

WSR 14-07-001
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed March 5, 2014, 5:38 p.m., effective March 10, 2014]

Effective Date of Rule: March 10, 2014.

Purpose: The department is amending WAC 388-450-0195 Does the department use my utility costs when calculating my Basic Food or WASHCAP benefits?, in order to update the utility allowances for the Washington Basic Food program to include the standard utility allowance, telephone utility allowance and the limited utility allowance. The allowances are used when calculating Basic Food benefits.

Citation of Existing Rules Affected by this Order: Amending WAC 388-450-0195.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, and 74.08A.120.

Other Authority: The federal Agriculture Reform and Risk Management Act of 2014 (Farm Bill), and the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) (42 U.S.C. 8624 (f)(2)(A)).

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

Reasons for this Finding: The amendments update the utility allowances for Basic Food applying the standard utility allowance, limited utility allowance, and telephone utility allowance when calculating Basic Food benefits as required by the federal Agriculture Reform and Risk Management Act of 2014 (Farm Bill), which was signed into law February 7, 2014.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: March 4, 2014.

Katherine I. Vasquez
Rules Manager

AMENDATORY SECTION (Amending WSR 14-04-050, filed 1/27/14, effective 2/27/14)

WAC 388-450-0195 Does the department use my utility costs when calculating my Basic Food or WASH-

CAP benefits? ~~((1) We use a standard utility allowance (SUA) of four hundred nine dollars instead of your actual utility costs when we determine your assistance unit's:~~

~~(a) Monthly benefits under WAC 388-492-0070 if you receive WASHCAP; or~~

~~(b) Shelter cost income deduction under WAC 388-450-0190 for Basic Food.~~

~~(2) We considered the average cost of the following utilities to determine the value of the SUA:~~

~~(a) Heating and cooling fuel such as electricity, oil, or gas;~~

~~(b) Electricity;~~

~~(c) Water and sewer;~~

~~(d) Well or septic tank installation/maintenance;~~

~~(e) Garbage/trash collection; and~~

~~(f) Telephone service.~~

~~(3) The department uses the SUA if you have utility costs separate from your rent or mortgage payment or if you receive a low income home energy assistance program (LIHEAP) benefit during the year.)~~ (1) The department uses utility allowances instead of the actual utility costs your assistance unit (AU) pays when we determine your:

(a) Monthly benefits under WAC 388-492-0070 if you receive WASHCAP; or

(b) Shelter cost income deduction under WAC 388-450-0190 for Basic Food.

(2) For Basic Food, "utilities" include the following:

(a) Heating or cooling fuel;

(b) Electricity or gas;

(c) Water and sewer;

(d) Well or septic tank installation/maintenance;

(e) Garbage/trash collection; and

(f) Telephone service.

(3) We use the amounts below if you have utility costs separate from your rent or mortgage payment:

(a) If your AU has heating or cooling costs or receives more than twenty dollars in Low Income Home Energy Assistance Act (LIHEAA) benefits each year, you get a standard utility allowance (SUA) of four hundred nine dollars.

(b) If your AU does not qualify for the SUA and you have any two utility costs listed in subsection (2) of this section, you get a limited utility allowance (LUA) of three hundred thirty dollars.

(c) If your AU has only telephone costs and no other utility costs, you get a telephone utility allowance (TUA) of sixty-five dollars.

(4) If your AU receives Basic Food on March 9, 2014, you receive the SUA through August 2014 regardless of your household's utility expenses unless you have a lapse in your Basic Food benefits.

WSR 14-07-002

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 14-38—Filed March 6, 2014, 9:56 a.m., effective March 7, 2014]

Effective Date of Rule: March 7, 2014.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900F; and amending WAC 220-310-195.

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: Sections of the Okanogan River around the mouth of Omak and Tonasket creeks will close early to protect natural origin steelhead staging prior to spawning within those tributaries. 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 6, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-310-19500A Freshwater exceptions to statewide rules—Methow, Okanogan, Similkameen, Wenatchee and Icicle rivers. Notwithstanding the provisions of WAC 220-310-195, effective March 7, 2014, until further notice, the following provisions are in effect. Unless otherwise amended, all permanent rules remain in effect:

(1) It is permissible to fish for steelhead in the following waters:

(a) Methow River: From the mouth upstream to the confluence with the Chewuch River in Winthrop. Fishing from a floating device is prohibited from the second powerline crossing (1 mile upstream from the mouth) to the first Hwy 153 Bridge (4 miles upstream from the mouth).

(b) Okanogan River: From the mouth upstream to the Highway 97 Bridge in Oroville, except: From the first power line crossing downstream of the Highway 155 Bridge in Omak (Coulee Dam Credit Union Building) to the mouth of Omak Creek and from the Tonasket Bridge (4th street) downstream to the Tonasket Lagoons Park boat launch.

(c) Similkameen River: From the mouth upstream to 400 feet below Enloe Dam.

(d) Wenatchee River from the mouth to 400 feet below Tumwater Dam, including the Icicle River from the mouth to 500 feet downstream of the Leavenworth National Fish Hatchery Barrier Dam.

(2) Mandatory retention of adipose fin clipped steelhead, daily limit two (2) hatchery steelhead, 20 inch minimum size. Hatchery steelhead are identified by a missing adipose fin with a healed scar in its location.

(3) Adipose present steelhead must be released unharmed and cannot be removed from the water prior to release.

(4) Night closure and selective gear rules remain in effect.

(5) Whitefish anglers must follow selective gear rules in areas open to steelhead fishing, no bait is allowed.

Release all steelhead with a floy (anchor) tag attached and/or one or more round 1/4 inch in diameter holes punched in the caudal (tail) fin.

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 March 7, 2014:

WAC 232-28-61900F Exceptions to statewide rules—
Columbia, Methow, Okanogan,
Similkameen, Wenatchee and Icicle
rivers. (14-32)

WSR 14-07-007 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 14-54—Filed March 6, 2014, 1:12 p.m., effective March 6, 2014, 1:12 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends language in the master hunt charts for deer and elk.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-359 and 232-28-360.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 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: The department will address the corrections made in this emergency rule through permanent rule changes during the regularly scheduled 2014 rule development process currently underway. The change are needed immediately to address agricultural damage for the remainder of 2013. There is insufficient time [time] to adopt

permanent rules, though permanent rules addressing the issue are forthcoming.

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

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

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

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

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

Date Adopted: March 6, 2014.

Philip Anderson
Director

NEW SECTION

WAC 232-28-35900E 2013 Deer special permits Notwithstanding the provisions of WAC 232-28-359, effective immediately until further notice:

(1) It is permissible for master hunters to use any legal weapon while hunting the hunts specified in the "Master Hunter" hunt chart unless otherwise specified or required by the Hunt Coordinator. It is unlawful to take more than one animal under this special permit opportunity. For those special permit hunts allowing the purchase of a second deer tag, hunters may use either the first or second deer tag, but it is unlawful to kill more than one animal under the authorization of the special permit. If a master hunter uses his or her general deer tag and kills and tags an animal under this special permit, it is unlawful for the hunter to use the second deer tag for the general deer hunting season.

(2) In the Master Hunter hunt chart in the "Weapon/Tag" column, strike the word "required" and replace with "allowed."

[NEW SECTION]

WAC 232-28-36000H 2013 Elk special permits Notwithstanding the provisions of WAC 232-28-360, effective immediately until further notice:

(1) It is permissible for master hunters to use any legal weapon while hunting the hunts specified in the "Master Hunter" hunt chart unless otherwise specified or required by the Hunt Coordinator. It is unlawful to take more than one animal under this special permit opportunity. For those special permit hunts allowing the purchase of a second elk tag, hunters may use either the first or second elk tag, but it is unlawful to kill more than one animal under the authorization of the special permit. If a hunter uses his or her general elk tag and kills and tags an animal under this special permit, it is unlawful for the hunter to use the second elk tag for the general elk hunting season.

(2) In the Master Hunter hunt chart in the "Weapon/Tag" column, strike the word "required" and replace with "allowed."

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

**WSR 14-07-008
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 14-49—Filed March 6, 2014, 2:42 p.m., effective April 20, 2014, 6:00 a.m.]

Effective Date of Rule: April 20, 2014, 6:00 a.m.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-19000A; and amending WAC 220-310-190.

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: This emergency rule is needed to ensure a safe successful fishery. Fish will be stocked two days prior to the event to acclimate them before the event. On the day of the event, only preregistered veterans will be permitted to fish throughout the lake. 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 6, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-310-19000A Freshwater exceptions to statewide rules—Langlois Lake. Notwithstanding the provisions of WAC 220-310-190, effective 6:00 a.m. through 8:00 p.m. April 20, 2014, it is permissible to fish in Langlois

Lake if the angler is participating in the Project Healing Waters fishing event.

Date Adopted: March 6, 2014.

Philip Anderson
Director

REPEALER

The following section of the Washington Administrative Code is repealed effective 8:01 p.m. April 20, 2014:

WAC 220-310-19000A Freshwater exceptions to statewide rules—Langlois Lake.

NEW SECTION

WAC 220-310-18500A Freshwater exceptions to statewide rules—Kalama River. Notwithstanding the provisions of WAC 220-310-185, effective immediately until further notice, it is unlawful to fish for or possess Chinook salmon in waters of the Kalama River from boundary markers at the mouth to the upper salmon hatchery (Kalama Falls).

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-6190000A Exceptions to statewide rules—Kalama River. (14-15)

Reviser's note: The section above appears as filed by the agency pursuant to RCW 34.08.040; however, the reference to WAC 232-28-6190000A is probably intended to be WAC 232-28-61900A.

**WSR 14-07-009
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 14-35—Filed March 6, 2014, 3:20 p.m., effective March 7, 2014]

Effective Date of Rule: March 7, 2014.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900A; and amending WAC 220-310-185.

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: The pre-season forecast is for a return of five hundred adult spring chinook salmon to the Kalama River in 2014. The closure is necessary to provide enough fish to meet the hatchery escapement goal of approximately four hundred fifty fish. Recent changes to rules repealed WAC 232-28-619 and split the rule into new WAC sections. Changes to WAC 232-28-619 were needed because the rule was too long, not clearly written or structured. The public will be able to locate and understand requirements more easily because the requirements will be better organized and clearly structured. This emergency rule is to ensure previously adopted emergency rules provisions remain effective. 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.

**WSR 14-07-010
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 14-36—Filed March 6, 2014, 3:20 p.m., effective March 7, 2014]

Effective Date of Rule: March 7, 2014.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900B; and amending WAC 220-310-185.

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: The pre-season forecast is for a return of one thousand one hundred adult spring chinook salmon to the Lewis River in 2014. The closure is necessary to provide enough fish to meet the hatchery escapement goal of approximately one thousand three hundred fifty fish. Recent changes to rules repealed WAC 232-28-619 and split the rule into new WAC sections. Changes to WAC 232-28-619 were needed because the rule was too long, not clearly written or structured. The public will be able to locate and understand requirements more easily because the requirements will be better organized and clearly structured. This emergency rule is to ensure previously adopted emergency rules provisions remain effective. 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 6, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-310-18500B Freshwater exceptions to statewide rules—Lewis River. Notwithstanding the provisions of WAC 220-310-185, effective immediately until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

(1) Chinook salmon must be released in waters of the Lewis River from the mouth to the mouth of East Fork.

(2) Chinook salmon must be released in waters of the North Fork Lewis River from the mouth of East Fork to the overhead powerlines below Merwin Dam.

(3) Through May 31, 2014, fishing is closed to all angling on the North Fork Lewis River from Johnson Creek (located downstream from the Lewis River Salmon Hatchery) upstream to Merwin Dam.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-61900B Exceptions statewide rules—Lewis River. (14-16)

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 14-07-011
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 14-37—Filed March 6, 2014, 3:20 p.m., effective March 7, 2014]

Effective Date of Rule: March 7, 2014.
Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900D; and amending WAC 220-310-200.

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 the 2014 spring recreational salmon season in the Columbia River in the area from Buoy 10 upstream to the Oregon/Washington border. The regulation adjusts the hatchery adult bag limit in Deep River to be consistent with the adjacent Columbia River when both areas are open. The regulation allows for the retention of shad and hatchery steelhead during days and in areas that are open for hatchery chinook. The fishery is consistent with the *U.S. v. Oregon* Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with compact action of January 29, 2014. There is insufficient time to promulgate permanent rules.

Washington and Oregon jointly regulate Columbia River fisheries under the congressionally ratified Columbia River compact. Four Indian tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the tribes an opportunity to take a fair share of the available fish, and the states must manage other fisheries accordingly. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). A federal court order sets the current parameters for sharing between treaty Indians and others. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546).

Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under the federal Endangered Species Act (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 treaty and nontreaty Columbia River fisheries governed by the 2008-2017 *U.S. v. Oregon* Management Agreement. The Washington and Oregon fish and wildlife commissions have developed policies to guide the implementation of such biological opinions in the states' regulation of nontreaty fisheries.

Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, the ESA, and commission guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached.

Recent changes to rules repealed WAC 232-28-619 and split the rule into new WAC sections. Changes to WAC 232-28-619 were needed because the rule was too long, not clearly written or structured. The public will be able to locate

and understand requirements more easily because the requirements will be better organized and clearly structured. This emergency rule is to ensure a previously adopted emergency rules provisions remain effective. 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 6, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-310-20000A Freshwater exceptions to statewide rules—Columbia River. Notwithstanding the provisions of WAC 220-310-200, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

(1) Columbia River:

(a) Effective immediately through April 7, 2014:

(i) Open for fishing for salmonids and shad. From a true north-south line through Buoy 10 upstream to 600 feet downstream of the fish ladder at the new Bonneville Dam powerhouse (#2), except closed March 25 and April 1.

(ii) HOWEVER, closed to fishing from boats upstream of Beacon Rock (defined as a deadline marker on the Oregon bank, located approximately four miles downstream from Bonneville Dam Powerhouse #1, projecting a straight line through the western tip of Pierce Island to a deadline marker on the Washington bank at Beacon Rock).

(iii) Daily salmonid limit is 6 fish (hatchery Chinook or hatchery steelhead), of which no more than 2 may be adults and no more than 1 may be an adult Chinook.

(iv) Release all wild Chinook and wild steelhead.

(v) Salmon minimum size is 12 inches.

(b) Effective March 16 through May 9, 2014:

(i) Open to fishing from the Tower Island power lines in Bonneville Pool (located approximately 6 miles below The Dalles Dam) upstream to the Oregon and Washington border, plus the Washington bank between Bonneville Dam and the Tower Island power lines (except for those waters closed under permanent regulations).

(ii) Daily salmonid limit is 6 fish (hatchery Chinook or hatchery steelhead), of which no more than 2 may be adults and no more than 1 may be an adult Chinook.

(iii) Release all wild Chinook and wild steelhead.

(iv) Salmon minimum size is 12 inches.

(2) Deep River (Wahkiakum Co.): Effective immediately until further notice:

(a) The hatchery adult Chinook daily limit is the same as the adjacent mainstem Columbia River during those days when the mainstem Columbia River is open for adult Chinook retention.

(b) When the adjacent mainstem Columbia River is closed for adult Chinook retention, the salmon daily limit is the same as provided in the permanent rules for Deep River.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-61900D Exceptions to statewide rules—
Columbia River. (14-24)

WSR 14-07-012

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 14-39—Filed March 6, 2014, 3:21 p.m., effective March 7, 2014]

Effective Date of Rule: March 7, 2014.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900E and 220-310-19500B; and amending WAC 232-28-619.

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: Steelhead returns to the Tucannon River are not meeting management goals for conservation or for maintaining fisheries and, therefore, the fishery for hatchery steelhead must be constrained to provide more protection for naturally produced steelhead in the Tucannon River. A large component of Tucannon River wild steelhead enters the river in March. The incidental impact to wild steelhead from a recreational fishery is anticipated to increase to unacceptable levels in March. The intent of the recreational fishery is to focus on removal of stray hatchery steelhead that primarily enter the Tucannon River in late summer and fall to prevent them from spawning naturally. There is insufficient time to adopt permanent rules. Recent changes to rules repealed WAC 232-28-619 and split the rule into new WAC sections. Changes to WAC 232-28-619 were needed because the rule was too long, not clearly written or structured. The public will be able to locate and understand requirements more easily because the requirements will be better organized

and clearly structured. This emergency rule is to ensure previously adopted emergency rules provisions remain effective. 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 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: March 6, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-310-19500B Exceptions to statewide rules—Tucannon River. Notwithstanding the provisions of WAC 220-310-195, effective immediately through June 6, 2014, it is unlawful to fish in the waters of the Tucannon River.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-61900E Exceptions to statewide rules—
Tucannon River. (14-30)

The following section of the Washington Administrative Code is repealed effective June 7, 2014:

WAC 220-310-19500B Exceptions to statewide rules—
Tucannon River.

**WSR 14-07-013
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 14-40—Filed March 6, 2014, 3:23 p.m., effective March 7, 2014]

Effective Date of Rule: March 7, 2014.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-310-200.

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: Recent analyses of the ongoing steelhead fisheries in portions of the upper Columbia River has [have] revealed sufficient natural origin steelhead impacts still remain under the NOAA issued Endangered Species Act section 10 permit. Reopening steelhead fisheries in the Columbia River will help to reduce the proportion of hatchery fish on the spawning grounds and further reduce competition between natural origin and hatchery juvenile production. Recent changes to rules repealed WAC 232-28-619 and split the rule into new WAC sections. Changes to WAC 232-28-619 were needed because the rule was too long, not clearly written or structured. The public will be able to locate and understand requirements more easily because the requirements will be better organized and clearly structured. This emergency rule is to ensure previously adopted emergency rules provisions remain effective. 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 [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: March 6, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-310-20000B Freshwater exceptions to statewide rules—Columbia River. Notwithstanding the provisions of WAC 220-310-195 and WAC 220-310-200, effective immediately until further notice, the following provisions are in effect. Unless otherwise amended, all permanent rules remain in effect:

(1) It is permissible to fish for steelhead in mainstem Columbia River from Wells Dam upstream to 400 feet below Chief Joseph Dam and from Rock Island Dam upstream to 400 feet below Wells Dam.

(2) Mandatory retention of adipose fin clipped steelhead applies; daily limit two (2) hatchery steelhead, 20 inch minimum size. Hatchery steelhead are identified by a missing adipose fin with a healed scar in its location.

(3) Anglers must release adipose present steelhead unharmed and cannot remove them from the water prior to release.

(4) Anglers must release all steelhead with a floy (anchor) tag attached and/or one or more round 1/4 inch in diameter holes punched in the caudal (tail) fin.

(5) Night closure and selective gear rules apply. Bait is permissible on mainstem Columbia River from Rock Island Dam to 400 feet below Chief Joseph Dam.

(6) Whitefish anglers must follow selective gear rules in areas open to steelhead fishing and it is unlawful to use bait.

WSR 14-07-014
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-46—Filed March 6, 2014, 3:25 p.m., effective March 7, 2014]

Effective Date of Rule: March 7, 2014.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900G; and amending WAC 220-310-200.

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. Recent changes to rules repealed WAC 232-28-619 and split the rule into new WAC sections. Changes to WAC 232-28-619 were needed because the rule was too long, not clearly written or structured. The public will be able to locate and understand requirements more easily because the requirements will be better organized and clearly structured. This emergency rule is to ensure previously adopted emergency rules provisions remain effective. 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 6, 2014.

Philip Anderson
Director

NEW SECTION

WAC 200-310-20000C Exceptions to statewide rules—Columbia River sturgeon. Notwithstanding the provisions of WAC 232-28-619:

(1) Effective immediately 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:

WAC 232-28-61900G Exceptions to statewide rules—
Columbia River sturgeon. (14-43)

WSR 14-07-026
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-56—Filed March 7, 2014, 4:00 p.m., effective March 7, 2014,
4:00 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Protection of human safety, vulnerable fish and wildlife resources or habitats, and department or other infrastructures from damage or abuse.

Citation of Existing Rules Affected by this Order: Amending WAC 232-13-150.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.047, and 77.15.160.

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 Wanapum Pool was drawn down due to an emergency at the Wanapum Dam. This draw-

down has exposed lands underlying the pool and created risks to public safety, potential damage to habitats from human and motorized traffic, and exposed cultural resources to damage or theft. 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 [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: March 7, 2014.

Philip Anderson
Director

NEW SECTION

WAC 232-13-1500A Regulating public access Notwithstanding the provisions of WAC 232-13-150, effective immediately until further notice, to protect human safety, vulnerable fish and wildlife resources or habitats, and department or other infrastructures from damage or abuse:

(1) It is unlawful to enter or remain on department lands or portions thereof, consisting of all lands and beaches riverward of the ordinary high water line of the former full pool within the project area of the Grant County PUD Wanapum Dam reservoir of the Columbia River.

(2) Subsection (1) does not apply to authorized activities conducted by duly authorized officials related to the administration of the closure, dam safety, monitoring or protection of the project and lands, or monitoring or protection of natural and cultural resources. Nor does it apply to those operating under a permit for entry issued by the Director.

(3) A violation of this section is an infraction, punishable under RCW 77.15.160 (5)(b).

WSR 14-07-034

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 14-51—Filed March 10, 2014, 5:08 p.m., effective March 16, 2014]

Effective Date of Rule: March 16, 2014.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-310-185.

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: The 2014 Wind River spring chinook returns are expected to be slightly higher than the recent five year average and more than twice last year's actual return. Surplus hatchery origin fish are available for harvest. 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 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: March 10, 2014.

Joe Stohr
for Philip Anderson
Director

NEW SECTION

WAC 220-310-18500C Freshwater exceptions to statewide rules--Wind River. Notwithstanding the provisions of WAC 220-310-185, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

(1) Wind River from mouth (boundary line markers) upstream to the Burlington Northern Railroad Bridge: Open March 16, 2014, until further notice. Daily limit two Chinook salmon or two hatchery steelhead or one of each. Release wild Chinook. Minimum size 12 inches for salmon and 20 inches for steelhead.

(a) Anglers may fish with a Two Pole Endorsement May 1 through June 30 for salmon and steelhead only. When fishing for sturgeon or other species, only one pole per angler may be used.

(2) Wind River from the Burlington Northern Railroad Bridge upstream to 400 feet below Shipherd Falls: Open April 1, 2014, until further notice. Daily limit two Chinook salmon or two hatchery steelhead or one of each. Release wild Chinook. Minimum size 12 inches for salmon and 20 inches for steelhead.

(a) The area from the Burlington Northern Railroad Bridge upstream to Shipherd Falls is closed to all fishing March 16 through March 31, 2014.

Wind River from 100 feet above Shipherd Falls to 800 yards downstream of Carson National Fish Hatchery (except

closed waters from 400 feet below to 100 feet above the coffer dam). Open May 1 through June 30, 2014. Daily limit two Chinook salmon or two hatchery steelhead or one of each. Minimum size 12 inches for salmon and 20 inches for steelhead.

WSR 14-07-038
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-59—Filed March 11, 2014, 5:09 p.m., effective March 12, 2014, 6:00 a.m.]

Effective Date of Rule: March 12, 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 220-32-05100X and 220-32-05100Y; 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 opens The Dalles Pool (SMCRA 1G) for commercial sales one day earlier than previously planned. Catch in 1G was less than projected, which allows for an earlier opener[.] The Bonneville Pool (SMCRA 1F) season will be extended by three days, as catch in this area has also been less than projected. During times when the 1F is closed for commercial sales, for subsistence purposes, the legal-size fork length for sturgeon retention is 43-54 inches. Sales of fish caught downstream of 1F continue to be allowed, as long as sales are open in SMCRA 1F, 1D, and/or 1H. The season is consistent with the 2008-2017 management agreement and the associated biological opinion. The rule is consistent with compact action of March 11, 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: March 11, 2014.

Joe Stohr
for Philip Anderson
Director

NEW SECTION

WAC 220-32-05100Y 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 15, 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: Immediately through 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 22, 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 12, 2014:

WAC 220-32-05100X Columbia River salmon seasons above Bonneville Dam. (14-48)

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

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

WSR 14-07-050

EMERGENCY RULES

DEPARTMENT OF REVENUE

[Filed March 13, 2014, 2:22 p.m., effective March 13, 2014, 2:22 p.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: March 13, 2014.

Dylan Waits
Rules Coordinator

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 one 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 14-07-052
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-60—Filed March 14, 2014, 12:55 p.m., effective April 5, 2014]

Effective Date of Rule: April 5, 2014.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-310-18000B; and amending WAC 220-310-180.

Statutory Authority for Adoption: RCW 77.04.012, 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: This emergency regulation is needed to allow an early fishing opportunity for juveniles, seniors, and anglers with a disability who possess a department of fish and wildlife designated harvester card. Following this early opening for these fishing groups, the lake will close until the last Saturday in April. 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 14, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-310-18000B Exceptions to statewide rules—Bowers Lake (Vance Creek Pond #1) Grays Harbor Co. Notwithstanding the provisions of WAC 220-310-180, effective April 5 through April 13, 2014, juveniles, holders of a senior license, and anglers with Washington Department of Fish and Wildlife disability status and who have a designated harvester card may fish in those waters of Bowers Lake (Vance Creek Pond #1).

REPEALER

The following section of the Washington Administrative Code is repealed effective April 14, 2014:

WAC 220-310-18000B Exceptions to statewide rules—
Bowers Lake (Vance Creek Pond
#1) Grays Harbor Co.

WSR 14-07-053
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-57—Filed March 14, 2014, 1:14 p.m., effective April 10, 2014, 12:01 a.m.]

Effective Date of Rule: April 10, 2014, 12:01 a.m.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-18500E; and amending WAC 220-310-185.

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: This rule change is necessary to ensure a safe and successful event. The fish will be planted one day prior to the event to better acclimate them before the event. Fish will be placed into netted areas along the shoreline of the pond. On the days of the event, preregistered kids will be allowed to fish within these netted areas. 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 14, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-310-18500E Exceptions to statewide rules—Klineline Pond (Clark Co.) Notwithstanding the provisions of WAC 220-310-185, effective 12:01 a.m. April 10 through April 12, 2014, it is unlawful to fish in those waters of Klineline Pond, except as provided in this section:

(1) Open to fishing 8:00 a.m. to 4:00 p.m. April 11 and 12, 2014, in the netted area, to juvenile anglers participating in the Klineline Kids Fishing Event.

(2) Daily limit of two fish.

REPEALER

The following section of the Washington Administrative Code is repealed effective April 13, 2014:

WAC 220-310-18500E Exceptions to statewide rules—
Klineline Pond (Clark Co.)

WSR 14-07-054
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-55—Filed March 14, 2014, 2:04 p.m., effective April 19, 2014,
8:00 a.m.]

Effective Date of Rule: April 19, 2014, 8:00 a.m.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-310-18000A; and amending WAC 220-310-180.

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: The Grays Harbor Poggie Club is sponsoring a kids' fishing derby at Failor Lake one week prior to the opening of the lowland lake season. In previous years, the derby has been held on opening day for the lowland lake season, but congestion and competition from adult anglers interferes with the kids' enjoyment of the derby and the smooth operations of the derby. An emergency rule is needed to open the lake for the derby one week early. There is insufficient time to adopt 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 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 14, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-310-18000A Exceptions to statewide rules—Failor Lake (Grays Harbor Co.) Notwithstanding the provisions of WAC 220-310-180, Failor Lake is open to fishing on April 19, 2014, from 8:00 a.m. to 12:00 p.m. for anglers age fourteen years old and younger who are participating in the youth fishing event. Adults may assist children participating in the event, but no child may fish with more than one fishing rod. All other provisions of the permanent rule remain in effect.

REPEALER

The following section of the Washington Administrative Code is repealed, effective 12:01 p.m. April 19, 2014:

WAC 220-310-18000A Exceptions to statewide rules—
Failor Lake (Grays Harbor Co.)

WSR 14-07-056
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-53—Filed March 14, 2014, 4:13 p.m., effective May 1, 2014]

Effective Date of Rule: May 1, 2014.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-310-18500D; and amending WAC 220-310-185.

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: The 2014 Drano Lake spring chinook returns are expected to be similar to the recent five year average and almost twice last year's actual return. Surplus hatchery origin fish are available for harvest. 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 14, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-310-18500D Freshwater exceptions to statewide rules—Drano Lake. Notwithstanding the provisions of WAC 220-310-185, effective May 1 through June 30, 2014, in waters of Drano Lake downstream of markers on point of land downstream and across from Little White

Salmon National Fish Hatchery and upstream of the Hwy. 14 Bridge, it is permissible for anglers with a Two-Pole Endorsement to fish for salmon and steelhead with two poles. Unless otherwise amended, all permanent rules remain in effect.

REPEALER

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

WAC 220-310-18500D Freshwater exceptions to statewide rules—Drano Lake.

WSR 14-07-058
EMERGENCY RULES
BUILDING CODE COUNCIL

[Filed March 14, 2014, 5:13 p.m., effective March 14, 2014, 5:13 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This change will redefine "portable school classrooms" and add a definition of "clusters" of such classrooms, and will modify the requirements for fire sprinklers in clusters of portable school classrooms below six thousand square feet for the purpose of improving fire safety and egress for school occupants.

Citation of Existing Rules Affected by this Order: Amending WAC 51-54A-0202 and 51-54A-0903.

Statutory Authority for Adoption: RCW 19.27.031, 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 current WAC language has become obsolete, and does not reflect the needs of school districts regarding fire safety in portable school classrooms. The existing rules negatively impact building plans for school districts throughout the state. This modification will provide immediate economic relief to school districts planning to add portable classrooms for the next school year, and will provide a safer environment for building occupants.

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: March 7, 2014.

C. Ray Allshouse
Chair

AMENDATORY SECTION (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

WAC 51-54A-0202 General definitions.

SECTION 202 GENERAL DEFINITIONS

ADULT FAMILY HOME. A dwelling, licensed by Washington state, in which a person or persons provide personal care, special care, room and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services.

ALERT SIGNAL. A distinctive signal indicating the need for trained personnel and occupants to initiate a specific action, such as shelter-in-place.

ALERT SYSTEM. Approved devices, equipment and systems or combinations of systems used to transmit or broadcast an alert signal.

CHILD CARE. For the purposes of these regulations, child care is the care of children during any period of a 24-hour day.

CHILD CARE, FAMILY HOME. A child care facility, licensed by Washington state, located in the dwelling of the person or persons under whose direct care and supervision the child is placed, for the care of twelve or fewer children, including children who reside at the home.

CLUSTER. Clusters are multiple portable school classrooms separated by less than the requirements of the building code for separate buildings.

COVERED BOAT MOORAGE. A pier or system of floating or fixed access ways to which vessels on water may be secured and any portion of which are covered by a roof.

ELECTRICAL CODE. The National Electrical Code, promulgated by the National Fire Protection Association, as adopted by rule or local ordinance under the authority of chapter 19.28 RCW.

EMERGENCY DRILL. An exercise performed to train staff and occupants and to evaluate their efficiency and effectiveness in carrying out emergency procedures.

EXISTING. Buildings, facilities or conditions that are already in existence, constructed or officially authorized prior to the adoption of this code.

GRAVITY-OPERATED DROP OUT VENTS. Automatic smoke and heat vents containing heat-sensitive glazing designed to shrink and drop out of the vent openings when exposed to fire.

HOSPICE CARE CENTER. A building or portion thereof used on a 24-hour basis for the provision of hospice services to terminally ill inpatients.

MOTOR VEHICLE. Includes, but not limited to, a vehicle, machine, tractor, trailer or semitrailer, or any combination thereof, propelled or drawn by mechanical power and designed for use upon the highways in the transportation of passengers or property. It does not include a vehicle, locomotive or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service. The term "motor vehicle" also includes freight containers or cargo tanks used, or intended for use, in connection with motor vehicles.

NIGHTCLUB. An A-2 Occupancy use under the 2006 International Building Code in which the aggregate area of concentrated use of unfixated chairs and standing space that is specifically designated and primarily used for dancing or viewing performers exceeds three hundred fifty square feet, excluding adjacent lobby areas. "Nightclub" does not include theaters with fixed seating, banquet halls, or lodge halls.

OCCUPANCY CLASSIFICATION. For the purposes of this code, certain occupancies are defined as follows:

Group I-2. This occupancy shall include buildings and structures used for medical care on a 24-hour basis for more than five persons who are incapable of self-preservation. This group shall include, but not be limited to, the following:

- Foster care facilities
- Detoxification facilities
- Hospice care centers
- Hospitals
- Nursing homes
- Psychiatric hospitals

Five or fewer persons receiving care. A facility such as the above with five or fewer persons receiving such care shall be classified as Group R-3 or shall comply with the *International Residential Code* provided an *automatic sprinkler system* is installed in accordance with Section 903.3.1.3 or with Section P2904 of the *International Residential Code*.

Licensed care facility. A facility such as the above providing licensed care to clients in one of the categories listed in Section 310.1 of the International Building Code licensed by Washington state shall be classified as Group R-2.

Family home child care. Family home child care licensed by Washington state for the care of twelve or fewer children shall be classified as Group R-3 or shall comply with the *International Residential Code*.

Adult care facility. A facility that provides accommodations for less than 24 hours for more than five unrelated adults and provides supervision and personal care services shall be classified as Group I-4.

EXCEPTION: Where the occupants are capable of responding to an emergency situation without physical assistance from the staff, the facility shall be classified as Group R-3.

Child care facility. Child care facilities that provide supervision and personal care on a less than 24-hour basis for more than five children 2 1/2 years of age or less shall be classified as Group I-4.

EXCEPTIONS:

1. A child day care facility that provides care for more than five but no more than 100 children 2 1/2 years or less of age, where the rooms in which the children are cared for are located on a level of exit discharge serving such rooms and each of these child care rooms has an exit door directly to the exterior, shall be classified as Group E.
2. Family child care homes licensed by Washington state for the care of 12 or fewer children shall be classified as Group R-3.

Residential Group R. Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I or when not regulated by the *International Residential Code*. This group shall include:

R-1 Residential occupancies containing sleeping units where the occupants are primarily transient in nature, including:

- Boarding houses (transient) with more than 10 occupants
- Congregate living facilities (transient) with more than 10 occupants

- Hotels (transient)
- Motels (transient)

R-2 Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including:

- Apartment houses

- Assisted living facilities as licensed by Washington state under chapter 388-78A WAC

- Boarding houses (nontransient) with more than 16 occupants

- Congregate living facilities (nontransient) with more than 16 occupants

- Convents
- Dormitories

- Fraternities and sororities

- Hotels (nontransient)

- Live/work units

- Monasteries

- Motels (nontransient)

- Residential treatment facilities as licensed by Washington state under chapter 246-337 WAC

- Vacation timeshare properties

R-3 Residential occupancies where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, or I, including:

- Buildings that do not contain more than two dwelling units.

- Boarding houses (nontransient) with 16 or fewer occupants.

- Boarding houses (transient) with 10 or fewer occupants.

- Care facilities that provide accommodations for five or fewer persons receiving care.

- Congregate living facilities (nontransient) with 16 or fewer occupants.

- Congregate living facilities (transient) with 10 or fewer occupants.

Care facilities within a dwelling. Care facilities for five or fewer persons receiving care that are within a single-family dwelling are permitted to comply with the *International*

Residential Code provided an automatic sprinkler system is installed in accordance with Section 903.3.1.3 or with Section P2904 of the *International Residential Code*.

Adult family homes, family home child care. Adult family homes and family home child care facilities that are within a single-family home are permitted to comply with the *International Residential Code*.

Foster family care homes. Foster family care homes licensed by Washington state are permitted to comply with the *International Residential Code*, as an accessory use to a dwelling, for six or fewer children including those of the resident family.

R-4 Classification is not adopted. Any reference in this code to R-4 does not apply.

PORTABLE SCHOOL CLASSROOM. A prefabricated structure consisting of one or more rooms with direct exterior egress from the classroom(s). The structure is transportable in one or more sections, (which requires a chassis to be transported) and is designed to be used as an educational space with or without a permanent foundation. The structure shall be (trailerable and) capable of being demounted and relocated to other locations as needs arise.

RECALL SIGNAL. An electrically or mechanically operated signal used to recall occupants after an emergency drill or to terminate a shelter-in-place event that shall be distinct from any alarm or alert signal used to initiate an emergency plan, or other signals.

SHELTER-IN-PLACE. An emergency response used to minimize exposure of facility occupants to chemical or environmental hazards by taking refuge in predetermined interior rooms or areas where actions are taken to isolate the interior environment from the exterior hazard.

AMENDATORY SECTION (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

WAC 51-54A-0903 Automatic sprinkler systems.

903.2.1.6 Nightclub. An automatic sprinkler system shall be provided throughout Group A-2 nightclubs as defined in this code.

903.2.3 Group E. An automatic sprinkler system shall be provided for Group E occupancies.

EXCEPTIONS:

1. Portable school classrooms with an occupant load of 50 or less calculated in accordance with Table 1004.1.2, provided that the aggregate area of any cluster of portable classrooms does not exceed ((5,000)) 6,000 square feet ((4465 m²)) (557 m²); and clusters of portable school classrooms shall be separated as required by the building code(-); or
2. Portable school classrooms with an occupant load from 51 through 98, calculated in accordance with Table 1004.1.2, and provided with two means of direct independent exterior egress from each classroom in accordance with Chapter 10, and one exit from each classroom shall be accessible, provided that the aggregate area of any cluster of portable classrooms does not exceed 6,000 square feet (557 m²); and clusters of portable school classrooms shall be separated as required by the building code; or

3. Group E occupancies with an occupant load of 50 or less, calculated in accordance with Table 1004.1.2.

903.2.8 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

EXCEPTION:

Group R-1 if all of the following conditions apply:

1. The Group R fire area is no more than 500 square feet and is used for recreational use only.
2. The Group R fire area is on only one story.
3. The Group R fire area does not include a basement.
4. The Group R fire area is no closer than 30 feet from another structure.
5. Cooking is not allowed within the Group R fire area.
6. The Group R fire area has an occupant load of no more than 8.
7. A hand-held (portable) fire extinguisher is in every Group R fire area.

903.2.11.1.3 Basements. Where any portion of a basement is located more than 75 feet (22,860 mm) from openings required by Section 903.2.11.1, or where new walls, partitions or other similar obstructions are installed that increase the exit access travel distance to more than 75 feet, the basement shall be equipped throughout with an approved automatic sprinkler system.

WSR 14-07-060

EMERGENCY RULES

BUILDING CODE COUNCIL

[Filed March 14, 2014, 5:20 p.m., effective March 14, 2014, 5:20 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This rule change will ease a significant financial burden that was placed on small daycares and small or limited school remodel projects; the current rule exempts Group E occupancies with an occupant load of thirty or fewer from requirements for manual fire alarm systems. This rule will raise that number to fifty or fewer. It will also specify that an emergency voice alarm system is not required in Group E occupancies of one hundred or fewer occupants if the manual fire alarm system initiates an approved signal.

Citation of Existing Rules Affected by this Order: Amending WAC 51-54A-0907.

Statutory Authority for Adoption: RCW 19.27.031, 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 2012 Fire Code places an undue financial hardship on school districts and small Group E daycare centers. The amendment provides an adequate level of safety as determined by the national standard for 2015. The 2012 Fire Code had the consequence of an increased scope that was not justified.

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: March 7, 2014.

C. Ray Allshouse
Chair

AMENDATORY SECTION (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

WAC 51-54A-0907 Fire alarm and detection systems.

907.2.3 Group E. A manual fire alarm system that initiates the occupant notification signal utilizing an emergency voice/ alarm communication system meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall be installed in Group E occupancies. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system.

EXCEPTION:

1. A manual fire alarm system is not required in Group E occupancies with an occupant load of 50 or less.
2. Emergency voice/alarm communication systems meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall not be required in Group E occupancies with occupant loads of 100 or less, provided that activation of the manual fire alarm system initiates an approved occupant notification signal in accordance with Section 907.5.
3. Manual fire alarm boxes are required in Group E occupancies where all of the following apply:
 - 3.1 Interior corridors are protected by smoke detectors.
 - 3.2 Auditoriums, cafeterias, gymnasiums and similar areas are protected by heat detectors or other approved detection devices.
 - 3.3 Shops and laboratories involving dusts or vapors are protected by heat detectors or other approved detection devices.
4. Manual fire alarm boxes shall not be required in Group E occupancies where the building is equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1, the emergency voice/alarm communication system will activate on sprinkler water flow and manual activation.

907.2.9.1.1 Group R-2 boarding homes. A manual fire alarm system shall be installed in Group R-2 occupancies where the building contains a boarding home licensed by the state of Washington.

EXCEPTION: In boarding homes licensed by the state of Washington, manual fire alarm boxes in resident sleeping areas shall not be required at exits if located at all constantly attended staff locations, provided such staff locations are visible, continuously accessible, located on each floor, and positioned so no portion of the story exceeds a horizontal travel distance of 200 feet to a manual fire alarm box.

WSR 14-07-061
EMERGENCY RULES
BUILDING CODE COUNCIL

[Filed March 14, 2014, 5:24 p.m., effective April 1, 2014]

Effective Date of Rule: April 1, 2014.

Purpose: This rule change will resolve conflicts in the Residential Code regarding fire sprinkler requirements for townhouse construction. The current language is unclear and leads to misinterpretation of the code requirements for the building industry and code officials.

Citation of Existing Rules Affected by this Order: Amending WAC 51-51-0302.

Statutory Authority for Adoption: RCW 19.27.031, 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 2012 Residential Code does not adequately address fire safety requirements for townhouse construction; an error in the current code creates confusion for builders and code officials regarding fire separation and sprinkler requirements. It is not the intent of the code to allow reduced fire protection in nonsprinklered townhouses. This rule clarifies that a two-hour wall is required for fire separation when sprinklers are not present in townhouses.

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: March 7, 2014.

C. Ray Allshouse
Chair

AMENDATORY SECTION (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

WAC 51-54A-0907 Fire alarm and detection systems.

907.2.3 Group E. A manual fire alarm system that initiates the occupant notification signal utilizing an emergency voice/ alarm communication system meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall be installed in Group E occupancies. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system.

EXCEPTION: 1. A manual fire alarm system is not required in Group E occupancies with an occupant load of 50 or less.
2. Emergency voice/alarm communication systems meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall not be required in Group E occupancies with occupant loads of 100 or less, provided that activation of the manual fire alarm system initiates an approved occupant notification signal in accordance with Section 907.5.
3. Manual fire alarm boxes are required in Group E occupancies where all of the following apply:
3.1 Interior corridors are protected by smoke detectors.
3.2 Auditoriums, cafeterias, gymnasiums and similar areas are protected by heat detectors or other approved detection devices.
3.3 Shops and laboratories involving dusts or vapors are protected by heat detectors or other approved detection devices.
4. Manual fire alarm boxes shall not be required in Group E occupancies where the building is equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1, the emergency voice/alarm communication system will activate on sprinkler water flow and manual activation.

907.2.9.1.1 Group R-2 boarding homes. A manual fire alarm system shall be installed in Group R-2 occupancies where the building contains a boarding home licensed by the state of Washington.

EXCEPTION: In boarding homes licensed by the state of Washington, manual fire alarm boxes in resident sleeping areas shall not be required at exits if located at all constantly attended staff locations, provided such staff locations are visible, continuously accessible, located on each floor, and positioned so no portion of the story exceeds a horizontal travel distance of 200 feet to a manual fire alarm box.

WSR 14-07-070

**RECISSION OF EMERGENCY RULES
BUILDING CODE COUNCIL**

[Filed March 17, 2014, 11:42 a.m.]

On Friday, March 14, 2014, the state building code council filed an emergency rule, WSR 14-07-061, effective April 1, 2014.

I am writing to request you immediately rescind the emergency rule action in that matter due [to] a filing error.

The OTS document attached to that filing, OTS 6259.1, did not contain the appropriate WAC section.

Once you have rescinded the action of WSR 14-07-061, an emergency rule will be refiled to take action on the correct WAC section.

C. Ray Allshouse
Chair

**WSR 14-07-071
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 14-58—Filed March 17, 2014, 11:58 a.m., effective April 1, 2014]

Effective Date of Rule: April 1, 2014.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-56-350 and 220-56-380.

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: Surveys at North Bay indicate that the clam population has declined, and that effort has increased significantly, requiring a much shorter season. Clam quotas at the two Potlatch beaches were overharvested in 2013, requiring a delayed and shorter season. Surveys at Sequim Bay State Park indicate that the clam population has increased, allowing for a longer season. Surveys at South Indian Island indicate that the clam population has decreased; the delayed opening reduces harvest pressure, and also provides a more continuous recreational opportunity at public beaches in the Admiralty Inlet area. Oyster seasons should coincide with the clam seasons on these beaches. These rules are interim until permanent rules take effect.

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

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

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

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

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

Date Adopted: March 17, 2014.

Joe Stohr
for Philip Anderson

Director

NEW SECTION

WAC 220-56-35000Z Clams other than razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-56-350, effective immediately until further notice, it is unlawful to take, dig for and possess clams, cockles, and mussels taken for personal use from the following public tidelands except during the open periods specified herein:

- (1) North Bay: State-owned oyster reserves are open June 1, 2014, until further notice.
- (2) Potlatch DNR tidelands: Open July 1, 2014, until further notice.
- (3) Potlatch State Park: Open July 1, 2014, until further notice.
- (4) Sequim Bay State Park: Open April 1 until further notice.
- (5) South Indian Island County Park: Open July 1 until further notice.

NEW SECTION

WAC 220-56-38000E Oysters—Areas and seasons. Notwithstanding the provisions of WAC 220-56-380, effective immediately until further notice, it is unlawful to take and possess oysters taken for personal use from the following public tidelands except during the open periods specified herein:

- (1) North Bay: State-owned oyster reserves are open June 1, 2014, until further notice.
- (2) Potlatch DNR tidelands: Open July 1, 2014, until further notice.
- (3) Potlatch State Park: Open July 1, 2014, until further notice.
- (4) South Indian Island County Park: Open July 1, 2014, until further notice.

WSR 14-07-080**EMERGENCY RULES****BUILDING CODE COUNCIL**

[Filed March 17, 2014, 4:47 p.m., effective April 1, 2014]

Effective Date of Rule: April 1, 2014.

Purpose: This rule change will resolve conflicts in the Residential Code regarding fire sprinkler requirements for townhouse construction. The current language is unclear and leads to misinterpretation of the code requirements for the building industry and code officials.

Citation of Existing Rules Affected by this Order: Amending WAC 51-51-0302.

Statutory Authority for Adoption: RCW 19.27.031, 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 2012 Residential Code does not adequately address fire safety requirements for townhouse construction; an error in the current code creates confusion for builders and code officials regarding fire separation and sprinkler requirements. It is not the intent of the code to allow reduced fire protection in nonsprinklered townhouses. This rule clarifies that a two-hour wall is required for fire separation when sprinklers are not present in townhouses.

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: March 7, 2014.

C. Ray Allshouse

Chair

AMENDATORY SECTION (Amending WSR 13-23-084, filed 11/19/13, effective 4/1/14)

WAC 51-51-0302 Section R302—Fire-resistant construction.

R302.1 Exterior walls. Construction, projections, openings and penetrations of exterior walls of dwellings and accessory buildings shall comply with Table R302.1(1); or *dwellings* equipped throughout with an *automatic sprinkler system* installed in accordance with Section P2904 shall comply with Table R302.1(2).

- EXCEPTIONS:
1. Walls, projections, openings or penetrations in walls perpendicular to the line used to determine the fire separation distance.
 2. Walls of dwellings and accessory structures located on the same lot.
 3. Detached tool sheds and storage sheds, playhouses and similar structures exempted from permits are not required to provide protection based on location on the lot. Projections beyond the exterior wall shall not extend over the lot line.
 4. Detached garages accessory to a dwelling located within 2 feet (610 mm) of a lot line are permitted to have roof eave projections not exceeding 4 inches (102 mm).
 5. Foundation vents installed in compliance with this code are permitted.

TABLE R302.1(1)
EXTERIOR WALLS

Exterior Wall Element		Minimum Fire-Resistance Rating	Minimum Fire Separation Distance
Walls	Fire-resistance rated	1-hour tested in accordance with ASTM E 119 or UL 263 with exposure from both sides	< 5 feet
	Not fire-resistance rated	0 hours	≥ 5 feet
Projections	Fire-resistance rated	1 hour on the underside ^{a, b}	≥ 2 feet to < 5 feet
	Not fire-resistance rated	0 hours	≥ 5 feet
Openings in walls	Not allowed	N/A	< 3 feet
	25% maximum of wall area per story	0 hours	3 feet
	Unlimited	0 hours	5 feet
Penetrations	All	Comply with Section R302.4	< 5 feet
		None required	5 feet

For IS: 1 foot = 304.8 mm. N/A = Not Applicable

^a Roof eave fire-resistance rating shall be permitted to be reduced to 0 hours on the underside of the eave if fire blocking is provided from the wall top plate to the underside of the roof sheathing.

^b Roof eave fire-resistance rating shall be permitted to be reduced to 0 hours on the underside of the eave provided no gable vent openings are installed.

Table R302.1(2)
Exterior Walls—Dwellings with Fire Sprinklers

Exterior Wall Element		Minimum Fire-Resistance Rating	Minimum Fire Separation Distance
Walls	Fire-resistance rated	1-hour tested in accordance with ASTM E 119 or UL 263 with exposure from the outside	0 feet
	Not fire-resistance rated	0 hours	3 feet ^a
Projections	Fire-resistance rated	1 hour on the underside ^{b, c}	2 feet ^a
	Not fire-resistance rated	0 hours	3 feet
Openings in walls	Not allowed	N/A	< 3 feet
	Unlimited	0 hours	3 feet ^a
Penetrations	All	Comply with Section R302.4	< 3 feet
		None required	3 feet ^a

For IS: 1 foot = 304.8 mm. N/A = Not Applicable

^a For residential subdivisions where all dwellings are equipped throughout with an automatic sprinkler system installed in accordance with P2904, the fire separation distance for nonrated exterior walls and rated projections shall be permitted to be reduced to 0 feet, and unlimited unprotected openings and penetrations shall be permitted, where the adjoining lot provides an open setback yard that is 6 feet or more in width on the opposite side of the property line.

^b Roof eave fire-resistance rating shall be permitted to be reduced to 0 hours on the underside of the eave if fire blocking is provided from the wall top plate to the underside of the roof sheathing.

^c Roof eave fire-resistance rating shall be permitted to be reduced to 0 hours on the underside of the eave provided no gable vent openings are installed.

R302.2 Townhouses. Each *townhouse* shall be considered a separate building and shall be separated by one of the following methods:

1. A common 1-hour fire-resistance-rated wall assembly tested in accordance with ASTM E 119 or UL 263 and a fire sprinkler system in accordance with Section P2904 in both townhouses shall be provided. The cavity of the common wall shall not contain plumbing or mechanical equipment, ducts or vents. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against exterior walls and the underside of the roof sheathing. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4.

2. A common 2-hour fire-resistance-rated wall assembly tested in accordance with ASTM E 119 or UL 263 shall be provided. The cavity of the common wall shall not contain plumbing or mechanical equipment, ducts or vents. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against exterior walls and the underside

of the roof sheathing. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4.

3. Two wall assemblies meeting the requirements of Section R302.1 for exterior walls shall be provided.

R302.2.1 Continuity. The fire-resistance-rated wall or assembly separating townhouses shall be continuous from the foundation to the underside of the roof sheathing, deck or slab. The fire-resistance rating shall extend the full length of the wall or assembly, including wall extensions through and separating attached enclosed accessory structures.

Where a story extends beyond the exterior wall of a story below:

1. The fire-resistance-rated wall or assembly shall extend to the outside edge of the upper story; or
2. The underside of the exposed floor-ceiling assembly shall be protected as required for projections in Section R302.

R302.2.4 Structural independence. Each individual townhouse shall be structurally independent.

- EXCEPTIONS:
1. Foundation supporting exterior walls or common walls.
 2. Structural roof and wall sheathing from each unit may be fastened to the common wall framing.
 3. Nonstructural wall and roof coverings.
 4. Flashing at termination of roof covering over common wall.
 5. Townhouses separated by a common (~~1-hour fire-resistance-rated~~) wall as provided in Section R302.2, Item 1 or 2.
 6. Floor sheathing may fasten to the floor framing of both units.

R302.3.1 Supporting construction. When floor assemblies are required to be fire-resistance rated by Section R302.3, the supporting construction of such assemblies shall have an equal or greater fire-resistance rating.

- EXCEPTION:
- The supporting construction is not required to be fire-resistance rated where:
1. Automatic fire sprinklers are installed in accordance with appendix R in both dwelling units; or
 2. All required smoke alarms in both dwelling units are interconnected in such a manner that the actuation of one alarm will activate all alarms in both dwelling units.

WSR 14-07-082

EMERGENCY RULES

HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed March 17, 2014, 5:44 p.m., effective March 17, 2014, 5:44 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: **Medicaid Expansion Rule**, WAC 182-504-0135 is a new rule to support the implementation of the federal Patient Protection and Affordable Care Act which began January 1, 2014. This new WAC provision explains what a Washington apple health client's rights are in getting his or her health care coverage reinstated while pending an appeal with the agency.

Statutory Authority for Adoption: RCW 41.05.021.

Other Authority: Patient Protection and Affordable Care Act (Public Law 111-148); 42 C.F.R. § 431, 435, and 457; and 45 C.F.R. § 155.

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: See Purpose statement above. The agency worked with client advocates to craft this emergency rule and will continue working with them and other stakeholders in completing the permanent rule-making process.

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

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

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

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

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

Date Adopted: March 17, 2014.

Kevin M. Sullivan
Rules Coordinator

NEW SECTION

WAC 182-504-0135 Washington apple health—Reinstated coverage pending an appeal. (1) If you disagree with a Washington apple health (WAH) decision that we (the agency or its designee) made, you have the right to appeal under RCW 74.09.741. The appeal rules are found in chapter 182-526 WAC.

(2) If we end or change your WAH coverage without the advance notice required by WAC 182-518-0025(3) and you appeal the WAH decision to end or change WAH coverage on or before the tenth day after the date you receive the written notice of the WAH decision, WAH coverage will be reinstated and continue until the appeals process ends, unless otherwise specified in this section. This is called reinstated coverage.

(3) We will treat the fifth day after the date on the notice as the date you received the notice; however, if you show that you received the notice more than five days after the date on the notice, we will use the actual date you received the notice for counting the ten day appeal period for the purpose of providing continued coverage. If the tenth day falls on a week-

end or holiday, you have until the next business day to appeal and still be able to receive continued coverage.

(4) You receive reinstated coverage through the end of the month an administrative hearing decision is sent to you unless:

(a) An administrative law judge or our presiding officer serves an order ending reinstated coverage; or

(b) You:

(i) Tell us in writing that you do not want reinstated coverage; or

(ii) Withdraw your appeal in writing or at an administrative proceeding.

(5) You cannot receive reinstated coverage when a change in your WAH coverage is the result of a mass change. A mass change is when rules change that impact coverage for a class of applicants and recipients or due to a legislative or statutory change.

(6) A person receiving WAH medically needy coverage is not eligible for reinstated coverage beyond the end of the original certification period described in WAC 182-504-0020.

(7) If we end your WAH coverage because mail we sent to you was returned to us with no forwarding address, your WAH coverage will be reinstated if you continue to meet eligibility requirements and if we receive notification from you of your new address.

WSR 14-07-085
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-62—Filed March 18, 2014, 9:50 a.m., effective March 18, 2014,
9:50 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 232-28-29700K; 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 18, 2014.

Philip Anderson
Director

NEW SECTION

WAC 232-28-29700L 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, 108, 111, 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 232-28-29700K 2012-2013, 2013-2014, and 2014-2015 Cougar hunting seasons and regulations.

WSR 14-07-117
EMERGENCY RULES
LIQUOR CONTROL BOARD

[Filed March 19, 2014, 10:58 a.m., effective March 19, 2014, 10:58 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The board filed an emergency rule on November 6, 2013, to become effective on November 20, 2013, on how the one thousand foot buffer is measured for marijuana licenses. The emergency rule expires on March 19, 2014. The permanent rule was adopted by the board on March 5, 2014, and becomes effective on April 6, 2014. A new emergency rule is needed until the permanent rule becomes effective. 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: March 19, 2014.

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 the grounds 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 of the grounds)) property line 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.