

WSR 19-24-001
EMERGENCY RULES
STATE BOARD OF HEALTH

[Filed November 20, 2019, 3:03 p.m., effective November 20, 2019, 3:03 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Chapter 246-80 WAC, Vapor products and flavors, the Washington state board of health has adopted an emergency rule to create WAC 246-80-021 that bans the sale of vapor products containing vitamin E acetate. This applies to the sale, offer for sale, or possession with intent to sell or offer for sale vapor products containing vitamin E acetate at any location or by any means including by telephone or other method of voice transmission, the mail or any other delivery service, or the internet or other online service.

Citation of Rules Affected by this Order: New WAC 246-80-021.

Statutory Authority for Adoption: RCW 43.20.050 (2)(f).

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 outbreak of lung disease continues to grow; therefore, the adoption of a rule prohibiting the sale of vapor products containing vitamin E acetate is necessary for the preservation of the public health, safety, and general welfare.

In July 2019, the United States Centers for Disease Control and Prevention (CDC), United States Food and Drug Administration (FDA), state and local health departments, and other clinical and public health partners began investigating outbreaks of lung injury associated with e-cigarette product use, or vaping. In September 2019, the CDC activated its Emergency Operations Center to aid in the investigation of the multistate outbreak. As of November 13, 2019, there have been two thousand one hundred seventy-two confirmed cases reported across forty-nine states, the District of Columbia, Puerto Rico and the United States Virgin Islands, including forty-two deaths confirmed in twenty-four states. Fourteen cases of lung injury have been reported in Washington state.

As part of the investigation into the multistate outbreak of lung disease associated with the use of vapor products, the CDC conducted laboratory tests of twenty-nine samples of fluid collected from the lungs of patients with vaping-associated lung disease from ten states. An article released on November 8, 2019, showed that all of the samples contained vitamin E acetate, providing direct evidence of vitamin E acetate at the primary site of injury in the lungs. Vitamin E acetate is a chemical that is used as an additive or thickening ingredient in vapor products. The CDC has not determined that vitamin E acetate is present in only THC vapor products or only non-THC vapor products. THC was identified in eighty-two percent of the samples, and nicotine was identified in sixty-two percent of the samples. None of a range of other potential chemicals of concern was detected in the samples, but evidence is not yet sufficient to rule out the contribution of other chemicals, substances, or product sources to the disease. The CDC has identified vitamin E acetate as a chemical of concern and stated that, until the relationship of vitamin E acetate and lung health is better characterized, it is important that vitamin E acetate not be added to vapor products. Because the outbreak of lung disease continues to grow, adoption of a rule prohibiting the sale of vapor products containing vitamin E acetate is necessary for the preservation of the public health, safety, and general welfare.

the disease. The CDC has identified vitamin E acetate as a chemical of concern and stated that, until the relationship of vitamin E acetate and lung health is better characterized, it is important that vitamin E acetate not be added to vapor products.

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 1, Amended 0, Repealed 0.

Date Adopted: November 18, 2019.

Michelle A. Davis
Executive Director

NEW SECTION

WAC 246-80-021 Prohibition—Vitamin E acetate.

(1) Vitamin E acetate is a chemical that is used as an additive or thickening ingredient in vapor products. As part of the investigation into the multistate outbreak of lung disease associated with the use of vapor products, the Centers for Disease Control (CDC) conducted laboratory tests of twenty-nine samples of fluid collected from the lungs of patients with vaping-associated lung disease from ten states. All of the samples contained vitamin E acetate, providing direct evidence of vitamin E acetate at the primary site of injury in the lungs. The CDC has not determined that vitamin E acetate is present in only THC vapor products or only non-THC vapor products. THC was identified in 82 percent of the samples, and nicotine was identified in 62 percent of the samples. None of a range of other potential chemicals of concern was detected in the samples, but evidence is not yet sufficient to rule out the contribution of other chemicals, substances, or product sources to the disease. The CDC has identified vitamin E acetate as a chemical of concern and stated that, until the relationship of vitamin E acetate and lung health is better characterized, it is important that vitamin E acetate not be added to vapor products. Because the outbreak of lung disease continues to grow, adoption of a rule prohibiting the sale of vapor products containing vitamin E acetate is necessary for the preservation of the public health, safety, and general welfare.

(2) No person including, but not limited to, a person licensed under chapter 69.50 or 70.345 RCW, may sell, offer for sale, or possess with intent to sell, or offer for sale vapor products containing vitamin E acetate. The foregoing prohibition applies to the sale, offer for sale, or possession with intent to sell or offer for sale vapor products containing vitamin E acetate at any location or by any means in this state

including, but not limited to, by means of a telephonic or other method of voice transmission, the mail or any other delivery service, or the internet or other online service.

WSR 19-24-002
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-289—Filed November 20, 2019, 3:18 p.m., effective November 22, 2019]

Effective Date of Rule: November 22, 2019.

Purpose: Amend recreational fishing rules for Whatcom Creek.

Citation of Rules Affected by this Order: Repealing WAC 220-312-04000E; 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: This emergency rule closes all recreational angling in a section of Whatcom Creek. The return of chum to Whatcom Creek is currently projected to be below the number needed to meet egg take goals for 2019. Closing the fishing season in this portion of 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 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, 2019.

Kelly Susewind
 Director

NEW SECTION

WAC 220-312-04000E Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-312-040, effective November 22 through December 31, 2019:

Whatcom Creek (Whatcom Co.): from the mouth to markers below the footbridge below Dupont Street: Closed waters.

REPEALER

The following section of the Washington Administrative Code is repealed effective January 1, 2020:

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

WSR 19-24-005

EMERGENCY RULES

DEPARTMENT OF ECOLOGY

[Order 19-04—Filed November 21, 2019, 9:04 a.m., effective November 21, 2019, 9:04 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: On July 30, 2019, the department of ecology (ecology) adopted an emergency rule, chapter 173-443 WAC, Hydrofluorocarbons (HFCs), to establish a program to implement and enforce the requirements of chapters 70.235, 70.94, 19.27, and 39.26 RCW (see chapter 284, Laws of 2019, E2SHB 1112) related to reducing greenhouse gasses by transitioning to the use of less damaging HFCs or suitable substitutes.

This second emergency rule supersedes the one filed on July 30, 2019, WSR 19-16-059 and will be effective through March 20, 2020. Ecology will continue to adopt emergency rules until the permanent rule goes into effect by the end of 2020. No rule changes were made during this second emergency rule making.

The first emergency rule making established chapter 173-443 WAC, Hydrofluorocarbons (HFCs), and established the means by which manufacturers, importers, and distributors of various products and equipment containing HFCs submit an initial notification by December 31, 2019, and status update notifications within one hundred twenty days when additional restrictions take effect.

The restriction deadline for the new and existing vending machine end-use category was modified from January 1, 2020, to January 1, 2022.

We began a rule-making process for the permanent adoption of the rule. Please visit our website for information and to participate in the rule-making process <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC173-443>.

Citation of Rules Affected by this Order: New chapter 173-443 WAC, Hydrofluorocarbons (HFCs).

Statutory Authority for Adoption: Chapter 284, Laws of 2019 (E2SHB 1112) Hydrofluorocarbons greenhouse gas emissions; chapter 70.235 RCW, Limiting greenhouse gas emissions; chapter 70.94 RCW, Washington Clean Air Act.

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: Chapter 284, Laws of 2019 (E2SHB 1112) was signed into law on May 7, 2019. It amends chapters 70.235 and 70.94 RCW. It established a deadline of December 31, 2019, for manufacturers, importers, and distributors of various products and equipment containing HFCs to submit initial reports to ecology. It also sets restriction deadlines for specific end-use categories. This rule establishes the method for providing notice to ecology by the deadlines. Additionally, the rule modifies the restriction deadline for the new and existing vending machine end-use category from January 1, 2020, to January 1, 2022.

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 7, 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, 2019.

Maia D. Bellon
Director

Chapter 173-443 WAC
HYDROFLUOROCARBONS (HFCs)

NEW SECTION

WAC 173-443-010 Policy and purpose. (1) It is the policy of the department of ecology (ecology) under the authority vested in it by chapter 43.21A RCW to provide for the systematic control of air pollution from air contaminant sources and for the proper development of the state's natural resources.

(2) As authorized by chapter 284, Laws of 2019 (E2SHB 1112, Hydrofluorocarbon greenhouse gas emissions), it is the purpose of this chapter to establish the requirements for the transition to the use of less damaging hydrofluorocarbons or suitable substitutes in various applications in Washington in a manner similar to regulations adopted by the Environmental Protection Agency, and that have been subsequently adopted or will be adopted in other states.

NEW SECTION

WAC 173-443-020 Definitions. "Manufacturer" means the same as defined in chapter 284, Laws of 2019: Any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces any product that contains or uses hydrofluorocarbons or is an importer or domestic distributor of such a product.

"Product class" means the same as end-use, as defined in Subpart G of 40 C.F.R. Part 82, as it read on January 3, 2017: Processes or classes of specific applications within major industrial sectors where a substitute is used to replace an ozone-depleting substance.

NEW SECTION

WAC 173-443-030 Manufacturer notification. (1) The manufacturer of products that contain or use hydrofluorocarbons or other restricted substitutes under chapter 284, Laws of 2019, or a trade organization on behalf of its member manufacturers, must report to the department consistent with WAC 173-443-040 and 173-443-050.

(2) It is only necessary for one person or entity to report with respect to a particular product that contains or uses hydrofluorocarbons or other restricted substitutes under chapter 284, Laws of 2019.

(3) In the event of a failure by at least one person to provide a complete, accurate and timely report for a product within a product class, ecology will require information from manufacturers associated with a product in the following order of precedence:

(a) The person or entity that had the product manufactured, unless it has no presence in the United States.

(b) The person or entity that marketed the product under its name or trademark, unless it has no presence in the United States.

(c) The first person or entity, whether an importer or a distributor, that owned the product in the United States.

(d) This hierarchy in no way limits the liability of any manufacturer as defined in subsection (2) of this section associated with a product from enforcement under chapter 284, Laws of 2019, or rules promulgated thereunder.

NEW SECTION

WAC 173-443-040 Initial notification. (1) By December 31, 2019, each manufacturer or its representative must provide ecology an initial status notification of the status of products within each product class using hydrofluorocarbons or other substitutes covered under chapter 284, Laws of 2019. This must include all covered products that the manufacturer offers for sale, leases, rents, or installs in Washington. All manufacturers must notify ecology by completing and submitting ecology's notification form. The current version of the form may be obtained at ecology's web site.

(2) Using a form provided by ecology, this initial status notification must include:

(a) Contact information on the manufacturer.

(b) The name of the party authorized to represent the manufacturer for purposes of providing initial status notifications and status updates.

(c) All product classes that are applicable to the manufacturer.

(d) Which hydrofluorocarbons or other substitutes are being used by products within each product class applicable to the manufacturer.

(e) Signature and certification by the authorized representative for the manufacturer.

NEW SECTION

WAC 173-443-050 Status update notification. Within one hundred twenty days after the date of a restriction put in place by chapter 284, Laws of 2019, each manufacturer affected by the restriction or its representative must provide ecology with an updated status notification using ecology's form. This notification must include:

(1) Whether the manufacturer has ceased the use of hydrofluorocarbons or substitutes restricted under chapter 284, Laws of 2019 within each product class.

(2) What, if any, hydrofluorocarbons or other restricted substitutes remain in use.

(3) Updated responses on all information requested in the initial status notification under WAC 173-443-040.

NEW SECTION

WAC 173-443-060 Restriction modification. The product class restriction for new and existing vending machines is modified to January 1, 2022, based on ecology's determination, in accordance with RCW 70.235.--- (3)(a) (section 3(3)(a), chapter 284, Laws of 2019).

NEW SECTION

WAC 173-443-070 Severability. If any provision of the rule or its application to any covered party, person, or circumstance is held invalid, the remainder of the rule or application of the provision to other covered parties, persons, or circumstances is not affected.

**WSR 19-24-013
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 19-294—Filed November 21, 2019, 2:19 p.m., effective November 23, 2019]

Effective Date of Rule: November 23, 2019.

Purpose: Amends recreational fishing rules for Cowlitz, Kalama, Lewis, Washougal rivers, and Cedar Creek and its tributaries.

Citation of Rules Affected by this Order: Repealing WAC 220-312-03000F and 220-312-03000G; 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 emergency rule is needed to restrict adult coho retention for Cowlitz, Kalalma [Kalama], Lewis, Washougal rivers, and Cedar Creek and its tributaries. Coho salmon returns to tributary hatcheries in the Lower Columbia Basin have been below levels needed to

meet broodstock collection goals for some programs. These programs can utilize coho salmon collected at hatcheries located in the above tributaries when brood shortfalls occur. Modifying coho fisheries on these rivers will provide additional fish for these hatchery programs and help ensure future hatchery returns and fishing opportunities. This rule also maintain[s] emergency rules previously instituted for Toutle, North Fork Toutle, Green, Washougal, and Wind rivers. 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 2.

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

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

Date Adopted: November 21, 2019.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-03000G Freshwater exceptions to statewide rules—Southwest. Notwithstanding the provisions of WAC 220-312-030, effective November 23, 2019:

(1) **Cowlitz River (Cowlitz/Lewis Co.)**, from the mouth to the posted markers 400 feet below the Barrier Dam; salmon, effective immediately through December 31, 2019:

- (a) Daily limit 6; up to 1 adult may be retained.
- (b) Release all salmon other than hatchery coho.

(2) **Toutle River (Cowlitz Co.)**, from the mouth to the forks; salmon, effective immediately through November 30, 2019:

(a) Daily limit 6; up to 4 adults may be retained, of which up to 1 may be a Chinook.

(b) Release all salmon other than hatchery Chinook and hatchery coho.

(3) **Toutle River, North Fork (Cowlitz Co.)**, from the mouth (confluence with South Fork) to posted markers downstream of the fish collection facility; salmon, effective immediately through November 30, 2019:

(a) Daily limit 6; up to 4 adults may be retained, of which only 1 may be a Chinook.

(b) Release all salmon other than hatchery Chinook and hatchery coho.

(4) **Green River (Cowlitz Co.)**, from the mouth to Miners creek; effective immediately through November 30, 2019:

(a) Closed waters: From 400 feet below to 400 feet above the water intake at the upper end of the hatchery.

(b) Salmon: Daily limit 6; up to 4 adults may be retained, of which up to 1 may be a Chinook. Release all salmon other than hatchery Chinook and hatchery coho.

(5) **Kalama River (Cowlitz Co.)**, from the mouth to 1,000 feet below the fishway at the upper salmon hatchery; salmon, effective immediately through December 31, 2019:

(a) Daily limit 6; up to 3 adults may be retained, of which one may be a coho.

(b) Release all salmon other than hatchery Chinook and hatchery coho.

(6) **Lewis River (Clark/Cowlitz Co.)**, from the mouth to the overhead power lines below Merwin Dam; salmon, effective immediately through December 31, 2019:

(a) Daily limit 6, up to 2 adult Chinook may be retained.

(b) Release all salmon other than Chinook and hatchery jack coho.

(7) **Cedar Creek (Clark Co.)**, from the mouth upstream, including all tributaries; salmon, effective immediately through December 31, 2019:

(a) Daily limit 6, up to 2 adult Chinook may be retained.

(b) Release all salmon other than hatchery Chinook and hatchery jack coho.

(8) **Washougal River (Clark/Skamania Co.)**, from the mouth to the bridge at Salmon Falls; salmon, effective immediately through December 31, 2019:

(a) Daily limit 6, up to 1 adult may be retained.

(b) Release all salmon other than hatchery Chinook and hatchery jack coho.

(9) Wind River (Skamania Co.):

(a) From 100 feet above Shipherd Falls to Moore Bridge: Effective immediately through November 30, 2019: Closed waters.

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 November 23, 2019:

WAC 220-312-03000F Freshwater exceptions to statewide rules—Southwest. (19-291)

The following section of the Washington Administrative Code is repealed effective January 1, 2020:

WAC 220-312-03000G Freshwater exceptions to statewide rules—Southwest. (19-294)

WSR 19-24-015 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 19-293—Filed November 21, 2019, 2:53 p.m., effective November 24, 2019]

Effective Date of Rule: November 24, 2019.

Purpose: Amend recreational razor clam rules.

Citation of Rules Affected by this Order: Repealing WAC 220-330-16000J; 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 razor clam seasons at times and for locations listed. Survey results show that adequate clams are available for harvest in Razor Clam Areas 1, 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 21, 2019.

Kelly Susewind
Director

NEW SECTION

WAC 220-330-16000J 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 24, 2019 through 11:59 p.m. November 30, 2019, razor clam digging is permissible in Razor Clam Area 1. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(2) Effective 12:01 p.m. November 24, 2019 through 11:59 p.m. November 30, 2019, razor clam digging is permissible in Razor Clam Area 3. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(3) Effective 12:01 p.m. November 24, 2019 through 11:59 p.m. November 24, 2019, and 12:01 p.m. November 26, 2019 through 11:59 p.m. November 26, 2019, and 12:01 p.m. November 28, 2019 through 11:59 p.m. November 28, 2019, and 12:01 p.m. November 30, 2019 through 11:59 p.m. November 30, 2019, razor clam digging is permissible in Razor Clam Area 4. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(4) Effective 12:01 p.m. November 25, 2019 through 11:59 p.m. November 25, 2019, and 12:01 p.m. November 27, 2019 through 11:59 p.m. November 27, 2019, and 12:01 p.m. November 29, 2019 through 11:59 p.m. November 29, 2019, razor clam digging is permissible in Razor Clam Area 5. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(5) It is unlawful to dig for razor clams at any time in the Long Beach, 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 December 1, 2019:

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

WSR 19-24-020
EMERGENCY RULES
DEPARTMENT OF
CHILDREN, YOUTH, AND FAMILIES

[Filed November 22, 2019, 9:28 a.m., effective November 22, 2019, 9:28 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Section 2 of SSB 5815 (concerning individuals placed in minimum security status by the department of children, youth, and families (DCYF)), effective July 28, 2019, amends RCW 72.05.405: (1) To provide that the unlawful use or possession of a controlled substance or an alcoholic beverage while in a community facility are excluded from a list of serious infractions requiring mandatory return to an institution; and (2) to direct DCYF to adopt and implement rules based on empirically validated best practices to appropriately address offenses involving unlawful use or possession of a controlled substance and unlawful use or possession of alcohol committed by individuals placed in juvenile community facilities.

This emergency rule ensures that the existing rule, WAC 110-730-0070, is in compliance with RCW 72.05.405, as amended by SSB 5815, by removing the "possession, use, or distribution of drugs or alcohol, or use of inhalants" from the definition of "serious violations" in subsection (1)(i) (requiring mandatory return to an institution under subsection (3)(a)), and inserting that language in subsection (2) in the definition of "other violations," which may, but does not require, transfer of a juvenile to a higher security facility (under subsection (3)(d)).

DCYF is concurrently developing "empirically validated best practices," which will be included in DCYF's permanent rule-making filing. The development of empirically validated best practices will require a two-step process, namely: (1) Developing a literature review to identify the best practices for responding to youth who use substances while in a community facility; and (2) developing policies or standards that are based on those best practices. This is not included in this emergency rule filing because of the additional time needed

to complete the literature review and development of policies or standards based on those best practices.

Citation of Rules Affected by this Order: Amending WAC 110-730-0070.

Statutory Authority for Adoption: Section 2 of SSB 5815, codified as chapter 468, Laws of 2019 (effective July 28, 2019).

Other Authority: Chapters 43.216, 34.05 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: As noted above, SSB 5815 directs DCYF to adopt and implement rules pursuant to that law.

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 22, 2019.

Brenda Villarreal
Rules Coordinator

AMENDATORY SECTION (Amending WSR 19-14-079, filed 7/1/19, effective 7/1/19)

WAC 110-730-0070 Residential disciplinary standards. (1) Serious violations by a juvenile include:

- (a) Escape or attempted escape;
- (b) Violence toward others with intent to harm and/or resulting in significant bodily injury;
- (c) Involvement in or conviction of a criminal offense under investigation by law enforcement or awaiting adjudication for behavior that occurred during current placement;
- (d) Extortion or blackmail that threatens the safety or security of the facility or community;
- (e) Setting or causing an unauthorized fire with intent to harm self, others, or property, or with reckless disregard for the safety of others;
- (f) Possession or manufacture of weapons or explosives, or tools intended to assist in escape;
- (g) Interfering with staff or service providers in performing duties relating to the security and/or safety of the facility or community;
- (h) Intentional property damage in excess of one thousand five hundred dollars;
- (i) ((Possession, use, or distribution of drugs or alcohol, or use of inhalants;

(j)) Rioting or inciting others to riot;

((k)) (l) Refusal of urinalysis or search; or

((l)) (k) Other behaviors which threaten the safety or security of the facility, its staff, or residents or the community.

(2) Other violations by a juvenile placed in a community facility or residential treatment and care program include:

(a) Unaccounted for time when a juvenile is away from the community facility or residential treatment and care program;

(b) Violation of conditions of authorized leave;

(c) Intimidation or coercion against any person;

(d) Misuse of medication such as hoarding medication or taking another person's medication;

(e) Self-mutilation, self tattooing, body piercing, or assisting others to do the same;

(f) Intentional destruction of property valued at less than fifteen hundred dollars;

(g) Fighting;

(h) Unauthorized withdrawal of funds with intent to commit other violations;

(i) Suspensions or expulsions from school or work;

(j) Violations of school, employment or volunteer work agreements related to custody and security concerns;

(k) Escape talk;

(l) Sexual contact or any other behavior, not defined as a serious violation, resulting in a referral to the department of licensing, child protective services, or law enforcement; or

(m) Lewd or disruptive behavior in the community; or

(n) Possession, use, or distribution of drugs or alcohol, or use of inhalants.

(3) Juveniles must be held accountable when there is reasonable cause to believe they have committed a violation.

(a) Whenever a juvenile placed in a community facility or residential treatment and care program commits a serious violation, the juvenile must be returned to an institution. The JRA program administrator who receives a service provider report of a serious violation must make arrangements to transfer the juvenile to an institution as soon as possible. Juveniles may be placed in a secure JRA or contracted facility pending transportation to an institution.

(b) Sanctions for serious violations committed by juveniles in an institution, and additional sanctions for serious violations committed by juveniles returned to an institution, must include one or more of the following:

(i) Loss of privileges for up to thirty days;

(ii) Loss of program level; or

(iii) Room confinement up to seventy-two hours.

(c) Sanctions for serious violations may also include, but are not limited to, one or more of the following:

(i) Change in release date;

(ii) Referral for prosecution;

(iii) Transfer to an intensive management unit;

(iv) Increase in security classification;

(v) Reprimand and loss of points;

(vi) Restitution; or

(vii) Community service.

(d) Sanctions for violations listed in WAC 388-730-0070(2) may include transfer to a higher security facility and must include one or more of the following:

(i) Loss or privileges;

(ii) Loss of program level;

(iii) Room confinement up to seventy-two hours;

(iv) Change in release date;

(v) Reprimand and/or loss of points;

(vi) Additional restitution; or

(vii) Community service.

(4) When a sanction is imposed, the juvenile must also receive a counseling intervention to address the violation.

(5) If the proposed sanctions for any violation includes extending the juvenile's established release date, the juvenile must be entitled to:

(a) Notice of an administrative review to consider extension of the release date and a written statement of the incident;

(b) An opportunity to be heard before a neutral review chairperson;

(c) Present oral or written statements, and call witnesses unless testimony of a witness would be irrelevant, repetitive, unnecessary, or would disrupt the orderly administration of the facility;

(d) Imposition of the sanction only if the administrative review chairperson finds by a preponderance of the evidence that the serious violation did occur; and

(e) A written decision, stating the reasons for the decision, by the administrative review chairperson.

(6) Each superintendent, regional administrator and service provider must clearly post, or make readily available, the list of serious violations and possible sanctions in all living units.

(7) Each program administrator must adopt procedures for implementing the requirements of this section.

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.

**WSR 19-24-021
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)**

[Filed November 22, 2019, 9:34 a.m., effective November 22, 2019]

Effective Date of Rule: November 22, 2019.

Purpose: The department is amending WAC 388-482-0005 How does being a student of higher education impact my eligibility for the Washington basic food program?, to implement 2SHB 1893 (chapter 407, Laws of 2019). The department implemented these changes effective July 28, 2019, by filing an emergency CR-103E Rule-making order as WSR 19-16-011 on July 25, 2019.

This second emergency rule-making order is needed while the department completes the permanent rule-making process. The department filed a CR-102 Proposed rule making on November 1, 2019, as WSR 19-22-043. A public hearing on these rules will be held on December 10, 2019.

Citation of Rules Affected by this Order: Amending WAC 388-482-0005.

Statutory Authority for Adoption: RCW 74.04.500, 74.04.510, 74.08A.120, 2SHB 1893 (chapter 407, Laws of 2019).

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 changes are required to implement state law (chapter 407, Laws of 2019), effective July 28, 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 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 1, Repealed 0.

Date Adopted: November 18, 2019.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-19-025, filed 9/12/18, effective 10/13/18)

WAC 388-482-0005 How does being a student of higher education ((impact)) affect my eligibility for the Washington basic food program? (1) For basic food, we consider you a student of higher education if you are:

(a) Age eighteen through forty-nine;

(b) Physically and mentally able to work (we determine if you are unable to work);

(c) Enrolled in an institution of higher education at least half-time as defined by the institution; and

(d) Enrolled in coursework considered to be higher education.

(2) An institution of higher education is:

(a) Any educational institution that requires a high school diploma or high school equivalency certificate;

(b) A business, trade, or vocational school that requires a high school diploma or high school equivalency; or

(c) A two-year or four-year college or university that offers a degree but does not require a high school diploma or high school equivalency.

(3) If you are a student of higher education, you must also meet one of the following conditions to be eligible for basic food:

(a) You have paid employment and work an average of at least twenty hours per week each month;

(b) You are self-employed, work, and earn at least the amount you would earn working an average of twenty hours per week at the federal minimum wage each month; or

(c) You were participating in a state or federal work study program during the regular school year.

(i) To qualify under this condition, you must:

(A) Have approval for work study at the time of application for basic food;

(B) Have work study that is approved for the school term; and

(C) Anticipate actually working during that time.

(ii) The work study exemption begins:

(A) The month in which the school term starts; or

(B) The month work study is approved, whichever is later.

(iii) Once begun, the work study exemption shall continue until:

(A) The end of the month in which the school term ends; or

(B) We find out you refused a work study assignment.

(d) You are responsible for more than half the care of a dependent person in your assistance unit (AU) who is age five or younger;

(e) You are responsible for more than half the care of a dependent person in your AU who is between age six and eleven, if we have determined that there is not adequate child care available during the school year to allow you to:

(i) Attend class and satisfy the twenty-hour work requirement; or

(ii) Take part in a work study program.

(f) You are a single parent responsible for the care of your natural, step, or adopted child who is eleven or younger;

(g) You are an adult who has the parental responsibility of a child who is age eleven or younger if none of the following people live in the home:

(i) The child's parents; or

(ii) Your spouse.

(h) You participate in the WorkFirst program under WAC 388-310-0200;

(i) You receive TANF or SFA benefits;

(j) You attend an institution of higher education through:

(i) The Workforce Investment Act (WIA);

(ii) The basic food employment and training program under chapter 388-444 WAC;

(iii) An approved state or local employment and training program; or

(iv) Section 236 of the Trade Act of 1974.

(4) ((If you are a student of higher education and the only reason you are eligible for basic food is because you are participating in work study, you are only eligible while you work and receive money from work study. If your work study stops during the summer months, you must meet another condition to be an eligible student during this period.))

((5))) If you are a student of higher education, your status as a student:

(a) Begins the first day of the school term; and

(b) Continues through vacations. This includes the summer break if you plan to return to school for the next term.

((6))) ((5)) We do not consider you a student of higher education if you:

(a) Graduate;

(b) Are suspended or expelled;

(c) Drop out; or

(d) Do not intend to register for the next normal school term other than summer school.

WSR 19-24-022
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed November 22, 2019, 9:36 a.m., effective November 23, 2019]

Effective Date of Rule: November 23, 2019.

Purpose: The DSHS division of child support (DCS) files this second CR-103E, Rule-making order, to adopt a second emergency rule amending WAC 388-14A-3903 in order to implement sections 2 and 3 of ESHB 1916, (chapter 275, Laws of 2019), which took effect on July 28, 2019.

DCS previously filed an emergency rule with exactly the same language on July 25, 2019, as WSR 19-16-013, effective July 28, 2019. We are filing this second emergency rule to maintain the status quo as we adopt permanent changes to WAC 388-14A-3903.

DCS filed a CR-101, Preproposal statement of inquiry, as WSR 19-15-101 on July 22, 2019, to commence the regular rule-making process to permanently amend WAC 388-14A-3903. The draft language is currently under internal review. DCS intends to file the CR-102, Proposed rule making, before the end of November 2019.

Citation of Rules Affected by this Order: Amending WAC 388-14A-3903.

Statutory Authority for Adoption: Emergency rule making is authorized under RCW 34.05.350 (1)(a) and (b) in order to implement ESHB 1916 (chapter 275, Laws of 2019), which took effect on July 28, 2019. Further authority is found in RCW 26.09.105, 26.18.170, 34.05.220 (1)(a), 34.05.322, 74.04.055, 74.08.090, 74.20.040(9), and 74.20A.310.

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: ESHB 1916 (chapter 275, Laws of 2019), which took effect on July 28, 2019, amended RCW 26.09.170 and 74.20A.059 to change the criteria for modification or adjustment of child support orders. DCS filed emergency rules effective on July 28, 2019, and is filing this second emergency rule to maintain the status quo as we adopt permanent amendments to WAC 388-14A-3903. This change potentially allows more families to benefit from modification of their child support orders by reducing the requirement that the child support amount change as a result of the review by twenty-five percent to fifteen percent. Another change, adopted due to federal requirements, provides that incarceration of the noncustodial parent in and of itself can serve as a reason for modification review of the child support order at

any time, without a showing of a substantial change in circumstances or a fifteen percent change in the order amount.

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 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 1, 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 19, 2019.

Katherine I. Vasquez
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

WAC 388-14A-3903 How does DCS decide whether to petition for modification of a support order? (1) The division of child support (DCS) petitions to modify a support order when DCS finds during the review that each of the following conditions are present:

(a) The proposed change in child support based on the Washington state child support schedule:

(i) Is at least ((twenty-five)) fifteen percent above or below the current support obligation;

(ii) Is at least one hundred dollars per month above or below the current support obligation; and

(iii) Is at least a two thousand four hundred dollar change over the remaining life of the support order; or

(iv) Will provide enough income to:

(A) Make the family ineligible for public assistance if the noncustodial parent (NCP) pays the full amount due under the proposed order; or

(B) Allow a family, otherwise eligible for public assistance, to remain off of assistance.

(b) The case meets the legal requirements for modification under RCW 26.09.170, 74.20A.059, or WAC 388-14A-3925.

(2) DCS may petition to modify the order without regard to subsection (1)(a)(i) of this section if the reason DCS reviewed the order is the noncustodial parent's incarceration.

(3) DCS may petition to modify the order without regard to subsection (1)(a) of this section when:

(a) The order does not require the NCP to provide health insurance coverage for the children; and

(b) Health insurance coverage is available through the NCP's employer or union at a reasonable cost; or

(c) Both parties agree to an order modifying the support amount.

WSR 19-24-023
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed November 22, 2019, 9:39 a.m., effective November 22, 2019]

Effective Date of Rule: November 22, 2019.

Purpose: The department is amending WAC 388-310-1600 WorkFirst—Sanctions, 388-400-0005 Who is eligible for temporary assistance for needy families?, and 388-484-0006 TANF/SFA time limit extensions.

These amendments are necessary to implement changes to the temporary assistance for needy families (TANF) program as required by 2SHB 1603 (chapter 343, Laws of 2019), removing permanent disqualification after three WorkFirst noncompliance sanction terminations and adding homelessness to the criteria for hardship time limit extensions beyond the sixty month TANF lifetime limit. The department implemented these changes effective July 28, 2019, by filing an emergency CR-103E Rule-making order as WSR 19-16-009 on July 25, 2019.

This second emergency rule-making order is needed while the department completes the permanent rule-making process. The department filed a CR-102 Proposed rule making on October 14, 2019, as WSR 19-21-076. A public hearing on these rules will be held on November 26, 2019.

Citation of Rules Affected by this Order: Amending WAC 388-310-1600, 388-400-0005, and 388-484-0006.

Statutory Authority for Adoption: RCW 41.05.021, 74.04.050, 74.04.055, 74.04.057, 74.08.025, 74.08.090, chapter 74.08A RCW, RCW 74.09.035, 74.09.530, chapter 74.12 RCW, RCW 74.62.030, 2SHB 1603 (chapter 343, Laws of 2019).

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: These changes are required by state law (chapter 343, Laws of 2019), effective July 28, 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 0, Amended 3, 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 3, Repealed 0.

Date Adopted: November 18, 2019.

Katherine I. Vasquez
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-20-104, filed 9/30/14, effective 11/1/14)

WAC 388-310-1600 WorkFirst—Sanctions. ((Effective November 1, 2014.))

(1) What WorkFirst requirements do I have to meet?

You must do the following when you are a mandatory WorkFirst participant:

(a) Give the department the information we need to develop your individual responsibility plan (IRP) (see WAC 388-310-0500);

(b) Show that you are participating fully to meet all of the requirements listed on your individual responsibility plan;

(c) Go to scheduled appointments listed in your individual responsibility plan;

(d) Follow the participation and attendance rules of the people who provide your assigned WorkFirst services or activities; and

(e) Accept available paid employment when it meets the criteria in WAC 388-310-1500.

(2) What happens if I don't meet WorkFirst requirements?

(a) If you do not meet WorkFirst requirements, we will send you a letter telling you what you did not do, and inviting you to a noncompliance case staffing. The letter will also schedule a home visit that will happen if you don't attend your noncompliance case staffing. We may schedule an alternative meeting, instead of a home visit, when there are safety or access issues.

(i) A noncompliance case staffing is a meeting with you, your case manager, and other people who are working with your family, such as representatives from tribes, community or technical colleges, employment security, the children's administration, family violence advocacy providers or limited-English proficient (LEP) pathway providers to review your situation and compliance with your participation requirements.

(ii) You will be notified when your noncompliance case staffing is scheduled so you can attend.

(iii) You may invite anyone you want to come with you to your noncompliance case staffing.

(b) You will have ten days to contact us so we can talk with you about your situation. You can contact us in writing, by phone, by going to the noncompliance case staffing appointment described in the letter, or by asking for an individual appointment.

(c) If you do not contact us within ten days, we will make sure you have been screened for family violence and other barriers to participation and that we provided necessary supplemental accommodations as required by chapter 388-472 WAC. We will use existing information to decide whether:

(i) You were unable to do what was required; or

(ii) You were able, but refused, to do what was required.

(d) If you had a good reason not to do a required activity we will work with you and may change the requirements in your individual responsibility plan if a different WorkFirst activity would help you move towards independence and employment sooner. If you have been unable to meet your WorkFirst requirements because of family violence, you and your case manager will develop an individual responsibility plan to help you with your situation, including referrals to appropriate services.

(e) If you do not attend your noncompliance case staffing, and we determine you did not have a good reason, we will conduct the home visit (or alternative meeting) to review your circumstances and discuss next steps and options.

(3) What is considered a good reason for not doing what WorkFirst requires?

You have a good reason if you were not able to do what WorkFirst requires (or get an excused absence, described in WAC 388-310-0500(5)) due to a significant problem or event outside your control. Some examples of good reasons include, but are not limited to:

(a) You had an emergent or severe physical, mental or emotional condition, confirmed by a licensed health care professional that interfered with your ability to participate;

(b) You were threatened with or subjected to family violence;

(c) You could not locate child care for your children under thirteen years that was:

(i) Affordable (did not cost you more than your copayment would under the working connections child care program in chapter 170-290 WAC);

(ii) Appropriate (licensed, certified or approved under federal, state or tribal law and regulations for the type of care you use and you were able to choose, within locally available options, who would provide it); and

(iii) Within a reasonable distance (within reach without traveling farther than is normally expected in your community).

(d) You could not locate other care services for an incapacitated person who lives with you and your children.

(e) You had an immediate legal problem, such as an eviction notice; or

(f) You are a person who gets necessary supplemental accommodation (NSA) services under chapter 388-472 WAC and your limitation kept you from participating. If you have a good reason because you need NSA services, we will review your accommodation plan.

(4) What happens in my noncompliance case staffing?

(a) At your noncompliance case staffing we will ensure you were offered the opportunity to participate and discuss with you:

(i) Whether you had a good reason for not meeting WorkFirst requirements;

(ii) What happens if you are sanctioned;

(iii) How you can participate and get out of sanction status;

(iv) How you and your family benefit when you participate in WorkFirst activities;

(v) That your case may be closed after you have been in sanction status for two months in a row;

(vi) How you plan to care for and support your children if your case is closed. We will also discuss the safety of your family, as needed, using the guidelines under RCW 26.44.-030; and

(vii) How to reapply if your case is closed((; and

~~(viii) That upon your third sanction case closure after March 1, 2007, you may be permanently disqualified from receiving TANF/SFA. If you are permanently disqualified, your entire household is ineligible for TANF/SFA)).~~

(b) If you do not come to your noncompliance case staffing, we will make a decision based on the information we have and send you a letter letting you know whether we found that you had a good reason for not meeting WorkFirst requirements.

(5) What happens if we do a home visit because you didn't attend your noncompliance case staffing?

If you didn't attend your noncompliance case staffing, and we determined you did not have a good reason for failure to meet WorkFirst requirements, we will attempt to contact you during your scheduled home visit (or alternative meeting).

(a) If we are able to contact you, we will review the information that we planned to discuss at your noncompliance case staffing, including whether you had a good reason for failing to meet WorkFirst requirements and how you can participate and get out of sanction status. If you don't have a good reason, we will follow the process to place you in sanction status.

(b) If we are unable to contact you, we will follow the process to place you in sanction status based on the determination we made at your noncompliance case staffing.

(6) What if we decide that you did not have a good reason for not meeting WorkFirst requirements?

(a) Before you are placed in sanction, a supervisory level employee will review your case to make sure:

(i) You knew what was required;

(ii) You were told how to end your sanction;

(iii) We tried to talk to you and encourage you to participate; and

(iv) You were given a chance to tell us if you were unable to do what we required.

(b) If we decide that you did not have a good reason for not meeting WorkFirst requirements, and a supervisory level employee approves the sanction and sanction penalties, we will send you a letter that tells you:

(i) What you failed to do;

(ii) That you are in sanction status;

(iii) Penalties that will be applied to your grant;

(iv) When the penalties will be applied;

(v) How to request an administrative hearing if you disagree with this decision; and

(vi) How to end the penalties and get out of sanction status.

(c) If your case is closed because you failed to attend your noncompliance case staffing and home visit (or alternative meeting), this information will be included in your termination letter.

(d) We will also provide you with information about resources you may need if your case is closed. If you are sanctioned, then we will actively attempt to contact you

another way so we can talk to you about the benefits of participation and how to end your sanction.

(7) What is sanction status?

When you are a mandatory WorkFirst participant, you must follow WorkFirst requirements to qualify for your full grant. If you or someone else on your grant doesn't do what is required and you can't prove that you had a good reason, you are placed in WorkFirst sanction status.

(8) Are there penalties when you or someone in your household goes into sanction status?

When you or someone in your household is in sanction status, we impose penalties. The penalties last until you or the household member meet WorkFirst requirements. There are different penalties depending on if you attended your non-compliance case staffing or home visit (or alternative meeting). Your household will only enter sanction status if we determine that you or someone else in your household did not have a good reason for failing to meet the WorkFirst requirements.

(a) If you attended your noncompliance case staffing or home visit (or alternative meeting) and entered sanction status, you will receive a grant reduction sanction penalty.

(i) Your grant is reduced by one person's share or forty percent, whichever is more.

(ii) The reduction is effective the first of the month following ten-day notice from the department; and

(iii) Your case may be closed effective the first of the month after your grant has been reduced for two months in a row.

(b) If you did not attend your noncompliance case staffing or home visit (or alternative meeting) and entered sanction status you will receive a case closure sanction penalty.

(i) Your case may be closed the first of the month following the ten-day notice from the department.

(ii) If your case is reopened under subsection (14)(b), you will remain in sanction status and receive a grant reduction sanction penalty.

(A) Your grant is reduced by one person's share or forty percent, whichever is more.

(B) The reduction is effective the first of the month that your grant is reopened; and

(C) Your case may be closed effective the first of the month after your grant has been reduced for two months in a row.

(9) What happens before your case is closed due to sanction?

Before we close your case due to sanction status, we will send you a letter to tell you:

(a) What you failed to do;

(b) When your case will be closed;

(c) How you can request an administrative hearing if you disagree with this decision;

(d) How you can end your penalties and keep your case open (if you are able to participate for four weeks in a row before we close your case); and

(e) How your participation before your case is closed can be used to meet the participation requirement in subsection (13).

(10) What happens if my sanction grant reduction penalty started before November 1, 2014?

If you are in sanction and entered sanction before November 1, 2014, your case may be closed after you have been in sanction for four months in a row.

(11) How do I end the penalties and get out of sanction status?

To end the penalties and get out of sanction status:

(a) You must provide the information we requested to develop your individual responsibility plan; and/or

(b) Start and continue to do your required WorkFirst activities for four weeks in a row (that is, twenty-eight calendar days). The four weeks starts on the day you complete your comprehensive evaluation and you agree to your individual responsibility plan activities.

(12) What happens when I get out of sanction status before my case is closed?

When you get out of sanction status before your case is closed, your grant will be restored to the level you are eligible for beginning the first of the month following your four weeks of participation. For example, if you finished your four weeks of participation on June 15, your grant would be restored on July 1.

(13) What if I reapply for TANF or SFA and I was in sanction status when my case closed?

If your case closed due to sanction, you will need to follow the sanction reapplication process in subsection (14). If your case closed for another reason while you were in sanction status and is reopened, you will reopen in month two of sanction status.

(14) What if I reapply for TANF or SFA after my case is closed due to sanction?

(a) Except as specified in subsection (14)(b) if you reapply for TANF or SFA after your case is closed due to sanction, you must participate for four weeks in a row before you can receive cash. Once you have met your four week participation requirement, your cash benefits will start, going back to the date we had all the other information we needed to make an eligibility decision.

(b) We will take the actions below if you received the sanction penalty in subsection (8)(b), you reapply for TANF or SFA after your case is closed due to sanction and you complete the interview required under WAC 388-452-0005 by the end of the month that your benefits stopped. For example, if your benefits stop effective July 1, you must reapply and complete the interview by July 31. If you meet this timeframe:

(i) We will undo your case closure sanction penalty((, and we will not count the closure toward permanent disqualification under subsection (15))); and((,))

(ii) If you are determined eligible, we will reopen your grant in sanction status with a grant reduction sanction penalty, going back to the effective date of your case closure.

((15) What happens if a supervisory level employee approves case closure for the third time?)

If we close your case for sanction at least three times after March 1, 2007, you will be permanently disqualified from receiving TANF/SFA. If you are permanently disqualified, any household you are in will also be ineligible for TANF/SFA.)

AMENDATORY SECTION (Amending WSR 14-10-046, filed 4/30/14, effective 6/1/14)

WAC 388-400-0005 Who is eligible for temporary assistance for needy families? (1) You can get temporary assistance for needy families (TANF), if you:

- (a) Can be in a TANF/SFA assistance unit as allowed under WAC 388-408-0015 through 388-408-0030;
- (b) Meet the citizenship/alien status requirements of WAC 388-424-0010;
- (c) Live in the state of Washington. A child must live with a caretaker relative, guardian, or custodian who meets the state residency requirements of WAC 388-468-0005;
- (d) Do not live in a public institution unless specifically allowed under RCW 74.08.025;
- (e) Meet TANF/SFA:
 - (i) Income requirements under chapter 388-450 WAC;
 - (ii) Resource requirements under chapter 388-470 WAC; and
 - (iii) Transfer of property requirements under chapter 388-488 WAC.
- (f) Assign your rights to child support as required under WAC 388-422-0005;

(g) Cooperate with the division of child support (DCS) as required under WAC 388-422-0010 by helping them:

- (i) Prove who is the father of children applying for or getting TANF or SFA; and
- (ii) Collect child support.
- (h) Tell us your Social Security number as required under WAC 388-476-0005;
- (i) Cooperate in a review of your eligibility as required under WAC 388-434-0005;
- (j) Cooperate in a quality assurance review as required under WAC 388-464-0001;

(k) Participate in the WorkFirst program as required under chapter 388-310 WAC;

(l) Report changes of circumstances as required under WAC 388-418-0005; and

(m) Complete a mid-certification review and provide proof of any changes as required under WAC 388-418-0011.

(2) If you apply for TANF, have not received TANF or SFA within the past thirty days, and will be a mandatory WorkFirst participant as described in WAC 388-310-0200 once approved, you must complete a WorkFirst orientation before we approve your application.

(3) If you are an adult, you must have an eligible child living with you or you must be pregnant and meet the requirements of WAC 388-462-0010.

(4) If you are an unmarried pregnant teen or teen parent:

(a) Your living arrangements must meet the requirements of WAC 388-486-0005; and

(b) You must attend school as required under WAC 388-486-0010.

(5) In addition to rules listed in subsection (1) of this section, a child must meet the following rules to get TANF:

(a) Meet the age requirements under WAC 388-404-0005; and

(b) Live in the home of a relative, court-ordered guardian, court-ordered custodian, or other adult acting *in loco parentis* as required under WAC 388-454-0005; or

(c) If the child lives with a parent or other adult relative that provides care for the child, that adult cannot have used up their sixty-month lifetime limit of TANF or SFA cash benefits as defined in WAC 388-484-0005((; or

(d) If the child lives with a parent who provides care for the child, that adult cannot have been permanently disqualified from receiving TANF/SFA due to noncompliance sanction as defined in WAC 388-310-1600)).

(6) You cannot get TANF if you have been:

(a) Convicted of certain felonies and other crimes under WAC 388-442-0010; or

(b) Convicted of unlawful practices to get public assistance under WAC 388-446-0005 or 388-446-0010.

(7) If you are a client in a household which is eligible for a tribal TANF program, you cannot receive state and tribal TANF in the same month.

AMENDATORY SECTION (Amending WSR 15-24-056, filed 11/24/15, effective 1/1/16)

WAC 388-484-0006 TANF/SFA time limit extensions. (1) What happens after I receive sixty or more months of TANF/SFA cash assistance?

After you receive sixty or more months of TANF/SFA cash assistance according to WAC 388-484-0005, you may qualify for additional months of cash assistance. We call these additional months of TANF/SFA cash assistance a hardship TANF/SFA time limit extension.

(2) Who is eligible for a hardship TANF/SFA time limit extension?

You are eligible for a hardship TANF/SFA time limit extension if you are on TANF, are otherwise eligible for TANF, or are an ineligible parent, and you have received sixty cumulative months of TANF and:

(a) You are approved for one of the exemptions from mandatory participation according to WAC 388-310-0350 (1)(a) through (d) or you are an ineligible parent who meets the criteria for an exemption from mandatory WorkFirst participation; or

(b) You:

(i) Are a supplemental security income recipient or a Social Security disability insurance recipient; or

(ii) Are at least sixty-five years old, blind as defined by the Social Security Administration or disabled as determined under chapter 388-449 WAC; or

(iii) Have an open child welfare case with a state or tribal government and this is the first time you have had a child dependent under RCW 13.34.030 in this or another state or had a child a ward of a tribal court; or

(iv) Are working in unsubsidized employment for thirty-two hours or more per week; or

(v) Document that you meet the family violence option criteria in WAC 388-61-001 and are participating satisfactorily in specialized activities needed to address your family violence according to a service plan developed by a person trained in family violence or have a good reason, as described in WAC 388-310-1600(3) for failure to participate satisfactorily in specialized activities; or

(vi) Are homeless as described in RCW 43.185C.010 (12).

(3) Who reviews and approves a hardship time limit extension?

(a) Your case manager or social worker will review your case and determine whether a hardship time limit extension type will be approved.

(b) This review will not happen until after you have received at least fifty-two months of assistance but before you reach your time limit or lose cash assistance due to the time limit.

(c) Before you reach your time limit or lose cash assistance due to the time limit, the department will send you a notice that tells you whether a hardship time limit extension will be approved when your time limit expires and how to request an administrative hearing if you disagree with the decision.

(4) When I have an individual responsibility plan, do my WorkFirst participation requirements change when I receive a hardship TANF/SFA time limit extension?

(a) Even if you qualify for a hardship TANF/SFA time limit extension you will still be required to participate as required in your individual responsibility plan (WAC 388-310-0500). You must still meet all of the WorkFirst participation requirements listed in chapter 388-310 WAC while you receive a hardship TANF/SFA time limit extension.

(b) If you do not participate in the WorkFirst activities required by your individual responsibility plan, and you do not have a good reason under WAC 388-310-1600, the department will follow the sanction rules in WAC 388-310-1600.

(5) Do my benefits change if I receive a hardship TANF/SFA time limit extension?

(a) You are still a TANF/SFA recipient or an ineligible parent who is receiving TANF/SFA cash assistance on behalf of your child and your cash assistance, services, or supports will not change as long as you continue to meet all other TANF/SFA eligibility requirements.

(b) During the hardship TANF/SFA time limit extension, you must continue to meet all other TANF/SFA eligibility requirements. If you no longer meet TANF/SFA eligibility criteria during your hardship time limit extension, your benefits will end.

(6) How long will a hardship TANF/SFA time limit extension last?

(a) We will review your hardship TANF/SFA time limit extension and your case periodically for changes in family circumstances:

(i) If you are extended under WAC 388-484-0006 (2)(a), (b)(i) or (ii) then we will review your extension at least every twelve months;

(ii) If you are extended under WAC 388-484-0006 (2)(b)(iii), (iv), or (v) then we will review your extension at least every six months.

(b) Your hardship TANF/SFA time limit extension may be renewed for as long as you continue to meet the criteria to qualify for a hardship time limit extension.

(c) If during the extension period we get proof that your circumstances have changed, we may review your case and determine if you continue to qualify for a hardship TANF/SFA time limit extension. When you no longer qualify for a hardship TANF/SFA time limit extension we will stop your TANF/SFA cash assistance. You will be notified of your case

closing and will be given the opportunity to request an administrative hearing before your benefits will stop.

**WSR 19-24-026
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 19-295—Filed November 22, 2019, 2:27 p.m., effective November 23, 2019]

Effective Date of Rule: November 23, 2019.

Purpose: Amends recreational fishing rules for Cowlitz, Kalama, Lewis, Washougal rivers, and Cedar Creek and its tributaries.

Citation of Rules Affected by this Order: Repealing WAC 220-312-03000G and 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 emergency rule is needed to correct a previous filing (WSR 19-24-013) that would have inadvertently opened a section of the Lewis River, which is utilized by spawning Chinook, earlier than intended. This rule places previously filed coho restrictions on the intended waters at the appropriate times. Coho salmon returns to tributary hatcheries in the Lower Columbia Basin have been below levels needed to meet broodstock collection goals for some programs. These programs can utilize coho salmon collected at hatcheries located in the above tributaries when brood shortfalls occur. Modifying coho fisheries on these rivers will provide additional fish for these hatchery programs and help ensure future hatchery returns and fishing opportunities. 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 2.

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

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

Date Adopted: November 21, 2019.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-03000H Freshwater exceptions to statewide rules—Southwest. Notwithstanding the provisions of WAC 220-312-030, effective November 23, 2019:

(1) **Cowlitz River (Cowlitz/Lewis Co.)**, from the mouth to the posted markers 400 feet below the Barrier Dam; salmon, effective immediately through December 31, 2019:

- (a) Daily limit 6; up to 1 adult may be retained.
- (b) Release all salmon other than hatchery coho.

(2) **Toutle River (Cowlitz Co.)**, from the mouth to the forks; salmon, effective immediately through November 30, 2019:

- (a) Daily limit 6; up to 4 adults may be retained, of which up to 1 may be a Chinook.

- (b) Release all salmon other than hatchery Chinook and hatchery coho.

(3) **Toutle River, North Fork (Cowlitz Co.)**, from the mouth (confluence with South Fork) to posted markers downstream of the fish collection facility; salmon, effective immediately through November 30, 2019:

- (a) Daily limit 6; up to 4 adults may be retained, of which only 1 may be a Chinook.

- (b) Release all salmon other than hatchery Chinook and hatchery coho.

(4) **Green River (Cowlitz Co.)**, from the mouth to Miners creek; effective immediately through November 30, 2019:

- (a) Closed waters: From 400 feet below to 400 feet above the water intake at the upper end of the hatchery.

- (b) Salmon: Daily limit 6; up to 4 adults may be retained, of which up to 1 may be a Chinook. Release all salmon other than hatchery Chinook and hatchery coho.

(5) **Kalama River (Cowlitz Co.)**, from the mouth to 1,000 feet below the fishway at the upper salmon hatchery; salmon, effective immediately through December 31, 2019:

- (a) Daily limit 6; up to 3 adults may be retained, of which 1 may be a coho.

- (b) Release all salmon other than hatchery Chinook and hatchery coho.

(6) Lewis River (Clark/Cowlitz Co.):

- (a) From the mouth to Colvin Creek; salmon, effective immediately through December 31, 2019:

- (I) Daily limit 6, up to 2 adult Chinook may be retained.

- (II) Release all salmon other than Chinook and hatchery jack coho.

- (b) From Colvin Creek to the overhead power lines below Merwin Dam; salmon, effective December 16, through December 31, 2019:

- (I) Daily limit 6, up to 2 adult Chinook may be retained.

- (II) Release all salmon other than Chinook and hatchery jack coho.

(7) **Cedar Creek (Clark Co.)**, from the mouth upstream, including all tributaries; salmon, effective immediately through December 31, 2019:

- (a) Daily limit 6, up to 2 adult Chinook may be retained.

- (b) Release all salmon other than hatchery Chinook and hatchery jack coho.

(8) **Washougal River (Clark/Skamania Co.)**, from the mouth to the bridge at Salmon Falls; salmon, effective immediately through December 31, 2019:

(a) Daily limit 6, up to 1 adult may be retained.

(b) Release all salmon other than hatchery Chinook and hatchery jack coho.

(9) Wind River (Skamania Co.):

(a) From 100 feet above Shipherd Falls to Moore Bridge: Effective immediately through November 30, 2019: Closed waters.

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 November 23, 2019:

WAC 220-312-03000G Freshwater exceptions to statewide rules—Southwest. (19-291)

The following section of the Washington Administrative Code is repealed effective January 1, 2020:

WAC 220-312-03000H Freshwater exceptions to statewide rules—Southwest. (19-294)

WSR 19-24-030

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 19-296—Filed November 25, 2019, 11:22 a.m., effective November 25, 2019, 11:22 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational salmon rules for the Quillayute River and its tributaries.

Citation of Rules Affected by this Order: Repealing WAC 220-312-02000Y; and 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 to require wild coho release in salmon fisheries of the Quillayute River and its tributaries. Early season abundance indicators confirm the returning Quillayute River wild coho salmon run is below harvestable levels while hatchery coho escapement goals have been reached. A majority of natural origin coho have now cleared the fishing area. As planned, Washington department of fish and wildlife is reopening these areas to target other species. Rules requiring the release of wild coho are being put in place to allow more fish to reach the spawning grounds in order to meet wild escapement goals. 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 22, 2019.

Nate Pamplin
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-02000Y Freshwater exceptions to statewide rules—Coast. Notwithstanding the provisions of WAC 220-312-020, effective immediately through November 30, 2019:

1) **Quillayute River**, from Olympic National Park Boundary upstream to confluence of Bogachiel and Sol Duc rivers; salmon:

Daily limit 6. Up to 3 adults may be retained, of which up to 1 may be a wild Chinook. Release sockeye and wild coho.

2) **Sol Duc River**, from mouth to the concrete pump station at Sol Duc Hatchery; salmon:

Daily limit 6. Up to 3 adults may be retained, of which up to 1 may be a wild Chinook. Release sockeye and wild coho.

3) **Dickey River**, from Olympic National Park boundary upstream to the confluence of the East and West Forks:

Daily limit 3. Up to 1 adult may be retained. Release wild coho.

4) **Bogachiel River**, from mouth to Hwy. 101 Bridge:

Daily limit 3. Up to 1 adult may be retained. Release wild coho.

5) **Calawah River**, from mouth to Hwy. 101 Bridge:

Daily limit 3. Up to 1 adult may be retained. Release wild coho.

REPEALER

The following section of the Washington Administrative Code is repealed effective December 1, 2019:

WAC 220-312-02000Y Freshwater exceptions to statewide rules—Coast.

WSR 19-24-035

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 19-297—Filed November 25, 2019, 3:35 p.m., effective November 26, 2019]

Effective Date of Rule: November 26, 2019.

Purpose: Amend Puget Sound commercial salmon fishery rules.

Citation of Rules Affected by this Order: Repealing WAC 220-354-16000B, 220-354-16000C and 220-354-12000U; and amending WAC 220-354-160 and 220-354-120.

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

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

Reasons for this Finding: This emergency rule is needed to close commercial purse seine and gillnet salmon fisheries in Puget Sound Salmon Management and Catch Reporting Area 7B beginning November 26, 2019. In season observations indicate lower than normal chum returns to this date. These conservation measures are necessary to ensure that hatchery broodstock and escapement goals are met. 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 3.

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 25, 2019.

Nate Pamplin
for Kelly Susewind
Director

NEW SECTION

WAC 220-354-16000C Puget Sound salmon—Gillnet—Open periods. Notwithstanding the provisions of WAC 220-354-160, effective November 26 through December 6, 2019:

Areas	Open Periods	
7B:	Closed	11/26 - 11/29 12/2 - 12/6

Note: That portion of Puget Sound Management and Catch Reporting Area 7B east of a line from Post Point to the flashing red light at the west entrance to Squalicum Harbor, (the Whatcom Creek Hatchery Zone), is closed to gillnets.

NEW SECTION

WAC 220-354-12000U Puget Sound salmon—Purse seine—Open periods. Notwithstanding the provisions of WAC 220-354-160, effective November 26 through December 6, 2019:

Areas	Open Periods	
7B:	Closed	11/26 - 11/29 12/2 - 12/6

Note: That portion of Puget Sound Management and Catch Reporting Area 7B east of a line from Post Point to the flashing red light at the west entrance to Squalicum Harbor, (the Whatcom Creek Hatchery Zone), is closed to purse seines.

REPEALER

The following section of the Washington Administrative Code is repealed effective November 26, 2019:

WAC 220-354-16000B Puget Sound salmon—Gillnet—Open periods. (19-288)

The following sections of the Washington Administrative Code are repealed effective December 7, 2019:

WAC 220-354-12000U Puget Sound salmon—Purse seine—Open periods.

WAC 220-354-16000C Puget Sound salmon—Gillnet—Open periods.

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 opens harvest of red sea urchins in Sea Urchin Districts 1, 2, 3, 4. Harvestable surpluses of sea urchin exist in the districts specified. 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 25, 2019.

Nate Pamplin
for Kelly Susewind
Director

NEW SECTION

WAC 220-340-75000S Commercial sea urchin fishery. Notwithstanding the provisions of WAC 220-340-750, effective December 2, 2019 until further notice:

(1) It is unlawful for any person to fish for, take, or possess for commercial purposes any green sea urchins less than 2.25 inches; or red sea urchins measuring less than 3.25 inches or greater than 5 inches. All measurements are caliper measurements of the largest shell (test) diameter, exclusive of the spines.

(2) The following areas are open for red sea urchin harvest seven days-per-week: Sea Urchin District 1; District 2; and District 3 east of a line projected true north from the shoreline at 123 degrees 48.3 minutes west longitude; and District 4 west of a line projected true north from the shoreline at 123 degrees 52.7 minutes west longitude.

(3) The following areas are open for green sea urchin harvest only, seven days-per-week: Sea Urchin District 1; Marine Fish-Shellfish Management and Catch Reporting Areas 21A, 21B, 22A, 22B, 23A in District 2; District 3 east of a line projected true north from the shoreline at 123 degrees 48.3 minutes west longitude; District 4 west of a line projected true north from the shoreline at 123 degrees 52.7 minutes west longitude; District 6; and District 7 except all waters of Hale Passage and Wollochett Bay within the following lines: west of a line projected true south from the shoreline near Point Fosdick at 122 degrees 35 minutes west longitude to 47 degrees 14 minutes north latitude, and thence projected true west to the shoreline of Fox Island, and east of a line projected true south from the shoreline near Green Point

WSR 19-24-036

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 19-298—Filed November 25, 2019, 3:45 p.m., effective December 2, 2019]

Effective Date of Rule: December 2, 2019.

Purpose: Amend commercial sea urchin rules in Puget Sound.

Citation of Rules Affected by this Order: Repealing WAC 220-340-75000R; and amending WAC 220-340-750.

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

at 122 degrees 41 minutes west longitude to 47 degrees 16.5 minutes north latitude, and thence projected true east to the shoreline of Fox Island.

(4) The maximum cumulative landings for red sea urchin and green sea urchin for each weekly fishery opening period is 1,500 pounds per species per valid designated sea urchin harvest license. Each fishery week begins Monday and ends Sunday.

REPEALER

The following section of the Washington Administrative Code is repealed effective December 2, 2019:

WAC 220-340-75000R Commercial sea urchin fisheries.
(19-284)

**WSR 19-24-037
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 19-299—Filed November 25, 2019, 4:08 p.m., effective November 28, 2019]

Effective Date of Rule: November 28, 2019.

Purpose: Amend Puget Sound recreational crab rules.

Citation of Rules Affected by this Order: Repealing WAC 220-330-04000H and 220-330-04000I; and amending WAC 220-330-040.

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 emergency rule is needed to open the recreational crab harvest in Marine Areas 8-1 and 8-2 (Crab Region 2E). Comanagers have agreed to increase the state and tribal harvest shares in this region and the recreational fishery can reopen through December 31, 2019. Comanagers have also agreed to seventy thousand pound harvest shares for Marine Area 12 and the portion of Marine Area 9 between the Hood Canal Bridge to a line connecting Foulweather Bluff to Olele Point (Crab Region 5). As a result, Marine Area 12 and that portion of Marine Area 9 north of the Hood Canal Bridge to a line connecting Olele Point and Foulweather Bluff will remain closed for winter harvest. Final summer harvest estimates indicate that the recreational fisheries can remain open in the marine areas described in this regulation and contribute to achieving 50/50 harvest goal with the treaty tribes. 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; 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 2.

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

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

Date Adopted: November 25, 2019.

Nate Pamplin
for Kelly Susewind
Director

NEW SECTION

WAC 220-330-04000I Crab—Areas and seasons—Personal use.

Notwithstanding the provisions of WAC 220-330-040, effective November 28, 2019 until further notice, it is unlawful to fish for crab for personal use in Puget Sound in all waters of Marine Areas, 4 east of the Bonilla-Tatoosh line, 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12 and 13, except as provided herein:

Marine Area 4 east of the Bonilla-Tatoosh line, Marine Area 5, Marine Area 6, Marine Area 7, Marine Area 8-1, Marine Area 8-2 and Marine Area 9, except those waters between the Hood Canal Bridge to a line connecting Foulweather Bluff to Olele Point, are open to fish for crab for personal use.

REPEALER

The following section of the Washington Administrative Code is repealed effective November 28, 2019:

WAC 220-330-04000H —Areas and seasons—Personal use.

The following section of the Washington Administrative Code is repealed effective January 1, 2020:

WAC 220-330-04000I Crab—Areas and seasons—Personal use.

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

**WSR 19-24-043
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 19-300—Filed November 26, 2019, 11:18 a.m., effective November 28, 2019]

Effective Date of Rule: November 28, 2019.

Purpose: Amend recreational salmon rules for the Nooksack and North Fork Nooksack rivers.

Citation of Rules Affected by this Order: Repealing WAC 220-312-04000F; 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: This emergency rule closes retention of chum salmon in the Nooksack River and North Fork Nooksack River. Chum returns to the Nooksack River and to Kendall Creek Hatchery are not meeting escapement goals. The closure is necessary to ensure natural escapement and hatchery broodstock goals are met. 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 26, 2019.

Amy Windrop
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000F Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-312-040:

(1) **Nooksack River (Whatcom Co.):** from the Lummi Indian Reservation boundary to the confluence of the North and South Forks; salmon, effective November 28 through December 31, 2019:

Daily limit 2, plus 2 additional hatchery coho. Release pinks and chum.

(2) **Nooksack River, North Fork (Whatcom Co.):** from the Hwy. 9 Bridge to Maple Creek; salmon, effective November 28 through November 30, 2019:

Daily limit 2, plus 2 additional hatchery coho. Release pinks and chum.

REPEALER

The following section of the Washington Administrative Code is repealed effective January 1, 2020:

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

WSR 19-24-061
EMERGENCY RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed November 27, 2019, 11:23 a.m., effective January 1, 2020]

Effective Date of Rule: January 1, 2020.

Purpose: 2019's Clean Energy Transformation Act amends RCW 82.08.962 and 82.12.962 related to sales and use tax remittances for machinery and equipment used in generating electricity (sections 18 and 19, chapter 288, Laws of 2019, E2SSB 5116). Under the amendments, the sales and use tax remittances are available for certain clean energy projects when certified by the department of labor and industries (L&I) that the developer of the project complied with specific labor standard requirements and the machinery and equipment is installed on or after January 1, 2020, and completed by December 31, 2029. L&I is required to adopt emergency rules to define and set minimum requirements for all labor standards associated with the certification for tax remittance; set requirements for all good faith efforts; and set other requirements to documentation and the certification process.

The emergency rules address:

- Standards for certification for:
 - Procurement from and contracts with women-owned, minority-owned, and veteran-owned businesses;
 - Procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations;
 - Apprenticeship utilization;
 - Preferred entry for workers living in the area where the project is being constructed;
 - Payment of prevailing wages; and
 - Project labor agreements and community workforce agreements.
- Requirements and processes for related to application, records and documentation, and certification.

This emergency rule is adopted under new chapter 296-140 WAC, Clean energy labor standards certification. As directed by E2SSB 5116, L&I is also initiating permanent rule making for these requirements.

Citation of Rules Affected by this Order: New WAC 296-140-001, 296-140-002, 296-140-003, and 296-140-004.

Statutory Authority for Adoption: Sections 18 and 19, chapter 288, Laws of 2019 (E2SSB 5116); RCW 82.08.962 and 82.12.962.

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 also filing a Preproposal statement of inquiry (CR-101) to initiate permanent rule making.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 4, 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 27, 2019.

Joel Sacks
Director

Chapter 296-140 WAC

CLEAN ENERGY LABOR STANDARDS CERTIFICATION

NEW SECTION

WAC 296-140-001 Definitions. (1) "Category 1 clean energy project" means a project to:

(a) Construct a facility capable of generating not less than 1000 watts AC of electricity using any of the following principal sources of power: Fuel cells; wind; biomass energy; geothermal resource; tidal or wave energy; or technology that converts otherwise lost energy from exhaust; or

(b) Construct solar energy systems capable of generating not less than 500 kilowatts AC of electricity.

(2) "Category 2 clean energy project" means a project to construct solar energy systems capable of generating more than 100 kilowatts AC, but no more than 500 kilowatts AC of electricity.

(3) "Community workforce agreement (CWA)" means a prehire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is an agreement described in 29 U.S.C. Sec. 158(f).

(4) "Department" means the department of labor and industries.

(5) "Good faith efforts" means the efforts by the project developer or its designated principle contractor that maximize the likelihood that the project will be built in compliance with the standards for certification. The totality of the circumstances and factors will be reviewed to determine good faith. Good faith efforts are not necessary when the standard requirements have been met.

(6) "Labor hours" means the total hours of laborers, workers, or mechanics receiving an hourly wage who are directly employed by the contractor and all subcontractors

working upon the project. Labor hours does not include hours worked by foremen, superintendents, or owners except where the hours worked are counted in satisfying the required apprentice to journey supervision ratio as required by apprenticeship standards.

(7) "Local resident" means Washington laborers, workers, or mechanics receiving an hourly wage who live within fifty miles of the project being constructed unless the project is being constructed in a rural county, then it is defined as Washington workers who live within two hundred miles of the project.

(8) "Minority-owned business" means a business certified with the office of minority and women's business enterprises (OMWBE) as a minority business enterprise (MBE) or a minority women business enterprise (MWBE) under chapter 326-20 WAC.

(9) "Project labor agreement (PLA)" means a prehire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is an agreement described in 29 U.S.C. Sec. 158(f).

(10) "Registered apprentice" means an apprentice registered in an apprenticeship program approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW.

(11) "Rural county" has the same definition as RCW 82.14.370(5).

(12) "Women-owned business" means a business certified with the office of minority and women's business enterprises (OMWBE) as a women business enterprise (WBE) or a minority women business enterprise (MWBE) under chapter 326-20 WAC.

(13) "Veteran-owned business" means a business certified by the Washington state department of veteran affairs under RCW 43.60A.190 or a business considered a veteran-owned business under 38 C.F.R. Part 74.

NEW SECTION

WAC 296-140-002 Labor standard certification for Category 1 clean energy projects under RCW 82.08.962 and 82.12.962. (1) To qualify for the department certification for the fifty percent tax remittance for a Category 1 clean energy project, the project must meet the following minimum requirements:

(a) Standard for procurement from and contracts with women, minority, or veteran-owned businesses.

(i) Have twenty-one percent of the contracts awarded to women-owned businesses, minority-owned businesses, or veteran-owned businesses; or

(ii) Good faith efforts which include, but are not limited to:

(A) Proactive outreach to firms that are women, minority, and veteran-owned businesses; advertising in local community publications and publications appropriate to identified firms;

(B) Participating in community job fairs, conferences, and trade shows;

(C) Identification of interested women, minority, and veteran-owned businesses that have the capability to perform the work of the contract;

(D) Providing reasonable time for women, minority, and veteran-owned businesses to fully and meaningfully respond to bid solicitations, that includes providing adequate information about the plans, specifications, and requirements of the contract along with timely responses to subcontractor inquiries and proposals;

(E) Apportioning contract work items into economically feasible units to facilitate women, minority, and veteran-owned businesses' participation and where possible, establishing flexible time frames for performance to encourage participation;

(F) Adequately researching interested subcontractors and their capabilities before rejecting their proposals; and

(G) Not relying on price alone in the selection of subcontractors and considering reasonable quotes from women, minority, and veteran-owned businesses, even if other quotes are less expensive.

(b) Standard for procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations.

(i) Awards contracts to businesses that have no findings of violation of federal or state wage and hour laws and regulations in a final and binding order by an administrative agency or court of competent jurisdiction in the twenty-four month period prior to the bid date; or

(ii) Good faith efforts which include, but are not limited to:

(A) Efforts to hire contractors with a history of compliance with wage and hour laws.

(B) Adequately researching interested subcontractors and their wage and hour history before rejecting their proposals.

(C) If the only qualified contractor is one that does not meet the standard, requiring remedial measures that allow for ongoing review of compliance with wage and hour laws.

(c) Standard for apprenticeship utilization.

(i) Have a minimum of fifteen percent of the project's labor hours performed by registered apprentices; or

(ii) Good faith efforts which include, but are not limited to:

(A) The project developer or its designated principle contractor or subcontractors participate in state-approved apprenticeship programs but no apprentices were available or not enough apprentices were available during the project. It is expected that contractors participate in apprenticeship programs for occupations where they have employees being trained;

(B) If apprentices are not available for dispatch at the beginning of the project, it is expected that the contractor check back with the program periodically to see if apprentices are available;

(C) The following situations do not meet the requirements for good faith efforts:

(I) Falling short of the requirement due to subcontractors not using apprentices;

(II) Not using a state-approved apprenticeship program while you are trying to get your own program approved by the Washington state apprenticeship and training council;

(III) Not using a state-approved apprenticeship program due to cost;

(IV) Not using a state-approved apprenticeship program because you are an out-of-state contractor;

(V) Not replacing an apprentice that quit or was fired; or not using enough apprentices because certain work is too dangerous or the apprentices do not have the appropriate skills.

(d) Standard for preferred entry for workers living in the area where the project is being constructed:

(i) Have a minimum of thirty-five percent of total labor work hours performed by local residents except for projects located in rural counties, which may have a minimum of twenty percent of total labor hours by local residents; or

(ii) Good faith efforts which include, but are not limited to:

(A) Listing the job with the local Washington Work-Source office in advance of the start of the project or contract;

(B) Requesting the dispatch of local workers through union halls;

(C) Informing community partners/organizations of opportunities in advance of the start of the project or contract;

(D) Developing an employment hiring plan prior to the start of the project detailing how the local hiring requirements will be met; and

(E) Designating a jobs coordinator to be responsible for the local hire requirements with the experience and qualifications necessary to identify and recruit local workers, and provide referrals as appropriate to comply with local hire requirements.

(2) To qualify for the department certification for the seventy-five percent tax remittance for a Category 1 clean energy project, the project must meet the following minimum requirements:

(a) Meet the standards for certification for the fifty percent tax remittance under WAC 296-140-002(1); and

(b) Pay all workers performing labor hours on the project wages not less than prevailing wages as determined by the department under chapter 39.12 RCW.

(3) To qualify for the department certification for the one hundred percent remittance for a Category 1 clean energy project, the project must have: A signed PLA or CWA for the project prior to construction starting on the project. Separately meeting the standards for certification for the fifty percent and seventy-five percent tax remittance under subsections (1) and (2) of this section are not required.

(4) The inability to meet any of the standards based on conflicts with state or federal law may constitute good faith.

NEW SECTION

WAC 296-140-003 Labor standard certification for Category 2 clean energy projects under RCW 82.08.962 and 82.12.962. To qualify for the department certification for the fifty percent tax remittance for a Category 2 clean energy project, the project must meet the standards for procurement from and contracts with women, minority, or veteran-owned

businesses, procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations, apprenticeship utilization, and preferred entry for workers living in the area where the project is being constructed under WAC 296-140-002 (1) and (4).

NEW SECTION

WAC 296-140-004 Application, records and documentation, and certification. (1) Businesses applying for the department certification must complete an application in a form required by the department prior to the start of the project.

(2) Businesses must maintain records and documentation open to review to verify compliance with the labor standards or the good faith efforts. Records and documentation include, but are not limited to:

(a) Standard for procurement from and contracts with women, minority, or veteran-owned businesses:

(i) A list of all businesses that have had contracts on the project, including information about their certifications for the women-owned businesses, minority-owned businesses, or veteran-owned businesses that have been contracted with on the project, including:

- (A) A description of the work of the contract;
- (B) The dollar amount of the contract;

(ii) Written confirmation from each women-owned business, minority-owned business, or veteran-owned business that it is participating in the contract;

(iii) Documentation and evidence to support good faith efforts as necessary; and

(iv) Other records and documentation requested by the department.

(b) Standard for procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations.

(i) A list of all the businesses contracted with, including the unified business identifier number, the federal employer identification number, other identifying information requested by the department, and information obtained concerning their federal and state wage and hour laws and regulations compliance history;

(ii) A copy of documents related to the contract invitation or bid such as the contract solicitation, bid request, or request for proposal; a copy of the responding bids, proposals, or offer; and a copy of any final contracts and amendments;

(iii) A description of the process used to determine prospective contractors' compliance with federal and state wage and hour laws and regulations;

(iv) Documentation and evidence to support good faith efforts as necessary; and

(v) Other records and documentation requested by the department.

- (c) Standard for apprenticeship utilization.

(i) The name, occupational title, and registration number for each registered apprentice;

(ii) The number of apprentices and labor hours worked, categorized by occupational title and employer;

(iii) The number of journey level workers and labor hours worked, categorized by occupational title and employer;

(iv) Copies of weekly or monthly reporting forms and payroll records used to capture the required information;

(v) A statement affirming the hours reported meeting the definition of "labor hours" as defined by WAC 296-140-001;

(vi) Documentation and evidence to support good faith efforts as necessary; and

(vii) Other records and documentation requested by the department.

(d) Standard for preferred entry by local workers.

(i) The total number of workers performing labor hours on the project;

(ii) The total number of workers performing labor hours hired who meet the definition of a local worker under WAC 296-140-001 for the job category selected;

(iii) Employment records that contain the address of individuals hired to work on the project;

(iv) Documentation and evidence to support good faith efforts as necessary; and

(v) Other records and documentation requested by the department.

(e) Standard for payment of prevailing wages.

(i) Documentation showing all workers performing labor hours on the project were paid not less than chapter 39.12 RCW prevailing rates of wage; and

(ii) Payroll records. For projects that are also public works, labor and industries public work reporting online system for the project will eliminate the need to maintain documents and is acceptable as the system of record.

(f) Records and documents for a standard for a PLA or CWA. A signed copy of the PLA or CWA for the project.

(3) The department may require periodic reporting of compliance in a form and method prescribed by the department. Where a project seeking certification under this rule is also a public works project, public works reporting requirements may satisfy reporting requirements.

(4) For Category 1 clean energy projects seeking certification for the fifty and seventy-five percent tax remittance and Category 2 clean energy projects seeking certification for the fifty percent tax remittance, businesses must submit notice of project completion in a form required by the department. After receiving the notice of competition, the department will determine if the certification standards are met based on a review of the documentation as requested by the department. If the standards were met, the department will issue the certification to the applicant.

(5) For Category 1 clean energy projects seeking certification for the one hundred percent tax remittance, the department will issue certification upon the receipt of the required application for certification and a signed copy of the PLA or CWA for the project.

WSR 19-24-070
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-301—Filed November 27, 2019, 3:16 p.m., effective November 27, 2019, 3:16 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational salmon fishing rules for Green (Duwamish) River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-04000F and 220-312-04000H; 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: This emergency rule returns Green (Duwamish) River to permanent rule, thus reopening salmon angling. Egg-take goals have been met for the Green River. The previously instituted conservation measures are no longer needed. 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 2.

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

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

Date Adopted: November 27, 2019.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000H Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-312-040, effective immediately through November 30, 2019:

Kennedy Creek (Thurston Co.): from the mouth (500 yards east of the northbound Hwy. 101 Bridge) to the northbound Hwy. 101 Bridge, is closed to salmon angling.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-312-04000F Freshwater exceptions to statewide rules—Puget Sound. (19-292)

The following section of the Washington Administrative Code is repealed effective December 1, 2019:

WAC 220-312-04000H Freshwater exceptions to statewide rules—Puget Sound. (19-301)