

**WSR 06-16-001
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 06-172—Filed July 19, 2006, 1:21 p.m., effective July 19, 2006]

Effective Date of Rule: Immediately.

Purpose: Amend commercial rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: This rule is necessary to avoid harvest of soft-shelled Dungeness crab. 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: July 18, 2006.

J. P. Koenings
Director

NEW SECTION

WAC 220-52-04600T Coastal crab fishery—Seasons and areas. Notwithstanding the provisions of WAC 220-52-046, effective immediately until further notice, it is unlawful for non-Indian commercial fisheries to fish for or possess crab for commercial purposes, or place gear, in the following areas during the periods indicated:

(1) It is unlawful to place gear, fish for or possess Dungeness crab for commercial purposes in the following areas from July 29 through September 15, 2006: Those waters west of straight lines drawn in sequence from south to north between the following coordinates:

Land description	Coordinate
(a) Washington - Oregon border	46°15.00'N 124°10.00'W
(b) Seaview	46°20.00'N 124°10.00'W
(c) Willapa Bay entrance	46°40.00'N 124°10.00'W

Land description	Coordinate
(d) N. Willapa Bay Spits	46°43.50'N 124°11.50'W
(e) Grayland	46°50.00'N 124°12.30'W
(f) Grays Harbor	46°54.70'N 124°16.00'W
(g) Ocean Shores	47°00.00'N 124°16.00'W
(h) Moclips	47°15.00'N 124°19.00'W
(i) Cape Elizabeth	47°20.00'N 124°25.00'W
(j) Raft River	47°27.00'N 124°28.60'W (follow TD 41880 to way-point # 11 N. Destruction Island)
(k) N. Destruction Island	47°42.40'N 124°31.50'W
(l) Lapush	47°55.00'N 124°46.00'W
(m) Carol Island	48°00.00'N 124°49.50'W
(n) N. Lake Ozette	48°07.60'N 124°51.40'W
(o) Makah Bay	48°20.00'N 124°50.00'W
(p) Cape Flattery	Point on land

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 220-52-04600S	Coastal crab fishery—Seasons and areas. (06-162)
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The following section of the Washington Administrative Code is repealed effective September 16, 2006:

WAC 220-52-04600T	Coastal crab fishery—Seasons and areas.
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**WSR 06-16-015
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 06-175—Filed July 21, 2006, 4:35 p.m., effective July 22, 2006, 12:01 a.m.]

Effective Date of Rule: July 22, 2006, 12:01 a.m.

Purpose: Amend personal use fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: The upper Columbia River summer chinook return is very strong with 25,000 fish pass-

ing Wells Dam as of July 16. Escapement exceeds hatchery broodstock and wild broodstock spawning needs and there is a harvestable surplus. The stocks are stable, not listed under ESA and the expanded fishery has been deemed by NMFS not likely to have a negative impact on ESA-listed Okanogan basin steelhead. 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: July 21, 2006.

Morris W. Barker
for Jeff Koenings
Director

NEW SECTION

WAC 232-28-61900E Exceptions to statewide rules—Okanogan and Similkameen rivers. Notwithstanding the provisions of WAC 232-28-619, effective July 22 through September 15, 2006, it is lawful to fish the following waters:

(1) Okanogan River (Okanogan Co.) Those waters from the Highway 97 bridge near the mouth to the Highway 97 bridge just south of Oroville. Daily limit of six salmon, no more than two adults. Release all coho and sockeye. Night closure and non-buoyant lure restriction in effect. Statewide gamefish rules are in effect, except release all trout.

(2) Similkameen River (Okanogan County) Those waters from the confluence with the Okanogan River upstream to the county road bridge in Oroville. Daily limit of six salmon, no more than two adults. Release all coho and sockeye. Night closure and non-buoyant lure restriction in effect. Release all fish except salmon.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m., September 15, 2006:

WAC 220-28-61900E	Exceptions to statewide rules—Okanogan and Similkameen rivers (06-175)
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**WSR 06-16-016
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 06-176—Filed July 21, 2006, 4:37 p.m., effective July 21, 2006]

Effective Date of Rule: Immediately.

Purpose: Amend commercial use fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: The 2006 state/tribal Puget Sound shrimp harvest management plans requires adoption of harvest seasons contained in this emergency rule. Commercial spot shrimp quotas have been taken in the areas closed under this rule. 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: July 21, 2006.

Morris W. Barker
for Jeff Koenings
Director

NEW SECTION

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

(1) Shrimp pot gear:

(a) All waters of Shrimp Management Areas 1B, 1C, 2, 3, 4 and 6 outside the shrimp districts are open to the harvest of all shrimp species immediately until further notice, except as provided for in this section:

i) It is unlawful to harvest shrimp for commercial purposes in Marine Fish/Shellfish Management and Catch Reporting Areas 23B, 23A-E, 23A-W and 26D.

ii) Effective 9:00 p.m. July 24, 2006, until further notice, it is unlawful to harvest shrimp for commercial purposes in Marine Fish/Shellfish Management and Catch Reporting Area 26B-1.

iii) Marine Fish/Shellfish Management and Catch Reporting Area 25D (Port Townsend Bay) is open to the harvest of shrimp species other than spot shrimp, except those waters south of the 48.06' North latitude line, north of the 48.04' North latitude line and east of the 122.46' west longitude line are closed.

(b) The shrimp trip limit accounting week is Monday through Sunday.

(c) Effective immediately, until further notice, it is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 600 pounds per week, or to exceed 150 pounds per week from Shrimp Management Area 1B, or to exceed 300 pounds per week from Shrimp Management Areas 2-W, 4 and 6, or to exceed 400 pounds per week from Marine Fish/Shellfish Management and Catch Reporting Area 25A and Shrimp Management Area 1C, except, any fisher whose weekly shrimp harvest activity is exclusively limited to Marine Fish-Shellfish Catch and Reporting Area 29, shall not be subject to the weekly spot shrimp trip limit for that week. It is unlawful to fish for any shrimp while in possession on board the fishing vessel spot shrimp harvested from the previous trip limit accounting week or weeks.

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

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

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

(2) Shrimp beam trawl gear:

(a) That portion of Marine Fish-Shellfish Management and Catch Reporting Areas 21A north and west of a line from the southern tip of Sinclair Island to Carter Point on Lummi Island, and 22A, within Shrimp Management Area 1B, are open immediately, until further notice.

(b) Shrimp Management Area 3 outside of the shrimp districts is open immediately until further notice.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. July 23, 2006:

WAC 220-52-05100Q Puget Sound shrimp beam trawl fishery—Season (06-171)

WSR 06-16-021

EMERGENCY RULES

SECRETARY OF STATE

(Elections Division)

[Filed July 24, 2006, 11:23 a.m., effective July 24, 2006]

Effective Date of Rule: Immediately.

Purpose: To clarify that when filing for office, candidates may not use rank or symbols instead of or as part of their names.

Citation of Existing Rules Affected by this Order: Amending WAC 434-215-050.

Statutory Authority for Adoption: RCW 29A.04.611.

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: Candidate filing week is the week of July 24.

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

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

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

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

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

Date Adopted: July 24, 2006.

Steve Excell

Assistant Secretary of State

AMENDATORY SECTION (Amending WSR02-09-007, filed 4/4/02, effective 4/4/02)

WAC 434-215-050 Use of title ((~~or~~)), rank, or symbols prohibited. No person when filing for office shall be permitted to use any title, rank, or symbol instead of, or in conjunction with, his or her name, except as may be provided by law or administrative rule.

WSR 06-16-029
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-177—Filed July 25, 2006, 9:33 a.m., effective July 25, 2006]

Effective Date of Rule: Immediately.

Purpose: Amend personal use fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: This regulation is necessary to provide for a recreational fishery in Lake Washington. The projected run is expected to be greater than the escapement goal of 350,000. Additional fish remain on the nontribal share and are available for harvest. There is insufficient time to promulgate permanent rules.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 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: July 24, 2006.

J. P. Koenings
 Director
 by Larry Peck

NEW SECTION

WAC 232-28-61900I Exceptions to statewide rules—Lake Washington. Notwithstanding the provisions of WAC 232-28-619, it is unlawful to take, fish for, or possess salmon taken from Lake Washington except as provided for in this section, provided that unless otherwise amended all permanent rules remain in effect:

(1) Open from one hour before sunrise to one hour after sunset July 29 through July 31, 2006, in waters east of a line extended true south from Webster Point, except closed:

(a) within 100 yards either side of the Highway 520 Bridge (Evergreen Point Floating Bridge);

(b) within 100 yards either side of the Interstate 90 Bridge;

(c) within 1000 feet of the mouth of the Cedar River.

(2) Daily limit of two sockeye salmon, and all other salmon must be released immediately with the least possible harm. Sockeye salmon are defined as *Oncorhynchus nerka* fifteen inches or greater in length. *Oncorhynchus nerka* less than fifteen inches in length are kokanee.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. August 1, 2006:

WAC 232-28-61900I	Exceptions to statewide rules—Lake Washington.
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WSR 06-16-034
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Health and Recovery Services Administration)
 [Filed July 25, 2006, 2:04 p.m., effective July 29, 2006]

Effective Date of Rule: July 29, 2006.

Purpose: The department is amending these WACs to explain the basis of each standard and to remove the actual numbers since these standards are based on the federal poverty level (FPL). This will avoid having to amend the rule each year when the FPL changes.

Citation of Existing Rules Affected by this Order: Amending WAC 388-478-0075 and 388-478-0085.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.500.

Other Authority: 42 U.S.C. 9902(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; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The current rules are obsolete and out of compliance with federal rule changes that became effective April 1, 2006. The obsolete standards must be deleted to prevent client eligibility determinations for medical assistance. The permanent rule, proposed as WSR 06-09-087, was filed as WSR 06-16-026, on July 24, 2006, and when effective will replace and supersede this emergency rule.

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 0, Repealed 0.

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: July 25, 2006.

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 06-03-080, filed 1/12/06, effective 2/12/06)

WAC 388-478-0075 Medical programs—Monthly income standards based on the federal poverty level (FPL). (1) ~~((The department bases the income standard upon the))~~ Each year, the federal government publishes new federal poverty level (FPL) income standards in the Federal Register found at <http://aspe.hhs.gov/poverty/index.shtml>. The income standards for the following medical programs change on the first of April every year based on the new FPL:

((family size	100% FPL	133% FPL	150% FPL	185% FPL	200% FPL	220% FPL	250% FPL
1	\$798	\$1061	\$1197	\$1476	\$1595	\$1755	\$1994
2	\$1070	\$1422	\$1604	\$1978	\$2139	\$2353	\$2673
3	\$1341	\$1784	\$2012	\$2481	\$2682	\$2950	\$3353
4	\$1613	\$2145	\$2419	\$2984	\$3225	\$3548	\$4032
5	\$1885	\$2506	\$2827	\$3486	\$3769	\$4146	\$4711
6	\$2156	\$2868	\$3234	\$3989	\$4312	\$4743	\$5390
7	\$2428	\$3229	\$3642	\$4491	\$4855	\$5341	\$6069
8	\$2700	\$3590	\$4049	\$4994	\$5399	\$5939	\$6748
9	\$2971	\$3952	\$4457	\$5497	\$5942	\$6536	\$7428
10	\$3243	\$4313	\$4864	\$5999	\$6485	\$7134	\$8107
Add to the ten-person standard for each person over ten:	\$272	\$362	\$408	\$503	\$544	\$598	\$680))

AMENDATORY SECTION (Amending WSR 05-17-157, filed 8/22/05, effective 9/22/05)

WAC 388-478-0085 Medicare savings programs—Monthly income ~~((and countable resources))~~ standards. (1) The income standards for Medicare Savings Programs change each year based on the federal poverty level (FPL) published yearly by the federal government in the Federal Register at <http://aspe.hhs.gov/poverty/index.shtml>. The qualified Medicare beneficiary (QMB) program income standard is up to one hundred percent of the ~~((federal poverty level-))~~FPL(~~(+)~~). ~~((Beginning April 1, 2005, the QMB program's income standards are:))~~

((a) One person	\$798
(b) Two persons	\$1070))

(2) The ~~((special))~~ specified low-income Medicare beneficiary (SLMB) program income standard is over one hundred percent of FPL, but not more than one hundred twenty percent of FPL. ~~((Beginning April 1, 2005, the SLMB program's income standards are:))~~

(a) Children's health program is one hundred percent of FPL;

(b) Pregnant women's program up to one hundred eighty-five percent of FPL;

(c) Children's categorically needy program up to two hundred percent of FPL;

(d) Healthcare for workers with disabilities (HWD) up to two hundred twenty percent of FPL; and

(e) The state children's health insurance program (SCHIP) is over two hundred percent of FPL but not over two hundred fifty percent of FPL.

(2) The department uses the FPL income standards to determine:

(a) The mandatory or optional Medicaid status of an individual; and

(b) Premium amount, if any, for a Medicaid child.

(3) There are no resource limits for the programs under this section.

~~((4) Beginning April 1, 2005, the monthly FPL standards are:))~~

	((Minimum	Maximum
(a) One person	\$798.01	\$957
(b) Two persons	\$1070.01	\$1283))

(3) The qualified individual (QI-1) program income standard is over one hundred twenty percent of FPL, but not more than one hundred thirty-five percent of FPL. ~~((Beginning April 1, 2005, the QI-1 program's income standards are:))~~

	((Minimum	Maximum
(a) One person	\$957.01	\$1077
(b) Two persons	\$1283.01	\$1444))

(4) The qualified disabled working individual (QDWI) program income standard is two hundred percent of FPL. ~~((Beginning April 1, 2005, the QDWI program's income standards are:))~~

((a) One person	\$1595
(b) Two persons	\$2139))

~~((5) The resource standard for the Medicare savings programs in this section is:))~~

~~((a) One person)) (\$4000)~~
~~((b) Two persons)) (\$6000)~~

WSR 06-16-046
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-180—Filed July 26, 2006, 3:40 p.m., effective August 11, 2006, 12:01 a.m.]

Effective Date of Rule: August 11, 2006, 12:01 a.m.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-62000G; 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: More recreational fishing opportunity can be provided in Marine Areas 1 through 4 while staying within quotas for Chinook and Coho. 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: July 25, 2006.

Jeff Koenings
 Director
 by Larry Peck

NEW SECTION

WAC 232-28-62000H Coastal salmon seasons—2006 North of Falcon. Notwithstanding the provisions of WAC 232-28-620, effective 12:01 a.m. August 11, 2006 until further notice, it is unlawful to fish for salmon in coastal waters except as provided in this section, provided that unless otherwise amended all permanent rules remain in effect:

(1) Area 1 - Effective August 11 through September 30, 2006, open seven days per week, daily limit 2 salmon, except release wild coho.

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

(a) Area 2 - Effective August 11 through September 17, 2006, open seven days per week, daily limit 2 salmon, except release wild coho.

(b) Area 2-1 - Open through August 15, daily limit 6 salmon, not more than two of which may be adult salmon. Open August 16 until further notice, daily limit 6 salmon, not more than three of which may be adult salmon, of which only 2 may be chinook.

(c) Area 2-2 west of the Buoy 13 line: Closed until further notice.

(d) Effective immediately through September 17, 2006, those waters within a line from the lighthouse 1 mile south of the south jetty to Buoy No. 2, then to Buoy No. 3, then to the tip of the north jetty then to the exposed end of the south jetty are closed.

(3) Area 3 - Effective August 11 through September 17, 2006, open seven days per week, daily limit 2 salmon, except release wild coho.

(4) Area 4:

(a) Effective August 11 through September 17, 2006, open seven days per week with the following area rules, limits, and species restrictions, daily limit 2 salmon, except release chum and wild coho. Release Chinook east of the Bonilla-Tatoosh Line.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. August 11, 2006:

WAC 232-28-62000G Coastal salmon seasons—
 2006 North of Falcon. (06-129)

WSR 06-16-047
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-179—Filed July 26, 2006, 3:41 p.m., effective August 1, 2006]

Effective Date of Rule: August 1, 2006.

Purpose: Amend personal use fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: This emergency rule is necessary to correspond with the original intent of the language in

the sport fishing rules pamphlet. Emergency rule is interim until permanent rules take effect.

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

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

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

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

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

Date Adopted: July 26, 2006.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 232-28-61900H Exceptions to statewide rules—Nemah River (Pacific Co.) Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. August 1 through September 30, 2006, it is unlawful to fish in those waters of the North Nemah River from Highway 101 Bridge upstream to Nemah Hatchery.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. October 1, 2006:

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

WSR 06-16-049 EMERGENCY RULES

FOREST PRACTICES BOARD

[Filed July 26, 2006, 3:43 p.m., effective July 26, 2006]

Effective Date of Rule: Immediately.

Purpose: To modify forest practices rules affecting northern spotted owl habitat conservation.

Citation of Existing Rules Affected by this Order: Amending WAC 222-16-010 Northern spotted owl site center and 222-10-041 (4)(b).

Statutory Authority for Adoption: RCW 34.05.350, 76.09.040, 76.09.050, 43.21C.120.

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: Since the forest practices board adopted rules to protect the habitat of the northern spotted owl in 1996, the amount of suitable habitat within spotted owl special emphasis areas, outside areas that are being managed under the aegis of a habitat conservation plan or similar agreement, has declined by an average of 16%. Furthermore, fewer plans to conserve northern spotted owl habitat at a landscape level have been developed than was anticipated when the northern spotted owl rules were adopted. With few landscape-level plans, the forest practices rules continue to rely heavily upon the regulation of timber harvest at individual spotted owl sites to provide habitat conservation. The forest practices board has determined that:

- In light of spotted owl population declines and reductions in the amounts of habitat in areas intended to provide conservation, it is not logical to continue the practice of counting habitat that has actually been harvested when calculating the amount of habitat remaining within a median home range circle (WAC 222-10-041 (4)(b)).
- Habitats recently occupied by spotted owls are potentially important to spotted owl recovery and should be maintained until a recovery plan has been completed by the United States Fish and Wildlife Service and the board has had the opportunity to consider ramifications of decertifying additional sites in light of recovery strategies and goals (WAC 222-16-010 Northern spotted owl site center).

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 2, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: November 9, 2005.

Pat McElroy
Chair

Reviser's note: Agency did not supply amended text with this document. Refined this document on July 31, 2006, as WSR 06-16-079.

WSR 06-16-065
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-182—Filed July 28, 2006, 2:02 p.m., effective July 31, 2006, 6:00 a.m.]

Effective Date of Rule: July 31, 2006, 6:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05700Y; and amending WAC 220-32-057.

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: Reopens Bonneville and The Dalles pool for a sturgeon set line season. There is room on both guidelines to allow for a season, and harvestable numbers of sturgeon are available. Conforms state rules to tribal rules. Consistent with compact action of July 27, 2006. 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: July 28, 2006.

J. P. Koenings
 Director
 by Larry Peck

NEW SECTION

WAC 220-32-05700Y Columbia River sturgeon seasons above Bonneville Dam Notwithstanding the provisions of WAC 220-32-057, effective immediately, it is unlawful to take, fish for or possess sturgeon taken for commercial purposes in Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, except those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla, and Nez Perce treaties may fish for sturgeon with set line gear under the following provisions:

1) **Open period:** 6:00 a.m. July 31, 2006 through 6:00 p.m. August 15, 2006.

2) Open area: 1F, 1G.

3) **Gear:** Setlines. Fishers are encouraged to use circle hooks and avoid J-hooks. It is unlawful to use setline gear: with more than 100 hooks per set line, with hooks less than the minimum size of 9/0, with treble hooks, without visible buoys attached and with buoys that do not specify operator and tribal identification.

4) **Allowable Sales:** Sturgeon between 45 and 60-inches in length from Bonneville Pool (1F) and between 48 and 60-inches in length from The Dalles pool (1G). Sturgeon within the size limits stated above and caught in the platform hook and line fishery in the Bonneville and The Dalles Pool (1F, 1G) during the open periods of the setline fishery may be sold. Sturgeon between 45 inches and 60 inches in length may be retained in the Bonneville Pool (1F) for subsistence purposes. Sturgeon between 4 feet and 5 feet in length may be retained in The Dalles and John Day pools (1G, 1H) for subsistence purposes.

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

6) **Area 1F (Bonneville Pool)** shall include those waters of the Columbia River upstream from the Bridge of the Gods, located approximately 2.3 miles above Bonneville Dam, and downstream of a line projected from the west end of the Port of The Dalles Dock across the Columbia River to a Washington department of fisheries' boundary marker on the Washington shore.

7) **Area 1G (The Dalles Pool)** shall include those waters of the Columbia River upstream from a line projected from an Oregon department of fish and wildlife deadline marker on the Oregon shore to the 5-mile-lock light (6 seconds red) on an island near the Oregon shore, to an island near the Washington shore to a Washington department of fisheries' fishing boundary marker on the Washington shore at the southwest corner of Horsethief Lake, SP&S Railroad fill and downstream of a line projected across the thread of the Columbia River at the grain elevator at Rufus, Oregon, to a deadline marker on the Washington shore.

8) **Area 1H (John Day Pool)** shall include those waters of the Columbia River upstream from a line projected across the thread of the Columbia River from a fishing boundary marker approximately 1/2-mile above the John Day River, Oregon, to a fishing boundary marker on the Washington shore and downstream of a line projected across the thread of the Columbia River from the upstream bank of the Umatilla River.

9) **Miscellaneous:** it is unlawful to sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of a sturgeon prior to sale of the sturgeon to a wholesale dealer licensed under chapter RCW 75.28, or to sell or barter sturgeon eggs at retail. It is unlawful to deliver to a wholesale dealer licensed under chapter RCW 75.28 any sturgeon that are not in the round with the head and tail intact.

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 6:01 p.m. August 15, 2006:

WAC 220-32-05700Y Columbia River sturgeon seasons above Bonneville Dam.

WSR 06-16-066
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-183—Filed July 28, 2006, 2:03 p.m., effective August 1, 2006, 12:01 a.m.]

Effective Date of Rule: August 1, 2006, 12:01 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100Z; 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: Puts the Spring Creek Hatchery sanctuary in effect. Continues to allow the sale of fish caught in platform and hook and line fishery in Zone 6. Also allows the sale of fish caught in Yakama Nation tributary fisheries to be sold when those tributaries are open under Yakama Nation rules. Harvestable numbers of salmon and steelhead are available under the ESA guideline. The fishery catches are expected to remain within the allocation and guidelines of the 2005-2007 management agreement. Rule is consistent with action of the Columbia River compact on July 27, 2006. 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: July 28, 2006.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-32-05100A 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, steelhead, walleye, shad, carp, or sturgeon taken for commercial purposes in Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, and White Salmon River and Klickitat River, except those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, steelhead, walleye, shad, carp, or sturgeon under the following provisions, pursuant to lawfully enacted tribal rules:

1. **Open Periods:** 12:01 a.m. Tuesday August 1, 2006 until further notice.

a) Open Areas: Those areas of SMCRA 1F, 1G, 1H, that are described in WAC 220-32-055 (2)(a).

a) Gear: hoop nets, dip bag nets, and rod and reel with hook and line.

2. **Open Periods:** Immediately until further notice and only during those days and hours when those tributaries are open under lawfully enacted Yakama Nation tribal subsistence fisheries, for enrolled Yakama Nation members.

a) Open Areas: White Salmon and Klickitat rivers.

b) Gear: hoop nets, dip bag nets, and rod and reel with hook and line.

3. **Allowable sale:** Salmon, steelhead, walleye, shad, and carp. Sockeye may be retained but not sold. 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. Fish may also be sold from Washington tributaries during the open Yakama Nation fishing periods within those areas, as described above.

4. **OTHER:** 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 12:01 a.m. August 1, 2006:

WAC 220-32-05100Z Columbia River salmon seasons above Bonneville Dam. (06-161)

WSR 06-16-067
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-184—Filed July 28, 2006, 2:05 p.m., effective July 30, 2006, 7:00 p.m.]

Effective Date of Rule: July 30, 2006, 7:00 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 initial early fall commercial fishing period for 2006. Season is consistent with the 2005-2007 interim management agreement, the 2006 non-Indian allocation agreement and commercial sturgeon harvest guidelines adopted for 2006. Regulation is consistent with compact action of July 27, 2006. 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: July 28, 2006.

J. P. Koenings
 Director
 by Larry Peck

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. AREA: SMCRA 1A, 1B, 1C, 1D, and 1E

2. SEASON:

a. 7:00 p.m. Sunday July 30 to 7:00 a.m. Monday July 31

b. 7:00 p.m. Wednesday August 2 to 7:00 a.m. Thursday August 3

c. 7:00 p.m. Monday August 7 to 7:00 a.m. Tuesday August 8

d. 7:00 p.m. Wednesday August 9 to 7:00 a.m. Thursday August 10

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

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

5. SANCTUARIES: Grays River, Elokomin-A, Cowlitz River, Kalama-A, Lewis-A, Washougal and Sandy Rivers.

6. OTHER: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

REPEALER

The following section of the Washington Administrative Code is repealed effective 7:01 a.m. August 10, 2006:

WAC 220-33-01000P Columbia River season
 below Bonneville.

WSR 06-16-068
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-185—Filed July 28, 2006, 2:05 p.m., effective July 28, 2006]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-24-04000A; and amending WAC 220-24-040.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: These rules are adopted at the recommendation of the Pacific Fisheries Management Council. Sufficient chinook remain in the quota to increase the vessel limit per opening to allow access. 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: July 28, 2006.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

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

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

July 29 through August 1, 2006;

August 5 through August 7, 2006;

August 12 through August 14, 2006;

August 19 through August 21, 2006;

August 26 through August 28, 2006;

September 2 through September 4, 2006;

September 9 through September 11, 2006;

(2) The Cape Flattery and Columbia River Control Zones are closed.

(3) Landing and possession limit of 60 chinook and 35 marked coho per boat per entire open period for opening from July 29 through August 1. Landing and possession limit of 60 chinook and 40 marked coho per boat per entire open period for opening from August 5 through September 15. Chum retention is not allowed north of Cape Alava during August and September.

Minimum size for chinook salmon is 28 inches in length. No minimum size for pink, sockeye or chum salmon. All retained coho must have a healed adipose fin clip.

(4) Lawful troll gear is restricted to 6 inch plugs or longer with single point, single shank barbless hooks.

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

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

(7) Columbia Control Zone - An area at the Columbia River mouth, bounded on the west by a line running northeast/southwest between the red lighted Buoy #4 (46°13'35" N. Lat., 124°06'50" W. long.) and the green lighted Buoy #7

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

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

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

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-24-04000A All-citizen commercial salmon troll. (06-143)

WSR 06-16-069 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 06-186—Filed July 28, 2006, 2:06 p.m., effective July 28, 2006]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: The 2006 state/tribal Puget Sound shrimp harvest management plans requires adoption

of harvest seasons contained in this emergency rule. Commercial spot shrimp quotas have been taken in the areas closed under this rule. 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: July 28, 2006.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

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

(1) Shrimp pot gear:

(a) All waters of Shrimp Management Areas 1B, 1C, 2, 3, 4 and 6 outside the shrimp districts are open to the harvest of all shrimp species immediately until further notice, except as provided for in this section:

i) It is unlawful to harvest shrimp for commercial purposes in Marine Fish/Shellfish Management and Catch Reporting Areas 23A-E, 23A-W, 26B-1 and 26D.

ii) Effective 11:59 p.m. July 30, 2006, until further notice, it is unlawful to harvest spot shrimp for commercial purposes in Shrimp Management Areas 1B and 1C.

iii) Marine Fish/Shellfish Management and Catch Reporting Areas 23B and 25D are open to the harvest of shrimp species other than spot shrimp, except those waters in 25D south of the 48.06' North latitude line, north of the 48.04' North latitude line and east of the 122.46' west longitude line are closed.

(b) The shrimp trip limit accounting week is Monday through Sunday.

(c) Effective immediately, until 11:59 p.m. July 30, 2006, it is unlawful for the harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 150 pounds per week from Shrimp Management Area 1B or to exceed 400 pounds per week from Shrimp Management Area 1C.

(d) Effective immediately, until further notice, it is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 600

pounds per week, or to exceed 300 pounds per week from Shrimp Management Areas 2-W, 4 and 6, or to exceed 400 pounds per week from Marine Fish/Shellfish Management and Catch Reporting Area 25A, except, any fisher whose weekly shrimp harvest activity is exclusively limited to Marine Fish-Shellfish Catch and Reporting Area 29, shall not be subject to the weekly spot shrimp trip limit for that week. It is unlawful to fish for any shrimp while in possession on board the fishing vessel spot shrimp harvested from the previous trip limit accounting week or weeks.

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

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

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

(2) Shrimp beam trawl gear:

(a) That portion of Marine Fish-Shellfish Management and Catch Reporting Areas 21A north and west of a line from the southern tip of Sinclair Island to Carter Point on Lummi Island, and 22A, within Shrimp Management Area 1B, are open immediately, until further notice.

(b) Shrimp Management Area 3 outside of the shrimp districts is open immediately until further notice.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-05100R Puget Sound shrimp beam trawl fishery—Season (06-176)

**WSR 06-16-079
EMERGENCY RULES
FOREST PRACTICES BOARD**

[Filed July 31, 2006, 9:31 a.m., effective July 31, 2006]

Effective Date of Rule: Immediately.

Purpose: To modify forest practices rules affecting northern spotted owl habitat conservation.

Citation of Existing Rules Affected by this Order: Amending WAC 222-16-010 Northern spotted owl site center and WAC 222-10-041 (4)(b).

Statutory Authority for Adoption: RCW 34.05.350, 76.09.040, 76.09.050, 43.21C.120.

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: Since the forest practices board adopted rules to protect the habitat of the northern spotted owl in 1996, the amount of suitable habitat within spotted owl special emphasis areas, outside areas that are being managed under the aegis of a habitat conservation plan or similar agreement, has declined by an average of 16%. Furthermore, fewer plans to conserve northern spotted owl habitat at a landscape level have been developed than was anticipated when the northern spotted owl rules were adopted. With few landscape-level plans, the forest practices rules continue to rely heavily upon the regulation of timber harvest at individual spotted owl sites to provide habitat conservation. The forest practices board has determined that:

- In light of spotted owl population declines and reductions in the amounts of habitat in areas intended to provide conservation, it is not logical to continue the practice of counting habitat that has actually been harvested when calculating the amount of habitat remaining within a median home range circle (WAC 222-10-041 (4)(b)).
- Habitats recently occupied by spotted owls are potentially important to spotted owl recovery and should be maintained until a recovery plan has been completed by the United States Fish and Wildlife Service and the board has had the opportunity to consider ramifications of decertifying additional sites in light of recovery strategies and goals (WAC 222-16-010 Northern spotted owl site center).

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 2, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: November 9, 2005.

Pat McElroy
Chair

AMENDATORY SECTION (Amending WSR 02-11-075, filed 5/13/02, effective 6/13/02)

WAC 222-10-041 Northern spotted owls. The following policies shall apply to forest practices subject to SEPA if the forest practices may cause adverse impacts to northern spotted owls.

(1) **In SOSEAs or areas of SOSEAs where the goal is demographic support**, suitable spotted owl habitat should be maintained either to protect the viability of the owl(s) associated with each northern spotted owl site center or to provide demographic support for that particular SOSEA as described in the SOSEA goals.

(2) **In SOSEAs or areas of SOSEAs where the goal is dispersal support**, either suitable spotted owl habitat should be maintained to protect the viability of the owl(s) associated with each northern spotted owl site center or dispersal habitat should be managed, over time, to provide the dispersal support for that particular SOSEA as described in the SOSEA goals. Dispersal support is provided by a landscape which includes dispersal habitat at the stand level interspersed with areas of higher quality habitat. Stands of dispersal habitat should be managed to reduce gaps between stands and to maintain a sufficient level of dispersal habitat to meet the SOSEA goals over time.

(3) **In SOSEAs or areas of SOSEAs where the goal is a combination of dispersal support and demographic support**, either suitable spotted owl habitat should be maintained to protect the viability of the owl(s) associated with each northern spotted owl site center or a variety of habitat conditions should be provided which in total are more than dispersal support and less than demographic support. This can be accomplished by providing:

(a) Dispersal support as described in subsection (2) of this section;

(b) Areas of suitable spotted owl habitat that contain some opportunities for nesting as well as roosting and foraging habitat; and

(c) Connectivity between areas of SOSEAs designated for demographic support or adjacent federal lands which are designated as late successional reserves, congressionally reserved areas, or administratively withdrawn areas.

(4) **Within SOSEAs**, the following amounts of suitable habitat are generally assumed to be necessary to maintain the viability of the owl(s) associated with each northern spotted owl site center, in the absence of more specific data or a mitigation plan, as provided for in subsections (6) and (7) of this section respectively:

(a) All suitable spotted owl habitat within 0.7 mile of each northern spotted owl site center;

(b) Including the suitable spotted owl habitat identified in (a) of this subsection:

(i) For the Hoh-Clearwater/Coastal Link SOSEA - A total of 5,863 acres of suitable spotted owl habitat within the median home range circle (2.7 mile radius).

(ii) For all other SOSEAs - A total of 2,605 acres of suitable spotted owl habitat within the median home range circle (1.8 mile radius).

The department shall first identify the highest quality suitable spotted owl habitat for this purpose. Consideration shall be given to habitat quality, proximity to the activity cen-

ter and contiguity in selecting the most suitable habitat. Suitable spotted owl habitat identified outside 0.7 mile of a northern spotted owl site center may support more than one median home range circle.

~~((Suitable spotted owl habitat harvested by a landowner shall continue to be counted as part of the total acres necessary under (b) of this subsection for other landowners within the median home range circle if the harvest is conducted pursuant to agreements or plans approved under subsection (6) of this section or WAC 222-16-080 (1)(h)(iv), (6)(a)(iv), or (f).))~~

(5) **Outside SOSEAs**, during the nesting season (between March 1 and August 31), seventy acres of the highest quality suitable spotted owl habitat surrounding a northern spotted owl site center should be maintained. The seventy acres for one site center shall not be utilized for meeting suitable habitat needs of any other site center.

(6) The assumptions set forth in subsection (4) of this section are based on regional data. Applicants or others may submit information that is more current, accurate, or specific to a northern spotted owl site center, proposal, or SOSEA circumstances or goals. The department shall use such information in making its determinations under this section where the department finds, in consultation with the department of fish and wildlife, that the information is more likely to be valid for the particular circumstances than the assumptions established under subsection (4) of this section. If the department does not use the information, it shall explain its reasons in writing to the applicant.

(7) The department shall consider measures to mitigate identified adverse impacts of an applicant's proposal. Mitigation measures must contribute to the achievement of SOSEA goals or to supporting the viability of impacted northern spotted owl site centers.

AMENDATORY SECTION (Amending WSR 05-12-119 [06-11-112], filed 5/31/05 [5/18/06], effective 7/1/05 [6/18/06])

WAC 222-16-010 *General definitions. Unless otherwise required by context, as used in these rules:

"**Act**" means the Forest Practices Act, chapter 76.09 RCW.

"**Affected Indian tribe**" means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

"**Alluvial fan**" see "sensitive sites" definition.

"**Appeals board**" means the forest practices appeals board established in the act.

"**Aquatic resources**" means water quality, fish, the Columbia torrent salamander (*Rhyacotriton kezeri*), the Cascade torrent salamander (*Rhyacotriton cascadae*), the Olympic torrent salamander (*Rhyacotriton olympian*), the Dunn's salamander (*Plethodon dunni*), the Van Dyke's salamander (*Plethodon vandyke*), the tailed frog (*Ascaphus truei*) and their respective habitats.

"**Area of resource sensitivity**" means areas identified in accordance with WAC 222-22-050 (2)(d) or 222-22-060(2).

"**Bankfull depth**" means the average vertical distance between the channel bed and the estimated water surface elevation required to completely fill the channel to a point above which water would enter the floodplain or intersect a terrace or hillslope. In cases where multiple channels exist, the bankfull depth is the average depth of all channels along the cross-section. (See board manual section 2.)

"**Bankfull width**" means:

(a) For streams - the measurement of the lateral extent of the water surface elevation perpendicular to the channel at bankfull depth. In cases where multiple channels exist, bankfull width is the sum of the individual channel widths along the cross-section (see board manual section 2).

(b) For lakes, ponds, and impoundments - line of mean high water.

(c) For tidal water - line of mean high tide.

(d) For periodically inundated areas of associated wetlands - line of periodic inundation, which will be found by examining the edge of inundation to ascertain where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland.

"**Basal area**" means the area in square feet of the cross section of a tree bole measured at 4 1/2 feet above the ground.

"**Bedrock hollows**" (colluvium-filled bedrock hollows, or hollows; also referred to as zero-order basins, swales, or bedrock depressions) means landforms that are commonly spoon-shaped areas of convergent topography within unchannelled valleys on hillslopes. (See board manual section 16 for identification criteria.)

"**Board**" means the forest practices board established by the act.

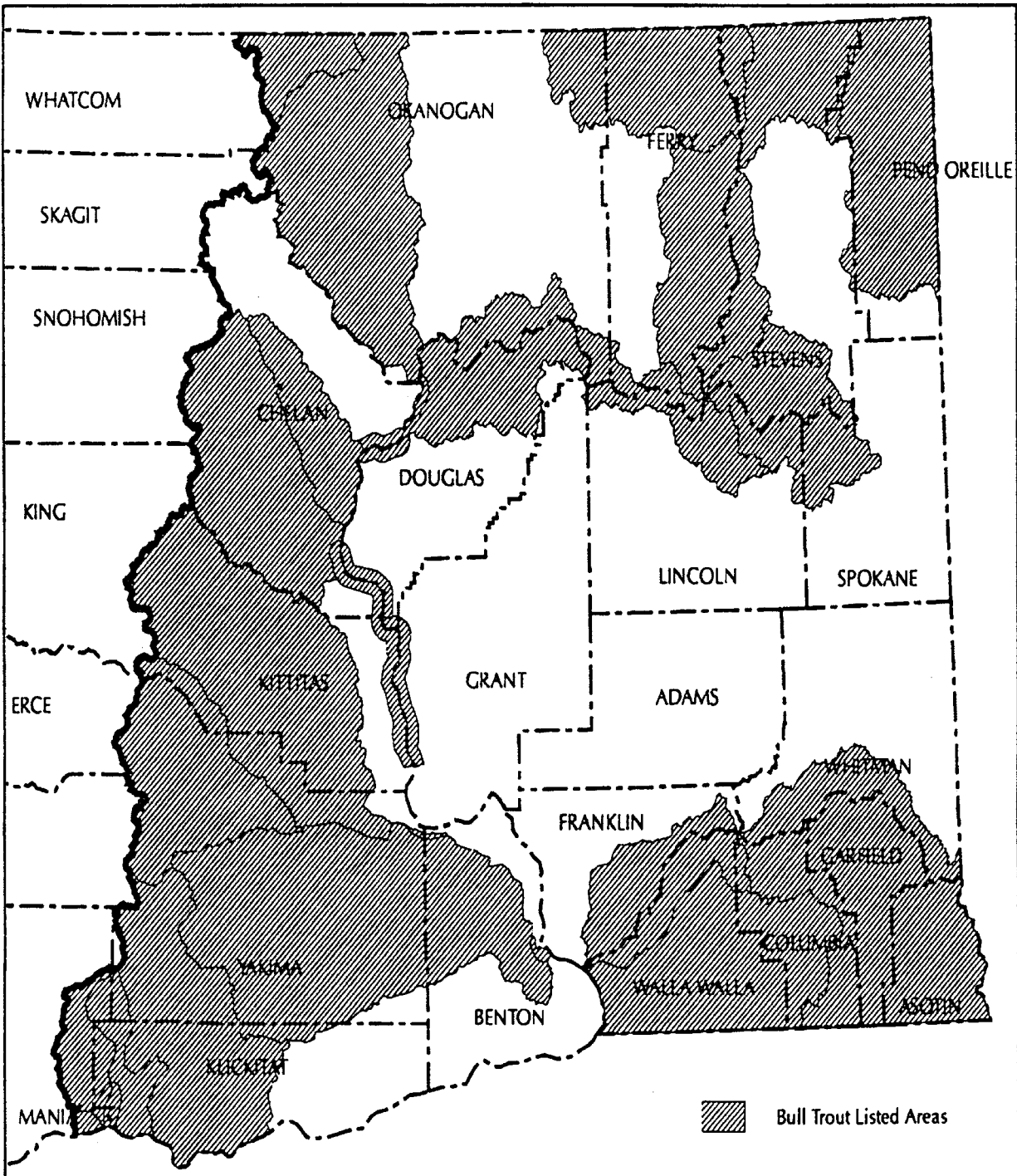
"**Bog**" means wetlands which have the following characteristics: Hydric organic soils (peat and/or muck) typically 16 inches or more in depth (except over bedrock or hardpan); and vegetation such as sphagnum moss, Labrador tea, bog laurel, bog rosemary, sundews, and sedges; bogs may have an overstory of spruce, western hemlock, lodgepole pine, western red cedar, western white pine, Oregon crabapple, or quaking aspen, and may be associated with open water. This includes nutrient-poor fens. (See board manual section 8.)

"**Borrow pit**" means an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

"**Bull trout habitat overlay**" means those portions of Eastern Washington streams containing bull trout habitat as identified on the department of fish and wildlife's bull trout map. Prior to the development of a bull trout field protocol and the habitat-based predictive model, the "bull trout habitat overlay" map may be modified to allow for locally-based corrections using current data, field knowledge, and best professional judgment. A landowner may meet with the departments of natural resources, fish and wildlife and, in consultation with affected tribes and federal biologists, determine whether certain stream reaches have habitat conditions that are unsuitable for supporting bull trout. If such a determination is mutually agreed upon, documentation submitted to the department will result in the applicable stream reaches no longer being included within the definition of bull trout habitat overlay. Conversely, if suitable bull trout habitat is dis-

covered outside the current mapped range, those waters will be included within the definition of "bull trout habitat overlay" by a similar process.

Bull Trout Overlay Map



"Channel migration zone (CMZ)" means the area where the active channel of a stream is prone to move and this results in a potential near-term loss of riparian function and associated habitat adjacent to the stream, except as modified by a permanent levee or dike. For this purpose, near-term means the time scale required to grow a mature forest. (See

board manual section 2 for descriptions and illustrations of CMZs and delineation guidelines.)

"Chemicals" means substances applied to forest lands or timber including pesticides, fertilizers, and other forest chemicals.

"Clearcut" means a harvest method in which the entire stand of trees is removed in one timber harvesting operation. Except as provided in WAC 222-30-110, an area remains clearcut until:

It meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2); and

The largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Columbia River Gorge National Scenic Area or CRGNSA" means the area established pursuant to the Columbia River Gorge National Scenic Area Act, 16 U.S.C. §544b(a).

"CRGNSA special management area" means the areas designated in the Columbia River Gorge National Scenic Area Act, 16 U.S.C. §544b(b) or revised pursuant to 16 U.S.C. §544b(c). For purposes of this rule, the special management area shall not include any parcels excluded by 16 U.S.C. §544f(o).

"CRGNSA special management area guidelines" means the guidelines and land use designations for forest practices developed pursuant to 16 U.S.C. §544f contained in the CRGNSA management plan developed pursuant to 15 U.S.C. §544d.

"Commercial tree species" means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

"Completion of harvest" means the latest of:

Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

Scheduled completion of any slash disposal operations where the department and the applicant agree within 6 months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: Provided, That delay of reforestation under this paragraph is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

"Constructed wetlands" means those wetlands voluntarily developed by the landowner. Constructed wetlands do not include wetlands created, restored, or enhanced as part of a mitigation procedure or wetlands inadvertently created as a result of current or past practices including, but not limited to: Road construction, landing construction, railroad construction, or surface mining.

"Contamination" means introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

"Convergent headwalls" (or headwalls) means teardrop-shaped landforms, broad at the ridgetop and terminating where headwaters converge into a single channel; they are

broadly concave both longitudinally and across the slope, but may contain sharp ridges separating the headwater channels. (See board manual section 16 for identification criteria.)

"Conversion option harvest plan" means a voluntary plan developed by the landowner and approved by the local governmental entity indicating the limits of harvest areas, road locations, and open space.

"Conversion to a use other than commercial timber operation" means a bona fide conversion to an active use which is incompatible with timber growing.

"Cooperative habitat enhancement agreement (CHEA)" see WAC 222-16-105.

"Critical habitat (federal)" means the habitat of any threatened or endangered species designated as critical habitat by the United States Secretary of the Interior or Commerce under Sections 3 (5)(A) and 4 (a)(3) of the Federal Endangered Species Act.

"Critical nesting season" means for marbled murrelets - April 1 to August 31.

"Critical habitat (state)" means those habitats designated by the board in accordance with WAC 222-16-080.

"Cultural resources" means archaeological and historic sites and artifacts, and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

"Cumulative effects" means the changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices.

"Daily peak activity" means for marbled murrelets - one hour before official sunrise to two hours after official sunrise and one hour before official sunset to one hour after official sunset.

"Debris" means woody vegetative residue less than 3 cubic feet in size resulting from forest practices activities which would reasonably be expected to cause significant damage to a public resource.

"Deep-seated landslides" means landslides in which most of the area of the slide plane or zone lies below the maximum rooting depth of forest trees, to depths of tens to hundreds of feet. (See board manual section 16 for identification criteria.)

"Demographic support" means providing sufficient suitable spotted owl habitat within the SOSEA to maintain the viability of northern spotted owl sites identified as necessary to meet the SOSEA goals.

"Department" means the department of natural resources.

"Desired future condition (DFC)" is a reference point on a pathway and not an endpoint for stands. DFC means the stand conditions of a mature riparian forest at 140 years of age, the midpoint between 80 and 200 years. Where basal area is the only stand attribute used to describe 140-year old stands, these are referred to as the "Target Basal Area."

"Diameter at breast height (dbh)" means the diameter of a tree at 4 1/2 feet above the ground measured from the uphill side.

"Dispersal habitat" see WAC 222-16-085(2).

"Dispersal support" means providing sufficient dispersal habitat for the interchange of northern spotted owls within or across the SOSEA, as necessary to meet SOSEA goals. Dispersal support is provided by a landscape consist-

ing of stands of dispersal habitat interspersed with areas of higher quality habitat, such as suitable spotted owl habitat found within RMZs, WMZs or other required and voluntary leave areas.

"**Drainage structure**" means a construction technique or feature that is built to relieve surface runoff and/or intercepted ground water from roadside ditches to prevent excessive buildup in water volume and velocity. A drainage structure is not intended to carry any typed water. Drainage structures include structures such as: Cross drains, relief culverts,

ditch diversions, water bars, or other such structures demonstrated to be equally effective.

"**Eastern Washington**" means the geographic area in Washington east of the crest of the Cascade Mountains from the international border to the top of Mt. Adams, then east of the ridge line dividing the White Salmon River drainage from the Lewis River drainage and east of the ridge line dividing the Little White Salmon River drainage from the Wind River drainage to the Washington-Oregon state line.

Eastern Washington Definition Map



"**Eastern Washington timber habitat types**" means elevation ranges associated with tree species assigned for the purpose of riparian management according to the following:

Timber Habitat Types	Elevation Ranges
ponderosa pine	0 - 2500 feet
mixed conifer	2501 - 5000 feet
high elevation	above 5000 feet

"**Edge**" of any water means the outer edge of the water's bankfull width or, where applicable, the outer edge of the associated channel migration zone.

"**End hauling**" means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

"**Equipment limitation zone**" means a 30-foot wide zone measured horizontally from the outer edge of the bankfull width of a Type Np or Ns Water. It applies to all perennial and seasonal nonfish bearing streams.

"**Erodible soils**" means those soils that, when exposed or displaced by a forest practices operation, would be readily moved by water.

"**Even-aged harvest methods**" means the following harvest methods:

- Clearcuts;
- Seed tree harvests in which twenty or fewer trees per acre remain after harvest;
- Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;
- Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;
- Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;
- Partial cutting in which fewer than fifty trees per acre remain after harvest;
- Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and

Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.

Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height and have at least the top one-third of the stem supporting green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"**Fen**" means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as certain sedges, hardstem bulrush and cattails; fens may have an overstory of spruce and may be associated with open water.

"**Fertilizers**" means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

"**Fill**" means the placement of earth material or aggregate for road or landing construction or other similar activities.

"**Fish**" means for purposes of these rules, species of the vertebrate taxonomic groups of *Cephalospidomorphi* and *Osteichthyes*.

"**Fish habitat**" means habitat, which is used by fish at any life stage at any time of the year including potential habitat likely to be used by fish, which could be recovered by restoration or management and includes off-channel habitat.

"**Fish passage barrier**" means any artificial instream structure that impedes the free passage of fish.

"**Flood level - 100 year**" means a calculated flood event flow based on an engineering computation of flood magnitude that has a 1 percent chance of occurring in any given year. For purposes of field interpretation, landowners may use the following methods:

Flow information from gauging stations;

Field estimate of water level based on guidance for "Determining the 100-Year Flood Level" in the forest practices board manual section 2.

The 100-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

"**Forest land**" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing. For road maintenance and abandonment planning and implementation for small forest landowners, "forest land" excludes any of the following:

(a) Residential home sites. A residential home site may be up to five acres in size, and must have a fixed structure in use as a residence;

(b) Cropfields, orchards, vineyards, pastures, feedlots, fish pens, and the land on which appurtenances necessary to

the production, preparation, or sale of crops, fruit, dairy products, fish, and livestock exist.

"**Forest land owner**" means any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner(~~(= Provided, That)~~). However, any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

(1) "Large forest landowner," for purposes of road maintenance and abandonment planning, means any forest landowner who is not a small forest landowner.

(2) "Small forest landowner" is a forest landowner who at the time of submitting a forest practices application or notification:

(a) Has harvested from his or her own forest lands in Washington state no more than an average timber volume of two million board feet per year during the three years prior to submitting the forest practices application or notification to the department; and

(b) Certifies that he or she does not expect to harvest from his or her own forest lands in the state more than an average timber volume of two million board feet per year during the ten years following the submission of a forest practices application or notification to the department.

(c) A landowner who exceeded the harvest threshold as described above, or expects to exceed the harvest limits during any of the following ten years, will still be considered a "small forest landowner" if:

(i) He or she establishes to the department's reasonable satisfaction that the harvest limits were or will be exceeded in order to raise funds to pay estate taxes; or

(ii) There is an equally compelling and unexpected obligation, such as for a court-ordered judgment or for extraordinary medical expenses.

(d) For the purposes of the forestry riparian easement program, "small forest landowner" is defined in WAC 222-21-010(13).

"**Forest practice**" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

Road and trail construction;

Harvesting, final and intermediate;

Precommercial thinning;

Reforestation;

Fertilization;

Prevention and suppression of diseases and insects;

Salvage of trees; and

Brush control.

"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

"Forest road" means ways, lanes, roads, or driveways on forest land used since 1974 for forest practices or forest management activities such as fire control. "Forest roads" does not include skid trails, highways, or county roads except where the county is a forest landowner or operator. "Forest road," as it applies to road maintenance and abandonment planning for small forest landowners, means a road or road segment that crosses forest lands owned by the small forest landowner, but excludes portions of access roads to residential home sites not used as a part of a current forest practice involving harvest or salvage of trees.

"Forest trees" does not include hardwood trees cultivated by agricultural methods in growing cycles shorter than 15 years if the trees were planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees. "Forest trees" includes Christmas trees but does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.035.

"Full bench road" means a road constructed on a side hill without using any of the material removed from the hillside as a part of the road. This construction technique is usually used on steep or unstable slopes.

"Green recruitment trees" means those trees left after harvest for the purpose of becoming future wildlife reserve trees under WAC 222-30-020(11).

"Ground water recharge areas for glacial deep-seated slides" means the area upgradient that can contribute water to the landslide, assuming that there is an impermeable perching layer in or under a deep-seated landslide in glacial deposits. (See board manual section 16 for identification criteria.)

"Headwater spring" means a permanent spring at the head of a perennial channel. Where a headwater spring can be found, it will coincide with the uppermost extent of Type Np Water.

"Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

"Historic site" includes:

Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

Places associated with a personality important in history; or

Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

"Horizontal distance" means the distance between two points measured at a 0% slope.

"Hyporheic" means an area adjacent to and below channels where interstitial water is exchanged with channel water and water movement is mainly in the downstream direction.

"Identified watershed processes" means the following components of natural ecological processes that may in some instances be altered by forest practices in a watershed:

- Mass wasting;
- Surface and road erosion;

Seasonal flows including hydrologic peak and low flows and annual yields (volume and timing);

Large organic debris;

Shading; and

Stream bank and bed stability.

"Inner gorges" means canyons created by a combination of the downcutting action of a stream and mass movement on the slope walls; they commonly show evidence of recent movement, such as obvious landslides, vertical tracks of disturbance vegetation, or areas that are concave in contour and/or profile. (See board manual section 16 for identification criteria.)

"Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

"Interdisciplinary team" (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practices activity.

"Islands" means any island surrounded by salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom, Island, or San Juan counties.

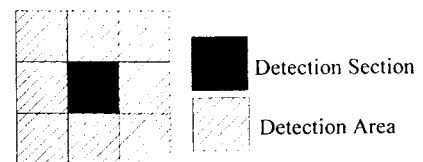
"Limits of construction" means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

"Load bearing portion" means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

"Local governmental entity" means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

"Low impact harvest" means use of any logging equipment, methods, or systems that minimize compaction or disturbance of soils and vegetation during the yarding process. The department shall determine such equipment, methods or systems in consultation with the department of ecology.

"Marbled murrelet detection area" means an area of land associated with a visual or audible detection of a marbled murrelet, made by a qualified surveyor which is documented and recorded in the department of fish and wildlife data base. The marbled murrelet detection area shall be comprised of the section of land in which the marbled murrelet detection was made and the eight sections of land immediately adjacent to that section.



"Marbled murrelet nesting platform" means any horizontal tree structure such as a limb, an area where a limb branches, a surface created by multiple leaders, a deformity, or a debris/moss platform or stick nest equal to or greater than 7 inches in diameter including associated moss if present, that

is 50 feet or more above the ground in trees 32 inches dbh and greater (generally over 90 years of age) and is capable of supporting nesting by marbled murrelets.

"Median home range circle" means a circle, with a specified radius, centered on a spotted owl site center. The radius for the median home range circle in the Hoh-Clearwater/Coastal Link SOSEA is 2.7 miles; for all other SOSEAs the radius is 1.8 miles.

"Merchantable stand of timber" means a stand of trees that will yield logs and/or fiber:

Suitable in size and quality for the production of lumber, plywood, pulp or other forest products;

Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

"Multiyear permit" means a permit to conduct forest practices which is effective for longer than two years but no longer than five years.

"Northern spotted owl site center" means:

(1) Until June 30, 2007, the location of northern spotted owls:

(a) Recorded by the department of fish and wildlife as status 1, 2 or 3 on November 1, 2005; or

(b) Newly discovered and recorded by the department of fish and wildlife as status 1, 2 or 3 after November 1, 2005.

(2) After June 30, 2007, the location of status 1, 2 or 3 northern spotted owls based on the following definitions:

Status 1: Pair or reproductive - a male and female heard and/or observed in close proximity to each other on the same visit, a female detected on a nest, or one or both adults observed with young.

Status 2: Two birds, pair status unknown - the presence or response of two birds of opposite sex where pair status cannot be determined and where at least one member meets the resident territorial single requirements.

Status 3: Resident territorial single - the presence or response of a single owl within the same general area on three or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or three or more responses over several years (i.e., two responses in year one and one response in year two, for the same general area).

In determining the existence, location, and status of northern spotted owl site centers, the department shall consult with the department of fish and wildlife and use only those sites documented in substantial compliance with guidelines or protocols and quality control methods established by and available from the department of fish and wildlife.

"Notice to comply" means a notice issued by the department pursuant to RCW 76.09.090 of the act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

"Occupied marbled murrelet site" means:

(1) A contiguous area of suitable marbled murrelet habitat where at least one of the following marbled murrelet behaviors or conditions occur:

(a) A nest is located; or

(b) Downy chicks or eggs or egg shells are found; or

(c) Marbled murrelets are detected flying below, through, into or out of the forest canopy; or

(d) Birds calling from a stationary location within the area; or

(e) Birds circling above a timber stand within one tree height of the top of the canopy; or

(2) A contiguous forested area, which does not meet the definition of suitable marbled murrelet habitat, in which any of the behaviors or conditions listed above has been documented by the department of fish and wildlife and which is distinguishable from the adjacent forest based on vegetative characteristics important to nesting marbled murrelets.

(3) For sites defined in (1) and (2) above, the sites will be presumed to be occupied based upon observation of circling described in (1)(e), unless a two-year survey following the 2003 Pacific Seabird Group (PSG) protocol has been completed and an additional third-year of survey following a method listed below is completed and none of the behaviors or conditions listed in (1)(a) through (d) of this definition are observed. The landowner may choose one of the following methods for the third-year survey:

(a) Conduct a third-year survey with a minimum of nine visits conducted in compliance with 2003 PSG protocol. If one or more marbled murrelets are detected during any of these nine visits, three additional visits conducted in compliance with the protocol of the first nine visits shall be added to the third-year survey. Department of fish and wildlife shall be consulted prior to initiating third-year surveys; or

(b) Conduct a third-year survey designed in consultation with the department of fish and wildlife to meet site specific conditions.

(4) For sites defined in (1) above, the outer perimeter of the occupied site shall be presumed to be the closer, measured from the point where the observed behaviors or conditions listed in (1) above occurred, of the following:

(a) 1.5 miles from the point where the observed behaviors or conditions listed in (1) above occurred; or

(b) The beginning of any gap greater than 300 feet wide lacking one or more of the vegetative characteristics listed under "suitable marbled murrelet habitat"; or

(c) The beginning of any narrow area of "suitable marbled murrelet habitat" less than 300 feet in width and more than 300 feet in length.

(5) For sites defined under (2) above, the outer perimeter of the occupied site shall be presumed to be the closer, measured from the point where the observed behaviors or conditions listed in (1) above occurred, of the following:

(a) 1.5 miles from the point where the observed behaviors or conditions listed in (1) above occurred; or

(b) The beginning of any gap greater than 300 feet wide lacking one or more of the distinguishing vegetative characteristics important to murrelets; or

(c) The beginning of any narrow area of suitable marbled murrelet habitat, comparable to the area where the observed behaviors or conditions listed in (1) above occurred, less than 300 feet in width and more than 300 feet in length.

(6) In determining the existence, location and status of occupied marbled murrelet sites, the department shall consult with the department of fish and wildlife and use only those

sites documented in substantial compliance with guidelines or protocols and quality control methods established by and available from the department of fish and wildlife.

"Old forest habitat" see WAC 222-16-085 (1)(a).

"Operator" means any person engaging in forest practices except an employee with wages as his/her sole compensation.

"Ordinary high-water mark" means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: Provided, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

"Other forest chemicals" means fire retardants when used to control burning (other than water), nontoxic repellents, oil, dust-control agents (other than water), salt, and other chemicals used in forest management, except pesticides and fertilizers, that may present hazards to the environment.

"Park" means any park included on the parks register maintained by the department pursuant to WAC 222-20-100(2). Developed park recreation area means any park area developed for high density outdoor recreation use.

"Partial cutting" means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil. Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

"Pesticide" means any insecticide, herbicide, fungicide, or rodenticide, but does not include nontoxic repellents or other forest chemicals.

"Plantable area" is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights-of-way, that portion of riparian management zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

"Power equipment" means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

"Preferred tree species" means the following species listed in descending order of priority for each timber habitat type:

Ponderosa pine habitat type	Mixed conifer habitat type
all hardwoods	all hardwoods
ponderosa pine	western larch
western larch	ponderosa pine
Douglas-fir	western red cedar
western red cedar	western white pine
	Douglas-fir
	lodgepole pine

"Public resources" means water, fish, and wildlife and in addition means capital improvements of the state or its political subdivisions.

"Qualified surveyor" means an individual who has successfully completed the marbled murrelet field training course offered by the department of fish and wildlife or its equivalent.

"Rehabilitation" means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

"Resource characteristics" means the following specific measurable characteristics of fish, water, and capital improvements of the state or its political subdivisions:

For fish and water:

Physical fish habitat, including temperature and turbidity;

Turbidity in hatchery water supplies; and

Turbidity and volume for areas of water supply.

For capital improvements of the state or its political subdivisions:

Physical or structural integrity.

If the methodology is developed and added to the manual to analyze the cumulative effects of forest practices on other characteristics of fish, water, and capital improvements of the state or its subdivisions, the board shall amend this list to include these characteristics.

"Riparian function" includes bank stability, the recruitment of woody debris, leaf litter fall, nutrients, sediment filtering, shade, and other riparian features that are important to both riparian forest and aquatic system conditions.

"Riparian management zone (RMZ)" means:

(1) **For Western Washington**

(a) The area protected on each side of a Type S or F Water measured horizontally from the outer edge of the bankfull width or the outer edge of the CMZ, whichever is greater (see table below); and

Site Class	Western Washington Total RMZ Width
I	200'
II	170'
III	140'
IV	110'
V	90'

(b) The area protected on each side of Type Np Waters, measured horizontally from the outer edge of the bankfull width. (See WAC 222-30-021(2).)

(2) **For Eastern Washington**

(a) The area protected on each side of a Type S or F Water measured horizontally from the outer edge of the bankfull width or the outer edge of the CMZ, whichever is greater (see table below); and

Site Class	Eastern Washington Total RMZ Width
I	130'
II	110'

Site Class	Eastern Washington Total RMZ Width
III	90' or 100'*
IV	75' or 100'*
V	75' or 100'*

* Dependent upon stream size. (See WAC 222-30-022.)

(b) The area protected on each side of Type Np Waters, measured horizontally from the outer edge of the bankfull width. (See WAC 222-30-022(2).)

(3) **For exempt 20 acre parcels**, a specified area alongside Type S and F Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

"RMZ core zone" means:

(1) **For Western Washington**, the 50 foot buffer of a Type S or F Water, measured horizontally from the outer edge of the bankfull width or the outer edge of the channel migration zone, whichever is greater. (See WAC 222-30-021.)

(2) **For Eastern Washington**, the 30 foot buffer of a Type S or F Water, measured horizontally from the outer edge of the bankfull width or the outer edge of the channel migration zone, whichever is greater. (See WAC 222-30-022.)

"RMZ inner zone" means:

(1) **For Western Washington**, the area measured horizontally from the outer boundary of the core zone of a Type S or F Water to the outer limit of the inner zone. The outer limit of the inner zone is determined based on the width of the affected water, site class and the management option chosen for timber harvest within the inner zone. (See WAC 222-30-021.)

(2) **For Eastern Washington**, the area measured horizontally from the outer boundary of the core zone 45 feet (for streams less than 15 feet wide) or 70 feet (for streams more than 15 feet wide) from the outer boundary of the core zone. (See WAC 222-30-022.)

"RMZ outer zone" means the area measured horizontally between the outer boundary of the inner zone and the RMZ width as specified in the riparian management zone definition above. RMZ width is measured from the outer edge of the bankfull width or the outer edge of the channel migration zone, whichever is greater. (See WAC 222-30-021 and 222-30-022.)

"Road construction" means the establishment of any new sub-grade including widening, realignment, or modification of an existing road prism, with the exception of replacing or installing drainage structures, for the purposes of managing forest land under Title 222 WAC.

"Road maintenance" means any road work specifically related to maintaining water control or road safety and visibility (such as; grading, spot rocking, resurfacing, roadside vegetation control, water barring, ditch clean out, replacing or installing relief culverts, cleaning culvert inlets and outlets) on existing forest roads.

"Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of

the state department of agriculture may declare by regulation to be a pest.

"Salvage" means the removal of snags, down logs, windthrow, or dead and dying material.

"Scarification" means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

"Sensitive sites" are areas near or adjacent to Type Np Water and have one or more of the following:

(1) **Headwall seep** is a seep located at the toe of a cliff or other steep topographical feature and at the head of a Type Np Water which connects to the stream channel network via overland flow, and is characterized by loose substrate and/or fractured bedrock with perennial water at or near the surface throughout the year.

(2) **Side-slope seep** is a seep within 100 feet of a Type Np Water located on side-slopes which are greater than 20 percent, connected to the stream channel network via overland flow, and characterized by loose substrate and fractured bedrock, excluding muck with perennial water at or near the surface throughout the year. Water delivery to the Type Np channel is visible by someone standing in or near the stream.

(3) **Type Np intersection** is the intersection of two or more Type Np Waters.

(4) **Headwater spring** means a permanent spring at the head of a perennial channel. Where a headwater spring can be found, it will coincide with the uppermost extent of Type Np Water.

(5) **Alluvial fan** means a depositional land form consisting of cone-shaped deposit of water-borne, often coarse-sized sediments.

(a) The upstream end of the fan (cone apex) is typically characterized by a distinct increase in channel width where a stream emerges from a narrow valley;

(b) The downstream edge of the fan is defined as the sediment confluence with a higher order channel; and

(c) The lateral margins of a fan are characterized by distinct local changes in sediment elevation and often show disturbed vegetation.

Alluvial fan does not include features that were formed under climatic or geologic conditions which are not currently present or that are no longer dynamic.

"Shorelines of the state" shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).

"Side casting" means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

"Site class" means a grouping of site indices that are used to determine the 50-year or 100-year site class. In order to determine site class, the landowner will obtain the site class index from the state soil survey, place it in the correct index range shown in the two tables provided in this definition, and select the corresponding site class. The site class will then drive the RMZ width. (See WAC 222-30-021 and 222-30-022.)

(1) For Western Washington

Site class	50-year site index range (state soil survey)
I	137+
II	119-136
III	97-118
IV	76-96
V	<75

(2) For Eastern Washington

Site class	100-year site index range (state soil survey)	50-year site index range (state soil survey)
I	120+	86+
II	101-120	72-85
III	81-100	58-71
IV	61-80	44-57
V	≤60	<44

(3) For purposes of this definition, the site index at any location will be the site index reported by the *Washington State Department of Natural Resources State Soil Survey*, (soil survey) and detailed in the associated forest soil summary sheets. If the soil survey does not report a site index for the location or indicates noncommercial or marginal forest land, or the major species table indicates red alder, the following apply:

(a) If the site index in the soil survey is for red alder, and the whole RMZ width is within that site index, then use site class V. If the red alder site index is only for a portion of the RMZ width, or there is on-site evidence that the site has historically supported conifer, then use the site class for conifer in the most physiographically similar adjacent soil polygon.

(b) In Western Washington, if no site index is reported in the soil survey, use the site class for conifer in the most physiographically similar adjacent soil polygon.

(c) In Eastern Washington, if no site index is reported in the soil survey, assume site class III, unless site specific information indicates otherwise.

(d) If the site index is noncommercial or marginally commercial, then use site class V.

See also section 7 of the board manual.

"Site preparation" means those activities associated with the removal of slash in preparing a site for planting and shall include scarification and/or slash burning.

"Skid trail" means a route used by tracked or wheeled skidders to move logs to a landing or road.

"Slash" means pieces of woody material containing more than 3 cubic feet resulting from forest practices activities.

"SOSEA goals" means the goals specified for a spotted owl special emphasis area as identified on the SOSEA maps (see WAC 222-16-086). SOSEA goals provide for demographic and/or dispersal support as necessary to complement the northern spotted owl protection strategies on federal land within or adjacent to the SOSEA.

"Spoil" means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

"Spotted owl dispersal habitat" see WAC 222-16-085(2).

"Spotted owl special emphasis areas (SOSEA)" means the geographic areas as mapped in WAC 222-16-086. Detailed maps of the SOSEAs indicating the boundaries and goals are available from the department at its regional offices.

"Stop work order" means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

"Stream-adjacent parallel roads" means roads (including associated right of way clearing) in a riparian management zone on a property that have an alignment that is parallel to the general alignment of the stream, including roads used by others under easements or cooperative road agreements. Also included are stream crossings where the alignment of the road continues to parallel the stream for more than 250 feet on either side of the stream. Not included are federal, state, county or municipal roads that are not subject to forest practices rules, or roads of another adjacent landowner.

"Sub-mature habitat" see WAC 222-16-085 (1)(b).

"Suitable marbled murrelet habitat" means a contiguous forested area containing trees capable of providing nesting opportunities:

(1) With all of the following indicators unless the department, in consultation with the department of fish and wildlife, has determined that the habitat is not likely to be occupied by marbled murrelets:

(a) Within 50 miles of marine waters;

(b) At least 40% of the dominant and codominant trees are Douglas-fir, western hemlock, western red cedar or sitka spruce;

(c) Two or more nesting platforms per acre;

(d) At least 7 acres in size, including the contiguous forested area within 300 feet of nesting platforms, with similar forest stand characteristics (age, species composition, forest structure) to the forested area in which the nesting platforms occur.

"Suitable spotted owl habitat" see WAC 222-16-085(1).

"Temporary road" means a forest road that is constructed and intended for use during the life of an approved forest practices application/notification. All temporary roads must be abandoned in accordance to WAC 222-24-052(3).

"Threaten public safety" means to increase the risk to the public at large from snow avalanches, identified in consultation with the department of transportation or a local government, or landslides or debris torrents caused or triggered by forest practices.

"Threatened or endangered species" means all species of wildlife listed as "threatened" or "endangered" by the United States Secretary of the Interior or Commerce, and all species of wildlife designated as "threatened" or "endangered" by the Washington fish and wildlife commission.

"Timber" means forest trees, standing or down, of a commercial species, including Christmas trees. However, timber does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33-.035.

"Unconfined avulsing stream" means generally fifth order or larger waters that experience abrupt shifts in channel location, creating a complex flood plain characterized by extensive gravel bars, disturbance species of vegetation of variable age, numerous side channels, wall-based channels, oxbow lakes, and wetland complexes. Many of these streams have dikes and levees that may temporarily or permanently restrict channel movement.

"Water bar" means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

"Watershed administrative unit (WAU)" means an area shown on the map specified in WAC 222-22-020(1).

"Watershed analysis" means, for a given WAU, the assessment completed under WAC 222-22-050 or 222-22-060 together with the prescriptions selected under WAC 222-22-070 and shall include assessments completed under WAC 222-22-050 where there are no areas of resource sensitivity.

"Weed" is any plant which tends to overgrow or choke out more desirable vegetation.

"Western Washington" means the geographic area of Washington west of the Cascade crest and the drainages defined in Eastern Washington.

"Wetland" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs, fens, and similar areas. This includes wetlands created, restored, or enhanced as part of a mitigation procedure. This does not include constructed wetlands or the following surface waters of the state intentionally constructed from wetland sites: Irrigation and drainage ditches, grass lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities.

"Wetland functions" include the protection of water quality and quantity, providing fish and wildlife habitat, and the production of timber.

"Wetland management zone" means a specified area adjacent to Type A and B Wetlands where specific measures are taken to protect the wetland functions.

"Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

"Wildlife reserve trees" means those defective, dead, damaged, or dying trees which provide or have the potential to provide habitat for those wildlife species dependent on standing trees. Wildlife reserve trees are categorized as follows:

Type 1 wildlife reserve trees are defective or deformed live trees that have observably sound tops, limbs, trunks, and roots. They may have part of the top broken out or have evidence of other severe defects that include: "Cat face," animal chewing, old logging wounds, weather injury, insect attack, or lightning strike. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 1 wildlife reserve trees. These trees must be stable and pose the least hazard for workers.

Type 2 wildlife reserve trees are dead Type 1 trees with sound tops, limbs, trunks, and roots.

Type 3 wildlife reserve trees are live or dead trees with unstable tops or upper portions. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 3 wildlife reserve trees. Although the roots and main portion of the trunk are sound, these reserve trees pose high hazard because of the defect in live or dead wood higher up in the tree.

Type 4 wildlife reserve trees are live or dead trees with unstable trunks or roots, with or without bark. This includes "soft snags" as well as live trees with unstable roots caused by root rot or fire. These trees are unstable and pose a high hazard to workers.

"Windthrow" means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

"Yarding corridor" means a narrow, linear path through a riparian management zone to allow suspended cables necessary to support cable logging methods or suspended or partially suspended logs to be transported through these areas by cable logging methods.

"Young forest marginal habitat" see WAC 222-16-085 (1)(b).

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

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**WSR 06-16-095
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 06-187—Filed July 31, 2006, 4:32 p.m., effective August 2, 2006]

Effective Date of Rule: August 2, 2006.

Purpose: Amend personal use fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: This regulation allows two additional days of recreational fishing opportunity. The projected sockeye run has been upgraded to 466,000 with an escapement goal of 350,000. The projected nontreaty harvestable share is approximately 57,000 sockeye. 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: July 31, 2006.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 232-28-61900K Exceptions to statewide rules—Lake Washington. Notwithstanding the provisions of WAC 232-28-619, it is unlawful to take, fish for, or possess salmon taken from Lake Washington except as provided for in this section, provided that unless otherwise amended all permanent rules remain in effect:

(1) Open from one hour before sunrise to one hour after sunset August 2 through August 3, 2006, in waters east of a line extended true south from Webster Point, except closed:

(a) within 100 yards either side of the Highway 520 Bridge (Evergreen Point Floating Bridge);

(b) within 100 yards either side of the Interstate 90 Bridge;

(c) within 1000 feet of the mouth of the Cedar River.

(2) Daily limit of two sockeye salmon, and all other salmon must be released immediately with the least possible harm. Sockeye salmon are defined as *Oncorhynchus nerka* fifteen inches or greater in length. *Oncorhynchus nerka* less than fifteen inches in length are kokanee.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. August 1, 2006:

WAC 232-28-61900I Exceptions to statewide rules—Lake Washington.

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. August 4, 2006:

WAC 232-28-61900K Exceptions to statewide rules—Lake Washington.

WSR 06-16-127 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 06-188—Filed August 1, 2006, 3:17 p.m., effective August 1, 2006]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: The 2006 state/tribal Puget Sound shrimp harvest management plans requires adoption of harvest seasons contained in this emergency rule. Commercial spot shrimp weekly trip limits have been adjusted in Catch Area 23A-C. 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: August 1, 2006.

J. P. Koenings
Director

NEW SECTION

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

(1) Shrimp pot gear:

(a) All waters of Shrimp Management Areas 1B, 1C, 2, 3, 4 and 6 outside the shrimp districts are open to the harvest of all shrimp species immediately until further notice, except as provided for in this section:

i) It is unlawful to harvest shrimp for commercial purposes in Marine Fish/Shellfish Management and Catch Reporting Areas 23A-E, 23A-W, 26B-1, 26C and 26D.

ii) Shrimp Management Areas 1B, 1C and Marine Fish/Shellfish Management and Catch Reporting Areas 23B and 25D are open to the harvest of shrimp species other than spot shrimp, except those waters in 25D south of the 48.06' North latitude line, north of the 48.04' North latitude line and east of the 122.46' west longitude line are closed.

(b) The shrimp trip limit accounting week is Monday through Sunday.

(c) Effective immediately, until further notice, it is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 600 pounds per week, or to exceed 250 pounds per week from Marine Fish/Shellfish Management and Catch Reporting Area 23A-C or Shrimp Management Areas 2-W, 4 and 6, or to exceed 400 pounds per week from Marine Fish/Shellfish Management and Catch Reporting Area 25A, except, any fisher whose weekly shrimp harvest activity is exclusively limited to Marine Fish-Shellfish Catch and Reporting Area 29, shall not be subject to the weekly spot shrimp trip limit for that week. It is unlawful to fish for any shrimp while in possession on board the fishing vessel spot shrimp harvested from the previous trip limit accounting week or weeks.

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

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

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

(2) Shrimp beam trawl gear:

(a) That portion of Marine Fish-Shellfish Management and Catch Reporting Areas 21A north and west of a line from the southern tip of Sinclair Island to Carter Point on Lummi Island, and 22A, within Shrimp Management Area 1B, are open immediately, until further notice.

(b) Shrimp Management Area 3 outside of the shrimp districts is open immediately until further notice.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-05100S Puget Sound shrimp beam trawl fishery—Season (06-186)

**WSR 06-16-132
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 06-178—Filed August 2, 2006, 9:15 a.m., effective September 1, 2006, 12:01 a.m.]

Effective Date of Rule: September 1, 2006, 12:01 a.m.

Purpose: Amend hunting rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-34200A; and amending WAC 232-28-342.

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 September goose season in Grays Harbor County must be reduced in length to comply with federal requirements regarding maximum season length. In a separate rule-making action additional days are proposed later in the year to compensate for the reduction in season length. 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: August 2, 2006.

J. P. Koenings
Director

NEW SECTION

WAC 232-28-34200A 2006 Small game seasons. Notwithstanding the provisions of WAC 232-28-342, it is unlaw-

ful to hunt for geese in Grays Harbor County September 1 through September 8, 2006 and September 15, 2006.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. September 15, 2006:

WAC 232-28-34200A 2006 Small game seasons.