

WSR 14-22-067
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed October 31, 2014, 10:16 a.m., effective November 1, 2014]

Effective Date of Rule: November 1, 2014.

Purpose: Amendments in Title 388 WAC remove medical references, support the creation of the housing and essential needs (HEN) referral program and remove references to the Alcohol and Drug Addiction Treatment and Support Act (ADATSA). These amendments are currently in effect via emergency rule making filed on September 24, 2014, as WSR 14-20-042.

2E2SHB 1738, Laws of 2011, designated the health care authority (HCA) as the single state agency responsible for the administration and supervision of Washington's medical assistance programs. HCA recodified medical assistance program rules to Title 182 WAC. Accordingly, the department is eliminating corresponding rules and medical references under Title 388 WAC. Amendments also support the creation of the new HEN referral program created under SHB 2069 (2013 legislative session) and also remove references related to ADATSA, as the legislature did not appropriate funds for ADATSA. Beginning January 1, 2014, ADATSA-related medical care services recipients are medicaid eligible under the Affordable Care Act.

Additional amendments spell out the acronym, ABD, identifying it as the aged, blind or disabled program.

Citation of Existing Rules Affected by this Order: Amending WAC 388-406-0005, 388-406-0035, 388-406-0045, 388-418-0005, 388-424-0010, 388-424-0015, 388-436-0030, 388-450-0015, 388-450-0025, 388-450-0040, 388-450-0156, 388-450-0170, 388-472-0005, and 388-473-0010.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.100, 74.04.770, 74.62.030.

Other Authority: 2E2SHB 1738, chapter 15, Laws of 2011; SHB 2069; and RCW 41.05.021, 74.04.050, 74.08.-090, 74.09.035, 74.09.530, and the 2013 biennial budget.

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

Reasons for this Finding: Amendments remove medical references. More specifically, 2E2SHB 1738, Laws of 2011, designated HCA as the single state agency responsible for the administration and supervision of Washington's medical assistance programs. DSHS worked with HCA to repeal medical assistance program rules under Title 388 WAC in support of HCA's efforts to recodify medical assistance program rules under Title 182 WAC. HCA recodified medical assistance program rules at Title 182 WAC, effective October 1, 2013. Accordingly, the department is eliminating corresponding rules and medical references under Title 388 WAC. Amendments remove references to the ADATSA program, because the legislature did not appropriate funds for the ADATSA program. Beginning January 1, 2014, ADATSA-related medical care services recipients are medicaid eligible

under the Affordable Care Act. Amendments also support the creation of the new HEN referral program created under SHB 2069, which was signed by the governor on June 30, 2013.

These amendments plus amendments made to WAC 388-450-0162 How does the department count my income to determine if my assistance unit is eligible and how does the department calculate the amount of my cash and Basic Food benefits? are currently in effect via emergency adoption (WSR 14-20-043 filed on September 24, 2014). WAC 388-450-0162 is not part of this emergency rule filing. It is being amended permanently, effective November 1, 2014, as WSR 14-20-042 and therefore, no longer needs to be included in this emergency rule filing. The department has filed a CR-101 and CR-102 and is undertaking the appropriate procedures to adopt the rule as a permanent rule.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 14, 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 14, Repealed 0.

Date Adopted: October 24, 2014.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

WAC 388-406-0005 Can I apply for cash(~~(or medical)~~) or Basic Food? (1) You can apply for any benefit the department offers, including cash assistance(~~(or medical assistance)~~) or Basic Food.

(2) You must meet certain eligibility requirements in order to receive a program benefit.

(3) You can apply for someone else if you are:

(a) A legal guardian, caretaker, or authorized representative applying for:

(i) A dependent child; or

(ii) An incapacitated person(~~(or~~

~~iii) Someone who is deceased~~)).

(b) Applying for someone who cannot apply for some other reason. We may ask why the applicant is unable to apply on their own behalf.

(4) (~~If you get supplemental security income (SSI), you do not need to apply for medical benefits. We automatically open medical benefits for you.~~

~~(5))~~) A person or agency may apply for aged, blind, or disabled (ABD) cash (~~(or medical assistance)~~) for you if:

(a) You temporarily live out-of-state; and

(b) You are a Washington state resident.

~~((6))~~ (5) When you are confined or incarcerated in a Washington state public institution, you may apply for cash ~~((or medical assistance))~~ if you meet the following criteria:

(a) You are confined by or in the following public institutions:

- (i) Department of corrections;
- (ii) City or county jail; or
- (iii) Institution for mental diseases (IMD).

(b) Staff at the public institution provide medical records including diagnosis by a mental health professional that you have a mental disorder (as defined in the Diagnostic and Statistical Manual of Psychiatric Disorders, most recent edition) that affects your thoughts, mood or behavior so severely that it prevents you from performing any kind of work.

~~((7) We will make an eligibility determination for medical assistance prior to your release from confinement and will authorize medical benefits upon your release from confinement when you:~~

~~(a) Meet the criteria of subsection (6) in this section; and
(b) Were receiving medicaid immediately before confinement or within the five years prior to confinement.~~

~~(8) If you meet the criteria in subsection (6) but did not receive medicaid within the five years prior to confinement, the department will process your request for medical assistance within the time frames in WAC 388-406-0035.~~

~~(9) If you are applying for assistance for a youth leaving incarceration in a juvenile rehabilitation administration or county juvenile detention facility, you may apply for assistance within forty-five days prior to release. We will process your application for medical assistance when we receive it, and if eligible, we will authorize medical benefits upon the youth's release from confinement.)~~

AMENDATORY SECTION (Amending WSR 12-06-070, filed 3/6/12, effective 4/6/12)

WAC 388-406-0035 How long does the department have to process my application? (1) We must process your application as quickly as possible. We must respond promptly to your application and to any information you give us. We cannot delay processing your request by using the time limits stated in this section as a waiting period for determining eligibility.

(2) Unless your eligibility determination is delayed for good cause under WAC 388-406-0040, we process your application for benefits within thirty calendar days, except:

~~(a) ((If you are pregnant, we must process your application for medical within fifteen working days;~~

~~(b))~~ If you are applying for aged, blind, or disabled (ABD) cash assistance, ~~((alcohol or drug addiction treatment (ADATSA), or medical assistance))~~ or a referral to the housing and essential needs (HEN) program, we must process your application within forty-five calendar days unless there is good cause as described in WAC 388-406-0045~~((; and~~

~~(c) If you are applying for medical assistance that requires a disability decision, we must process your application within sixty calendar days).~~

(3) For calculating time limits, "day one" is the date following the date:

(a) The department received your application for benefits under WAC 388-406-0010;

(b) Social Security gets a request for food benefits from a Basic Food assistance unit in which all members either get or are applying for supplemental security income (SSI);

(c) You are released from an institution if you get or are authorized to get SSI and request Basic Food through Social Security prior to your release.

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

WAC 388-406-0045 Is there a good reason my application for cash ~~((or medical))~~ assistance has not been processed? If your application for cash ~~((or medical))~~ assistance is not processed within the time limits under WAC 388-406-0035, the department must decide if there is a good reason for the delay. This good reason is also called "good cause."

(1) We do not have a good reason for not processing your application for TANF or SFA within thirty days if:

(a) We did not give or send you a notice of what information we needed to determine your eligibility within twenty days from the date of your application;

(b) We did not give or send you a notice that we needed additional information or action within five calendar days of the date we learned that more information was needed to determine eligibility;

(c) We did not process your application within five calendar days from getting the information needed to decide eligibility; and

(d) We decide good cause exists but do not document our decision in the case record on or before the time limit for processing the application ends.

(2) We do have a good reason for not processing your application timely if:

(a) You do not give us the information or take an action needed for us to determine eligibility;

(b) We have an emergency beyond our control; or

(c) There is no other available verification for us to determine eligibility and the eligibility decision depends on information that has been delayed such as:

(i) Medical documentation;

(ii) For cash assistance, extensive property appraisals; or

(iii) Out-of-state documents or correspondence.

~~(3) ((For medical assistance, good cause exists only when the department otherwise acted promptly at all stages of the application process.~~

~~(4))~~ For aged, blind, or disabled (ABD) cash assistance, or a referral to the housing and essential needs (HEN) program, good cause exists if you apply when you are confined in a Washington state public institution as defined in WAC 388-406-0005 (6)(a).

AMENDATORY SECTION (Amending WSR 12-04-051, filed 1/30/12, effective 3/1/12)

WAC 388-418-0005 How will I know what changes to report? (1) You must report changes to the department based on the kinds of assistance you receive. We inform you of your

reporting requirements on letters we send you about your benefits. Follow the steps below to determine the types of changes you must report:

~~((H))~~ (a) If you receive ~~((assistance from any of the programs listed in subsection (1)), you must report changes for people in your assistance unit under chapter 388-408 WAC, based on the first program you receive benefits from:~~

~~(a) If you receive long term care benefits such as a home and community based waiver (Basic, Basic Plus, CORE, Community Protection, COPES, New Freedom, Medically Needy), care in a medical institution (nursing home, hospice care center, state veterans home, ICF/MR, RHC) or hospice, you must tell us if you have a change of:~~

- ~~(i) Residence;~~
- ~~(ii) Marital status;~~
- ~~(iii) Living arrangement;~~
- ~~(iv) Income;~~
- ~~(v) Resources;~~
- ~~(vi) Medical expenses; and~~
- ~~(vii) If we allow you expenses for your spouse or dependents, you must report changes in their income or shelter cost.~~

~~(b) If you receive medical benefits based on age, blindness, disability (SSI-related medical), or ADATSA benefits, you need to tell us if:))~~

- ~~((i) You move;~~
- ~~(ii) A family member moves into or out of your home;~~
- ~~(iii) Your resources change; or~~
- ~~(iv) Your income changes. This includes the income of you, your spouse or your child living with you.~~

~~(e) If you receive)) cash benefits, you need to tell us if:~~

- ~~(i) You move;~~
- ~~(ii) Someone moves out of your home;~~
- ~~(iii) Your total gross monthly income goes over the:~~
- ~~(A) Payment standard under WAC 388-478-0033 if you receive ABD cash; or~~
- ~~(B) Earned income limit under WAC 388-478-0035 and 388-450-0165 for all other programs;~~
- ~~(iv) You have liquid resources more than four thousand dollars; or~~
- ~~(v) You have a change in employment. Tell us if you:~~
- ~~(A) Get a job or change employers;~~
- ~~(B) Change from part-time to full-time or full-time to part-time;~~
- ~~(C) Have a change in your hourly wage rate or salary; or~~
- ~~(D) Stop working((; or~~
- ~~(E) See WAC 182-504-0100 for medical care services reporting requirements)).~~

~~((H))~~ (b) If you are a relative or nonrelative caregiver and receive cash benefits on behalf of a child in your care but not for yourself or other adults in your household, you need to tell us if:

- ~~(i) You move;~~
- ~~(ii) The child you are caring for moves out of the home;~~
- ~~(iii) Anyone related to you or to the child you are caring for moves into or out of the home;~~
- ~~(iv) There is a change in the earned or unearned income of anyone in your child-only means-testing assistance unit, as defined in WAC 388-450-0162 (3)(b). You do not need to report changes in earned income for your dependent children who are in school full-time (see WAC 388-450-0070).~~

~~(v) There is a change in the recipient child's earned or unearned income (see WAC 388-450-0070 for how we count the earned income of a child);~~

~~(vi) The recipient child has liquid resources more than four thousand dollars;~~

~~(vii) A recipient child in the home becomes a foster child; or~~

~~(viii) You legally adopt the recipient child.~~

~~((e) If you receive family medical benefits, you need to tell us if:~~

- ~~(i) You move;~~
- ~~(ii) A family member moves out of your home; or~~
- ~~(iii) If your income goes up or down by one hundred dollars or more a month and you expect this income change will continue for at least two months.))~~

~~(2) If you do not receive cash assistance ((from any of the programs listed in subsection (1))), but you do receive Basic Food benefits ((from any of the programs listed in subsection (2))), you must report changes for the people in your assistance unit under chapter 388-408 WAC((, based on all the benefits you receive-~~

~~(a) If you receive Basic Food benefits, you)). You need to tell us if:~~

~~((i) If you)) (a) Your household is a categorically eligible household as defined under WAC 388-414-0001, tell us if your total gross monthly income is more than two hundred percent of the federal poverty level; or~~

~~((ii)) (b) For all other households tell us if your total monthly income is more than the maximum gross monthly income as described in WAC 388-478-0060; or~~

~~((iii)) (c) Anyone who receives food benefits in your assistance unit and who must meet work requirements under WAC 388-444-0030 has their hours at work go below twenty hours per week.~~

~~((b) If you receive children's medical benefits, you need to tell us if:~~

- ~~(i) You move; or~~
- ~~(ii) A family member moves out of the house.~~

~~(e) If you receive pregnancy medical benefits, you need to tell us if:~~

- ~~(i) You move; or~~
- ~~(ii) You are no longer pregnant.~~

~~(d) If you receive other medical benefits, you need to tell us if:~~

- ~~(i) You move; or~~
- ~~(ii) A family member moves out of the home.))~~

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

WAC 388-424-0010 Citizenship and alien status—Eligibility for TANF((, Medicaid, and CHIP)). (1) To receive temporary assistance for needy families (TANF)((, Medicaid, or children's health insurance program (CHIP) benefits)), an individual must meet all other eligibility requirements and be one of the following as defined in WAC 388-424-0001:

- (a) A United States (U.S.) citizen;
- (b) A U.S. national;
- (c) An American Indian born outside the U.S.;

- (d) A "qualified alien";
- (e) A victim of trafficking; or
- (f) A Hmong or Highland Lao.

(2) A "qualified alien" who first physically entered the U.S. before August 22, 1996 as described in WAC 388-424-0006(1) may receive TANF(~~(, medicaid, and CHHP)~~).

(3) A "qualified alien" who first physically entered the U.S. on or after August 22, 1996 cannot receive TANF(~~(, medicaid, or CHHP)~~) for five years after obtaining status as a qualified alien unless the criteria in WAC 388-424-0006(4) are met.

(4) ~~((A lawfully present "nonqualified alien" child or pregnant woman as defined in WAC 388-424-0001 who meet residency requirements as defined in WAC 388-468-0005 may receive medicaid or CHHP.~~

~~(5))~~ An alien who is ineligible for TANF(~~(, medicaid or CHHP)~~) because of the five-year bar or because of their immigration status may be eligible for:

(a) Emergency benefits as described in WAC 388-436-0015 (consolidated emergency assistance program) ~~((and WAC 388-438-0110 (alien medical program))~~); or

(b) State-funded cash ~~((or chemical dependency benefits))~~ as described in WAC 388-424-0015 (state family assistance (SFA), and aged, blind, or disabled (ABD) cash(~~(, and the Alcohol and Drug Addiction Treatment and Support Act (ADATSA)~~), and medical benefits as described in WAC 182-503-0532; or

~~(c) Pregnancy medical benefits for noncitizen women as described in WAC 388-462-0015(3); or~~

~~(d) State funded apple health for kids as described in WAC 388-505-0210(5))~~.

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

WAC 388-424-0015 Immigrant eligibility restrictions for the state family assistance, ABD cash(~~(,)~~) and PWA(~~(, and ADATSA)~~) programs. (1) To receive state family assistance (SFA) benefits, you must be:

(a) A "qualified alien" as defined in WAC 388-424-0001 who is ineligible for TANF due to the five-year bar as described in WAC 388-424-0006(3); or

(b) A nonqualified alien who meets the Washington state residency requirements as listed in WAC 388-468-0005, including a noncitizen American Indian who does not meet the criteria in WAC 388-424-0001.

(2) To receive aged, blind, or disabled (ABD) cash or pregnant women assistance (PWA) benefits, you must be:

- (a) A U.S. citizen;
- (b) A U.S. national;
- (c) An American Indian born outside the U.S.;
- (d) A "qualified alien" or similarly defined lawful immigrant such as victim of trafficking as defined in WAC 388-424-0001; or
- (e) A nonqualified alien described in WAC 388-424-0001 who:

(i) Has verified their intent to stay in the United States indefinitely; and

(ii) The United States Immigration and Customs Enforcement is not taking steps to enforce their departure.

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

WAC 388-436-0030 How does my eligibility for other possible cash benefits impact my eligibility for CEAP? (1)

You are ineligible for CEAP if you, or a household member, are eligible for any of the following programs:

(a) TANF or SFA, unless the family has had its case grant terminated due to WAC 388-310-1600;

(b) Pregnant women assistance (PWA);

(c) RCA;

(d) Aged, blind, or disabled (ABD) cash;

(e) Supplemental security income (SSI);

~~((f) Medical assistance for those applicants requesting help for a medical need;~~

~~((g))~~ (f) Food assistance for those applicants requesting help for a food need;

~~((h))~~ (g) Housing assistance from any available source for those applicants requesting help for a housing need;

~~((i))~~ (h) Unemployment compensation, veteran's benefits, industrial insurance benefits, Social Security benefits, pension benefits, or any other source of financial benefits the applicant is potentially eligible to receive.

(2) The department may require the applicant, or anyone in the assistance unit, to apply for and take any required action to receive benefits from programs described in the above subsection (1)(a) through (h).

(3) The department may not authorize CEAP benefits to any household containing a member who is:

(a) Receiving cash benefits from any of the following programs:

(i) TANF/SFA;

(ii) PWA;

(iii) RCA;

(iv) DCA; or

(v) ABD cash.

(b) Receiving reduced cash benefits for failure to comply with program requirements of TANF/SFA, or RCA.

(4) The department may authorize CEAP to families reapplying for TANF/SFA who are not eligible for TANF cash benefits under WAC 388-310-1600 until they complete the four week participation requirement.

AMENDATORY SECTION (Amending WSR 12-08-002, filed 3/21/12, effective 4/21/12)

WAC 388-450-0015 What types of income are not used by the department to figure out my benefits? This section applies to cash assistance(~~(, children's, family, or pregnancy medical,))~~) and basic food benefits.

(1) There are some types of income we do not count to figure out if you can get benefits and the amount you can get. Some examples of income we do not count are:

(a) Bona fide loans as defined in WAC 388-470-0045, except certain student loans as specified under WAC 388-450-0035;

(b) Federal income tax refunds and earned income tax credit (EITC) payments in the month received;

(c) Federal economic stimulus payments that are excluded for federal and federally assisted state programs;

(d) Federal twenty-five dollar supplemental weekly unemployment compensation payment authorized by the American Recovery and Reinvestment Act of 2009;

(e) Title IV-E and state foster care maintenance payments if you choose not to include the foster child in your assistance unit;

(f) Energy assistance payments;

(g) Educational assistance we do not count under WAC 388-450-0035;

(h) Native American benefits and payments we do not count under WAC 388-450-0040;

(i) Income from employment and training programs we do not count under WAC 388-450-0045;

(j) Money withheld from a benefit to repay an overpayment from the same income source. For Basic Food, we **do not** exclude money that is withheld because you were overpaid for purposely not meeting requirements of a federal, state, or local means tested program such as TANF/SFA, aged, blind, or disabled (ABD) cash assistance, pregnant women assistance (PWA), and SSI;

(k) Legally obligated child support payments received by someone who gets TANF/SFA benefits;

(l) One-time payments issued under the Department of State or Department of Justice Reception and Replacement Programs, such as Voluntary Agency (VOLAG) payments; and

(m) Payments we are directly told to exclude as income under state or federal law.

(n) ~~((For cash and Basic Food))~~ Payments made to someone outside of the household for the benefits of the assistance unit using funds that are not owed to the household;

(o) **For Basic Food only:** The total monthly amount of all legally obligated current or back child support payments paid by the assistance unit to someone outside of the assistance unit for:

(i) A person who is not in the assistance unit; or

(ii) A person who is in the assistance unit to cover a period of time when they were not living with the member of the assistance unit responsible for paying the child support on their behalf.

~~((p) For medical assistance: Only the portion of income used to repay the cost of obtaining that income source.~~

~~(2) For children's, family, or pregnancy medical, we also do not count any insurance proceeds or other income you have recovered as a result of being a Holocaust survivor.)~~

AMENDATORY SECTION (Amending WSR 12-06-070, filed 3/6/12, effective 4/6/12)

WAC 388-450-0025 What is unearned income? This section applies to cash assistance(;) and food assistance(;) ~~and medical programs for families, children, and pregnant women).~~

(1) Unearned income is income you get from a source other than employment or self-employment. Some examples of unearned income are:

(a) Railroad retirement;

(b) Unemployment compensation;

(c) Social Security benefits (including retirement benefits, disability benefits, and benefits for survivors);

(d) Time loss benefits as described in WAC 388-450-0010, such as benefits from the department of labor and industries (L&I); or

(e) Veteran Administration benefits.

(2) For food assistance we also count the total amount of cash benefits due to you before any reductions caused by your failure (or the failure of someone in your assistance unit) to perform an action required under a federal, state, or local means-tested public assistance program, such as TANF/SFA, ABD assistance, PWA, and SSI.

(3) When we count your unearned income, we count the amount you get before any taxes are taken out.

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

WAC 388-450-0040 Native American benefits and payments. This section applies to TANF/SFA, RCA, PWA, ABD cash, ~~((medical))~~ and food assistance programs.

(1) The following types of income are not counted when a client's benefits are computed:

(a) Up to two thousand dollars per individual per calendar year received under the Alaska Native Claims Settlement Act, P.L. 92-203 and 100-241;

(b) Income received from Indian trust funds or lands held in trust by the Secretary of the Interior for an Indian tribe or individual tribal member. Income includes:

(i) Interest; and

(ii) Investment income accrued while such funds are held in trust.

(c) Income received from Indian ~~((judgement))~~ judgment funds or funds held in trust by the Secretary of the Interior distributed per capita under P.L. 93-134 as amended by P.L. 97-458 and 98-64. Income includes:

(i) Interest; and

(ii) Investment income accrued while such funds are held in trust.

(d) Up to two thousand dollars per individual per calendar year received from leases or other uses of individually owned trust or restricted lands, P.L. 103-66;

(e) Payments from an annuity fund established by the Puyallup Tribe of Indians Settlement Act of 1989, P.L. 101-41, made to a Puyallup Tribe member upon reaching twenty-one years of age; and

(f) Payments from the trust fund established by the P.L. 101-41 made to a Puyallup Tribe member.

(2) Other Native American payments and benefits that are excluded by federal law are not counted when determining a client's benefits. Examples include but are not limited to:

(a) White Earth Reservation Land Settlement Act of 1985, P.L. 99-264, Section 16;

(b) Payments made from submarginal land held in trust for certain Indian tribes as designated by P.L. 94-114 and P.L. 94-540; and

(c) Payments under the Seneca Nation Settlement Act, P.L. 101-503(~~;~~ and

~~(d) For medical assistance, receipt of money by a member of a federally recognized tribe from exercising federally protected rights or extraction of protected resources, such as fishing, shell fishing, or selling timber, is considered conversion of an exempt resource during the month of receipt. Any amounts remaining from the conversion of this exempt resource on the first of the month after the month of receipt will remain exempt if the funds were used to purchase another exempt resource. Any amounts remaining in the form of countable resources (such as in checking or savings accounts) on the first of the month after receipt, will be added to other countable resources for eligibility determinations).~~

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

WAC 388-450-0156 When am I exempt from deeming? (1) If you meet any of the following conditions, you are **permanently** exempt from deeming and we do not count your sponsor's income or resources against your benefits:

(a) The Immigration and Nationality Act (INA) does not require you to have a sponsor. Immigrants who are not required to have a sponsor include those with the following status with United States Citizenship and Immigration Services (USCIS):

- (i) Refugee;
- (ii) Parolee;
- (iii) Asylee;
- (iv) Cuban/Haitian entrant; or
- (v) Special immigrant from Iraq or Afghanistan.

(b) You were sponsored by an organization or group as opposed to an individual;

(c) You do not meet the alien status requirements to be eligible for benefits under chapter 388-424 WAC;

(d) You have worked or can get credit for forty qualifying quarters of work under Title II of the Social Security Act. We do not count a quarter of work toward this requirement if the person working received TANF, food stamps, Basic Food, SSI, CHIP, ~~((or))~~ nonemergency medicaid benefits, or Washington Apple Health coverage. We count a quarter of work by the following people toward your forty qualifying quarters:

(i) Yourself;

(ii) Each of your parents for the time they worked before you turned eighteen years old (including the time they worked before you were born); and

(iii) Your spouse if you are still married or your spouse is deceased.

(e) You become a United States (U.S.) Citizen;

(f) Your sponsor is dead; or

(g) If USCIS or a court decides that you, your child, or your parent was a victim of domestic violence from your sponsor and:

- (i) You no longer live with your sponsor; and
- (ii) Leaving your sponsor caused your need for benefits.

(2) You are exempt from the deeming process while you are in the same AU as your sponsor(;

~~(3) For children and pregnancy medical programs, you are exempt from sponsor deeming requirements).~~

~~((4))~~ (3) For Basic Food, you are exempt from deeming while you are under age eighteen.

~~((5))~~ (4) For state family assistance, aged, blind, or disabled (ABD) cash, pregnant women assistance (PWA)~~((;))~~ and state-funded Basic Food benefits, ~~((and state-funded medical assistance for legal immigrants))~~ you are exempt from the deeming process if:

(a) Your sponsor signed the affidavit of support more than five years ago;

(b) Your sponsor becomes permanently incapacitated; or

(c) You are a qualified alien according to WAC 388-424-0001 and you:

(i) Are on active duty with the U.S. armed forces or you are the spouse or unmarried dependent child of someone on active duty;

(ii) Are an honorably discharged veteran of the U.S. armed forces or you are the spouse or unmarried dependent child of an honorably discharged veteran;

(iii) Were employed by an agency of the U.S. government or served in the armed forces of an allied country during a military conflict between the U.S. and a military opponent; or

(iv) Are a victim of domestic violence and you have petitioned for legal status under the Violence Against Women Act.

~~((6))~~ (5) If you, your child, or your parent was a victim of domestic violence, you are exempt from the deeming process for twelve months if:

(a) You no longer live with the person who committed the violence; and

(b) Leaving this person caused your need for benefits.

~~((7))~~ (6) If your AU has income at or below one hundred thirty percent of the federal poverty level (FPL), you are exempt from the deeming process for twelve months. This is called the "indigence exemption." You may choose to use this exemption or not to use this exemption in full knowledge of the possible risks involved. See risks in subsection (9) below. For this rule, we count the following as income to your AU:

(a) Earned and unearned income your AU receives from any source; and

(b) Any noncash items of value such as free rent, commodities, goods, or services you receive from an individual or organization.

~~((8))~~ (7) If you use the indigence exemption, and are eligible for a federal program, we are required by law to give the United States attorney general the following information:

(a) The names of the sponsored people in your AU;

(b) That you are exempt from deeming due to your income;

(c) Your sponsor's name; and

(d) The effective date that your twelve-month exemption began.

~~((9))~~ (8) If you use the indigence exemption, and are eligible for a state program, we do not report to the United States attorney general.

~~((10))~~ (9) If you choose not to use the indigence exemption:

(a) You could be found ineligible for benefits for not verifying your sponsor's income and resources; or

(b) You will be subject to regular deeming rules under WAC 388-450-0160.

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

WAC 388-450-0170 Does the department provide an earned income deduction as an incentive for persons who receive TANF/SFA to work? This section applies to TANF/SFA, RCA((;)) and PWA((; and medical programs for children, pregnant women, and families except as specified under WAC 388-450-0210)).

- (1) If a client works, the department only counts some of the income to determine eligibility and benefit level.
- (2) We only count fifty percent of your monthly gross earned income. We do this to encourage you to work.
- (3) If you pay for care before we approve your benefits, we subtract the amount you pay for those dependent children or incapacitated adults who get cash assistance with you.
 - (a) The amount we subtract is:
 - (i) Prorated according to the date you are eligible for benefits;
 - (ii) Cannot be more than your gross monthly income; and
 - (iii) Cannot exceed the following for each dependent child or incapacitated adult:

Dependent Care Maximum Deductions

| Hours Worked Per Month | Child Two Years of Age & Under | Child Over Two Years of Age or Incapacitated Adult | |
|------------------------|--------------------------------|--|--|
| | | | |
| 0 - 40 | \$ 50.00 | \$ 43.75 | |
| 41 - 80 | \$ 100.00 | \$ 87.50 | |
| 81 - 120 | \$ 150.00 | \$ 131.25 | |
| 121 or More | \$ 200.00 | \$ 175.00 | |

- (b) In order to get this deduction:
 - (i) The person providing the care must be someone other than the parent or stepparent of the child or incapacitated adult; and
 - (ii) You must verify the expense.

AMENDATORY SECTION (Amending WSR 12-06-070, filed 3/6/12, effective 4/6/12)

WAC 388-472-0005 What are my rights and responsibilities? For the purposes of this chapter, "we" and "us" refer to the department and "you" refers to the applicant or recipient.

- (1) If you apply for or get cash, a referral to the housing and essential needs(HEN) program, or food ((~~or medical~~)) assistance benefits you have the right to:
 - (a) Have your rights and responsibilities explained to you and given to you in writing;
 - (b) Have us explain the legal use of DSHS benefits to you;

(c) Be treated politely and fairly no matter what your race, color, political beliefs, national origin, religion, age, gender, disability or birthplace;

(d) Request benefits by giving us an application form using any method listed under WAC 388-406-0010. You can ask for and get a receipt when you give us an application or other documents;

(e) Have your application processed as soon as possible. Unless your application is delayed under WAC 388-406-0040, we process your application for benefits within thirty days, except:

- (i) If you are eligible for expedited services under WAC 388-406-0015, you get food assistance within seven days. If we deny you expedited services, you have a right to ask that the decision be reviewed by the department within two working days from the date we denied your request for expedited services;
- (ii) ((~~If you are pregnant and otherwise eligible, you get medical within fifteen working days;~~)) Aged, blind, or disabled (ABD) assistance, or ((~~alcohol or drug addiction treatment (ADATSA), or medical assistance~~)) referral to the housing and essential needs (HEN) program, may take up to forty-five days(~~;-and~~);
- (iv) ((~~iii~~)) Medical assistance requiring a disability decision may take up to sixty days)).

(f) Be given at least ten days to give us information needed to determine your eligibility and be given more time if you ask for it. If we do not have the information needed to decide your eligibility, then we may deny your request for benefits;

(g) Have the information you give us kept private. We may share some facts with other agencies for efficient management of federal and state programs;

(h) Ask us not to collect child support ((~~or~~)) (which includes medical support, as defined in WAC 388-14A-1020) if you fear the noncustodial parent may harm you, your children, or the children in your care;

(i) Ask for extra money to help pay for temporary emergency shelter costs, such as an eviction or a utility shutoff, if you get TANF;

(j) Get a written notice, in most cases, at least ten days before we make changes to lower or stop your benefits;

(k) Ask for an administrative hearing if you disagree with a decision we make. You can also ask a supervisor or administrator to review our decision or action without affecting your right to a fair hearing;

(l) Have interpreter or translator services given to you at no cost and without delay;

(m) Refuse to speak to a fraud investigator. You do not have to let an investigator into your home. You may ask the investigator to come back at another time. Such a request will not affect your eligibility for benefits; and

(n) Get help from us to register to vote.

(2) If you get cash((;)) or food((~~;-or medical~~)) assistance, you are responsible to:

(a) Tell us if you are ((~~pregnant, in need of immediate medical care;~~)) experiencing an emergency such as having no money for food, or facing an eviction so we can process your request for benefits as soon as possible;

(b) Report the following expenses so we can decide if you can get more food assistance:

- (i) Shelter costs;
- (ii) Child or dependent care costs;
- (iii) Child support that is legally obligated;
- (iv) Medical expenses; and
- (v) Self-employment expenses.

(c) Report changes as required under WAC 388-418-0005 and 388-418-0007.

(d) Give us the information needed to determine eligibility;

(e) Give us proof of information when needed. If you have trouble getting proof, we help you get the proof or contact other persons or agencies for it;

(f) Cooperate in the collection of child support (~~or medical support~~) unless you fear the noncustodial parent may harm you, your children, or the children in your care;

(g) Apply for and get any benefits from other agencies or programs prior to getting cash assistance from us;

(h) Complete reports and reviews when asked;

(i) Look for, get, and keep a job or participate in other activities if required for cash or food assistance;

(j) (~~Give your Provider One services card to your medical care provider;~~

~~(k))~~ Cooperate with the quality control review process;

~~((H))~~ ~~(k)~~ Keep track of your EBT card for cash and food assistance and keep your personal identification number (PIN) secure. If you receive multiple replacement EBT cards, this may trigger an investigation to determine if you are trafficking benefits as described under WAC 388-412-0046 (2)(d); and

~~((m))~~ ~~(l)~~ Use your cash and food assistance benefits only as allowed under WAC 388-412-0046.

(3) If you are eligible for necessary supplemental accommodation (NSA) services under chapter 388-472 WAC, we help you comply with the requirements of this section.

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

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.

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

WAC 388-473-0010 What are ongoing additional requirements and how do I qualify? "Ongoing additional requirement" means a need beyond essential food, clothing, and shelter needs and is necessary to help you continue living independently.

(1) We may authorize ongoing additional requirement benefits if you are active in one of the following programs:

- (a) Temporary assistance for needy families (TANF), or tribal TANF;
- (b) State family assistance (SFA);
- (c) Pregnant women assistance (PWA);
- (d) Refugee cash;
- (e) Aged, blind, or disabled (ABD) cash assistance; or

(f) Supplemental security income (SSI).

(2) You apply for an ongoing additional requirement benefit by notifying staff who maintain your cash (~~or medical~~) assistance that you need additional help to live independently.

(3) We authorize ongoing additional requirement benefits only when we determine the item is essential to you. We make the decision based on proof you provide of:

(a) The circumstances that create the need; and

(b) How the need affects your health, safety and ability to continue to live independently.

(4) We authorize ongoing additional requirement benefits by increasing your monthly cash assistance benefit.

(5) We use the following review cycle table to decide when to review your need for the additional benefit(s).

| REVIEW CYCLE | |
|--------------|---|
| Program | Frequency (Months) |
| TANF/RCA | 6 Months |
| ABD | 12 Months |
| SSI | 24 Months |
| All | Any time need or circumstances are expected to change |

(6) Monthly payment standards for ongoing additional requirements are described under WAC 388-478-0050.

**WSR 14-23-004
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 14-322—Filed November 5, 2014, 2:58 p.m., effective November 5, 2014, 2:58 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules.

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

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

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

Reasons for this Finding: A record return of coho salmon is returning to the upper Yakima River with over twenty thousand counted passing Prosser Dam through November 3, 2014. Yakama Nation and Washington department of fish and wildlife biologists agree that sufficient harvestable surplus is available to provide a one week extension of this 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 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: November 5, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-310-19500I Exceptions to statewide rules—Yakima River. Notwithstanding the provisions of WAC 220-310-195, effective immediately through November 16, 2014, it is permissible to fish for coho salmon in the waters of the Yakima River from the Interstate 82 bridge at Union Gap to the "closed water" line 3,500 feet downstream of Roza Dam.

(1) Daily limit of two coho.

(2) Barbless hooks are required. Use of bait and knotted nets is permissible (selective gear rules are temporarily suspended).

(3) Night closure is in effect.

(4) The Columbia River Salmon/Steelhead Endorsement is required to participate in this fishery.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-310-19500H Exceptions to statewide rules—
Yakima River.

The following section of the Washington Administrative Code is repealed effective November 17, 2014:

WAC 220-310-19500I Exceptions to statewide rules—
Yakima River.

**WSR 14-23-005
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 14-324—Filed November 5, 2014, 4:18 p.m., effective November 5, 2014, 4:18 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing for Puget Sound salmon.

Citation of Existing Rules Affected by this Order: Amending WAC 220-47-311 and 220-47-411.

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: A closure is needed since the nontreaty share of chum salmon in Salmon Management and Catch Reporting Areas 12 and 12B have been harvested. There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 2, 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: November 5, 2014.

Jame B. Scott, Jr.
for Philip Anderson
Director

NEW SECTION

WAC 220-47-31100L Purse seine—Open periods. Notwithstanding the provisions of Chapter WAC 220-47-311, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes with purse seine gear in Puget Sound Salmon Management and Catch Reporting Areas 12 and 12B.

NEW SECTION

WAC 220-47-41100D Gillnet—Open periods. Notwithstanding the provisions of WAC 220-47-411, effective immediately until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes with gillnet gear in Puget Sound Salmon Management and Catch Reporting Areas 12 and 12B.

WSR 14-23-009
EMERGENCY RULES
BUILDING CODE COUNCIL

[Filed November 6, 2014, 2:00 p.m., effective November 6, 2014, 2:00 p.m.]

Effective Date of Rule: Immediately upon filing.

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

NOTE: This filing is to renew the emergency rule renewed on July 9, 2014, as WSR 14-15-028 (originally filed on March 14, 2014, as WSR 14-07-058), which will expire on November 7, 2014. The state building code council (SBCC) has entered permanent rule making; public hearings were held on September 12, 2014, and October 10, 2014. The rules are scheduled for adoption by SBCC on November 14, 2014.

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

Statutory Authority for Adoption: RCW 19.27.031, 19.27.074.

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

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

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

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

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

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

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

Date Adopted: March 7, 2014.

C. Ray Allshouse
Chair

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

WAC 51-54A-0202 General definitions.

SECTION 202 GENERAL DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

MOTOR VEHICLE. Includes, but not limited to, a vehicle, machine, tractor, trailer or semitrailer, or any combination thereof, propelled or drawn by mechanical power and designed for use upon the highways in the transportation of passengers or property. It does not include a vehicle, locomotive or car operated exclusively on a rail or rails, or a trolley

bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service. The term "motor vehicle" also includes freight containers or cargo tanks used, or intended for use, in connection with motor vehicles.

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

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

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

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

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

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

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

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

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

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

EXCEPTIONS:

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

2. Family child care homes licensed by Washington state for the care of 12 or fewer children shall be classified as Group R-3.

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

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

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

- Hotels (transient)

- Motels (transient)

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

- Apartment houses

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

- Boarding houses (nontransient) with more than 16 occupants

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

- Convents

- Dormitories

- Fraternities and sororities

- Hotels (nontransient)

- Live/work units

- Monasteries

- Motels (nontransient)

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

- Vacation timeshare properties

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

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

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

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

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

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

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

Care facilities within a dwelling. Care facilities for five or fewer persons receiving care that are within a single-family dwelling are permitted to comply with the *International Residential Code* provided an automatic sprinkler system is installed in accordance with Section 903.3.1.3 or with Section P2904 of the *International Residential Code*.

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

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

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

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

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

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

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

WAC 51-54A-0903 Automatic sprinkler systems.

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

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

EXCEPTIONS:

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

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

EXCEPTION:

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

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

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

**WSR 14-23-013
EMERGENCY RULES
BUILDING CODE COUNCIL**

[Filed November 6, 2014, 2:57 p.m., effective November 6, 2014, 2:57 p.m.]

Effective Date of Rule: Immediately upon filing.

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

NOTE: This filing is to renew the emergency rule renewed on July 9, 2014, as WSR 14-15-029 (originally filed on March 17, 2014, as WSR 14-07-080), which will expire on November 7, 2014. The state building code council (SBCC) has entered permanent rule making; public hearings were held on September 12, 2014, and October 10, 2014. The rules are scheduled for adoption by SBCC on November 14, 2014.

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

Statutory Authority for Adoption: RCW 19.27.031, 19.27.074.

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

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

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

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

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

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

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

Date Adopted: March 7, 2014.

C. Ray Allshouse
Chair

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

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

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

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

**TABLE R302.1(1)
EXTERIOR WALLS**

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

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

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

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

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

| Exterior Wall Element | | Minimum Fire-Resistance Rating | Minimum Fire Separation Distance |
|-----------------------|---------------------------|--|----------------------------------|
| Walls | Fire-resistance rated | 1-hour tested in accordance with ASTM E 119 or UL 263 with exposure from the outside | 0 feet |
| | Not fire-resistance rated | 0 hours | 3 feet ^a |

| Exterior Wall Element | | Minimum Fire-Resistance Rating | Minimum Fire Separation Distance |
|-----------------------|---------------------------|---|----------------------------------|
| Projections | Fire-resistance rated | 1 hour on the underside ^{b, c} | 2 feet ^a |
| | Not fire-resistance rated | 0 hours | 3 feet |
| Openings in walls | Not allowed | N/A | < 3 feet |
| | Unlimited | 0 hours | 3 feet ^a |
| Penetrations | All | Comply with Section R302.4 | < 3 feet |
| | | None required | 3 feet ^a |

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

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

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

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

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

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

2. A common 2-hour fire-resistance-rated wall assembly tested in accordance with ASTM E 119 or UL 263 shall be provided. The cavity of the common wall shall not contain plumbing or mechanical equipment, ducts or vents. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against exterior walls and the underside of the roof sheathing. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4.

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

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

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

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

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

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

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

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

**WSR 14-23-015
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 14-323—Filed November 7, 2014, 10:07 a.m., effective November 7, 2014, 10:07 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules for commercial geoduck harvest license application and issuance process.

Citation of Existing Rules Affected by this Order: Amending WAC 220-52-01904.

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

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

Reasons for this Finding: The current WAC established for the initial offering of licenses to geoduck divers relies on the diver providing documentation from the department of natural resources (DNR) that demonstrates they meet the requirements for exercising right of first refusal. DNR has since determined it is unable to provide the specific documentation to the divers in the timeframe needed, but can certify the diver meets the established requirements. This emergency rule allows the department to accept certification from DNR that a geoduck diver license applicant was on a harvest plan in 2011, 2102 [2012], 2103 [2013] or 2104 [2014]. There is insufficient [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: November 7, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-52-01904A Commercial geoduck harvest—License application and issuance process for 2015 geoduck diver licenses. Notwithstanding the provisions of WAC 220-52-01904, effective immediately until further notice, it is permissible for the department to accept certification from Washington department of natural resources verifying the applicant is listed on a plan of operations for 2011, 2012, 2013 or 2014 for "right of first refusal" applicants in lieu of an applicant submitting a copy of a DNR geoduck harvest agreement plan of operation that lists the applicant on the agreement.

**WSR 14-23-026
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 14-325—Filed November 11, 2014, 5:37 p.m., effective November 11, 2014, 5:37 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing for Grays Harbor commercial salmon.

Citation of Existing Rules Affected by this Order: Amending WAC 220-36-023.

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 twelve hour opening was included in the impact analysis and set aside as an incentive for compliance with fish handling rules developed as part of the 2014 Grays Harbor commercial fishery package. Data collected during onboard monitoring of the 2014 Grays Harbor commercial fishery to date indicate that compliance rate is greater than ninety percent by participants of this fishery. As provided in the concise explanatory statement, this additional day of commercial fishing opportunity is being offered. 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: November 11, 2014.

Philip Anderson
Director

NEW SECTION

WAC 220-36-02300A Salmon—Grays Harbor fall fishery. Notwithstanding the provisions of WAC 220-36-023:

Effective 7:00 a.m. November 12, 2014 through 7:00 p.m. November 12, 2014, a person may fish for salmon for commercial purposes in waters of Grays Harbor Salmon Management and Catch Reporting Areas 2A and 2D. Unless otherwise amended all permanent rules remain in effect.

(i) Fishers must take department observers if requested by department staff when participating in this opening. Fishers also must provide notice of intent to participate by contacting quick reporting by phone, fax or e-mail. Notice of intent must be given prior to 12:00 p.m. on November 11, 2014.

WSR 14-23-045
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-327—Filed November 13, 2014, 2:31 p.m., effective November 16, 2014, 6:00 p.m.]

Effective Date of Rule: November 16, 2014, 6:00 p.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04000Q and 220-52-04600D; and amending WAC 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 rule closes Regions 3-1, 3-2 and 3-3. The state will be approaching its initial allocation in Region 3-2 by the date of the closure. Regions 3-1 and 3-3 are closing on recommendation of the industry. Regions 1, 2-east and 2-west were closed by a previous emergency rule and will remain closed as part of this emergency rule. This emergency rule conforms to agreed management plans with applicable tribes, entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 2.

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

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

Date Adopted: November 13, 2014.

Joe Stohr
for Philip Anderson
Director

NEW SECTION

WAC 220-52-04600E Puget Sound crab fishery—Seasons and areas. Notwithstanding the provisions of WAC 220-52-046, effective 6:00 p.m. November 16, 2014, until further notice it is unlawful to fish for crab for commercial purposes in the areas listed below:

(1) Crab Management Region 3-1, 3-2 and 3-3.

(a) Region 3-1 includes Marine Fish-Shellfish Management and Catch Reporting Areas 23A and 23B.

(b) Region 3-2 includes Marine Fish-Shellfish Management and Catch Reporting Areas 23D, 25A and 25E.

(c) Region 3-3 includes Marine Fish-Shellfish Management and Catch Reporting Areas 23C and 29.

(2) Crab Management Region 1. Region 1 includes Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A and 22B.

(3) Crab Management Regions 2-east and 2-west.

(a) Region 2-east includes Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D, and 26A-E.

(b) Region 2-west includes Marine Fish-Shellfish Management and Catch Reporting Areas 25B, 25D, and 26A-West.

REPEALER

The following sections of the Washington Administrative code are repealed effective 6:00 p.m. November 16, 2014:

WAC 220-52-04000Q Commercial crab fishery—Lawful and unlawful gear, methods, and other unlawful acts (14-321)

WAC 220-52-04600D Puget Sound crab fishery—Seasons and areas (14-321)

WSR 14-23-050
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 14-328—Filed November 14, 2014, 3:16 p.m., effective November 20, 2014, 12:01 p.m.]

Effective Date of Rule: November 20, 2014, 12:01 p.m.

Purpose: Amend recreational fishing rules for razor clams.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-36000S; 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 recreational harvest in Razor Clam Areas 1, 3, 4 and 5. Washington department of health has certified 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: November 14, 2014.

Joe Stohr
for Philip Anderson
Director

NEW SECTION

WAC 220-56-36000S 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 for in this section:

(1) Effective 12:01 p.m. November 20 through 11:59 p.m. November 26, 2014, razor clam digging is permissible in Razor Clam Area 1. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(2) Effective 12:01 p.m. November 20 through 11:59 p.m. November 26, 2014, razor clam digging is permissible in Razor Clam Area 3. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(3) Effective 12:01 p.m. November 22 through 11:59 p.m. November 22, 2014, razor clam digging is permissible in Razor Clam Area 4. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(4) Effective 12:01 p.m. November 21 through 11:59 p.m. November 23, 2014, razor clam digging is permissible in Razor Clam Area 5. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. November 27, 2014:

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

WSR 14-23-051

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE

[Filed November 14, 2014, 3:28 p.m., effective November 14, 2014, 3:28 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This rule-making order establishes a special permit to allow transportation and distribution of solid waste for disposal at a solid waste landfill or disposal facility in the apple maggot and plum curculio pest-free area from the area under quarantine.

Statutory Authority for Adoption: RCW 17.24.011, 17.24.041.

Other Authority: Chapter 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 agency had been working with the solid waste industry and other stakeholders regarding reissuance of a special permit under WAC 16-470-130 when it determined that section applied only to special permits for transport of fresh fruit. Without the emergency adoption of a rule allowing issuance of special permits for transport of solid waste to solid waste disposal facilities in the pest-free area, the affected industry stakeholder(s) would lack alternatives to properly dispose of existing waste, creating storage and disposal back-ups with potential health risks and financial risks to the municipal corporations dependent on their contractors to properly and timely dispose of the waste.

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 1, Amended 0, Repealed 0.

Date Adopted: November 14, 2014.

Mark Streuli
Deputy Director

NEW SECTION

WAC 16-470-124 Special permits for solid waste transport and distribution. The director may issue special permits admitting, or allowing transportation and distribution of solid waste for disposal at a solid waste landfill or disposal facility in the pest-free area from the area under quarantine

established under WAC 16-470-101, subject to conditions and provisions which the director may prescribe to prevent introduction, escape or spread of the quarantined pests. For purposes of this section "solid waste" and "solid waste land-fill or disposal facility" refer to solid waste and solid waste facilities regulated under chapter 70.95 RCW and chapter 173-350 WAC by the Washington State Department of Ecology.

WSR 14-23-088
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Financial Services Administration)

[Filed November 19, 2014, 10:07 a.m., effective November 21, 2014]

Effective Date of Rule: November 21, 2014.

Purpose: The background check central unit is amending three sections of chapter 388-06 WAC related to what crimes and pending charges may be considered disqualifying by children's administration when licensing or approving an individual to have unsupervised access to children. This rule making is being filed on behalf of children's administration to comply with section 4, chapter 88, Laws of 2014 (SSB 6095).

Citation of Existing Rules Affected by this Order: Amending WAC 388-06-0170, 388-06-0180, and 388-06-0200.

Statutory Authority for Adoption: Chapter 88, Laws of 2014; RCW 43.43.832.

Other Authority: P.L. 105-89; RCW 74.15.030.

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

Reasons for this Finding: Emergency revisions are necessary to implement chapter 88, Laws of 2014 (SSB 6095) which limits the background information that children's administration may consider disqualifying.

Children's administration has just completed the required draft review and submitted their proposal documents for filing with the office of the code reviser by November 19, 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 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: November 12, 2014.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 01-18-025, filed 8/27/01, effective 10/1/01)

WAC 388-06-0170 Will a criminal conviction permanently prohibit me from being licensed, contracted, or authorized to have unsupervised access to children or to individuals with developmental disability? (1) There are convictions for certain crimes that will permanently prohibit you from being licensed, contracted, certified or authorized to have unsupervised access to children or to individuals with developmental disability. Those felony convictions are as follows:

(a) Child abuse and/or neglect;
(b) Spousal abuse;
(c) A crime against a child (including child pornography);

(d) A crime involving violence (including rape, sexual assault, or homicide but not including other physical assault or battery); or

(e) Any federal or out-of-state conviction for an offense that under the laws of this state would disqualify you from having unsupervised access to children or individuals with developmental disabilities in any home or facility.

(2) If you are convicted of one of the crimes listed in WAC 388-06-0170 (1)(a) through (e) you will not be able to:

(a) Receive a license to provide care to children;
(b) Be approved for adoption of a child;
(c) Be a contractor;
(d) Be employed by a licensed agency or contractor, if you will have unsupervised access to children or to individuals with a developmental disability;

(e) Volunteer or participate as an intern in a home or facility that offers care to children or to individuals with a developmental disability; or

(f) Provide any type of care to children or to individuals with a developmental disability, if the care is funded by the state.

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

WAC 388-06-0180 Are there other criminal convictions that will prohibit me from being licensed, contracted, or authorized to have unsupervised access to children or from working with children or individuals with a developmental disability? The department must disqualify you from licensing, contracting, certification, or from having unsupervised access to children or to individuals with a developmental disability if it has been less than five years from a conviction for the following crimes:

(1) Any felony physical assault or battery offense not included in WAC 388-06-0170;

(2) ~~((Any sex offense not included in WAC 388-06-0170;~~

~~(3) Any felony conviction not included in WAC 388-06-0170; or~~

~~(4))~~) Felony violation of the following drug-related crimes:

(a) The Imitation Controlled Substances Act (for substances that are falsely represented as controlled substances (see chapter 69.52 RCW));

(b) The Legend Drug Act (prescription drugs, see chapter 69.41 RCW);

(c) The Precursor Drug Act (substances used in making controlled substances, see chapter 69.43 RCW);

(d) The Uniform Controlled Substances Act (illegal drugs or substances, see chapter 69.50 RCW); or

(e) Unlawfully manufacturing, delivering or possessing a controlled substance with intent to deliver, or unlawfully using a building for drug purposes.

(5) Any federal or out-of-state conviction for an offense that under the laws of Washington state would disqualify you for no less than five years from having unsupervised access to children or individuals with a developmental disability.

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.

AMENDATORY SECTION (Amending WSR 01-18-025, filed 8/27/01, effective 10/1/01)

WAC 388-06-0200 Will I be disqualified if there are pending criminal charges on my background check? (1)

The department will not license, contract, certify, or authorize a person to have unsupervised access to children or individuals with a developmental disability who have a criminal charge pending for a disqualifying crime described in the adoption and safe families act of 1997, or a criminal charge pending for a disqualifying crime that relates directly to child safety, permanence, or well-being.

(2) You may reapply for a license, contract, certification, or approval to have unsupervised access to children or to individuals with a developmental disability by providing proof to the department that the charge against you has been dropped or that you were acquitted.