

WSR 23-21-003

RESCISSION OF EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed October 4, 2023, 1:55 p.m., effective November 4, 2023]

This memo serves as notice that the Washington state board of nursing (board) is rescinding the CR-103 emergency rule amending specific training requirements for nursing assistant certified and nursing assistant registered, WAC 246-841-420, 246-841-470, 246-841-490, 246-841-500, 246-841-510 and 246-841-555, which was filed September 1, 2023, and published as WSR 23-18-067. The effective date of this rescission is November 4, 2023.

The board is rescinding this CR-103E because the emergency rule has been replaced by the permanent rules in chapter 246-841A WAC which mirror the emergency rule text.

Individuals requiring information on this rule should contact Jessilyn Dagum at 360-236-3538 or email [NCQAC.Rules@doh.wa.gov](mailto:NCQAC.Rules@doh.wa.gov).

Tami M. Thompson  
Regulatory Affairs Manager

## WSR 23-21-004

## RESCISSION OF EMERGENCY RULES

## DEPARTMENT OF HEALTH

[Filed October 4, 2023, 1:56 p.m., effective November 4, 2023]

This memo serves as notice that the Washington state board of nursing (board) is rescinding the CR-103 emergency rule amending specific training requirements for nursing assistant registered and home care aides, WAC 246-840-930 and 246-841-405, which was filed September 1, 2023, and published as WSR 23-18-066. The effective date of the rescission is November 4, 2023.

The board is rescinding this CR-103E because the emergency rule for WAC 246-840-930 is no longer necessary. As of July 1, 2023, basic caregiver training is required before a registered nurse can delegate duties to a nursing assistant. During the pandemic, exceptions were made that were addressed in the emergency rule. The board is also rescinding the emergency rule for WAC 246-841-405 because the same training provisions are reflected in permanent rules in chapter 246-841A WAC. The permanent rules mirror the emergency rule text.

Individuals requiring information on this rule should contact Jessilyn Dagum at 360-236-3538 or email [NCQAC.Rules@doh.wa.gov](mailto:NCQAC.Rules@doh.wa.gov).

Tami M. Thompson  
Regulatory Affairs Manager

**WSR 23-21-007**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-222—Filed October 4, 2023, 4:20 p.m., effective October 4, 2023, 4:20 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to open Chinook retention seasons from Bonneville Dam to the Hwy. 395 Bridge at Pasco.

Citation of Rules Affected by this Order: Repealing WAC 220-312-06000W; 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, September 13, September 20, and October 4, 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: October 4, 2023.

Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-312-06000Y Freshwater exceptions to statewide rules—Columbia River.** Effective immediately 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 Highway 395 Bridge at Pasco, 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) Immediately 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.

(b) 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) Immediately 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.

**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:**

Immediately 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) Immediately 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.

**From Bonneville Dam upstream to Hood River Bridge:**

(a) Immediately 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.

**From Hood River Bridge upstream to The Dalles Dam:**

(a) Immediately through October 15, 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 coho. Anti-snagging rule in effect. Only fish hooked inside the mouth may be retained.

(b) October 16 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 coho.

(c) 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, coho and hatchery steelhead.

**From The Dalles Dam upstream to Highway 395 Bridge at Pasco:**

(a) Immediately through October 15, 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 coho. Anti-snagging rule in effect. Only fish hooked inside the mouth may be retained.

(b) October 16 through December 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 coho.

[]

REPEALER

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

WAC 220-312-06000W Freshwater exceptions to statewide  
rules—Columbia River. (23-206)

**WSR 23-21-008**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-224—Filed October 5, 2023, 1:02 p.m., effective October 7, 2023]

Effective Date of Rule: October 7, 2023.

Purpose: The purpose of this emergency rule is to open coho retention seasons in the Snake River.

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

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 return of coho from the Nez Perce Tribe's hatchery program to reintroduce coho in the Snake [River] basin is large enough to meet broodstock needs, allow natural spawning, and provide harvest opportunities. There is insufficient time to adopt permanent rules.

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

Number of Sections Adopted at the Request of a 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: October 5, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-05000L Freshwater exceptions to statewide rules—Eastside.** Effective October 7 through December 31, 2023, the following provisions of WAC 220-312-050, regarding salmon seasons in the Snake River shall be open as follows. All other provisions of WAC 220-312-050 remain in effect unless modified by emergency rule:

(1) **Snake River (Franklin/Walla Walla Counties): From the red river marker (Marker 28) on the south shore of the Snake River upstream to the Highway 261 bridge (approx. 1.4 mi.):**

Salmon: Effective October 7 through Oct. 29, 2023:

(a) Open Thursdays through Sundays each week. Closed Mondays through Wednesdays each week.

(b) Daily limit 2 adult Chinook including no more than 1 wild adult Chinook. No daily limit for jack Chinook. Release all salmon other than Chinook.

(c) Barbless hooks required.

(d) Salmon may not be removed from the water unless to be retained as part of the daily limit.

**(2) Snake River (Franklin/Walla Walla Counties): From the downstream edge of the large power lines crossing the Snake River (just upstream from West Evans Road on the south shore, approximately 3 miles below Clarkston) upstream to the Idaho Border at Clarkston:**

Salmon: Effective October 7 through October 31, 2023:

(a) Daily limit 3 adult Chinook and 2 adult coho. No daily limit for jack Chinook or jack coho. Release all salmon other than Chinook and coho.

(b) Barbless hooks required.

(c) Salmon may not be removed from the water unless to be retained as part of the daily limit.

**(3) Snake River (Franklin/Walla Walla Counties): From the Idaho border at Clarkston to the Oregon state line:**

Salmon:

(a) Effective October 7 through October 31, 2023:

(i) Daily limit 3 adult Chinook and 2 adult coho. No daily limit for jack Chinook or jack coho. Release all salmon other than Chinook and coho.

(ii) Barbless hooks required.

(iii) Salmon may not be removed from the water unless to be retained as part of the daily limit.

(b) Effective November 1 through December 31, 2023:

(i) Daily limit 2 adult coho. No daily limit for jack coho. Release all salmon other than coho.

(ii) Barbless hooks required.

(iii) Salmon may not be removed from the water unless to be retained as part of the daily limit.

#### REPEALER

The following section of Washington Administrative Code is repealed, effective October 7, 2023:

WAC 220-312-05000I Freshwater exceptions to statewide rules—Eastside. (23-158)



**WSR 23-21-013**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-223—Filed October 5, 2023, 4:53 p.m., effective October 9, 2023]

Effective Date of Rule: October 9, 2023.

Purpose: The purpose of this emergency rule is to allow purse seine test fishery operations to be conducted by the purse seine vessels listed in the WAC text of this filing, in Puget Sound waters.

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

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

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

Reasons for this Finding: This emergency rule is needed to allow the purse seine fishing vessels (F/V), F/V Chasina, the F/V Harbor Gem, the F/V Lisa Marie, and the F/V Tradition, to conduct test fisheries in the waters of Puget Sound Salmon Management and Catch Reporting Areas 9, 10, and 11. These test fisheries are necessary to collect GSI [GIS] data to inform the in-season update models and have been agreed to by comanagers. This information is necessary to sustainably manage Puget Sound chum fisheries. 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: October 5, 2023.

Amy H. Windrope  
for Kelly Susewind  
Director

NEW SECTION

**WAC 220-354-12000C Puget Sound salmon—Purse Seine—Open periods.** Effective October 9 through November 27, 2023, the purse seine vessels F/V Chasina, the F/V Harbor Gem, the F/V Lisa Marie and the F/V Tradition may carry out purse seine test fishery operations within Puget Sound Salmon Management and Catch Reporting Areas 9, 10 and 11.

(1) Allowed fishing period is from October 9 through November 27, 2023.

(2) Area 11: Only chum salmon may be retained. All other salmon species must be released. WDFW staff must be onboard vessel while fishing.

(3) Area 9, non-retention fishery: all fish must be released. WDFW staff must be onboard vessel when fishing.

(4) Area 9/10 Apple Cove Test Fishery: Administered by Northwest Indian Fisheries Commission staff. All salmon species may be retained.

(5) Weekly schedule by Area and vessel:

Week	F/V Harbor Gem Apple Cove/ Kingston Area 9/10	F/V Chasina Port Ludlow; Area 9	F/V Tradition Command Point; Area 11; West Pass	F/V Lisa Marie Point Beals; Area 11; East Pass
41	Mon 10/09/2023			
42	Mon 10/16/2023	Wed 10/18/2023	Mon 10/16/2023	Mon 10/16/2023
43	Mon 10/23/2023	Mon 10/23/2023	Mon 10/23/2023	Mon 10/23/2023
44	Mon 10/30/2023	Mon 10/30/2023	Mon 10/30/2023	Mon 10/30/2023
45	Mon 11/06/2023	Mon 11/06/2023	Mon 11/06/2023	Mon 11/06/2023
46	Mon 11/13/2023	Mon 11/13/2023	Mon 11/13/2023	Mon 11/13/2023
47	Mon 11/20/2023			

[ ]

**WSR 23-21-014**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-225—Filed October 5, 2023, 5:01 p.m., effective October 6, 2023]

Effective Date of Rule: October 6, 2023.

Purpose: The purpose of this emergency rule is to close Chinook retention in salmon fisheries on the Green River (Cowlitz County), Toutle River, and Toutle River, North Fork.

Citation of Rules Affected by this Order: Amending WAC 220-312-030.

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

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

Reasons for this Finding: This emergency rule is necessary to require release of all Chinook in the Green River, Toutle River, and Toutle River, North Fork.

Broodstock collection at the North Toutle hatchery is lower than anticipated. Restricting Chinook retention in these rivers until river conditions improve and Chinook brood collection improves will help meet broodstock collection goals. Fishery managers will continue to monitor river conditions, as well as Chinook returns, to the Toutle Hatchery to determine if fisheries may be reopened.

There is insufficient time to file 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: October 5, 2023.

Amy H. Windrope  
for Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-03000G Freshwater exceptions to statewide rules—Southwest.** Effective October 6 through November 30, 2023, the provisions of WAC 220-312-030 regarding Green River, Toutle River and Toutle River, North Fork salmon fishing seasons shall be modified during

times and areas as described below. All other provisions of WAC 220-312-030, not addressed herein, remain in effect unless otherwise amended by emergency rule:

**(1) Green River (Cowlitz/Lewis Co.); From the mouth to the boundary signs 400 feet below to the hatchery weir while the weir is installed in the river:**

Salmon: Daily limit 6 hatchery coho, including no more than 3 adults. Release all salmon other than hatchery coho.

**(2) Toutle River (Cowlitz Co.): From the mouth to forks:**

Salmon: Daily limit 6 hatchery coho, including no more than 3 adults. Release all salmon other than hatchery coho.

**(3) Toutle River, North Fork (Cowlitz Co.): From the mouth to boundary signs posted 400 feet downstream of the hatchery weir:**

Salmon: Daily limit 6 hatchery coho, including no more than 3 adults. Release all salmon other than hatchery coho.

[]

**WSR 23-21-016**  
**EMERGENCY RULES**  
**STATE BOARD OF HEALTH**

[Filed October 6, 2023, 9:45 a.m., effective October 6, 2023, 9:45 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The state board of health (board) adopted an emergency rule regarding substitute components of registered products as part of the certification and registration of proprietary treatment products used in on-site sewage systems. The original emergency rule was filed on June 15, 2022 (WSR 22-13-101). Emergency rules have been filed continuously thereafter, with the most recent filing on June 9, 2023 (WSR 23-13-018). Only one change has been made to the amendments since the filing of the original emergency rule. This emergency rule is being adopted without change to the previous emergency rule.

This fifth emergency rule amends WAC 246-272A-0110 to allow manufacturers to make a written request to the department of health (department) to substitute components of a registered product's construction in cases of a demonstrated supply chain shortage or similar manufacturing disruptions that may impact installations, operation, or maintenance. The request must include information that demonstrates the substituted component will not negatively impact performance or diminish the effect of the treatment, operation, and maintenance of the original registered product. The emergency rule will also allow manufacturers of registered proprietary treatment products to replace components of their products that are not available due to supply chain shortages or similar manufacturing disruptions with like components, as long as the components will not negatively impact performance, treatment, operation, or maintenance of the original registered product.

The current rule requires manufacturers of proprietary treatment products used in on-site sewage systems to test their products with the National Sanitation Foundation (NSF) and register their products with the department based on NSF test results before the product is allowed to be permitted or installed in Washington. Without the emergency rule, the current rule would impede home sales when maintenance of proprietary products has not been completed as noted on home inspections for property transfers because replacement parts with NSF registration are unavailable. New construction is likewise impacted as many active or pending permits include on-site sewage systems using Salcor products. Salcor manufactures a disinfecting ultraviolet (UV) light system incorporated into several proprietary treatment products used in Washington state. There are other manufacturers of disinfecting UV light systems that can be substituted into proprietary treatment products in place of Salcor products. Salcor was sold and the new owner is working with NSF to get their products approved but this process will take several months. In order to continue to protect the public's health, safety, and welfare, it is necessary to adopt a fifth emergency rule to allow the department to consider written requests from manufacturers of proprietary treatment products for substitutes to proprietary treatment product components so their systems will be able to function properly without negatively impacting treatment, operation, or maintenance during supply chain shortages. To date, four manufacturers have received department approval to substitute the Salcor 3G UV lamp with an alternate UV lamp.

In 2018, the board filed a CR-101, preproposal statement of inquiry (WSR 18-06-082), to initiate permanent rule making and update

the on-site sewage system rules. That rule making is still underway and is expected to conclude in 2024. As directed by the board at the June 8, 2022 meeting, the emergency rule amendment will be considered for incorporation into the permanent rule making that is currently underway.

Citation of Rules Affected by this Order: Amending WAC 246-272A-0110.

Statutory Authority for Adoption: RCW 43.20.050(3).

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 board finds that in order to protect the public's health, safety, and welfare, it is necessary to adopt the emergency rule to amend WAC 246-272A-0110 to allow the department to consider written requests from manufacturers of proprietary treatment products to substitute a proprietary treatment product component so their systems may continue to function properly without negatively impacting performance or diminish the effect of the treatment, operation, or maintenance during supply chain shortages.

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 1, Repealed 0.

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

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

Date Adopted: October 6, 2023.

Michelle A. Davis, MPA  
Executive Director

### OTS-3856.3

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 9/15/05)

**WAC 246-272A-0110 Proprietary treatment products—Certification and registration.** (1) Manufacturers shall register their proprietary treatment products with the department before the local health officer may permit their use.

(2) To qualify for product registration, manufacturers desiring to sell or distribute proprietary treatment products in Washington state shall:

(a) Verify product performance through testing using the testing protocol established in Table I and register their product with the department using the process described in WAC 246-272-0120;

(b) Report test results of influent and effluent sampling obtained throughout the testing period (including normal and stress loading phases) for evaluation of constituent reduction according to Table II;

(c) Demonstrate product performance according to Table III. All (~~thirty-day~~) 30-day averages and geometric means obtained throughout the test period must meet the identified threshold values to qualify for registration at that threshold level; and

(d) For registration at levels A, B, and C verify bacteriological reduction according to WAC 246-272A-0130.

(3) Manufacturers verifying product performance through testing according to the following standards or protocols shall have product testing conducted by a testing facility accredited by ANSI:

(a) ANSI/NSF Standard 40—Residential Wastewater Treatment Systems;

(b) NSF Standard 41: Non-Liquid Saturated Treatment Systems;

(c) NSF Protocol P157 Electrical Incinerating Toilets - Health and Sanitation; or

(d) Protocol for bacteriological reduction described in WAC 246-272A-0130.

(4) Manufacturers verifying product performance through testing according to the following standards or protocols shall have product testing conducted by a testing facility meeting the requirements established by the Testing Organization and Verification Organization, consistent with the test protocol and plan:

(a) EPA/NSF—Protocol for the Verification of Wastewater Treatment Technologies; or

(b) EPA Environmental Technology Verification Program protocol for the Verification of Residential Wastewater Treatment Technologies for Nutrient Reduction.

(5) Treatment levels used in these rules are not intended to be applied as field compliance standards. Their intended use is for establishing treatment product performance in a product testing setting under established protocols by qualified testing entities.

(6) Manufacturers may submit a written application to the department requesting to substitute components of a registered product's construction in cases of supply chain shortage or similar manufacturing disruptions that may impact installations, operation, or maintenance. The application must include a report stamped, signed, and dated by a professional engineer that demonstrates the substituted component will not negatively impact performance or diminish the effect of the treatment, operation, and maintenance of the original registered product. The department's approval of the substituted component is in effect until it is rescinded by the department.

#### TABLE I

Testing Requirements for Proprietary Treatment Products	
Treatment Component/Sequence Category	Required Testing Protocol
<b>Category 1</b> Designed to treat sewage with strength typical of a residential source when septic tank effluent is anticipated to be equal to or less than treatment level E.	ANSI/NSF 40— Residential Wastewater Treatment Systems (protocols dated between July 1996 and the effective date of these rules)
<b>Category 2</b> Designed to treat high-strength sewage when septic tank effluent is anticipated to be greater than treatment level E.  (Such as at restaurants, grocery stores, mini-marts, group homes, medical clinics, residences, etc.)	EPA/NSF Protocol for the Verification of Wastewater Treatment Technologies/ EPA Environmental Technology Verification (April 2001)
<b>Category 3</b> Black water component of residential sewage (such as composting and incinerating toilets).	NSF/ANSI Standard 41: Non-Liquid Saturated Treatment Systems (September 1999)  NSF Protocol P157 Electrical Incinerating Toilets - Health and Sanitation (April 2000)
<b>Total Nitrogen Reduction in Categories 1 &amp; 2 (Above)</b>	Protocol for the Verification of Residential Wastewater Treatment Technologies for Nutrient Reduction/EPA Environmental Technology Verification Program (November, 2000)

TABLE II

Test Results Reporting Requirements for Proprietary Treatment Products	
Treatment Component/Sequence Category	Testing Results Reported
<b>Category 1</b> Designed to treat sewage with strength typical of a residential source when septic tank effluent is anticipated to be equal to or less than treatment level E.	<p>Report test results of influent and effluent sampling obtained throughout the testing period for evaluation of constituent reduction for the parameters: CBOD<sub>5</sub>, and TSS:</p> <p><input type="checkbox"/> Average <span style="float: right;"><input type="checkbox"/> Standard Deviation</span>  <input type="checkbox"/> Minimum <span style="float: right;"><input type="checkbox"/> Maximum</span>  <input type="checkbox"/> Median <span style="float: right;"><input type="checkbox"/> Interquartile Range</span>  <input type="checkbox"/> 30-day Average (for each month)</p> <p>For bacteriological reduction performance, report fecal coliform test results of influent and effluent sampling by geometric mean from samples drawn within (<del>thirty-day</del>) 30-day or monthly calendar periods, obtained from a minimum of three samples per week throughout the testing period. See WAC 246-272A-0130.                      Test report must also include the individual results of all samples drawn throughout the test period.</p>



Test Results Reporting Requirements for Proprietary Treatment Products	
<p><b>Category 2</b> Designed to treat high-strength sewage when septic tank effluent is anticipated to be greater than treatment level E.</p> <p>(Such as at restaurants, grocery stores, mini-marts, group homes, medical clinics, residences, etc.)</p>	Report all individual test results and full test average values of influent and effluent sampling obtained throughout the testing period for: CBOD <sub>5</sub> , TSS and O&G. Establish the treatment capacity of the product tested in pounds per day for CBOD <sub>5</sub> .
<p><b>Category 3</b> Black water component of residential sewage (such as composting and incinerating toilets).</p>	Report test results on all required performance criteria according to the format prescribed in the NSF test protocol described in Table I.
<p><b>Total Nitrogen Reduction in Categories 1 &amp; 2 (Above)</b></p>	Report test results on all required performance criteria according to the format prescribed in the test protocol described in Table I.

TABLE III

Product Performance Requirements for Proprietary Treatment Products						
Treatment Component/Sequence Category	Product Performance Requirements					
<p><b>Category 1</b> Designed to treat sewage with strength typical of a residential source when septic tank effluent is anticipated to be equal to or less than treatment level E.</p>	<b>Treatment System Performance Testing Levels</b>					
	<b>Level</b>	<b>Parameters</b>				
		<b>CBOD<sub>5</sub></b>	<b>TSS</b>	<b>O&amp;G</b>	<b>FC</b>	<b>TN</b>
	<b>A</b>	10 mg/L	10 mg/L	—	200/100 ml	—
	<b>B</b>	15 mg/L	15 mg/L	—	1,000/100 ml	—
	<b>C</b>	25 mg/L	30 mg/L	—	50,000/100 ml	—
	<b>D</b>	25 mg/L	30 mg/L	—	—	—
	<b>E</b>	125 mg/L	80 mg/L	20 mg/L	—	—
	<b>N</b>	—	—	—	20 mg/L	
	<p>Values for Levels A - D are 30-day values (averages for CBOD<sub>5</sub>, TSS, and geometric mean for FC.) All 30-day averages throughout the test period must meet these values in order to be registered at these levels.</p> <p>Values for Levels E and N are derived from full test averages.</p>					
<p><b>Category 2</b> Designed to treat high-strength sewage when septic tank effluent is anticipated to be greater than treatment level E.</p> <p>(Such as at restaurants, grocery stores, mini-marts, group homes, medical clinics, residences, etc.)</p>	<p>All of the following requirements must be met:</p> <p>(1) All full test averages must meet Level E; and</p> <p>(2) Establish the treatment capacity of the product tested in pounds per day for CBOD<sub>5</sub>.</p>					
<p><b>Category 3</b> Black water component of residential sewage (such as composting and incinerating toilets).</p>	Test results must meet the performance requirements established in the NSF test protocol.					
<p><b>Total Nitrogen Reduction in Categories 1 &amp; 2 (Above)</b></p>	Test results must establish product performance effluent quality meeting Level N, when presented as the full test average.					

[Statutory Authority: RCW 43.20.050. WSR 05-15-119, § 246-272A-0110, filed 7/18/05, effective 9/15/05.]

**WSR 23-21-035  
EMERGENCY RULES****EMPLOYMENT SECURITY DEPARTMENT**

[Filed October 6, 2023, 2:35 p.m., effective October 6, 2023, 2:35 p.m.]

Effective Date of Rule: Immediately upon filing.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The employment security department (department) began permanent rule making on the included topics by filing a preproposal statement of inquiry on June 27, 2023, as WSR 23-14-051.

Purpose: The department is adopting emergency rules concerning blanket overpayment waivers for pandemic unemployment assistance, pandemic emergency unemployment compensation, federal pandemic unemployment compensation, and mixed earner unemployment compensation. The department is also adopting rules concerning waivers for conditional benefits paid for the week beginning February 2, 2020, through the week ending September 4, 2021, and the process for requesting overpayment waivers for overpaid benefits for the weeks ending February 2, 2020, through the week ending September 4, 2021, for all federal and state unemployment compensation programs.

These emergency rules were originally adopted on March 29, 2023, as WSR 23-08-024. These emergency rules were adopted again on June 27, 2023, as WSR 23-14-052.

Citation of Rules Affected by this Order: New WAC 192-220-018; and amending WAC 192-220-017 and 192-220-080.

Statutory Authority for Adoption: RCW 50.20.190, 50.24.020, 50.12.010, and 50.12.040.

Other Authority: Unemployment Insurance Program Letter Number 20-21, Change 1 (February 7, 2022).

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

Reasons for this Finding: The department initially adopted emergency rules related to overpayment waivers (WSR 23-08-024) due to the drastic rise in unemployment insurance claims during the COVID-19 pandemic, which resulted in more than 137,000 claimants with overpayments accounting for more than \$1.2 billion that accrued from February 2, 2020, through September 4, 2021. In May 2023, the department began processing blanket waivers approved by the United States Department of Licensing for pandemic era overpayments using those emergency rules. The department also began accepting waiver requests for claimants with overpayments accrued during the pandemic. The department has processed many of these waivers but will not be able to complete the work prior to the expiration of the adopted emergency rules. Therefore, the department has begun permanent rule making regarding overpayment waivers, which has not yet been completed. Readopting these emergency rules will allow this work to continue until permanent rule making can be completed.

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 1, Amended 2, 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: October 6, 2023.

Joy E. Adams  
Employment Security Policy Director

## OTS-4233.2

AMENDATORY SECTION (Amending WSR 08-21-056, filed 10/9/08, effective 11/9/08)

**WAC 192-220-017 Am I required to repay the overpayment?** (1) You must repay the full amount of the overpayment, even if you are not at fault, unless you are granted a waiver. (See also WAC 192-230-110.) A waiver means you do not have to repay the overpayment.

(2) Except as provided in subsection (3), you are potentially eligible for a waiver of an overpayment when it would be against equity and good conscience for the department to require you to repay the full amount.

(3) You are not eligible for a waiver when:

(a) You are at fault for the overpayment;

(b) The overpayment is the result of a discharge for misconduct or gross misconduct (see RCW 50.20.066(5));

(c) The overpayment is the result of a conditional payment of benefits, except for benefits paid for the week beginning February 2, 2020, through the week ending September 4, 2021;

(d) The overpayment decision was issued by a state other than Washington; or

(e) The overpayment is for disaster unemployment assistance benefits paid under Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

[Statutory Authority: RCW 50.12.010, 51.12.040, and 50.20.010. WSR 08-21-056, § 192-220-017, filed 10/9/08, effective 11/9/08.]

## NEW SECTION

**WAC 192-220-018 Blanket overpayment waivers for federally funded pandemic era benefits.** The department will waive overpayments for federally funded benefits when:

(1) The individual answered "no" to being able to work and available for work and:

(a) The state paid Pandemic Unemployment Assistance, Federal Pandemic Unemployment Compensation, or Pandemic Emergency Unemployment Compensation without adjudicating the eligibility issue;

(b) Upon requesting additional information from the individual, the individual either did not respond or the individual confirmed that they were not able to work nor available for work for the week in question; and

(c) The paid benefits resulted in an overpayment for that week.

(2) The individual answered "no" to being unemployed, partially unemployed, or unable or unavailable to work because of the approved COVID-19-related reasons provided in 15 U.S.C. § 9021(a)(3)(A)(ii)(I) and:

(a) The state paid Pandemic Unemployment Assistance anyway;

(b) Following a request from the department for a new self-certification, the individual either did not respond or the individual confirmed that none of the approved COVID-19-related reasons were applicable; and

(c) The state's payment of these benefits resulted in an overpayment for that week.

(3) The individual complied with instructions from the department to submit proof of earnings to be used in calculating the individual's Pandemic Unemployment Assistance weekly benefit amount and:

(a) Through no fault of the individual, the department's instructions were either inadequate or the department incorrectly processed this calculation using self-employment gross income instead of net income or documents from an inapplicable tax year, resulting in an incorrect higher Pandemic Unemployment Assistance weekly benefit amount; and

(b) The department established an overpayment for the difference in the individual's Pandemic Unemployment Assistance weekly benefit amount.

(4) The individual complied with instructions from the department to submit proof of earnings to be used in calculating the individual's Mixed Earner Unemployment Compensation weekly benefit amount and:

(a) Through no fault of the individual, the department's instructions were either inadequate or the department incorrectly processed this calculation using self-employment gross income instead of net income or documents from an inapplicable tax year, resulting in an incorrect higher Mixed Earner Unemployment Compensation weekly benefit amount; and

(b) The department established an overpayment for the difference in the individual's Mixed Earner Unemployment Compensation weekly benefit amount.

[]

AMENDATORY SECTION (Amending WSR 17-04-090, filed 1/31/17, effective 3/3/17)

**WAC 192-220-080 How do I obtain a waiver?** (1) When a decision is issued that creates an overpayment, the department will send you an application for waiver if you are potentially eligible.

(2) The waiver application asks for information concerning your financial condition and other circumstances which will help the department determine if the overpayment should be waived.

(3) The financial information requested includes documentation for the previous month, current month, and following month of your:

(a) Income and, to the extent available, the income of other household members who contribute financially to the household;

(b) Expenses; and

(c) Readily available liquid assets including, but not limited to, checking and savings account balances, stocks, bonds, and cash on hand.

(4) The completed application and supporting documents must be returned to the department by the response deadline indicated in the notice, which will be no less than five working days plus reasonable mailing time, if any. If you do not provide the information by the deadline, the department will make a decision about your eligibility for waiver based on available information.

(5) A waiver cannot exceed the total amount of benefits available on your claim. The department will not waive the overpayment in such a way as to allow you to receive either a greater weekly benefit amount or a greater total benefit amount than you were originally eligible to receive. Any benefits waived are considered paid to you.

Example: You misplace a benefit check and request a replacement from the department. You subsequently cash both the original check and the replacement. Waiver will not be approved under these circumstances because you have been paid twice for the same week.

(6) If a waiver is approved based on information that is later found to be false or misleading, the amount waived will be restored to your overpayment balance.

(7) For benefits paid for the week beginning February 2, 2020, through the week ending September 4, 2021, the department will allow claimants to apply for a waiver of their overpayment for benefits, even if the individual previously had an overpayment waiver request denied or was previously deemed ineligible for an overpayment waiver.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 17-04-090, § 192-220-080, filed 1/31/17, effective 3/3/17; WSR 16-21-013, § 192-220-080, filed 10/7/16, effective 11/14/16. Statutory Authority: RCW 50.12.010, 51.12.040, and 50.20.010. WSR 08-21-056, § 192-220-080, filed 10/9/08, effective 11/9/08.]

**WSR 23-21-037**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-226—Filed October 6, 2023, 5:02 p.m., effective October 6, 2023, 5:02 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to set closure dates for a portion of the Skagit River and to open a portion of Cascade River seven days per week.

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

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

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

Reasons for this Finding: This rule is necessary to close a portion of the Skagit River to avoid gear conflicts with scheduled treaty fisheries and to open a portion of Cascade River daily.

Weekly closure days are no longer necessary in Cascade River as treaty fisheries for coho have concluded for the season in the section listed.

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: October 6, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-04000V Freshwater exceptions to statewide rules—Puget Sound.** Effective immediately, through October 31, 2023, the following provisions of WAC 220-312-040 regarding open days for portions of Cascade River and Skagit River, shall be modified as described below. All other provisions of WAC 220-312-040 not addressed herein, or unless otherwise amended, remain in effect:

(1) **Cascade River (Skagit Co.):** From mouth to Rockport-Cascade Rd. Bridge: Effective immediately, through October 31, 2023:

Salmon and Gamefish seasons open daily (7 days per week). All other rules regarding salmon and gamefish seasons listed in WAC 220-312-040 (44) (a) (iii) remain in effect.

(2) **Skagit River (Skagit Co.):** From the Hwy 9 Bridge in Sedro Woolley to the mouth of the Baker River:

All species: October 11 through October 12, 2023: Closed Waters.

[]

**WSR 23-21-041**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-227—Filed October 9, 2023, 3:21 p.m., effective October 9, 2023, 3:21 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to allow purse seine test fishery operations to be conducted by the purse seine vessels listed in the WAC text of this filing, in Puget Sound waters.

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

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

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

Reasons for this Finding: This emergency rule is needed to allow the purse seine fishing vessels (F/V), F/V Chasina, the F/V Harbor Gem, the F/V Lisa Marie, and the F/V Tradition, to conduct test fisheries in the waters of Puget Sound Salmon Management and Catch Reporting Areas 9, 10, and 11. These test fisheries are necessary to collect GSI [GIS] data and to inform the in-season update models and have been agreed to by comanagers. This information is necessary to sustainably manage Puget Sound chum fisheries. There was a date change for the schedule of F/V Harbor Gem to allow test fishing on October 11 because the vessel was unable to operate October 9 due to inclement weather. 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: October 9, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-354-12000D Puget Sound salmon—Purse Seine—Open periods.** Effective October 11 through November 27, 2023, the purse seine vessels F/V Chasina, the F/V Harbor Gem, the F/V Lisa Marie and the F/V



Tradition may carry out purse seine test fishery operations within Puget Sound Salmon Management and Catch Reporting Areas 9, 10 and 11.

(1) Allowed fishing period is from October 9 through November 27, 2023.

(2) Area 11: Only chum salmon may be retained. All other salmon species must be released. WDFW staff must be onboard vessel while fishing.

(3) Area 9, non-retention fishery: all fish must be released. WDFW staff must be onboard vessel when fishing.

(4) Area 9/10 Apple Cove Test Fishery: Administered by Northwest Indian Fisheries Commission staff. All salmon species may be retained.

(5) Weekly schedule by Area and vessel:

Week	F/V Harbor Gem Apple Cove/Kingston Area 9/10	F/V Chasina Port Ludlow; Area 9	F/V Tradition Command Point; Area 11; West Pass	F/V Lisa Marie Point Beals; Area 11; East Pass
41	Mon 10/11/2023			
42	Mon 10/16/2023	Wed 10/18/2023	Mon 10/16/2023	Mon 10/16/2023
43	Mon 10/23/2023	Mon 10/23/2023	Mon 10/23/2023	Mon 10/23/2023
44	Mon 10/30/2023	Mon 10/30/2023	Mon 10/30/2023	Mon 10/30/2023
45	Mon 11/06/2023	Mon 11/06/2023	Mon 11/06/2023	Mon 11/06/2023
46	Mon 11/13/2023	Mon 11/13/2023	Mon 11/13/2023	Mon 11/13/2023
47	Mon 11/20/2023			

[]

REPEALER

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

WAC 220-354-12000C Puget Sound salmon—Purse seine—Open periods. (23-223)

**WSR 23-21-047**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-228—Filed October 10, 2023, 11:35 a.m., effective October 10, 2023, 11:35 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to require release of wild adult Chinook in the Lyons Ferry Bubble Fishery area. This rule maintains other previously announced Snake River salmon fisheries.

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

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: Allowed impacts to wild adult Chinook in Lyons Ferry Bubble Fishery area are nearing the agreed-to limit; therefore, it is necessary to switch to a mark selective fishery (hatchery, adipose clipped fish only) to allow continued fishing opportunity. There is insufficient time to adopt permanent rules.

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

Number of Sections Adopted at 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: October 10, 2023.

Amy H. Windrope  
for Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-05000M Freshwater exceptions to statewide rules—Eastside.** Effective immediately, through December 31, 2023, the following provisions of WAC 220-312-050, regarding salmon seasons in the Snake River shall be open as follows. All other provisions of WAC 220-312-050 remain in effect unless modified by emergency rule:

(1) **Snake River (Franklin/Walla Walla Counties): From the red river marker (Marker 28) on the south shore of the Snake River upstream to the Highway 261 bridge (approx. 1.4 mi.):**

Salmon: Effective immediately, through Oct. 29, 2023:

(a) Open Thursdays through Sundays each week. Closed Mondays through Wednesdays each week.

(b) Daily limit 2 adult hatchery Chinook. No daily limit for jack Chinook. Release all salmon other than hatchery adult Chinook and jack Chinook.

(c) Barbless hooks required.

(d) Salmon may not be removed from the water unless to be retained as part of the daily limit.

**(2) Snake River (Franklin/Walla Walla Counties): From the downstream edge of the large power lines crossing the Snake River (just upstream from West Evans Road on the south shore, approximately 3 miles below Clarkston) upstream to the Idaho Border at Clarkston:**

Salmon: Effective immediately, through October 31, 2023:

(a) Daily limit 3 adult Chinook and 2 adult coho. No daily limit for jack Chinook or jack coho. Release all salmon other than Chinook and coho.

(b) Barbless hooks required.

(c) Salmon may not be removed from the water unless to be retained as part of the daily limit.

**(3) Snake River (Franklin/Walla Walla Counties): From the Idaho border at Clarkston to the Oregon state line:**

Salmon:

(a) Effective immediately, through October 31, 2023:

(i) Daily limit 3 adult Chinook and 2 adult coho. No daily limit for jack Chinook or jack coho. Release all salmon other than Chinook and coho.

(ii) Barbless hooks required.

(iii) Salmon may not be removed from the water unless to be retained as part of the daily limit.

(b) Effective November 1 through December 31, 2023:

(i) Daily limit 2 adult coho. No daily limit for jack coho. Release all salmon other than coho.

(ii) Barbless hooks required.

(iii) Salmon may not be removed from the water unless to be retained as part of the daily limit.

[]

#### REPEALER

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

WAC 220-312-05000L Freshwater exceptions to statewide rules—Eastside. (23-224)

**WSR 23-21-053  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 23-229—Filed October 11, 2023, 10:22 a.m., effective October 14, 2023]

Effective Date of Rule: October 14, 2023.

Purpose: The purpose of this emergency rule is to open recreational razor clam seasons.

Citation of Rules Affected by this Order: Repealing WAC 220-330-16000D; 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, 4, and 5 for recreational harvest. Washington department of health has certified clams from these Razor Clam Areas 1, 3, 4, and 5 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: October 10, 2023.

Amy H. Windrope  
for Kelly Susewind  
Director

NEW SECTION

**WAC 220-330-16000D 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. October 14 through 11:59 p.m. October 18, 2023, razor clam digging is permissible in Razor Clam Areas defined in WAC 220-330-160 during dates and times listed below:

Razor Clam Area	Date	Time
Area 1	October 14 through 17	From 12:01 p.m. to 11:59 p.m.

Razor Clam Area	Date	Time
Area 2	Closed	Closed
Area 3	October 14 through 17	From 12:01 p.m. to 11:59 p.m.
Area 4	October 15 and 17	From 12:01 p.m. to 11:59 p.m.
Area 5	October 14, 16 and 18	From 12:01 p.m. to 11:59 p.m.
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.

[ ]

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. October 19, 2023:

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

**WSR 23-21-057**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-230—Filed October 11, 2023, 2:50 p.m., effective October 11, 2023, 2:50 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to:

- (1) Open gamefish and salmon seasons in the Wallace River.
- (2) Increase salmon daily limits and allow wild coho and pink retention in the Wallace River.
- (3) Extend salmon seasons and allow the use of bait, including fish eggs, through October 31 in the Snohomish River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-04000Q; 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 rule is necessary to open fishing seasons, increase the salmon daily limit, allow retention of wild coho in the Wallace River, and extend salmon seasons in the Snohomish River.

In-season observations and data indicate wild coho salmon returns to Wallace River are sufficient to increase the salmon daily limit and allow retention of wild coho. Pink and coho salmon returns are sufficient to extend salmon seasons through October in Snohomish River. There are sufficient Chinook impacts remaining in the season to allow for these fisheries targeting coho.

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: October 11, 2023.

Amy H. Windrope  
for Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-04000W Freshwater exceptions to statewide rules—Puget Sound.** Effective immediately, until further notice, provisions of WAC 220-312-040 regarding recreational fishing seasons for the Snohomish River system 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:

(1) Effective immediately, until further notice, the following waters are closed to fishing for or possessing food fish or game fish:

- (a) **Cherry Creek**, from mouth upstream
- (b) **Raging River**, from mouth upstream
- (c) **Skykomish River**, from mouth to confluence of North and South forks
- (d) **Skykomish River, North Fork**, from mouth upstream
- (e) **Skykomish River, South Fork**, from mouth upstream
- (f) **Snoqualmie River**, from mouth to Snoqualmie Falls
- (g) **Sultan River**, from mouth upstream
- (h) **Tolt River**, from mouth to confluence of North and South forks
- (2) **Snohomish River:**

From the mouth to the confluence of Skykomish and Snoqualmie rivers:

Effective immediately through October 31, 2023: Salmon: Daily limit 4 including no more than 2 coho. Release Chinook and chum. Use of bait is allowed. Single point barbless hooks required.

**(3) Wallace River:**

(a) From mouth (farthest downstream RR bridge) to 363rd Ave. SE/Reece Rd. (Dike Rd.):

Effective October 16 through October 31, 2023: Salmon daily limit is 4. Release all salmon other than coho and pinks.

(b) From 363rd Ave. SE/Reece Rd. (Dike Rd.) to 200' upstream of water intake of salmon hatchery:

Effective October 16 through November 30, 2023: Salmon daily limit is 4. Release all salmon other than coho and pinks.

[]

REPEALER

The following section of Washington Administrative Code is repealed, effective October 16, 2023:

WAC 220-312-04000Q Freshwater exceptions to statewide rules—Puget Sound. (23-152)

## WSR 23-21-065

## EMERGENCY RULES

## DEPARTMENT OF HEALTH

[Filed October 12, 2023, 3:22 p.m., effective October 12, 2023, 3:22 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Emergency rules that temporarily remove the requirement for home care aide applicants to become certified within two years of completing training.

WAC 246-980-100 Examination and reexamination for home care aide certification, in chapter 246-980 WAC, Home care aide rules. WAC 246-980-100 (5)(c) requires that home care aide certification testing occur within two years of training. This emergency rule removes the two-year limit on the validity of training.

Lasting impacts from the coronavirus disease 2019 (COVID-19) pandemic have impacted the home care aide workforce by creating backlogs that limit access to training and testing. Continuing to require testing within two years of training would require many uncertified individuals to repeat training, delaying and possibly preventing them from becoming credentialed as a home care aide. This would negatively impact the individuals working toward a credential, the home care aide workforce, and the clients for whom they provide care.

These rules continue emergency rules initially filed on October 17, 2022, under WSR 22-21-102 and continued on February 14, 2023, under WSR 23-05-083, and on June 13, 2023, under WSR 23-13-068. They are being continued while permanent rule making is in progress to consider training timelines for home care aides.

Citation of Rules Affected by this Order: Amending WAC 246-980-100.

Statutory Authority for Adoption: RCW 18.88B.021.

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 avoid a critical shortage of home care aides, to support the clients who rely on home care aides, and to avoid increasing existing training and testing backlogs.

During the COVID-19 pandemic, the home care aide training, testing, and certification pipeline was severely impacted. Early 2020 closures and capacity restrictions created long-lasting backlogs, preventing individuals from becoming credentialed within statutory time frames. While certification requirements were temporarily waived by governor's proclamations, individuals working toward home care aide certification now need to meet requirements in chapter 246-980 WAC despite backlogs. If the two-year limit on the validity of training remains in place, individuals trained earlier in the pandemic will be required to repeat training. This could have negative impacts, including (1) certification delays while individuals wait for training availability and then repeat training; (2) increased training backlogs; (3) loss of potential home care aides, as individuals who repeat training may then be unable to meet certification time frames; and (4) forcing more medically vulnerable patients to rely on other care options, such as higher-level residential care settings or hospitals.



Removing this limit by emergency rule will support the home care aide workforce and the public health by (1) removing a barrier to certification while still requiring that home care aides receive appropriate training; (2) enabling more vulnerable individuals to receive care in their homes rather than needing to obtain care in residential care settings; and (3) helping to create a smooth transition away from regulation through pandemic emergency measures and back to statutory time frames.

These emergency rules will be continued as permanent rule making considers how training timelines should function in the long term.

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 1, Repealed 0.

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

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

Date Adopted: October 12, 2023.

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

## OTS-4130.1

AMENDATORY SECTION (Amending WSR 18-20-072, filed 9/28/18, effective 10/29/18)

**WAC 246-980-100 Examination and reexamination for home care aide certification.** (1) The certification examination will consist of both a written knowledge test and a skills demonstration.

(2) The certification examination will test the core competencies, including but not limited to:

- (a) Communication skills;
- (b) Worker self-care;
- (c) Problem solving;
- (d) Maintaining dignity;
- (e) Consumer directed care;
- (f) Cultural sensitivity;
- (g) Body mechanics;
- (h) Fall prevention;
- (i) Skin and body care;
- (j) Home care aide roles and boundaries;
- (k) Supporting activities of daily living; and
- (l) Food preparation and handling.

(3) An applicant must apply to take the examination by completing the application for both certification and the examination and returning it to the department. The department will notify the examination contractor once an applicant meets all requirements to take the certification examination.

(4) The examination contractor will notify an applicant of the date, time, and place of the examination.

(5) The examination contractor will notify both the department and an applicant of the examination results.

(a) An applicant who does not successfully pass any portion of the examination can follow the examination contractor's procedures for review and appeal.

(b) An applicant who does not successfully pass any portion of the examination may retake that portion of the examination two times.

(i) To retake the examination, an applicant must submit an application for reexamination, along with the required reexamination fee directly to the examination contractor.

(ii) An application for reexamination may be submitted any time after an applicant receives notice of not successfully completing any portion of the certification examination.

(c) An applicant who does not successfully pass both portions of the certification examination (~~(within two years of successfully completing the required training or who does not successfully pass both portions of the certification examination)~~) after completing the certification examination three consecutive times:

(i) Must retake and successfully complete the core competencies portion of the entry-level training as required by RCW 74.39A.074 before retaking both portions of the certification examination; and

(ii) Cannot continue to provide care as a long-term care worker until the certification has been issued.

[Statutory Authority: RCW 18.88B.021. WSR 18-20-072, § 246-980-100, filed 9/28/18, effective 10/29/18. Statutory Authority: Chapters 18.88B and 18.130 RCW, 2012 c 164, and 2013 c 259. WSR 13-19-087, § 246-980-100, filed 9/18/13, effective 10/19/13. Statutory Authority: Chapters 18.88B and 74.39A RCW. WSR 10-15-103, § 246-980-100, filed 7/20/10, effective 1/1/11.]

**WSR 23-21-067**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-232—Filed October 12, 2023, 3:59 p.m., effective October 12, 2023, 3:59 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends recreational fishing rules for the Skagit River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-04000V; 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 rule is necessary to close a portion of the Skagit River to avoid gear conflicts with scheduled treaty fisheries. Sufficient recreational harvestable wild coho remain to allow retention and additional fishing opportunity in a portion of the Skagit River. 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: October 12, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-04000X Freshwater exceptions to statewide rules—Puget Sound.** Effective immediately, through November 30, 2023, the following provisions of WAC 220-312-040 regarding open days for portions of Cascade River and Skagit River, shall be modified as described below. All other provisions of WAC 220-312-040 not addressed herein, or unless otherwise amended, remain in effect:

(1) **Cascade River (Skagit Co.):** From mouth to Rockport-Cascade Rd. Bridge: Effective immediately, through October 31, 2023:

Salmon and Gamefish seasons open daily (7 days per week). All other rules regarding salmon and gamefish seasons listed in WAC 220-312-040 (44)(a)(iii) remain in effect.

(2) **Skagit River (Skagit Co.)**: from the mouth to the Cascade River Rd. bridge (Marblemount Bridge). Effective October 13 through November 30:

Daily limit 2 salmon, release Chinook and chum. Minimum size: 12". Night closure in effect.

(3) Skagit River (Skagit Co.), from the Hwy. 9 Bridge in Sedro Woolley to the mouth of the Baker River.

Immediately, until 12:00 p.m. (noon), Oct. 13: All species: Closed Waters.

■ 12:00 p.m. (noon), Oct. 13 - Oct 17: Salmon: Min. size 12". Daily limit 2. Release Chinook and chum. Night Closure in effect.

Oct. 18 through 12:00 p.m. (noon) October 20: Closed Waters.

■ 12:00 p.m. (noon), Oct. 20 - Nov. 30: Salmon: Min. size 12". Daily limit 2. Release Chinook and chum. Night Closure in effect.

[]

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-312-04000V Freshwater exceptions to statewide rules—Puget Sound. (23-226)

**WSR 23-21-074**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-231—Filed October 13, 2023, 4:11 p.m., effective October 13, 2023, 4:11 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to open commercial crab fishing in Puget Sound;

**WAC 220-320-12000B:** Amends the boundary of the Dungeness Bay crustacean special management area to match what will be implemented by permanent rule.

**WAC 220-330-02000E:**

(1) Implements a permitting exemption to the requirement that buoys remain on the surface that will be implemented by permanent rule.

(2) Implements a requirement that gear used match the depth and conditions that will be implemented by permanent rule.

(3) Implements a restriction preventing the use of gear that has been marked in accordance with the requirements of another fixed gear fishery on the west coast.

**WAC 220-340-43000B:**

(1) Clarifies where buoy tags must be attached on commercial crab gear fished in Puget Sound.

(2) Implements an exception to the undeployed buoy tag requirement to permit their use as replacement tags that will be implemented in permanent rule.

(3) Implements a replacement tag request process in order to use undeployed buoy tags to replace lost and unrecoverable gear that will be implemented in permanent rule.

**WAC 220-340-45500X:**

(1) Opens Puget Sound commercial crab harvest in Crab Management Regions 1, 2-East, 2-West, 3-1, 3-2, 3-3, and 3-4 at 8:00 a.m. on October 20 through 24, 2023.

(2) Closes Port Angeles Harbor to commercial crab harvest due to public health decrees.

(3) Amends the Bellingham Bay tribal exclusive area to match what will be implemented in permanent rule.

**WAC 220-340-47000U:** Sets reduced pot limits by area for Puget Sound commercial crab harvest effective for the dates listed in amended WAC 220-340-455.

**WAC 220-352-06000A:**

(1) Expands definition of landings to include shellfish that will be implemented via permanent rule.

(2) Clarifies fish ticket completion and submission requirements for original receivers making landings on mobile devices and nonmobile electronic platforms.

Citation of Rules Affected by this Order: Amending WAC 220-320-120, 220-330-020, 220-340-430, 220-340-455, 220-340-470, and 220-352-060.

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 com-

ment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: There is sufficient allocation remaining to open the Puget Sound commercial crab fishery in Regions 1, 2-East, 2-West, 3-1, 3-2, 3-3, and 3-4, at 8:00 a.m. on October 20, 2023, until one hour after official sunset, October 24, 2023. These provisions are in conformity with agreed comanagement plans. Comanagement plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. There is insufficient time to adopt permanent rules. Further adjustment of season structure may be made pending updated harvest data.

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 6, 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: October 13, 2023.

Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-320-12000B Commercial crab fishery—Puget Sound Crustacean (crab and shrimp) Special Management Areas.** Notwithstanding the provisions of WAC 220-320-120, effective immediately, until further notice:

Dungeness Bay CSMA is defined as: all waters of Dungeness Bay west of the -123.1103° (123°06.6') longitude line originating from the New Dungeness Light (48.1818°, -123.1103°).

[]

**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.

#### NEW SECTION

**WAC 220-330-02000E Crab, shrimp, crawfish—Gear and gear-related unlawful acts. General gear requirements:** Notwithstanding the provisions of WAC 220-330-020, effective immediately, until further notice:

(1) Buoys must remain visible on the surface at all times, except during extreme tidal conditions, or unless otherwise authorized under a permit issued by the director.

(2) Fishers shall use only the amount of line reasonably necessary to compensate for tides, currents, and weather.

(3) It is unlawful to use gear that has one or more line marks or to use multicolor line consistent with requirements for any other state or federally managed commercial fishery operating in the U.S. West Coast Exclusive Economic Zone, or in the state waters of Washington, Oregon, or California.

[]

#### NEW SECTION

##### **WAC 220-340-43000B Commercial crab fishery—Gear requirements.**

Notwithstanding the provisions of WAC 220-340-430, effective immediately, until further notice:

(1) In Puget Sound, except if authorized by permit issued by the director, all crab buoys must have the department-issued buoy tag attached to the outermost end of the buoy line.

(2) All remaining, undeployed buoy tags per license per region must be onboard the designated vessel and available for immediate inspection by the department, except under the following conditions: The holder or alternate operator of a Puget Sound crab license has declared, as permitted under subsection (3), that deployed tags have been lost and are unrecoverable, under penalty of perjury, and has been granted permission by the department to use undeployed buoy tags as a replacement.

(3) Puget Sound replacement crab buoy tag requirements are as follows: Puget Sound commercial crab license holders are required to request permission to use undeployed buoy tags in the event deployed buoy tags are lost and are unrecoverable. Requests to use undeployed buoy tags must state the number of buoy tags lost, the location and date where the licensee last observed lost gear or tags, and the presumed cause of the loss. Requests must be made using a department provided electronic form.

[]

**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.

#### NEW SECTION

**WAC 220-340-45500X Commercial crab fishery—Seasons and areas—Puget Sound.** Notwithstanding the provisions of WAC 220-340-455, effective October 20 through October 24, 2023:

(1) Harvest of Dungeness crab in Puget Sound is permitted during the "Open period" indicated in the following table. On the opening date harvest will be permitted starting at 8:00 a.m. Harvest for these areas after the opening date is permitted starting one hour before official sunrise until further notice. Any closures will take effect one hour after official sunset unless otherwise indicated.

Geographical Management Unit (WAC 220-320-110)	Open Period
Region 1, MFSF Catch Areas 21A, 21B, and 22B	October 20 through October 24, 2023
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	October 20 through October 24, 2023
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	October 20 through October 24, 2023
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	October 20 through October 24, 2023
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	October 20 through October 24, 2023
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	October 20 through October 24, 2023
Subregion 3-1	October 20 through October 24, 2023
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	October 20 through October 24, 2023
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	October 20 through October 24, 2023
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	October 20 through October 24, 2023
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Closed, due to on-going public health concerns.
Subregion 3-3	October 20 through October 24, 2023
Subregion 3-4	October 20 through October 24, 2023

(2) The area closed to commercial harvest in WAC 220-340-455 (2) (c) is amended to be: Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 21A in Bellingham Bay west of a line projected from the exposed boulder off the southeast portion of Point Francis (48.6973°, -122.6073°) to the old pilings at Stevie's Point (48.7765°, -122.5523°).

[]

NEW SECTION

**WAC 220-340-47000U Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas.** Notwithstanding the provisions of 220-340-470, effective October 20 through October 24, 2023:

Effective during the "Open period" listed in WAC 220-340-45500X, it is unlawful for any person to harvest crabs with more than the "Pot limit" per license per buoy tag number indicated within each "geographical management unit".

Geographical Management Unit (WAC 220-320-110)	Pot limit
Region 1, MFSF Catch Areas 21A, 21B, and 22B	30
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	30
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	30
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	30



<b>Geographical Management Unit (WAC 220-320-110)</b>	<b>Pot limit</b>
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	35
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	20
Subregion 3-1	35
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	35
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	20
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	20
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	0
Subregion 3-3	35
Subregion 3-4	35

[]

#### NEW SECTION

**WAC 220-352-06000A Completion, submission, distribution, and retention of copies of nontreaty fish receiving tickets.** Notwithstanding the provisions of WAC 220-352-060, effective immediately, until further notice:

(1) Original receivers must complete state of Washington nontreaty fish receiving tickets by recording the delivery amount using the appropriate weight or quantity measure for all fish or shellfish at the conclusion of the offload and prior to the fish or shellfish being processed or transported away from the delivery site.

(2) Original receivers who are required to submit fish receiving tickets using an electronic form under WAC 220-352-035 (2) must:

(a) For deliveries completed on a mobile device, original receivers are required to fill out an electronic fish ticket form at the delivery location and submit it immediately following the completion of the delivery of fish or shellfish before leaving the delivery location.

In the event of a cellular or broadband outage or lack of service at the delivery site, the original receiver must submit the ticket immediately upon regaining access to a cellular or broadband connection following the completion of the delivery.

(b) For deliveries of fish and shellfish made to original receivers using a non-mobile device or desktop electronic fish ticket form, the original receiver must submit the ticket within 24 hours after the delivery is completed except:

For deliveries of coastal Dungeness crab, the original receiver must submit the ticket by the close of the next business day after the delivery is complete.

(c) Submit the ticket in compliance with the timely reporting conditions set forth in the electronic fish receiving ticket reporting agreement if reporting voluntarily under WAC 220-352-035(3).

[]

**WSR 23-21-107**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-233—Filed October 18, 2023, 10:38 a.m., effective October 18, 2023, 10:38 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to open commercial purse seine and gillnet seasons in Puget Sound Salmon Management and Catch Reporting Areas 10 and 11.

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

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 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 necessary to limit participation to the listed vessels that were selected by random drawing because the estimated runsize is not large enough to support full fleet openings. The latest in-season runsize estimate for South Sound chum salmon based on test fishing is large enough to allow limited commercial opportunity, but insufficient to support full fleet openings. 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: October 18, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-354-12000E Puget Sound salmon—Purse seine—Open periods.** Effective 7:00 a.m. until 6:00 p.m., October 20, 2023, the following provisions of WAC 220-354-120 regarding commercial Purse Seine open periods in Puget Sound Salmon Management and Catch Reporting Areas 10 and 11 shall be as follows. All other provisions of WAC 220-354-120 not contained herein remain in effect unless otherwise altered by emergency rule:

Areas	Open/Closed	Time	Date(s)
10, 11	Open	7 AM - 6 PM	10/20/2023

(a) For week 43 the following participants that have been selected and notified by the Department, or their designated alternate operator, are permitted to participate in the Area 10 and 11 purse seine fishery:

- (i) FV Adirondack
- (ii) FV Harbor Gem
- (iii) FV New Oregon
- (iv) FV Sofia Lynn
- (v) FV Wisconsin
- (vi) FV Lisa Marie

(b) It is unlawful to land more than 1,600 chum per license during open periods listed herein.

(c) It is unlawful to possess salmon caught in other Marine Areas while participating in this fishery.

(d) Agreement to participate in this fishery will require that a department observer be allowed on board the vessel while fishing if requested by department staff.

[]

NEW SECTION

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

Effective from 5 p.m. October 18 until 9 a.m. October 19, 2023, the following provisions of WAC 220-354-160 regarding commercial gillnet open periods for Puget Sound Salmon Management and Catch Reporting Areas 10 and 11 shall be as described below. All other provisions of WAC 220-354-160 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

Area	Open/Closed	Time	Date(s)
10, 11	Open	5 PM - 9 AM	Opening 10/18/2023 – 10/19/2023

(a) For week 43 the following participants that have been selected and notified by the Department, or their designated alternate operator, are permitted to participate in the Area 10 and 11 gill net fishery:

- (i) WN3848LA
- (ii) FV Bristol Sound
- (iii) FV Nettie B
- (iv) FV C-Rae
- (v) FV Toni M
- (vi) FV JanM
- (vii) WN66415R
- (viii) FV Top Flite
- (ix) FV Katya Dawn
- (x) FV Mount Royal

(b) It is unlawful to land more than 400 chum per license during open periods listed herein.

(c) It is unlawful to possess salmon caught in other Marine Areas while participating in this fishery.

(d) Agreement to participate in this fishery will require that a department observer be allowed on board the vessel while fishing if requested by department staff.

[]