

WSR 12-18-009
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 12-192—Filed August 23, 2012, 3:03 p.m., effective August 27, 2012, 12:01 a.m.]

Effective Date of Rule: August 27, 2012, 12:01 a.m.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-62000Q; and amending WAC 232-28-620.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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

Reasons for this Finding: Sufficient quota and guidelines remain in ocean areas to allow expanded salmon 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: August 23, 2012.

Philip Anderson
 Director

NEW SECTION

WAC 232-28-62000R Coastal salmon—Saltwater seasons and daily limits. Notwithstanding the provisions of WAC 232-28-620, effective August 27, 2012, until further notice, it is unlawful to violate the provisions below. Unless otherwise amended, all permanent rules remain in effect:

(1) Catch Record Card Area 1:

(a) Open until further notice - Daily limit of 2 salmon. Release wild coho.

(b) Closed in the Columbia River Mouth Control Zone 1 during all open periods. See WAC 220-56-195.

(2) Catch Record Card Area 2:

(a) Open through September 23 - Open 7 days a week. Daily limit 2 salmon. Release wild coho.

(b) Open through September 23 - Grays Harbor Control Zone, described in WAC 220-56-195(11) - Open concurrent

with Area 2 when Area 2 is open for salmon angling. Area 2 rules apply.

(3) Willapa Bay (Catch Record Card Area 2-1):

(a) Open until further notice - Daily limit of six salmon, not more than three of which may be adult salmon. Release chum and wild Chinook. Anglers in possession of a valid two-pole endorsement may use up to two lines while fishing.

(4) Grays Harbor (Catch Record Card Area 2-2 west of the Buoy 13 line):

Immediately through September 23 - Open concurrent with Area 2 when Area 2 is open for salmon angling. Area 2 rules apply.

(5) Grays Harbor (Catch Record Card Area 2-2 east of the Buoy 13 line):

(a) Immediately through September 15 - Closed.

(b) Open September 16 until further notice - Daily limit 3 salmon, of which not more than one may be a Chinook salmon and not more than two may be wild coho salmon. Release chum.

(6) Catch Record Card Area 3: Open until further notice - Daily limit of 2 salmon. Release wild coho.

(7) Catch Record Card Area 4: Open until further notice - Daily limit of 2 salmon. Release chum and wild coho salmon. Release Chinook salmon caught east of the Bonilla-Tatoosh line

REPEALER

The following section of the Washington Administrative Code is repealed 12:01 a.m. August 27, 2012:

WAC 232-28-62000Q	Coastal salmon—Saltwater seasons and daily limits. (12-155)
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WSR 12-18-011
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 12-193—Filed August 23, 2012, 5:00 p.m., effective August 23, 2012, 5:00 p.m.]

Effective Date of Rule: Immediately.

Purpose: To amend Rocky Mountain Bighorn Sheep raffle permit hunt areas described in WAC 232-28-283.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-283.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: This rule amendment removes Game Management Unit (GMU) 186 from the Rocky Mountain Bighorn Sheep raffle hunt area and adds GMU 175. The department is now in the process of making this a permanent rule change due to the fact that the number of mature rams in

GMU 186 has decreased and the population in GMU 175 has experienced a disease outbreak. Altering the hunt areas in this way is intended to decrease the number of potentially wandering rams from spreading the disease and to provide a greater opportunity for hunters to harvest a ram under this hunt. The existing season for this raffle hunt is September 1 through December 31, 2012. This emergency will prevent a change to legal hunt areas in the middle of the season and will enable the current permit holder to fully utilize this opportunity.

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 [1], Amended 1 [0], Repealed 0.

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

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

Date Adopted: August 23, 2012.

Philip Anderson
Director

NEW SECTION

WAC 232-28-28300A Big game and wild turkey auction, raffle, and special incentive permits. Notwithstanding the provisions of WAC 232-28-283, effective immediately until further notice:

For the Rocky Mountain Bighorn Sheep Raffle, remove GMU 186 and add GMU 175 to the designated hunt area.

WSR 12-18-019
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 12-194—Filed August 24, 2012, 4:54 p.m., effective August 26, 2012, 9:00 p.m.]

Effective Date of Rule: August 26, 2012, 9:00 p.m.

Purpose: The purpose of this rule making is to allow nontreaty commercial fishing opportunity in the Columbia River while protecting fish 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, federal law governing Washington's relationship with Oregon, and Washington fish and wildlife commission policy guidance for Columbia River fisheries.

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

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

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 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 mainstem fishing periods. Select area sites remain open as scheduled. The seasons are consistent with the 2008-2017 interim management agreement. Salmon and sturgeon are available for harvest during fall season fisheries. The regulation is consistent with compact action of July 26, and August 24, 2012. There is insufficient time to promulgate permanent rules.

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

Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in treaty and nontreaty Columbia River fisheries governed by the 2008-2017 *U.S. v. Oregon* Management Agreement. The Washington and Oregon fish and wildlife commissions have developed policies to guide the implementation of such biological opinions in the states' regulation of nontreaty fisheries.

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

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

Date Adopted: August 24, 2012.

Philip Anderson
Director

NEW SECTION

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

1. Mainstem Columbia River

a. SEASON:

9 PM Sunday August 26 to 6 AM Monday August 27, 2012

9 PM Tuesday August 28 to 6 AM Wednesday August 29, 2012

b. AREA: SMCRA 1D, 1E. The deadline at the lower end of SMCRA 1D is defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation buoy #1 and continuing to the Washington shore.

c. GEAR: Drift gillnet only. 9-inch minimum mesh size.

Nets fished any time between official sunset and official sunrise must have lighted buoys on both ends of the net. If the net is attached to the boat, then one lighted buoy on the end of the net opposite the boat is required.

d. SANCTUARIES: Washougal and Sandy Rivers.

e. ALLOWABLE POSSESSION: Salmon and white sturgeon. A maximum of five (5) white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday).

2. Blind Slough/Knappa Slough Select Area.

a. SEASON: Monday, Tuesday, Wednesday, and Thursday nights August 27 through October 26, 2012. Open hours are 7 PM to 7 AM through September 14, and 6 PM to 8 AM thereafter.

b. AREA: Blind Slough and Knappa Slough. An area closure of an approximately 100-foot radius at the mouth of Big Creek is in effect. Concurrent jurisdiction waters include all areas in Knappa Slough and downstream of the Railroad Bridge in Blind Slough.

c. GEAR: Gillnet. Monofilament gear is allowed. 9 3/4-inch maximum mesh size. Maximum net length of 100 fathoms. No weight restriction on lead line. Use of additional weights or anchors attached directly to the lead line is allowed.

Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. Nets not lawful for use at that time and area may be onboard the boat if properly stored consistent with WAC 220-33-001.

Nets fished any time between official sunset and official sunrise must have lighted buoys on both ends of the net. If the net is attached to the boat, then one lighted buoy on the end of the net opposite the boat is required.

d. ALLOWABLE POSSESSION: Salmon.

3. Tongue Point/South Channel Select Area.

a. SEASON: Monday, Tuesday, Wednesday, and Thursday nights August 27 through October 26, 2012. Open 7 PM to 7 AM through September 14, and 4 PM to 10 AM thereafter.

b. AREA: Tongue Point and South Channel. All waters in this fishing area are concurrent jurisdiction waters.

c. GEAR: Gillnet. 6-inch maximum mesh.

Tongue Point fishing area: Net length 250 fathoms maximum. Weight not to exceed two pounds on any one fathom. Fishers participating in the Tongue Point fishery may have onboard un-stored gillnets legal for the South Channel fishing area.

South Channel area: Net length 100 fathoms maximum. No weight restriction on lead line. Use of additional weights or anchors attached directly to the lead line is allowed.

Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored consistent with WAC 220-33-001.

Nets fished any time between official sunset and official sunrise must have lighted buoys on both ends of the net. If the net is attached to the boat, then one lighted buoy on the end of the net opposite the boat is required.

d. ALLOWABLE POSSESSION: Salmon.

4. Deep River Select Area.

a. SEASON: Monday, Tuesday, Wednesday and Thursday nights from August 27 through October 19, 2012. Open 7 PM to 9 AM through September 14 and 4 PM to 9 AM thereafter.

b. AREA: The Deep River Select Area. Concurrent jurisdiction waters extend downstream of the Highway 4 Bridge.

c. GEAR: Gill net. Monofilament gear is allowed. 9 3/4-inch maximum mesh size through September 14 and 6-inch maximum mesh thereafter. Net length 100 fathoms maximum. No weight restriction on the lead line. Use of additional weights or anchors attached directly to the lead line is allowed. Nets may not be tied off to stationary structures. Nets may not fully cross the navigation channel. It is unlawful to operate in any river, stream or channel any gill net gear longer than three-fourths the width of the river, stream, or channel. "River, stream, or channel width" is defined as bank-to-bank, where the water meets the banks, regardless of the time of tide or the water level. This emergency provision shall supersede the permanent regulation and all other regulations that conflict with it. All other provisions of the permanent regulation remain in effect (WAC 220-20-015(1)).

Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored consistent with WAC 220-33-001

Nets fished any time between official sunset and official sunrise must have lighted buoys on both ends of the net. If

the net is attached to the boat, then one lighted buoy on the end of the net opposite the boat is required.

d. ALLOWABLE POSSESSION: Salmon.

5. Quick Reporting: 24-hour quick-reporting required for Washington wholesale dealers, pursuant to WAC 220-69-240. When quick-reporting is required, Columbia River reports must be submitted within 24 hours of the closure of each fishing period. This quick-reporting requirement applies to all seasons described above (Columbia River and Select Areas).

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 9:00 p.m. August 26, 2012:

WAC 220-33-01000P Columbia River season
below Bonneville. (12-159)

WSR 12-18-020 EMERGENCY RULES

WASHINGTON STATE UNIVERSITY

[Filed August 27, 2012, 8:45 a.m., effective August 27, 2012, 8:45 a.m.]

Effective Date of Rule: Immediately.

Purpose: The university is updating the rules for spectator events and safety rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 504-36-030.

Statutory Authority for Adoption: RCW 28B.30.150.

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

Reasons for this Finding: An emergency rule is necessary to ensure that the service and consumption of alcoholic beverages at public events are fully regulated prior to the beginning of spectator events in the remodeled Martin Stadium.

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 1, Repealed 0.

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

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: August 24, 2012.

Ralph T. Jenks, Director
Procedures, Records, and Forms
and University Rules Coordinator

AMENDATORY SECTION (Amending WSR 97-20-019, filed 9/19/97, effective 9/19/97)

WAC 504-36-030 Spectator events—Safety rules. (1) Protection of the safety and general welfare of students, faculty and staff, performers and officials, and members of the general public attending or participating in spectator events on the campus is a primary concern of Washington State University.

(2) The following rules of conduct are applicable to all public events of Washington State University, including specifically, but not limited to, Martin Stadium and the (~~Performing Arts~~) Beasley Coliseum and to all public areas of the facility wherein the event is held (hereafter the "event site").

(a) Behavior which in the judgment of designated university officials constitutes a disruption of the event or safety hazard for other spectators or participants is prohibited.

(b) Possession and/or consumption of (~~alcoholic beverages or~~) illegal drugs is prohibited; possession and/or consumption of alcoholic beverages is permitted subject to restrictions.

(i) Any (~~such materials~~) illegal drugs or alcoholic beverages, except for such beverages provided in accordance with (b)(ii) of this subsection, found shall be delivered to the custody of designated university officials or their representatives upon request. In addition, violators of this (~~rule~~) section may be subject to university disciplinary action (if applicable) and/or legal proceedings, and to removal from the event site.

(ii) Alcoholic beverages may be possessed, sold, served, and consumed at event sites only under a valid permit or license issued by the Washington state liquor control board. Events at which alcoholic beverages are possessed, sold, served, and consumed must comply with the restrictions imposed by the Washington state liquor control board, have restricted attendance, and be limited to specified room(s) or area(s). Possession, consumption, service, dispensation, or sale of alcohol is prohibited except to persons of legal age.

(c) Except as provided in (b) of this subsection, possession of glass or metal beverage containers, or devices used for carrying such beverage containers, is prohibited (~~Pro-vided, That~~); however, this ((rule) section shall not apply to personal canteens or thermos bottles one liter or less in size, containing beverages not in violation of this ((rule) section, and provided further, that this ((rule) section shall not apply to small soft-sided articles used to carry such permitted containers, as more fully described in ((subpart) (d) of this ((rule below)) subsection. All such items shall be subject to a visual inspection upon entry to the event site. Any containers or devices prohibited by this (~~rule~~) section shall be removed by the possessor or delivered to the custody of designated

university officials or their representatives upon request. This ((~~rule~~)) section shall not apply to approved vendors.

(d) Knapsacks, duffel bags, backpacks, bags used to transport permitted beverage containers or other soft sided bags shall be small enough to fit completely under one seat, and shall be so kept at all times to maintain clear aisles, walkways and stairs. All such items are subject to a visual inspection upon entry into the event site. No hard sided bags, suitcases, coolers or other similar items shall be permitted into the event site.

(e) Aisles, walkways and stairs shall be kept clear of hazards and obstacles (including but not limited to those items discussed in ((~~subparts~~)) (c) and (d) of this ((~~rule~~)) subsection) at all times, to ensure safe and easy passage for persons attending the event, university and security officials, and others at the event site.

(f) Possession of any fireworks, weapons, explosive devices or artificial noisemaking devices (such as airhorns) is prohibited in the event site. Any such items shall be surrendered to designated university officials upon request. In addition, possession of such items may subject violators of this ((~~rule~~)) section to university disciplinary action (if applicable) and/or legal proceedings, and to removal from the event site.

(g) Smoking is prohibited in areas designated as "no smoking."

(h) An individual is entitled to occupy only the seat for which he or she has the proper ticket.

(i) ((~~Video taping equipment~~)) Recording video of the event for commercial purposes is not permitted into the event site without written permission from the WSU athletic department.

(j) Umbrellas may not be opened or raised in seating areas of any event site, in order to ensure that all persons attending the event have as clear and unobstructed a view of the event as possible. Personal sized umbrellas may be brought into the event site and stored as described in ((~~subparts~~)) (d) and (e) of this ((~~rule~~)) subsection.

(3) Where there is reasonable cause to believe that persons are, or are attempting to, violate the requirements identified in WAC 504-36-030(2), such person or persons will be denied license or privilege to enter or remain in or upon the premises, and designated officials may take necessary action to deny entry or to remove such persons from the premises.

Failure to vacate the premises upon request of designated university officials may result in subsequent legal process under the laws of the state of Washington.

(4) For purposes of WAC 504-36-030 (1) and (2) designated officials include the president of the university, the vice president for business ((~~affairs~~)) and finance, and the following officials:

(a) Director of athletics or designee for athletic events;

(b) Director of the coliseum or designee for coliseum events;

(c) Director of the Compton Union Building or designee for events in the Compton Union Building;

(d) Director of the School of Music ((~~and Theatre Arts~~)) or designee for events sponsored by that school;

(e) The WSU executive director of public safety or designee;

(f) Officers of the WSU police department when (1) acting at the request of any of the above-named officials to enforce university regulations, or (2) enforcing state laws or local ordinances.

WSR 12-18-025

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Financial Services Administration)

[Filed August 27, 2012, 12:11 p.m., effective August 30, 2012]

Effective Date of Rule: August 30, 2012.

Purpose: The department is amending sections of chapter 388-06 WAC and adding a new section to implement Initiative 1163, passed by the voters on November 8, 2011, and ESHB 2314, signed into law on March 29, 2012. Initiative 1163 requires long-term care workers to have a national fingerprint-based background check beginning January 1, 2012. ESHB 2314 amends Initiative 1163 and chapters 74.39A, 18.20, and 43.20A RCW to require fingerprint-based background checks for long-term care workers beginning January 7, 2012.

Citation of Existing Rules Affected by this Order: Amending WAC 388-06-0020, 388-06-0110, [388-06-0130], 388-06-0150, 388-06-0525, and 388-06-0540.

Statutory Authority for Adoption: RCW 43.43.832, 43.43.837, chapter 74.39A RCW, RCW 43.20A.710.

Other Authority: Washington Initiative 1163 and ESHB 2314.

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

Reasons for this Finding: The initial public notice (CR-101) for permanent rule making was filed on May 10, 2012, as WSR 12-11-039. The proposed rule (CR-102) for permanent rule making was filed on August 22 [21], 2012, as WSR 12-17-131 and the public hearing will be held on September 25, 2012.

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 1, Amended 5 [6], Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 5 [6], Repealed 0.

Date Adopted: August 22, 2012.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-16-083, filed 7/30/10, effective 8/30/10)

WAC 388-06-0020 What definitions apply to WAC 388-06-0100 through 388-06-0260 of this chapter? The following definitions apply to WAC 388-06-0100 through 388-06-0260 of this chapter:

"Authorized" or **"authorization"** means not disqualified by the department to have unsupervised access to children and individuals with a developmental disability. This includes persons who are certified, contracted, allowed to receive payments from department funded programs, or volunteer.

"CA" means children's administration, department of social and health services. Children's administration is the cluster of programs within DSHS responsible for the provision of licensing of foster homes, group facilities/programs and child-placing agencies, child protective services, child welfare services, and other services to children and their families.

"Certification" means:

(1) Department approval of a person, home, or facility that does not legally need to be licensed, but wishes to have evidence that they met the minimum licensing requirements.

(2) Department licensing of a child-placing agency to certify and supervise foster home and group care programs.

"Children" and **"youth"** are used interchangeably in this chapter and refer to individuals who are under parental or department care including:

(1) Individuals under eighteen years old; or

(2) Foster children up to twenty-one years of age and enrolled in high school or a vocational school program; or

(3) Developmentally disabled individuals up to twenty-one years of age for whom there are no issues of child abuse and neglect; or

(4) JRA youth up to twenty-one years of age and who are under the jurisdiction of JRA or a youthful offender under the jurisdiction of the department of corrections who is placed in a JRA facility.

"Civil adjudication proceeding" is a judicial or administrative adjudicative proceeding that results in a finding of, or upholds an agency finding of, domestic violence, abuse, sexual abuse, neglect, abandonment, violation of a professional licensing standard regarding a child or vulnerable adult, or exploitation or financial exploitation of a child or vulnerable adult under any provision of law, including but not limited to chapter 13.34, 26.44 or 74.34 RCW, or rules adopted under chapters 18.51 and 74.42 RCW. "Civil adjudication proceeding" also includes judicial or administrative findings that become final due to the failure of the alleged perpetrator to timely exercise a legal right to administratively challenge such findings.

"Community residential service businesses" include all division of developmental disabilities supported living providers with the exception of supported living providers who are also licensed as an assisted living facility or adult family home provider. Community residential service providers also include DDD companion homes, DDD alternative living and licensed residential homes for children.

"DCFS" means division of children and family services and is a division within children's administration that provides child welfare, child protective services, and support services to children in need of protection and their families.

"DDD" means the division of developmental disabilities, department of social and health services (DSHS).

"DLR" means the division of licensed resources that is a division within children's administration, the department of social and health services.

"Department" means the department of social and health services (DSHS).

"I" and **"you"** refers to anyone who has unsupervised access to children or to persons with developmental disabilities in a home, facility, or program. This includes, but is not limited to, persons seeking employment, a volunteer opportunity, an internship, a contract, certification, or a license for a home or facility.

"JRA" means the juvenile rehabilitation administration, department of social and health services.

"Licensor" means an employee of DLR or of a child placing agency licensed or certified under chapter 74.15 RCW to approve and monitor licenses for homes or facilities that offer care to children. Licenses require that the homes and facilities meet the department's health and safety standards.

"Individual provider" as defined in RCW 74.39A.240 means a person, including a personal aide, who has contracted with the department to provide personal care or respite care services to functionally disabled persons under the medicaid personal care, community options program entry system, chore services program, or respite care program, or to provide respite care or residential services and supports to persons with developmental disabilities under chapter 71A.12 RCW, or to provide respite care as defined in RCW 74.13.270.

"Individuals with a developmental disability" means individuals who meet eligibility requirements in Title 71A RCW. A developmental disability is any of the following: Intellectual disability, cerebral palsy, epilepsy, autism, or another neurological condition described in chapter 388-823 WAC; originates before the age of eighteen years; is expected to continue indefinitely; and constitutes a substantial limitation to the individual.

"Long-term care worker" has the same meaning as defined in RCW 74.39A.009.

"Spousal abuse" includes any crime of domestic violence as defined in RCW 10.99.020 when committed against a spouse, former spouse, person with whom the perpetrator has a child regardless of whether the parents have been married or lived together at any time, or an adult with whom the perpetrator is presently residing or has resided in the past.

"Unsupervised" means not in the presence of:

(1) The licensee, another employee or volunteer from the same business or organization as the applicant who has not been disqualified by the background check.

(2) Any relative or guardian of the child or developmentally disabled individual or vulnerable adult to whom the applicant has access during the course of his or her employment or involvement with the business or organization (RCW 43.43.080(9)).

"Unsupervised access" means that an individual will or may be left alone with a child or vulnerable adult (individual with developmental disability) at any time for any length of time.

"We" refers to the department, including licensors and social workers.

"WSP" refers to the Washington state patrol.

AMENDATORY SECTION (Amending WSR 10-16-083, filed 7/30/10, effective 8/30/10)

WAC 388-06-0110 Who must have background checks? (1) Per RCW 74.15.030, the department requires background checks on all providers who may have unsupervised access to children or individuals with a developmental disability. This includes licensed, certified or contracted providers, their current or prospective employees and prospective adoptive parents as defined in RCW 26.33.020.

(2) ~~((Per RCW 74.39A.055, the department requires state and federal background checks on all long-term care workers for the elderly or persons with disabilities hired or contracted after January 1, 2012.~~

~~(a) This does not include long-term care workers qualified and contracted or hired on or before December 31, 2011. Parents are not exempt from the long-term care background check requirements)) As described in WAC 388-06-0115, the division of developmental disabilities requires background checks on all contracted providers, individual providers, employees of contracted providers, and any other individual who is qualified by DDD to have unsupervised access to individuals with developmental disabilities.~~

~~(3) Long-term care workers as defined in chapter 74.39A RCW hired after January 7, 2012 are subject to national fingerprint-based background checks. For individual providers and home care agency providers refer to WAC 388-71-0500 through 388-71-05909. For adult family homes refer to chapter 388-76 WAC, adult family home minimum licensing requirements. For assisted living facilities refer to chapter 388-78A WAC, assisted living licensing rules.~~

(4) Per RCW 74.15.030, the department also requires background checks on other individuals who may have unsupervised access to children or to individuals with a developmental disability in department licensed or contracted homes, or facilities which provide care. The department requires background checks on the following people:

(a) A volunteer or intern with regular or unsupervised access to children;

(b) Any person who regularly has unsupervised access to a child or an individual with a developmental disability;

(c) A relative other than a parent who may be caring for a child;

(d) A person who is at least sixteen years old, is residing in a foster home, relatives home, or child care home and is not a foster child.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

NEW SECTION

WAC 388-06-0115 What are the division of developmental disabilities background check requirements? (1) Per RCW 74.39A.056, long-term care workers undergoing a background check for initial hire or initial contract will be screened through a state name and date of birth check and a national fingerprint-based background check; except that long-term care workers in community residential service businesses are subject to background checks as described in WAC 388-06-0115 (a) and (b). Parents are not exempt from the long-term care background check requirements.

(a) Prior to January 1, 2016 community residential service businesses as defined above will be screened as follows:

(i) Individuals who have continuously resided in Washington state for the past three consecutive years will be screened through a state name and date of birth background check.

(ii) Individuals who have lived outside of Washington state within the past three years consecutive will be screened through a state name and date of birth and a national fingerprint-based background check.

(b) Beginning January 1, 2016 community residential service businesses as defined above will be screened as described in WAC 388-06-0115(1).

(2) The division of developmental disabilities requires rechecks for all DDD contracted providers and their employees at least every three years or more frequently if required by program rule. Rechecks will be conducted as follows:

(a) Individuals who have continuously resided in Washington state for the past three consecutive years will be screened through a state name and date of birth background check.

(b) Individuals who have lived outside of Washington state within the past three consecutive years will be screened through a state name and date of birth check and a national fingerprint-based background check.

AMENDATORY SECTION (Amending WSR 10-16-083, filed 7/30/10, effective 8/30/10)

WAC 388-06-0130 Does the background check process apply to new and renewal licenses, certification, contracts, and authorizations to have unsupervised access to children or individuals with a developmental disability?

(1) For children's administration these regulations apply to all applications for new and renewal licenses, contracts, certifications, and authorizations to have unsupervised access to children or individuals with a developmental disability that are processed by the children's administration after the effective date of this chapter.

(2) For the division of developmental disabilities these regulations apply to ~~((any of the following that may involve~~

~~unsupervised access to children and individuals with a developmental disability:~~

~~(a)) initial contracts (~~licenses or certifications~~) and renewals as required by the applicable DDD background check renewal schedule and program regulations (~~and~~~~

~~(b) Any contract, license or certification renewal when there was a lapse of one day or more following expiration).~~

AMENDATORY SECTION (Amending WSR 10-16-083, filed 7/30/10, effective 8/30/10)

WAC 388-06-0150 What does the background check cover? (1) The department must review criminal convictions and pending charges based on identifying information provided by you. The background check may include but is not limited to the following information sources:

- (a) Washington state patrol.
- (b) Washington courts.
- (c) Department of corrections.
- (d) Department of health.
- (e) Civil adjudication proceedings.
- (f) Applicant's self-disclosure.
- (g) Out-of-state law enforcement and court records.

(2) Except as required in WAC 388-06-0150 (4)(b) and (5), children's administration and division of developmental disabilities will conduct a fingerprint-based background check on any individual who has lived in Washington state for less than three consecutive years.

(3) Background checks conducted for children's administration also include:

(a) A review of child protective services case files information or other applicable information system.

(b) Administrative hearing decisions related to any DSHS license that has been revoked, suspended, or denied.

(4) In addition to the requirements in subsections (1) through (3) of this section, background checks conducted by children's administration for placement of a child in out-of-home care, including foster homes, adoptive homes, relative placements, and placement with other suitable persons under chapter 13.34 RCW, include the following for each person over eighteen years of age residing in the home:

(a) Child abuse and neglect registries in each state a person has lived in the five years prior to conducting the background check.

(b) Washington state patrol (WSP) and Federal Bureau of Investigation (FBI) fingerprint-based background checks regardless of how long you have resided in Washington.

(5) The division of developmental disabilities requires fingerprint-based background checks (for all long-term care workers as defined in RCW 74.39A.009(16) hired or contracted on or after January 1, 2012)) as described in WAC 388-06-0115. These background checks (must) include a review of conviction records through the Washington state patrol, the Federal Bureau of Investigation, and the national sex offender registry.

AMENDATORY SECTION (Amending WSR 10-16-083, filed 7/30/10, effective 8/30/10)

WAC 388-06-0525 When are individuals eligible for the one hundred twenty-day provisional hire? (1) Individ-

uals are eligible for the one hundred twenty-day provisional hire immediately, except as provided under subsection (2) of this section and WAC 388-06-0540. The signed background check application and fingerprinting process must be completed as required by the applicable DSHS program.

(2) Long-term care workers as defined in chapter 74.39A RCW are eligible for the one hundred twenty-day provisional hire, pending the outcome of the fingerprint-based background check, as long as provisional hiring is allowed by the applicable DSHS program rules and the long-term care worker is not disqualified as a result of the initial name and date of birth background check.

AMENDATORY SECTION (Amending WSR 01-15-019, filed 7/10/01, effective 8/10/01)

WAC 388-06-0540 Are there instances when the one hundred twenty-day provisional hire is not available? The one hundred twenty-day provisional hire is not available to an agency, entity, or hiring individual requesting:

- (1) An initial license;
- (2) An initial contract; ~~((or))~~
- (3) Approval as a family child day care home provider, foster parent or adoptive parent (see 42 U.S.C. Sec 671 (a)(20)); or

(4) Any other individual listed in the assisted living facility or adult family home license application, such as an adult family home entity representative or resident manager, or an assisted living facility administrator.

**WSR 12-18-032
EMERGENCY RULES
DEPARTMENT OF
EARLY LEARNING**

[Filed August 28, 2012, 3:14 p.m., effective August 28, 2012, 3:14 p.m.]

Effective Date of Rule: Immediately.

Purpose: To change language creating work requirements for participants in the Basic Food employment and training (BFET) program to receive working connections child care (WCCC) benefits. The language to be changed has previously unanticipated consequences and the changes are necessary to prevent negative impact to the general welfare of the public. The department will adopt this rule under the regular rule-making process with a subsequent filing.

Citation of Existing Rules Affected by this Order: Amending WAC 170-290-0045.

Statutory Authority for Adoption: 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: It is necessary for the general welfare of the public to change language requiring that participants in the BFET program meet work requirements in order to be eligible for WCCC benefits. The requirement is impos-

sible for certain BFET participants to meet while pursuing their program of education or training, and would therefore reduce access to child care. For other BFET participants, the requirement would limit the amount of time they could commit to their education and training, prolonging their need for BFET assistance and delaying their transition to full-time employment. Immediate adoption of these changes is in the public interest because it will allow current BFET participants to maintain child care and stay on track with their transition to full-time work.

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 1, Repealed 0.

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

Date Adopted: August 28, 2012.

Elizabeth M. Hyde
Director

AMENDATORY SECTION (Amending WSR 12-11-025, filed 5/8/12, effective 6/8/12)

WAC 170-290-0045 Approved activities for consumers not participating in WorkFirst. This section applies to applicants and consumers of WCCC who do not participate in WorkFirst activities:

(1) **General requirements for employment ~~((or)), self-employment, or Basic Food employment and training (BF E&T) program.~~** He or she may be eligible for WCCC benefits for up to a maximum of sixteen hours per day, including travel, study, and sleep time before or after a night shift, when he or she is:

(a) Employed under WAC 170-290-0003; ~~((or))~~

(b) Self-employed under WAC 170-290-0003; or

(c) Participating in the BF E&T program under chapter 388-444 WAC.

(2) **Special requirements for education ~~((and training)).~~**

(a) An applicant or consumer who is under twenty-two years of age may be eligible for WCCC benefits for high school (HS) or general educational development (GED) program without a minimum number of employment hours.

(b) An applicant or consumer who is twenty-two years of age or older:

(i) May be eligible to receive the benefits under this subsection only once during his or her lifetime. In order to qualify for the general education and training benefits under this subsection, he or she must work either:

(A) Twenty or more hours per week of unsubsidized employment; or

(B) Sixteen or more hours per week in a paid federal or state work study program;

(ii) Is limited to up to twenty-four consecutive months of WCCC benefits for participation in:

(A) Adult basic education (ABE);

(B) English as a second language (ESL); or

(C) High school/general educational development (GED) completion; ~~((or~~

~~(D) Food stamp employment and training program under chapter 388-444 WAC;))~~ and

(iii) Is limited to up to thirty-six consecutive months of WCCC benefits for participation in vocational education (Voc Ed). The vocational education program must lead to a degree or certificate in a specific occupation and be offered by the following accredited entities only:

(A) Public and private technical college or school;

(B) Community college; or

(C) Tribal college.

WSR 12-18-035

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 12-195—Filed August 28, 2012, 4:29 p.m., effective August 29, 2012, 12:01 a.m.]

Effective Date of Rule: August 29, 2012, 12:01 a.m.

Purpose: Amend commercial fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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

Reasons for this Finding: The 2012 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) closes SMA 1B and Catch Area 23A-C to spot shrimp fishing, as the quotas have been reached; (2) closes the eastern portion of Catch Area 23A-W and places a lower weekly spot shrimp limit in the remainder of Catch Area 23A-W; and (3) closes Catch Areas 23A-W entirely and 26D the following week. 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: August 28, 2012.

Philip Anderson
Director

NEW SECTION

WAC 220-52-05100S 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) All waters of Shrimp Management Areas (SMA) 1A, 1B, 1C, 2W, 3 and 6 are open to the harvest of all shrimp species, effective immediately 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 SMA 1B, 1C, 2W, and Catch Areas 23A-C, 23A-E, 23A-S, 23B, 23D and 25A are closed to the harvest of spot shrimp.

iii) All waters of SMA 1A are closed, except that those waters of SMA 1A south of line projected at 48°31.5' N latitude are open to the harvest of all species except spot shrimp.

iv) All waters of Catch Area 23A-W east of the W 123° 03' longitude line are closed.

v) Effective 11:59 p.m. September 4, 2012, all waters of Catch Areas 23A-W and 26D are closed.

(b) The shrimp catch accounting week is Wednesday through Tuesday.

(c) Effective immediately until further notice, it is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 600 pounds per week, with the following exception:

i) Effective immediately until 11:59 p.m. September 4, 2012, it is unlawful for the total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 400 pounds per week in Catch Area 23A-W.

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

(e) Only pots with a minimum mesh size of 1 inch may be pulled on calendar days when fishing for or retaining spot shrimp. Mesh size of 1 inch is defined as a mesh opening that a 7/8-inch square peg will pass through, excluding the entrance tunnels, except for flexible (web) mesh pots, where the mesh must be a minimum of 1 3/4-inch stretch measure. Stretch measure is defined as the distance between the inside of one knot to the outside of the opposite vertical knot of one mesh, when the mesh is stretched vertically.

(2) Shrimp beam trawl gear:

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

(b) Those portions of Catch Areas 21A and 22A within SMA 1B are open, effective immediately until further notice.

(c) All waters of Catch Area 20A are open, effective immediately until further notice.

(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 12:01 a.m. August 29, 2012:

WAC 220-52-05100R Puget Sound shrimp beam trawl fishery—Season. (12-188)

WSR 12-18-039

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 12-196—Filed August 29, 2012, 2:37 p.m., effective September 1, 2012]

Effective Date of Rule: September 1, 2012.

Purpose: Amend recreational fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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

Reasons for this Finding: Adult chinook salmon released as juveniles from the net pens just below the Chelan PUD powerhouse are expected to return in sufficient numbers to provide a recreational fishery. The population is not listed under the Endangered Species Act. 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: August 29, 2012.

Philip Anderson
Director

NEW SECTION

WAC 232-28-61900M Exceptions to statewide rules—Lake Chelan. Notwithstanding the provisions of WAC 232-28-619:

(1) Effective September 1 through October 15, 2012, it is permissible to fish for and possess salmon in waters of Lake Chelan Project (powerhouse) tailrace from the railroad bridge to the Chelan PUD safety barrier below the powerhouse. Daily limit of 6 Chinook salmon; up to 3 may be adults, of which only one may be a wild adult. Minimum size 12 inches.

(2) Internal combustion motors prohibited. Night closure and anti-snagging rules are in effect.

(3) All Chinook salmon with a floy (anchor) tag attached and/or with one or more holes (round, approximately 1/4-inch diameter) punched in the caudal (tail) fin must be released.

(4) It is unlawful to fish in waters of the Chelan River upstream from the powerhouse tailrace to Lake Chelan.

(5) It is unlawful to fish in the Chelan Co. PUD Powerhouse Park swimming area.

(6) Fishing along the southwest shoreline (shoreline on the same side of the river as the Chelan Co. PUD Powerhouse Park) is limited to wading only (no fishing from the bank).

REPEALER

The following section of the Washington Administrative Code is repealed effective October 16, 2012:

WAC 232-28-61900M Exceptions to statewide rules—Lake Chelan.

WSR 12-18-051

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 12-189—Filed August 30, 2012, 10:19 a.m., effective September 1, 2012]

Effective Date of Rule: September 1, 2012.

Purpose: Amend recreational fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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

Reasons for this Finding: Since the flushing channel has been constructed, there have been reports of mature coho salmon being caught in Vancouver Lake. This regulation will allow the harvest of hatchery coho and chinook that may be migrating through the lake, providing salmon 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 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: August 30, 2012.

Lisa M. Veneroso
for Philip Anderson
Director

NEW SECTION

WAC 232-28-61900G Exceptions to statewide rules—Vancouver Lake. Notwithstanding the provisions of WAC 232-28-619, effective September 1, 2012, until further notice, it is permissible to fish for salmon in waters of Vancouver Lake, including the flushing channel (inlet) and Lake River (outlet). Daily limit 6 fish, of which no more than 2 may be adult salmon or hatchery steelhead or one of each. Through September 9, only one may be an adult Chinook. Release all salmon other than Chinook and hatchery coho. Salmon minimum size is 12 inches.

WSR 12-18-053

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed August 30, 2012, 12:17 p.m., effective September 1, 2012]

Effective Date of Rule: September 1, 2012.

Purpose: To amend and add specific sections of chapter 388-828 WAC, Division of developmental disabilities (DDD) assessment, rules to be in compliance with the

requirements of SSB 6384 and related federal waivers recently renewed through Centers for Medicare and Medicaid Services (CMS). These changes define the methodology used to determine DDD community access services eligibility and the number of eligible hours each month for community access services.

Citation of Existing Rules Affected by this Order: Amending WAC 388-828-4420.

Statutory Authority for Adoption: RCW 71A.12.030 General authority of secretary—Rule adoption and 34.05.350 (1)(c), emergency rules and amendments.

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; that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule; and that in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 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 passing of SSB 6384 required coordination with CMS to agree on waiver language before we could develop new WAC language. The changes to CARE incorporate the waiver and WAC changes that take us from a dollar limitation to an acuity-based assessment that DDD staff will use to determine eligibility and the amount of services a client is eligible for. These scheduled changes will prevent clients from being incorrectly found not eligible or found eligible but for more services than [than] they qualify.

WAC needs to be adopted by emergency on September 1, 2012, to be in compliance with the date CMS has set for the changes to the waiver to take effect and ensure continued funding. These changes are going through the permanent rule process but will not be completed by September 1, 2012.

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

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

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

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

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

Date Adopted: August 28, 2012.

Katherine I. Vasquez
Rules Coordinator

NEW SECTION

WAC 388-828-4165 How does DDD determine your total raw score for each subscale in the SIS support needs scale? (1) DDD adds the raw scores (WAC 388-828-4160) for each activity assessed in each subscale of the SIS support needs scale to determine your total raw score for that subscale.

(2) The raw score for question number 9 in the home living activities subscale (WAC 388-828-4200) "using currently prescribed equipment or treatment" is not included in the total raw score for the home living activities subscale.

AMENDATORY SECTION (Amending WSR 07-10-029, filed 4/23/07, effective 6/1/07)

WAC 388-828-4420 How does DDD determine your percentile rank and standard score for each subscale in the SIS support needs scale? DDD uses the following table to convert your total raw score for each subscale into a percentile ranking:

If your raw score for the following SIS subscale is:						Then your percentile rank for the SIS subscale is:	<u>And your standard score for the SIS subscale is:</u>
Home Living	Community Living	Lifelong Learning	Employment Support	Health and Safety	Social Activities		
						>99	<u>20</u>
>88	>94					>99	<u>19</u>
87-88	93-94					>99	<u>18</u>
85-86	91-92			>97		99	<u>17</u>
81-84	88-90	>96	>95	92-97	>97	98	<u>16</u>
77-80	84-87	92-96	91-95	86-91	91-97	95	<u>15</u>
73-76	79-83	86-91	85-90	79-85	84-90	91	<u>14</u>
68-72	74-78	79-85	78-84	72-78	76-83	84	<u>13</u>
62-67	69-73	72-78	70-77	65-71	68-75	75	<u>12</u>

If your raw score for the following SIS subscale is:						Then your percentile rank for the SIS subscale is:	<u>And your standard score for the SIS subscale is:</u>
Home Living	Community Living	Lifelong Learning	Employment Support	Health and Safety	Social Activities		
55-61	63-68	64-71	61-69	57-64	58-67	63	<u>11</u>
48-54	56-62	55-63	52-60	49-56	48-57	50	<u>10</u>
40-47	49-55	46-54	42-51	42-48	38-47	37	<u>9</u>
32-39	41-48	36-45	32-41	34-41	28-37	25	<u>8</u>
25-31	33-40	27-35	23-31	27-33	19-27	16	<u>7</u>
18-24	25-32	18-26	15-22	20-26	10-18	9	<u>6</u>
11-17	16-24	9-17	7-14	13-19	3-9	5	<u>5</u>
3-10	6-15	<9	<7	7-12	<3	2	<u>4</u>
<3	<6			1-6		1	<u>3</u>
				<1		<1	<u>2</u>
						<1	<u>1</u>

NEW SECTION

WAC 388-828-4440 How does DDD determine your SIS support needs index percentile ranking? (1) DDD determines your SIS support needs index percentile ranking by adding together the standard scores (WAC 388-828-4420) for the following supports intensity scale assessment subscales:

- (a) Home living activities in WAC 388-828-4200.
- (b) Community living activities in WAC 388-828-4220.
- (c) Lifelong learning activities in WAC 388-828-4240.
- (d) Employment activities in WAC 388-828-4260.
- (e) Health and safety activities in WAC 388-828-4280.
- (f) Social activities in WAC 388-828-4300.

(2) Your standard scores for the above scales are added together to determine the sum of the standard scores.

(3) The supplemental protection and advocacy activities scale, and the exceptional medical and behavioral supports scales are not used in determining your support needs index percentile ranking.

(4) The sum of the standard scores is converted to your support needs index percentile ranking using the following table:

If the sum of the standard scores is:	Your support needs index percentile is:
≥91	>99
90	99
89	99
88	99
87	98
86	98
85	97
84	97
83	96
82	95

If the sum of the standard scores is:	Your support needs index percentile is:
81	95
80	94
79	93
78	92
77	91
76	89
75	87
74	86
73	84
72	82
71	81
70	77
69	75
68	73
67	70
66	68
65	65
64	63
63	58
62	55
61	53
60	50
59	47
58	45
57	39
56	37
55	35
54	32

If the sum of the standard scores is:	Your support needs index percentile is:
53	30
52	27
51	25
50	23
49	19
48	18
47	16
46	14
45	13
44	13
43	9
42	8
41	7
40	6
39	5
38	5
37	4
36	3
35	3
34	2
33	2
32	1
31	1
30	1
≤29	<1

NEW SECTION

WAC 388-828-9300 What is the DDD community access acuity scale? The DDD community access acuity scale is an algorithm DDD uses to determine the number of support hours you may receive when you are approved for community access services.

NEW SECTION

WAC 388-828-9310 How does DDD determine the number of hours you may receive each month for community access services? (1) The number of hours of community access services you may receive each month is based on your community access service level.

(2) DDD determines your community access service level based on your SIS support needs index percentile ranking (WAC 388-828-4440) as detailed in the following table:

If your SIS support needs index percentile ranking according to WAC 388-828-4440 is:	Your community access service level is:	The number of hours you may receive for community access services each month is:
0 - 9th percentile	A	Up to 3 hours
10th - 19th percentile	B	Up to 6 hours
20th - 29th percentile	C	Up to 9 hours
30th - 44th percentile	D	Up to 12 hours
45th - 59th percentile	E	Up to 15 hours
60th - 74th percentile	F	Up to 18 hours
75th - 100th percentile	G	Up to 20 hours

WSR 12-18-054
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Aging and Disability Services Administration)
 [Filed August 30, 2012, 12:18 p.m., effective September 1, 2012]

Effective Date of Rule: September 1, 2012.

Purpose: To add new sections to chapter 388-828 WAC, Division of developmental disabilities assessment, rules to be in compliance with the requirements of SSB 6384 and related federal waivers recently renewed through Centers for Medicare and Medicaid Services (CMS). These changes define the methodology used to determine eligibility for employment support services.

Statutory Authority for Adoption: RCW 71A.12.030 General authority of secretary—Rule adoption and 34.05.350 (1)(c), emergency rules and amendments.

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; that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule; and that in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 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 passing of SSB 6384 required coordination with CMS to agree on waiver language before we could develop new WAC language. This emergency filing adds new language that defines eligibility for employment services.

September 1, 2012, is needed to be in compliance with the date CMS changes to the waiver [are] to take effect and to ensure continued funding. Changes are going through the

permanent rule process, although will not be completed by September 1, 2012.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 8, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 8, Amended 0, Repealed 0.

Date Adopted: August 28, 2012.

Katherine I. Vasquez
Rules Coordinator

DDD EMPLOYMENT ACUITY SCALE

NEW SECTION

WAC 388-828-9325 How does DDD determine the number of hours you may receive for employment support services? DDD determines the number of hours you may receive for employment services using information from the following:

- (1) Your employment support level determined as described in WAC 388-828-9205;
- (2) Your employment status determined as described in WAC 388-828-9330;
- (3) Your employment service level and employment service hours determined as described in WAC 388-828-9335;
- (4) Your employment service type;
- (5) You meet one of the conditions identified as described in WAC 388-828-9345 and require add-on hours identified in WAC 388-828-9350.

NEW SECTION

WAC 388-828-9330 How does DDD determine your employment status? DDD determines your employment status to be:

- (1) **"Working"** when you meet one of the following conditions:
 - (a) In the twelve months prior to your assessment:
 - (i) You have been employed for nine consecutive months; and
 - (ii) You have earned at least minimum wage.
 - (b) You are currently self-employed and meet one of the following:
 - (i) The activities of your employment meet the Internal Revenue Service (IRS) rules for a business;
 - (ii) You have a business plan demonstrating feasibility as determined by the division of vocational rehabilitation or an impartial, agreed upon, third party business expert; or

- (iii) You are licensed, if required, and follow all local, state, and federal regulations and rules.

- (2) **"Not working"** when you do not meet either of the conditions for "working."

NEW SECTION

WAC 388-828-9335 How does DDD determine your employment service level? DDD determines your employment service level using the following table:

If your employment support level in WAC 388-828-9205 is:	And you employment status in WAC 388-828-9330 is:	Then your employment service level is:	And your employment service hours per month are:
None	Working	A	0
	Not Working	B	0
Low	Working	C	4
	Not Working	D	7
Medium	Working	E	7
	Not Working	F	9
High	Working	G	11
	Not Working	H	12

NEW SECTION

WAC 388-828-9340 How does your employment service type affect how your employment service hours are used? Your employment service type determines where and how your service hours are provided.

- (1) Individual supported employment:
 - (a) Your employment services are provided in typical community-based settings;
 - (b) The focus of employment services is on obtaining and/or maintaining integrated employment at or above the state's minimum wage in the general workforce; and
 - (c) Your employment services are not shared with others.
- (2) Group supported employment:
 - (a) Your employment services are provided in typical community-based settings;
 - (b) The focus of employment services is on providing ongoing supervised employment that will lead to greater opportunities for competitive and integrated employment and career advancement at or above minimum wage; and
 - (c) Your employment service provider works with you and others in a group setting.
- (3) Prevocational services:
 - (a) Your employment services are:
 - (i) Provided in specialized or segregated settings for individuals with developmental disabilities; and
 - (ii) Include monthly employment related activities in the community.
 - (b) Service and supports are designed to further habilitation goals that will lead to greater opportunities for competitive and integrated employment and career advancement at or above the state's minimum wage; and
 - (c) Your employment service provider works with you and others in a group setting.

NEW SECTION

WAC 388-828-9345 Can you receive fewer than the number of hours allocated to you in your employment service level? Yes. You may be authorized to receive fewer than the number of hours allocated if one or more of the following factors is detailed on your employment plan:

- (1) You can independently find and maintain employment.
- (2) Your employment is stable and you need few support hours to maintain it.
- (3) You have natural supports from co-workers, family, friends, or others who support you in finding and maintaining a job.
- (4) Your job schedule does not require the full amount of supports allocated to your supported employment service level.
- (5) You choose to receive fewer hours of support than are allocated for your supported employment service level.
- (6) There are other factors in your employment plan which indicate you can find and maintain a job with fewer support hours.

NEW SECTION

WAC 388-828-9350 Are there conditions when DDD will authorize additional hours to your monthly employment service hours? DDD may authorize the use of add-on hours in addition to your monthly employment service hours when your employment support plan identifies a need for additional service hours related to:

- (1) Your work schedule;
- (2) The number of jobs you have;
- (3) The appropriateness of job match;
- (4) Natural supports available to you on the job;
- (5) Health limitations;
- (6) Provider travel time and distance;
- (7) Behavioral or physical needs that may affect the safety of you and others while at work;
- (8) Other factors detailed in your employment plan which indicate a need for add-on hours to help you find or maintain a job.

NEW SECTION

WAC 388-828-9355 How many add-on hours are you eligible to receive? DDD uses the following table to determine the maximum number of add-on hours you are eligible to receive.

If you meet one of the conditions in WAC 388-828-9350 and your employment level is:	You are eligible to receive up to the following amount of add-on hours:
A	0
B	0
C	5
D	7
E	5
F	7

If you meet one of the conditions in WAC 388-828-9350 and your employment level is:	You are eligible to receive up to the following amount of add-on hours:
G	12
H	14

NEW SECTION

WAC 388-828-9360 What are short-term employment supports? (1) Short-term employment supports is a service that allows DDD to approve additional service hours in addition to the amount of your employment service base hours (see WAC 388-828-9335) and add-on hours (see WAC 388-828-9345) when:

- (a) You are beginning a new job;
- (b) There is a planned or unexpected change in your job or job duties;
- (c) Your current employment is at risk and short-term supports are needed to assist you in maintaining your current job; or
- (d) You are stuck on your pathway to employment and need individualized technical assistance.

(2) Short-term employment supports may be authorized for a maximum of three months at a time and may be re-authorized when:

- (a) The circumstances identified in section WAC 388-828-9360(1) continue, evidenced by, receipt of a current employment work plan or review describing the need; and
- (b) Both your employment provider and county recommend continuing the use of short-term employment supports.

WSR 12-18-055

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed August 30, 2012, 12:22 p.m., effective September 1, 2012]

Effective Date of Rule: September 1, 2012.

Purpose: To amend and add new sections to chapter 388-845 WAC, DDD home and community based services waivers, to be in compliance with the requirements of SSB 6384 and related federal waivers recently renewed through Centers for Medicare and Medicaid Services (CMS). These changes add dental services as a waiver service and align this chapter with the changes being made to those in chapter 388-828 WAC for community services.

Citation of Existing Rules Affected by this Order: Amending WAC 388-845-0110, 388-845-0205, 388-845-0210, 388-845-0215, 388-845-0220, 388-845-0225, 388-845-0505, 388-845-0800, 388-845-0820, 388-845-1105, 388-845-1110, 388-845-1150, 388-845-1400, 388-845-1410, 388-845-2110, 388-845-2205, and 388-845-2210.

Statutory Authority for Adoption: RCW 71A.12.030 General authority of secretary—Rule adoption and RCW 34.05.350 (1)(c), emergency rules and amendments.

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; that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule; and that in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 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 passing of SSB 6384 required coordination and timing with CMS to agree on waiver language before we could develop new WAC language. This emergency aligns the language in these changes with those related sections of chapter 388-828 WAC. This emergency filing also adds dental as a waiver service.

WAC needs to be adopted by emergency on September 1, 2012, to be in compliance with CMS changes to the waiver to take effect; to add an additional service, dental, to waiver services; and ensure continued funding. These changes are going through the permanent rule process but will not be completed by September 1, 2012.

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 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: August 28, 2012.

Katherine I. Vasquez
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 12-19 issue of the Register.

WSR 12-18-057
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 12-198—Filed August 30, 2012, 2:33 p.m., effective August 30, 2012, 2:33 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-24-04000N and 220-24-04000P; and amending WAC 220-24-040.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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

Reasons for this Finding: A harvestable quota of salmon is available for the troll fleet. Chinook catch rates have been lower than expected. An increase in the chinook open period limit is needed to ensure the coastal salmon troll fishery meets the season objectives. These rules are adopted at the recommendation of the Pacific Fisheries Management Council, in accordance with preseason fishing plans and the National Marine Fisheries Service from an in-season call. 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: August 30, 2012.

Philip Anderson
Director

NEW SECTION

WAC 220-24-04000P All-citizen commercial salmon troll. Notwithstanding the provisions of WAC 220-24-040, effective immediately until further notice, it is unlawful to fish for salmon with troll gear or to land salmon taken with troll gear into a Washington port except during the seasons provided for in this section:

(1) Salmon Management and Catch Reporting Areas 1, 2, 3, and that portion of Area 4 west of 125°05'00" W longitude and south of 48°23'00" N latitude, open:

August 31 through September 4, 2012;
September 7 through September 11, 2012; and
September 14 through September 17, 2012.

(2) Landing and possession limit of 150 Chinook and 40 coho per boat per each entire open period for the entire catch areas 1, 2, 3 and 4. Release wild coho.

(3) The Cape Flattery and Columbia River Control Zones are closed. Mandatory Yelloweye Rockfish Conservation Area is closed.

(4) Minimum size for Chinook salmon is 28 inches in length. Minimum size for coho salmon is 16 inches in length. No minimum size for pink, sockeye, or chum salmon, except no chum retention north of Cape Alava, Washington, in August and September. It is unlawful to possess wild coho salmon and halibut.

(5) Lawful troll gear is restricted to all legal troll gear with single point, single shank barbless hooks.

(6) Fishers must land and deliver their catch within 24 hours of any closure of a fishery provided for in this section, and vessels fishing or in possession of salmon while fishing north of Leadbetter Point must land and deliver their fish within the area and North of Leadbetter Point. Vessels fishing or in possession of salmon while fishing south of Leadbetter Point must land and deliver their fish within the area and south of Leadbetter Point.

(7) The Cape Flattery Control Zone is defined as the area from Cape Flattery (48°23'00" N latitude) to the northern boundary of the U.S. Exclusive Economic Zone, and the area from Cape Flattery south to Cape Alava, 48°10'00" N latitude, and East of 125°05'00" W longitude.

(8) Columbia Control Zone - This is defined as an area at the Columbia River mouth, bounded on the west by a line running northeast/southwest between the red lighted Buoy #4 (46°13'35" N. Lat., 124°06'50" W. long.) and the green lighted Buoy #7 (46°15'09" N. lat., 124°06'16" W. long.); on the east, by the Buoy #10 line, which bears north/south at 357° true from the south jetty at 46°14'00" N. lat., 124°03'07" W. long, to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°14'48" N. lat., 124°05'20" W. long.), and then along the north jetty to the point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14'03" N. lat., 124°04'05" W. long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

(9) Mandatory Yelloweye Rockfish Conservation Area - This is defined as the area in Washington Marine Catch Area 3 from 48°00.00' N latitude; 125°14.00' W longitude to 48°02.00' N latitude; 125°14.00' W longitude to 48°02.00' N latitude; 125°16.50' W longitude to 48°00.00' N latitude; 125°16.50' W longitude and connecting back to 48°00.00' N latitude; 125°14.00' W longitude.

(10) It is unlawful to fish in Salmon Management and Catch Reporting Areas 1, 2, 3 or 4 with fish on board taken south of Cape Falcon, Oregon; and all fish taken from Salmon Management and Catch Reporting Areas 1, 2, 3, and 4 must be landed before fishing south of Cape Falcon, Oregon.

(11) It is unlawful for wholesale dealers and trollers retailing their fish to fail to report their landing by 10:00 a.m. the day following landing. Ticket information can be telephoned in by calling 1-866-791-1279, or faxing the information to (360) 902-2949, or e-mailing to trollfishtickets@dfw.wa.gov. Report the dealer name, the dealer license number, the purchasing location, the date of purchase, the fish

ticket numbers, the gear used, the catch area, the species, the total number for each species, and the total weight for each species, including halibut.

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 220-24-04000N All-citizen commercial salmon troll. (12-184)

The following section of the Washington Administrative Code is repealed effective September 19, 2012:

WAC 220-24-04000P All-citizen commercial salmon troll.

WSR 12-18-058
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 12-197—Filed August 30, 2012, 2:47 p.m., effective September 1, 2012]

Effective Date of Rule: September 1, 2012.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-62000R; and amending WAC 232-28-620.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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

Reasons for this Finding: Sufficient quota and guidelines remain in ocean areas to allow expanded salmon 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 Mak-

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

Date Adopted: August 30, 2012.

Philip Anderson
Director

NEW SECTION

WAC 232-28-62000S Coastal salmon—Saltwater seasons and daily limits. Notwithstanding the provisions of WAC 232-28-620, effective September 1, 2012, until further notice, it is unlawful to violate the provisions below. Unless otherwise amended, all permanent rules remain in effect:

(1) Catch Record Card Area 1:

(a) Open through September 2 - Daily limit of 2 salmon. Release wild coho.

(b) September 3 through September 30 - Daily limit of 2 salmon.

(c) Closed in the Columbia River Mouth Control Zone 1 during all open periods. See WAC 220-56-195.

(2) Catch Record Card Area 2:

(a) Open September 1 through September 23 - Daily limit of 2 salmon, only one of which may be a coho.

(b) Open through September 23 - Grays Harbor Control Zone, described in WAC 220-56-195(11) - Open concurrent with Area 2 when Area 2 is open for salmon angling. Area 2 rules apply.

(3) Willapa Bay (Catch Record Card Area 2-1):

(a) Open until further notice - Daily limit of six salmon, not more than three of which may be adult salmon. Release chum and wild Chinook. Anglers in possession of a valid two-pole endorsement may use up to two lines while fishing.

(4) Grays Harbor (Catch Record Card Area 2-2 west of the Buoy 13 line):

Immediately through September 23 - Open concurrent with Area 2 when Area 2 is open for salmon angling. Area 2 rules apply.

(5) Grays Harbor (Catch Record Card Area 2-2 east of the Buoy 13 line):

(a) Immediately through September 15 - Closed.

(b) Open September 16 until further notice - Daily limit 3 salmon, of which not more than one may be a Chinook salmon and not more than two may be wild coho salmon. Release chum.

(6) Catch Record Card Area 3: Open until further notice - Daily limit of 2 salmon. Release wild coho.

(7) Catch Record Card Area 4: Open until further notice - Daily limit of 2 salmon. Release chum and wild coho salmon. Release Chinook salmon caught east of the Bonilla-Tatoosh line.

REPEALER

The following section of the Washington Administrative Code is repealed 12:01 a.m. September 1, 2012:

WAC 232-28-62000R Coastal salmon—Saltwater seasons and daily limits. (12-192)

**WSR 12-18-064
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 12-200—Filed August 31, 2012, 2:34 p.m., effective September 3, 2012]

Effective Date of Rule: September 3, 2012.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-52-073.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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

Reasons for this Finding: Harvestable amounts of red and green sea urchins exist in the areas described. By harvest management agreement, the legal size limits for red sea urchins have changed for the 2012-2013 harvest management period from those listed in the permanent sea urchin regulation. Prohibiting all diving from licensed sea urchin harvest vessels within Sea Urchin District 3 when those vessels have red sea urchin on board discourages the taking of red urchins from the district (currently closed to red urchin harvest) and reporting the catch to the adjacent harvest district. Prohibiting transport of urchins from Districts 1 and 2 to other districts will prevent spoiling of product, promote accurate catch accounting, and provide for an orderly fishery. Prohibition of all diving from licensed sea urchin harvest vessels within two days of scheduled openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 31, 2012.

Philip Anderson
Director

NEW SECTION

WAC 220-52-07300A Sea urchins Notwithstanding the provisions of WAC 220-52-073, effective September 3,

2012, until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) Green sea urchins: Sea Urchin Districts 3, 4, 6 and 7 are open Monday through Friday of each week.

(2) Red sea urchins: Sea Urchin Districts 1, 2 and 4, are open Monday through Friday of each week. In Sea Urchin Districts 1, 2 and 4 it is unlawful to harvest red sea urchins smaller than 3.25 inches or larger than 5.0 inches (size is largest test diameter exclusive of spines).

(3) It is unlawful to dive for any purpose from a commercially licensed sea urchin fishing vessel in Sea Urchin District 3 when the vessel has red sea urchins on-board.

(4) Red sea urchins harvested in Sea Urchin Districts 1 and 2 must be landed within Sea Urchin Districts 1 and 2.

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

**WSR 12-18-065
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 12-199—Filed August 31, 2012, 2:36 p.m., effective September 2, 2012, 5:00 a.m.]

Effective Date of Rule: September 2, 2012, 5:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-47-40100H; and amending WAC 220-47-401.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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

Reasons for this Finding: The Pacific Salmon Commission has relinquished control of United States area waters. This emergency rule is necessary to initiate fisheries targeting a harvestable surplus of hatchery coho and hatchery chinook. 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; and 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: August 31, 2012.

Philip Anderson
Director

NEW SECTION

WAC 220-47-40100H Puget Sound all-citizen commercial salmon fishery—Open periods. Notwithstanding the provisions of WAC 220-47-401, it is unlawful to take, fish for, or possess salmon taken with reef net gear for commercial purposes in Puget Sound, except in the following designated Puget Sound Salmon Management and Catch Reporting Areas, during the periods provided for in each area:

Areas 7 and 7A:

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

Hours	Dates
5:00 AM - 9:00 PM daily	9/2 - 9/29

(a) It is unlawful to retain unmarked Chinook, unmarked coho, chum and sockeye.

(b) It is unlawful to retain marked Chinook unless the reef net operator is in immediate possession of a Puget Sound Reef Net Logbook. All retained marked Chinook must be recorded in the log book in accordance with requirements of WAC 220-47-401.

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

(2) "Quick Reporting Fisheries":

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 9:01 p.m. September 29, 2012:

WAC 220-47-40100H Puget Sound all-citizen commercial salmon fishery—Open periods.

**WSR 12-18-081
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Filed September 5, 2012, 11:55 a.m., effective September 5, 2012, 11:55 a.m.]

Effective Date of Rule: Immediately.

Purpose: To file an emergency amendment WAC 392-101-010 Conduct of administrative hearings. This amendment is to clarify the child nutrition programs actually covered under subsection (5) and which C.F.R. correspond to these programs, as well as to add subsection (8).

Citation of Existing Rules Affected by this Order: Amending WAC 392-101-010.

Statutory Authority for Adoption: Chapter 28A.325 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 year 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: To give the office of superintendent of public instruction the authority to send appeals for the national school breakfast program, the school breakfast program, and the special milk program through the office of administrative hearings (OAH). The WAC currently only defines the child and adult food care program and the summer food service program; however, we need all of the appeals of child nutrition program findings to be heard through the OAH.

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 [0], Amended 1, Repealed 0.

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

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

Date Adopted: September 5, 2012.

Randy Dorn
State Superintendent

(3) Equal educational opportunity complaints pursuant to WAC 392-190-075.

(4) Professional certification appeals pursuant to WAC 180-75-030.

(5) National school lunch program, special milk program for children, school breakfast program, summer food service program, and child and adult care food program (~~and summer food service program~~) appeals pursuant to 7 C.F.R. Parts 210, 215, 220, 225 and 226.

(6) Traffic safety education appeals pursuant to WAC 392-153-005 through 392-153-040.

(7) Bus driver authorization appeals pursuant to chapter 392-144 WAC.

(8) Audit resolution appeals of agency management decisions regarding resolution of state and federal audit findings pursuant to chapter 392-115 WAC.

AMENDATORY SECTION (Amending WSR 08-22-035, filed 10/30/08, effective 11/30/08)

WAC 392-101-010 Conduct of administrative hearings. The superintendent of public instruction hereby assigns the following administrative hearings to the office of administrative hearings and hereby delegates to the administrative law judge conducting any such hearing the authority to render the final decision by the superintendent of public instruction:

(1) Nonresident transfer appeals pursuant to WAC 392-137-055(2).

(2) Special education hearings pursuant to WAC 392-171-531.