

WSR 24-06-003
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-26—Filed February 22, 2024, 9:18 a.m., effective February 24, 2024]

Effective Date of Rule: February 24, 2024.

Purpose: The purpose of this emergency rule is [to] open two days for white sturgeon retention in The Dalles Pool.

Citation of Rules Affected by this Order: Repealing WAC 220-312-06000C; 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 sets two recreational sturgeon retention days in The Dalles Pool and maintains the previously adopted Bonneville Pool recreational sturgeon retention closure. The *U.S. v. Oregon Sturgeon Management Task Force*, a joint state/tribal body, met on January 18, 2024, and recommended increasing the harvest guidelines for 2024-2026 in The Dalles Pool (1,100 fish total guideline: 825 for treaty commercial fisheries and 275 for recreational fisheries). Given the prior harvest and new harvest guideline, there are 86 sturgeon now available for harvest. 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 January 3 and February 21, 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: February 22, 2024.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-06000E Freshwater exceptions to statewide rules—Columbia River. Effective February 24 through April 30, 2024, the provisions of WAC 220-312-060, WAC 220-312-030, and WAC 220-316-010 re-

garding 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:

(1) From Bonneville Dam upstream to The Dalles Dam, including adjacent tributaries:

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

(2) From The Dalles Dam upstream to John Day Dam, including adjacent tributaries:

(a) February 24, 2024: It is permissible to retain white sturgeon: Daily limit 1. Minimum fork length 43 inches. Maximum fork length 54 inches.

(b) February 25 through February 27, 2024: White sturgeon: Closed to retention. Catch and release fishing only.

(c) February 28, 2024: It is permissible to retain white sturgeon: Daily limit 1. Minimum fork length 43 inches. Maximum fork length 54 inches.

(d) February 29 through April 30, 2024: White sturgeon: Closed to retention. Catch and release fishing only.

REPEALER

The following section of Washington Administrative code is repealed, effective February 24, 2024:

WAC 220-312-06000C Freshwater exceptions to statewide rules—Columbia River. (24-03)

WSR 24-06-004
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-25—Filed February 22, 2024, 9:25 a.m., effective March 1, 2024]

Effective Date of Rule: March 1, 2024.

Purpose: This emergency rule is needed to set salmon and steelhead rules for the 2024 spring Chinook seasons in the Columbia River from the mouth to Highway 730 at the Washington/Oregon border and in Deep River.

Citation of Rules Affected by this Order: Amending WAC 220-312-030 and 220-312-060.

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

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

Reasons for this Finding: This rule is necessary to set the 2024 spring recreational salmon and steelhead season in the mainstem Columbia River from Buoy 10 upstream to the Oregon/Washington border, including shad and hatchery steelhead. Additionally, this rule aligns the Deep River salmon and steelhead daily bag limit with the mainstem Columbia River when the mainstem is open. The Endangered Species Act (ESA) impacts for wild fish are available to recreational fisheries in order to access hatchery fish. The fishery is consistent with the *U.S. v. Oregon* Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. This regulation is consistent with Washington state action on December 15, 2023, and compact action of February 21, 2024. The general public welfare is protected with the immediate and limited duration opening of recreational salmon fishing. This limited harvest allows for public use of the resource as well as the maintenance of a sustainable fish population.

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

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

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

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

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

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

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

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

Date Adopted: February 22, 2024.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-03000I Freshwater exceptions to statewide rules—Southwest. Effective March 1 through April 5, 2024, the provisions of WAC 220-312-030 regarding Deep River salmon and steelhead seasons shall be modified as described below. All other provisions of WAC 220-312-030 not addressed herein remain in effect unless otherwise amended by emergency rule:

Deep River (Wahkiakum Co.): Salmon and steelhead:

Daily limit is 6, no more than 2 adults may be retained of which no more than 1 may be an adult Chinook. Release all salmon other than hatchery Chinook.

NEW SECTION

WAC 220-312-06000D Freshwater exceptions to statewide rules—Columbia. Effective March 1, through May 2, 2024, the provisions of WAC 220-312-060 regarding Columbia River salmon and steelhead seasons from the mouth (Buoy 10) to Hwy. 730 at the Washington/Oregon border, and shad seasons from the mouth to the Bonneville Dam, shall be modified as described below, except in areas closed to fishing for salmon and steelhead year-round in WAC 220-312-060. All other provisions of WAC 220-312-060 not addressed herein remain in effect unless otherwise amended by emergency rule:

(1) From a true north-south line through Buoy 10, upstream to a deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse One) in a straight line through the western tip of Pierce Island to a deadline marker on the Washington bank at Beacon Rock.

(a) Salmon and steelhead: Effective March 1 through April 5, 2024: Daily limit is 6, no more than 2 adults may be retained of which no more than 1 may be an adult Chinook. Release all salmon other than hatchery Chinook.

(b) Shad: Effective March 1 through April 5, 2024: No min. size. No daily limit.

(2) From a deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse One) in a straight line through the western tip of Pierce Island to a deadline marker on the Washington bank at Beacon Rock upstream to Bonneville Dam:

(a) Closed to angling from a floating device or by any method except hand-cast lines from shore.

(b) Salmon and steelhead: Effective March 1 through April 5, 2024: Daily limit is 6, no more than 2 adults may be retained of which no more than 1 may be an adult Chinook. Release all salmon other than hatchery Chinook.

(c) Shad: Effective March 1 through April 5, 2024: No minimum size. No daily limit.

(3) From Bonneville Dam to Tower Island power lines (approximately 6 miles below The Dalles Dam): Salmon and steelhead:

(a) Effective April 1 through May 2, 2024: Closed to angling from a floating device or by any method except hand-cast lines from shore.

(b) Effective April 1 through May 2, 2024: Daily limit is 6, no more than 2 adults may be retained of which no more than 1 may be an adult Chinook. Release all salmon other than hatchery Chinook.

(4) From Tower Island power lines to The Dalles Dam: Salmon and steelhead:

Effective April 1 through May 2, 2024: Daily limit is 6, no more than 2 adults may be retained of which no more than 1 may be an adult Chinook. Release all salmon other than hatchery Chinook.

(5) From The Dalles Dam to Hwy. 730 at the Washington/Oregon border: Salmon and steelhead:

(a) Effective March 1 through March 31, 2024: Daily limit is 2. Release all salmon.

(b) Effective April 1 through May 2, 2024: Daily limit is 6, no more than 2 adults may be retained of which no more than 1 may be an adult Chinook. Release all salmon other than hatchery Chinook.

WSR 24-06-007
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-27—Filed February 22, 2024, 1:55 p.m., effective March 2, 2024, 8:00 a.m.]

Effective Date of Rule: March 2, 2024, 8:00 a.m.

Purpose: The purpose of this emergency rule is to adjust coastal commercial pot limit restrictions and set the opening of the Makah Special Management Area (SMA) with a temporary pot limit.

Citation of Rules Affected by this Order: Repealing WAC 220-340-42000T and 220-340-45000N; 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: This emergency rule is necessary because provisions of the State/Makah Harvest Management Agreement allow for the opening of Makah SMA to state license holders and specify a temporary pot limit. Reduced pot limit descriptions for vessels fishing in the Quinault Indian Nation Usual and Accustomed Fishing Area [to] conform with current state/tribal agreements regarding in-season modifications.

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: February 22, 2024.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-42000U Commercial crab fishery—Unlawful acts. Notwithstanding the provisions of WAC 220-340-420 and WAC 220-340-480, effective 8:00 a.m., March 2, 2024, until further notice:

(1) Effective 8:00 a.m. March 2, 2024, until further notice, it is unlawful for persons participating in the Coastal or Grays Harbor commercial Dungeness crab fishery to deploy or fish more than the following specified reduced pot limit assigned to each license if a ves-

sel is fishing in the Quinault Indian Nation Usual and Accustomed Fishing Area as described in 50 CFR Part 660.4:

(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.

(2) Effective 8:00 a.m., March 2 through April 1, 2024, it is unlawful for a vessel to use more than 200 pots in the Makah SMA. Fishers must pre-register with the Department of Fish and Wildlife 24 hours prior to deploying gear in this area by one of the two following methods:

(a) E-mail to Jamie Fuller at Jamie.Fuller@dfw.wa.gov; or

(b) Telephone call to Jamie Fuller at 360-580-0875.

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

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

NEW SECTION

WAC 220-340-45000P Commercial crab fishery—Seasons and areas—Coastal. Notwithstanding the provisions of WAC 220-340-450, effective 8:00 a.m., March 2, 2024, until further notice: it is unlawful to fish for Dungeness crab in Washington coastal waters, the Pacific Ocean, 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 and Grays Harbor.

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.

(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 8:00 AM March 2, 2024. 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.

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 the Washington Administrative Code are repealed, effective 8:00 a.m., March 2, 2024:

WAC 220-340-42000T Commercial crab fishery—Unlawful acts—Coastal. (24-06)

WAC 220-340-45000N Commercial crab fishery—Season and areas—Coastal. (24-06)

WSR 24-06-011
EMERGENCY RULES
HEALTH CARE AUTHORITY

[Admin #2024-03.01—Filed February 23, 2024, 9:31 a.m., effective February 23, 2024, 9:31 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The health care authority (agency) is refiling new WAC 182-30-5000 School employees benefits board employer groups and 182-30-5010 School board members participation in school employees benefits board health plans, as authorized in SSB 5275, chapter 13, Laws of 2023, 68th legislature, 2023 regular session.

Citation of Rules Affected by this Order: New WAC 182-30-5000 and 182-30-5010.

Statutory Authority for Adoption: SSB 5275, chapter 13, Laws of 2023, 68th legislature, 2023 regular session.

Other Authority: RCW 41.05.021, 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 by establishing rules for the school employees benefits board employer groups and the school board members to implement SSB 5275, chapter 13, Laws of 2023, while the authority conducts the permanent rule-making process.

This filing continues the emergency rules under WSR 23-22-079. Since the filing of this emergency rule, the agency began the permanent rule-making process under WSR 24-04-062 and 24-04-064, filed on February 1, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 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: February 23, 2024.

Wendy Barcus
Rules Coordinator

OTS-4678.1

NEW SECTION**WAC 182-30-5000 School employees benefits board employer groups.**

(1) The following definitions apply to this section:

(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) "Employer group" has the same meaning as defined in RCW 41.05.011 (9)(b).

(2) This section applies to all employer group applications received through December 31, 2024.

(3) Employer groups may apply to obtain school employees benefits board (SEBB) insurance coverage through a contract with the authority for SEBB insurance coverage to begin January 1, 2024, if they meet the group application process and requirements in a similar way as described in WAC 182-08-235. All documents and information required with the application must be submitted to the SEBB program.

(4) Employer groups that apply for participation in SEBB insurance coverage as described in subsection (3) of this section will have a one-time opportunity to request inclusion of retired employees who are covered under its retiree health plan at the time of application in a similar way as described in WAC 182-08-237. The retirees included will be enrolled in public employees benefits board (PEBB) retiree insurance coverage.

(5) The authority will review the employer group application based on the documents submitted by the employer group and the employer group evaluation criteria in a similar way as described in WAC 182-08-240.

(6) Employer groups must meet the participation requirements, including requirements for terminating participation in SEBB insurance coverage, in a similar way as described in WAC 182-08-245.

(7) Employer groups that enter 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 or disabled employees who continue their participation in insurance plans and contracts under RCW 41.05.080 (1)(a)(ii).

(a) For each of the employer group's retired or disabled employees who will be continuing their participation, the authority shall determine the one-time payment by:

(i) Calculating the difference in cost between the rate charged to retired or disabled employees as described in RCW 41.05.080(2); and

(ii) The actuarially determined value of the medical benefits for retired and disabled employees who are not eligible for Parts A and B of medicare; and

(iii) Multiplying that difference by the number of months until the retired or disabled employee would become eligible for medicare.

(b) Employer groups shall not be entitled to any refund of the amount paid to the authority as described in this subsection.

(8) Employer groups may appeal a decision of the authority to deny an employer group application in a similar way as described in WAC 182-16-2060. The appeal must be sent to the SEBB appeals unit.

(9) School employees may appeal a decision made by the employer group in a similar way as described in WAC 182-16-2010(2), 182-16-2030(2), and chapter 182-32 WAC.

(10) All rules in chapters 182-30, 182-31, and 182-32 WAC apply to employer groups and enrollees, except for WAC 182-30-100, 182-30-120, 182-30-130, 182-30-140, 182-31-030, and 182-31-060.

NEW SECTION

WAC 182-30-5010 School board members participation in school employees benefits board health plans. (1) In this section, "school board member" means the board of directors of a school district as governed by chapter 28A.343 RCW or the board of directors of an educational service district as governed by chapter 28A.310 RCW.

(2) Effective January 1, 2024, a school board member may enroll in health plans offered by the school employees benefits board (SEBB) by self-paying the premium and applicable premium surcharges set by the health care authority (HCA). A school board member must enroll in SEBB medical, SEBB dental, and SEBB vision.

(3) A school board member may participate in SEBB health plan coverage for the duration of their elected term as a school board member as long as premiums and applicable premium surcharges continue to be paid as described in WAC 182-30-040 and may renew their participation at the start of each subsequent term as a school board member.

(4) A school board member may elect to enroll in SEBB health plan coverage by submitting the required forms and first premium payments to the SEBB program, and they must be received as follows:

(a) Currently elected or appointed school board members have between November 1, 2023, and February 29, 2024, to submit the required forms to the SEBB program.

(i) If the required forms are received on or before December 31, 2023, SEBB health plan coverage will begin January 1, 2024. The first premium payment and applicable premium surcharges must be received no later than 45 days after January 1, 2024.

(ii) If the required forms are received between January 1, 2024, and February 29, 2024, SEBB health plan coverage will begin the first day of the month following the day the SEBB program receives the required forms. The first premium payment and applicable premium surcharges must be received no later than 45 days after the 60-day election period ends.

(b) Newly elected school board members must submit their required forms no later than 60 days from the beginning of their elected or appointed term. The school board member's SEBB health plan coverage will begin the first day of the month following the day the SEBB program receives the required forms. The first premium payment and applicable premium surcharges must be received no later than 45 days after the 60-day election period ends.

(5) A school board member's account may incur the tobacco use premium surcharge or the spousal premium surcharge in addition to their monthly medical premium, and the subscriber must attest as described in WAC 182-30-050 (1) and (2). A premium surcharge will be applied if the school board member does not attest. If the attestation results in a premium surcharge, it will take effect the same date as SEBB medical begins.

(6) If a school board member is reelected for a new term consecutive from their previous term, the school board member will not be required to make new elections.

(7) A school board member may enroll eligible dependents as described in WAC 182-31-140 and must include the dependent's enrollment information on the required form. If the school board member elects to enroll a dependent in SEBB health plan coverage, the dependent will be enrolled in the same SEBB medical, SEBB dental, and SEBB vision plans as the school board member.

(8) If a school board member is terminated due to no longer paying the premium and applicable premium surcharges as described in WAC 182-30-040 (1)(c) or requests to voluntarily terminate their enrollment in SEBB health plan coverage prior to the end of their elected term, they are no longer eligible under this section to participate in SEBB health plan coverage for the remainder of their elected term. Those who request to voluntarily terminate their SEBB health plan coverage must do so in writing. SEBB health plan coverage will end on the last day of the month in which the SEBB program receives the termination request or on the last day of the month specified in the school board member's termination request, whichever is later. If the termination request is received on the first day of the month, SEBB health plan coverage will end on the last day of the previous month.

(9) A school board member may make enrollment changes on the same terms and conditions as a continuation coverage subscriber as described in WAC 182-30-085, 182-30-090, and 182-31-150.

(10) A school board member must update their address with the SEBB program as described in WAC 182-30-075.

(11) A school board member is limited to one enrollment per individual in SEBB health plan coverage, as described in WAC 182-31-070.

(12) A school board member may appeal a decision made by the SEBB program as described in chapter 182-32 WAC.

(13) The requirements in WAC 182-31-160 about National Medical Support Notice apply.

(14) A school board member may receive the SEBB wellness incentive as described in WAC 182-31-190.

(15) A school board member is not eligible for public employees benefits board retiree insurance coverage.

(16) The eligibility criteria for a school board member in this section replaces the eligibility criteria found in WAC 182-08-235, 182-08-245, 182-12-111, and 182-12-146 effective January 1, 2024.

WSR 24-06-032
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-28—Filed February 28, 2024, 4:59 p.m., effective March 2, 2024]

Effective Date of Rule: March 2, 2024.

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

Citation of Rules Affected by this Order: Repealing WAC 220-359-02000Z.

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

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

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

Reasons for this Finding: This rule extends treaty commercial sales for the 2024 Columbia River mainstem Zone 6 winter sturgeon set-line fisheries in Bonneville and John Day pools. This rule is consistent with actions of the Columbia River Compact on February 7 and 27, 2024. Conforms state rules with tribal rules. The general public welfare is protected with the immediate opening of nontreaty buyers purchasing fish from treaty fisheries. This harvest opportunity allows for the tribal use and public access to the resource as well as the maintenance of sustainable fish populations. There is insufficient time to promulgate permanent regulations.

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

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

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

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

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

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

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

Date Adopted: February 28, 2024.

Kelly Susewind
Director

NEW SECTION

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

(1) Open Areas: SMCRA 1F (Bonneville Pool)

(a) Season: 6 AM Saturday, March 2 through 6 PM Monday, March 4, 2024.

(b) Gear: Setline gear only.

(c) Allowable sales: Sturgeon from 38 to 54 inches fork length caught in the Bonneville Pool, may be sold or kept for subsistence purposes.

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

(2) Open Areas: SMCRA 1H (John Day Pool)

(a) Season: 6 AM Thursday, March 7 through 6 PM Monday, March 11, 2024.

(b) Gear: Setline gear only.

(c) Allowable sales: Sturgeon from 43 to 54 inches fork length caught in The Dalles and John Day pools, may be sold or kept for subsistence purposes.

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

(3) 24-hour quick reporting is required for Washington wholesale dealers for all areas as provided in WAC 220-352-315, except that all landings from treaty fisheries described above must be reported within 24-hours of completing the fish ticket (not 24-hours after the fishing period concludes).

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

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

REPEALER

The following section of Washington Administrative Code is repealed, effective March 2, 2024:

WAC 220-359-02000Z Columbia River salmon seasons above
Bonneville Dam. (24-14)

WSR 24-06-037
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-33—Filed February 29, 2024, 3:11 p.m., effective February 29, 2024, 3:11 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this rule is to allow coastal commercial crab vessels to prepare for pot restrictions being lifted by loading pots in excess of current restrictions on board.

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

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

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

Reasons for this Finding: This emergency rule is necessary to allow for vessels fishing outside the Quinault U&A to prepare and load gear on the vessel prior to pot limits being lifted at 8:00 a.m., March 2, 2024, under WSR 24-06-007. 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 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: February 29, 2024.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-42000V Commercial crab fishery—Unlawful acts. Notwithstanding the provisions of WAC 220-340-420, effective immediately through 7:59 a.m. March 2, 2024:

(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 immediately, through 7:59 a.m. March 2, 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.

(e) Load pots with buoy tags attached in excess of the pot limits described within this section more than 48-hours prior to pot limits being lifted.

(3) 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.

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

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 Washington Administrative Code is repealed, effective immediately:

WAC 220-340-42000T Commercial crab fishery—Unlawful acts.
(24-06)

The following section of Washington Administrative Code is repealed, effective 8:00 a.m. March 2, 2024:

WAC 220-340-42000V Commercial crab fishery—Unlawful acts.
(24-33)

WSR 24-06-039
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-31—Filed February 29, 2024, 3:42 p.m., effective March 1, 2024]

Effective Date of Rule: March 1, 2024.

Purpose: The purpose of this emergency rule is to modify salmon seasons for Cowlitz River, Drano Lake, Kalama River, Klickitat River, and Wind River.

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

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

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

Reasons for this Finding: This emergency rule is necessary to adjust salmon seasons for Cowlitz River, Drano Lake, Kalama River, Klickitat River, and Wind River to meet the needs predicated by 2024 spring Chinook run expectations:

Cowlitz River: A reduction in the adult salmon daily limit with additional retention requirements of a clipped adipose and ventral fin is necessary because of reduced Cowlitz spring Chinook smolt releases in 2022. This release was supplemented with Kalama origin spring Chinook juveniles marked with an adipose and ventral clip intended for harvest. This will provide harvest opportunities while optimizing hatchery broodstock collection and reintroduction of spring Chinook to the upper Cowlitz basin.

Drano Lake: A reduction in the salmon daily limit is necessary because the preseason forecast of 5,273 adult spring Chinook is lower than the previous year. The reduced limit will provide spring Chinook angling opportunity while helping ensure broodstock goals at Little White Salmon National Fish Hatchery are met.

Kalama River: A reduction in the salmon daily limit is necessary to provide spring Chinook angling opportunity while helping ensure broodstock goals are met.

Klickitat River: A reduction in the salmon daily limit and early closures/late openings are necessary because the estimated return of adult spring Chinook (1,254) to the Klickitat River for 2024 is among the lowest since 2009. Hatchery spring Chinook releases in 2022 were well below program goals. These fish will return as four-year-olds in 2024, which represent the largest age group of spring Chinook runs. Additionally, PIT tagging operations for the 2022 release group were disrupted by the COVID-19 pandemic, which will diminish managers' ability to monitor the return inseason. This conservative approach will help ensure that hatchery broodstock collection is achieved and provide some initial opportunity to harvest spring Chinook in the lower river.

Wind River: The preseason forecast of spring Chinook returning to the Wind River (4,156 adults) indicates that a reduced adult salmon daily limit is needed to provide spring Chinook angling opportunity and help ensure broodstock collection goals at Carson National Fish Hatchery.

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: February 29, 2024.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-03000J Freshwater exceptions to statewide rules—Southwest. Effective March 1, 2024, until further notice, the provisions of WAC 220-312-030 regarding Cowlitz River, Drano Lake, Kalama River, Klickitat River, and Wind River salmon and steelhead seasons shall be modified during times and as described below. All other provisions of WAC 220-312-030 not addressed herein remain in effect unless otherwise amended by emergency rule:

(1) Cowlitz River (Cowlitz/Lewis Co.): From boundary markers at the mouth to the fishing boundary markers below Barrier Dam: Effective March 1, 2024, until further notice:

Salmon: Daily limit 6 including no more than 1 adult. Release all salmon other than hatchery jack Chinook, adult Chinook with both the adipose fin and a ventral fin clipped with healed scars, and hatchery coho.

(2) Drano Lake (Skamania Co.): Waters downstream of markers on point of land downstream and across from Little White Salmon National Fish Hatchery and upstream of the Hwy. 14 bridge: Effective March 16, 2024, until further notice:

Salmon and steelhead: Daily limit 2 including no more than 1 adult salmon. Release all salmon other than hatchery Chinook. Release all wild steelhead.

(3) Kalama River (Cowlitz Co.): From mouth to 1,000' downstream of fishway at Kalama Falls Hatchery: Effective March 1, 2024, until further notice:

Salmon: Daily limit 6 including no more than 1 adult. Release all salmon other than hatchery Chinook and hatchery coho.

(4) Klickitat River (Klickitat Co.):

(a) From the mouth (Burlington Northern Railroad Bridge) to Fisher Hill Bridge:

(i) Effective April 1 through May 22, 2024: Salmon and steelhead:

(A) Open Mondays, Wednesdays, and Saturdays only.

(B) Salmon and steelhead: Daily limit 2 including no more than 1 adult salmon. Release wild Chinook. Release wild steelhead.

(ii) Effective May 23, 2024, until further notice: Salmon: Closed

(b) From 400 feet upstream from #5 fishway to boundary markers below Klickitat Salmon hatchery: Effective May 25, 2024, until further notice: Salmon: Closed.

(5) Wind River (Skamania Co.): From the mouth (line of buoy markers south of the Hwy. 14 bridge) to 800 yards downstream of Carson National Fish Hatchery: Effective March 16, 2024, until further notice:

Salmon and steelhead: Daily limit 6. Up to 1 adult salmon and 1 hatchery steelhead, or up to 2 hatchery steelhead may be retained. Release all salmon other than hatchery Chinook and hatchery coho. Release wild steelhead.

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

WSR 24-06-042
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-32—Filed February 29, 2024, 4:24 p.m., effective March 5, 2024]

Effective Date of Rule: March 5, 2024.

Purpose: Opens a five-hour smelt fishery on the Cowlitz River.

Citation of Rules Affected by this Order: Repealing WAC 220-315-03000F; and amending WAC 220-315-030.

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

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

Reasons for this Finding: Inseason monitoring data indicate the eulachon run size is large enough to support a second recreational opening, per guidance from the 2023 Washington and Oregon Eulachon Management Plan. The recreational fishery also serves as an important opportunity to collect additional biological data. 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: February 29, 2024.

Kelly Susewind
Director

NEW SECTION

WAC 220-315-03000F Smelt—Areas and seasons. Notwithstanding the provisions of WAC 220-315-030, the Columbia River and Washington tributaries are closed to fishing for eulachon smelt except as provided below:

Open Dates: Tuesday March 5, 2024, from 1:00 p.m. to 6:00 PM (5-hour period).

Open Area: Cowlitz River (bank only) from the HWY 432 Bridge upstream to mouth of the Toutle River

Daily Limit: 10 pounds. Possession limit equal to one daily limit.

Gear: Smelt may be taken with dip net only.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. March 5, 2024:

WAC 220-315-03000F Smelt—Areas and seasons

WSR 24-06-047

EMERGENCY RULES

DEPARTMENT OF HEALTH

(Pharmacy Quality Assurance Commission)

[Filed March 1, 2024, 9:13 a.m., effective March 1, 2024, 9:13 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Medication assistance in community-based and in-home care settings. As provided in RCW 69.41.010(15), the pharmacy quality assurance commission (commission) and department of health (department) are filing jointly to reinstate medication assistance rules as permitted under chapter 69.41 RCW by adopting new rules in WAC 246-945-710, 246-945-712, 246-945-714, 246-945-716, 246-945-718, 246-945-720, 246-945-722, 246-945-724, 246-945-726, and 246-945-728. This adopted emergency rule will extend WSR 23-23-032 filed on November 3, 2023, without change.

This rule establishes criteria for medication assistance in community-based and in-home care settings in accordance with chapter 69.41 RCW. The definition for medication assistance provided in RCW 69.41.010(15) states:

"Medication assistance" means assistance rendered by a nonpractitioner to an individual residing in a community-based care setting or in-home care setting to facilitate the individual's self-administration of a legend drug or controlled substance. It includes reminding or coaching the individual, handing the medication container to the individual, opening the individual's medication container, using an enabler, or placing the medication in the individual's hand, and such other means of medication assistance as defined by rule adopted by the department.

These emergency rules provide further definitions for terms used within this definition such as "enabler" and establish those "other means of medication assistance as defined by rule adopted by the department." These rules help impacted individuals retain their independence and live in the least restrictive setting, such as their own home, longer by providing means and guidance for medication assistance.

Citation of Rules Affected by this Order: New WAC 246-945-710, 246-945-712, 246-945-714, 246-945-716, 246-945-718, 246-945-720, 246-945-722, 246-945-724, 246-945-726, and 246-945-728.

Statutory Authority for Adoption: RCW 18.64.005, 69.41.010(15), and 69.41.075.

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 commission's new chapter 246-945 WAC became effective in July 2020. The old rules, including the former rules on medication assistance (chapter 246-888 WAC), were repealed in March 2021. The commission's repeal of chapter 246-888 WAC has resulted in unintended disruptions for medication assistance in the community-based and in-home care settings permitted under chapter 69.41 RCW. Emergency rule making is necessary to immediately restore medication assistance regulations to preserve patient safety and welfare while the commission and the department work on permanent rules. The CR-101 was filed on December 27, 2021, under WSR 22-02-015. Permanent rule

making was originally delayed due to the novel coronavirus (COVID-19) pandemic but is still in progress. Commission staff and the department of social and health services have collaborated to create draft language that was discussed at a rules workshop at the commission's December 14, 2023, business meeting. Commission staff is using the feedback received to update the draft language for another rules workshop this spring.

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 10, 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 10, Amended 0, Repealed 0.

Date Adopted: March 1, 2024.

Kenneth Kenyon, PharmD, MBA
Pharmacy Quality Assurance Commission Chair
Kristin Peterson, JD
Chief of Policy
for Umair A. Shah, MD, MPH
Secretary

OTS-2998.2

PART 5 - MEDICATION ASSISTANCE

NEW SECTION

WAC 246-945-710 Scope and applicability. (1) This section through WAC 246-945-728 only apply to medication assistance provided in community-based care settings and in-home care settings.

(2) The following definitions apply to this section through WAC 246-945-728 unless the context requires otherwise:

(a) "Medication" means legend drugs and controlled substances;
and

(b) "Practitioner" has the same meaning as in RCW 69.41.010(17).

NEW SECTION

WAC 246-945-712 Self-administration with assistance, independent self-administration, and medication administration. (1) Self-administration with assistance means assistance with legend drugs and controlled substances rendered by a nonpractitioner to an individual residing in a community-based care setting or an in-home care setting. It includes reminding or coaching the individual to take their medication, handing the medication container to the individual, opening the medication container, using an enabler, or placing the medication in the hand of the individual/resident. The individual/resident must be able to put the medication into their mouth or apply or instill the medication. The individual/resident does not necessarily need to state the name of the medication, intended effects, side effects, or other details, but must be aware that they are receiving medication. Assistance may be provided by a nonpractitioner with prefilled insulin syringes. Assistance is limited to handing the prefilled insulin syringe to an individual/resident. Assistance with the administration of any other intravenous or injectable medication is specifically excluded. The individual/resident retains the right to refuse medication. Self-administration with assistance shall occur immediately prior to the ingestion or application of a medication.

(2) Independent self-administration occurs when an individual/resident is independently able to directly apply a legend drug or controlled substance by ingestion, inhalation, injection or other means. In licensed assisted living facilities, self-administration may include situations in which an individual cannot physically self-administer medications but can accurately direct others. These regulations do not limit the rights of people with functional disabilities to self-direct care according to chapter 74.39 RCW.

(3) If an individual/resident is not able to physically ingest or apply a medication independently or with assistance, then the medication must be administered to the individual/resident by a person legally authorized to do so (e.g., physician, nurse, pharmacist). All laws and regulations applicable to medication administration apply. If an individual/resident cannot safely self-administer medication or self-administer with assistance or cannot indicate an awareness that they are taking a medication, then the medication must be administered to the individual/resident by a person legally authorized to do so.

NEW SECTION

WAC 246-945-714 Self-administration with assistance in a community-based care setting or an in-home setting. (1) An individual/resident, or their representative, in a community-based care setting or an in-home setting may request self-administration with assistance.

(2) No additional separate assessment or documentation of the needs of the individual/resident are required in order to initiate self-administration with assistance. It is recommended that providers document their decision-making process in the health record of the individual or resident health record.

(3) A nonpractitioner may help in the preparation of legend drugs and controlled substances for self-administration where a practitioner has determined and communicated orally or by written direction that such medication preparation assistance is necessary and appropriate.

NEW SECTION

WAC 246-945-716 Enabler. (1) Enablers are physical devices used to facilitate an individual's/resident's self-administration of a medication. Physical devices include, but are not limited to, a medicine cup, glass, cup, spoon, bowl, prefilled syringes, syringes used to measure liquids, specially adapted table surface, straw, piece of cloth, or fabric.

(2) An individual's hand may also be an enabler. The practice of "hand-over-hand" administration is not allowed. Medication administration with assistance includes steadying or guiding an individual's hand while he or she applies or instills medications such as ointments, eye, ear, and nasal preparations.

NEW SECTION

WAC 246-945-718 Alteration of medication for self-administration with assistance. Alteration of a medication for self-administration with assistance includes, but is not limited to, crushing tablets, cutting tablets in half, opening capsules, mixing powdered medications with foods or liquids, or mixing tablets or capsules with foods or liquids. Individuals/residents must be aware that the medication is being altered or added to their food.

NEW SECTION

WAC 246-945-720 Medication alteration. A practitioner practicing within their scope of practice must determine that it is safe to alter a legend drug or controlled substance. If the medication is altered, and a practitioner has determined that such medication alteration is necessary and appropriate, the determination shall be communicated orally or by written direction. Documentation of the appropriateness of the alteration must be on the prescription container, or in the individual's/resident's record.

NEW SECTION

WAC 246-945-722 Types of assistance provided by nonpractitioner. A nonpractitioner can transfer a medication from one container to another for the purpose of an individual dose. Examples include: Pouring a liquid medication from the medication container to a calibrated spoon or medication cup.

NEW SECTION

WAC 246-945-724 Oxygen order/prescription requirements. Under state law, oxygen is not a medication and is not covered under this rule. While oxygen is not considered a medication under state law, oxygen does require an order/prescription from a practitioner.

NEW SECTION

WAC 246-945-726 Self-administration with assistance of medication through a gastrostomy or "g-tube." If a prescription is written as an oral medication via "g-tube," and if a practitioner has determined that the medication can be altered, if necessary, for use via "g-tube," the rules as outlined for self-administration with assistance would also apply.

NEW SECTION

WAC 246-945-728 Other medication assistance requirements. A practitioner, nonpractitioner, and an individual/resident or their representative should be familiar with the rules specifically regulating the residential setting. The department of social and health services has adopted rules relating to medication services in assisted living facilities and adult family homes.

WSR 24-06-052
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-34—Filed March 1, 2024, 3:34 p.m., effective March 1, 2024, 3:34 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to open razor clam harvest in Razor Clam Areas 1, 3, 4, and 5.

Citation of Rules Affected by this Order: Repealing WAC 220-330-16000N; 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: March 1, 2024.

Kelly Susewind
Director

NEW SECTION

WAC 220-330-16000N 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. March 7 through 11:59 p.m. March 11, 2024, razor clam digging is permissible in Razor Clam Areas defined in WAC 220-330-160 during afternoon and evening tides on dates and times listed below:

Table with 3 columns: Razor Clam Area, Date, Time. Row 1: Area 1, March 7 through March 11, From 12:01 p.m. to 11:59 p.m.

Razor Clam Area	Date	Time
Area 2	Closed	Closed
Area 3	March 7 through March 11	From 12:01 p.m. to 11:59 p.m.
Area 4	March 7, 10, and 11	From 12:01 p.m. to 11:59 p.m.
Area 5	March 8 and 9	From 12:01 p.m. to 11:59 p.m.
Area 6	Closed	Closed
Area 7	Closed	Closed

(2) Effective 4:01 a.m. March 12 through 3:59 p.m. March 17, 2024, razor clam digging is permissible in Razor Clam Areas defined in WAC 220-330-160 during morning and afternoon tides on dates and times listed below:

Razor Clam Area	Date	Time
Area 1	March 12 through March 14	From 4:01 a.m. to 3:59 p.m.
Area 2	Closed	Closed
Area 3	Closed	From 4:01 a.m. to 3:59 p.m.
Area 4	March 15 and 16	From 4:01 a.m. to 3:59 p.m.
Area 5	March 12, 13, 14, and 17	From 4:01 a.m. to 3:59 p.m.
Area 6	Closed	Closed

(3) 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.

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 12:01 a.m. March 18, 2024:

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

WSR 24-06-056
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed March 4, 2024, 7:19 a.m., effective March 4, 2024, 7:19 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department of social and health services is planning to amend WAC 388-71-0523, 388-71-0836, 388-71-0837, 388-71-0839, 388-71-0875, 388-71-0880, 388-71-0888, 388-71-0893, 388-71-0975, 388-71-0977, 388-71-0980, 388-71-1001, 388-112A-0010, 388-112A-0110, 388-112A-0115, 388-112A-0130, 388-115-0503, 388-115-0505, 388-115-0520, 388-115-0523, 388-115-0540, 388-115-05410; and repeal WAC 388-112A-0130 in response and in compliance to E2SHB 1694 (chapter 424, Laws of 2023). Other changes include the numerical representation, consistency, and inclusive language. Permanent rule making is in process. This emergency extension is necessary to keep the language in place until the CR-103P, filed as WSR 24-05-003, will not be effective before the current emergency rules expire on March 7, 2024. When effective, the permanent rules, filed as WSR 24-05-003, supersede this emergency.

Citation of Rules Affected by this Order: Repealing WAC 388-112A-0130; and amending WAC 388-71-0523, 388-71-0836, 388-71-0837, 388-71-0839, 388-71-0875, 388-71-0880, 388-71-0888, 388-71-0893, 388-71-0975, 388-71-0977, 388-71-0980, 388-71-1001, 388-112A-0010, 388-112A-0110, 388-112A-0115, 388-112A-0130, 388-115-0503, 388-115-0505, 388-115-0520, 388-115-0523, 388-115-0540, and 388-115-05410.

Statutory Authority for Adoption: RCW 18.88B.021, 18.88B.041, 18.88B.060, 74.08.090, 74.39A.076, and 74.39A.341.

Other Authority: RCW 18.88B.010, 18.88B.021, 18.88B.041, 74.39A.076, and 74.39A.341.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Extension of emergency rules are necessary because permanent rules will not be effective by the date the current emergency rules expire on March 7, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 22, 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: March 4, 2024.

Katherine I. Vasquez
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 24-07 issue of the Register.

WSR 24-06-063
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-35—Filed March 4, 2024, 2:28 p.m., effective March 4, 2024, 2:28 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to close red sea urchin harvest in District 1.

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

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

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

Reasons for this Finding: This emergency rule closes harvest of red urchins in District 1 immediately following projected quota attainment. 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: March 4, 2024.

Kelly Susewind
Director

NEW SECTION

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

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

(2) The following areas are open for red sea urchin harvest, seven days-per-week: Sea Urchin District 2, District 4.

(3) The following areas are open for green urchin harvest, seven days-per-week: Sea Urchin District 1 and District 2.

(4) It is unlawful for any harvester to fish for, take, or possess for commercial purposes more than 1,500 pounds per species of red sea urchin or green sea urchin per license for each weekly fishery opening period.

REPEALER

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

WAC 220-340-75000E Commercial sea urchin fisheries.
(24-23)