

WSR 06-04-004
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-07—Filed January 19, 2006, 8:16 a.m., effective January 19, 2006]

Effective Date of Rule: January 19, 2006.

Purpose: Amend commercial use fishing rules.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-52-07300A and 220-52-07300B; and amending WAC 220-52-073.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Harvestable amounts of red and green sea urchins exist in the areas described. Prohibiting transport of urchins from Districts 1 and 2 to other districts will prevent spoiling of product, promote accurate catch accounting, and provide for an orderly fishery. Prohibition of all diving from licensed sea urchin harvest vessels within two days of scheduled sea urchin openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 18, 2006.

J. P. Koenings
 Director

NEW SECTION

WAC 220-52-07300B Sea urchins. Notwithstanding the provisions of WAC 220-52-073, effective January 19 through January 26, 2006, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

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

(2) Red sea urchins: Sea Urchin Districts 1 and 2 are open only on January 19, 20, 24, 25, and 26, 2006. In Sea Urchin Districts 1 and 2 it is unlawful to harvest red sea urchins smaller than 4.0 inches or larger than 5.5 inches (size in largest test diameter exclusive of spines).

(3) Red sea urchins harvested in Sea Urchin Districts 1 or 2 must be landed in Sea Urchin Districts 1 or 2.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective January 19, 2006:

WAC 220-52-07300A Sea urchins. (06-06)

The following section of the Washington Administrative Code is repealed effective 5:00 p.m. January 26, 2006:

WAC 220-52-07300B Sea urchins. (06-07)

WSR 06-04-016
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-10—Filed January 22, 2006, 11:55 a.m., effective January 27, 2006, 12:01 p.m.]

Effective Date of Rule: January 27, 2006, 12:01 p.m.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-36000P; and amending WAC 220-56-360.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Survey results show that adequate clams are available for harvest in Razor Clam Areas 1, 2 and those portions of Razor Clam Area 3 opened for harvest. Washington department of health has certified clams from these beaches to be safe for human consumption. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: January 20, 2006.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-56-36000P Razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-56-360, it is unlawful to dig for or possess razor clams taken for personal use from any beach in Razor Clam Areas 1, 2, or 3, except as provided for in this section:

1. Effective 12:01 p.m. January 27, 2006 through 11:59 p.m. January 29, 2006, razor clam digging is allowed in Razor Clam Area 1 and Razor Clam Area 2. Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

2. Effective 12:01 p.m. January 27, 2006 through 11:59 p.m. January 29, 2006, razor clam digging is allowed in that portion Razor Clam Area 3 that is between the Copalis River and the southern boundary of the Quinault Indian Nation (Grays Harbor County). Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

3. It is unlawful to dig for razor clams at any time in Long Beach, Twin Harbors Beach or Copalis Beach Clam sanctuaries defined in WAC 220-56-372.

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. January 30, 2006:

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

**WSR 06-04-023
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 06-11—Filed January 24, 2006, 9:11 a.m., effective January 24, 2006]

Effective Date of Rule: January 24, 2006.

Purpose: Amend commercial use fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

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

Reasons for this Finding: Harvestable amounts of red and green sea urchins exist in the areas described. Prohibiting transport of urchins from Districts 1 and 2 to other districts will prevent spoiling of product, promote accurate catch accounting, and provide for an orderly fishery. Prohibition of all diving from licensed sea urchin harvest vessels within two days of scheduled sea urchin openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: January 23, 2006.

J. P. Koenings
Director

NEW SECTION

WAC 220-52-07300C Sea urchins. Notwithstanding the provisions of WAC 220-52-073, effective January 24, 2006 until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

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

(2) Red sea urchins: Sea Urchin Districts 1 and 2 are open only on Tuesday, January 24, 2006. In Sea Urchin Districts 1 and 2 it is unlawful to harvest red sea urchins smaller than 4.0 inches or larger than 5.5 inches (size in largest test diameter exclusive of spines).

(3) Red sea urchins harvested in Sea Urchin Districts 1 or 2 must be landed in Sea Urchin Districts 1 or 2.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective January 24, 2005:

WAC 220-52-07300B Sea urchins. (06-07)

WSR 06-04-027
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-13—Filed January 24, 2006, 4:16 p.m., effective January 26, 2006, 8:00 a.m.]

Effective Date of Rule: January 26, 2006, 8:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04000U; and amending WAC 220-52-040.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: The state may not authorize commercial shellfish harvests absent agreed planning or compliance with a process. The provisions of this rule are in conformity with agreed plans with applicable tribes which have been entered as required by court order. The pot limit for the commercial crab fishery in the Puget Sound licensing district is to maintain commercial harvest allocation plans. There is insufficient time to promulgate permanent 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 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: January 24, 2006.

J. P. Koenings
Director

NEW SECTION

WAC 220-52-04000V Commercial crab fishery— Lawful and unlawful gear, methods, and other unlawful acts. Notwithstanding the provisions of WAC 220-52-040,

effective 8:00 a.m. January 26, 2006 until further notice, it is unlawful for any person to fish for crabs for commercial purposes with more than 100 pots per license, per buoy tag number in that portion of Marine Fish Shellfish Catch Reporting Area 25A, west of a line projected from the new Dungeness Light to the mouth of Cooper Creek and east of a line projected from the new Dungeness Light to the outermost end of the abandoned dock at the Three Crabs Restaurant on the southern shore of Dungeness Bay.

Effective immediately, until further notice, it is unlawful for any person to fish for crabs for commercial purposes with more than 75 pots per license, per buoy tag number in Marine Fish Shellfish Catch Reporting Areas 24A, 24B, 24C, 24D, and 26A-E. The remaining 25 buoy tags, or replacement tags per license must be onboard the designated vessel and available for inspection in the pot-limited areas.

REPEALER

The following section of the Washington Administrative Code is repealed effective 8:00 a.m. January 26, 2006:

WAC 220-52-04000U Commercial crab fishery— Lawful and unlawful gear, methods, and other unlawful acts. (06-04)

WSR 06-04-034
EMERGENCY RULES
DEPARTMENT OF REVENUE

[Filed January 26, 2006, 10:32 a.m., effective January 26, 2006]

Effective Date of Rule: Immediately.

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

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

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

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

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

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

Reasons for this Finding: An emergency adoption is necessary because a permanent rule cannot be adopted at this time. This rule action will provide needed information to taxpayers and department staff about the licensing requirements and responsibilities of persons selling cigarettes in this state. The rule being adopted is the same as that adopted on an emergency basis on September 29, 2005 (WSR 05-20-038).

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

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

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

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

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

Date Adopted: January 26, 2006.

Janis P. Bianchi, Manager
Interpretations and
Technical Advice Unit

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 06-05 issue of the Register.

WSR 06-04-035

EMERGENCY RULES

DEPARTMENT OF REVENUE

[Filed January 26, 2006, 10:34 a.m., effective January 26, 2006]

Effective Date of Rule: Immediately.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The stumpage value rule is required by statute (RCW 84.33.091).

Purpose: WAC 458-40-660 contains the stumpage values used by harvesters of timber to calculate the timber excise tax. The department has discovered that the rule to be used during the first half of 2006 (filed December 22, 2005, as WSR 06-02-005) inadvertently included some incorrect stumpage values in the tables for stumpage value areas 4-8. The department is revising this rule on an emergency basis to provide correct values.

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

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

Other Authority: RCW 84.33.091.

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

Reasons for this Finding: An emergency adoption is necessary because the department cannot adopt a new permanent rule before taxpayers are required to report timber excise tax liabilities incurred during the first half of 2006.

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

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

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

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

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

Date Adopted: January 26, 2006.

Janis P. Bianchi, Manager
Interpretations and
Technical Advice Unit

AMENDATORY SECTION (Amending WSR 06-02-005, filed 12/22/05, effective 1/1/06)

WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments. (1) Introduction. This rule provides stumpage value tables and stumpage value adjustments used to calculate the amount of a harvester's timber excise tax.

(2) Stumpage value tables. The following stumpage value tables are used to calculate the taxable value of stumpage harvested from January 1 through June 30, 2006:

**TABLE 1—Stumpage Value Table
Stumpage Value Area 1
January 1 through June 30, 2006**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$480	\$473	\$466	\$459	\$452
		2	462	455	448	441	434
		3	424	417	410	403	396
		4	371	364	357	350	343
Western Redcedar ⁽²⁾	RC	1	597	590	583	576	569
Western Hemlock ⁽³⁾	WH	1	342	335	328	321	314
		2	278	271	264	257	250

**TABLE 1—Stumpage Value Table
Stumpage Value Area 1**
January 1 through June 30, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
		3	278	271	264	257	250
		4	278	271	264	257	250
Red Alder	RA	1	390	383	376	369	362
		2	325	318	311	304	297
Black Cottonwood	BC	1	40	33	26	19	12
Other Hardwood	OH	1	178	171	164	157	150
Douglas-Fir Poles	DFL	1	653	646	639	632	625
Western Redcedar Poles	RCL	1	1193	1186	1179	1172	1165
Chipwood ⁽⁴⁾	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks ⁽⁵⁾	RCS	1	174	167	160	153	146
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

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

⁽²⁾ Includes Alaska-Cedar.

⁽³⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁽⁴⁾ Stumpage value per ton.

⁽⁵⁾ Stumpage value per cord.

⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁷⁾ Stumpage value per lineal foot.

**TABLE 2—Stumpage Value Table
Stumpage Value Area 2**
January 1 through June 30, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$543	\$536	\$529	\$522	\$515
		2	514	507	500	493	486
		3	474	467	460	453	446
		4	440	433	426	419	412
Western Redcedar ⁽²⁾	RC	1	597	590	583	576	569
Western Hemlock ⁽³⁾	WH	1	384	377	370	363	356
		2	362	355	348	341	334
		3	333	326	319	312	305
		4	326	319	312	305	298
Red Alder	RA	1	390	383	376	369	362
		2	325	318	311	304	297

**TABLE 2—Stumpage Value Table
Stumpage Value Area 2**
January 1 through June 30, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Black Cottonwood	BC	1	40	33	26	19	12
Other Hardwood	OH	1	178	171	164	157	150
Douglas-Fir Poles	DFL	1	653	646	639	632	625
Western Redcedar Poles	RCL	1	1193	1186	1179	1172	1165
Chipwood ⁽⁴⁾	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks ⁽⁵⁾	RCS	1	174	167	160	153	146
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

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

⁽²⁾ Includes Alaska-Cedar.

⁽³⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁽⁴⁾ Stumpage value per ton.

⁽⁵⁾ Stumpage value per cord.

⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁷⁾ Stumpage value per lineal foot.

**TABLE 3—Stumpage Value Table
Stumpage Value Area 3**
January 1 through June 30, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$486	\$479	\$472	\$465	\$458
		2	428	421	414	407	400
		3	428	421	414	407	400
		4	340	333	326	319	312
Western Redcedar ⁽³⁾	RC	1	597	590	583	576	569
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	384	377	370	363	356
		2	259	252	245	238	231
		3	259	252	245	238	231
		4	259	252	245	238	231
Red Alder	RA	1	390	383	376	369	362
		2	325	318	311	304	297
Black Cottonwood	BC	1	40	33	26	19	12
Other Hardwood	OH	1	178	171	164	157	150
Douglas-Fir Poles	DFL	1	653	646	639	632	625

**TABLE 3—Stumpage Value Table
Stumpage Value Area 3
January 1 through June 30, 2006**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Poles	RCL	1	1193	1186	1179	1172	1165
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	174	167	160	153	146
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.
- (3) Includes Alaska-Cedar.
- (4) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
- (5) Stumpage value per ton.
- (6) Stumpage value per cord.
- (7) Stumpage value per 8 lineal feet or portion thereof.
- (8) Stumpage value per lineal foot.

**TABLE 4—Stumpage Value Table
Stumpage Value Area 4
January 1 through June 30, 2006**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$543	\$536	\$529	\$522	\$515
		2	485	478	471	464	457
		3	482	475	468	461	454
		4	426	419	412	405	398
Lodgepole Pine	LP	1	250	243	236	229	222
			194	187	180	173	166
Ponderosa Pine	PP	1	387	380	373	366	359
		2	212	205	198	191	184
			307	300	293	286	279
			205	198	191	184	177
Western Redcedar ⁽³⁾	RC	1	597	590	583	576	569
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	384	377	370	363	356
		2	319	312	305	298	291
		3	313	306	299	292	285
		4	313	306	299	292	285
Red Alder	RA	1	390	383	376	369	362
		2	325	318	311	304	297

Emergency

**TABLE 4—Stumpage Value Table
Stumpage Value Area 4
January 1 through June 30, 2006**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Black Cottonwood	BC	1	40	33	26	19	12
Other Hardwood	OH	1	178	171	164	157	150
Douglas-Fir Poles	DFL	1	653	646	639	632	625
Western Redcedar Poles	RCL	1	1193	1186	1179	1172	1165
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	174	167	160	153	146
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.
- (3) Includes Alaska-Cedar.
- (4) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
- (5) Stumpage value per ton.
- (6) Stumpage value per cord.
- (7) Stumpage value per 8 lineal feet or portion thereof.
- (8) Stumpage value per lineal foot.

**TABLE 5—Stumpage Value Table
Stumpage Value Area 5
January 1 through June 30, 2006**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$602	\$595	\$588	\$581	\$574
		2	511	504	497	490	483
		3	489	482	475	468	461
		4	426	419	412	405	398
Lodgepole Pine	LP	1	250	243	236	229	222
			194	187	180	173	166
Ponderosa Pine	PP	1	387	380	373	366	359
		2	212	205	198	191	184
			307	300	293	286	279
			205	198	191	184	177
Western Redcedar ⁽³⁾	RC	1	597	590	583	576	569
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	394	387	380	373	366
		2	330	323	316	309	302
		3	330	323	316	309	302

**TABLE 5—Stumpage Value Table
Stumpage Value Area 5**
January 1 through June 30, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
		4	330	323	316	309	302
Red Alder	RA	1	390	383	376	369	362
		2	325	318	311	304	297
Black Cottonwood	BC	1	40	33	26	19	12
Other Hardwood	OH	1	178	171	164	157	150
Douglas-Fir Poles	DFL	1	653	646	639	632	625
Western Redcedar Poles	RCL	1	1193	1186	1179	1172	1165
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	174	167	160	153	146
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.
- (3) Includes Alaska-Cedar.
- (4) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
- (5) Stumpage value per ton.
- (6) Stumpage value per cord.
- (7) Stumpage value per 8 lineal feet or portion thereof.
- (8) Stumpage value per lineal foot.

**TABLE 6—Stumpage Value Table
Stumpage Value Area 6**
January 1 through June 30, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$358	\$351	\$344	\$337	\$330
			\$311	\$304	\$297	\$290	\$283
Lodgepole Pine	LP	1	250	243	236	229	222
			194	187	180	173	166
Ponderosa Pine	PP	1	387	380	373	366	359
		2	212	205	198	191	184
			307	300	293	286	279
			205	198	191	184	177
Western Redcedar ⁽³⁾	RC	1	496	489	482	475	468
True Firs and Spruce ⁽⁴⁾	WH	1	262	255	248	241	234

**TABLE 6—Stumpage Value Table
Stumpage Value Area 6**
January 1 through June 30, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
			208	201	194	187	180
Western White Pine	WP	1	336	329	322	315	308
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	496	489	482	475	468
Small Logs ⁽⁵⁾	SML	1	34	33	32	31	30
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCF	1	76	69	62	55	48
LP & Other Posts ⁽⁷⁾	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁽⁸⁾	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁹⁾	DFX	1	0.25	0.25	0.25	0.25	0.25

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.
- (3) Includes Alaska-Cedar.
- (4) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
- (5) Stumpage value per ton.
- (6) Stumpage value per cord.
- (7) Stumpage value per 8 lineal feet or portion thereof.
- (8) Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
- (9) Stumpage value per lineal foot.

**TABLE 7—Stumpage Value Table
Stumpage Value Area 7**
January 1 through June 30, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$358	\$351	\$344	\$337	\$330
			\$349	\$342	\$335	\$328	\$321
Lodgepole Pine	LP	1	250	243	236	229	222
Ponderosa Pine	PP	1	387	380	373	366	359
		2	212	205	198	191	184
Western Redcedar ⁽³⁾	RC	1	496	489	482	475	468
			523	516	509	502	495
True Firs and Spruce ⁽⁴⁾	WH	1	262	255	248	241	234
			261	254	247	240	233
Western White Pine	WP	1	336	329	322	315	308

TABLE 7—Stumpage Value Table
Stumpage Value Area 7
 January 1 through June 30, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale ⁽¹⁾							
Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
			<u>343</u>	<u>336</u>	<u>329</u>	<u>322</u>	<u>315</u>
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	<u>496</u>	<u>489</u>	<u>482</u>	<u>475</u>	<u>468</u>
			<u>523</u>	<u>516</u>	<u>509</u>	<u>502</u>	<u>495</u>
Small Logs ⁽⁵⁾	SML	1	<u>26</u>	<u>25</u>	<u>24</u>	<u>23</u>	<u>22</u>
			<u>29</u>	<u>28</u>	<u>27</u>	<u>26</u>	<u>25</u>
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCF	1	76	69	62	55	48
LP & Other Posts ⁽⁷⁾	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁽⁸⁾	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁹⁾	DFX	1	0.25	0.25	0.25	0.25	0.25

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

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska-Cedar.

⁽⁴⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁽⁵⁾ Stumpage value per ton.

⁽⁶⁾ Stumpage value per cord.

⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁸⁾ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

⁽⁹⁾ Stumpage value per lineal foot.

TABLE 8—Stumpage Value Table
Stumpage Value Area 10
 January 1 through June 30, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale ⁽¹⁾							
Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$529	\$522	\$515	\$508	\$501
		2	471	464	457	450	443
		3	468	461	454	447	440
		4	412	405	398	391	384
Lodgepole Pine	LP	1	<u>250</u>	<u>243</u>	<u>236</u>	<u>229</u>	<u>222</u>
			<u>194</u>	<u>187</u>	<u>180</u>	<u>173</u>	<u>166</u>
Ponderosa Pine	PP	1	<u>387</u>	<u>380</u>	<u>373</u>	<u>366</u>	<u>359</u>
			<u>307</u>	<u>300</u>	<u>293</u>	<u>286</u>	<u>279</u>
		2	<u>212</u>	<u>205</u>	<u>198</u>	<u>191</u>	<u>184</u>
			<u>205</u>	<u>198</u>	<u>191</u>	<u>184</u>	<u>177</u>
Western Redcedar ⁽³⁾	RC	1	583	576	569	562	555

TABLE 8—Stumpage Value Table
Stumpage Value Area 10
 January 1 through June 30, 2006

Stumpage Values per Thousand Board Feet Net Scribner Log Scale ⁽¹⁾							
Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	370	363	356	349	342
		2	305	298	291	284	277
		3	299	292	285	278	271
		4	299	292	285	278	271
Red Alder	RA	1	376	369	362	355	348
		2	311	304	297	290	283
Black Cottonwood	BC	1	26	19	12	5	1
Other Hardwood	OH	1	164	157	150	143	136
Douglas-Fir Poles	DFL	1	639	632	625	618	611
Western Redcedar Poles	RCL	1	1179	1172	1165	1158	1151
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	174	167	160	153	146
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

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

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska-Cedar.

⁽⁴⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁽⁵⁾ Stumpage value per ton.

⁽⁶⁾ Stumpage value per cord.

⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁸⁾ Stumpage value per lineal foot.

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

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

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

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

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

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

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

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

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

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

The following harvest adjustment tables apply from January 1 through June 30, 2006:

**TABLE 9—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 10
January 1 through June 30, 2006**

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of 30 thousand board feet or more per acre.	\$0.00
Class 2	Harvest of 10 thousand board feet to but not including 30 thousand board feet per acre.	- \$15.00
Class 3	Harvest of less than 10 thousand board feet per acre.	- \$35.00
II. Logging conditions		
Class 1	Ground based logging a majority of the unit using tracked or wheeled vehicles or draft animals.	\$0.00
Class 2	Cable logging a majority of the unit using an overhead system of winch driven cables.	- \$30.00
Class 3	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	- \$145.00

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
III. Remote island adjustment:		
	For timber harvested from a remote island	- \$50.00
IV. Thinning Class 1		
	A limited removal of timber described in WAC 458-40-610 (28)	-\$100.00

**TABLE 10—Harvest Adjustment Table
Stumpage Value Areas 6 and 7
January 1 through June 30, 2006**

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 8 thousand board feet per acre.	\$0.00
Class 2	Harvest of 3 thousand board feet to 8 thousand board feet per acre.	- \$7.00
Class 3	Harvest of less than 3 thousand board feet per acre.	- \$10.00
II. Logging conditions		
Class 1	The majority of the harvest unit has less than 40% slope. No significant rock outcrops or swamp barriers.	\$0.00
Class 2	The majority of the harvest unit has slopes between 40% and 60%. Some rock outcrops or swamp barriers.	-\$20.00
Class 3	The majority of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs.	-\$30.00
Class 4	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	- \$145.00
Note: A Class 2 adjustment may be used for slopes less than 40% when cable logging is required by a duly promulgated forest practice regulation. Written documentation of this requirement must be provided by the taxpayer to the department of revenue.		

III. Remote island adjustment:		
	For timber harvested from a remote island	- \$50.00

TABLE 11—Domestic Market Adjustment

Class	Area Adjustment Applies	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 1:	SVA's 1 through 6, and 10	\$0.00
Class 2:	SVA 7	\$0.00

Note: The adjustment will not be allowed on special forest products.

(4) **Damaged timber.** Timber harvesters planning to remove timber from areas having damaged timber may apply to the department of revenue for an adjustment in stumpage values. The application must contain a map with the legal descriptions of the area, an accurate estimate of the volume of damaged timber to be removed, a description of the damage sustained by the timber with an evaluation of the extent to

which the stumpage values have been materially reduced from the values shown in the applicable tables, and a list of estimated additional costs to be incurred resulting from the removal of the damaged timber. The application must be received and approved by the department of revenue before the harvest commences. Upon receipt of an application, the department of revenue will determine the amount of adjustment to be applied against the stumpage values. Timber that has been damaged due to sudden and unforeseen causes may qualify.

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

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

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

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

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

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

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

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

WSR 06-04-036

EMERGENCY RULES

DEPARTMENT OF REVENUE

[Filed January 26, 2006, 10:35 a.m., effective January 26, 2006]

Effective Date of Rule: Immediately.

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

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

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

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

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

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

Reasons for this Finding: An emergency adoption is necessary because a permanent rule cannot be adopted at this time. This rule action will provide needed information to taxpayers and department staff about the new licensing requirements and responsibilities of persons selling tobacco products in this state. The rule being adopted is the same as that adopted on an emergency basis on September 29, 2005 (WSR 05-20-037).

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

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

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

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

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

Date Adopted: January 26, 2006.

Janis P. Bianchi, Manager
Interpretations and
Technical Advice Unit

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 06-05 issue of the Register.

WSR 06-04-048

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 06-14—Filed January 27, 2006, 9:35 a.m., effective January 27, 2006, 12:01 p.m.]

Effective Date of Rule: January 27, 2006, 12:01 p.m.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-36000P and 220-56-36000Q; and amending WAC 220-56-360.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Survey results show that adequate clams are available for harvest in Razor Clam Areas 1, 2 and those portions of Razor Clam Area 3 opened for harvest. Washington department of health has certified clams from these beaches to be safe for human consumption.

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: January 26, 2006.

J. P. Koenings
Director

NEW SECTION

WAC 220-56-36000Q Razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-56-360, it is unlawful to dig for or possess razor clams taken for personal use from any beach in Razor Clam Areas 1, 2, or 3, except as provided for in this section:

1. Effective 12:01 p.m. January 27, 2006 through 11:59 p.m. January 29, 2006, razor clam digging is allowed in Razor Clam Area 1 and Razor Clam Area 2. Digging is allowed from 12:01 to 11:59 p.m. each day only.

2. Effective 12:01 p.m. January 27, 2006 through 11:59 p.m. January 29, 2006, razor clam digging is allowed in that portion Razor Clam Area 3 that is between the Copalis River and the southern boundary of the Quinault Indian Nation (Grays Harbor County) and that portion of Razor Clam Area 3 that is between Olympic National Park South Beach Campground access road (Kalaloch area, Jefferson County) and Browns Point (Kalaloch area, Jefferson County). Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

3. It is unlawful to dig for razor clams at any time in Long Beach, Twin Harbors Beach or Copalis Beach Clam sanctuaries defined in WAC 220-56-372.

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 220-56-36000P Razor clams—Areas and seasons. (06-10)

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. January 30, 2006:

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

WSR 06-04-072

EMERGENCY RULES

UNIVERSITY OF WASHINGTON

[Filed January 31, 2006, 9:34 a.m., effective February 5, 2006]

Effective Date of Rule: February 5, 2006.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: This emergency rule follows a similar previous emergency rule that went into effect October 7, 2005 (see WSR 05-21-015). Per RCW 34.05.350(2), the University of Washington is actively undertaking permanent rule making for these rules as evidenced by the university's filing of a preproposal statement of inquiry, a proposed rule making, and scheduling a public hearing for March 13, 2006.

Purpose: To amend the eligibility and limitations for specific University of Washington tuition waivers in order to reflect new definitions established by SHB 1174 (RCW 28B.15.621), effective July 24, 2005. SHB 1174 repealed existing waivers for SE Asia veterans, Persian Gulf veterans, and children of POW/MIAs that had been authorized by RCW 28B.10.265, 28B.15.620, and 28B.15.628, and instead authorized a new permissive waiver for veterans who are Washington domiciles and who were called to active federal duty and who served in a conflict or war on foreign soil/international waters, or in support of such a conflict, and for his/her children or spouse if the veteran became totally disabled or lost his/her life while engaged in active federal military or naval service, or if the veteran was determined to be a POW/MIA. SHB 1174 also removed eligibility for members of the Washington National Guard and veterans of the Korean conflict to use the state employee tuition exemption, although those with qualifying service can apply for the amended veteran's waiver.

Citation of Existing Rules Affected by this Order: Amending WAC 478-160-163.

Statutory Authority for Adoption: Chapter 28B.15 RCW and RCW 28B.20.130.

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

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

Reasons for this Finding: Immediate adoption of this University of Washington WAC rule amendment is in the best public interest of those students whose tuition and student status would otherwise be jeopardized by the recently enacted state statute's new eligibility definitions for tuition waivers. It is critical to have the university's rule continue

with these definitions in place while the permanent rule-making process is proceeding.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 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: January 26, 2006.

Mark A. Emmert
President

AMENDATORY SECTION (Amending WSR 02-06-021, filed 2/25/02, effective 3/28/02)

WAC 478-160-163 Waivers of tuition and fees. (1)

The board of regents is authorized to grant tuition and fee waivers to students pursuant to RCW 28B.15.910 and the laws identified therein. Each of these laws, with the exception of RCW 28B.15.543 and 28B.15.545, authorizes, but does not require, the board of regents to grant waivers for different categories of students and provides for waivers of different fees. The board of regents must affirmatively act to implement the legislature's grant of authority under each individual law. A list of waivers that the board has implemented can be found in the *University of Washington General Catalog*, which is published biennially. The most recent list may be found in the online version of the *General Catalog* at www.washington.edu/students/reg/tuition_exempt_reductions.html.

(2) Even when it has decided to implement a waiver listed in RCW 28B.15.910, the university, for specific reasons and a general need for flexibility in the management of its resources, may choose not to award waivers to all students who may be eligible under the terms of the laws. Where the university has chosen to impose specific limitations on a waiver listed in RCW 28B.15.910, those limitations are delineated in subsection (5) of this section. If the university has not imposed specific limitations on a waiver listed in RCW 28B.15.910, the waiver is not mentioned in subsection (5) of this section. The university's description of the factors it may consider to adjust a waiver program to meet emergent or changing needs is found in subsection ((6)) (7) of this section. All waivers are subject to subsection ((6)) (7) of this section.

(3) The board of regents also has the authority under RCW 28B.15.915 to grant waivers of all or a portion of operating fees as defined in RCW 28B.15.031. Waiver programs adopted under RCW 28B.15.915 are described in the *General Catalog*. The most recent list may be found in the online ver-

sion of the *General Catalog* at www.washington.edu/students/reg/tuition_exempt_reductions.html. Waivers granted under RCW 28B.15.915 are subject to subsection ((6)) (7) of this section.

(4) Waivers will not be awarded to students participating in self-sustaining courses or programs because they do not pay "tuition," "operating fees," "services and activities fees," or "technology fees" as defined in RCW 28B.15.020, 28B.15.031, 28B.15.041, or 28B.15.051, respectively.

(5) Specific limitations on waivers are as follows:

(a) Waivers authorized by RCW ((28B.10.265 for children of Washington domiciles who are prisoners of war or missing in action in Southeast Asia or Korea)) 28B.15.621 (2)(a) for eligible veterans and National Guard members, shall be awarded only to undergraduate students pursuing their first bachelor's degree to a maximum of 225 college-level credits, including credits transferred from other institutions of higher education.

(b) Waivers authorized by RCW 28B.15.621 (2)(b) and (c) for children or spouses of eligible veterans and National Guard members who became totally disabled, or lost their lives, while engaged in active federal military or naval service, or who are prisoners of war or missing in action, shall be awarded only to undergraduate students pursuing their first bachelor's degree to a maximum of 225 college-level credits, including credits transferred from other institutions of higher education.

(c) Waivers of nonresident tuition authorized by RCW 28B.15.014 for university faculty and classified or professional staff shall be restricted to four consecutive quarters from their date of employment with the University of Washington. The recipient of the waiver must be employed by the first day of the quarter for which the waiver is awarded. Waivers awarded to immigrant refugees, or the spouses or dependent children of such refugees, shall be restricted to persons who reside in Washington state and to four consecutive quarters from their arrival in Washington state.

((6)) (d) Waivers authorized by RCW 28B.15.380 for children of ((deceased or permanently disabled)) police officers or fire fighters who are deceased or permanently disabled, shall be awarded only to undergraduate students pursuing their first bachelor's degree to a maximum of 225 college-level credits, including credits transferred from other institutions of higher education.

((6)) (e) Waivers authorized by RCW 28B.15.558 shall be awarded only to:

(i) University of Washington employees who are employed half-time or more, hold qualifying appointments as of the first day of the quarter for which the waivers are requested, are paid monthly, and, for classified staff new to the university, have completed their probationary periods prior to the first day of the quarter; or

(ii) State of Washington permanent employees who are employed half-time or more, are not University of Washington permanent classified employees, are permanent classified or exempt technical college paraprofessional employees, or are permanent faculty members, counselors, librarians or exempt employees at other state of Washington public higher education institutions((, or

~~(iii) Members of the Washington National Guard.~~

~~(e) Waivers authorized by RCW 28B.15.620 shall be awarded only to Vietnam veterans pursuing their first bachelor's degree to a maximum of 225 college-level credits, including credits transferred from other institutions of higher education.~~

~~(f) Waivers authorized by RCW 28B.15.628 shall be awarded only to veterans of the Persian Gulf combat zone pursuing a first bachelor's degree to a maximum of 225 college-level credits, including credits transferred from other institutions of higher education).~~

(6) To qualify an individual as an "eligible veteran or National Guard member," the person seeking the waiver must present proof of domicile in Washington state and a DD form 214 (Report of Separation) indicating their service related to specific United States military operations or campaigns fought on foreign soil or in international waters.

(7) The university may modify its restrictions or requirements pursuant to changes in state or federal law, changes in programmatic requirements, or in response to financial or other considerations, which may include, but are not limited to, the need to adopt fiscally responsible budgets, the management of the overall levels and mix of enrollments, management initiatives to modify enrollment demand for specific programs and management decisions to eliminate or modify academic programs. The university may choose not to exercise the full funding authority granted under RCW 28B.15.910 and may limit the total funding available under RCW 28B.15.915.

WSR 06-04-073

EMERGENCY RULES

UNIVERSITY OF WASHINGTON

[Filed January 31, 2006, 9:36 a.m., effective January 31, 2006]

Effective Date of Rule: Immediately.

Purpose: To amend the University of Washington's smoking policy and related rules in chapter 478-136 WAC consistent with the newly enacted provisions of I-901 (chapter 70.160 RCW).

Citation of Existing Rules Affected by this Order: Amending WAC 478-136-012 and 478-136-030.

Statutory Authority for Adoption: RCW 28B.20.130 and chapter 70.160 RCW.

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

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; 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: Immediate adoption of the University of Washington's amended smoking policy is necessary to comply with the newly enacted I-901, Washington Clean Indoor Air Act (chapter 70.160 RCW). These emergency rules are adopted to protect students, faculty, staff, and

visitors from exposure to second-hand smoke in their university-associated environments and to protect life and property against fire hazards.

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 1, Amended 2, 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: January 26, 2006.

Mark A. Emmert
President

Chapter 478-136 WAC

Use of University of Washington Facilities

AMENDATORY SECTION (Amending WSR 02-06-020, filed 2/25/02, effective 3/28/02)

WAC 478-136-012 Definitions. (1) "Facilities" includes all structures, grounds, parking lots, waterfront, and airspace owned or operated by the University of Washington. Specific rules also apply to parking lots, bicycle and skateboard use (chapter 478-116 WAC), boat moorage facilities (chapter 478-138 WAC and *University Handbook*, Volume 4, Part VII, Chapter 3, Section 2), residence halls (chapter 478-156 WAC), airspace use (*University Handbook*, Volume 4, Part VII, Chapter 3, Section 5), nonuniversity speakers on campus (*University Handbook*, Volume 4, Part VII, Chapter 3, Section 4), (~~smoking (*University Handbook*, Volume 4, Part VII, Chapter 6),~~) and use of facilities by the Associated Students University of Washington (ASUW), Graduate and Professional Student Senate (GPSS), and other affected organizations (*University Handbook*, Volume 3, Part III, Chapter 5).

(2) "Use of facilities" includes, but is not limited to: The holding of events, the posting and removal of signs, all forms of advertising, commercial activities, and charitable solicitation.

(3) "Approved event" means a use of university facilities which has received preliminary approval from an academic or administrative unit and which has received final approval from the committee on the use of university facilities.

AMENDATORY SECTION (Amending WSR 05-21-133, filed 10/19/05, effective 11/19/05)

WAC 478-136-030 Limitations on use. (1) Freedom of expression is a highly valued and indispensable quality of

university life. However, university facilities may not be used in ways which obstruct or disrupt university operations, the freedom of movement, or any other lawful activities. Additionally, use of university facilities may be subject to reasonable time, place and manner restrictions.

(2) University facilities may be used for events and forums regarding ballot propositions and/or candidates who have filed for public office so long as the event has received preliminary approval by an administrative or academic unit and final approval by the committee on the use of university facilities. There are, however, certain limitations on the use of university facilities for these political activities.

(a) First priority for the use of campus facilities shall be given to regularly scheduled university activities.

(b) University facilities may be used for political purposes such as events and forums regarding ballot propositions and/or candidates who have filed for public office only when the full rental cost of the facility is paid. However, use of state funds for payment of facility rental costs is prohibited.

(c) Forums or debates may be scheduled at full facility rental rates if all parties to a ballot proposition election or all candidates who have filed for office for a given position, regardless of party affiliation, are given equal access to the use of facilities within a reasonable time.

(d) No person shall solicit contributions on university property for political uses, except in instances where this limitation conflicts with applicable federal law regarding interference with the mails.

(e) Public areas outside university buildings may be used for political purposes such as events and forums regarding ballot propositions and/or candidates who have filed for public office, excluding solicitation of funds, provided the other normal business of the university is not disrupted and entrances to and exits from buildings are not blocked.

(f) University facilities or services may not be used to establish or maintain offices or headquarters for political candidates or partisan political causes.

(3) University facilities may not be used for private or commercial purposes such as sales, advertising, or promotional activities unless such activities serve an educational purpose, as determined by the committee on the use of university facilities.

(4) Nothing in these rules is intended to alter or affect the regular advertising, promotional, or underwriting activities carried on, by, or in the regular university media or publications. Policies concerning advertising, promotional or underwriting activities included in these media or publications are under the jurisdiction of and must be approved by their respective management or, where applicable, advisory committees, in accordance with applicable state and federal laws.

(5) In accordance with WAC 478-136-010, the university will make its facilities available only for purposes related to the educational mission of the university, as determined by the committee on the use of university facilities, including but not limited to instruction, research, public assembly, and student activities. When permission is granted to use university facilities for approved instructional or related purposes, as a condition of approval, the user of university facilities agrees to include in all materials nonendorsement statements

in the form approved by the committee on the use of university facilities. "Materials" includes all communications, advertisement, and any other printed, electronic, or broadcast/telecast information related to the user's activities offered in university facilities. The committee will determine the content, size of print and placement of the nonendorsement language. The university will not make its facilities available for instructional or related purposes that compete with courses or programs offered by the university.

(6) Solicitation, or distribution of handbills, pamphlets and similar materials by anyone, whether a member of the university community or of the general public, is not permitted in those areas of campus to which access by the public is restricted or where such solicitation or distribution would significantly impinge upon the primary business being conducted.

(7) Solicitation and distribution of materials in university residence halls are governed by residence hall policies. No solicitation of a commercial nature is permitted in university residence halls. Commercial advertising may be allowed, and is restricted to certain designated areas of each residence hall, when it is related to the university's mission and approved by the department of housing and food services.

(8) Electronic amplification on the grounds of the campus is prohibited with the following exceptions:

(a) The lawn area immediately west of the Husky Union Building will be available for open-air speaking events using directional and volume-controlled speech amplification equipment provided by the university. Use of the Husky Union Building lawn site will be available to registered or official student organizations and faculty or staff groups on a first-come, first-served basis. The amplification system will be issued upon presentation of a currently valid student, faculty or staff identification card at the Husky Union Building Reservation Office.

(b) The committee on the use of university facilities may grant permission, under special circumstances, for the use of other amplification equipment on the lawn site west of the Husky Union Building or in other outdoor locations. Permission should be requested through:

University of Washington
Secretary to the Committee on the
Use of University Facilities
239M Gerberding Hall
Box 351241
Seattle, WA 98195-1241

(or phone: 206-543-9233), sufficiently in advance of the program to allow timely consideration.

(9)(a) No person may use university facilities to camp, except if permission to do so has been granted in accordance with the provisions of chapters 478-116 and 478-136 WAC or except as provided in (b) of this subsection. "Camp" means to remain overnight, to erect a tent or other shelter, or to use sleeping equipment, a vehicle, or a trailer camper, for the purpose of or in such ways as will permit remaining overnight. Violators are subject to arrest and criminal prosecution under applicable state, county and city laws.

(b) This provision does not prohibit use of the university residence facilities in accordance with chapter 478-156 WAC

or the use of facilities where the employee remains overnight to fulfill the responsibilities of his or her position or where a student remains overnight to fulfill the requirements of his or her course of study.

(10) Within the limits of applicable laws, the University of Washington is committed to establishing and maintaining safe conditions for persons attending football games in Husky Stadium or other athletic events or concerts in campus facilities. Accordingly, the rules enumerated below will apply to all such events and be strictly enforced.

(a) The possession or consumption of alcoholic beverages or illegal drugs is prohibited, except for alcohol allowed under a permit or license obtained under subsection (13) of this section. In addition to having the beverages or drugs confiscated, violators may be subject to university disciplinary action and/or legal proceedings, and removal from the events.

(b) Air horns, glass bottles, cans, picnic baskets, bota bags, ice chests, and thermoses (in excess of two-quart capacity) are prohibited. Individuals possessing such will not be admitted to, or will be removed from, Husky Stadium or other athletic or concert facilities until the items have been stored temporarily at locations provided for that purpose or disposed of in some other manner.

(c) ~~Except as provided in WAC 478-136-035, smoking is prohibited in the seating areas of all athletic stadia. ((Smoking is permitted on pedestrian concourses.))~~

(d) All persons entering events in Husky Stadium or other athletic venues or events in other campus auditoria or facilities shall be subject to having all containers, bags, backpacks, coolers, or similar items visually inspected. Security personnel shall first ask permission to visually inspect the item and advise the person that he/she may refuse. Persons who refuse to allow inspection shall be allowed to return the item to a vehicle or otherwise dispose of it, after which admission shall be allowed. Persons who refuse the visual inspection and refuse to dispose of the item shall be denied entry.

(11) Only public service announcements and acknowledgment of sponsors will be allowed on scoreboards at athletic venues.

(a) For purposes of this section, a public service announcement is defined as an announcement which promotes the activities or services of federal, state or local governments, including the University of Washington, or non-profit organizations, or generally contributes to the community's welfare and interests.

(b) In acknowledgment of their sponsorship of the scoreboards or sponsorship of events and programs, sponsors may propose public service announcements for display on the scoreboard during athletic events. The public service announcement may be accompanied by a sponsor's name or logo, but in keeping with university policy may not directly promote the products or services of the company. The text and graphics of public service announcements must be submitted at least three days in advance to the department of intercollegiate athletics for approval by the university.

(c) In addition to these public service announcements, sponsors also may be acknowledged by the display of corpo-

rate logos, trademarks, or other approved messages upon panels located on the scoreboard.

~~(12) ((The University of Washington is committed to maintaining a safe and healthful work and educational environment for all faculty, staff, students, and visitors. Accordingly, the University of Washington establishes the following smoking policy to protect nonsmokers from exposure to smoke in their university-associated environments and to protect life and property against fire hazards:~~

~~(a) Except as provided in subsections (10)(c) and (12)(b) of this section, smoking is prohibited in all university vehicles, inside all buildings owned or occupied by the university and/or used by the university's faculty, staff or students and at any outside areas or locations that may directly or indirectly affect the air supply of buildings or carry smoke into buildings.~~

~~(b) Smoking may be permitted in student rooms in university residence halls and apartments in university student housing in accordance with smoking regulations established for those facilities by the vice president for student affairs.~~

~~(c) The director of environmental health and safety may designate specific outdoor locations as no smoking areas.~~

~~(d) Any student, staff, or faculty member who violates the university smoking policy may be subject to disciplinary action. In addition, violations of the university smoking policy may be subject to enforcement by the University of Washington police department.~~

~~(13))~~ Alcoholic beverages may be possessed, sold, served, and consumed at university facilities only if the procedures set forth in this section are followed.

(a) The appropriate permits/licenses for possession, sale, service, and consumption of alcohol must be obtained from the Washington state liquor control board.

(b) Permits/licenses must be displayed during the event and all other guidelines and restrictions established by the Washington state liquor control board must be followed.

(c) Alcoholic beverages may be possessed, sold, served, and consumed at the faculty center, as so designated by the university board of regents to the Washington state liquor control board, pursuant to a spirits, beer, and wine private club license issued by the Washington state liquor control board.

(d) Alcoholic beverages may be possessed, sold, served, and consumed at university facilities leased to a commercial tenant under a lease that includes authorization for the tenant to apply and hold a license issued by the Washington state liquor control board.

(e) Except as provided in (c) and (d) of this subsection, alcoholic beverages may be possessed, sold, served, and consumed at university facilities only under permits/licenses issued by the Washington state liquor control board and only as follows:

(i) Events at which alcohol is to be sold must be approved by the committee on the use of university facilities and an application to the committee must be accompanied by a request for written authorization under (f) or (g) of this subsection or proof that the seller holds an appropriate license; and

(ii) Events at athletic venues at which alcohol is to be possessed, sold, served, or consumed must not be within the

spectator viewing areas and must have restricted attendance, and a university unit, or an individual or organization applying for a permit/license must have obtained approval under (f) or (g) of this subsection; and

(iii) A university unit, or an individual or organization applying for a permit/license must have obtained approval under (f) or (g) of this subsection; and

(iv) Sale, service, and consumption of alcohol is to be confined to specified room(s) or area(s) specified on the license or permit. Unopen containers may not be sold or served. No alcohol is permitted to be taken off-premises.

(f) Written authorization to apply for a special occasion license to sell alcoholic beverages at university facilities must be obtained from the committee on the use of university facilities prior to applying for a special occasion license from the Washington state liquor control board. Authorization should be requested through the University of Washington, secretary to the committee on the use of university facilities, sufficiently in advance of the program to allow timely consideration. (Note: Some license applications must be filed with the Washington state liquor control board at least thirty days or more before the event.) Written authorization to apply for such license shall accompany the license application filed with the Washington state liquor control board.

(g) Written authorization to apply for a banquet permit to serve and consume alcoholic beverages at university facilities must be obtained from the vice-president for student affairs prior to applying for the permit from the Washington state liquor control board. Authorization should be requested through the University of Washington, office of the vice-president for student affairs, sufficiently in advance of the program to allow timely consideration. Written authorization to apply for such permit shall accompany the permit application filed with the Washington state liquor control board.

(h) Consumption, possession, dispensation, or sale of alcohol is prohibited except for persons of legal age.

NEW SECTION

WAC 478-136-035 Smoking policy for university facilities. (1) The University of Washington is committed to maintaining a safe and healthful work and educational environment for all faculty, staff, students, and visitors. Accordingly, the University of Washington establishes the following smoking policy, consistent with chapter 70.160 RCW (I-901), to protect nonsmokers from exposure to second-hand smoke in their university-associated environments and to protect life and property against fire hazards.

(a) Except as provided in subsections (1)(b) and (c) of this section, smoking is prohibited in all university facilities, including but not limited to vehicles, inside all buildings owned or occupied by the university and/or used by the university's faculty, staff, or students, and at any outside areas or locations.

(b) Smoking may be permitted in university student housing in accordance with smoking regulations established for those facilities by the vice-president for student affairs.

(c) Smoking may be permitted in specific designated outdoor locations approved by the director of environmental health and safety as smoking areas in accordance with chap-

ter 70.160 RCW and published on the environmental health and safety web site. Signage will be placed to indicate the designated locations.

(2) Violations of the university smoking policy may be subject to enforcement by the University of Washington police department. In addition, any student, staff, or faculty member who violates the university smoking policy may be subject to disciplinary action.

WSR 06-04-083

EMERGENCY RULES

DEPARTMENT OF FISH AND WILDLIFE

[Order 06-15—Filed January 31, 2006, 4:13 p.m., effective February 1, 2006]

Effective Date of Rule: February 1, 2006.

Purpose: Amend personal use rules.

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

Statutory Authority for Adoption: RCW 77.12.240.

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

Reasons for this Finding: The Colville Indian Tribe requested the Washington department of fish and wildlife close the section of the Okanogan River to allow increased escapement of steelhead into Omak Creek. Disk tags were applied to steelhead during run-size determination and fish sampling operations at Priest Rapids Dam, these disk tagged hatchery-origin fish are no longer needed for monitoring purposes. 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: January 31, 2006.

Evan Jacoby
for Jeff Koenings
Director

NEW SECTION

WAC 232-28-61900G Exceptions to statewide rules—Columbia, Methow, Okanogan and Similkameen rivers. Notwithstanding the provisions of WAC 232-28-619, effective February 1, 2006 until further notice, it is unlawful to violate the following provisions in the following waters:

(1) For purposes of this section, "adipose fin clipped steelhead" means steelhead with an adipose fin clip and a healed scar at the site of the fin clip, whether or not any other fins are clipped or a healed scar is present at any other fin position.

(2) Columbia River from Highway 395 Bridge at Pasco to the Old Hanford townsite wooden powerline towers upstream of Ringold Hatchery. Daily limit may contain up to two adipose fin clipped steelhead

(3) Columbia River from Rocky Reach Dam to 400 feet below Chief Joseph Dam - Open until further notice. Night closure in effect. Daily limit may contain up to two adipose fin clipped steelhead.

(4) Okanogan River - Open until further notice, except closed from Lake Osoyoos Control Dam (Zosel Dam) downstream to one-quarter mile below railroad trestle. Selective gear rules except lawful to fish from motorized vessels. Night closure in effect. Gamefish: Open to all gamefish downstream from Highway 97 Bridge at Malott. Daily limit may contain up to two adipose fin clipped steelhead. Above Highway 97 Bridge at Malott, open only for adipose fin clipped steelhead. Daily limit may contain up to two adipose fin clipped steelhead.

- Except: Effective March 1, 2006 until further notice, the area from the Highway 97 Bridge at Omak to a line across the river 500 feet above the mouth of Omak Creek, closed to fishing.

(5) Similkameen River - Mouth to 400 feet below Enloe Dam - Open until further notice. Selective gear rules. Night closure in effect. All species: Release all fish except up to two adipose fin clipped steelhead per day may be retained and whitefish may be retained. Whitefish gear rules do not apply.

(6) Methow River - Open until further notice. Mouth (Highway 97 Bridge) upstream to the second powerline crossing, and from the first Highway 153 Bridge north of Pateros to the confluence with the Chewuch River. Selective gear rules except lawful to fish from motorized vessels. Night closure in effect. All species: Release all fish except up to two adipose fin clipped steelhead per day may be retained and whitefish may be retained. Whitefish gear rules do not apply.

REPEALER

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

WAC 232-28-61900C	Exceptions to statewide rules—Columbia, Methow, Okanogan and Similkameen rivers. (05-270)
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WSR 06-04-084
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-16—Filed January 31, 2006, 4:14 p.m., effective January 31, 2006]

Effective Date of Rule: Immediately.

Purpose: Amend commercial use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000U and 220-33-01000V; 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 three additional fishing periods for the winter season sturgeon fishery. Season is consistent with Washington fish and wildlife commission guidance for 2006-2008 sturgeon fishery management. Landings are expected to stay within the harvest guideline of 1,600 fish for this season. Regulation is consistent with compact action of January 26, 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 2.

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

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

Date Adopted: January 30, 2006.

Evan Jacoby
for Jeff Koenings
Director

NEW SECTION

WAC 220-33-01000V Columbia River season below Bonneville. Notwithstanding the provision 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.

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

SEASON: 6:00 p.m. Tuesday January 31, 2006 to 6:00 p.m. Wednesday, February 1, 2006

6:00 p.m. Thursday February 2, 2006 to 6:00 a.m. Friday, February 3, 2006

6:00 p.m. Tuesday February 7, 2006 to 6:00 p.m. Wednesday, February 8, 2006

6:00 p.m. Thursday February 9, 2006 to 6:00 a.m. Friday, February 10, 2006

6:00 p.m. Tuesday February 14, 2006 to 6:00 p.m. Wednesday, February 15, 2006

6:00 p.m. Thursday February 16, 2006 to 6:00 a.m. Friday, February 17, 2006

6:00 p.m. Tuesday February 21, 2006 to 6:00 p.m. Wednesday, February 22, 2006

GEAR: 9-inch minimum mesh and 9-3/4 inch maximum mesh

ALLOWABLE SALE: Sturgeon and adipose fin-clipped salmon. Green sturgeon maximum size limit is 60 inches.

SANCTUARIES: Sandy River.

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

MISCELLANEOUS: Notwithstanding the provisions of WAC 220-20-010, during open salmon and/or sturgeon seasons fishers may have stored onboard their boats, while fishing, smelt gill nets; and while smelt fishing, fishers may have stored onboard their boats, gill nets of a size that meets the commercial salmon/sturgeon mesh size, weight, and length restrictions for the open salmon/sturgeon season.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-01000U Columbia River season below Bonneville. (05-285)

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. February 22, 2006:

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

WSR 06-04-085

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 06-17—Filed January 31, 2006, 4:15 p.m., effective February 1, 2006, 12:00 p.m.]

Effective Date of Rule: February 1, 2006, 12:00 p.m.

Purpose: Amend commercial fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

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

Reasons for this Finding: Sets tribal winter season. Fisheries are consistent with the interim management agreement and the biological opinion. Rule is consistent with action of the Columbia River compact on January 26, 2006. Conforms state rules with tribal rules. 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: January 30, 2006.

Evan Jacoby
for Jeff Koenings
Director

NEW SECTION

WAC 220-32-05100U Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052, WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, shad, or 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 Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, steelhead, walleye, shad, carp, or sturgeon under the following provisions:

Open Periods: 12:00 p.m. February 1, 2006 through 6:00 p.m. March 21, 2006.

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

Gear: No mesh restriction on gillnets. Hoop nets, dip bag nets, and rod and reel with hook and line.

Allowable sale: salmon, steelhead, walleye, shad, carp, and sturgeon. Sturgeon between 4 feet and 5 feet in length in The Dalles and John Day pools and between 45-60 inches in the Bonneville pool may be sold or retained for subsistence purposes.

Miscellaneous: Sale of platform or hook and line caught fish is allowed during open commercial season.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Reviser's note: The typographical 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 12:00 p.m. February 1, 2006:

WAC 220-32-05100T Columbia River salmon seasons above Bonneville Dam. (05-236)

The following section of the Washington Administrative Code is repealed effective 12:01 p.m. March 21, 2006:

WAC 220-32-05100U Columbia River salmon seasons above Bonneville Dam.

WSR 06-04-090

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

[Filed January 31, 2006, 4:21 p.m., effective February 4, 2006]

Effective Date of Rule: February 4, 2006.

Purpose: The department is amending this rule to codify the existing expedited hearings process for managed care clients as required by federal regulations.

Citation of Existing Rules Affected by this Order: Amending WAC 388-538-112.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Other Authority: 42 C.F.R. 431.244 (f)(2).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: This emergency rule adoption is necessary while the permanent rule-making process is being completed because current WAC does not reflect existing policy for an expedited fair hearing process for managed care clients as required by 42 C.F.R. 431.244 (f)(2).

This continues the emergency rule that is currently in effect under WSR 05-21-017. The permanent rule has been adopted under WSR 06-03-081 and will supersede this emergency rule when the permanent rule becomes effective February 12, 2006. This emergency rule covers the gap between the expiration (February 4) of the current emergency rule and the effective date of the permanent 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 1, 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 1, Repealed 0.

Date Adopted: January 25, 2006.

Andy Fernando, Manager
Rules and Policies Assistance Unit

(6) Parties to the ~~((fair))~~ hearing include the department, the MCO, the enrollee, and the enrollee's representative or the representative of a deceased enrollee's estate.

~~((6))~~ (7) If an enrollee disagrees with the ~~((fair))~~ hearing decision, then the enrollee may request an independent review (IR) in accordance with RCW 48.43.535.

~~((7))~~ (8) If there is disagreement with the IR decision, any party may request a review by the department of social and health services (DSHS) board of appeals (BOA) within twenty-one days of the IR decision. The department's BOA issues the final administrative decision.

AMENDATORY SECTION (Amending WSR 05-01-066, filed 12/8/04, effective 1/8/05)

WAC 388-538-112 The department of social and health services' (DSHS) ~~((fair))~~ hearing process for enrollee appeals of managed care organization (MCO) actions. (1) The ~~((fair))~~ hearing process described in chapter 388-02 WAC applies to the ~~((fair))~~ hearing process described in this chapter. Where a conflict exists, the requirements in this chapter take precedence.

(2) An MCO enrollee must exhaust all levels of resolution and appeal within the MCO's grievance system prior to ~~((filing an appeal (a request for a department fair hearing)))~~ requesting a hearing with MAA. See WAC 388-538-110 for the MCO grievance system.

(3) If an MCO enrollee does not agree with the MCO's resolution of the enrollee's appeal, the enrollee may file a request for a department ~~((fair))~~ hearing within the following time frames:

(a) For ~~((appeals))~~ hearing requests regarding a standard service, within ninety calendar days of the date of the MCO's notice of the resolution of the appeal.

(b) For ~~((appeals))~~ hearing requests regarding termination, suspension, or reduction of a previously authorized service, ~~((or))~~ and the enrollee is requesting continuation of services, within ten calendar days of the date on the MCO's notice of the resolution of the appeal.

(4) The entire appeal and hearing process, including the MCO appeal process, must be completed within ninety calendar days of the date the MCO enrollee filed the appeal with the MCO, not including the number of days the enrollee took to subsequently file for a department ~~((fair))~~ hearing.

(5) Expedited hearing process:

(a) The office of administrative hearings (OAH) must establish and maintain an expedited hearing process when the enrollee or the enrollee's representative requests an expedited hearing and OAH indicates that the time taken for a standard resolution of the claim could seriously jeopardize the enrollee's life or health and ability to attain, maintain, or regain maximum function.

(b) When approving an expedited hearing, OAH must issue a hearing decision as expeditiously as the enrollee's health condition requires, but not later than three business days after receiving the case file and information from the MCO regarding the action and MCO appeal.

(c) When denying an expedited hearing, OAH gives prompt oral notice to the enrollee followed by written notice within two calendar days of request and transfer the hearing to the timeframe for a standard service.