

**WSR 17-09-003**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 17-68—Filed April 5, 2017, 4:07 p.m., effective April 19, 2017]

Effective Date of Rule: April 19, 2017.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order:  
 Repealing WAC 220-312-05000B; and amending WAC 220-312-050.

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

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

Reasons for this Finding: This emergency rule is necessary to ensure safe and successful youth fishing events. Five thousand trout will be planted three days prior to the event to acclimate them and assure they bite well and provide angling opportunity. On April 22, 2017, preregistered kids will be allowed to fish during the event. 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: April 5, 2017.

Joe Storch  
 for J. W. Unsworth  
 Director

NEW SECTION

**WAC 220-312-05000B Exceptions to statewide rules—Sarg Hubbard Park Pond.** Notwithstanding the provisions of WAC 220-312-050, effective 12:01 a.m. April 19, through 4:00 p.m. April 22, 2017, it is unlawful to fish in Sarg Hubbard Park Pond, except as provided in the sections below:

(1) Open to fishing 8:00 a.m. through 4:00 p.m. April 22, 2017, by registered juvenile anglers participating in the Yakima Greenway Association's "Kids' Fish-In" event.

(2) The daily limit is two trout during the youth fishing event.

REPEALER

The following section of the Washington Administrative Code is repealed effective 4:01 p.m. April 22, 2017:

WAC 220-312-05000B Exceptions to statewide rules—  
 Sarg Hubbard Park Pond.

**WSR 17-09-004**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 17-69—Filed April 5, 2017, 4:08 p.m., effective April 19, 2017]

Effective Date of Rule: April 19, 2017.

Purpose: Amend recreational fishing rules for Columbia Park Pond.

Citation of Existing Rules Affected by this Order:  
 Repealing WAC 220-312-05000C; and amending WAC 220-312-050.

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

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

Reasons for this Finding: This emergency rule is necessary to ensure safe and successful youth fishing events in Columbia Park Pond. Five thousand trout will be planted three days prior to the event to acclimate the fish and assure they bite well providing angling opportunity. During the two events only preregistered kids will be allowed to fish. 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: April 5, 2017.

Joe Storch  
 for J. W. Unsworth  
 Director

NEW SECTION

**WAC 220-312-05000C Exceptions to statewide rules—Columbia Park Pond.** Notwithstanding the provisions of WAC 220-312-050, effective 12:01 a.m. April 19, through 5:00 p.m. April 22, 2017, it is unlawful to fish in Columbia Park Pond (Kennewick), except as provided in the subsections below:

(1) Open to fishing April 21, 2017, by registered juvenile anglers participating in the "Special Needs Youth Fishing Event".

(2) Open to fishing April 22, 2017, by registered juvenile anglers participating in the "Kids' Fishing Day" event.

(3) The daily limit is three trout during the two youth fishing events.

REPEALER

The following section of the Washington Administrative Code is repealed effective 5:01 p.m. April 22, 2017:

WAC 220-312-05000C Exceptions to statewide rules—  
Columbia Park Pond.

**WSR 17-09-010**  
**EMERGENCY RULES**  
**LIQUOR AND CANNABIS**  
**BOARD**

[Filed April 6, 2017, 10:22 a.m., effective April 6, 2017, 10:22 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: New rules are needed to protect consumer safety through ensuring laboratories employ appropriate testing methodologies and achieve accurate testing results for marijuana. The Washington state liquor and cannabis board (WSLCB) also needs rules to suspend or revoke the certification of a laboratory that does not follow rule requirements for testing or for those laboratories that do not consistently achieve accurate testing results. This is a refiling of these emergency rules to maintain requirements until permanent rules take effect.

Statutory Authority for Adoption: RCW 69.50.342 and 69.50.345.

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

Reasons for the Finding: Marijuana and marijuana products sold in WSLCB licensed retail stores are a consumable product and it is important that they are safe for human consumption. These emergency rules relating to accurate testing procedures and results and laboratory accountability are needed to ensure the public health and safety of the citizens of Washington. Permanent rule making is currently underway for these rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 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: April 6, 2017.

Jane Rushford  
Chair

NEW SECTION

**WAC 314-55-1025 Proficiency testing.** (1) For the purposes of this section, the following definitions apply:

(a) "Field of testing" means the categories of subject matter the laboratory tests, such as pesticide, microbial, potency, residual solvent, heavy metal, mycotoxin, foreign matter, and moisture content detection.

(b) "Proficiency testing (PT)" means the analysis of samples by a laboratory obtained from providers where the composition of the sample is unknown to the laboratory performing the analysis and the results of the analysis are used in part to evaluate the laboratory's ability to produce precise and accurate results.

(c) "Proficiency testing (PT) program" means an operation offered by a provider to detect a laboratory's ability to produce valid results for a given field of testing.

(d) "Provider" means a third-party company, organization, or entity not associated with certified laboratories or a laboratory seeking certification that operates an approved PT program and provides samples for use in PT testing.

(e) "Vendor" means an organization(s) approved by the WSLCB to certify laboratories for marijuana testing, approve PT programs, and perform on-site assessments of laboratories.

(2) The WSLCB or its vendor determines the sufficiency of PTs and maintains a list of approved PT programs. Laboratories may request authorization to conduct PT through other PT programs but must obtain approval for the PT program from WSLCB or WSLCB's vendor prior to conducting PT. The WSLCB may add the newly approved PT program to the list of approved PT programs as appropriate.

(3) As a condition of certification, laboratories must participate in PT and achieve a passing score for each field of testing for which the lab will be or is certified.

(4) A laboratory must successfully complete a minimum of one round of PT for each field of testing the lab seeks to be certified for and provide proof of the successful PT results prior to initial certification.

(5)(a) A certified laboratory must participate in a minimum of two rounds of PT per year for each field of testing to maintain its certification.

(b) To maintain certification, the laboratory must achieve a passing score, on an ongoing basis, in a minimum of two out of three successive rounds of PT. At least one of the scores must be from a round of PT that occurs within six months prior to the laboratory's certification renewal date.

(6) If the laboratory fails to achieve a passing score on at least eighty percent of the analytes in any proficiency test, the test is considered a failure. If the PT provider provides a pass/fail on a per analyte basis but not on the overall round of PT the lab participates in, the pass/fail evaluation for each analyte will be used to evaluate whether the lab passed eighty percent of the analytes. If the PT provider does not provide individual acceptance criteria for each analyte, the following criteria will be applied to determine whether the lab achieves a passing score for the round of PT:

(a) +/- 30% recovery from the reference value for residual solvent testing; or

(b) +/- 3 z or 3 standard deviations from the reference value for all other fields of testing.

(7) If a laboratory fails a round of PT or reports a false negative on a micro PT, the laboratory must investigate the root cause of the laboratory's performance and establish a corrective action report for each unsatisfactory analytical result. The corrective action report must be kept and maintained by the laboratory for a period of three years, available for review during an on-site assessment or inspection, and provided to the WSLCB or WSLCB's vendor upon request.

(8) Laboratories are responsible for obtaining PT samples from vendors approved by WSLCB or WSLCB's vendor. Laboratories are responsible for all costs associated with obtaining PT samples and rounds of PT.

(9) The laboratory must manage, analyze and report all PT samples in the same manner as customer samples including, but not limited to, adhering to the same sample tracking, sample preparation, analysis methods, standard operating procedures, calibrations, quality control, and acceptance criteria used in testing customer samples.

(10) The laboratory must authorize the PT provider to release all results used for certification and/or remediation of failed studies to WSLCB or WSLCB's vendor.

(11) The WSLCB may require the laboratory to submit raw data and all photographs of plated materials along with the report of analysis of PT samples. The laboratory must keep and maintain all raw data and all photographs of plated materials from PT for a period of three years.

(12) The WSLCB may waive proficiency tests for certain fields of testing if PT samples or PT programs are not readily available or for other valid reasons as determined by WSLCB.

(13)(a) The WSLCB will suspend a laboratory's certification if the laboratory fails to maintain a passing score on an ongoing basis in two out of three successive PT studies. The WSLCB may reinstate a laboratory's suspended certification if the laboratory successfully analyzes PT samples from a WSLCB or WSLCB's vendor approved PT provider, so long as the supplemental PT studies are performed at least fifteen days apart from the analysis date of one PT study to the analysis date of another PT study.

(b) The WSLCB will suspend a laboratory's certification if the laboratory fails two consecutive rounds of PT. WSLCB

may reinstate a laboratory's suspended certification once the laboratory conducts an investigation, provides the WSLCB a deficiency report identifying the root cause of the failed PT, and successfully analyzes PT samples from a WSLCB or WSLCB's vendor approved PT provider. The supplemental PT studies must be performed at least fifteen days apart from the analysis date of one PT study to the analysis date of another PT study.

(14) If a laboratory fails to remediate and have its certification reinstated under subsection (13)(a) or (b) of this section within six months of the suspension, the laboratory must reapply for certification as if the laboratory was never certified previously.

(15) A laboratory that has its certification suspended or revoked under this section may request an administrative hearing to contest the suspension as provided in chapter 34.05 RCW.

#### NEW SECTION

**WAC 314-55-1035 Laboratory certification—Suspension and revocation.** (1) The board may summarily suspend or revoke the certification of any lab certified under WAC 314-55-0995 for any of the following reasons:

(a) The laboratory owner or science director violates any of the requirements of chapter 314-55 WAC relating to the operations of the laboratory.

(b) The laboratory owner or science director aids, abets, or permits the violation of any provision of chapters 314-55 WAC, 69.50 RCW, 69.51A RCW, or Title 9 or 9A RCW related to the operations of the laboratory, or the laboratory owner or science director permits laboratory staff to do so.

(c) Evidence the certificate holder or owner made false statements in any material regard:

(i) On the application for certification;

(ii) In submissions to the board relating to receiving or maintaining certification; or

(iii) Regarding any testing performed or results provided to WSLCB or the marijuana licensee by the certificate holder or owner pursuant to WAC 314-55-102.

(d) The laboratory owner or science director is convicted of any crime substantially related to the qualifications or duties of that owner and related to the functions of the laboratory, including a conviction for falsifying any report of or that relates to a laboratory analysis. For purposes of this subsection, a "conviction" means a plea or finding of guilt regardless of whether the imposition of sentence is deferred or the penalty is suspended.

(e) The laboratory submits proficiency test sample results generated by another laboratory as its own.

(f) The laboratory staff denies entry to any employee of the WSLCB or WSLCB's vendor during normal business hours for an on-site assessment or inspection, as required by WAC 314-55-0995, 314-55-102, 314-55-1025, or 314-55-103.

(2)(a) The following violations are subject to the penalties as provided in (b) of this subsection:

(i) The laboratory fails to submit an acceptable corrective action report in response to a deficiency report, and fail-

ure to implement corrective action related to any deficiencies found during a laboratory assessment.

(ii) The laboratory fails to report proficiency testing results pursuant to WAC 314-55-1025.

(iii) The laboratory fails to remit certification fees within the time limit established by a certifying authority.

(iv) The laboratory fails to meet recordkeeping requirements as required by chapter 314-55 WAC unless the failure to maintain records is substantial enough to warrant a suspension or revocation under subsection (1) of this section.

(b) The penalties for the violations in (a) of this subsection are as follows:

(i) First violation: Ten-day suspension of the lab's certification or until the lab corrects the violation leading to the suspension, whichever is longer.

(ii) Second violation within a three-year period: Thirty-day suspension of laboratory certification or until the laboratory corrects the violation leading to the suspension, whichever is longer.

(iii) Third violation within a three-year period: Revocation of the lab's certification.

(3) A certified lab may also be subject to a suspension of certification related to proficiency testing requirements under WAC 314-55-1025.

(4) A laboratory that has its certification suspended or revoked under this section may request an administrative hearing to contest the suspension or revocation as provided in chapter 34.05 RCW.

### WSR 17-09-023

#### EMERGENCY RULES

#### DEPARTMENT OF

#### FISH AND WILDLIFE

[Order 17-72—Filed April 11, 2017, 2:06 p.m., effective April 11, 2017, 2:06 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational harvest rules for razor clams.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-330-16000D; and amending WAC 220-330-160.

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

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

Reasons for this Finding: This emergency rule is needed to open razor clam beaches for recreational harvest because survey results show that adequate clams are available for harvest in Razor Clam Area 1, 3, 4 and 5 which will provide for recreational harvest opportunity. Washington department of health has certified clams from these beaches to be safe for human consumption. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: April 11, 2017.

Joe Stohr

for J. W. Unsworth

Director

### NEW SECTION

**WAC 220-330-16000D Razor clams—Areas and seasons.** Notwithstanding the provisions of WAC 220-330-160, it is unlawful to take, dig for or possess razor clams taken for personal use from any beaches in any razor clam area except as provided for in this section:

(1) Effective 12:01 a.m. April 12, 2017 through 11:59 a.m. April 16, 2017 razor clam digging is permissible in Razor Clam Area 1. Digging is permissible from 12:01 a.m. to 11:59 a.m. only.

(2) Effective 12:01 a.m. April 12, 2017 through 11:59 a.m. April 16, 2017 razor clam digging is permissible in Razor Clam Area 3. Digging is permissible from 12:01 a.m. to 11:59 a.m. only.

(3) Effective 12:01 a.m. April 13, 2017 through 11:59 a.m. April 13, 2017 razor clam digging is permissible in Razor Clam Area 4. Digging is permissible from 12:01 a.m. to 11:59 a.m. only.

(4) Effective 12:01 a.m. April 15, 2017 through 11:59 a.m. April 15, 2017 razor clam digging is permissible in Razor Clam Area 4. Digging is permissible from 12:01 a.m. to 11:59 a.m. only.

(5) Effective 12:01 a.m. April 14, 2017 through 11:59 a.m. April 14, 2017 razor clam digging is permissible in Razor Clam Area 5. Digging is permissible from 12:01 a.m. to 11:59 a.m. only.

(6) Effective 12:01 a.m. April 16, 2017 through 11:59 a.m. April 16, 2017 razor clam digging is permissible in Razor Clam Area 5. Digging is permissible from 12:01 a.m. to 11:59 a.m. only.

(7) It is unlawful to dig for razor clams at any time in the Long Beach, Twin Harbors and Copalis Clam sanctuaries defined in WAC 220-320-130.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 p.m. April 16, 2017.

WAC 220-330-16000D Razor clams—Areas and seasons.

(1) Open to juvenile anglers only April 22 through August 19, 2017.

(2) Night closure is in effect.

(3) Daily limit of 2 trout - no size restrictions.

(4) All other game fish, daily limit 5 - no size restrictions.

**WSR 17-09-024**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 17-71—Filed April 11, 2017, 2:08 p.m., effective April 22, 2017]

Effective Date of Rule: April 22, 2017.

Purpose: Amend recreational fishing rules for Frank's Pond.

Citation of Existing Rules Affected by this Order: Amending WAC 220-312-050.

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

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

Reasons for this Finding: This emergency rule is needed to open Frank's Pond in Chelan County to juvenile anglers only. Opening the pond for juvenile anglers will provide an exclusive fishing 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: April 11, 2017.

Joe Stohr  
for J. W. Unsworth  
Director

NEW SECTION

**WAC 220-312-05000E Freshwater exceptions to statewide rules—Eastside.** Notwithstanding the provisions of WAC 220-312-050, it is unlawful to fish in Frank's Pond (Chelan Co.) except as provided in this section:

**WSR 17-09-025**  
**EMERGENCY RULES**  
**DEPARTMENT OF HEALTH**

(Pharmacy Quality Assurance Commission)

[Filed April 12, 2017, 11:20 a.m., effective April 12, 2017, 11:20 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Chapter 246-873A WAC, Hospital pharmacy associated clinics, the commission is establishing standards supporting the regulatory, inspection, and investigation of pharmacy services provided in individual practitioner offices and multi-practitioner clinics owned and operated by a hospital based on a level of risk and the type of pharmacy services provided at a particular location. This filing replaces emergency rules filed as WSR 17-01-144 on December 20, 2016.

Statutory Authority for Adoption: RCW 18.64.005.

Other Authority: SSB 6558, chapter 118, Laws of 2016.

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: SSB 6558 amended RCW 18.64.043 directing the commission to adopt emergency rules to implement the bill and to keep the emergency rules in effect until permanent rules are adopted. The standards have not changed from the previous emergency rule. The commission has filed a preproposal statement of inquiry, WSR 16-16-025, and has initiated stakeholder work on developing proposed 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 10, 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 10, Amended 0, Repealed 0.

Date Adopted: April 12, 2017.

Tim Lynch, PharmD, MS, Chair  
Pharmacy Quality Assurance Commission

## Chapter 246-873A WAC

## HOSPITAL PHARMACY ASSOCIATED CLINICS

NEW SECTION

**WAC 246-873A-010 Definitions.** The definitions in this section apply throughout this chapter, unless the context clearly indicates otherwise:

(1) "Clinic" means a facility that is established primarily to furnish outpatient health care services by an individual or group of practitioners.

(2) "Commission" means the Washington state pharmacy quality assurance commission.

(3) "Compounding" means the preparation or combining of any two or more active ingredients or components into a drug product as the result of a practitioner's prescription drug order or initiative based on the practitioner, patient, and pharmacist relationship in the course of professional practice or for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing. Compounding also includes the preparation of drugs in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns. Compounding does not include mixing, reconstituting or other such acts that are performed in accordance with the directions contained in approved labeling provided by the product's manufacturer.

(4) "Hospital pharmacy associated clinic" or "HPAC" means an individual practitioner's office or multipractitioner clinic owned, operated, or under common control of a parent hospital or health system, where the physical address of the office or clinic is identified on a hospital pharmacy license.

(5) "Parent hospital pharmacy" means a hospital pharmacy licensed under chapter 70.41 RCW, adding hospital pharmacy associated clinics to their hospital pharmacy license in accordance with chapter 18.64 RCW and this chapter.

(6) "Practice of pharmacy" shall have the same meaning as RCW 18.64.011.

(7) "Practitioner" has the same meaning as RCW 18.64.011, and those individuals authorized to possess drugs.

(8) "Prescription" has the same meaning as RCW 18.64.011.

(9) "Responsible manager" has the same meaning as WAC 246-869-070.

(10) "Transfer" means to move drugs from the parent hospital pharmacy to the hospital pharmacy associated clinic.

NEW SECTION

**WAC 246-873A-020 Hospital pharmacy associated clinic—Licensing.** (1) New hospital pharmacy license. A parent hospital pharmacy applying for a new hospital pharmacy license or submitting a change in hospital ownership must:

(a) Submit a full application to the department and identify any HPACs to be included under the hospital pharmacy license, along with the applicable fees established under WAC 246-907-030 and 246-907-040; and

(b) Pass an inspection by a commission pharmacist investigator in accordance with this chapter.

(2) Current hospital pharmacy license holders. The parent hospital pharmacy must notify the commission in writing of any change of HPAC ownership, location of HPACs, and addition or removal of HPACs from the parent hospital pharmacy license.

(a) Adding HPACs. A parent hospital pharmacy may add HPACs on a hospital pharmacy license at any time and must file a hospital pharmacy license addendum with the commission along with applicable fees set forth in WAC 246-907-0302. Added HPACs are subject to inspection in accordance with this chapter.

(b) Removing HPACs. A parent hospital pharmacy removing HPACs from the parent hospital pharmacy license must comply with WAC 246-873A-095.

(3) HPAC locations are identified as follows:

(a) Category 1 HPAC: Receives drugs transferred from the parent hospital pharmacy to the HPAC, and does not perform sterile or nonsterile compounding of drugs. This does not infer that pharmaceutical services are provided at this location.

(b) Category 2 HPAC: Receives drugs transferred from the parent hospital pharmacy to the HPAC, and performs sterile or nonsterile compounding of drugs.

(4) A HPAC licensed under the parent hospital pharmacy license must obtain a Drug Enforcement Administration (DEA) registration for purposes of possessing controlled substances.

NEW SECTION

**WAC 246-873A-030 Responsible manager.** The responsible manager shall comply with the requirements of WAC 246-873-080 (3), (4), (7) and (8).

NEW SECTION

**WAC 246-873A-040 Physical requirements of a HPAC.** Physical requirements must be consistent with the applicable subsections of WAC 246-873-070 according to the HPAC category type.

NEW SECTION

**WAC 246-873A-050 HPAC drug transfer and control.** The following apply to both Category 1 and Category 2 HPACs:

(1) General drug transfer. A licensed hospital pharmacy is permitted without a wholesaler license to engage in intra-company sales, being defined as any transaction or transfer between any division, subsidiary, parent company, affiliated company, or related company under common ownership and control of the corporate entity;

(2) Patient specific drugs. A licensed hospital pharmacy dispensing appropriately labeled, patient specific drugs to a HPAC licensed under the parent hospital pharmacy may do so only pursuant to a valid patient order or prescription and the order or prescription information is authenticated in the medical record of the patient to whom the licensed drug or con-

trolled substance will be provided according to the policy and procedures of the parent hospital pharmacy.

(3) Storage. The parent hospital pharmacy's policy and procedures must specify HPAC drug storage parameters consistent with WAC 246-869-150.

(4) Drug samples. Nothing in this chapter prohibits a practitioner from dispensing drug samples in accordance with state and federal laws and regulations.

(5) Controlled substance accountability. The responsible manager of the parent hospital pharmacy must include accountability standards of controlled substances consistent with WAC 246-873-080(7) in the HPAC policies and procedures.

(6) Drug recall. A recall procedure must be in place to assure that potential harm to patients within a HPAC is prevented and that all drugs included on the recall are returned to the parent hospital pharmacy for proper disposition.

#### NEW SECTION

**WAC 246-873A-060 Labeling.** (1) Labels on medications dispensed to HPAC patients, including drug samples, must meet the requirements of RCW 69.41.050. This does not apply to HPAC administered medications.

(2) Parenteral and irrigation solutions in Category 2 HPACs. When drugs are added to intravenous solutions, a suitable label shall be affixed to the container and at a minimum should include the following:

- (a) The name of the patient;
- (b) Name and amount of drug(s) added;
- (c) Beyond use date; and
- (d) Initials of the personnel who prepared and checked the solution.

#### NEW SECTION

**WAC 246-873A-070 Records.** All transaction and inventory records must be maintained in compliance with applicable sections in chapter 246-875 WAC according to the HPAC category type.

#### NEW SECTION

**WAC 246-873A-080 Administration of drugs.** (1) Drugs administered in a HPAC shall only be administered by Washington state credentialed personnel, acting within their scope of practice, in accordance with state and federal laws and regulations governing such acts.

(2) Drugs must be administered only upon the valid order of a practitioner, as defined in RCW 69.50.101, who is licensed to prescribe legend drugs or controlled substances and who has been granted clinical privileges to write such orders.

(3) All medications administered to HPAC patients must be recorded in the patient's medical record.

#### NEW SECTION

**WAC 246-873A-090 Inspections of HPAC.** The commission shall conduct inspections of HPACs in conjunction with associated hospital pharmacy inspections under WAC

246-869-190 and consistent with WAC 246-869-110. All deficiencies shall be noted on the hospital pharmacy inspection form.

(1) A representative sample of Category 1 HPACs not performing compounding are subject to inspection as determined by the commission investigator. Category 1 HPACs will be inspected to the standards established in this chapter.

(2) All Category 2 HPACs performing on-site sterile or nonsterile compounding will be inspected. Category 2 HPACs will be inspected to standards established in this chapter, RCW 18.64.270, and chapter 246-878 WAC.

#### NEW SECTION

**WAC 246-873A-095 Removal of HPAC from a hospital pharmacy license.** (1) The parent hospital pharmacy shall notify the commission of the removal of a HPAC from the hospital pharmacy license no later than fifteen days prior to the anticipated date of removal or closing of the HPAC. This notice must be submitted in writing and shall contain all of the following information:

(a) The date the HPAC will no longer be listed under the parent hospital pharmacy;

(b) The names and addresses of the person(s) who will have custody of the prescription files, the repackaging records, and the controlled substances inventory records of the HPAC being removed from the parent hospital pharmacy license or closed; and

(c) The names and addresses of any persons who will acquire any of the legend drugs, including controlled substances, from the HPAC.

(2) A written statement containing the following information must be filed with the commission no later than fifteen days after the planned removal of the HPAC:

(a) Confirmation that all legend drugs have been transferred to an authorized person(s) or destroyed. If the legend drugs were transferred, the names and addresses of the person(s), or alternate HPAC location(s) to whom they were transferred;

(b) If controlled substances were transferred, a list of the name(s) and address (or addresses) of the DEA registrant(s) to whom the substances were transferred, the substances transferred, the amount of each substance transferred, and the date on which the transfer took place;

(c) Confirmation that the DEA registration and all unused DEA 222 forms (order forms) were returned to the DEA;

(d) Confirmation that all labels and blank prescriptions in the possession of the HPAC were destroyed or otherwise accounted for; and

(e) Confirmation that all signs and symbols indicating the ownership or affiliation to the parent hospital pharmacy have been removed.

**WSR 17-09-031**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 17-75—Filed April 12, 2017, 3:37 p.m., effective April 12, 2017,  
 3:37 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule will allow nontreaty commercial fishing opportunities in the Columbia River while protecting fish listed as threatened or endangered under the Endangered Species Act (ESA). This rule 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 220-358-03000B; and amending WAC 220-358-030.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047.

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

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

Reasons for this Finding: Adds addition[al] days to the winter season in the Blind Slough Select Area. Impacts to nonlocal stocks are expected to be minimal and local Chinook stocks reared for the select area sites are available for harvest. The fishery is consistent with the *U.S. v. Oregon* Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with compact action of January 31 and April 12, 2017. 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, 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 1.

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: April 12, 2017.

Joe Stohr  
 for J. W. Unsworth  
 Director

### NEW SECTION

**WAC 220-358-03000C Columbia River seasons below Bonneville.** Notwithstanding the provisions of WAC 220-358-030, WAC 220-358-040, and WAC 220-358-050, it is unlawful for a person to take or possess salmon, sturgeon, and shad for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, 1E and Select Areas, except during the times and conditions listed below:

**(1) Deep River Select Area**

(a) **Dates:** Spring Season: Open hours are 7 PM to 7 AM Tuesday and Thursday nights from April 20 through April 28, 2017 and Monday and Thursday nights from May 1 through June 13, 2017.

(b) **Area:** From USCG navigation marker #16 southwest to a marker on the Washington shore, upstream to the Highway 4 Bridge.

(c) **Gear:** Gillnets. Spring season: 9 3/4-inch maximum mesh. Nets are restricted to 100 fathoms in length with no weight restriction on headline. Use of additional weights and/or anchors attached directly to the headline is allowed. Nets cannot be tied off to stationary structures. Nets may not fully cross navigation channel. It is unlawful to operate in any



river, stream or channel any gillnet longer than three-fourths the width of the stream (WAC 220-354-010(1)). It shall be unlawful in any area to use, operate, or carry aboard a commercial fishing vessel a licensed net or combination of such nets, whether fished singly or separately, in excess of the maximum lawful size or length prescribed for a single net in that area, except as otherwise provided for in the rules and regulations of the department (WAC 220-305-010)(17).

(d) **Miscellaneous:** Transportation or possession of fish outside the fishing area (except to the sampling station) is unlawful until WDFW staff has biologically sampled individual catch. After sampling, fishers will be issued a transportation permit by WDFW staff. In the spring season, a sampling station will be established at WDFW's Oneida Road boat ramp, about 0.5 miles upstream of the lower Deep River area boundary (USCG navigation marker #16).

**(2) Tongue Point/South Channel**

(a) **Dates:** Spring Season: Open Thursday night April 20 from 2 PM to 6 PM. Open 7 PM to 7 AM on: Tuesday night April 25 and Thursday night April 27, 2017, then Monday and Thursday nights from May 1 through June 13, 2017.

(b) **Area:** Tongue Point fishing area includes all waters bounded by a line extended from the upstream (southern most) pier (#1) at the Tongue Point Job Corps facility, through navigation marker #6 to Mott Island; a line from a marker at the southeast end of Mott Island, northeasterly to a marker on the northwest tip of Lois Island; and a line from a marker on the southwest end of Lois Island, westerly to a marker on the Oregon shore.

The South Channel area includes all waters bounded by a line from a marker on John Day Point to a marker on the southwest end of Lois Island, upstream to an upper boundary line from a marker on Settler Point, northwesterly to the flashing red USCG marker #10, and northwesterly to a marker on Burnside Island defining the upstream terminus of South Channel.

(c) **Gear:** Gillnets. Spring season: 9 3/4-inch maximum mesh. In the Tongue Point fishing area, gear restricted to a maximum net length of 250 fathoms, and weight not to exceed two pounds on any one fathom. In the South Channel fishing area, gear restricted to a maximum net length of 250 fathoms, no weight restriction on headline, and use of additional weights or anchors attached directly to the headline is allowed.

(d) **Miscellaneous:** Permanent transportation rules in effect.

**(3) Blind Slough/Knappa Slough Select Area**

(a) **Dates:** Winter Season: Blind Slough is open 7 PM to 7 AM on Thursday night April 13 and Monday night April 17, 2017.

Spring Season: Open hours are 7 PM to 7 AM. Open Tuesday and Thursday nights from April 20 through April 28, 2017 and Monday and Thursday nights from May 1 through June 13, 2017.

(b) **Area:** Spring season: Blind Slough and Knappa Slough areas are both open. From May 1, 2017, until further notice, the lower boundary of the Knappa Slough fishing area is extended downstream to boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon Shore (fall season boundary).

(c) **Gear:** Gillnets. Winter season: 7-inch minimum mesh. Spring Season: 9 3/4-inch maximum mesh. Nets are restricted to 100 fathoms in length with no weight restriction on headline. Use of additional weights and/or anchors attached directly to the headline is allowed.

(d) **Miscellaneous:** Permanent transportation rules in effect.

**(4) Allowable Possession:** Salmon and shad

**(5) 24-hour** quick reporting is in effect for Washington buyers (WAC 220-352-180 (14)(d)). Permanent transportation rules in effect.

**(6) Multi-Net Rule:** Nets not specifically authorized for use in these areas may be onboard a vessel if properly stored (WAC 220-358-010(2)).

**(7) Lighted Buoys:** Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

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

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-358-03000B Columbia River seasons below Bonneville. (17-64)

**WSR 17-09-032**

**EMERGENCY RULES**

**DEPARTMENT OF**

**FISH AND WILDLIFE**

[Order 17-74—Filed April 12, 2017, 3:37 p.m., effective April 12, 2017, 3:37 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this rule making is to allow nontreaty recreational 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 220-312-06000C and 220-312-06000D; and amending WAC 220-312-060.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047.

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United*

*States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546); *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River Compact).

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

Reasons for this Finding: Extends the 2017 spring recreational salmon season in the Columbia River in the area from Buoy 10 upstream to Bonneville Dam. The regulation allows for the retention of shad and hatchery steelhead during days and in areas that are open for hatchery Chinook. ESA impacts for wild fish are available to recreational fisheries in order to access hatchery fish. The fishery is consistent with the *U.S. v. Oregon* Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with compact action of February 23 and April 12, 2017.

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, 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. There is insufficient time to promulgate permanent rules.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 1, Amended 0, Repealed 2.

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: April 12, 2017.

Joe Stohr  
for J. W. Unsworth  
Director

### NEW SECTION

**WAC 220-312-06000D Freshwater exceptions to statewide rules—Columbia River.** Notwithstanding the provisions of WAC 220-312-060, it is unlawful to violate the provisions, provided that unless otherwise amended, all permanent rules remain in effect:

(1) Open effective April 13 through April 17 and April 20 through April 23, 2017 in waters of the Columbia River from Buoy 10 upstream to Bonneville Dam:

(a) The hatchery salmonid daily limit is 6 fish of which no more than 2 may be adults and no more than 1 may be a hatchery adult Chinook. Only adipose fin-clipped fish may be retained.

(b) Closed to fishing for salmonids and shad from boats between Beacon Rock and Bonneville Dam (bank fishing only). The legal upstream boat boundary is defined as: "A deadline marker on the Oregon bank (approximately 4 miles downstream from Bonneville Dam Powerhouse One) in a straight line through the western tip of Pierce Island to a deadline marker on the Washington bank at Beacon Rock."

(c) No angling is allowed within the Lewis River sanctuary. This area is defined as: "A line from marker on the lower end of Bachelor Island through USCG buoy Red #4 to the Oregon shore, downstream to a line from the lower (north) end of Sauvie Island across the Columbia River to the downstream range marker (0.7 miles downstream of the Lewis River) and continuing along the wing jetty to the Washington shore."

(2) Effective through May 15, the Columbia River is open for retention of adipose fin-clipped steelhead from Buoy 10 upstream to the Highway 395 Bridge and shad from Buoy 10 upstream to Bonneville Dam during days and areas open for retention of adipose fin-clipped spring Chinook.

(3) Effective immediately through May 5, 2017:

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

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

- (c) Release all wild Chinook and wild steelhead.  
 (d) Salmon minimum size is 12 inches.

Date Adopted: April 13, 2017.

James B. Scott, Jr.  
 for J. W. Unsworth  
 Director

### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-312-06000C Freshwater exceptions to statewide rules—Columbia River. (17-66)

The following section of the Washington Administrative Code is repealed May 16, 2017:

WAC 220-312-06000D Freshwater exceptions to statewide rules—Columbia River.

**WSR 17-09-039**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 17-73—Filed April 13, 2017, 3:25 p.m., effective May 4, 2017]

Effective Date of Rule: May 4, 2017.

Purpose: Amend recreational fishing rules for the halibut fishery.

Citation of Existing Rules Affected by this Order: Amending WAC 220-314-030.

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

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

Reasons for this Finding: This emergency rule is needed to conform to federal action taken by the Pacific Fisheries Management Council, International Pacific Halibut Commission and National Marine Fisheries Service. The recreational halibut quota is sufficient to provide for these seasons. 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.

### NEW SECTION

**WAC 220-314-03000A Halibut—Seasons—Daily and possession limits.** Notwithstanding the provisions of WAC 220-314-030, 220-314-040, and 220-314-010, effective immediately until further notice, it is unlawful to fish for or possess halibut taken for personal use, except as provided in this section:

**(1) Catch Record Card Area 1**

(a) Open May 4, 2017, until further notice, Thursdays through Sundays.

(b) It is unlawful during any vessel trip to bring into port or land bottomfish except sablefish, Pacific Cod, or flat fish species when halibut are on board.

(c) Lingcod can be retained when halibut are on board during the month of May when fishing north of the Washington-Oregon border.

**(2) Catch Record Card Area 1 (Nearshore fishery)**

Those waters shoreward from 46°38.17'N. lat., 124°15.88'W. long., to the WA/OR border at 46°16.00'N. lat., 24°15.88'W. long. (then connecting to the 40 fathom depth contour in Oregon).

(a) Open May 8, 2017, until further notice, Mondays through Wednesdays.

(b) It is permissible to retain bottomfish while possessing halibut onboard boats in the nearshore area.

(3) **Catch Record Card Area 2** - Open May 4, May 6 and May 11, 2017.

**(4) Card Areas 3 and 4**

(a) Open May 4, May 6 and May 11, 2017.

(b) The following area southwest of Cape Flattery is closed to fishing for halibut at all times:

Beginning at 48°18'N., 125°18'W.; thence to 48°18'N., 124°59'W.; thence to 48°11'N., 124°59'W.; thence to 48°11'N., 125°11'W.; thence to 48°04'N., 125°11'W.; thence to 48°04'N., 124°59'W.; thence to 48°N., 124°59'W.; thence to 48°N., 125°18'W.; thence to point of origin.

(c) In Marine Areas 3 and 4 (west of the Bonille-Tatoosh Line) it is unlawful to fish for or possess bottomfish seaward of a line approximating the 20-fathom depth contour except, on days open to the Pacific halibut fishery in these areas, it is permissible to retain lingcod, sablefish and Pacific cod seaward of the 20 fathom depth contour as defined by the following coordinates:

48°23.9'N. lat., 124°44.2'W. long.  
 48°23.6'N. lat., 124°44.9'W. long.  
 48°18.6'N. lat., 124°43.6'W. long.  
 48°18.6'N. lat., 124°48.2'W. long.  
 48°10.0'N. lat., 124°48.8'W. long.  
 48°02.4'N. lat., 124°49.3'W. long.  
 47°37.6'N. lat., 124°34.3'W. long.  
 47°31.7'N. lat., 124°32.4'W. long.

(b) In Marine Area 4 (east of the Bonilla-Tatoosh Line) it is unlawful to fish for or possess bottomfish seaward of a line approximating 120-feet (20 fathoms), except, on days open to the Pacific halibut fishery in this area, it is permissible to retain lingcod, and Pacific cod seaward of the 120 feet (20 fathoms) as defined by WAC 220-314-010.

**(5) Catch Record Card Area 5 through 10**

(a) Open May 4, May 6 and May 11, 2017.

(b) It is permissible for halibut anglers to retain lingcod and Pacific cod caught while fishing for halibut in waters deeper than 120 feet on days when halibut fishing is open in Areas 5 and 6.

(6) **Catch Record Card Areas 11, 12 and 13** - Closed.

(7) Daily limit one halibut, no minimum size limit. The possession limit is two daily limits of halibut in any form, except the possession limit aboard the fishing vessel is one daily limit.

(8) It is unlawful to land halibut in a port within an area closed to halibut fishing.

(9) All other permanent rules remain in effect.

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

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

**WSR 17-09-049  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 17-77—Filed April 17, 2017, 1:29 p.m., effective April 28, 2017]

Effective Date of Rule: April 28, 2017.

Purpose: Amend recreational fishing rules for the Snake River.

Citation of Existing Rules Affected by this Order: Amending WAC 220-312-050.

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

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

Reasons for this Finding: Based on the preseason prediction for a relatively good return of spring Chinook and angler input requesting an emphasis for a longer fishery season, Snake River fisheries in each of these zones are open for only two days per week (with only one weekend day included each week) with a daily bag limit of only one adult hatchery Chinook. The restrictions on the fishery help prolong the duration of the season, ensure sharing of fishing opportunities with upriver fishery zones, and enables managers to ensure that the fisheries comply with Endangered Species Act restrictions and harvest allocations available for the Snake River. 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: April 17, 2017.

J. W. Unsworth  
Director

**NEW SECTION**

**WAC 220-312-05000G Freshwater exceptions to statewide rules—Snake River.** Notwithstanding the provisions of WAC 220-312-050 and WAC 220-313-010:

(1) Effective April 28, 2017, until further notice, a person may fish for and possess salmon in waters of the Snake River from the South Bound Highway 12 Bridge at Pasco upstream about 7 miles to the fishing restriction boundary below Ice Harbor Dam. Open Friday and Saturday each week. Daily limit of six hatchery Chinook, of which not more than one may be an adult Chinook. Minimum size for Chinook is 12 inches in length.

(a) All Chinook with the adipose fin intact, and all steelhead, must be released immediately, unharmed.

(b) Hooks must be barbless when fishing for all species during times and in locations open for salmon fishing and retention, and only single barbless hooks are allowed when fishing for sturgeon.

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

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

(e) For all areas open for Chinook, anglers must cease fishing for Chinook when the adult limit has been retained for the day.

(f) Anglers may possess 1 daily limit in fresh form in addition to the 2 daily limits in fresh form allowed by permanent rule.

(2) Effective April 30, 2017, until further notice, a person may fish for and possess salmon in the following waters of the Snake River from Texas Rapids boat launch (south side of the river approximately 3.5 miles upstream of the mouth of Tucannon River) to the fishing restriction boundary below Little Goose Dam. Minimum size for Chinook is 12 inches in length. This zone includes the area between the juvenile bypass return pipe and Little Goose Dam along the south shoreline of the facility (includes the walkway area locally known as "the wall" in front of the juvenile collection facility). Open Sunday and Monday each week. Daily limit of six

hatchery Chinook, of which not more than one may be an adult Chinook.

(a) All Chinook with the adipose fin intact, and all steelhead, must be released immediately, unharmed.

(b) Hooks must be barbless when fishing for all species during times and in locations open for salmon fishing and retention, and only single barbless hooks are allowed when fishing for sturgeon.

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

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

(e) For all areas open for Chinook, anglers must cease fishing for Chinook when the adult limit has been retained for the day.

(f) Anglers may possess 1 daily limit in fresh form in addition to the 2 daily limits in fresh form allowed by permanent rule.

(3) Effective April 30, 2017, until further notice, a person may fish for and possess salmon in the following waters of the Snake River from the downstream edge of the large power lines crossing the Snake River (just upstream from the West Evans Road on the south shore) upstream about 3.5 miles to the Washington state line (from the east levee of the Greenbelt boat launch in Clarkston northwest across the Snake River to the WA/ID boundary waters marker on the Whitman County shore). Open Sunday and Monday each week. Daily limit of six hatchery Chinook, of which not more than one may be an adult Chinook. Minimum size for Chinook is 12 inches in length.

(a) All Chinook with the adipose fin intact, and all steelhead, must be released immediately, unharmed.

(b) Hooks must be barbless when fishing for all species during times and in locations open for salmon fishing and retention, and only single barbless hooks are allowed when fishing for sturgeon.

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

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

(e) For all areas open for Chinook, anglers must cease fishing for Chinook when the adult limit has been retained for the day.

(f) Anglers may possess 1 daily limit in fresh form in addition to the 2 daily limits in fresh form allowed by permanent rule.

**WSR 17-09-053**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 17-70—Filed April 17, 2017, 2:56 p.m., effective April 22, 2017]

Effective Date of Rule: April 22, 2017.

Purpose: Amend recreational fishing rules for Mill Pond in Pend Oreille County.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-312-05000D; and amending WAC 220-312-050.

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

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

Reasons for this Finding: This emergency rule is needed to remove the daily limit for nonnative fish in Mill Pond because the pond will be removed as a mitigation measure for relicensing of Boundary Dam (Federal Energy Regulatory Commission No. 2144) beginning in summer of 2017. The reservoir fish community is largely composed of nonnative fish. Lifting restrictions will provide enhanced angling opportunity for nonnative fish in Mill Pond prior to dam removal. 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: April 17, 2017.

J. W. Unsworth  
Director

**NEW SECTION**

**WAC 220-312-05000D Freshwater exceptions to statewide rules—Eastside.** Notwithstanding the provisions of WAC 220-312-050, effective April 22 through July 16, 2017, the following rules apply in Mill Pond (Pend Oreille County):

(1) Brook, Brown, Rainbow Trout and Burbot - No minimum size or daily limit.

(2) Other game fish - Statewide minimum size and daily limit.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective July 17, 2017:

WAC 220-312-05000D Freshwater exceptions to statewide rules—Eastside.

**WSR 17-09-054**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 17-76—Filed April 17, 2017, 2:58 p.m., effective April 17, 2017,  
2:58 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules for Curl Lake.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-312-05000F; and amending WAC 220-312-050.

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

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

Reasons for this Finding: Curl Lake has been utilized by the Washington department of fish and wildlife (WDFW) as an acclimation pond for Endangered Species Act (ESA) listed Tucannon River spring Chinook salmon. Beginning in 2016, WDFW will also short-term acclimate ESA listed Tucannon River steelhead after the spring Chinook have been released. The additional time needed to acclimate steelhead will delay the stocking of rainbow trout into this body of water by a couple of weeks. 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: April 17, 2017.

J. W. Unsworth  
Director

**NEW SECTION**

**WAC 220-312-05000F Freshwater exceptions to statewide rules—Eastside.** Notwithstanding the provisions of WAC 220-312-050, effective April 22 through May 14, 2017, it is unlawful to fish in waters of Curl Lake (Columbia Co.)

**REPEALER**

The following section of the Washington Administrative Code is repealed effective May 15, 2017:

WAC 220-312-05000F Freshwater exceptions to statewide rules.

**WSR 17-09-057**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 17-80—Filed April 17, 2017, 4:17 p.m., effective April 28, 2017]

Effective Date of Rule: April 28, 2017.

Purpose: Amend recreational fishing rules for the Yakima River.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-312-05000H; and amending WAC 220-312-050.

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

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

Reasons for this Finding: Yakama Nation and Washington department of fish and wildlife fishery managers are forecasting a harvestable return of two thousand seven hundred sixty adult hatchery spring Chinook to the Yakima River in 2017. Opening the two sections of the Yakima River for spring Chinook salmon will provide additional fishing 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: April 17, 2017.

J. W. Unsworth  
Director

NEW SECTION

**WAC 220-312-05000H Exceptions to statewide rules—Yakima River.** Notwithstanding the provisions of WAC 220-312-050:

(1) Effective April 28 through June 15, 2017, a person may fish for salmon in waters of the Yakima River from:

(a) The Hwy. 240 bridge in Richland (river mile 2.1) to the Grant Avenue Bridge in Prosser (river mile 47.0), about 1,000 feet downstream of Prosser Dam.

(b) The Wine Country Rd. Bridge in Prosser (river mile 47.3), about 1,300 feet upstream of Prosser Dam, to the State Route 241 (Sunnyside - Mabton Hwy.) Bridge (river mile 59.8).

(2) Daily limit of two hatchery Chinook, minimum size 12 inches in length. Terminal gear restricted to two, single (point), barbless hooks with a hook gap from point to shank of 3/4 inch or less when fishing for salmon. Use of bait is allowed.

(3) In Area 1.a., for the duration of this salmon fishery, the Yakima River is closed to all fishing within 400 feet upstream and 400 feet downstream of the U.S. Bureau of Reclamation Chandler Powerhouse/Pumping Station (river mile 35.8).

(4) The Columbia River Salmon/Steelhead Endorsement is required to participate in this fishery (except for Free Fishing Weekend, June 10-11), in addition to a freshwater fishing license.

(5) In all areas open to salmon fishing, the use of two (2) fishing poles is permitted during the salmon fishery provided the participating angler has purchased a "Two-Pole Endorsement" (in addition to the freshwater fishing license/Catch Record Card and Columbia River salmon/steelhead endorsement).

REPEALER

The following section of the Washington Administrative Code is repealed effective June 16, 2017:

WAC 220-312-05000H Exceptions to statewide rules—  
Yakima River.

**WSR 17-09-072**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 17-79—Filed April 18, 2017, 3:02 p.m., effective April 18, 2017,  
3:02 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules for Puget Sound.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-313-06000A; and amending WAC 220-313-060.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: This emergency rule is needed to close recreational salmon fishing in Marine Area 7 because preliminary estimates and fishery projections indicate that Marnie [Marine] Area 7 will exceed the allowable limit of total Chinook encounters including both retained and released fish prior to the planned April 30, 2017, closure date. The fishery is being closed to control impacts on stocks of concern and ensure compliance with conservation objectives.

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: April 18, 2017.

J. W. Unsworth  
Director

NEW SECTION

**WAC 220-313-06000B Puget Sound salmon—Saltwater seasons and daily limits.** Notwithstanding the provisions of WAC 220-313-060, it is unlawful to violate the provisions below. Unless otherwise amended, all permanent rules remain in effect.

(1) **Marine Area 7:** Daily limit of 2 salmon, no more than 1 Chinook. Release coho and wild Chinook. Closed April 22 through April 30.

(2) **Marine Areas 8-1 and 8-2:** Effective immediately through April 30, daily limit of 2 salmon, no more than 1 Chinook. Release coho and wild Chinook.

(3) **Marine Area 13:** Effective immediately until further notice, it is permissible to retain hatchery coho salmon as part of the daily limit.

REPEALER

The following section of the Washington Administrative Code repealed:

WAC 220-313-06000A Puget Sound salmon—Saltwater seasons and daily limits. (17-60)

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

**WSR 17-09-095**  
**EMERGENCY RULES**  
**LIQUOR AND CANNABIS**  
**BOARD**

[Filed April 19, 2017, 11:18 a.m., effective April 19, 2017, 11:18 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: New rules are needed to create action levels for pesticide residue for marijuana and marijuana products. This emergency rule continues pesticide action levels as previously adopted by emergency rule until permanent rules on this subject can take effect.

Statutory Authority for Adoption: RCW 69.50.342 and 69.50.345.

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

Reasons for this Finding: Marijuana and marijuana products sold in the Washington state liquor and cannabis board (WSLCB) licensed retail stores are a consumable product and it is important that they are safe for human consumption. Action levels for disallowed pesticides are needed to establish a point at which a marijuana sample fails quality assurance testing and may be subject to destruction or a recall. Pesticide action levels are standard in the food industry and other products meant for human consumption.

Currently, in permanent rules, there is a default zero tolerance action level for pesticides not allowed for use in marijuana production. This level is not workable or supported by science as many of the chemicals in pesticides are found in the natural environment and laboratories cannot test down to zero levels. Without action levels, there are risks to marijuana licensees solubility should pesticides be identified even at extremely low levels, which would make those products potentially subject to destruction or recall.

Action levels for disallowed pesticides does not negate prohibitions against the use of such pesticides. Action levels do, however, account for the instance in which a producer has not used the disallowed pesticide, such as cross-contamination or residual pesticides from former farms on the land. Conversely, even if the producer does not use a disallowed pesticide on marijuana that later tests to have higher levels than the action levels established in this emergency rule, consumer safety will be protected in ensuring that product will not enter the marketplace. Additionally, with medical marijuana being folded into the regulated retail market, action levels are necessary since pesticide testing will be required for medical marijuana. WSLCB is considering mandatory testing of pesticides on recreational marijuana as well, however action levels are still necessary for random testing of marijuana and investigations into whether disallowed pesticides

were used in marijuana production or marijuana should be recalled to avoid risks to consumers.

In the event that product is tested at levels higher than the action levels for disallowed pesticides, the lot from which the sample was derived from will fail quality assurance testing or be subject to a recall. WSLCB has previously adopted procedures for a recall of marijuana where the product will be identified and removed from the marketplace.

This emergency rule is needed to ensure the public health, and safety of the citizens of Washington and the protection of licensees. WSLCB researched other jurisdictions' regulations and consulted with the Washington state department of agriculture, department of ecology, and department of health as well as laboratories and marijuana licensees in developing this emergency rule. The action levels established in this emergency rule are based on the action levels adopted by Oregon and supported by a technical paper from the Oregon Health Authority. Permanent rule making is underway and WSLCB will continue to work on this issue to consider whether changes will be needed in permanent rule making.

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: April 19, 2017.

Jane Rushford  
Chair

**NEW SECTION**

**WAC 314-55-108 Pesticide action levels.** (1) Only pesticides allowed under WAC 314-55-084 may be used in the production of marijuana, and they must be registered by the Washington state department of agriculture (WSDA) under chapter 15.58 RCW.

(2) Pursuant to WAC 314-55-102, if the WSLCB, WSDA, other designee of the WSLCB, or certified lab identifies a pesticide that is not allowed under subsection (1) of this section and is above the action levels provided in subsection (3) of this section, that lot or batch from which the sample was deducted has failed quality assurance testing and may be subject to a recall as provided in WAC 314-55-225.

(3) The action levels for pesticides are provided in the table below. The action level for all other pesticides that are not listed in the table below or not allowed under subsection (1) of this section is 0.1 ppm.



Analyte	Chemical Abstract Services (CAS) Registry Number	Action Level ppm
Abamectin	71751-41-2	0.5
Acephate	30560-19-1	0.4
Acequinocyl	57960-19-7	2
Acetamiprid	135410-20-7	0.2
Aldicarb	116-06-3	0.4
Azoxystrobin	131860-33-8	0.2
Bifenazate	149877-41-8	0.2
Bifenthrin	82657-04-3	0.2
Boscalid	188425-85-6	0.4
Carbaryl	63-25-2	0.2
Carbofuran	1563-66-2	0.2
Chlorantraniliprole	500008-45-7	0.2
Chlorfenapyr	122453-73-0	1
Chlorpyrifos	2921-88-2	0.2
Clofentezine	74115-24-5	0.2
Cyfluthrin	68359-37-5	1
Cypermethrin	52315-07-8	1
Daminozide	1596-84-5	1
DDVP (Dichlorvos)	62-73-7	0.1
Diazinon	333-41-5	0.2
Dimethoate	60-51-5	0.2
Ethoprophos	13194-48-4	0.2
Etofenprox	80844-07-1	0.4
Etoazole	153233-91-1	0.2
Fenoxycarb	72490-01-8	0.2
Fenpyroximate	134098-61-6	0.4
Fipronil	120068-37-3	0.4
Flonicamid	158062-67-0	1
Fludioxonil	131341-86-1	0.4
Hexythiazox	78587-05-0	1
Imazalil	35554-44-0	0.2
Imidacloprid	138261-41-3	0.4
Kresoxim-methyl	143390-89-0	0.4
Malathion	121-75-5	0.2
Metalaxyl	57837-19-1	0.2
Methiocarb	2032-65-7	0.2
Methomyl	16752-77-5	0.4
Methyl parathion	298-00-0	0.2
MGK-264	113-48-4	0.2
Myclobutanil	88671-89-0	0.2
Naled	300-76-5	0.5

Analyte	Chemical Abstract Services (CAS) Registry Number	Action Level ppm
Oxamyl	23135-22-0	1
Paclobutrazol	76738-62-0	0.4
Permethrins <sup>a</sup>	52645-53-1	0.2
Phosmet	732-11-6	0.2
Piperonyl butoxide <sup>b</sup>	51-03-6	2
Prallethrin	23031-36-9	0.2
Propiconazole	60207-90-1	0.4
Propoxur	114-26-1	0.2
Pyrethrins <sup>bc</sup>	8003-34-7	1
Pyridaben	96489-71-3	0.2
Spinosad	168316-95-8	0.2
Spiromesifen	283594-90-1	0.2
Spirotetramat	203313-25-1	0.2
Spiroxamine	118134-30-8	0.4
Tebuconazole	80443-41-0	0.4
Thiacloprid	111988-49-9	0.2
Thiamethoxam	153719-23-4	0.2
Trifloxystrobin	141517-21-7	0.2

<sup>a</sup>Permethrins should be measured as cumulative residue of cis- and trans-permethrin isomers (CAS numbers 54774-45-7 and 51877-74-8 respectively).

<sup>b</sup>Action level applies to marijuana concentrates, marijuana extracts, intermediate products, and imported cannabinoids.

<sup>c</sup>Pyrethrins should be measured as the cumulative residues of pyrethrin 1, cinerin 1, and jasmolin 1 (CAS numbers 121-21-1, 25402-06-6, and 4466-1-2 respectively).

(4) Except as otherwise provided in this section, licensed marijuana producer or processor that provided a sample that fails quality assurance testing must dispose of the entire lot or batch from which the sample was taken as provided by marijuana waste disposal requirements in WAC 314-55-097 and document the disposal of the sample pursuant to traceability requirements in WAC 314-55-083(4) and recordkeeping requirements in WAC 314-55-087. A licensee's sample that does not test above the pesticide action levels under this section where test results show the presence of a pesticide that is not allowed under subsection (1) of this section may still be subject to an administrative violation if the disallowed pesticide was applied.

(5) Except as otherwise provided in this section, a licensed marijuana producer or processor which provided a sample that fails quality assurance testing must dispose of the entire lot or batch from which the sample was taken as provided by marijuana waste disposal requirements in WAC 314-55-097 and document the disposal of the sample pursuant to traceability requirements in WAC 314-55-083(4) and recordkeeping requirements in WAC 314-55-087.

(6) Pursuant to WAC 314-55-102, at the request of the producer or processor, the WSLCB may authorize a retest to validate a failed test result on a case-by-case basis. All costs of the retest will be borne by the producer or the processor requesting the retest.

(7) Producers and processors may remediate failed harvests, lots, or batches so long as the remediation method does not impart any toxic or deleterious substance to the usable marijuana, marijuana concentrates, or marijuana-infused product. Remediation solvents or methods used on the marijuana product must be disclosed to a licensed retailer or consumer upon request. The entire harvest, lot, or batch the failed sample(s) were deducted from must be remediated using the same remediation technique. No remediated harvest, lots or batches may be sold or transported until the completion and successful passage of quality assurance testing as required in this section and WAC 314-55-102.

(8) Pursuant to WAC 314-55-102, upon request a marijuana licensee must disclose and make available all quality assurance tests and retest results for the lot or batch of usable marijuana, marijuana concentrates, or marijuana-infused products to the marijuana licensee or retail customer who is considering purchasing the usable marijuana, marijuana concentrates, or marijuana-infused products.

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