

**WSR 14-06-006****EMERGENCY RULES****DEPARTMENT OF AGRICULTURE**

[Filed February 20, 2014, 8:05 a.m., effective February 20, 2014, 8:05 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: In the interest of protecting the swine industry in Washington state of the rapidly spreading porcine epidemic diarrhea virus (PEDv), an additional requirement is being put on all swine imported into Washington. All certificate of veterinary inspection's must contain a certification that the swine being imported have not originated from a premises known to be affected by PEDv and have not been exposed to PEDv in the last thirty days.

Citation of Existing Rules Affected by this Order: Amending WAC 16-54-111.

Statutory Authority for Adoption: Chapters 16.36 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: PEDv was first diagnosed in the United States in May 2013. Since then it has spread to twenty-four states and has killed as estimated 4-7 million suckling piglets. The source of entry into the United States at this point is undetermined and the virus appears to spread by a range of methods; not just the live animal imports. To protect the swine industry in the state of Washington the requirement is imperative as swine producers are importing more swine now due to upcoming fair seasons and shows.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: February 20, 2014.

Jeff Canaan  
Deputy Director

AMENDATORY SECTION (Amending WSR 08-14-057, filed 6/25/08, effective 7/26/08)

**WAC 16-54-111 Swine—Importation and testing requirements. Import health requirements.**

(1) All swine entering Washington state must be accompanied by an entry permit, a certificate of veterinary inspection, and official USDA approved identification. The certifi-

cate of veterinary inspection must contain the following certification: "To the best of my knowledge, swine represented on this certificate have not originated from a premises known to be affected by Porcine Epidemic Diarrhea virus (PEDv) and have not been exposed to PEDv within the last 30 days." The certification must be signed by both the owner of the swine and the certifying veterinarian.

(2) Feral swine are prohibited in Washington state.

**Import test requirements.**

(3) **Brucellosis.** All intact male and intact female swine more than six months of age must be tested negative for brucellosis within thirty days before entering Washington state or must originate from a USDA validated brucellosis free herd or state (Swine Brucellosis Control/Eradication State-Federal-Industry Uniform Methods and Rules, April, 1998).

(4) **Pseudorabies.** No test is required from states recognized as Stage IV or Stage V by Pseudorabies Eradication State-Federal-Industry Program Standards, November 1, 2003.

(5) A negative pseudorabies test within thirty days before entry is required for swine from any state or area that loses Stage IV or Stage V status.

**Exemptions to import test requirements.**

(6) Swine shipped directly to a federally inspected slaughter plant for immediate slaughter are exempt from testing requirements.

**Swine semen and embryos.**

(7)(a) Swine semen and swine embryos entering Washington state for insemination of swine or implantation into swine shall be accompanied by a certificate of veterinary inspection issued by an accredited veterinarian stating that the donor swine are not known to be infected with or exposed to pseudorabies, were negative to an official pseudorabies serologic test within thirty days prior to the collection of the semen or embryos or were members of a qualified pseudorabies negative herd, and had not been exposed to pseudorabies within thirty days prior to the collection of the semen or embryos.

(b) Brucellosis testing is not required on donor swine from brucellosis validated free states.

(c) Pseudorabies testing is not required on donor swine from pseudorabies Stage IV or Stage V states.

**WSR 14-06-012****EMERGENCY RULES****DEPARTMENT OF****FISH AND WILDLIFE**

[Order 14-42—Filed February 20, 2014, 4:31 p.m., effective February 24, 2014]

Effective Date of Rule: February 24, 2014.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-62100A; and amending WAC 232-28-621.

Statutory Authority for Adoption: RCW 77.04.020, 77.12.045, 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: Preliminary estimates indicate that the encounters of legal size chinook in Area 7 are projected to exceed the preseason expectations. This regulation reduces the retention of salmon in Area 7 to a daily limit of one in order to minimize encounters of legal size hatchery and wild chinook and ensure compliance with conservation objectives and agreed-to management plans. 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: February 20, 2014.

Philip Anderson  
Director

#### NEW SECTION

**WAC 232-28-62100A Puget Sound salmon—Saltwater seasons and daily limits.** Notwithstanding the provisions of WAC 232-28-621, effective February 24 through April 30, 2014, it is unlawful to violate the provisions below. Unless otherwise amended, all permanent rules remain in effect:

Catch Record Card Area 7: Daily limit of 1 salmon and release wild Chinook.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective May 1, 2014:

WAC 232-28-62100A Puget Sound salmon—Saltwater seasons and daily limits.

**WSR 14-06-013  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 14-43—Filed February 20, 2014, 4:44 p.m., effective February 24, 2014]

Effective Date of Rule: February 24, 2014.

Purpose: Amend recreational fishing rules.

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

Statutory Authority for Adoption: RCW 77.04.020, 77.12.045, 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: Establishes a third white sturgeon retention period in Bonneville Reservoir. Harvest during the first two retention seasons in January and early February was less than expected, leaving around three hundred fifty fish available for harvest during this season extension. Fishery managers have reserved about half of the one thousand one hundred fish total guideline for a summer retention season. Regulation is consistent with joint Washington-Oregon action of February 20, 2014. Conforms Washington state rules with Oregon state rules. 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: February 20, 2014.

Philip Anderson  
Director

#### NEW SECTION

**WAC 232-28-61900G Exceptions to statewide rules—Columbia River sturgeon.** Notwithstanding the provisions of WAC 232-28-619:

(1) Effective February 24 through March 9, 2014, it is permissible to retain white sturgeon between 38-inches minimum and 54-inches maximum fork length caught in those waters of the Columbia River and tributaries from Bonneville Dam upstream to The Dalles Dam.

(2) Effective 12:01 a.m. March 10, 2014, until further notice, it is unlawful to retain sturgeon caught in those waters of the Columbia River and tributaries from Bonneville Dam upstream to The Dalles Dam. Catch and release is permissible.

REPEALER

The following section of the Washington Administrative Code is repealed effective February 24, 2014:

WAC 232-28-61900C Exceptions to statewide rules—  
Columbia River sturgeon. (14-17)

**WSR 14-06-023**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 14-41—Filed February 24, 2014, 2:54 p.m., effective February 26, 2014, 12:01 p.m.]

Effective Date of Rule: February 26, 2014, 12:01 p.m.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-36000I; 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: February 24, 2014.

Philip Anderson  
Director

NEW SECTION

**WAC 220-56-36000I 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 per-

sonal 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. February 27, 2014 through 11:59 p.m. March 2, 2014, 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. February 26, 2014 through 11:59 p.m. March 3, 2014, 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. March 1, 2014 through 11:59 p.m. March 1, 2014, 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. February 27, 2014 through 11:59 p.m. March 2, 2014, 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.

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. March 4, 2014:

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

**WSR 14-06-034**  
**EMERGENCY RULES**  
**BUILDING CODE COUNCIL**

[Filed February 25, 2014, 1:33 p.m., effective February 25, 2014, 1:33 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amendment of chapter 51-11C WAC, 2012 Washington State Energy Code, Section 402.3.1: Add a prescriptive path allowance for glazing over thirty percent of wall area with high performance glazing.

Citation of Existing Rules Affected by this Order: Amending WAC 51-11C-40231, 51-11C-402131, 51-11C-402133, and 51-11C-402134.

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: This is a continuation of this emergency rule, originally filed as WSR 13-14-070. The state building code council (council) has filed a permanent rule (WSR 13-23-096), but the permanent rule will not be effective until April 1, 2014.

The 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 adopted and amended the 2012 edition of the International Energy Efficiency Code (IECC) effective July 1, 2013. The IECC limits the amount of glazing permitted in commercial buildings using the prescriptive method of building to thirty percent of the gross above grade wall area. There is an allowance to increase to forty percent if at least half of the area is within the daylight zone, but this is difficult to achieve with high rise building projects that have floor layouts and sections of opaque walls that cannot be glazed due to shared property lines or other site constraints. This change represents a decrease of twenty-five percent of the glazing permitted under the 2009 energy code.

The council was petitioned to allow an alternative method of compliance to increase the glazing percentage if fenestration material of a lower U-factor is used. This would allow a continuation of current building practices modified slightly to achieve more energy savings than under the 2009 code while still remaining economically viable. Many land use zones require high glazing percentages or transparency requirements for retail and other street level amenities. This forces glazing down to the ground level and takes away glazing from the other floors of the building.

The council concluded that it is in the best interest of the general welfare of the state of Washington to create another compliance path within the Washington State Energy Code for commercial buildings.

The council initiated a permanent rule for this action, but the permanent rule will not become effective until April 1, 2014.

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 4, 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: February 24, 2014.

C. Ray Allshouse  
Council Chair

AMENDATORY SECTION (Amending WSR 13-04-056, filed 2/1/13, effective 7/1/13)

**WAC 51-11C-402131 Equation C402-1—Target  $UA_t$**

**Equation C402-1  
Target  $UA_t$**

$$UA_t = U_{radt}A_{radt} + U_{mrt}A_{mrt} + U_{rat}A_{rat} + U_{mwt}(A_{mwt} + A_{mbwgt}) + U_{mbwt}(A_{mbwt} + A_{mbwbgt}) + U_{sfwt}(A_{sfwt} + A_{sfwbgt}) + U_{wfw}(A_{wfw} + A_{wfwbg}) + U_{fimt}A_{fimt} + U_{fjt}A_{fjt} + F_{st}P_{st} + F_{srt}P_{srt} + U_{dst}A_{dst} + U_{drt}A_{drt} + U_{vgt}A_{vgt} + U_{vgmt}A_{vgmt} + U_{vgmot}A_{vgmot} + U_{vgdt}A_{vgdt} + U_{ogt}A_{ogt}$$

$U_{A(a)t}$  = The target combined specific heat transfer of the gross roof/ceiling assembly, exterior wall and floor area.

Where:

$U_{radt}$  = The thermal transmittance value for roofs with the insulation entirely above deck found in Table C402.1.2.

$U_{mrt}$  = The thermal transmittance value for metal building roofs found in Table C402.1.2.

$U_{rat}$  = The thermal transmittance value for attic and other roofs found in Table C402.1.2.

$U_{mwt}$  = The thermal transmittance value for opaque mass walls found in Table C402.1.2.

$U_{mbwt}$  = The thermal transmittance value for opaque metal building walls found in Table C402.1.2.

$U_{sfwt}$  = The thermal transmittance value for opaque steel-framed walls found in Table C402.1.2.

$U_{wfw}$  = The thermal transmittance value for opaque wood framed and other walls found in Table C402.1.2.

$U_{fimt}$  = The thermal transmittance value for mass floors over unconditioned space found in Table C402.1.2.

$U_{fjt}$  = The thermal transmittance value for joist floors over unconditioned space found in Table C402.1.2.

$F_{st}$  = The F-factor for slab-on-grade floors found in Table C402.1.2.

$F_{srt}$  = The F-factor for radiant slab floors found in Table C402.1.2.

- $U_{dst}$  = The thermal transmittance value for opaque swinging doors found in Table C402.2.
- $U_{drt}$  = The thermal transmittance value for opaque roll-up or sliding doors found in Table C402.2.
- $U_{vgt}$  = The thermal transmittance value for vertical fenestration with nonmetal framing found in Table C402.3 which corresponds to the proposed vertical fenestration area as a percent of gross exterior wall area. \* Buildings utilizing Section C402.3.1.3 shall use the thermal transmittance value specified there.
- $U_{vgmt}$  = The thermal transmittance value for vertical fenestration with fixed metal framing found in Table C402.3 which corresponds to the proposed vertical fenestration area as a percent of gross exterior wall area. \* Buildings utilizing Section C402.3.1.3 shall use the thermal transmittance value specified there.
- $U_{vgmot}$  = The thermal transmittance value for vertical fenestration with operable metal framing found in Table C402.3 which corresponds to the proposed vertical fenestration area as a percent of gross exterior wall area. \* Buildings utilizing Section C402.3.1.3 shall use the thermal transmittance value specified there.
- $U_{vgdt}$  = The thermal transmittance value for entrance doors found in Table C402.3 which corresponds to the proposed vertical fenestration area as a percent of gross exterior wall area. \* Buildings utilizing Section C402.3.1.3 shall use the thermal transmittance value specified there.
- $U_{ogt}$  = The thermal transmittance for skylights found in Table C402.3 which corresponds to the proposed skylight area as a percent of gross exterior roof area.
- $A_{fmt}$  = The proposed mass floor over unconditioned space area,  $A_{fm}$ .
- $A_{fjt}$  = The proposed joist floor over unconditioned space area,  $A_{fj}$ .
- $P_{st}$  = The proposed linear feet of slab-on-grade floor perimeter,  $P_s$ .

- $P_{srt}$  = The proposed linear feet of radiant slab floor perimeter,  $P_{rs}$ .
- $A_{dst}$  = The proposed opaque swinging door area,  $A_{ds}$ .
- $A_{drt}$  = The proposed opaque roll-up or sliding door area,  $A_{dr}$ .

and

If the vertical fenestration area as a percent of gross above-grade exterior wall area does not exceed the maximum allowed in Section C402.3.1.3:

- $A_{mwt}$  = The proposed opaque above grade mass wall area,  $A_{mw}$ .
- $\underline{A}_{mbwgt}$  = The proposed opaque above grade mass wall area,  $A_{mw}$ .
- $A_{mbwt}$  = The proposed opaque above grade metal building wall area,  $A_{mbw}$ .
- $\underline{A}_{mbwbgt}$  = The proposed opaque above grade metal building wall area,  $A_{mbwb}$ .
- $A_{sftw}$  = The proposed opaque above grade steel framed wall area,  $A_{mfw}$ .
- $\underline{A}_{sftwbgt}$  = The proposed opaque above grade steel framed wall area,  $A_{mfwb}$ .
- $A_{wfw}$  = The proposed opaque above grade wall wood framed and other area,  $A_{wfwbg}$ .
- $\underline{A}_{wfwbg}$  = The proposed opaque above grade wall wood framed and other area,  $A_{wfwbg}$ .
- $A_{vgt}$  = The proposed vertical fenestration area with nonmetal framing,  $A_{vg}$ .
- $A_{vgmt}$  = The proposed vertical fenestration area with fixed metal framing,  $A_{vgm}$ .
- $A_{vgmot}$  = The proposed vertical fenestration area with operable metal framing,  $A_{vgmo}$ .
- $A_{vgdt}$  = The proposed entrance door area,  $A_{vgd}$ .

or

For buildings utilizing Section C402.3.1.3, vertical fenestration area as a percent of gross exterior above-grade wall may not exceed the amount allowed by that section. For all other buildings, if the vertical fenestration area as a percent of gross above-grade exterior wall area exceeds the maximum allowed in Section C402.3.1, the area of each vertical fenestration element shall be reduced in the base envelope design by the same percentage and the net area of each above-grade wall type increased proportionately by the same percentage so that the total vertical fenestration area

is exactly equal to the allowed percentage per Section C402.3.1 of the gross above-grade wall area. The target wall area of a given wall type shall be the sum of the proposed below grade area and the increased above-grade area.

and

If the skylight area as a percent of gross exterior roof area does not exceed the maximum allowed in Section C402.3.1:

- $A_{\text{radt}}$  = The proposed roof area with insulation entirely above the deck,  $A_{\text{rad}}$ .
  - $A_{\text{mrt}}$  = The proposed roof area for metal buildings,  $A_{\text{mr}}$ .
  - $A_{\text{rat}}$  = The proposed attic and other roof area,  $A_{\text{or}}$ .
  - $A_{\text{ogat}}$  = The proposed skylight area,  $A_{\text{ogor}}$ .
- or

If the skylight area as a percent of gross exterior roof area exceeds the maximum allowed in Section C402.3.1, the area of each skylight element shall be reduced in the base envelope design by the same percentage and the net area of each roof type increased proportionately by the same percentage so that the total skylight area is exactly equal to the allowed percentage per Section C402.3.1 of the gross roof area.

\*NOTE: The vertical fenestration area does not include opaque doors and opaque spandrel panels.

**AMENDATORY SECTION** (Amending WSR 13-04-056, filed 2/1/13, effective 7/1/13)

**WAC 51-11C-402133 Equation C402-3—Target SHGCA<sub>t</sub>.**

**Equation C402-3  
Target SHGCA<sub>t</sub>**

$$SHGCA_t = SHGC_{ogt}(A_{ogort}) + SHGC_{vgt}(A_{ogt} + A_{vgt} + A_{vgmt} + A_{vgmot} + A_{vgdt})$$

Where:

- $SHGCA_t$  = The target combined ((specific)) solar heat gain of the target fenestration area.
- $SHGC_{ogt}$  = The solar heat gain coefficient for skylight fenestration found in Table C402.3, and  $A_{ogt}$ , as defined in Equation C402-1.
- $SHGC_{vgt}$  = The solar heat gain coefficient for vertical fenestration found in Table C402.3 which corresponds to the proposed total fenestration area as a percent of gross exterior wall area, and (( $A_{ogt}$ ))  $A_{vgt}$ ,  $A_{vgmt}$ ,  $A_{vgmot}$  and

$A_{vgdt}$  are defined under Equation C402-1. Buildings utilizing Section C402.3.1.3 shall use the SHGC value specified there. The SHGC may be adjusted for projection factors per the requirements of Section C402.3.3.

NOTE: The vertical fenestration area does not include opaque doors and opaque spandrel panels.

**AMENDATORY SECTION** (Amending WSR 13-04-056, filed 2/1/13, effective 7/1/13)

**WAC 51-11C-402134 Equation C402-4—Proposed SHGCA<sub>p</sub>.**

**Equation C402-4  
Proposed SHGCA<sub>p</sub>**

$$SHGCA_p = SHGC_{og}A_{og} + SHGC_{vg}A_{vg}$$

Where:

- $SHGCA_t$  = The combined proposed ((specific)) solar heat gain of the proposed fenestration area.
- $SHGC_{og}$  = The solar heat gain coefficient of the skylights.
- $A_{og}$  = The skylight area.
- $SHGC_{vg}$  = The solar heat gain coefficient of the vertical fenestration.
- $A_{vg}$  = The vertical fenestration area.

NOTE: The vertical fenestration area does not include opaque doors and opaque spandrel panels.

**AMENDATORY SECTION** (Amending WSR 13-04-056, filed 2/1/13, effective 7/1/13)

**WAC 51-11C-40231 Section C402.3.1—Maximum area.**

**C402.3.1 Maximum area.** The vertical fenestration area (not including opaque doors and opaque spandrel panels) shall not exceed 30 percent of the gross above-grade wall area. The skylight area shall not exceed 3 percent of the gross roof area.

**C402.3.1.1 Increased vertical fenestration area with daylighting controls.** In Climate Zones 1 through 6, a maximum of 40 percent of the gross above-grade wall area shall be permitted to be vertical fenestration, provided:

1. No less than 50 percent of the conditioned floor area is within a daylight zone;
2. Automatic daylighting controls are installed in daylight zones; and
3. Visible transmittance (VT) of vertical fenestration is greater than or equal to 1.1 times solar heat gain coefficient (SHGC).

EXCEPTION: Fenestration that is outside the scope of NFRC 200 is not required to comply with Item 3.

**C402.3.1.2 Increased skylight area with daylighting controls.** The skylight area shall be permitted to be a maximum of 5 percent of the roof area provided automatic daylighting controls are installed in daylight zones under skylights.

**C402.3.1.3 Increased vertical fenestration area with high-performance fenestration.** The vertical fenestration area (not including opaque doors and opaque spandrel panels) is permitted to exceed 30 percent but shall not exceed 40 percent of the gross above grade wall area, for the purpose of prescriptive compliance with Section C402.1.2 or for the Target UA calculation in Equation C402-1, provided that each of the following conditions are met:

1. The vertical fenestration shall have the following U-factors:

- a. Nonmetal framing (all) = 0.28
- b. Metal framing (fixed) = 0.34
- c. Metal framing (operable) = 0.36
- d. Metal framing (entrance doors) = 0.60

2. The SHGC of the vertical fenestration shall be less than or equal to 0.35, adjusted for projection factor in compliance with C402.3.3.1.

The compliance path described in this section is not permitted to be used for the Total Building Performance compliance path in Section C407.

#### WSR 14-06-035

#### EMERGENCY RULES

#### BUILDING CODE COUNCIL

[Filed February 25, 2014, 1:39 p.m., effective February 25, 2014, 1:39 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amendment of chapters 51-11C and 51-11R WAC, 2012 Washington State Energy Code, Section 301: To merge Ferry, Okanogan, Pend Oreille and Stevens counties into Climate Zone 5B rather than in 6B.

Citation of Existing Rules Affected by this Order: Amending WAC 51-11C-30100 and 51-11R-30100.

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: This is a continuation of this emergency rule, originally filed as WSR 13-14-069 and refiled as WSR 13-22-016 and 13-22-018. The state building code council (council) has gone through the process of adopting a permanent rule (WSR 13-23-096), but the permanent rule will not be effective until April 1, 2014.

The 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 adopted and amended the 2012 edition of the International Energy Efficiency Code (IECC) effective July 1, 2013. The IECC contains regulations based on climate zones developed by the United States Department of Energy, breaking the nation into eight zones. Washington state is predominately within Climate Zones 4 Marine and 5. There are four counties that fall within Climate Zone 6. Under the previous Washington State Energy Code, these four counties were included in the same zone as Spokane County, and shared training and other resources.

The council was petitioned by elected and appointed officials within these four counties to assign these counties to the same climate zone as Spokane County, to alleviate any negative economic impact on the people and businesses located in the four counties.

The council concluded that it is in the best interest of the general welfare of the state of Washington to move Ferry, Okanogan, Pend Oreille and Stevens counties into Climate Zone 5B.

The council initiated a permanent rule for this action, but the permanent rule will not become effective until April 1, 2014.

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

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

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

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

Date Adopted: February 24, 2014.

C. Ray Allshouse  
Council Chair

AMENDATORY SECTION (Amending WSR 13-04-056, filed 2/1/13, effective 7/1/13)

#### WAC 51-11C-30100 Section C301—Climate zones.

**C301.1 General.** Climate zones from Table C301.1 shall be used in determining the applicable requirements from Chapter 4.

**Table C301.1  
Climate Zones and Moisture Regimes  
Designations by State and County**

Key: A - Moist, B - Dry, C - Marine. Absence of moisture designation indicates moisture regime is irrelevant.

**WASHINGTON**

5B Adams	4C Grays Harbor	4C Pierce
5B Asotin	4C Island	4C San Juan
5B Benton	4C Jefferson	4C Skagit
5B Chelan	4C King	5B Skamania
4C Clallam	4C Kitsap	4C Snohomish
4C Clark	5B Kittitas	5B Spokane
5B Columbia	5B Klickitat	((6B)) 5B Stevens
4C Cowlitz	4C Lewis	4C Thurston
5B Douglas	5B Lincoln	4C Wahkiakum
((6B)) 5B Ferry	4C Mason	5B Walla Walla
5B Franklin	((6B)) 5B Okanogan	4C Whatcom
5B Garfield	4C Pacific	5B Whitman
5B Grant	((6B)) 5B Pend Oreille	5B Yakima

**AMENDATORY SECTION** (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-30100 Section R301—Climate zones.**

**R301.1 General.** Climate zones from Table R301.1 shall be used in determining the applicable requirements from Chapter 4. Locations not in Table R301.1 (outside the United States) shall be assigned a climate zone based on Section R301.3.

**R301.2 Warm humid counties.** Warm humid counties are identified in Table R301.1 by an asterisk.

**R301.3 International climate zones.** The climate zone for any location outside the United States shall be determined by applying Table R301.3(1) and then Table R301.3(2).

**TABLE R301.1**

**CLIMATE ZONES, MOISTURE REGIMES, AND WARM-HUMID DESIGNATIONS BY STATE AND COUNTY**

Key: A - Moist, B - Dry, C - Marine. Absence of moisture designation indicates moisture regime is irrelevant. Asterisk (\*) indicates a warm-humid location.

**WASHINGTON**

5B Adams	4C Grays Harbor	4C Pierce
5B Asotin	4C Island	4C San Juan
5B Benton	4C Jefferson	4C Skagit
5B Chelan	4C King	5B Skamania
4C Clallam	4C Kitsap	4C Snohomish
4C Clark	5B Kittitas	5B Spokane
5B Columbia	5B Klickitat	((6B)) 5B Stevens
4C Cowlitz	4C Lewis	4C Thurston
5B Douglas	5B Lincoln	4C Wahkiakum
((6B)) 5B Ferry	4C Mason	5B Walla Walla
5B Franklin	((6B)) 5B Okanogan	4C Whatcom
5B Garfield	4C Pacific	5B Whitman

Key: A - Moist, B - Dry, C - Marine. Absence of moisture designation indicates moisture regime is irrelevant. Asterisk (\*) indicates a warm-humid location.

**WASHINGTON**

5B Grant ((6B)) 5B Pend Oreille 5B Yakima

**WSR 14-06-038  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 14-44—Filed February 25, 2014, 3:20 p.m., effective March 1, 2014]

Effective Date of Rule: March 1, 2014.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04000D and 220-52-04600U; and amending WAC 220-52-040, 220-52-046, and 220-69-240.

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

Reasons for this Finding: The provisions of this rule will reopen the commercial Dungeness crab harvest in Region 1. Regions 3-1, 3-2 and 3-3 will remain open. This regulation continues the closure of Region 2 East and Region 2 West. There is sufficient allocation available in the open commercial regions to accommodate this opening. These provisions are in conformity with agreed[-to] management plans with applicable tribes. These management plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. 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 3, 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: February 25, 2014.

Joe Stohr  
for Philip Anderson  
Director



NEW SECTION

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

(1) Additional area gear limits. The following Marine Fish-Shellfish Management and Catch Reporting Areas are restricted in the number of pots fished, operated, or used by a person or vessel, and it is unlawful for any person to use, maintain, operate, or control pots in excess of the following limits:

(a) No commercial gear is allowed in that portion of Marine Fish-Shellfish Management and Catch Reporting Area 25A west of the 123°7.0' longitude line projected from the new Dungeness light true south to the shore of Dungeness Bay.

(2) Effective 8:00 a.m. Saturday, March 1, 2014, until further notice it is unlawful for any person to fish for crabs for commercial purposes with more than 50 pots per license per buoy tag number in Crab Management Region 1. This region includes Marine Fish-Shellfish Catch Reporting Areas 20A, 20B, 21A, 21B, 22A and 22B.

(3) The remaining buoy tags per license per region must be onboard the designated vessel and available for inspection.

NEW SECTION

**WAC 220-52-04600X Puget Sound crab fishery—Seasons and areas.** Notwithstanding the provisions of WAC 220-52-046:

(1) Effective 8:00 a.m. Saturday, March 1, 2014, until further notice, it is permissible to fish for Dungeness crab for commercial purposes in the following areas:

(a) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 20A between a line from the boat ramp at the western boundary of Birch Bay State Park to the western point of the entrance of the Birch Bay Marina and a line from the same boat ramp to Birch Point.

(b) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22B in Fidalgo Bay south of a line projected from the red number 4 entrance buoy at Cape Sante Marina to the northern end of the eastern most oil dock.

(c) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Deer Harbor north of a line projected from Steep Point to Pole Pass.

(2) Effective immediately, until further notice, the following areas are closed to commercial crab fishing:

(a) Crab Management Region 2 East and Region 2 West. These regions include Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D, 26A East, 26A West, 25B and 25D.

(b) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 25A west of the 123°7.0' longitude line projected from the new Dungeness light true south to the shore of Dungeness Bay.

(c) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 23D west of a line from the eastern tip of Ediz Hook to the ITT Rayonier Dock.

NEW SECTION

**WAC 220-69-24000H Duties of commercial purchasers and receivers.** Notwithstanding the provisions of WAC 220-69-240, effective immediately, until further notice, it is unlawful for any wholesale dealer acting in the capacity of an original receiver of Dungeness crab taken by non-treaty fishers from Puget Sound to fail to report to the department the previous day's purchases by 10:00 a.m. the following business day. Reports must be made by fax to (425) 338-1066 or by e-mail at [crabreport@dfw.wa.gov](mailto:crabreport@dfw.wa.gov), and must specify the dealer name, dealer phone number, date of delivery of crab to the original receiver, and the total number of pounds of crab caught by non-treaty fishers, by Crab Management Region or by Marine Fish-Shellfish Management and Catch Reporting Area.

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

REPEALER

The following sections of the Washington Administrative Code are repealed effective 8:00 a.m. March 1, 2014:

WAC 220-52-04000D Commercial crab fishery—Lawful and unlawful gear, methods, and other unlawful acts (13-302)

WAC 220-52-04600U Puget Sound crab fishery—Seasons and areas (13-302)

**WSR 14-06-042****EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 14-45—Filed February 26, 2014, 10:15 a.m., effective February 26, 2014, 6:00 p.m.]

Effective Date of Rule: February 26, 2014, 6:00 p.m.

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

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

Statutory Authority for Adoption: RCW 77.04.020, 77.04.130, 77.12.045, and 77.12.047.

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546); *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River compact).

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

Reasons for this Finding: This rule closes John Day Pool (SMCRA 1H) for commercial sales since the harvest guideline for sturgeon is expected to be reached for that area. The 2014 treaty Indian winter gillnet season in Bonneville Pool and The Dalles Pool remain open. The season is consistent with the 2008-2017 management agreement and the associated biological opinion. The rule is consistent with action of the Columbia River compact on January 23, 2012, when the compact adopted the rules as permanent. The process for making the rule permanent is not complete at this time. This regulation will cover the fishery until the rule-making process is complete. The rule is also consistent with compact action of February 25, 2014, and conforms state rules with tribal rules. There is insufficient time to promulgate permanent rules.

The Yakama, Warm Springs, Umatilla, and Nez Perce Indian tribes have treaty fishing rights in the Columbia River and inherent sovereign authority to regulate their fisheries. Washington and Oregon also have some authority to regulate fishing by treaty Indians in the Columbia River, authority that the states exercise jointly under the congressionally ratified Columbia River compact. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). The tribes and the states adopt parallel regulations for treaty Indian fisheries under the supervision of the federal courts. A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in the fisheries as described in the 2008-2017 *U.S. v. Oregon* Management Agreement.

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

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 2; Federal Rules or Standards: New 1, Amended 0, Repealed 2; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: February 26, 2014.

Philip Anderson  
Director

#### NEW SECTION

**WAC 220-32-05100W Columbia River salmon seasons above Bonneville Dam.** Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052 and WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch taken for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H. However, those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch under the following provisions:

(1) Open Areas: SMCRA 1F and 1G (Bonneville and The Dalles Pool):

(a) Season: Immediately through 6:00 p.m. March 21, 2014.

(b) Gear: Gill nets, hoop nets, dip bag nets, and rod and reel with hook and line are permissible. There is no mesh restriction on gillnets.

(c) Allowable sale: Salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, and yellow perch. Sturgeon between 43-54 inches in fork length may be sold or retained for subsistence purposes. Live release of all oversize and under-size sturgeon is required. Sales of platform/hook-and-line caught fish can be sold during open commercial seasons. Fish caught during open commercial periods can be sold after the season closes.

(d) River mouth sanctuaries (WAC 220-32-058) remain in effect, except for the Spring Creek Hatchery sanctuary (sub-section 5) of WAC 220-32-058.

(e) 24-hour quick reporting required for Washington wholesale dealers, WAC 220-69-240.

(2) Open Area: SMCRA 1E. Each of the four Columbia River treaty tribes has an MOA or MOU with the Washington Department of Fish and Wildlife regarding tribal fisheries in the area just downstream of Bonneville Dam. Tribal fisheries in this area may only occur in accordance with the appropriate MOA or MOU specific to each tribe.

(a) Participants: Tribal members may participate under the conditions described in the appropriate MOA or MOU specific to each tribe. Tribal members must carry an official tribal enrollment card.

(b) Season: Immediately through 6:00 p.m. March 21, 2014.

(c) Gear: Hoop nets, dip bag nets, and rod and reel with hook and line, or the gear defined by each tribe's MOU or MOA, are permissible.

(d) Allowable sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, and yellow perch. Sales of platform/hook-and-line caught fish can be sold during open commercial seasons. Sales are allowed only when lawfully enacted by tribal regulations. Fish caught during open commercial periods can be sold after the season closes. Sturgeon retention is prohibited; sturgeon may not be sold or retained for ceremonial or subsistence purposes. Sales may not occur on USACE property.

(e) 24-hour quick reporting required for Washington wholesale dealers, WAC 220-69-240.

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

### REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 p.m. February 26, 2014:

WAC 220-32-05100V Columbia River salmon seasons above Bonneville Dam. (14-19)

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. March 21, 2014:

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

**WSR 14-06-062**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 14-47—Filed February 28, 2014, 10:18 a.m., effective February 28, 2014, 10:18 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends cougar hunting rules described in WAC 232-28-297.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-29700I; and amending WAC 232-28-297.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, and 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: This change closes specific cougar hunt areas that have met or exceeded the area harvest guideline. Immediate action is necessary to protect cougars from overharvest in hunt areas that have met or exceeded the area harvest guideline. 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: February 28, 2014.

Philip Anderson  
Director

### NEW SECTION

**WAC 232-28-29700J 2012-2013, 2013-2014, and 2014-2015 Cougar hunting seasons and regulations.** Notwithstanding the provisions of WAC 232-28-297, effective immediately until further notice:

General cougar seasons in Game Management Units (GMUs) 105, 117, 145, 149, 154, 157, 162, 163, 166, 175, 178, 169, 172, 181, 186, 251, 249, 328, 329, 335, 336, 340, 342, 346, 382, 388, 466, 485, 490, 516, 560, 574, 578, 642, 648, 651, and 667 are closed.

### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-29700I 2012-2013, 2013-2014, and 2014-2015 Cougar hunting seasons and regulations.

**WSR 14-06-065**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 14-48—Filed February 28, 2014, 2:27 p.m., effective March 1, 2014, 6:00 a.m.]

Effective Date of Rule: March 1, 2014, 6:00 a.m.

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

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

Statutory Authority for Adoption: RCW 77.04.020, 77.04.130, 77.12.045, and 77.12.047.

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546); *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River compact).

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

Reasons for this Finding: This rule closes The Dalles Pool (SMCRA 1G) for commercial sales for a ten day period intended to meet the season objective and remain within the harvest guideline for that area. The Bonneville Pool (SMCRA 1F) will increase the slot limit for legal size sturgeon intended to meet the season objective and remain within the harvest guideline for that area. Because the size limit for legal-size sturgeon is different in the two adjacent areas, an effort is also being made so that open periods in the two areas do not over-lap for an extended period of time. During times when the pool is closed for commercial sales, for subsistence purposes, the legal-size fork length for sturgeon retention is 43-54 inches. The season is consistent with the 2008-2017 management agreement and the associated biological opinion. The rule is consistent with action of the Columbia River compact on January 23, 2012, when the compact adopted the rules as permanent. The process for making the rule permanent is not complete at this time. This regulation will cover the fishery until the rule-making process is complete. The rule is also consistent with compact action of February 28, 2014, and conforms state rules with tribal rules. There is insufficient time to promulgate permanent rules.

The Yakama, Warm Springs, Umatilla, and Nez Perce Indian tribes have treaty fishing rights in the Columbia River and inherent sovereign authority to regulate their fisheries. Washington and Oregon also have some authority to regulate fishing by treaty Indians in the Columbia River, authority that the states exercise jointly under the congressionally ratified Columbia River compact. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). The tribes and the states adopt parallel regulations for treaty Indian fisheries under the supervision of the federal courts. A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in the fisheries as described in the 2008-2017 *U.S. v. Oregon* Management Agreement.

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

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 2; Federal Rules or Standards: New 1, Amended 0, Repealed 2; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: February 28, 2014.

Philip Anderson  
Director

#### NEW SECTION

**WAC 220-32-05100X Columbia River salmon seasons above Bonneville Dam.** Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052 and WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch taken for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H. However, those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch under the following provisions:

(1) Open Area: SMCRA 1F (Bonneville Pool):

(a) Season: Immediately through 6:00 p.m. March 12, 2014.

(b) Allowable sale: Salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, and yellow perch. Legal size sturgeon (between **38-54** inches in fork length) may be sold or retained for subsistence purposes. Release of all oversize and under-size sturgeon is required. Legal fish caught during open commercial periods can be sold after the season closes. Legal size limit for sturgeon kept for subsistence during closed commercial periods is 43-54 inches in fork length.

(2) Open Area: SMCRA 1G (The Dalles Pool):

(a) Season:

(i) Immediately until 6:00 p.m. March 3 and;

(ii) 6:00 a.m. March 13 - 6:00 p.m. March 22, 2014.

(b) Allowable sale: Salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, and yellow perch. Legal size sturgeon (between **43-54** inches in fork length) may be sold or retained for subsistence purposes. Release of all oversize and under-size sturgeon is required. Legal fish caught during open commercial periods can be sold after the season closes.

(3) Sanctuaries – As applicable: River mouth sanctuaries (WAC 220-32-058) remain in effect, except the Spring Creek Hatchery sanctuary (sub-section 5).

(4) Gear: Gill nets, hoop nets, dip bag nets, and rod and reel with hook and line are permissible. There is no mesh restriction on gillnets.

(5) Open Area: SMCRA 1E. Each of the four Columbia River treaty tribes has an MOA or MOU with the Washington Department of Fish and Wildlife regarding tribal fisheries in the area just downstream of Bonneville Dam. Tribal fisheries in this area may only occur in accordance with the appropriate MOA or MOU specific to each tribe.

(a) Participants: Tribal members may participate under the conditions described in the appropriate MOA or MOU specific to each tribe. Tribal members must carry an official tribal enrollment card.

(b) Season: Immediately through 6:00 p.m. March 21, 2014.

(c) Gear: Hoop nets, dip bag nets, and rod and reel with hook and line, or the gear defined by each tribe's MOU or MOA, are permissible.

(d) Allowable sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, and yellow perch. Sales of platform/hook-and-line caught fish can be sold during open commercial seasons. Sales are allowed only when lawfully enacted by tribal regulations. Legal fish caught during open commercial periods can be sold after the season closes. Sturgeon retention is prohibited; sturgeon may not be sold or retained for ceremonial or subsistence purposes. Sales may not occur on USACE property.

(6) 24-hour quick reporting required for Washington wholesale dealers, WAC 220-69-240.

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

### REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 a.m. March 1, 2014:

WAC 220-32-05100W Columbia River salmon seasons above Bonneville Dam. (14-45)

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. March 22, 2014:

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

### WSR 14-06-079 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 14-50—Filed March 3, 2014, 1:35 p.m., effective March 3, 2014, 1:35 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends cougar hunting rules described in WAC 232-28-297.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-29700J; and amending WAC 232-28-297.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, and 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: This change closes specific cougar hunt areas that have met or exceeded the area harvest guideline. Immediate action is necessary to protect cougars from overharvest in hunt areas that have met or exceeded the area harvest guideline. 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: March 3, 2014.

Philip Anderson  
Director

### NEW SECTION

**WAC 232-28-29700K 2012-2013, 2013-2014, and 2014-2015 Cougar hunting seasons and regulations.** Notwithstanding the provisions of WAC 232-28-297, effective immediately until further notice:

General cougar seasons in Game Management Units (GMUs) 105, 117, 145, 149, 154, 157, 162, 163, 166, 175, 178, 169, 172, 181, 186, 251, 249, 328, 329, 335, 336, 340, 342, 346, 382, 388, 466, 485, 490, 516, 560, 564, 568, 574, 578, 642, 648, 651, and 667 are closed.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-29700J 2012-2013, 2013-2014, and 2014-2015 Cougar hunting seasons and regulations.

**WSR 14-06-095  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 14-52—Filed March 4, 2014, 4:56 p.m., effective March 8, 2014, 6:00 a.m.]

Effective Date of Rule: March 8, 2014, 6:00 a.m.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-27000L; and amending WAC 220-56-270.

Statutory Authority for Adoption: RCW 77.04.012, 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: Sets one additional day of recreational smelt dipping opportunity in the Cowlitz River. The eulachon return was delayed due to cold river temperatures that caused the fish to hold in the warmer Columbia River estuary for most of February. The fish only showed up in the Cowlitz River on the final day of the original four-day season (Saturdays from February 8 through March 1). This year will be the fourth year of significantly improved smelt returns to the Columbia River beginning in 2011. Even with the one day extension to the sport season, combined sport and commercial harvest is expected to not exceed one percent of the total run size forecasted for 2014. The fishery serves as an important test fishery to monitor run strength and timing and to collect biological data. The regulations are consistent with a reduced level one fishery as described in the "Washington and Oregon Eulachon Management Plan" for the Columbia River.

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: March 4, 2014.

Philip Anderson  
Director

NEW SECTION

**WAC 220-56-27000L Smelt—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-270, WAC 220-56-240, WAC 220-56-265, and WAC 220-56-275, it is unlawful to fish for or possess eulachon smelt in those waters of the Columbia River and Washington tributaries except as provided below:

Open Area: Cowlitz River (bank only).

Open Dates: Saturday March 8, 2014

Hours: 6:00 a.m. to 12:00 p.m.

Daily limit: 10 pounds. Possession limit equal to one daily limit.

Gear: Dip net only.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 p.m. March 8, 2014:

WAC 220-56-27000L Smelt—Areas and seasons.