Area 2 (Northern Nearshore fishery) Those 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 Thursday through Sundays only. After the primary season the northern nearshore fishery is open Thursdays through Sundays only.

(3) Catch Record Card Areas 3 and 4 - Open through May 23, 2009, Thursdays and Saturdays only, except closed May 28 through May 30, 2009.

(4) Catch Record Card Area 5 - Open through July 3, 2009, Thursdays through Mondays only.

(5) Catch Record Card Areas 6 through 11 and 13 - Open through June 5, 2009, Thursdays through Mondays only.

(6) Daily limit one halibut, no minimum size limit. The possession limit is two daily limits of halibut in any form, except the possession limit aboard the fishing vessel is one daily limit.

(7) All other permanent rules remain in effect.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-25500Q Halibut—Seasons—Daily and possession limits. (09-65)

#### **WSR 09-12-017**

#### **EMERGENCY RULES**

#### **DEPARTMENT OF**

#### **SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed May 22, 2009, 7:48 a.m., effective May 22, 2009, 7:48 a.m.]

Effective Date of Rule: Immediately.

Purpose: The department is extending the current emergency rule of WAC 388-310-0500 WorkFirst—Individual responsibility plan, 388-310-0900 WorkFirst—Basic education, 388-310-1000 WorkFirst—Vocational education, and 388-310-1050 WorkFirst—Skills enhancement training.

Citation of Existing Rules Affected by this Order: Amending WAC 388-310-0500, 388-310-0900, 388-310-1000, and 388-310-1050.

Statutory Authority for Adoption: Chapter 74.08A RCW, RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and chapter 74.12 RCW.

Other Authority: 45 C.F.R. 260 and 42 USC 601.

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 amendment needs to be made via an emergency rule filing because the final rule of the Deficit Reduction Act went into effect October 1, 2008. The department did not have time to go through the regular rule-making process prior to October 1, 2008. These amendments have been in effect via an emergency adoption, which expires on May 22, 2009. The department is concurrently working on the regular rule filing process. The department filed a CR-101 on September 24, 2008, as WSR 08-20-050 and a CR-102 on April 20, 2009, as WSR 09-09-104. The public hearing is scheduled for May 26, 2009.

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 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 4, Repealed 0.

Date Adopted: May 19, 2009.

Stephanie E. Schiller  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 08-07-046, filed 3/14/08, effective 5/1/08)

**WAC 388-310-0500 WorkFirst—Individual responsibility plan. (1) What is the purpose of my individual responsibility plan?**

The purpose of your individual responsibility plan is to give you a written statement that describes:

- (a) What your responsibilities are; and
- (b) Which WorkFirst activities you are required to participate in; and
- (c) What services you will receive so you are able to participate.

**(2) What is included in my individual responsibility plan?**

Your individual responsibility plan includes the following:

- (a) What WorkFirst activities you must do and the participation requirements for those activities including the amount of time you will spend doing the activities, a start and end date for each activity and the requirement to participate fully.
- (b) Any other specific requirements that are tied to the WorkFirst work activity. For example, you might be required to learn English as part of your work experience activity or to provide proof of your employment hours.
- (c) What services we will provide to help you participate in the activity. For example, you may require support services (such as help with paying for transportation) or help with paying childcare.
- (d) Your statement that you recognize the need to become and remain employed as quickly as possible.

**(3) How is my individual responsibility plan developed?**

You and your case manager will work together and use information gathered from your comprehensive evaluation (see WAC 388-310-0700) to develop your individual responsibility plan and decide what activities will be included in it. Then, your case manager will assign you to specific WorkFirst activities that will help you find employment.

**(4) What happens after my individual responsibility plan is completed?**

Once your individual responsibility plan is completed:

- (a) You will sign and get a copy of your individual responsibility plan.
- (b) You and your case manager will review your plan as necessary over the coming months to make sure your plan continues to meet your employment needs. You will sign and get a copy of your individual responsibility plan every time it is reviewed and changed.

**(5) What should I do if I cannot go to a required WorkFirst appointment or activity because of a temporary situation outside of my control?**

If you cannot participate because of a temporary situation outside of your control, you must call the telephone number shown on your individual responsibility plan on the same day you were to report when possible to explain your situation, or as soon as possible thereafter. You will be given an

excused absence. Some examples of excused absences include:

- (a) You, your children or other family members are ill;
  - (b) Your transportation or child care arrangements break down and you cannot make new arrangements in time to comply;
  - (c) A significant person in your life died; or
  - (d) A family violence situation arose or worsened.
- (6) What happens if I don't call in on the same day I am unable to attend to get an excused absence?**

If you do not call in on the same day you are unable to attend when possible, or as soon as possible thereafter, to get an excused absence, it will be considered an unexcused absence.

If you exceed the number of unexcused absences allowed on your individual responsibility plan, without good cause, your case manager will begin the sanction process. (See WAC 388-310-1600 for more details.)

**AMENDATORY SECTION** (Amending WSR 08-07-046, filed 3/14/08, effective 5/1/08)

**WAC 388-310-0900 WorkFirst—Basic education. (1) What is basic education?**

Basic education is high school completion, classes to prepare for general equivalency diploma (GED), testing to acquire GED certification, adult basic education (ABE) or English as a second language (ESL) training. Basic education also includes ((supervised)) approved homework and study activities associated with the educational activity.

**(2) When do I participate in basic education as part of WorkFirst?**

You may participate in basic education as part of WorkFirst under any of the following circumstances:

- (a) You are twenty years of age or older and your comprehensive evaluation shows you need this education to become employed or get a better job and:
  - (i) You are participating the equivalent of twenty hours or more per week in job search, vocational education, issue resolution, paid work or unpaid work that meets the federal definition of core activities; or
  - (ii) You have limited-English proficiency and you lack language skills that are needed to qualify for entry level jobs.
- (b) You may be required to participate if you are a mandatory participant, a parent eighteen or nineteen years of age, you do not have a high school diploma or GED certificate and you need this education in order to find employment.
- (c) You will be required to be in high school or a GED certification program if you are a mandatory participant, sixteen or seventeen years old and you do not have a high school diploma or GED certificate.

(d) You are enrolled in the pregnancy to employment pathway and your comprehensive evaluation shows basic education would help you find and keep employment. (See WAC 388-310-1450.)

**AMENDATORY SECTION** (Amending WSR 08-07-046, filed 3/14/08, effective 5/1/08)

**WAC 388-310-1000 WorkFirst—Vocational education. (1) What is vocational education?**

Vocational education is training that leads to a degree or certificate in a specific occupation, not to result in a baccalaureate or advanced degree unless otherwise indicated below, and is offered by an accredited:

- (a) Public and private technical college or school;
- (b) Community college;
- (c) Tribal college; or
- (d) For customized job skills training (formerly known as preemployment training), community based organizations.

(2) Vocational education may include:

- (a) Customized job skills training;
- (b) High-wage/high-demand training;
- (c) ((Supervised)) Approved homework and study activities associated with the educational activity; and/or
- (d) Remedial/developmental education, prerequisites, basic education and/or English as a second language training deemed a necessary part of the vocational education program.

**(3) What is customized job skills training?**

Customized job skills training helps you learn skills you need for an identified entry level job that pays more than average entry level wages.

(a) Customized job skills training is an acceptable activity when an employer or industry commits to hiring or giving hiring preference to WorkFirst participants who successfully complete customized job skills training.

(b) You can find out about current customized job skills training opportunities by asking your employment services counselor, your case manager or staff at your local community and technical college.

**(4) What is high-wage/high-demand training?**

(a) There are two types of high-wage/high-demand (HWHD) full-time training options for TANF recipients to complete a certificate or degree that will lead to employment in a high-wage/high-demand occupation:

(i) Information technology, health care or other professional-technical programs: This option allows you to start and finish a one-year or shorter state community or technical college training program in the information technology, health care fields or other professional-technical programs that meet high-wage/high-demand criteria; and/or

(ii) Certificate/degree completion: This option allows you to finish up the last year of any certificate or degree program, not to exceed a baccalaureate degree, in a high-wage/high-demand field on an exception basis. The high-wage/high-demand criteria for this option is based on median income and high-demand occupations within the local labor market as determined by employment security department.

(b) For both types of HWHD training, the training can be approved one-time only (barring an approved exception to policy).

(c) To qualify for HWHD training, you must also:

- (i) Meet all of the prerequisites for the course;
- (ii) Obtain the certificate or degree within twelve calendar months;
- (iii) Participate full time in the training program and make satisfactory progress;
- (iv) Work with WorkFirst staff during the last quarter of training for job placement; and
- (v) Return to job search once you complete the educational program if still unemployed.

**(5) When can vocational education be included in my individual responsibility plan?**

We may add vocational education to your individual responsibility plan for up to twelve months if:

(a) Your comprehensive evaluation shows you need this education to become employed or get a better job and you participate full time in vocational education or combine vocational education with any approved WorkFirst work activity; or

(b) You are in an internship or practicum for up to twelve months that is paid or unpaid and required to complete a course of vocational training or to obtain a license or certificate in a high demand program; or

(c) You have limited English proficiency and you lack job skills that are in demand for entry level jobs in your area; and the vocational education program is the only way that you can acquire these skills (because there is no available work experience, community service or on-the-job training that can teach you these skills); or

(d) You are in the pregnancy to employment pathway and your comprehensive evaluation shows vocational education would help you find and keep employment. (See WAC 388-310-1450.)

**(6) Can I get help with paying the costs of vocational education?**

WorkFirst may pay for the costs of your vocational education, such as tuition or books, for up to twelve months, if vocational education is in your individual responsibility plan and there is no other way to pay them. You may also get help with paying your child care costs through the working connections child care program. (See chapter 388-290 WAC for the working connections child care program rules.)

AMENDATORY SECTION (Amending WSR 08-07-046, filed 3/14/08, effective 5/1/08)

**WAC 388-310-1050 WorkFirst—Skills enhancement training. (1) What is skills enhancement training?**

Skills enhancement training (formerly known as job skills training) is training or education for job skills required by an employer to provide a person with the ability to obtain employment or to advance or adapt to the changing demands of the workplace. Skills enhancement training may include:

(a) Customized training programs to meet the needs of a specific employer;

(b) General education and training that prepares a person for employment to include vocational education and courses explicitly required for program entry;

(c) Basic education and English as a second language training when such instruction is focused on skills needed for employment, combined in a unified whole with job training or needed to enable the person to perform a specific job or engage in a specific job training program;

(d) Four-year bachelor degree programs at any state-certified college or university; and

(e) ((Supervised)) Approved homework and study activities.

**(2) Who may provide skills enhancement training?**

The training may be offered by the following types of organizations that meet the WorkFirst program's standards for service providers:

- (a) Community based organizations;
- (b) Businesses;
- (c) Tribal governments; or
- (d) Public and private community and technical colleges.

**(3) When can skills enhancement training be included in my individual responsibility plan?**

We may add skills enhancement training in your individual responsibility plan if you are participating the equivalent of twenty or more hours a week in job search, vocational education, issue resolution, paid work or unpaid work that meets the federal definition of core activities.

**(4) Can I get help with paying the costs of skills enhancement training?**

WorkFirst may pay your costs, such as tuition or books, if skills enhancement training is in your individual responsibility plan and there is no other way to pay them. You may also get help with paying your child care costs through the working connections child care program. (See chapter 388-290 WAC for the working connections child care program rules.)

**WSR 09-12-020**

**EMERGENCY RULES**

**EMPLOYMENT SECURITY DEPARTMENT**

[Filed May 22, 2009, 1:33 p.m., effective May 22, 2009, 1:33 p.m.]

Effective Date of Rule: Immediately.

Purpose: SSB 5963 was signed by the governor on May 14, 2009. Section 4 of that bill, which amends RCW 50.22.010 relating to the payment of extended benefits, took effect immediately upon signature. These rules clarify the payment of extended benefits in coordination with emergency unemployment compensation currently being paid under federal law.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, and 50.20.010.

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: Section 4 of SSB 5963 is effective May 14, 2009, and makes changes to eligibility criteria for extended benefits. The rules are necessary to determine how payment of these benefits will be coordinated with the payment of emergency unemployment compensation under federal law.

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 3, 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, 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 20, 2009.

Karen T. Lee  
Commissioner

NEW SECTION

**WAC 192-240-060 What is the priority of payments?**

Any emergency unemployment compensation or any similar federal compensation will be paid before the state extended benefits authorized under Chapter 50.22 RCW.

NEW SECTION

**WAC 192-240-070 What happens if I am paid emergency or extended benefits when I am eligible for a new unemployment claim?**

If you are paid emergency unemployment compensation, state extended benefits, or any similar state or federal extension, and it is later discovered that you were eligible for a regular unemployment claim during all or part of the period in which you received such benefits, the regular unemployment claim takes priority. The balance on your new unemployment claim will be adjusted for any week(s) at issue, meaning those weeks in which you should have received regular unemployment benefits, subject to the following:

(1) Except as provided in subsection 4 of this section, you may not be paid twice for the same week

(2) If your new weekly benefit amount is equal to the amount you were paid for the weeks at issue, the amount you were paid in emergency unemployment compensation or extended benefits will be deducted from the maximum benefits payable on your new claim.

Example: Your previous weekly benefit amount was five hundred dollars. You received emergency unemployment compensation for eight weeks at this amount when it was discovered you were eligible for a new claim in the amount of five hundred dollars. The five hundred dollars paid for eight weeks will be deducted from the maximum benefits payable on your new claim.

(3) If your new weekly benefit amount is lower than the amount you were paid for the weeks at issue, the amount you were paid in emergency unemployment compensation or extended benefits that is equivalent to the weekly benefit amount on your new claim will be deducted from the maximum benefits payable on your new claim. The difference between the amounts paid in emergency unemployment compensation or extended benefits for the week(s) at issue and the weekly benefit amount on your new claim will be waived as provided in RCW 50.20.190.

Example: Your previous weekly benefit amount was five hundred dollars. You received emergency unemployment

ment compensation for eight weeks at this amount when it was discovered you were eligible for a new claim in the amount of three hundred-fifty dollars. The three hundred-fifty dollars for eight weeks will be deducted from the maximum benefits payable on your new claim. The one hundred-fifty dollar difference between your previous weekly benefit amount and your new weekly benefit amount will be waived.

(4) If your new weekly benefit amount is higher than the amount you were paid for the week(s) at issue, the amount you were paid in emergency unemployment compensation or extended benefits will be supplemented so that you receive your new weekly benefit amount for the weeks at issue and the total deducted from the maximum benefits payable on your new claim.

For example: Your previous weekly benefit amount was three hundred-fifty dollars. You received emergency unemployment compensation for eight weeks at this amount when it was discovered you were eligible for a new claim in the amount of five hundred dollars. You will be paid an additional one hundred-fifty dollars for each of the eight weeks at issue and the total deducted from the maximum benefits payable on your new claim.

#### NEW SECTION

**WAC 192-240-080 How much will I receive in extended benefits if my regular weekly benefit amount is increased?** (1)(a) If your weekly benefit amount for regular unemployment benefits is increased during your benefit year, the maximum amount of extended benefits payable will be the lesser of fifty percent of the total regular unemployment compensation paid to you for the benefit year or thirteen times the average weekly benefit amount paid during your benefit year.

Example: You receive regular unemployment benefits for twenty weeks at \$200 and \$245 for the remaining six weeks. The maximum benefits payable on your claim is \$5,470. Your weekly benefit amount for extended benefits will be \$245. The maximum extended benefits payable will be \$2,735 which is the lesser of fifty percent of \$5,470 or thirteen times \$222.5 (\$200 + \$245 divided by 2, the average of both weekly benefit amounts, or \$2,892).

(b) When the state is in a high unemployment period as defined in RCW 50.22.010(3), the maximum amount of extended benefits payable will be the lesser of eighty percent of the total regular unemployment compensation paid to you for the benefit year or twenty times the average weekly benefit amount paid during your benefit year.

(2) For purposes of this section, "average" means the average of the two weekly benefit amounts paid during your benefit year.

**WSR 09-12-038  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 09-97—Filed May 27, 2009, 1:57 p.m., effective May 27, 2009, 1:57 p.m.]

Effective Date of Rule: Immediately.

Purpose: The purpose of this rule making is to provide for treaty Indian fishing opportunity in the Columbia River while protecting salmon listed as threatened or endangered under the Endangered Species Act (ESA). 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 220-32-05100M; 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 2008-2017 *United States v. Oregon Management Agreement* (Aug. 12, 2008) (Doc. No. 2546); *Puget Sound Gillnetters Ass'n v. Moos*, 92 Wn.2d 939, 603 P.2d 819 (1979); *State v. James*, 72 Wn.2d 746, 435 P.2d 521 (1967); 40 Stat. 515 (Columbia River compact).

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

Reasons for this Finding: Allows additional sales for treaty Indian fisheries, which include yellow perch, catfish and bass caught in platform and hook and line fisheries. Also allows sales of these fish caught in tributary fisheries and the area immediately below Bonneville Dam (see next paragraph) by enrolled Yakama Nation tribal members when the mainstem above Bonneville Dam is open for commercial sales. Impact limits to ESA-listed chinook remain available for treaty Indian fisheries. Harvest is expected to remain within the allocation and guidelines of the 2008-2017 management agreement. Rule is consistent with action of the Columbia River compact on May 26, 2009. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

New regulations for 2009 include fisheries that are described in the Memo of Agreement between Washington state and the Yakama Nation. Yakama Nation tribal members will be allowed to fish for subsistence purposes within a specific area of the Washington shoreline below Bonneville Dam when open for enrolled Yakama Nation members under lawfully enacted Yakama Nation tribal subsistence fisheries. Sales will be allowed when the open fishery is concurrent with either commercial gillnet openings or platform gear in Zone 6 (SMCRA 1F, 1G, 1H). Sales of fish caught in this fishery are consistent with mainstem Zone 6 (SMCRA 1F,

1G, 1H) allowable sales, with the exception of sturgeon (which may not be sold or kept for subsistence purposes).

The Yakima, Warm Springs, Umatilla, and Nez Perce Indian tribes have treaty fishing rights in the Columbia River and inherent sovereign authority to regulate their fisheries. Washington and Oregon also have some authority to regulate fishing by treaty Indians in the Columbia River, authority that the states exercise jointly under the congressionally ratified Columbia River compact. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). The tribes and the states adopt parallel regulations for treaty Indian fisheries under the supervision of the federal courts. Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under the federal ESA.

Columbia River fisheries are monitored very closely to ensure consistency with court orders and ESA guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. As required by court order, the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and invite tribal participation when considering proposals for new emergency rules affecting treaty fishing rights. *Sohappy*, 302 F. Supp. at 912. WDFW and ODFW then adopt regulations reflecting agreements reached. There is insufficient time to adopt permanent rules.

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 27, 2009.

Lori Preuss  
for Philip Anderson  
Director

#### NEW SECTION

**WAC 220-32-05100N 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, walleye or sturgeon for commercial purposes in Columbia River Salmon Management Catch Reporting Areas (SMCRA) 1E, 1F, 1G, and 1H, except as provided in the following subsections; and in the Wind River, White Salmon River, Klickitat River, and Drano Lake, except that individuals possessing treaty fishing rights under the Yakima, 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. Mainstem Columbia River above Bonneville Dam**

a) SEASON: Immediately until further notice.

b) AREA: Zone 6 (SMCRA 1F, 1G, 1H).

c) GEAR: Hoop nets, dip bag nets, and rod and reel with hook-and-line.

#### **2. Columbia River Tributaries above Bonneville Dam**

a) SEASON: Immediately until further notice, and only during those days and hours when the tributaries listed below are open under lawfully enacted Yakama Nation tribal subsistence fishery regulations for enrolled Yakama Nation members, and have either commercial gillnet openings or allow platform gear in Zone 6 (SMCRA 1F, 1G, 1H).

b) AREA: Drano Lake, White Salmon, and Klickitat and Wind rivers.

c) GEAR: Hoop nets, dip bag nets, and rod and reel with hook-and-line. Gill nets may only be used in Drano Lake (no mesh restriction, 150-foot length restriction).

#### **3. Mainstem Columbia River below Bonneville Dam**

a) SEASON: Immediately until further notice, and only under the conditions in the Memo of Agreement (MOA) titled "2007 Memorandum of Agreement Between the Yakama Nation and Washington Department of Fish and Wildlife Regarding Tribal Fishing Below Bonneville Dam" and only for enrolled Yakama Nation members, and have either commercial gillnet openings or allow platform gear in Zone 6 (SMCRA 1F, 1G, 1H).

b) AREA: (SMCRA) 1E On the Washington shoreline from 600 feet below the fish ladder at the Bonneville Dam North shore powerhouse, downstream to Beacon Rock (bank fishing only).

c) GEAR: Hoop nets, dip bag nets, and rod and reel with hook-and-line, consistent with Yakama Nation regulations.

**4. SANCTUARIES:** Standard river mouth and dam sanctuaries applicable to these gear types, except the Spring Creek Hatchery sanctuary not in effect.

**5. ALLOWABLE SALES:** Chinook, coho, sockeye, steelhead, walleye, shad, carp, yellow perch, catfish and bass. Sturgeon may not be sold. Sturgeon between 43-54 inches in fork length in The Dalles and John Day pools (SMCRA 1G, 1H) may be retained for subsistence. Sturgeon between 38-54 inches in fork length in the Bonneville pool (SMCRA 1F) may also be retained for subsistence. Fish may NOT be sold on USACE Property below Bonneville Dam, but may be caught and transported off USACE Property for sale. Sturgeon below Bonneville Dam may NOT be retained and may NOT be sold.

**6. ADDITIONAL REGULATIONS:** 24-hour quick reporting required for Washington wholesale dealers, pursuant to WAC 220-69-240.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05100M Columbia River salmon seasons above Bonneville Dam. (09-88)

**WSR 09-12-039**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 09-95—Filed May 27, 2009, 2:03 p.m., effective June 4, 2009]

Effective Date of Rule: June 4, 2009.

Purpose: Amend personal use fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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 rule change is necessary to assure a successful Fishing Kid's event. The fish will be planted in the lake two days prior to the event to better acclimate them. On the day of the event only children fourteen years of age or less will be allowed to fish in the lake. 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: May 27, 2009.

Lori Preuss  
 for Philip Anderson  
 Director

NEW SECTION

**WAC 232-28-61900J Exceptions to statewide rules—Heart Lake (Skagit Co.)** Notwithstanding the provisions of WAC 232-28-619, effective June 4 through June 6, 2009, it is unlawful to fish in those waters of Heart Lake, except open to fishing 6:00 a.m. to 1:00 p.m. June 6, 2009 to anglers participating in the Fishing Kid's event. Juvenile anglers can continue to fish after the Fishing Kid's event closes.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. June 7, 2009:

WAC 232-28-61900J

Exceptions to statewide rules—Heart Lake (Skagit Co.)

**WSR 09-12-040**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 09-98—Filed May 27, 2009, 2:07 p.m., effective June 1, 2009, 3:00 p.m.]

Effective Date of Rule: June 1, 2009, 3:00 p.m.

Purpose: The purpose of this rule making is to allow nontreaty commercial fishing opportunity in the Columbia River while protecting fish listed as threatened or endangered under the Endangered Species Act (ESA). 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 220-33-03000F; and amending WAC 220-33-030.

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 2008-2017 *United States v. Oregon Management Agreement* (Aug. 12, 2008) (Doc. No. 2546); *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River compact).

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

Reasons for this Finding: Opens the Area 2S shad fishery for 2009. The fishery opening was delayed (from May 10) due to the downgrade in the upriver spring chinook run size and the potential for impacts to ESA-listed wild upriver spring chinook. The *U.S. v. Oregon Technical Advisory Committee* has updated the upriver spring chinook run size to 160,000 as of May 26, 2009. The estimated take of ESA-listed wild upriver spring chinook in this fishery is less than one fish (0.13), and would fall within the non-Indian ESA limit. Harvestable numbers of shad are available. Shad are overabundant in the Columbia River, and managers have encouraged the commercial industry to develop viable markets. This rule is consistent with actions of the Columbia River compact hearing of May 26, 2009. There is insufficient time to promulgate permanent rules.

Washington and Oregon jointly regulate Columbia River fisheries under the congressionally ratified Columbia River



compact. Four Indian tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the tribes an opportunity to take a fair share of the available fish, and the states must manage other fisheries accordingly. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). A federal court order sets the current parameters for sharing between treaty Indians and others. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon Management Agreement* (Aug. 12, 2008) (Doc. No. 2546).

Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in treaty and nontreaty Columbia River fisheries governed by the 2008-2017 *U.S. v. Oregon Management Agreement*. The Washington and Oregon fish and wildlife commissions have developed policies to guide the implementation of such 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 ESA, 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 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 27, 2009.

Lori Preuss  
for Philip Anderson  
Director

#### NEW SECTION

**WAC 220-33-03000F Commercial shad—Columbia River.** Notwithstanding the provisions of WAC 220-33-030, it is unlawful to take, fish for or possess shad taken for commercial purposes except as provided for in this section:

Area: 2S - True north/south line through Light #50 near the mouth of the Sandy River, upstream to the commercial fishing boundary near Beacon Rock.

Dates: Daily, Mondays through Fridays, from 3:00 p.m. to 10:00 p.m.

June 1, 2009 through June 19, 2009.

Gear: Single-wall, unslackened, floater gill net, with breaking strength of less than 10 pounds.

Mesh size: 5 3/8 inches to 6 1/4 inches. The net may not exceed 150 fathoms in length nor 40 meshes in depth.

Allowable Sale: During the fishing periods provided in this section, only shad may be kept and sold. All salmonids, walleye and sturgeon must be immediately returned to the water, and those alive must be released unharmed.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 10:01 p.m. June 19, 2009:

WAC 220-33-03000F Commercial shad—Columbia River.

#### **WSR 09-12-041 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE**

[Order 09-96—Filed May 27, 2009, 2:18 p.m., effective May 27, 2009, 2:18 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-88E-04000A; and amending WAC 220-88E-040.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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: Reporting harvest log information on a monthly basis is necessary to monitor escalating effort in the trial hagfish pot fishery to ensure conservation of the hagfish resource. These rules 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 Mak-

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

Date Adopted: May 27, 2009.

Lori Preuss  
for Philip Anderson  
Director

#### NEW SECTION

**WAC 220-88E-04000B Hagfish pot trial fishery—Logbook required.** Notwithstanding the provisions of WAC 220-88E-040, effective immediately until further notice, it is unlawful for a participant in the hagfish pot trial fishery to fail to maintain and submit a legible, accurate, and complete harvest log for all hagfish fishing activity. Logs will be submitted such that the Department receives them no later than the tenth day following the end of each calendar month. The log must be maintained using a Hagfish Harvest Logbook provided by the Department. Failure to submit logbook information may result in revocation of the hagfish trial fishery permit.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-88E-04000A Hagfish pot trial fishery—  
Logbook required. (09-16)

**WSR 09-12-048**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 09-99—Filed May 28, 2009, 9:48 a.m., effective May 28, 2009, 9:48 a.m.]

Effective Date of Rule: Immediately.

Purpose: Amend personal use fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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 is sufficient quota to allow the fishery to be open in Marine Areas 3 and 4 on these days. This rule conforms to federal action taken by Pacific Fisheries Management Council. 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: May 28, 2009.

Lori Preuss  
for Philip Anderson  
Director

#### NEW SECTION

**WAC 220-56-25500S Halibut—Seasons—Daily and possession limits.** 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:

(1) Marine Area 1 - Open through 11:59 p.m. May 29, 2009, Thursdays through Saturdays only. It is unlawful during any vessel trip to bring into port or land bottomfish except sablefish or Pacific Cod when halibut are on board.

(2) Marine Area 2 - Open until further notice, Sundays only, except for Northern Nearshore fishery (see below).

(i) Marine Area 2 (Northern Nearshore fishery): Those 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 Thursday through Sundays only. After the primary season, the northern nearshore fishery is open Thursdays through Sundays only.

(3) Marine Areas 3 and 4 - Open Thursday June 4, 2009, and Saturday June 6, 2009.

(4) Marine Area 5 - Open through July 3, 2009, Thursdays through Mondays only.

(5) Marine Areas 6 through 11 and 13 - Open through June 5, 2009, Thursdays through Mondays only.

(6) Daily limit one halibut, no minimum size limit. The possession limit is two daily limits of halibut in any form, except the possession limit aboard the fishing vessel is one daily limit.

(7) All other permanent rules remain in effect.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-25500R Halibut—Seasons—Daily and possession limits. (09-94)

**WSR 09-12-051**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Health and Recovery Services Administration)

[Filed May 28, 2009, 10:40 a.m., effective June 1, 2009]

Effective Date of Rule: June 1, 2009.

Purpose: Under the 2009-11 Omnibus Operating Budget, funding for maternity support services is reduced by 20% from current levels. In order to meet this legislatively-mandated reduction, WAC 388-533-1000 is being repealed.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-533-1000.

Statutory Authority for Adoption: RCW 74.08.090 and 74.09.800.

Other Authority: 2009-11 Omnibus Operating Budget (ESHB 1244).

Under RCW 34.05.350 the agency for good cause finds that in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal years 2009, 2010, or 2011, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this Finding: Under the 2009-11 Omnibus Operating Budget, funding for maternity support services is reduced by 20%. To meet this reduction in appropriations, the department is repealing WAC 388-533-1000. A CR-101 was filed as WSR 09-01-143 on December 22, 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 1.

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

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

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

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

Date Adopted: May 26, 2009.

Stephanie E. Schiller  
 Rules Coordinator

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 388-533-1000 First steps child care program.

**WSR 09-12-075**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 09-100—Filed May 29, 2009, 1:40 p.m., effective June 1, 2009]

Effective Date of Rule: June 1, 2009.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-32500N; and amending WAC 220-56-325.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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 non-spot shrimp are available in several marine areas, and the depth restrictions and area closures are in effect to protect spot shrimp. 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: May 29, 2009.

Philip Anderson  
 Director

**NEW SECTION**

**WAC 220-56-32500P 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 7 and 13 except as provided for in this section;

a. Marine Area 7 north of a line from the Biz Point on Fidalgo Island to Cape Saint Mary on Lopez Island, then north of a line from Davis Point on Lopez Island to Cattle Point on San Juan Island, then north of a line due west from Lime Kiln Point light to the international boundary;

i. Open to the harvest of all shrimp species except Spot shrimp. It is unlawful to possess Spot shrimp, and all Spot shrimp must immediately be returned to the water unharmed.

ii. It is unlawful to set or pull shrimp gear in waters greater than 200 feet deep.

b. Marine Area 13 is open to the harvest of all shrimp species except Spot shrimp. It is unlawful to possess Spot shrimp, and all Spot shrimp must immediately be returned to the water unharmed.

2) Effective immediately until further notice, all waters equal to or less than 150 feet in depth in Marine Areas 8-1, 8-2, 9 and 11 are open to the harvest of all shrimp species except Spot shrimp. All Spot shrimp caught must be immediately returned to the water unharmed. It is unlawful to set or pull shrimp gear in waters greater than 150 feet deep.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 7:00 a.m. June 1, 2009:

WAC 220-56-32500N      Shrimp—Areas and seasons  
(09-91)

**WSR 09-12-108**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 09-105—Filed June 2, 2009, 1:07 p.m., effective June 2, 2009, 1:07 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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: Special management area openings are in line with management measures provided for in state-tribal management plans for the 2008-09 season. 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 Mak-

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

Date Adopted: June 2, 2009.

Philip Anderson  
Director

#### NEW SECTION

**WAC 220-52-04600H 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) It is lawful to pull crab gear in the area between Klipsan Beach and the U.S. Canadian border and Grays Harbor effective immediately.

(4) A Quinault special management area (QIN SSMA) is closed to fishing for Dungeness crab until further notice: The QIN SSMA includes the coastal waters shoreward of a line approximating the 27-fathom depth curve from Copalis River to Point Grenville as described by the following coordinates:

- Northeast Corner: 47°18.35 N Lat. - 124°16.00 W Lon.
- Northwest Corner: 47°18.35 N Lat. - 124.29.55 W Lon.
- Southwest Corner: 47°08.00 N. Lat. - 124°24.75 W. Lon.
- Southeast Corner: 47°08.00 N. Lat. - 124°11.20 W. Lon.

(5) A Quinault special management area (QIN SSMA) is closed to fishing for Dungeness crab until further notice: The QIN SSMA includes the coastal waters shoreward of a line approximating the 27-fathom depth curve from Point Grenville to Split Rock as described by the following coordinates:

- Northeast corner: 47°24.50 N Lat. - 124°20.00 W Lon.
- Northwest corner: 47°24.50 N Lat. - 124°32.40 W Lon.
- Southwest corner: 47°18.35 N Lat. - 124°29.55 W Lon.
- Southeast corner: 47°18.35 N Lat. - 124°16.00 W Lon.

(6) It is unlawful for a vessel to deploy more than 100 pots in the area from Split Rock (47°24.50) to Raft River (47°28.00) shoreward of a line approximating the 27-fathom depth curve as described below, beginning at 8:00 a.m. June 6, 2009 until further notice.

- Northeast corner: 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°24.50 N Lat. - 124°32.40 W Lon
- Southeast corner: 47°24.50 N Lat. - 124°20.00 W Lon..

Fishers must pre-register with the Department of Fish and Wildlife 24 hours prior to deploying gear in this area, by one of the following three methods:

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

(7) 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.

(8) 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 section of the Washington Administrative Code is repealed:

WAC 220-52-04600G Coastal crab seasons. (09-66)

#### **WSR 09-12-112**

##### **EMERGENCY RULES**

#### **PUBLIC DISCLOSURE COMMISSION**

[Filed June 2, 2009, 4:05 p.m., effective June 30, 2009]

Effective Date of Rule: June 30, 2009.

Purpose: Adoption of new WAC 390-05-196 to clarify the difference between bona fide political parties and other political committees for the purpose of contribution limitations following the United States Supreme Court ruling upholding Washington's top two primary system.

Statutory Authority for Adoption: RCW 42.17.370.

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 March of 2008, the United States Supreme Court upheld Washington's top two primary system which was enacted into law by the voters in 2004

through the passage of I-872. Under the new primary system, chapter 29A.20 RCW which has been relied on to distinguish bona fide political parties from other political committees has been effectively repealed and chapter 42.17 RCW has not been amended by the legislature to remove reference to chapter 29A.20 RCW. To preserve the general welfare and given the timing restriction for rule making in RCW 42.17.370(1), the new rule is needed for the 2009 election season to clarify which minor party organizations satisfy the definition of bona fide political party in RCW 42.18.020.

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 1, Amended 0, Repealed 0.

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

Date Adopted: May 28, 2009.

Douglas J. Ellis  
Assistant Director

#### NEW SECTION

**WAC 390-05-196 Bona fide political party—Application of term.** An organization that filed a valid certificate of nomination with the secretary of state or a county elections official under chapter 29A.20 RCW in any year from 2002 through 2007 is deemed to have satisfied the definition of bona fide political party in RCW 42.17.020.

#### **WSR 09-12-113**

##### **EMERGENCY RULES**

#### **PUBLIC DISCLOSURE COMMISSION**

[Filed June 2, 2009, 4:06 p.m., effective June 30, 2009]

Effective Date of Rule: June 30, 2009.

Purpose: Adoption of new WAC 390-05-274 to clarify the term "party affiliation" and reference to "party," "political party" and similar terms in Title 390 WAC.

Statutory Authority for Adoption: RCW 42.17.370.

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 March of 2008, the United States Supreme Court upheld Washington's top two primary system which was enacted into law by the voters in 2004 through the passage of I-872. Under the new primary system

a candidate's party designation on the declaration of candidacy form indicates the candidate's party preference only, and does not indicate a formal affiliation between the candidate and the party specified, or reflect an endorsement or support from that party. To preserve the general welfare and given the timing restriction for rule making in RCW 42.17.370(1), the new rule is needed for the 2009 election cycle to clarify the term "party affiliation" found in two sections of chapter 42.17 RCW and Title 390 WAC.

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 1, Amended 0, Repealed 0.

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

Date Adopted: May 28, 2009.

Douglas J. Ellis  
Assistant Director

#### NEW SECTION

**WAC 390-05-274 Party affiliation—Party preference.** (1) "Party affiliation" as that term is used in chapter 42.17 RCW and Title 390 WAC means the candidate's party preference as expressed on his or her declaration of candidacy. A candidate's preference does not imply that the candidate is nominated or endorsed by that party, or that the party approves of or associates with that candidate.

(2) A reference to "political party affiliation," "political party," or "party" on disclosure forms adopted by the commission and in Title 390 WAC refers to the candidate's self-identified party preference.

#### **WSR 09-12-114**

##### **EMERGENCY RULES**

#### **PUBLIC DISCLOSURE COMMISSION**

[Filed June 2, 2009, 4:08 p.m., effective June 30, 2009]

Effective Date of Rule: June 30, 2009.

Purpose: Amend WAC 390-05-275 to reference new WAC 390-05-196 when defining party organization.

Citation of Existing Rules Affected by this Order: Amending WAC 390-05-275.

Statutory Authority for Adoption: RCW 42.17.370.

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: Given the rule-making instruction and timing restriction in RCW 42.17.370(1) and in order to preserve the general welfare for the 2009 election season, WAC 390-05-275 needs to be amended to clarify which organizations satisfy the definition of bona fide political party under RCW 42.17.020, and to reflect the definition will be approved through new emergency WAC 390-05-196 bona fide political party—Application of term. These emergency rules are a result of the March 2008 United States Supreme Court decision upholding the Washington top two primary system which was enacted into law by the voters in 2004 through the passage of I-872.

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 1, Repealed 0.

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

Date Adopted: May 28, 2009.

Douglas J. Ellis  
Assistant Director

AMENDATORY SECTION (Amending WSR 07-08-044, filed 3/28/07, effective 4/28/07)

**WAC 390-05-275 Definition—Party organization.** "Party organization," as that term is used in chapter 42.17 RCW and Title 390 WAC, means a bona fide political party as defined in RCW 42.17.020 and applied in WAC 390-05-196.

#### **WSR 09-12-116**

##### **EMERGENCY RULES**

#### **DEPARTMENT OF**

#### **SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed June 3, 2009, 8:48 a.m., effective June 3, 2009, 8:48 a.m.]

Effective Date of Rule: Immediately.

Purpose: The department is filing this emergency rule to amend the eligibility dates for converting state-only residential allowance to state supplementary payment (SSP) when there is an ongoing need for a residential allowance.

Citation of Existing Rules Affected by this Order: Amending WAC 388-827-0115.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.10.020, 74.04.057.

Other Authority: Title 71A RCW, 20 C.F.R. Part 416.

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 has determined that without this emergency rule clients may lose services or benefits.

This emergency rule extends the emergency rule file[d] February 4, 2009, as WSR 09-05-001. The department is proceeding to adopt these rules on a permanent basis and is filing a CR-102 with this emergency extension.

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 1, Repealed 0.

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

Date Adopted: May 22, 2009.

Stephanie E. Schiller  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 07-24-030, filed 11/28/07, effective 12/29/07)

**WAC 388-827-0115 What are the programmatic eligibility requirements for DDD/SSP?** Following are the programmatic eligibility requirements to receive DDD/SSP:

(1) You received one or more of the following services from DDD with state-only funding between March 1, 2001 and June 30, 2003 and continue to demonstrate a need for and meet the DDD program eligibility requirements for these services. Additionally, you must have been eligible for or received SSI prior to July 1, 2006; or you received Social Security Title II benefits as a disabled adult child prior to July 1, 2006 and would have been eligible for SSI if you did not receive these benefits.

(a) Certain voluntary placement program services, which include:

- (i) Foster care basic maintenance,
- (ii) Foster care specialized support,
- (iii) Agency specialized support,
- (iv) Staffed residential home,
- (v) Out-of-home respite care,
- (vi) Agency in-home specialized support,
- (vii) Group care basic maintenance,

- (viii) Group care specialized support,
- (ix) Transportation,
- (x) Agency attendant care,
- (xi) Child care,
- (xii) Professional services,
- (xiii) Nursing services,
- (xiv) Interpreter services,
- (b) Family support;
- (c) One or more of the following residential services:
  - (i) Adult family home,
  - (ii) Adult residential care facility,
  - (iii) Alternative living,
  - (iv) Group home,
  - (v) Supported living,
  - (vi) Agency attendant care,
  - (vii) Supported living or other residential service allowance,
  - (viii) Intensive individual supported living support (companion homes).

(2) For individuals with community protection issues as defined in WAC 388-820-020, the department will determine eligibility for SSP on a case-by-case basis.

(3) For new authorizations of family support opportunity:

(a) You were on the family support opportunity waiting list prior to January 1, 2003; and

(b) You are on the home and community based services (HCBS) waiver administered by DDD; and

(c) You continue to meet the eligibility requirements for the family support opportunity program contained in WAC 388-825-200 through 388-825-242; and

(d) You must have been eligible for or received SSI prior to July 1, 2003; or you received Social Security Title II benefits as a disabled adult child prior to July 1, 2003 and would have been eligible for SSI if you did not receive these benefits.

(4) For individuals on one of the HCBS waivers administered by DDD (Basic, Basic Plus, Core or community protection):

(a) You must have been eligible for or received SSI prior to April 1, 2004; and

(b) You were determined eligible for SSP prior to April 1, 2004.

(5) You received medicaid personal care (MPC) between September 2003 and August 2004; and

(a) You are under age eighteen at the time of your initial comprehensive assessment and reporting evaluation (CARE) assessment;

(b) You received or were eligible to receive SSI at the time of your initial CARE assessment;

(c) You are not on a home and community based services waiver administered by DDD; and

(d) You live with your family, as defined in WAC 388-825-020.

(6) If you meet all of the requirements listed in (5) above, your SSP will continue.

(7) You received one or more of the following state-only funded residential services between July 1, 2003 and June 30, 2006 and continue to demonstrate a need for and meet the DDD program eligibility requirements for these services:

- (a) Adult residential care facility;
- (b) Alternative living;
- (c) Group home;
- (d) Supported living;
- (e) Agency attendant care;
- (f) Supported living or other residential allowance.

(8) You received one or more of the following residential services between July 1, 2003 and June 30, 2009 and demonstrate an ongoing need for a residential allowance request on a periodic, or routine basis of at least once a quarter. You must also receive SSI or would receive SSI if it were not for the receipt of DAC as well as continue to meet the program eligibility requirements for these services:

- (a) Alternative living;
- (b) Supported living; or
- (c) Companion homes.

**WSR 09-12-118**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 09-100—Filed June 3, 2009, 8:55 a.m., effective June 6, 2009]

Effective Date of Rule: June 6, 2009.

Purpose: Amend personal use fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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: Wild summer steelhead inhabiting the affected waters are part of the Puget Sound steelhead distinct population segment, which is listed as threatened under the Endangered Species Act. This emergency rule is needed to protect wild summer steelhead from incidental fishing mortality. 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 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: June 3, 2009.

Philip Anderson  
 Director

NEW SECTION

**WAC 232-28-61900T Exceptions to statewide rules—South Fork Nooksack River, North Fork Skykomish River, Tolt River, Finney Creek, Canyon Creek, Skokomish River, South Fork Skokomish River, and Dungeness River.** Notwithstanding the provisions of WAC 232-28-619, effective June 6, 2009 until further notice, it is unlawful to violate the following provisions in the following waters:

(1) South Fork Nooksack River (Skagit/Whatcom Co.), from the mouth to Skookum Creek confluence: All game fish - catch and release, except up to 2 hatchery steelhead may be retained. Selective gear rules and night closure in effect.

(2) North Fork Skykomish River (Snohomish Co.), from the mouth to Deer Falls (about 1/4 mile upstream of Goblin Creek), closed waters from 1,000' downstream of Bear Creek Falls to Deer Falls. All game fish - catch and release, except up to 2 hatchery steelhead maybe retained. Selective gear rules and night closure in effect.

(3) Tolt River (King Co.), from the mouth to USGS trolley cable near the confluence of North and South Forks: All game fish - catch and release, except up to 2 hatchery steelhead may be retained. Selective gear rules in effect.

(4) Finney Creek (Skagit Co.), Closed waters.

(5) Canyon Creek (Snohomish Co.), from the mouth to forks. All game fish - catch and release, except up to 2 hatchery steelhead may be retained. Selective gear rules in effect.

(6) Skokomish River (Mason Co.), from the mouth to Hwy. 101 Bridge: All game fish - catch and release. June 6 through July 31, selective gear rules in effect, except fishing from a motorized vessel allowed.

(7) South Fork Skokomish (Mason Co.), from Rule Creek upstream: All game fish - catch and release; selective gear rules in effect.

(8) Dungeness River (Clallam Co.), from Gold Creek upstream: All game fish - catch and release; selective gear rules in effect.

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

**WSR 09-12-119**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 09-104—Filed June 3, 2009, 9:18 a.m., effective June 3, 2009, 9:18 a.m.]

Effective Date of Rule: Immediately.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order:  
 Amending WAC 220-56-330.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.



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

Reasons for this Finding: This emergency rule is needed to align opening dates in order to comply with state and tribal harvest management agreements. 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 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: June 3, 2009.

Philip Anderson  
Director

#### NEW SECTION

##### **WAC 220-56-33000E Crab—Areas and seasons.**

Notwithstanding the provisions of WAC 220-56-330, effective immediately until further notice, it is unlawful to fish for crab for personal use in Marine Areas 6, 7, 8-1, 8-2, 9, 10, 11, and 12 except as provided herein:

1) Effective 7:00 a.m. July 1 through September 7, 2009, a person may fish for or possess crab Wednesdays, Thursdays, Fridays and Saturdays in the waters of Area 6, 8-1, 8-2, 9, 10, and 11. Except a person may fish for crab September 6 through September 7, 2009, Sunday through Monday (all of Labor Day weekend).

2) Effective 7:00 a.m. July 15 through September 30, 2009, a person may fish for or possess crab Wednesdays, Thursdays, Fridays and Saturdays in the following Marine Sub Areas:

a) Marine Sub Area 7 South, the San Juan Islands, defined as those waters of Area 7 south and west of a line projected from Village Point, Lummi Island, through the navigation buoy just east of Matia Island, thence to the buoy at Clements Reef, thence to the easternmost point of Patos Island, thence running along the north shore of Patos Island to the westernmost point of Patos Island, thence due west to the international boundary; westerly of a straight line from the northernmost tip of Sinclair Island through Lummi Rocks to Lummi Island; and west of a line projected from the southeast point of Sinclair Island to the ferry dock at Shannon Point. Except a person may fish for crab September 6

through September 7, 2009, Sunday through Monday (all of Labor Day weekend).

b) Marine Sub Area 7 East, Anacortes to Bellingham, defined as those waters of Area 7 south of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island and south and east of a line projected from Village Point, Lummi Island through the navigation buoy just east of Matia Island thence to the buoy at Clements Reef thence to the easternmost point of Patos Island, running along the northern shoreline of Patos Island and from the westernmost point of Patos Island due west to the international boundary. Except a person may fish for crab September 6 through September 7, 2009, Sunday through Monday (all of Labor Day weekend).

3) Effective 7:00 a.m. August 12 through September 30, 2009, a person may fish for or possess crab Wednesdays, Thursdays, Fridays and Saturdays in the waters of Area 7 (Sub Area 7 North - Lummi Bay to Point Roberts) north of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island and south and east of a line projected from Village Point, Lummi Island through the navigation buoy just east of Matia Island thence to the buoy at Clements Reef thence to the easternmost point of Patos Island, running along the northern shoreline of Patos Island and from the westernmost point of Patos Island due west to the international boundary. Except a person may fish for crab September 6 through September 7, 2009, Sunday through Monday (all of Labor Day weekend).

4) Effective 7:00 a.m. July 29, 2009 through January 2, 2010, a person may fish for or possess crab Wednesdays, Thursdays, Fridays and Saturdays in Marine Area 12 (Hood Canal). Except a person may fish for crab September 6 through September 7, 2009, Sunday through Monday (all of Labor Day weekend).