

## WSR 24-03-007

## EMERGENCY RULES

## DEPARTMENT OF ECOLOGY

[Order 23-02—Filed January 4, 2024, 8:06 a.m., effective January 4, 2024, 8:06 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Ecology is making two clarifications to the rules governing the cap-and-invest program under chapter 70A.65 RCW (chapter 173-446 WAC). These rule clarifications concern the operation of the allowance price containment reserve (APCR). Ecology will make two rule changes:

(1) Clarify that the existing holding limits specified in WAC 173-446-150 (2)(a) that apply to allowances with a "vintage" also apply to the "vintage less" allowances that are acquired through APCR auctions. "Vintage year" means the annual allowance allocation budget year to which an individual Washington greenhouse gas (GHG) allowance is assigned. This means that one entity can hold only a certain number of allowances in its account at a time.

(2) Add language to WAC 173-446-370 to clarify that any allowances purchased in an APCR auction must be deposited directly into the entity's compliance account. This change would prevent those allowances from being sold or traded on the secondary market, thereby ensuring that the allowances will be used to meet compliance obligations and not for speculative purposes.

This is the third CR-103E filing. We are also conducting a rule-making process for the permanent adoption of a rule on this subject. Please visit our website for information and to participate in the permanent rule-making process <https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-446-apcr>.

Citation of Rules Affected by this Order: Amending WAC 173-446-150 Accounts for registered entities and 173-446-370 Allowance price containment reserve account.

Statutory Authority for Adoption: Chapter 70A.65 RCW, Greenhouse gas emissions—Cap and invest program.

Other Authority: RCW 70A.65.220.

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 cap-and-invest program under chapter 70A.65 RCW establishes an emissions trading market intended to help meet the state's emission limits specified in RCW 70A.45.020. The program relies on a well-functioning market to discover the appropriate price for allowances, thereby efficiently allocating GHG emission reductions while minimizing overall costs to the economy and consumers. In order to ensure the program works as designed, ecology is required to adopt measures to maintain the integrity of the market and prevent market manipulation. This rule making clarifies that APCR allowances are subject to holding limits and can only be used for compliance. These changes limit the number of APCR allowances an entity may hold at any given time and ensure that APCR allowances cannot be further traded. Without this rule making, one entity would be able to hold an unlimited number of APCR allowances, and would be able to trade those allowances, giving that entity sufficient market power to unfairly manipulate the market while undermining the purpose of the

APCR, which is to assist in containing compliance costs for covered and opt-in entities. This rule making is therefore necessary to ensure market integrity and achieve GHG emissions reductions in an economically efficient manner. Without this rule making, allowances could be misallocated at distorted prices which could affect not only program participants, but consumers more generally. Ecology is acting now because the changes need to be in place before the first APCR auction, which could be required after any quarterly auction. Ecology must hold an APCR auction when the settlement price in a quarterly auction reaches the APCR Tier I price. Ecology finds that immediate amendment of this rule is necessary for the general welfare, and that observing the time requirements of notice and opportunity to comment required for adoption of a permanent rule would be contrary to the public interest.

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 2, 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: January 4, 2024.

Laura Watson  
Director

## OTS-4563.1

AMENDATORY SECTION (Amending WSR 22-20-056, filed 9/29/22, effective 10/30/22)

**WAC 173-446-150 Accounts for registered entities.** (1) Creation of accounts.

(a) After ecology receives the required disclosures of corporate association and complete documents for the certification and designation of the primary and alternate account representatives, ecology will set up two accounts for each covered entity and two accounts for each opt-in entity:

(i) A compliance account through which compliance instruments are transferred to ecology for retirement. Compliance instruments in compliance accounts may not be sold, transferred, traded, or otherwise provided to another account or party.

(ii) A holding account for compliance instruments that may be bought, sold, transferred to another registered entity, or traded.

(b) For each electric utility and each natural gas utility registering in the program, ecology will also set up a limited use holding account. Electric utilities and natural gas utilities must transfer their no cost allowances to the limited use holding account in order

to consign them to auction for the benefit of ratepayers as described in WAC 173-446-300 (2) (b).

(c) After ecology receives the required disclosures of corporate association and complete documents for the certification and designation of the primary and alternate account representatives, ecology will set up a holding account for each general market participant.

(2) Holding limits.

(a) Except as provided in (c) and (d) of this subsection, the maximum total number of allowances of the current (~~(0#)~~) vintage, prior vintage, or that have no vintage, that a registered entity may hold in its holding account, its compliance account, or combination of both, is determined by the following:

$$HL_i = 0.1 \times 25,000,000 + 0.025 \times (C_i - 25,000,000)$$

Where:

HL<sub>i</sub> = holding limit for year i  
C<sub>i</sub> = annual allowance budget for year i  
i = current year

(b) Except as provided in (c) and (d) of this subsection, the maximum number of allowances of each vintage subsequent to the current year that a registered entity may hold in its holding account, its compliance account, or a combination of both, is determined by the following:

$$HL_j = 0.1 \times 25,000,000 + 0.025 \times (C_j - 25,000,000)$$

Where:

HL<sub>j</sub> = holding limit for year j  
C<sub>j</sub> = annual allowance budget for year j  
j = year subsequent to the current year

(c) The holding limits set in (a) and (b) of this subsection do not apply to the allowances held in the compliance account of a covered entity or opt-in entity that are needed to cover estimated GHG emissions for the current year or emissions for preceding years.

(d) The holding limits set in (a) and (b) of this subsection do not apply to allowances held in a limited use holding account that are to be consigned to auction.

(e) In addition to the holding limits described above, a general market participant may not in aggregate hold more than 10 percent of the total number of allowances of any vintage year.

(f) A registered entity that reaches or exceeds one-half of its holding limit must, within 10 business days of a request from ecology, explain its strategy and the reason for holding the allowances.

(g) When its holding limit is exceeded, a registered entity must, within five business days after the limit is exceeded, divest itself of the excess emission allowances, transfer into its compliance account the number of allowances needed to cover its emissions for the current year or preceding years, or, in the case of consolidated entities, amend the distribution of the overall holding limit to become compliant. If a registered entity fails to comply with this requirement, ecology will withdraw the excess allowances and make them available for auction.

(3) Ecology will post anonymized information about the contents of each holding account including, but not limited to, the number of allowances in the account, on ecology's cap and invest public website. Ecology will also maintain on its website a public roster of all covered entities, opt-in entities, and general market participants.

(4) When the ownership of a registered entity changes, the following information must be submitted to ecology within 30 calendar days of finalization of the ownership change:

(a) A description of the merger or acquisition and the effective date of the change of ownership, including whether the merger or acquisition is the purchase of a registered entity or entities from another party or the purchase of a party that owns a registered entity or entities;

(b) Both the legal and operating names and the tracking system IDs of the parties owning the registered entity or entities prior to the change in ownership;

(c) The legal name, operating name, and the tracking system ID of the purchasing party, if any;

(d) Written direction regarding whether the purchased registered entity or entities will be added to a consolidated entity account or whether the purchased registered entity or entities will be associated with a party that will opt out of account consolidation;

(e) Documentation with signatures (original or electronic) by a director or officer from the seller of the registered entity or entities, the registered entity or entities, and from the purchasing party, notifying ecology of the change of ownership;

(f) Any changes to disclosures or new disclosures required under WAC 173-446-110, 173-446-120, and 173-446-130;

(g) Direction regarding the disposition of compliance instruments that must be transferred by ecology to the purchasing party. Compliance instruments can be transferred. Any administrative transfers required may be requested as a one-time occurrence scheduled to occur within five business days after the facility or facilities are transferred in the tracking system to the purchasing party;

(h) It is the responsibility of the parties participating in the change of ownership to transfer any compliance instruments from tracking system holding accounts that they control prior to closure. Prior to closure, ecology may transfer compliance instruments from a registered entity's compliance account to its holding account upon request by the registered entity. If a party no longer owns or operates any active registered entity in its tracking system account due to a change in ownership, then that party may exit the program and close its tracking system accounts within five business days after the registered entity or entities are transferred in the tracking system to the purchasing party.

AMENDATORY SECTION (Amending WSR 22-20-056, filed 9/29/22, effective 10/30/22)

**WAC 173-446-370 Allowance price containment reserve account.**

(1) Ecology shall maintain an allowance price containment reserve account.

(a) Allowances in the allowance price containment reserve have no vintage and are therefore eligible to be submitted for compliance at any time.

(b) Allowances purchased from the allowance price containment reserve are placed directly into the purchaser's compliance account.

(c) On January 1, 2023, ecology shall place into the allowance price containment reserve account:

(i) Five percent of the allowances in the annual allowance budgets for each year of the first compliance period; and

(ii) Five percent of the allowances in the annual allowance budgets for each year of the second compliance period, as determined without taking into account the increase in the allowance budgets caused by the addition of waste-to-energy facilities as covered entities in the second compliance period.

(2) Ecology shall hold separate auctions for allowances from the allowance price containment reserve:

(a) When the settlement price in the preceding auction of current and prior vintage allowances reaches the Tier 1 price for allowances in the allowance price containment reserve;

(b) When new covered and opt-in entities enter the program and allowances from the emissions containment reserve account are exhausted; and

(c) Once each year before the compliance deadline.

(3) Only covered entities and opt-in entities may participate in allowance price containment reserve auctions. General market participants may not participate in allowance price containment reserve auctions.

(4) Allowance price containment reserve auctions shall follow the procedures described in WAC 173-446-310 through 173-446-362, except:

(a) The purchase limits in WAC 173-446-330 do not apply to allowance price containment reserve auctions.

(b) In place of an auction floor price, there are two tiers of allowance prices at which bidders may bid:

(i) Tier 1 price for 2023 shall be \$46.05 increased by five percent plus the rate of inflation as measured by the most recently available 12 months of the consumer price index for all urban consumers as of the first business day in December of 2022.

(ii) Tier 2 price for 2023 shall be \$59.17 increased by five percent plus the rate of inflation as measured by the most recently available 12 months of the consumer price index for all urban consumers as of the first business day in December of 2022.

(iii) The allowance price containment reserve tier prices for a year after 2023 shall be the allowance price containment tier prices for the prior calendar year increased annually by five percent plus the rate of inflation as measured by the most recently available 12 months of the consumer price index for all urban consumers as of the first business day in December of the prior year.

(iv) Beginning in 2022, on the first business day in December of each year, ecology shall announce the allowance price containment reserve tier prices for the next year.

(c) Bidders in an allowance price containment reserve auction may submit multiple bids. Each bid must be at either the Tier 1 price or the Tier 2 price.

(d) Tier 1 allowances shall be sold first, then Tier 2 allowances. The auction of Tier 1 allowances shall continue until all Tier 1 allowances are sold or all bids are filled, whichever occurs first. If any Tier 1 allowances remain, ecology will award them to bidders for Tier 2 allowances at the Tier 1 price using a random number selection process that assigns random numbers to each lot bid and awards Tier 1 allowances starting with the lowest random number until all Tier 1 allowances are sold. The subsequent auction of Tier 2 allowances shall continue until all Tier 2 allowances are sold or all bids are filled, whichever occurs first.

(e) Ecology shall reject bids or portions of bids, starting with the smallest of the registered entity's Tier 2 bids, until the total of the registered entity's bids remaining would, if accepted, not result in contravention of a holding limit.

(f) The registered entity's actual maximum bid value is determined as follows:

(i) Multiply the Tier 1 bid price by the total number of allowances the registered entity proposed to purchase at that bid price.

(ii) Multiply the Tier 2 bid price by the total number of allowances the registered entity proposed to purchase at that bid price.

(iii) The registered entity's actual maximum bid value is the sum of the results obtained in (i) of this subsection added to the results obtained in (ii) of this subsection.

(g) If the actual maximum bid value of a registered entity's bids exceeds the value of the registered entity's bid guarantee, ecology shall, starting with the registered entity's Tier 2 bids, remove enough lots, such that the remaining bids would not result in the actual maximum bid value exceeding the value of the bid guarantee.

(h) If the sum of the bids accepted for a tier is greater than the number of allowances in the tier, ecology will follow the process in WAC 173-446-357(5) to distribute the allowances from each tier.

(i) After a sale, ecology will transfer purchased allowances directly to each purchaser's compliance account.

(j) Allowances remaining unsold at the end of an allowance price containment reserve auction remain in the allowance price containment reserve to be available for sale at the next allowance price containment reserve auction.

**WSR 24-03-009  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 24-02—Filed January 4, 2024, 8:43 a.m., effective January 9, 2024]

Effective Date of Rule: January 9, 2024.

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

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

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

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

Reasons for this Finding: 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: January 3, 2024.

Kelly Susewind  
Director

NEW SECTION

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

(1) Effective 12:01 p.m. January 9 through 11:59 p.m. January 15, 2024, 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	January 9 through 14	From 12:01 p.m. to 11:59 p.m.
Area 2	Closed	Closed

Razor Clam Area	Date	Time
Area 3	January 10 through 14	From 12:01 p.m. to 11:59 p.m.
Area 4	January 9, 12, and 13	From 12:01 p.m. to 11:59 p.m.
Area 5	January 10, 11, 14 and 15	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. January 16, 2024:

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



**WSR 24-03-010**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-03—Filed January 4, 2024, 8:43 a.m., effective January 4, 2024]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to close retention of recreationally caught white sturgeon in Bonneville and The Dalles pools.

Citation of Rules Affected by this Order: Repealing WAC 220-312-06000A; 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: This rule is needed to close recreational sturgeon retention in Bonneville and The Dalles reservoirs. Catch rates in Bonneville Pool and The Dalles Pool have been higher than preseason expectations. For Bonneville Pool, the projected total catch through January 3, 2024, is 650 fish as compared to the harvest guideline of 675 fish. For The Dalles Pool, the projected total catch through January 3, 2024, is 181 fish as compared to the harvest guideline of 190 fish. Therefore, not enough fish remain under the guidelines to allow for additional retention opportunities in these areas. This rule is necessary to remain within allowable harvest guidelines for nontreaty recreational fisheries for each of these pools. These populations are managed under sustainable harvest guidelines. This action is consistent with decisions made by the states of Washington and Oregon during the Columbia River compact hearing on October 31, 2023, and January 3, 2024. 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: January 3, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-06000C Freshwater exceptions to statewide rules—Columbia River.** Effective January 4, through April 30, 2024, the provisions of WAC 220-312-060, WAC 220-312-030, and WAC 220-316-010 regarding white sturgeon retention seasons from Bonneville Dam to John Day Dam are as follows. All other provisions of WAC 220-312-060, WAC 220-316-010, and WAC 220-312-030 not addressed herein remain in effect unless otherwise amended by emergency rule:

**From Bonneville Dam upstream to John Day Dam,** including adjacent tributaries:

White sturgeon: Closed to retention. Catch and release fishing only.

REPEALER

The following section of Washington Administrative code is repealed, effective January 4, 2024:

WAC 220-312-06000A Freshwater exceptions to statewide rules—Columbia River. (23-247)

**WSR 24-03-046**  
**EMERGENCY RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed January 10, 2024, 9:19 a.m., effective January 10, 2024, 9:19 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule making is to amend college in the high school rules in alignment with SB 5048 (2023) that eliminated fees for students.

This is a renewal of emergency rule filing as the office of the superintendent of public instruction (OSPI) continues to conduct permanent rule making.

Citation of Rules Affected by this Order: Repealing WAC 392-725-325; and amending WAC 392-725-005, 392-725-015, 392-725-050, 392-725-225, 392-725-235, 392-725-250, and 392-725-300.

Statutory Authority for Adoption: RCW 28A.600.287; and 2SSB 5048 (chapter 314, Laws of 2023).

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

Reasons for this Finding: The emergency rules are necessary to ensure students participating in college in the high school programs are not required to pay fees as provided in SB 5048 during the 2023-24 school year.

OSPI will also conduct permanent rule making concerning college in the high school (chapter 392-725 WAC).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 7, Repealed 1.

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

Number of Sections Adopted on the Agency's own Initiative: New 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: January 10, 2024.

Chris P. S. Reykdal  
State Superintendent of Public Instruction

**OTS-4916.2**

AMENDATORY SECTION (Amending WSR 16-14-030, filed 6/27/16, effective 7/28/16)

**WAC 392-725-005 Authority.** The authority for this chapter is RCW ((28A.600.290)) 28A.600.287, which authorizes the superintendent of public instruction to adopt rules governing RCW ((28A.600.290)) 28A.600.287, with the state board of community and technical colleges, the student achievement council, and the public baccalaureate institutions to jointly develop rules, and with the association of Washington school principals to be consulted. The rules set forth in this chapter have been jointly developed and agreed upon by the four organizations with the council of presidents representing the public baccalaureate institutions. The rules may be modified only by agreement of the superintendent of public instruction, state board of community and technical colleges, the student achievement council, and an organization representing the interest of the public baccalaureate institutions.

AMENDATORY SECTION (Amending WSR 19-12-049, filed 5/31/19, effective 7/1/19)

**WAC 392-725-015 Definitions.** The following definitions in this section apply throughout this chapter.

(1) **"College in the high school course"** means a dual credit course provided on a high school campus or in a high school environment in which an eligible student is given the opportunity to earn high school credit to be awarded by a district, charter school, or tribal compact school and college credit awarded by the participating institution of higher education by completing a college course with a passing grade. College in the high school courses may be either academic or career and technical (vocational) education.

(2) **"College in the high school program"** means the subset of dual credit courses meeting NACEP quality standards and provided on a high school campus or in a high school environment in which an eligible student is given the opportunity to earn high school credit to be awarded by a district, charter school, or tribal compact school and college credit awarded by the participating institution of higher education by completing a college course with a passing grade.

(3) **"Eligible student"** means any student who meets the following conditions:

(a) The student meets the definition of an enrolled student pursuant to WAC 392-121-106.

(b) The student under the grade placement policies of the district, charter school, or tribal compact school through which the high school credits will be awarded has been deemed to be a ((~~tenth, eleventh, or twelfth~~)) 9th, 10th, 11th, or 12th grade student.

(4) **"Participating institution of higher education"** means an institution of higher education that:

(a) A district, charter school, or tribal compact school has contracted with to provide the college in the high school program;

(b) Meets the definition in RCW 28B.10.016, is authorized or exempt under the requirements of chapter 28B.85 RCW, or is a public tribal college located in Washington as ((~~noted in RCW 28A.600.290~~)) (7)(a)) described in RCW 28A.600.287 (12)(c);

(c) Meets the college in the high school program standards outlined in WAC 392-725-130 through 392-725-170; and

(d) Is accredited by National Alliance of Concurrent Enrollment Partnerships or commits to the reporting of evidence requirement outlined in WAC 392-725-120.

(5) **"National Alliance of Concurrent Enrollment Partnerships"** is the professional organization that works to ensure that college in the high school courses are as rigorous as courses offered on the sponsoring college campuses. National Alliance of Concurrent Enrollment Partnerships (NACEP) has defined a set of quality standards that is the basis of their accreditation process.

(6) **"Council of presidents"** is defined throughout this chapter as the organization representing the interest of public baccalaureate institutions (~~(, specific to RCW 28A.600.290(6)).~~

~~(7) **"Fees."**~~

~~(a) **"College in the high school fees"** means the per credit or per course fee charged by the participating institution of higher education for the registration for the college course.~~

~~(i) The maximum college in the high school fee shall not exceed the college in the high school state-funded subsidies described in RCW 28A.600.290.~~

~~(ii) The college in the high school fee may be less than the college in the high school state-funded subsidies.~~

~~(iii) The institution of higher education must receive the corresponding fee for any student seeking to earn college credit from the college in the high school course in accordance with the general requirements identified in WAC 392-725-225 (2)(a) unless the student qualifies for the state-funded subsidies in accordance with WAC 392-725-325(4).~~

~~(b) **"Other associated college in the high school fees"** means additional fees required to fully participate in the college in the high school program charged by the participating institution of higher education such as registration fees and fees for consumables.~~

~~(8) **"College in the high school state-funded subsidies"** means the amount provided in the Omnibus Appropriations Act that pays the college in the high school fee for specific eligible eleventh or twelfth grade students pursuant to RCW 28A.600.290 (1)(b)(i) only and for the limited amount provided in WAC 392-725-325(2)).~~

AMENDATORY SECTION (Amending WSR 19-12-049, filed 5/31/19, effective 7/1/19)

**WAC 392-725-050 Local agreement requirement.** Prior to the start of the college in the high school program(s), a local agreement between the district, charter school, or tribal compact school and the participating institution of higher education must be developed and in place. The agreement shall be for no more than one school year, meet the district, charter school, or tribal compact school's board policies and the policies of the institution of higher education regarding contracting agreements, and address the following requirements:

(1) List of college in the high school courses.

(2) College in the high school student standards pursuant to WAC 392-725-130 will be met.

(3) College in the high school curriculum and assessment standards pursuant to WAC 392-725-140 will be met.

(4) College in the high school faculty standards pursuant to WAC 392-725-150 will be met.

(5) College in the high school evaluation standards pursuant to WAC 392-725-160 will be met.

(6) College in the high school partnership standards pursuant to WAC 392-725-170 will be met.

(7) Award of high school credits pursuant to WAC 392-725-200 will be met.

(8) District, charter school, or tribal compact school's responsibilities for offering college in the high school program.

~~(9) ((Institution of higher education's fee amount per college credit or per college course and a description and amount of other associated college in the high school fees.~~

~~(10))~~ Course materials including, but not limited to, textbooks for each college in the high school course, and which party will be responsible to provide.

~~((11))~~ (10) Provide an explanation of how any compensation paid to the instructor for work performed beyond their contract with the district, charter school, or tribal compact school will be calculated and provide details of what duties the compensation represents.

~~((12) Method and collection of college in the high school fee and other associated college in the high school fees.~~

~~(13))~~ (11) Districts, charter schools, tribal compact schools, and institutions of higher education shall as necessary assure compliance with their respective duties under federal and state law.

AMENDATORY SECTION (Amending WSR 19-12-049, filed 5/31/19, effective 7/1/19)

**WAC 392-725-225 College in the high school general requirements.**

(1) Participating districts, charter schools, or tribal compact schools must provide general information about the college in the high school program to all students in grades ~~((nine))~~ eight through ~~((twelve))~~ 12 and to the parents and guardians of those students.

(2) The enrollment of a student who meets the definition of WAC 392-725-015(2) in the college in the high school program shall be governed as follows:

(a) An eligible student seeking to earn college credit is responsible for enrolling into an institution of higher education on or before the deadline established by the institution of higher education.

(b) An eligible student is entitled to enroll in an institution of higher education for college in the high school program purposes subject to each of the following conditions and limitations:

(i) Enrollment is limited to college courses.

(ii) Prior confirmation pursuant to WAC 392-725-200 by the district, charter school, or tribal compact school of the amount of high school credit to be awarded for a college in the high school course on or before the deadline for enrollment established by the institution of higher education.

(iii) Acceptance of the student by the institution of higher education subject to enrollment requirements and limitations established by the institution.

AMENDATORY SECTION (Amending WSR 17-21-001, filed 10/5/17, effective 11/5/17)

**WAC 392-725-235 Co-delivery of college in the high school courses.** (1) In cases where a college in the high school course is co-delivered with another dual credit course, such as career and technical education dual credit, advanced placement, international baccalaureate, or Cambridge international, the participating institution of higher education, in coordination with the institution's academic department, shall assess curriculum alignment and approve the option to provide a co-delivered course.

(2) In cases where a college in the high school course is co-delivered with another dual credit course, the high school transcript shall reflect the co-delivered courses as follows:

(a) The course title as listed on the high school transcript shall begin with the institute of higher education's curriculum and course number, as described in the office of superintendent of public instruction CEDARS manual.

(b) Any additional course title description for a co-delivered college in the high school course title shall be included pursuant to WAC 392-415-070.

Official course abbreviations for career and technical education dual credit, advanced placement, international baccalaureate and Cambridge international shall be included on the high school transcript as listed in appendix Q of the office of superintendent of public instruction CEDARS manual.

(c) For approved co-delivered courses, as provided in subsection (1) of this section, the high school transcript course title and course designators may reflect two dual credit programs in cases where students have met any required prerequisites or other entrance requirements for both programs.

(3) Students choosing to enroll in a co-delivered college in the high school course for the purpose of earning college credit must meet the college in the high school enrollment requirements outlined in WAC 392-725-225(2).

AMENDATORY SECTION (Amending WSR 16-14-030, filed 6/27/16, effective 7/28/16)

**WAC 392-725-250 Transferability of college credit.** (1) College in the high school programs may include both academic and career and technical education. The college credit shall be applied at institutions of higher education (~~toward:~~

~~(a) General education requirements; or~~

~~(b))~~ as appropriate and applicable to the student's degree requirements.

(2) A college in the high school course has the same transferability as its equivalent course on the college campus. Some courses including career and technical education courses may not meet specific general education and/or degree requirements.

AMENDATORY SECTION (Amending WSR 19-12-049, filed 5/31/19, effective 7/1/19)

**WAC 392-725-300 Finance.** (~~((1))~~) Districts, charter schools, and tribal compact schools claim the college in the high school courses for basic education funding based on the course's average enrolled weekly minutes pursuant to WAC 392-121-122. Courses that qualify for vocational enhanced funding can be claimed pursuant to WAC 392-121-138.

~~((2) The participating institution of higher education receives college in the high school fees as defined in WAC 392-725-015 (7)(a) and other associated college in the high school fees for eligible students as defined in WAC 392-725-015 (7)(b). The amount and method of collection of these fees shall be outlined in local agreement.~~

~~(3) For college in the high school courses that qualify for state funded subsidies as defined in WAC 392-725-015(8) and based on the per student limitations provided in WAC 392-725-325(2), these subsidies are provided in lieu of college in the high school fees as defined in WAC 392-725-015 (7)(a).)~~

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 392-725-325      College in the high school state funded subsidies.



**WSR 24-03-047**  
**EMERGENCY RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed January 10, 2024, 9:20 a.m., effective January 10, 2024, 9:20 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule making is to expand access to running start in alignment with HB 1316 (2023). The rules provide for funding, reporting, and administration of participating students' enrollment in running start courses.

This is a renewal of emergency rule filing as the office of the superintendent of public instruction (OSPI) continues to conduct permanent rule making.

Citation of Rules Affected by this Order: Repealing WAC 392-169-057; and amending WAC 392-121-123, 392-121-136, 392-169-015, 392-169-020, 392-169-022, 392-169-025, 392-169-045, 392-169-055, and 392-169-115.

Statutory Authority for Adoption: 2SHB 1316 (chapter 350, Laws of 2023); RCW 28A.600.390 and 28A.150.290.

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 emergency rules are necessary to ensure eligible students can participate in running start at enrollment levels provided for in HB 1316. Emergency rules are needed to ensure requirements for student enrollment calculations, reporting, and program administration are effective by the beginning of the 2023-24 school year.

OSPI will also conduct permanent rule making concerning running start.

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 9, Repealed 1.

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

Number of Sections Adopted on the Agency's own Initiative: New 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: January 10, 2024.

Chris P. S. Reykdal  
State Superintendent of Public Instruction

**OTS-4904.1**

AMENDATORY SECTION (Amending WSR 23-13-089, filed 6/16/23, effective 7/1/23)

**WAC 392-121-123 Nonstandard school year programs.** Except for running start, a student participating in a program of education occurring during the nonstandard school year on a tuition-free basis may be claimed for state funding to the extent that the student was not claimed as a 1.0 AAFTE during the regular school year (September through June), subject to the following:

(1) Eligible student FTE in a nonstandard school year program shall be claimed based upon the following:

(a) Enrolled hours based upon the standards in WAC 392-121-122 or 392-121-182.

(b) Credit based for student enrolled in a college program under WAC 392-121-188.

(c) A student enrolled in transition school is not eligible for nonstandard school year funding.

(2) A district or charter school shall make month by month evaluation of the student to determine if the following conditions were met during the regular school year:

(a) The student was not home schooled or enrolled in a private school.

(b) The student was not claimed as a 1.0 FTE in a regular or institution education program.

(3) For each month in which the conditions of subsection (2) of this section are met, the district or charter school shall determine the amount of student FTE claimed for the student. To the extent the enrollment claimed is less than 1.0 FTE for each month, the school district or charter school may claim nonstandard school year FTE based upon the student enrollment in the nonstandard school year school program.

(4) For the running start program only, a student may be claimed up to 1.40 AAFTE for their running start enrollment.

#### OTS-4903.1

AMENDATORY SECTION (Amending WSR 22-15-119, filed 7/20/22, effective 8/20/22)

**WAC 392-121-136 Limitation on enrollment counts.** Enrollment counts under WAC 392-121-106 through 392-121-133 are subject to the following limitations:

(1) Except as provided in (a), (b) and (c) of this subsection, no student, including a student enrolled in more than one school district, shall be counted as more than one full-time equivalent student on any count date or more than one annual average full-time equivalent student in any school year.

(a) School districts or charter schools operating approved vocational skills center programs during the summer vacation months may claim additional full-time equivalent students based upon actual enrollment in such vocational skills centers on the aggregate of enrolled hours based upon the fourth day of each summer session.

(i) Prior to the 2018-19 school year, each district or charter school operating an approved vocational skills center program shall be entitled to claim one annual average full-time equivalent student for each 900 hours of planned student enrollment for the summer term(s) subject to the limitation in (c) of this subsection.

(ii) Beginning with the 2018-19 school year, each district or charter school operating an approved vocational skills center program shall be entitled to claim one annual average full-time equivalent student for each 1,000 hours of planned student enrollment for the summer term(s) subject to the limitation in (c) of this subsection.

(b) Enrollment count limitations apply separately to a student's running start, skills center and high school enrollments and is limited to an overall maximum (~~(1.8)~~) 2.0 FTE.

(c) Subject to (b) of this subsection:

(i) A student enrolled in a skill center program during the regular school year may be claimed for up to a combined 1.6 full-time equivalent student.

(ii) A student enrolled in running start during the regular school year may be claimed for up to a combined (~~(1.2)~~) 1.4 full-time equivalent student.

(iii) A student enrolled in high school and skills center for more than 1.0 FTE, can be claimed for a (~~(0.2)~~) 0.4 running start FTE.

(iv) A student enrolled in an institutional education program under WAC 392-122-205 and a youth engagement program under chapter 392-700 WAC can be claimed up to a combined 2.0 FTE.

(v) Each student may be claimed for a maximum of a 1.0 full-time equivalent for the skills center enrollment, a maximum of a (~~(1.0)~~) 1.40 full-time equivalent for running start, a maximum of a 1.0 full-time equivalent for the student's high school enrollment, and a maximum of a 1.0 full-time equivalent for institutional education funding under WAC 392-122-225 subject to the overall combined FTE limitation in (b) of this subsection.

(2) Running start enrollment counts are limited as provided in chapter 392-169 WAC and specifically as provided in WAC 392-169-060.

(3) The full-time equivalent reported for a five year old pre-school student with a disability is limited as provided in WAC 392-121-137.

(4) No kindergarten student, including a student enrolled in more than one school district, shall be counted as more than one-half of an annual average full-time equivalent student in any school year.

(5) A student reported as part-time by a state institution educational program on Form SPI E-672 shall not be reported by a school district or charter school for more than part-time basic education funding on that enrollment count date and the total enrollment reported by one or more school districts or charter schools for basic education and on Form SPI E-672 must not exceed one full-time equivalent, except if the student is enrolled in a youth reengagement program under chapter 392-700 WAC.

(6) Districts and charter schools providing an approved state-funded full-day kindergarten program as provided in chapter 28A.150 RCW (from E2SSB 5841) may claim for an additional 0.50 FTE based upon student enrolled hours in excess of the 0.50 FTE provided under subsection (4) of this section.

## OTS-4902.1

AMENDATORY SECTION (Amending WSR 16-10-115, filed 5/4/16, effective 6/4/16)

**WAC 392-169-015 Running start program—Definition.** As used in this chapter, the terms "running start" and "running start program" mean the part-time to full-time equivalent enrollment under this chapter of eligible (~~(eleventh and twelfth)~~) 11th and 12th grade high school students, as defined under this chapter, in an institution of higher education for the purpose of earning at least high school credit to be awarded by a school district, and such additional college level or university level credit as may be awarded by the institution of higher education. A running start program's course must be open for registration to matriculated students at the participating institution of higher education and may not be a course consisting solely of high school students in a high school classroom.

AMENDATORY SECTION (Amending WSR 16-10-115, filed 5/4/16, effective 6/4/16)

**WAC 392-169-020 Eligible student—Definition.** As used in this chapter, the term "eligible student" means any person, including a person who is otherwise attending a private school or receiving home-based instruction, who meets each of the following conditions:

- (1) The person is under the age of (~~(twenty-one)~~) 21 years of age as of September 1<sup>st</sup> of the school year.
- (2) The person is eligible by reason of his or her residence or other criterion established by law to enroll in the school district through which the person seeks to obtain the award of running start program high school credit. See RCW 28A.225.160 (residents of a school district), RCW 28A.225.170 (residents of the United States and Indian Reservations), RCW 28A.225.210 (residents of "nonhigh" school districts), and RCW 28A.225.220 ("choice" students). Note: A running start student who changes his or her school district of residence, including after a rescindment of a choice transfer agreement following enrollment in running start, solely for the purpose of attending an institution of higher education under this chapter shall be deemed to have retained his or her residence in the school district of initial running start enrollment for high school graduation, funding and other purposes under this chapter.
- (3) The person is eligible to be in the 11th or 12th grade under the grade placement policies of the school district through which the person seeks to obtain running start program high school credit (~~(to be in the eleventh or the twelfth grade)~~). For the summer term, eligibility is established when the person has completed the 10th grade at the end of the standard school year or will be eligible to enroll in the 11th or 12th grade in the upcoming school year based upon district grade placement policies.
- (4) The person has not as of the beginning of the school year earned the credits required for the award of a high school diploma by the school district through which the person seeks to obtain the award of running start program high school credit.

(5) The person has not as of the beginning of the school year received a high school diploma or its equivalent. Note: A general education development certificate is not considered to be the equivalent of a high school diploma for purposes of this subsection.

(6) The person's running start program enrollment to date is below the applicable (~~eleventh or twelfth~~) 11th or 12th grade running start enrollment limitations established under WAC 392-169-055.

AMENDATORY SECTION (Amending WSR 95-09-042, filed 4/14/95, effective 5/15/95)

**WAC 392-169-022 Running start student—Definition.** For the purposes of this chapter and chapter 392-121 WAC, the term "running start student" means an eligible student:

(1) Who is enrolled in the running start program in accordance with this chapter;

(2) Whose enrollment has not been suspended or terminated by withdrawal, transfer, suspension or expulsion; and

(3) Who has participated in one or more instructional activities conducted by college or university staff (e.g., classroom or laboratory instruction, course work testing, post enrollment/registration academic counseling, and similar other instructional activities) on at least one college or university day during the current (~~quarter or semester~~) term since the last enrollment count date.

AMENDATORY SECTION (Amending WSR 16-10-115, filed 5/4/16, effective 6/4/16)

**WAC 392-169-025 Full-time equivalent (FTE) running start enrollment—Definition.** For the purposes of this chapter and chapter 392-121 WAC, "full-time equivalent (FTE) running start enrollment" (i.e., college or university enrollment) means the FTE of running start students on an enrollment count date when each student's FTE is determined subject to the limitations of WAC 392-169-022, 392-169-055 and 392-169-115 as follows:

(~~(1)~~) FTE for running start enrollment is the result of dividing a student's enrolled college credits by (~~fifteen~~) 15. For Washington State University classes offered at the college campus only, the FTE for running start enrollment is the result of dividing a student's enrolled college semester credits by (~~fifteen~~) 15.

(~~(2)~~ The sum of the results of running start enrollment under subsection (1) of this section at all colleges shall not exceed 1.00 FTE per student on any count day except for the month of January or 1.00 annual average FTE in any school year.)

AMENDATORY SECTION (Amending WSR 95-09-042, filed 4/14/95, effective 5/15/95)

**WAC 392-169-045 Enrollment—General requirements and conditions.**

The enrollment of an eligible student in the running start program shall be governed as follows:

(1) An eligible student is responsible for applying for and pursuing admission to an institution of higher education on or before the deadline for enrollment established by the college or university.

(2) It shall not be necessary for an eligible student to obtain a release of attendance from (~~his or her~~) their resident school district or school in order for the student to enroll in an institution of higher education.

(3) An eligible student is entitled to enroll in an institution of higher education for running start program purposes subject to each of the following conditions and limitations:

(a) Enrollment is limited to college and university level courses.

(b) Prior confirmation pursuant to WAC 392-169-050 by the school district through which the student seeks to obtain the award of running start program high school credit of the amount of high school credit to be awarded on or before the deadline for enrollment established by the institution of higher education.

(c) Acceptance of the student by the institution of higher education subject to generally applicable admission and enrollment requirements and limitations established by the institution, including a determination that the student is competent to profit from the college or university level course(s) the student seeks to enroll in: Provided, That a technical college shall not deny admission or continued attendance to a person under (~~twenty-two~~) 22 years of age with a disability based upon impaired competency or the creation of a disruptive atmosphere associated with the person's disability.

(d) The limitations upon the duration and extent of institution of higher education course enrollment set forth in WAC 392-169-055 and 392-169-057.

AMENDATORY SECTION (Amending WSR 23-13-089, filed 6/16/23, effective 7/1/23)

**WAC 392-169-055 Enrollment—Extent and duration of running start enrollment.** Running start program enrollment under this chapter is limited as follows (~~((and as may be further limited for academic reasons under WAC 392-169-057))~~):

(1) An eligible student who enrolls upon completion of grade 10 after the end of the regular school year may enroll in an institution of higher education for no more than the course work equivalent to 10 postsecondary credits in the summer term prior to enrolling in grade 11.

(2) An eligible student who enrolls in grade 11 may enroll in an institution of higher education while in the 11th grade for (~~no more than the course work equivalent to one academic year of enrollment as an annual average full-time equivalent running start student.~~

~~(2)) a maximum 1.40 AAFTE or 63 postsecondary credits, depending on the student's concurrent enrollment in high school and/or skill center courses, subject to the AAFTE limitation under WAC 392-121-136.~~

~~(3) An eligible student who enrolls in grade 12 may enroll in an institution of higher education while in the 12th grade for (no more than the course work equivalent to one academic year of enrollment as an annual average full-time equivalent running start student.~~

~~(3) As a general rule)) a maximum 1.40 AAFTE or 63 postsecondary credits, depending on the student's concurrent enrollment in high school and/or skill center courses, subject to the AAFTE limitation under WAC 392-121-136.~~

~~(4) An eligible student who enrolls in summer term must have the capacity under the AAFTE limits established in subsections (2) and (3) of this section and may enroll for no more than the course work equivalent of 10 postsecondary credits.~~

~~(5) Even when a student does not enroll at the postsecondary level to the full extent permitted by subsections (1) through (4) of this section, a student's eligibility for running start program enrollment terminates at the end of the ((student's 12th grade regular academic year, notwithstanding the student's failure to have enrolled in an institution of higher education to the full extent permitted by subsections (1) and (2) of this section: Provided, That a student who has failed to meet high school graduation requirements as of the end of the student's 12th grade regular academic year (September through June) due to the student's absence, the student's failure of one or more courses, or another similar reason may continue running start program enrollment for the sole and exclusive purpose of completing the particular course or courses required to meet high school graduation requirements, subject to the enrollment limitation established by subsection (2)) academic year in which a student meets the district's graduation requirements. Students who have not yet met high school graduation requirements as of the end of the 12th grade standard school year would be eligible to enroll in the summer college term, provided they have capacity under the 1.40 AAFTE limitation. Students who have not met running start enrollment limits may continue running start program enrollment into a second 12th grade year due to the student's absence, inability to complete all required courses, or another similar reason for the sole and exclusive purpose of completing the particular course(s) required to meet the district's high school graduation requirements, subject to the enrollment limitation established by subsection (3) of this section.~~

AMENDATORY SECTION (Amending WSR 13-02-006, filed 12/19/12, effective 1/19/13)

**WAC 392-169-115 Finance—Limitations on enrollment counts.** ~~((No running start student enrolled in one or more institutions of higher education reported under WAC 392-169-105 and 392-169-110 shall exceed one full-time equivalent running start student on any enrollment count date except for the month of January or more than one annual average full-time equivalent student in any school year. An exception is allowed for January when the change in high school semesters may result in students exceeding the FTE limitation until the high school begins a new term.))~~ A student enrolled in both high school and running start

may be claimed for a maximum of 1.40 combined monthly FTE and a maximum of 1.40 AAFTE. The high school may only claim a maximum of 1.00 FTE and AAFTE. A student whose enrollment is reported under WAC 392-169-105 and 392-169-110 may be claimed up to a 1.40 monthly FTE on any enrollment count date, except for July and August. No student may be claimed for more than 1.40 AAFTE in any school year. An exception is allowed for December and January when the high school term overlaps with the institution of higher education term but may result in a reduction of the available FTE for the spring term. District business offices or high schools will complete the spring quarter eligibility adjustment form for any student who was claimed for more than a 1.40 FTE in December or January to determine if the student's available FTE for the spring term will be reduced.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 392-169-057          Enrollment—Extent of combined high school and running start enrollment.



**WSR 24-03-074**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-04—Filed January 16, 2024, 11:04 a.m., effective February 3, 2024]

Effective Date of Rule: February 3, 2024.

Purpose: The purpose of this emergency rule is to open recreational steelhead seasons in Sauk and Skagit rivers.

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: The Skagit River Steelhead preseason forecast is 5,215 steelhead. In accordance with the Skagit steelhead resource management plan, when the preseason forecast is 4,001 to 6,000 Skagit steelhead, there are enough steelhead impacts available to safely provide some catch and release opportunity. The fishery will be [open] five days per week, Saturdays through Wednesdays. The two-day-per-week closure is a conservation measure to provide steelhead some daylight hours without fishing effort for movement and migration to spawning areas.

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: January 16, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-04000D Freshwater exceptions to statewide rules—Puget Sound.** Effective February 3, through April 17, 2024, the following provisions of WAC 220-312-040 regarding steelhead seasons for the Skagit River and the Sauk River from the mouth to the Darrington Bridge, shall be 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) Skagit River (Skagit Co.): From the Dalles Bridge in the town of Concrete to the Cascade River Road Bridge in Marblemount: Steelhead open Saturdays through Wednesdays only. Closed to all fishing Thursdays and Fridays:

- (a) Catch and release, except daily limit 2 hatchery steelhead.
- (b) Selective Gear Rules in effect.
- (c) Night closure in effect.
- (d) Fishing from a vessel under power is prohibited.
- (e) All gamefish species other than steelhead remain closed.

(2) Sauk River (Skagit/Snohomish Co.): From the mouth to the Darrington Bridge: Steelhead open Saturdays through Wednesdays only. Closed to all fishing Thursdays and Fridays:

- (a) Catch and release, except daily limit 2 hatchery steelhead.
- (b) Selective Gear Rules in effect.
- (c) Night closure in effect.
- (d) Fishing from a vessel equipped with a motor is prohibited.
- (e) All gamefish species other than steelhead remain closed.

**WSR 24-03-082**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-05—Filed January 16, 2024, 4:35 p.m., effective January 22, 2024]

Effective Date of Rule: January 22, 2024.

Purpose: Opens sea cucumber harvest in Districts 1 and 2-2.

Citation of Rules Affected by this Order: Amending WAC  
220-340-730.

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

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

Reasons for this Finding: This emergency rule opens harvest of sea cucumber in Districts 1 and 2-2, with a cumulative landing limit for each area, on January 22, 2024. Harvestable surpluses of sea cucumbers exist in the districts specified. There is insufficient time to adopt permanent rules.

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

Number of Sections Adopted at the Request of a 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: January 16, 2024.

Amy H. Windrope  
for Kelly Susewind  
Director

NEW SECTION

**WAC 220-340-73000M Sea cucumbers** Effective January 22 through February 4, 2024, the following provisions of WAC 220-340-730 regarding Puget Sound commercial sea cucumber harvest and sales shall be as described below. All other provisions of WAC 220-340-730 not addressed herein, and unless otherwise amended, remain in effect:

(a) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber District 1 and District 2-2.

(b) The maximum cumulative landing of sea cucumbers for the period of January 22 through February 4, 2024, is 1,250 pounds per license from District 1.

(c) The maximum cumulative landing of sea cucumbers for the period of January 22 through February 4, 2024, is 400 pounds per license from District 2-2.

**WSR 24-03-098**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-06—Filed January 18, 2024, 10:49 a.m., effective January 18, 2024, 10:49 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to open coastal commercial Dungeness crab seasons.

Citation of Rules Affected by this Order: Repealing WAC 220-340-42000S; and amending WAC 220-340-420 and 220-340-450.

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 state season opening date is based on decisions made by West Coast managers according to the provisions of the Tri-State Dungeness crab preseason testing protocols and the provisions of state-tribal harvest management agreements. Pot limits will reduce fishing effort and ease crowding at the start of the season. There is insufficient time to adopt permanent rules.

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

Number of Sections Adopted at 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 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: January 18, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-340-42000T Commercial crab fishery—Unlawful acts.** Notwithstanding the provisions of WAC 220-340-420, effective immediately until further notice:

(1) It is unlawful for any fisher or wholesale dealer or buyer to land or purchase Dungeness crab taken from Grays Harbor, Willapa Bay, Columbia River, or Washington coastal or adjacent waters of the Pacific Ocean from any vessel, unless:

(a) A valid Washington crab vessel inspection certificate has been issued to the delivering vessel and;

(b) The vessel inspection certificate numbers are recorded on all shellfish tickets completed for coastal Dungeness crab landings until March 2, 2024.

(2) Effective 8:00 a.m. February 1, 2024, it is unlawful for persons participating in the Washington coastal, Columbia River, Grays Harbor, or Willapa Bay commercial Dungeness crab fishery to:

(a) Deploy or operate more than 400 shellfish pots if the permanent number of shellfish pots assigned to the Coastal commercial crab fishery license held by that person is 500.

(b) Deploy or operate more than 250 shellfish pots if the permanent number of shellfish pots assigned to the Coastal Dungeness crab fishery license held by that person is 300.

(c) Fail to maintain onboard any participating vessel the excess crab pot buoy tags assigned to the Coastal Dungeness crab fishery license being fished.

(d) Store or possess crab pots on board any participating vessel in excess of the vessels pot limit.

(3) It is unlawful to possess or deliver Dungeness crab unless the following conditions are met:

Vessels that participate in the Dungeness crab fishery south of Cape Falcon, Oregon (45°46.00 N. Lat.) may not deliver crab north of the Columbia River except into the ports of Ilwaco and Chinook until 8:00 a.m. February 1, 2024. Such vessels must adhere to the Oregon Department of Fish and Wildlife closed area transit allowance requirements.

(4) It is unlawful for a vessel not designated on a coastal Dungeness crab fishery license to deploy crab pot gear except under the following conditions:

(a) The vessel deploys pot gear only during the 73-hour period immediately preceding the season opening date and during the 48-hour period immediately following the season opening date;

(b) The undesignated vessel carries no more than 250 crab pots at any one time; and

(c) The primary or alternate operator of the crab pot gear named on the license associated with the gear is on board the undesignated vessel while the gear is being deployed.

(5) Violation of subsection (5) of this section is a gross misdemeanor or class C felony punishable under RCW 77.15.500 Commercial fishing without a license—Penalty, depending on the circumstances of the violation.

(6) All other provisions of the permanent rule remain in effect.

#### NEW SECTION

**WAC 220-340-45000N Commercial crab fishery—Seasons and areas—Coastal.** Notwithstanding the provisions of WAC 220-340-450, effective immediately until further notice: it is unlawful to fish for Dungeness crab in Washington coastal waters, including Grays Harbor, Willapa Bay, or the Columbia River, except as provided in this section.

(1) Open area: The area from the WA/OR border (46°15.00) to the U.S./Canada border, including Willapa Bay, Grays Harbor, and the Columbia River.

(a) For the purposes of this section, the waters of Willapa Bay include the marine waters east of a line connecting 46°44.76 N, 124°05.76 W and 46°38.93 N, 124°04.33 W.

(b) It is permissible to set crab gear beginning at 8:00 a.m., January 29, 2024.

(c) It is permissible to pull crab gear beginning at 9:00 a.m., February 1, 2024.

(d) Licenses and vessels designated to those licenses that participate in the coastal commercial Dungeness crab fishery in the waters from Point Arena, California, to Cape Falcon, Oregon (45°46.00 N. Lat.), before the area north of Cape Falcon, Oregon (45°46.00 N. Lat.) opens, are prohibited from fishing in the following area for the duration specified:

The waters between WA/OR border (46°15.00) and U.S./Canada border, including Willapa Bay, Grays Harbor, and the Columbia River until 8:00 a.m. March 2, 2024.

(2) The Quinault primary special management area (PSMA) is closed to fishing for Dungeness crab until further notice. The PSMA includes the area shoreward of a line approximating the 27-fathom depth curve between Raft River (47°28.00) and Copalis River (47°08.00) according to the following coordinates:

(a) Northeast Corner (Raft River):	47°28.00 N. Lat. 124°20.70 W. Lon.
(b) Northwest Corner:	47°28.00 N. Lat. 124°34.00 W. Lon.
(c) Southwest Corner:	47°08.00 N. Lat. 124°25.50 W. Lon.
(d) Southeast Corner (Copalis River):	47°08.00 N. Lat. 124°11.20 W. Lon.

(3) The Quileute special management area (SMA) is closed to fishing for Dungeness crab until further notice. The SMA includes the area shoreward of a line approximating the 30-fathom depth curve between Destruction Island and Cape Johnson according to the following points:

(a) Northeast Corner (Cape Johnson):	47°58.00' N. Lat. 124°40.40' W. Lon.
(b) Northwest Corner:	47°58.00' N. Lat. 124°49.00' W. Lon.
(c) Southwest Corner:	47°40.50' N. Lat. 124°40.00' W. Lon.
(d) Southeast Corner (Destruction Island):	47°40.50' N. Lat. 124°24.43' W. Lon.

(4) The Makah special management area (SMA) is closed to fishing until further notice. The SMA includes the waters between 48°02.15 N. Lat. and 48°19.50 N. Lat. east of a line connecting those points and approximating the 25-fathom line according to the following coordinates:

(a) Northeast Corner:	(Tatoosh Island)
(b) Northwest Corner:	48°19.50 N. Lat. 124°50.45 W. Lon.
(c) Southwest Corner:	48°02.15 N. Lat. 124°50.45 W. Lon.
(d) Southeast Corner:	48°02.15 N. Lat. 124°41.00 W. Lon.

(5) All other provisions of the permanent rule remain in effect.

#### REPEALER

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

WAC 220-340-42000S Commercial crab fishery—Unlawful acts.  
(24-01)



**WSR 24-03-109**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-07—Filed January 18, 2024, 4:56 p.m., effective January 19, 2024]

Effective Date of Rule: January 19, 2024.

Purpose: WAC 220-340-45500F implements hard closure dates for areas with remaining quota and WAC 220-340-47000A increases the pot limit in Crab Management Region 1 to 45 pots per license effective January 19, 2024.

Citation of Rules Affected by this Order: Repealing WAC 220-340-45500E and 220-340-47000Z; and amending WAC 220-340-455 and 220-340-470.

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 pot limit in Region 1 has been increased to 50 pots per license following coordination with industry. There is sufficient allocation remaining to accommodate harvest in the Puget Sound commercial crab fishery in Regions 1, 3-1, 3-2, 3-3, and 3-4 until further notice. Crab Management Regions 2-West and 2-East will remain closed due to the attainment of the state share. These provisions are in conformity with the last agreed management plans with applicable tribes. 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 2, Amended 0, Repealed 2.

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

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

Date Adopted: January 18, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-340-45500F Commercial crab fishery—Seasons and areas—Puget Sound.** Notwithstanding the provisions of WAC 220-340-455, effective January 19, 2024, until further notice:

(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.

<b>Geographical Management Unit (WAC 220-320-110)</b>	<b>Open Period</b>
Region 1, MFSF Catch Areas 21A, 21B, and 22B	January 19 through March 31, 2024.
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	January 19 through April 15, 2024.
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	Closed.
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	Closed.
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	Closed.
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	Closed.
Subregion 3-1	Immediately, through March 31, 2024.
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)).	Immediately, through March 31, 2024.
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	Immediately, through March 31, 2024.
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	Immediately, through March 31, 2024.
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Closed, due to on-going public health concerns.
Subregion 3-3	Immediately, through April 15, 2024.
Subregion 3-4	Immediately, through April 15, 2024.

(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°).

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

NEW SECTION

**WAC 220-340-47000A Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas** Notwithstanding the provisions of 220-340-470, effective January 19, 2024, until further notice:

(1) Effective during the "Open period" listed in amended section of WAC 220-340-455 above it will be 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".

<b>Geographical Management Unit (WAC 220-320-110)</b>	<b>Pot limit</b>
Region 1, MFSF Catch Areas 21A, 21B, and 22B	50
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	50
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	0
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	0
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	0
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	0
Subregion 3-1	40
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	50
Subregion 3-4	50

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

#### REPEALER

The following sections of Washington Administrative Code are repealed, effective January 19, 2024:

- WAC 220-340-45500E Commercial crab fishery—Seasons and areas—Puget Sound. (23-275)
- WAC 220-340-47000Z Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas. (23-268)

## WSR 24-03-111

## EMERGENCY RULES

## HEALTH CARE AUTHORITY

(Public Employees Benefits Board)

[Admin #2024-03.01—Filed January 19, 2024, 6:56 a.m., effective January 19, 2024, 6:56 a.m.]

Effective Date of Rule: Immediately upon filing.

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

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

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

Other Authority: RCW 41.05.021 and 41.05.160.

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

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

This filing continues the emergency rules filed under WSR 23-20-002, filed September 20, 2023. HCA is continuing to review the PEBB chapters for updates and is preparing for its annual revisions to begin under permanent rule making shortly.

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

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

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

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

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

Date Adopted: January 19, 2024.

Wendy Barcus  
Rules Coordinator

OTS-4596.2

NEW SECTION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WSR 24-03-116  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE

[Order 24-08—Filed January 19, 2024, 12:57 p.m., effective January 22, 2024]

Effective Date of Rule: January 22, 2024.

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

Citation of Rules Affected by this Order: Repealing WAC 220-330-16000K; 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: January 19, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-330-16000K 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. January 22 through 11:59 p.m. January 28, 2024, razor clam digging is permissible in Razor Clam Areas defined in WAC 220-330-160 during evening tides on dates and times listed below:

Razor Clam Area	Date	Time
Area 1	January 23 through 27	From 12:01 p.m. to 11:59 p.m.

Razor Clam Area	Date	Time
Area 2	Closed	Closed
Area 3	January 23 through 26	From 12:01 p.m. to 11:59 p.m.
Area 4	January 24, 25, and 28	From 12:01 p.m. to 11:59 p.m.
Area 5	January 22, 23, 26 and 27	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. January 29, 2023:

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

**WSR 24-03-140**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-09—Filed January 23, 2024, 1:22 p.m., effective January 24, 2024]

Effective Date of Rule: January 24, 2024.

Purpose: The purpose of this emergency rule is to open commercial smelt fisheries in the Columbia River.

Citation of Rules Affected by this Order: Repealing WAC 220-358-06000F; and amending WAC 220-358-060.

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

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

Reasons for this Finding: This rule sets a limited Columbia River commercial fishery for eulachon smelt. The regulation is consistent with a conservative research-level fishery, reduced from the level-one fishery as described in the "Washington and Oregon Eulachon Management Plan" for the Columbia River. The expected return of eulachon to the Columbia River in 2024 is expected to be similar but slightly lower in magnitude to the 2023 return. The fishery serves as an important research-level fishery to monitor run strength and timing and to collect biological data. The general public welfare is protected with the immediate and limited duration opening of the commercial smelt fishing in the mainstem Columbia River. This limited research-level harvest opportunity allows for maintenance and monitoring of a sustainable fish population. There is insufficient time to adopt permanent regulations.

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: January 23, 2024.

Amy H. Windrope  
for Kelly Susewind  
Director



NEW SECTION

**WAC 220-358-06000F Commercial fisheries—Columbia River below Bonneville Dam—Smelt.** Notwithstanding the provisions of WAC 220-358-060, the Columbia River and Washington tributaries are closed to fishing for eulachon smelt except as provided below:

**Open Dates:** January 24 through March 14, 2024: Open Mondays, Wednesdays, and Thursdays only, from 5:00 a.m. to 5:00 p.m. (12-hour periods).

**Open Area:** Columbia River - SMCRA 1A, 1B, 1C.

**Gear:** It is unlawful to use anything other than gillnets. Gillnets must meet the following specifications per WAC 220-358-060: mesh size not to exceed 2 inches stretch measure; not to exceed 1,500 feet in length along the cork line.

Use of monofilament nets is permissible.

**Allowable sales:** Smelt.

**Other:** 24-hour quick-reporting is required for Washington wholesale dealers, as provided in WAC. 220-352-315.

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

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

REPEALER

The following section of the Washington Administrative Code is repealed, effective March 15, 2024:

WAC 220-358-06000F Commercial fisheries—Columbia River  
below Bonneville Dam—Smelt.

## WSR 24-03-141

## EMERGENCY RULES

## HEALTH CARE AUTHORITY

(Public Employees Benefits Board)

[Admin #2024-03.03—Filed January 23, 2024, 1:38 p.m., effective January 23, 2024, 1:38 p.m.]

Effective Date of Rule: Immediately upon filing.

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

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

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

Other Authority: RCW 41.05.021 and 41.05.160.

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

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

This filing continues the emergency rules filed under WSR 23-20-030, filed on September 25, 2023. The agency is continuing to review the PEBB chapters for updates and is preparing for its annual revisions to begin under permanent rule making shortly. The text (OTS-4949.2) included with this filing differs from the text included with the first emergency filing (OTS-4949.3, filed under WSR 23-20-030). The proposed text under this emergency filing includes references to WAC 182-12-5200 (in subsections (4)(b) and (6)), which is a newly proposed WAC section, also filed under emergency rule filing, under WSR 24-02-061.

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

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

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

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

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

Date Adopted: January 23, 2024.

Wendy Barcus  
Rules Coordinator

## OTS-4949.2

### NEW SECTION

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) A retiring school employee who is eligible to retire under a Washington state-sponsored retirement plan must immediately begin to receive a monthly retirement plan payment, with the exceptions described in WAC 182-12-171 (2) (d) (ii) and 182-12-5200(2).

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

(6) A school employee of an employer group who is determined to be retroactively eligible for disability retirement is eligible to enroll or defer enrollment in PEBB retiree insurance coverage as described in WAC 182-12-211. The exceptions to the requirement to immediately begin to receive a monthly pension benefit as described in WAC 182-12-211 (1) (c) (i) and 182-12-5200(2) include a school employee of an employer group.

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

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

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

NEW SECTION

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The subscriber's first premium payment and applicable premium surcharges are due to HCA no later than 45 days after the election pe-

riod ends as described in (b) of this subsection. Following the first premium payment, premiums and applicable premium surcharges must be paid as premiums become due. If the subscriber's monthly premium and applicable premium surcharges remain unpaid for 60 days from the original due date, the subscriber's PEBB insurance coverage will be terminated retroactive to the last day of the month for which the monthly premium and applicable premium surcharges were paid as described in WAC 182-08-180 (1)(c).

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

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

(e) PEBB health plan coverage may continue unless the subscriber requests to terminate enrollment as described in subsection (5) of this section, or premiums and applicable premium surcharges are no longer paid as described in (d) of this subsection. If PEBB health plan coverage is terminated for these reasons, the subscriber and their enrolled dependents will not be eligible to reenroll under this section.

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

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

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

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

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

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

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

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

WSR 24-03-150  
EMERGENCY RULES  
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed January 23, 2024, 3:24 p.m., effective January 23, 2024, 3:24 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department of social and health services (department) is extending emergency amendments to WAC 388-450-0185 What income deductions does the department allow when determining if I am eligible for food benefits and the amount of my monthly benefits?, 388-450-0190 How does the department figure my shelter cost income deduction for basic food?, 388-450-0195 Does the department use my utility costs when calculating my basic food or WASHCAP benefits?, and 388-478-0060 What are the income limits and maximum benefit amounts for basic food? Extension of these amendments is necessary to reflect cost-of-living adjustments and updated utility values for the basic food program, effective October 1, 2023.

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

Statutory Authority for Adoption: RCW 74.04.050 and 74.08.090.

Other Authority: United States Department of Agriculture, Food and Nutrition Services.

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

Reasons for this Finding: The United States Department of Agriculture, Food and Nutrition Services issued annual updates to standards for the upcoming federal fiscal year, effective October 1, 2023. These updates affect the standard deduction, shelter deduction, homeless shelter deduction, utility deduction, and minimum and maximum allotments for the basic food program.

The department is concurrently proceeding with the permanent rule-making process. Refer to CR-101 filed as WSR 23-22-053 and CR-102 filed as WSR 24-01-092.

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

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

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

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

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

Date Adopted: January 23, 2024.

Katherine I. Vasquez  
Rules Coordinator

SHS-5001.1

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Monthly rent, lease, and mortgage payments;

(b) Property taxes;

(c) Homeowner's association or condo fees;

(d) Homeowner's insurance for the building only;



(e) Utility allowance your AU is eligible for under WAC 388-450-0195;

(f) Out-of-pocket repairs for the home if it was substantially damaged or destroyed due to a natural disaster such as a fire or flood;

(g) Expense of a temporarily unoccupied home because of employment, training away from the home, illness, or abandonment caused by a natural disaster or casualty loss if your:

(i) AU intends to return to the home;

(ii) AU has current occupants who are not claiming the shelter costs for basic food purposes; and

(iii) AU's home is not being leased or rented during your AU's absence.

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

(i) The homeless shelter deduction; or

(ii) Actual shelter costs.

(2) Second, we subtract all deductions your AU is eligible for under WAC 388-450-0185 (2) (a) through (2) (d) from your AU's gross income. The result is your AU's countable income.

(3) Finally, we subtract one-half of your AU's countable income from your AU's total shelter costs. The result is your excess shelter costs. Your AU's shelter cost deduction is the excess shelter costs:

(a) Up to a maximum of (~~(\$624)~~) \$672 if no one in your AU is elderly or disabled; or

(b) The entire amount if an eligible person in your AU is elderly or disabled, even if the amount is over (~~(\$624)~~) \$672.

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

**WAC 388-450-0195 Does the department use my utility costs when calculating my basic food or WASHCAP benefits?**

(1) The department uses utility allowances instead of the actual utility costs your assistance unit (AU) pays when we determine your:

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

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

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

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

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

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

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

- (3) "Utility costs" include the following:
  - (a) Heating or cooling fuel;
  - (b) Electricity or gas;
  - (c) Water;
  - (d) Sewer;
  - (e) Well installation/maintenance;
  - (f) Septic tank installation/maintenance;
  - (g) Garbage/trash collection; and
  - (h) Telephone service.

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

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

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

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

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

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

(2) Exceptions:

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

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

(c) If you are 60 years of age or older and cannot buy and cook your own meals because of a permanent disability, we will use column E

of subsection (1) of this section to decide if you can be a separate AU.

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