

WSR 06-11-016
EMERGENCY RULES
DEPARTMENT OF REVENUE

[Filed May 4, 2006, 2:30 p.m., effective July 1, 2006]

Effective Date of Rule: July 1, 2006.

Purpose: RCW 82.72.020 requires the department to collect certain telephone program excise taxes. Those taxes include the tax on switched access lines imposed by RCW 43.20A.725 Telephone relay service and 80.36.430 Washington telephone assistance program. Pursuant to those statutes, the department must annually determine the rate of each tax according to the statutory formulas. WAC 458-20-270 Telephone program excise tax rates provides those rates.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-270 Telephone program excise tax rates.

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

Other Authority: RCW 43.20A.725 and 80.36.430.

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: RCW 43.20A.725 and 80.36.430 require the department to determine the tax rates applicable under each statute. Those rates apply on a fiscal year basis. Therefore, the rule determining those rates must take effect no later than July 1, 2006, so that the correct tax rates are in effect and revenue can be collected to fund the operation of the programs.

Adopting this emergency rule at this time will allow taxpayers sufficient time to prepare for rates that become effective July 1st.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.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: May 4, 2006.

Janis P. Bianchi, Manager
 Interpretations and Technical Advice Unit

AMENDATORY SECTION (Amending WSR 05-18-017, filed 8/26/05, effective 9/26/05)

WAC 458-20-270 Telephone program excise tax rates. RCW 82.72.020 requires the department of revenue

(department) to collect certain telephone program excise taxes. Those taxes include the tax on switched access lines imposed by RCW 43.20A.725 (telephone relay service—TRS) and 80.36.430 (Washington telephone assistance program—WTAP). Pursuant to those statutes, the department must annually determine the rate of each respective tax according to the statutory formulas.

For the period July 1, (~~2005~~) 2006, through June 30, (~~2006~~) 2007, the monthly telephone program excise tax rates are as follows:

TRS	(40) <u>2</u> cents per switched access line
WTAP	14 cents per switched access line

WSR 06-11-020
EMERGENCY RULES
SECRETARY OF STATE
 (Elections Division)

[Filed May 4, 2006, 3:40 p.m., effective May 4, 2006]

Effective Date of Rule: Immediately.

Purpose: To implement the felon screening process required by RCW 29A.08.520 and in accordance with a King County superior court ruling on felon voting eligibility, *Madison v. State of Washington*, No. 04-2-33414-4.

Citation of Existing Rules Affected by this Order: Amending WAC 434-324-106.

Statutory Authority for Adoption: RCW 29A.04.611.

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: RCW 29A.08.520 requires the office of the secretary of state (OSOS) to screen the statewide list of registered voters for felons. OSOS will soon be notifying those felons that have been identified following a screening. This rule establishes the process for notifying the felons in addition to the process county auditors must use if a felon disputes the pending cancellation of voter registration.

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 1, Repealed 0.

Date Adopted: May 4, 2006.

Steve Excell
 Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 05-24-039, filed 11/30/05, effective 12/31/05)

WAC 434-324-106 Felony conviction—Secretary's quarterly comparisons (~~and pending cancellation notifications~~). (1) Once a quarter, the secretary must perform comparisons with the (~~Washington state patrol, the office of the administrator for the courts, and other appropriate state agencies~~) department of corrections, as authorized in RCW 29A.08.520, to search for registration records of felons(~~The quarterly comparison must be performed prior to the first extraction or pull of absentee ballots for a primary, special, or general election~~) who are under the legal custody of the department of corrections due to an adult felony conviction. The secretary must create a list of (~~matches by confirming that~~) felon voters by matching the first name, last name, (~~and~~) date of birth (~~match~~), and other identifying information.

(2) (~~The list of matches must be compared to information provided by the office of the administrator for the courts and the clemency board to identify felons who have received certificates of discharge or gubernatorial pardons for all felony convictions.~~

(3) ~~The secretary must not cancel the voter registration record of a voter who has received a certificate of discharge or gubernatorial pardon for all felony convictions. The secretary must flag the voter registration record to prevent future cancellation based on these previous felony convictions.~~

(4) ~~If there is no record of a certificate of discharge or gubernatorial pardon for each felony conviction~~) For each felon voter, the secretary must change the voter's registration status to "pending cancellation." This change of status must be entered prior to the first extraction or pull of absentee or mail ballots. The official statewide voter registration data base must automatically notify the county election management system of the change. Voters with pending cancellation status must not be included in (~~the~~) a poll book (~~and must not receive~~) or be mailed an absentee or mail ballot.

(~~5~~) (3) The secretary must mail a notification letter to each felon whose status is pending cancellation. (~~In addition to sending a copy of the notification letter to the auditor, the secretary must also send notification of the voter's pending cancellation status to the auditor through the election management system.~~) The notification letter must be sent to the felon's last known registration mailing address indicating that his or her voter registration is about to be canceled. The (~~form~~) letter must contain language notifying the felon that (~~if the pending cancellation status is in error, the felon~~) he or she may contact the auditor's office to (~~reconcile the error and~~) correct the information or request a hearing if the felon status is not correct or the right to vote has been restored. The letter must also inform the felon that he or she may request a provisional ballot for any pending elections. (~~As outlined in RCW 29A.08.520, the form must also provide information on how the right to vote may be restored, as well as how to register to vote after the right to vote has been restored.~~) The notification letter must contain substantially the following language:

Dear,

According to the Washington state Constitution, a person who has been convicted of a felony is disqualified from voting until the right has been restored. State law requires that the right be restored only after all conditions of all felony sentences have been fulfilled (~~as outlined in the last paragraph of this letter~~) or by a certificate of restoration issued by the governor.

Based on name (~~and~~), date of birth, and other identifying information maintained in state voter registration records and (~~felony conviction~~) department of corrections records, you have been found ineligible to vote due to a felony conviction. The felony conviction record information includes:

- Felon's name
- Felon's date of birth
- County of conviction
- (~~Date of conviction~~)
- Case/cause number

Your voter registration is pending cancellation. If you would like to dispute this finding, you have (~~thirty~~) 30 days from the postmark date on the envelope to provide documentation that this is incorrect or request a hearing (~~by contacting~~). You must contact:

- County auditor
- County auditor's address
- County auditor's phone number
- (~~County auditor's e-mail address~~)

You may also request a provisional ballot for any election scheduled to occur prior to the resolution of your registration status.

If you do not contact the county elections department within 30 days to dispute (~~this~~) the finding (~~within thirty days~~), your voter registration will be canceled.

Voting before the (~~rights are~~) right is restored is a class C felony (~~(RCW 29A.84.660)~~). The right to vote may be restored by proof of one of the following for each felony conviction:

1. A certificate of discharge, issued by the sentencing court (~~(RCW 9.94A.637)~~);
2. A court order restoring civil right, issued by the sentencing court (~~(RCW 9.92.066)~~);
3. A final (~~order of~~) discharge and restoration of civil rights, issued by the indeterminate sentence review board (~~(RCW 9.96.050)~~); or
4. A certificate of restoration, issued by the (~~governor (RCW 9.96.020)~~) clemency and pardons board; or
5. A pardon, issued by the governor.

Further information about how to get the right to vote restored may be found at (~~www.secstate.wa.gov/elections/restoring.aspx~~) www.secstate.wa.gov/elections/faq.aspx.

Sincerely,

(~~-----~~) Elections Division
Office of the Secretary of State

The secretary must provide an explanation of the requirements for restoring the right to vote. The secretary must send to each auditor the voter registration and conviction information for each matched felon registered in that county.

(4) If the felon fails to contact the auditor within thirty days, the felon's voter registration must be canceled. If an election in which the felon would otherwise be eligible to vote is scheduled to occur during the thirty days, the felon must be allowed to vote a provisional ballot.

(5) The felon's eligibility status may be resolved and the pending cancellation status reversed without scheduling a hearing if the felon provides satisfactory documentation that the felon's civil rights have been restored, the conviction is not a felony, the person convicted is not the registered voter, or the felon is otherwise eligible to vote. The auditor must notify the voter, retain a scanned copy of all documentation provided, and notify the secretary. The secretary must flag the voter registration record to prevent future cancellation based on the same felony conviction.

(6) If the felon requests a hearing, the auditor must schedule a public hearing to provide the felon an opportunity to dispute the finding. In scheduling the hearing, the auditor may take into account whether an election in which the felon would otherwise be eligible to vote is scheduled. The notice must be mailed to the felon's last known registration mailing address and must be postmarked at least seven calendar days prior to the hearing date. Notice of the hearing must also be provided to the prosecuting attorney.

(7) The auditor must provide the prosecuting attorney a copy of all relevant registration and felony conviction information. The prosecuting attorney must obtain documentation, such as a copy of the judgment and sentence, sufficient to prove the felony conviction by clear and convincing evidence. It is not necessary that the copy of the document be certified.

(8) If the prosecuting attorney is unable to obtain sufficient documentation to ascertain the felon's voting eligibility in time to hold a hearing prior to certification of an election in which the felon would otherwise be eligible to vote, the prosecuting attorney must request that the auditor dismiss the current cancellation proceedings. The auditor must reverse the voter's pending cancellation status, cancel the hearing, and notify the voter. A provisional ballot voted in the pending election must be counted if otherwise valid. The prosecuting attorney must continue to research the felon's voting eligibility. If the prosecuting attorney is unable to obtain sufficient documentation to ascertain the felon's voting eligibility prior to the next election in which the felon would otherwise be eligible to vote, the prosecuting attorney must notify the auditor. The auditor must notify the secretary, who must flag the voter registration record to prevent future cancellation based on the same felony conviction.

(9) A hearing to determine voting eligibility is an open public hearing pursuant to chapter 42.30 RCW. If the hearing occurs within thirty days before, or during the certification period of, an election in which the felon would otherwise be eligible to vote, the hearing must be conducted by the county canvassing board. If the hearing occurs at any other time, the county auditor conducts the hearing. Before a final determination is made that the felon is ineligible to vote, the prose-

cuting attorney must show by clear and convincing evidence that the voter is ineligible to vote due to a felony conviction. The felon must be provided a reasonable opportunity to respond. The hearing may be continued to a later date if continuance is likely to result in additional information regarding the felon's voting eligibility. If the felon is determined to be ineligible to vote due to felony conviction and lack of rights restoration, the voter registration must be canceled. If the voter is determined to be eligible to vote, the voter's pending cancellation status must be reversed and the secretary must flag the voter registration record to prevent future cancellation based on the same felony convictions. The felon must be notified of the outcome of the hearing and the final determination is subject to judicial review pursuant to chapter 34.05 RCW.

(10) If the felon's voter registration is canceled after the felon fails to contact the auditor within the thirty day period, the felon may contact the auditor at a later date to request a hearing to dispute the cancellation. The auditor must schedule a hearing in substantially the same manner as provided in subsections (6) through (9) of this section.

WSR 06-11-025

EMERGENCY RULES

DEPARTMENT OF FISH AND WILDLIFE

[Order 06-94—Filed May 8, 2006, 9:29 a.m., effective May 8, 2006]

Effective Date of Rule: Immediately.

Purpose: Amend personal use fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: This regulation is needed to ensure an orderly fishery, manage within court-ordered sharing requirements, and to ensure conservation. The Port Townsend shrimp district closure is necessary as insufficient spot shrimp are available to conduct a fishery. Marine Area 11 will not open until Wednesday, May 10, due to insufficient harvest quota to allow a weekend fishery. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: May 5, 2006.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-56-32500I Shrimp—Areas and seasons. Notwithstanding the provisions of WAC 220-56-325:

1) Effective immediately, until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of the Port Townsend, Port Angeles and Discovery Bay Shrimp Districts.

2) Effective immediately until further notice, it is unlawful to fish for or possess shrimp in all waters of Marine Area 11 except from 7:00 a.m. through 3:00 p.m. May 10, 2006.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-32500H Shrimp—Areas and season
(06-81)

**WSR 06-11-026
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 06-95—Filed May 8, 2006, 9:30 a.m., effective May 8, 2006]

Effective Date of Rule: Immediately.

Purpose: Amend personal use fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: This regulation is necessary to implement federal rules on halibut seasons. The adoption of state rules is required to provide consistency to state and federal rules regarding halibut fishing. The Pacific Council has adopted harvest guidelines for yelloweye rockfish for state recreational fisheries to ensure that rebuilding goals are met. Management measures to achieve these rebuilding goals include prohibiting the retention of yelloweye rockfish in recreational fisheries to encourage conservation of the stock and

discourage targeting by anglers. 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: May 5, 2006.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-56-25500B Halibut—Seasons—Daily and possession limits. (1) Notwithstanding the provisions of WAC 220-56-255, effective immediately until further notice it is unlawful to fish for or possess halibut taken for personal use except from the areas or in excess of the amounts provided for in this section:

(a) Catch Record Card Area 1 - Open until further notice. By-catch restriction: It is unlawful during any vessel trip to bring into port or land bottomfish except sablefish or Pacific Cod if the vessel has brought halibut into port or landed halibut during that trip.

(b) Catch Record Card Area 2:

(i) Those waters south of the Queets River, north of 47° N., and east of 124°40' W. - Open until further notice.

(ii) All other waters in Area 2 - Open until further notice, except closed to fishing for halibut 12:01 a.m. of each Friday through 11:59 p.m. of each Saturday.

(c) Catch Record Card Areas 3 and 4 - Open May 9 until further notice, except closed to fishing for halibut 12:01 a.m. each Sunday through 11:59 p.m. each Monday, 12:01 a.m. through 11:59 p.m. each Wednesday and 12:01 a.m. through 11:59 p.m. each Friday. The following area southwest of Cape Flattery is closed to fishing for halibut at all times:

Beginning at 48°18' N., 125°18' W.; thence to 48°18'N., 124°59'W.; thence to 48°11'N., 124°59'W.; thence to 48°11'N., 125°11'W.; thence to 48°04'N., 125°11'W.; thence to 48°04'N., 124°59'W.; thence to 48°N., 124°59'W.; thence to 48°N., 125°18'W.; thence to point of origin.

(i) Effective May 22, 2006 until further notice, on days when halibut fishing is closed in Catch Record Card Areas 3

and 4 it is unlawful to fish for or possess rockfish and lingcod seaward of a line approximating the 20-fathom depth contour as defined by the following coordinates:

Beginning at the Bonilla-Tatoosh line, at 48° 23.87' N; 124° 44.17' W

Then to 48° 23.60' N; 124° 44.90' W

Then to 48° 19.10' N; 124° 43.40' W

Then to 48° 18.20' N; 124° 46.40' W (intersection with 3-mile line)

Then follow the 3-mile line south to the Queets River (47° 31.70' N)

(d) Catch Record Card Areas 6 through 11 and Catch Record Area 13 - Open through June 18, 2006, except closed to fishing for halibut 12:01 a.m. of each Tuesday through 11:59 p.m. of each Wednesday.

(e) Catch Record Card Area 5 - Open May 25, 2006 until further notice, except closed to fishing for halibut 12:01 a.m. of each Tuesday through 11:59 p.m. of each Wednesday.

(f) Daily limit one halibut. The possession limit is two daily limits of halibut in any form, except the possession limit aboard the fishing vessel is one daily limit.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-25500A Halibut seasons—Daily and possession limits. (06-63)

WSR 06-11-035

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 06-96—Filed May 9, 2006, 4:20 p.m., effective July 3, 2006]

Effective Date of Rule: July 3, 2006.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-33000V; and amending WAC 220-56-330.

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: Crab fishing has historically opened in these waters on July 1st, and fishing has been allowed to occur over the July 4th holiday weekend. Because of a calendar year daily shift of July 4th to Tuesday in 2006, the standard fishing weekly period for crab in these waters, which is Wednesday through Saturday, would exclude fishers who have an expectation of fishing the July 4th holiday weekend. Areas 8-1 and 8-2 have exceeded the allocation in recent years. Allowing one day of additional fishing in 8-1 and 8-2, and three days elsewhere, will provide additional

recreational opportunity without adversely impacting the resource. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: May 5, 2006.

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-56-33000V Crab—Areas and seasons.

Notwithstanding the provisions of WAC 220-56-330:

(1) It is lawful to fish for crab on Sunday, Monday and Tuesday, July 2, 3, and 4, 2006, in the waters of Area 6, those waters of Area 7 south and west of a line projected from Village Point, Lummi Island, through the navigation buoy just east of Matia Island, thence to the buoy at Clements Reef, thence to the easternmost point of Patos Island, thence running along the north shore of Patos Island to the westernmost point of Patos Island, thence due west to the international boundary; westerly of a straight line from the northernmost tip of Sinclair Island through Lummi Rocks to Lummi Island; and west of a line projected from the southeast point of Sinclair Island to the ferry dock at Shannon Point, and waters of Areas 9, 10, 11, and 12.

(2) Notwithstanding the provisions of WAC 220-56-330, it is lawful to fish for crab on Sunday, July 2, 2006, in the waters of Areas 8-1 and 8-2.

REPEALER

The following section of the Washington Administrative Code is repealed effective July 5, 2006:

WAC 220-56-33000V Crab—Areas and seasons.

WSR 06-11-036
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-93—Filed May 9, 2006, 4:44 p.m., effective May 12, 2006, 12:01 a.m.]

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

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-52-03000A; and amending WAC 220-52-030.

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: Based on historical catches and on-site inspection, there should be adequate clams to support a seven-week season. Biotxin levels currently fall below the regulatory threshold. Agreements with department of natural resources requires this consistency on accessible areas. 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: May 9, 2006.

J. P. Koenings
 Director
 by Larry Peck

NEW SECTION

WAC 220-52-03000A Commercial razor clams. Notwithstanding the provisions of WAC 220-52-030, effective 12:01 a.m. May 12, 2006 through 11:59 p.m. June 30, 2006, it is lawful to dig for and possess razor clams for commercial purposes only in those waters and *detached* beaches of Razor Clam Area 1 lying south of the Willapa Bay Ship Channel, west of Ellen Sands and north of the tip of Leadbetter point; and in those waters and attached beaches north of the line of boundary markers consisting of five white posts near the northern tip of Leadbetter Point; all other areas remain closed.

REPEALER

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

WAC 220-52-03000A Commercial razor clams.

WSR 06-11-037
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-97—Filed May 9, 2006, 4:45 p.m., effective May 9, 2006]

Effective Date of Rule: Immediately.

Purpose: Amend personal use fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: This regulation is needed to ensure an orderly fishery, manage within court-ordered sharing requirements, and to ensure conservation. The state recreational share of spot shrimp will be taken by 3:00 p.m. May 10 in Marine Areas 9, 10 and 11. 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: May 9, 2006.

J. P. Koenings
 Director
 by Larry Peck

NEW SECTION

WAC 220-56-32500J Shrimp—Areas and seasons. Notwithstanding the provisions of WAC 220-56-325:

1) Effective 3:00 p.m. May 10, 2006, until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Areas 9 and 10.

2) Effective immediately, until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of the Port Townsend, Port Angeles and Discovery Bay Shrimp Districts.

3) Effective immediately until further notice, it is unlawful to fish for or possess shrimp in all waters of Marine Area 11 except from 7:00 a.m. through 3:00 p.m. May 10, 2006.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-32500I Shrimp—Areas and season
(06-94)

WSR 06-11-038
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-98—Filed May 9, 2006, 4:46 p.m., effective May 9, 2006]

Effective Date of Rule: Immediately.

Purpose: Amend personal use fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: This regulation is necessary to return fishery back to permanent fishing seasons. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: May 9, 2006.

J. P. Koenings
Director
by Larry Peck

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-61900U Exceptions to statewide
rules—Columbia River. (06-
77)

WSR 06-11-045
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-99—Filed May 10, 2006, 4:36 p.m., effective May 19, 2006, 12:01 a.m.]

Effective Date of Rule: May 19, 2006, 12:01 a.m.

Purpose: Amend personal use fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: This youth fishing event is usually held at Wapato Lake. However, it was recently closed to public access for health concerns and the event had to be moved to Bradley Lake. This regulation is necessary to assure a safe and successful fishing event for juvenile anglers at Bradley Lake. 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: May 10, 2006.

J. P. Koenings
Director

NEW SECTION

**WAC 232-28-61900Y Exceptions to statewide
rules—Bradley Lake (Pierce Co.)** Notwithstanding the pro-

visions of WAC 232-28-619, effective 12:01 a.m. May 19 through noon May 20, 2006, it is unlawful to fish in those waters of Bradley Lake, except open to fishing for juvenile anglers 7:00 a.m. May 20 through noon May 20, 2006.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 p.m. May 20, 2006:

WAC 232-28-61900Y Exceptions to statewide rules—Bradley Lake (Pierce Co.)

WSR 06-11-057
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-101—Filed May 11, 2006, 4:51 p.m., effective May 13, 2006, 12:01 a.m.]

Effective Date of Rule: May 13, 2006, 12:01 a.m.

Purpose: Amend personal use fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Reopens the spring chinook sport fishery above Bonneville Dam. The run size has been updated and impacts to ESA-listed spring chinook are available for this fishery. The season is consistent with Washington fish and wildlife commission guidance for 2006-2007. Rule is consistent with joint state discussions of Washington department of fish and wildlife and Oregon department of fish and wildlife on May 11, 2006, and the biological assessment for 2005-2007 fisheries under *U.S. v Oregon*. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

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

Date Adopted: May 11, 2006.

J. P. Koenings
Director

NEW SECTION

WAC 232-28-61900Z Exceptions to statewide rules—Columbia River. Notwithstanding the provisions of WAC 232-28-619, effective May 13 through June 15, 2006, in those waters of the Columbia River from Tower Island power lines in Bonneville Pool upstream to McNary Dam, (except for those waters closed under permanent regulations). Salmon, steelhead and shad: Open until further notice. Daily limit 6 salmon of which no more than 2 may be adult salmon. Release all wild Chinook, sockeye and chum. Minimum size 12 inches. Daily limit 2 trout, release wild steelhead. Minimum size 12-inches.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. June 16, 2006:

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

WSR 06-11-072
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-103—Filed May 15, 2006, 3:42 p.m., effective May 15, 2006]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: The 2006 state/tribal Puget Sound shrimp harvest management plans require adoption of harvest seasons contained in this emergency rule. Commercial shrimp trawl quotas are available in the area opened under this rule as long as by-catch criteria for soft-shelled crab are met. 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: May 15, 2006.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

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

(1) Shrimp pot gear:

(a) All waters of Marine Fish-Shellfish Management and Catch and Reporting Area 29 are open to harvest of all shrimp species immediately until further notice.

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

i) In Marine Fish/Shellfish Management and Catch Reporting Area 22A, closed through June 15 in waters inside and bounded by a line projected from Blakely Marina on the northwest corner of Blakely Island to Upright Head on Lopez Island following the shoreline southerly on Lopez Island to intersect a line projected due west from Bald Bluff on Lopez Island.

ii) Marine Fish/Shellfish Management and Catch Reporting Area 25D (Port Townsend Bay) is closed south of the 48.06' North latitude line, north of the 48.04' North latitude line and east of the 122.46' west longitude line.

iii) All waters of Catch Areas 23A-E, 23A-W and 23A-C are closed.

(d) The shrimp accounting week is Monday through Sunday.

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

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

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

(2) Shrimp beam trawl gear:

(a) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 22A within Shrimp Management Area 1B is open 5:00 a.m. May 16, 2006, until further notice

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

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

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-05100I	Puget Sound shrimp beam trawl fishery—Season (06-88)
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WSR 06-11-073

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 06-102—Filed May 15, 2006, 3:43 p.m., effective May 17, 2006, 11:59 p.m.]

Effective Date of Rule: May 17, 2006, 11:59 p.m.

Purpose: Amend personal use fishing rules.

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

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 recreational halibut fishery in Catch Record Area 2 (Westport) is projected to attain its portion of the Pacific halibut quota. 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: May 12, 2006.

Aletta Early
for Jeff Koenings
Director

NEW SECTION

WAC 220-56-25500C Halibut—Seasons—Daily and possession limits. (1) Notwithstanding the provisions of WAC 220-56-255, effective immediately until further notice it is unlawful to fish for or possess halibut taken for personal use except from the areas or in excess of the amounts provided for in this section:

(a) Catch Record Card Area 1 - Open until further notice. By-catch restriction: It is unlawful during any vessel trip to bring into port or land bottomfish except sablefish or Pacific Cod if the vessel has brought halibut into port or landed halibut during that trip.

(b) Catch Record Card Area 2 - Closed effective 11:59 p.m. May 17, 2006.

(c) Catch Record Card Areas 3 and 4 - Open until further notice, except closed to fishing for halibut 12:01 a.m. each Sunday through 11:59 p.m. each Monday, 12:01 a.m. through 11:59 p.m. each Wednesday and 12:01 a.m. through 11:59 p.m. each Friday. The following area southwest of Cape Flattery is closed to fishing for halibut at all times:

Beginning at 48°18' N., 125°18' W.; thence to 48°18'N., 124°59'W.; thence to 48°11'N., 124°59'W.; thence to 48°11'N., 125°11'W.; thence to 48°04'N., 125°11'W.; thence to 48°04'N., 124°59'W.; thence to 48°N., 124°59'W.; thence to 48°N., 125°18'W.; thence to point of origin.

(i) Effective May 22, 2006 until further notice, on days when halibut fishing is closed in Catch Record Card Areas 3 and 4 it is unlawful to fish for or possess rockfish and lingcod seaward of a line approximating the 20-fathom depth contour as defined by the following coordinates:

Beginning at the Bonilla-Tatoosh line, at 48° 23.87' N; 124° 44.17' W

Then to 48° 23.60' N; 124° 44.90' W

Then to 48° 19.10' N; 124° 43.40' W

Then to 48° 18.20' N; 124° 46.40' W (intersection with 3-mile line)

Then follow the 3-mile line south to the Queets River (47° 31.70' N)

(d) Catch Record Card Areas 6 through 11 and Catch Record Area 13 - Open through June 18, 2006, except closed to fishing for halibut 12:01 a.m. of each Tuesday through 11:59 p.m. of each Wednesday.

(e) Catch Record Card Area 5 - Open May 25, 2006 until further notice, except closed to fishing for halibut 12:01 a.m. of each Tuesday through 11:59 p.m. of each Wednesday.

(f) Daily limit one halibut. The possession limit is two daily limits of halibut in any form, except the possession limit aboard the fishing vessel is one daily limit.

REPEALER

The following section of the Washington Administrative code is repealed effective 11:59 p.m. May 17, 2006:

WAC 220-56-25500B Halibut seasons—Daily and possession limits. (06-95)

**WSR 06-11-076
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 06-100—Filed May 16, 2006, 11:58 a.m., effective May 16, 2006]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000F and 220-33-01000G; 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: The upriver run size was updated to 100,000 fish, allowing for the additional harvest of hatchery chinook and the opportunity to harvest sturgeon allocated to the commercial fishery. Season is consistent with the 2006 commercial salmon fishing plan. The select area fisheries (SAFE) are part of an on-going BPA funded study to design fisheries in areas outside of the mainstem Columbia River. Several stocks of salmon have been released from net pens in these select areas to provide for fisheries. All salmon returning to these net pens are harvestable. Impacts to ESA-listed stocks in these fisheries are covered under the biological opinion for the 2005-2007 interim management agreement. This rule is consistent with actions of the Columbia River compact hearings of January 26 and May 16, 2006, and conforms Washington and Oregon state 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 0, Amended 0, Repealed 0.

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

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

Date Adopted: May 16, 2006.

Evan Jacoby
for Jeff Koenings
Director

NEW SECTION

WAC 220-33-01000G Columbia River seasons below Bonneville. Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, it is unlawful for a person to take or possess salmon, sturgeon, and shad, taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E except during the times and conditions listed:

1. Area: SMCRA 1A, 1B, 1C, and 1D upstream to Kelley Point.

a) Season: 2:00 p.m. May 16 through 12:00 a.m. May 17, 2006.

b) Gear: Drift gill nets only. 8-inch minimum and 9 3/4 inch maximum mesh. Mono-filament is allowed. Gill nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required. Net length not to exceed 150 fathoms.

c) Allowable Sale: Adipose fin-clipped salmon, sturgeon, and shad. An adipose fin-clipped salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. A maximum of eight sturgeon total (white or green) may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. The eight sturgeon possession/sales limit includes both mainstem and Select Area fisheries. The maximum green sturgeon size limit is 60 inches.

d) Sanctuaries: Grays River, Elokomin-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B.

e) Miscellaneous Regulations:

i. Quick reporting is in effect for Washington wholesale dealers, WAC 220-69-240.

ii. At least one fisher on each boat must have Columbia River tangle net certification.

iii. Soak times, defined as the time elapsed from when the first of the gill net web is deployed into the water until the gill net web is fully retrieved from the water, must not exceed 45 minutes.

iv. Red corks are required at 25 fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.

v. Each boat will be required to have two operable recovery boxes or one box with two chambers, on board. Each box and chamber shall be operating during any time that the net is being retrieved or picked. The flow in the recovery box will be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute. Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39 1/2 inches to 48 inches, the inside width measurements must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches. Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is a least 1 1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to WDFW and ODFW employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

vi. All non-legal sturgeon, non-adipose fin-clipped salmon, and steelhead must be released immediately to the river with care and the least possible injury to the fish or placed into an operating recovery box. Any salmonid that is bleeding or lethargic must be placed in the recovery box prior to being released. All fish placed in recovery boxes must be released to the river prior to landing or docking.

vii. As a condition of fishing, owners or operators of commercial fishing vessels must cooperate with Department observers or observers collecting data for the Department, when notified by the observer of their intent to board the commercial vessel for observation and sampling during an open fishery.

viii. Columbia River tangle net certification: Any individual meeting the qualifications of RCW 77.65.040(2) and obtained a tangle net certificate by attending and completing a WDFW/ODFW sponsored workshop concerning live captive commercial fishing techniques.

ix. Nothing in this section sets any precedent for any fishery after the 2006 spring Chinook fishery. The fact that an individual received a Columbia River tangle net certificate does not entitle the certificate holder to participate in any other fishery. If WDFW authorizes a tangle net fishery in any other time, WDFW may establish qualifications and requirements that are different from those established for 2006. In particular, WDFW may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future tangle net fisheries.

2. Blind Slough/Knappa Slough Select Area

a) Area: Open waters of Blind Slough extend from markers at the mouth of Gnat Creek located approximately 1/2 mile upstream of the county road bridge, downstream to markers at the mouth of Blind Slough. Concurrent Washington/Oregon waters extend downstream of the railroad bridge

Knappa Slough is open to fishing in all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

b) Dates:

Spring Season: 7:00 p.m. Mondays to 7:00 a.m. Tuesdays and 7:00 p.m. Thursdays to 7:00 a.m. Fridays immediately until June 16, 2006.

Through June 16, the lower boundary of the Knappa Slough fishing area is extended downstream to boundary lines defined by markers on the west end of Minaker Island to markers on the Karlson Island and the Oregon Shore (fall-season boundary).

c) Gear: 8-inch maximum mesh. Monofilament nets are allowed. Nets restricted to 100 fathoms in length with no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed.

d) Allowable Sales: Salmon, sturgeon, shad. A maximum of three sturgeon (green or white in aggregate) may be possessed or sold by each participating vessel during each open period. The maximum green sturgeon size limit is 60 inches.

3. Deep River Select Area

a) Area: From the markers at USCG navigation marker #16 upstream to the Highway 4 Bridge.

b) Dates: 7:00 p.m. Mondays to 7:00 a.m. Tuesdays and 7:00 p.m. Thursdays to 7:00 a.m. Fridays immediately through June 16, 2006

c) Gear: 8 inch maximum. Monofilament nets are allowed. Nets restricted to a maximum length of 100 fathoms and no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed. Nets cannot be tied off of any stationary structures. Nets may not fully cross the navigation channel.

d) Allowable sale: salmon, sturgeon and shad. A maximum of three sturgeon (green or white in aggregate) may be possessed or sold by each participating vessel during each open period. The maximum green sturgeon size limit is 60 inches

e) Miscellaneous: Transportation or possession of fish outside the fishing area is unlawful, except fishers may transport their catch out of the fishing area with a permit issued by an authorized agency employee after examining the catch.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-01000F Columbia River seasons below Bonneville. (06-65)

The following section of the Washington Administrative Code is repealed effective June 17, 2006:

WAC 220-33-01000G Columbia River seasons below Bonneville.

**WSR 06-11-077
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 06-104—Filed May 16, 2006, 2:34 p.m., effective May 17, 2006]

Effective Date of Rule: May 17, 2006.

Purpose: Amend personal use fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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 upriver spring chinook return to the Columbia River has been upgraded to 100,000 which is greater than the preseason forecast of 88,400. With a projected run of this size, additional opportunity for sport fisheries in the Columbia River is available. The season is consistent with Washington Fish and Wildlife Commission guidance for 2006-2007. The extended season is expected to allow for harvest of hatchery chinook while minimizing impacts to ESA listed species. Rule is consistent with joint state actions of WDFW and ODFW on May 15, 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 1, Amended 0, Repealed 1.

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

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

Date Adopted: May 16, 2006.

Evan Jacoby
for Jeff Koenings
Director

NEW SECTION

WAC 232-28-61900A Exceptions to statewide rules—Columbia River. Notwithstanding the provisions of WAC 232-28-619, it is unlawful to violate the following provisions, provided that unless otherwise amended all permanent rules remain in effect:

1. Columbia River:

i. From the Rocky Point/Tongue Point line upstream to Bonneville Dam (except for those waters closed under permanent regulations). Salmon and steelhead: Open May 17 until further notice. Daily limit 6 salmon of which no more

than 2 may be adult salmon. Release all wild Chinook, wild coho, sockeye and chum. Minimum size 12 inches. Daily limit 2 trout, release wild steelhead and wild cutthroat. Minimum size 12-inches.

ii. From Tower Island power lines in Bonneville Pool upstream to McNary Dam, (except for those waters closed under permanent regulations). Salmon and steelhead: Open immediately through June 15. Daily limit 6 salmon of which no more than 2 may be adult salmon. Release all wild Chinook, sockeye and chum. Minimum size 12 inches. Daily limit 2 trout, release wild steelhead. Minimum size 12-inches.

iii. For the mainstem Columbia River salmon and steelhead fishery upstream of the Rocky Point/Tongue Point line effective through June 15, 2006, salmon and steelhead required to be released may not be totally removed from the water, except anglers fishing from vessels thirty feet or longer shown on their state registration or Coast Guard documentation are exempt from this subsection.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. May 17, 2006:

WAC 232-28-61900Z Exceptions to statewide rules—Columbia River. (06-101)

WSR 06-11-078
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-105—Filed May 16, 2006, 2:34 p.m., effective May 17, 2006]

Effective Date of Rule: May 17, 2006.

Purpose: Amend personal use fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: There are sufficient numbers of hatchery origin fish, within allowable limits for potential impacts on wild fish, to open a limited Snake River fishery. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: May 16, 2006.

Evan Jacoby
for Jeff Koenings
Director

NEW SECTION

WAC 232-28-61900B Exceptions to statewide rules—Snake River. Notwithstanding the provisions of WAC 232-28-619:

(1) Effective May 17 through June 30, 2006, in those waters of the Snake River from Texas Rapids boat launch upstream to the Corps of Engineers boat launch approximately one mile upstream of Little Goose Dam on the south bank of the River it is lawful to fish for and possess salmon. Daily limit of one hatchery chinook salmon, minimum size 12 inches in length.

(a) Hooks must be single point barbless hooks when fishing for all species.

(b) It is unlawful to use any hook larger than 5/8 inch (point of hook to shank) when fishing for all species, except sturgeon.

(c) Night closure is in effect.

REPEALER

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

WAC 232-28-61900B Exceptions to statewide rules—Snake River.

WSR 06-11-081
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Disability Services Administration)
[Filed May 16, 2006, 4:22 p.m., effective June 1, 2006]

Effective Date of Rule: June 1, 2006.

Purpose: The purpose of this rule is to clarify that a client has the right to an administrative hearing if the department reduces or terminates services that were previously authorized through an exception to rule.

Citation of Existing Rules Affected by this Order: Amending WAC 388-825-120.

Statutory Authority for Adoption: RCW 71A.12.030.

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

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

Reasons for this Finding: This rule is needed to preserve the public's welfare by clarifying the client's right to an administrative hearing if the department reduces or terminates services that were previously authorized by an exception to 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 0, Amended 0, Repealed 0.

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

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

Date Adopted: May 10, 2006.

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 05-17-135, filed 8/19/05, effective 9/19/05)

WAC 388-825-120 When can I appeal department decisions through an administrative hearing process? (1) Administrative hearings are governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 71A.10.050, the rules in this chapter and by chapter 388-02 WAC. If any provision in this chapter conflicts with chapter 388-02 WAC or WAC 388-440-0001(3), the provision in this chapter shall prevail.

(2) A client, former client, or applicant acting on the applicant's own behalf or through an authorized representative has the right to an administrative hearing.

(3) You have the right to an administrative hearing to dispute the following department actions:

(a) Authorization, denial, reduction, or termination of services;

(b) Reduction or termination of a service that was initially approved through an exception to rule;

(c) Authorization, denial, or termination of eligibility;

((~~e~~)) (d) Authorization, denial, reduction, or termination of payment of SSP authorized by DDD set forth in chapter 388-827 WAC;

((~~f~~)) (e) Admission or readmission to, or discharge from, a residential habilitation center;

((~~g~~)) (f) Refusal to abide by your request not to send notices to any other person;

((~~h~~)) (g) Refusal to comply with your request to consult only with you;

((~~i~~)) (h) A decision to move you to a different type of residential service;

((~~j~~)) (i) Denial or termination of the provider of your choice or the denial of payment for any reason listed in WAC 388-825-375 through 388-825-390;

((~~k~~)) (j) An unreasonable delay to act on an application for eligibility or service;

((~~l~~)) (k) A claim the client, former client, or applicant owes an overpayment debt.

WSR 06-11-087

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 06-107—Filed May 17, 2006, 9:56 a.m., effective May 18, 2006, 11:59 p.m.]

Effective Date of Rule: May 18, 2006, 11:59 p.m.

Purpose: Amend personal use fishing rules.

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

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: Catch Record Card Areas 3 and 4 (Neah Bay and La Push) recreational halibut fishery is projected to attain its portion of the Pacific halibut quota. 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: May 17, 2006.

J. P. Koenings
Director

NEW SECTION

WAC 220-56-25500D Halibut—Seasons—Daily and possession limits. (1) Notwithstanding the provisions of WAC 220-56-255, effective immediately until further notice it is unlawful to fish for or possess halibut taken for personal use except from the areas or in excess of the amounts provided for in this section:

(a) Catch Record Card Area 1 - Open until further notice.
By-catch restriction: It is unlawful during any vessel trip to bring into port or land bottomfish except sablefish or Pacific Cod if the vessel has brought halibut into port or landed halibut during that trip.

(b) Catch Record Card Area 2 - Closed.

(c) Catch Record Card Areas 3 and 4 - Closed effective 11:59 p.m. May 18, 2006, except open 12:01 a.m. through 11:59 p.m. June 22, 2006. The following area southwest of Cape Flattery is closed to fishing for halibut at all times:

Beginning at 48°18' N., 125°18' W.; thence to 48°18'N., 124°59'W.; thence to 48°11'N., 124°59'W.; thence to 48°11'N., 125°11'W.; thence to 48°04'N., 125°11'W.; thence to 48°04'N., 124°59'W.; thence to 48°N., 124°59'W.; thence to 48°N., 125°18'W.; thence to point of origin.

(i) Effective May 22, 2006 until further notice, on days when halibut fishing is closed in Catch Record Card Areas 3 and 4 it is unlawful to fish for or possess rockfish and lingcod seaward of a line approximating the 20-fathom depth contour as defined by the following coordinates:

Beginning at the Bonilla-Tatoosh line, at 48° 23.87' N; 124° 44.17' W

Then to 48° 23.60' N; 124° 44.90' W

Then to 48° 19.10' N; 124° 43.40' W

Then to 48° 18.20' N; 124° 46.40' W (intersection with 3-mile line)

Then follow the 3-mile line south to the Queets River (47° 31.70' N)

(d) Catch Record Card Areas 6 through 11 and Catch Record Area 13 - Open through June 18, 2006, except closed to fishing for halibut 12:01 a.m. of each Tuesday through 11:59 p.m. of each Wednesday.

(e) Catch Record Card Area 5 - Open May 25, 2006 until further notice, except closed to fishing for halibut 12:01 a.m. of each Tuesday through 11:59 p.m. of each Wednesday.

(f) Daily limit one halibut. The possession limit is two daily limits of halibut in any form, except the possession limit aboard the fishing vessel is one daily limit.

REPEALER

The following section of the Washington Administrative code is repealed effective 11:59 p.m. May 18, 2006:

WAC 220-56-25500C	Halibut seasons—Daily and possession limits. (06-102)
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WSR 06-11-088
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-108—Filed May 17, 2006, 9:56 a.m., effective May 17, 2006]

Effective Date of Rule: Immediately.

Purpose: Amend personal use fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: This regulation is needed to ensure an orderly fishery, manage within court-ordered sharing requirements, and to ensure conservation. The state recreational share of spot shrimp will be taken by 3:00 p.m. May 17 in Marine Areas 8-1 and 8-2. 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: May 16, 2006.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-56-32500K Shrimp—Areas and seasons. Notwithstanding the provisions of WAC 220-56-325:

1) Effective 3:00 p.m. May 17, 2006, until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Areas 8-1 and 8-2.

2) Effective immediately, until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Areas 9, 10, 11 and the Port Townsend, Port Angeles and Discovery Bay Shrimp Districts.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-32500J Shrimp—Areas and season
(06-97)

WSR 06-11-104
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-106—Filed May 17, 2006, 4:39 p.m., effective May 19, 2006, 12:01 a.m.]

Effective Date of Rule: May 19, 2006, 12:01 a.m.

Purpose: Amend personal use fishing 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 77.12.047.

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

Reasons for this Finding: This emergency rule is necessary to assure a safe and successful event. Closing the lake will ensure safety for the public as well as the event participants. 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: May 17, 2006.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 232-28-61900C Exceptions to statewide rules—Kress Lake (Cowlitz Co.) Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. May 19 through 6:00 p.m. May 20, 2006, it is unlawful to fish in those

waters of Kress Lake, except open to fishing 9:00 a.m. to 3:00 p.m. May 20, 2006 to juvenile anglers participating in the Safety Day Event.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 p.m. May 20, 2006:

WAC 232-28-61900C Exceptions to statewide
rules—Kress Lake

WSR 06-11-115
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-111—Filed May 18, 2006, 4:37 p.m., effective May 18, 2006]

Effective Date of Rule: Immediately.

Purpose: Amend personal use fishing rules.

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

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 spot shrimp in Marine Area 12 (Hood Canal) has been taken. 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: May 18, 2006.

J. P. Koenings
Director

NEW SECTION

WAC 220-56-32500L Shrimp—Areas and seasons. Notwithstanding the provisions of WAC 220-56-325:

1) Effective immediately until notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters

of Marine Areas 8-1, 8-2, 9, 10, 11 and the Port Townsend, Port Angeles and Discovery Bay Shrimp Districts.

2) Effective immediately through May 31, 2006, it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Area 12, Hood Canal Shrimp District.

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 220-56-32500K Shrimp—Areas and season
(06-108)

WSR 06-11-116
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-109—Filed May 18, 2006, 4:38 p.m., effective May 18, 2006]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000G and 220-33-01000H; 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 an additional commercial fishing period. Impacts allocated to the commercial fisheries remain available. The upriver run size was updated to 100,000 fish, allowing for the additional harvest of hatchery chinook and the opportunity to harvest sturgeon allocated to the commercial fishery. Season is consistent with the 2006 commercial salmon fishing plan. The select area fisheries (SAFE) are part of an on-going BPA funded study to design fisheries in areas outside of the mainstem Columbia River. Several stocks of salmon have been released from net pens in these select areas to provide for fisheries. All salmon returning to these net pens are harvestable. Impacts to ESA-listed stocks in these fisheries are covered under the biological opinion for the 2005-2007 interim management agreement. This rule is consistent with actions of the Columbia River compact hearings of January 26 and May 18, 2006, and conforms Washington and Oregon state 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: May 18, 2006.

J. P. Koenings
Director

NEW SECTION

WAC 220-33-01000H Columbia River seasons below Bonneville. Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, it is unlawful for a person to take or possess salmon, sturgeon, and shad, taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E except during the times and conditions listed:

1. Area: SMCRA 1A, 1B, 1C, and 1D upstream to Kelley Point.

Season: 7:00 p.m. May 18 through 7:00 a.m. May 19, 2006.

a) Gear: Drift gill nets only. 8-inch minimum and 9 3/4 inch maximum mesh. Mono-filament is allowed. Gill nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required. Net length not to exceed 150 fathoms.

b) Allowable Sale: Adipose fin-clipped salmon, sturgeon, and shad. An adipose fin-clipped salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. A maximum of twelve (12) sturgeon total (white or green) may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. The sturgeon possession/sales limit includes both mainstem and Select Area fisheries. The maximum green sturgeon size limit is 60 inches.

c) Sanctuaries: Grays River, Elokom-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B.

d) Miscellaneous Regulations:

i. Quick reporting is in effect for Washington wholesale dealers, WAC 220-69-240.

ii. At least one fisher on each boat must have Columbia River tangle net certification.

iii. Soak times, defined as the time elapsed from when the first of the gill net web is deployed into the water until the gill net web is fully retrieved from the water, must not exceed 45 minutes.

iv. Red corks are required at 25 fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.

v. Each boat will be required to have two operable recovery boxes or one box with two chambers, on board. Each box and chamber shall be operating during any time that the net is being retrieved or picked. The flow in the recovery box will be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute. Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39 1/2 inches to 48 inches, the inside width measurements must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is a least 1 1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to WDFW and ODFW employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

vi. All non-legal sturgeon, non-adipose fin-clipped salmon, and steelhead must be released immediately to the river with care and the least possible injury to the fish or placed into an operating recovery box. Any salmonid that is bleeding or lethargic must be placed in the recovery box prior to being released. All fish placed in recovery boxes must be released to the river prior to landing or docking.

vii. As a condition of fishing, owners or operators of commercial fishing vessels must cooperate with Department observers or observers collecting data for the Department, when notified by the observer of their intent to board the commercial vessel for observation and sampling during an open fishery.

viii. Columbia River tangle net certification: Any individual meeting the qualifications of RCW 77.65.040(2) and obtained a tangle net certificate by attending and completing a WDFW/ODFW sponsored workshop concerning live captive commercial fishing techniques.

ix. Nothing in this section sets any precedent for any fishery after the 2006 spring Chinook fishery. The fact that an individual received a Columbia River tangle net certificate does not entitle the certificate holder to participate in any other fishery. If WDFW authorizes a tangle net fishery in any other time, WDFW may establish qualifications and requirements that are different from those established for 2006. In particular, WDFW may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future tangle net fisheries.

2. Blind Slough/Knappa Slough Select Area

a) Area: Open waters of Blind Slough extend from markers at the mouth of Gnat Creek located approximately 1/2 mile upstream of the county road bridge, downstream to markers at the mouth of Blind Slough. Concurrent Washington/Oregon waters extend downstream of the railroad bridge

Knappa Slough is open to fishing in all waters bounded by a line from the northerly most marker at the mouth of

Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

b) Dates:

Spring Season: 7:00 p.m. Mondays to 7:00 a.m. Tuesdays and 7:00 p.m. Thursdays to 7:00 a.m. Fridays immediately until June 16, 2006.

Through June 16, the lower boundary of the Knappa Slough fishing area is extended downstream to boundary lines defined by markers on the west end of Minaker Island to markers on the Karlson Island and the Oregon Shore (fall-season boundary).

c) Gear: 8-inch maximum mesh. Monofilament nets are allowed. Nets restricted to 100 fathoms in length with no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed.

d) Allowable Sales: Salmon, sturgeon, shad. A maximum of three sturgeon (green or white in aggregate) may be possessed or sold by each participating vessel during each open period. The maximum green sturgeon size limit is 60 inches.

3. Deep River Select Area

a) Area: From the markers at USCG navigation marker #16 upstream to the Highway 4 Bridge.

b) Dates: 7:00 p.m. Mondays to 7:00 a.m. Tuesdays and 7:00 p.m. Thursdays to 7:00 a.m. Fridays immediately through June 16, 2006

c) Gear: 8 inch maximum. Monofilament nets are allowed. Nets restricted to a maximum length of 100 fathoms and no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed. Nets cannot be tied off of any stationary structures. Nets may not fully cross the navigation channel.

d) Allowable sale: salmon, sturgeon and shad. A maximum of three sturgeon (green or white in aggregate) may be possessed or sold by each participating vessel during each open period. The maximum green sturgeon size limit is 60 inches

e) Miscellaneous: Transportation or possession of fish outside the fishing area is unlawful, except fishers may transport their catch out of the fishing area with a permit issued by an authorized agency employee after examining the catch.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-01000G Columbia River seasons below Bonneville. (06-65)

The following section of the Washington Administrative Code is repealed effective June 17, 2006:

WAC 220-33-01000H Columbia River seasons below Bonneville.

WSR 06-11-124
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-110—Filed May 19, 2006, 4:21 p.m., effective May 26, 2006]

Effective Date of Rule: May 26, 2006.

Purpose: Amend personal use fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: In-season run analyses predict that 3,000 salmon are currently enroute to the Icicle River. Although upper Columbia spring chinook have been listed as endangered under the Endangered Species Act, the salmon returning to the Icicle River are Carson River stock fish that are not listed as endangered. About 1,000 salmon are needed to meet hatchery broodstock needs. The quantity of salmon returning in 2006 ensures that the hatchery will meet their escapement needs; the remaining fish will be available for harvest. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: May 18, 2006.

J. P. Koenings
 Director
 by Larry Peck

NEW SECTION

WAC 232-28-61900D Exceptions to statewide rules—Icicle River (Chelan Co.) Notwithstanding the provisions of WAC 232-28-619, effective May 26 through July 31, 2006, it is lawful to fish for salmon in those waters of the Icicle River from 500 feet downstream of the Leavenworth National Fish Hatchery Rack downstream to a point 400 feet upstream of the mouth of the Icicle River. Daily limit two

salmon minimum size is 12 inches. Night closure and non-buoyant lure restrictions in effect.

REPEALER

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

WAC 232-28-61900D	Exceptions to statewide rules—Icicle River (Chelan Co.)
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WSR 06-11-125
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-112—Filed May 19, 2006, 4:22 p.m., effective May 20, 2006]

Effective Date of Rule: May 20, 2006.

Purpose: Amend personal use fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: There are sufficient numbers of hatchery origin fish, within allowable limits for potential impacts on wild fish, to open a limited Snake River fishery. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: May 19, 2006.

J. P. Koenings
 Director

NEW SECTION

WAC 232-28-61900E Exceptions to statewide rules—Snake River. Notwithstanding the provisions of WAC 232-28-619:

(1) Effective May 20 through June 30, 2006, in those waters of the Snake River from Texas Rapids boat launch upstream to the Corps of Engineers boat launch approximately one mile upstream of Little Goose Dam on the south bank of the River it is lawful to fish for and possess salmon. Daily limit of one hatchery chinook salmon, minimum size 12 inches in length.

(a) Hooks must be barbless when fishing for all species, except single barbless hooks only when fishing for sturgeon.

(b) It is unlawful to use any hook larger than 5/8 inch (point of hook to shank) when fishing for all species, except sturgeon.

(c) Night closure is in effect.

REPEALER

The following section of the Washington Administrative Code is repealed effective May 20, 2006:

WAC 232-28-61900B Exceptions to statewide rules. (06-105)

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

WAC 232-28-61900E Exceptions to statewide rules—Snake River.

**WSR 06-11-136
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 06-113—Filed May 23, 2006, 12:47 p.m., effective May 23, 2006]

Effective Date of Rule: Immediately.

Purpose: Amend hunting rules.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-295 and 232-28-354.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: These three hunts are used for population control and minimizing elk damage claims. The Taneum A hunt was presented as a 150 permit hunt, but a typographical mistake in the rule filing was also inserted in the big game hunting pamphlet. The 4-0 Cattle Company hunts are being offered in conjunction with the landowner. 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 2, Amended 0, Repealed 0.

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

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

Date Adopted: May 23, 2006.

J. P. Koenings
Director

NEW SECTION

WAC 232-28-29500A Landowner hunting permits. Notwithstanding the provisions of WAC 232-28-295 the following 2006 4-0 Cattle Company Special Hunting Permits are established. Hunters making application for these permits must apply to the department:

Hunt Name	Number of Permits	Season	Special Restrictions	Boundary Description
4-0 Antlerless Elk C	33	Aug. 25-31	Antlerless only	4-0 Grouse Flats
4-0 Antlerless Elk D	8	Aug. 25-31	Antlerless only	4-0 Mountain View

NEW SECTION

WAC 232-28-35400A 2006 Elk special permits. Notwithstanding the provisions of WAC 232-28-354, the number of permits to be issued for the Taneum A elk special permit hunt is 150.

**WSR 06-11-141
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 06-116—Filed May 23, 2006, 3:49 p.m., effective May 23, 2006]

Effective Date of Rule: Immediately.

Purpose: Amend personal use fishing rules.

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

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 spot shrimp in the northern portion of Marine Area 7 have been taken. 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: May 23, 2006.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-56-32500M Shrimp—Areas and seasons. Notwithstanding the provisions of WAC 220-56-325:

1) Effective 9:00 p.m. May 27, 2006, until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Area 7, except as provided for in this section.

(a) Marine Area 7 south of a line from the Initiative 77 marker on Fidalgo Island to Cape Saint Mary on Lopez Island, then south of a line from Davis Point on Lopez Island to Cattle Point on San Juan Island, then south of a line due west from Lime Kiln Point light to the international boundary is open daily to the harvest of all shrimp species.

2) Effective immediately until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Areas 8-1, 8-2, 9, 10, 11 and the Port Townsend, Port Angeles and Discovery Bay Shrimp Districts.

3) Effective immediately through May 31, 2006, it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Area 12, Hood Canal Shrimp District.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-32500L Shrimp—Areas and season
(06-111)

**WSR 06-11-142
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 06-115—Filed May 23, 2006, 3:50 p.m., effective May 23, 2006]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-03000Z and 220-33-03000A; and amending WAC 220-33-030.

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: Closes the Area 2S shad fishery while the commercial fishing period for salmon [stays] in place. Harvestable numbers of shad are expected in 2006. Incidental impacts to nontarget species are small. This rule is consistent with actions of the Columbia River compact hearing of January 26 and May 22, 2006, and is consistent with requirements of the ESA. There is insufficient time to promulgate permanent regulations.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 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: May 23, 2006.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

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

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

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

Immediately - May 26, 2006, EXCEPT closed May 23 and May 25.

May 30 - June 2, 2006

June 5 - June 9, 2006

June 12 - June 16, 2006

June 19 - June 23, 2006

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

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

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-03000Z Commercial shad—Columbia River. (06-78)

The following section of the Washington Administrative Code is repealed effective 10:01 p.m. June 23, 2006:

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

WSR 06-11-143
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 06-114—Filed May 23, 2006, 3:52 p.m., effective May 23, 2006]

Effective Date of Rule: May 23, 2006.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000H and 220-33-01000I; 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 two additional commercial fishing periods. Impacts allocated to the commercial fisheries remain available for both Willamette stock and upriver stock. The upriver run size was updated to 125,000 fish, allowing for the additional harvest of hatchery chinook and the opportunity to harvest sturgeon allocated to the commercial fishery. Season is consistent with the 2006 commercial salmon fishing plan. The select area fisheries (SAFE) are part of an on-going BPA funded study to design fisheries in areas outside of the mainstem Columbia River. Several stocks of salmon have been released from net pens in these select areas to provide for fisheries. All salmon returning to these net pens are harvestable. Impacts to ESA-listed stocks in these fisheries are covered under the biological opinion for the 2005-2007 interim management agreement. This rule is consistent with actions of the Columbia River compact hearings of January 26 and May 22, 2006, and conforms Washington and Oregon state 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: May 23, 2006.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-33-01000I Columbia River seasons below Bonneville. Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, it is unlawful for a person to take or possess salmon, sturgeon, and shad, taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E except during the times and conditions listed:

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

Season: 7:00 p.m. May 23 through 7:00 a.m. May 24, 2006.

Season: 7:00 p.m. May 25 through 7:00 a.m. May 26, 2006.

a) Gear: Drift gill nets only. 8-inch minimum and 9 3/4 inch maximum mesh. Mono-filament is allowed. Gill nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required. Net length not to exceed 150 fathoms.

b) Allowable Sale: Adipose fin-clipped salmon, sturgeon, and shad. An adipose fin-clipped salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. A maximum of fifteen (15) sturgeon total (white or green) may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. The sturgeon possession/sales limit includes both mainstem and Select Area fisheries. The maximum green sturgeon size limit is 60 inches.

c) Sanctuaries: Grays River, Elokom-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B and Sandy River.

d) Miscellaneous Regulations:

i. Quick reporting is in effect for Washington wholesale dealers, WAC 220-69-240.

ii. At least one fisher on each boat must have Columbia River tangle net certification.

iii. Soak times, defined as the time elapsed from when the first of the gill net web is deployed into the water until the gill net web is fully retrieved from the water, must not exceed 45 minutes.

iv. Red corks are required at 25 fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.

v. Each boat will be required to have two operable recovery boxes or one box with two chambers, on board. Each box and chamber shall be operating during any time that the net is being retrieved or picked. The flow in the recovery box will be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute. Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39 1/2 inches to 48 inches, the inside width measurements must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches. Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is a least 1 1/2 inches in diameter.

The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to WDFW and ODFW employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

vi. All non-legal sturgeon, non-adipose fin-clipped salmon, and steelhead must be released immediately to the river with care and the least possible injury to the fish or placed into an operating recovery box. Any salmonid that is bleeding or lethargic must be placed in the recovery box prior to being released. All fish placed in recovery boxes must be released to the river prior to landing or docking.

vii. As a condition of fishing, owners or operators of commercial fishing vessels must cooperate with Department observers or observers collecting data for the Department, when notified by the observer of their intent to board the commercial vessel for observation and sampling during an open fishery.

viii. Columbia River tangle net certification: Any individual meeting the qualifications of RCW 77.65.040(2) and obtained a tangle net certificate by attending and completing a WDFW/ODFW sponsored workshop concerning live captive commercial fishing techniques.

ix. Nothing in this section sets any precedent for any fishery after the 2006 spring Chinook fishery. The fact that an individual received a Columbia River tangle net certificate does not entitle the certificate holder to participate in any other fishery. If WDFW authorizes a tangle net fishery in any other time, WDFW may establish qualifications and requirements that are different from those established for 2006. In particular, WDFW may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future tangle net fisheries.

2. Blind Slough/Knappa Slough Select Area

a) Area: Open waters of Blind Slough extend from markers at the mouth of Gnat Creek located approximately 1/2 mile upstream of the county road bridge, downstream to

markers at the mouth of Blind Slough. Concurrent Washington/Oregon waters extend downstream of the railroad bridge

Knappa Slough is open to fishing in all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

b) Dates:

Spring Season: 7:00 p.m. Mondays to 7:00 a.m. Tuesdays and 7:00 p.m. Thursdays to 7:00 a.m. Fridays immediately until June 16, 2006.

Through June 16, the lower boundary of the Knappa Slough fishing area is extended downstream to boundary lines defined by markers on the west end of Minaker Island to markers on the Karlson Island and the Oregon Shore (fall-season boundary).

c) Gear: 8-inch maximum mesh. Monofilament nets are allowed. Nets restricted to 100 fathoms in length with no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed.

d) Allowable Sales: Salmon, sturgeon, shad. **Only Adipose fin clipped salmon may be retained between May 23-May 27.** A maximum of three sturgeon (green or white in aggregate) may be possessed or sold by each participating vessel during each open period. The maximum green sturgeon size limit is 60 inches.

3. Deep River Select Area

a) Area: From the markers at USCG navigation marker #16 upstream to the Highway 4 Bridge.

b) Dates: 7:00 p.m. Mondays to 7:00 a.m. Tuesdays and 7:00 p.m. Thursdays to 7:00 a.m. Fridays immediately through June 16, 2006

c) Gear: 8 inch maximum. Monofilament nets are allowed. Nets restricted to a maximum length of 100 fathoms and no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed. Nets cannot be tied off of any stationary structures. Nets may not fully cross the navigation channel.

d) Allowable sale: salmon, sturgeon and shad. **Only Adipose fin clipped salmon may be retained between May 23-May 27.** A maximum of three sturgeon (green or white in aggregate) may be possessed or sold by each participating vessel during each open period. The maximum green sturgeon size limit is 60 inches

e) Miscellaneous: Transportation or possession of fish outside the fishing area is unlawful, except fishers may transport their catch out of the fishing area with a permit issued by an authorized agency employee after examining the catch.

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.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-01000H Columbia River seasons below Bonneville. (06-109)

The following section of the Washington Administrative Code is repealed effective June 17, 2006:

WAC 220-33-01000I Columbia River seasons below Bonneville.

WSR 06-11-144
EMERGENCY RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed May 23, 2006, 3:55 p.m., effective June 1, 2006]

Effective Date of Rule: June 1, 2006.

Purpose: Temperature extremes (heat stress), WAC 296-62-09013. On July 18, 2005, a farm worker collapsed while cutting weeds with a machete in hop fields near Yakima. He died, and the coroner ruled that the cause of death was heat stroke. L&I investigated the death and later cited and fined the company for an inadequate safety program, not providing drinking water, and lack of training for workers. The safety program should have included a plan to prevent heat stress by providing rest breaks, shade, worker hydration and administrative controls such as a work-rest regimen.

The citation was issued December 23, 2005, and the subsequent appeal was affirmed with a negotiated penalty of \$3,000. L&I did not seek criminal sanctions since the violations cited were not considered willful (A prerequisite for a referral to a county prosecuting attorney).

Immediately following this workplace death, we heard from farm worker advocates that they were very concerned about this fatality and that they wanted an emergency rule issued similar to California's emergency heat-stress rule. L&I responded by issuing a hazard alert to the agriculture industry, and then proceeded with a study to determine what was needed to protect workers for the 2006 summer season.

L&I reviewed the workers' compensation injury and illness claims for the past ten years and found that one other person had died from heat stress in Washington (also in the Yakima area in a lawn-service business). We also found approximately four hundred fifty workers's compensation claims for heat-related illness during that same time. These fatalities may have been prevented with rules that are more protective of workers.

During the past eight months, L&I considered the available options:

- Do nothing.
- Change an existing rule on indoor work in hot temperatures to include outdoor work in hot temperatures.
- Propose a new standard on heat stress.

During that time, we held extensive meetings with business and labor representatives and worker advocates, and began developing an awareness and education campaign that would occur this summer regardless of the final decision.

In the end, we concluded that the best approach was to adopt an emergency rule that extends an existing rule on indoor work in hot temperatures to include outdoor work. The emergency rule will be effective as of June 1.

The emergency rule says that every employer must evaluate their workplace and have procedures in place if their employees will be at risk from heat-related illnesses. They will be required to look at things such as adequate water and shade, how to recognize heat stress, and what to do about it.

L&I will be launching a coordinated hazard-awareness campaign with business and labor organizations. We will be concentrating on businesses most affected by hot weather, such as construction - especially road work - and agriculture.

As part of regularly scheduled inspections and consultations in affected industries, L&I staff also will be visiting farms and other employers all summer to make sure they are protecting their workers from heat stress.

We acknowledge that some worker advocate groups feel very strongly about the heat-stress issue and don't believe this emergency rule is specific enough. On the other hand, some employers wanted no rule at all.

We believe it was important to have a program in place this summer, along with an educational and awareness effort. The emergency rule is effective for one hundred twenty days. As the year goes by, we will evaluate the impact of the rule and gather information to determine what to do on a permanent basis.

Citation of Existing Rules Affected by this Order: Amending WAC 296-62-09013 Temperature extremes.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

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: A review of the accepted heat-related illness claims indicated that three hundred fifty outdoor heat-related illness incidents occurred from 1995 - 2004. This rule clarifies that the requirement to protect workers from temperature extremes applies to outdoor environments. This rule is intended to reduce or eliminate the number of serious incidents and fatalities by increasing worker protection from temperature extremes while the department is evaluating the need for a permanent rule. An emergency rule is necessary to ensure protection of workers during the summer months when there is a greater risk for heat-related illness. The department intends to provide awareness training for employers over the summer.

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: May 23, 2006.

Gary Weeks
Director

AMENDATORY SECTION (Amending Order 73-3, filed 5/7/73)

WAC 296-62-09013 Temperature, radiant heat, or temperature-humidity combinations. ~~((1) Workers)~~ Workers subjected to temperature extremes, radiant heat, humidity, or air velocity combinations which, over a period of time, are likely to produce physiological responses which are harmful shall be afforded protection by use of adequate controls, methods or procedures, or protective clothing. ~~((This shall not be construed to apply to normal occupations under atmospheric conditions which may be expected in the area except that special provisions which are required by other regulations for certain areas or occupations shall prevail.))~~

WSR 06-11-151

EMERGENCY RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed May 23, 2006, 4:26 p.m., effective May 23, 2006]

Effective Date of Rule: Immediately.

Purpose: WAC 388-106-1315 clarifies a long-term care client's right to an administrative hearing:

- If their in-home personal care hours approved as an exception to rule are reduced or terminated; or
- If their increased residential payment rate approved as an exception to rule is reduced or terminated.

Statutory Authority for Adoption: RCW 74.08.090, chapters 74.39, 74.39A RCW.

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

Reasons for this Finding: The due process clause of the fourteenth amendment to the United States Constitution and federal statutory and regulatory requirements (42 U.S.C. 1396(a)(3) and 42 C.F.R. 431.200, et seq.) necessitate that opportunity for a fair hearing be afforded in the situations identified in the proposed rule. The department is currently out of compliance with these requirements of federal law.

The proposed rule is necessary to bring the department into compliance with federal law. Because the department is out of compliance with requirements of federal law and the rule will bring the department into compliance, immediate adoption is necessary.

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

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

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

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

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

Date Adopted: May 15, 2006.

Andy Fernando, Manager
Rules and Policies Assistance Unit

NEW SECTION

WAC 388-106-1315 Do I have a right to an administrative hearing if my in-home personal care hours approved as an exception to rule are reduced or terminated or if my increased residential payment rate approved as an exception to rule is reduced or terminated? Notwithstanding WAC 388-440-0001(3), you have a right to an administrative hearing regarding the department's exception to rule decision if:

(1) You receive services in your own home, and:

(a) The total number of in-home personal care hours you are currently receiving includes in-home personal care hours approved as an exception to rule in addition to the number of in-home care hours determined to be available to you by CARE; and

(b) The total number of in-home personal care hours you are currently receiving is reduced because of a reduction or termination in the number of in-home personal care hours approved as an exception to rule.

(2) You receive services in a residential facility, and:

(a) The total residential payment rate you are currently receiving includes a rate approved as an exception to rule in addition to the residential payment rate assigned to the classification group in which CARE has placed you; and

(b) The total residential payment rate you are currently receiving is reduced because of a reduction or termination in the rate approved as an exception to rule.

WSR 06-11-157
EMERGENCY RULES
HEALTH CARE AUTHORITY
 (Basic Health)

[Order 06-06—Filed May 24, 2006, 7:28 a.m., effective June 7, 2006]

Effective Date of Rule: June 7, 2006.

Purpose: The 2006 legislature passed chapter 343, Laws of 2006, granting basic health enrollment priority status for members of the Washington National Guard and Reserve who served in Operation Enduring Freedom, Operation Iraqi Freedom, and Operation Noble Eagle, and their spouses and dependents. Basic health rules must be revised to be consistent with that requirement.

Citation of Existing Rules Affected by this Order: Amending WAC 182-25-030.

Statutory Authority for Adoption: RCW 70.47.050.

Other Authority: Chapter 343, Laws of 2006.

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: Chapter 343, Laws of 2006 takes effect June 7, 2006, and the current rules must be revised to be consistent with the requirements of that law. The health care authority plans to file draft rules June 21, 2006, but the time requirements of notice and opportunity to comment make it impossible to adopt a permanent rule to be effective June 7, 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 1, Repealed 0.

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

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

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

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

Date Adopted: May 24, 2006.

Cyndi Presnell
 Assistant Rules Coordinator

AMENDATORY SECTION (Amending Order 04-03, filed 11/5/04, effective 1/1/05)

WAC 182-25-030 Eligibility. (1) To be eligible for enrollment in BHP, unless otherwise specified elsewhere in this chapter, an individual must be a Washington state resident who is not:

(a) Eligible for free Medicare coverage or eligible to buy Medicare coverage; or

(b) Institutionalized at the time of enrollment.

(2) Persons not meeting these criteria, as evidenced by information submitted on the application for enrollment or

otherwise obtained by BHP, will not be enrolled. An enrollee who is no longer a Washington resident, who becomes eligible for free or purchased Medicare, or who is later determined to have failed to meet BHP's eligibility criteria at the time of enrollment, will be disenrolled from the plan as provided in WAC 182-25-090. An enrollee who was not confined to an institution at the time of enrollment, who is subsequently confined to an institution, will not be disenrolled, provided he or she remains otherwise eligible and continues to make all premium payments when due.

(3) Eligibility for BHP Plus and maternity benefits through medical assistance is determined by DSHS, based on Medicaid eligibility criteria.

(4) For subsidized enrollment in BHP, an individual must meet the eligibility criteria in subsection (1) of this section and the definition of "subsidized enrollee" in WAC 182-25-010(38), and must pay, or have paid on his or her behalf, the monthly BHP premium.

(5) To be eligible for nonsubsidized enrollment in BHP, an individual may have any income level, must meet the eligibility criteria in subsection (1) of this section, and must pay, or have paid on their behalf, the full costs for participation in BHP, including the cost of administration, without subsidy from the HCA.

(6)(a) An individual otherwise eligible for enrollment in BHP as a subsidized enrollee may be denied enrollment if the administrator has determined that acceptance of additional enrollment would exceed limits established by the legislature, would jeopardize the orderly development of BHP, or would result in an overexpenditure of BHP funds. An individual otherwise eligible for enrollment in either the subsidized or nonsubsidized program may also be denied enrollment if no MHCS is accepting new enrollment in that program or from the geographic area where the applicant lives.

(b) If the administrator closes or limits subsidized enrollment, to the extent funding is available, BHP will continue to accept and process applications for subsidized enrollment from:

(i) Children eligible for subsidized BHP, who were referred to DSHS for BHP Plus coverage, but were found ineligible for BHP Plus for reasons other than noncompliance;

(ii) Employees of a home care agency group enrolled or applying for coverage under WAC 182-25-060;

(iii) Eligible individual home care providers;

(iv) Licensed foster care workers;

(v) Limited enrollment of new employer groups; ~~(and)~~

(vi) Members of the Washington National Guard and Reserves who served in Operation Enduring Freedom, Operation Iraqi Freedom, or Operation Noble Eagle, and their spouses and dependents; and

(vii) Subject to availability of funding, additional space for enrollment may be reserved for other applicants as determined by the administrator, in order to ensure continuous coverage and service for current individual and group accounts. (For example: Within established guidelines, processing routine income changes that may affect subsidy eligibility for current enrollees; adding new family members to an existing account; transferring enrollees between group and individual accounts; restoring coverage for enrollees who are

otherwise eligible for continued enrollment under WAC 182-25-090 after a limited suspension of coverage due to late payment or other health care coverage; adding newly hired employees to an existing employer group; or adding new or returning members of federally recognized native American tribes to that tribe's currently approved financial sponsor group.)

(c) If the administrator has closed or limited subsidized enrollment, applicants for subsidized BHP who are not in any of the categories in (b) of this subsection may reserve space on a waiting list to be processed according to the date the waiting list request or application is received by BHP. When enrollment is reopened by the administrator, applicants whose names appear on the waiting list will be notified by BHP of the opportunity to enroll. BHP may require new application forms and documentation from applicants on the waiting list, or may contact applicants to verify continued interest in applying, prior to determining their eligibility.