

WSR 17-14-002

EMERGENCY RULES

HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed June 21, 2017, 3:23 p.m., effective June 21, 2017, 3:23 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The agency is creating new WAC 182-546-4600 under chapter 182-546 WAC for ambulance transportation for involuntary substance use disorder treatment as directed by the Washington state legislature in E3SHB 1713, also known as the Ricky Garcia Act.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160; ESHB [E3SHB] 1713, chapter 29, Laws of 2016 1st sp. sess.

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

Reasons for this Finding: As directed by the Washington state legislature to implement under E3SHB 1713, this emergency filing continues the current emergency rule filed under WSR 17-06-023 which is set to expire on June 22, 2017. Finalizing of the permanent rule is delayed while issues to implement a training program for designated crisis responders who are licensed and credentialed to provide both mental health and substance use disorder services are worked out. This training program is directly related to the permanent rule making for WAC 182-546-4600. An interagency meeting (department of social and health services, health care authority, and the department of health) with external stakeholders is scheduled for July 28, 2017, to determine the next steps needed to move the permanent rule-making process forward.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.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: June 21, 2017.

Wendy Barcus
Rules Coordinator

NEW SECTION

WAC 182-546-4600 Ambulance transportation—Involuntary substance use disorder treatment—Ricky Garcia Act. (1) Definitions. For the purposes of this section, the following definitions and those found in chapter 182-500 WAC apply:

(a) **"Behavioral health organization (BHO)"** - See WAC 182-500-0015.

(b) **"Designated chemical dependency specialist"** means a person appointed by the behavioral health organization (BHO) or by the BHO-designated county substance use disorder treatment program coordinator to perform the duties specified in this section.

(c) **"Detention" or "detain"** means the lawful confinement of a person, under the provisions of this chapter.

(d) **"Evaluation and treatment facility"** means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to people suffering from a mental disorder, and which is certified as such by the department of social and health services (DSHS). DSHS may certify single beds as temporary evaluation and treatment beds under RCW 71.05.-745. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, DSHS or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility under this chapter.

(e) **"Gravely disabled"** means that a person experiences a loss of cognition or control over the person's actions, is not receiving care essential for the person's health or safety, and is in danger of serious physical harm.

(f) **"Involuntary Treatment Act"** means, for adults, chapter 71.05 RCW; for juveniles, chapter 71.34 RCW. See also chapter 388-865 WAC.

(g) **"Less restrictive alternative treatment"** means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.05.585.

(h) **"Nearest and most appropriate destination"** means the nearest facility able and willing to accept the involuntarily detained person for treatment, not the closest facility based solely on driving distance.

(2) The medicaid agency pays for transportation services for a person detained for involuntary chemical dependency treatment when the following apply:

(a) The person has been assessed by a designated chemical dependency specialist and found to be:

(i) A danger to self;

(ii) A danger to others;

(iii) Gravely disabled as a result of chemical dependency.

(b) The transportation is from:

(i) The site of the initial detention;

(ii) An evaluation and treatment facility designated by DSHS; or

(iii) A court hearing.

(c) The transportation is to:

(i) An evaluation and treatment facility;

(ii) A less restrictive alternative setting, except when ambulance transport to a client's home is not covered; or

(iii) A court hearing.

(d) The transportation is provided by a qualified transportation provider. The qualified transportation provider must:

(i) Be substance use disorder treatment provider designated as such by:

(A) The local community mental health center; or

(B) The BHO.

(ii) Comply with DSHS requirements for drivers, driver training, vehicle and equipment standards and maintenance.

(3) The transportation must be to the nearest and most appropriate destination. The reason for the diversion to a more distant facility must be clearly documented in the person's file.

(4) The designated chemical dependency specialist authorizes the level of transportation provided to and from covered facilities based on the person's need. A copy of the agency's Authorization for Substance Use Disorder (SUD) Ambulance Transportation form by the designated chemical dependency specialist must be kept in the person's file.

(5) The DSHS chemical dependency division establishes payment for substance use disorder transportation. Providers must clearly identify Involuntary Treatment Act transportation on the claim form when submitting claims to the agency.

WSR 17-14-008

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 17-134—Filed June 22, 2017, 11:14 a.m., effective June 23, 2017, 11:59 p.m.]

Effective Date of Rule: June 23, 2017, 11:59 p.m.

Purpose: Amend recreational fishing rules for the halibut fishery.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-314-03000H; and amending WAC 220-314-030.

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

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

Reasons for this Finding: This emergency rule is needed to close the halibut fishery in the Nearshore Area in Marine Area 1 because the recreational halibut allocation for the Columbia River subarea has been taken. There is not sufficient quota remaining to allow incidental halibut retention in this area after June 23, 2017. Recreational halibut fishing will remain closed in all other marine areas for the remainder of the season as there is insufficient quota remaining to reopen for another day. These rules conform to action taken by the Pacific Fishery Management Council and the International

Pacific Halibut Commission. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: June 23 [22], 2017.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

WAC 220-314-03000I Halibut—Seasons—Daily and possession limits. Notwithstanding the provisions of WAC 220-314-030, 220-314-040, and 220-314-010, effective 11:59 p.m. June 23, 2017, until further notice, it is unlawful to fish for or possess halibut taken for personal use in Catch Record Areas 1 through 13.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. June 23, 2017:

WAC 220-314-03000H Halibut—Seasons—Daily and possession limits. (17-128)

WSR 17-14-013

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 17-135—Filed June 22, 2017, 3:29 p.m., effective June 22, 2017, 3:29 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational bottomfish rules in coastal Marine Areas 1-4.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-23500H and 220-314-02000A; and amending WAC 220-314-020.

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: These emergency rules are necessary to keep recreational catch within federal harvest limits and to conform to rules already approved by the National Marine Fisheries Service. The Pacific Fishery Management Council adopted changes to the recreational bottomfish harvest limits and fishing regulations for the Washington coast as part of its management process for the 2017 and 2018 bottomfish seasons. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: June 22, 2017.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

WAC 220-314-02000B Possession limits—Bottomfish. Notwithstanding the provisions of WAC 220-314-020, effective immediately until further notice, it is unlawful to violate the following provisions below. Unless otherwise amended, all permanent rules remain in effect.

(1) Coastal (Marine Areas 1 through 3 and Marine Area 4 (west of the Bonilla-Tatoosh line): Limit 9 fish total, except surf perch not included in bottomfish daily limit; all species and species groups of bottomfish may include no more than:

(a) Lingcod: 2 fish limit with no minimum size in Marine Areas 1 through 3 and Marine Area 4 (west of the Bonilla-Tatoosh line).

(b) Rockfish: 7 fish in aggregate which can include up to one canary rockfish in Marine Areas 1 and 2.

(2) The daily limit for surfperch is 12.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-56-23500H Possession limits—Bottomfish.
(17-42)

WAC 220-314-02000A Possession limits—Bottomfish.
(17-113)

WSR 17-14-014 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 17-136—Filed June 22, 2017, 4:29 p.m., effective June 24, 2017]

Effective Date of Rule: June 24, 2017.

Purpose: Amend recreational fishing rules in Icicle River.

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

Statutory Authority for Adoption: RCW 77.12.047 [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: Due to a low estimated run escapement, the river had been closed by filing WSR 17-11-024 to ensure meeting broodstock needs at the Leavenworth National Fish Hatchery. Broodstock collections goals have finally been met, so this emergency rule is needed to open the recreational fishery for the remaining hatchery spring Chinook salmon. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: June 22, 2017.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

WAC 220-312-05000N Freshwater exceptions to statewide rules—Eastside. Notwithstanding the provisions of WAC 220-312-050, effective June 24 through July 31, 2017, it is permissible to fish in waters of the Icicle River from the closure signs located 800 feet upstream of the mouth to 500 feet downstream of the Leavenworth National Fish Hatchery Barrier Dam. Also, it is permissible to fish from the closure signs located upstream of the Leavenworth National Fish Hatchery where Cyo Road would intersect the Icicle

River at the Sleeping Lady Resort (RM 4.0) to the Icicle Peshastin Irrigation District footbridge 750' upstream of the Snow Lakes trailhead parking area (RM 5.7)

(1) Daily limit two hatchery Chinook, minimum size 12 inches.

(2) Mandatory retention of hatchery spring Chinook.

(3) Anglers must release adipose present Chinook unharmed and cannot be removed from the water prior to release.

(4) Anglers must release all Chinook with one or more round 1/4 inch diameter holes punched in the caudal (tail) fin.

(5) No gear restrictions. Night closure is in effect.

REPEALER

The following section of the Washington Administrative Code is repealed effective June 24, 2017:

WAC 220-312-05000I Freshwater exceptions to statewide rules—Eastside. (17-90)

The following section of the Washington Administrative Code is repealed effective August 1, 2017:

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

WSR 17-14-015
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 17-138—Filed June 22, 2017, 4:29 p.m., effective June 22, 2017, 4:29 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends Puget Sound recreational shrimp seasons.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-330-07000C; and amending WAC 220-330-070.

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 regulation is needed to ensure an orderly fishery, manage the fishery within court-ordered sharing requirements, and ensure conservation. Sufficient amounts of spot shrimp remain available in Marine Area 12 to allow one more day of fishing. Opening the shrimp fishery for one additional day will provide additional harvest opportunity. There is insufficient time to adopt permanent rules.

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

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: June 22, 2017.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

WAC 220-330-07000D Shrimp—Areas and seasons. Notwithstanding the provisions of WAC 220-330-070, effective immediately, until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Areas 4 (east of the east of the Bonilla-Tatoosh line), 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12, 13 and the Discovery Bay Shrimp District, except as provided for in this section:

(1) Marine Areas 4 (east of the Bonilla-Tatoosh line), 5, 6 (excluding the Discovery Bay Shrimp District) and 7 West are open to the harvest of all shrimp species.

(2) All waters equal to or less than 200 feet in depth in Marine Area 7 East are open to the harvest of all shrimp species except spot shrimp. All spot shrimp caught must be immediately returned to the water unharmed. It is unlawful to set or pull shrimp gear in waters greater than 200 feet deep.

(3) All waters equal to or less than 150 feet in depth in Marine Areas 8-1, 8-2, 9 and 11 are open to the harvest of all shrimp species except spot shrimp. All spot shrimp caught must be immediately returned to the water unharmed. It is unlawful to set or pull shrimp gear in waters greater than 150 feet deep.

(4) All waters equal to or less than 250 feet in depth in Marine Area 13 are open to the harvest of all shrimp species except spot shrimp. All spot shrimp caught must be immediately returned to the water unharmed. It is unlawful to set or pull shrimp gear in waters greater than 250 feet deep.

(5) Marine Area 12: Open July 19, 2017, from 9:00 a.m. through 1:00 p.m.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-330-07000C Shrimp—Areas and seasons. (17-111)

Reviser's note: The section above appears as filed by the agency pursuant to RCW 34.08.040; however, the reference to WAC 220-56-330-07000C is probably intended to be WAC 220-330-07000C.

Date Adopted: June 20, 2017.

Katherine I. Vasquez
Rules Coordinator

WSR 17-14-016
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed June 22, 2017, 4:37 p.m., effective June 24, 2017]

Effective Date of Rule: June 24, 2017.

Purpose: The department is amending these rules to implement the nursing facility methodology changes from SHB 1274, found in chapter 2, Laws of 2015 2nd sp. sess.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-96-540, 388-96-552, 388-96-553, 388-96-554, 388-96-558, 388-96-559, 388-96-561, 388-96-562, 388-96-564, 388-96-565, 388-96-572, 388-96-574, 388-96-708, 388-96-744, 388-96-746, 388-96-747, 388-96-748, 388-96-759, 388-96-762, 388-96-767, 388-96-776, 388-96-783, 388-96-784 and 388-96-786; and amending WAC 388-96-010, 388-96-022, 388-96-107, 388-96-205, 388-96-208, 388-96-211, 388-96-218, 388-96-505, 388-96-525, 388-96-534, 388-96-542, 388-96-556, 388-96-560, 388-96-580, 388-96-585, 388-96-709, 388-96-710, 388-96-713, 388-96-758, 388-96-781, 388-96-782, and 388-96-901.

Statutory Authority for Adoption: RCW 74.46.800, 74.46.561(1).

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 statute has a deadline for the new rules of July 1, 2016. There was not enough time to complete a formal rule-making process in the time allowed. The department has been working with stakeholders on amended language. A public hearing was held June 6, 2017. Comments are being reviewed and addressed.

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 3, Amended 22, Repealed 24.

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 3, Amended 22, Repealed 24.

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 17-16 issue of the Register.

WSR 17-14-017
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 17-137—Filed June 22, 2017, 4:38 p.m., effective June 28, 2017, 12:01 a.m.]

Effective Date of Rule: June 28, 2017, 12:01 a.m.

Purpose: Amend commercial fishing rules for Puget Sound shrimp.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-340-52000C; and amending WAC 220-340-520.

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 2017 state/tribal shrimp harvest management plans for the Strait of Juan de Fuca and Puget Sound require adoption of harvest seasons contained in this emergency rule. This emergency rule (1) opens the pot fishery season for spot shrimp; (2) implements a spot shrimp biweekly limit for all areas; (3) implements a minimum mesh size restriction for spot shrimp gear; and (4) opens the 1B-21A trawl fishery season. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: June 22, 2017.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

WAC 220-340-52000D Puget Sound shrimp pot and trawl fishery—Season. Notwithstanding the provisions of WAC 220-340-520, effective immediately, until further notice, it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp pot gear:

(a) All waters of Shrimp Management Areas 1A, 1C, 2W, and 3 are open to the harvest of all shrimp species, effective immediately, until further notice, except as provided for in this section:

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

(ii) All waters of Shrimp Management Area 2W are closed to the harvest of spot shrimp.

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

(b) Effective immediately, until further notice, it is unlawful for the combined total harvest of non-spot shrimp by a fisher or the fisher's alternate operator to exceed 1,200 pounds per biweekly management period from Shrimp Management Area 2W.

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

a. It is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 600 pounds per biweekly management period in Shrimp Management Area 1A or Marine Fish/Shellfish Management and Catch Reporting Area (Catch Area) 23A-E.

(d) Effective immediately, until further notice, the spot shrimp catch accounting biweekly management periods are (1) June 28 - July 11; (2) July 12 - July 25; and (3) July 26 - August 8.

(e) Only pots with a minimum mesh size of 1 inch may be pulled on calendar days when fishing for or retaining spot shrimp. Mesh size of 1 inch is defined as a mesh opening that a 7/8-inch square peg will pass through, excluding the entrance tunnels, except for flexible (web) mesh pots, where the mesh must be a minimum of 1 3/4-inch stretch measure. Stretch measure is defined as the distance between the inside of one knot to the outside of the opposite vertical knot of one mesh, when the mesh is stretched vertically. There is no size restriction for spot shrimp.

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

(2) Shrimp trawl gear:

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

(b) That portion of Catch Area 22A within SMA 1B is open.

(c) That portion of Catch Area 20B within SMA 1B is open.

(d) That portion of Catch Area 21A within SMA 1B is open effective 6:00 a.m. July 1, 2016, until further notice.

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

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. June 28, 2017:

WAC 220-340-52000C Puget Sound shrimp pot and beam trawl fishery—Season. (17-131)

WSR 17-14-023**EMERGENCY RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Children's Administration)

[Filed June 23, 2017, 3:13 p.m., effective June 23, 2017, 3:13 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department is changing licensing regulations in WAC 388-145-1555(5), 388-145-1600(4), 388-145-1665(4), 388-145-1675 (1), (2), and 388-148-1465 (3), (6) as recommended by the Washington state patrol fire protection bureau. These WAC changes affect both the division of licensed resources (DLR) group care facilities' WAC (chapter 388-145 WAC) and the child foster home WAC (chapter 388-148 WAC). For group care facilities, the state-adopted international codes do not require facilities that are sprinkler protected to have windows that open to the outside or to have windows that are large enough for emergency personnel to enter and exit. The current WAC requires this even if the facility is sprinkler protected. Further, the state-adopted international codes require smoke detectors to be both inside and outside of all bedrooms in homes and facilities, which is different from the current WAC. Finally, foster homes without a window large enough for emergency personnel to enter and exit have been approved by the fire marshal or building official with jurisdiction to do so. Immediately changing WAC to reflect current standards and practices implemented by the fire marshal or building official will allow such foster homes to meet minimum licensing standards. DLR is amending these WAC to align with the state-adopted international code requirements.

The department is also changing licensing regulations in WAC 388-148-1470 (14), (15) and 388-148-1515(9) as recommended by the children's administration regional medical consultants. These changes are based on child safety. Additional requirements address the use of weighted blankets and clarify that neither formula nor breast milk can be warmed in the microwave oven.

There will be no other content or language changes to the WAC that are part of this emergency rule change.

Citation of Existing Rules Affected by this Order: Amending WAC 388-145-1555(5), 388-145-1600(4), 388-145-1665(4), 388-145-1675 (1), (2), 388-148-1465 (3), (6), 388-148-1470 (14), (15), and 388-148-1515(9).

Statutory Authority for Adoption: RCW 74.15.010, 74.15.030, 74.15.040, 74.15.090, 74.13.031.

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 WAC changes are being requested to align the DLR WAC with the current building code and to provide additional safety related language to the use of weighted blankets in foster homes.

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 7, 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 7, Repealed 0.

Date Adopted: June 22, 2017.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

WAC 388-145-1555 What does the department require for my buildings and property? (1) You must maintain your buildings, premises, and equipment in a clean and sanitary condition, free of hazards, and in good repair. You must furnish your facility appropriately, based on the age and activities of the children in your care. You must:

(a) Provide handrails for steps, stairways, and ramps if required by the department;

(b) Have emergency lighting devices available and in operational condition;

(c) Provide appropriate furnishings, based on the age and activities of the children in your care;

(d) Have washable, water-resistant floors in bathrooms, kitchens, and other rooms exposed to moisture. Washable short-pile carpeting may be approved in kitchen areas if kept clean and sanitary;

(e) Provide tamper-proof or tamper-resistant electrical outlets or blank covers installed in areas accessible to children under the age of six or other persons with limited capacity or who might be endangered by access to them; and

(f) Have easy access to rooms occupied by children in case an emergency arises.

(2) You must have adequate indoor and outdoor space, ventilation, toilet and bathing facilities, light and heat to ensure the health and comfort of all members of the household.

(3) The cleanliness and care of your premises must meet generally accepted health standards for the storage and preparation of food.

(4) You must make reasonable attempts to keep the premises free from pests, such as rodents, flies, cockroaches, fleas, and other insects using the least toxic methods.

(5) People must be able to easily open doors from the inside and outside in all areas of the facility that are occupied, unless the building or structure has a fire sprinkler protection system and was previously approved by the local fire marshal or building official with jurisdiction. This includes closets, bathrooms, and bedrooms. You must also have easy access to the outside in case of an emergency.

(6) Facilities must have nonbreakable light fixture covers or shatter-resistant light bulbs or tubes in food preparation and dining areas. DLR will review your facility to determine other areas that may be a concern for the safety of children.

(7) You must have an immediate plan to address hazardous conditions on your property or in your facility. The department may remove children from your care if hazardous conditions are not immediately remedied.

(8) Your facility must be accessible to emergency vehicles and your address must be clearly visible on your facility or mailbox so that first responders can easily find your location.

(9) Your facility must be located on a well-drained site, free from hazardous conditions. You must discuss with your licensor any potential hazardous conditions, considering the children's ages, behaviors and abilities.

(10) You must have a working landline telephone at all times. Individuals calling your facility must be able to leave a message at all times.

(11) You must post emergency numbers and the physical address of the facility in an easily visible location near the telephone. This must include the Washington state poison control number (1-800-222-1222).

(12) Utility rooms with mop sinks that do not have windows opening to the outside must be ventilated with a mechanical exhaust fan to the outside of the building.

(13) The use of window blinds or other window coverings with pull cords capable of forming a loop and posing a risk of strangulation to children are prohibited per RCW 43.215.360.

(14) Infants/toddlers are not allowed to use wheeled baby walkers.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

WAC 388-145-1600 What are the general requirements for bedrooms? (1) Each child shall have or share a bedroom, approved by the licensor, with privacy and space that is appropriate and adequate to meet the child's developmental needs.

(2) For facilities licensed after December 31, 1986, bedrooms must have:

(a) Adequate ceiling height for the safety and comfort of the occupants. Normally this would be seven and a half feet; and

(b) A window that can open to the outside, allowing natural light into the bedroom and permitting emergency access or exit.

(3) Each bedroom must have unrestricted direct access to outdoors as well as one direct access to common use areas such as hallways, corridors, living rooms, day rooms, or other such common use areas.

(4) Approval may be granted to a building or structure that does not have direct access to the outdoors if it has a fire sprinkler protection system and was previously approved by the local fire marshal or building official with jurisdiction.

(5) You must not use hallways, kitchens, living rooms, dining rooms, and unfinished basements as bedrooms.

~~((5))~~ (6) Common areas of the facility such as hallways, kitchens, living rooms, and dining rooms must not be used as bedrooms for anyone in the household without permission of the DLR licensor and DSHS worker, if applicable.

~~((6))~~ (7) An adult must be on the same floor or within easy hearing distance and access to where children under six years of age are sleeping.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

WAC 388-145-1665 What are the fire safety requirements for all group residential facilities? (1) You must comply with the regulations developed by the chief of the Washington state patrol through the director of the fire protection bureau (WSP/FPB). These regulations are contained in the current fire code and Washington state amendments as adopted by the state of Washington. Contact the WSP/FPB for specific requirements.

(2) If you operate a staffed residential home for five or fewer children you must meet the fire safety requirements outlined in chapter 388-148 WAC for child foster homes.

(3) You and your staff must be familiar with safety procedures related to fire prevention, including fire drill procedures.

(4) You and your staff must be able to:

(a) Operate all fire extinguishers installed on the premises;

(b) Test smoke detectors (single station types);

(c) Conduct frequent inspections at your facility to identify fire hazards and take action to correct any hazards noted during the inspection;

(d) Ensure children are able to escape from every floor in your facility. In most cases, this includes a functional fire ladder available from upper stories; and

~~((e))~~ ~~((Ensure windows open to the outside and are large enough for emergency personnel to enter and exit wearing rescue gear))~~ Approval may be granted to a building or structure that does not have direct access to the outdoors if it has a fire sprinkler protection system and was previously approved by the local fire marshal or building official with jurisdiction.

(5) You must have easy access to all rooms in your facility in case of emergencies.

(6) Barriers are required for fireplaces, wood stoves and other heating systems for facilities licensed for children less than six years of age. You must not leave open-flame devices unattended or use them for a purpose other than for what they were designed.

(7) Emergency vehicles must be able to access your facility. Your address and/or mailbox must be clearly visible so that emergency personnel can easily find your location.

(8) We may require you to have an inspection by WSP/FPB or the local fire authority if we have questions about fire safety, or if local ordinances or WSP/FPB require these inspections.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

WAC 388-145-1675 What requirements must be followed for smoke detectors? (1) Staffed residential homes licensed for five or fewer children must meet all of the following:

~~(a) ((If a sleeping or napping room has a ceiling height that is at least twenty-four inches higher than its adjoining hallway, you must install a smoke detector in both the hallway and the sleeping or napping room;))~~ Your facility must have smoke detectors in operating condition both inside and outside of all sleeping areas. Smoke detectors must also be installed on each story of the facility, in all play areas, and in the basement. You must install and maintain smoke detectors according to the manufacturer's specifications.

(b) If a smoke detector is mounted on a wall, it must be twelve inches from the ceiling and a corner~~((; and))~~.

(c) Smoke detectors must be tested twice a year to ensure they are in working order. You must document the date and time of the test.

(2) All other group residential facilities must meet the regulations developed by the WSP/FPB. You must also meet all of the following:

~~(a) ((Have))~~ Smoke detectors ((that are UL)) must be Underwriter's Laboratory (UL) or Factory Mutual (FM) approved and in ((each bedroom or in areas close to where children sleep, such as a hallway;

~~(b) Have smoke detectors on each level/story of the dwelling to include basements and habitable attics;))~~ operating condition both inside and outside of all sleeping areas. Smoke detectors must also be installed on each story of the facility, in all play areas, and in the basement. You must install and maintain smoke detectors according to the manufacturer's specifications.

~~((c))~~ ~~(b)~~ Have smoke detectors with a strobe and be in compliance with the Americans with Disabilities Act (ADA).

~~((d))~~ ~~(c)~~ Test single-station smoke detectors monthly or in a manner specified by the manufacturer. You must maintain a written record of such testing on the premises that indicates the date and time the test was completed.

(3) If questions arise concerning fire danger, the department may require that the local fire protection authority be consulted.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

WAC 388-148-1465 What other emergency fire and safety requirements must I follow to become licensed? (1) You must observe all state and local fire codes (WAC 212-12-005). We will determine that reasonable fire safety standards exist in your home based on the children placed in your home.

(2) Children must be able to escape from every floor in your home. In most cases, this includes a functional fire ladder available from upper stories.

(3) Windows must open to the outside and be large enough for a rescue person to enter and exit wearing rescue gear, unless the building or structure was previously approved by the local fire marshal or building official with jurisdiction.

(4) You must have easy access to all rooms in your home in case of emergency.

(5) We may require you to have an inspection by WSP/FPB or the local fire authority if we have questions about fire safety, or if local ordinances or WSP/FPB require these inspections.

(6) Your home must have smoke detectors in operating condition ~~((to protect sleep areas, play areas and))~~ both inside and outside of all sleeping areas. Smoke detectors must also be installed on each story of the home, in all play areas, and in the basement. You must install and maintain smoke detectors according to manufacturer's specifications.

(7) You must have at least one approved 2A10BC-rated 5lb or larger all-purpose fire extinguisher readily available at all times. You must maintain and service fire extinguishers according to manufacturer's specifications.

(8) Barriers are required for fireplaces, wood stoves and other heating systems if you are licensed for children less than six years of age. You must not leave open-flame devices unattended or use them incorrectly.

(9) Emergency vehicles must be able to access your home. Your address must be clearly visible on your home or mailbox so that emergency personnel can easily find your home.

AMENDATORY SECTION (Amending WSR 16-17-101, filed 8/19/16, effective 9/19/16)

WAC 388-148-1470 What are the general requirements for bedrooms? (1) Each child shall have a bedroom, approved by the licensor, with privacy and space that is appropriate and adequate to meet the child's developmental needs. Children may share bedrooms, in compliance with WAC 388-148-1475.

(2) Each bedroom must have unrestricted direct access to outdoors as well as one direct access to common use areas such as hallways, corridors, living rooms, day rooms, or other such common use areas.

(3) You may not use hallways, kitchens, living rooms, dining rooms, and unfinished basements as bedrooms.

(4) Children may not be required to pass through private bedroom space in order to access common areas of the home.

(5) An adult must be on the same floor or within easy hearing distance and access to where children under six years of age are sleeping.

(6) You must provide an appropriately sized separate bed for each child with clean bedding, and a mattress in good condition.

(7) Some children may soil the bed, and you may need to plan accordingly. You must provide waterproof mattress covers or moisture-resistant mattresses if needed. Each child's pillow must be covered with waterproof material or be washable.

(8) You must assure that children have access to clean clothing that is appropriate for their age. You must provide safe storage of children's clothing and personal possessions.

(9) You must provide an infant with a crib that ensures the safety of the infant, and complies with chapter 70.111 RCW, Consumer Product Safety Improvement Act of 2008. These requirements include:

(a) A maximum of 2 3/8" between vertical slats of the crib; and

(b) Cribs, infant beds, bassinets, and playpens must have clean, firm, snug-fitting mattresses covered with waterproof material that can be easily disinfected and be made of wood, metal, or approved plastic with secure latching devices.

(10) You must place infants on their backs for sleeping, unless advised differently by the child's licensed health care provider.

(11) You may not have loose blankets, pillows, crib bumpers, or stuffed toys with a sleeping infant.

(12) You may swaddle infants using one lightweight blanket upon the advice and training of a licensed health care provider. You must keep the blanket loose around the hips and legs when swaddling in order to avoid hip dysplasia. You may swaddle infants under two months of age unless a licensed health care provider directs otherwise. You may not dress a swaddled infant in a manner that allows them to overheat.

(13) You may not use wedges and positioners with a sleeping infant unless advised differently by the infant's licensed health care provider.

(14) You may not use weighted blankets for children under three years of age or ~~((that have))~~ for children of any age with mobility limitations ~~((unless advised differently by the child's licensed health care provider))~~.

(15) ~~((H))~~ You may use a weighted blanket ~~((;))~~ upon the advice and training from a licensed health care professional for children over the age of three years who do not have mobility limitations. You must meet the following requirements:

(a) The weight of the blanket may not exceed ten percent of the child's body weight;

(b) Metal beads are choking hazards and may not be used in a weighted blanket; ~~((and))~~

(c) You may not cover the child's head with a weighted blanket or place it above the middle of the child's chest ~~((;))~~;

(d) The weighted blanket must not hinder a child's movement; and

(e) The weighted blanket must not be used as a restraint.

(16) You may not allow children to use the loft style beds or upper bunks if the child is vulnerable due to age, develop-

ment or condition. Examples: Preschool children, expectant mothers, and children with a disability.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

WAC 388-148-1515 What are the requirements regarding food? (1) Food served to children in your care must meet their nutritional and developmental needs, with a variety of options for adequate nutrition and meal enjoyment.

(2) Children's cultural needs should also be considered when planning meals.

(3) All home-canned foods must be preserved following published procedures and you must be able to provide the printed published procedures that you followed.

(4) Before you modify a child's diet, you must obtain written authorization from a physician for children under the age of ten years.

(5) The milk or milk products you serve must be pasteurized. Children between the ages of twelve and twenty-four months must receive whole milk unless you have written authorization from a physician not to serve whole milk.

(6) Children under the age of twelve months must receive formula or breast milk unless the child's physician authorizes a different diet.

(7) Before serving a child breast milk you must have approval of the child's DSHS worker, physician, parent or guardian. If breast milk is provided by anyone other than a baby's biological mother, it must be obtained through a licensed breast milk bank.

(8) When you are using bottles to feed infants, you must sterilize and use them according to product standards and commonly acceptable practices. You must refrigerate filled bottles if you do not use them immediately, and you must empty the bottle if not used within twenty-four hours.

(9) To prevent burns, formula or breastmilk must not be warmed in a microwave oven ((~~in the bottle that will be used for feeding the infant~~)).

Other Authority: 7 C.F.R. 273.18.

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

Reasons for this Finding: USDA Food and Nutrition Services (FNS) regulations allow Washington state to determine the amount at which pursuing an overpayment for Supplemental Nutrition Assistance Program (SNAP) benefits becomes cost effective. Once the state and FNS agree on an amount, it becomes part of the state plan for administering SNAP and the state must abide by the plan. Lack of compliance with FNS rules can result in loss of funding for or penalization to SNAP in Washington. Additionally, the current rule applies unnecessary overpayments that can result in a hardship for our clients.

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 2, 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 2, Repealed 0.

Date Adopted: June 22, 2017.

Katherine I. Vasquez
Rules Coordinator

WSR 17-14-027
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed June 26, 2017, 9:15 a.m., effective June 29, 2017]

Effective Date of Rule: June 29, 2017.

Purpose: The department is amending WAC 388-410-0030 How does the department calculate and set up my basic food, FAP, or WASHCAP overpayment? and 388-410-0033 How and when does the department collect a basic food, FAP, or WASHCAP overpayment?, to align these rules with federal regulations regarding who is considered eligible for benefits.

Citation of Existing Rules Affected by this Order: Amending WAC 388-410-0030 and 388-410-0033.

Statutory Authority for Adoption: RCW 43.20A.550, 43.20B.630, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.08A.120.

AMENDATORY SECTION (Amending WSR 15-22-051, filed 10/29/15, effective 11/29/15)

WAC 388-410-0030 How does the department calculate and set up my basic food, FAP, or WASHCAP overpayment? (1) We calculate the amount of your basic food, (or WASHCAP) Washington combined application project (WASHCAP), or food assistance program for legal immigrants (FAP) overpayment by counting the difference between:

- (a) The benefits your assistance unit (AU) received; and
- (b) The benefits your AU should have received.

(2) To calculate the benefits your AU should have received, we determine what we would have authorized if we:

- (a) Had correct and complete information; and
- (b) Followed all the necessary procedures to determine your AU's eligibility and benefits.

(3) If you did not report your earned income as required under WAC 388-418-0005 and 388-418-0007, you do not receive the earned income deduction under WAC 388-450-0185 when we calculate your overpayment amount.

(4) We ~~((must))~~ **must** set up an inadvertent household error or administrative error overpayment if:

(a) We discovered the overpayment through the federal quality control process;

(b) The overpayment is over eighty-five dollars and you currently receive basic food, FAP, or WASHCAP benefits; or

(c) The overpayment is over one hundred twenty-five dollars and you do not currently receive basic food, FAP, or WASHCAP benefits.

(5) We ~~((do not))~~ **do not** set up an inadvertent household error or administrative error overpayment if all of the following are true:

(a) We did not discover the overpayment through the federal quality control process;

(b) You do not currently receive basic food, FAP, or WASHCAP benefits; and

(c) The total amount your household was overpaid was one hundred twenty-five dollars or less.

(6) If you have an inadvertent household error that we referred for prosecution or an administrative disqualification hearing, we will not set up ~~((and))~~ **or** start collecting the overpayment if doing so could negatively impact this process.

(7) We **must** set up an intentional program violation overpayment based on the results of an administrative disqualification hearing ~~((chapter 388-02 WAC))~~ under chapter 388-02 WAC, unless:

(a) Your AU has repaid the overpayment; or

(b) We have referred your inadvertent household error for prosecution and collecting the overpayment could negatively impact this process.

(8) We must calculate the overpayment amount:

(a) For an administrative error overpayment - up to twelve months prior to when we became aware of the overpayment;

(b) For an inadvertent household error overpayment - for no more than twenty-four months before we became aware of the overpayment; and

(c) For intentional program violation (IPV) overpayments - from the month the ~~((set of))~~ IPV first occurred as determined under WAC 388-446-0015, but no more than six years before we became aware of the overpayment.

(9) If we paid you too few basic food, FAP, or WASHCAP benefits for a period of time, we will use the amount we underpaid your AU to reduce your overpayment if:

(a) We have ~~((not))~~ **not** already issued you benefits to replace what you were underpaid; and

(b) We have ~~((not))~~ **not** used this amount to reduce another overpayment.

(10) We will send you an overpayment notice under RCW 43.20B.630 and 7 C.F.R. Sec. 273.18. We send notices as required under chapter 388-458 WAC. If all adult AU members live at the same address, we serve an overpayment notice on the head of household.

(11) The overpayment becomes an established (set-up) debt in one of the following ways:

(a) By operation of law if you do not respond within ninety days of service of the overpayment notice;

(b) By administrative order if you timely request a hearing; or

(c) By written agreement.

(12) You may request a hearing to contest an overpayment of your basic food, FAP, or WASHCAP benefits.

(a) The hearing ~~((can))~~ **may** include issues such as whether you were overpaid, whether we calculated the amount of the overpayment correctly, and the type of the overpayment.

(b) The administrative law judge (ALJ) does not have the authority to compromise, terminate, write-off, defer, or otherwise waive the overpayment claim or recovery of the claim.

(13) If the overpayment has been referred for prosecution ~~((in))~~ in accordance with WAC 388-446-0001(4)~~((s))~~, you may request that the administrative hearing related to the overpayment be postponed.

AMENDATORY SECTION (Amending WSR 15-22-051, filed 10/29/15, effective 11/29/15)

WAC 388-410-0033 How and when does the department collect a basic food, FAP, or WASHCAP overpayment? (1) After we set up a basic food, ((FAP, WASHCAP)) Washington combined application project (WASHCAP), or food assistance program for legal immigrants (FA) overpayment under WAC 388-410-0030, we collect the amount you were overpaid even when the total is less than ~~(((\$125 as discussed))~~ those in WAC 388-410-0030 (4)~~((b))~~ (b) or (c). This includes when we:

(a) Modify an established overpayment to an amount we would not have to set up under WAC 388-410-0030(5); or

(b) ~~((Set up))~~ **Establish** an overpayment that we do not have to ~~((set up))~~ establish under WAC 388-410-0030(4).

(2) You ~~((can))~~ **may** repay your overpayment by:

(a) Paying the entire amount at once;

(b) Having us take the amount of your overpayment out of your ~~((EBT))~~ electronic benefit transfer (EBT) account;

(c) Making regular payments under a scheduled repayment agreement as described in subsection (4) of this section; or

(d) Having your current basic food, FAP, or WASHCAP benefits reduced.

(3) If you have an inactive EBT account and we cancelled basic food, FAP, or WASHCAP benefits in the account under WAC 388-412-0025, we use the cancelled benefits to reduce the amount of your overpayment.

(4) If you are responsible for repaying an administrative or inadvertent household error overpayment, we reduce your monthly benefits unless you:

(a) Pay the overpayment all at once;

(b) Set up a repayment agreement with us; ~~((or))~~

(c) Arrange with us to ~~((compromise (reduce)))~~ reduce all or part of your overpayment under ~~((section))~~ subsection (13) ((below)) of this section; or

(d) Request a hearing and continued benefits under WAC 388-458-0040.

(5) If you are responsible for an intentional program violation (IPV) overpayment, you must tell us how you want to

repay this overpayment within ten days of the date we sent your collection action notice. If you do not do this, we reduce your current monthly benefits.

(6) If your AU currently receives basic food, FAP, or WASHCAP benefits, you ~~((can))~~ may choose to repay your overpayment by making monthly payments. The payments must be more than we would recover by reducing your benefits. Your AU or the department can request a change to the agreement if necessary.

(7) If you receive ongoing basic food, FAP, or WASHCAP benefits, we reduce your monthly benefits to repay the overpayment. We do not reduce your first basic food, FAP, or WASHCAP allotment when we first approve your application for benefits.

(a) If you have an administrative or inadvertent household error overpayment, we reduce your benefits by the greater of:

- (i) Ten percent of your monthly benefits; or
- (ii) Ten dollars per month.

(b) If you have an IPV overpayment, we reduce your benefits by the greater of:

- (i) Twenty percent of your monthly benefits; or
- (ii) Twenty dollars per month.

(8) We send you a change letter under WAC 388-458-0025 before we reduce your basic food, FAP, or WASHCAP benefits.

(a) You may request a hearing on the change letter ~~((, for instance,))~~ if you do not ~~((feel))~~ believe the amount of the overpayment was calculated correctly, making the reduction incorrect.

(b) The administrative law judge (ALJ) does not have authority to compromise, terminate, write-off, defer or otherwise waive the overpayment claim or recovery ~~((the under))~~.

(9) If you do not meet the terms of a repayment agreement, we reduce your current benefits unless you:

- (a) Pay all overdue payments to bring your repayment agreement current; or
- (b) Ask us to consider a change to the repayment schedule.

(10) We may also collect overpaid food benefits with an order to withhold and deliver property under RCW 43.20B.635.

(11) If your overpayment claim is past due for one hundred twenty or more days, we refer your overpayment for federal collection. A federal collection includes reducing your income tax refund, Social Security benefits, or federal wages. We do not count your overpayment as past due if you:

- (a) Repay the entire overpayment by the due date;
- (b) Have your monthly benefits reduced to repay the overpayment; ~~((or))~~

(c) Arrange with us to ~~((compromise (reduce)))~~ reduce all or part of your overpayment under ~~((section))~~ subsection (13) ~~((below))~~ of this section; or

(d) Meet the requirements of your scheduled repayment agreement.

(12) If you no longer receive basic food, FAP, or WASHCAP benefits, we ~~((can))~~ may garnish your wages, file a lien against your personal or real property, attach other

benefits, or otherwise access your property to collect the overpayment amount.

(13) ~~((At anytime))~~ Based on your request or our own, we may ~~((compromise (reduce)))~~ reduce all or part of your overpayment at any time.

(a) We may ~~((, at our discretion, compromise))~~ reduce a claim or any portion of a claim if we determine that your household's economic circumstances dictate that you will not be able to pay the claim in three years.

(b) If you disagree with our decision not to ~~((compromise))~~ reduce all or part of a food benefits overpayment, you may ask for a review of that decision.

(i) The review will be heard by someone other than the person who made the decision you disagree with.

(ii) You do not have a right to an administrative hearing to contest our decision not to ~~((compromise))~~ reduce all or part of a food benefits overpayment.

(c) If your claim becomes delinquent ~~((,))~~ because you have failed to follow a written repayment agreement entered with the office of financial recovery (OFR) ~~((,))~~ we may reinstate the ~~((compromised))~~ reduced portion of your claim.

(14) We write off unpaid overpayments and release any related liens when:

- (a) The claim is invalid;
- (b) All adult household members die;
- (c) The claim balance is less than twenty-five dollars and ~~((has been))~~ is delinquent for ninety days or more;
- (d) We determine it is not cost effective to pursue the claim further;

(e) We agreed to accept a partial payment that left an unpaid balance after this payment;

(f) You have paid ten percent of your monthly benefits, or ten dollars, whichever is greater, on an administrative or inadvertent household error overpayment for at least thirty-six months; or

(g) The claim ~~((has been))~~ is delinquent for three years or more unless we plan to pursue the claim through the treasury offset program.

(15) If your AU has an overpayment from another state, we ~~((can))~~ may collect this overpayment if the state where you were overpaid does not plan to collect it and ~~((they give))~~ gives us the following:

- (a) A copy of the overpayment calculation and overpayment notice made for the client; and
- (b) Proof that you received the overpayment notice.

WSR 17-14-036
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 17-140—Filed June 27, 2017, 1:38 p.m., effective July 1, 2017]

Effective Date of Rule: July 1, 2017.

Purpose: Amend recreational fishing rules for freshwater areas—Puget Sound.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-312-040.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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

Reasons for this Finding: The department is in the process of adopting permanent rules that are necessary to implement the personal use fishing plans agreed-to with resource comanagers at the North of Falcon proceedings. These emergency rules are necessary to comply with agreed-to management plans, and are interim until permanent rules take effect.

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

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

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

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

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

Date Adopted: June 27, 2017.

J. W. Unsworth
Director

NEW SECTION

WAC 220-312-04000I Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-312-040, effective July 1, 2017, until further notice the following waters are closed to fishing:

(1) **Stillaguamish River (Snohomish County):** From Marine Drive to the forks.

(2) **Stillaguamish River, North Fork (Snohomish County):** From Swede Heaven Bridge to the falls approximately one mile upstream of Cascade Creek.

(3) **Stillaguamish River, South Fork (Snohomish County):** From the mouth to 400 feet downstream of the outlet to Granite Falls fishway.

(4) **Pilchuck Creek (Snohomish County):** From the mouth to the Highway 9 Bridge and from the Highway 9 Bridge to Pilchuck Falls.

(5) **Boulder River (Snohomish County) (N.F. Stillaguamish River tributary):** From the mouth to Boulder Falls.

(6) **Canyon Creek (Snohomish County) (S.F. Stillaguamish River).**

(7) **Squire Creek (Snohomish County) (N.F. Stillaguamish River tributary).**

WSR 17-14-037 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 17-139—Filed June 27, 2017, 1:39 p.m., effective June 27, 2017, 1:39 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial coastal crab fishing rules.

Citation of Rules Affected by this Order: Amending WAC 220-340-420.

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

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

Reasons for this Finding: This emergency rule is needed because the weekly landing limit and period is necessary to mitigate handling mortality from sorting soft shelled crab and provide for an orderly fishery. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: June 27, 2017.

J. W. Unsworth
Director

NEW SECTION

WAC 220-340-42000C Coastal crab fishery—Weekly trip limits. Notwithstanding the provisions of WAC 220-340-420:

(1) Effective immediately until further notice, it is unlawful for any person licensed to fish under a Dungeness crab-coastal fishery license to possess or land crab in excess of 2,500 pounds taken during each of the following coastal crab accounting periods:

- July 2 - July 8, 2017
- July 9 - July 15, 2017
- July 16 - July 22, 2017
- July 23 - July 29, 2017
- July 30 - August 5, 2017
- August 6 - August 12, 2017

- August 13 - August 19, 2017
- August 20 - August 26, 2017
- August 27 - September 2, 2017
- September 3 - September 9, 2017
- September 10 - September 15, 2017

(2) Any crab taken prior to July 2, 2017, and not landed before 11:59 p.m. July 1, 2017, become part of the July 2 through July 8, 2017 accounting period catch.

(3) It is unlawful for any person taking crab under subsection (1) of this section to fish for crab during any accounting period while having on board any crab taken in a different accounting period.

WSR 17-14-038
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 17-132—Filed June 27, 2017, 1:39 p.m., effective June 27, 2017,
1:39 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend the Sultan River authorized work time in the Gold and Fish Pamphlet to protect fall Chinook, coho and steelhead because a new fish passage structure now allows anadromous fish to spawn above the city of Everett's municipal drinking water diversion dam.

Citation of Rules Affected by this Order: Amending WAC 220-660-300.

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 Washington department of fish and wildlife (WDFW) must revise the authorized work times in the Gold and Fish Pamphlet for the Sultan River upstream of the city of Everett's municipal drinking water diversion dam located at river mile 9.4. Work on the diversion dam completed in October 2016 now enables anadromous species of salmon and trout found in the lower Sultan River to pass above the diversion dam to spawn and rear. Since November 2016, fisheries biologists from Snohomish Public Utilities District have documented anadromous fish above the diversion dam.

The current authorized work times for the section of river upstream of the diversion to Elk Creek and upstream of Elk Creek is July 16 to December 31 and January 1 to February 28 of any year. These work times protected resident trout spawning and incubation areas. Now WDFW must amend this authorized work time for the section of river upstream of the diversion dam to river mile 15.7 (0.7 river miles below the Culmback Dam) from July 16 to December 31 and January 1 to February 28 of any year to August 1 to August 31 of any year to protect fall Chinook and coho salmon and steelhead spawning and incubation areas as well. Fall Chinook

spawning and incubation occur from September 1 to December 31 and January 1 to April 30 of any year; coho spawning and incubation occur from November 1 to December 31 and January 1 to March 31 of any year and steelhead spawning and incubation occur from March 1 to July 31 of any year. Steelhead and fall Chinook are (state/federally) listed species. The authorized work time from river mile 15.7 upstream to Elk Creek and upstream of Elk Creek will remain unchanged. The spawning and incubation times are based on data from Sultan River spawning ground surveys conducted by the Snohomish Public Utilities District, WDFW and others.

Without modification to the work windows, spawning anadromous fish could be impacted by mineral prospectors working under the statewide Gold and Fish Pamphlet during the 2017 spawning season because prospecting activities could take place where fish are spawning.

WDFW is working with mineral prospectors who have individual HPAs or pending applications for individual HPAs to identify locations where spawning is unlikely to occur due to site-specific conditions. WDFW can issue individual HPAs that vary the work windows where there is no impact to fish life. Mineral prospectors may continue to submit applications for individual HPAs which will have a site-specific authorized work time. There is no fee for a prospecting HPA.

to identify locations where site-specific conditions warrant a change in the amended work window. These are locations where spawning is unlikely to occur. Mineral prospectors may submit applications for individual HPAs to prospect in these locations which will have a site-specific authorized work time. There is no fee for a prospecting HPA.

WDFW anticipates rule making for a permanent modification to the rule to begin in August 2017 and encourages all stakeholders with information about fish presence or absence to participate in the public process.

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

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

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

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

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

Date Adopted: June 27, 2017.

J. W. Unsworth
Director

NEW SECTION

WAC 220-660-30000A Mineral prospecting. Notwithstanding the provisions of WAC 220-660-300, effective immediately until further notice the following rules apply. Unless otherwise amended, all permanent rules remain in effect.

County	Mineral Prospecting Allowable Dates	Prospecting Equipment with 4 1/4" Nozzle	Prospecting Equipment with 5 1/4" Nozzle
Snohomish County			
Sultan River (07.0881) - Mouth to Diversion Dam at river mile 9.4	August 1 - August 15	X	X
Sultan River (07.0881) - Diversion Dam to <u>river mile 15.7 (0.7 river miles downstream of Culmback Dam)</u>	August 1 - August 31	X	X
<u>Sultan River (07.0881) - Upstream of river mile 15.7 to Elk Creek</u>	July 16 - February 28	<u>X</u>	<u>X</u>
Sultan River (07.0881) - Upstream of Elk Creek	July 16 - February 28	X	-

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

WSR 17-14-043
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 17-141—Filed June 27, 2017, 4:21 p.m., effective July 1, 2017]

Effective Date of Rule: July 1, 2017.

Purpose: Amend commercial fishing rules for the coastal salmon troll fishery.

Citation of Rules Affected by this Order: Repealing WAC 220-354-30000B; and amending WAC 220-354-300.

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 harvestable quota of salmon is available for the troll fleet. These rules are adopted at the recommendation of the Pacific Fisheries Management Council, in accordance with preseason fishing 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 1.

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

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

Date Adopted: June 27, 2017.

J. W. Unsworth
Director

NEW SECTION

WAC 220-354-30000C Coastal salmon troll seasons—Commercial. Notwithstanding the provisions of WAC 220-354-300, effective immediately until further notice, it is unlawful to fish for salmon with troll gear or to land salmon taken with troll gear into a Washington port except during the seasons provided below:

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

a. July 1 through July 4;

b. July 7 through September 19, 2017, 5 days per week, Fridays through Tuesdays.

(2) In Washington Catch Reporting Areas 3 and 4, landing and possession limit of 60 Chinook and 10 coho per vessel per open period.

(3) In Washington Catch Reporting Areas 1 and 2, landing and possession limit of 75 Chinook and 10 coho per vessel per open period.

(4) The Cape Flattery and Columbia River Control Zones are closed. The Mandatory Yelloweye Rockfish Conservation Area is closed. The Grays Harbor Control Zone is closed beginning August 14.

(5) All retained coho must be marked with a healed adipose fin clip.

(6) No chum retention north of Cape Alava, WA in August and September.

(7) Minimum size for Chinook salmon is 28 inches in length. Minimum size for coho salmon is 16 inches in length. No minimum size for pink, sockeye or chum salmon.

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

(9) Fishers must land and deliver their catch within 24 hours of any closure of a fishery provided for in this section. Vessels in possession of salmon north of the Queets River may not cross the Queets River line without first notifying WDFW by phone at (360) 249-1215 or by email at Wendy.Beeghley@dfw.wa.gov with Area fished, total Chinook and halibut catch aboard, and destination. Vessels in possession of salmon south of the Queets River may not cross the Queets River line without first notifying WDFW by phone at (360) 249-1215 or by email at Wendy.Beeghley@dfw.wa.gov with Area fished, total Chinook and halibut catch aboard, and destination. Vessels fishing or in possession of salmon while fishing north of Leadbetter Point must land and deliver their fish within the area and North of Leadbetter Point. Vessels fishing or in possession of salmon while fishing south of Leadbetter Point must land and deliver their fish within the area and south of Leadbetter Point.

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

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

(12) The Grays Harbor Control Zone is defined as the area within and east of a line drawn from the Westport Lighthouse (46°53'18" N. lat., 124°07'01" W. long.) to Buoy #2 (46°52'42" N. lat., 124°12'42" W. long.) to Buoy #3 (46°55'00" N. lat., 124°14'48" W. long.) to the Grays Harbor north jetty (46°55'36" N. lat., 124°10'51" W. long.).

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

(14) It is unlawful to fish in Salmon Management and Catch Reporting Areas 1, 2, 3 or 4 with fish on board taken south of Cape Falcon, Oregon and all fish taken from Salmon

Management and Catch Reporting Areas 1, 2, 3, and 4 must be landed before fishing south of Cape Falcon, Oregon.

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

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

REPEALER

The following section of the Washington Administrative Code is repealed effective July 1, 2017:

WAC 220-354-30000B Coastal salmon troll seasons—
Commercial. (17-133)

WSR 17-14-048

EMERGENCY RULES

BOARD OF

PILOTAGE COMMISSIONERS

[Filed June 28, 2017, 12:41 p.m., effective July 1, 2017]

Effective Date of Rule: July 1, 2017.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The board is complying with the legislative intent through the passage of ESB 5096, which stipulates certain conditions in order for the board to receive a transfer of funds from the state multimodal transportation account solely for self-insurance liability premium expenditures.

Purpose: To establish new WAC 363-116-301 New revenue collection, in order to define ESB 5096 conditions and directives.

Citation of Existing Rules Affected by this Order: Amending chapter 363-116 WAC.

Statutory Authority for Adoption: Chapter 88.16 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: Without the mechanisms in place to collect the revenue needed to pay the self-insurance liability premium expenditures, the agency will be in financial crisis, putting the board's mission to ensure again the loss of lives, loss of or damage to property and vessels, and to protect the marine environment by maintaining efficient and competent pilotage services in jeopardy.

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 1, 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 1, Repealed 0.

Date Adopted: May 18, 2017.

Peggy Larson
Executive Director

NEW SECTION

WAC 363-116-301 New revenue collection. With respect to the passage of Engrossed Senate Bill No. 5096 Section 108, the board of pilotage commissioners is appropriated one million one hundred thousand dollars from the multimodal transportation account solely for self-insurance liability premium expenditures. This appropriation is contingent upon three stipulated conditions:

(1) The Puget Sound pilots shall pay to the board, from its tariffs, one hundred fifty thousand dollars annually on July 1, 2017, and July 1, 2018. These amounts shall be deposited by the board into the pilotage account and used solely for the expenditure of self-insurance premiums;

(2) The board shall maintain the Puget Sound pilotage district pilotage tariff at the rate which became effective on January 1, 2017; and

(3) A self-insurance premium surcharge of sixteen dollars shall be added to each Puget Sound pilotage assignment on all vessels requiring pilotage in the Puget Sound pilotage district. The Puget Sound pilots shall remit the total amount of such surcharges generated to the board by the tenth of each month. The surcharge shall be in effect from July 1, 2017, through June 30, 2019. These amounts shall be in addition to those fees to be paid to the board pursuant to subsection (1) of this section and shall be deposited by the board into the pilotage account solely for the expenditure of self-insurance premiums.

These three directives are in effect beginning May 18, 2017, through June 30, 2019.

**WSR 17-14-052
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 17-143—Filed June 28, 2017, 3:27 p.m., effective June 28, 2017, 3:27 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this rule making is to allow nontreaty recreational fishing opportunity in the Columbia

River while protecting fish listed as threatened or endangered under the Endangered Species Act (ESA). This rule making implements federal court orders governing Washington's relationship with treaty Indian tribes, federal law governing Washington's relationship with Oregon, and Washington fish and wildlife commission policy guidance for Columbia River fisheries.

Citation of Existing Rules Affected by this Order: Amending WAC 220-312-060.

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

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

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

Reasons for this Finding: The allocation has been utilized and this closes retention of summer Chinook adults in the Columbia River from Buoy 10 upstream to Bonneville Dam. The fishery is consistent with the *U.S. v. Oregon* Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with compact action of June 28, 2017.

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

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

Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, the ESA, and commission guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from the Washington

(WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: June 28, 2017.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

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

Effective July 1, 2017, until further notice, it is unlawful to retain adult Chinook in waters of the Columbia River from Buoy 10 upstream to Bonneville Dam.

**WSR 17-14-053
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 17-142—Filed June 28, 2017, 3:30 p.m., effective July 3, 2017, 6:00 a.m.]

Effective Date of Rule: July 3, 2017, 6:00 a.m.

Purpose: The purpose of this rule making is to provide for treaty Indian fishing opportunity in the Columbia River while protecting salmon listed as threatened or endangered under the Endangered Species Act (ESA). This rule making implements federal court orders governing Washington's relationship with treaty Indian tribes and federal law governing Washington's relationship with Oregon.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-359-02000A; and amending WAC 220-359-020.

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

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

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

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

Reasons for this Finding: Allows the sale of fish caught in Zone 6 Columbia River tribal fisheries with platform and hook and line gear for the summer season. The sale of fish caught in Yakama Nation tributary fisheries is also allowed when open under Yakama Nation regulations. The area downstream of Bonneville Dam (SMCRA 1E1) is open to sales of fish when open under tribal regulations. Extends gillnet fishing during the summer season. The preseason forecast for summer Chinook is sixty-three thousand one hundred fish, and seventeen thousand one hundred harvestable fish are available to the treaty tribes. Fisheries are consistent with the 2008-2017 Management Agreement and the associated biological opinion. Rule is consistent with action of the Columbia River Compact on June 14 and June 28, 2017. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

The Yakama, Warm Springs, Umatilla, and Nez Perce Indian tribes have treaty fishing rights in the Columbia River and inherent sovereign authority to regulate their fisheries. Washington and Oregon also have some authority to regulate fishing by treaty Indians in the Columbia River, authority that the states exercise jointly under the Congressionally-ratified Columbia River Compact. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). The tribes and the states adopt parallel regulations for treaty Indian fisheries under the supervision of the federal courts. A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon Management Agreement* (Aug. 12, 2008) (Doc. No. 2546). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under the federal ESA. On May 5, 2008, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allow for some incidental take of these species in the fisheries as described in the 2008-2017 *U.S. v. Oregon Management Agreement*. Columbia River fisheries are monitored very closely to ensure consistency with court orders and ESA guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. As required by court order, the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and invite tribal participation when considering proposals for new emergency rules affecting treaty fishing rights. *Sohappy*, 302 F. Supp. at 912. WDFW and ODFW then adopt regulations reflecting agreements reached.

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

Recently Enacted State Statutes: New 1, 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: June 28, 2017.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

WAC 220-359-02000B Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-359-010, WAC 220-359-020, WAC 220-359-030 and WAC 220-359-090, effective immediately until further notice, it is unlawful for a person to take or possess salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch taken for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1E1, 1F, 1G, and 1H, and in the Wind River, Klickitat River, Drano Lake, Yakima River and Icicle Creek. However, those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch under the following provisions.

(1) Open Area: SMCRA 1F, 1G, 1H (Zone 6):

(a) Season: 6:00 AM Monday July 3 to 6:00 PM Thursday July 6, 2017

6:00 AM Monday July 10 to 11:59 PM Monday July 31, 2017 and only during days and hours when allowed under lawfully enacted tribal fishery regulations and Oregon Fish and Wildlife regulations.

(b) Gear: Gillnets. 7-inch minimum mesh size.

(c) Allowable sale: Salmon, steelhead, shad, yellow perch, bass, walleye, catfish, or carp. Sturgeon may not be sold, but sturgeon between 38-54 inches in fork length in the Bonneville Pool and sturgeon between 43-54 inches in fork length in The Dalles and John Day pools may be retained for subsistence purposes only. Live release of all oversize and under-size sturgeon is required.

(d) All sanctuaries for this gear type are in effect, except Spring Creek.

(2) Open Area: SMCRA 1F, 1G, 1H (Zone 6):

(a) Season: Immediately to 11:59 PM Monday July 31, 2017

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

(c) Allowable sale: Salmon, steelhead, shad, yellow perch, bass, walleye, catfish, or carp. Sturgeon between 38-54 inches in fork length in the Bonneville Pool and sturgeon

between 43-54 inches in fork length in The Dalles and John Day pools may be retained for subsistence purposes only. Live release of all oversize and under-size sturgeon is required.

(d) All sanctuaries for these gear types are in effect, except Spring Creek.

(3) Columbia River Tributaries upstream of Bonneville Dam:

(a) Season: Immediately until further notice, and only during those days and hours when the tributaries listed below are open under lawfully enacted Yakama Nation tribal subsistence fishery regulations for enrolled Yakama Nation members.

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

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

(d) Allowable Sale: Salmon, steelhead, shad, yellow perch, bass, walleye, catfish, or carp. Sturgeon between 38-54 inches fork length harvested in tributaries within Bonneville pool may not be sold but may be kept for subsistence purposes only. Live release of all oversize and under-size sturgeon is required.

(4) Open Area: SMCRA 1E1. Each of the four Columbia River treaty tribes has an MOA or MOU with the Washington Department of Fish and Wildlife for tribal fisheries in the area just downstream of Bonneville Dam. Tribal fisheries in this area may only occur in accordance with the appropriate MOA or MOU specific to each tribe, and only within any specific regulations set by each tribe.

(a) Participants:

(i) Tribal members may participate under the conditions described in the 2007 Memorandum of Agreement (MOA) with the Yakama Nation (YN), in the 2010 Memorandum of Understanding (MOU) with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), in the 2010 MOU with the Confederated Tribes of the Warm Spring Reservation (CTWS), and in the 2013 MOU with the Nez Perce Tribe.

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

(b) Season: Immediately through 11:59 PM July 31, 2017. Open only during those days and hours when allowed under lawfully enacted tribal subsistence fishery regulations for enrolled tribal members.

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

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

(5) 24-hour quick reporting is required as provided in WAC 220-352-180, for Washington wholesale dealers for all areas, except that all landings from treaty fisheries described above must be reported within 24-hours of completing the fish ticket.

(6) Sales of fish are allowed after open period concludes, as long as the fish sold were landed during the open period.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 a.m. July 3, 2017:

WAC 220-359-02000A Columbia River salmon seasons above Bonneville Dam. (17-125)

WSR 17-14-059
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 17-144—Filed June 29, 2017, 9:36 a.m., effective June 30, 2017]

Effective Date of Rule: June 30, 2017.

Purpose: To prevent new and multiple wildfires during this period of extreme fire danger; and to prevent the severe deterioration of air quality, which exacerbates the risk to life, health, and property.

Citation of Existing Rules Affected by this Order: Amending WAC 220-500-030, 200-500-110, and 220-500-040.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, and 77.32.470.

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: Addresses an emergency need to prevent new and multiple wildfires during this period of extreme fire danger, and reduces the risk to life, health, and property.

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 3, Repealed 0.

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

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

Date Adopted: June 29, 2017.

J. W. Unsworth
Director

NEW SECTION

WAC 220-500-03000A Operating chainsaws, welding, or operating an acetylene or other torch with open flame. (1) Notwithstanding the provisions of WAC 220-500-

030, effective June 30, 2017, until further notice, in wildlife areas and access sites in eastern Washington owned or controlled by the department, it is unlawful to:

(a) Operate a chainsaw without a permit or approval from the director; or

(b) Weld or operate an acetylene torch or other open flame without a permit or approval from the director.

(2) A violation of this section is an infraction punishable under RCW 77.15.160 (5)(b).

NEW SECTION

WAC 220-500-11000A Fires, campfires and smoking. (1) Notwithstanding the provisions of WAC 220-500-110, effective June 30, 2017, until further notice, it is unlawful to build, start, or maintain fires or campfires in wildlife areas and access sites owned or controlled by the department in eastern Washington without a permit or approval from the director. However, it is permissible to use personal camp stoves or lanterns fueled by liquid petroleum, liquid petroleum gas, or propane.

(2) Effective immediately until further notice, it is unlawful to smoke in wildlife areas and access sites owned or controlled by the department in eastern Washington, except in an enclosed vehicle.

(3) A violation of this section is an infraction punishable under RCW 77.15.160 (5)(b).

NEW SECTION

WAC 220-500-04000A Operating a motor vehicle off developed roadways. (1) Notwithstanding the provisions of WAC 220-500-040, effective June 30, 2017, until further notice, it is unlawful to operate a motor vehicle off developed roadways in wildlife areas and access sites owned or controlled by the department in eastern Washington. However, it is permissible to park in an area devoid of vegetation within 10 feet of the roadway, and to park overnight in developed campgrounds and at trailheads.

(2) A violation of this section is an infraction punishable under RCW 77.15.160 (5)(b).

WSR 17-14-064**EMERGENCY RULES****HEALTH CARE AUTHORITY**

(Washington Apple Health)

[Filed June 29, 2017, 1:17 p.m., effective July 1, 2017]

Effective Date of Rule: July 1, 2017.

Purpose: The agency is revising WAC 182-531A-0800 Applied behavior analysis (ABA)—Provider requirements, to align with new credentialing for ABA providers through the Washington state department of health under chapter 246-805 WAC.

Citation of Rules Affected by this Order: Amending WAC 182-531A-0800.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, SSB 5488, chapter 118, Laws of 2015, 64th legislature.

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: This emergency filing is necessary to align with SSB 5488 of 2015 and Washington state department of health's recently filed rules under chapter 246-805 WAC, which create new credentials for behavior analysts, assistant behavior analysts, and behavior technicians, effective July 1, 2017. As soon as chapter 246-805 WAC became effective, the agency began the permanent rule-making process under WSR 17-11-029 filed May 10, 2017.

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 1, Repealed 0.

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

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

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

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

Date Adopted: June 29, 2017.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-19-121, filed 9/21/15, effective 10/22/15)

WAC 182-531A-0800 Applied behavior analysis (ABA)—Provider requirements.

Center of excellence.

(1) A center of excellence (COE) may be an entity or an individual. The COE's evaluating and prescribing providers must function as a multidisciplinary care team.

(2) The COE must employ:

(a) A person licensed under Title 18 RCW who is experienced in the diagnosis and treatment of autism spectrum disorders and is:

- (i) An advanced registered nurse practitioner (ARNP);
- (ii) A developmental pediatrician;
- (iii) A neurologist;
- (iv) A pediatric neurologist;
- (v) A pediatric psychiatrist;
- (vi) A psychiatrist; or
- (vii) A psychologist; or

(b) A qualified medical provider who meets qualifications in subsection (3) of this section and who has been designated by the agency as a COE.

(3) The COE must be prequalified by the agency as meeting or employing people who meet the following criteria:

(a) ARNPs, physicians, and psychologists must have demonstrated expertise in diagnosing an autism spectrum disorder by:

- (i) Using a validated diagnostic tool;
- (ii) Confirming the diagnosis by observing the client's behavior and interviewing family members; or
- (iii) Reviewing the documentation available from the client's primary care provider, individualized education plan, or individualized family service plan;

(b) ARNPs, physicians, and psychologists must understand the medically necessary use of applied behavior analysis (ABA); and

(c) ARNPs, physicians, and psychologists must be sufficiently qualified to conduct and document a comprehensive diagnostic evaluation, and develop a multidisciplinary clinical treatment plan under WAC 182-531A-0500(2).

(4) The COE must be enrolled with the agency or the client's managed care organization, unless the client has third-party insurance.

(5) Examples of providers who can qualify as a designated COE include:

- (a) Multidisciplinary clinics;
- (b) Individual qualified provider offices; and
- (c) Neurodevelopmental centers.

(6) All ABA providers must meet the specified minimum qualifications and comply with applicable state laws.

Lead behavior analysis therapist.

(7) The lead behavior analysis therapist (LBAT) must ~~((be))~~:

(a) ~~Be licensed by the department of health (DOH) to practice independently as ((an ARNP, physician, psychologist, or licensed mental health practitioner)) a behavior analyst or assistant behavior analyst with supervision from a licensed behavior analyst under Title 18 RCW ((or credentialed as a certified counselor or certified counselor advisor under Title 18 RCW,)) and be an eligible provider according to chapter 182-502 WAC; or~~

~~(b) ((Employed by or contracted with an agency that is enrolled as a participating provider and licensed by DOH as a hospital, a residential treatment facility, or an in-home services agency and be licensed by DOH to practice independently as an ARNP, physician, psychologist, licensed mental health practitioner, or credentialed as a counselor, under Title 18 RCW, and be an eligible provider according to chapter 182-502 WAC; or~~

~~(c) Employed or contracted with an agency that is enrolled as a participating provider and licensed by the department of social and health services' division of behavioral health and recovery (DBHR) with certification to provide ABA services, and be able to meet the staff requirements specified in chapter 388-877A WAC.)) Be a DOH-licensed mental health counselor, independent clinical social worker, or psychologist with a signed attestation regarding certification as a board-certified behavior analyst (BCBA) or an assistant behavior analyst (BCaBA) on file with the agency (see chapter 246-805 WAC).~~

(8) The LBAT must enroll as a servicing provider, be authorized to supervise ancillary providers, and be:

(a) ~~A ((board-certified behavior analyst (BCBA) with proof of board certification through the Behavior Analysis Certification Board (BACB)))~~ DOH-licensed behavior analyst (LBA) (see WAC 246-805-100); or

(b) ~~((Eligible to sit for board certification under standards set by the BACB; or~~

~~(c) Certified by the BACB as an assistant behavior analyst (BCaBA) and practice according to the scope and responsibilities defined by the BACB))~~ A DOH-licensed assistant behavior analyst (LABA) (see WAC 246-805-200).

(9) If the LBAT's role is filled by a ~~((BCaBA))~~ LABA, the responsibilities below must be fulfilled by both the ~~((BCaBA))~~ LABA and the supervising ~~((BCBA))~~ LBA, as required by ~~((the BACB))~~ DOH. The LBAT must:

(a) Develop and maintain an ABA therapy treatment plan that is comprehensive, incorporating treatment provided by other health care professionals, and that states how all treatment will be coordinated; and

(b) Supervise at least five percent of the total direct care provided by the ~~((therapy assistant))~~ certified behavior technician per week.

~~((Therapy assistant.))~~ **Certified behavior technician.**

(10) The ~~((therapy assistant (TA)))~~ certified behavior technician (CBT) must ~~((be))~~:

(a) Be able to practice independently by being ~~((licensed))~~ certified by DOH as a ~~((licensed mental health practitioner or credentialed as a counselor))~~ certified behavior technician under Title 18 RCW in good standing with no license restrictions; or

(b) ~~((Employed by or contracted with an agency enrolled as a participating provider and licensed by DOH as a hospital, a residential treatment facility, or an in-home services agency with a home health service category to provide ABA services, and be able to practice independently by being licensed by DOH as a licensed mental health practitioner or credentialed as a counselor under Title 18 RCW in good standing with no license restrictions; or~~

~~(c) Employed by or contracted with an agency enrolled as a participating provider and licensed by DBHR as a community mental health agency with certification to provide ABA services, and be able to meet the staff requirements specified in chapter 388-877A WAC;))~~ Be a DOH-licensed mental health counselor, independent clinical social worker, or psychologist with a signed attestation regarding ABA qualifications on file with the agency (see chapter 246-805 WAC).

(11) The ~~((TA))~~ CBT must enroll as a performing or servicing provider and have:

(a) Sixty hours of ABA training that includes applicable ABA principles and techniques, services, and caring for a client with core symptoms of autism; and

(b) A letter of attestation signed by the lead LBAT, documenting that the ~~((TA))~~ CBT has demonstrated competency in implementing ABA therapy treatment plans and delivering ABA services.

(12) The ~~((TA))~~ CBT must:

(a) Deliver services according to the ABA therapy treatment plan; and

(b) Be supervised by an LBAT who meets the requirements under subsection (7)~~((;))~~ and (8)~~((; and (9)))~~ of this section; and

(c) Review the client's progress with the LBAT at least every two weeks to confirm that the ABA therapy treatment plan still meets the client's needs. If changes are clinically indicated, they must be made by the LBAT.

Facility-based day program.

(13) All facility-based day program providers must meet the requirements under WAC 182-531A-0600 (3)(a), and meet the following licensure requirements:

(a) Outpatient hospital facilities must meet the applicable DOH licensure requirements;

~~(b) ((A clinic or nonhospital based facility must be licensed as a community mental health agency by DBHR under chapter 388-877A WAC;~~

~~(c))~~ (e)) A provider rendering direct ABA services must meet the qualifications and applicable licensure or certification requirements as described in this subsection, as applicable; and

~~((d))~~ (c) Any provider serving as a member of the multidisciplinary care team must be licensed or certified under Title 18 RCW.

WSR 17-14-069

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 17-145—Filed June 29, 2017, 1:59 p.m., effective June 29, 2017, 1:59 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend freshwater recreational fishing rules for the Skagit River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-04000H and 220-312-04000J; and amending WAC 220-312-040.

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

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

Reasons for this Finding: The department is in the process of adopting permanent rules that are necessary to implement the personal use fishing plans agreed-to with resource comanagers at the North of Falcon proceedings and to avoid gear conflicts with tribal fisheries scheduled for those dates. These emergency rules are necessary to comply with agreed-to management plans, and are interim until permanent rules take effect.

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

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: June 29, 2017.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

WAC 220-312-04000J Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-312-040, effective immediately through July 15, 2017, it is permissible to fish for sockeye salmon in those waters of the Skagit River from the Hwy. 536 at Mt. Vernon (Memorial Hwy. Bridge) to mouth of Gilligan Creek.

(1) Closed on June 29, 30, July 5, and 11, 2017, from the mouth to the Highway 530 Bridge at Rockport.

(2) Daily limit of three sockeye salmon.

(3) Night closure is in effect.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-312-04000H Freshwater exceptions to statewide rules—Puget Sound. (17-130)

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

WAC 220-312-04000J Freshwater exceptions to statewide rules—Puget Sound.

WSR 17-14-070
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 17-117—Filed June 29, 2017, 2:02 p.m., effective June 29, 2017, 2:02 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational harvest rules for hardshell clams and oysters.

Citation of Rules Affected by this Order: Amending WAC 220-330-110 and 220-330-140.

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: Recent clam and oyster survey data, sport harvest projections, and negotiations affecting intertidal treaty and nontreaty fisheries, along with public health considerations and administrative tasks, call for recreational clam and oyster seasons to be extended or shortened on some public beaches. The department of fish and wildlife is in the process of adopting permanent rules. These rules are interim until permanent rules take effect.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 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: June 29, 2017.

J. W. Unsworth
Director

NEW SECTION

WAC 220-330-11000A Clams other than razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-330-110, effective immediately until further notice, it is unlawful to take, dig for and possess clams, cockles, and mussels taken for personal use from the following public tidelands except during the open periods specified herein:

(1) Port Gamble Heritage Park Tidelands: Open until further notice.

(2) Potlatch DNR tidelands: Open through August 31, 2017.

(3) Potlatch State Park: Open through August 31, 2017.

(4) Port Townsend Ship Canal: Closed.

NEW SECTION

WAC 220-330-14000A Oysters—Areas and seasons. Notwithstanding the provisions of WAC 220-330-140, effective immediately until further notice, it is unlawful to take and possess oysters taken for personal use from the following public tidelands except during the open periods specified herein:

(1) Port Gamble Heritage Park Tidelands: Open until further notice.

- (2) Potlatch DNR tidelands: Open through August 31, 2017.
 (3) Potlatch State Park: Open through August 31, 2017.
 (4) Port Townsend Ship Canal: Closed.

WSR 17-14-071
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 17-146—Filed June 29, 2017, 2:25 p.m., effective July 2, 2017, 6:00 p.m.]

Effective Date of Rule: July 2, 2017, 6:00 p.m.

Purpose: Amend commercial shrimping rules in Puget Sound.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-340-52000D; and amending WAC 220-340-520.

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

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

Reasons for this Finding: The 2017 state/tribal shrimp harvest management plans for the Strait of Juan de Fuca and Puget Sound require adoption of harvest seasons contained in this emergency rule. This emergency rule closes the pot fishery season for spot shrimp in Catch Area 23A-E, as the quota will be reached. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: June 29, 2017.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

WAC 22-340-52000E Puget Sound shrimp pot and trawl fishery—Season. Notwithstanding the provisions of

WAC 220-340-520, effective immediately, until further notice, it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp pot gear:

(a) All waters of Shrimp Management Areas 1A, 1C, 2W, and 3 are open to the harvest of all shrimp species, effective immediately, until further notice, except as provided for in this section:

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

(ii) All waters of Shrimp Management Area 2W and Marine Fish/Shellfish Management and Catch Reporting Area (Catch Area) 23A-E are closed to the harvest of spot shrimp.

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

(b) Effective immediately, until further notice, it is unlawful for the combined total harvest of non-spot shrimp by a fisher or the fisher's alternate operator to exceed 1,200 pounds per biweekly management period from Shrimp Management Area 2W.

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

a. It is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 600 pounds per biweekly management period in Shrimp Management Area 1A.

(d) Effective immediately, until further notice, the spot shrimp catch accounting biweekly management periods are (1) June 28 - July 11; (2) July 12-July 25; and (3) July 26-August 8.

(e) Only pots with a minimum mesh size of 1 inch may be pulled on calendar days when fishing for or retaining spot shrimp. Mesh size of 1 inch is defined as a mesh opening that a 7/8-inch square peg will pass through, excluding the entrance tunnels, except for flexible (web) mesh pots, where the mesh must be a minimum of 1 3/4-inch stretch measure. Stretch measure is defined as the distance between the inside of one knot to the outside of the opposite vertical knot of one mesh, when the mesh is stretched vertically. There is no size restriction for spot shrimp.

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

(2) Shrimp trawl gear:

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

(b) That portion of Catch Area 22A within SMA 1B is open.

(c) That portion of Catch Area 20B within SMA 1B is open.

(d) That portion of Catch Area 21A within SMA 1B is open.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 p.m. July 2, 2017:

WAC 220-340-52000D Puget Sound shrimp pot and beam trawl fishery—Season. (17-137)

**WSR 17-14-079
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 17-147—Filed June 29, 2017, 3:41 p.m., effective June 29, 2017, 3:41 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend the Sultan River authorized work time in the Gold and Fish Pamphlet to protect fall Chinook, coho and steelhead because a new fish passage structure now allows anadromous fish to spawn above the city of Everett's municipal drinking water diversion dam.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-660-30000A; and amending WAC 220-660-300.

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 Washington department of fish and wildlife (WDFW) must revise the authorized work times in the Gold and Fish Pamphlet for the Sultan River upstream of the city of Everett's municipal drinking water diversion dam located at river mile 9.4. Work on the diversion dam completed in October 2016 now enables anadromous species of salmon and trout found in the lower Sultan River to pass above the diversion dam to spawn and rear. Since November 2016, fisheries biologists from Snohomish Public Utilities District have documented anadromous fish above the diversion dam.

The current authorized work time for the section of river upstream of the diversion to Elk Creek and upstream of Elk Creek is July 16 to February 28. This work time protected resident trout spawning and incubation areas. Now WDFW must amend the authorized work time for the section of river upstream of the diversion dam to river mile 15.7 (0.7 river miles below the Culmback Dam) from July 16 to February 28 to August 1 to August 31 to protect fall Chinook and coho salmon and steelhead spawning and incubation areas as well. Fall Chinook spawning and incubation occur from September 1 to April 30; coho spawning and incubation occur from November 1 to March 31 and steelhead spawning and incubation occur from March 1 to July 31. Steelhead and fall Chi-

nook are (state/federally) listed species. The authorized work time from river mile 15.7 upstream to Elk Creek and upstream of Elk Creek will remain unchanged. See Table 1. The spawning and incubation times are based on data from Sultan River spawning ground surveys conducted by the Snohomish Public Utilities District, WDFW and others.

Without modification to the work windows, spawning anadromous fish could be impacted by mineral prospectors working under the statewide Gold and Fish Pamphlet during the 2017 spawning season because prospecting activities could take place where fish are spawning.

WDFW is working with mineral prospectors who have individual hydraulic project approvals (HPA) or pending applications for individual HPAs to identify locations where spawning is unlikely to occur due to site-specific conditions. WDFW can issue individual HPAs that vary the work windows where there is no impact to fish life. Mineral prospectors may continue to submit applications for individual HPAs which will have a site-specific authorized work time. There is no fee for a prospecting HPA.

WDFW anticipates rule making for a permanent modification to the rule to begin in September 2017 and encourages all stakeholders with information about fish presence or absence to participate in the public process.

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 1.

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

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

Date Adopted: June 29, 2017.

J. W. Unsworth
Director

NEW SECTION

WAC 220-660-30000B Mineral prospecting. Notwithstanding the provisions of WAC 220-660-300, effective immediately until further notice the following rules apply. Unless otherwise amended, all permanent rules remain in effect.

County	Mineral Prospecting Allowable Dates	Prospecting Equipment with 4 1/4" nozzle	Prospecting Equipment with 5 1/4" Nozzle
Snohomish County			

County	Mineral Prospecting Allowable Dates	Prospecting Equipment with 4 1/4" nozzle	Prospecting Equipment with 5 1/4" Nozzle
Sultan River (07.0881) - Mouth to Diversion Dam at river mile 9.4	August 1 - August 15	X	X
Sultan River (07.0881) - Diversion Dam to river mile 15.7 (0.7 river miles downstream of Culmback Dam)	August 1 - August 31	X	X
Sultan River (07.0881) - Upstream of river mile 15.7 to Elk Creek	July 16 - February 28	X	X
Sultan River (07.0881) - Upstream of Elk Creek	July 16 - February 28	X	-

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-660-30000A Mineral prospecting. (17-132)

WSR 17-14-089
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)

[Filed June 30, 2017, 12:15 p.m., effective July 1, 2017]

Effective Date of Rule: July 1, 2017.

Purpose: The department is amending WAC 388-493-0010 Working family support, to extend the end date of the working family support program from June 30, 2017, to October 19, 2017.

Citation of Existing Rules Affected by this Order: Amending WAC 388-493-0010.

Statutory Authority for Adoption: RCW 74.04.050, 74.040.055 [74.04.055], 74.04.057, 74.08.090.

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: Current language in WAC 388-493-0010 Working family support, supports the program through June 30, 2017. This date has been extended to October 19, 2017. Language needs to be updated to reflect the extension in order to continue providing additional food assistance to qualifying low-income families.

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 1, Repealed 0.

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

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

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

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

Date Adopted: June 30, 2017.

Katherine I. Vasquez
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-07-012, filed 3/6/17, effective 4/6/17)

WAC 388-493-0010 Working family support. (1)
 What is the working family support (WFS) program?

The working family support program is administered by the department of social and health services (Department) and provides an additional monthly food benefit from May 2016 through ~~((June 30))~~ October 19, 2017 to low income families who meet specific criteria. Continuance of the program beyond ~~((June 30))~~ October 19, 2017 is contingent on specific legislative funding for the working family support program.

(2) The following definitions apply to this program:

(a) "Co-parent" means another adult in your home that is related to your qualifying child through birth or adoption.

(b) "Qualifying child" means a child under the age of eighteen who is:

(i) Your child through birth or adoption; or

(ii) Your step child.

(c) "Work" means subsidized or unsubsidized employment or self-employment. To determine self-employment hours, we divide your net self-employment income by the federal minimum wage.

(3) Who is eligible for the working family support program?

You are eligible for working family support food assistance if you meet all of the following:

(a) You receive food assistance through basic food, food assistance program for legal immigrants (FAP), or transitional food assistance (TFA);

(b) Receipt of working family support food assistance would not cause your countable food assistance income to exceed the two hundred percent federal poverty level (FPL);

(c) No one in your food assistance unit receives temporary assistance for needy families (TANF) or state family assistance (SFA);

(d) A qualifying child lives in your home;

(e) You, your spouse, or co-parent, work a minimum of thirty five hours a week, and if you live with your spouse or co-parent, you must be in the same assistance unit;

(f) You provide proof of the number of hours worked; and

(g) You reside in Washington state per WAC 388-468-0005.

(4) How can I apply for working family support?

(a) The department will review your eligibility for the working family support program:

(i) When you apply for food assistance, or

(ii) At the time of your food assistance eligibility review.

(b) You may request the working family support benefit in person, in writing, or by phone at any time.

(5) How long can I receive working family support?

(a) You may recertify up to an additional six months for working family support if you meet the criteria listed above and provide current proof that you, your spouse, or co-parent works a minimum of thirty five hours a week.

(b) Working family support certification ends when:

(i) You complete either a certification or mid-certification review for food assistance under WAC 388-434-0010 or WAC 388-418-0011, and you do not provide proof of the number of hours that you, your spouse, or your co-parent work;

(ii) You no longer receive basic food, FAP, or TFA;

(iii) You receive TANF or SFA;

(iv) You do not have a qualifying child in your home;

(v) You, your spouse, or co-parent, no longer work a minimum of thirty five hours a week; or

(vi) You are no longer a resident of Washington state.

(6) What benefits will I receive if I am eligible for the working family support program?

(a) The assistance unit will receive a separate ten dollars monthly food assistance benefit each month.

(b) Working family support benefits are not prorated.

WSR 17-14-091

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 17-150—Filed June 30, 2017, 2:32 p.m., effective June 30, 2017, 2:32 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules for Puget Sound shrimp.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-340-52000D and 220-340-52000F; and amending WAC 220-340-520.

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

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

Reasons for this Finding: This emergency rule is needed to correct an error in emergency rule filed as WSR 17-14-017. This rule also (1) opens the pot fishery season for spot shrimp; (2) implements a spot shrimp biweekly limit for all areas; (3) implements a minimum mesh size restriction for spot shrimp gear; and (4) opens the 1B-21A trawl fishery season. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: June 30, 2017.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

WAC 220-340-52000F Puget Sound shrimp pot and trawl fishery—Season. Notwithstanding the provisions of WAC 220-340-520, effective immediately, until further notice, it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp pot gear:

(a) All waters of Shrimp Management Areas 1A, 1C, 2W, and 3 are open to the harvest of all shrimp species, effective immediately, until further notice, except as provided for in this section:

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

(ii) All waters of Shrimp Management Area 2W are closed to the harvest of spot shrimp.

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

(b) Effective immediately, until further notice, it is unlawful for the combined total harvest of non-spot shrimp by a fisher or the fisher's alternate operator to exceed 1,200

pounds per biweekly management period from Shrimp Management Area 2W.

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

a. It is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 600 pounds per biweekly management period in Shrimp Management Area 1A or Marine Fish/Shellfish Management and Catch Reporting Area (Catch Area) 23A-E.

(d) Effective immediately, until further notice, the spot shrimp catch accounting biweekly management periods are (1) immediately - July 11; (2) July 12 - July 25; and (3) July 26 - August 8.

(e) Only pots with a minimum mesh size of 1 inch may be pulled on calendar days when fishing for or retaining spot shrimp. Mesh size of 1 inch is defined as a mesh opening that a 7/8-inch square peg will pass through, excluding the entrance tunnels, except for flexible (web) mesh pots, where the mesh must be a minimum of 1 3/4-inch stretch measure. Stretch measure is defined as the distance between the inside of one knot to the outside of the opposite vertical knot of one mesh, when the mesh is stretched vertically. There is no size restriction for spot shrimp.

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

(2) Shrimp trawl gear:

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

(b) That portion of Catch Area 22A within SMA 1B is open.

(c) That portion of Catch Area 20B within SMA 1B is open.

(d) That portion of Catch Area 21A within SMA 1B is open effective 6:00 a.m. July 1, 2017, until further notice.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-340-52000D Puget Sound shrimp pot and beam trawl fishery—Season. (17-137)

The following section of the Washington Administrative Code is repealed effective 6:00 p.m. July 2, 2017:

WAC 220-340-52000F Puget Sound shrimp pot and beam trawl fishery—Season.

WSR 17-14-094

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Behavioral Health Administration)

[Filed June 30, 2017, 3:39 p.m., effective July 1, 2017]

Effective Date of Rule: July 1, 2017.

Purpose: The department is amending rules about grievances, appeals, and hearings in chapter 388-877 WAC to align with the Centers for Medicare and Medicaid Services' amended federal rules in 42 C.F.R. 438 Subpart F that govern the grievance and appeals system for medicaid managed care. States must comply with these federal rule amendments by July 1, 2017. The new definitions, time frames, and alignment of certain processes for appeals and grievances will provide individuals with a more streamlined and manageable grievance and appeals process, and will allow behavioral health agencies and behavioral health organizations to further align rules applicable to private health insurance and group health plans that apply across the market. The department is limiting amendments to bringing the rules into compliance with federal rules and making necessary edits to change names and terms and clarify language without changing the rule's effect.

Citation of Existing Rules Affected by this Order: Amending WAC 388-877-0654, 388-877-0655, 388-877-0660, 388-877-0665, 388-877-0670, 388-877-0675, and 388-877-0680.

Statutory Authority for Adoption: RCW 71.05.560, 71.24.035 (5)(c), 71.24.520, and 71.34.380.

Other Authority: 42 C.F.R. 438 Subpart F, as amended in 81 Fed. Reg. 27498, May 6, 2016.

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: These emergency rules are necessary to comply with amended federal rules in 42 C.F.R. 438 Subpart F governing the grievance and appeals system for medicaid managed care that become effective July 1, 2017. *See* 81 Fed. Reg. 27498-99, May 6, 2016. These state rules were presented for public hearing on June 27, 2017, under WSR 17-11-068, and the department is working to address public comments. These emergency rules are the same as the rules proposed under WSR 17-11-068 with one numbering correction and one spelling correction. When the permanent rules become effective they will supersede these emergency 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 7, 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 7, Repealed 0.

Date Adopted: June 30, 2017.

Katherine I. Vasquez
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 17-15 issue of the Register.

WSR 17-14-095
EMERGENCY RULES
OFFICE OF

FINANCIAL MANAGEMENT

[Filed July 1, 2017, 12:00 a.m., effective July 1, 2017]

Effective Date of Rule: July 1, 2017.

Purpose: The 2017-2019 operating budget that was passed by the senate and house provides for department of natural resource[s] (DNR) employees performing emergency work under an incident command system defined in RCW 38.52.010 an additional day of leave with pay for rest and recuperation after twenty-one consecutive days performing emergency work.

Citation of Existing Rules Affected by this Order: Amending WAC 357-31-326.

Statutory Authority for Adoption: Chapter 43.01 RCW.

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: DNR would not be able to allow the additional day of leave with pay for rest and recuperation as described in the 2017-2019 operating budget without adoption of this 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 1, Repealed 0.

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

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

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

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

Date Adopted: June 30, 2017.

Roselyn Marcus
Assistant Director of
Legal and Legislative Affairs

AMENDATORY SECTION (Amending WSR 17-11-049, filed 5/15/17, effective 6/19/17)

WAC 357-31-326 When may an employer grant leave with pay? (1) An employer **may** grant leave with pay for an employee to perform civil duties as a volunteer including but not limited to firefighting, search and rescue efforts, or donating blood. Leave granted to participate in life-giving procedures must not exceed five days in a two-year period.

(2) In the department of natural resources, leave with pay equivalent to one regular workshift **may** be allowed for the purpose of rest and recuperation after ten consecutive calendar days performing emergency work under an incident command system, defined in RCW 38.52.010. The employer may grant one additional day of leave with pay for rest and recuperation after twenty-one consecutive calendar days performing emergency work under an incident command system.

WSR 17-14-096
EMERGENCY RULES
OFFICE OF

FINANCIAL MANAGEMENT

[Filed July 1, 2017, 12:07 a.m., effective July 1, 2017]

Effective Date of Rule: July 1, 2017.

Purpose: SHB 1521 which was passed during the 2017 legislative session removes the requirement that an employee must work at least six months before using accrued vacation leave. This bill also changes "thirty working days" to "two hundred forty hours" for the maximum vacation leave accrual.

Citation of Existing Rules Affected by this Order: Repealing WAC 357-31-190; and amending WAC 357-31-170, 357-31-210, 357-31-215, and 357-58-175.

Statutory Authority for Adoption: Chapter 167, Laws of 2017 (SHB 1521).

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: Allows state employees to take their accrued vacation leave prior to working six months.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 4, Repealed 1.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 1.

Date Adopted: June 30, 2017.

Roselyn Marcus
Assistant Director of
Legal and Legislative Affairs

AMENDATORY SECTION (Amending WSR 10-23-120, filed 11/17/10, effective 12/18/10)

WAC 357-31-170 At what rate do part-time employees accrue vacation leave? (1) Part-time general government employees accrue vacation leave (~~((credits))~~ hours) on a pro rata basis in accordance with WAC 357-31-125.

(2) Part-time higher education employees accrue on the same pro rata basis that their appointment bears to a full-time appointment. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

AMENDATORY SECTION (Amending WSR 05-08-137, filed 4/6/05, effective 7/1/05)

WAC 357-31-210 What is the maximum number of hours of vacation leave that an employee can accumulate? Vacation leave may be accumulated to a maximum of (~~((thirty working days (240))~~) two hundred forty hours((+))). Exceptions to this maximum are described in WAC 357-31-215.

AMENDATORY SECTION (Amending WSR 09-23-057, filed 11/12/09, effective 12/15/09)

WAC 357-31-215 When may vacation leave be accumulated above the maximum two hundred forty hours? There are two circumstances in which vacation leave may be accumulated above the maximum of (~~((thirty working days (f))~~) two hundred forty hours((+)).

(1) If an employee's request for vacation leave is denied by the employer, and the employee is close to the maximum vacation leave (two hundred forty hours), the employer must grant an extension for each month that the employer defers the employee's request for vacation leave. The employer must maintain a statement of necessity justifying the extension.

(2) As an alternative to subsection (1) of this section, employees may also accumulate vacation leave in excess of two hundred forty hours as follows:

(a) An employee may accumulate the vacation leave (~~((days))~~ hours) between the time (~~((thirty days))~~ the two hundred forty hours) is accrued and his/her next anniversary date of state employment.

(b) Leave accumulated above two hundred forty hours must be used by the next anniversary date and in accordance with the employer's leave policy. If such leave is not used before the employee's anniversary date, the excess leave is automatically lost and considered to have never existed.

(c) A statement of necessity, as described in subsection (1) of this section, can only defer leave that the employee has not accrued as of the date of the statement of necessity. Any accrued leave in excess of two hundred forty hours as of the date of the statement of necessity cannot be deferred regardless of circumstances. For example:

On June 15th, an employee is assigned to work on a special project. It is expected that the assignment will last six months. Due to an ambitious timeline and strict deadlines, the employee will not be able to take any vacation leave during that time.

- On June 15th, the employee's vacation leave balance is two hundred sixty hours.

- The employee accrues ten hours monthly.

- The employee's anniversary date is October 16th.

Because the employee will not be able to use leave from June 15th through December 15th the employee files a statement of necessity asking to defer the leave accrued during this time. This deferred leave will not be lost as long as the employee uses the deferred hours by their next anniversary date (October 16th of the following year).

The twenty hours of excess vacation leave the employee had on June 15th are not covered by the statement of necessity.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 357-31-190 When can an employee start to use accrued vacation leave?

AMENDATORY SECTION (Amending WSR 05-12-069, filed 5/27/05, effective 7/1/05)

WAC 357-58-175 Can an employer authorize lump sum vacation leave or accelerate vacation leave accrual rates to support the recruitment and/or retention of an incumbent or candidate for a WMS position? In addition to the vacation leave accruals as provided in WAC 357-31-165, an employer may authorize additional vacation leave as follows to support the recruitment and/or retention of an incumbent or candidate for a specific WMS position:

(1) Employers may authorize an accelerated accrual rate for an incumbent or candidate; and/or

(2) Employers may authorize a lump sum accrual of up to eighty hours of vacation leave for the incumbent or candidate.

Vacation leave accrued under this section must be used in accordance with the leave provisions of chapter 357-31 WAC (~~((and cannot be used until the employee has completed six continuous months of service))~~).

WSR 17-14-101

EMERGENCY RULES

OFFICE OF

FINANCIAL MANAGEMENT

[Filed July 3, 2017, 2:41 p.m., effective July 3, 2017]

Effective Date of Rule: July 3, 2017.

Purpose: The 2015-2017 operating budget that was passed by the senate and house provides for an increased vacation leave accrual for general government state employees. This amendment reflects the increased vacation leave

accrual rates. A new section is created for higher education employees so that they may establish accrual rates that exceed the current rates prior to July 1, 2017.

Citation of Existing Rules Affected by this Order: Amending WAC 357-31-165.

Statutory Authority for Adoption: Chapter 43.01 RCW.

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: Upon July 1, 2017, the effective date of the operating budget, general government employees will accrue vacation leave at the increased rate.

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

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

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

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

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

Date Adopted: July 3, 2017.

Roselyn Marcus
Assistant Director of
Legal and Legislative Affairs

AMENDATORY SECTION (Amending WSR 09-03-012, filed 1/9/09, effective 2/13/09)

WAC 357-31-165 At what rate do employees accrue vacation leave? (1) Full-time general government employees accrue vacation leave at the following rates:

(a) During the first and second years of current continuous state employment - ~~((Twelve days (eight)))~~ Nine hours, twenty minutes per month((+));

(b) During the ~~((second))~~ third year of current continuous state employment - ~~((Thirteen days (eight)))~~ Ten hours(~~(; forty minutes)~~) per month((+));

(c) During the ~~((third and))~~ fourth year~~((s))~~ of current continuous state employment - ~~((Fourteen days (nine)))~~ Ten hours, ~~((twenty))~~ forty minutes per month((+));

(d) During the fifth~~((s))~~ and sixth~~((, and seventh))~~ years of total state employment - ~~((Fifteen days (ten)))~~ Eleven hours, twenty minutes per month((+));

(e) During the seventh, eighth~~((s))~~ and ninth~~((, and tenth))~~ years of total state employment - ~~((Sixteen days (ten)))~~ Twelve hours~~((, forty minutes))~~ per month((+));

(f) During the tenth, eleventh, twelfth, thirteenth and fourteenth years of total state employment - ~~((Seventeen days (eleven)))~~ Thirteen hours, twenty minutes per month((+));

(g) During the ~~((twelfth))~~ fifteenth, sixteenth, seventeenth, eighteenth and nineteenth years of total state employ-

ment - ~~((Eighteen days (twelve)))~~ Fourteen hours, forty minutes per month((+));

(h) During the ~~((thirteenth))~~ twentieth, twenty-first, twenty-second, twenty-third and twenty-fourth years of total state employment - ~~((Nineteen days (twelve)))~~ Sixteen hours~~((, forty minutes))~~ per month((+)); and

~~((i))~~ During the ~~((fourteenth year of total state employment - Twenty days (thirteen hours, twenty minutes per month))~~;

~~((j))~~ During the ~~((fifteenth year of total state employment - Twenty-one days (fourteen hours per month))~~;

~~((k))~~ During the ~~((sixteenth))~~ twenty-fifth and succeeding years of total state employment - ~~((Twenty-two days (fourteen)))~~ Sixteen hours, forty minutes per month((+)).

(2) ~~((Higher education employers may establish accrual rates that exceed the rates listed in subsection (1) of this section. This does not apply to individual positions.~~

~~((3))~~ As provided in WAC 357-58-175, an employer may authorize a lump-sum accrual of vacation leave or accelerate the vacation leave accrual rate to support the recruitment and/or retention of a candidate or incumbent for a WMS position. Vacation leave accrual rates may only be accelerated using the rates established in subsection (1) of this section and must not exceed the maximum listed in subsection (1)(k) of this section.

~~((4))~~ (3) The following applies for purposes of computing the rate of vacation leave accrual:

(a) Employment in the legislative and/or the judicial branch except for time spent as an elected official or in a judicial appointment is credited.

(b) Employment exempt by the provisions of WAC 357-04-040, 357-04-045, 357-04-050, 357-04-055 is not credited.

~~((c))~~ ~~((Each contract year, or equivalent, of full time faculty and/or administrative exempt employment with a higher education employer is credited as one year of qualifying service.~~

~~((d))~~ Exempt employment with a general government employer is credited, other than that specified in WAC 357-04-055 which is excluded.

NEW SECTION

WAC 357-31-166 At what rate do higher education employees accrue vacation leave? (1) Full-time higher education employees accrue vacation leave at the following rates:

(a) During the first year of continuous state employment - Twelve days (eight hours per month);

(b) During the second year of continuous state employment - Thirteen days (eight hours, forty minutes per month);

(c) During the third and fourth years of continuous state employment - Fourteen days (nine hours, twenty minutes per month);

(d) During the fifth, sixth, and seventh years of total state employment - Fifteen days (ten hours per month);

(e) During the eighth, ninth, and tenth years of total state employment - Sixteen days (ten hours, forty minutes per month);

(f) During the eleventh year of total state employment - Seventeen days (eleven hours, twenty minutes per month);

(g) During the twelfth year of total state employment - Eighteen days (twelve hours per month);

(h) During the thirteenth year of total state employment - Nineteen days (twelve hours, forty minutes per month);

(i) During the fourteenth year of total state employment - Twenty days (thirteen hours, twenty minutes per month);

(j) During the fifteenth year of total state employment - Twenty-one days (fourteen hours per month);

(k) During the sixteenth and succeeding years of total state employment - Twenty-two days (fourteen hours, forty minutes per month).

(2) Higher education employers may establish accrual rates that exceed the rates listed in subsection (1) of this section. This does not apply to individual positions.

(3) The following applies for purposes of computing the rate of vacation leave accrual: Each contract year, or equivalent, of full-time faculty and/or administrative exempt employment with a higher education employer is credited as one year of qualifying service.