

**WSR 07-19-001
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 07-210—Filed September 5, 2007, 4:33 p.m., effective September 6, 2007, 5:00 a.m.]

Effective Date of Rule: September 6, 2007, 5:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-47-50100E.

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 provides for Pacific Salmon Commission authorized pink-targeted fisheries in Areas 7 and 7A. These emergency rules are necessary to initiate fisheries, which are not expected to exceed chinook by-catch levels modeled during the preseason process. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 5, 2007.

Phil Anderson
for Jeff Koenings
Director

NEW SECTION

WAC 220-47-50100E Puget Sound all-citizen commercial salmon fishery. Notwithstanding the provisions of Chapter 220-47 WAC, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the open periods, mesh size, areas, species restrictions, notification, and landing requirements set forth in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas 7 and 7A:

(1) **Purse Seines** - Open to purse seine gear according to the times, dates, and conditions as prescribed and listed here:

Hours	Dates
5 AM to 9 PM daily for vessels fishing using an operating recovery box throughout the entire open period.	September 6, September 7
9 AM to 9 PM daily for vessels NOT using an operating recovery box throughout the entire open period.	September 6, September 7

(a) It is unlawful to retain chinook, sockeye, coho, and chum salmon.

(b) It is unlawful to bring salmon aboard a vessel unless all salmon captured in the seine net are removed from the seine net using a brailer or dip net, meeting the specifications in WAC 220-47-325, prior to the seine net being removed from the water, except all salmon must be immediately sorted and those required to be released, must be placed in an operating recovery box or released into the water before the next haul may be brought on the deck. However, small numbers of fish may be brought on board the vessel by pulling the net in without mechanical or hydraulic assistance.

(c) It is unlawful to fish for salmon with purse seine gear in Areas 7 and 7A unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and is in possession of a department issued certification card.

(2) **Gill Nets** - Open to gill net gear with 5 inch minimum and 5 1/2 inch maximum mesh size according to the times, dates, and conditions as prescribed and listed here:

Hours	Dates
9:01 PM to 12 AM (midnight)	September 5.
8 AM to 12 AM (midnight).	September 6, September 7

(a) It is unlawful to retain sockeye salmon, and those salmon required to be released must be done so immediately.

(b) It is unlawful to fish for salmon with gill net gear in Areas 7 and 7A unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and is in possession of a department issued certification card.

(3) **Reef Nets** - Open to reef net gear according to the times, dates, and conditions as prescribed and listed here:

Hours	Dates
5 AM to 9 PM.	September 6, September 7

It is unlawful to retain chinook and sockeye salmon at all times, and it is unlawful to retain chum and wild coho salmon prior to October 1. It is unlawful to fish for salmon with reef net gear in Areas 7 and 7A unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and is in possession of a department issued certification card.

(4) Fishers in the Point Roberts Area shall observe a closed zone inside a line from 1/4 mile due west of the Iverson Dock Origin to 1/4 mile radius around the southwest corner of Point Roberts (the Spit) to the Can Buoy at the reef southeast of the southeastern corner of Point Roberts. Waters north and west of the Area 7A "Iwerson Dock Line" (a line projected from Iwerson Dock on Point Roberts to the Georgina Point light at the entrance to Active Pass in the Province

of British Columbia) will also be closed to commercial harvest of salmon previously described in the above sections.

"Quick Reporting Fisheries":

All fisheries opened under this section, and any fishery openings under authority of the Fraser Panel for sockeye or pink salmon in Puget Sound Salmon Management and Catch Reporting Areas (WAC 220-22-030) are designated as "Quick Reporting Required" per WAC 220-47-001.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. September 8, 2007:

WAC 220-47-50100E Puget Sound all-citizen commercial salmon fishery.

**WSR 07-19-004
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 07-205—Filed September 6, 2007, 12:53 p.m., effective October 1, 2007, 8:00 a.m.]

Effective Date of Rule: October 1, 2007, 8:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04000K; and amending WAC 220-52-040 and 220-52-046.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: The state may not authorize commercial shellfish harvests absent agreed planning or compliance with a process. The provisions of this rule are in conformity with agreed plans with applicable tribes, which have been entered as required by court order. 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 1.

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

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

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

Date Adopted: September 6, 2007.

J. P. Koenings
Director

NEW SECTION

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

(1) Dungeness crab pots may be deployed between 8:00 a.m. October 1, 2007 and 7:59 a.m. October 3, 2007 in Puget Sound waters from a vessel not designated on a person's Puget Sound crab license, provided that the primary or alternate operator designated on the license is on board the non-designated vessel ("barge" vessel), and provided prior notice has been given as indicated below.

(2) The license holder must leave a telephone message at the LaConner district office, (360) 466-4345, extension 245, with the following information:

- a) Name and license number of license owner.
- b) Name of designated primary operator if different from license owner.
- c) Name of alternate operator if used to deploy pots from a non-designated vessel.
- d) Buoy brand number and number of pots to be deployed from a non-designated vessel.
- e) Name and identification numbers (WN and/or Coast Guard) of the non-designated vessel.

NEW SECTION

WAC 220-52-04600K Puget Sound crab fishery— Seasons and areas. Notwithstanding the provisions of WAC 220-52-046, effective 8:00 a.m. October 1, 2007 until further notice:

(1) It will be lawful to fish for Dungeness crab for commercial purposes in the following areas:

(a) Port Gardner: That portion of Marine Fish/Shellfish Catch Area 26A east of a line projected from the outermost tip of the ferry dock at Mukilteo projected to the green #3 buoy at the mouth of the Snohomish River, and west of a line projected from that #3 buoy southward to the oil boom pier on the shoreline.

(b) Possession Point to Glendale: That portion of Marine Fish/Shellfish Catch Area 26A east of a line that extends true north from the green #1 buoy at Possession Point to Possession Point, and west of a line from the green #1 buoy at Possession Point extending northward along the 200-foot depth contour to the Glendale dock.

(c) Langley: That portion of Marine Fish/Shellfish Catch Area 24C inshore of the 400-foot depth contour within an area described by two lines projected northeasterly from Sandy Point and the entrance to the marina at Langley.

(2) The following area is closed to commercial crab fishing:

(a) That portion of Marine Fish/Shellfish Catch Area 25A west of the 123° 6.5' longitude line projected from the

new Dungeness light due south to the shore of Dungeness Bay.

(b) That portion of Marine Fish/Shellfish Catch Area 23D west of a line from the eastern tip of Ediz Hook to the ITT Rayonier Dock.

REPEALER

The following section of the Washington Administrative Code is repealed effective 8:00 a.m. October 3, 2007:

WAC 220-52-04000K Commercial crab fishery—
Lawful and unlawful gear,
methods, and other unlawful
acts.

WSR 07-19-006
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-209—Filed September 6, 2007, 1:51 p.m., effective September 6, 2007, 1:51 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-56-25500Z; 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 rule conforms to federal action taken by Pacific Fisheries Management Council. There is sufficient recreational halibut quota to provide for additional fishing in Marine Area 1. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: September 6, 2007.

J. P. Koenings
Director

NEW SECTION

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

(a) Catch Record Card Area 1 - Open 12:01 a.m. through 11:59 p.m. September 15, 2007. 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.

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

48° 23.9' N.; 124° 44.2' W.

48° 23.6' N.; 124° 44.9' W.

48° 18.6' N.; 124° 43.6' W.

48° 18.6' N.; 124° 48.2' W.

48° 10.0' N.; 124° 48.8' W.

48° 02.4' N.; 124° 49.3' W.

47° 37.6' N.; 124° 34.3' W.

47° 31.7' N.; 124° 32.4' W.

(d) Catch Record Card Areas 5 through 11 and 13 - Closed.

(e) 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 220-56-25500Z Halibut—Seasons—Daily
and possession limits. (07-
191)

WSR 07-19-007
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-211—Filed September 6, 2007, 4:40 p.m., effective September 8, 2007, 6:00 p.m.]

Effective Date of Rule: September 8, 2007, 6:00 p.m.

Purpose: Amend commercial fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

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

Reasons for this Finding: The regional 2007 state/tribal shrimp harvest management plans for Puget Sound require adoption of harvest seasons and the prohibition on night time fishing contained in this emergency rule. This emergency rule closes the commercial shrimp pot fishery for spot shrimp in Catch Areas 23A-S, 23D and 23C because of projected quota completion for spot shrimp in these 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: September 6, 2007.

J. P. Koenings
Director

NEW SECTION

WAC 220-52-05100R Puget Sound shrimp pot and beam trawl fishery—Season. Notwithstanding the provisions of WAC 220-52-051, effective 6:00 p.m. September 8, 2007 until further notice, it is unlawful to fish for shrimp for commercial purposes in Puget Sound, except as provided for in this section:

(1) Shrimp pot gear:

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

(i) All waters of Catch Areas 23A-E, 23A-W, and the Discovery Bay Shrimp District are closed.

(ii) All waters of Shrimp Management Areas 1B, 1C, 2E and 2W, and Catch Areas 23A-C, 23A-S, 23B, 23C, 23D, 25A and 26D are closed to the harvest of spot shrimp.

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

(c) Effective immediately until further notice, it is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 600 pounds per week, except that any fisher whose weekly shrimp harvest activity is exclusively limited to Marine Fish-Shellfish Catch and Reporting Area 29 shall not be subject to the weekly spot shrimp trip limit for that week. It is unlawful to fish for any shrimp while in possession, on board the fish-

ing vessel, of any spot shrimp from any previous accounting week.

(d) It is unlawful to set or pull shellfish pots with a mesh size of less than the size as defined below in all waters of Shrimp Management Area 6, on days when fishing for or retaining spot shrimp. Spot shrimp taken in these areas are not subject to the minimum carapace length restriction.

(i) The minimum mesh size for rigid mesh pots is 1-inch defined as a mesh opening that a 7/8-inch square peg will pass through, excluding the entrance tunnels.

(ii) The minimum mesh size for flexible mesh pots is defined as 1-3/4-inch stretched mesh measure.

(e) It is unlawful to retain spot shrimp taken by shellfish pot gear that have a carapace length less than 1-3/16 inch as measured from the posterior mid-dorsal margin to the posterior-most part of the eye stalk orbit, in all waters of Shrimp Management Area 3.

(f) 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.

(g) 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 that shellfish pots may be set in a new fishing area subsequent to making a report as indicated in Section 1(f) above.

(2) Shrimp beam trawl gear:

Shrimp Management Area 3 (outside of the Discovery Bay Shrimp District, Sequim Bay, and Catch Area 23D) is open immediately, until further notice. Sequim Bay includes those waters of Catch Area 25A south of a line projected west from Travis Spit on the Miller Peninsula.

(a) Catch areas 20A and that portion of Catch Areas 20B, 21A and 22A within Shrimp Management Area 1B are open immediately, until further notice.

(3) It is unlawful to set or pull shrimp beam trawl gear from one hour after official sunset to one hour before official sunrise.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-05100Q	Puget Sound shrimp pot and beam trawl fishery—Season. (07-195)
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WSR 07-19-008
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-208—Filed September 6, 2007, 4:41 p.m., effective September 6, 2007, 4:41 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend personal use fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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 lakes are scheduled for rehabilitation utilizing rotenone. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: September 6, 2007.

J. P. Koenings
Director

NEW SECTION

WAC 232-28-61900T Exceptions to statewide rules—Sprague Lake, Dixons Pond, Negro Creek, Damage Creek, Corral Lake, Blythe Lake, Chukar Lake, Scaup Lake, Hallin Lake, Cow Lake, Finnell Lake, Cow Creek, Lugenbeal Creek, Chopaka Lake, Blue Lake. Notwithstanding the provisions of WAC 232-28-619:

(1) Sprague Lake (Adams/Lincoln Co.) Effective immediately through September 30, 2007, a person may fish in Sprague Lake. Size and daily limit for gamefish: none. Effective October 1, 2007, until further notice - closed to fishing.

(2) Cow Lake (Adams Co.) Effective immediately through September 30, 2007, a person may fish in Cow Lake. Size and daily limit for gamefish: none. Effective October 1, 2007, until further notice - closed to fishing.

(3) Finnell Lake (Adams Co.) Effective immediately through September 30, 2007, a person may fish in Finnell

Lake. Size and daily limit for gamefish: none. Effective October 1, 2007, until further notice - closed to fishing.

(4) Cow Creek (Adams Co.) Effective immediately through September 30, 2007, a person may fish in Cow Creek from Sheep Springs dam to Sprague Lake. Size and daily limit for gamefish: none. Effective October 1, 2007, until further notice - closed to fishing.

(5) Lugenbeal Creek (Adams Co.) Effective immediately through September 30, 2007, a person may fish in Lugenbeal Creek. Size and daily limit for gamefish: none. Effective October 1, 2007, until further notice - closed to fishing.

(6) Hallin Lake (Adams Co.) Effective immediately through September 30, 2007, a person may fish in Hallin Lake. Size and daily limit for gamefish: none. Effective October 1, 2007, until further notice - closed to fishing.

(7) Dixons Pond (Lincoln Co.) Effective immediately through September 30, 2007, a person may fish in Dixons Pond. Size and daily limit for gamefish: none. Effective October 1, 2007, until further notice - closed to fishing.

(8) Negro Creek (Lincoln Co.) Effective immediately through September 30, 2007, a person may fish in Negro Creek from the mouth at Sprague Lake to the fish barrier dam at Fishtrap Lake. Size and daily limit for gamefish: none. Effective October 1, 2007, until further notice - closed to fishing.

(9) Damage Creek (Adams/Lincoln Co.) Effective immediately through September 30, 2007, a person may fish in Damage Creek. Size and daily limit for gamefish: none. Effective October 1, 2007, until further notice - closed to fishing.

(10) Corral Lake (Grant Co.) Effective immediately through October 21, 2007, a person may fish in Corral Lake. Size and daily limit for gamefish: none. Effective October 22, 2007, until further notice - closed to fishing.

(11) Blythe Lake (Grant Co.) Effective immediately through October 21, 2007, a person may fish in Blythe Lake. Size and daily limit for gamefish: none. Effective October 22, 2007, until further notice - closed to fishing.

(12) Chukar Lake (Grant Co.) Effective immediately through October 21, 2007, a person may fish in Chukar Lake. Size and daily limit for gamefish: none. Effective October 22, 2007, until further notice - closed to fishing.

(13) Scaup Lake (Grant Co.) Effective immediately through October 21, 2007, a person may fish in Scaup Lake. Size and daily limit for gamefish: none. Effective October 22, 2007, until further notice - closed to fishing.

(14) Chopaka Lake (Okanogan Co.) Effective immediately through September 23, 2007, a person may fish in Chopaka Lake. Size and daily limit for gamefish: none. Fishing from a floating device equipped with a motor allowed. Effective September 24, 2007, until further notice - closed to fishing.

(15) Blue Lake (Lime Belt) (Okanogan Co.) Effective immediately through September 23, 2007, a person may fish in Blue Lake. Size and daily limit for gamefish: none. Effective September 24, 2007, until further notice - closed to fishing.

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

**WSR 07-19-013
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 07-213—Filed September 7, 2007, 12:09 p.m., effective September 10, 2007, 5:00 a.m.]

Effective Date of Rule: September 10, 2007, 5:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-47-50100F.

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 provides for Pacific Salmon Commission authorized pink-targeted fisheries in Areas 7 and 7A. These emergency rules are necessary to initiate fisheries, which are not expected to exceed chinook by-catch levels modeled during the preseason process. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: September 7, 2007.

J. P. Koenings
Director

NEW SECTION

WAC 220-47-50100F Puget Sound all-citizen commercial salmon fishery. Notwithstanding the provisions of Chapter 220-47 WAC, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the open periods, mesh size, areas, species restrictions, notification, and landing requirements set forth in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas 7 and 7A:

(1) **Purse Seines** - Open to purse seine gear according to the times, dates, and conditions as prescribed and listed here:

Hours	Dates
5 AM to 9 PM daily for vessels fishing using an operating recovery box throughout the entire open period.	September 10
9 AM to 9 PM daily for vessels NOT using an operating recovery box throughout the entire open period.	September 10

(a) It is unlawful to retain chinook, sockeye, coho, and chum salmon.

(b) It is unlawful to bring salmon aboard a vessel unless all salmon captured in the seine net are removed from the seine net using a brailer or dip net, meeting the specifications in WAC 220-47-325, prior to the seine net being removed from the water, except all salmon must be immediately sorted and those required to be released, must be placed in an operating recovery box or released into the water before the next haul may be brought on the deck. However, small numbers of fish may be brought on board the vessel by pulling the net in without mechanical or hydraulic assistance.

(c) It is unlawful to fish for salmon with purse seine gear in Areas 7 and 7A unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and is in possession of a department issued certification card.

(2) **Gill Nets** - Open to gill net gear with 5 inch minimum and 5 1/2 inch maximum mesh size according to the times, dates, and conditions as prescribed and listed here:

Hours	Dates
8 AM to 12 AM (midnight).	September 10

(a) It is unlawful to retain sockeye salmon, and those salmon required to be released must be done so immediately.

(b) It is unlawful to fish for salmon with gill net gear in Areas 7 and 7A unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and is in possession of a department issued certification card.

(3) **Reef Nets** - Open to reef net gear according to the times, dates, and conditions as prescribed and listed here:

Hours	Dates
5 AM to 9 PM.	September 8, September 9, September 10

It is unlawful to retain chinook and sockeye salmon at all times, and it is unlawful to retain chum and wild coho salmon prior to October 1. It is unlawful to fish for salmon with reef net gear in Areas 7 and 7A unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and is in possession of a department issued certification card.

(4) Fishers in the Point Roberts Area shall observe a closed zone inside a line from 1/4 mile due west of the Iverson Dock Origin to 1/4 mile radius around the southwest corner of Point Roberts (the Spit) to the Can Buoy at the reef southeast of the southeastern corner of Point Roberts. Waters north and west of the Area 7A "Iwerson Dock Line" (a line projected from Iwerson Dock on Point Roberts to the Georgina Point light at the entrance to Active Pass in the Province of British Columbia) will also be closed to commercial harvest of salmon previously described in the above sections.

"Quick Reporting Fisheries":

All fisheries opened under this section, and any fishery openings under authority of the Fraser Panel for sockeye or pink salmon in Puget Sound Salmon Management and Catch Reporting Areas (WAC 220-22-030) are designated as "Quick Reporting Required" per WAC 220-47-001.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. September 11, 2007:

WAC 220-47-50100F Puget Sound all-citizen commercial salmon fishery.

**WSR 07-19-014
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 07-212—Filed September 7, 2007, 1:05 p.m., effective September 8, 2007, 6:01 p.m.]

Effective Date of Rule: September 8, 2007, 6:01 p.m.

Purpose: The purpose of this rule making is to provide for treaty Indian fishing opportunity in the Columbia while protecting salmon listed as threatened or endangered under the Endangered Species Act. This rule making implements federal court orders governing Washington's relationship with treaty Indian tribes and federal law governing Washington's relationship with Oregon.

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

Statutory Authority for Adoption: RCW 77.04.130, 77.12.045 and 77.12.047.

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2005-2007 Interim Management Agreement For Upriver Chinook, Sockeye, Steelhead, Coho & White Sturgeon (May 11, 2005) (Doc. No. 2407); *Puget Sound Gillnetters Ass'n v. Moos*, 92 Wn.2d 939, 603 P.2d 819 (1979); 40 Stat. 515 (Columbia River compact).

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

Reasons for this Finding: Sets the fourth and fifth week of treaty fisheries for the 2007 fall season. An estimated 60,580 chinook are available for treaty harvest based on the pre-season forecast of 347,500 fall chinook. Allows the sale of fish caught in platform and hook and line fishery in Zone 6. Also allows the sale of fish caught in Yakama Nation tributary fisheries to be sold when those tributaries are open under Yakama Nation rules, and a commercial season in the mainstem is open concurrently. Harvestable numbers of salmon and steelhead are available under the ESA guideline.

The fishery catch is expected to remain within the allocation and guidelines of the 2005-2007 management agreement. Rule is consistent with action of the Columbia River compact on September 6, 2007. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

The Yakama, Warm Springs, Umatilla, and Nez Perce Indian tribes have treaty fishing rights in the Columbia River and inherent sovereign authority to regulate their fisheries. Washington and Oregon also have some authority to regulate fishing by treaty Indians in the Columbia River, authority that the states exercise jointly under the congressionally ratified Columbia River compact. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). The tribes and the states adopt parallel regulations for treaty Indian fisheries under the supervision of the federal courts. A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2005-2007 Interim Management Agreement For Upriver Chinook, Sockeye, Steelhead, Coho & White Sturgeon (May 11, 2005) (Doc. No. 2407). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under the federal Endangered Species Act. The National Marine Fisheries Service has issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in the fisheries as described in the 2005-2007 interim management agreement.

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

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, 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 1, Amended 0, Repealed 1.

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

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

Date Adopted: September 7, 2007.

J. P. Koenings
Director

NEW SECTION

WAC 220-32-05100L Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provi-

sions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052, and WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, steelhead, shad, carp, or sturgeon for commercial purposes in Columbia River Salmon Management Catch Reporting Areas (SMCRA) 1F, 1G, and 1H and in the White Salmon River and Klickitat River, except that those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, shad, carp, or sturgeon under the following provisions, pursuant to lawfully enacted tribal rules:

1. Open Periods: 6:00 a.m. September 11 until 6:00 p.m. September 14, 2007

6:00 a.m. September 17 until 6:00 p.m. September 21, 2007

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

b) Gear: Gillnets. 8-inch minimum mesh size restriction.

2. Open Periods: Immediately until further notice

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

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

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

a) Open Areas: White Salmon and Klickitat rivers

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

4. Allowable sale includes: Chinook, coho, steelhead, walleye, shad and carp. Sockeye may be retained but not sold. Sturgeon between 45 inches and 60 inches in length may be retained in the Bonneville Pool (SMCRA 1F) for subsistence purposes only. Sturgeon between 4 feet and 5 feet in length may be retained in The Dalles and John Day pools (SMCRA 1G, 1H) for subsistence purposes only.

5. Twenty-four (24) hour quick reporting will be in effect for Washington buyers pursuant to WAC 220-69-240.

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

a) Spring Creek are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one- and one-half miles downstream from the western shoreline of the mouth of Spring Creek. This area is closed from August 1 to November 1 of each year.

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

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

d) Deschutes River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2-mile

e) upstream from the eastern shoreline to one mile downstream from the western shoreline.

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

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

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

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

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

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

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

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

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

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

REPEALER

The following section of the Washington Administrative Code is repealed, effective 6:01 p.m. September 8, 2007:

WAC 220-32-05100K	Columbia River salmon seasons above Bonneville Dam. (07-183)
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WSR 07-19-016
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-214—Filed September 7, 2007, 4:07 p.m., effective September 7, 2007, 4:07 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 232-28-61900A; 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 dry weather has caused the flows in the Kalama to remain low. The flows are similar to late summer. Snagging of chinook, coho and wild steelhead is occurring regularly. These regulation changes are needed to curtail illegal activities. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: September 7, 2007.

J. P. Koenings
 Director

NEW SECTION

WAC 232-28-61900U Exceptions to statewide rules—Kalama River (Cowlitz Co.) Notwithstanding the provisions of WAC 232-28-619, effective immediately until further notice, in those waters of the Kalama River from the mouth upstream to the lower salmon hatchery intake pipe, night closure, non-buoyant lure and stationary gear restrictions are in effect, and only fish hooked inside the mouth may be retained.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-61900A	Exceptions to statewide rules—Kalama River (Cowlitz Co.) (07-114)
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WSR 07-19-021
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-215—Filed September 10, 2007, 4:35 p.m., effective September 10, 2007, 4:35 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-47-50100G; and amending WAC 220-47-501.

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 provides for Pacific Salmon Commission authorized pink-targeted fisheries in Areas 7 and 7A. These emergency rules are necessary to initiate fisheries that are not expected to exceed chinook by-catch levels modeled during the preseason process. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: September 10, 2007.

J. P. Koenings
 Director

NEW SECTION

WAC 220-47-50100G Puget Sound all-citizen commercial salmon fishery. Notwithstanding the provisions of Chapter 220-47 WAC, effective immediately until further

notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in any Puget Sound Salmon Management and Catch Reporting Areas, except in accordance with the open periods, mesh size, areas, species restrictions, notification, and landing requirements set forth in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas 7 and 7A:

- (1) **Purse Seines** - Closed to purse seine gear.
- (2) **Gill Nets** - Closed to gill net gear.
- (3) **Reef Nets** - Open to reef net gear according to the times, dates, and conditions as prescribed and listed here:

Hours	Dates
5 a.m. to 9 p.m.	September 11, 2007, September 12, 2007, September 13, 2007, September 14, 2007.

It is unlawful to retain Chinook and sockeye salmon at all times, and it is unlawful to retain chum and wild coho salmon prior to October 1. It is unlawful to fish for salmon with reef net gear in Areas 7 and 7A unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and is in possession of a department-issued certification card.

"Quick Reporting Fisheries":

All fisheries opened under this section, and any fishery openings under authority of the Fraser Panel for sockeye or pink salmon in Puget Sound Management and Catch Reporting Areas (WAC 220-22-030), are designated as "Quick Reporting Required" per WAC 220-47-001.

REPEALER

The following section of the Washington Administrative Code is repealed effective 9:01 p.m. on September 14, 2007:

WAC 220-47-50100G	Puget Sound all-citizen commercial salmon fishery.
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WSR 07-19-032
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

[Filed September 12, 2007, 10:09 a.m., effective September 12, 2007, 10:09 a.m.]

Effective Date of Rule: Immediately.

Purpose: HRSA is creating new WAC 388-505-0230 Family related institutional medical, to codify institutional medical eligibility for clients who are categorically related to the temporary assistance for needy families (TANF) program. This rule-making action will bring the state into compliance with federal regulations. This rule will also clarify program rules for children admitted to medical facilities and psychiatric inpatient treatment.

Statutory Authority for Adoption: RCW 74.04.055, 74.04.057, 74.08.090, and 74.09.530.

Other Authority: 42 C.F.R. 441.151.

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

Reasons for this Finding: This rule will bring the state into compliance with federal regulations while the permanent rule-making process, initiated under WSR 07-12-031 on May 30, 2007, is completed.

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: August 27, 2007.

Stephanie E. Schiller
Rules Coordinator

NEW SECTION

WAC 388-505-0230 Family related institutional medical. This section describes how the department determines eligibility for institutional medical benefits for temporary assistance for needy families (TANF)-related clients and children under the age of twenty-one who reside in a medical institution or a psychiatric or chemical dependency facility.

(1) An individual over the age of twenty-one is eligible for categorically needy (CN) family-related institutional medical assistance when the individual:

(a) Meets U.S. citizenship or immigrant status as described in WAC 388-424-0010 (1) or (2);

(b) Meets the state residency requirement as described in chapter 388-468 WAC;

(c) Provides a valid social security number as described in chapter 388-476 WAC;

(d) Meets TANF eligibility requirements as described in WAC 388-400-0005, except for the requirement to participate in the Workfirst program under chapter 388-310 WAC;

(e) Has countable income below the applicable TANF payment standard based upon household size to include the institutionalized individual;

(f) Meets institutional status as described in WAC 388-513-1320 and resides in a medical institution, intermediate care facility for mentally retarded (ICF/MR), hospice care center, state veteran's facility, or nursing home; and

(g) Participates available income towards the cost of care as described in WAC 388-513-1380.

(2) An individual over the age of twenty-one is not eligible for family-related institutional medical assistance when

the individual resides in a psychiatric facility, unless the individual is:

(a) A Medicaid recipient or has submitted an application for medical benefits prior to the individual's twenty-first birthday; and

(b) Receiving active psychiatric treatment and the treatment extends beyond the twenty-first birth date but the individual has not yet reached the age of twenty-two. (Eligibility in this circumstance terminates when the individual discharges from the facility or on the individual's twenty-second birthday, whichever happens first.)

(3) An individual over the age of twenty-one with income in excess of the TANF payment standard is not eligible for medically needy (MN) family-related institutional medical assistance.

(4) An individual aged nineteen through twenty-one is eligible for CN medical assistance under the family-related institutional medical program when the individual:

(a) Meets the requirements in subsection (1)(a), (b), and (c);

(b) Resides in a medical facility as described in subsection (1)(f), a psychiatric facility (IMD) or a chemical dependency facility;

(c) Has countable income below the one-person TANF standard; and

(d) Participates toward the cost of their care as described in WAC 388-513-1380.

(5) An individual aged eighteen through twenty-one with countable income below the payment standard described in WAC 388-478-0040 may be eligible for general assistance cash assistance for the individual's personal needs allowance.

(6) An individual under the age of nineteen is eligible for CN medical assistance under the family-related institutional medical program when the individual:

(a) Meets the requirements in subsection (1)(a), (b), and (c);

(b) Resides in a medical facility as described in subsection (1)(f), a psychiatric facility (IMD) or a chemical dependency facility;

(c) Has countable income below the applicable standard described in WAC 388-505-0210; and

(d) Participates toward the cost of their care as described in WAC 388-513-1380.

(7) When an individual under the age of twenty-one resides or is expected to reside thirty days or longer in a medical institution, intermediate care facility for the mentally retarded (ICF/MR), hospice care center or nursing facility, only the parental income the parent chooses to contribute is considered available.

(8) When an individual resides in a psychiatric facility or chemical dependency facility, parental income is considered as follows:

(a) It is available to an individual seventeen years of age or younger unless:

(i) The individual is expected to reside outside of the home for ninety days or longer; or

(ii) The individual is in court-ordered, out-of-home care in accordance with chapter 13.34 RCW; or

(iii) The department determines the parents are not exercising responsibility for the care and control of the individual.

(b) Parental income is considered available only as contributed to an individual over seventeen years of age but under nineteen who resides or is expected to reside in a psychiatric facility for thirty days or longer; and

(c) Parental income is not considered available to an individual between nineteen and twenty-one years of age who resides or is expected to reside in a psychiatric facility or chemical dependency facility for thirty days or longer.

(9) An individual under the age of twenty-one is considered for medically needy (MN) family-related institutional medical when the individual's countable income exceeds the standards in WAC 388-505-0210.

(10) A TANF-related individual who is not expected to reside in a medical facility for thirty days or longer is not eligible for family-related institutional medical. The individual's eligibility will be considered for a non-institutional medical program as described in WAC 388-505-0210, 388-505-0211, or 388-505-0220.

WSR 07-19-043
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-216—Filed September 13, 2007, 2:30 p.m., effective September 16, 2007, 12:01 a.m.]

Effective Date of Rule: September 16, 2007, 12:01 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-56-32500W; 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 spot shrimp fishery will be closed on September 15 in areas closed by this rule, to protect spot shrimp during the onset of the egg-bearing period. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

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

Date Adopted: September 13, 2007.

J. P. Koenings
Director

NEW SECTION

WAC 220-56-32500X Shrimp—Areas and seasons.

Notwithstanding the provisions of WAC 220-56-325, effective September 16, 2007, until further notice:

1) 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 north of a line from Biz Point on Fidalgo Island to Cape Saint Mary on Lopez Island, then north of a line from Davis Point to Cattle Point in San Juan Island, then north of a line due west from Lime Kiln Point light to the international boundary:

a. Open to the harvest of all shrimp species except spot shrimp through October 15, 2007. It is unlawful to possess spot shrimp, and all spot shrimp must immediately be returned to the water unharmed.

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

2) It is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Area 10 and the Discovery Bay Shrimp District.

3) All waters equal to or less than 150 feet in depth in Marine Areas 8-1, 8-2, 9 and 11 are open daily to the harvest of all shrimp species except spot shrimp through October 15, 2007. All spot shrimp caught must be returned to the water immediately. It is unlawful to set or pull shrimp gear in waters greater than 150 feet deep.

4) All waters of Marine Areas 4 east of the Bonilla-Tatoosh line, and Marine Areas 5, 6 and 13 (excluding the Shrimp Districts), are open daily to the harvest of all shrimp species, except spot shrimp. It is unlawful to possess spot shrimp, and all spot shrimp must immediately be returned to the water unharmed.

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

REPEALER

The following section of the Washington Administrative Code is repealed, effective 11:59 p.m., September 15, 2007:

WAC 220-56-32500W Shrimp—Areas and seasons
(07-116)

**WSR 07-19-044
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 07-217—Filed September 13, 2007, 2:33 p.m., effective October 1, 2007, 12:01 a.m.]

Effective Date of Rule: October 1, 2007, 12:01 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-69-240.

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 because rapid reporting requirement contact locations and phone numbers have changed. Rapid reporting is required to meet crab management objectives with state and tribal management plans. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: September 13, 2007.

J. P. Koenings
Director

NEW SECTION

WAC 220-69-24000L Duties of commercial purchasers and receivers. Notwithstanding the provisions of WAC 220-69-240, effective October 1, 2007, until further notice:

1) It is unlawful for any wholesale dealer acting in the capacity of an original receiver of Dungeness crab taken by nontreaty fishers, from Puget Sound, to fail to report to the department the previous day's purchases by 10:00 a.m. the following business day. Reports must be made to the Point Whitney Shellfish Laboratory by, by fax at 360-586-8408 or by phone at 1-866-859-8439, option 5, and must specify the dealer name, dealer phone number; date of delivery of crab to the original receiver, and the total number of pounds of crab caught by nontreaty fishers, by Crab Management Region or by Marine Fish-Shellfish Management and Catch Reporting Area.

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

WSR 07-19-045
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-218—Filed September 13, 2007, 4:10 p.m., effective September 13, 2007, 4:10 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend sportfishing fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: This regulation is needed because a large volume of water was released from Lacamas Lake Dam to facilitate maintenance work on the dam. This short-term flow increase is many times the normal summer low flow and has resulted in attracting a large number of fall chinook into the stream, which normally does not occur. The presence of fall chinook has created an enforcement problem due to the large influx of anglers, most of which are fishing illegally (snagging). Many of these anglers claim to be fishing for steelhead because the stream is currently open for gamefish. There are no significant numbers of steelhead in Lacamas Creek this time of year, therefore we need to close the stream to all fishing until fall chinook move out of the area.

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

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

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

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

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

Date Adopted: September 13, 2007.

J. P. Koenings
 Director

NEW SECTION

WAC 232-28-61900V Exceptions to statewide rules—Lacamas Creek (Clark County). Notwithstanding the provisions of WAC 232-28-619, effective immediately until further notice, it is unlawful to fish in the waters of the Lacamas Creek from the mouth upstream to Lacamas Lake Dam.

WSR 07-19-061
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-219—Filed September 14, 2007, 3:02 p.m., effective September 14, 2007, 3:02 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-52-07100H; and amending WAC 220-52-071 and 220-52-073.

Statutory Authority for Adoption: RCW 77.12.047.

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

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

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

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

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

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

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

Date Adopted: September 14, 2007.

J. P. Koenings
 Director

NEW SECTION

WAC 220-52-07100I Sea cucumbers. Notwithstanding the provisions of WAC 220-52-071, effective immediately until further notice, it is unlawful to take or possess sea cucumbers for commercial purposes except as provided for in this section:

(1) Effective 6:00 a.m. September 17, 2007, until further notice, sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber Districts 1, 2 and 5 on Monday through Thursday of each week.

(2) It is unlawful to dive for any purpose from a commercially licensed sea cucumber fishing vessel on Friday and

Saturday of each week, except by written permission from the Director.

NEW SECTION

WAC 220-52-07300M Sea urchins. Notwithstanding the provisions of WAC 220-52-073, effective September 30, 2007 until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

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

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

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-57-07100H Sea cucumbers

**WSR 07-19-063
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 07-220—Filed September 14, 2007, 5:00 p.m., effective September 14, 2007, 5:00 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-47-50100H; and amending WAC 220-47-501.

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 provides for Pacific Salmon Commission authorized pink-targeted fisheries in Areas 7 and 7A. These emergency rules are necessary to initiate fisheries that are not expected to exceed chinook by-catch levels modeled during the preseason process. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

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

Date Adopted: September 14, 2007.

J. P. Koenings
Director

NEW SECTION

WAC 220-47-50100H Puget Sound all-citizen commercial salmon fishery. Notwithstanding the provisions of Chapter 220-47 WAC, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the open periods, mesh size, areas, species restrictions, notification, and landing requirements set forth in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas 7 and 7A:

(1) **Purse Seines** - Closed to purse seine gear.

(2) **Gill Nets** - Closed to gill net gear.

(3) **Reef Nets** - Open to reef net gear according to the times, dates, and conditions as prescribed and listed here:

Hours	Dates
5 a.m. to 9 p.m.	September 15, 2007, September 16, 2007, September 17, 2007, September 18, 2007, September 19, 2007, September 20, 2007.

It is unlawful to retain Chinook and sockeye salmon at all times, and it is unlawful to retain chum and wild coho salmon prior to October 1. It is unlawful to fish for salmon with reef net gear in Areas 7 and 7A unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and is in possession of a department issued certification card.

"Quick Reporting Fisheries":

All fisheries opened under this section, and any fishery openings under authority of the Fraser Panel for sockeye or pink salmon in Puget Sound Salmon Management and Catch Reporting Areas (WAC 220-22-030) are designated as "Quick Reporting Required" per WAC 220-47-001.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 9:01 p.m. September 20, 2007:

WAC 220-47-50100H Puget Sound all-citizen commercial salmon fishery.

WSR 07-19-068**EMERGENCY RULES****DEPARTMENT OF AGRICULTURE**

[Filed September 17, 2007, 1:06 p.m., effective September 17, 2007, 1:06 p.m.]

Effective Date of Rule: Immediately.

Purpose: The state veterinarian has determined that there is an increased threat from tuberculosis in cattle that participate in rodeos or other timed events. Cattle used for rodeo or timed events in Washington state must be accompanied by proof of a negative bovine tuberculosis test within the last twelve months before entry into the state. This immediate action is necessary to protect the health of Washington state livestock and citizens.

Citation of Existing Rules Affected by this Order: Amending WAC 16-54-085.

Statutory Authority for Adoption: Chapter 16.36 RCW.

Other Authority: Chapter 34.05 RCW.

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: See Purpose above.

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: September 17, 2007.

Robert W. Gore
Deputy Director

AMENDATORY SECTION (Amending WSR 07-14-056, filed 6/28/07, effective 7/29/07)

WAC 16-54-085 Domestic bovine tuberculosis requirements. (1) All domestic bovine from a modified accredited advanced or lower state must have a negative TB

test within sixty days before entry into Washington state. Domestic bovine from a modified accredited or lower state shall be held separate and apart from native cattle for sixty days and retested negative at least sixty days after entry into Washington state.

(2) **Dairy cattle six months of age or older** must:

(a) Test negative for bovine tuberculosis within sixty days before entering Washington state; and

(b) Be identified with a USDA silver identification ear tag, or a USDA-approved RFID tag, or an orange brucellosis vaccination tag.

(3) **Dairy heifers and bull calves less than six months of age** must:

(a) Be issued a hold order or a quarantine order that requires the animals to be taken directly to a designated premises or facility;

(b) Be held separate and apart from all other domestic bovine until they test negative for bovine tuberculosis after six months of age; and

(c) Be identified with a USDA silver identification ear tag, or a USDA-approved RFID tag, or an orange brucellosis vaccination tag.

(4) **Cattle used for rodeo or timed events** - All cattle used for rodeo or timed events, except those imported directly from Mexico, must be accompanied by proof recorded on a certificate of veterinary inspection of a negative bovine tuberculosis test within twelve months before entry into Washington state. Calves under six months old that were born and have continuously resided in the state of Washington are excluded from this requirement.

(5) **Mexican cattle** - All cattle imported from Mexico that enter Washington, including those imported for rodeo or recreation purposes, must be sexually neutered and must bear official Mexican identification and brand before entry.

(a) All Mexican cattle must be accompanied by proof of two negative bovine tuberculosis tests conducted in the United States after entry from Mexico. The second negative test must be a minimum of sixty days after the first test and within thirty days before entry into Washington state.

(b) All Mexican cattle that remain in the state of Washington shall be tested annually for tuberculosis.

(c) If Mexican cattle entering Washington state are not accompanied by proof of two negative bovine tuberculosis tests prior to entry, they will be issued a hold order or a quarantine order that requires the animals to be taken directly to a designated premises or facility and kept separate and apart from Washington cattle until the completion of required tests.

(d) Sexually intact Mexican beef cattle may enter only with a prior entry permit and at the discretion of the director.

Exemptions to domestic bovine tuberculosis test requirements.

~~((5))~~ (6) **Dairy cattle** are exempt from bovine tuberculosis testing requirements if they:

(a) Originate from an accredited bovine tuberculosis-free herd, as defined by USDA, APHIS in Title 9 CFR Chapter 1 Part 77 (January 1, 2006), and if an accredited herd number and the date of the last bovine tuberculosis test are shown on the certificate of veterinary inspection;

(b) Are consigned to federally inspected slaughter plants for immediate slaughter; or

(c) Are consigned to slaughter through state and federally approved sale yards and remain in slaughter channels.

~~((6))~~ (7) **Adult dairy cows from Oregon and Idaho** that have not met the department's brucellosis and tuberculosis requirements may enter a WSDA approved brucellosis/tuberculosis holding facility in Washington state until testing requirements have been met.

~~((7))~~ (8) **Dairy steers and spayed heifers** are exempt from bovine tuberculosis testing requirements before entry into Washington state if they are entering restricted feedlots to be fed for slaughter.

~~((8))~~ (9) **Mexican cattle** are exempt from the second bovine tuberculosis test and isolation requirements if their official Mexican identification remains intact and they are consigned to a federally inspected slaughter plant for immediate slaughter.

WSR 07-19-078
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-221—Filed September 17, 2007, 4:27 p.m., effective October 1, 2007, 8:00 a.m.]

Effective Date of Rule: October 1, 2007, 8:00 a.m.

Purpose: Amend commercial fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

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

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

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

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

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

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

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

Date Adopted: September 17, 2007.

Loreva M. Preuss
for Jeff Koenings
Director

NEW SECTION

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

(1) Dungeness crab pots may be deployed between 8:00 a.m. October 1, 2007 and 7:59 a.m. October 3, 2007 in Puget Sound waters from a vessel not designated on a person's Puget Sound crab license, provided that the primary or alternate operator designated on the license is on board the non-designated vessel ("barge" vessel), and provided prior notice has been given as indicated below.

(2) The license holder must leave a telephone message at the LaConner district office, (360) 466-4345, extension 245, with the following information:

- a) Name and license number of license owner.
- b) Name of designated primary operator if different from license owner.
- c) Name of alternate operator if used to deploy pots from a non-designated vessel.
- d) Buoy brand number and number of pots to be deployed from a non-designated vessel.
- e) Name and identification numbers (WN and/or Coast Guard) of the non-designated vessel.

(3) Effective 8:00 a.m. October 1, 2007 until further notice, it is unlawful for any person to fish for crabs for commercial purposes with more than 50 pots per license, per buoy tag number in Crab Management Region 1 (which includes Marine Fish Shellfish Catch Reporting Areas 20A, 20B, 21A, 21B, 22A and 22B), and 75 pots per license, per buoy tag number in Crab Management Region 2 East (which includes Marine Fish Shellfish Catch Reporting Areas 24A, 24B, 24C, 24D, and 26A-E)

The remaining buoy tags per license per region must be onboard the designated vessel and available for inspection in the pot-limited areas.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-04000K	Commercial crab fishery— Lawful and unlawful gear, methods, and other unlawful acts. (07-205)
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WSR 07-19-079
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-222—Filed September 17, 2007, 5:25 p.m., effective September 17, 2007, 5:25 p.m.]

Effective Date of Rule: Immediately.

Purpose: The purpose of this rule making is to allow fishing opportunity in the Columbia River while protecting salmon listed as threatened or endangered under the Endangered Species Act. This rule making implements federal court orders governing Washington's relationship with treaty Indian tribes, federal law governing Washington's relationship with Oregon, and Washington fish and wildlife commission policy guidance for Columbia River fisheries.

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

Statutory Authority for Adoption: RCW 77.04.130, 77.12.045, and 77.12.047.

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2005-2007 Interim Management Agreement For Upriver Chinook, Sockeye, Steelhead, Coho & White Sturgeon (May 11, 2005) (Doc. No. 2407); *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River compact).

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

Reasons for this Finding: Washington and Oregon jointly regulate Columbia River fisheries under the congressionally ratified Columbia River compact. Four Indian tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the tribes an opportunity to take a fair share of the available fish, and the states must manage other fisheries accordingly. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). A federal court order sets the current parameters for sharing between treaty Indians and others. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2005-2007 Interim Management Agreement For Upriver Chinook, Sockeye, Steelhead, Coho & White Sturgeon (May 11, 2005) (Doc. No. 2407).

Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under the federal Endangered Species Act. The National Marine Fisheries Service has issued biological opinions under 16 U.S.C. § 1536 that allow for some incidental take of these species in treaty and nontreaty Columbia River fisheries. The Washington and Oregon fish and wildlife commissions have developed policies to guide the implementation of these biological opinions in the states' regulation of nontreaty fisheries.

Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, the Endangered Species Act, and commission guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from

the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached.

The upriver bright fall chinook run size has been downgraded to 105,000 fish at the mouth of the Columbia River, compared to the preseason forecast of 185,200. The sport fisheries in these areas have reached their allocation guideline for impacts on this stock of chinook. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, 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 1, Amended 0, Repealed 0.

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

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

Date Adopted: September 17, 2007.

Loreva M. Preuss
for Jeff Koenings
Director

NEW SECTION

WAC 232-28-61900W 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:

Columbia River:

1) From Buoy 10 upstream to Bonneville Dam (except for those waters closed under permanent regulations): Effective 12:01 a.m. September 19 through December 31, release all Chinook.

2) From Bonneville Dam upstream to the Highway 395 Bridge in Pasco (except for those waters closed under permanent regulations): Effective 12:01 a.m. September 20 through December 31, release all Chinook.

WSR 07-19-102
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-224—Filed September 18, 2007, 5:12 p.m., effective September 18, 2007, 5:12 p.m.]

Effective Date of Rule: Immediately.

Purpose: The purpose of this rule making is to allow fishing opportunity in the Columbia River while protecting salmon listed as threatened or endangered under the Endangered Species Act. This rule making implements federal court orders governing Washington's relationship with treaty Indian tribes, federal law governing Washington's relationship with Oregon, and Washington fish and wildlife commission policy guidance for Columbia River fisheries.

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

Statutory Authority for Adoption: RCW 77.04.130, 77.12.045, and 77.12.047.

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2005-2007 Interim Management Agreement For Upriver Chinook, Sockeye, Steelhead, Coho & White Sturgeon (May 11, 2005) (Doc. No. 2407); *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River compact).

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

Reasons for this Finding: Sets the late fall non-Indian commercial fishing period. The season is consistent with the 2005-2007 interim management agreement, the 2007 non-Indian salmon allocation agreement adopted for 2007. Regulation is consistent with compact action of July 26 and September 18, 2007. There is insufficient time to promulgate permanent rules.

Washington and Oregon jointly regulate Columbia River fisheries under the congressionally ratified Columbia River compact. Four Indian tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the tribes an opportunity to take a fair share of the available fish, and the states must manage other fisheries accordingly. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). A federal court order sets the current parameters for sharing between treaty Indians and others. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2005-2007 Interim Management Agreement For Upriver Chinook, Sockeye, Steelhead, Coho & White Sturgeon (May 11, 2005) (Doc. No. 2407).

Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under the federal Endangered Species Act. The National Marine Fisheries Service has issued biological opinions under 16 U.S.C. § 1536 that allow for some incidental take of these species in treaty and nontreaty Columbia River fisheries. The Washington and Oregon fish and wildlife commissions have developed policies to guide the implementation of these biological opinions in the states' regulation of nontreaty fisheries. Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, the Endangered Species Act, and commission guidelines. Because conditions change rapidly, the fisheries are managed

almost exclusively by emergency rule. Representatives from the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 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 1, Amended 0, Repealed 1.

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

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

Date Adopted: September 18, 2007.

J. P. Koenings
Director

NEW SECTION

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

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

a. SEASON: 8:00 a.m. to 6:00 p.m. September 19, 2007

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

2. AREA: SMCRA 1D and 1E

a. SEASON: 8:00 p.m. September 20 to 6:00 a.m. September 21, 2007

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

3. OTHER GEAR REGULATIONS:

a. In the Columbia River downstream of Bonneville Dam and in the Select Areas (described in WAC 220-22-010(9)), a person may have onboard a commercial fishing vessel more than one licensed net, as long as the net or nets are of legal size for the fishery, or the net has a minimum mesh size of 8 inches, and the length of any one net does not exceed 1,500 feet in length.

b. Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

4. ALLOWABLE SALE: Applies to all seasons stated in items 1-2. Salmon and white sturgeon.

a. A maximum of twelve white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open.

b. The sturgeon possession/sales limit includes only mainstem fisheries.

c. Green sturgeon retention is prohibited.

d. It is unlawful to fail to return immediately to the water any sturgeon taken in excess of any commercial catch or possession limits prescribed by the department rule.

5. SANCTUARIES: Elokomin-B, Abernathy, Cowlitz, Kalama-B, Lewis-B, Washougal, and Sandy Rivers.

6. OTHER: Quick reporting required for Washington wholesale dealers, WAC 220-69-240. When quick reporting is required, Columbia River reports must be submitted within 24 hours of closure of the designated fishery.

7. Blind Slough/Knappa Slough Select Area.

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

b. SEASON: Monday, Tuesday, Wednesday, and Thursday nights immediately through October 26, 2007. Open hours are 7:00 p.m. to 7:00 a.m. through September 21 and 6:00 p.m. to 8:00 a.m. thereafter.

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

8. Tongue Point/South Channel Select Area.

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

b. SEASON: Tuesday, Wednesday, and Thursday nights from immediately through October 26, 2007. Open hours are 7:00 p.m. to 7:00 a.m. through September 21 and 4:00 p.m. to 8:00 a.m. thereafter.

c. GEAR: Gillnet. Monofilament gear is allowed. 6-inch maximum mesh. In the Tongue Point area: Net length maximum of 250 fathoms, and weight not to exceed two pounds on any one fathom on the lead line. Participants in the Tongue Point fishery may have stored onboard their boats gill nets with leadline in excess of two pounds per any one fathom. In the South Channel area: Net length maximum of 100 fathoms, and no weight restriction on lead line. Use of additional weights or anchors attached directly to the lead line is allowed.

9. Deep River Select Area. .

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

b. SEASON: Monday, Tuesday, Wednesday, and Thursday nights from immediately through October 26, 2007. Open hours are 7:00 p.m. to 7:00 a.m. through September 21 and 4:00 p.m. to 8:00 a.m. thereafter.

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

10. ALLOWABLE SALES: Applies to all seasons stated in items 7-9: Salmon and sturgeon. A maximum of five white sturgeon may be possessed or sold by each vessel participating each calendar week (Sunday through Saturday). The white sturgeon possession and sales limit includes Select Area fisheries only. Green sturgeon retention is prohibited.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-01000M Columbia River season
below Bonneville. (07-194)

**WSR 07-19-123
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 07-223—Filed September 19, 2007, 11:15 a.m., effective September 19, 2007, 11:15 a.m.]

Effective Date of Rule: Immediately.

Purpose: To provide sufficient time for applicants to obtain licenses/tags necessary to participate in the public safety cougar removal season.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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

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

Reasons for this Finding: This emergency rule is needed to extend the public safety cougar removal application date from October 1, 2007, until October 17, 2007. GMUs and permit levels for the public safety cougar removal in eastern Washington were delayed for additional reporting of public safety situations. This information was reviewed to include new permit areas in Regions 3 and 5. The deadline of October 1, 2007, for the application is insufficient to develop a list of applicants and to plan and finish the licensing requirements as provided for in WAC 232-12-243. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: September 19, 2007.

Loreva M. Preuss
for Jeff Koenings
Director

NEW SECTION

WAC 232-12-24300D Public safety cougar removals—Application date extension. Notwithstanding the provisions of WAC 232-12-243, applications for public safety cougar removal for 2007-2008 will be accepted by the department if received or postmarked no later than October 17, 2007.

of the Social Security Act. These amendments also respond to the proposed order and settlement agreement under *Boyle v. Arnold-Williams* and incorporate the provisions of the letter of agreement between the state of Washington (office of financial management) and the Service Employees International Union (SEIU). Finally these rules are necessary to implement the recommendations in a June 2003 performance audit by the joint legislative audit and review committee.

Citation of Existing Rules Affected by this Order: See Reviser's Note below.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.120.

Other Authority: Title 71A 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: These emergency rules extend the emergency rules filed as WSR 07-12-022 as the department proceeds to adopt the rules on a permanent basis. Permanent adoption will occur no later than October 31, 2007.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 6, Amended 50, Repealed 16; 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 6, Amended 50, Repealed 16.

Date Adopted: September 18, 2007.

Stephanie E. Schiller
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 07-21 issue of the Register.

WSR 07-19-132

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed September 19, 2007, 11:42 a.m., effective September 19, 2007, 11:42 a.m.]

Effective Date of Rule: Immediately.

Purpose: The division of developmental disabilities (DDD) has had ongoing discussions with the federal Center for Medicare and Medicaid Services (CMS) and has received approval from CMS to amend its waivers under Section 1915