

WSR 13-23-001
EMERGENCY RULES
LIQUOR CONTROL BOARD

[Filed November 6, 2013, 12:07 p.m., effective November 20, 2013]

Effective Date of Rule: November 20, 2013.

Purpose: The board has learned that how the one thousand foot buffer is measured under the rules adopted by the board on October 16, 2013, differs from the way the federal government measures the one thousand foot buffer. The board needs to change the way the board will measure the one thousand foot buffer to be consistent with the federal government. This change must be made on an emergency rule-making basis to protect the public health and safety of the general public with a more stringent one thousand foot buffer and to protect the welfare of prospective license holders, who may begin submitting applications in November, by ensuring that the locations of their licensed premises do not conflict with federal enforcement priorities.

Citation of Existing Rules Affected by this Order:
 Amending WAC 314-55-050.

Statutory Authority for Adoption: RCW 69.50.342 and 69.50.345.

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 change must be made on an emergency rule-making basis to protect the public health and safety of the general public with a more stringent one thousand foot buffer and to protect the welfare of prospective license holders, who may begin submitting applications in November, by ensuring that the locations of their licensed premises do not conflict with federal enforcement priorities.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 6, 2013.

Sharon Foster
 Chairman

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-050 Reasons the board may seek denial, suspension, or cancellation of a marijuana license

application or license. Following is a list of reasons the board may deny, suspend, or cancel a marijuana license application or license. Per RCW 69.50.331, the board has broad discretionary authority to approve or deny a marijuana license application for reasons including, but not limited to, the following:

(1) Failure to meet qualifications or requirements for the specific marijuana producer, processor, or retail license, as outlined in this chapter and chapter 69.50 RCW.

(2) Failure or refusal to submit information or documentation requested by the board during the evaluation process.

(3) The applicant makes a misrepresentation of fact, or fails to disclose a material fact to the board during the application process or any subsequent investigation after a license has been issued.

(4) Failure to meet the criminal history standards outlined in WAC 314-55-040.

(5) Failure to meet the marijuana law or rule violation history standards outlined in WAC 314-55-045.

(6) The source of funds identified by the applicant to be used for the acquisition, startup and operation of the business is questionable, unverifiable, or determined by the board to be gained in a manner which is in violation by law.

(7) Denies the board or its authorized representative access to any place where a licensed activity takes place or fails to produce any book, record or document required by law or board rule.

(8) Has been denied or had a marijuana license or medical marijuana license suspended or canceled in another state or local jurisdiction.

(9) Where the city, county, tribal government, or port authority has submitted a substantiated objection per the requirements in RCW 69.50.331 (7) and (9).

(10) The board shall not issue a new marijuana license if the proposed licensed business is within one thousand feet of the perimeter of any of the following entities. The distance shall be measured ~~((along the most direct route over or across established public walks, streets, or other public passageway between))~~ as the shortest straight line distance from the property line of the proposed building/business location to the ~~((perimeter))~~ property line ~~((of the grounds))~~ of the entities listed below:

(a) Elementary or secondary school;

(b) Playground;

(c) Recreation center or facility;

(d) Child care center;

(e) Public park;

(f) Public transit center;

(g) Library; or

(h) Any game arcade (where admission is not restricted to persons age twenty-one or older).

(11) Has failed to pay taxes or fees required under chapter 69.50 RCW or failed to provide production, processing, inventory, sales and transportation reports to documentation required under this chapter.

(12) Failure to submit an attestation that they are current in any tax obligations to the Washington state department of revenue.

(13) Has been denied a liquor license or had a liquor license suspended or revoked in this or any other state.

(14) The operating plan does not demonstrate, to the satisfaction of the board, the applicant is qualified for a license.

(15) Failure to operate in accordance with the board approved operating plan.

(16) The board determines the issuance of the license will not be in the best interest of the welfare, health, or safety of the people of the state.

WSR 13-23-006
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 13-280—Filed November 7, 2013, 11:29 a.m., effective November 7, 2013, 11:29 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule change is to correct errors in special permit hunts that are used to address agricultural damage by elk as well as population control. This is a matter of safety as well as economic public welfare for impacted Washington citizens.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-36000F; and amending WAC 232-28-360.

Statutory Authority for Adoption: RCW 77.04.012, 77.12.047, 77.12.150.

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 department will address these corrections as a permanent rule change during the regularly scheduled 2014 rule development process, but the changes are needed immediately to address agricultural damage for the remainder of 2013.

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: November 7, 2013.

Philip Anderson
Director

NEW SECTION

WAC 232-28-36000G 2013 Elk special permits. Notwithstanding the provisions of WAC 232-28-360, effective immediately:

1) Under 65+ Senior category, the Toledo hunt date is Nov. 18-26.

2) Under 65+ Senior category, the first Centralia Mine hunt date is Jan. 4-5, and the second Centralia Mine hunt is Jan. 11-12.

3) Under the Hunters with Disabilities category, the Toledo hunt date is Nov. 18-26.

4) Under the Master Hunter Category, the following paragraph replaces the text at the beginning of that category:

- Any legal weapon may be used while hunting the following hunts unless otherwise specified or required by the Hunt Coordinator. Only one animal may be taken under this special permit opportunity. For those special permit hunts allowing the purchase of a second elk tag, hunters can use either their first elk or second elk tag but are allowed to kill only one animal under the authorization of the special permit. If a hunter uses their general elk tag and kills and tags an animal under this special permit, the second elk tag may not be used for the general elk hunting season.

5) Under Master Hunter Elk Hunts in the 2nd column: Replace the word "required" with "allowed."

6) Under the Master Hunter Category, the first Toledo hunt date is Nov. 18-26.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-36000F 2013 Elk special permits

WSR 13-23-011
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 13-287—Filed November 8, 2013, 10:41 a.m., effective November 8, 2013, 10:41 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules.

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

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020 and 77.12.047.

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

Reasons for this Finding: Harvestable amounts of sea cucumbers are available in Sea Cucumber Districts 1 and 5 allowing a five day harvest schedule. There is insufficient time to adopt 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: November 8, 2013.

Philip Anderson
Director

NEW SECTION

WAC 220-52-07100C 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) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber Districts 1 and 5 on Monday through Friday of each week.

(2) The maximum cumulative landing of sea cucumbers for each weekly fishery opening period is 1,800 pounds per valid designated sea cucumber harvest license. It is permissible for all or any fraction of the maximum 1,800 pound total to be harvested during any legal harvest date within any legal harvest area so long as the cumulative total for the fishery week does not exceed the maximum.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-07100B Sea cucumbers (13-179)

**WSR 13-23-014
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 13-288—Filed November 8, 2013, 3:35 p.m., effective November 8, 2013, 3:35 p.m.]

Effective Date of Rule: Immediately upon filing.
Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-47-31100F and 220-47-41100X; and amending WAC 220-47-311 and 220-47-411.

Statutory Authority for Adoption: RCW 77.04.020, 77.04.055, and 77.12.047.

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

Reasons for this Finding: There is not enough nontreaty chum share remaining in Hood Canal for a purse seine opening and opening 12C to gillnets is not needed to achieve the nontreaty share. There is insufficient time to adopt 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 2.

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

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

Date Adopted: November 8, 2013.

Philip Anderson
Director

NEW SECTION

WAC 220-47-31100F Purse seine—Open periods. Notwithstanding the provisions of WAC 220-47-311, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the areas and open periods indicated below. Unless otherwise amended, all permanent rules remain in effect.

Areas 12, 12B and 12C are closed to purse seines on 11/11 and 11/13/2013

NEW SECTION

WAC 220-47-41100X Gillnet—Open periods. Notwithstanding the provisions of WAC 220-47-411, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the areas and open periods indicated below. Unless otherwise amended, all permanent rules remain in effect.

Area 12C are closed to gillnets on 11/12 and 11/14/2013

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. November 14, 2013:

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

WAC 220-47-41100X Gillnet—Open periods.

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 13-23-018
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed November 13, 2013, 7:08 a.m., effective November 13, 2013, 7:08 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department is suspending the following WACs in response to a nationwide shortage of tuberculosis (TB) skin tests. These tests are required for all individuals applying for a license to provide residential care, to work as staff or volunteer in a residential facility for children, or to provide respite care or to have regular unsupervised access to a child in care. Lack of availability of these tests is preventing licensure of foster families and other residential resources to provide care for children. The department intends to suspend these rules until such time that the tests are available. The department will monitor homes to complete testing at that time.

Citation of Existing Rules Affected by this Order: Amending WAC 388-145-0120, 388-145-0560, 388-147-0070, 388-147-0380, 388-148-0050, 388-148-0345, 388-148-0541, 388-148-0542, 388-160-0145, and 388-160-0565.

Statutory Authority for Adoption: RCW 74.15.010, 74.15.030, 74.15.040, 74.15.090, 74.13.031.

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

Reasons for this Finding: Without suspension of these WACs, children's administration would be required to submit waivers to administrative rules concerning TB tests for residential facilities. The federal government does not consider nonrelative foster homes with a waiver to meet the requirements to determine that the home is "fully licensed," and the department must forego Title IV-E federal match funds for children placed in foster care. Also, an adequate supply of

foster homes is necessary to provide for the health, safety and well-being of these children entrusted to the state's care, and waiting for TB tests to be available is not a viable option.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 10, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 10, Repealed 0.

Date Adopted: November 6, 2013.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 03-08-026, filed 3/26/03, effective 4/26/03)

WAC 388-145-0120 How do I apply for a license? (1)

To apply for an emergency respite center license, the person or legal entity responsible for the center must send the application form to your licensur at DLR.

(2) With the application form, you must send the following information:

(a) Written verification for each applicant and staff person of completion of:

(i) ~~((A tuberculosis test or X ray unless you can demonstrate medical reasons prohibiting the test;~~

~~((ii)))~~ First-aid and cardio-pulmonary resuscitation (CPR) training appropriate to the age of the children in care; and ~~((iii)))~~ (ii) HIV/AIDS and bloodborne pathogens training including infection control standards.

(b) A completed background check form for each applicant, staff person, board member, intern or volunteer on the premises who:

(i) Is at least sixteen years old; and

(ii) Has unsupervised access to children (emergency respite centers must comply with chapter 388-06 WAC regarding background checks).

(3) If you, any staff person, board member, intern, or volunteer has lived in Washington state less than three years and will have unsupervised access to children, you must provide us with a completed FBI fingerprint form.

AMENDATORY SECTION (Amending WSR 03-08-026, filed 3/26/03, effective 4/26/03)

WAC 388-145-0560 What must I do to prevent the spread of infections and communicable diseases? (1) You must take precautions to guard against infections and communicable diseases infecting the children under care in an emergency respite center.

(2) Staff with a reportable communicable disease in an infectious stage, as defined by the department of health, must not be on duty until they have a physician's approval for returning to work.

(3) Each center that cares for medically fragile children must have an infection control program supervised by a registered nurse.

~~((4) Applicants for a license or adults authorized to have unsupervised access to children in a center must have a tuberculin (TB) skin test by the Mantoux method of testing. They must have this skin test upon being employed or licensed unless:~~

~~(a) The person has evidence of testing within the previous twelve months;~~

~~(b) The person has evidence that they have a negative chest X ray since previously having a positive skin test;~~

~~(c) The person has evidence of having completed adequate preventive therapy or adequate therapy for active tuberculosis.~~

~~(5) The department does not require a tuberculin skin test if:~~

~~(a) A person has a tuberculosis skin test that has been documented as negative within the past twelve months; or~~

~~(b) A physician indicates that the test is medically unadvisable.~~

~~(6) Persons whose tuberculosis skin test is positive must have a chest X ray within thirty days following the skin test.~~

~~(7) The department does not require retesting at the time of license renewal, unless the licensee or staff person believes they have been exposed to someone with tuberculosis or if testing is recommended by their health care provider.))~~

AMENDATORY SECTION (Amending WSR 05-01-075, filed 12/9/04, effective 1/9/05)

WAC 388-147-0380 What steps must be taken to prevent the spread of infections and communicable diseases?

(1) The licensee must take precautions to guard against infections and communicable diseases infecting the children and youth residing at the facility by following the department of health regulations.

~~((2) Applicants for a license or adults authorized to have unsupervised access to residents at the facility must have a tuberculin (TB) skin test by the Mantoux method of testing. They must have this skin test upon being employed, volunteering, or licensed unless:~~

~~(a) The person has evidence of testing within the previous twelve months;~~

~~(b) The person has evidence that they have a negative chest X ray since a previously positive skin test; or~~

~~(c) The person has evidence of having completed adequate preventive therapy or adequate therapy for active tuberculosis.~~

~~(3) The department does not require a tuberculin skin test if:~~

~~(a) A person has a tuberculosis skin test that has been documented as negative within the past twelve months; or~~

~~(b) A physician indicates that the test is medically unadvisable.~~

~~(4) Persons whose tuberculosis skin test is positive must have a chest X ray within thirty days following the skin test.~~

~~(5) The department does not require retesting for license renewals unless a person believes he or she has been exposed to someone with tuberculosis or if testing is recommended by his or her health care provider.~~

~~(6) The licensee must keep the results of the TB test results in the personnel files available for review by DLR.))~~

AMENDATORY SECTION (Amending WSR 04-21-063, filed 10/18/04, effective 11/18/04)

WAC 388-148-0050 How do I apply for a license?

License applications are available from the division of licensed resources and licensed child placing agencies.

(1) To apply for a license, the person or legal entity responsible for your home or facility must include with the application the following:

(a) Written verification for each applicant(s), staff, interns, volunteers and individuals who may have unsupervised access to children in care of the following information:

(i) ~~((A negative tuberculosis test or an X ray, unless you can demonstrate a religious or a medical reason prohibiting the test;~~

~~Note: Written documentation from your physician that indicates you are free of the signs and symptoms of tuberculosis may be accepted for individuals with a religious or a medical prohibition to the TB test.~~

~~((ii)) First aid and cardio-pulmonary resuscitation (CPR) training appropriate to the age of the children in care; and~~

~~((iii)) (ii) HIV/AIDS and bloodborne pathogens training including infection control standards.~~

(2) You must send a completed background check form to your licensor on anyone on the premises having unsupervised access to a child who:

(a) Is at least sixteen years old or older;

(b) Is not a foster child; nor an individual eighteen through twenty years old authorized to remain in foster care (see chapter 388-06 WAC).

(3) You must send a completed FBI fingerprint form on any individual in your home or facility who has lived outside Washington state within the last three years and meets WAC 388-148-0050 (2)(a)(b).

(4) A group care facility or staffed residential home licensed for six is required to meet the health and fire safety requirements to receive a certificate of compliance from the department of health and the Washington state patrol fire protection bureau.

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.

AMENDATORY SECTION (Amending WSR 04-08-073, filed 4/5/04, effective 5/6/04)

WAC 388-148-0345 What must I do to prevent the spread of infections and communicable diseases? You must take precautions to guard against infections and communicable diseases infecting the children under care in your home or facility.

General communicable diseases and infections

(1) In each home or facility, other than a foster home, staff with a reportable communicable disease or notifiable disease condition, as defined by the department of health, in chapter 246-101 WAC, in an infectious stage must not be on duty until they have a physician's approval for returning to work.

(2) Each home or facility, other than a foster home, that cares for medically fragile children and children with a severe developmental disability must have an infection control program supervised by a registered nurse.

(3) Foster homes and staffed residential homes licensed for five or fewer children who are medically fragile may use other alternatives, such as in-home nursing services, to consult on infection control procedures.

~~(Tuberculosis~~

~~(4) Applicants for a license or adults authorized to have unsupervised access to children in a home or facility must have a tuberculin (TB) skin test by the Mantoux method of testing. They must have this skin test upon being employed or licensed unless:~~

~~(a) The person has evidence of testing within the previous twelve months;~~

~~(b) The person has evidence that they have a negative chest X ray since a previously positive skin test;~~

~~(c) The person has evidence of having completed adequate preventive therapy or adequate therapy for active tuberculosis.~~

~~(5) The department does not require a tuberculin skin test if:~~

~~(a) A person has a tuberculosis skin test that has been documented as negative within the past twelve months; or~~

~~(b) A physician indicates that the test is medically unadvisable.~~

~~(6) Persons whose tuberculosis skin test is positive must have a chest X ray within thirty days following the skin test.~~

~~(7) The department does not require retesting for license renewals unless a person believes they have been exposed to someone with tuberculosis or if testing is recommended by their health care provider.~~

~~(8) The facility must keep the results of the applicant and employees TB test results in the personnel file available for review by DLR.)~~

AMENDATORY SECTION (Amending WSR 04-08-073, filed 4/5/04, effective 5/6/04)

WAC 388-148-0541 Excluding respite care, who may provide care to a foster child in the foster home when the foster parent is away from the home? (1) Occasionally, and for less than twenty-four hours, the foster parent, at their own expense, may use a friend or a relative as a substitute caregiver in the foster home, without verifying criminal and founded child abuse/neglect history when the foster parent has no reason to suspect the substitute caregiver:

(a) Has a criminal or founded child abuse or neglect history that would disqualify them from caring for a department child; or

(b) Would be a risk to the foster child while in the substitute's care.

(2) The foster parent must:

(a) Be familiar and comfortable with the individual who will be caring for the foster child;

(b) Meet with the substitute caregiver and review the expectations regarding supervision and discipline of the foster child, including the requirement that no physical discipline is used on foster children;

(c) Be responsible for providing the caregiver any special care instructions;

(d) Provide information on how to be contacted by the substitute caregiver; and

(e) Ensure the child has a safety plan.

(3) If the care by the friend or relative is a regular arrangement, the foster parents must have written approval of the social worker for the arrangement and provide the social worker with evidence from the substitute caregiver of:

(a) Current first aid and age-appropriate CPR training;

(b) HIV/AIDS and bloodborne pathogens training;

(c) A nondisqualifying background check; and

~~((d) A tuberculosis test.))~~

AMENDATORY SECTION (Amending WSR 04-08-073, filed 4/5/04, effective 5/6/04)

WAC 388-148-0542 May a foster child be supervised by someone under eighteen in the foster home? (1) A foster parent, at their own expense, may use a friend or relative who is sixteen or seventeen to supervise (baby sit) a foster child under the following conditions:

(a) The foster parent knows the youth babysitter to be reliable and mature enough to provide appropriate care to the foster child.

(b) The youth babysitter has completed a background check within the past year. Exception: For occasional care of less than twenty-four hours, the verification of the background check is not required, as provided in WAC 388-148-0541 (1)(a)(b).

(c) The youth babysitter must not be responsible for more than three children.

(2) If the care by the youth babysitter is a regular arrangement, the foster parents must have the written approval of the social worker and provide the social worker with evidence from the youth babysitter of:

(a) Current first aid and age-appropriate CPR training;

(b) HIV/AIDS training including bloodborne pathogens training;

(c) A nondisqualifying background check; and

~~((d) A tuberculosis test.))~~

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.

AMENDATORY SECTION (Amending WSR 01-15-001, filed 7/5/01, effective 8/5/01)

WAC 388-160-0145 How do I apply or reapply for a license? (1) To apply or reapply for a license, the person or legal entity responsible for your overnight youth shelter must send the following information to the department licensor:

- (a) The application form;

Note: If you are applying for a license renewal, you must send the application form to the department licensor ninety days prior to the expiration of your current license.

(b) A completed and signed criminal history and background inquiry form from each applicant, staff person, intern, board member and volunteer who:

- (i) Is at least sixteen years old;
(ii) Is not a foster child or shelter youth; and
(iii) Has unsupervised access to youth.

(c) Written verification of:

~~(i) ((A tuberculosis test unless you have religious beliefs which prohibit the test;~~

~~(ii)) First-aid and cardiopulmonary resuscitation (CPR) training; and~~

~~((iii)) (ii) HIV-AIDS/Bloodborne pathogens training.~~

(2) If a person required to have a background check has lived in Washington state less than three years immediately prior to their application, a completed FBI fingerprint form must be provided to us for that person.

(3) We may require additional information from you including, but not limited to:

- (a) Substance and alcohol abuse evaluations;
(b) Psychiatric evaluations;
(c) Psycho-sexual evaluations; and
(d) Medical evaluations.

AMENDATORY SECTION (Amending WSR 01-15-001, filed 7/5/01, effective 8/5/01)

WAC 388-160-0565 What must I do to prevent the spread of infections and communicable diseases? (1) You must take precautions to guard against infections and communicable diseases infecting the youth in care in your overnight youth shelter.

(2) Staff with a reportable communicable disease, as defined by the department of health, in an infectious stage must not be on duty until the staff has a physician's approval for returning to work.

~~((3) Those persons who have been approved for unsupervised access to children in an overnight youth shelter facility must have a tuberculin (TB) skin test by the Mantoux method of testing. They must have this skin test prior to being employed, volunteering, or being licensed unless:~~

~~(a) The person has evidence of testing within the previous twelve months;~~

~~(b) The person has evidence that they have a negative chest X ray since a previously positive skin test;~~

~~(c) The person has evidence of having completed adequate preventive therapy or adequate therapy for active tuberculosis; or~~

~~(d) A physician indicates that the test is medically unadvisable.~~

~~(4) Persons whose tuberculosis skin test is positive must have a chest X ray within thirty days following the skin test.~~

~~(5) The department does not require retesting unless a person believes they have been exposed to someone with tuberculosis or if testing is recommended by their health care provider.))~~

WSR 13-23-020

EMERGENCY RULES DEPARTMENT OF

FISH AND WILDLIFE

[Order 13-289—Filed November 13, 2013, 10:26 a.m., effective November 15, 2013, 12:01 p.m.]

Effective Date of Rule: November 15, 2013, 12:01 p.m.

Purpose: Amend recreational fishing rules.

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

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

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

Reasons for this Finding: Survey results show that adequate razor clams are available for harvest in Razor Clam Areas 1, 3, 4 and 5. Washington department of health has certified clams from these beaches are safe for human consumption. There is insufficient time to adopt 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: November 13, 2013.

Philip Anderson
Director

NEW SECTION

WAC 220-56-36000C Razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-56-360, it is unlawful to dig for or possess razor clams taken for personal use from any beach in Razor Clam Areas 1, 3, 4, or 5, except as provided in this section:

(1) Effective 12:01 p.m. November 15 through 11:59 p.m. November 17, 2013, razor clam digging is allowed in Razor Clam Area 1. Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

(2) Effective 12:01 p.m. November 15 through 11:59 p.m. November 20, 2013, razor clam digging is allowed in Razor Clam Area 3. Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

(3) Effective 12:01 p.m. November 15 through 11:59 p.m. November 16, 2013, razor clam digging is allowed in Razor Clam Area 4. Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

(4) Effective 12:01 p.m. November 15 through 11:59 p.m. November 17, 2013, razor clam digging is allowed in Razor Clam Area 5. Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. November 21, 2013:

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

WSR 13-23-052
EMERGENCY RULES
DEPARTMENT OF REVENUE

[Filed November 15, 2013, 10:59 a.m., effective November 15, 2013, 10:59 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This new section will provide brief adjudicative proceedings to those impacted by agency actions of the department of revenue in the administration of chapter 59.30 RCW regarding the assessment of the one-time business license fee; assessment of the annual renewal application fee; assessment of the annual registration assessment fee; and assessment of the delinquency fee for manufactured and mobile home communities.

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

Other Authority: RCW 34.05.482 through 34.05.494.

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 will allow for the immediate appeal of actions by the department of revenue while it proceeds with the adoption of a permanent rule.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 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: November 15, 2013.

Alan R. Lynn
Assistant Director

NEW SECTION

WAC 458-20-10004 Brief adjudicative proceedings for matters related to assessments and warrants for unpaid fees issued under chapter 59.30 RCW for manufactured and mobile home communities. (1) Introduction. The department of revenue (department) conducts adjudicative proceedings pursuant to chapter 34.05 RCW, the Administrative Procedure Act (APA). The department adopts in this section, the procedures as provided in RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings to review the department's actions described in subsection (2) of this section.

This section explains the procedure pertaining to the adopted brief adjudicative proceedings.

(2) Department's action. The following actions taken by the department are subject to the brief adjudicative proceeding process described in this section:

(a) Assessment of the one-time business license application fee or annual renewal application fee in RCW 59.30.050 (3)(a);

(b) Assessment of the annual registration assessment fee in RCW 59.30.050 (3)(b); and

(c) Assessment of the delinquency fee in RCW 59.30.050(4).

The assessment of more than one type of fee against a manufactured/mobile home community owner or landlord in RCW 59.30.050 does not result in the creation of more than more adjudicative proceeding if those fees are issued in the same document, on the same date.

As explained in RCW 59.30.020(4), the terms "landlord" and "community owner" both refer to the owner of the mobile home park or manufactured home community or their agents. For purposes of this rule, the department refers to such persons as "community owners."

(3) Conduct of brief adjudicative proceedings. To initiate an appeal of the department's action, the community owner has twenty-one calendar days from the date on the department's action to request a review of that action. The community owner must file a written notice of appeal explaining why the community owner disagrees with the action.

A form notice of appeal is available at <http://dor.wa.gov> or by calling 1-800-647-7706. The completed form should be mailed or faxed to the department at:

Department of Revenue
Special Programs
Review of Annual Registration for Manufactured/
Mobile Home Communities
P.O. Box 47472
Olympia, WA 98504-7472
Fax: 360-534-1320

(a) A presiding officer, who will be a person designated by the director of the department (director) or the assistant director of special programs division, will conduct brief adjudicative proceedings. The presiding officer for brief adjudicative proceedings will have agency expertise in the subject matter but will not otherwise have participated in the specific matter. The presiding officer's review is limited to the written record.

(b) As part of the notice of appeal, the community owner or the community owner's representative may include written documentation explaining the community owner's view of the matter. The presiding officer may also request additional documentation from the community owner or the department and will designate the date by which the documents must be submitted.

(c) In addition to the record, the presiding officer for brief adjudicative proceedings may employ agency expertise as a basis for decision.

(d) Within twenty-one calendar days of receipt of the community owner's notice of appeal, the presiding officer will enter an initial order including a brief explanation of the decision under RCW 34.05.485. All orders in these brief adjudicative proceedings will be in writing. The initial order will become the department's final order unless a petition for review is made to the department's appeals division under subsection (4) of this section. If the presiding officer's order invalidates the department action, the department may in its discretion initiate another action that corrects the defects in the prior action.

(4) Review of initial order from brief adjudicative proceeding. A community owner that has received an initial order upholding a department action under subsection (3) of this section may request a review by the department by filing a written petition for review or by making an oral request for review with the department's appeals division within twenty-one calendar days after the service of the initial order on the community owner as described in subsection (8) of this section.

A form petition of review is available at <http://dor.wa.gov>. A request for review should state the reasons for the review.

The address, telephone number, and fax number of the appeals division are:

Appeals Division
 Manufactured/Mobile Home Community Appeals
 Department of Revenue
 P.O. Box 47460
 Olympia, WA 98504-7460
 Telephone Number: 360-534-1335
 Fax: 360-534-1340

(a) A reviewing officer, who will be either the assistant director of the appeals division or such other person as designated by the director, will conduct a brief adjudicative proceeding and determine whether the initial order was correctly decided. The reviewing officer's review is limited to the written record.

(b) The agency record need not constitute the exclusive basis for the reviewing officer's decision. The reviewing officer will have the authority of a presiding officer.

(c) The order of the reviewing officer will be in writing and include a brief statement of the reasons for the decision, and it must be entered within thirty calendar days of the petition for review. The order will include a notice that judicial review may be available. The order of the reviewing officer represents a final order of the department. If a final order invalidates the department's action, the department may in its discretion initiate another action that corrects the defects in the prior action.

(d) A request for review is deemed denied if the department does not issue an order on review within thirty calendar days after the petition for review is filed.

(5) Record in brief adjudicative proceedings. The record with respect to the brief adjudicative proceedings under RCW 34.05.482 through 34.05.494 will consist of:

(a) The record before the presiding officer: The record before the presiding officer consists of the notice of the department action; the community owner's appeal of the department action; all records relied upon by the department or submitted by the community owner related to the department's action; and all correspondence between the community owner and the department regarding the department's action.

(b) The record before the reviewing officer: The record before the reviewing officer consists of all documents included in the record before the presiding officer; the community owner's petition for review; and all correspondence between the community owner and the department regarding the community owner's petition for review.

(6) Court appeal. Court appeal from the final order of the department is available pursuant to Part V, chapter 34.05 RCW. However, court appeal may be available only if a review of the initial decision has been requested under subsection (4) of this section and all other administrative remedies have been exhausted. See RCW 34.05.534.

(7) Computation of time. In computing any period of time prescribed by this section or by the presiding officer or reviewing officer, the day of the act or event after which the designated period is to run is not to be included. The last day of the period is to be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the next day which is not a Saturday, Sunday, or legal holiday.

(8) Service. All notices and other pleadings or papers filed with the presiding or reviewing officer must be served on the community owner, their representatives/agents of record, and the department.

(a) Service is made by one of the following methods:

(i) In person;

(ii) By first-class, registered or certified mail;

(iii) By fax and same-day mailing of copies;

(iv) By commercial parcel delivery company; or

(v) By electronic delivery pursuant to RCW 82.32.135.

(b) Service by mail is regarded as completed upon deposit in the United States mail properly stamped and addressed.

(c) Service by electronic fax is regarded as completed upon the production by the fax machine of confirmation of transmission.

(d) Service by commercial parcel delivery is regarded as completed upon delivery to the parcel delivery company, properly addressed with charges prepaid.

(e) Service by electronic delivery is regarded as completed on the date that the department electronically sends the information to the parties or electronically notifies the parties that the information is available to be accessed by them.

(f) Service to a community owner, their representative/agent of record, the department, and presiding officer must be to the address shown on the form notice of appeal described in subsection (3) of this section.

(g) Service to the reviewing officer must be to the appeals division at the address shown in subsection (4) of this section.

(h) Where proof of service is required, the proofs of service must include:

(i) An acknowledgment of service;

(ii) A certificate, signed by the person who served the document(s), stating the date of service; that the person did serve the document(s) upon all or one or more of the parties of record in the proceeding by delivering a copy in person to (names); and that the service was accomplished by a method of service as provided in this subsection.

(9) Continuance. The presiding officer or reviewing officer may grant, in their sole discretion, a request for a continuance by motion of the community owner, the department, or on its own motion.

(10) Conversion of a brief adjudicative proceeding to a formal proceeding. The presiding officer or reviewing officer, in their sole discretion, may convert a brief adjudicative proceeding to a formal proceeding at any time on motion of the community owner, the department, or the presiding/reviewing officer's own motion.

(a) The presiding/reviewing officer will convert the proceeding when it is found that the use of the brief adjudicative proceeding violates any provision of law, when the protection of the public interest requires the agency to give notice to and an opportunity to participate to persons other than the parties, and when the issues and interests involved warrant the use of the procedures of RCW 34.05.413 through 34.05.479.

(b) When a proceeding is converted from a brief adjudication to a formal proceeding, the director may become the presiding officer or may designate a replacement presiding officer to conduct the formal proceedings upon notice to the community owner and the department.

(c) In the conduct of the formal proceedings, WAC 458-20-10002 will apply to the proceedings.

WSR 13-23-055
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 13-290—Filed November 15, 2013, 3:11 p.m., effective November 18, 2013, 12:01 a.m.]

Effective Date of Rule: November 18, 2013, 12:01 a.m.
Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-40-02700T; and amending WAC 220-40-027.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

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

Reasons for this Finding: Based on catch information to date, harvest guidelines will be exceeded if retention of white sturgeon in the Willapa Bay commercial gillnet fishery is allowed beyond 11:59 p.m., Sunday, November 17, 2013. There is insufficient time to adopt 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: November 15, 2013.

Lisa M. Veneroso
for Philip Anderson
Director

NEW SECTION

WAC 220-40-02700T Salmon—Willapa Bay fall fishery. Notwithstanding the provisions of WAC 220-40-027, effective 12:01 a.m. November 18 through 12:00 noon November 20, 2013, it is unlawful to retain white sturgeon for commercial purposes. Unless otherwise amended, all permanent rules remain in effect.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 p.m. November 20, 2013:

WAC 220-40-02700T Salmon—Willapa Bay fall fishery.

WSR 13-23-057
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 13-291—Filed November 15, 2013, 4:23 p.m., effective November 15, 2013, 4:23 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-47-31100G and 220-47-41100Y; and amending WAC 220-47-311 and 220-47-411.

Statutory Authority for Adoption: RCW 77.04.020, 77.04.055, and 77.12.047.

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

Reasons for this Finding: There is not enough nontreaty chum share remaining in Hood Canal or south Puget Sound for a purse seine opening and opening [Area] 12C to gillnets is not needed to achieve the nontreaty share. [Area] 8D is closed due to concerns about not reaching egg-take goals at the Tulalip hatchery. There is insufficient time to adopt 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 2.

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

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

Date Adopted: November 15, 2013.

Lisa M. Veneroso
for Philip Anderson
Director

NEW SECTION

WAC 220-47-31100G Purse seine—Open periods. Notwithstanding the provisions of WAC 220-47-311, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the areas and open periods indicated below. Unless otherwise amended, all permanent rules remain in effect.

Areas 10, 11, 12, 12B and 12C are closed to purse seines on 11/19/2013

Area 8D is closed to purse seines on 11/18/2013

NEW SECTION

WAC 220-47-41100Y Gillnet—Open periods. Notwithstanding the provisions of WAC 220-47-411, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the areas and open periods indicated below. Unless otherwise amended, all permanent rules remain in effect.

Area 12C is closed to gillnets on 11/18 and 11/20/2013

Area 8D is closed to gillnets on 11/20, 11/21 and 11/22/2013

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. November 22, 2013:

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

WAC 220-47-41100Y Gillnet—Open periods.

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 13-23-082
EMERGENCY RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed November 19, 2013, 1:27 p.m., effective November 19, 2013, 1:27 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends WAC 181-78A-264 and 181-78A-270 transitioning from the current pedagogy assessment requirements to the new education teacher performance assessment (edTPA). Permitting pilot participants to be recommended for certification by programs.

Citation of Existing Rules Affected by this Order: Amending WAC 181-78A-264 and 181-78A-270.

Statutory Authority for Adoption: RCW 28A.410.210, 28A.305.130, and 28A.410.010.

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 professional educator standards board has adopted a January start date for the new assessment of teacher performance (edTPA) as required by statute (RCW 28A.410.280). The emergency rule change is required due to a lack of time to file a proposal following the board determination.

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 2, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

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

Date Adopted: November 14, 2013.

David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 12-02-028, filed 12/28/11, effective 1/28/12)

WAC 181-78A-264 Approval standard—Program design. Building on the mission to prepare educators who demonstrate a positive impact on student learning, evidence shall be evaluated to determine whether each preparation program is in compliance with the program design standard of WAC 181-78A-220(4):

(1) The conceptual framework establishes the shared vision for the unit's efforts in preparing educators to work effectively in P-12 schools. The conceptual framework:

(a) Provides coherence among curriculum, instruction, field experiences, clinical practice, candidate assessment, and program evaluation;

(b) Establishes the philosophy, purpose, goals, and standards of the program or unit;

(c) Reflects renewing commitment to current research and best practices; and

(d) Supports the state's goals for P-12 student learning and program approval Standard V.

(2) Recruitment, admission, retention, and transition to the field.

(a) Programs recruit, admit, retain, and transition candidates to the field who:

(i) Demonstrate the content and pedagogical knowledge and skills for success as educators in schools;

(ii) Demonstrate the dispositions of a professional educator;

(iii) Address the program, state and partner districts' goals for increasing underrepresented populations in the workplace;

(iv) Address the content areas identified by work force data of the state and region.

(b) Learner expectations for program requirements, progression, and completion are identified, published, and accessible.

(c) Faculty regularly review recruitment and retention data for effectiveness of program.

Programs create, implement and communicate a recruitment and retention plan in response to data.

(3) Field experiences and clinical practice.

(a) The program(s) and its school partners design, implement, and evaluate field experiences and clinical practices.

(b) Field experiences are integrated throughout the preparation program.

(i) Field experiences provide opportunity to plan, practice and reflect on methods of instruction and differentiation;

(ii) Field experiences provide opportunity to work in communities with populations dissimilar to the background of the candidate;

(iii) Faculty supervision, including on-site visits, will be provided on an on-going basis.

(c) Mentors are instructional leaders identified collaboratively with the partner school of district.

(i) Mentors and principals are provided with a set of internship expectations;

(ii) Mentors receive or provide evidence of training on mentoring of adult learners;

(iii) Mentors must be fully certificated school personnel and have a minimum of three years of professional experience in the role they are supervising;

(iv) Effectiveness of mentor preparation and communication are reviewed annually by faculty.

(d) All Washington educator preparation programs operating field experiences in Washington state shall establish and maintain field placement agreements with all Washington school districts in which candidates are placed for field experiences leading to certification or endorsement under WAC 181-78A-125.

(e) Entry and exit criteria and a process for mitigating concerns during clinical practice are provided for candidates and the mentor.

(f) Requirements for specific educator preparation programs.

(i) Teacher programs.

(A) Programs shall administer the ((pedagogy)) teacher performance assessment adopted by the professional educator standards board to all candidates in a residency certificate program.

(B) Clinical practice (defined as supervised planning, instruction, and reflection) for teacher candidates should consist of no less than four hundred fifty hours in classroom settings.

(ii) School counselor programs.

(A) Candidates complete a supervised internship in the schools that includes a minimum of four hundred hours of on the job professional service and one hour per week of individual supervision provided by the mentor.

(B) Prior to the internship, the candidate will complete a faculty supervised practicum (a distinctly defined clinical experience intended to enable the candidate to develop basic counseling skills and integrate professional knowledge).

(iii) School psychology programs.

(A) Candidates complete a supervised internship in the schools that includes a minimum of one thousand two hundred hours of on the job professional service and one hour per week of individual supervision provided by the mentor.

(B) Prior to the internship, the candidate will complete a faculty supervised practicum (a distinctly defined clinical experience intended to enable the candidate to develop basic

school psychology skills and integrate professional knowledge).

(iv) Administrator programs.

(A) The internship for administrators shall take place in an education setting serving under the general supervision of a certificated practitioner who is performing in the role for which certification is sought.

(B) Components of the required internship shall include demonstration by the candidate that he or she has the appropriate, specific relevant skills pursuant to WAC 181-78A-270.

(C) An approved preparation program for superintendents shall require an internship of at least three hundred sixty hours.

(D) An approved preparation program for principals shall require for those persons beginning their internship August 1, 2009, and after, an internship which requires practice as an intern during the full school year. A "full school year" shall mean five hundred forty hours of which at least one-half shall be during school hours, when students and/or staff are present: Provided further, That an approved preparation program for principals shall require an internship that shall include demonstration by the candidate that she or he has the appropriate, specific skills pursuant to the standards identified in WAC 181-78A-270(2) and meets, at minimum, the standards-based benchmarks approved and published by the professional educator standards board. The benchmarks may not be changed without prior professional educator standards board approval.

(4) Program and faculty collaboration.

(a) Faculty within the program and unit collaborate for continuous program improvement.

(b) Faculty collaborate with content area specialists.

(c) Programs collaborate with P-12 schools to assess and respond to work force, student learning, and professional development needs.

(d) Faculty collaborate with members of the broader professional community.

(e) Faculty collaborate with members of under-represented populations for program improvement.

(5) Diversity in learning experiences.

(a) Candidates have significant interaction with diverse populations including colleagues, faculty, P-12 practitioners, and P-12 students and families.

(i) Candidates reflect on interactions with diverse populations in order to integrate professional growth in cultural competency as a habit of practice.

(ii) Candidates integrate their cultural and linguistic backgrounds into classroom activities in order to build the multicultural capacity of the preparation program cohort.

(b) Faculty model equity pedagogy through:

(i) Interaction with diverse populations;

(ii) Reflective practice on their own professional growth in cultural competency;

(iii) Culturally relevant communication and problem solving; and

(iv) Personalized instruction that addresses cultural and linguistic backgrounds.

AMENDATORY SECTION (Amending WSR 13-16-076, filed 8/6/13, effective 9/6/13)

WAC 181-78A-270 Approval standard—Knowledge and skills. Each preparation program must be in compliance with the program approval standards of WAC 181-78A-220(5):

(1) **TEACHER RESIDENCY CERTIFICATION.**

(a) **EFFECTIVE TEACHING.**

(i) Using multiple instructional strategies, including the principles of second language acquisition, to address student academic language ability levels and cultural and linguistic backgrounds;

(ii) Applying principles of differentiated instruction, including theories of language acquisition, stages of language, and academic language development, in the integration of subject matter across the content areas of reading, mathematical, scientific, and aesthetic reasoning;

(iii) Using standards-based assessment that is systematically analyzed using multiple formative, summative, and self-assessment strategies to monitor and improve instruction;

(iv) Implementing classroom/school centered instruction, including sheltered instruction that is connected to communities within the classroom and the school, and includes knowledge and skills for working with other;

(v) Planning and/or adapting standards-based curricula that are personalized to the diverse needs of each student;

(vi) Aligning instruction to the learning standards and outcomes so all students know the learning targets and their progress toward meeting them;

(vii) Planning and/or adapting curricula that are standards driven so students develop understanding and problem-solving expertise in the content area(s) using reading, written and oral communication, and technology;

(viii) Preparing students to be responsible citizens for an environmentally sustainable, globally interconnected, and diverse society;

(ix) Planning and/or adapting learner centered curricula that engage students in a variety of culturally responsive, developmentally, and age appropriate strategies;

(x) Using technology that is effectively integrated to create technologically proficient learners; and

(xi) Informing, involving, and collaborating with families/neighborhoods, and communities in each student's educational process, including using information about student cultural identity, achievement and performance.

(b) **PROFESSIONAL DEVELOPMENT.** Developing reflective, collaborative, professional growth-centered practices through regularly evaluating the effects of his/her teaching through feedback and reflection.

Teacher evaluation. After August 31, 2013, an approved preparation program for teachers shall require candidates for a residency certificate to demonstrate knowledge of teacher evaluation research and Washington's evaluation requirements. At a minimum, teacher preparation programs must address the following knowledge and skills related to evaluations:

(i) Examination of Washington's evaluation requirements, criteria, four-tiered performance rating system, and

the preferred instructional frameworks used to describe the evaluation criteria;

(ii) Self-assessment, goal setting, and reflective practices;

(iii) Evidence gathering over time;

(iv) Use of student growth data and multiple measures of performance;

(v) Evaluation conferencing; and

(vi) Use of an online tool to review observation notes and submit materials to be included in evaluation.

(c) **TEACHING AS A PROFESSION.**

(i) Participating collaboratively and professionally in school activities and using appropriate and respectful verbal and written communication.

(ii) Demonstrating knowledge of professional, legal, and ethical responsibilities and policies.

(d) **PERFORMANCE ASSESSMENT.** An approved preparation program for teachers shall require that each candidate engage in an assessment process approved by the professional educator standards board. The assessment will verify that the candidate for a residency teacher certificate can meet the teacher standards in (a), (b) and (c) of this subsection and understands teacher impact on student learning. Beginning January 1, 2014, all candidates will complete and pass the teacher performance assessment per WAC 181-78A-264 as authorized by the professional educator standards board: Provided, that candidates who participated in the teacher performance assessment field trials or took the pedagogy assessment prior to January 1, 2014, may be recommended for certification by the preparation program. All candidates shall exit the residency certificate program with a draft professional growth plan oriented toward the expectations for the professional certificate.

(2) **PRINCIPAL AND PROGRAM ADMINISTRATOR.**

(a) Principal and program administrator candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete formalized learning opportunities, including an internship, in an approved program that includes:

Successful demonstration of standards.

(i) A school or program administrator is an educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by leading the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by school/program and community stakeholders;

(ii) A school or program administrator is an educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by leading through advocating, nurturing, and sustaining district/school/program cultures and coherent instructional programs that are conducive to student learning and staff professional growth;

(iii) A school or program administrator is an educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by ensuring management of the organization, operations, and resources for a safe, efficient, and effective learning environment;

(iv) A school or program administrator is an educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by collaborating with families and community members, responding to diverse community interests and needs, and mobilizing community resources;

(v) A school or program administrator is an educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by acting with integrity, fairness, and in an ethical manner; and

(vi) A school or program administrator is an educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by understanding, responding to, and influencing the larger political, social, economic, legal and cultural context.

(b) Performance assessment. An approved preparation program for principals shall require that each candidate engage in an assessment process using the standards-based benchmarks approved by the professional educator standards board. The benchmarks may not be changed without prior professional educator standards board approval. All candidates shall exit the residency certificate program with a draft professional growth plan oriented toward the expectations for the professional certificate.

(c) Teacher and principal evaluation. After August 31, 2013, an approved preparation program for principals shall require candidates for a residency principal certificate to demonstrate knowledge of teacher evaluation research, Washington's evaluation requirements, and successfully complete opportunities to practice teacher evaluation skills. At a minimum, principal preparation programs must address the following knowledge and skills related to evaluations:

(i) Examination of Washington teacher and principal evaluation criteria, four-tiered performance rating system, and the preferred instructional and leadership frameworks used to describe the evaluation criteria;

(ii) Self-assessment, goal setting, and reflective practices;

(iii) Evidence gathering over time;

(iv) Classroom observation skills;

(v) Bias training;

(vi) Rater agreement on the four-tiered system;

(vii) Use of student growth data and multiple measures of performance;

(viii) Evaluation conferencing;

(ix) Development of classroom teacher and principal support plans resulting from an evaluation; and

(x) Use of an online tool to manage the collection of observation notes, teacher- and principal-submitted materials, and other information related to the conduct of the evaluation.

(3) **SUPERINTENDENT.** An approved preparation program for superintendents shall require the candidate to demonstrate in course work and the internship the following standards:

(a) A superintendent is the community's educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the suc-

cess of each student by leading the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by district and community stakeholders;

(b) A superintendent is the community's educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by leading through advocating, nurturing, and sustaining district culture and coherent instructional programs that are conducive to student learning and staff professional growth;

(c) A superintendent is the community's educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by ensuring management of the organization, operations, and resources for a safe, efficient, and effective learning environment;

(d) A superintendent is the community's educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by collaborating with families and community members, responding to diverse community interests and needs, and mobilizing community resources;

(e) A superintendent is the community's educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by acting with integrity, fairness, and in an ethical manner;

(f) A superintendent is the community's educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by understanding, responding to, and influencing the larger political, social, economic, legal, and cultural context; and

(g) Principal evaluation. After August 31, 2013, an approved preparation program for superintendents shall require candidates for an initial superintendent certificate to demonstrate knowledge of principal evaluation research, Washington's evaluation requirements, and successfully complete opportunities to practice principal evaluation skills. At a minimum, superintendent preparation programs must address the following knowledge and skills related to evaluations:

(i) Examination of Washington principal evaluation criteria, four-tiered performance rating system, and the preferred leadership frameworks used to describe the evaluation criteria;

(ii) Self-assessment, goal setting, and reflective practices;

(iii) Evidence gathering over time;

(iv) Observation skills;

(v) Bias training;

(vi) Rater agreement on the four-tiered system;

(vii) Use of student growth data and multiple measures of performance;

(viii) Evaluation conferencing;

(ix) Development of principal support plans resulting from an evaluation; and

(x) Use of an online tool to manage the collection of observation notes, superintendent- and principal-submitted

materials, and other information related to the conduct of the evaluation.

(4) **SCHOOL COUNSELOR.** School counselor candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete formalized learning opportunities, including an internship, in an approved program that includes:

(a) **Successful demonstration of standards:**

(i) **School counseling program:** Certified school counselors develop, lead, and evaluate a data-driven school counseling program that is comprehensive, utilizes best practices, and advances the mission of the school.

(ii) **Student learning and assessments:** Certified school counselors use their knowledge of pedagogy, child development, individual differences, learning barriers, and Washington state learning requirements to support student learning. They work effectively with other educators to monitor and improve student success.

(iii) **Counseling theories and technique:** Certified school counselors use a variety of research-based counseling approaches to provide prevention, intervention, and responsive services to meet the academic, personal/social and career needs of all students.

(iv) **Equity, fairness, and diversity:** Certified school counselors understand cultural contexts in a multicultural society, demonstrate fairness, equity, and sensitivity to every student, and advocate for equitable access to instructional programs and activities.

(v) **School climate and collaboration:** Certified school counselors collaborate with colleagues, families, and community members to establish and foster a safe, inclusive, and nurturing learning environment for students, staff, and families.

(vi) **Professional identity and ethical practice:** Certified school counselors engage in continuous professional growth and development and advocate for appropriate school counselor identity and roles. They adhere to ethical practices and to the Washington state and federal policies, laws, and legislation relevant to school counseling.

(b) **Performance assessment.** An approved preparation program for school counselors shall require that each candidate engage in an assessment process using the standards-based benchmarks approved by the professional educator standards board. The benchmarks may not be changed without prior professional educator standards board approval. All candidates shall exit the residency certificate program with a draft professional growth plan oriented to the expectations for the professional certificate.

(5) **SCHOOL PSYCHOLOGIST.** School psychologist candidates will complete formalized learning opportunities, including an internship, in an approved program that includes:

(a) **Successful demonstration of standards:**

(i) **Data-based decision making and accountability:** Certified school psychologists have knowledge of varied models and methods of assessment as part of a systematic process of data-based decision making that permeates every aspect of professional practice.

(ii) **Consultation and collaboration:** Certified school psychologists have knowledge of behavioral, mental health,

collaborative, and other consultation models and methods and of their application to individual and contextual situations; collaborate effectively with others in planning and decision-making processes at the individual, group, and system levels.

(iii) **Interventions and instructional support to develop academic skills:** Certified school psychologists have knowledge of the influence of biological, cultural, linguistic, and early life experiences on academic development and collaborate with others to access, implement, and evaluate services at universal, targeted, and intensive levels using a variety of culturally and developmentally appropriate assessments.

(iv) **Interventions and mental health services to develop social and life skills:** Certified school psychologists have knowledge of biological, cultural, developmental, and social influences on behavior and mental health; collaborate with others, to develop, implement, and evaluate services that support socialization, cultural competence, learning, and mental health for positive impact on student learning.

(v) **Schoolwide practices to promote learning:** Certified school psychologists have knowledge of general and special education, evidence-based practices, and equity pedagogy that responds to the needs of the learners; demonstrate skills to manage time effectively, respond to the learning needs of the individual students, and plan and measure positive impact on student learning.

(vi) **Prevention and responsive services:** Certified school psychologists have knowledge of principles of resilience and risk factors and demonstrate skills in multitiered delivery of services that respond to crisis and promote learning and mental health across cultures.

(vii) **School collaboration services:** Certified school psychologists have knowledge of family systems, including family strengths and influences on student development, learning, and behavior, and of methods to involve families in education and service delivery; facilitate family and school partnerships and interactions with community agencies for enhancement of academic and social-behavior outcomes for children.

(viii) **Diversity in development and learning:** Certified school psychologists have knowledge of the principles and research related to culture, linguistic development, context, individual and role differences; work collaboratively to provide professional services that respond to the diverse needs of individuals and families; advocate for social justice and equity pedagogy.

(ix) **Research and program evaluation:** Certified school psychologists have knowledge of research, statistics, and evaluation methods; evaluate research, translate research into practice, and understand research design and statistics in sufficient depth to plan and conduct investigations and program evaluations for improvement of services at individual, group, and systems levels.

(x) **Legal, ethical, and professional practice:** Certified school psychologists have knowledge of the history and foundations of their profession; of multiple service models and methods; of ethical, professional, and legal standards, including the Washington Administrative Code and federal and state accountability legislation; practice in ways that are

consistent with applicable standards; engage in responsive ethical and professional decision-making; and apply professional work characteristics.

(xi) **Emerging and assistive technologies:** Certified school psychologists have knowledge of and access, implement, and evaluate technology relevant to their work and to the instructional needs of individuals with disabilities.

(b) **Performance assessment.** An approved preparation program for school psychologists shall require that each candidate engage in an assessment process using the standards-based benchmarks approved by the professional educator standards board. The benchmarks may not be changed without prior professional educator standards board approval. All candidates shall exit the residency certificate program with a draft professional growth plan oriented to the expectations for the professional certificate.

WSR 13-23-095

EMERGENCY RULES BUILDING CODE COUNCIL

[Filed November 20, 2013, 9:22 a.m., effective November 20, 2013, 9:22 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amendment of chapter 51-11R WAC, 2012 Washington State Energy Code (Residential), Section R403: Changing insulation requirements for hot water piping.

Citation of Existing Rules Affected by this Order: Amending WAC 51-11R-40340.

Statutory Authority for Adoption: RCW 19.27A.025, 19.27A.045.

Other Authority: RCW 19.27.074.

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 building code council (council), based on the following good cause, finds that an emergency affecting the general welfare of the state of Washington exists. The council further finds that immediate amendment of a certain council rule is necessary for the public welfare and that observing the time requirements of notice and opportunity to comment would be contrary to the public interest.

The declaration of emergency affecting the general welfare of the state of Washington is based on the following findings:

The council determined that state amendments to three sections of the 2012 International Energy Conservation Code (Residential) regarding insulation of hot water piping within residential structures causes potential economic hardship on homeowners and builders. The economic and energy model used to establish the initial cost-benefit analysis and savings potential did not specifically look at the increases in insulation levels based on the assumptions that the levels were equivalent to those previously found in the 2009 Washington State Energy Code. However, there were exceptions provided

in the previous code not found in the 2012 code. It was also determined that the availability of the required insulation from manufacturers and suppliers was limited.

In Section R403.4.2, Hot water piping insulation, it was determined not cost effective and could compromise the structural integrity of the building. The emergency rule replaces the require[d] R-4 insulation with R-3 insulation for hot water piping.

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 1, Repealed 0.

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

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

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

Date Adopted: November 8, 2013.

C. Ray Allshouse
Council Chair

AMENDATORY SECTION (Amending WSR 13-20-121, filed 10/1/13, effective 11/1/13)

WAC 51-11R-40340 Section R403.4—Service hot water systems.

R403.4 Service hot water systems. Energy conservation measures for service hot water systems shall be in accordance with Sections R403.4.1 through R403.4.3.

R403.4.1 Circulating hot water systems (Mandatory). Circulating hot water systems shall be provided with an automatic or *readily accessible* manual switch that can turn off the hot water circulating pump when the system is not in use.

R403.4.2 Hot water pipe insulation (Prescriptive). Insulation for hot water pipe shall have a minimum thermal resistance (*R*-value) of ((~~R-4~~) R-3).

R403.4.3 Electric water heater insulation. All electric water heaters in unheated spaces or on concrete floors shall be placed on an incompressible, insulated surface with a minimum thermal resistance of R-10.

WSR 13-23-097

EMERGENCY RULES

BUILDING CODE COUNCIL

[Filed November 20, 2013, 9:22 a.m., effective November 20, 2013, 9:22 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amendment of chapter 51-50 WAC, 2012 International Building Code, Section 1203; and chapter 51-

51 WAC, International Residential Code, Section R408: Include requirements for black, 6 mil polyethylene ground cover in crawl spaces. This requirement was previously located in the 2009 Washington State Energy Code but not in the reformatted 2012 Energy Code.

Citation of Existing Rules Affected by this Order: Amending WAC 51-50-1203 and 51-51-0408.

Statutory Authority for Adoption: RCW 19.27.031, 19.27.074.

Other Authority: Chapters 19.27 and 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: The state building code council (council), based on the following good cause, finds that an emergency affecting the general welfare of the state of Washington exists. The council further finds that immediate amendment of a certain council rule is necessary for the public welfare and that observing the time requirements of notice and opportunity to comment would be contrary to the public interest.

The declaration of emergency affecting the general welfare of the state of Washington is based on the following findings:

Requirements for a Class 1 Vapor Retarder installed on the exposed earth in crawl spaces have been in every edition of the Washington State Energy Code since 1980. When transitioning from the 2009 Energy Code to the adoption and amendment of the 2012 International Energy Conservation Code, crawl space vapor retarder requirements were not incorporated because it was believed the requirement was contained within the 2012 International Building Code and International Residential Code. However, these codes allow the elimination of the ground cover with a minimum ventilation rate of one square foot for every three hundred square feet of floor area.

The council believes the elimination of the crawl space vapor retarder will have an adverse effect on housing durability, indoor air quality and mold problems in new houses in Washington. Without the ground cover, stack effect can draw moisture vapor from the crawl space through the house to condense on the cool underside of roof sheathing. This causes mold and potential rot problems.

The council concluded that it is in the best interest of the general welfare of the state of Washington to reinstate the requirement for a 6 mil black polyethylene ground cover in crawl spaces to minimize stack effect and related moisture problems.

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 2, Repealed 0.

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

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

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

Date Adopted: November 8, 2013.

C. Ray Allshouse
Council Chair

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

WAC 51-50-1203 Section 1203—Ventilation.

1203.1 General. Buildings shall be provided with natural ventilation in accordance with Section 1203.4, or mechanical ventilation in accordance with the *International Mechanical Code*.

1203.2 Attic spaces. Enclosed *attics* and enclosed rafter spaces formed where ceilings are applied directly to the underside of roof framing members shall have cross ventilation for each separate space by ventilation openings protected against the entrance of rain and snow. Blocking and bridging shall be arranged so as not to interfere with the movement of air. An airspace of not less than 1 inch (25 mm) shall be provided between the insulation and the roof sheathing. The net free ventilating area shall not be less than 1/150th of the area of the space ventilated.

- EXCEPTIONS:
1. The net free cross-ventilation area shall be permitted to be reduced to 1/300 provided not less than 50 percent and not more than 80 percent of the required ventilating area provided by ventilators located in the upper portion of the space to be ventilated at least 3 feet (914 mm) above eave or cornice vents with the balance of the required *ventilation* provided by eave or cornice vents.
 2. The net free cross-ventilation area shall be permitted to be reduced to 1/300 where a Class I or II vapor retarder is installed on the warm-in-winter side of the ceiling.
 3. *Attic* ventilation shall not be required when determined not necessary by the *building official* due to atmospheric or climatic conditions.
 4. Unvented attic assemblies (spaces between the ceiling joists of the top story and the roof rafters) shall be permitted if all the following conditions are met:
 - 4.1 The unvented attic space is completely contained within the building thermal envelope.
 - 4.2 No interior vapor retarders are installed on the ceiling side (attic floor) of the unvented attic assembly.
 - 4.3 Where wood shingles or shakes are used, a minimum 1/4 inch (6 mm) vented air space separates the shingles or shakes and the roofing underlayment above the structural sheathing.
 - 4.4 In Climate Zones 5B and 6B, any air-impermeable insulation shall be a Class II vapor retarder, or shall have a Class II vapor retarder coating or covering in direct contact with the underside of the insulation.
 - 4.5 Either items a, b, or c below shall be met, depending on the air permeability of the insulation directly under the structural roof sheathing.
 - a. Air-impermeable insulation only. Insulation shall be applied in direct contact to the underside of the structural roof sheathing.
 - b. Air-permeable insulation only. In addition to the air-permeable insulation installed directly below the structural sheathing, rigid board or sheet insulation shall be installed directly above the structural roof sheathing as specified in Table 1203.2.1 for condensation control.
 - c. Air-impermeable and air-permeable insulation. The air-impermeable insulation shall be applied in direct contact to the underside of the structural roof sheathing as specified in Table 1203.2.1 for condensation control. The air-permeable insulation shall be installed directly under the air-impermeable insulation.
 - i. Climate Zone #1 - R-10 minimum rigid board or air-impermeable insulation R-value.
 - ii. Climate Zone #2 - R-25 minimum rigid board or air-impermeable insulation R-value.
 - d. Where preformed insulation board is used as the air-impermeable insulation layer, it shall be sealed at the perimeter of each individual sheet interior surface to form a continuous layer.

**Table 1203.2.1
Insulation for Condensation Control**

CLIMATE ZONE	MINIMUM RIGID BOARD ON AIR-IMPERMEABLE INSULATION R-VALUE ^a
4C	R-15
5B	R-20
6B	R-25

^a Contributes to but does not (~~supersede~~) supersede the requirements for insulation in the Washington State Energy Code (~~WAC~~) chapter 51-11 WAC.

1203.3 Under-floor ventilation. The space between the bottom of the floor joists and the earth under any building except spaces occupied by basements or cellars shall be provided with ventilation openings through foundation walls or exterior walls. Such openings shall be placed so as to provide cross ventilation of the under-floor space. A ground cover of six mil (0.006 inch thick) black polyethylene or approved equal shall be laid over the ground within crawl spaces. The ground cover shall be overlapped six inches minimum at the joints and shall extend to the foundation wall.

EXCEPTION: The ground cover may be omitted in crawl spaces if the crawl space has a concrete slab floor with a minimum thickness of two inches.

1203.4 Natural ventilation. For other than Group R Occupancies, natural ventilation of an occupied space shall be through windows, doors, louvers or other openings to the outdoors. The operating mechanism for such openings shall be provided with ready access so that the openings are readily controllable by the building occupants. Group R Occupancies shall comply with the *International Mechanical Code*.

1203.6 Radon resistive construction standards. The criteria of this section establishes minimum radon resistive construction requirements for Group R Occupancies.

1203.6.1 Application. The requirements of Section 1203.6 shall be adopted and enforced by all jurisdictions of the state according to the following subsections.

1203.6.1.1 All jurisdictions of the state shall comply with Section 1203.6.2.

1203.6.1.2 Clark, Ferry, Okanogan, Pend Oreille, Skamania, Spokane, and Stevens counties shall also comply with Section 1203.6.3.

1203.6.2 State wide radon requirements.

1203.6.2.1 Crawlspace. All crawlspaces shall comply with the requirements of this section.

1203.6.2.2 Ventilation. All crawlspaces shall be ventilated as specified in Section 1203.3.

If the installed ventilation in a crawlspace is less than one square foot for each 300 square feet of crawlspace area, or if the crawlspace vents are equipped with operable louvers, a radon vent shall be installed to originate from a point between the ground cover and soil. The radon vent shall be installed in accordance with Sections 1203.6.3.2.6 and 1203.6.3.2.7.

1203.6.2.3 Crawlspace plenum systems. In crawlspace plenum systems used for providing supply air for an HVAC system, aggregate, a permanently sealed soil gas retarder membrane and a radon vent pipe shall be installed in accordance with Section 1203.6.3.2. Crawlspace shall not be used for return air plenums.

In addition, an operable radon vent fan shall be installed and activated. The fan shall be located as specified in Section 1203.6.3.2.7. The fan shall be capable of providing at least 100 cfm at 1-inch water column static pressure. The fan shall be controlled by a readily accessible manual switch. The switch shall be labeled "RADON VENT FAN."

1203.6.3 Radon prescriptive requirements.

1203.6.3.1 Scope. This section applies to those counties specified in Section 1203.6.1.2. This section establishes prescriptive construction requirements for reducing the potential for radon entry into all Group R Occupancies, and for preparing the building for future mitigation if desired.

In all crawlspaces, except crawlspace plenums used for providing supply air for an HVAC system, a continuous air barrier shall be installed between the crawlspace area and the occupied area to limit air transport between the areas. If a wood sheet subfloor or other material is utilized as an air barrier, in addition to the requirements of Section 502.1.6.2 of the Washington State Energy Code, all joints between sheets shall be sealed.

1203.6.3.2 Floors in contact with the earth.

1203.6.3.2.1 General. Concrete slabs that are in direct contact with the building envelope shall comply with the requirements of this section.

EXCEPTION: Concrete slabs located under garages or other than Group R Occupancies need not comply with this chapter.

1203.6.3.2.2 Aggregate. A layer of aggregate of 4-inch minimum thickness shall be placed beneath concrete slabs. The aggregate shall be continuous to the extent practical.

1203.6.3.2.3 Gradation. Aggregate shall:

1. Comply with ASTM Standard C-33 Standard Specification for Concrete Aggregate and shall be size No. 8 or larger size aggregate as listed in Table 2, Grading Requirements for Course Aggregate; or

2. Meet the 1988 Washington State Department of Transportation Specification 9-03.1 (3) "Coarse Aggregate for Portland Cement Concrete," or any equivalent successor standards. Aggregate size shall be of Grade 8 or larger as listed in Section 9-03.1 (3) C, "Grading"; or

3. Be screened, washed pea gravel free of deleterious substances in a manner consistent with ASTM Standard C-33 with 100 percent passing a 1/2-inch sieve and less than 5 percent passing a No. 16 sieve. Sieve characteristics shall conform to those acceptable under ASTM Standard C-33.

EXCEPTION: Aggregate shall not be required if a substitute material or system, with sufficient load bearing characteristics, and having approved capability to provide equal or superior air flow, is installed.

1203.6.3.2.4 Soil-gas retarder membrane. A soil-gas retarder membrane, consisting of at least one layer of virgin polyethylene with a thickness of at least 6 mil, or equivalent flexible sheet material, shall be either placed directly under all concrete slabs so that the slab is in direct contact with the membrane, or on top of the aggregate with 2 inches minimum of fine sand or pea gravel installed between the concrete slab and membrane. The flexible sheet shall extend to the foundation wall or to the outside edge of the monolithic slab. Seams shall overlap at least 12 inches. The membrane shall also be fitted tightly to all pipes, wires, and other penetrations of the membrane and sealed with an approved sealant or tape. All punctures or tears shall be repaired with the same or approved material and similarly lapped and sealed.

1203.6.3.2.5 Sealing of penetrations and joints. All penetrations and joints in concrete slabs or other floor systems and walls below grade shall be sealed by an approved sealant to create an air barrier to limit the movement of soil-gas into the indoor air.

Sealants shall be approved by the manufacturer for the intended purpose. Sealant joints shall conform to manufacturer's specifications. The sealant shall be placed and tooled in accordance with manufacturer's specifications. There shall be no gaps or voids after the sealant has cured.

1203.6.3.2.6 Radon vent. One continuous sealed pipe shall run from a point within the aggregate under each concrete slab to a point outside the building. Joints and connections shall be permanently gas tight. The continuous sealed pipe shall interface with the aggregate in the following manner, or by other approved equal method. The pipe shall be permanently connected to a "T" within the aggregate area so that the two end openings of the "T" lie within the aggregate area. A minimum of 5 feet of perforated drain pipe of 3 inches minimum diameter shall join to and extend from the "T." The perforated pipe shall remain in the aggregate area and shall not be capped at the ends. The "T" and its perforated pipe extend-

sions shall be located at least 5 feet horizontally from the exterior perimeter of the aggregate area.

The continuous sealed pipe shall terminate no less than 12 inches above the eave, and more than 10 horizontal feet from a woodstove or fireplace chimney, or operable window. The continuous sealed pipe shall be labeled "radon vent." The label shall be placed so as to remain visible to an occupant.

The minimum pipe diameter shall be 3 inches unless otherwise approved. Acceptable sealed plastic pipe shall be smooth walled, and may include either PVC schedule 40 or ABS schedule of equivalent wall thickness.

The entire sealed pipe system shall be sloped to drain to the subslab aggregate.

The sealed pipe system may pass through an unconditioned attic before exiting the building; but to the extent practicable, the sealed pipe shall be located inside the thermal envelope of the building in order to enhance passive stack venting.

- EXCEPTION: A fan for subslab depressurization system includes the following:
1. Soil-gas retarder membrane as specified in Section 1203.6.3.2.4;
 2. Sealing of penetrations and joints as specified in Section 1203.6.3.2.5;
 3. A 3-inch continuous sealed radon pipe shall run from a point within the aggregate under each concrete slab to a point outside the building;
 4. Joints and connections shall be gas tight, and may be of either PVC schedule 40 or ABS schedule of equivalent in wall thickness;
 5. A label of "radon vent" shall be placed on the pipe so as to remain visible to an occupant;
 6. Fan circuit and wiring as specified in Section 1203.6.3.2.7 and a fan.

If the subslab depressurization system is exhausted through the concrete foundation wall or rim joist, the exhaust terminus shall be a minimum of 6 feet from operable windows or outdoor air intake vents and shall be directed away from operable windows and outdoor air intake vents to prevent radon reentrainment.

1203.6.3.2.7 Fan circuit and wiring and location. An area for location of an in-line fan shall be provided. The location shall be as close as practicable to the radon vent pipe's point of exit from the building, or shall be outside the building shell; and shall be located so that the fan and all downstream piping is isolated from the indoor air.

Provisions shall be made to allow future activation of an in-line fan on the radon vent pipe without the need to place new wiring. A 110 volt power supply shall be provided at a junction box near the fan location.

1203.6.3.2.8 Separate aggregate areas. If the 4-inch aggregate area underneath the concrete slab is not continuous, but is separated into distinct isolated aggregate areas by a footing or other barrier, a minimum of one radon vent pipe shall be installed into each separate aggregate area.

- EXCEPTION: Separate aggregate areas may be considered a single area if a minimum 3-inch diameter connection joining the separate areas is provided for every 30 feet of barrier separating those areas.

1203.6.3.2.9 Concrete block walls. Concrete block walls connected to below grade areas shall be considered unsealed surfaces. All openings in concrete block walls that will not remain accessible upon completion of the building shall be sealed at both vertical and horizontal surfaces, in order to create a continuous air barrier to limit the transport of soil-gas into the indoor air.

AMENDATORY SECTION (Amending WSR 13-04-068, filed 2/1/13, effective 7/1/13)

WAC 51-51-0408 Section R408—Under-floor space.

R408.1 Ventilation. The under-floor space between the bottom of the floor joists and the earth under any building (except space occupied by a basement) shall have ventilation openings through foundation walls or exterior walls. A ground cover of six mil (0.006 inch thick) black polyethylene or approved equal shall be laid over the ground within crawl spaces. The ground cover shall be overlapped six inches minimum at the joints and shall extend to the foundation wall.

- EXCEPTION: The ground cover may be omitted in crawl spaces if the crawl space has a concrete slab floor with a minimum thickness of two inches.

R408.2 Openings for under-floor ventilation. The minimum net area of ventilation openings shall not be less than 1 square foot (0.0929 m²) for each 300 square feet (28 m²) of under-floor area. Required openings shall be evenly placed to provide cross ventilation of the space except one side of the building shall be permitted to have no ventilation openings. Ventilation openings shall be covered for their height and width with any of the following materials provided that the least dimension of the covering shall not exceed 1/4 inch (6.4 mm):

1. Perforated sheet metal plates not less than 0.070 inch (1.8 mm) thick.
2. Expanded sheet metal plates not less than 0.047 inch (1.2 mm) thick.
3. Cast-iron grill or grating.
4. Extruded load-bearing brick vents.
5. Hardware cloth of 0.035 inch (0.89 mm) wire or heavier.
6. Corrosion-resistant wire mesh, with the least dimension being 1/8 inch (3.2 mm).

- EXCEPTION: The total area of ventilation openings shall be permitted to be reduced to 1/1,500 of the under-floor area where the ground surface is covered with an approved Class I vapor retarder material and the required openings are placed to provide cross ventilation of the space. The installation of operable louvers shall not be prohibited. If the installed ventilation is less than 1/300, or if operable louvers are installed, a radon vent shall be installed to originate from a point between the ground cover and soil. The radon vent shall be installed in accordance with the requirements of Appendix F (Radon) of this code.

R408.3 Unvented crawl space. Ventilation openings in under-floor spaces specified in Sections R408.1 and R408.2 shall not be required where:

1. Exposed earth is covered with a continuous Class I vapor retarder. Joints of the vapor retarder shall overlap by 6

inches (152 mm) and shall be sealed or taped. The edges of the vapor retarder shall extend at least 6 inches (152 mm) up the stem wall and shall be attached and sealed to the stem wall; and a radon system shall be installed that meets the requirements of Appendix F (Radon) of this code.

2. Continuously operated mechanical exhaust ventilation is provided at a rate equal to 1 cubic foot per minute (0.47 L/s) for each 50 square feet (4.7 m²) of crawlspace floor area. Exhaust ventilation shall terminate to the exterior.

EXCEPTION: Plenum in existing structures complying with Section M1601.5, if under-floor space is used as a plenum.