

WSR 05-20-002
EMERGENCY RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed September 22, 2005, 8:22 a.m., effective September 22, 2005]

Effective Date of Rule: Immediately.

Purpose: This emergency rule replaces and extends a previously filed emergency rule (WSR 05-13-080). The department is moving forward with permanent adoption, with a CR-102 filed on September 19, 2005. This amendment implements HB 1329 by allowing LEOFF Plan 1 retirees to select a flexible survivor option for their current spouse even if a property division obligation affects part of their retirement allowance. This rule has also been rewritten for clarity.

Citation of Existing Rules Affected by this Order: Amending WAC 415-104-202.

Statutory Authority for Adoption: RCW 41.50.050(5), 41.26.164.

Under RCW 34.05.350 the agency for good cause finds 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: HB 1329 (chapter 67, Laws of 2005) requires the department to adopt rules by July 1, 2005, to implement the provisions of the bill.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: September 21, 2005.

Sandra J. Matheson
 Director

AMENDATORY SECTION (Amending WSR 03-12-014, filed 5/27/03, effective 7/1/03)

WAC 415-104-202 Survivor benefit options—LEOFF Plan 1. (1) **To whom does this section apply?** This section (~~only applies to members of the law enforcement officers' and fire fighters' retirement system who first became members of the system prior to October 1, 1977 (LEOFF Plan 1)~~) applies to you if you are a retiree of LEOFF Plan 1.

(2) **What are flexible survivor benefit options?** RCW 41.26.164 allows a retiree to provide a survivor option for a spouse who (~~does not otherwise qualify as an eligible surviving spouse~~) is not eligible for survivor benefits under RCW 41.26.160 or 41.26.161. The survivor option will provide a lifetime benefit for the spouse after the retiree's death.

(3) **How will ~~((the retiree's benefit))~~ my monthly retirement allowance be affected by selecting a flexible survivor option?** (~~The monthly benefit payment~~) Your monthly retirement allowance will be actuarially reduced beginning the first month following the month in which the department receives the completed form.

(4) **What are the flexible survivor option choices?**

(a) **Joint and whole allowance option.** (~~When the retiree dies~~) The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department (~~pays the~~) will pay your surviving spouse a monthly (~~benefit~~) allowance equal to the gross monthly retirement allowance (~~then payable to the retiree~~) you were receiving.

(b) **Joint and one-half allowance option.** (~~When the retiree dies~~) The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department (~~pays the~~) will pay your surviving spouse a monthly (~~benefit~~) allowance equal to one-half of the (~~amount of the retiree's~~) gross monthly retirement allowance (~~then payable to the retiree~~) you were receiving.

(c) **Joint and two-thirds allowance option.** (~~When the retiree dies~~) The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department (~~pays the~~) will pay your surviving spouse a monthly (~~benefit~~) allowance equal to two-thirds (~~66.667%~~) of the (~~retiree's~~) gross monthly retirement allowance (~~then payable to the retiree~~) you were receiving.

(5) (~~How does one~~) **Do I qualify to add a flexible survivor option?** (~~A retiree may qualify to~~) You may select a flexible survivor option if:

(a) (~~The retiree does not have a spouse who qualifies as an eligible surviving spouse (see subsection (2) of this section)~~);

(b) The retiree's monthly benefit is not subject to a property settlement agreement from a court decree of dissolution or legal separation; and Your current spouse is not eligible for survivor benefits under RCW 41.26.160 or 41.26.161;

(b) Some portion of your monthly retirement allowance is payable to you, after any reduction pursuant to a property division obligation under RCW 41.50.670;

(c) (~~The retiree has~~) You have not previously selected a flexible survivor option; and

(d) You meet the deadline and application requirements in subsection (6) of this section.

(6) (~~What steps must one take to~~) **How do I add a flexible survivor option?** (~~To add a flexible survivor option, the retiree must:~~

(a) Make the choice during the one year window, on or after the date of the first anniversary and before the second anniversary of the marriage;

(b) Provide the department with proof of the birth date of the spouse and a copy of a marriage certificate as proof of the marriage; and

(c) Properly and in a timely manner complete and file the correct forms with the department.) You may select a flexible survivor option and name your current spouse as your survivor beneficiary, provided that:

(a) The selection is made:

(i) During a one-year window, on or after the date of the first anniversary and before the second anniversary of the marriage; or

(ii) No later than June 30, 2006, if you cannot comply with (a)(i) of this subsection because you were married prior to July 1, 2005;

(b) You provide a certified copy of your marriage certificate to the department;

(c) You provide proof, satisfactory to the department, of your current spouse's birth date; and

(d) You file the properly completed forms with the department in a timely manner.

(7) May I remove the flexible survivor option in the future? Your choice of a flexible survivor option is irrevocable with the following exceptions:

(a) Your spouse dies before you; or

(b) You and your spouse divorce.

See subsection (8) of this section.

(8) What happens if ((the survivor)) my spouse dies before ((the retiree)) me, or if we divorce? If ~~((the))~~ your spouse dies before ~~((the retiree))~~ you, or if you divorce, ~~((the retiree's))~~ your monthly retirement allowance will increase~~(s)~~, effective the first day of the following month~~(; to)~~. Your increased monthly allowance will be the amount ~~((that the retiree))~~ you would have received had ~~((the retiree))~~ you not chosen a flexible survivor option plus any cost-of-living adjustments (COLA) ~~((the retiree))~~ you received prior to ~~((the))~~ your spouse's death.

((8)) (9) What happens to ((the)) my eligible surviving children's share if ((the retiree)) I select((s)) a flexible survivor option? There is *no* impact to the benefit provided under RCW 41.26.160 or 41.26.161 to surviving children if ~~((the retiree selects))~~ you select a flexible survivor option.

((9)) (10) Actuarial information. See chapter 415-02 WAC starting with WAC 415-02-300 for the tables, schedules, and factors the department uses for calculating retirement allowances.

Terms used in this section:

(a) Child or children - RCW 41.26.030(7).

(b) Eligible surviving child - RCW 41.26.160 and 41.26.161.

(c) Eligible surviving spouse - RCW 41.26.161 and 41.26.162.

(d) Surviving spouse - RCW 41.26.030(6).

WSR 05-20-009

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 05-220—Filed September 23, 2005, 3:48 p.m., effective September 23, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend hunting rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 232-12-243.

Statutory Authority for Adoption: RCW 77.12.240.

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 extend the public safety cougar removal application date from October 1, 2005, until October 15, 2005. GMUs and permits levels for the public safety cougar removal in western Washington were delayed for additional reporting of public safety situations and that information was reviewed to include a new permit area in Region 5. The deadline for the application is insufficient to plan and finish the licensing requirements as provided for in WAC 232-12-243. 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: September 23, 2005.

J. P. Koenings
Director

NEW SECTION

WAC 232-12-24300B Public safety cougar removals—Application date extension. Notwithstanding the provisions of WAC 232-12-243, applications for public safety cougar removal for 2005-2006 will be accepted if received or postmarked no later than October 15, 2005.

WSR 05-20-010

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 05-221—Filed September 23, 2005, 3:50 p.m., effective September 26, 2005, 7:00 a.m.]

Effective Date of Rule: September 26, 2005, 7:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-47-31100B; and amending WAC 220-47-311.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of

notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation implements the limited participation fishery negotiated as part of the North of Falcon agreements made by comanagers, by naming the vessel to participate in week forty. These emergency rules are necessary to initiate fisheries. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: September 23, 2005.

J. P. Koenings
Director

NEW SECTION

WAC 220-47-31100B Purse seine—Open periods

Notwithstanding the provisions of Chapter 220-47-311 WAC, effective immediately until further notice, it is unlawful to take, fish for or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the open periods, mesh size, areas, species restrictions, notification, and landing requirements set forth in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas 7B:

That portion of Area 7B west of a line from Point Francis (48°41'42"N, 122°36'40"W) to the red and green buoy south-east of Point Francis (48°40'22"N, 122°35'30"W) then to the northernmost tip of Eliza Island (48°39'37"N, 122°35'45"W) then along the eastern shore of the island to a point intersecting a line drawn through Eliza Rock Light (48°38'35"N, 122°34'40"W) and Fish Point (48°34'35"N, 122°29'45"W) and then southeastward along that line to Fish Point are closed 9/1-9/30.

Purse Seines - (a) Open in Area 7B to purse seines using the 5-inch strip during the following hours and dates, provided it is unlawful to retain sockeye salmon, and any sockeye salmon caught must be released immediately.

Continuously through 8 p.m. October 29

Areas 8A:

Purse Seines - (a) Open in Area 8A to the purse seines vessels POLARLAND and QUANDARY only. Participating vessels are required to use the 5-inch strip during the following hours and dates, provided it is unlawful to retain chinook

salmon, and any chinook salmon caught must be released immediately.

7:00 a.m. to 7:00 p.m. September 26.

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 effective 7:01 p.m. September 26, 2005:

WAC 220-47-31100B Purse seine open periods.

WSR 05-20-011 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 05-222—Filed September 23, 2005, 3:51 p.m., effective September 23, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000M; and amending WAC 220-33-010.

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: Sets the second week of the late fall commercial fishing season. Harvestable salmon and sturgeon are available. The season is consistent with the 2005-2007 interim management agreement and the 2005 non-Indian allocation agreement. Impacts to ESA-listed stocks in these fisheries are covered under the biological opinion for the interim management agreement. A biological opinion covering Columbia River fisheries was received from NMFS on May 9, 2005. Regulation is consistent with compact action of September 23, 2005. There is insufficient time to promulgate permanent rules.

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

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

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

Date Adopted: September 23, 2005.

J. P. Koenings
Director

NEW SECTION

WAC 220-33-01000N Columbia River season below Bonneville. Notwithstanding the provisions of WAC 220-33-010, and 220-33-020, it is unlawful for a person to take or possess salmon or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E, except as provided in the following subsections.

1. OPEN AREA: SMCRA 1A, 1B, and 1C upstream to the Kalama River

a. SEASON: 6:00 a.m. to 6:00 p.m. September 26, 2005
6:00 a.m. to 6:00 p.m. September 28, 2005

b. GEAR: Drift gill nets only. 6-inch maximum mesh, unslackened floater gill net or 9 inch minimum to 9 3/4 inch maximum mesh size.

c. ALLOWABLE SALE: Salmon and sturgeon. A maximum of fifteen sturgeon total (white or green) may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. The fifteen sturgeon possession/sales limit includes both mainstem and Select Area fisheries.

d. SANCTUARIES: Elochoman, Abernathy Cowlitz and Kalama-A.

e. MISCELLANEOUS REGULATIONS: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

2. OPEN AREA: SMCRA 1C upstream of the Kalama River, 1D, 1E.

a. SEASON: 8:00 p.m. September 26 to 1:00 a.m. September 27, 2005

8:00 p.m. September 28 to 1:00 a.m. September 29, 2005

b. GEAR: Drift gill nets only. 8-inch minimum and 9 3/4 inch maximum mesh restriction.

c. ALLOWABLE SALE: Salmon and sturgeon. A maximum of fifteen sturgeon total (white or green) may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. The fifteen sturgeon possession/sales limit includes both mainstem and Select Area fisheries.

d. SANCTUARIES: Kalama-A, Lewis-A, Sandy and Washougal rivers.

e. MISCELLANEOUS REGULATIONS: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

3. OPEN AREA: Blind Slough/Knappa Slough Select Area. Blind Slough fishing area includes all waters from markers at the mouth of Gnat Creek located approximately 0.5 mile upstream of the county road bridge downstream to markers at the mouth of Blind Slough. Concurrent waters extend downstream of the railroad bridge. Knappa Slough fishing area includes all waters bounded by a line from the north marker at the mouth of Blind Slough, westerly to a marker on Karlson Island, downstream to boundary lines

defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon shore. An area closure of about a 100-foot radius at the mouth of Big Creek defined by markers. All waters in Knappa Slough are under concurrent jurisdiction.

a. SEASON: Monday, Tuesday, Wednesday, and Thursday nights immediately through October 28. Open hours are 7:00 p.m. to 7:00 a.m. through September 23 and 6:00 p.m. to 8:00 a.m. thereafter.

b. GEAR: Gillnet - 6-inch maximum mesh size. Maximum net length of 100 fathoms. No weight restriction on lead line. Use of additional weights or anchors attached directly to the lead line is allowed.

c. ALLOWABLE SALE: Salmon and sturgeon. A maximum of fifteen sturgeon may be possessed or sold by each vessel participating each calendar week (Sunday through Saturday). The ten possession and sales limit includes mainstem and Select Area fisheries.

d. MISCELLANEOUS REGULATIONS: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

4. OPEN AREA: Tongue Point/South Channel Select Area. Tongue Point fishing area includes all waters bounded by a line from a marker midway between the red USCG navigation light #2 at the tip of Tongue Point and the downstream (northern most) pier (#8) at the Tongue Point Job Corps facility, to the flashing green USCG navigation light #3 on the rock jetty at the west end of Mott Island, a line from a marker at the southeast end of Mott Island northeasterly to a marker on the northwest tip of Lois Island, and a line from a marker on the southwest end of Lois Island westerly to a marker on the Oregon shore. All waters are under concurrent jurisdiction. South Channel area includes all waters bounded by a line from a marker on John Day Point through the green USCG buoy #7 to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to the flashing red USCG marker #10, northwesterly to a marker on Burnside Island defining the upstream terminus of South Channel. All waters are under concurrent jurisdiction.

a. SEASON: Monday, Tuesday, Wednesday, and Thursday nights immediately through October 28. Open hours are 4:00 p.m. to 8:00 a.m.

b. GEAR: In the Tongue Point area the mesh size is restricted to 6-inch maximum mesh. Net length maximum of 250 fathoms, and weight not to exceed two pounds on any one fathom on the lead line. In the South Channel area the mesh size is restricted to 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on lead line. Use of additional weights or anchors attached directly to the lead line is allowed.

c. ALLOWABLE SALE: Salmon and sturgeon. A maximum of fifteen sturgeon may be possessed or sold by each vessel participating each calendar week (Sunday through Saturday). The fifteen possession and sales limit includes mainstem and Select Area fisheries.

d. MISCELLANEOUS REGULATIONS: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

5. OPEN AREA: Deep River Select Area. Deep River fishing area includes all waters downstream of the town of Deep River to the mouth defined by a line from USCG navigation marker #16 southwest to a marker on the Washington shore. Concurrent waters extend downstream of the Highway 4 bridge.

a. SEASON: Monday, Tuesday, Wednesday, and Thursday nights immediately through October 28. Open hours are 4:00 p.m. to 8:00 a.m.

b. GEAR: The mesh size is restricted to 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on the lead line. Use of additional weights or anchors attached directly to the lead line is allowed. Nets may not be tied off to stationary structures. Nets may not fully cross the navigation channel.

c. ALLOWABLE SALE: Salmon and sturgeon. A maximum of fifteen sturgeon may be possessed or sold by each vessel participating each calendar week (Sunday through Saturday). The fifteen possession and sales limit includes mainstem and Select Area fisheries.

d. MISCELLANEOUS REGULATIONS: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

6. OPEN AREA: Steamboat Slough Select Area. Steamboat Slough fishing area includes all waters bounded by markers on Price Island and the Washington shore, at both ends of Steamboat Slough. All open waters are under concurrent jurisdiction.

a. SEASON: Monday, Tuesday, Wednesday, and Thursday nights immediately through October 28. Open hours are 7:00 p.m. to 7:00 a.m. through September 23 and 6:00 p.m. to 8:00 a.m. thereafter.

b. GEAR: The mesh size is restricted to 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on the lead line. Use of additional weights or anchors attached directly to the lead line is allowed.

c. ALLOWABLE SALE: Salmon and sturgeon. A maximum of fifteen sturgeon may be possessed or sold by each vessel participating each calendar week (Sunday through Saturday). The fifteen possession and sales limit includes mainstem and Select Area fisheries.

d. MISCELLANEOUS REGULATIONS: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-01000M Columbia River season below Bonneville. (05-218)

WSR 05-20-025 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 05-223—Filed September 27, 2005, 4:58 p.m., effective September 27, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Sets sixth week of tribal commercial fishing. Salmon and steelhead are available for harvest. Impacts to Upriver Bright Chinook and impacts to wild Group B steelhead are projected to be within the preseason guidelines. Continues the commercial sale of platform and hook and line caught fish in the treaty Indian fishery, including Washington tributaries, consistent with Yakama Nation rules for those tributaries. Season is consistent with the 2005-2007 management agreement and the biological opinion. Consistent with action of the Columbia River compact of September 27, 2005, and conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 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: September 27, 2005.

Evan Jacoby
for Jeff Koenings
Director

NEW SECTION

WAC 220-32-05100R Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052, WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, shad, carp, or sturgeon taken for commercial purposes in

Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H, and the Klickitat River and White Salmon rivers, except those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, shad, carp, sturgeon, steelhead and walleye under the following provisions pursuant to lawfully enacted tribal rules:

1) Open Periods: 6:00 a.m. September 28, 2005 to 6:00 p.m. September 30, 2005

a) Open Areas: SMCRA 1F, 1G, 1H

b) Gear: Gill Nets. 8-inch minimum mesh restriction. Drift gill nets up to 800 feet in length are allowed.

c) Allowable sale includes: salmon, steelhead, walleye, carp, and shad. Sturgeon may not be sold.

d) Sanctuaries: All standard dam and river mouth sanctuaries are in effect. The small 150 foot sanctuary around Spring Creek Hatchery will be in effect.

2) Open Periods: Immediately until further notice.

a) Open Areas: SMCRA 1F, 1G, 1H, the Klickitat River and the White Salmon River.

b) Gear: Hoop nets, dip bag nets, or hook and line.

c) Allowable sale includes: Salmon, steelhead, walleye, carp and shad. Commercial sales of platform and hook and line caught fish are allowed during commercial gillnet openings. Fish taken in the Klickitat and White Salmon rivers may be sold when those rivers are open pursuant to lawfully enacted tribal rules.

3) Notwithstanding the provisions of WAC 220-32-058, the closed area at the mouth of:

a) Hood River are those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles down river from the west bank at the end of the break wall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.

b) Herman Creek are those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

c) Deschutes River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

d) Umatilla River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

e) Big White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".

f) Wind River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

g) Klickitat River are those waters of the Columbia River extending to midstream at right angles to the thread of the

Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1/8 miles downstream from the west bank.

h) Little White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately 1/2 mile upstream from the eastern shoreline.

4) Notwithstanding the provisions of WAC 220-22-010, during the open periods described above:

a. Area 1F (Bonneville Pool) includes those waters of the Columbia River upstream from the Bridge of the Gods, and downstream from the west end of the 3 Mile Rapids located approximately 1.8 miles below the Dalles Dam.

b. Area 1G includes those waters of the Columbia River upstream from a line drawn between a deadline marker on the Oregon shore located approximately 3/4 miles above The Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in mid-river, then downstream to Light "1" on the Washington shore, and downstream from Preacher's Eddy Light below John Day Dam.

c. Area 1H includes those waters of the Columbia River upstream from a fishing boundary marker approximately 1/2 mile above the John Day River, Oregon, extending at a right angle across the thread of the river to a point in mid-river, then downstream to a fishing boundary marker on the Washington shore approximately opposite the mouth of the John Day River, and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

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 220-32-05100Q	Columbia River salmon seasons above Bonneville Dam. (05-217)
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WSR 05-20-033

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 05-226—Filed September 28, 2005, 4:37 p.m., effective September 28, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-62000D and 232-28-62000E; and amending WAC 232-28-620.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is

necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The Area 3 late season fishery was inadvertently omitted from the last emergency rule. This rule corrects that omission and extends the 2 chinook daily limit from the summer season to the late season fishery. 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 2.

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

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

Date Adopted: September 28, 2005.

Ronald McQueen
for Jeff Koenings
Director

NEW SECTION

WAC 232-28-62000E Coastal salmon seasons Notwithstanding the provisions of WAC 232-28-620, effective immediately, until further notice, it is unlawful to fish for salmon in coastal waters during 2005 except as provided in this section, provided that unless otherwise amended all permanent rules remain in effect:

(1) **Area 1** - Open immediately through September 30, 2005, open 7 days per week, daily limit 2 salmon, except release wild coho.

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

(a) Area 2 - Closed

(b) Area 2-1 - Open immediately until further notice, daily limit 6 salmon, not more than two of which may be adult salmon.

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

(d) Area 2-2 east of the Buoy 13 line - Open immediately until further notice, daily limit 2 salmon, release all chinook. All salmon required to be released may not be totally removed from the water, except anglers fishing from boats 30 feet or longer as listed on either their state or Coast Guard registration are exempt.

(3) **Area 3** - Waters north of 47°50'00"N latitude and south of 48°00'00"N latitude open immediately through October 9, open 7 days per week, daily limit 2 salmon, except release wild coho.

(4) **Area 4** - Closed.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-62000D Coastal salmon seasons. (05-211)

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. October 10, 2005:

WAC 232-28-62000E Coastal salmon seasons.

WSR 05-20-034 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 05-227—Filed September 28, 2005, 4:38 p.m., effective October 1, 2005, 12:01 a.m.]

Effective Date of Rule: October 1, 2005, 12:01 a.m.

Purpose: Amend personal use fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.240.

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 Columbia River fall chinook runsize is below expectations and impacts of the ESA listed Snake River wild fall chinook allowed for the Buoy 10, mainstem sport fishery below Bonneville Dam and the mainstem fishery in Zone 6 (Bonneville Dam to McNary Dam) are expected to be met. Rules are consistent with joint state action taken on September 13 and September 27, 2005. 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 2.

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

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

Date Adopted: September 28, 2005.

Ronald McQueen
for Jeff Koenings
Director

NEW SECTION

WAC 232-28-61900W Exceptions to statewide rules—Columbia River. Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. October 1, 2005 through December 31, 2005, it is unlawful to retain Chinook salmon in those waters of the Columbia River from a true north and south line (magnetic 338 degrees N) through Buoy 10 upstream to Hwy. 395 Bridge at Pasco.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. October 1, 2005:

WAC 232-28-61900V Exceptions to statewide rules—Columbia River. (05-213)

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

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

WSR 05-20-035
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 05-225—Filed September 28, 2005, 4:39 p.m., effective September 28, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000N; and amending WAC 220-33-010.

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: Modifies the second week of the late fall commercial fishing season that was previously set at the September 23 compact. Harvestable salmon and sturgeon are available. The season is consistent with the 2005-2007 interim management agreement and the 2005 non-Indian allocation agreement. Impacts to ESA-listed stocks in these fisheries are covered under the biological opinion for the interim management agreement. A biological opinion covering Columbia River fisheries was received from NMFS on May 9, 2005. Regulation is consistent with compact action of September 27, 2005. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

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

Date Adopted: September 28, 2005.

Ronald McQueen
for Jeff Koenings
Director

NEW SECTION

WAC 220-33-01000P Columbia River season below Bonneville. Notwithstanding the provisions of WAC 220-33-010, and 220-33-020, it is unlawful for a person to take or possess salmon or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E, except as provided in the following subsections.

1. OPEN AREA: SMCRA 1A, 1B, and 1C upstream to the Kalama River

a. SEASON: Immediately to 6:00 p.m. September 28, 2005

b. GEAR: Drift gill nets only. 6-inch maximum mesh, unslackened floater gill net or 9 inch minimum to 9 3/4 inch maximum mesh size.

c. ALLOWABLE SALE: Salmon and sturgeon. A maximum of fifteen sturgeon total (white or green) may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. The fifteen sturgeon possession/sales limit includes both mainstem and Select Area fisheries.

d. SANCTUARIES: Elochoman, Abernathy Cowlitz and Kalama-A.

e. MISCELLANEOUS REGULATIONS: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

2. OPEN AREA: SMCRA 1C upstream of the Kalama River, 1D, 1E.

a. SEASON: 8:00 p.m. September 28 to 6:00 a.m. September 29, 2005

b. GEAR: Drift gill nets only. 8-inch minimum and 9 3/4 inch maximum mesh restriction.

c. ALLOWABLE SALE: Salmon and sturgeon. A maximum of fifteen sturgeon total (white or green) may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. The fifteen sturgeon possession/sales limit includes both mainstem and Select Area fisheries.

d. SANCTUARIES: Kalama-A, Lewis-A, Sandy and Washougal rivers.

e. MISCELLANEOUS REGULATIONS: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

3. OPEN AREA: Blind Slough/Knappa Slough Select Area. Blind Slough fishing area includes all waters from markers at the mouth of Gnat Creek located approximately 0.5 mile upstream of the county road bridge downstream to markers at the mouth of Blind Slough. Concurrent waters extend downstream of the railroad bridge. Knappa Slough fishing area includes all waters bounded by a line from the north marker at the mouth of Blind Slough, westerly to a marker on Karlson Island, downstream to boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon shore. An area closure of about a 100-foot radius at the mouth of Big Creek defined by markers. All waters in Knappa Slough are under concurrent jurisdiction.

a. SEASON: Monday, Tuesday, Wednesday, and Thursday nights immediately through October 28. Open hours are 7:00 p.m. to 7:00 a.m. through September 23 and 6:00 p.m. to 8:00 a.m. thereafter.

b. GEAR: Gillnet - 6-inch maximum mesh size. Maximum net length of 100 fathoms. No weight restriction on lead line. Use of additional weights or anchors attached directly to the lead line is allowed.

c. ALLOWABLE SALE: Salmon and sturgeon. A maximum of fifteen sturgeon may be possessed or sold by each vessel participating each calendar week (Sunday through Saturday). The ten possession and sales limit includes mainstem and Select Area fisheries.

d. MISCELLANEOUS REGULATIONS: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

4. OPEN AREA: Tongue Point/South Channel Select Area. Tongue Point fishing area includes all waters bounded by a line from a marker midway between the red USCG navigation light #2 at the tip of Tongue Point and the downstream (northern most) pier (#8) at the Tongue Point Job Corps facility, to the flashing green USCG navigation light #3 on the rock jetty at the west end of Mott Island, a line from a marker at the southeast end of Mott Island northeasterly to a marker on the northwest tip of Lois Island, and a line from a marker on the southwest end of Lois Island westerly to a marker on the Oregon shore. All waters are under concurrent jurisdiction. South Channel area includes all waters bounded by a line from a marker on John Day Point through the green USCG buoy #7 to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to the flashing red USCG marker #10, northwesterly to a marker on Burnside Island defining the upstream terminus of South Channel. All waters are under concurrent jurisdiction.

a. SEASON: Monday, Tuesday, Wednesday, and Thursday nights immediately through October 28. Open hours are 4:00 p.m. to 8:00 a.m.

b. GEAR: In the Tongue Point area the mesh size is restricted to 6-inch maximum mesh. Net length maximum of 250 fathoms, and weight not to exceed two pounds on any one fathom on the lead line. In the South Channel area the mesh size is restricted to 6-inch maximum mesh. Net length

maximum of 100 fathoms, and no weight restriction on lead line. Use of additional weights or anchors attached directly to the lead line is allowed.

c. ALLOWABLE SALE: Salmon and sturgeon. A maximum of fifteen sturgeon may be possessed or sold by each vessel participating each calendar week (Sunday through Saturday). The fifteen possession and sales limit includes mainstem and Select Area fisheries.

d. MISCELLANEOUS REGULATIONS: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

5. OPEN AREA: Deep River Select Area. Deep River fishing area includes all waters downstream of the town of Deep River to the mouth defined by a line from USCG navigation marker #16 southwest to a marker on the Washington shore. Concurrent waters extend downstream of the Highway 4 bridge.

a. SEASON: Monday, Tuesday, Wednesday, and Thursday nights immediately through October 28. Open hours are 4:00 p.m. to 8:00 a.m.

b. GEAR: The mesh size is restricted to 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on the lead line. Use of additional weights or anchors attached directly to the lead line is allowed. Nets may not be tied off to stationary structures. Nets may not fully cross the navigation channel.

c. ALLOWABLE SALE: Salmon and sturgeon. A maximum of fifteen sturgeon may be possessed or sold by each vessel participating each calendar week (Sunday through Saturday). The fifteen possession and sales limit includes mainstem and Select Area fisheries.

d. MISCELLANEOUS REGULATIONS: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

6. OPEN AREA: Steamboat Slough Select Area. Steamboat Slough fishing area includes all waters bounded by markers on Price Island and the Washington shore, at both ends of Steamboat Slough. All open waters are under concurrent jurisdiction.

a. SEASON: Monday, Tuesday, Wednesday, and Thursday nights immediately through October 28. Open hours are 6:00 p.m. to 8:00 a.m.

b. GEAR: The mesh size is restricted to 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on the lead line. Use of additional weights or anchors attached directly to the lead line is allowed.

c. ALLOWABLE SALE: Salmon and sturgeon. A maximum of fifteen sturgeon may be possessed or sold by each vessel participating each calendar week (Sunday through Saturday). The fifteen possession and sales limit includes mainstem and Select Area fisheries.

d. MISCELLANEOUS REGULATIONS: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-01000N Columbia River season
below Bonneville. (05-222)

WSR 05-20-037**EMERGENCY RULES****DEPARTMENT OF REVENUE**

[Filed September 29, 2005, 12:31 p.m., effective October 1, 2005]

Effective Date of Rule: October 1, 2005.

Purpose: WAC 458-20-185 (Rule 185) explains the provisions of chapter 82.26 RCW, Tax on tobacco products. The rule identifies distributors who must pay the tax, the imposition of the tax, applicable penalties, the books and records that must be kept, and when a credit for previously paid tax may be taken.

The department is revising Rule 185 on an emergency basis to incorporate provisions of chapter 180, Laws of 2005 (SB 6097). This legislation made significant statutory changes to chapter 82.26 RCW, including:

- A requirement that distributors and retailers of tobacco products be licensed;
- Requiring that licensed distributors sell only to licensed retailers;
- Changing the measure of the tax from "wholesale value" to "taxable sales value";
- Imposing record-keeping requirements on persons that transport tobacco products; and
- Adding new enforcement provisions and transferring enforcement to the Liquor Control Board.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-185 Tax on tobacco products.

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

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

Reasons for this Finding: An emergency adoption is necessary because permanent rules cannot be adopted before the October 1, 2005, effective date of the statutory changes. This rule action will provide needed information to taxpayers and department staff about the new licensing requirements and responsibilities of persons selling tobacco products in this state.

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 1, Repealed 0.

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

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

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

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

Date Adopted: September 29, 2005.

Janis P. Bianchi, Manager

Interpretations and Technical Advice Unit

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 05-21 issue of the Register.

WSR 05-20-038**EMERGENCY RULES****DEPARTMENT OF REVENUE**

[Filed September 29, 2005, 12:33 p.m., effective October 1, 2005]

Effective Date of Rule: October 1, 2005.

Purpose: WAC 458-20-186 (Rule 186) provides tax-reporting information to persons who sell, use, consume, handle, possess, or distribute cigarettes. The rule explains who is liable for the tax, how and when the cigarette tax imposed by chapter 82.24 RCW is to be paid, and the record-keeping requirements. It explains the application process for wholesale and retail cigarette vendor licenses, and includes references to statutory fees, bonding requirements, and explains the conditions for and process of application for a reinstatement of a license following a revocation under the Administrative Procedure Act.

The department is revising Rule 186 on an emergency basis to incorporate provisions of chapter 180, Laws of 2005 (SB 6097). This legislation made a number of changes with respect to the tobacco products tax program in chapter 82.26 RCW, and amended chapter 82.24 RCW to provide that any person possessing both a cigarette license and a tobacco products license is subject to suspension and revocation of both licenses for violation of either chapter 82.24 or 82.26 RCW.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-186 Tax on cigarettes.

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

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

Reasons for this Finding: An emergency adoption is necessary because permanent rules cannot be adopted before the October 1, 2005, effective date of the statutory changes. This rule action will provide needed information to taxpayers and department staff about the licensing requirements and responsibilities of persons selling cigarettes in this state.

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 1, Repealed 0.

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

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

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

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

Date Adopted: September 29, 2005.

Janis P. Bianchi, Manager

Interpretations and Technical Advice Unit

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 05-21 issue of the Register.

WSR 05-20-044
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 05-224—Filed September 29, 2005, 3:52 p.m., effective October 7, 2005]

Effective Date of Rule: October 7, 2005.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-52-073.

Statutory Authority for Adoption: RCW 77.12.240.

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

Reasons for this Finding: Harvestable amounts of red and green sea urchins exist in the areas described. Prohibition of all diving from licensed sea urchin and sea cucumber harvest vessels within two days of scheduled sea urchin openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. There is insufficient time to promulgate permanent rules.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 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: September 28, 2005.

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-52-07300U Sea urchins. Notwithstanding the provisions of WAC 220-52-073, effective October 7, 2005 until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) Green sea urchins: Sea Urchin Districts 1, 2, 3, 4, 6 and 7 are open only on Sunday and Monday of each week. The minimum size for green sea urchins is 2.25 inches (size in largest test diameter exclusive of spines).

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

(3) It is unlawful to dive for any purpose from a commercially licensed sea urchin or sea cucumber fishing vessel on Friday and Saturday of each week.

WSR 05-20-046
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 05-228—Filed September 30, 2005, 4:02 p.m., effective September 30, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-47-31100C; and amending WAC 220-47-311.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: This regulation implements the limited participation fishery negotiated as part of the North of Falcon agreements made by comanagers, by naming the vessel to participate in week 41. These emergency rules are necessary to initiate fisheries. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: September 30, 2005.

J. P. Koenings
Director

NEW SECTION

WAC 220-47-31100C Purse seine—Open periods

Notwithstanding the provisions of Chapter 220-47-311 WAC, effective immediately until further notice, it is unlawful to take, fish for or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the open periods, mesh size, areas, species restrictions, notification, and landing requirements set forth in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas 7B:

Purse Seines - (a) Open in Area 7B to purse seines using the 5-inch strip during the following hours and dates, provided it is unlawful to retain sockeye salmon, and any sockeye salmon caught must be released immediately.

Continuously until further notice.

Areas 8A:

Purse Seines - (a) Open in Area 8A to the purse seine vessel **FLAMINGO** only. Participating vessel is required to use the 5-inch strip during the following hours and dates, provided it is unlawful to retain chinook salmon, and any chinook salmon caught must be released immediately.

7:00 a.m. to 7:00 p.m. October 3

Areas 8D:

Purse Seines - Open in Area 8D to the purse seines vessels using the 5-inch strip during the following hours and dates, provided it is unlawful to retain chinook salmon, and any chinook salmon caught must be released immediately.

7:00 a.m. to 7:00 p.m. October 3

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 effective 7:01 p.m. October 3, 2005:

WAC 220-47-31100C Purse seine—Open periods.

WSR 05-20-047

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed September 30, 2005, 4:26 p.m., effective October 1, 2005]

Effective Date of Rule: October 1, 2005.

Purpose: Amending WAC 388-450-0185 Does the department count all of my income to determine my eligibility and benefits for Basic Food?, 388-450-0190 How does the department figure my shelter cost income deduction for Basic Food?, 388-450-0195 Utility allowances for Basic Food programs, and 388-478-0060 What are the income limits and maximum benefit amounts for Basic Food?; to update income, benefit, and deduction standards for the Washington Basic Food program. These changes are necessary to comply with federal requirements for the food stamp program. When the amended permanent WAC 388-450-0195, filed as WSR 05-19-062 becomes effective, it will replace only WAC 388-450-0195 filed in this emergency rule.

Citation of Existing Rules Affected by this Order: Amending WAC 388-450-0185, 388-450-0190, 388-450-0195, and 388-478-0060.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510.

Other Authority: 7 C.F.R. § 273.9, Income and deductions.

Under RCW 34.05.350 the agency for good cause finds 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 United States Department of Agriculture, Food and Nutrition Service (FNS) publishes new income standards, maximum benefit amounts, standard deduction, and maximum shelter standards at the end of each federal fiscal year to be used in the next federal fiscal year effective for October benefits. In addition, FNS requires the department to adjust the standard utility allowance each year. These changes must be implemented at the start of each federal fiscal year (October 1).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 4, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, 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: September 19, 2005.

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-23-025, filed 11/8/04, effective 12/9/04)

WAC 388-450-0185 Does the department count all of my income to determine my eligibility and benefits for Basic Food? We subtract the following amounts from your assistance unit's (AU's) countable income before we determine your Basic Food benefit amount:

(1) A standard deduction based on the number of people in your AU under WAC 388-408-0035:

Eligible and ineligible AU members	Standard deduction
1	\$134
2	\$134
3	\$134
4	\$134
5	\$(153) <u>157</u>
6 or more	\$(175) <u>179</u>

(2) Twenty percent of your AU's gross earned income (earned income deduction);

(3) Your AU's expected monthly dependent care expense as described below:

(a) The dependent care must be needed for AU member to:

- (i) Keep work, look for work, or accept work;
- (ii) Attend training or education to prepare for employment; or
- (iii) Meet employment and training requirements under chapter 388-444 WAC.

(b) We subtract allowable dependent care expenses that are payable to someone outside of your AU:

- (i) Up to two hundred dollars for each dependent under age two; and
- (ii) Up to one hundred seventy-five dollars for each dependent age two or older.

(4) Medical expenses over thirty-five dollars a month owed or anticipated by an elderly or disabled person in your AU as allowed under WAC 388-450-0200.

(5) Legally obligated current or back child support paid to someone outside of your AU:

- (a) For a person who is not in your AU; or
- (b) For a person who is in your AU to cover a period of time when they were not living with you.

(6) A portion of your shelter costs as described in WAC 388-450-0190.

AMENDATORY SECTION (Amending WSR 04-23-025, filed 11/8/04, effective 12/9/04)

WAC 388-450-0190 How does the department figure my shelter cost income deduction for Basic Food? The department calculates your shelter cost income deduction as follows:

(1) First, we add up the amounts your assistance unit (AU) must pay each month for shelter. We do not count any overdue amounts, late fees, penalties or ~~((any amount))~~ mortgage payments you ~~((pay))~~ make ahead of time as an allow-

able cost. We count the following expenses as an allowable shelter cost in the month the expense is due:

- (a) Monthly rent, lease, and mortgage payments;
- (b) Property taxes;
- (c) Homeowner's association or condo fees;
- (d) Homeowner's insurance for the building only;
- (e) Utility allowance your AU is eligible for under WAC 388-450-0195;
- (f) Out-of-pocket repairs for the home if it was substantially damaged or destroyed due to a natural disaster such as a fire or flood;
- (g) Expense of a temporarily unoccupied home because of employment, training away from the home, illness, or abandonment caused by a natural disaster or casualty loss if your:
 - (i) AU intends to return to the home;
 - (ii) AU has current occupants who are not claiming the shelter costs for Basic Food purposes; and
 - (iii) AU's home is not being leased or rented during your AU's absence.

(2) Second, we subtract all deductions your AU is eligible for under WAC 388-450-0185 (1) through (5) from your AU's gross income. The result is your AU's net income.

(3) Finally, we subtract one-half of your AU's net income from your AU's total shelter costs. The result is your excess shelter costs. Your AU's shelter cost deduction is the excess shelter costs:

- (a) Up to a maximum of ~~((three))~~ four hundred ~~((eighty-eight))~~ dollars if no one in your AU is elderly or disabled; or
- (b) The entire amount if an eligible person in your AU is elderly or disabled, even if the amount is over ~~((three))~~ four hundred ~~((eighty-eight))~~ dollars.

AMENDATORY SECTION (Amending WSR 05-09-087, filed 4/19/05, effective 6/1/05)

WAC 388-450-0195 Utility allowances for Basic Food programs. (1) For Basic Food, "utilities" include the following:

- (a) Heating or cooling fuel;
- (b) Electricity or gas;
- (c) Water or sewer;
- (d) Well or septic tank installation/maintenance;
- (e) Garbage/trash collection; and
- (f) Telephone service.

(2) The department uses the amounts below if you have utility costs separate from your rent or mortgage payment. We add your utility allowance to your rent or mortgage payment to determine your total shelter costs. We use total shelter costs to determine your Basic Food benefits.

(a) If you have heating or cooling costs, you get a standard utility allowance (SUA) that depends on your assistance unit's size.

Assistance Unit (AU) Size	Utility Allowance
1	\$(278)) <u>299</u>
2	\$(287)) <u>308</u>
3	\$(295)) <u>317</u>
4	\$(304)) <u>326</u>

Assistance Unit (AU) Size	Utility Allowance
5	\$ ((312)) <u>335</u>
6 or more	\$ ((321)) <u>344</u>

AMENDATORY SECTION (Amending WSR 04-23-025, filed 11/8/04, effective 12/9/04)

WAC 388-478-0060 What are the income limits and maximum benefit amounts for Basic Food? If your assistance unit (AU) meets all other eligibility requirements for Basic Food, your AU must have income at or below the limits in column B and C to get Basic Food, unless you meet one of the exceptions listed below. The maximum monthly food assistance benefit your AU could receive is listed in column D.

(b) If your AU does not qualify for the SUA and you have any two utility costs listed above, you get a limited utility allowance (LUA) of two hundred ~~((twenty-two))~~ thirty-six dollars.

(c) If your AU has only telephone costs and no other utility costs, you get a telephone utility allowance (TUA) of ~~((thirty-seven))~~ thirty-eight dollars.

EFFECTIVE ~~((10-1-04))~~ 10-1-05

Column A Number of Eligible AU Members	Column B Maximum Gross Monthly Income	Column C Maximum Net Monthly Income	Column D Maximum Allotment	Column E 165% of Poverty Level
1	\$ ((1,009)) <u>1037</u>	\$ ((776)) <u>798</u>	\$ ((149)) <u>152</u>	\$ ((1,281)) <u>1316</u>
2	((1,354)) <u>1390</u>	((1,041)) <u>1070</u>	((274)) <u>278</u>	((1,718)) <u>1765</u>
3	((1,698)) <u>1744</u>	((1,306)) <u>1341</u>	((393)) <u>399</u>	((2,155)) <u>2213</u>
4	((2,043)) <u>2097</u>	((1,571)) <u>1613</u>	((499)) <u>506</u>	((2,592)) <u>2661</u>
5	((2,387)) <u>2450</u>	((1,836)) <u>1885</u>	((592)) <u>601</u>	((3,030)) <u>3109</u>
6	((2,732)) <u>2803</u>	((2,101)) <u>2156</u>	((711)) <u>722</u>	((3,467)) <u>3558</u>
7	((3,076)) <u>3156</u>	((2,366)) <u>2428</u>	((786)) <u>798</u>	((3,904)) <u>4006</u>
8	((3,421)) <u>3509</u>	((2,631)) <u>2700</u>	((898)) <u>912</u>	((4,341)) <u>4454</u>
9	((3,766)) <u>3863</u>	((2,896)) <u>2972</u>	((1,010)) <u>1026</u>	((4,779)) <u>4903</u>
10	((4,111)) <u>4217</u>	((3,161)) <u>3244</u>	((1,112)) <u>1140</u>	((5,217)) <u>5532</u>
Each Additional Member	+ ((345)) <u>354</u>	+ ((265)) <u>272</u>	+ ((112)) <u>114</u>	+ ((438)) <u>449</u>

Exceptions:

(1) If your AU is categorically eligible as under WAC 388-414-0001, your AU does not have to meet the gross or net income standards in columns B and C. We do budget your AU's income to decide the amount of Basic Food your AU will receive.

(2) If your AU includes a member who is sixty years of age or older or has a disability, your income must be at or below the limit in column C only.

(3) If you are sixty years of age or older and cannot buy and cook your own meals because of a permanent disability, we will use column E to decide if you can be a separate AU.

(4) If your AU has zero income, your benefits are the maximum allotment in column D, based on the number of eligible members in your AU.

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: September 28, 2005.

Andy Fernando, Manager
Rules and Policies Assistance Unit

WSR 05-20-048
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed September 30, 2005, 4:28 p.m., effective September 30, 2005]

Effective Date of Rule: Immediately.

Purpose: This filing continues emergency rules filed as WSR 04-21-024, 04-14-014, 05-05-024, and 05-13-192. A notice of intent was filed as WSR 05-13-175, and the department circulated draft rules for public review. These emergency rules are needed to implement section 9, chapter 276, Laws of 2004, that directed the department to pay a subsidy increase for working connections child care providers in region 1 during fiscal year 2005 (July 1, 2004, through June 30, 2005). The fiscal year budget 2006-2007 (ESSB 6090, 2005 legislative session) continued to include funding for these rates as well as for statewide rate increases. The rules will continue to be filed as emergencies based on new budget legislation. This emergency rule will be superseded when permanent rules filed as WSR 05-20-051 become effective.

Citation of Existing Rules Affected by this Order: Amending WAC 388-290-0200 and 388-290-0205.

Statutory Authority for Adoption: RCW 74.04.050, 74.13.085, 74.12.340.

Other Authority: Chapter 276, Laws of 2004; and ESSB 6090 for fiscal year 2006-2007 (2005 session).

Under RCW 34.05.350 the agency for good cause finds 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: Emergency rules are needed to adopt the legislative intent of chapter 276, Laws of 2004, the 2003-2005 Omnibus Operating Budget (2004) and to continue with the increase per fiscal year 2006-2007 budget while the department continues toward adoption of the permanent rule. Funding is specific for urban areas of region 1. Proposed rules have been filed as WSR 05-17-192, and a public hearing was held September 27, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 2, 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 2, 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 Mak-

AMENDATORY SECTION (Amending WSR 04-08-021 [and 04-08-134], filed 3/29/04 [and 4/7/04], effective 5/28/04)

WAC 388-290-0200 What daily rates does DSHS pay for child care in a licensed or certified child care center or DSHS contracted seasonal day camps? (1) We pay the lesser of the following to a licensed or certified child care center or DSHS contracted seasonal day camp:

(a) The provider's usual daily rate for that child; or

(b) The DSHS maximum child care subsidy daily rate for that child as listed in the following table:

		Infants (One month - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 12 yrs)
Region 1	Full-Day	\$24.32	\$20.45	\$19.32	\$18.18
	Half-Day	\$12.16	\$10.23	\$9.66	\$9.09
<u>Spokane County</u>	<u>Full-Day</u>	<u>\$24.98</u>	<u>\$21.00</u>	<u>\$19.84</u>	<u>\$18.67</u>
	<u>Half-Day</u>	<u>\$12.49</u>	<u>\$10.51</u>	<u>\$9.92</u>	<u>\$9.34</u>
Region 2	Full-Day	\$24.55	\$20.50	\$19.00	\$16.82
	Half-Day	\$12.27	\$10.25	\$9.50	\$8.41
Region 3	Full-Day	\$32.50	\$27.09	\$23.41	\$22.73
	Half-Day	\$16.25	\$13.55	\$11.70	\$11.36
Region 4	Full-Day	\$37.82	\$31.59	\$26.50	\$23.86
	Half-Day	\$18.91	\$15.80	\$13.25	\$11.93
Region 5	Full-Day	\$27.73	\$23.86	\$21.00	\$18.64
	Half-Day	\$13.86	\$11.93	\$10.50	\$9.32
Region 6	Full-Day	\$27.27	\$23.41	\$20.45	\$20.00
	Half-Day	\$13.64	\$11.70	\$10.23	\$10.00

(2) The child care center WAC 388-295-0010 allows providers to care for children from one month up to and including the day before their thirteenth birthday. The provider must obtain a child-specific and time-limited waiver from their child care licensor in order for a child care center to provide care for a thirteen-year-old or older child.

(3) If the center provider cares for a child who is thirteen or older, the provider must have a child-specific and time-limited waiver and the child must meet the special needs requirement according to WAC 388-290-0220.

(4) Rates for Spokane County are effective July 1, 2004 and are subject to funding allocated by the Legislature specifically for this purpose in the annual state operating budget. Otherwise, the region 1 rates apply to Spokane County.

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

AMENDATORY SECTION (Amending WSR 04-08-021 [and 04-08-134], filed 3/29/04 [and 4/7/04], effective 5/28/04)

WAC 388-290-0205 What daily rates does DSHS pay for child care in a licensed or certified family home child care? (1) We pay the lesser of the following to a licensed or certified family home child care:

- (a) The provider's usual daily rate for that child; or
- (b) The DSHS maximum child care subsidy daily rate for that child as listed in the following table.

		Infants (Birth - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 11 yrs)
Region 1	Full-Day	\$20.00	\$18.00	\$18.00	\$16.00
	Half-Day	\$10.00	\$9.00	\$9.00	\$8.00
<u>Spokane</u> <u>County</u>	Full-Day	<u>\$20.54</u>	<u>\$18.49</u>	<u>\$18.49</u>	<u>\$16.43</u>
	Half-Day	<u>\$10.27</u>	<u>\$9.24</u>	<u>\$9.24</u>	<u>\$8.22</u>
Region 2	Full-Day	\$20.00	\$19.00	\$17.00	\$17.00
	Half-Day	\$10.00	\$9.50	\$8.50	\$8.50
Region 3	Full-Day	\$29.00	\$25.00	\$22.00	\$20.00
	Half-Day	\$14.50	\$12.50	\$11.00	\$10.00
Region 4	Full-Day	\$30.00	\$29.67	\$25.00	\$24.00
	Half-Day	\$15.00	\$14.83	\$12.50	\$12.00
Region 5	Full-Day	\$22.00	\$20.00	\$19.00	\$17.00
	Half-Day	\$11.00	\$10.00	\$9.50	\$8.50
Region 6	Full-Day	\$22.00	\$20.00	\$20.00	\$19.00
	Half-Day	\$11.00	\$10.00	\$10.00	\$9.50

(2) The family home child care WAC 388-155-010 allows providers to care for children from birth up to and including the day before their twelfth birthday. In order for a family home provider to care for a twelve-year-old or older child, the provider must obtain a child-specific and time-limited waiver from their child care licensor. If the provider has a waiver to care for a child who has reached their twelfth birthday, the payment rate is the same as subsection (1) and the five to eleven year age range column is used for comparison.

(3) If the family home provider cares for a child who is thirteen or older, the provider must have a child-specific and time-limited waiver and the child must meet the special needs requirement according to WAC 388-290-0220.

(4) We pay family home child care providers at the licensed home rate regardless of their relation to the children (with the exception listed in subsection (5) of this section). Refer to subsection (1) and the five to eleven year age range column for comparisons.

(5) We cannot pay family home child care providers to provide care for children in their care if the provider is:

- (a) The child's biological, adoptive or step-parent;
- (b) The child's nonneedy or needy relative or that relative's spouse or partner;
- (c) The child's legal guardian or the guardian's spouse or partner; or
- (d) Another adult acting in loco parentis or that adult's spouse or partner.

(6) Rates for Spokane County are effective July 1, 2004 and are subject to funding allocated by the Legislature specifically for this purpose in the annual state operating budget. Otherwise, the region 1 rates apply to Spokane County.

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

WSR 05-20-087
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 05-229—Filed October 4, 2005, 4:33 p.m., effective October 8, 2005, 6:00 a.m.]

Effective Date of Rule: October 8, 2005, 6:00 a.m.

Purpose: Amend personal use fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.240.

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 Reiter Ponds Hatchery has collected enough summer steelhead brood stock to meet production needs. Therefore, the area around the ponds can be reopened to fishing. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: October 4, 2005.

Evan Jacoby
 for Jeff Koenings
 Director

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 a.m. October 8, 2005:

WAC 232-28-61900L Exceptions to statewide rules—Skykomish River (Reiter Ponds) (05-154)

WSR 05-20-088
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 05-230—Filed October 4, 2005, 4:34 p.m., effective October 5, 2005, 2:00 p.m.]

Effective Date of Rule: October 5, 2005, 2:00 p.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-33-01000P; and amending WAC 220-33-010.

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: Sets the October fishing periods for the late fall commercial fishing season. Harvestable salmon and sturgeon are available. The season is consistent with the 2005-2007 interim management agreement and the 2005 non-Indian allocation agreement. Impacts to ESA-listed stocks in these fisheries are covered under the biological opinion for the interim management agreement. A biological opinion covering Columbia River fisheries was received from NMFS on May 9, 2005. Regulation is consistent with compact action of October 3, 2005. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: October 4, 2005.

Evan Jacoby
 for Jeff Koenings
 Director

NEW SECTION

WAC 220-33-01000Q Columbia River season below Bonneville. Notwithstanding the provisions of WAC 220-33-010, and 220-33-020, it is unlawful for a person to take or possess salmon or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E, except as provided in the following subsections.

1. OPEN AREA: SMCRA 1A, 1B, 1C, 1D, 1E
 a. SEASON: 2:00 p.m. October 5 through 6:00 a.m. October 6

7:00 p.m. October 6 through 5:00 a.m. October 7

b. GEAR: Drift gill nets only. No minimum mesh size. 9 3/4 inch maximum mesh size. Except 8 inch minimum mesh size effective 7:00 p.m. October 6 through 5:00 a.m. October 7.

c. ALLOWABLE SALE: Salmon and sturgeon. A maximum of three sturgeon total (white or green) may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. The three sturgeon possession/sales limit includes both mainstem and Select Area fisheries.

d. SANCTUARIES: Elochoman, Abernathy Cowlitz and Kalama-A.

e. MISCELLANEOUS REGULATIONS: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

2. OPEN AREA: Blind Slough/Knappa Slough Select Area. Blind Slough fishing area includes all waters from markers at the mouth of Gnat Creek located approximately 0.5 mile upstream of the county road bridge downstream to markers at the mouth of Blind Slough. Concurrent waters extend downstream of the railroad bridge. Knappa Slough fishing area includes all waters bounded by a line from the north marker at the mouth of Blind Slough, westerly to a marker on Karlson Island, downstream to boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon shore. An area closure of about a 100-foot radius at the mouth of Big Creek defined by markers. All waters in Knappa Slough are under concurrent jurisdiction.

a. SEASON: Monday, Tuesday, Wednesday, and Thursday nights immediately through October 28. Open hours are 7:00 p.m. to 7:00 a.m. through September 23 and 6:00 p.m. to 8:00 a.m. thereafter.

b. GEAR: Gillnet - 6-inch maximum mesh size. Maximum net length of 100 fathoms. No weight restriction on lead line. Use of additional weights or anchors attached directly to the lead line is allowed.

c. ALLOWABLE SALE: Salmon and sturgeon. A maximum of three sturgeon total (white or green) may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. The three sturgeon possession/sales limit includes both mainstem and Select Area fisheries.

d. MISCELLANEOUS REGULATIONS: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

3. OPEN AREA: Tongue Point/South Channel Select Area. Tongue Point fishing area includes all waters bounded by a line from a marker midway between the red USCG navigation light #2 at the tip of Tongue Point and the downstream (northern most) pier (#8) at the Tongue Point Job Corps facility, to the flashing green USCG navigation light #3 on the rock jetty at the west end of Mott Island, a line from a marker at the southeast end of Mott Island northeasterly to a marker on the northwest tip of Lois Island, and a line from a marker on the southwest end of Lois Island westerly to a marker on

the Oregon shore. All waters are under concurrent jurisdiction. South Channel area includes all waters bounded by a line from a marker on John Day Point through the green USCG buoy #7 to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to the flashing red USCG marker #10, northwesterly to a marker on Burnside Island defining the upstream terminus of South Channel. All waters are under concurrent jurisdiction.

a. SEASON: Monday, Tuesday, Wednesday, and Thursday nights immediately through October 28. Open hours are 4:00 p.m. to 8:00 a.m.

b. GEAR: In the Tongue Point area the mesh size is restricted to 6-inch maximum mesh. Net length maximum of 250 fathoms, and weight not to exceed two pounds on any one fathom on the lead line. In the South Channel area the mesh size is restricted to 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on lead line. Use of additional weights or anchors attached directly to the lead line is allowed.

c. ALLOWABLE SALE: Salmon and sturgeon. A maximum of three sturgeon total (white or green) may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. The three sturgeon possession/sales limit includes both mainstem and Select Area fisheries.

d. MISCELLANEOUS REGULATIONS: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

4. OPEN AREA: Deep River Select Area. Deep River fishing area includes all waters downstream of the town of Deep River to the mouth defined by a line from USCG navigation marker #16 southwest to a marker on the Washington shore. Concurrent waters extend downstream of the Highway 4 bridge.

a. SEASON: Monday, Tuesday, Wednesday, and Thursday nights immediately through October 28. Open hours are 4:00 p.m. to 8:00 a.m.

b. GEAR: The mesh size is restricted to 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on the lead line. Use of additional weights or anchors attached directly to the lead line is allowed. Nets may not be tied off to stationary structures. Nets may not fully cross the navigation channel.

c. ALLOWABLE SALE: Salmon and sturgeon. A maximum of three sturgeon total (white or green) may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. The three sturgeon possession/sales limit includes both mainstem and Select Area fisheries.

d. MISCELLANEOUS REGULATIONS: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

5. OPEN AREA: Steamboat Slough Select Area. Steamboat Slough fishing area includes all waters bounded by markers on Price Island and the Washington shore, at both ends of Steamboat Slough. All open waters are under concurrent jurisdiction.

a. SEASON: Monday, Tuesday, Wednesday, and Thursday nights immediately through October 28. Open hours are 6:00 p.m. to 8:00 a.m.

b. GEAR: The mesh size is restricted to 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on the lead line. Use of additional weights or anchors attached directly to the lead line is allowed.

c. ALLOWABLE SALE: Salmon and sturgeon. A maximum of three sturgeon total (white or green) may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. The three sturgeon possession/sales limit includes both mainstem and Select Area fisheries.

d. MISCELLANEOUS REGULATIONS: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 2:00 p.m. October 5, 2005:

WAC 220-33-01000P Columbia River season
below Bonneville. (05-225)

WSR 05-20-089
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 05-231—Filed October 4, 2005, 4:35 p.m., effective October 4, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Allows the commercial sale of platform and hook and line caught fish during commercial treaty Indian seasons. Fish harvested from Washington tributaries and Drano Lake may be sold when those areas are open, consistent with Yakama Nation rules for those tributaries and Drano Lake. Season is consistent with the 2005-2007 management agreement and the biological opinion. Consistent with action of the Columbia River compact of September 27, 2005, and conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 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: October 4, 2005.

Evan Jacoby
for Jeff Koenings
Director

NEW SECTION

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

1) Open Periods: Immediately until further notice.

a) Open Areas: SMCRA 1F, 1G, 1H, the Klickitat River, White Salmon River, and Drano Lake.

b) Gear: Hoop nets, dip bag nets, or hook and line. Gill-nets in Drano Lake only.

c) Allowable sale includes: Chinook, coho, steelhead, walleye, carp and shad. Sturgeon between 45 inches and 60 inches in length may be retained in the Bonneville Pool (SMCRA 1F) for subsistence purposes only. Sturgeon between 4 feet and 5 feet in length may be retained in The Dalles and John Day pools (SMCRA 1G, 1H) for subsistence purposes only.

Commercial sales of platform and hook and line caught fish are allowed during commercial gillnet openings. Sockeye may not be sold but may be retained for subsistence purposes. Fish taken in the Klickitat and White Salmon rivers, and Drano Lake may be sold when those rivers are open pursuant to lawfully enacted tribal rules.

Yakama tribal members must have a permit issued by the Yakama Nation to fish in Drano Lake. Fisheries in Drano Lake will likely occur from Tuesday nights at 9:00 p.m. until Wednesdays at noon.

2) Notwithstanding the provisions of WAC 220-32-058, the closed area at the mouth of:

a) Hood River are those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles

to the thread of the Columbia River between markers located approximately 0.85 miles down river from the west bank at the end of the break wall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.

b) Herman Creek are those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

c) Deschutes River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

d) Umatilla River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

e) Big White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".

f) Wind River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

g) Klickitat River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1/8 miles downstream from the west bank.

h) Little White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately 1/2 mile upstream from the eastern shoreline.

4) Notwithstanding the provisions of WAC 220-22-010, during the open periods described above:

a. Area 1F (Bonneville Pool) includes those waters of the Columbia River upstream from the Bridge of the Gods, and downstream from the west end of the 3 Mile Rapids located approximately 1.8 miles below the Dalles Dam.

b. Area 1G includes those waters of the Columbia River upstream from a line drawn between a deadline marker on the Oregon shore located approximately 3/4 miles above The Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in mid-river, then downstream to Light "1" on the Washington shore, and downstream from Preacher's Eddy Light below John Day Dam.

c. Area 1H includes those waters of the Columbia River upstream from a fishing boundary marker approximately 1/2 mile above the John Day River, Oregon, extending at a right angle across the thread of the river to a point in mid-river, then downstream to a fishing boundary marker on the Washington shore approximately opposite the mouth of the John Day River, and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

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 220-32-05100R Columbia River salmon seasons above Bonneville Dam.
(05-223)

