

WSR 14-14-003
EMERGENCY RULES
BUILDING CODE COUNCIL

[Filed June 19, 2014, 10:59 a.m., effective July 1, 2014]

Effective Date of Rule: July 1, 2014.

Purpose: This rule will modify chapter 51-51 WAC to allow installation of photovoltaic panels and modules on residential rooftops without the need for an engineering report. Under the current rules, some jurisdictions require very costly engineering reports in order to issue a permit for installation of these systems. This rule would provide more efficient and cost-effective installation of PV systems on residential rooftops.

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

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 code language serves as a barrier to the growth of the residential PV installation business in Washington state. Currently many jurisdictions require costly engineering reports which delay permit approvals and result in additional fees. Under these circumstances some potential customers choose not to purchase and install the systems; some installers avoid doing business in some parts of the state due to extremely limiting regulations. Relaxing this requirement would provide additional capacity and allow the industry to continue to thrive in Washington state.

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

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

The council adopted the 2012 edition of the International Residential Code (IRC) effective July 1, 2013, with certain amendments. This code regulates the construction methods of single-family and two family (duplex) homes and townhouses. At the time of adoption, no amendments were made to Section M2302 – Photovoltaic Solar Energy Systems. It has now come to the attention of the council that this code section should be amended due to the potential for extremely negative economic impacts on the solar PV industry throughout Washington state.

In terms of permit requirements, some local jurisdictions choose to exempt certain rooftop PV systems from building permit requirements, and/or may require only a simple over-the-counter permit. Other jurisdictions require full engineering reports and stamped drawings for all rooftop PV systems; this may add long wait times for project completion - up to

eight weeks - and result in significant expenses for the homeowner, estimated at an additional \$500 to \$2,500 for engineering-related expenses alone. As a result, some homeowners choose not to install the systems at all, given these additional expenses and long wait times for completion.

The industry provides an increasing number of jobs in construction, installation, and manufacturing every year. However, under the conditions cited above, some companies avoid doing business in areas of the state where the permit requirements serve as an impediment to business efficiency, even though there are potential projects available in those areas.

This emergency was brought to the attention of the council from the WSU energy program, in collaboration with the solar industry and a group of local code officials to address the need for a code amendment, to be adopted as soon as possible. The proposed emergency rule is estimated to result in a ten to thirty percent increase in annual sales for the majority of solar installers. In some cases, the increase is likely to be twice that large, as solar contractors in eastern Washington would increase marketing efforts in areas they currently avoid.

The proposed emergency rule would provide exceptions to the roof covering specifications in Section M2302, such that the installation could be shown to meet certain standard requirements. These would include information on rating and listing of test standards for wind speed, maximum snow load specifications, specific dead load limits per square foot, requirements on the specific height of the installation above the roof, and the method of distribution of the dead load so that no excessive weight rests on any area of the roof. By allowing for these exceptions, no engineering reports would be required, and local jurisdictions would not need to require permits for most standard installations. This would result in increased business throughout the state and allow the solar PV industry to continue to thrive and grow.

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: June 13, 2014.

C. Ray Allshouse
Chair

NEW SECTION**WAC 51-51-2300 Section M2302—Photovoltaic solar energy systems.**

M2302.2 Requirements. The installation, inspection, maintenance, repair and replacement of photovoltaic systems and all system components shall comply with the manufacturer's instructions, sections M2302.2.1 through M2302.2.3, NFPA 70, and the IFC as amended by Washington state.

M2302.2.1 Roof-mounted panels and modules. Where photovoltaic panels and modules are installed on roofs, the roof shall be constructed to support the loads imposed by such modules.

- EXCEPTION: The roof structure shall be deemed adequate to support the load of the rooftop solar photovoltaic system if all of the following requirements are met:
1. The solar photovoltaic panel system shall be designed for the wind speed of the local area, and shall be installed per the manufacturer's specifications.
 2. The ground snow load does not exceed 70 pounds per square foot.
 3. The total dead load of modules, supports, mountings, raceways, and all other appurtenances weigh no more than four pounds per square foot.
 4. Photovoltaic modules are not mounted higher than 18 inches above the surface of the roofing to which they are affixed.
 5. Supports for solar modules are to be installed to spread the dead load across as many roof-framing members as needed, so that no point load exceeds 50 pounds.

Roof-mounted photovoltaic panels and modules that serve as roof covering shall conform to the requirements for roof coverings in Chapter 9. Where mounted on or above the roof coverings, the photovoltaic panels and modules and supporting structure shall be constructed of noncombustible materials or fire-retardant treated wood equivalent to that required for the roof construction.

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

[Order 14-151—Filed June 20, 2014, 12:09 p.m., effective June 20, 2014, 12:09 p.m.]

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

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-18500I, 220-310-19500H and 220-310-19500Q; and amending WAC 220-310-195.

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 department is in the process of adopting permanent rules necessary to implement the personal use fishing plans agreed-to with resource comanagers at the North of Falcon proceedings. These emergency rules are necessary to comply with agreed-to management plans, and 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 1, Amended 0, Repealed 3.

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: June 20, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-310-19500Q Freshwater exceptions to statewide rules—Eastside. Notwithstanding the provisions of WAC 220-310-195, effective immediately until further notice, it is unlawful to violate the provisions below. Unless otherwise amended, all permanent rules remain in effect:

(1) Klickitat River (Klickitat Co.)

(a) From the mouth to Fisher Hill Bridge, effective August 1 until further notice, the salmon and steelhead daily limit is 6 fish. Up to 3 adult Chinook may be retained. Up to 2 hatchery steelhead may be retained.

(b) From 400 feet upstream from the #5 fishway to the boundary markers below Klickitat Salmon Hatchery:

(i) Through July 31, the salmon daily limit is 6 fish. Up to 2 may be adults. Release wild Chinook.

(ii) Effective August 1 until further notice, the salmon and steelhead daily limit is 6 fish. Up to 3 adult Chinook may be retained, and up to 2 hatchery steelhead may be retained as part of the daily limit.

(2) White Salmon River (Klickitat/Skamania counties):

(a) From the mouth to Hwy. 14 Bridge:

(i) The bank fishing only restriction is rescinded.

(ii) Rescind the daily limit which follows the most liberal regulations of the adjacent mainstem Columbia River or White Salmon River, when both areas are open concurrently for salmon.

(iii) The mouth is defined as the Burlington Northern Railroad Bridge.

(b) From the mouth to county road bridge below the powerhouse, effective August 1 until further notice, the salmon and steelhead daily limit is 6 fish. Up to 2 adult Chi-

nook or hatchery steelhead or one of each may be retained as part of the daily limit. Release wild Chinook and wild coho.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-310-18500I Freshwater exceptions to statewide rules—Klickitat River. (14-138)

WAC 220-310-19500H Freshwater exceptions to statewide rules—White Salmon River. (14-86)

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

WAC 220-310-19500Q Freshwater exceptions to statewide rules—Eastside.

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: June 24, 2014.

Philip Anderson
Director

NEW SECTION

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

(1) Shrimp pot gear:

(a) Effective immediately until 5:59 a.m. July 1, 2014, all waters of Shrimp Management Areas 2E, 2W, 3, 4, and 6 are open to the harvest of all non-spot shrimp species, except as provided below:

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

(ii) Effective 6:00 p.m. June 28, 2014, all waters of Shrimp Management Area 2E are closed.

(b) All waters of Shrimp Management Areas 1A, 1C, 2W, 3, 4, 5 and 6 are open to the harvest of all shrimp species, effective 6:00 a.m. July 1, 2014, until further notice, except as provided for in this section:

i) All waters of the Discovery Bay Shrimp District are closed.

ii) All waters of Shrimp Management Areas 2W, 4 and 6 are closed to the harvest of spot shrimp.

iii) All waters of Shrimp Management Areas 1A and 1C are closed to the harvest of all species other than spot shrimp.

(c) The spot shrimp catch accounting biweekly management periods are as follows:

i) July 1-15, July 16-29 and July 30-August 12.

(d) Effective immediately until further notice, it is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 1,200 pounds per biweekly management period, with the following exceptions:

i) It is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 600 pounds per biweekly management period in Marine Fish/Shellfish Management and Catch Reporting Area (Catch Area) 23A-E.

(e) Effective immediately until 6:00 p.m. June 28, 2014, it is unlawful for the combined total harvest of non-spot shrimp by a fisher or the fisher's alternate operator to exceed 350 pounds from Shrimp Management Area 2E.

(f) It is unlawful to pull shellfish pots in more than one catch area per day.

(2) Shrimp beam trawl gear:

(a) Effective immediately until further notice, Shrimp Management Area (SMA) 3 (outside of the Discovery Bay

WSR 14-14-036
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-154—Filed June 24, 2014, 3:11 p.m., effective June 24, 2014, 11:59 p.m.]

Effective Date of Rule: June 24, 2014, 11:59 p.m.

Purpose: Amend commercial fishing rules.

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

Statutory Authority for Adoption: RCW 77.04.012, 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 state/tribal shrimp harvest management plans for the Strait of Juan de Fuca and Puget Sound require adoption of harvest seasons contained in this emergency rule. This emergency rule (1) opens the pot fishery season for spot shrimp; (2) implements a spot shrimp biweekly limit for all areas; and (3) reopens the nonspot pot fishery in Shrimp Management Area 2E for four days with a three hundred fifty pound limit. 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.

Shrimp District, Sequim Bay and Catch Area 23D) is open. Sequim Bay includes those waters of Catch Area 25A south of a line projected west from Travis Spit on the Miller Peninsula.

(b) Effective immediately until further notice, those portions of Catch Areas 20B and 22A within SMA 1B are open.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. June 24, 2014:

WAC 220-52-05100Q Puget Sound shrimp pot and beam trawl fishery—Season. (14-140)

WSR 14-14-045
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-156—Filed June 25, 2014, 11:16 a.m., effective June 27, 2014]

Effective Date of Rule: June 27, 2014.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-19500S; and amending WAC 220-310-195.

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

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

Reasons for this Finding: Based on in-season projections for a relatively good return of upper Grande Ronde River chinook populations, which guide both sport and tribal fishery management, there are sufficient numbers of returning fish to sustain allowable impacts on natural origin fish, while providing harvest opportunity upon hatchery origin fish. Consistent with the joint Washington department of fish and wildlife and Oregon department of fish and wildlife Grande Ronde fish management and evaluation plan and federal Endangered Species Act permits, a four day fishery will be opened in the Washington portion of the lower Grande Ronde River, concurrently with an Oregon fishery opening.

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: June 25, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-310-19500S Freshwater exceptions to statewide rules—Grande Ronde River. Notwithstanding the provisions of WAC 220-310-195, effective June 27 through June 30, 2014:

(1) It is permissible to fish in waters of the Grande Ronde River from the Highway 129 Bridge upstream approximately 12 miles to the furthest upstream Oregon – Washington boundary line.

(2) Daily limit 7 hatchery Chinook, of which no more than two may be an adult hatchery Chinook salmon. Immediately release all wild (non-adipose fin clipped) Chinook, steelhead and all bull trout with care. Chinook minimum size is 12 inches.

(3) Anglers must cease fishing Chinook when the adult daily limit has been retained.

(4) Barbless hooks only when fishing for all species during times and in locations open for salmon fishing and retention.

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

(6) Night closure is in effect for salmon.

REPEALER

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

WAC 220-310-19500S Freshwater exceptions to statewide rules—Grande Ronde River.

WSR 14-14-048
EMERGENCY RULES
LIQUOR CONTROL BOARD

[Filed June 25, 2014, 12:45 p.m., effective June 25, 2014, 12:45 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Emergency rules are needed to provide additional clarity to the marijuana rules regarding marijuana-infused products, specifically products that are appealing to children. The mission of the board is to keep alcohol, tobacco, and marijuana out of the hands of youth. Many marijuana-infused products on the medical marijuana market today are appealing to children. Products such as lollipops, gummy bears, and cotton candy are very appealing to children too young to read a label. Clarification is also needed on

the security and surveillance systems requirements at marijuana licensed premises.

Citation of Existing Rules Affected by this Order: Amending WAC 314-55-077, 314-55-079, 314-55-083, and 314-55-104.

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: Immediate adoption of these rules is necessary for the preservation of the public health and safety. Marijuana infused products must not be appealing to children.

Security and surveillance systems at a marijuana licensed premises must ensure that all parts of the premises are covered by security at all times to protect public safety.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, 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: June 25, 2014.

Sharon Foster
Chairman

AMENDATORY SECTION (Amending WSR 14-10-044, filed 4/30/14, effective 5/31/14)

WAC 314-55-077 What is a marijuana processor license and what are the requirements and fees related to a marijuana processor license? (1) A marijuana processor license allows the licensee to process, package, and label ~~((usable))~~ useable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers.

(2) A marijuana processor is allowed to blend tested useable marijuana from multiple lots into a single package for sale to a marijuana retail licensee providing the label requirements for each lot used in the blend are met and the percentage by weight of each lot is also included on the label.

(3) A marijuana processor licensee must obtain approval from the liquor control board for all marijuana-infused products, labeling, and packaging prior to offering these items for sale to a marijuana retailer. The marijuana processor licensee must submit a picture of the product, labeling, and packaging to the liquor control board for approval.

If the liquor control board denies a marijuana-infused product for sale in marijuana retail outlets, the marijuana processor licensee may request an administrative hearing per chapter 34.05 RCW, Administrative Procedure Act.

(4) Marijuana-infused products in solid form that contain more than one serving must be scored to indicate individual serving sizes, and labeled so that the serving size is prominently displayed on the packaging.

(a) Marijuana-infused products must be homogenized to ensure uniform disbursement of cannabinoids throughout the product.

(b) All marijuana-infused products must state on the label, "This product contains marijuana."

(5) A marijuana processor is limited in the types of food or drinks they may infuse with marijuana to create ~~((an infused edible product))~~ marijuana-infused solid or liquid products meant to be ingested orally, that may be sold by a marijuana retailer. Marijuana-infused products that are designed to be especially appealing to children are prohibited.

(a) To reduce the risk to public health, ~~((food defined as))~~ potentially hazardous foods as defined in WAC ~~((246-215-0115(88)))~~ 246-215-01115 may not be infused with marijuana. ~~((These foods are))~~ Potentially hazardous ~~((as they))~~ foods require time-temperature control to keep them safe for human consumption and prevent the growth of pathogenic microorganisms or the production of toxins. ~~((The board may designate other food items that may not be infused with marijuana))~~ Any food that requires refrigeration, freezing, or a hot holding unit to keep it safe for human consumption may not be infused with marijuana.

~~((4))~~ (b) Other foods items that may not be infused with marijuana to be sold in a retail store are:

(i) Any food that has to be acidified to make it shelf stable;

(ii) Food items made shelf stable by canning or retorting;

(iii) Fruit or vegetable juices;

(iv) Fruit or vegetable butters;

(v) Pumpkin pies, custard pies, or any pies that contain egg;

(vi) Dairy products of any kind such as butter, cheese, ice cream, or milk; and

(vii) Dried or cured meats.

(c) Vinegars and oils derived from natural sources may be infused with dried marijuana if all plant material is subsequently removed from the final product. Vinegars and oils may not be infused with any other substance, including herbs and garlic.

(d) Marijuana-infused jams and jellies made from scratch must utilize a standardized recipe in accordance with 21 C.F.R. Part 150, revised as of April 1, 2013.

(e) Per WAC 314-55-104, a marijuana processor may infuse dairy butter or fats derived from natural sources and use that extraction to prepare allowable marijuana-infused solid or liquid products meant to be ingested orally, but the dairy butter or fats derived from natural sources may not be sold as stand-alone products.

(f) The liquor control board may designate other food items that may not be infused with marijuana.

~~((6))~~ (6) The recipe for any ~~((food infused with marijuana to make an edible product))~~ marijuana-infused solid or liquid products meant to be ingested orally must be kept on file at the marijuana ~~((producer's))~~ processor's licensed premises and made available for inspection by the ~~((WSLCB))~~ liquor control board or their designee.

~~((5))~~ (7) The application fee for a marijuana processor license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

~~((6))~~ (8) The annual fee for issuance and renewal of a marijuana processor license is one thousand dollars. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee will be responsible for all fees required for the criminal history checks.

~~((7))~~ (9) A marijuana processor producing a marijuana-infused solid or liquid product meant to be ingested orally in a processing facility as required in WAC 314-55-015(10) must pass a processing facility inspection. Ongoing annual processing facility compliance inspections may be required. The liquor board will contract with the department of agriculture to conduct required processing facility inspections. All costs of inspections are borne by the licensee and the hourly rate for inspection is sixty dollars. A licensee must allow the liquor control board or their designee to conduct physical visits and inspect the processing facility, recipes and required records per WAC 314-55-087 during normal business hours without advance notice. Failure to pay for the processing facility inspection or to follow the processing facility requirements outlined in this section and WAC 314-55-015 will be sufficient grounds for the board to suspend or revoke a marijuana license.

(10) The board will initially limit the opportunity to apply for a marijuana processor license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana processor application license to be considered it must be received no later than thirty days after the effective date of the rules adopted by the board. The board may reopen the marijuana processor application window after the initial evaluation of the applications that are received and processed, and at subsequent times when the board deems necessary.

~~((8))~~ (11) Any entity and/or principals within any entity are limited to no more than three marijuana processor licenses.

~~((9))~~ (12) Marijuana processor licensees are allowed to have a maximum of six months of their average useable marijuana and six months average of their total production on their licensed premises at any time.

~~((10))~~ (13) A marijuana processor must accept returns of products and sample jars from marijuana retailers for destruction, but is not required to provide refunds to the retailer.

AMENDATORY SECTION (Amending WSR 14-10-044, filed 4/30/14, effective 5/31/14)

WAC 314-55-079 What is a marijuana retailer license and what are the requirements and fees related to a marijuana retailer license? (1) A marijuana retailer license allows the licensee to sell only usable marijuana, marijuana-infused products, and marijuana paraphernalia at retail in retail outlets to persons twenty-one years of age and older.

Marijuana-infused products listed in WAC 314-55-077(5) are prohibited for sale by a marijuana retail licensee.

(2) Marijuana extracts, such as hash, hash oil, shatter, and wax can be infused in products sold in a marijuana retail store, but RCW 69.50.354 does not allow the sale of extracts that are not infused in products. A marijuana extract does not meet the definition of a marijuana-infused product per RCW 69.50.101.

(3) Internet sales and delivery of product to customers is prohibited.

(4) The application fee for a marijuana retailer's license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(5) The annual fee for issuance and renewal of a marijuana retailer's license is one thousand dollars. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee will be responsible for all fees required for the criminal history checks.

(6) Marijuana retailers may not sell marijuana products below their acquisition cost.

(7) Marijuana retailer licensees are allowed to have a maximum of four months of their average inventory on their licensed premises at any given time.

(8) A marijuana retailer may transport product to other locations operated by the licensee or to return product to a marijuana processor as outlined in the transportation rules in WAC 314-55-085.

(9) A marijuana retailer may not accept a return of product that has been opened.

AMENDATORY SECTION (Amending WSR 14-10-044, filed 4/30/14, effective 5/31/14)

WAC 314-55-104 Marijuana processor license extraction requirements. (1) Processors are limited to certain methods, equipment, solvents, gases and mediums when creating marijuana extracts.

(2) Processors may use the hydrocarbons N-butane, isobutane, propane, or heptane or other solvents or gases exhibiting low to minimal potential human health-related toxicity approved by the board. These solvents must be of at least ninety-nine percent purity and a processor must use them in a professional grade closed loop extraction system designed to recover the solvents, work in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present.

(3) Processors may use a professional grade closed loop CO₂ gas extraction system where every vessel is rated to a

minimum of nine hundred pounds per square inch. The CO₂ must be of at least ninety-nine percent purity.

(4) Certification must be provided to the liquor control board for professional grade closed loop systems used by processors ((must be)) to certify that the system was commercially manufactured and built to codes of recognized and generally accepted good engineering practices, such as:

- (a) The American Society of Mechanical Engineers (ASME);
- (b) American National Standards Institute (ANSI);
- (c) Underwriters Laboratories (UL); or
- (d) The American Society for Testing and Materials (ASTM).

(5) Professional closed loop systems, other equipment used, the extraction operation, and facilities must be approved for their use by the local fire code official and meet any required fire, safety, and building code requirements specified in:

- (a) Title 296 WAC;
- (b) National Fire Protection Association (NFPA) standards;
- (c) International Building Code (IBC);
- (d) International Fire Code (IFC); and
- (e) Other applicable standards including following all applicable fire, safety, and building codes in processing and the handling and storage of the solvent or gas.

(6) Processors may use heat, screens, presses, steam distillation, ice water, and other methods without employing solvents or gases to create kief, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.

Under WAC 314-55-077, infused dairy butter and oils or fats derived from natural sources may be used to prepare infused edible products, but they may not be prepared as stand-alone edible products for sale.

(7) Processors may use food grade glycerin, ethanol, and propylene glycol solvents to create extracts.

(8) Processors creating marijuana extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace. Any person using solvents or gases in a closed looped system to create marijuana extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets and handle and store the solvents and gases safely.

(9) Parts per million for one gram of finished extract cannot exceed 500 parts per million or residual solvent or gas when quality assurance tested per RCW 69.50.348.

AMENDATORY SECTION (Amending WSR 14-07-116, filed 3/19/14, effective 4/19/14)

WAC 314-55-083 What are the security requirements for a marijuana licensee? The security requirements for a marijuana licensee are as follows:

(1) **Display of identification badge.** All employees on the licensed premises shall be required to hold and properly display an identification badge issued by the licensed employer at all times while on the licensed premises. All non-employee visitors to the licensed premises, other than retail

store customers, shall be required to hold and properly display an identification badge issued by the licensee at all times while on the licensed premises. A log must be kept and maintained showing the full name of each visitor entering the licensed premises, badge number issued, the time of arrival, time of departure, and the purpose of the visit. All log records must be maintained on the licensed premises for a period of three years and are subject to inspection by any liquor control board employee or law enforcement officer, and must be copied and provided to the liquor control board or law enforcement officer upon request.

(2) **Alarm systems.** At a minimum, each licensed premises must have a security alarm system on all perimeter entry points and perimeter windows. Motion detectors, pressure switches, duress, panic, and hold-up alarms may also be utilized.

(3) **Surveillance system.** At a minimum, a licensed premises must have a complete video surveillance with minimum camera resolution of 640x470 pixels and cameras must be internet protocol (IP) compatible ((and recording system for controlled areas within the licensed premises and entire perimeter fencing and gates enclosing an outdoor grow operation, to ensure control of the area. The requirements include image acquisition, video recording, management and monitoring hardware and support systems)). All cameras must be fixed and placement shall allow for the clear and certain identification of any person and activities in controlled areas of the licensed premises. All entrances and exits to an indoor facility shall be recorded from both indoor and outdoor, or ingress and egress vantage points. All cameras must record continuously twenty-four hours per day and at a minimum of ten frames per second. The surveillance system storage device must be secured on the licensed premises in a lockbox, cabinet, closet, or secured in another manner to protect from employee tampering or criminal theft. All surveillance recordings must be kept for a minimum of forty-five days on the licensee's recording device. All videos are subject to inspection by any liquor control board employee or law enforcement officer, and must be copied and provided to the liquor control board or law enforcement officer upon request. All recorded images must clearly and accurately display the time and date. Time is to be measured in accordance with the U.S. National Institute Standards and Technology standards.

(a) ~~((All controlled access areas, security rooms/areas and all points of ingress/egress to limited access areas, all points of ingress/egress to the exterior of the licensed premises, and all point-of-sale (POS) areas must have fixed camera coverage capable of identifying activity occurring within a minimum of twenty feet of all entry and exit points.~~

(b) ~~Camera placement shall allow for the clear and certain identification of any individual on the licensed premises.~~

(c) ~~All entrances and exits to the facility shall be recorded from both indoor and outdoor vantage points, and capable of clearly identifying any activities occurring within the facility or within the grow rooms in low light conditions. The surveillance system storage device must be secured on-site in a lock box, cabinet, closet, or secured in another manner to protect from employee tampering or criminal theft.~~

(d) ~~All perimeter fencing and gates enclosing an outdoor grow operation must have full video surveillance capable of~~

clearly identifying any activities occurring within twenty feet of the exterior of the perimeter. Any gate or other entry point that is part of the enclosure for an outdoor growing operation must have fixed camera coverage capable of identifying activity occurring within a minimum of twenty feet of the exterior, twenty-four hours a day. A motion detection lighting system may be employed to illuminate the gate area in low-light conditions.

~~(e) Areas where marijuana is grown, cured or manufactured including destroying waste, shall have a camera placement in the room facing the primary entry door, and in adequate fixed positions, at a height which will provide a clear, unobstructed view of the regular activity without a sight blockage from lighting hoods, fixtures, or other equipment, allowing for the clear and certain identification of persons and activities at all times.~~

~~(f)) Controlled areas include:~~

~~(i) Any area within an indoor, greenhouse or outdoor room or area where marijuana is grown, or marijuana or marijuana waste is being moved within, processed, stored, or destroyed. Booms or areas where marijuana or marijuana waste is never present are not considered control areas and do not require camera coverage.~~

~~(ii) All point-of-sale (POS) areas.~~

~~(iii) Twenty feet of the exterior of the perimeter of all required fencing and gates enclosing an outdoor grow operation. Any gate or other entry point that is part of the required enclosure for an outdoor growing operation must be lighted in low-light conditions. A motion detection lighting system may be employed to light the gate area in low-light conditions.~~

~~(iv) Any room or area storing a surveillance system storage device.~~

~~(b) All marijuana or marijuana-infused products that are intended to be removed or transported ((from marijuana producer to marijuana processor and/or marijuana processor to marijuana retailer)) between two licensed premises shall be staged in an area known as the "quarantine" location for a minimum of twenty-four hours. Transport manifest with product information and weights must be affixed to the product. At no time during the quarantine period can the product be handled or moved under any circumstances and is subject to auditing by the liquor control board or designees.~~

~~((g) All camera recordings must be continuously recorded twenty-four hours a day. All surveillance recordings must be kept for a minimum of forty-five days on the licensee's recording device. All videos are subject to inspection by any liquor control board employee or law enforcement officer, and must be copied and provided to the board or law enforcement officer upon request.))~~

(4) **Traceability:** To prevent diversion and to promote public safety, marijuana licensees must track marijuana from seed to sale. Licensees must provide the required information on a system specified by the board. All costs related to the reporting requirements are borne by the licensee. Marijuana seedlings, clones, plants, lots of usable marijuana or trim, leaves, and other plant matter, batches of extracts, marijuana-infused products, samples, and marijuana waste must be traceable from production through processing, and finally into the retail environment including being able to identify

which lot was used as base material to create each batch of extracts or infused products. The following information is required and must be kept completely up-to-date in a system specified by the board:

(a) Key notification of "events," such as when a plant enters the system (moved from the seedling or clone area to the vegetation production area at a young age);

(b) When plants are to be partially or fully harvested or destroyed;

(c) When a lot or batch of marijuana, marijuana extract, marijuana-infused product, or marijuana waste is to be destroyed;

(d) When usable marijuana or marijuana-infused products are transported;

(e) Any theft of usable marijuana, marijuana seedlings, clones, plants, trim or other plant material, extract, infused product, seed, plant tissue or other item containing marijuana;

(f) There is a seventy-two hour mandatory waiting period after the notification described in this subsection is given before any plant may be destroyed, a lot or batch of marijuana, marijuana extract, marijuana-infused product, or marijuana waste may be destroyed;

(g) There is a twenty-four hour mandatory waiting period after the notification described in this subsection to allow for inspection before a lot of marijuana is transported from a producer to a processor;

(h) There is a twenty-four hour mandatory waiting period after the notification described in this subsection to allow for inspection before usable marijuana, or marijuana-infused products are transported from a processor to a retailer;

(i) Prior to reaching eight inches in height or width, each marijuana plant must be tagged and tracked individually, which typically should happen when a plant is moved from the seed germination or clone area to the vegetation production area;

(j) A complete inventory of all marijuana, seeds, plant tissue, seedlings, clones, all plants, lots of usable marijuana or trim, leaves, and other plant matter, batches of extract, marijuana-infused products, and marijuana waste;

(k) All point of sale records;

(l) Marijuana excise tax records;

(m) All samples sent to an independent testing lab, any sample of unused portion of a sample returned to a licensee, and the quality assurance test results;

(n) All free samples provided to another licensee for purposes of negotiating a sale;

(o) All samples used for testing for quality by the producer or processor;

(p) Samples containing usable marijuana provided to retailers;

(q) Samples provided to the board or their designee for quality assurance compliance checks; and

(r) Other information specified by the board.

(5) **Start-up inventory for marijuana producers.**

Within fifteen days of starting production operations a producer must have all nonflowering marijuana plants physically on the licensed premises. The producer must, within twenty-four hours, record each marijuana plant that enters the facility

in the traceability system during this fifteen day time frame. No flowering marijuana plants may be brought into the facility during this fifteen day time frame. After this fifteen day time frame expires, a producer may only start plants from seed or create clones from a marijuana plant located physically on their licensed premises, or purchase marijuana seeds, clones, or plants from another licensed producer.

(6) **Samples.** Free samples of usable marijuana may be provided by producers or processors, or used for product quality testing, as set forth in this section.

(a) Samples are limited to two grams and a producer may not provide any one licensed processor more than four grams of usable marijuana per month free of charge for the purpose of negotiating a sale. The producer must record the amount of each sample and the processor receiving the sample in the traceability system.

(b) Samples are limited to two grams and a processor may not provide any one licensed retailer more than four grams of usable marijuana per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(c) Samples are limited to two units and a processor may not provide any one licensed retailer more than six ounces of marijuana infused in solid form per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(d) Samples are limited to two units and a processor may not provide any one licensed retailer more than twenty-four ounces of marijuana-infused liquid per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(e) Samples are limited to one-half gram and a processor may not provide any one licensed retailer more than one gram of marijuana-infused extract meant for inhalation per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(f) Producers may sample one gram of usable marijuana per strain, per month for quality sampling. Sampling for quality may not take place at a licensed premises. Only the producer or employees of the licensee may sample the usable marijuana for quality. The producer must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(g) Processors may sample one unit, per batch of a new edible marijuana-infused product to be offered for sale on the market. Sampling for quality may not take place at a licensed premises. Only the processor or employees of the licensee may sample the edible marijuana-infused product. The processor must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(h) Processors may sample up to one quarter gram, per batch of a new marijuana-infused extract for inhalation to be offered for sale on the market. Sampling for quality may not take place at a licensed premises. Only the processor or employee(s) of the licensee may sample the marijuana-

infused extract for inhalation. The processor must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(i) The limits described in subsection (3) of this section do not apply to the usable marijuana in sample jars that may be provided to retailers described in WAC 314-55-105(8).

(j) Retailers may not provide free samples to customers.

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

[Order 14-155—Filed June 26, 2014, 9:18 a.m., effective June 26, 2014, 9:18 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-310-19500M and 220-310-19500R;
amended WAC 220-310-195.

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: Under the current *United States vs. Oregon* Management Agreement spring chinook fisheries on the Washington portion of the Snake River are not allowed to extend into July. This action will facilitate an orderly closure to the 2014 Snake River spring chinook fishery. 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: June 26, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-310-19500R Freshwater exceptions to statewide rules—Snake River. Notwithstanding the provisions of WAC 220-310-195, effective immediately:

(1) Open Thursday through Saturday for fishing for hatchery Chinook from Texas Rapids boat launch (south side of the river approximately 3.5 miles upstream of the mouth of Tucannon River) to the fishing restriction boundary below Little Goose Dam, including the area between the juvenile bypass return pipe and Little Goose Dam along the south shoreline of the facility (includes the walkway area locally known as "the wall" in front of the juvenile collection facility).

(2) Open Thursday through Saturday for fishing for hatchery Chinook from the downstream edge of the large power lines crossing the Snake River (just upstream from the West Evans Road on the south shore) upstream about 3.5 miles to the Washington state line (from the east levee of the Greenbelt boat launch in Clarkston northwest across the Snake River to the WA/ID boundary waters marker on the Whitman County shore).

(3) For all subsections listed above the following applies:

(a) Daily limit is 6 hatchery Chinook and no more than 2 may be an adults. Immediately release all wild (non-adipose fin clipped) Chinook and all steelhead with care. Chinook minimum size is 12 inches.

(b) Anglers must cease fishing for Chinook when the adult daily limit has been retained.

(c) Barbless hooks only when fishing for all species during times and in locations open for salmon fishing and retention.

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

(e) Night closure is in effect for salmon and sturgeon.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-310-19500M Freshwater exceptions to statewide rules—Snake River. (14-132)

The following section of the Washington Administrative Code is repealed effective 10:00 p.m. June 28, 2014:

WAC 220-310-19500R Freshwater exceptions to statewide rules—Snake River.

WSR 14-14-057
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-153—Filed June 26, 2014, 2:30 p.m., effective June 28, 2014]

Effective Date of Rule: June 28, 2014.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-310-18500H; 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 hatchery escapement goal is expected to be met on the Kalama River. Reopening the Kalama River will provide angling opportunity. 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: June 26, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-310-18500J Freshwater exceptions to statewide rules—Southwest. Notwithstanding the provisions of WAC 220-310-185, effective June 28, 2014, until further notice, it is unlawful to violate the provisions below. Unless otherwise amended, all permanent rules remain in effect:

(1) Drano Lake (Skamania Co.): Effective August 1, 2014, until further notice, the salmon and steelhead daily limit is 6 fish. Up to 3 adults may be retained of which no more than 2 may be hatchery steelhead.

(2) Kalama River (Cowlitz Co.): Effective June 28, 2014 through July 31, 2014, it is permissible to fish for salmon from the boundary markers at the mouth to 1000 feet above fishway at the upper salmon hatchery.

(a) Daily limit of 6 hatchery Chinook of which no more than 2 may be adults.

(b) Release all salmon other than hatchery Chinook.

(c) Minimum size 12 inches.

(3) Lewis River (Clark/Cowlitz counties): Through July 31, 2014, all Chinook must be released.

(4) Lewis River, North Fork (Clark/Cowlitz counties): From the mouth of East Fork to overhead powerlines

below Merwin Dam, all Chinook must be released through July 31, 2014.

(5) Wind River (Skamania Co.):

(a) From the mouth to 400 feet downstream of Shipherd Falls Daily limit is 2 hatchery Chinook or hatchery steelhead or one of each through July 31. Chinook minimum size is 12 inches.

(b) From 100 feet upstream of Shipherd Falls to 800 yards downstream of Carson National Fish Hatchery: Daily limit is 2 Chinook or hatchery steelhead or one of each through June 30. Minimum size is 12 inches.

(c) From the mouth to 400 feet downstream of Shipherd Falls: Effective August 1, 2014, until further notice, the salmon and steelhead daily limit is 6 fish. Up to 2 adults may be retained. Release wild Chinook and wild coho.

(d) From the mouth upstream to the Hwy. 14 Bridge, the daily catch limit and retention regulations for hatchery and wild fish follows the most liberal regulations of the mainstem Columbia or Wind rivers when both areas are open concurrently for salmon.

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 June 28, 2014:

WAC 220-310-18500H Freshwater exceptions to statewide rules—Southwest (14-113)

**WSR 14-14-061
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 14-148—Filed June 26, 2014, 3:04 p.m., effective June 26, 2014, 3:04 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-62100B, 220-55-22000H, 232-28-62100C and 220-55-20000I; and amending WAC 232-28-621 and 220-55-220.

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: The department is in the process of adopting permanent rules necessary to implement the personal use fishing plans agreed-to with resource comanagers at the North of Falcon proceedings. These emergency rules are necessary to comply with agreed-to management plans, and 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 4.

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: June 26, 2014.

Philip Anderson
Director

NEW SECTION

WAC 232-28-62100C Puget Sound salmon—Saltwater seasons and daily limits. Notwithstanding the provisions of WAC 232-28-621, effective immediately through August 31, 2014, it is unlawful to violate the provisions below. Unless otherwise amended, all permanent rules remain in effect:

(1) **Catch Record Card Area 5:** From July 1 through August 31, 2014, the daily limit may include an additional 2 sockeye.

(2) **Catch Record Card Area 6:** From July 1 through August 31, 2014, the daily limit may include an additional 2 sockeye.

(3) **Catch Record Card Area 7:** From July 1 through August 31, 2014, the daily limit may include an additional 2 sockeye.

(4) **Catch Record Card Area 8-2:** Closed immediately through July 31, 2014, except for the waters west of Tulalip Bay and within 2,000 feet of shore from the pilings at Old Bower's Resort to a fishing boundary marker approximately 1.4 miles northwest of Hermosa Point are open only from Friday through 11:59 a.m. the following Monday of each week.

(5) **Catch Record Card Area 9:**

(a) From July 16 through August 15, 2014: Daily limit of 2 salmon, of which no more than one Chinook may be retained. Release chum and wild Chinook.

(b) Beginning August 16, 2014: Daily limit of 2 salmon. Release Chinook and chum.

(6) **Catch Record Card Area 10:**

(a) From July 16 through August 15, 2014: Daily limit of 2 salmon, of which no more than one Chinook may be retained. Release chum and wild Chinook.

(b) Beginning August 16: Daily limit of 2 salmon. Release Chinook and chum.

(7) **Catch Record Card Area 13:**

(a) The Fox Island Public Fishing Pier is open.

(b) Daily limit of 2 salmon, of which no more than one Chinook may be retained.

(c) It is permissible to retain wild coho.

NEW SECTION

WAC 220-55-22000I Two-pole endorsement. Notwithstanding the provisions of WAC 220-55-220, effective immediately until further notice, anglers in possession of a valid-two pole endorsement may use up to two lines while fishing for salmon in the following waters when open for salmon:

(1) **Port Susan and Port Garner (Catch Record Card Area 8-2):** Tulalip Terminal Area.

(2) **Seattle/Bremerton Area (Catch Record Card Area 10):** Waters within the Sinclair Inlet.

(3) **South Puget Sound (Catch Record Card Area 13):** All waters within Catch Record Card Area 13.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 232-28-62100B Puget Sound salmon—Saltwater seasons and daily limits. (14-87)

WAC 220-55-22000H Two-pole endorsement. (14-87)

The following sections of the Washington Administrative Code are repealed effective September 1, 2014:

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

WAC 220-55-22000I Two-pole endorsement.

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

[Order 14-149—Filed June 26, 2014, 3:09 p.m., effective June 26, 2014, 3:09 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules.

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

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: The department is in the process of adopting permanent rules that are necessary to implement the personal use fishing plans agreed-to with resource comanagers at the North of Falcon proceedings. These emergency rules are necessary to comply with agreed-to management plans, and 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 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: June 26, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-310-19000E Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-310-190, effective immediately through August 31, 2014, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

1. Baker Lake (Whatcom Co.): Open for salmon July 10, 2014, until further notice.

(a) Daily limit 3; minimum length 18 inches.

(b) Each angler aboard a vessel may deploy salmon angling gear until the limit for all licensed and juvenile anglers aboard is reached.

(c) It is permissible to fish with two poles so long as the angler possesses a two-pole endorsement.

2. Nisqually River (Pierce Co.): Open July 1, 2014, until further notice, from the Military Tank Crossing.

(a) Vessel closure dates are rescinded.

(b) Closed August 11 through August 13, August 18 through August 20, and August 25 through August 27, 2014.

(c) Anti-snagging rule and night closure in effect; barbed hooks permitted.

3. Puyallup River (Pierce Co.):

(a) From the mouth to Freeman Road:

(i) August 16 until further notice: anti-snagging rule applies; night closure in effect; barbless hooks are required.

(ii) Trout is open when salmon angling is open: minimum length 14 inches.

(iii) Open for salmon August 16 through August 30: limit 6; no more than 2 adults may be retained; release wild adult Chinook.

(b) From Freeman Road to the mouth of White River:

(i) August 11 until further notice: Anti-snagging rule applies; night closure in effect; barbless hooks are required.

(ii) Trout is open when salmon angling is open: minimum length 14 inches.

(iii) Open for salmon August 11 through August 30: limit 6; no more than 2 adults may be retained; release wild adult Chinook.

4. Samish River (Skagit Co.): From the mouth to I-5 Bridge: Release wild coho.

5. Skagit River (Skagit/Whatcom counties):

(a) From the mouth to Memorial Highway Bridge (Highway 536 at Mt. Vernon):

(i) Immediately until further notice: trout is open; selective gear rules apply; hooks must measure 1/2 inch or less from point to shank.

(b) From the Memorial Highway Bridge (Highway 536 at Mt. Vernon) to Gilligan Creek:

(i) June 30 until further notice: selective gear rules apply; hooks must measure 1/2 inch or less from point to shank.

(ii) Immediately until further notice: Night closure.

(iii) Open for salmon immediately through June 29: Daily limit 2 sockeye only; minimum length 12 inches.

(c) From Gilligan Creek to Highway 530 Bridge at Rockport:

(i) Immediately until further notice: selective gear rules apply; hooks must measure 1/2 inch or less from point to shank; night closure.

(d) From Highway 530 Bridge at Rockport to Cascade River Road:

(i) Immediately until further notice: Night closure.

(ii) July 16 until further notice: selective gear rules apply; hooks must measure 1/2 inch or less from point to shank.

6. Skokomish River (Mason Co.):

(a) From the mouth to the Highway 106 Bridge:

(i) Open for game fish immediately through July 13: Catch and release only.

(ii) August 1 until further notice: anti-snagging rule applies; night closure in effect; it is unlawful to use anything other than single point, barbless hooks.

(iii) Open for salmon August 1 until further notice: limit 2; anglers must keep the first two fish caught if legal to do so; release chum and wild Chinook.

(b) From the Highway 106 Bridge to the Highway 101 Bridge:

(i) Open for game fish immediately through July 13: Catch and release only.

(ii) August 1 until further notice: anti-snagging rule applies; night closure in effect; it is unlawful to use anything other than single point, barbless hooks.

(iii) Open for salmon August 1 through August 21 on Fridays, Saturdays, and Sundays only: limit 2; anglers must keep the first two fish caught if legal to do so; release chum and wild Chinook.

(iv) Open for salmon August 22 until further notice: limit 2; anglers must keep the first two fish caught if legal to do so; release chum and wild Chinook.

(c) From Highway 101 Bridge to forks:

(i) Open for gamefish immediately until further notice: catch and release only; selective gear rules apply; fishing from a floating device equipped with an internal combustion motor is prohibited.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-310-19000B Freshwater exceptions to statewide rules—Puget Sound. (14-92)

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

WAC 220-310-19000E Freshwater exceptions to statewide rules—Puget Sound.

WSR 14-14-069**EMERGENCY RULES****DEPARTMENT OF****FISH AND WILDLIFE**

[Order 14-158—Filed June 27, 2014, 12:59 p.m., effective June 27, 2014, 12:59 p.m.]

Effective Date of Rule: Immediately upon filing.

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 220-32-05100F; and amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 77.04.012, 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: Sets two weekly treaty commercial gillnet salmon periods during the summer season. Continues to allow the sale of platform and hook and line caught fish from mainstem tribal fisheries in Zone 6. Sales of fish landed in the area downstream of Bonneville Dam (consistent with tribal MOU/MOAs) may also occur if the area is lawfully open for sales under tribal regulations. Similarly, the sale of fish caught in Yakama Nation tributary fisheries are allowed when open under Yakama Nation regulations. A total of 18,563 adult summer chinook are available to the treaty tribes for harvest based on the preseason forecast of 67,500 fish. A total of 24,297 sockeye are available to the treaty tribes for harvest based on a forecast of 347,100 sock-

eye to the Columbia River. Harvestable fish remain available based on these guidelines. The quick reporting rule is modified to require quick reporting within twenty-four hours of completing the fish ticket. The intent is that all landings in Areas 1F, 1G and 1H are quick reported within twenty-four hours of completion. Because treaty fisheries can be two to three days long, the modification will allow harvest to be tracked as the fishing period progresses. Fisheries are consistent with the 2008-2017 management agreement and the associated biological opinion. Rule is consistent with action of the Columbia River compact on May 5, June 3, and June 26, 2014. Conforms state rules with tribal rules. There is insufficient time to adopt 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 rules 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 allow 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 regulations reflecting agreements reached.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 1; Federal Rules or Standards: New 1, Amended 0, Repealed 1; 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: June 27, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-32-05100G 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, and in the Wind River, Klickitat River, and Drano Lake and specific areas of SMCRA 1E. However, those individuals possessing treaty fishing rights under the Yakama, 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, 1G, 1H (Zone 6):
 - (a) Season: 6:00 a.m. June 30 to 6:00 p.m. July 3, 2014; and 6:00 a.m. July 7 to 6:00 p.m. July 11, 2014.
 - (b) Gear: Gillnets only; 7-inch minimum mesh restriction.
 - (c) Allowable Sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon between 38-54 inches in fork length in the Bonneville Pool and sturgeon between 43-54 inches in fork length in The Dalles and John Day pools may be retained for subsistence purposes only. Sales of fish are allowed after open period concludes, as long as the fish sold were landed during the open period.
 - (d) All sanctuaries for this gear type are in effect, except Spring Creek.
- (2) Open Area: SMCRA 1F, 1G, 1H (Zone 6):
 - (a) Season: Open immediately until further notice.
 - (b) Gear: Hoop nets, dip bag nets, and rod and reel with hook and line.
 - (c) Allowable Sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon between 38-54 inches in fork length in the Bonneville Pool and sturgeon between 43-54 inches in fork length in The Dalles and John Day pools may be retained for subsistence purposes only.
 - (d) All dam sanctuaries for these gear types are in effect.
- (3) 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 for 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, and only within any specific regulations set by each tribe.
 - (a) Participants:
 - (i) Tribal members may participate under the conditions described in the 2007 Memorandum of Agreement (MOA) with the Yakama Nation (YN), in the 2010 Memorandum of Understanding (MOU) with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), in the 2010 MOU with the Confederated Tribes of the Warm Spring Reserva-

tion (CTWS), and in the 2011 MOU with the Nez Perce Tribe.

(ii) Tribal members fishing below Bonneville Dam must carry an official tribal enrollment card.

(b) Season: Open immediately until further notice. Open only during those days and hours when open under lawfully enacted tribal subsistence fishery regulations for enrolled tribal members.

(c) Gear: Hoop nets, dip bag nets, and rod and reel with hook and line.

(d) Allowable Sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon retention is prohibited for any purpose. Sale of platform or hook-and-line-caught fish is allowed. Sales may not occur on USACE property.

(4) Columbia River Tributaries upstream of Bonneville Dam:

(a) Season: Open immediately until further notice, and only during those days and hours when the tributaries listed in subsection (4) (b) of this section are open under lawfully enacted Yakama Nation tribal subsistence fishery regulations for enrolled Yakama Nation members.

(b) Area: Drano Lake, Wind River and Klickitat River.

(c) Gear: Hoop nets, dip bag nets, and rod and reel with hook-and-line only, except gill nets may be used in Drano Lake.

(d) Allowable Sales: Salmon, steelhead, shad, carp, catfish, walleye, bass, or yellow perch. Sturgeon between 43-54 inches fork length harvested in tributaries within The Dalles or John Day Pools and sturgeon between 38-54 inches fork length harvested in tributaries within Bonneville pool may not be sold but may be kept for subsistence purposes only.

(5) 24-hour quick reporting is required for Washington wholesale dealers for all areas as provided in WAC 220-69-240, except that all landings from treaty fisheries described above must be reported within 24-hours of completing the fish ticket (not 24-hours after the period concludes).

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05100F Columbia River salmon seasons above Bonneville Dam. (14-143)

WSR 14-14-080

EMERGENCY RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed June 30, 2014, 6:23 a.m., effective July 1, 2014]

Effective Date of Rule: July 1, 2014.

Purpose: The department is amending via emergency adoption WAC 388-449-0001 What are the disability requirements for the aged, blind, or disabled (ABD) program?, 388-449-0035 How does the department assign severity ratings to my impairment?, 388-449-0060 Sequential evaluation process step II—How does the department review medical evidence to determine if I am eligible for benefits?, and 388-449-0080 Sequential evaluation process step IV—How does the department evaluate if I am able to perform relevant past work?

These changes are necessary to conform to SB 6573, Laws of 2014, which restores the more restrictive ABD disability standard previously in place until December 31, 2013, by increasing the minimum duration from nine to twelve months and consideration of an individual's ability to perform past work from ten to fifteen years.

Citation of Existing Rules Affected by this Order: Amending WAC 388-449-0001, 388-449-0035, 388-449-0060, and 388-449-0080.

Statutory Authority for Adoption: SB 6573, chapter 218, Laws of 2014 and RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.100, 74.04.770, 74.62.030.

Other Authority: 2E2SHB 1738, chapter 15, Laws of 2011; SB 6573; and RCW 41.05.021, 74.04.050, 74.08.090, 74.09.035, 74.09.530.

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: SB 6573 requires the department to implement a more restrictive ABD disability standard effective July 1, 2014. The department is in the process of proposing amendments to these WACs via the permanent rule-making process. A CR-101, preproposal statement of inquiry, was filed on April 23, 2014, as WSR 14-09-113.

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 4, 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 4, Repealed 0.

Date Adopted: June 25, 2014.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-24-040, filed 11/26/13, effective 1/1/14)

WAC 388-449-0001 What are the disability requirements for the aged, blind, or disabled (ABD) program?

(1) For the purposes of this chapter, the following definitions apply:

(a) "We" and "us" refer to the department of social and health services.

(b) "You" means the applicant or recipient.

(c) "Disabled" means the inability to engage in any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment(s) which has lasted or can be expected to last for a continuous period of not less than ~~((nine))~~ twelve months with available treatment or result in death.

(d) "Physical impairment" means a diagnosable physical illness.

(e) "Mental impairment" means a diagnosable mental disorder. We exclude any diagnosis of or related to alcohol or drug abuse or addiction.

(2) We determine if you are likely to be disabled when:

(a) You apply for ABD cash benefits;

(b) You become employed;

(c) You obtain work skills by completing a training program; or

(d) We receive new information that indicates you may be employable.

(3) We determine you are likely to be disabled if:

(a) You are determined to meet SSA disability criteria by the Social Security Administration (SSA);

(b) You are determined to meet SSA disability criteria by disability determination services (DDDS) based on the most recent DDDS determination;

(c) The Social Security Administration (SSA) stops your supplemental security income (SSI) payments solely because you are not a citizen;

(d) You are eligible for long-term care services from aging and long-term support administration for a medical condition that is expected to last ~~((nine))~~ twelve months or more or result in death; or

(e) You are approved through the sequential evaluation process (SEP) defined in WAC 388-449-0005 through 388-449-0100. The SEP is the sequence of five steps. Step 1 considers whether you are currently working. Steps 2 and 3 consider medical evidence and whether you are likely to meet or equal a listed impairment under Social Security's rules. Steps 4 and 5 consider your residual functional capacity and vocational factors such as age, education, and work experience in order to determine your ability to do your past work or other work.

(4) If you have a physical or mental impairment and you are impaired by alcohol or drug addiction and do not meet the other disability criteria in subsection (2)(a) through (d) above, we decide if you are eligible for ABD cash by applying the sequential evaluation process described in WAC 388-449-0005 through 388-449-0100. You aren't eligible for ABD cash benefits if you are disabled primarily because of alcoholism or drug addiction.

(5) In determining disability, we consider only your ability to perform basic work-related activities. "Basic work-related activities" are activities that anyone would be required to perform in a work setting. They consist of: sitting, standing, walking, lifting, carrying, handling, and other physical functions (including manipulative or postural functions such

as pushing, pulling, reaching, handling, stooping, or crouching), seeing, hearing, communicating, remembering, understanding and following instructions, responding appropriately to supervisors and coworkers, tolerating the pressures of a work setting, maintaining appropriate behavior, and adapting to changes in a routine work setting.

(6) We determine you are not likely to meet SSI disability criteria if SSA denied your application for SSI or Social Security Disability Insurance (SSDI) based on disability in the last twelve months unless:

(a) You file a timely appeal with SSA;

(b) SSA decides you have good cause for a late appeal; or

(c) You give us medical evidence of a potentially disabling condition that SSA did not consider or medical evidence confirming your condition has deteriorated.

AMENDATORY SECTION (Amending WSR 13-24-040, filed 11/26/13, effective 1/1/14)

WAC 388-449-0035 How does the department assign severity ratings to my impairment? (1) "Severity rating" is a rating of the extent of your impairment and how it impacts your ability to perform basic work activities. The following chart provides a description of limitations on work activities and the severity ratings assigned to each.

Effect on Work Activities	Degree of Impairment	Numerical Value
(a) There is no effect on your performance of one or more basic work-related activities.	None	1
(b) There is no significant limit on your performance of one or more basic work-related activities.	Mild	2
(c) There are significant limits on your performance of one or more basic work-related activities.	Moderate	3
(d) There are very significant limits on your performance of one or more basic work-related activities.	Marked	4
(e) You are unable to perform basic work-related activities.	Severe	5

(2) We use the description of how your condition impairs your ability to perform work activities given by the acceptable medical source or your treating provider, and review other evidence you provide, to establish severity ratings when the impairments are supported by, and consistent with, the objective medical evidence.

(3) A contracted doctor reviews your medical evidence and the ratings assigned to your impairment when:

(a) The medical evidence indicates functional limitations consistent with at least a moderate physical or mental health impairment;

(b) Your impairment has lasted or is expected to last, (~~nine~~) twelve months or more with available medical treatment; and

(c) You are not an active ABD recipient previously determined likely to be disabled as defined in WAC 388-449-0010 through 388-449-0100.

(4) The contracted doctor reviews your medical evidence, severity rating, and functional assessment to determine whether:

(a) The Medical evidence is objective and sufficient to support the findings of the provider;

(b) The description of the impairment(s) is supported by the medical evidence; and

(c) The severity rating, duration, and assessment of functional limitations assigned by DSHS are consistent with the medical evidence.

(5) If the medical provider's description of your impairment(s) is not consistent with the objective evidence, we will:

(a) Assign a severity rating, duration, and functional limitations consistent with the objective medical evidence; and

(b) Clearly describe why we rejected the medical evidence provider's opinion; and

(c) Identify the medical evidence used to make the determination.

AMENDATORY SECTION (Amending WSR 13-24-040, filed 11/26/13, effective 1/1/14)

WAC 388-449-0060 Sequential evaluation process step II—How does the department review medical evidence to determine if I am eligible for benefits? When we receive your medical evidence, we review it to determine if it is sufficient to decide whether your circumstances meet disability requirements.

(1) We require written medical evidence to determine disability. The medical evidence must:

(a) Contain sufficient information as described under WAC 388-449-0015;

(b) Be written by an acceptable medical source or treating provider described in WAC 388-449-0010;

(c) Document the existence of a potentially disabling condition by an acceptable medical source described in WAC 388-449-0010; and

(d) Document the impairment has lasted or is expected to last (~~nine~~) twelve continuous months or more with available treatment, or result in death.

(2) If the information received isn't clear, we may require more information before we determine whether you meet ABD disability requirements. As examples, we may require you to get more medical tests or be examined by a medical specialist.

(3) We deny disability if:

(a) We don't have evidence that your impairment is of at least moderate severity as defined in WAC 388-449-0035, 388-449-0040, 388-449-0045, or 388-449-0050;

(b) Your impairment hasn't lasted or isn't expected to last (~~nine~~) twelve or more months with available treatment or result in death; or

(c) We have evidence drug or alcohol abuse or addiction is material to your impairment(s).

AMENDATORY SECTION (Amending WSR 13-24-040, filed 11/26/13, effective 1/1/14)

WAC 388-449-0080 Sequential evaluation process step IV—How does the department evaluate if I am able to perform relevant past work? (1) If we neither deny disability at Step 1 or 2 nor approve it at Step 3, we consider our assessment of your physical and/or mental functional capacity, per WAC 388-449-0020 and 388-449-0030, to determine if you can do work you have done in the past.

(2) We evaluate your work experience to determine if you have relevant past work and transferable skills. "Relevant past work" means work:

(a) Defined as substantial gainful activity per WAC 388-449-0005;

(b) You have performed in the past (~~ten~~) fifteen years; and

(c) You performed long enough to acquire the knowledge and skills necessary to continue performing the job. You must meet the specific vocational preparation level as defined in Appendix C of the Dictionary of Occupational Titles.

(3) For each relevant past work situation, we compare:

(a) The exertional, nonexertional, and skill requirements of the job based on the Appendix C of the Dictionary of Occupational Titles; and

(b) Current cognitive, social, exertional, and nonexertional factors that significantly limit your ability to perform past work.

(4) We deny disability when we determine that you are able to perform any of your relevant past work.

(5) We approve disability when you are fifty-five years of age or older and don't have the physical, cognitive, or social ability to perform past work.

WSR 14-14-081
EMERGENCY RULES
DEPARTMENT OF
EARLY LEARNING

[Filed June 30, 2014, 8:12 a.m., effective July 1, 2014]

Effective Date of Rule: July 1, 2014.

Purpose: To increase working connections and seasonal child care subsidy program base rates.

Citation of Existing Rules Affected by this Order: Amending WAC 170-290-0200, 170-290-0205, and 170-290-0240

Statutory Authority for Adoption: RCW 43.215.060 and 43.215.070; chapter 43.215 RCW.

Under RCW 34.05.350 the agency for good cause finds that in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal years 2009, 2010, 2011, 2012 or 2013, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that

observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this Finding: The 2014 supplemental budget, chapter 221, Laws of 2014, provided for a four percent increase to the working connections and seasonal child care subsidy program base rates, effective July 1, 2014. Emergency rules are necessary to implement this budget requirement as of its effective date.

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 3, 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 3, Repealed 0.

Date Adopted: June 30, 2014.

Elizabeth M. Hyde
Director

AMENDATORY SECTION (Amending WSR 14-12-050, filed 5/30/14, effective 6/30/14)

WAC 170-290-0200 Daily child care rates—Licensed or certified child care centers and DEL contracted seasonal day camps. (1) **Base rate.** DSHS pays the lesser of the following to a licensed or certified child care center or DEL contracted seasonal day camp:

- (a) The provider's private pay rate for that child; or
- (b) The maximum child care subsidy daily rate for that child as listed in the following table:

		Infants (One month - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 6 yrs not attending kindergarten or school)	School-age (5 - 12 yrs attending kindergarten or school)
Region 1	Full-Day	\$(29.10) <u>30.26</u>	\$(24.47) <u>25.45</u>	\$(23.12) <u>24.04</u>	\$(21.77) <u>22.64</u>
	Half-Day	\$(14.57) <u>15.13</u>	\$(12.24) <u>12.73</u>	\$(11.57) <u>12.02</u>	\$(10.88) <u>11.32</u>
Spokane County	Full-Day	\$(29.76) <u>30.95</u>	\$(25.03) <u>26.03</u>	\$(23.65) <u>24.60</u>	\$(22.27) <u>23.16</u>
	Half-Day	\$(14.90) <u>15.48</u>	\$(12.53) <u>13.02</u>	\$(11.84) <u>12.30</u>	\$(11.13) <u>11.58</u>
Region 2	Full-Day	\$(29.39) <u>30.57</u>	\$(24.53) <u>25.51</u>	\$(22.75) <u>23.66</u>	\$(20.12) <u>20.92</u>
	Half-Day	\$(14.70) <u>15.29</u>	\$(12.27) <u>12.76</u>	\$(11.37) <u>11.83</u>	\$(10.08) <u>10.46</u>
Region 3	Full-Day	\$(38.89) <u>40.45</u>	\$(32.43) <u>33.73</u>	\$(28.01) <u>29.13</u>	\$(27.20) <u>28.29</u>
	Half-Day	\$(19.45) <u>20.23</u>	\$(16.21) <u>16.87</u>	\$(14.00) <u>14.57</u>	\$(13.61) <u>14.15</u>
Region 4	Full-Day	\$(45.27) <u>47.08</u>	\$(37.80) <u>39.31</u>	\$(31.71) <u>32.98</u>	\$(28.56) <u>29.70</u>
	Half-Day	\$(23.08) <u>23.54</u>	\$(18.91) <u>19.66</u>	\$(15.86) <u>16.49</u>	\$(14.28) <u>14.85</u>
Region 5	Full-Day	\$(33.19) <u>34.52</u>	\$(28.56) <u>29.70</u>	\$(25.14) <u>26.15</u>	\$(22.32) <u>23.21</u>
	Half-Day	\$(16.59) <u>17.26</u>	\$(14.28) <u>14.85</u>	\$(12.57) <u>13.08</u>	\$(11.17) <u>11.61</u>
Region 6	Full-Day	\$(32.63) <u>33.94</u>	\$(28.01) <u>29.13</u>	\$(24.47) <u>25.45</u>	\$(23.93) <u>24.89</u>
	Half-Day	\$(16.33) <u>16.97</u>	\$(14.00) <u>14.57</u>	\$(12.24) <u>12.73</u>	\$(11.97) <u>12.45</u>

(i) Centers in Clark County are paid Region 3 rates.

(ii) Centers in Benton, Walla Walla, and Whitman counties are paid Region 6 rates.

(2) The child care center WAC 170-295-0010 allows providers to care for children from one month up to and including the day before their thirteenth birthday. The provider must obtain a child-specific and time-limited exception from their child care licensor to provide care for a child outside the age listed on the center's license. If the provider has an exception to care for a child who has reached his or her thirteenth birthday, the payment rate is the same as subsection (1) of this section, and the five through twelve year age range column is used for comparison.

(3) If the center provider cares for a child who is thirteen or older, the provider must have a child-specific and time-

limited exception and the child must meet the special needs requirement according to WAC 170-290-0220.

AMENDATORY SECTION (Amending WSR 14-12-050, filed 5/30/14, effective 6/30/14)

WAC 170-290-0205 Daily child care rates—Licensed or certified family home child care providers. (1) **Base rate.** DSHS pays the lesser of the following to a licensed or certified family home child care provider:

- (a) The provider's private pay rate for that child; or
- (b) The maximum child care subsidy daily rate for that child as listed in the following table.

		Infants (Birth - 11 mos.)	Enhanced Toddlers (12 - 17 mos.)	Toddlers (18 - 29 mos.)	Preschool (30 mos. - 6 yrs not attending kindergarten or school)	School-age (5 - 12 yrs attending kindergarten or school)
Region 1	Full-Day	\$((24.78))	\$((24.78))	\$((21.54))	\$((21.54))	\$((19.16))
	Half-Day	<u>25.77</u>	<u>25.77</u>	<u>22.40</u>	<u>22.40</u>	<u>19.93</u>
		\$((12.38))	\$((12.38))	\$((10.77))	\$((10.77))	\$((9.58))
Spokane County	Full-Day	\$((25.34))	\$((25.34))	\$((22.03))	\$((22.03))	\$((19.59))
	Half-Day	<u>26.35</u>	<u>26.35</u>	<u>22.91</u>	<u>22.91</u>	<u>20.37</u>
		\$((12.67))	\$((12.67))	\$((11.02))	\$((11.02))	\$((9.79))
Region 2	Full-Day	\$((26.16))	\$((26.16))	\$((22.75))	\$((20.35))	\$((20.35))
	Half-Day	<u>27.21</u>	<u>27.21</u>	<u>23.66</u>	<u>21.16</u>	<u>21.16</u>
		\$((13.08))	\$((13.08))	\$((11.37))	\$((10.17))	\$((10.17))
Region 3	Full-Day	\$((34.71))	\$((34.71))	\$((29.92))	\$((26.33))	\$((23.93))
	Half-Day	<u>36.10</u>	<u>36.10</u>	<u>31.12</u>	<u>27.38</u>	<u>24.89</u>
		\$((17.36))	\$((17.36))	\$((14.96))	\$((13.17))	\$((11.97))
Region 4	Full-Day	\$((40.84))	\$((40.84))	\$((35.51))	\$((29.92))	\$((28.72))
	Half-Day	<u>42.47</u>	<u>42.47</u>	<u>36.93</u>	<u>31.12</u>	<u>29.87</u>
		\$((20.43))	\$((20.43))	\$((17.77))	\$((14.96))	\$((14.36))
Region 5	Full-Day	\$((27.53))	\$((27.53))	\$((23.93))	\$((22.75))	\$((20.35))
	Half-Day	<u>28.63</u>	<u>28.63</u>	<u>24.89</u>	<u>23.66</u>	<u>21.16</u>
		\$((13.77))	\$((13.77))	\$((11.97))	\$((11.37))	\$((10.17))
Region 6	Full-Day	\$((27.53))	\$((27.53))	\$((23.93))	\$((23.93))	\$((22.75))
	Half-Day	<u>28.63</u>	<u>28.63</u>	<u>24.89</u>	<u>24.89</u>	<u>23.66</u>
		\$((13.77))	\$((13.77))	\$((11.97))	\$((11.97))	\$((11.37))

(2) The family home child care WAC 170-296A-0010 and 170-296A-5550 allows providers to care for children from birth up to and including the day before their thirteenth birthday.

(3) If the family home provider cares for a child who is thirteen or older, the provider must have a child-specific and time-limited exception and the child must meet the special needs requirement according to WAC 170-290-0220.

(4) DSHS pays family home child care providers at the licensed home rate regardless of their relation to the children (with the exception listed in subsection (5) of this section). Refer to subsection (1) and the five through twelve year age range column for comparisons.

(5) DSHS cannot pay family home child care providers to provide care for children in their care if the provider is:

- (a) The child's biological, adoptive or step-parent;
- (b) The child's legal guardian or the guardian's spouse or live-in partner; or
- (c) Another adult acting in loco parentis or that adult's spouse or live-in partner.

AMENDATORY SECTION (Amending WSR 13-21-113, filed 10/22/13, effective 11/22/13)

WAC 170-290-0240 Child care subsidy rates—In-home/relative providers. (1) **Base rate.** When a consumer employs an in-home/relative provider, DSHS pays the lesser of the following to an eligible in-home/relative provider for child care:

- (a) The provider's private pay rate for that child; or
- (b) The maximum child care subsidy rate of two dollars and ~~((twenty-four))~~ thirty-three cents per hour for the child who needs the greatest number of hours of care and two dollars and ~~((twenty-one))~~ thirty cents per hour for the care of each additional child in the family.

(2) DSHS may pay above the maximum hourly rate for children who have special needs under WAC 170-290-0235.

(3) DSHS makes the WCCC payment directly to a consumer's eligible provider.

(4) When applicable, DSHS pays the employer's share of the following:

- (a) Social Security and medicare taxes (FICA) up to the wage limit;
- (b) Federal Unemployment Taxes (FUTA); and

(c) State unemployment taxes (SUTA).

(5) If an in-home/relative provider receives less than the wage base limit per family in a calendar year, DSHS refunds all withheld taxes to the provider.

WSR 14-14-082
EMERGENCY RULES
DEPARTMENT OF
EARLY LEARNING

[Filed June 30, 2014, 8:16 a.m., effective July 1, 2014]

Effective Date of Rule: July 1, 2014.

Purpose: To remove language governing the duration of basic state training and registry system (STARS) training required for school-age child care program staff.

Citation of Existing Rules Affected by this Order: Amending WAC 170-297-1710, 170-297-1715, 170-297-1720, 170-297-1775, and 170-297-2075.

Statutory Authority for Adoption: RCW 43.215.060, 43.215.070; chapter 43.215 RCW.

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

Reasons for this Finding: Emergency rules are necessary for the preservation of the general welfare. The new STARS curriculum incorporates needed training improvements based on new research, updated child guidance training aligned with best practices, and additional information tied to early brain and biological development, and is aligned with department of early learning's child care quality framework. Removal of language regarding duration of the training is needed because the new curriculum requires more than twenty hours to complete. Observing the time requirements of notice and opportunity to comment on adoption of permanent rules would be contrary to the public interest as it would delay improved provider training.

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 5, 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 5, Repealed 0.

Date Adopted: June 30, 2014.

Elizabeth M. Hyde
Director

AMENDATORY SECTION (Amending WSR 12-23-057, filed 11/19/12, effective 12/20/12)

WAC 170-297-1710 Program director. (1) The licensee must serve as or employ a program director who is responsible for the overall management of the child care program and operation.

(2) The program director must have the understanding, ability, physical health, emotional stability and good judgment to meet the needs of the children in care.

(3) The program director must:

(a) Be at least twenty-one years of age;

(b) Have two years' experience in management, supervision, or leadership;

(c) Attend a department orientation within six months of employment or assuming the position;

(d) Have a TB test as required under WAC 170-297-1750;

(e) Have a background clearance as required under chapter 170-06 WAC;

(f) Have current CPR and first-aid certification as required under WAC 170-297-1825;

(g) Complete HIV/AIDS training and annual bloodborne pathogens training as required under WAC 170-297-1850;

(h) Have a high school diploma or equivalent;

(i) Have a minimum of forty-five college credits (or thirty college credits and one hundred fifty training hours) in approved school-age credits as specified in the Washington state guidelines for determining related degree and approved credits; and

(j) Have completed (~~twenty hours of~~) basic STARS training or possess an exemption.

(4) A program director must be on the premises as needed.

(5) When the program director is not on-site the program director must leave a competent, designated staff person in charge. This staff person must meet the qualifications of a site coordinator and may also serve as child care staff when that role does not interfere with management and supervisory responsibilities.

AMENDATORY SECTION (Amending WSR 12-23-057, filed 11/19/12, effective 12/20/12)

WAC 170-297-1715 Site coordinator. (1) A child care program may employ a site coordinator responsible for being on-site with children, program planning, and program implementation. The site coordinator must provide regular supervision of staff and volunteers.

(2) The site coordinator must have the understanding, ability, physical health, emotional stability and good judgment to meet the needs of the children in care.

(3) Site coordinator staff must:

(a) Be twenty-one years of age;

(b) Have two years management experience in a related field;

(c) Attend a department orientation within six months of employment or assuming the position;

(d) Have a high school diploma or equivalent;

(e) Have completed thirty college credits in approved school-age credits as specified in the Washington state guide-

lines for determining related degree and approved credits, or twenty college credits and one hundred clock hours of related community training;

(f) Have completed (~~twenty hours of~~) basic STARS training or possess an exemption;

(g) Complete ongoing training hours as required under WAC 170-297-1800;

(h) Develop an individual training plan;

(i) Have a food worker card, if applicable; and

(j) Attend an agency orientation as required under WAC 170-297-5800.

(4) A site coordinator must be on the premises for the majority of hours that care is provided each day. If temporarily absent from the program, the site coordinator must leave a competent, designated staff person in charge who meets the qualifications of a site coordinator.

(5) The site coordinator may also serve as child care staff when the role does not interfere with management and supervisory responsibilities.

AMENDATORY SECTION (Amending WSR 13-23-075, filed 11/19/13, effective 12/20/13)

WAC 170-297-1720 Lead teachers. (1) Lead teachers may be employed to be in charge of a child or a group of children.

(2) The lead teacher must have the understanding, ability, physical health, emotional stability and good judgment to meet the needs of the children in care.

(3) Lead teachers must:

(a) Be eighteen years of age or older;

(b) Have one year experience in school-age care;

(c) Have a TB test as required under WAC 170-297-1750;

(d) Have a background clearance as required under chapter 170-06 WAC;

(e) Have current CPR and first-aid certification as required under WAC 170-297-1825;

(f) Complete HIV/AIDS training and annual bloodborne pathogens training as required under WAC 170-297-1850;

(g) Have a high school diploma or equivalent;

(h) Complete (~~twenty hours of~~) basic STARS training within three months of assuming the position of lead teacher;

(i) Complete ongoing training hours as required under WAC 170-297-1800;

(j) Have a food worker card, if applicable; and

(k) Attend an agency orientation as required under WAC 170-297-5800.

(4) Lead teachers are counted in the staff-to-child ratio.

(5) When the site coordinator is off-site or unavailable, lead teachers may assume the duties of site coordinator when they meet the site coordinator minimum qualifications, and may also serve as child care staff when the role does not interfere with management and supervisory responsibilities.

AMENDATORY SECTION (Amending WSR 13-23-075, filed 11/19/13, effective 12/20/13)

WAC 170-297-1775 Basic (~~twenty hour~~) STARS training. (1) Prior to working unsupervised with children the

director, site coordinator, and lead teacher must register in MERIT.

(2) The director, site coordinator, and lead teacher must complete the basic (~~twenty hours of~~) STARS training within three months of assuming the position.

(3) If the director, site coordinator, or lead teacher qualifies for an exemption to the STARS training requirement, he or she must request an exemption to the requirement within ten days of assuming the position.

AMENDATORY SECTION (Amending WSR 12-23-057, filed 11/19/12, effective 12/20/12)

WAC 170-297-2075 Staff records. Records for each staff person must include documentation of:

(1) Current first aid, child and adult CPR training certification;

(2) Bloodborne pathogens training certification;

(3) HIV/AIDS training certification;

(4) TB test results or documentation as required under WAC 170-297-1750;

(5) Current state food worker card for staff if required under WAC 170-297-7675;

(6) Completed background check form if applicable under WAC 170-297-1200 and a copy of the department-issued authorization letter;

(7) Copy of a current government issued picture identification;

(8) Emergency contact information;

(9) Completed application form or resume for staff when hired;

(10) Documentation for staff of:

(a) (~~Twenty hour~~) Basic STARS training;

(b) Ongoing training completed; and

(c) Registration in MERIT;

(11) Record of training provided to staff and volunteers.

WSR 14-14-083
EMERGENCY RULES
DEPARTMENT OF
EARLY LEARNING

[Filed June 30, 2014, 8:19 a.m., effective July 1, 2014]

Effective Date of Rule: July 1, 2014.

Purpose: To remove language governing the duration of basic state training and registry system (STARS) training required for family home child care primary staff.

Citation of Existing Rules Affected by this Order: Amending WAC 170-296A-1175, 170-296A-1910, 170-296A-1975, and 170-296A-2075.

Statutory Authority for Adoption: RCW 43.215.060, 43.215.070; chapter 43.215 RCW

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

Reasons for this Finding: Emergency rules are necessary for the preservation of the public health, safety, and general welfare because the new STARS curriculum for providers contains additional training on safe sleep practices for infants to prevent sleep related incidents. Further, the new curriculum incorporates new research, updated child guidance training aligned with best practices, and additional information tied to early brain and biological development, and is aligned with department of early learning's child care quality framework. Removal of language regarding duration of the training is needed because the new curriculum requires more than twenty hours to complete. Observing the time requirements of notice and opportunity to comment on adoption of permanent rules would be contrary to the public interest as it would delay improved provider training.

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 4, 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 4, Repealed 0.

Date Adopted: June 30, 2014.

Elizabeth M. Hyde
Director

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

WAC 170-296A-1175 Basic ((~~twenty-hour~~)) STARS training. A license applicant must complete the basic ((~~twenty-hour~~)) STARS training prior to an initial license being granted by the department.

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

WAC 170-296A-1910 Basic ((~~twenty-hour~~)) STARS training. A primary staff person must complete the basic ((~~twenty hours of~~)) STARS training prior to working unsupervised with the children.

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

WAC 170-296A-1975 Licensee/staff qualifications and requirements table. The following table summarizes the licensee and staff qualifications and requirements found in WAC 170-296A-1700 through 170-296A-1950, and 170-296A-7675. An "X" indicates a requirement.

Licensee and Staff Qualifications Table

Position	Minimum age	High school diploma or equivalent	Background check	TB test	DEL orientation	Basic ((20-hour)) STARS	Ongoing training 10-hours per year	Fire safety training	Firstaid/CPR	HIV/AIDS	Food handler permit
Licensee	18	X	X	X	X	X	X	X	X	X	X
Primary staff person	18		X	X		X	X	X	X	X	See WAC 170-296A-7675(3) regarding when other staff must have a food handler permit
Assistant/ volunteer	14		X Noncriminal background check only age 14-15	X				X	X	X	See WAC 170-296A-7675(3) regarding when other staff must have a food handler permit

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

WAC 170-296A-2075 Licensee and staff records. Records on file for the licensee and each staff person must include documentation of:

- (1) Current first aid and infant, child and adult CPR training certification;
- (2) HIV/AIDS training certification;
- (3) TB test results or documentation as required under WAC 170-296A-1750;

(4) Current state food handler permit for the licensee, and for other staff if required under WAC 170-296A-7675(3);

(5) Completed background check form, or noncriminal background check form if applicable under WAC 170-296A-1225, and copy of the department-issued authorization;

(6) Copy of a current government issued picture identification;

(7) Emergency contact information;

(8) Completed application form or resume for staff when hired;

(9) Documentation for the licensee's and primary staff person only of:

- (a) Basic (~~twenty-hour~~) STARS training;
 - (b) Ongoing training completed; and
 - (c) Registration in MERIT.
- (10) Record of training provided by the licensee to staff and volunteers; and
- (11) Resume for the licensee only.

WSR 14-14-104
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-150—Filed July 1, 2014, 10:54 a.m., effective July 1, 2014, 10:54 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-10500B, 220-56-18000H and 220-55-22000J; and amending WAC 220-56-105, 220-56-180, and 220-55-220.

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: The department is in the process of adopting permanent rules necessary to implement the personal-use fishing plans agreed to with resource comanagers at the North of Falcon proceedings. All of 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 3, Amended 0, Repealed 3.

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: July 1, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-56-10500J River mouth definitions. Notwithstanding the provisions of WAC 220-56-105, effective immediately through August 31, 2014, it is unlawful to vio-

late the provisions below. Unless otherwise amended, all permanent rules remain in effect:

The following river mouths are hereby defined as:

- (1) Kalama River: Boundary markers at the mouth.
- (2) White Salmon River: The Burlington Northern Railroad Bridge.

NEW SECTION

WAC 220-56-18000H Salmon statewide rules. Notwithstanding the provisions of WAC 220-56-180, effective immediately through August 31, 2014, it is unlawful to violate the provisions below. Unless otherwise amended, all permanent rules remain in effect:

(1) Effective August 16: In Marine Area 2-2 east of Buoy 13 line, minimum size limit is 12 inches, except no minimum size for Atlantic salmon.

(2) Adult salmon are:

- (a) Chinook over 24 inches in length;
- (b) Coho over 20 inches in length;
- (c) Pink, chum or sockeye over 12 inches in length; and
- (d) Atlantic salmon of any size.

NEW SECTION

WAC 220-55-22000J Two-pole endorsement. Notwithstanding the provisions of WAC 220-55-220, effective immediately through August 31, 2014, anglers who possess a valid two-pole endorsement may fish with two lines in the waters of the Lewis River from the railroad bridge near Kuhnis Road to the mouth of East Fork Lewis River.

REPEALER

The following sections of the Washington Administrative Code are repealed effective September 1, 2014:

WAC 220-56-10500J River mouth definitions.

WAC 220-56-18000H Salmon statewide rules.

WAC 220-55-22000J Two-pole endorsement.