

WSR 18-23-001
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-317—Filed November 7, 2018, 2:20 p.m., effective November 7, 2018, 2:20 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules for White Salmon, Wind, and Lewis rivers.

Citation of Rules Affected by this Order: Repealing WAC 220-312-03000H; and amending WAC 220-312-030.

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 rule is needed to return the Wind and White Salmon rivers to permanent rule. Steelhead retention and night fishing were closed in August 2018 to limit steelhead impacts after the estimated A-index run-size was significantly reduced from preseason forecast. Passage of upriver summer steelhead at Bonneville Dam tends to be nearly complete by November 1, therefore the emergency closures are no longer necessary.

This rule is also needed to close salmon retention on the Lewis River from the mouth to Johnson Creek, as well as to close all fishing from Johnson Creek to Colvin Creek and in Cedar Creek from the mouth to Grist Mill Bridge. The Lewis River wild fall Chinook salmon run is tracking below the preseason forecast and is currently projected not to meet the escapement goal for this population. The hatchery coho return is also tracking well below forecast and the hatchery broodstock goals. Closing the lower Lewis River and Cedar Creek to salmon retention will increase the number of wild Chinook spawning, the number [of] coho returning to the Lewis River Hatchery, and help ensure fishing opportunities in future years. 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 7, 2018.

James B. Scott, Jr.
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-03000I Freshwater exceptions to statewide rules—Southwest. Notwithstanding the provisions of WAC 220-312-030, effective immediately until further notice:

(1) **Cedar Creek (Clark Co.):** From the mouth to Grist Mill Bridge, effective November 13, 2018 until further notice, all species: Closed waters.

(2) **Drano Lake (Skamania Co.):** In the waters downstream of markers on point of land downstream and across from Little White Salmon National Fish Hatchery and upstream of the Highway 14 Bridge: Closed waters.

(3) **Lewis River (Clark/Cowlitz Co.):**

(a) From the mouth to Johnson Creek, effective November 13, 2018 until further notice, salmon: Release all Chinook and coho.

(b) From Johnson Creek to Colvin Creek, effective November 13 until further notice, all species: Closed waters.

REPEALER

The following section of the Washington Administrative Code is repealed effectively immediately:

WAC 220-312-03000H Freshwater exceptions to statewide rules—Southwest. (18-292)

WSR 18-23-002
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-311—Filed November 7, 2018, 2:45 p.m., effective November 7, 2018, 2:45 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules for the Columbia River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-06000B; and amending WAC 220-312-060.

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

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

Reasons for this Finding: The mainstem Columbia River has been closed to salmon and steelhead fishing to limit impacts on the Endangered Species Act listed fall Chinook. By January, fall Chinook are no longer present in this portion

of the river. This rule is needed return the mainstem Columbia River to permanent rules on January 1, 2019.

This rule is also needed to close steelhead fishing from Hwy. 395 Bridge at Pasco to the wooden powerline towers at the Old Hanford townsite. This year's return of Ringold Springs Hatchery steelhead is [the] lowest run on record to this facility by this date in the past eighteen years. Closing steelhead fishing in this section of the river will increase the number of hatchery fish available for broodstock needs to help insure [ensure] future hatchery returns.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: November 7, 2018.

James B. Scott, Jr.
for Kelly Susewind
Director

NEW SECTION

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

(a) Mouth of the Columbia River from Buoy 10 to the HWY 395 Bridge at Pasco, salmon and steelhead, immediately through December 31, 2018: Closed.

(b) HWY 395 Bridge at Pasco to the Old Hanford townsite powerline towers, steelhead, November 10, 2018 until further notice: Closed.

REPEALER

The following section of the Washington Administrative Code is repealed effective immediately:

WAC 220-312-06000B Freshwater exceptions to statewide rules—Columbia River. (18-279)

WSR 18-23-015 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 18-315—Filed November 9, 2018, 8:54 a.m., effective November 10, 2018]

Effective Date of Rule: November 10, 2018.

Purpose: Amends recreational fishing rules for the Hoko River.

Citation of Rules Affected by this Order: Amending WAC 220-312-020.

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: This emergency rule is necessary because hatchery steelhead smolts released in the spring of 2016 and spring of 2017 into the Hoko river were not fin clipped. These fish will begin returning in the coming winter. Dorsal fin heights of hatchery reared steelhead are shorter than comparably sized wild steelhead. The standard of 2 1/8 inches has been used elsewhere to identify hatchery steelhead when fin clips are lacking. 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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: November 9, 2018.

Kelly Cunningham
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-02000K Freshwater exceptions to statewide rules—Coastal. Notwithstanding the provisions of WAC 220-312-020, it is permissible to retain steelhead with a dorsal fin height of less than 2 1/8 inches or with an adipose or ventral fin clip in the following waters:

(1) Hoko River (Clallam Co.) effective November 10, 2018 through March 8, 2019.

(2) Sekiu River (Clallam Co.) effective November 10, 2018 through January 31, 2019.

WSR 18-23-019
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-319—Filed November 9, 2018, 4:30 p.m., effective November 13, 2018]

Effective Date of Rule: November 13, 2018.

Purpose: Amend commercial gillnet rules for Puget Sound.

Citation of Rules Affected by this Order: Repealing WAC 220-354-16000K; and amending WAC 220-354-160.

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: After reviewing catches to date, comanagers agreed to open an additional day of commercial gillnet fishing in Puget Sound Salmon Management and Catch Reporting Areas 12, 12B and 12C to harvest the remaining nontreaty share. 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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: November 9, 2018.

Kelly Susewind
 Director

NEW SECTION

WAC 220-354-16000N Puget Sound salmon—Gillnet—Open periods. Notwithstanding the provisions of WAC 220-354-160, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except during the periods set forth in this section, provided that

unless otherwise amended, all permanent rules remain in effect:

Areas	Open Periods
12, 12B, 12C	Open 11/13/2018 Closed 11/14/2018 until further notice

REPEALER

The following section of the Washington Administrative Code is repealed effective November 13, 2018:

WAC 220-354-16000K Puget Sound salmon—Gillnet—Open periods. (18-312)

Reviser's note: The section above appears as filed by the agency pursuant to RCW 34.08.040; however, the reference to WAC 220-354-16000K is probably intended to be WAC 220-354-16000K.

WSR 18-23-022
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-322—Filed November 13, 2018, 11:09 a.m., effective November 13, 2018, 11:09 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Closes the commercial harvest of sea cucumbers in Puget Sound.

Citation of Rules Affected by this Order: Repealing WAC 220-340-73000K; and amending WAC 220-340-730.

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 rule is needed to close the commercial sea cucumber fishery which is opened by emergency rule. The sea cucumber quotas have been reached in all sea cucumber districts. 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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: November 13, 2018.

Ron Warren
for Kelly Susewind
Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-340-73000K Commercial sea cucumber fishery.
(18-297)

WSR 18-23-024
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-320—Filed November 13, 2018, 1:38 p.m., effective November 14, 2018, 5:00 p.m.]

Effective Date of Rule: November 14, 2018, 5:00 p.m.

Purpose: Amends Puget Sound commercial crab rules.

Citation of Rules Affected by this Order: Repealing WAC 220-340-45500L; and amending WAC 220-340-455.

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 rule maintains the current closure of Region 1. This rule closes Region 2 East at 5:00 p.m., November 14, 2018. The provisions of this rule will continue the Puget Sound commercial crab harvest in all remaining areas. Pot limits in the remaining commercial areas are set at fifty pots per license per buoy tag number, with exception of Region 3-1. In Region 3-1, fishers will be allowed to use one hundred pots per license per buoy tag number. There is sufficient allocation available in the remaining commercial regions to accommodate this continued opening. These provisions are in conformity with agreed management plans with applicable tribes. These management plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. There is insufficient time to adopt permanent rules.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: November 13, 2018.

Ron Warren
for Kelly Susewind
Director

NEW SECTION

WAC 220-340-45500M Commercial crab fishery—Seasons and areas—Puget Sound. Notwithstanding the provisions of WAC 220-340-455:

(1) Effective at 5:00 p.m. November 14, 2018, Crab Management Region 2E is closed. Region 2E includes Marine Fish-Shellfish Catch Reporting Areas 24A, 24B, 24C, 24D and 26A East.

(2) Effective immediately, until further notice, Crab Management Region 1 is closed. Region 1 includes Marine Fish-Shellfish Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, and 22B.

(3) Effective immediately, until further notice, it is unlawful for any license holder or alternate operator to fish for crabs for commercial purposes with more than 50 pots per license per buoy tag number in Crab Management Region 2 West, Region 3-2, Region 3-3 East or Region 3-3 West. These regions include Marine Fish-Shellfish Catch Reporting Areas, 26A West, 25B, 25D, 25A, 25E, 23D, 23C and 29.

(3) Effective immediately, until further notice, it is lawful for any license holder or alternate operator to fish for crabs for commercial purposes with 100 pots per license per buoy tag number in Crab Management Region 3-1. This region includes Marine Fish-Shellfish Catch Reporting Area 23A and 23B.

(4) All remaining buoy tags per license per region must be onboard the designated vessel and available for immediate inspection.

(5) Effective immediately, until further notice, it is lawful for license holders or alternate operators to fish for Dungeness crab for commercial purposes in the following areas:

Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A-W in Useless Bay north and east of a line from the south end of the Double Bluff State Park seawall (47°58.782'N, 122°30.840'W) projected 110 degrees true to the boulder on shore (47°57.690'N, 122°26.742'W).

(6) Effective immediately, until further notice, the following areas are closed to commercial crab fishing:

(a) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 25A west of the 123°7.0' longitude

line projected from the new Dungeness light due south to the shore of Dungeness Bay.

(b) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 23D west of a line from the eastern tip of Ediz Hook to the ITT Rayonier Dock.

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

REPEALER

The following section of the Washington Administrative code is repealed effective 5:00 p.m. November 14, 2018:

WAC 220-340-45500L Commercial crab fishery—Seasons and areas—Puget Sound. (18-295)

WSR 18-23-025
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-323—Filed November 13, 2018, 1:42 p.m., effective November 16, 2018]

Effective Date of Rule: November 16, 2018.

Purpose: Amends Puget Sound commercial salmon fisheries for Puget Sound Salmon Management and Catch Reporting Area 7B.

Citation of Rules Affected by this Order: Amending WAC 220-354-120 and 220-354-160.

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

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

Reasons for this Finding: This emergency rule is needed to close commercial salmon fishing in Puget Sound Salmon Management and Catch Reporting Area 7B. The closure is due to low returns of both hatchery and natural chum returning to the Nooksack River and chum tributaries around Bellingham. The closure is implemented in all of Area 7B including the Whatcom Creek hatchery zone. 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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: November 13, 2018.

Ron Warren
for Kelly Susewind
Director

NEW SECTION

WAC 220-354-12000L Puget Sound salmon—Purse seine—Open periods. Notwithstanding the provisions of WAC 220-354-120, effective November 16, 2018, until further notice, it is unlawful to fish for commercial purposes in Puget Sound Salmon Management and Catch Reporting Area 7B with Purse seine gear.

NEW SECTION

WAC 220-354-16000P Puget Sound salmon—Gillnet—Open periods. Notwithstanding the provisions of WAC 220-354-160, effective November 16, 2018, until further notice, it is unlawful to fish for commercial purposes in Puget Sound Salmon Management and Catch Reporting Area 7B with Gillnet gear.

WSR 18-23-026
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-321—Filed November 13, 2018, 2:15 p.m., effective November 15, 2018]

Effective Date of Rule: November 15, 2018.

Purpose: Amends recreational fishing rules for Whatcom Creek.

Citation of Rules Affected by this Order: 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: This rule is needed to close fishing in Whatcom Creek from the mouth to the markers below Dupont Street. The return of chum to Whatcom Creek is currently below the number needed to meet egg take goals for 2018. Closing fishing in Whatcom Creek is necessary to ensure broodstock are available for future hatchery returns. 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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: November 13, 2018.

Ron Warren
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-0400C Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-312-040, effective November 15, 2018 until further notice: Whatcom Creek (Whatcom Co.) from the mouth to the markers below the footbridge below Dupont St. in Bellingham: Closed Waters.

**WSR 18-23-049
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 18-324—Filed November 15, 2018, 11:48 a.m., effective November 17, 2018, 6:00 a.m.]

Effective Date of Rule: November 17, 2018, 6:00 a.m.

Purpose: Amends nontreaty gillnet rules for [Areas] 12, 12B, 12C.

Citation of Rules Affected by this Order: Repealing WAC 220-354-16000N; and amending WAC 220-354-160.

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: After reviewing catches to date, comanagers agreed to open an additional day of commercial gillnet fishing in Puget Sound Salmon Management and Catch Reporting Areas 12, 12B and 12C to harvest the remaining nontreaty share. This rule is needed to open [Areas] 12, 12B, and 12C for an additional day to commercial gillnet fishing. 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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: November 15, 2018.

Joe Stohr
for Kelly Susewind
Director

NEW SECTION

WAC 220-354-16000Q Puget Sound salmon—Gillnet—Open periods. Notwithstanding the provisions of WAC 220-354-160, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except during the periods set forth in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas	Open Periods
12, 12B, 12C	Open 6 AM 11/17 - 6 PM 11/17 Closed 11/18/2018 until further notice

REPEALER

The following section of the Washington Administrative Code is repealed effective 6 AM November 17, 2018:

WAC 220-354-16000N Puget Sound salmon—Gillnet—Open periods. (18-319)

**WSR 18-23-065
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Filed November 16, 2018, 11:17 a.m., effective November 16, 2018, 11:17 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to allow schools that participate in the National School Breakfast and Lunch Program's Community Eligibility Provision (CEP) meal service option and have historically been challenging high-poverty schools (challenging schools) for purposes of the National Board Certified Teachers [Teachers] (NBCT) bonus to continue to qualify as challenging schools for the 2017-2018 school year.

Citation of Rules Affected by this Order: Amending WAC 392-140-973.

Statutory Authority for Adoption: RCW 28A.150.290(1) and 28A.405.415.

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: CEP is a federal nonpricing meal service option for schools in low-income areas that allows high poverty schools to serve breakfast and lunch at no cost to all of their enrolled students. CEP schools do not need to collect household applications to determine students' school meal program eligibility. Instead, the schools are reimbursed using a formula based on the percentage of students categorically eligible for free meals based on their participation in other specific means-tested programs.

WAC 392-140-973 provides that NBCT certificated instructional staff who work in challenging schools are eligible for a salary bonus. Before this emergency rule change, challenging schools were defined as schools that meet a minimum threshold based on prior year headcount enrollment of students eligible for free of [or] reduced price meals (FRPL). Because CEP schools are not required to collect household applications, the office of superintendent of public instruction (OSPI) has not been able to consistently determine under the former rule whether high-poverty schools that were historically classified as challenging schools meet the FRPL headcount enrollment threshold for purposes of NBCT bonus eligibility. Requiring the use of prior year data to determine FRPL headcount enrollment eligibility will cause individual teachers in some historically challenging CEP schools to lose the challenging schools bonus in the 2017-18 school year. To avoid this, the emergency rule bases the FRPL student headcount enrollment eligibility threshold for CEP schools on of the two school years immediately prior to the school's participation in CEP.

This amendment to WAC 392-140-973 will ensure that teachers receive the NBCT [NBCT] challenging schools bonus for their work in some of the most challenging schools in Washington for the 2017-18 school year. Because OSPI pays NBCT bonuses to districts in the July apportionment of each given year, it is necessary to immediately adopt this rule.

OSPI is actively undertaking the appropriate procedures to adopt the emergency rule as a permanent rule. A public hearing will be held on November 27, 2018. Written comments are also due on November 27, 2018.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: November 16, 2018.

Chris P. S. Reykdal
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 18-14-103, filed 7/3/18, effective 8/3/18)

WAC 392-140-973 Salary bonus for teachers and other certificated instructional staff who hold current certification by the national board—Eligibility. Staff that are eligible for the bonus shall be limited to those meeting the following requirements:

(1) Hold current certification by the national board for professional teaching standards during the entire school year, unless otherwise specified in the state Biennial Operating Appropriations Act; and

(2) Who are:

(a) Teachers and other certificated instructional staff employed full time or part time under written contract by Washington public school districts or educational service districts pursuant to RCW 28A.405.210;

(b) Teachers and other certificated instructional staff employed full time or part time by a contractor pursuant to WAC 392-121-188 and 392-121-206 (2)(a);

(c) Teachers and other certificated instructional staff employed full time or part time by the Washington school for the deaf or Washington school for the blind; or

(d) Teachers and other certificated instructional staff employed full time or part time by a charter school.

(3) In addition to bonuses provided by subsection (2) of this section, teachers and other certificated instructional staff shall be eligible for additional bonuses if in an instructional assignment in challenging, high poverty schools, subject to the following conditions and limitations:

(a) Challenging, high poverty schools are schools where, for the prior year, the student headcount enrollment eligible for the federal free or reduced price lunch program was at least:

(i) 70 percent for elementary schools;

(ii) 60 percent for middle schools; or

(iii) 50 percent for high schools; as determined by the October 1st count of the comprehensive education data and research system (CEDARS) or successor data collection and reporting systems, of the office of superintendent of public instruction, on March 31st of that prior year: Provided, That schools operating during the current school year as their first year may qualify as challenging, high poverty schools based upon current year data, as determined by the October 1st count on March 31st of the current year.

(b) For purposes of the national board challenging, high poverty schools bonus, a school shall be categorized based upon the highest grade served as follows:

(i) A school whose highest grade served is 6th grade or lower shall be considered an elementary school;

(ii) A school whose highest grade served is either 7th, 8th, or 9th grade shall be considered a middle school;

(iii) A school whose highest grade served is either 10th, 11th, or 12th grade shall be considered a high school.

(c) A school shall be considered only if it serves thirty or more students, or is the largest school in the district serving its designated category.

(d) Schools that provide institutional education programs pursuant to WAC 392-122-205 shall be designated as challenging, high poverty schools with the student headcount enrollment eligible for the federal free or reduced price lunch program at one hundred percent and shall not be subject to the requirement in this subsection of serving thirty or more students.

(e) The student enrollment data used shall include the state-funded students in kindergarten through twelfth grade, plus prekindergarten students in special education.

(f) Teachers and other certificated instructional staff that meet the qualifications for the challenging, high poverty schools bonus under this subsection who are assigned for less than one full school year or less than full time for the school year shall receive the challenging, high poverty schools bonus in a prorated manner, subject to the following conditions and limitations:

(i) The portion of the employee's assignment to challenging, high poverty schools shall be determined as of June 15th of the school year.

(ii) If the employee's assignment to challenging, high poverty schools is less than 1.0 full-time equivalent, the proration shall use the methodology in WAC 392-121-212 and shall be rounded to three decimal places.

(g) A school participating in the community eligibility provision as authorized by section 11 (a)(1) of the Richard B. Russell National School Lunch Act may be designated as a challenging, high poverty school if the school was a challenging, high poverty school based on the student headcount enrollment eligible for the federal free or reduced price lunch program in either of the two school years immediately prior to the school's participation in the community eligibility provision.

WSR 18-23-069

EMERGENCY RULES

HEALTH CARE AUTHORITY

[Filed November 16, 2018, 1:34 p.m., effective November 16, 2018, 1:34 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The agency is creating rules for coverage of a new model of care called collaborative care, which is part of the integration of mental health and physical health.

Citation of Rules Affected by this Order: New WAC 182-531-0425.

Statutory Authority for Adoption: SSB 5779, SSB 5883, RCW 41.05.021, 41.05.160.

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: As directed by SSB 5779 and funding authorized in SSB 5883, the agency is creating rules for the coverage of collaborative care, which is part of the integration of mental health and physical health. Emergency rules are necessary to implement this requirement while the permanent rule-making process is completed. This emergency filing continues the previous filing under WSR 18-16-007 which expires on November 17, 2018. Since the last emergency filing, the agency has completed an external stakeholder review and is preparing to file a CR-102 Proposed rule making and schedule a public hearing. The text of this draft does not differ from the previous filing.

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 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: November 16, 2018.

Wendy Barcus
Rules Coordinator

NEW SECTION

WAC 182-531-0425 Collaborative care. (1) Under the authority of RCW 74.09.497, and subject to available funds, the medicaid agency covers collaborative care provided in clinical care settings.

(2) For the purposes of this section:

(a) **Collaborative care** means a specific type of integrated care where medical providers and behavioral health providers work together to address behavioral health conditions, including mental health conditions and substance use disorders.

(b) **Collaborative care model** is a model of behavior health integration that enhances usual primary care by adding two key services:

(i) Care management support for clients receiving behavioral health treatment; and

(ii) Regular psychiatric consultation with the primary care team, particularly for clients whose conditions are not improving.

(c) **Collaborative care team** means a team of licensed behavioral health professionals operating within their scope of practice who participate on the primary care team along with the primary billing provider to provide collaborative care to eligible clients. These professionals include, but are not limited to:

- (i) Advanced registered nurses;
 - (ii) Chemical dependency professionals;
 - (iii) Chemical dependency professional trainees under the supervision of a certified chemical dependency professional;
 - (iv) Marriage and family therapists;
 - (v) Marriage and family therapist associates under the supervision of a licensed marriage and family therapist or equally qualified mental health practitioner;
 - (vi) Mental health counselors;
 - (vii) Mental health counselor associates under the supervision of a licensed mental health counselor, psychiatrist, or physician;
 - (viii) Physicians;
 - (ix) Physician assistants under the supervision of a licensed physician;
 - (x) Psychiatrists;
 - (xi) Psychiatric advanced registered nurses;
 - (xii) Psychologists;
 - (xiii) Registered nurses;
 - (xiv) Social workers;
 - (xv) Social worker associate-independent clinical, under the supervision of a licensed independent clinical social worker or equally qualified mental health practitioner; and
 - (xvi) Social worker associate-advanced, under the supervision of a licensed independent clinical social worker, advanced social worker, or equally qualified mental health practitioner.
- (3) The primary billing provider must meet all of the following:
- (a) Be enrolled with the agency as one of the following:
 - (i) A physician licensed under Titles 18 RCW and 246 WAC;
 - (ii) An advanced registered nurse practitioner licensed under Titles 18 RCW and 246 WAC;
 - (iii) A clinic that is not a federally qualified health center (FQHC) or rural health clinic (RHC) that meets the requirements of Titles 70 RCW and 247 WAC;
 - (iv) An FQHC; or
 - (v) An RHC.
 - (b) Complete, sign, and return the Attestation for Collaborative Care Model, form HCA 13-0017, to the agency; and
 - (c) Agree to follow the agency's guidelines for practicing a collaborative care model.
- (4) Providers of collaborative care must:
- (a) Use a registry to track the client's clinical outcomes;
 - (b) Use a validated clinical rating scale;
 - (c) Ensure the registry is used in conjunction with the practice's electronic health records (EHR);
 - (d) Include a plan of care; and
 - (e) Identify outcome goals of the treatments.
- (5) If a provider no longer meets the agreed upon requirements in the agency's Attestation for Collaborative Care Model, form HCA 13-0017, the provider must immediately notify the agency. The agency does not pay for collaborative care if a provider does not meet the agreed upon requirements.
- (6) Providers are subject to post pay review by the agency. The agency may recoup payment if the provider is found to have not met the requirements for providing collabora-

orative care as agreed to in the agency's Attestation for Collaborative Care Model, form HCA 13-0017.

WSR 18-23-071
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-325—Filed November 16, 2018, 2:35 p.m., effective November 16, 2018, 2:35 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends recreational razor clam rules.

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

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

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

Reasons for this Finding: This emergency rule is needed to open the recreational razor clam season. Survey results show that adequate clams are available for harvest in Razor Clam Areas 3, 4 and 5 for recreational harvest. Washington department of health has certified clams from this beach to be safe for human consumption. There is insufficient time to adopt permanent rules.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: November 16, 2018.

Kelly Susewind
Director

NEW SECTION

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

(1) Effective 12:01 p.m. November 22, 2018 through 11:59 p.m. November 25, 2018, razor clam digging is per-

missible in Razor Clam Area 3. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(2) Effective 12:01 p.m. November 22, 2018 through 11:59 p.m. November 22, 2018 and 12:01 p.m. November 24, 2018 through 11:59 p.m. November 24, 2018 razor clam digging is permissible in Razor Clam Area 4. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(3) Effective 12:01 p.m. November 23, 2018 through 11:59 p.m. November 23, 2018 and 12:01 p.m. November 25, 2018 through 11:59 p.m. November 25, 2018, razor clam digging is permissible in Razor Clam Area 5. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. November 26, 2018:

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

WSR 18-23-108
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 18-326—Filed November 20, 2018, 4:22 p.m., effective November 23, 2018, 5:00 p.m.]

Effective Date of Rule: November 23, 2018, 5:00 p.m.

Purpose: Amends Puget Sound commercial crab rules.

Citation of Rules Affected by this Order: Repealing WAC 220-340-45500M; and amending WAC 220-340-455.

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 rule maintains the current closures of Region 1 and Region 2 East. This rule closes Region 2 West at 5:00 p.m., November 23, 2018. The provisions of this rule will continue the Puget Sound commercial crab harvest in all remaining areas. Pot limits in the remaining commercial areas are set at fifty pots per license per buoy tag number, with exception of Region 3-1. In Region 3-1, fishers will be allowed to use one hundred pots per license per buoy tag number. There is sufficient allocation available in the remaining commercial regions to accommodate this continued opening. These provisions are in conformity with agreed management plans with applicable tribes. These management plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. There is insufficient time to adopt permanent rules.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: November 20, 2018.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-45500N Commercial crab fishery—Seasons and areas—Puget Sound. Notwithstanding the provisions of WAC 220-340-455:

(1) Effective at 5:00 p.m. November 23, 2018, Crab Management Region 2W is closed. Region 2 West includes Marine Fish-Shellfish Catch Reporting Areas 25B, 25D and 26AW.

(2) Effective immediately until further notice, Crab Management Region 2E is closed. Region 2 East includes Marine Fish-Shellfish Catch Reporting Areas 24A, 24B, 24C, 24D and 26A East.

(3) Effective immediately, until further notice, Crab Management Region 1 is closed. Region 1 includes Marine Fish-Shellfish Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, and 22B.

(4) Effective immediately, until further notice, it is unlawful for any license holder or alternate operator to fish for crabs for commercial purposes with more than 50 pots per license per buoy tag number in Crab Management Region 3-2, Region 3-3 East or Region 3-3 West. These regions include Marine Fish-Shellfish Catch Reporting Areas 25A, 25E, 23D, 23C and 29.

(5) Effective immediately, until further notice, it is lawful for any license holder or alternate operator to fish for crabs for commercial purposes with 100 pots per license per buoy tag number in Crab Management Region 3-1. This region includes Marine Fish-Shellfish Catch Reporting Area 23A and 23B.

(6) All remaining buoy tags per license per region must be onboard the designated vessel and available for immediate inspection.

(7) Effective immediately, until further notice, the following areas are closed to commercial crab fishing:

(a) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 25A west of the 123°7.0' longitude line projected from the new Dungeness light due south to the shore of Dungeness Bay.

(b) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 23D west of a line from the eastern tip of Ediz Hook to the ITT Rayonier Dock.

REPEALER

The following section of the Washington Administrative code is repealed effective 5:00 p.m. November 23, 2018:

WAC 220-340-45500M Commercial crab fishery—Seasons and areas—Puget Sound. (18-320)

WSR 18-23-111
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed November 21, 2018, 8:49 a.m., effective November 21, 2018, 8:49 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to remove language from WAC 392-121-415 that reduces state basic education apportionment payments by proceeds from the sale, rental or lease of stone, minerals, timber, forest products, other crops and matter, and improvements from or on tax title real property managed by a county pursuant to chapter 36.35 RCW.

Citation of Rules Affected by this Order: Amending WAC 392-121-415.

Statutory Authority for Adoption: RCW 28A.150.290, 28A.710.220.

Other Authority: RCW 42.56.070, 42.56.120.

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 immediate adoption of this rule is necessary to ensure that local revenue does not offset the costs of basic education as prescribed in EHB 2242 (2017).

The office of superintendent of public instruction is actively undertaking the appropriate procedures to adopt the emergency rule as a permanent rule. A public hearing was held on November 16, 2018.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: November 21, 2018.

Chris P. S. Reykdal
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 18-10-025, filed 4/24/18, effective 5/25/18)

WAC 392-121-415 Basic education allocation—Deductible revenues. In addition to those funds appropriated by the legislature for basic education allocation purposes, the following locally available general fund revenues shall be included in the computation of the total annual basic education allocation of each school district or charter school pursuant to RCW 28A.150.250 and 28A.150.260 and shall be deducted from payments made pursuant to WAC 392-121-400:

(1) ~~((Proceeds from the sale, rental or lease of stone, minerals, timber, forest products, other crops and matter, and improvements from or on tax title real property managed by a county pursuant to chapter 36.35 RCW;~~

~~(2))~~ Federal in lieu of tax payments made pursuant to RCW 84.72.020; and

~~((3))~~ (2) Proceeds from the sale of lumber, timber, and timber products on military reservations or facilities in accordance with U.S.C. §2665, Title 10, and P.L. 97-99.

~~((4))~~ (3) Local in lieu of tax payments including but not limited to payments made pursuant to RCW 35.82.210, 35.83.040, and 79.19.110.

Otherwise deductible revenues from any of the foregoing sources received by a school district due solely to the district's levy of a capital projects fund or debt service fund excess tax levy shall constitute nongeneral fund revenues and shall not be deducted in the computation of the district's annual basic education allocation for that school year.

WSR 18-23-112
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed November 21, 2018, 8:51 a.m., effective November 21, 2018, 8:51 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to align the rules for the highly capable program to the statutory changes made to the program by E2SSB 6362 (2018).

Citation of Rules Affected by this Order: New WAC 392-170-083; and amending WAC 392-170-055.

Statutory Authority for Adoption: RCW 28A.185.030, 28A.185.050.

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: Section 105 of E2SSB 6362 (2018) amended chapter 28A.300 RCW to require that school district practices for identifying the most highly capable student must comply with additional criteria regarding multiple pathways for qualification, use of local norms for assessments, use of subjective measures, and use of assessments in native language of the student. These changes go into effect for the 2018-19 school year. This requires immediate adoption of the rule.

The office of superintendent of public instruction is actively undertaking the appropriate procedures to adopt the emergency rule as a permanent rule. A public hearing is planned for early 2019.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: November 21, 2018.

Chris P. S. Reykdal
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 18-03-012, filed 1/5/18, effective 2/5/18)

WAC 392-170-055 Assessment process for selection as highly capable student. (1) The superintendent of public instruction must require school districts to have identification procedures for their highly capable programs that are clearly stated and implemented by school districts using the following criteria:

(a) Districts must use multiple objective criteria to identify students who are among the most highly capable. Multiple pathways for qualifications must be available and no single criterion may disqualify a student from identification;

(b) Highly capable selection decisions must be based on consideration of criteria benchmarked on local norms, but local norms may not be used as a more restrictive criteria than national norms at the same percentile;

(c) Subjective measures such as teacher recommendations or report card grades may not be used to screen out a student from assessment. These data points may be used alongside other criteria during selection to support identification, but may not be used to disqualify a student from being identified; and

(d) To the extent practicable, screening and assessments must be given in the native language of the student. If native language screening and assessments are not available, a non-verbal screening and assessment must be used.

(2) Students nominated for selection as a highly capable student, unless eliminated through screening as provided in WAC 392-170-045, shall be assessed by qualified district personnel;

((2)) (3) Districts shall use multiple objective criteria for identification of students who are among the most highly capable. There is no single prescribed method for identification of students among the most highly capable;

((3)) (4) Districts shall have a clearly defined and written assessment process; and

((4)) (5) Consistent with RCW 28A.185.020, district practices for identifying the most highly capable students must prioritize equitable identification of low-income students.

NEW SECTION

WAC 392-170-083 Guidance aligned with evidence-based practices. The superintendent of public instruction must disseminate guidance on best practices for highly capable programs that includes: Referral, screening, assessment, selection, and placement. The guidance must be regularly updated and aligned with evidence-based practices.