

**WSR 14-08-004**  
**EMERGENCY RULES**  
**HEALTH CARE AUTHORITY**  
(Washington Apple Health)

[Filed March 20, 2014, 9:09 a.m., effective March 20, 2014, 9:09 a.m.]

Effective Date of Rule: Immediately upon filing.

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

Statutory Authority for Adoption: RCW 41.05.021.

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

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

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

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Date Adopted: March 20, 2014.

Kevin M. Sullivan  
Rules Coordinator

**NEW SECTION**

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

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

(3) We will treat the fifth day after the date on the notice as the date you received the notice; however, if you show that you received the notice more than five days after the date on the notice, we will use the actual date you received the notice for counting the ten day appeal period for the purpose of providing continued coverage. If the tenth day falls on a weekend or holiday, you have until the next business day to appeal and still be able to receive continued coverage.

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

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

(b) You:

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

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

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

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

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

**WSR 14-08-011**  
**EMERGENCY RULES**  
**BUILDING CODE COUNCIL**

[Filed March 20, 2014, 1:49 p.m., effective March 20, 2014, 1:49 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amendment of chapter 51-11R WAC, 2012 Washington State Energy Code (Residential), Section R403: Changing insulation requirements for hot water piping.

Citation of Existing Rules Affected by this Order: Amend WAC 51-11R-40340.

Statutory Authority for Adoption: RCW 19.27A.025, 19.27A.045.

Other Authority: RCW 19.27.074.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of

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

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

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

The council determined that state amendments to three sections of the 2012 International Energy Conservation Code (Residential) regarding insulation of hot water piping within residential structures causes potential economic hardship on homeowners and builders. The economic and energy model used to establish the initial cost-benefit analysis and savings potential did not specifically look at the increases in insulation levels based on the assumptions that the levels were equivalent to those previously found in the 2009 Washington State Energy Code. However, there were exceptions provided in the previous code not found in the 2012 code. It was also determined that the availability of the required insulation from manufacturers and suppliers was limited.

In Section R403.4.2, Hot water piping insulation, it was determined not cost effective and could compromise the structural integrity of the building. The emergency rule replaces the require[d] R-4 insulation with R-3 insulation for hot water piping.

This is a continuation of the emergency rule filed under WSR 13-23-095. The council is currently in the process of adopting a permanent rule as a part of the 2014 rule-making agenda.

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 1, 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: March 7, 2014.

C. Ray Allshouse  
Council Chair

**AMENDATORY SECTION** (Amending WSR 13-20-121, filed 10/1/13, effective 11/1/13)

**WAC 51-11R-40340 Section R403.4—Service hot water systems.**

**R403.4 Service hot water systems.** Energy conservation measures for service hot water systems shall be in accordance with Sections R403.4.1 through R403.4.3.

**R403.4.1 Circulating hot water systems (Mandatory).** Circulating hot water systems shall be provided with an automatic or *readily accessible* manual switch that can turn off the hot water circulating pump when the system is not in use.

**R403.4.2 Hot water pipe insulation (Prescriptive).** Insulation for hot water pipe shall have a minimum thermal resistance (*R*-value) of ~~((R-4))~~ R-3.

**R403.4.3 Electric water heater insulation.** All electric water heaters in unheated spaces or on concrete floors shall be placed on an incompressible, insulated surface with a minimum thermal resistance of R-10.

**WSR 14-08-012**  
**EMERGENCY RULES**  
**BUILDING CODE COUNCIL**

[Filed March 20, 2014, 1:52 p.m., effective March 20, 2014, 1:52 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amendment of chapter 51-50 WAC, 2012 International Building Code, Section 1203; and chapter 51-51 WAC, International Residential Code, Section R408: Include requirements for black, six mil polyethylene ground cover in crawlspaces. This requirement was previously located in the 2009 Washington State Energy Code but not in the reformatted 2012 Energy Code.

Citation of Existing Rules Affected by this Order: Amending WAC 51-50-1203 and 51-51-0408.

Statutory Authority for Adoption: RCW 19.27.031, 19.27.074.

Other Authority: Chapters 19.27 and 34.05 RCW.

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

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

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

Requirements for a Class 1 Vapor Retarder installed on the exposed earth in crawl spaces have been in every edition of the Washington State Energy Code since 1980. When transitioning from the 2009 Energy Code to the adoption and amendment of the 2012 International Energy Conservation Code, crawl space vapor retarder requirements were not incorporated because it was believed the requirement was

contained within the 2012 International Building Code and International Residential Code. However, these codes allow the elimination of the ground cover with a minimum ventilation rate of one square foot for every three hundred square feet of floor area.

The council believes the elimination of the crawl space vapor retarder will have an adverse effect on housing durability, indoor air quality and mold problems in new houses in Washington. Without the ground cover, stack effect can draw moisture vapor from the crawl space through the house to condense on the cool underside of roof sheathing. This causes mold and potential rot problems.

The council concluded that it is in the best interest of the general welfare of the state of Washington to reinstate the requirement for a six mil black polyethylene ground cover in crawl spaces to minimize stack effect and related moisture problems.

This is a continuation of the emergency rule filed under WSR 13-23-097. The council is currently in the process of adopting a permanent rule as part of the 2014 rule-making agenda.

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 2, 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: March 7, 2014.

C. Ray Allshouse  
Council Chair

**AMENDATORY SECTION** (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-1203 Section 1203—Ventilation.**

**1203.1 General.** Buildings shall be provided with natural ventilation in accordance with Section 1203.4, or mechanical ventilation in accordance with the *International Mechanical Code*.

**1203.2 Attic spaces.** Enclosed *attics* and enclosed rafter spaces formed where ceilings are applied directly to the underside of roof framing members shall have cross ventilation for each separate space by ventilation openings protected against the entrance of rain and snow. Blocking and bridging shall be arranged so as not to interfere with the movement of air. An airspace of not less than 1 inch (25 mm) shall be provided between the insulation and the roof sheathing. The net free ventilating area shall not be less than 1/150th of the area of the space ventilated.

- EXCEPTIONS:
1. The net free cross-ventilation area shall be permitted to be reduced to 1/300 provided not less than 50 percent and not more than 80 percent of the required ventilating area provided by ventilators located in the upper portion of the space to be ventilated at least 3 feet (914 mm) above eave or cornice vents with the balance of the required *ventilation* provided by eave or cornice vents.
  2. The net free cross-ventilation area shall be permitted to be reduced to 1/300 where a Class I or II vapor retarder is installed on the warm-in-winter side of the ceiling.
  3. *Attic* ventilation shall not be required when determined not necessary by the *building official* due to atmospheric or climatic conditions.
  4. Unvented attic assemblies (spaces between the ceiling joists of the top story and the roof rafters) shall be permitted if all the following conditions are met:
    - 4.1 The unvented attic space is completely contained within the building thermal envelope.
    - 4.2 No interior vapor retarders are installed on the ceiling side (attic floor) of the unvented attic assembly.
    - 4.3 Where wood shingles or shakes are used, a minimum 1/4 inch (6 mm) vented air space separates the shingles or shakes and the roofing underlayment above the structural sheathing.
    - 4.4 In Climate Zones 5B and 6B, any air-impermeable insulation shall be a Class II vapor retarder, or shall have a Class II vapor retarder coating or covering in direct contact with the underside of the insulation.
    - 4.5 Either items a, b, or c below shall be met, depending on the air permeability of the insulation directly under the structural roof sheathing.
      - a. Air-impermeable insulation only. Insulation shall be applied in direct contact to the underside of the structural roof sheathing.
      - b. Air-permeable insulation only. In addition to the air-permeable insulation installed directly below the structural sheathing, rigid board or sheet insulation shall be installed directly above the structural roof sheathing as specified in Table 1203.2.1 for condensation control.
      - c. Air-impermeable and air-permeable insulation. The air-impermeable insulation shall be applied in direct contact to the underside of the structural roof sheathing as specified in Table 1203.2.1 for condensation control. The air-permeable insulation shall be installed directly under the air-impermeable insulation.
        - i. Climate Zone #1 - R-10 minimum rigid board or air-impermeable insulation R-value.
        - ii. Climate Zone #2 - R-25 minimum rigid board or air-impermeable insulation R-value.
      - d. Where preformed insulation board is used as the air-impermeable insulation layer, it shall be sealed at the perimeter of each individual sheet interior surface to form a continuous layer.

**Table 1203.2.1  
Insulation for Condensation Control**

CLIMATE ZONE	MINIMUM RIGID BOARD ON AIR-IMPERMEABLE INSULATION R-VALUE <sup>a</sup>
4C	R-15
5B	R-20
6B	R-25

<sup>a</sup> Contributes to but does not (~~supersede~~) supersede the requirements for insulation in the Washington State Energy Code ((WAC)) chapter 51-11 WAC).

**1203.3 Under-floor ventilation.** The space between the bottom of the floor joists and the earth under any building except spaces occupied by basements or cellars shall be provided with ventilation openings through foundation walls or exterior walls. Such openings shall be placed so as to provide cross ventilation of the under-floor space. A ground cover of six mil (0.006 inch thick) black polyethylene or approved equal shall be laid over the ground within crawl spaces. The ground cover shall be overlapped six inches minimum at the joints and shall extend to the foundation wall.

EXCEPTION: The ground cover may be omitted in crawl spaces if the crawl space has a concrete slab floor with a minimum thickness of two inches.

**1203.4 Natural ventilation.** For other than Group R Occupancies, natural ventilation of an occupied space shall be through windows, doors, louvers or other openings to the outdoors. The operating mechanism for such openings shall be provided with ready access so that the openings are readily controllable by the building occupants. Group R Occupancies shall comply with the *International Mechanical Code*.

**1203.6 Radon resistive construction standards.** The criteria of this section establishes minimum radon resistive construction requirements for Group R Occupancies.

**1203.6.1 Application.** The requirements of Section 1203.6 shall be adopted and enforced by all jurisdictions of the state according to the following subsections.

**1203.6.1.1** All jurisdictions of the state shall comply with Section 1203.6.2.

**1203.6.1.2** Clark, Ferry, Okanogan, Pend Oreille, Skamania, Spokane, and Stevens counties shall also comply with Section 1203.6.3.

**1203.6.2 State wide radon requirements.**

**1203.6.2.1 Crawlspace.** All crawlspaces shall comply with the requirements of this section.

**1203.6.2.2 Ventilation.** All crawlspaces shall be ventilated as specified in Section 1203.3.

If the installed ventilation in a crawlspace is less than one square foot for each 300 square feet of crawlspace area, or if the crawlspace vents are equipped with operable louvers, a radon vent shall be installed to originate from a point between the ground cover and soil. The radon vent shall be installed in accordance with Sections 1203.6.3.2.6 and 1203.6.3.2.7.

**1203.6.2.3 Crawlspace plenum systems.** In crawlspace plenum systems used for providing supply air for an HVAC system, aggregate, a permanently sealed soil gas retarder membrane and a radon vent pipe shall be installed in accordance with Section 1203.6.3.2. Crawlspace shall not be used for return air plenums.

In addition, an operable radon vent fan shall be installed and activated. The fan shall be located as specified in Section 1203.6.3.2.7. The fan shall be capable of providing at least

100 cfm at 1-inch water column static pressure. The fan shall be controlled by a readily accessible manual switch. The switch shall be labeled "RADON VENT FAN."

**1203.6.3 Radon prescriptive requirements.**

**1203.6.3.1 Scope.** This section applies to those counties specified in Section 1203.6.1.2. This section establishes prescriptive construction requirements for reducing the potential for radon entry into all Group R Occupancies, and for preparing the building for future mitigation if desired.

In all crawlspaces, except crawlspace plenums used for providing supply air for an HVAC system, a continuous air barrier shall be installed between the crawlspace area and the occupied area to limit air transport between the areas. If a wood sheet subfloor or other material is utilized as an air barrier, in addition to the requirements of Section 502.1.6.2 of the Washington State Energy Code, all joints between sheets shall be sealed.

**1203.6.3.2 Floors in contact with the earth.**

**1203.6.3.2.1 General.** Concrete slabs that are in direct contact with the building envelope shall comply with the requirements of this section.

EXCEPTION: Concrete slabs located under garages or other than Group R Occupancies need not comply with this chapter.

**1203.6.3.2.2 Aggregate.** A layer of aggregate of 4-inch minimum thickness shall be placed beneath concrete slabs. The aggregate shall be continuous to the extent practical.

**1203.6.3.2.3 Gradation.** Aggregate shall:

1. Comply with ASTM Standard C-33 Standard Specification for Concrete Aggregate and shall be size No. 8 or larger size aggregate as listed in Table 2, Grading Requirements for Course Aggregate; or

2. Meet the 1988 Washington State Department of Transportation Specification 9-03.1 (3) "Coarse Aggregate for Portland Cement Concrete," or any equivalent successor standards. Aggregate size shall be of Grade 8 or larger as listed in Section 9-03.1 (3) C, "Grading"; or

3. Be screened, washed pea gravel free of deleterious substances in a manner consistent with ASTM Standard C-33 with 100 percent passing a 1/2-inch sieve and less than 5 percent passing a No. 16 sieve. Sieve characteristics shall conform to those acceptable under ASTM Standard C-33.

EXCEPTION: Aggregate shall not be required if a substitute material or system, with sufficient load bearing characteristics, and having approved capability to provide equal or superior air flow, is installed.

**1203.6.3.2.4 Soil-gas retarder membrane.** A soil-gas retarder membrane, consisting of at least one layer of virgin polyethylene with a thickness of at least 6 mil, or equivalent flexible sheet material, shall be either placed directly under all concrete slabs so that the slab is in direct contact with the membrane, or on top of the aggregate with 2 inches minimum of fine sand or pea gravel installed between the concrete slab and membrane. The flexible sheet shall extend to the foundation wall or to the outside edge of the monolithic slab. Seams shall overlap at least 12 inches. The membrane shall also be fitted tightly to all pipes, wires, and other penetrations of the membrane and sealed with an approved sealant or tape. All

punctures or tears shall be repaired with the same or approved material and similarly lapped and sealed.

**1203.6.3.2.5 Sealing of penetrations and joints.** All penetrations and joints in concrete slabs or other floor systems and walls below grade shall be sealed by an approved sealant to create an air barrier to limit the movement of soil-gas into the indoor air.

Sealants shall be approved by the manufacturer for the intended purpose. Sealant joints shall conform to manufacturer's specifications. The sealant shall be placed and tooled in accordance with manufacturer's specifications. There shall be no gaps or voids after the sealant has cured.

**1203.6.3.2.6 Radon vent.** One continuous sealed pipe shall run from a point within the aggregate under each concrete slab to a point outside the building. Joints and connections shall be permanently gas tight. The continuous sealed pipe shall interface with the aggregate in the following manner, or by other approved equal method. The pipe shall be permanently connected to a "T" within the aggregate area so that the two end openings of the "T" lie within the aggregate area. A minimum of 5 feet of perforated drain pipe of 3 inches minimum diameter shall join to and extend from the "T." The perforated pipe shall remain in the aggregate area and shall not be capped at the ends. The "T" and its perforated pipe extensions shall be located at least 5 feet horizontally from the exterior perimeter of the aggregate area.

The continuous sealed pipe shall terminate no less than 12 inches above the eave, and more than 10 horizontal feet from a woodstove or fireplace chimney, or operable window. The continuous sealed pipe shall be labeled "radon vent." The label shall be placed so as to remain visible to an occupant.

The minimum pipe diameter shall be 3 inches unless otherwise approved. Acceptable sealed plastic pipe shall be smooth walled, and may include either PVC schedule 40 or ABS schedule of equivalent wall thickness.

The entire sealed pipe system shall be sloped to drain to the subslab aggregate.

The sealed pipe system may pass through an unconditioned attic before exiting the building; but to the extent practicable, the sealed pipe shall be located inside the thermal envelope of the building in order to enhance passive stack venting.

EXCEPTION: A fan for subslab depressurization system includes the following:

1. Soil-gas retarder membrane as specified in Section 1203.6.3.2.4;
2. Sealing of penetrations and joints as specified in Section 1203.6.3.2.5;
3. A 3-inch continuous sealed radon pipe shall run from a point within the aggregate under each concrete slab to a point outside the building;
4. Joints and connections shall be gas tight, and may be of either PVC schedule 40 or ABS schedule of equivalent in wall thickness;
5. A label of "radon vent" shall be placed on the pipe so as to remain visible to an occupant;
6. Fan circuit and wiring as specified in Section 1203.6.3.2.7 and a fan.

If the subslab depressurization system is exhausted through the concrete foundation wall or rim joist, the exhaust

terminus shall be a minimum of 6 feet from operable windows or outdoor air intake vents and shall be directed away from operable windows and outdoor air intake vents to prevent radon reentrainment.

**1203.6.3.2.7 Fan circuit and wiring and location.** An area for location of an in-line fan shall be provided. The location shall be as close as practicable to the radon vent pipe's point of exit from the building, or shall be outside the building shell; and shall be located so that the fan and all downstream piping is isolated from the indoor air.

Provisions shall be made to allow future activation of an in-line fan on the radon vent pipe without the need to place new wiring. A 110 volt power supply shall be provided at a junction box near the fan location.

**1203.6.3.2.8 Separate aggregate areas.** If the 4-inch aggregate area underneath the concrete slab is not continuous, but is separated into distinct isolated aggregate areas by a footing or other barrier, a minimum of one radon vent pipe shall be installed into each separate aggregate area.

EXCEPTION: Separate aggregate areas may be considered a single area if a minimum 3-inch diameter connection joining the separate areas is provided for every 30 feet of barrier separating those areas.

**1203.6.3.2.9 Concrete block walls.** Concrete block walls connected to below grade areas shall be considered unsealed surfaces. All openings in concrete block walls that will not remain accessible upon completion of the building shall be sealed at both vertical and horizontal surfaces, in order to create a continuous air barrier to limit the transport of soil-gas into the indoor air.

AMENDATORY SECTION (Amending WSR 13-04-068, filed 2/1/13, effective 7/1/13)

**WAC 51-51-0408 Section R408—Under-floor space.**

**R408.1 Ventilation.** The under-floor space between the bottom of the floor joists and the earth under any building (except space occupied by a basement) shall have ventilation openings through foundation walls or exterior walls. A ground cover of six mil (0.006 inch thick) black polyethylene or approved equal shall be laid over the ground within crawl spaces. The ground cover shall be overlapped six inches minimum at the joints and shall extend to the foundation wall.

EXCEPTION: The ground cover may be omitted in crawl spaces if the crawl space has a concrete slab floor with a minimum thickness of two inches.

**R408.2 Openings for under-floor ventilation.** The minimum net area of ventilation openings shall not be less than 1 square foot (0.0929 m<sup>2</sup>) for each 300 square feet (28 m<sup>2</sup>) of under-floor area. Required openings shall be evenly placed to provide cross ventilation of the space except one side of the building shall be permitted to have no ventilation openings. Ventilation openings shall be covered for their height and width with any of the following materials provided that the least dimension of the covering shall not exceed 1/4 inch (6.4 mm):

1. Perforated sheet metal plates not less than 0.070 inch (1.8 mm) thick.

2. Expanded sheet metal plates not less than 0.047 inch (1.2 mm) thick.
3. Cast-iron grill or grating.
4. Extruded load-bearing brick vents.
5. Hardware cloth of 0.035 inch (0.89 mm) wire or heavier.
6. Corrosion-resistant wire mesh, with the least dimension being 1/8 inch (3.2 mm).

EXCEPTION: The total area of ventilation openings shall be permitted to be reduced to 1/1,500 of the under-floor area where the ground surface is covered with an approved Class I vapor retarder material and the required openings are placed to provide cross ventilation of the space. The installation of operable louvers shall not be prohibited. If the installed ventilation is less than 1/300, or if operable louvers are installed, a radon vent shall be installed to originate from a point between the ground cover and soil. The radon vent shall be installed in accordance with the requirements of Appendix F (Radon) of this code.

**R408.3 Unvented crawl space.** Ventilation openings in under-floor spaces specified in Sections R408.1 and R408.2 shall not be required where:

1. Exposed earth is covered with a continuous Class I vapor retarder. Joints of the vapor retarder shall overlap by 6 inches (152 mm) and shall be sealed or taped. The edges of the vapor retarder shall extend at least 6 inches (152 mm) up the stem wall and shall be attached and sealed to the stem wall; and a radon system shall be installed that meets the requirements of Appendix F (Radon) of this code.

2. Continuously operated mechanical exhaust ventilation is provided at a rate equal to 1 cubic foot per minute (0.47 L/s) for each 50 square feet (4.7 m<sup>2</sup>) of crawlspace floor area. Exhaust ventilation shall terminate to the exterior.

EXCEPTION: Plenum in existing structures complying with Section M1601.5, if under-floor space is used as a plenum.

**WSR 14-08-023  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 14-64—Filed March 24, 2014, 8:52 a.m., effective March 26, 2014, 12:01 p.m.]

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

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-36000J; and amending WAC 220-56-360.

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

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

Reasons for this Finding: Survey results show that adequate razor clams are available for harvest in Razor Clam Areas 1, 3, and 5. Washington department of health has certi-

fied clams from these beaches are safe for human consumption. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: March 24, 2014.

James B. Scott, Jr.  
for Philip Anderson  
Director

**NEW SECTION**

**WAC 220-56-36000J Razor clams—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-360, it is unlawful to dig for or possess razor clams taken for personal use from any beach in Razor Clam Areas 1, 3, 4, or 5, except as provided in this section:

(1) Effective 12:01 p.m. March 28, 2014 through 11:59 p.m. March 29, 2014, razor clam digging is allowed in Razor Clam Area 1. Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

(2) Effective 12:01 a.m. March 30, 2014 through 11:59 a.m. April 3, 2014, razor clam digging is allowed in Razor Clam Area 1. Digging is allowed from 12:01 a.m. to 11:59 a.m. each day only.

(3) Effective 12:01 p.m. March 26, 2014 through 11:59 p.m. March 29, 2014, razor clam digging is allowed in Razor Clam Area 3. Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

(4) Effective 12:01 a.m. March 30, 2014 through 11:59 a.m. April 3, 2014, razor clam digging is allowed in Razor Clam Area 3. Digging is allowed from 12:01 a.m. to 11:59 a.m. each day only.

(5) Effective 12:01 p.m. March 28, 2014 through 11:59 p.m. March 29, 2014, razor clam digging is allowed in Razor Clam Area 5. Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

(6) Effective 12:01 a.m. March 30, 2014 through 11:59 a.m. March 30, 2014, razor clam digging is allowed in Razor Clam Area 5. Digging is allowed from 12:01 a.m. to 11:59 a.m. each day only.

(7) It is unlawful to dig for razor clams at any time in Long Beach, Twin Harbors Beach or Copalis Beach Clam sanctuaries as defined in WAC 220-56-372.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 12:01 p.m. April 3, 2014:

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

**WSR 14-08-029**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Children's Administration)

[Filed March 25, 2014, 9:06 a.m., effective March 25, 2014, 9:06 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To extend the emergency rule filed on November 21, 2013. The CR-102 was filed on November 20, 2013, and a public hearing was held on January 7, 2014. The children's administration is in the process of finalizing the text for the changes that support or to incorporate feedback from the public hearing, the CR-103P is in process. The emergency filing supports ESSSB [E2SSB] 5405 Extended foster care services.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-25-0518, 388-25-0520, 388-25-0522, 388-25-0524, 388-25-0526 and 388-25-0538; and amending WAC 388-25-0110, 388-148-0010, 388-25-0502, 388-25-0504, 388-25-0506, 388-25-0508, 388-25-0510, 388-25-0516, 388-25-0528, 388-25-0530, 388-25-0532, 388-25-0534, 388-25-0536, 388-25-0540, 388-25-0546, and 388-25-0548.

Statutory Authority for Adoption: RCW 13.34.145, 13.34.267, 74.13.020, 74.13.031, 43.88C.010, 74.13.107, 43.131.416, 13.34.030.

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: E2SSB 5405 Extended foster care services, enables Washington state to access a federal match of funds under 2008 federal legislation "Fostering Connections to Success and Increasing Adoptions Act." The act provides an option permitting states to use Title IV-E foster care funds for youth who wish to pursue secondary or post-secondary education programs from age eighteen up to twenty-one years old. E2SSB 5405 authorizes continued extended foster care services for youth ages eighteen to twenty-one years to complete a postsecondary academic or postsecondary vocational education program and expands the services to eligible youth participating in an employment related program.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 17, Repealed 6; 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 17, Repealed 6.

Date Adopted: March 24, 2014.

Katherine I. Vasquez  
Rules Manager

**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 14-09 issue of the Register.

**WSR 14-08-034**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 14-67—Filed March 25, 2014, 3:01 p.m., effective March 31, 2014, 7:35 p.m.]

Effective Date of Rule: March 31, 2014, 7:35 p.m.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: WAC 220-310-19500A and 220-310-20000B.

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

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

Reasons for this Finding: Most steelhead will be spawning beginning in April necessitating a closure for steelhead fishing. National Marine Fisheries Service Permit 1395 for this program only allows a fishery to be promulgated through March 31. 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 0, Amended 0, Repealed 2.

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

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

Date Adopted: March 25, 2014.

Philip Anderson  
Director

### REPEALER

The following sections of the Washington Administrative Code are repealed effective March 31, 2014, one hour after official sunset:

WAC 220-310-19500A Freshwater exceptions to statewide rules—Okanogan, Similkameen, Wenatchee and Icicle rivers. (14-38)

WAC 220-310-20000B Freshwater exceptions to statewide rules—Columbia River. (14-40)

### **WSR 14-08-058**

#### **EMERGENCY RULES**

#### **DEPARTMENT OF**

#### **FISH AND WILDLIFE**

[Order 14-69—Filed March 28, 2014, 4:23 p.m., effective March 31, 2014, 7:00 p.m.]

Effective Date of Rule: March 31, 2014, 7:00 p.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04000H and 220-52-04600X; and amending WAC 220-52-040 and 220-52-046.

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 regulation closes Region 3, subareas 1 and 2. The fishery has reached the ending date agreed to in the Region 3 Management Plans. This regulation outlines a three day gear recovery period for Region 3-2 following the closure. This emergency regulation also maintains the closure of Region 2 West and Region 2 East where the Puget Sound state commercial fishery has reached its allocation and ending dates. Additionally, this regulation initiates the closure of the eastern half of Region 1 (MFSF Catch Areas 21A, 21B and 22B). With the implementation of this regulation the only remaining Puget Sound state commercial areas open for fishing will be Region 3-3 (MFSF Catch Areas 23C and 29) and the western half of Region 1 (MFSF Catch Areas 20A, 20B and 22A). The current pot limit in Region 3-3 is one hundred pots per license. The current pot limit in the western half of Region 1 will be fifty pots per license per buoy tag number. The Puget Sound commer-

cial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes. There is insufficient time to adopt permanent regulations.

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 2.

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

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

Date Adopted: March 28, 2014.

Philip Anderson  
Director

### NEW SECTION

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

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

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

### NEW SECTION

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

(1) It is permissible to fish for Dungeness crab for commercial purposes in the following areas:

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

(b) Effective from Tuesday, April 1, 2014, at 6:30 AM until Monday, April 7, 2014 at 7:00 PM. Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Deer Harbor north of a line projected from Steep Point to Pole Pass.

(c) Effective 7:00 AM, Tuesday, April 1, 2014, until 7:00 PM, Tuesday, April 15, 2014, Crab Management Region 3, subarea 3. This includes Marine Fish-Shellfish Management and Catch Reporting Areas 23C and 29.

(2) The following areas are closed to commercial crab fishing:



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

(b) Effective 7:00 PM, Monday, March 31, 2014, until further notice, the eastern half of Region 1. This includes Marine Fish-Shellfish Management and Catch Reporting Areas 21A, 21B and 22B.

(c) Effective 7:00 PM, Monday, April 7, 2014, until further notice, the southern half of the San Juan Island section of Region 1. This includes Marine Fish-Shellfish Management and Catch Reporting Area 22A.

(d) Effective 7:00 PM, Monday, March 31, 2014, until further notice, Crab Management Region 3, subarea 1. This includes Marine Fish-Shellfish Management and Catch Reporting Areas 23A and 23B.

(e) Effective 7:00 PM, Monday, March 31, 2014, until further notice, Crab Management Region 3, subarea 2. This region includes Marine Fish-Shellfish Management and Catch Reporting Areas 23D, 25A, and 25E.

(i) Crab fishers in Region 3, subarea 2 will be allowed a gear removal period after March 31, 2014.

(ii) Fishers may continue to store crab gear in catch areas 23D, 25A, and 25E, until 7:00 PM, Thursday, April 3, 2014. Gear that is stored in the water after March 31 cannot contain any bait and must have the pot door secured open.

(iii) No crab may be retained, possessed, tanked or landed from these catch areas after March 31, 2014.

#### REPEALER

The following sections of the Washington Administrative Code are repealed effective 7:00 PM, March 31, 2014:

WAC 220-52-04000H Commercial crab fishery—Lawful and unlawful gear, methods, and other unlawful acts. (14-44)

WAC 220-52-04600X Puget Sound crab fishery—Seasons and areas. (14-44)

#### **WSR 14-08-063**

#### **EMERGENCY RULES**

#### **HEALTH CARE AUTHORITY**

(Washington Apple Health)

[Filed March 31, 2014, 9:50 a.m., effective April 1, 2014]

Effective Date of Rule: April 1, 2014.

Purpose: Pursuant to section 213(44) of ESSB 6002, the legislature reinstated the breast and cervical cancer treatment program. WAC 182-505-0120 must be revised to reflect this legislative directive.

Citation of Existing Rules Affected by this Order: Amending WAC 182-505-0120.

Statutory Authority for Adoption: RCW 41.05.021.

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

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

Reasons for this Finding: State law (ESSB 6002) reestablishes the breast and cervical cancer treatment program effective April 1, 2014.

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

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

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

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

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

Date Adopted: March 31, 2014.

Kevin M. Sullivan  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 12-02-034, filed 12/29/11, effective 1/1/12)

#### **WAC 182-505-0120 Breast and cervical cancer treatment program (BCCTP) for women—Client eligibility.**

(1) Effective ~~((July 1, 2004))~~ April 1, 2014, a woman is eligible for categorically needy (CN) coverage under the breast and cervical cancer treatment program (BCCTP) only when she:

(a) Has been screened for breast or cervical cancer under the ~~((center for disease control (CDC)))~~ breast ~~((and)),~~ cervical ~~((cancer early detection)),~~ and colon health program ~~((BCCEDP))~~ (BBCHP);

(b) Is found to require treatment for either breast or cervical cancer or for a related precancerous condition;

(c) Is under sixty-five years of age;

(d) Is not ~~((eligible for))~~ covered by another CN medic-aid program;

(e) Is uninsured or does not otherwise have creditable coverage;

(f) Meets residency requirements as described in WAC ~~((388-468-0005))~~ 182-503-0520;

(g) Meets Social Security number requirements as described in WAC ~~((388-476-0005))~~ 182-503-0515; and

(h) Meets the requirements for citizenship or U.S. national status (~~(as defined in WAC 388-424-0001)~~) or "qualified alien" status as described in WAC (~~(388-424-0006 (1) or (4))~~) 182-503-0535.

(2) The certification period (~~(s described in WAC 388-416-0015 (1), (4), and (6) apply to the BCCTP. Eligibility)~~) for ~~((medicaid continues throughout the full course of treatment as certified by the CDC BCCEDP))~~ breast and cervical cancer treatment covered under this section is twelve months. Eligibility for BCCTP coverage continues throughout the course of treatment as certified by the BCCHP.

~~((3) Income and asset limits are set by the CDC BCCEDP.))~~

**WSR 14-08-068**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 14-65—Filed March 31, 2014, 11:38 a.m., effective May 3, 2014, 4:45 a.m.]

Effective Date of Rule: May 3, 2014, 4:45 a.m.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-32500K; and amending WAC 220-56-325.

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 regulation is needed to ensure an orderly fishery, manage within court ordered sharing requirements, and to ensure conservation. Harvestable amounts of spot shrimp are available, but only enough recreational shares exist for a limited number of open days in these marine areas. In addition, opens the Marine Area 4, 5, 6, 7 and 13 seasons one hour before sunrise (at 4:45 a.m.) which is the default daily start time for those areas the remainder of the season. There is insufficient time to adopt permanent rules.

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

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

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

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

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

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

Date Adopted: March 31, 2014.

Philip Anderson  
Director

NEW SECTION

**WAC 220-56-32500K Shrimp—Areas and seasons.**

Notwithstanding the provisions of WAC 220-56-325, effective 4:45 a.m. May 3 through May 31, 2014, it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Areas 4 (east of the Bonilla-Tatoosh line), 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12 and the Discovery Bay Shrimp District, except as provided for in this section:

1) Marine Areas 4 (east of the Bonilla-Tatoosh line), 5, 6 (excluding the Discovery Bay Shrimp District) and 13 - open May 3 through May 31.

2) Marine Area 7 - open May 3, also open May 7-10, May 21-24 and May 28-31.

3) Marine Areas 8-1, 8-2, 9 and 10 - Open May 3 and 7 from 7:00 a.m. through 3:00 p.m., and divers may take shrimp by hand or hand-held device from 7:00 p.m. until midnight on those open days in Marine Area 8-2.

4) Marine Area 11 - Open May 3, 7 and 10 from 7:00 a.m. through 3:00 p.m.

5) Marine Area 12 - Open May 3, 7, 10 and 21 from 9:00 a.m. through 1:00 p.m.

6) Discovery Bay Shrimp District - Open May 3, 7, 10 and 21 from 7:00 a.m. through 3:00 p.m.

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

REPEALER

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

WAC 220-56-32500K Shrimp—Areas and seasons.

**WSR 14-08-080**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 14-70—Filed April 1, 2014, 9:17 a.m., effective April 1, 2014, 10:00 a.m.]

Effective Date of Rule: April 1, 2014, 10:00 a.m.

Purpose: The purpose of this rule making is to 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 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 220-33-01000N; and amending WAC 220-33-010.

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

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

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

Reasons for this Finding: Sets the initial 2014 non-Indian spring chinook mainstem commercial fishing period. Winter and spring select area commercial seasons previously adopted remain in place. Impacts to upriver spring chinook are expected to remain within the ESA limits allowed. Upriver spring chinook mortalities are expected to be within the catch balance provisions. The fishery is consistent with the *U.S. v. Oregon* Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with compact action of January 29 and March 31, 2014. There is insufficient time to promulgate permanent rules.

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

Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under the federal 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; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 1, 2014.

Philip Anderson  
Director

## NEW SECTION

**WAC 220-33-01000P Columbia River seasons below Bonneville.** Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, 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. Mainstem Columbia River**

- a) **Area:** SMCRA 1A, 1B, 1C, 1D, and 1E (Zones 1-5).
- b) **Dates:** 10:00 AM to 6:00 PM Tuesday, April 1, 2014.
- c) **Allowable Possession:** Adipose fin-clipped Chinook salmon and shad
- d) **Sanctuaries:** Grays River, Elochoman-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B, Sandy, and Washougal rivers, as applicable.
- e) **Gear:** Drift nets only. 4 1/4" maximum mesh size (tangle net). Single-wall multi-filament net only. Monofilament tangle nets are not allowed. Mesh size is determined by placing three consecutive meshes under hand tension, and the measurement is taken from the inside of one vertical knot to the outside of the opposite vertical knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact. Net length not to exceed 150 fathoms. There are no restrictions on the use of slackers or stringers to slacken the net vertically. There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net and is determined by the length of the web per length of the corkline.

**Net length** can increase from 150 to 175 fathoms for nets constructed with a steelhead excluder panel, weedlines, or droppers. An optional use of a steelhead excluder panel of mesh may be hung between the corkline and the 4 1/4" maximum mesh size tangle net. The excluder panel web must be a minimum mesh size of 12" stretched measure when taut under hand tension. Monofilament mesh is allowed for the

excluder panel only. The excluder panel must be a minimum of five feet in depth and must not exceed ten feet in depth as measured from the corkline to the upper margin of the tangle net mesh as the net hangs naturally from a taut corkline. Weedlines or droppers (bobber type) may be used in place of the steelhead excluder panel. A weedline-type excluder means the net is suspended below the corkline by lines of no less than five feet in length between the corkline and the upper margin of the tangle net. A dropper-type excluder means the entire net is suspended below the surface of the water by lines of no less than five feet in length extending from individual surface floats to a submersed corkline. The corkline cannot be capable of floating the net in its entirety (including the leadline) independent of the attached floats. Weedlines or droppers must extend a minimum of five feet above the 4 1/4" maximum mesh size tangle net. Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers must have two red corks at each end of the net, as well as the red corks required under miscellaneous regulations.

**f) Miscellaneous Regulations:**

**Soak times**, defined as the time elapsed from when the first of the gillnet web is deployed into the water until the gillnet web is fully retrieved from the water, must not exceed 45 minutes.

**Red corks** are required at 25-fathom intervals, and red corks must be in contrast to the corks used in the remainder of the net.

**Recovery Box:** Each boat will be required to have two operable recovery boxes or one box with two chambers, on board. Each chamber of the recovery box(es) must include an operating water pumping system capable of delivering a minimum flow of 16 gallons per minute, not to exceed 20 gallons per minute of freshwater per chamber. Each box and chamber and associated pump shall be operating during any time that the net is being retrieved or picked. Each chamber of the recovery box must meet the following dimensions as measured from within the box: the inside length measurement must be at or within 39 1/2 inches to 48 inches; the inside width measurements must be at or within 8 to 10 inches; and the inside height measurement must be at or within 14 to 16 inches.

Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or end wall of the chamber and 1 3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole that is at least 1 1/2 inches in diameter located on either the same or opposite end as the inlet. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber.

The fisher must demonstrate to WDFW and ODFW employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

All sturgeon, non-adipose fin-clipped salmon, and steelhead must be released immediately to the river with care and with the least possible injury to the fish, or placed into an operating recovery box.

Any salmonid that is bleeding or lethargic must be placed in the recovery box prior to being released. All fish placed in recovery boxes must be released to the river prior to landing or docking.

**Observer program:** As a condition of fishing, owners or operators of commercial fishing vessels must cooperate with department observers or observers collecting data for the department, when notified by the observer of his or her intent to board the commercial vessel for observation and sampling during the fishery.

**Live Capture workshop:** Only licensed Columbia River commercial fishers that have completed the required state-sponsored workshop concerning live-capture commercial fishing techniques may participate in this fishery. At least one fisher on each boat must have live-capture certification.

**2. Deep River Select Area**

a) **Dates:** Winter Season: Open hours are 7 PM to 7 AM Monday and Thursday nights immediately through April 1, 2014. Spring Season: Open hours are 7 PM to 7 AM Thursday night, April 17; Tuesday night, April 22; and each Monday and Thursday night from April 24, 2014, until further notice.

b) **Area:** From the markers at USCG navigation marker #16, upstream to the Highway 4 Bridge.

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 leadline. Use of additional weights or anchors attached directly to the leadline 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 220-20-015)(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 220-20-010)(17). **Allowable Possession:** Salmon and shad.

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 catches. After sampling, fishers will be issued a transportation permit by WDFW staff. **During the winter season, fishers are required to call 360-795-0319** to confirm the place and time of sampling. 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).

**3. Tongue Point/South Channel**

a) **Dates:** Open hours are 7:00 PM to 7:00 AM. Monday and Thursday nights from April 24, 2014, until further notice.

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 through the green USCG buoy #7 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. 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) **Allowable Possession:** Salmon and shad.

e) **Miscellaneous:** Fishers are required to call 971-230-8247 and leave a message including name, catch, and where and when fish will be sold. Permanent transportation rules in effect.

f) **Observer program:** As a condition of fishing, owners or operators of commercial fishing vessels must cooperate with department observers or observers collecting data for the department, when notified by the observer of his or her intent to board the commercial vessel for observation and sampling during an open fishery. Additionally, cooperation with department personal or observers prior to an open fishery is expected.

#### 4. Blind Slough/Knappa Slough Select Area

a) **Dates:** Winter Season: Monday and Thursday nights immediately through April 1, 2014. Open hours are 7:00 PM to 7:00 AM

Spring Season: Thursday night, April 17; Tuesday night, April 22; and Monday and Thursday nights from April 24 until further notice. Open hours are 7:00 PM to 7:00 AM

b) **Area:** Winter season: Blind Slough. Spring season: Blind Slough and Knappa Slough areas are both open. From May 1 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 or anchors attached directly to the headline is allowed.

d) **Allowable Possession:** Salmon and shad.

e) **Observer program:** As a condition of fishing, owners or operators of commercial fishing vessels must cooperate with department observers or observers collecting data for the department, when notified by the observer of his or her intent to board the commercial vessel for observation and sampling during an open fishery. Additionally, cooperation with department personal or observers prior to an open fishery is expected.

#### 5. For all fisheries described above (Sections 1-4):

a) **24-hour quick reporting** is in effect for Washington buyers (WAC 220-69-240 (14)(d)). Permanent transportation rules in effect.

b) **Multi net rule in effect:** Nets not specifically authorized for use in these areas may be onboard a vessel if properly stored (WAC 220-33-001(2)).

c) **Lighted buoys required:** 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 effective 10:00 a.m. April 1, 2014:

WAC 220-33-01000N Columbia River seasons below Bonnaville. (14-18)

#### WSR 14-08-089

#### RECISSION OF EMERGENCY RULES BUILDING CODE COUNCIL

[Filed April 1, 2014, 3:27 p.m.]

On Friday, March 14, 2014, the state building code council filed an emergency rule to revise WAC 51-54A-0907, effective upon filing (WSR 14-07-060).

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

Once you have rescinded the above-referenced emergency rule action, a new emergency rule will be refiled to correct the matter.

C. Ray Allshouse  
Chair

#### WSR 14-08-090

#### EMERGENCY RULES BUILDING CODE COUNCIL

[Filed April 1, 2014, 4:42 p.m., effective April 1, 2014, 4:42 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This rule change will ease a significant financial burden that was placed on small daycares and small or limited school remodel projects; the current rule exempts Group E occupancies with an occupant load of thirty or fewer from requirements for manual fire alarm systems. This rule

will raise that number to fifty or fewer. It will also specify that an emergency voice alarm system is not required in Group E occupancies of one hundred or fewer occupants if the manual fire alarm system initiates an approved signal. This rule will replace WSR 14-07-060 filed on March 14, 2014, which contained a typographical error.

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

Statutory Authority for Adoption: RCW 19.27.031, 19.27.074.

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

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

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

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

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

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

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

Date Adopted: April 1, 2014.

C. Ray Allshouse  
Chair

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

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

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

EXCEPTION:

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

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

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