

## WSR 23-20-002

## EMERGENCY RULES

## HEALTH CARE AUTHORITY

(Public Employees Benefits Board)

[Admin #2023-03.01—Filed September 20, 2023, 3:58 p.m., effective September 20, 2023, 3:58 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The health care authority (HCA) is refiling WAC 182-12-5000 Retirees who regained eligibility for public employees benefits board (PEBB) retiree insurance coverage, as authorized in SSB 5490, chapter 15, Laws of 2023, 68th legislature, 2023 regular session.

Citation of Rules Affected by this Order: New WAC 182-12-5000.

Statutory Authority for Adoption: SSB 5490, chapter 15, Laws of 2023, 6th [68th] legislature, 2023 regular session.

Other Authority: RCW 41.05.021 and 41.05.160.

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 making is necessary to preserve the public peace, health, or safety, or support of the state government and its existing public institutions by establishing rules to implement the special enrollment opportunity for retired or disabled employees who were denied coverage for failure to timely notify HCA of their intent to defer coverage and who appealed the denial of benefits to HCA on or before December 31, 2022. The emergency rule is necessary to implement SSB 5490, chapter 15, Laws of 2023, while the authority conducts the permanent rule-making process.

This filing continues the emergency rules filed under WSR 23-12-019, filed May 25, 2023. Since the filing of this emergency rule, HCA is continuing to review the PEBB chapters for updates and is preparing for its annual revisions to begin under permanent rule making shortly.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Date Adopted: September 20, 2023.

Wendy Barcus  
Rules Coordinator

OTS-4596.2

NEW SECTION

**WAC 182-12-5000 Retirees who regained eligibility for public employees benefits board (PEBB) retiree insurance coverage under chapter 15, Laws of 2023 (SSB 5490).** (1) For this section only, "subscriber" means a retired or disabled employee who:

(a) Is receiving a retirement allowance under chapter 41.32, 41.35, 41.37, or 41.40 RCW;

(b) Was previously denied coverage solely for failure to timely notify the health care authority (HCA) of their plan to defer public employees benefits board (PEBB) retiree insurance coverage;

(c) Appealed the denial of benefits to HCA on or before December 31, 2022; and

(d) Is eligible for and enrolled in medicare Parts A and B.

(2) Subscribers may enroll only in a medicare advantage (MA), medicare advantage-prescription drug (MA-PD), or a medicare supplement plan. Subscribers may also enroll their dependents who are eligible under WAC 182-12-260 and must include the dependent's enrollment information on the required forms.

(a) The dependent must be enrolled in the same PEBB medical plan as the subscriber;

(b) If the subscriber selects a medicare supplement plan or MA-PD plan, nonmedicare enrollees will be enrolled in the UMP Classic plan. If the subscriber selects any other medicare plan, the subscriber must also select a nonmedicare plan with the same contracted vendor available to nonmedicare enrollees.

(3) The subscriber must submit the required forms to enroll in PEBB retiree insurance coverage and they must be received by the PEBB program by November 30, 2023.

(a) If the subscriber elects to enroll in a medicare supplement plan, the effective date of PEBB retiree insurance coverage described in this section is the first day of the month following the date the PEBB program receives the required forms. If the required forms are received on the first day of the month, the effective date of PEBB retiree insurance coverage is that day.

(b) Enrollment in the PEBB program's MA or MA-PD plan may not be retroactive. If the subscriber elects to enroll in a MA or MA-PD plan, coverage will be effective the first of the month following the signature date on the form.

(4) Subscribers may enroll in a PEBB dental plan if they also enroll in a MA or MA-PD plan or medicare supplemental plan. Subscribers may also enroll their dependents who are eligible under WAC 182-12-260 and must include the dependent's enrollment information on the required forms.

(5) The subscriber's first premium payment for PEBB retiree insurance coverage is due to the HCA no later than 45 days after the effective date of PEBB retiree insurance coverage as described in subsection (3) of this section. Following the subscriber's first premium payment, premiums must be paid as described in WAC 182-08-180 (1)(a).

(6) Subscribers are not eligible to elect retiree term life insurance as described in WAC 182-12-209.

(7) Once enrolled in PEBB retiree insurance coverage, subscribers and their dependents are subject to all applicable rules in chapters 182-08, 182-12, and 182-16 WAC.

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**WSR 23-20-005**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-206—Filed September 21, 2023, 8:55 a.m., effective September 22, 2023]

Effective Date of Rule: September 22, 2023.

Purpose: This emergency rule is needed to amend Columbia River recreational salmon and steelhead rules.

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

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

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

Reasons for this Finding: The technical advisory committee recently updated the upriver Chinook return to the Columbia River mouth. Current in-season catch and stock composition projections indicate that sufficient Chinook Endangered Species Act (ESA) impacts remain available which allows for additional Chinook retention in this area. Staff will continue to monitor progress of ongoing fisheries, with an expectation to manage within the allowable ESA impact rate and per Washington Fish and Wildlife Policy C-3630. This rule conforms Washington state rules with Oregon state rules and is consistent with compact action on September 7, 13, and 20, 2023.

Washington and Oregon jointly regulate Columbia River fisheries under the congressionally ratified Columbia River Compact. Four Indian tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the tribes an opportunity to take a fair share of the available fish, and the states must manage other fisheries accordingly. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* Management Agreement (February 26, 2018) (Doc. No. 2607-1). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under ESA. On February 23, 2018, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in the fisheries as described in the 2018-2027 *U.S. v. Oregon* Management Agreement. The Washington and Oregon fish and wildlife commissions have developed policies to guide the implementation of such biological opinions in the states' regulation of nontreaty fisheries.

Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, ESA, and commission guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached.

There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 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 Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: September 21, 2023.

Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-312-06000W Freshwater exceptions to statewide rules—Columbia River.** Effective September 22 through December 31, 2023, the provisions of WAC 220-312-060 regarding recreational salmon and steelhead seasons from a true north-south line through Buoy 10 upstream to Bonneville Dam, shall be modified during the dates listed and as described below. All year-round Closed Waters areas remain in effect. Other provisions of WAC 220-312-060 not addressed herein remain in effect unless otherwise amended by emergency rule:

**From a true north-south line through Buoy 10 upstream to a line at the west end of Puget Island projected from green navigation marker 39 on the Washington bank to green navigation marker 41, then to red navigation marker 42, and terminating at red navigation marker 44A on the Oregon bank:**

(a) Effective immediately through September 30, 2023: Salmon and steelhead: Daily limit 3 adult salmon including no more than 1 Chinook. Release all salmon and steelhead other than Chinook and hatchery coho.

(b) Effective October 1 through October 31, 2023: Salmon and steelhead: Daily limit 6. Up to 3 adults including no more than 1 Chinook may be retained. Release all salmon and steelhead other than Chinook and hatchery coho.

(c) Effective November 1 through December 31, 2023: Salmon and steelhead: Daily limit 6. Up to 3 adults including no more than 1 Chinook and no more than 2 hatchery steelhead may be retained. Release all salmon and steelhead other than Chinook, hatchery coho and hatchery steelhead.

**From a line at the west end of Puget Island projected from green navigation marker 39 on the Washington bank to green navigation marker 41, then to red navigation marker 42, and terminating at red navigation marker 44A on the Oregon bank upstream to Beacon Rock:**

(a) Effective September 22 through October 31, 2023: Salmon and steelhead: Daily limit 6. Up to 2 adults including no more than 1 Chinook may be retained. Release all salmon and steelhead other than Chinook and hatchery coho.

(b) Effective November 1 through December 31, 2023: Salmon and steelhead: Daily limit 6. Up to 2 adults including no more than 1 Chi-

nook and no more than 2 hatchery steelhead may be retained. Release all salmon and steelhead other than Chinook, hatchery coho and hatchery steelhead.

**From Beacon Rock upstream to a line from the Hamilton Island boat ramp to an Oregon boundary marker on the westernmost point of Robins Island to a marker on the Oregon mainland shore:**

(a) Sept. 22 through Oct. 31: Daily limit 6. Up to 2 adult salmon including no more than 1 Chinook. Salmon min. size 12". Release all salmon and steelhead other than Chinook and hatchery coho.

**From a line from the Hamilton Island boat ramp to an Oregon boundary marker on the westernmost point of Robins Island to a marker on the Oregon mainland shore upstream to a point 600 feet below the new Bonneville Dam Powerhouse:**

(a) Effective September 22 through October 31, 2023: Salmon and steelhead: Daily limit 6. Up to 2 adults including no more than 1 Chinook may be retained. Release all salmon and steelhead other than Chinook and hatchery coho.

(b) Effective November 1 through December 31, 2023: Salmon and steelhead: Daily limit 6. Up to 2 adults including no more than 1 Chinook and no more than 2 hatchery steelhead may be retained. Release all salmon and steelhead other than Chinook, hatchery coho and hatchery steelhead.

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#### REPEALER

The following section of the Washington Administrative Code is repealed, effective September 22, 2023:

WAC 220-312-06000V Freshwater exceptions to statewide rules—Columbia River. (23-203)

**WSR 23-20-008**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-207—Filed September 21, 2023, 1:32 p.m., effective September 24, 2023]

Effective Date of Rule: September 24, 2023.

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

Citation of Rules Affected by this Order: Repealing WAC 220-358-03000X; and amending WAC 220-358-030.

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

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* Management Agreement (February 26, 2018) (Doc. No. 2607-1). *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River Compact).

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

Reasons for this Finding: This rule extends the late fall nontreaty commercial gill net season upstream of the Lewis River confluence (Zone 4-5). Current in-season catch and stock composition projections indicate sufficient Chinook ESA-impacts remain available for nontreaty commercial fisheries. This fishery is consistent with the 2023 nontreaty fall fisheries plan that was developed in conjunction with the annual North of Falcon management process. The fishery is also consistent with the *U.S. v. Oregon* Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with compact action of July 18, September 7, September 13, and September 20, 2023. This harvest opportunity allows for public access to the resource as well as the maintenance of sustainable fish populations. There is insufficient time to promulgate permanent rules.

Washington and Oregon jointly regulate Columbia River fisheries under the congressionally ratified Columbia River Compact. Four Indian tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the tribes an opportunity to take a fair share of the available fish, and the states must manage other fisheries accordingly. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* Management Agreement (February 26, 2018) (Doc. No. 2607-1). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under ESA. On February 23, 2018, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these

species in the fisheries as described in the 2018-2027 *U.S. v. Oregon* Management Agreement.

Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under ESA. The Washington and Oregon fish and wildlife commissions have developed policies to guide the implementation of such biological opinions in the states' regulation of nontreaty fisheries.

Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, ESA, and commission guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached.

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

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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: September 21, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-358-03000Y Columbia River seasons below Bonneville.**

Notwithstanding the provisions of WAC 220-358-030, WAC 220-358-040, and WAC 220-335-050, it is unlawful for a person to take or possess salmon, sturgeon, and shad for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, 1E and Select Areas, except during the times and conditions listed below:

**(1) Mainstem:**

(a) **Area:** SMCRA 1A, 1B, and 1C. Upper deadline defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation Buoy #1 and continuing to the Washington shore. Sanctuaries include Elokomina-A, Cowlitz River, Kalama-A and Lewis-A.

Open Dates	Open Days	Open Time	Open Duration
Immediately - September 20	Wednesday	4:00 am - 10:00 pm	18 hrs
September 22 - October 27	Fridays	4:00 am - 6:00 pm	14 hrs
September 25 - October 26	Mondays, Tuesdays, Wednesdays, Thursdays	4:00 am - 10:00 pm	18 hrs

(ii) **Gear:** Drift nets only. Maximum mesh size is 3.75 inches. Un-slackened, single-wall, multi-filament floater nets only. Monofilament nets are not allowed. Net length not to exceed 150 fathoms. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net. There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline. The use of slackers or stringers to slacken the net vertically is prohibited. Rip lines are allowed providing they do not vertically slacken the net.

(iii) **Allowable Sales:** Salmon (except chum), and shad; all coho must be adipose fin-clipped.

(iv) **Soak times,** defined as the time elapsed from when the first of the net web is deployed into the water until the web is fully retrieved from the water, must not exceed 30 minutes.

(v) **Recovery Box:** Each boat will be required to have on board two operable recovery boxes or one box with two chambers that meet the flow and size requirements standard for the winter/spring season. Each box and chamber and associated pump shall be operating during any time that the net is being retrieved or picked. All non-legal fish must be released immediately unharmed to the river or placed into an operating recovery box. All non-legal salmon and all steelhead that are bleeding, lethargic or appear lifeless must be placed in the recovery box prior to being released. All fish placed in recovery boxes must be released to the river prior to landing or docking.

(vi) **Measuring mesh size:** Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one knot to the inside of the opposite knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact.

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

(viii) **Multiple net rule:** Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater (WAC 220-358-030(2)).

(ix) **Lighted Buoys:** Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(x) **24-hour** quick reporting required is for Washington wholesale dealers, per WAC 220-352-315. Oregon buyers are required to electronically submit fish receiving tickets pursuant to OAR 635-006-0210. Electronic fish tickets must be submitted within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours.

(b) **Area:** SMCRA 1D ,1E. The deadline at the lower end of 1D is defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation Buoy #1 and



continuing to the Washington shore. Sanctuaries: Washougal and Sandy Rivers

(i)

Open Dates	Open Days	Open Time	Open Duration
September 24 - September 25	Sunday (night)	8:00 pm - 6:00 am	10 hrs
September 26 - September 27	Tuesday (night)	8:00 pm - 6:00 am	10 hrs

(ii) **Gear:** Drift gillnets only. 8-inch minimum mesh size restriction. Multiple net rule is in effect. Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

(iii) **Allowable Sales:** Salmon (except Chum) and shad.

(iv) **Multiple net rule:** Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater (WAC 220-358-030(2)).

(v) **Lighted Buoys:** Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(vi) **24-hour** quick reporting required is for Washington wholesale dealers, per WAC 220-352-315. Oregon buyers are required to electronically submit fish receiving tickets pursuant to OAR 635-006-0210. Electronic fish tickets must be submitted within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours.

**(2) Tongue Point/South Channel Select Area:**

(a) **Area:**

(i) The Tongue Point Select Area is defined as waters of the Columbia River bounded by a line from a regulatory marker on the eastern shore of Tongue Point (midway between the red USCG light "2" at the tip of Tongue Point and the northern-most pier (#8) at the Tongue Point Job Corps facility) to the flashing green USCG light "3" on the rock jetty at the northwest tip of Mott Island, a line from a regulatory marker at the southeast end of Mott Island northeasterly to a regulatory marker on the northwest shore of Lois Island, and a line from a regulatory marker located on the Oregon shore approximately 300 yards northwest of the railroad bridge crossing the John Day River projecting easterly to a regulatory marker on the southwest shore of Lois Island:

(A) If the marker on the eastern shore of Tongue Point is not in place, the downstream boundary is defined by a line projecting from a point (46°12'31.1"N latitude 123°45'34.0"W longitude) on the eastern shore of Tongue Point to the flashing green USCG light "3" on the rock jetty at the northwest tip of Mott Island.

(B) If the marker on the Oregon shore is not in place, the upstream boundary is defined by a line projecting from a point (46°10'57.7"N latitude 123°44'35.3"W longitude) on the Oregon shore approximately 300 yards northwest of the railroad bridge crossing the John Day River projecting easterly to a regulatory marker on Lois Island.

(ii) The South Channel Area is defined as waters of the Columbia River bounded by a line from a regulatory marker on the Oregon shore at John Day Point projecting northeasterly to a regulatory marker on the southwest shore of Lois Island, and a line from a regulatory marker on Settler Point projecting northwesterly to the flashing red USCG light "10" then projecting westerly to the eastern tip of Burnside Island.

(b)

Open Dates	Open Days	Open Time	Open Duration
Immediately - October 31	Monday, Tuesday, Wednesday, Thursday (night)	4:00 pm - 10:00 am	18 hrs

(c) **Gear:** Gillnets with a 6-inch maximum mesh size restriction. Maximum net length of 250 fathoms. In the Tongue Point Select Area, the lead line weight may not exceed two pounds per any one fathom; however, unstored gillnets legal for use in South Channel may be on-board.

In the South Channel Select Area, there is no lead line weight limit and attachment of additional weight and anchors directly to the lead line is permitted. Nets not specifically authorized for use may be onboard a vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Nets fished any time between official sunset and official sunrise must have lighted buoys on both ends of the net. If the net is attached to the boat, then one lighted buoy on the end of the net opposite the boat is required.

(d) **Allowable Sales:** Salmon (except Chum) and shad.

(e) **Multiple net rule:** Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater (WAC 220-358-030(2)).

(f) **Lighted Buoys:** Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(g) **24-hour** quick reporting required is for Washington wholesale dealers, per WAC 220-352-315. Oregon buyers are required to electronically submit fish receiving tickets pursuant to OAR 635-006-0210. Electronic fish tickets must be submitted within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours.

**(3) Blind Slough/Knappa Slough Select Area:**

(a) **Area:** The Blind Slough Select Area is defined as waters of Blind Slough and Gnat Creek from a north-south line represented by regulatory markers at the mouth of Blind Slough upstream to a regulatory marker in Gnat Creek located approximately 0.5 miles southeasterly (upstream) of the Barendse Road Bridge. The Knappa Slough Select Area is defined as waters of Knappa Slough, Calendar Slough, and Big Creek Slough bounded to the north (upstream) by a line projecting from a regulatory marker on the eastern shore of Karlson Island to the northernmost regulatory marker at the mouth of Blind Slough and bounded to the west (downstream) by a line projecting southerly from a

regulatory marker on the southwestern tip of Karlson Island through regulatory markers on the western tips of Minaker Island to a marker on the Oregon shore. The waters of Knappa Slough within a 100-foot radius of the railroad bridge crossing Big Creek are closed.

(b)

Open Dates	Open Days	Open Time	Open Duration
Immediately - October 31	Monday, Tuesday, Wednesday, Thursday (night)	6:00 pm - 10:00 am	16 hrs

(c) **Gear:** Gillnets with a 6-inch maximum mesh size restriction. Maximum net length is 100 fathoms. There is no lead line weight limit and attachment of additional weight and anchors directly to the lead line is permitted.

Nets not specifically authorized for use may be onboard a vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Nets fished any time between official sunset and official sunrise must have lighted buoys on both ends of the net. If the net is attached to the boat, then one lighted buoy on the end of the net opposite the boat is required.

(c) **Allowable Sales:** Salmon (except Chum) and shad.

(d) **Multiple net rule:** Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater (WAC 220-358-030(2)).

(e) **Lighted Buoys:** Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(f) **24-hour** quick reporting required is for Washington wholesale dealers, per WAC 220-352-315. Oregon buyers are required to electronically submit fish receiving tickets pursuant to OAR 635-006-0210. Electronic fish tickets must be submitted within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours.

**(4) Deep River Select Area:**

(a) **Area:** The Deep River fishing area includes all waters from West Deep River Road Bridge at the town of Deep River downstream to the mouth defined by a line from USCG navigation marker #16 southwest to a marker on the Washington shore.

(b)

Open Dates	Open Days	Open Time	Open Duration
Immediately - October 13	Monday, Tuesday, Wednesday, Thursday (night)	6:00 pm - 9:00 am	15 hrs
October 16 - October 26	Monday, Wednesday (night)	6:00 pm - 9:00 am	15 hrs

(c) **Gear:** Gillnets with a maximum mesh size restriction of 6-inches. Maximum net length is 100 fathoms. No weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed. No nets can be tied off to stationary structures. Nets may not fully cross the navigation channel. It is unlawful to operate in any river, stream or channel any gillnet gear longer

than three-fourths the width of the river, stream, or channel. "River, stream, or channel width" is defined as bank-to-bank, where the water meets the banks, regardless of the time of tide or the water level. This emergency provision shall supersede the permanent regulation and all other regulations that conflict with it. Nets not specifically authorized for use may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Nets fished any time between official sunset and official sunrise must have lighted buoys on both ends of the net. If the net is attached to the boat, then one lighted buoy on the end of the net opposite the boat is required.

(d) **Allowable Sales:** Salmon (except Chum) and shad.

(g) **Multiple net rule:** Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater (WAC 220-358-030(2)).

(h) **Lighted Buoys:** Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(i) **24-hour** quick reporting required is for Washington wholesale dealers, per WAC 220-352-315. Oregon buyers are required to electronically submit fish receiving tickets pursuant to OAR 635-006-0210. Electronic fish tickets must be submitted within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours.

[]

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

#### REPEALER

The following section of the Washington Administrative Code is repealed effective September 24, 2023:

WAC 220-358-03000X Columbia River seasons below  
Bonnevile. (23-204)

**WSR 23-20-009**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-208—Filed September 21, 2023, 1:51 p.m., effective September 21, 2023, 1:51 p.m.]

Effective Date of Rule: Immediately upon filing.

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

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

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

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* Management Agreement (February 26, 2018) (Doc. No. 2607-1). *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River Compact).

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

Reasons for this Finding: This rule extends treaty commercial sales for the Columbia River mainstem Zone 6 fall-season gillnet fisheries. This rule is consistent with actions of the Columbia River Compact on July 18, August 16, August 30, September 7, and September 20, 2023. Conforms state rules with tribal rules. The general public welfare is protected with the immediate opening of nontreaty buyers purchasing fish from treaty fisheries. This harvest opportunity allows for the tribal use and public access to the resource as well as the maintenance of sustainable fish populations. There is insufficient time to promulgate permanent regulations.

The Yakama, Warm Springs, Umatilla, and Nez Perce Indian tribes have treaty fishing rights in the Columbia River and inherent sovereign authority to regulate their fisheries. Washington and Oregon also have some authority to regulate fishing by treaty Indians in the Columbia River, authority that the states exercise jointly under the congressionally ratified Columbia River Compact. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). The tribes and the states adopt parallel regulations for treaty Indian fisheries under the supervision of the federal courts. A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* Management Agreement (February 26, 2018) (Doc. No. 2607-1). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under ESA. On February 23, 2018, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in the fisheries as described in the 2018-2027 *U.S. v. Oregon* Management Agreement.

Columbia River fisheries are monitored very closely to ensure consistency with court orders and ESA guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. As required by court order, the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and invite tribal participation when considering proposals for new emergency rules affecting treaty fishing rights. *Sohappy*, 302 F. Supp. at 912. WDFW and ODFW then adopt regulations reflecting agreements reached.

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

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

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

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

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

Date Adopted: September 21, 2023.

Kelly Susewind  
Director

#### NEW SECTION

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

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

(a) Season: Immediately, through 6:00 PM September 22, 2023, and 6:00 AM September 25 through 6:00 PM September 29, 2023, and 6:00 AM October 2 through 6:00 PM October 6, 2023:

(b) Gear: Set and Drift Gill nets with an 8-inch minimum mesh size.

(c) Allowable sale: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish and carp may be sold or retained for subsistence. Sturgeon may not be sold, but sturgeon from 38 to 54 inches fork length in the Bonneville Pool and sturgeon from 43 to 54 inches fork length in The Dalles and John Day Pools may be kept for subsistence purposes.

(d) Standard sanctuaries applicable to gillnet gear. The standard Spring Creek Hatchery Sanctuary is reduced to a 150-foot radius around the hatchery ladder effective immediately, until further notice.

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

(a) Season: Immediately, until further notice.

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

(c) Allowable sale: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Fish landed during the open periods are allowed to be sold after the period concludes. Sturgeon from 38 to 54 inches fork length in the Bonneville Pool and sturgeon from 43 to 54 inches fork length in The Dalles and John Day pools may be kept for subsistence purposes.

(d) Standard river mouth and dam sanctuary closures remain in place for this gear.

(3) Open Areas: SMCRA 1E (area defined in tribal/state MOUs/MOAs)

(a) Season: Immediately, until further notice. Only during days and times opened under tribal rule.

(b) Gear: Hook and line and/or platform gear identified in tribal rules.

(c) Allowable sale: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Sturgeon may not be retained in fisheries downstream of Bonneville Dam. Sales of fish are not authorized on COE property downstream of Bonneville Dam; fish must be transported elsewhere for sale. Fish landed during the open periods are allowed to be sold after the period concludes.

(4) Open Areas: Wind River, Drano Lake, and Klickitat River.

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

(b) Gear: Hoop Nets/Bag Nets, Dip Nets, and Rod and reel with hook and Line. Gillnets may only be used in Drano Lake.

(c) Allowable sales: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Fish landed during the open periods are allowed to be sold after the period concludes. Sturgeon from 38 to 54 inches fork length may be kept for subsistence.

(5) 24-hour quick reporting is required for Washington wholesale dealers for all areas as provided in WAC 220-352-315, except that all landings from treaty fisheries described above must be reported within 24-hours of completing the fish ticket (not 24-hours after the period concludes).

(6) Fish caught during the open period may be sold after the period concludes.

[ ]

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-359-02000X Columbia River salmon seasons above  
Bonneville Dam. (23-195)



**WSR 23-20-010  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 23-211—Filed September 21, 2023, 2:45 p.m., effective September 22, 2023]

Effective Date of Rule: September 22, 2023.

Purpose: This emergency rule is needed to open Lake Sammamish for Chinook retention.

Citation of Rules Affected by this Order: Repealing WAC 220-312-04000T; 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 is needed to open Chinook retention in Lake Sammamish. Fish counts at Issaquah Hatchery and Ballard Locks indicate the Chinook return is strong enough to support a recreational fishery in Lake Sammamish.

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 Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: September 21, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-04000T Freshwater exceptions to statewide rules—Puget Sound.** Effective September 22 through November 30, 2023, provisions of WAC 220-312-040 regarding recreational fishing seasons for Lake Sammamish shall be modified as described below. All other provisions of WAC 220-312-040 not addressed herein, or unless otherwise amended by emergency rule remain in effect:

Opens Lake Sammamish for Chinook retention. daily limit is 2 Chinook, minimum size 12 inches.

[ ]

**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 December 1, 2023:

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

**WSR 23-20-011**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-209—Filed September 21, 2023, 3:24 p.m., effective September 21, 2023, 3:24 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule opens Shrimp Management Subregion 1C on September 22, 2023, through October 15, 2023, following the conversion of unharvested trawl quota to the pot fishery.

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

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

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

Reasons for this Finding: Permanent rules regulating state commercial shrimp harvest in Puget Sound and the Strait of Juan de Fuca require the adoption of harvest seasons contained in this emergency rule. This emergency rule is necessary to prosecute state commercial shrimp pot and trawl fisheries in Puget Sound. This rule allows harvesters to respond to dynamic changes in market conditions and promotes full utilization of both the commercial spot and nonspot shares. These rules are in congruence with comanager agreements. 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 Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: September 21, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-340-52000Q Commercial shrimp pot fishery—Puget Sound.**

Notwithstanding the provisions of WAC 220-340-520, effective immediately, through October 15, 2023, it is unlawful to fish for shrimp for commercial purposes using pot gear in Puget Sound except as provided for in this section:

(1) In all areas fishers are limited to a maximum of 100 spot shrimp pots, as defined in WAC 220-340-520 (5) (d), and a maximum of 100 non-spot shrimp pots, as defined in WAC 220-340-520 (5) (e).

(2) Spot Shrimp Pot Harvest:

(a) Spot shrimp harvest is permitted as indicated in the following table opening one hour before official sunrise on the first day of the open period. Any closures take effect one hour after official sunset on the closing day of the open period.

Geographical Management Unit (WAC 220-320-140; WAC 220-320-120)	Open Period
Subregion 1A	Closed
Subregion 1B	Closed
Subregion 1C	Closed
Region 2E	Closed
Region 2W	Closed
Subarea 23A-E	Closed
Subarea 23A-W	Closed
Subarea 23A-C and MSFS Catch Area 23B	Closed
Subarea 23A-S and MSFS Catch Area 23D	Closed
MFSF Catch Area 23C	Closed
MFSF Catch Area 25A, excluding the Discovery Bay Shrimp District	Closed
Discovery Bay Shrimp District	Closed
MFSF 29 (Straits - Neah Bay)	Closed
Subarea 26B-1 and MFSF Catch Area 26C	Closed
Subarea 26B-2	Closed
Region 5	Closed
MFSF Catch Area 26D	Closed
MFSF Catch Areas 28A, 28B, 28C, and 28D	Closed

(b) The first spot shrimp catch accounting period started one hour before official sunrise on May 8, through one hour after official sunset on August 1, 2023.

(c) It is unlawful for the combined total harvest during the first spot shrimp accounting period to have exceeded 5,000 pounds of spot shrimp per license from all Puget Sound shrimp management regions combined.

(d) The second spot shrimp catch accounting period started one hour before official sunrise on August 2, through one hour after official sunset on August 18, 2023.

(e) It is unlawful for the total harvest during the first and second spot shrimp accounting periods to have exceeded 5,400 pounds of spot shrimp per license from all Puget Sound shrimp management regions combined.

(f) It is lawful to possess deactivated non-spot shrimp pots on-board of a commercial vessel that is listed on a Puget Sound shrimp pot license while fishing for spot shrimp.

A deactivated pot is un-baited, has the drawstring or door fastened open, and/or is unable to be readily fished.

(3) Non-spot shrimp pot harvests:

(a) The non-spot shrimp species complex is defined as the following species of pandalid shrimp classified in WAC 220-320-010: Dock shrimp (*Pandalus danae*), Coonstripe shrimp (*Pandalus hypsinotus*), Humpy shrimp (*Pandalus goniurus*), Ocean pink shrimp (*Pandalus jordani*), pink shrimp (*Pandalus eous*), Side stripe shrimp (*Pandalus dispar*).

(b) Non-spot shrimp pot harvest is permitted as indicated in the following table opening one hour before official sunrise on the first day of the open period. Any closures take effect one hour after official sunset on the closing day of the open period.

Geographical Management Unit (WAC 220-320-140; WAC 220-320-120)	Open Period
Subregion 1A	Open through October 15, 2023
Subregion 1B	Closed
Subregion 1C	Open September 22, 2023 through October 15, 2023
Region 2E	Closed
Region 2W	Open through October 15, 2023
Region 3, not including Discovery Bay Shrimp District	Open through October 15, 2023
Discovery Bay Shrimp District	Open through October 15, 2023
Region 4	Closed
Region 5	Closed
Region 6	Closed

(c) The non-spot shrimp catch accounting periods begin one hour before official sunrise and end one hour after official sunset on the date listed in the following table:

Period Number	Start Date	End Date
1	5/1/2023	5/16/2023
2	5/17/2023	5/30/2023
3	5/31/2023	6/13/2023
4	6/14/2023	6/27/2023
5	6/28/2023	7/11/2023
6	7/12/2023	7/25/2023
7	7/26/202	8/8/2023
8	8/9/2023	8/22/2023
9	8/23/202	9/5/2023
10	9/6/2023	9/19/2023
11	9/20/202	10/3/2023
12	10/4/2023	10/15/2023

(d) It is unlawful for the total harvest of non-spot shrimp per license to exceed 1,500 pounds during non-spot shrimp catch accounting period number 1 from subregions 1A, 1B, 1C, and Region 2E combined.

(e) It is unlawful for total harvest of non-spot shrimp to exceed 1,200 pounds per non-spot shrimp catch accounting period from subregions 1A, 1B, 1C, and Region 2E combined during catch accounting periods 2 through 12.

(f) There is no weekly harvest limit of non-spot shrimp from Region 2W, Region 3, or the Discovery Bay Shrimp District.

(g) Harvest of non-spot shrimp is not permitted deeper than 175 feet in Catch Area 23A and all of its subareas (23AE, 23AW, 23AC, 23AS).

(h) Harvest of non-spot shrimp is not permitted deeper than 175 feet in subregion 1A.

(i) It is unlawful to harvest non-spot shrimp in more than one geographical management unit listed in subsection 3(a) in a single day with the following exceptions:

(i) Non-spot shrimp may be harvested from more than one subregion of Region 1 on the same day.

(ii) Non-spot shrimp may be harvested from Discovery Bay Shrimp District and Region 3 on the same day.

(j) It is lawful to possess deactivated spot shrimp pots on-board of a commercial vessel that is listed on a Puget Sound shrimp pot license while fishing for non-spot shrimp.

A deactivated pot is un-baited, has the drawstring or door fastened open, and/or is unable to be readily fished.

[]

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-340-52000P Commercial shrimp pot fishery—Puget Sound. (23-186)

**WSR 23-20-012**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-210—Filed September 21, 2023, 4:18 p.m., effective September 22, 2023]

Effective Date of Rule: September 22, 2023.

Purpose: Increase the coho daily limit in Marine Area 10.

Citation of Rules Affected by this Order: Repealing WAC 220-313-06000L; and amending WAC 220-313-060.

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

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

Reasons for this Finding: The Marine Area 10 coho limit was reduced in early August due to high catches in June and July and concern for natural coho impacts that occur in Area 10. Since that time, catch has leveled off to preseason expectations, and coho returns to multiple watersheds throughout Puget Sound have alleviated concerns for meeting natural coho conservation targets.

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 Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: September 21, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-313-06000M Puget Sound salmon—Saltwater seasons and daily limits.** Effective September 22 through October 31, 2023, salmon rules for Catch Record Card Area 10 shall be modified as described herein. All other provisions of WAC 220-313-060 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

**(1) Catch Record Card Area 10, except; Sinclair Inlet and Port Orchard, and Year-round piers (Seacrest Pier, Waterman Pier, Bremerton Boardwalk, and Illahee State Park Pier):**

(a) Effective Immediately, through September 30, 2023: Salmon daily limit 2 coho, plus 2 additional pink salmon. Release Chinook, chum.

(b) Effective October 1 through October 31, 2023: Salmon daily limit 2. Release Chinook.

**(2) Sinclair Inlet (Waters of Sinclair Inlet and Port Orchard south of the Manette Bridge in Bremerton, south of a line drawn true west from Battle Point, and west of a line drawn true south from Point White):**

(a) Effective immediately, through September 30, 2023: Salmon daily limit 3 including no more than 2 coho, plus 2 additional pink salmon. Release wild Chinook and chum.

(b) Effective October 1 through October 31, 2023: Salmon daily limit 2. Release Chinook.

**(3) Seacrest Pier, Waterman Pier, Bremerton Boardwalk, and Illahee State Park Pier:**

Effective immediately, through September 30, 2023: Salmon daily limit is 2 including no more than 1 Chinook, plus two additional pink salmon.

[]

#### REPEALER

The following section of the Washington Administrative Code is repealed, effective September 22, 2023:

WAC 220-313-06000L Puget Sound salmon—Saltwater seasons and daily limits. (23-199)



**WSR 23-20-016**  
**RESCISSION OF EMERGENCY RULES**  
**DEPARTMENT OF**  
**CHILDREN, YOUTH, AND FAMILIES**  
[Filed September 22, 2023, 3:07 p.m.]

Effective September 23, 2023, the department of children, youth, and families is rescinding WSR 23-14-102, which was filed as emergency rule making on June 30, 2023. The permanent rules are complete for chapter 110-745 WAC, Transfer of individual to the department of corrections, and go into effect September 23, 2023.

Please contact Brenda Villarreal at 360-522-3691 if you have any questions or need anything further.

Brenda Villarreal  
Rules Coordinator

## WSR 23-20-030

## EMERGENCY RULES

## HEALTH CARE AUTHORITY

(Public Employees Benefits Board)

[Admin #2023-03.03—Filed September 25, 2023, 4:31 p.m., effective September 25, 2023, 4:31 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The health care authority is creating two new sections; WAC 182-12-5110 When is a retiring school employee of an employer group eligible to enroll in public employees benefits board (PEBB) retiree insurance coverage, and 182-12-5120 What options for continuing health plan enrollment are available to a retiree of an employer group that ends participation in public employees benefits board (PEBB) or school employees benefits board (SEBB) insurance coverage, as authorized in SHB 1804, section 1, chapter 312, Laws of 2023, 68th legislature, 2023 regular session.

Citation of Rules Affected by this Order: New WAC 182-12-5110 and 182-12-5120.

Statutory Authority for Adoption: RCW 41.05.080 and 41.05.083; SHB 1804, section 1, chapter 312, Laws of 2023, 68th legislature, 2023 regular session.

Other Authority: RCW 41.05.021 and 41.05.160.

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 making is necessary to preserve the public peace, health, or safety, or support of the state government and its existing public institutions by establishing enrollment rules for a retiring school employee of an employer group and a retiree of an employer group that ends participation in PEBB or SEBB insurance coverage. This emergency rule making is necessary to implement SHB 1804, section 1, chapter 312, Laws of 2023, 68th legislature, 2023 regular session while the authority conducts the permanent rule-making process.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 0, Repealed 0.

Date Adopted: September 22, 2023.

Wendy Barcus  
Rules Coordinator

OTS-4949.3

NEW SECTION

**WAC 182-12-5110 When is a retiring school employee of an employer group eligible to enroll in public employees benefits board (PEBB) retiree insurance coverage?** (1) The following definitions apply for this section:

(a) "Employer group" for the school employees' benefits board (SEBB) program means an employee organization representing school employees and a tribal school as defined in RCW 28A.715.010, obtaining employee benefits through a contractual agreement with the authority to participate in benefit plans developed by SEBB;

(b) "Employer-paid coverage" means SEBB insurance coverage for which an employer contribution is made by a SEBB employer group;

(c) "School employee" means an employee of an employee organization representing school employees and an employee of a tribal school as defined in RCW 28A.715.010, receiving SEBB insurance coverage under contractual agreement with the authority; and

(d) "Washington state-sponsored retirement plan" means the same as described in WAC 182-12-171(4).

(2) A retiring school employee of an employer group is eligible to continue enrollment or defer enrollment in public employees benefits board (PEBB) insurance coverage as a retiree if they meet the procedural and substantive eligibility requirements as described in subsections (3) and (4) of this section.

(3) **Procedural requirements.** A retiring school employee of an employer group must meet the substantive eligibility requirements as described in subsection (4) of this section and enroll or defer enrollment in PEBB retiree insurance coverage as described in (a) and (b) of this subsection:

(a) A retiring school employee of an employer group must enroll in PEBB retiree insurance coverage as described in WAC 182-12-171 (1)(a) through (c).

(b) A retiring school employee of an employer group may defer enrollment in PEBB retiree insurance coverage as described in WAC 182-12-200 or 182-12-205 (4)(a).

(4) **Substantive eligibility requirements.** A school employee who is eligible for SEBB benefits through an employer group who ends public employment may enroll or defer enrollment in PEBB retiree insurance coverage if they meet procedural requirements as described in subsection (3) of this section and substantive eligibility requirements as described in this subsection, and WAC 182-12-171(3).

To be eligible to continue enrollment or defer enrollment in PEBB retiree insurance coverage, the school employee must be vested in and eligible to retire under a Washington state-sponsored retirement plan when the school employee's own employer-paid coverage, Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage, or continuation coverage ends. An exception to the requirement to be vested in and eligible to retire under a Washington state-sponsored retirement plan is provided in (a) of this subsection. To satisfy the requirement to immediately begin to receive a monthly retirement plan payment as described in (b) of this subsection, the school employee must begin receiving a monthly retirement plan payment no later than the first month following the school employee's own employer-paid coverage, COBRA coverage, or continuation coverage ending.

A retiring school employee of an employer group participating in SEBB insurance coverage under contractual agreement with the authority must be eligible to retire as described in (a) or (b) of this subsection to be eligible to continue PEBB retiree insurance coverage.

(a) A retiring school employee who is eligible to retire under a retirement plan sponsored by an employer group that is not a Washington state-sponsored retirement plan must meet the same age and years of service requirements as if they were a member of teachers retirement system Plan 1, if their date of hire with that employer group was before October 1, 1977, or Plan 2, if their date of hire with that employer group was on or after October 1, 1977.

(b) A retiring school employee who is eligible to retire under a Washington state-sponsored retirement plan must immediately begin to receive a monthly retirement plan payment, with the exceptions described in WAC 182-12-171 (2) (d) (ii).

(5) Eligible school employees of an employer group who participate in SEBB life insurance as a school employee and meet the qualifications for PEBB retiree insurance coverage provided in this section are eligible for retiree term life insurance and may enroll as described in WAC 182-12-209.

(6) A school employee of an employer group who is determined to be retroactively eligible for disability retirement is eligible to enroll or defer enrollment in PEBB retiree insurance coverage as described in WAC 182-12-211. The exceptions to the requirement to immediately begin to receive a monthly pension benefit as described in WAC 182-12-211 (1) (c) (i) include a school employee of an employer group.

(7) The survivor of an eligible school employee of an employer group is eligible to enroll or defer enrollment in PEBB retiree insurance coverage as described in WAC 182-12-265(3).

(8) Once enrolled in PEBB retiree insurance coverage, retirees and their dependents are subject to all applicable rules in chapters 182-08, 182-12, and 182-16 WAC.

(9) A retired school employee of an employer group that ends participation in SEBB insurance coverage is no longer eligible to continue enrollment in PEBB retiree insurance coverage. Any retiree who loses eligibility for this reason may continue health plan enrollment as described in WAC 182-12-5120.

[ ]

#### NEW SECTION

**WAC 182-12-5120 What options for continuing health plan enrollment are available to a retiree of an employer group that ends participation in public employees benefits board (PEBB) or school employees benefits board (SEBB) insurance coverage?** (1) The following definitions apply to this section only:

(a) "School employee" means an employee of an employee organization representing school employees and an employee of a tribal school as defined in RCW 28A.715.010.

(b) "Subscriber" means the retired employee or the retired school employee as described in subsection (3) of this section who is requesting enrollment in public employees benefits board (PEBB) health plan coverage.

(2) A retired employee or a retired school employee of an employer group as defined in RCW 41.05.011 (9) (a) and (b), except a Washington state educational service district, that ends participation in PEBB or school employees benefits board (SEBB) insurance coverage, is no longer eligible to continue enrollment in PEBB retiree insurance coverage if they enrolled after September 15, 1991.

(3) A retired employee or a retired school employee who loses eligibility for PEBB retiree insurance coverage as described in subsection (2) of this section, may continue PEBB health plan coverage as follows:

(a) The subscriber may elect to enroll in PEBB medical, dental, or both by self-paying the premium and applicable premium surcharges set by the health care authority (HCA). The subscriber enrolled under this section is not eligible for any subsidy provided under RCW 41.05.085.

(b) The subscriber must submit the required forms to the PEBB program and they must be received no later than 60 days after the employer group ends their participation.

(i) The subscriber may enroll eligible dependents as described in WAC 182-12-260 and must include the dependent's enrollment information on the required forms.

(ii) If the subscriber elects to enroll a dependent in PEBB health plan coverage, the dependent will be enrolled in the same PEBB medical and PEBB dental plans as the subscriber.

**Exception:** If the subscriber selects a medicare supplement plan or medicare advantage prescription-drug (MA-PD) plan, nonmedicare enrollees will be enrolled in the Uniform Medical Plan (UMP) Classic. If the subscriber selects any other medicare plan, they must also select a nonmedicare plan with the same contracted vendor available to nonmedicare enrollees.

(iii) The subscriber's account may incur a premium surcharge in addition to their monthly medical premium and the subscriber must attest as described in WAC 182-08-185 (1) and (2). A premium surcharge will be applied to a subscriber who does not attest. If the subscriber's attestation results in a premium surcharge, it will take effect the same date as PEBB medical begins.

(c) The effective date of enrollment in PEBB health plan coverage will be the first day of the month following the day the subscriber loses eligibility for PEBB retiree insurance coverage.

**Note:** Enrollment in the PEBB program's medicare advantage (MA) or MA-PD plan may not be retroactive. If a subscriber elects to enroll in a MA plan, and the required forms are received by the PEBB program after the date the PEBB health plan coverage is to begin, the subscriber and their enrolled dependents will be enrolled in a plan with the same contracted vendor during the gap month(s) prior to when MA coverage begins. If a subscriber elects to enroll in a MA-PD plan, and the required forms are received by the PEBB program after the date the PEBB health plan coverage is to begin, the subscriber and their enrolled dependents will be enrolled in the UMP Classic during the gap month(s) prior to when the MA-PD coverage begins.

(d) The subscriber's first premium payment and applicable premium surcharges are due to HCA no later than 45 days after the election period ends as described in (b) of this subsection. Following the first premium payment, premiums and applicable premium surcharges must be paid as premiums become due. If the subscriber's monthly premium and applicable premium surcharges remain unpaid for 60 days from the original due date, the subscriber's PEBB insurance coverage will be terminated retroactive to the last day of the month for which the monthly premium and applicable premium surcharges were paid as described in WAC 182-08-180 (1) (c).

**Exception:** For a subscriber enrolled in a MA or a MA-PD plan, a notice will be sent to them notifying them that they are delinquent on their monthly premiums and that the enrollment will be terminated prospectively to the end of the month after the notice is sent.

**Note:** An employer group as defined in RCW 41.05.011 (9)(a) and (b) that enters into a contractual agreement with the authority on or after May 4, 2023, and whose contractual agreement is subsequently terminated, shall make a one-time payment to the authority for each of the employer group's retired employees or retired school employees who continue participation under this section as described in RCW 41.05.083.

(e) PEBB health plan coverage may continue unless the subscriber requests to terminate enrollment as described in subsection (5) of

this section, or premiums and applicable premium surcharges are no longer paid as described in (d) of this subsection. If PEBB health plan coverage is terminated for these reasons, the subscriber and their enrolled dependents will not be eligible to reenroll under this section.

**Note:** The eligibility described in this subsection regarding continuing health plan enrollment when an employer group ends participation, replaces the eligibility described in WAC 182-08-245(7), 182-12-146(3), and 182-12-171 (2)(c)(iii) and (iv).

(4) The subscriber enrolled under this section may make enrollment changes on the same terms and conditions as a continuation coverage subscriber as described in WAC 182-08-185, 182-08-196, 182-08-198, and 182-12-262.

(5) The subscriber enrolled under this section who requests to voluntarily terminate their PEBB health plan coverage must do so in writing. PEBB health plan coverage will end on the last day of the month in which the PEBB program receives the termination request or on the last day of the month specified in the subscriber's termination request, whichever is later. If the termination request is received on the first day of the month, PEBB health plan coverage will end on the last day of the previous month.

**Exception:** When a subscriber or their dependent is enrolled in a MA or MA-PD plan, then enrollment in PEBB health plan coverage will terminate on the last day of the month when the MA plan disenrollment form is received.

(6) The subscriber must update their address with the PEBB program as described in WAC 182-08-191.

(7) The subscriber is limited to one enrollment per individual in PEBB health plan coverage as described in WAC 182-12-123.

(8) The requirements in WAC 182-12-263 about National Medical Support Notice apply.

(9) The subscriber may receive the PEBB wellness incentive as described in WAC 182-12-300.

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**WSR 23-20-031**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-212—Filed September 25, 2023, 5:09 p.m., effective September 27, 2023]

Effective Date of Rule: September 27, 2023.

Purpose: The purpose of this emergency rule is to close recreational fishing in the Stillaguamish River and its forks.

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

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

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

Reasons for this Finding: Preliminary monitoring data indicate the Stillaguamish River sport fisheries are close to their allowable Chinook encounters and are in danger of exceeding the allowable total should these fisheries continue.

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 Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: September 25, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-04000U Freshwater exceptions to statewide rules—Puget Sound.** Effective September 27, 2023, until further notice, fishing seasons within the Stillaguamish River and its forks shall be closed in locations listed and described herein. All other provisions of WAC 220-312-040, not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

(1) **Stillaguamish River (Snohomish County)**; from the mouth, including all sloughs downstream of Marine Drive (south of Stanwood) upstream to forks.

(2) **Stillaguamish River, North Fork (Snohomish County)**; from mouth to North Fork Falls.

**(3) Stillaguamish River, South Fork (Snohomish County);** from mouth upstream (including upstream of Granite Falls.)

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**WSR 23-20-034**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-213—Filed September 26, 2023, 2:42 p.m., effective October 1, 2023]

Effective Date of Rule: October 1, 2023.

Purpose: The purpose of this emergency rule is to return Quillayute system fisheries to permanent rules.

Citation of Rules Affected by this Order: Repealing WAC 220-312-02000D.

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

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

Reasons for this Finding: This rule is needed to return recreational fishing rules in the Quillayute River system to permanent rules.

Low hatchery rack returns of spring/summer Chinook to the Sol Duc Hatchery prompted a fishing closure July 15. As of September 21, the hatchery has reached approximately 70 percent of the Chinook broodstock goal. Broodstock collection is now sufficient to allow for fall fishing opportunities listed in 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 Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: September 26, 2023.

Kelly Susewind  
Director

REPEALER

The following section of the Washington Administrative Code is repealed, effective October 1, 2023:

WAC 220-312-02000D Freshwater exceptions to statewide rules—Coast. (23-121)

## WSR 23-20-035

## EMERGENCY RULES

## BUILDING CODE COUNCIL

[Filed September 26, 2023, 2:49 p.m., effective October 29, 2023]

Effective Date of Rule: October 29, 2023.

Purpose: To add a new standard in WAC 51-54A-8000 and provide additional guidance on the installation of energy storage systems by adding a new amendment to WAC 51-54A-1201. An additional emergency filing is required to extend the effectiveness of the emergency rule while the state building code council (SBCC) continues work on a permanent rule filing.

Citation of Rules Affected by this Order: New WAC 51-54A-1201; and amending WAC 51-54A-8000.

Statutory Authority for Adoption: RCW 19.27.031.

Other Authority: RCW 19.27.074.

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

Reasons for this Finding: Energy storage systems is an industry that is emerging very quickly and there are many associated life and safety hazards to the installation of these systems. The 2018 International Fire Code (IFC) does not have enough language to address these hazards. This proposal permits the authority having jurisdictions to use NFPA 855 as a referenced document, per Section 102.7. The standard will be part of the 2028 IFC as a state amendment until the newly adopted appropriate code sections in the 2021 IFC become effective.

SBCC adopted the permanent rules for these systems at SBCC meeting on September 15, 2023. The 2021 IFC was originally scheduled to go into effect July 1, 2023, but was delayed until October 29, 2023. On September 15, 2023, SBCC agreed on another delay; the new effective date for all building codes is March 15, 2024. The emergency rule was extended once to align with the October 29 effective date, and now it needs to be extended again two more times to be effective until March 15, 2024.

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 Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: September 15, 2023.

Tony Doan  
Council Chair

OTS-3419.4

NEW SECTION

**WAC 51-54A-1201 General. 1201.1 Scope.** The provisions of this chapter shall apply to the installation, operation, and maintenance of energy systems used for generating or storing energy. It shall not apply to equipment associated with the generation, control, transformation, transmission, or distribution of energy installations that is under the exclusive control of an electric utility or lawfully designated agency. Energy storage systems regulated by Section 1206 shall comply with this chapter as applicable and NFPA 855.

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AMENDATORY SECTION (Amending WSR 19-02-086, filed 1/2/19, effective 7/1/19)

**WAC 51-54A-8000 Referenced standards.**

The following standards are added:

NFPA 96-07 Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations . . . . .	609.3
NFPA 720-15 Standard for the Installation of Carbon Monoxide (CO) Warning Equipment in Dwelling Units . . . . .	1103.9
NFPA 130-17 Standard for Fixed Guideway Transit and Passenger Rail Systems . . . . .	3901.1
<u>NFPA 855-23 Standard for the Installation of Stationary Energy Storage Systems . . . . .</u>	<u>1201.1</u>

[Statutory Authority: RCW 19.27.031, 19.27.074 and chapter 19.27 RCW. WSR 19-02-086, § 51-54A-8000, filed 1/2/19, effective 7/1/19. Statutory Authority: RCW 19.27.031 and 19.27.074. WSR 16-03-055, § 51-54A-8000, filed 1/16/16, effective 7/1/16. Statutory Authority: RCW 19.27A.031, 19.27.074 and chapters 19.27 and 34.05 RCW. WSR 13-04-063, § 51-54A-8000, filed 2/1/13, effective 7/1/13.]

**WSR 23-20-036**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-215—Filed September 26, 2023, 4:35 p.m., effective October 2, 2023]

Effective Date of Rule: October 2, 2023.

Purpose: Opens commercial harvest of green sea urchins in Districts 1, 3, 4, 6, and 7 with a weekly trip limit of 1500 pounds/license.

Citation of Rules Affected by this Order: 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 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 listed sea urchin districts on October 2 to harvest of green sea urchins with a weekly trip limit of 1500 pounds/license. 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 Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: September 26, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-340-75000X Commercial sea urchin fishery.** Effective October 2, 2023, until further notice, the provisions of WAC 220-340-750 regarding commercial harvest of sea urchins shall be modified as described below. All other provisions of WAC 220-340-750 not addressed herein remain in effect unless otherwise amended by emergency rule:

(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 green sea urchin harvest only, seven days-per-week: Sea Urchin District 1, District 3, District 4, District 6, and District 7.

(3) The maximum cumulative landings for green sea urchins for each weekly fishery opening period is 1,500 pounds per valid designated sea urchin harvest license.

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WSR 23-20-037
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-214—Filed September 26, 2023, 4:41 p.m., effective September 29, 2023]

Effective Date of Rule: September 29, 2023.

Purpose: Opens recreational razor clam season.

Citation of Rules Affected by this Order: Repealing WAC 220-330-16000C; 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: Survey results show that adequate clams are available for harvest in Razor Clam Areas 1, 3, and 4 for recreational harvest. Washington department of health has certified clams from these Razor Clam Areas 1, 3, and 4 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 Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: September 26, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-330-16000C 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. September 29 through 11:59 p.m. October 2, 2023, razor clam digging is permissible in Razor Clam Areas defined in WAC 220-330-160 during morning tides on dates and times listed below:

Table with 3 columns: Razor Clam Area, Date, Time. Row 1: Area 1, September 29 through October 2, From 12:01 p.m. to 11:59 p.m. Row 2: Area 2, Closed, Closed

Razor Clam Area	Date	Time
Area 3	September 29 through October 2	From 12:01 p.m. to 11:59 p.m.
Area 4	September 30 and October 2	From 12:01 p.m. to 11:59 p.m.
Area 5	Closed	Closed
Area 6	Closed	Closed
Area 7	Closed	Closed

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

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REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. October 3, 2023:

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

**WSR 23-20-045**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-216—Filed September 28, 2023, 7:51 a.m., effective September 28, 2023, 7:51 a.m.]

Effective Date of Rule: Immediately upon filing.

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

Citation of Rules Affected by this Order: Repealing WAC 220-358-03000Y; and amending WAC 220-358-030.

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

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* Management Agreement (February 26, 2018) (Doc. No. 2607-1). *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River Compact).

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

Reasons for this Finding: This rule extends the late fall nontreaty commercial gill net season upstream of the Lewis River confluence (Zone 4-5). Current in-season catch and stock composition projections indicate sufficient Chinook ESA-impacts remain available for nontreaty commercial fisheries. This fishery is consistent with the 2023 nontreaty fall fisheries plan that was developed in conjunction with the annual North of Falcon management process. The fishery is also consistent with the *U.S. v. Oregon* Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with compact action of July 18, September 7, September 13, September 20, and September 27, 2023. This harvest opportunity allows for public access to the resource as well as the maintenance of sustainable fish populations. There is insufficient time to promulgate permanent rules.

Washington and Oregon jointly regulate Columbia River fisheries under the congressionally ratified Columbia River Compact. Four Indian tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the tribes an opportunity to take a fair share of the available fish, and the states must manage other fisheries accordingly. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* Management Agreement (February 26, 2018) (Doc. No. 2607-1). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under ESA. On February 23, 2018, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these



species in the fisheries as described in the 2018-2027 *U.S. v. Oregon* Management Agreement.

Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under ESA. The Washington and Oregon fish and wildlife commissions have developed policies to guide the implementation of such biological opinions in the states' regulation of nontreaty fisheries.

Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, ESA, and commission guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached.

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

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

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

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

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

Date Adopted: September 27, 2023.

Amy H. Windrope  
for Kelly Susewind  
Director

NEW SECTION

**WAC 220-358-03000Z Columbia River seasons below Bonneville.**

Notwithstanding the provisions of WAC 220-358-030, WAC 220-358-040, and WAC 220-335-050, it is unlawful for a person to take or possess salmon, sturgeon, and shad for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, 1E and Select Areas, except during the times and conditions listed below:

**(1) Mainstem:**

(a) **Area:** SMCRA 1A, 1B, and 1C. Upper deadline defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation Buoy #1 and continuing to the Washington shore. Sanctuaries include Elokomina-A, Cowlitz River, Kalama-A and Lewis-A.

(i)

Open Dates	Open Days	Open Time	Open Duration
Immediately - October 27	Fridays	4:00 am - 6:00 pm	14 hrs
Immediately - October 26	Mondays, Tuesdays, Wednesdays, Thursdays	4:00 am - 10:00 pm	18 hrs

(ii) **Gear:** Drift nets only. Maximum mesh size is 3.75 inches. Un-slackened, single-wall, multi-filament floater nets only. Monofilament nets are not allowed. Net length not to exceed 150 fathoms. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net. There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline. The use of slackers or stringers to slacken the net vertically is prohibited. Rip lines are allowed providing they do not vertically slacken the net.

(iii) **Allowable Sales:** Salmon (except chum), and shad; all coho must be adipose fin-clipped.

(iv) **Soak times,** defined as the time elapsed from when the first of the net web is deployed into the water until the web is fully retrieved from the water, must not exceed 30 minutes.

(v) **Recovery Box:** Each boat will be required to have on board two operable recovery boxes or one box with two chambers that meet the flow and size requirements standard for the winter/spring season. Each box and chamber and associated pump shall be operating during any time that the net is being retrieved or picked. All non-legal fish must be released immediately unharmed to the river or placed into an operating recovery box. All non-legal salmon and all steelhead that are bleeding, lethargic or appear lifeless must be placed in the recovery box prior to being released. All fish placed in recovery boxes must be released to the river prior to landing or docking.

(vi) **Measuring mesh size:** Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one knot to the inside of the opposite knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact.

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

(viii) **Multiple net rule:** Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater (WAC 220-358-030(2)).

(ix) **Lighted Buoys:** Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(x) **24-hour** quick reporting required is for Washington wholesale dealers, per WAC 220-352-315. Oregon buyers are required to electronically submit fish receiving tickets pursuant to OAR 635-006-0210. Electronic fish tickets must be submitted within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours.

(b) **Area:** SMCRA 1D, 1E. The deadline at the lower end of 1D is defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation Buoy #1 and

continuing to the Washington shore. Sanctuaries: Washougal and Sandy Rivers

(i)

Open Dates	Open Days	Open Time	Open Duration
September 28 - September 29	Thursday (night)	7 pm - 7 am	12 hrs
October 1 - October 19	Wednesday, Sunday (night)	7 pm - 7 am	12 hrs

(ii) **Gear:** Drift gillnets only. 8-inch minimum mesh size restriction. Multiple net rule is in effect. Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

(iii) **Allowable Sales:** Salmon (except Chum) and shad.

(iv) **Multiple net rule:** Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater (WAC 220-358-030(2)).

(v) **Lighted Buoys:** Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(vi) **24-hour** quick reporting required is for Washington wholesale dealers, per WAC 220-352-315. Oregon buyers are required to electronically submit fish receiving tickets pursuant to OAR 635-006-0210. Electronic fish tickets must be submitted within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours.

**(2) Tongue Point/South Channel Select Area:**

(a) **Area:**

(i) The Tongue Point Select Area is defined as waters of the Columbia River bounded by a line from a regulatory marker on the eastern shore of Tongue Point (midway between the red USCG light "2" at the tip of Tongue Point and the northern-most pier (#8) at the Tongue Point Job Corps facility) to the flashing green USCG light "3" on the rock jetty at the northwest tip of Mott Island, a line from a regulatory marker at the southeast end of Mott Island northeasterly to a regulatory marker on the northwest shore of Lois Island, and a line from a regulatory marker located on the Oregon shore approximately 300 yards northwest of the railroad bridge crossing the John Day River projecting easterly to a regulatory marker on the southwest shore of Lois Island:

(A) If the marker on the eastern shore of Tongue Point is not in place, the downstream boundary is defined by a line projecting from a point (46°12'31.1"N latitude 123°45'34.0"W longitude) on the eastern shore of Tongue Point to the flashing green USCG light "3" on the rock jetty at the northwest tip of Mott Island.

(B) If the marker on the Oregon shore is not in place, the upstream boundary is defined by a line projecting from a point (46°10'57.7"N latitude 123°44'35.3"W longitude) on the Oregon shore approximately 300 yards northwest of the railroad bridge crossing the John Day River projecting easterly to a regulatory marker on Lois Island.

(ii) The South Channel Area is defined as waters of the Columbia River bounded by a line from a regulatory marker on the Oregon shore at John Day Point projecting northeasterly to a regulatory marker on the southwest shore of Lois Island, and a line from a regulatory marker on Settler Point projecting northwesterly to the flashing red USCG light "10" then projecting westerly to the eastern tip of Burnside Island.

(b)

Open Dates	Open Days	Open Time	Open Duration
Immediately - October 31	Monday, Tuesday, Wednesday, Thursday (night)	4:00 pm - 10:00 am	18 hrs

(c) **Gear:** Gillnets with a 6-inch maximum mesh size restriction. Maximum net length of 250 fathoms. In the Tongue Point Select Area, the lead line weight may not exceed two pounds per any one fathom; however, unstored gillnets legal for use in South Channel may be on-board.

In the South Channel Select Area, there is no lead line weight limit and attachment of additional weight and anchors directly to the lead line is permitted. Nets not specifically authorized for use may be onboard a vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Nets fished any time between official sunset and official sunrise must have lighted buoys on both ends of the net. If the net is attached to the boat, then one lighted buoy on the end of the net opposite the boat is required.

(d) **Allowable Sales:** Salmon (except Chum) and shad.

(e) **Multiple net rule:** Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater (WAC 220-358-030(2)).

(f) **Lighted Buoys:** Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(g) **24-hour** quick reporting required is for Washington wholesale dealers, per WAC 220-352-315. Oregon buyers are required to electronically submit fish receiving tickets pursuant to OAR 635-006-0210. Electronic fish tickets must be submitted within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours.

**(3) Blind Slough/Knappa Slough Select Area:**

(a) **Area:** The Blind Slough Select Area is defined as waters of Blind Slough and Gnat Creek from a north-south line represented by regulatory markers at the mouth of Blind Slough upstream to a regulatory marker in Gnat Creek located approximately 0.5 miles southeasterly (upstream) of the Barendse Road Bridge. The Knappa Slough Select Area is defined as waters of Knappa Slough, Calendar Slough, and Big Creek Slough bounded to the north (upstream) by a line projecting from a regulatory marker on the eastern shore of Karlson Island to the northernmost regulatory marker at the mouth of Blind Slough and bounded to the west (downstream) by a line projecting southerly from a

regulatory marker on the southwestern tip of Karlson Island through regulatory markers on the western tips of Minaker Island to a marker on the Oregon shore. The waters of Knappa Slough within a 100-foot radius of the railroad bridge crossing Big Creek are closed.

(b)

Open Dates	Open Days	Open Time	Open Duration
Immediately - October 31	Monday, Tuesday, Wednesday, Thursday (night)	6:00 pm - 10:00 am	16 hrs

(c) **Gear:** Gillnets with a 6-inch maximum mesh size restriction. Maximum net length is 100 fathoms. There is no lead line weight limit and attachment of additional weight and anchors directly to the lead line is permitted.

Nets not specifically authorized for use may be onboard a vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Nets fished any time between official sunset and official sunrise must have lighted buoys on both ends of the net. If the net is attached to the boat, then one lighted buoy on the end of the net opposite the boat is required.

(c) **Allowable Sales:** Salmon (except Chum) and shad.

(d) **Multiple net rule:** Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater (WAC 220-358-030(2)).

(e) **Lighted Buoys:** Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(f) **24-hour** quick reporting required is for Washington wholesale dealers, per WAC 220-352-315. Oregon buyers are required to electronically submit fish receiving tickets pursuant to OAR 635-006-0210. Electronic fish tickets must be submitted within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours.

**(4) Deep River Select Area:**

(a) **Area:** The Deep River fishing area includes all waters from West Deep River Road Bridge at the town of Deep River downstream to the mouth defined by a line from USCG navigation marker #16 southwest to a marker on the Washington shore.

(b)

Open Dates	Open Days	Open Time	Open Duration
Immediately - October 13	Monday, Tuesday, Wednesday, Thursday (night)	6:00 pm - 9:00 am	15 hrs
October 16 - October 26	Monday, Wednesday (night)	6:00 pm - 9:00 am	15 hrs

(c) **Gear:** Gillnets with a maximum mesh size restriction of 6-inches. Maximum net length is 100 fathoms. No weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed. No nets can be tied off to stationary structures. Nets may not fully cross the navigation channel. It is unlawful to operate in any river, stream or channel any gillnet gear longer

than three-fourths the width of the river, stream, or channel. "River, stream, or channel width" is defined as bank-to-bank, where the water meets the banks, regardless of the time of tide or the water level. This emergency provision shall supersede the permanent regulation and all other regulations that conflict with it. Nets not specifically authorized for use may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Nets fished any time between official sunset and official sunrise must have lighted\_buoys on both ends of the net. If the net is attached to the boat, then one lighted buoy on the end of the net opposite the boat is required.

(d) **Allowable Sales:** Salmon (except Chum) and shad.

(g) **Multiple net rule:** Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater (WAC 220-358-030(2)).

(h) **Lighted Buoys:** Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(i) **24-hour** quick reporting required is for Washington wholesale dealers, per WAC 220-352-315. Oregon buyers are required to electronically submit fish receiving tickets pursuant to OAR 635-006-0210. Electronic fish tickets must be submitted within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours.

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

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

#### REPEALER

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

WAC 220-358-03000Y Columbia River seasons below  
Bonnevillle. (23-207)

## WSR 23-20-055

## EMERGENCY RULES

## DEPARTMENT OF HEALTH

[Filed September 28, 2023, 2:04 p.m., effective October 1, 2023]

Effective Date of Rule: October 1, 2023.

Purpose: Establishing a directory to help mental health counselor, marriage and family therapist, and social worker associates find supervisors and setting supervision standards.

Establishing new WAC 246-809-020, 246-809-070, 246-809-071, and 246-809-072 in chapter 246-809 WAC, Licensure for Mental health counselors, marriage and family therapists, and social workers. The department of health (department) is implementing section 7 of 2SHB 1724 (chapter 425, Laws of 2023) by emergency rule.

These emergency rules: (1) Establish a new program to facilitate placement of associates with qualified supervisors (referred to as the "directory"), (2) set requirements for individual providers and facilities to be listed in the directory, and (3) set minimum standards for supervision of associates.

The department is establishing the directory and supervision standards by emergency rule to meet the October 1, 2023, deadline set by 2SHB 1724. The department will refine the directory and supervision standards through the permanent rule-making process.

Citation of Rules Affected by this Order: New WAC 246-809-020, 246-809-070, 246-809-071, and 246-809-072.

Statutory Authority for Adoption: 2SHB 1724 (chapter 425, Laws of 2023).

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 support the Washington state behavioral health workforce, which is increasingly strained. By establishing the directory and supervision standards through emergency rule, the department will facilitate associates finding supervisors that can support their professional development, completing supervised experience requirements, and becoming licensed as independent providers.

Additionally, the statutory authority for the directory was designated by the legislature as necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions. Pursuant to Section 33 of 2SHB 1724, the department is implementing the directory immediately.

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 Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: September 28, 2023.

Kristin Peterson, JD  
Chief of Policy  
for Umair A. Shah, MD, MPH  
Secretary

#### OTS-4907.4

#### NEW SECTION

**WAC 246-809-020 Mental health counselor, marriage and family therapist, and social worker supervision standards.** (1) For any mental health counselor, marriage and family therapist, or social worker licensure candidate (licensure candidate), supervision must include:

- (a) Clearly communicating the nature of the supervisory relationship to the public, other professionals, and all clients served, consistent with the requirements of WAC 246-809-710(2);
- (b) Regular supervision, including meeting at least one hour for every 80 hours of the licensure candidate's clinical practice time; and
- (c) Discussing the following topics:
  - (i) Services provided by the licensure candidate;
  - (ii) Caseload and treatment plans of the licensure candidate;
  - (iii) Theory and practice of the work being conducted;
  - (iv) Relevant Washington laws and rules;
  - (v) Standards of practice;
  - (vi) Coordination of work with other professionals and parties; and
  - (vii) Relevant professional literature and research.

(2) The supervisor must:

- (a) Qualify as an approved supervisor or equally qualified licensed mental health practitioner under this chapter and, in the event they no longer qualify, immediately notify licensure candidates under their supervision;
- (b) Have expertise and knowledge necessary to directly supervise the licensure candidate's work;
- (c) Assure that the licensure candidate has sufficient and appropriate education, background, and preparation for the work they will be doing;
- (d) Provide sufficient training and supervision to the licensure candidate to assure the health and safety of clients;
- (e) Maintain documentation of work done and supervision provided; and
- (f) Provide accurate and objective letters of reference or other documentation of the licensure candidate's work at the licensure candidate's request.

(3) A licensure candidate must:

- (a) Confirm that a potential supervisor meets the approved supervisor requirements for the licensure candidate's intended profession;



(b) Maintain documentation of work done and supervision provided; and

(c) Periodically submit to the department documentation of supervision hours completed.

(4) A candidate seeking licensure as a licensed marriage and family therapist or licensed social worker must ensure that any supervision hours under a licensed mental health counselor or other equally qualified licensed mental health practitioner comply with the requirements in WAC 246-809-130 or 246-809-330, as applicable.

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#### NEW SECTION

**WAC 246-809-070 Licensed counselor supervisor directory.** (1) Effective October 1, 2023, the licensed counselor supervisor directory (directory) is established.

(2) The purpose of the directory is to facilitate placement of associates seeking supervisors with eligible providers or facilities for postgraduate supervision as required by WAC 246-809-130, 246-809-230, and 246-809-330.

(3) The directory shall not be made available for any commercial purpose consistent with RCW 42.56.070(8).

(4) A provider or facility shall be removed from the directory:

(a) When a department audit shows the provider or facility no longer meets directory requirements as established in WAC 246-809-071 or 246-809-072;

(b) Upon the request of the provider or facility; or

(c) For other good cause as determined by the department.

(5) Participation in the directory is not required to be a supervisor under WAC 246-809-134, 246-809-234, or 246-809-334.

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#### NEW SECTION

**WAC 246-809-071 Individual licensed counselor supervisor directory application.** To be listed in the licensed counselor supervisor directory, an individual provider shall:

(1) Hold a license or retired active license that permits treatment of individuals in the state of Washington without restrictions, in an eligible profession, including:

(a) Mental health counselor, marriage and family therapist, or social worker under chapter 18.225 RCW;

(b) Psychologist under chapter 18.83 RCW;

(c) Physician practicing as a psychiatrist under chapter 18.71 RCW; or

(d) Psychiatric nurse practitioner under chapter 18.79 RCW.

(2) Submit a completed application on forms provided by the department;

(3) Submit verification of meeting the following education requirements:

- (a) A minimum of 15 clock hours of training in clinical supervision obtained through:
- (i) A supervision course;
  - (ii) Continuing education credits on supervision;
  - (iii) Supervision of supervision; or
  - (iv) Any combination of these; and
- (b) Twenty-five hours of experience in supervision of clinical practice; and
- (4) Meet any other qualifications as required by law.

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NEW SECTION

**WAC 246-809-072 Facility licensed counselor supervisor directory application.** To apply to be listed in the licensed counselor supervisor directory, a facility or agency must:

- (1) Provide mental health, substance use disorder, or co-occurring disorder services to persons with a behavioral health disorder;
- (2) Operate under the authority of one or more of the following:
  - (a) Washington state departments and agencies listed in the government agency directory available on the state of Washington website;
  - (b) Federally recognized Indian tribes located within the state;
  - (c) Counties as listed in chapter 36.04 RCW;
  - (d) Community and technical colleges governed by the Washington state board for community and technical colleges;
  - (e) Colleges and universities governed by the Washington state higher education coordinating board;
  - (f) Hospitals licensed under chapter 70.41 RCW;
  - (g) Home health care agencies, home care agencies, and hospice care agencies licensed under chapter 70.127 RCW;
  - (h) Agencies and facilities licensed or certified under chapter 71.05 or 71.24 RCW; or
  - (i) Psychiatric hospitals, residential treatment facilities, and hospitals licensed under chapter 71.12 RCW;
- (3) Submit a completed application on forms provided by the department; and
- (4) Submit verification that at least one individual responsible for providing supervision to associates at the facility meets requirements in WAC 246-809-071.

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**WSR 23-20-059**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-219—Filed September 28, 2023, 3:16 p.m., effective October 1, 2023]

Effective Date of Rule: October 1, 2023.

Purpose: The purpose of this emergency rule is to open Puget Sound recreational crab winter seasons.

Citation of Rules Affected by this Order: Repealing WAC 220-330-04000M; 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 opens recreational crab harvest in many areas of Puget Sound for winter seasons. This opens the marine areas listed to achieve the 50/50 harvest defined by the federal court order. Marine Area 12 south of a line projected due east from Ayock Point and Marine Areas 10, 11, and 13 will remain closed until further notice. 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 Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: September 28, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-330-04000M Crab—Areas and seasons—Personal use.** Notwithstanding the provisions of WAC 220-330-040, effective immediately through December 31, 2023, 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:

(1) **Marine areas 4 east of the Bonilla-Tatoosh line, 5, 6, 8-1, 8-2, and 9:** Effective 12:01 a.m. October 1, through 11:59 p.m. Decem-

ber 31, 2023, it is permissible to fish for crab for personal use seven days a week.

(2) **Those waters of Marine Area 7 south** and west of a line projected from Village Point, Lummi Island, through the navigation buoy just east of Matia Island, thence to the buoy at Clements Reef, thence to the easternmost point of Patos Island, thence running along the northern shore of Patos Island to the westernmost point of Patos Island, thence true west to the international boundary and south of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island: Effective 12:01 a.m. October 1, 2023, through 11:59 p.m. December 31, 2023, it is permissible to fish for crab for personal use seven days a week.

(3) **Those waters of Marine Area 7 north** and east of a line projected from Village Point, Lummi Island through the navigation buoy just east of Matia Island thence to the buoy at Clements Reef thence to the easternmost point of Patos Island, running along the northern shoreline of Patos Island and from the westernmost point of Patos Island true west to the international boundary and north of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island: Effective 12:01 a.m. October 1, 2023, through 11:59 p.m. December 31, 2023, it is permissible to fish for crab for personal use seven days a week.

(4) **The portion of Marine Area 12 north of a line projected due east from Ayock Point:** Effective October 1, 2023, through 11:59 p.m. December 31, 2023, it is permissible to fish for crab for personal use seven days a week.

(5) **Marine Area 10:** Closed until further notice.

(6) **Marine Area 11:** Closed until further notice.

(7) **The portion of Marine Area 12 south of a line projected due east from Ayock Point:** Closed until further notice.

(8) **Marine Area 13:** Closed until further notice.

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#### REPEALER

The following section of the Washington Administrative Code is repealed effective January 1, 2024:

WAC 220-330-04000M Crab—Areas and seasons—Personal use.  
(23-219)

WSR 23-20-061  
EMERGENCY RULES  
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed September 28, 2023, 3:31 p.m., effective October 1, 2023]

Effective Date of Rule: October 1, 2023.

Purpose: The department is adopting emergency amendments to WAC 388-450-0185 What income deductions does the department allow when determining if I am eligible for food benefits and the amount of my monthly benefits?, 388-450-0190 How does the department figure my shelter cost income deduction for basic food?, 388-450-0195 Does the department use my utility costs when calculating my basic food or WASHCAP benefits?, and 388-478-0060 What are the income limits and maximum benefit amounts for basic food? The department is concurrently proceeding with the permanent rule-making process.

Citation of Rules Affected by this Order: Amending WAC 388-450-0185, 388-450-0190, 388-450-0195, and 388-478-0060.

Statutory Authority for Adoption: RCW 74.04.050 and 74.08.090.

Other Authority: New standards issued by United States Department of Agriculture (USDA), Food and Nutrition Service (FNS).

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: USDA's FNS has issued annual updates to standards for the upcoming federal fiscal year, effective October 1, 2023. These updates affect the standard deduction, shelter deduction, homeless shelter deduction, utility deduction, and minimum and maximum allotments for the basic food program.

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

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

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

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

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

Date Adopted: September 27, 2023.

Katherine I. Vasquez  
Rules Coordinator

SHS-5001.1

AMENDATORY SECTION (Amending WSR 23-17-065, filed 8/14/23, effective 9/14/23)

**WAC 388-450-0185 What income deductions does the department allow when determining if I am eligible for food benefits and the amount of my monthly benefits?** (1) We determine if your assistance unit (AU) is eligible for basic food and calculate your monthly benefits according to requirements of the Food and Nutrition Act of 2008 and federal regulations related to the supplemental nutrition assistance program (SNAP).

(2) Under these federal laws, we subtract the following amounts from your AU's total monthly income to determine your countable monthly income under WAC 388-450-0162:

(a) A standard deduction based on the number of eligible people in your AU under WAC 388-408-0035:

Eligible AU members	Standard deduction
<del>((4))</del> 3 or fewer	<del>((193))</del> \$198
<del>((5))</del> 4	<del>((225))</del> \$208
5	\$244
6 or more	<del>((258))</del> \$279

(b) 20% of your AU's gross earned income (earned income deduction);

(c) Your AU's expected monthly dependent care expense needed for an AU member to:

(i) Keep work, look for work, or accept work;

(ii) Attend training or education to prepare for employment; or

(iii) Meet employment and training requirements under chapter 388-444 WAC;

(d) Medical expenses over \$35 a month owed or anticipated by an elderly or disabled person in your AU as allowed under WAC 388-450-0200; and

(e) A portion of your shelter costs as described in WAC 388-450-0190.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.010, 74.08A.120, and 74.08A.250. WSR 23-17-065, § 388-450-0185, filed 8/14/23, effective 9/14/23; WSR 23-07-095, § 388-450-0185, filed 3/17/23, effective 4/17/23; WSR 22-09-040, § 388-450-0185, filed 4/13/22, effective 5/14/22. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120 and 7 C.F.R. § 273.9 (a) (3), "USDA, Food and Nutrition Service, SNAP—Fiscal Year 2021 Cost-of-Living Adjustments (July 29, 2020)," and "USDA, Food and Nutrition Service, Standard utility allowance approval letter (August 4, 2020)" and H.R.133 Consolidated Appropriations Act 2021. WSR 21-13-122, § 388-450-0185, filed 6/21/21, effective 7/22/21. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, and P.L. 115-334 § 4004. WSR 20-04-021, § 388-450-0185, filed 1/27/20, effective 2/27/20. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120 and 7 C.F.R. §§ 273.1, 273.9 (d) (iii) (B); SNAP - FY 2019 COLAS dated July 27, 2018; and SNAP UA 2019 dated August 23, 2018. WSR 19-01-031, § 388-450-0185, filed 12/12/18, effective 1/12/19. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, and

74.08A.120, 7 C.F.R. §§ 273.1 and 273.9 (d)(iii)(B), SNAP Administrative Notice 17-30, and SNAP memo dated August 28, 2017. WSR 18-02-043, § 388-450-0185, filed 12/26/17, effective 1/26/18. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120 and SNAP Administrative Notice 16-38, dated August 12, 2016, 7 C.F.R. § 273.9 (d)(iii)(B), SNAP 10-6-WA-SUA, dated August 15, 2016. WSR 16-24-051, § 388-450-0185, filed 12/1/16, effective 1/1/17. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, FNS per SNAP Administrative Notice 15-28: SNAP - FY 2016, FNS 7 C.F.R. § 273.9 (d)(iii)(B)), and SNAP 10-6-WA-SUA dated August 18, 2015. WSR 15-24-075, § 388-450-0185, filed 11/25/15, effective 12/26/15. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120. WSR 15-02-041, § 388-450-0185, filed 1/2/15, effective 2/2/15. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120 and USDA, FNS, per SNAP Administrative Notice 13-26, SNAP - FY 2014 COLAS and ARRA Sunset Impact on Allotments dated August 2, 2013, and USDA SNAP 10-6-WA-SUA dated August 8, 2013, approving the proposed SUA. WSR 14-04-050, § 388-450-0185, filed 1/27/14, effective 2/27/14. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, and Supplemental Nutrition Assistance Program Administrative Notice 12-28 - Fiscal Year 2013 cost-of-living adjustments dated August 6, 2012. WSR 12-24-018, § 388-450-0185, filed 11/27/12, effective 12/28/12. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, "Supplemental Nutrition Assistance Program Fiscal Year 2012 Cost of Living Adjustments" memo dated August 2, 2011, and "SNAP Standard Utility (SUA) Annual Review and Adjustment Waiver for Certain States—Modification and Extension" memo dated December 2, 2010. WSR 11-24-027, § 388-450-0185, filed 12/1/11, effective 1/1/12. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, and 7 C.F.R. 273.9. WSR 10-23-114, § 388-450-0185, filed 11/17/10, effective 12/18/10. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, and 7 U.S.C. 2014 (a) and (e) (1); 7 C.F.R. §§ 273.1 and 273.9 (d) (1). 10-16-104, § 388-450-0185, filed 8/2/10, effective 9/2/10. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, and P.L. 107 - 171 § 4101. WSR 09-23-004, § 388-450-0185, filed 11/5/09, effective 11/15/09. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.08A.120, and Food and Nutrition Act of 2008, Title 7 Part 273 of the C.F.R. WSR 09-07-054, § 388-450-0185, filed 3/11/09, effective 4/11/09. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090. WSR 08-24-051, § 388-450-0185, filed 11/25/08, effective 12/26/08. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510 and 7 C.F.R. § 273.9. WSR 07-22-035, § 388-450-0185, filed 10/30/07, effective 11/30/07. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090 and 7 C.F.R. § 273.9. WSR 06-21-012, § 388-450-0185, filed 10/6/06, effective 11/6/06. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090. WSR 05-21-101, § 388-450-0185, filed 10/18/05, effective 11/18/05. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057. WSR 04-23-025, § 388-450-0185, filed 11/8/04, effective 12/9/04. Statutory Authority: RCW 74.04.050, 74.04.055,

74.04.057, 74.04.510. WSR 03-21-030, § 388-450-0185, filed 10/7/03, effective 12/1/03. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and H.R. 2646 Farm Security and Rural Investment Act of 2002. WSR 02-22-044, § 388-450-0185, filed 10/30/02, effective 12/1/02. Statutory Authority: RCW 74.08.090 and 74.04.510. WSR 99-16-024, § 388-450-0185, filed 7/26/99, effective 9/1/99. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-450-0185, filed 7/31/98, effective 9/1/98.]

AMENDATORY SECTION (Amending WSR 23-07-095, filed 3/17/23, effective 4/17/23)

**WAC 388-450-0190 How does the department figure my shelter cost income deduction for basic food?** The department calculates your shelter cost income deduction for basic food as follows:

(1) First, we add up the amounts your assistance unit (AU) must pay each month for shelter. We do not count any overdue amounts, late fees, penalties, or mortgage payments you make ahead of time as allowable shelter costs. We count the following expenses as an allowable shelter cost in the month the expense is due:

- (a) Monthly rent, lease, and mortgage payments;
- (b) Property taxes;
- (c) Homeowner's association or condo fees;
- (d) Homeowner's insurance for the building only;
- (e) Utility allowance your AU is eligible for under WAC 388-450-0195;
- (f) Out-of-pocket repairs for the home if it was substantially damaged or destroyed due to a natural disaster such as a fire or flood;
- (g) Expense of a temporarily unoccupied home because of employment, training away from the home, illness, or abandonment caused by a natural disaster or casualty loss if your:
  - (i) AU intends to return to the home;
  - (ii) AU has current occupants who are not claiming the shelter costs for basic food purposes; and
  - (iii) AU's home is not being leased or rented during your AU's absence.

(h) A homeless AU with shelter costs is eligible for a homeless shelter expense deduction of (~~(\$166)~~) \$179. If the homeless AU has shelter costs in excess of this amount, the AU has the option to claim either:

- (i) The homeless shelter deduction; or
  - (ii) Actual shelter costs.
- (2) Second, we subtract all deductions your AU is eligible for under WAC 388-450-0185 (2) (a) through (2) (d) from your AU's gross income. The result is your AU's countable income.
- (3) Finally, we subtract one-half of your AU's countable income from your AU's total shelter costs. The result is your excess shelter costs. Your AU's shelter cost deduction is the excess shelter costs:
- (a) Up to a maximum of (~~(\$624)~~) \$672 if no one in your AU is elderly or disabled; or
  - (b) The entire amount if an eligible person in your AU is elderly or disabled, even if the amount is over (~~(\$624)~~) \$672.



[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.010, 74.08A.120, and 74.08A.250. WSR 23-07-095, § 388-450-0190, filed 3/17/23, effective 4/17/23; WSR 22-09-040, § 388-450-0190, filed 4/13/22, effective 5/14/22. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120 and 7 C.F.R. § 273.9 (a) (3), "USDA, Food and Nutrition Service, SNAP—Fiscal Year 2021 Cost-of-Living Adjustments (July 29, 2020)," and "USDA, Food and Nutrition Service, Standard utility allowance approval letter (August 4, 2020)" and H.R.133 Consolidated Appropriations Act 2021. WSR 21-13-122, § 388-450-0190, filed 6/21/21, effective 7/22/21. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, and P.L. 115-334 § 4004. WSR 20-04-021, § 388-450-0190, filed 1/27/20, effective 2/27/20. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120 and 7 C.F.R. §§ 273.1, 273.9 (d) (iii) (B); SNAP - FY 2019 COLAS dated July 27, 2018; and SNAP UA 2019 dated August 23, 2018. WSR 19-01-031, § 388-450-0190, filed 12/12/18, effective 1/12/19. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, and 74.08A.120, 7 C.F.R. §§ 273.1 and 273.9 (d) (iii) (B), SNAP Administrative Notice 17-30, and SNAP memo dated August 28, 2017. WSR 18-02-043, § 388-450-0190, filed 12/26/17, effective 1/26/18. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120 and SNAP Administrative Notice 16-38, dated August 12, 2016, 7 C.F.R. § 273.9 (d) (iii) (B), SNAP 10-6-WA-SUA, dated August 15, 2016. WSR 16-24-051, § 388-450-0190, filed 12/1/16, effective 1/1/17. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, FNS per SNAP Administrative Notice 15-28: SNAP - FY 2016, FNS 7 C.F.R. § 273.9 (d) (iii) (B)), and SNAP 10-6-WA-SUA dated August 18, 2015. WSR 15-24-075, § 388-450-0190, filed 11/25/15, effective 12/26/15. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120. WSR 15-02-041, § 388-450-0190, filed 1/2/15, effective 2/2/15. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120 and USDA, FNS, per SNAP Administrative Notice 13-26, SNAP - FY 2014 COLAS and ARRA Sunset Impact on Allotments dated August 2, 2013, and USDA SNAP 10-6-WA-SUA dated August 8, 2013, approving the proposed SUA. WSR 14-04-050, § 388-450-0190, filed 1/27/14, effective 2/27/14. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and 7 C.F.R. § 273.10. WSR 13-11-103, § 388-450-0190, filed 5/20/13, effective 6/20/13. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, and Supplemental Nutrition Assistance Program Administrative Notice 12-28 - Fiscal Year 2013 cost-of-living adjustments dated August 6, 2012. WSR 12-24-018, § 388-450-0190, filed 11/27/12, effective 12/28/12. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, "Supplemental Nutrition Assistance Program Fiscal Year 2012 Cost of Living Adjustments" memo dated August 2, 2011, and "SNAP Standard Utility (SUA) Annual Review and Adjustment Waiver for Certain States—Modification and Extension" memo dated December 2, 2010. WSR 11-24-027, § 388-450-0190, filed 12/1/11, effective 1/1/12. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057,

74.04.500, 74.04.510, 74.08.090, and 7 C.F.R. 273.9. WSR 10-23-114, § 388-450-0190, filed 11/17/10, effective 12/18/10; WSR 09-24-001, § 388-450-0190, filed 11/18/09, effective 12/19/09. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090. WSR 08-24-050, § 388-450-0190, filed 11/25/08, effective 12/26/08. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510 and 7 C.F.R. § 273.9. WSR 07-22-035, § 388-450-0190, filed 10/30/07, effective 11/30/07. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090 and 7 C.F.R. § 273.9. WSR 06-21-012, § 388-450-0190, filed 10/6/06, effective 11/6/06. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090. WSR 05-21-101, § 388-450-0190, filed 10/18/05, effective 11/18/05. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057. WSR 04-23-025, § 388-450-0190, filed 11/8/04, effective 12/9/04. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510. WSR 04-07-138, § 388-450-0190, filed 3/22/04, effective 5/1/04; WSR 03-21-030, § 388-450-0190, filed 10/7/03, effective 12/1/03. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. WSR 02-22-045, § 388-450-0190, filed 10/30/02, effective 12/1/02. Statutory Authority: RCW 74.04.057, 74.04.500, 74.04.510. WSR 01-21-059, § 388-450-0190, filed 10/16/01, effective 12/1/01. Statutory Authority: RCW 74.08.090 and 74.04.510. WSR 01-06-030, § 388-450-0190, filed 3/2/01, effective 4/2/01; WSR 99-16-024, § 388-450-0190, filed 7/26/99, effective 9/1/99. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-450-0190, filed 7/31/98, effective 9/1/98.]

AMENDATORY SECTION (Amending WSR 23-07-095, filed 3/17/23, effective 4/17/23)

**WAC 388-450-0195 Does the department use my utility costs when calculating my basic food or WASHCAP benefits?** (1) The department uses utility allowances instead of the actual utility costs your assistance unit (AU) pays when we determine your:

(a) Monthly benefits under WAC 388-492-0070 if you receive Washington state combined application project (WASHCAP); or

(b) Shelter cost income deduction under WAC 388-450-0190 for basic food.

(2) We use the following amounts if you have utility costs separate from your rent or mortgage payment:

(a) If your AU has heating or cooling costs or receives more than \$20 in low income home energy assistance program (LIHEAP) benefits each year, you get a standard utility allowance (SUA) of (~~(\$462)~~) \$483.

(b) If your household does not receive a LIHEAP payment and the reason is solely because of your immigration status, you get a SUA of (~~(\$462)~~) \$483.

(c) If your AU does not qualify for the SUA and you have any two utility costs listed in subsection (3) of this section, you get a limited utility allowance (LUA) of (~~(\$365)~~) \$383.

(d) If your AU has only telephone costs and no other utility costs, you get a telephone utility allowance (TUA) of (~~(\$59)~~) \$58.

(3) "Utility costs" include the following:

(a) Heating or cooling fuel;

(b) Electricity or gas;

- (c) Water;
- (d) Sewer;
- (e) Well installation/maintenance;
- (f) Septic tank installation/maintenance;
- (g) Garbage/trash collection; and
- (h) Telephone service.

(4) If you do not have a utility cost separate from your rent or mortgage payment and do not receive low income energy assistance program (LIHEAP), you do not receive a utility allowance.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.010, 74.08A.120, and 74.08A.250. WSR 23-07-095, § 388-450-0195, filed 3/17/23, effective 4/17/23; WSR 22-09-040, § 388-450-0195, filed 4/13/22, effective 5/14/22. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120 and 7 C.F.R. § 273.9 (a) (3), "USDA, Food and Nutrition Service, SNAP—Fiscal Year 2021 Cost-of-Living Adjustments (July 29, 2020)," and "USDA, Food and Nutrition Service, Standard utility allowance approval letter (August 4, 2020)" and H.R.133 Consolidated Appropriations Act 2021. WSR 21-13-122, § 388-450-0195, filed 6/21/21, effective 7/22/21. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, and P.L. 115-334 § 4004. WSR 20-04-021, § 388-450-0195, filed 1/27/20, effective 2/27/20. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120 and 7 C.F.R. §§ 273.1, 273.9 (d) (iii) (B); SNAP - FY 2019 COLAS dated July 27, 2018; and SNAP UA 2019 dated August 23, 2018. WSR 19-01-031, § 388-450-0195, filed 12/12/18, effective 1/12/19. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, and 74.08A.120, 7 C.F.R. §§ 273.1 and 273.9 (d) (iii) (B), SNAP Administrative Notice 17-30, and SNAP memo dated August 28, 2017. WSR 18-02-043, § 388-450-0195, filed 12/26/17, effective 1/26/18. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, 7 C.F.R. 273.9 (d) (6) (iii) (B). WSR 17-10-069, § 388-450-0195, filed 5/3/17, effective 6/3/17. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120 and SNAP Administrative Notice 16-38, dated August 12, 2016, 7 C.F.R. § 273.9 (d) (iii) (B), SNAP 10-6-WA-SUA, dated August 15, 2016. WSR 16-24-051, § 388-450-0195, filed 12/1/16, effective 1/1/17. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, FNS per SNAP Administrative Notice 15-28: SNAP - FY 2016, FNS 7 C.F.R. § 273.9 (d) (iii) (B)), and SNAP 10-6-WA-SUA dated August 18, 2015. WSR 15-24-075, § 388-450-0195, filed 11/25/15, effective 12/26/15. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120. WSR 15-02-041, § 388-450-0195, filed 1/2/15, effective 2/2/15. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090 and Agricultural Act of 2014. WSR 14-12-085, § 388-450-0195, filed 6/3/14, effective 7/4/14. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120 and USDA, FNS, per SNAP Administrative Notice 13-26, SNAP - FY 2014 COLAS and ARRA Sunset Impact on Allotments dated August 2, 2013, and USDA SNAP 10-6-WA-SUA dated August 8, 2013, approving the proposed SUA. WSR 14-04-050, § 388-450-0195, filed 1/27/14, effective

2/27/14. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, "Supplemental Nutrition Assistance Program Fiscal Year 2012 Cost of Living Adjustments" memo dated August 2, 2011, and "SNAP Standard Utility (SUA) Annual Review and Adjustment Waiver for Certain States—Modification and Extension" memo dated December 2, 2010. WSR 11-24-027, § 388-450-0195, filed 12/1/11, effective 1/1/12. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, and 7 C.F.R. § 273.9 (d) (6) (3). WSR 10-18-050, § 388-450-0195, filed 8/26/10, effective 10/1/10. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, and 7 C.F.R. 273.9. WSR 09-24-001, § 388-450-0195, filed 11/18/09, effective 12/19/09. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and 7 C.F.R. 273.9. WSR 08-21-106, § 388-450-0195, filed 10/16/08, effective 11/16/08. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510 and 7 C.F.R. § 273.9. WSR 07-22-036, § 388-450-0195, filed 10/30/07, effective 11/30/07. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090 and 7 C.F.R. 273.9 (d) (6) (iii) (b). WSR 06-21-011, § 388-450-0195, filed 10/6/06, effective 11/6/06. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090. WSR 06-10-056, § 388-450-0195, filed 5/1/06, effective 6/1/06. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and 7 C.F.R. § 273.9. WSR 05-19-062, § 388-450-0195, filed 9/16/05, effective 10/17/05. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090. WSR 05-09-087, § 388-450-0195, filed 4/19/05, effective 6/1/05. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057. WSR 04-23-025, § 388-450-0195, filed 11/8/04, effective 12/9/04. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510. WSR 03-21-030, § 388-450-0195, filed 10/7/03, effective 12/1/03. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. WSR 02-22-045, § 388-450-0195, filed 10/30/02, effective 12/1/02. Statutory Authority: RCW 74.04.057, 74.04.500, 74.04.510. WSR 01-21-059, § 388-450-0195, filed 10/16/01, effective 12/1/01. Statutory Authority: RCW 74.04.510. WSR 00-22-065, § 388-450-0195, filed 10/27/00, effective 11/1/00. Statutory Authority: RCW 74.040.510 [74.04.510]. WSR 99-24-052, § 388-450-0195, filed 11/29/99, effective 12/1/99. Statutory Authority: RCW 74.04.510. WSR 99-09-055, § 388-450-0195, filed 4/19/99, effective 5/20/99. Statutory Authority: RCW 74.04.510 and 7 C.F.R. 273.9 (d) (6). WSR 99-01-069, § 388-450-0195, filed 12/14/98, effective 1/14/99. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-450-0195, filed 7/31/98, effective 9/1/98.]

AMENDATORY SECTION (Amending WSR 23-07-095, filed 3/17/23, effective 4/17/23)

**WAC 388-478-0060 What are the income limits and maximum benefit amounts for basic food?** (1) If your assistance unit (AU) meets all other eligibility requirements for basic food, your AU must have income at or below the limits in columns B and C of this subsection to get basic food, unless you meet one of the exceptions listed below in subsection (2) of this section.

The maximum monthly food assistance benefit your AU could receive is listed in column D of this subsection.

EFFECTIVE ((10/1/2021)) 10/1/2023

Column A Number of Eligible AU Members	Column B Maximum Gross Monthly Income	Column C Maximum Net (Countable) Monthly Income	Column D Maximum Allotment	Column E 165% of Poverty Level
1	(( <del>\$1,473</del> ) <u>\$1,580</u> )	(( <del>\$1,133</del> ) <u>\$1,215</u> )	(( <del>\$281</del> ) <u>\$291</u> )	(( <del>\$1,869</del> ) <u>\$2,005</u> )
2	(( <del>1,984</del> ) <u>2,137</u> )	(( <del>1,526</del> ) <u>1,644</u> )	(( <del>516</del> ) <u>535</u> )	(( <del>2,518</del> ) <u>2,712</u> )
3	(( <del>2,495</del> ) <u>2,694</u> )	(( <del>1,920</del> ) <u>2,072</u> )	(( <del>740</del> ) <u>766</u> )	(( <del>3,167</del> ) <u>3,419</u> )
4	(( <del>3,007</del> ) <u>3,250</u> )	(( <del>2,313</del> ) <u>2,500</u> )	(( <del>939</del> ) <u>973</u> )	(( <del>3,816</del> ) <u>4,125</u> )
5	(( <del>3,518</del> ) <u>3,807</u> )	(( <del>2,706</del> ) <u>2,929</u> )	(( <del>1,116</del> ) <u>1,155</u> )	(( <del>4,465</del> ) <u>4,832</u> )
6	(( <del>4,029</del> ) <u>4,364</u> )	(( <del>3,100</del> ) <u>3,357</u> )	(( <del>1,339</del> ) <u>1,386</u> )	(( <del>5,114</del> ) <u>5,539</u> )
7	(( <del>4,541</del> ) <u>4,921</u> )	(( <del>3,493</del> ) <u>3,785</u> )	(( <del>1,480</del> ) <u>1,532</u> )	(( <del>5,763</del> ) <u>6,246</u> )
8	(( <del>5,052</del> ) <u>5,478</u> )	(( <del>3,886</del> ) <u>4,214</u> )	(( <del>1,691</del> ) <u>1,751</u> )	(( <del>6,412</del> ) <u>6,952</u> )
9	(( <del>5,564</del> ) <u>6,035</u> )	(( <del>4,280</del> ) <u>4,643</u> )	(( <del>1,902</del> ) <u>1,970</u> )	(( <del>7,061</del> ) <u>7,659</u> )
10	(( <del>6,076</del> ) <u>6,592</u> )	(( <del>4,674</del> ) <u>5,072</u> )	(( <del>2,113</del> ) <u>2,189</u> )	(( <del>7,710</del> ) <u>8,366</u> )
Each Additional Member	+ (( <del>512</del> ) <u>557</u> )	+ (( <del>394</del> ) <u>429</u> )	+ (( <del>211</del> ) <u>219</u> )	+ (( <del>649</del> ) <u>707</u> )

(2) Exceptions:

(a) If your AU is categorically eligible as under WAC 388-414-0001, your AU does not have to meet the gross or net income standards in columns B and C of subsection (1) of this section. We budget your AU's income to decide the amount of basic food your AU will receive.

(b) If your AU includes a member who is 60 years of age or older or has a disability, your AU's income must be at or below the limit in column C of subsection (1) of this section.

(c) If you are 60 years of age or older and cannot buy and cook your own meals because of a permanent disability, we will use column E of subsection (1) of this section to decide if you can be a separate AU.

(d) If your AU has zero income, your benefits are the maximum allotment in column D of subsection (1) of this section, based on the number of eligible members in your AU.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.010, 74.08A.120, and 74.08A.250. WSR 23-07-095, § 388-478-0060, filed 3/17/23, effective 4/17/23; WSR 22-09-040, § 388-478-0060, filed 4/13/22, effective 5/14/22. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120 and 7 C.F.R. § 273.9 (a) (3), "USDA, Food and Nutrition Service, SNAP—Fiscal Year 2021 Cost-of-Living Adjustments (July 29, 2020)," and "USDA, Food and Nutrition Service, Standard utility allowance approval letter (August 4, 2020)" and H.R.133 Consolidated Appropriations Act 2021. WSR 21-13-122, § 388-478-0060, filed 6/21/21, effective 7/22/21. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, and P.L. 115-334 § 4004. WSR 20-04-021, § 388-478-0060, filed 1/27/20, effective 2/27/20. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120 and 7 C.F.R. §§ 273.1, 273.9 (d) (iii) (B); SNAP - FY 2019 COLAS dated July 27, 2018; and SNAP UA 2019 dated August 23, 2018. WSR 19-01-031, § 388-478-0060, filed

12/12/18, effective 1/12/19. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, and 74.08A.120, 7 C.F.R. §§ 273.1 and 273.9 (d)(iii)(B), SNAP Administrative Notice 17-30, and SNAP memo dated August 28, 2017. WSR 18-02-043, § 388-478-0060, filed 12/26/17, effective 1/26/18. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120 and SNAP Administrative Notice 16-38, dated August 12, 2016, 7 C.F.R. § 273.9 (d)(iii)(B), SNAP 10-6-WA-SUA, dated August 15, 2016. WSR 16-24-051, § 388-478-0060, filed 12/1/16, effective 1/1/17. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, FNS per SNAP Administrative Notice 15-28: SNAP - FY 2016, FNS 7 C.F.R. § 273.9 (d)(iii)(B)), and SNAP 10-6-WA-SUA dated August 18, 2015. WSR 15-24-075, § 388-478-0060, filed 11/25/15, effective 12/26/15. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120. WSR 15-02-041, § 388-478-0060, filed 1/2/15, effective 2/2/15. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120 and USDA, FNS, per SNAP Administrative Notice 13-26, SNAP - FY 2014 COLAS and ARRA Sunset Impact on Allotments dated August 2, 2013, and USDA SNAP 10-6-WA-SUA dated August 8, 2013, approving the proposed SUA. WSR 14-04-050, § 388-478-0060, filed 1/27/14, effective 2/27/14. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, and Supplemental Nutrition Assistance Program Administrative Notice 12-28 - Fiscal Year 2013 cost-of-living adjustments dated August 6, 2012. WSR 12-24-018, § 388-478-0060, filed 11/27/12, effective 12/28/12. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, "Supplemental Nutrition Assistance Program Fiscal Year 2012 Cost of Living Adjustments" memo dated August 2, 2011, and "SNAP Standard Utility (SUA) Annual Review and Adjustment Waiver for Certain States—Modification and Extension" memo dated December 2, 2010. WSR 11-24-027, § 388-478-0060, filed 12/1/11, effective 1/1/12. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, and 7 C.F.R. 273.9. WSR 09-24-001, § 388-478-0060, filed 11/18/09, effective 12/19/09. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.04.500, 74.08A.120, and American Recovery and Reinvestment Act of 2009. WSR 09-14-018, § 388-478-0060, filed 6/22/09, effective 7/23/09. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090. WSR 08-24-050, § 388-478-0060, filed 11/25/08, effective 12/26/08. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510 and 7 C.F.R. § 273.9. WSR 07-22-035, § 388-478-0060, filed 10/30/07, effective 11/30/07. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090 and 7 C.F.R. § 273.9. WSR 06-21-012, § 388-478-0060, filed 10/6/06, effective 11/6/06. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090. WSR 05-21-101, § 388-478-0060, filed 10/18/05, effective 11/18/05. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057. WSR 04-23-025, § 388-478-0060, filed 11/8/04, effective 12/9/04. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510. WSR 03-21-030, § 388-478-0060, filed 10/7/03, effective 12/1/03. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. WSR 02-21-050, § 388-478-0060, filed 10/14/02, effective 12/1/02. Statutory Authority: RCW 74.04.057, 74.04.500, 74.04.510. WSR 01-21-059, §

388-478-0060, filed 10/16/01, effective 12/1/01. Statutory Authority: RCW 74.04.510, 74.08.090. WSR 00-23-013, § 388-478-0060, filed 11/3/00, effective 12/4/00. Statutory Authority: RCW 74.04.510. WSR 99-24-053, § 388-478-0060, filed 11/29/99, effective 12/30/99. Statutory Authority: RCW 74.08.090 and 74.04.510. WSR 99-16-024, § 388-478-0060, filed 7/26/99, effective 9/1/99. Statutory Authority: RCW 74.04.050, 74.04.500, 74.04.510, 74.08.090. WSR 99-05-074, § 388-478-0060, filed 2/17/99, effective 3/20/99. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-478-0060, filed 7/31/98, effective 9/1/98.]

**WSR 23-20-062**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-218—Filed September 28, 2023, 3:37 p.m., effective September 28, 2023, 3:37 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule:

(1) Closes nonspot commercial shrimp pot harvest in Shrimp Management Region 3, not including Discovery Bay Shrimp District, on October 2, 2023, due to projected quota attainment.

(2) Increases the total harvest limit per nonspot shrimp pot accounting period for Subregions 1A, 1B, 1C, and Region 2E combined.

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

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

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

Reasons for this Finding: Permanent rules regulating state commercial shrimp harvest in Puget Sound and the Strait of Juan de Fuca require the adoption of harvest seasons contained in this emergency rule. This emergency rule is necessary to prosecute state commercial shrimp pot and trawl fisheries in Puget Sound. This rule allows harvesters to respond to dynamic changes in market conditions and promotes full utilization of both the commercial spot and nonspot shares. These rules are in congruence with comanager agreements. 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 Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: September 28, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-340-52000R Commercial shrimp pot fishery—Puget Sound.**

Notwithstanding the provisions of WAC 220-340-520, effective immediately, through October 15, 2023, it is unlawful to fish for shrimp for



commercial purposes using pot gear in Puget Sound except as provided for in this section:

(1) In all areas fishers are limited to a maximum of 100 spot shrimp pots, as defined in WAC 220-340-520 (5)(d), and a maximum of 100 non-spot shrimp pots, as defined in WAC 220-340-520 (5)(e).

(2) Spot Shrimp Pot Harvest:

(a) Spot shrimp harvest is permitted as indicated in the following table opening one hour before official sunrise on the first day of the open period. Any closures take effect one hour after official sunset on the closing day of the open period.

<b>Geographical Management Unit (WAC 220-320-140; WAC 220-320-120)</b>	<b>Open Period</b>
Subregion 1A	Closed
Subregion 1B	Closed
Subregion 1C	Closed
Region 2E	Closed
Region 2W	Closed
Subarea 23A-E	Closed
Subarea 23A-W	Closed
Subarea 23A-C and MSFS Catch Area 23B	Closed
Subarea 23A-S and MSFS Catch Area 23D	Closed
MFSF Catch Area 23C	Closed
MFSF Catch Area 25A, excluding the Discovery Bay Shrimp District	Closed
Discovery Bay Shrimp District	Closed
MFSF 29 (Straits - Neah Bay)	Closed
Subarea 26B-1 and MFSF Catch Area 26C	Closed
Subarea 26B-2	Closed
Region 5	Closed
MFSF Catch Area 26D	Closed
MFSF Catch Areas 28A, 28B, 28C, and 28D	Closed

(b) The first spot shrimp catch accounting period started one hour before official sunrise on May 8, through one hour after official sunset on August 1, 2023.

(c) It is unlawful for the combined total harvest during the first spot shrimp accounting period to have exceeded 5,000 pounds of spot shrimp per license from all Puget Sound shrimp management regions combined.

(d) The second spot shrimp catch accounting period started one hour before official sunrise on August 2, through one hour after official sunset on August 18, 2023.

(e) It is unlawful for the total harvest during the first and second spot shrimp accounting periods to have exceeded 5,400 pounds of spot shrimp per license from all Puget Sound shrimp management regions combined.

(f) It is lawful to possess deactivated non-spot shrimp pots on-board of a commercial vessel that is listed on a Puget Sound shrimp pot license while fishing for spot shrimp.

A deactivated pot is un-baited, has the drawstring or door fastened open, and/or is unable to be readily fished.

(3) Non-spot shrimp pot harvests:

(a) The non-spot shrimp species complex is defined as the following species of pandalid shrimp classified in WAC 220-320-010: Dock

shrimp (*Pandalus danae*), Coonstripe shrimp (*Pandalus hypsinotus*), Hum-py shrimp (*Pandalus goniurus*), Ocean pink shrimp (*Pandalus jordani*), pink shrimp (*Pandalus eous*), Side stripe shrimp (*Pandalus dispar*).

(b) Non-spot shrimp pot harvest is permitted as indicated in the following table opening one hour before official sunrise on the first day of the open period. Any closures take effect one hour after official sunset on the closing day of the open period.

<b>Geographical Management Unit (WAC 220-320-140; WAC 220-320-120)</b>	<b>Open Period</b>
Subregion 1A	Open through October 15, 2023
Subregion 1B	Closed
Subregion 1C	Open through October 15, 2023
Region 2E	Closed
Region 2W	Open through October 15, 2023
Region 3, not including Discovery Bay Shrimp District	Open through October 2, 2023
Discovery Bay Shrimp District	Open through October 15, 2023
Region 4	Closed
Region 5	Closed
Region 6	Closed

(c) The non-spot shrimp catch accounting periods begin one hour before official sunrise and end one hour after official sunset on the date listed in the following table:

<b>Period Number</b>	<b>Start Date</b>	<b>End Date</b>
<b>1</b>	5/1/2023	5/16/2023
<b>2</b>	5/17/2023	5/30/2023
<b>3</b>	5/31/2023	6/13/2023
<b>4</b>	6/14/2023	6/27/2023
<b>5</b>	6/28/2023	7/11/2023
<b>6</b>	7/12/2023	7/25/2023
<b>7</b>	7/26/202	8/8/2023
<b>8</b>	8/9/2023	8/22/2023
<b>9</b>	8/23/202	9/5/2023
<b>10</b>	9/6/2023	9/19/2023
<b>11</b>	9/20/202	10/3/2023
<b>12</b>	10/4/2023	10/15/2023

(d) It is unlawful for the total harvest of non-spot shrimp per license to exceed 1,500 pounds during non-spot shrimp catch accounting period number 1 from subregions 1A, 1B, 1C, and Region 2E combined.

(e) It is unlawful for total harvest of non-spot shrimp to exceed 2,000 pounds per non-spot shrimp catch accounting period from subregions 1A, 1B, 1C, and Region 2E combined during catch accounting periods 2 through 12.

(f) There is no weekly harvest limit of non-spot shrimp from Region 2W, Region 3, or the Discovery Bay Shrimp District.

(g) Harvest of non-spot shrimp is not permitted deeper than 175 feet in Catch Area 23A and all of its subareas (23AE, 23AW, 23AC, 23AS).

(h) Harvest of non-spot shrimp is not permitted deeper than 175 feet in subregion 1A.

(i) It is unlawful to harvest non-spot shrimp in more than one geographical management unit listed in subsection 3(a) in a single day with the following exceptions:

(i) Non-spot shrimp may be harvested from more than one subregion of Region 1 on the same day.

(ii) Non-spot shrimp may be harvested from Discovery Bay Shrimp District and Region 3 on the same day.

(j) It is lawful to possess deactivated spot shrimp pots on-board of a commercial vessel that is listed on a Puget Sound shrimp pot license while fishing for non-spot shrimp.

A deactivated pot is un-baited, has the drawstring or door fastened open, and/or is unable to be readily fished.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-340-52000Q Commercial shrimp pot fishery—Puget Sound. (23-209)

**WSR 23-20-067**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-217—Filed September 29, 2023, 7:55 a.m., effective October 1, 2023]

Effective Date of Rule: October 1, 2023.

Purpose: The purpose of this emergency rule is to require the release of unmarked coho beginning October 1, 2023, in the commercial reef net fishery.

Citation of Rules Affected by this Order: Amending WAC 220-354-180.

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 unmarked coho release. Unmarked coho release after October 1 was a provision agreed to during the 2023 North of Falcon season setting process and is included in the list of agreed fisheries. This rule is needed to align WAC [with] those preseason agreements made with comanagers. 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 Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: September 28, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-354-18000E Reef net open periods.** Notwithstanding the provisions of WAC 220-354-180, effective October 1 through November 11, 2023, it is unlawful to take, fish for, or possess salmon taken with reef net gear for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except as provided in this section:

Open to reef net gear according to the times, dates and conditions contained herein:

Area(s)	Date(s)	Open/Closed	Daily open period
7	10/1 - 11/11	Open	5:00 a.m. - 9 p.m.

(a) It is unlawful to retain Chinook and unmarked coho.

(b) Marked coho are those with a missing adipose fin with a healed scar, unmarked coho have an intact adipose fin.

(c) All other saltwater and freshwater areas - Closed.

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## WSR 23-20-068

## EMERGENCY RULES

## HEALTH CARE AUTHORITY

(Public Employees Benefits Board)

[Admin #2023-03.02—Filed September 29, 2023, 8:03 a.m., effective September 29, 2023, 8:03 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The health care authority (HCA) is refiling new WAC 182-12-5100 What options for health plan enrollment are available to a retired employee of an employer group that previously ended participation in public employees benefits board (PEBB) insurance coverage, as authorized in SHB 1804, section 3, chapter 312, Laws of 2023.

Citation of Rules Affected by this Order: New WAC 182-12-5100.

Statutory Authority for Adoption: RCW 41.05.951; SHB 1804, section 3, chapter 312, Laws of 2023, 68th legislature, 2023 regular session.

Other Authority: RCW 41.05.021 and 41.05.160.

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 making is necessary to preserve public peace, health, or safety, or support of the state government and its existing public institutions by establishing enrollment rules for eligible retired or disabled employees of employer groups whose participation in insurance plans or contracts under RCW 41.05.080(1) ended due to the termination of the contractual agreement between HCA and an employer group on or before January 1, 2023. This emergency rule making is necessary to implement SHB 1804, section 3, chapter 312, Laws of 2023, while the authority conducts the permanent rule-making process.

This filing continues the emergency rules filed under WSR 23-12-057, filed June 2, 2023. Since the filing of this emergency rule, HCA is continuing to review the PEBB chapters for updates and is preparing for its annual revisions to begin under permanent rule making shortly.

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 Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: September 29, 2023.

Wendy Barcus  
Rules Coordinator

OTS-4617.2

NEW SECTION

**WAC 182-12-5100 What options for health plan enrollment are available to a retired employee of an employer group that previously ended participation in public employees benefits board (PEBB) insurance coverage?** (1) A retired employee of an employer group as defined in WAC 182-12-109, whose participation in public employees benefits board (PEBB) retiree insurance coverage ended due to the employer group ending participation in PEBB insurance coverage on or before January 1, 2023, must be allowed to enroll in PEBB health plan coverage if the requirements as described in subsection (4) of this section are met.

(2) For this section only, "subscriber" means the retired employee as described in subsection (1) of this section who is requesting enrollment in PEBB health plan coverage.

(3) The subscriber may elect to enroll in PEBB medical, dental, or both by self-paying the premium and applicable premium surcharges set by the health care authority (HCA). The subscriber enrolled under this section is not eligible for any subsidy provided under RCW 41.05.085.

(4) The subscriber must submit the required forms to the PEBB program, and they must be received by December 31, 2023:

(a) The subscriber may enroll eligible dependents as described in WAC 182-12-260 and must include the dependent's enrollment information on the required forms;

(b) If the subscriber elects to enroll a dependent in PEBB health plan coverage, the dependent will be enrolled in the same PEBB medical and PEBB dental plans as the subscriber;

**Exception:** If the subscriber selects a medicare supplement plan or medicare advantage prescription-drug (MA-PD) plan, nonmedicare enrollees will be enrolled in the UMP Classic. If the subscriber selects any other medicare plan, they must also select a nonmedicare plan with the same contracted vendor available to nonmedicare enrollees.

(c) The subscriber's account may incur a premium surcharge in addition to their monthly medical premium and the subscriber must attest as described in WAC 182-08-185 (1) and (2). A premium surcharge will be applied to a subscriber who does not attest. If the subscriber's attestation results in a premium surcharge, it will take effect the same date as PEBB medical begins;

(d) The subscriber's first premium payment and applicable premium surcharges are due to HCA no later than 45 days after the effective date of coverage as described in subsection (5) of this section. Following the first premium payment, premiums and applicable premium surcharges must be paid as premiums become due. If the subscriber's monthly premium and applicable premium surcharges remain unpaid for 60 days from the original due date, the subscriber's PEBB insurance coverage will be terminated retroactive to the last day of the month for which the monthly premium and applicable premium surcharges were paid as described in WAC 182-08-180 (1) (c).

**Exception:** For a subscriber enrolled in a medicare advantage (MA) or a MA-PD plan a notice will be sent to them notifying them that they are delinquent on their monthly premiums and that the enrollment will be terminated prospectively to the end of the month after the notice is sent.

(5) The effective date of enrollment in PEBB health plan coverage will be the first day of the month following the date the required form is received. If that day is the first of the month, then enroll-

ment begins on that day except for a MA or MA-PD plan which will begin the first day of the month following the signature date on the form.

(6) PEBB health plan coverage may continue unless the subscriber requests to terminate enrollment as described in subsection (8) of this section, or premiums and applicable premium surcharges are no longer paid as described in subsection (4)(d) of this section. If PEBB health plan coverage is terminated for these reasons, the subscriber and their enrolled dependents will not be eligible to reenroll.

(7) The subscriber enrolled under this section may make enrollment changes on the same terms and conditions as retirees who are eligible for Consolidated Omnibus Budget Reconciliation Act (COBRA) as described in WAC 182-08-185, 182-08-196, 182-08-198, and 182-12-262.

(8) The subscriber enrolled under this section who requests to voluntarily terminate their PEBB health plan coverage must do so in writing. PEBB health plan coverage will end on the last day of the month in which the PEBB program receives the termination request or on the last day of the month specified in the subscriber's termination request, whichever is later. If the termination request is received on the first day of the month, PEBB health plan coverage will end on the last day of the previous month.

**Exception:** When a subscriber or their dependent is enrolled in a MA or MA-PD plan, then enrollment in PEBB health plan coverage will terminate on the last day of the month when the MA plan disenrollment form is received.

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WSR 23-20-071  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE

[Order 23-220—Filed September 29, 2023, 9:48 a.m., effective October 1, 2023]

Effective Date of Rule: October 1, 2023.

Purpose: The purpose of this emergency rule is to open coho retention seasons in the upper Columbia River and the Icicle River.

Citation of Rules Affected by this Order: Amending WAC 220-312-050 and 220-312-060.

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

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

Reasons for this Finding: This emergency rule is necessary to open coho seasons in the upper Columbia River and Icicle River. Expected coho returns are sufficient to provide for this recreational angling opportunity. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 29, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-06000X Freshwater exceptions to statewide rules—Columbia River.** Effective October 1 through October 15, 2022, the provisions of WAC 220-312-060 regarding recreational salmon and steelhead seasons from Priest Rapids Dam to Chief Joseph Dam, shall be modified during the dates listed and as described below. All year-round Closed Waters areas remain in effect. Other provisions of WAC 220-312-060 not addressed herein remain in effect unless otherwise amended by emergency rule:

**(1) From Priest Rapids Dam to boundary markers 400 feet downstream of the fish ladders at Rock Island Dam:** Salmon:

Daily limit 6, including no more than 2 adult Chinook and no more than 2 coho.

**(2) From Rock Island Dam to Boundary 400 feet below the Wells Dam spawning channel discharge (on Chelan County side) and fish ladder (on Douglas County side):** Salmon:

Daily limit 6, including no more than 2 adult hatchery Chinook and no more than 2 coho. Release wild adult Chinook.

**(3) From Hwy. 173 Bridge at Brewster to the rock jetty at the upstream shoreline of Foster Creek (Douglas County side):** Salmon:

Daily limit 6, including no more than 2 adult hatchery Chinook and no more than 4 sockeye. Release wild adult Chinook and coho.

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**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.

#### NEW SECTION

**WAC 220-312-05000D Freshwater exceptions to statewide rules—Eastside.** Effective October 1 through November 30, 2023, provisions of WAC 220-312-050 regarding salmon seasons for the Icicle River shall be as described below. All other provisions of WAC 220-312-050 not addressed herein, or unless otherwise amended by emergency rule remain in effect:

**Icicle River (Chelan Co.):**

(a) From the closure signs located 800 feet upstream of the mouth of the river to 500 feet downstream from the Leavenworth National Fish Hatchery Barrier Dam:

Salmon:

- (i) Daily limit 2. Release all salmon other than coho.
- (ii) Use of bait is prohibited.
- (iii) Night closure in effect.

(b) From the shoreline markers where Cyo Road intersects the Icicle River at the Sleeping Lady Resort to the Icicle Peshastin Irrigation Footbridge (approximately 750 feet upstream from the Snow Lakes trailhead parking area):

Salmon:

- (i) Daily limit 2. Release all salmon other than coho.
- (ii) Use of bait is prohibited.
- (iii) Night closure in effect.

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**WSR 23-20-072**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-221—Filed September 29, 2023, 11:02 a.m., effective September 29, 2023, 11:02 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose [of the] emergency rule is to return department land use rules to permanent rules in sections listed. Fire threat conditions no longer require previous prevention actions that were undertaken by the department.

Citation of Rules Affected by this Order: Repealing WAC 220-500-03000E, 220-500-04000M, 220-500-1100[0]E, and 220-500-14000E.

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: Extreme wildfire dangers have passed, these emergency rules are no longer necessary.

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 Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 4.

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: September 29, 2023.

Kelly Susewind  
Director

REPEALER

The following sections of Washington Administrative Code are repealed, effective immediately:

WAC 220-500-03000E	Behavior and conduct. (23-105)
WAC 220-500-04000M	Regulating public access. (23-105)
WAC 220-500-11000E	Fires and campfires. (23-105)
WAC 220-500-14000E	Firearms and target practicing. (23-105)

**WSR 23-20-105**  
**EMERGENCY RULES**  
**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Aging and Long-Term Support Administration)  
[Filed October 3, 2023, 11:39 a.m., effective October 4, 2023]

Effective Date of Rule: October 4, 2023.

Purpose: The department of social and health services (department) is amending the rules listed below to ensure nursing homes are not significantly impeded from admitting and caring for residents during the COVID-19 outbreak. The department is proposing adopting new sections to implement section 6 of ESHB 1120 (chapter 203, Laws of 2021). The statute directs the department to adopt rules to grant exceptions to requirements in RCW 74.42.360 (2) through (4), waive penalties, and suspend oversight activities for nursing homes. The emergency rule has been effective retroactively to the end date of the Governor's Proclamation 20-18, which had suspended these rules.

Citation of Rules Affected by this Order: New WAC 388-97-1081, 388-97-1082, and 388-97-1091.

Statutory Authority for Adoption: RCW 18.51.070, 74.42.360(6), and 74.42.620.

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 threat of COVID-19 to our most vulnerable populations has been significant, especially for those receiving long-term care services in their homes and congregate settings, such as long-term care facilities. Current nursing home rules require large nonessential community providers to have a registered nurse on duty directly supervising resident care 24 hours per day, seven days per week; and to provide a minimum of 3.4 hours of direct care for each resident every day. These rules are necessary to instruct and inform nursing homes on the process the department will use to prioritize and resume oversight of minimum staffing standards, bringing all service providers back into compliance with statutory requirements by October 27, 2023. The emergency rules are necessary to maintain the suspension of requirements related to nursing home minimum staffing standards consistent with ESHB 1120 and allow the department to adopt permanent rules to maintain the suspension for the duration required under the statute. Residential care services has been actively involved with stakeholders on an ongoing basis, making modifications to the internal process and implementation of the emergency rules while drafting language to be proposed for permanent adoption.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 3, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: September 27, 2023.

Katherine I. Vasquez  
Rules Coordinator

## SHS-4966.5

### NEW SECTION

**WAC 388-97-1081 Reimplementation of 3.4 hours per resident day minimum staffing standards.** (1) In response to the COVID-19 pandemic, the governor issued proclamation 20-18 suspending RCW 74.42.360(2) and WAC 388-97-1090. Pursuant to the authority granted the department in RCW 74.42.360(6), this rule section establishes requirements to gradually re-implement the staffing requirements under RCW 74.42.360(2) for facilities to provide a minimum of 3.4 hours per resident day of direct care so that nursing homes may incrementally return to compliance with the statute without being assessed a fine or receiving a citation for non-compliance.

(2) From October 27, 2022, to April 30, 2023, the department will take the following actions:

(a) Continue to suspend enforcement of RCW 74.42.360(2) and WAC 388-97-1090;

(b) Not report to the complaint resolution unit non-compliance with staffing requirements in RCW 74.42.360(2); and

(c) Report to the complaint resolution unit for investigation the nursing home's failure to report data to the center for medicare and medicaid services' payroll-based journal.

(3) From May 1, 2023, to October 27, 2023, the department will:

(a) Calculate fines for noncompliance with RCW 74.42.360(2) and WAC 388-97-1090;

(b) Notify the nursing home of what the fine would have been if it had been issued;

(i) Upon the first notice of non-compliance issued to the nursing home, the department will:

(A) Offer targeted support to the nursing home to move toward compliance;

(B) Discuss with the nursing home how it is meeting care and service needs for all residents while providing fewer than 3.4 hours per resident day of direct care;

(C) Not report to the complaint resolution unit non-compliance with staffing requirements in RCW 74.42.360(2); and

(D) Report to the complaint resolution unit for investigation the nursing home's failure to report data to the center for medicare and medicaid services' payroll-based journal.

(ii) Upon the second notice of non-compliance issued to the nursing home, the department will report to the complaint resolution unit for investigation:

(A) A nursing home's failure to report data to the center for medicare and medicaid services' payroll-based journal; and

(B) Care and services concerns related to providing fewer than 3.4 hours per resident day of direct care and offer targeted support to assist the facility to move towards compliance.

[]

NEW SECTION

**WAC 388-97-1082 Reimplementation of 24-hour registered nurse staffing standards.** (1) In response to the COVID-19 pandemic, the governor issued proclamation 20-18 suspending RCW 74.42.360(3) and WAC 388-97-1080(3). Pursuant to the authority granted the department under RCW 74.42.360(6), this rule waives the requirement for large nonessential community nursing home providers to have a registered nurse on duty directly supervising resident care 24 hours per day, seven days per week; and waives related penalties and oversight activities under RCW 74.42.360(3) and WAC 388-97-1080(3).

(2) The department must repeal this rule when staffing returns to pre-pandemic levels or by October 27, 2023, whichever occurs first.

(3) This rule supersedes WAC 388-97-1080(3). If a conflict arises, this rule prevails.

[]

NEW SECTION

**WAC 388-97-1091 Reimplementation of registered nurse minimum staffing standards.** (1) In response to the COVID-19 pandemic, the governor issued proclamation 20-18 suspending RCW 74.42.360(4) and WAC 388-97-1080(8). Pursuant to the authority granted the department under RCW 74.42.360(6), this rule waives the requirement for essential community providers and small nonessential community nursing home providers to have a registered nurse on duty directly supervising resident care a minimum of 16 hours per day, seven days per week, and a registered nurse or a licensed practical nurse on duty directly supervising resident care the remaining eight hours per day, seven days per week; and waives related penalties and oversight activities under WAC 388-97-1080(8).

(2) The department must repeal this rule when staffing returns to pre-pandemic levels or by October 27, 2023, whichever occurs first.

(3) This rule supersedes WAC 388-97-1080(8). If a conflict arises, this rule prevails.

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