

## WSR 24-11-006

## RESCISSION OF EMERGENCY RULES

## DEPARTMENT OF HEALTH

[Filed May 2, 2024, 12:25 p.m., effective May 27, 2024]

This memo serves as notice that the Washington state board of nursing (board) is rescinding the CR-103 emergency rule amendments. The emergency rule amendments clarify specific licensing requirements for registered nurse (RN) and licensed practical nurse (LPN) applicants applying for initial licensure via an out-of-state traditional nursing education program approved by another United States nursing board, and applicants applying via interstate endorsement. The emergency rule was filed April 30, 2024, and published as WSR 24-10-096. The effective date of the rescission is May 27, 2024, the effective date of the permanent rule.

The board is rescinding this CR-103E because the emergency rule for WAC 246-840-030 and 246-840-090 is no longer necessary. Permanent rules for WAC 246-840-030 and 246-840-090 mirror the emergency rule text and clarify the board's authority to determine if another state's board-approved nursing program substantially meets Washington state requirements. The board is aware that certain nursing programs across the nation have had programs fraudulently granting diplomas. The permanent rules ensure that a fraudulent nursing program or a program that does not meet Washington state standards cannot be accepted as qualifying RNs and LPNs for licensure in Washington state.

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

Tami M. Thompson  
Regulatory Affairs Manager

WSR 24-11-012  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE

[Order 24-65—Filed May 3, 2024, 4:59 p.m., effective May 6, 2024]

Effective Date of Rule: May 6, 2024.

Purpose: Opens razor clam harvest.

Citation of Rules Affected by this Order: Repealing WAC 220-330-16000S; 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: May 3, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-330-16000S 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 a.m. May 6 through 11:59 a.m. May 12, 2024, razor clam digging is permissible in Razor Clam Areas defined in WAC 220-330-160 on dates and times listed below:

| Razor Clam Area | Date                 | Time                          |
|-----------------|----------------------|-------------------------------|
| Area 1          | May 7 through May 12 | From 12:01 a.m. to 11:59 a.m. |
| Area 2          | Closed               | Closed                        |

| Razor Clam Area | Date                 | Time                          |
|-----------------|----------------------|-------------------------------|
| Area 3          | May 9 through May 12 | From 12:01 a.m. to 11:59 a.m. |
| Area 4          | May 8, 9, and 12     | From 12:01 a.m. to 11:59 a.m. |
| Area 5          | May 6, 7, 10 and 11  | From 12:01 a.m. to 11:59 a.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. May 13, 2024:

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

**WSR 24-11-033**  
**EMERGENCY RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed May 8, 2024, 8:38 a.m., effective May 8, 2024, 8:38 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 [2SSB] 5048 (2023) that eliminated fees for students.

This is a renewal of an emergency rule filing as the office of 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 [2SSB] 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: May 8, 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 24-11-034**  
**EMERGENCY RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed May 8, 2024, 8:39 a.m., effective May 8, 2024, 8:39 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 [2SHB] 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 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 [2SHB] 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: May 8, 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 24-11-036

## EMERGENCY RULES

## HEALTH CARE AUTHORITY

[Filed May 8, 2024, 10:28 a.m., effective May 8, 2024, 10:28 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The health care authority is amending these rules to allow for back dating on the provider enrollment application. This emergency rule replaces the initial emergency filed on April 12, 2024, under WSR 24-09-044. This replacement filing includes revisions to WAC 182-502-0006.

Citation of Rules Affected by this Order: Amending WAC 182-502-0005 and 182-502-0006.

Statutory Authority for Adoption: 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 rule making is necessary to immediately allow provider's enrollment to align with contract dates and delivery of services.

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 2, Repealed 0.

Date Adopted: May 8, 2024.

Wendy Barcus  
Rules Coordinator

**OTS-5352.2**

AMENDATORY SECTION (Amending WSR 23-21-061, filed 10/12/23, effective 11/12/23)

**WAC 182-502-0005 Core provider agreement (CPA).** (1) The agency only pays claims submitted for services provided by or on behalf of:

(a) A health care professional, health care entity, supplier or contractor of service that has an approved core provider agreement (CPA) with the agency;

(b) A servicing provider enrolled under an approved CPA with the agency; or

(c) A provider who has an approved agreement with the agency as a nonbilling provider in accordance with WAC 182-502-0006.

(2) Servicing providers performing services for a client must be enrolled under the billing providers' CPA.

(3) Any ordering, prescribing, or referring providers must be enrolled in the agency's claims payment system in order for any services or supplies ordered, prescribed, or referred by them to be paid. The national provider identifier (NPI) of any referring, prescribing, or ordering provider must be included on the claim form. Refer to WAC 182-502-0006 for enrollment as a nonbilling provider.

(4) For services provided out-of-state, refer to WAC 182-501-0180, 182-501-0182, and 182-501-0184.

(5) The agency does not pay for services provided to clients during the CPA application process or application for nonbilling provider process, regardless of whether the agency later approves or denies the application, except as provided in subsection (6) of this section or WAC 182-502-0006(5).

(6) **Effective date of enrollment of a provider.**

(a) Enrollment of a provider applicant is effective on the date the agency approves the provider application or a date designated by the agency.

~~((a))~~ (b) A provider applicant may ask for an effective date earlier than the agency's approval of the provider application by submitting a written request to the agency's chief medical officer. The request must specify the requested effective date and include an explanation justifying the earlier effective date. The chief medical officer will not authorize an effective date requested by the provider that is ~~((~~

~~(i))~~ earlier than the effective date of any required license or certification ~~((~~

~~(ii) More than 365 days prior to the agency's approval of the provider application))~~.

~~((b))~~ (c) The chief medical officer or designee may approve an exception ~~((s))~~ as requested by the provider as follows:

(i) Emergency services;

(ii) Agency-approved out-of-state services;

(iii) Medicaid provider entities that are subject to survey and certification by CMS or the state survey agency;

(iv) Retroactive client eligibility; or

(v) Other critical agency need as determined by the agency's chief medical officer or designee.

~~((e))~~ (d) For federally qualified health centers (FQHCs), see WAC 182-548-1200. For rural health clinics (RHCs), see WAC 182-549-1200.

~~((d))~~ (e) Exceptions granted under this subsection (6) do not supersede or otherwise change the agency's timely billing requirements under WAC 182-502-0150.

AMENDATORY SECTION (Amending WSR 15-10-003, filed 4/22/15, effective 5/23/15)

**WAC 182-502-0006 Enrollment for nonbilling individual providers.**

(1) The agency pays for health care services, drugs, supplies or equipment prescribed, ordered, or referred by a health care professional only when the health care professional has one of the following

approved agreements with the agency and all other conditions of payment have been met (see WAC 182-501-0050):

(a) Core provider agreement, in accordance with WAC 182-502-0005;  
or

(b) Nonbilling provider agreement, in accordance with subsection (4) of this section.

(2) Only a licensed health care professional whose scope of practice under their licensure includes ordering, prescribing, or referring may enroll as a nonbilling provider.

(3) Nothing in this chapter obligates the agency to enroll any health care professional who requests enrollment as a nonbilling provider.

(4) **Enrollment.**

(a) To enroll as a nonbilling provider with the medicaid agency, a health care professional must, on the date of application:

(i) Not already be enrolled with the medicaid agency as a billing or servicing provider;

(ii) Be currently licensed, certified, accredited, or registered according to Washington state laws and rules;

(iii) Be enrolled with medicare, when required in specific program rules;

(iv) Have current professional liability coverage, individually or as a member of a group, to the extent the health care professional is not covered by the Federal Tort Claims Act, including related rules and regulations;

(v) Have a current federal drug enforcement agency (DEA) certificate, if applicable to the profession's scope of practice;

(vi) Pass the agency's screening process, including license verifications, database checks, site visits, and criminal background checks, including fingerprint-based criminal background checks as required by 42 C.F.R. 455.434 if considered high-risk under 42 C.F.R. 455.450. The agency uses the same screening level risk categories that apply under medicare. For those provider types that are not recognized under medicare, the agency assesses the risk of fraud, waste, and abuse using similar criteria to those used in medicare;

(vii) Meet the conditions in this chapter and other chapters regulating the specific type of health care practitioner; and

(viii) Sign, without modification, a Medicaid Enrollment Application and Agreement for Nonbilling Individual Providers form (HCA 13-002). The medicaid agency and each provider signing a Medicaid Enrollment Application and Agreement for Nonbilling Individual Providers form (HCA 13-002) will hold each other harmless from a legal action based on the negligent actions or omissions of either party under the terms of this agreement.

(b) The medicaid agency does not enroll a nonbilling provider for reasons which include, but are not limited to, the following:

(i) The agency determines that:

(A) There is a quality of care issue with significant risk factors that may endanger client health and/or safety (see WAC 182-502-0030 (1)(a)); or

(B) There are risk factors that affect the credibility, honesty, or veracity of the health care practitioner (see WAC 182-502-0030 (1)(b)).

(ii) The health care professional:

(A) Is excluded from participation in medicare, medicaid or any other federally funded health care program;

(B) Has a current formal or informal pending disciplinary action, statement of charges, or the equivalent from any state or federal professional disciplinary body at the time of initial application;

(C) Has a suspended, terminated, revoked, or surrendered professional license as defined under chapter 18.130 RCW;

(D) Has a restricted, suspended, terminated, revoked, or surrendered professional license in any state;

(E) Is noncompliant with the department of health's or other state health care agency's stipulation of informal disposition, agreed order, final order, or similar licensure restriction;

(F) Is suspended or terminated by any agency within the state of Washington that arranges for the provision of health care;

(G) Fails a background check, including a fingerprint-based criminal background check, performed by the agency. See WAC 182-502-0014, except that subsection (2) of this section does not apply to nonbilling providers;

(H) Does not have sufficient liability insurance according to (a) (iv) of this subsection for the scope of practice, to the extent the health care professional is not covered by the Federal Tort Claims Act, including related rules and regulations; or

(I) Fails to meet the requirements of a site visit, as required by 42 C.F.R. 455.432.

(5) **Effective date of enrollment of nonbilling provider.**

(a) Enrollment of a nonbilling provider applicant is effective on the date the agency approves the nonbilling provider application or a date designated by the agency.

~~((a))~~ (b) A nonbilling provider applicant may ask for an effective date earlier than the agency's approval of the nonbilling provider application by submitting a written request to the agency's chief medical officer. The request must specify the requested effective date and include an explanation justifying the earlier effective date. The chief medical officer will not authorize an effective date requested by the provider that is ~~((+~~

~~(i))~~ earlier than the effective date of any required license or certification ~~((; or~~

~~(ii) More than three hundred sixty-five days prior to the agency's approval of the nonbilling provider application)).~~

~~((b))~~ (c) The chief medical officer or designee may approve an exception ~~((s))~~ as requested by the provider as follows:

(i) Emergency services;

(ii) Agency-approved out-of-state services;

(iii) Medicaid provider entities that are subject to survey and certification by CMS or the state survey agency;

(iv) Retroactive client eligibility; or

(v) Other critical agency need as determined by the agency's chief medical officer or designee.

(6) **Continuing requirements.** To continue eligibility, a nonbilling provider must:

(a) Only order, refer, or prescribe for clients consistent with the scope of their department of health (DOH) licensure and agency program rules;

(b) Provide all services without discriminating on the grounds of race, creed, color, age, sex, sexual orientation, religion, national origin, marital status, the presence of any sensory, mental or physical handicap, or the use of a trained dog guide or service animal by a person with a disability;

(c) Document that the client was informed that the provider:

- (i) May bill the client for any billable item or service. The rules in WAC 182-502-0160 do not apply; and
  - (ii) Is enrolled with the agency for the sole purpose of ordering, prescribing, or referring items or services for clients.
  - (d) Inform the agency of any changes to the provider's Medicaid Enrollment Application and Agreement for Nonbilling Individual Providers form (HCA 13-002) including, but not limited to, changes in:
    - (i) Address or telephone number;
    - (ii) Business name.
  - (e) Retain a current professional state license, registration, certification and applicable business license for the service being provided, and update the agency of all changes;
  - (f) Inform the agency in writing within seven business days of receiving any informal or formal disciplinary order, decision, disciplinary action or other action(s) including, but not limited to, restrictions, limitations, conditions and suspensions resulting from the practitioner's acts, omissions, or conduct against the provider's license, registration, or certification in any state;
  - (g) Maintain professional liability coverage requirements, to the extent the nonbilling provider is not covered by the Federal Tort Claims Act, including related rules and regulations;
  - (h) Not surrender, voluntarily or involuntarily, his or her professional state license, registration, or certification in any state while under investigation by that state or due to findings by that state resulting from the practitioner's acts, omissions, or conduct;
  - (i) Furnish documentation or other assurances as determined by the agency in cases where a provider has an alcohol or chemical dependency problem, to adequately safeguard the health and safety of medical assistance clients that the provider:
    - (i) Is complying with all conditions, limitations, or restrictions to the provider's practice both public and private; and
    - (ii) Is receiving treatment adequate to ensure that the dependency problem will not affect the quality of the provider's practice.
  - (j) Submit to a revalidation process at least every five years. This process includes, but is not limited to:
    - (i) Updating provider information;
    - (ii) Submitting forms as required by the agency including, but not limited to, a new Medicaid Enrollment Application and Agreement for Nonbilling Individual Providers form (HCA 13-002); and
    - (iii) Passing the agency's screening process as specified in subsection (4) (a) (vi) of this section.
  - (k) Follow the laws and rules that govern the agency's programs. A nonbilling provider may contact the agency with questions regarding the agency's programs. However, the agency's response is based solely on the information provided to the agency's representative at the time of inquiry, and in no way exempts a nonbilling provider from this requirement.
- (7) **Audit or investigation.**
- (a) Audits or investigations may be conducted to determine compliance with the rule and regulations of the program.
  - (b) If an audit or investigation is initiated, the provider must retain all original records and supportive materials until the audit is completed and all issues are resolved even if the period of retention extends beyond the required six year period.
- (8) **Inspection; maintenance of records.** For six years from the date of services, or longer if required specifically by law, the non-billing provider must:

(a) Keep complete and accurate medical records that fully justify and disclose the extent of the services or items ordered, referred or prescribed.

(b) Make available upon request appropriate documentation, including client records, supporting material for review by the professional staff within the agency or the U.S. Department of Health and Human Services. The nonbilling provider understands that failure to submit or failure to retain adequate documentation may result in the termination of the nonbilling provider's enrollment.

**(9) Terminations.**

(a) The agency may immediately terminate a nonbilling provider's agreement, and refer the nonbilling provider to the appropriate state health professions quality assurance commission for:

(i) Any of the reasons in WAC 182-502-0030 termination for cause (except that subsection (1)(a)(ix) and (b)(i) do not apply); and

(ii) Failure to comply with the requirements of subsections (4), (6), and (8) of this section.

(b) Either the agency or the provider may terminate this agreement for convenience at any time with ((thirty)) 30 calendar days' written notification to the other.

(c) If this agreement is terminated for any reason, the agency will pay for services ordered, referred, or prescribed by the provider only through the date of termination.

**(10) Termination disputes.**

(a) To dispute terminations of a nonbilling provider agreement under subsection (9)(a) of this section, the dispute process in WAC 182-502-0050 applies.

(b) Nonbilling providers cannot dispute terminations under subsection (9)(b) of this section.

**WSR 24-11-054**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-67—Filed May 13, 2024, 9:27 a.m., effective May 13, 2024, 9:27 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to close recreational spring Chinook seasons in the Snake River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-05000N; and amending WAC 220-312-050 [no amended section attached].

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: Based on estimated harvest, allocation for Snake River spring Chinook has been met.

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

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

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

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

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

Date Adopted: May 13, 2024.

Kelly Susewind  
Director

REPEALER

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

WAC 220-312-05000N Freshwater exceptions to statewide rules—Eastside. (24-63)



**WSR 24-11-055**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-66—Filed May 13, 2024, 10:53 a.m., effective May 15, 2024]

Effective Date of Rule: May 15, 2024.

Purpose: The purpose of this emergency rule is to close recreational salmon fishing in Marine Area 13 and the Skagit River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-04000E; and amending WAC 220-313-060.

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

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

Reasons for this Finding: Preexisting Endangered Species Act (ESA) coverage for the effects of Puget Sound salmon fisheries expires on May 15, 2024. Federal ESA consultations on 2024-25 Puget Sound salmon fisheries are ongoing but are unlikely to be completed by May 15th. Marine Area 13 and Skagit River salmon fisheries are known to intercept ESA-listed Chinook in the May period. Accordingly, Marine Area 13 and Skagit River will temporarily close for salmon fishing starting May 15, 2024. Salmon fisheries will resume when ESA authorization is received for the proposed 2024-25 Puget Sound salmon fishing package.

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: May 13, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-313-06000U Puget Sound salmon—Saltwater seasons and daily limits.** Effective May 15, 2024, until further notice, the following provisions of WAC 220-313-060 regarding salmon seasons for Catch Record Card Area 13 shall be modified as described below. All other provisions of WAC 220-313-060 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

**Catch Record Card Area 13: Salmon: Closed.**

REPEALER

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

WAC 220-312-04000E Freshwater exceptions to statewide rules—Puget Sound. (24-59)

**WSR 24-11-071**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-68—Filed May 14, 2024, 3:38 p.m., effective May 16, 2024]

Effective Date of Rule: May 16, 2024.

Purpose: The purpose of this emergency rule is to open hatchery Chinook seasons in the Icicle River.

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

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

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

Reasons for this Finding: This rule is needed to open hatchery Chinook retention in the Icicle River. A large return of spring Chinook is forecasted to return to the Icicle River this spring. Fish in excess of broodstock needs at Leavenworth National Fish Hatchery will be available for sport angler harvest. Returns of Icicle River hatchery spring Chinook salmon are sufficient to meet broodstock needs and to provide for sport angler harvest. 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: May 13, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-05000P Freshwater exceptions to statewide rules—Eastside.** Effective 1 hour before official sunrise May 16 through 1 hour after official sunset June 30, 2024, provisions of WAC 220-312-050 regarding salmon seasons for the Icicle River shall be as described below. All other provisions of WAC 220-312-050 not addressed herein, or unless otherwise amended by emergency rule remain in effect:

**Icicle River:**

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

(i) Daily limit 2. Release all salmon other than hatchery Chinook.

(ii) Anglers must retain first 2 hatchery Chinook over 12 inches in length.

(iii) Night closure in effect.

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

(i) Daily limit 2. Release all salmon other than hatchery Chinook.

(ii) Anglers must retain first 2 hatchery Chinook over 12 inches in length.

(iii) Night closure in effect.

**WSR 24-11-072**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-70—Filed May 14, 2024, 5:11 p.m., effective May 25, 2024]

Effective Date of Rule: May 25, 2024.

Purpose: This emergency rule is needed to close recreational fishing in much of the Snohomish River system.

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

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

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

Reasons for this Finding: This rule is necessary to close fishing in much of the Snohomish River system. Limited allowable take of wild Chinook in the Snohomish system necessitates strict controls to conserve impacts for fall in-river fisheries. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: May 14, 2024.

Amy H. Windrope  
for Kelly Susewind  
Director

[NEW SECTION]

**WAC 220-312-04000F Freshwater exceptions to statewide rules—Puget Sound.** Effective May 25, 2024, until further notice, provisions of WAC 220-312-040 regarding recreational fishing seasons for the Snohomish River system shall be modified as described below. All other provisions of WAC 220-312-040 not addressed herein, or unless otherwise amended by emergency rule remain in effect:

(1) The following waters are closed to all fishing May 25, 2024, until further notice:

- (a) **Cherry Creek**, from mouth upstream
- (b) **Raging River**, from mouth upstream

- (c) **Skykomish River**, from mouth to Hwy. 2 Bridge
  - (d) **Skykomish River, North Fork**, from mouth upstream to Bear Creek Falls
  - (e) **Skykomish River, South Fork**, from mouth to 600' downstream of Sunset Falls Fishway
  - (f) **Snohomish River**, from mouth to confluence of Skykomish and Snoqualmie rivers
  - (g) **Snoqualmie River**, from mouth to Snoqualmie Falls
  - (h) **Sultan River**, from mouth upstream
  - (i) **Tolt River**, from mouth to confluence of North and South forks
  - (j) **Wallace River**, from mouth to 200' upstream of water intake of salmon hatchery
- (2) The following waters are closed to all fishing from May 25 through June 14, 2024 and from July 11, 2024, until further notice:  
**Skykomish River**, from Hwy. 2 Bridge to confluence of North and South forks.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**WSR 24-11-091**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-71—Filed May 16, 2024, 3:06 p.m., effective May 16, 2024, 3:06 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to allow larger landing and possession limits for Areas 1 through 4.

Citation of Rules Affected by this Order: Repealing WAC 220-354-30000B; and amending WAC 220-354-300.

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: A harvestable quota of salmon is available for the troll fleet, and sufficient quota is available to allow larger landing and possession limit for each area and for Areas 1-4 combined. This regulation is necessary to both meet conservation limits and to provide fishing opportunity and its corresponding economic benefit. These rules are adopted at the recommendation of the Pacific Fisheries Management Council, in accordance with preseason fishing plans, and have been adopted for federal waters by the National Oceanic and Atmospheric Administration. 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: May 16, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-354-30000C Coastal salmon troll seasons—Commercial.**

Notwithstanding the provisions of WAC 220-354-300, WAC 220-353-050, and WAC 220-354-010, effective May 16, 2024, until further notice, it is unlawful to fish for salmon with troll gear or to land salmon taken with troll gear into a Washington port except during the seasons and under conditions provided below:

(1) Salmon Management and Catch Reporting Areas 1, 2, 3, and that portion of Area 4 west of 125°05'00" W longitude and south of 48°23'00" N latitude open: May 16 through June 29, 2024.

(2) Grays Harbor Control Zone, defined by a line drawn from the Westport Lighthouse (46°53'18"N. lat., 124°07'01"W. long.); thence to Buoy #2 (46°52'42"N. lat., 124°12'42"W. long.); thence to Buoy #3 (46°55'00"N. lat., 124°14'48"W. long.); thence to the Grays Harbor north jetty (46°55'36"N. lat., 124°10'51"W. long.), open: May 16 through June 29, 2024.

(3) In Washington Catch Reporting Areas 1, 2, 3 and 4, landing and possession limits combined across all areas of:

(a) 225 Chinook per vessel per landing per landing week, defined as Thursday through Wednesday

(4) In Washington Catch Reporting Area 1, landing and possession limits of:

(a) 80 Chinook per vessel per landing per landing week, defined as Thursday through Wednesday

(5) In Washington Catch Reporting Area 2, landing and possession limits of:

(a) 225 Chinook per vessel per landing per landing week, defined as Thursday through Wednesday

(6) In Washington Catch Reporting Areas 3 and 4, landing and possession limits of:

(a) 70 Chinook per vessel per landing per landing week, defined as Thursday through Wednesday

(7) Vessels fishing in an area with a higher landing and possession limit may transit through an area with a lower limit, provided reporting requirements in this section are met when crossing the Queets River or Leadbetter Point lines.

(8) The Cape Flattery and Columbia River Control Zones are closed. The Salmon Troll Yelloweye Rockfish Conservation Area is closed.

(9) Minimum size for Chinook salmon is 27 inches in length (20 1/2 inches frozen dressed). No minimum size for pink, sockeye or chum salmon. It is unlawful to possess coho salmon.

(10) It is unlawful to fish in Salmon Management and Catch Reporting Areas 1, 2, 3 or 4 with fish on board taken south of Cape Falcon, Oregon and all fish taken from Salmon Management and Catch Reporting Areas 1, 2, 3, and 4 must be landed before fishing south of Cape Falcon, Oregon.

(11) It is unlawful for wholesale dealers and trollers retailing their fish to fail to report their landing by 10:00 a.m. the day following landing. Ticket information can be telephoned in by calling 1-866-791-1279, faxing the information to (360) 902-2949, or e-mailing to trollfishtickets@dfw.wa.gov. Report the dealer's name, the dealer license number, the purchasing location, the date of purchase, the fish ticket numbers, the gear used, the catch area, the species, the total number for each species, and the total weight for each species, including halibut.

(12) During any single trip, only one side of the Leadbetter Point line (46°38'10"N. lat.) may be fished.

(a) Vessels fishing or in possession of salmon while fishing south of Leadbetter Point must land and deliver all species of fish within the area south of Leadbetter Point.

(b) For delivery to Washington ports south of Leadbetter Point, vessels must notify WDFW at 360-249-1215 or by email at Danielle.Williams@dfw.wa.gov prior to crossing the Leadbetter Point



line with area fished, total Chinook and halibut catch aboard, and destination with approximate time of delivery.

(c) Vessels may not land fish east of Tongue Point, Oregon.

(13) Vessels fishing or in possession of salmon north of Leadbetter Point must land and deliver all species of fish in a Washington port and must possess a Washington troll and/or salmon delivery license.

(a) Vessels in possession of salmon south of the Queets River may not cross the Queets River line (47°31'42"N. lat.) without first notifying WDFW at 360-249-1215 or by email at Danielle.Williams@dfw.wa.gov with area fished, total Chinook and halibut catch aboard and destination.

(b) Vessels in possession of salmon north of the Queets River may not cross the Queets River line without first notifying WDFW at 360-249-1215 or by email at Danielle.Williams@dfw.wa.gov with area fished, total Chinook and halibut catch aboard and destination.

(c) Vessels may not land fish east of the Sekiu River.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-354-30000B Coastal salmon troll seasons—  
Commercial. (24-60)

**WSR 24-11-093**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-69—Filed May 16, 2024, 3:15 p.m., effective May 17, 2024]

Effective Date of Rule: May 17, 2024.

Purpose: This emergency rule is needed to modify spring recreational salmon and steelhead rules in the lower Columbia River and Deep River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-03000M and 220-312-06000H; and 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: The *U.S. v. Oregon* technical advisory committee met most recently on Monday, May 13 to review the upriver spring Chinook return and upgraded the forecast to 122,400 adults at the Columbia River mouth compared to the preseason forecast of 121,000 adults. Additionally, the run-size preupdate buffer of 30 percent has been lifted. This rule extends the 2024 spring recreational salmon and steelhead season in the mainstem Columbia River from the Rocky Point/Tongue Point line upstream to Bonneville Dam. Additionally, this rule aligns the Deep River salmon and steelhead daily bag limit with the mainstem lower 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 compact/joint state actions of February 21, April 4, April 9, and May 15, 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 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: May 16, 2024.

Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-312-03000N Freshwater exceptions to statewide rules—Southwest.** Effective May 17 through May 19, May 25 through May 27, and June 12 through June 15, 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 220-312-06000I Freshwater exceptions to statewide rules—Columbia.** Effective May 17 through May 19, May 25 through May 27 and June 12 through June 15, 2024, the provisions of WAC 220-312-060 regarding Columbia River salmon and steelhead seasons from the Rocky

Point/Tongue Point line upstream to 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 projected line from Rocky Point on the Washington bank through red buoy 44 to the red navigation marker 2 at Tongue Point on the Oregon Bank 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 May 17 through May 19, May 25 through May 27, and June 12 through June 15, 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.

**(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 May 17 through May 19, May 25 through May 27, and June 12 through June 15, 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.

#### REPEALER

The following sections of the Washington Administrative Code are repealed, effective May 17, 2024:

- |                    |   |
|--------------------|---|
| WAC 220-312-03000M | Freshwater exceptions to statewide rules—Southwest. (24-53) |
| WAC 220-312-06000H | Freshwater exceptions to statewide rules—Columbia. (24-53)  |

**WSR 24-11-096**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-72—Filed May 16, 2024, 3:54 p.m., effective May 16, 2024, 3:54 p.m.]

Effective Date of Rule: Immediately upon filing.

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

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

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: The *U.S. v. Oregon* technical advisory committee met most recently on Monday, May 13 to review the upriver spring Chinook return and upgraded the forecast to 122,400 adults at the Columbia River mouth compared to the preseason forecast of 121,000 adults. Given the upriver spring Chinook run size projection, allocation sharing and allowable commercial gear policy guidance, and expected balance due to select area commercial fisheries not fully utilizing the commercial share, a mainstem nontreaty tangle net commercial fishery was adopted at the May 15, 2024, compact hearing. 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. Regulations are also consistent with compact actions of February 13, and April 4, 2024. The general public welfare is protected with the immediate opening of nontreaty commercial fisheries. This harvest opportunity allows for public access to the resource as well as the maintenance of sustainable fish populations. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

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

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

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

Date Adopted: May 16, 2024.

Kelly Susewind  
Director

NEW SECTION

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

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

**(1) Mainstem Columbia River:**

| Open_Dates | Open_Days | Open_Time         | Open_Duration |
|------------|-----------|-------------------|---------------|
| May 20     | Monday    | 7:00 am - 7:00 pm | 12 hours      |

(a) **Open Area:** SMCRA 1A, 1B, 1C, 1D, 1E (zones 1-5).

(b) **Sanctuaries:** Grays River, Elochoman-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B, Sandy and Washougal rivers.

(c) **Allowable Possession:** Adipose fin-clipped (hatchery) Chinook salmon, and shad. A maximum of twenty-five (25) adult adipose fin-clipped Chinook may be possessed or sold by each participating vessel. The first twenty-five (25) adult hatchery fish must be retained and no additional drifts may be conducted once the Chinook limit has been retained. Jacks (Chinook less than 24-inches in total length) do not count against the adult landing limit.

(d) **Gear:** Drift nets only. 4 1/4" maximum mesh size (tangle net). Single-wall multi-filament net only. Monofilament tangle nets are not allowed. Mesh size is determined by placing three consecutive meshes under hand tension, and the measurement is taken from the inside of one vertical knot to the inside of the opposite vertical knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact. Net length not to exceed 150 fathoms. There are no restrictions on the use of slackers or stringers to slacken the net vertically. There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net and is determined by the length of the web per length of the corkline.

(e) **Net length** may be increased from 150 to 175 fathoms for nets constructed with a steelhead excluder panel, weedlines, or droppers. An optional use of a steelhead excluder panel of mesh may be hung between the corkline and the 4 1/4" maximum mesh size tangle net. The excluder panel web must be a minimum mesh size of 12" stretched measure when taut under hand tension. Monofilament mesh is allowed for the excluder panel only. The excluder panel must be a minimum of five feet in depth and must not exceed ten feet in depth as measured from the corkline to the upper margin of the tangle net mesh as the net hangs naturally from a taut corkline. Weedlines or droppers (bobber type) may be used in place of the steelhead excluder panel. A weedline-type excluder means the net is suspended below the corkline by lines of no less than five feet in length between the corkline and the upper margin of the tangle net. A dropper-type excluder means the entire net is suspended below the surface of the water by lines of no less than five feet in length extending from individual surface floats to a submersed corkline. The corkline cannot be capable of floating the net in its entirety (including the leadline) independent of the attached floats. Weedlines or droppers must extend a minimum of five feet above the 4 1/4" maximum mesh size tangle net. Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers must have two red corks at each end of the net, as well as the red corks as required under subsection (1)(f)(ii) of this section.

(f) **Miscellaneous Regulations:**

(i) **Soak times** are defined as the time elapsed from when the first of the web is deployed into the water until the web is fully retrieved from the water, must not exceed 45 minutes.

(ii) **Red corks** are required at 25-fathom intervals, and red corks must be in contrast to the corks used in the remainder of the net.

(iii) **Recovery Box:** Each boat will be required to have on board two operable recovery boxes or one box with two chambers. Each chamber of the recovery box(es) must include an operating water pumping system capable of delivering a minimum flow of 16 gallons per minute, not to exceed 20 gallons per minute of freshwater per chamber. Each box and chamber and associated pump shall be operating during any time that the net is being retrieved or picked; pumps must continue to run until the net is fully retrieved and completely on board the vessel. Pumps shall continue to run whenever a fish is in the recovery box. Each chamber of the recovery box must meet the following dimensions as measured from within the box: the inside length measurement must be at or within 39 1/2 inches to 48 inches; the inside width measurements must be at or within 8 to 10 inches; and the inside height measurement must be at or within 14 to 16 inches.

Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or end wall of the chamber and 1 3/4 inches from the floor of

the chamber. Each chamber of the recovery box must include a water outlet hole that is a least 1 1/2 inches in diameter located on either the same or opposite end as the inlet. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber.

The fisher must demonstrate to WDFW and ODFW employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

All sturgeon, non-adipose fin-clipped salmon, and steelhead must be released immediately to the river with care and with the least possible injury to the fish, or placed into an operating recovery box.

Any non-legal salmonid that is bleeding or lethargic must be placed in the recovery box prior to being released. All fish placed in recovery boxes must be released to the river prior to landing or docking.

(iv) **Observer program:** As a condition of fishing, owners or operators of commercial fishing vessels must cooperate with department observers or observers collecting data for the department, when notified by the observer of his or her intent to board the commercial vessel for observation and sampling during the fishery. In addition, cooperation with department personal prior to a fishing period is expected.

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

**(2) Select Areas:**

(a) **Tongue Point and South Channel areas:**

| Open Dates           | Open Days                   | Open Time         | Open Duration |
|----------------------|-----------------------------|-------------------|---------------|
| Immediately - Jun 14 | Mon, Tue, Wed, Thu (nights) | 7:00 pm - 7:00 am | 17 nights     |
| Jun 17 - Jul 19      | Mon, Wed, Thu (nights)      | 7:00 pm - 7:00 am | 15 nights     |

(i) **Open Area definitions:** Immediately, through June 14, 2024:

(A) **Tongue Point:** Waters of the Columbia River bounded by a line from the end of the southern-most pier (#1) at the Tongue Point Job Corps facility projecting in a straight line through flashing red USCG light "6" to the shore of Mott Island, a line from a regulatory marker at the southeast end of Mott Island northeasterly to a regulatory marker on the northwest shore of Lois Island, and a line from a regulatory marker located on the Oregon shore approximately 300 yards northwest of the railroad bridge crossing the John Day River projecting easterly to a regulatory marker on the southwest shore of Lois Island. If the marker on the Oregon shore is not in place, the upper boundary is defined by a line projecting easterly from a point (46°10'57.7"N latitude 123°44'35.3"W longitude) on the Oregon shore approximately 300 yards northwest of the railroad bridge crossing the John Day River to a regulatory marker on the southwest shore of Lois Island.

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



(ii) **Open Area definitions:** June 17 through July 19, 2024:

(A) **Tongue Point:** Area as described in OAR 635-042-0170 (1)(a) and WAC 220-301-010 (11)(c). If the marker on the eastern shore of Tongue Point is not in place, the downstream boundary is defined by a line projecting from a point (46°12'31.1"N latitude 123°45'34.0"W longitude) on the eastern shore of Tongue Point to the flashing green USCG light "3" on the rock jetty at the northwest tip of Mott Island.

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

(iii) **Gear:** Gillnets:

(A) Immediately, through July 19, 2024: 9 3/4-inch maximum mesh size.

(B) The maximum net length is 1,500 feet (250 fathoms).

(C) In the Tongue Point Area, the lead line weight may not exceed two pounds per any one fathom.

(D) In the South Channel Area, there is no lead line weight limit and attachment of additional weight and anchors directly to the lead line is permitted.

(b) **Blind Slough and Knappa Slough areas:**

| Open Dates           | Open Days                   | Open Time         | Open Duration |
|----------------------|-----------------------------|-------------------|---------------|
| Immediately - Jun 14 | Mon, Tue, Wed, Thu (nights) | 7:00 pm - 7:00 am | 17 nights     |
| Jun 17 - Jul 19      | Mon, Wed, Thu (nights)      | 7:00 pm - 7:00 am | 15 nights     |

(i) **Open Area definitions:** Immediately through July 19, 2024:

(A) **Blind Slough:** Area is defined as waters of Blind Slough and Gnat Creek from a north-south line represented by regulatory markers at the mouth of Blind Slough upstream to a regulatory marker in Gnat Creek located approximately 0.5 miles southeasterly (upstream) of the Barendse Road Bridge.

(B) **Knappa Slough:** Area is defined as waters of Knappa Slough, Calendar Slough, and Big Creek Slough bounded to the north (upstream) by a line projecting from a regulatory marker on the eastern shore of Karlson Island to the northernmost regulatory marker at the mouth of Blind Slough and bounded to the west (downstream) by a line projecting southerly from a regulatory marker on the southwestern tip of Karlson Island through regulatory markers on the western tips of Minaker Island to a marker on the Oregon shore.

The waters of Knappa Slough within a 100-foot radius of the railroad bridge crossing Big Creek are closed.

(ii) **Gear:** Gillnets:

(A) Immediately through Jul 19, 2024: 9 3/4-inch maximum mesh size.

(B) The maximum net length is 600 feet (100 fathoms).

(C) There is no lead line weight limit and attachment of additional weight or anchors directly to the lead line is permitted.

(iii) **Miscellaneous:** Permanent transportation rules in effect.

(c) **Deep River area:**

| Open Dates           | Open Days                   | Open Time         | Open Duration |
|----------------------|-----------------------------|-------------------|---------------|
| Immediately - Jun 14 | Mon, Tue, Wed, Thu (nights) | 7:00 pm - 9:00 am | 17 nights     |

(i) **Open Area:** From the mouth of Deep River defined as a line from USCG navigation marker #16 southwest to a marker on the Washington shore, upstream to the Highway 4 Bridge.

(ii) **Gear:** Gillnets:

(A) Immediately through June 14, 2024: 9 3/4-inch maximum mesh size.

(B) The maximum net length is 600 feet (100 fathoms).

(C) There is no lead line weight limit and attachment of additional weight or anchors directly to the lead line is permitted.

(D) Nets may not fully cross navigation channel. It is unlawful to operate in any river, stream, or channel any net longer than three-fourths the width of the stream (WAC 220-354-010(1)). It shall be unlawful in any area to use, operate, or carry aboard a commercial fishing vessel a licensed net or combination of nets, whether fishing singly or separately, in excess of the maximum lawful size or length prescribed for a single net in that area, except as otherwise provided by department rule (WAC 220-353-060(1)).

(iii) **Miscellaneous:**

(A) Transportation or possession of fish outside the fishing area (except to the sampling station) is unlawful until WDFW staff has biologically sampled individual catches. After sampling, fishers will be issued a transportation permit by WDFW staff.

(B) Immediately through June 14, 2024: fishers are required to call 360-798-8098 to confirm the place and time of sampling.

(d) **Allowable Sales:** Salmon (except Chum) and shad. Retention and sales of non-adipose fin-clipped Chinook from ongoing Select Area commercial fisheries is prohibited from 7:00 am Monday May 20 through 12:00 pm (noon) Tuesday May 21, 2024.

(e) **24-hour quick reporting** is in effect for Washington buyers (WAC 220-352-315). Permanent transportation rules in effect. Oregon buyers are required to submit fish receiving tickets electronically pursuant to OAR 635-006-0210. Unique catch reporting codes have been established for Blind Slough and Knappa Slough to facilitate separation of landings and sampling for winter/spring fisheries. Blind Slough and Knappa Slough have unique catch reporting codes to facilitate separation of landings and sampling for winter/spring fisheries.

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

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

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

## REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-358-03000B Columbia River seasons below  
Bonneville. (24-50)

**WSR 24-11-135**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-73—Filed May 21, 2024, 12:45 p.m., effective May 25, 2024]

Effective Date of Rule: May 25, 2024.

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

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

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

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

Reasons for this Finding: This emergency rule is necessary to close recreational fishing seasons for Nooksack River, including North and Middle forks, beginning May 25, 2024, and is needed to conform with seasons agreed to during the 2024 North of Falcon season setting process. These rules are interim until permanent rules take effect.

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: May 21, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-04000G Freshwater exceptions to statewide rules—Puget Sound.** Effective May 25, 2024, until further notice, recreational fishing seasons for Nooksack River; Nooksack River, North Fork; Nooksack River, Middle Fork; and Nooksack River, South Fork shall be modified during dates listed as follows. All other provisions of WAC 220-312-040 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

**(1) Nooksack River (Whatcom County), from Lummi Indian Reservation boundary to confluence of North and South Forks:**

Effective May 25 through July 31, 2024: All species: Closed.

**(2) Nooksack River, North Fork (Whatcom County):**

From Hwy. 9 Bridge to Nooksack Falls: Effective May 25, 2024, until further notice: All species: Closed.

**(3) Nooksack River, Middle Fork (Whatcom County), from mouth to former site of City of Bellingham diversion dam:**

Effective May 25, 2024, until further notice: All species: Closed.

**(4) Nooksack River, South Fork (Whatcom County), from mouth to Skookum Creek:**

Effective May 25, 2024, until further notice: All species: Closed.

**WSR 24-11-142**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-74—Filed May 21, 2024, 3:54 p.m., effective May 21, 2024, 3:54 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule is needed to open recreational salmon seasons targeting hatchery Chinook in a portion of Skagit River and salmon seasons in Catch Record Card Area 13.

Citation of Rules Affected by this Order: Repealing WAC 220-313-06000U; and amending WAC 220-312-040.

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

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

Reasons for this Finding: Federal Endangered Species Act consultations on 2024-25 Puget Sound salmon fisheries have been completed (NMFS Consultation #WCRO-2024-00942), and a biological opinion and incidental take statement have been issued. Accordingly, Marine Area 13 (by repealer), Skagit River, and Cascade River salmon fisheries can be reopened consistent with preseason fishing plans.

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: May 21, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-04000H Freshwater exceptions to statewide rules—Puget Sound.** Effective immediately, through July 15, 2024, the following provisions of WAC 220-312-040 and WAC 220-220-160 regarding salmon seasons and two-pole fishing for the Skagit River from the Hwy. 536 Bridge in Mt. Vernon to Gilligan Creek, shall be as described below. All other provisions of WAC 220-312-040 and WAC 220-220-160 not addressed herein, or unless otherwise amended, remain in effect:

(1) Cascade River (Skagit Co.); from mouth to Rockport-Cascade Rd. Bridge:

- (a) Salmon, effective May 29 through July 15, 2024:
  - (i) Open Wednesdays through Saturdays.
  - (ii) Daily limit 4 including no more than 2 adults. Release all salmon other than hatchery Chinook.
  - (iii) Night closure and Anti-snagging rule in effect.
- (b) All Species, effective June 2 through July 15, 2024: Closed Sundays through Tuesdays.
  - (2) Skagit River (Skagit Co.):
    - (a) From the Hwy. 536 (Memorial Hwy.) Bridge in Mt. Vernon to Gilligan Creek:
      - Salmon, effective immediately, through May 31, 2024:
        - (i) Daily limit 2. Release all salmon other than hatchery Chinook.
        - (ii) Night Closure in effect.
        - (iii) Anglers who possess a valid two-pole endorsement may fish with two lines.
      - (b) From Hwy. 530 Bridge at Rockport to Cascade River Rd. (Marblemount Bridge):
        - Salmon, effective, May 29 through July 15, 2024:
          - (i) Daily limit 4 including no more than 2 adults. Release all salmon other than hatchery Chinook.
          - (ii) Night Closure and Anti-snagging rule in effect.

#### REPEALER

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

WAC 220-313-06000U Puget Sound salmon—Saltwater seasons and daily limits. (24-66)

WSR 24-11-145  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE

[Order 24-75—Filed May 21, 2024, 5:09 p.m., effective May 24, 2024]

Effective Date of Rule: May 24, 2024.

Purpose: The purpose of this emergency rule is to open recreational salmon seasons in the Catch Record Card Area 8-2 Tulalip Terminal Area and Catch Record Card Area 11.

Citation of Rules Affected by this Order: Amending WAC 220-313-060.

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

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

Reasons for this Finding: This emergency rule is necessary to set salmon seasons in Catch Record Card Area 8-2 Tulalip Terminal Area and Catch Record Card Area 11, as agreed to during the 2024 North of Falcon season setting process. These rules are interim until permanent rules take effect.

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: May 21, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-313-06000V Puget Sound salmon—Saltwater seasons and daily limits.** Effective immediately, through September 2, 2024, salmon rules for Catch Record Card Area 8-2 Tulalip Terminal Area and Catch Record Card Area 11, shall be modified as described herein. All other provisions of WAC 220-313-060 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

**(1) Catch Record Card Area 8-2; the Tulalip Terminal Area:**

(a) Tulalip Terminal Area is defined as: Waters west of Tulalip Bay and within 2,000 feet of shore from the pilings at Old Bower's Resort to a fishing boundary marker approximately 1.4 miles northwest of



Hermosa Point and not including waters east of a line drawn from Mission Point to Hermosa Point.

(b) Salmon: Effective May 24 through September 2, 2024:

(i) Open from 12:01 a.m. Friday through 11:59 a.m. Monday each week, except closed June 1, 2024: Daily limit 2.

(ii) Closed from 12:00 p.m. Monday through 12:00 a.m. Friday each week.

**(2) Catch Record Card Area 11, except year-round piers (Des Moines Pier, Les Davis Pier, and Point Defiance Boathouse Dock):**

(a) Effective June 1 through June 4, 2024: Salmon: Closed.

(b) Effective June 5 through June 30, 2024:

(i) Salmon: Open Wednesdays through Saturdays only:

Daily limit 2 including no more than 1 hatchery Chinook. Release wild Chinook and chum.

(ii) Commencement Bay (east of a line from Cliff House Restaurant to Sperry Ocean Dock): Closed to fishing for or retention of salmon.

**WSR 24-11-150**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Developmental Disabilities Administration)  
[Filed May 22, 2024, 8:21 a.m., effective May 28, 2024]

Effective Date of Rule: May 28, 2024.

Purpose: The developmental disabilities administration (DDA) is enacting these changes on an emergency basis to require providers in the scope of chapter 388-829 WAC to complete the skills demonstration portion of CPR training in person.

Citation of Rules Affected by this Order: Repealing WAC 388-101D-0105; and amending WAC 388-829-0040 and 388-829-0050.

Statutory Authority for Adoption: RCW 34.05.350 and 74.39A.074(5).

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: Enacting these rules on an emergency basis is necessary in order to ensure providers delivering DDA services complete the skills portion of CPR training in person. The in-person requirement existed before the COVID-19 pandemic but was temporarily lifted during the pandemic to allow providers to complete training virtually to maintain social distancing. These rule amendments are necessary to ensure all providers return to the prepandemic requirement, and to clarify that this requirement is for all provider types of community residential services, not just exempt providers (as implied by the requirement previously existing only in a section about exempt staff).

This is the second emergency filing on these sections and is necessary to keep the rules in effect until DDA completes the permanent rule-making process. DDA has filed a CR-101 preproposal under WSR 24-04-019 and is working with interested parties on rule text.

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 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 1.

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 2, Repealed 1.

Date Adopted: May 21, 2024.

Katherine I. Vasquez  
Rules Coordinator

## SHS-5018.2

AMENDATORY SECTION (Amending WSR 17-14-090, filed 6/30/17, effective 8/1/17)

**WAC 388-829-0040 What are the training requirements for exempt individuals (~~(hired on or after January 1, 2016)~~)?** (~~(Exempt individuals hired on or after January 1, 2016,)~~) An individual exempt under WAC 388-829-0035 must meet the following (~~(the)~~) training requirements:

- (1) Staff hired with a (~~(seventy-five)~~) 75-hour certificate or letter of exemption must take:
  - (a) Agency orientation; and
  - (b) Client-specific training.
- (2) The hiring or contracting entity must verify that staff hired with an HCA-C from areas outside of DDA have completed the training required in subsection (1) of this section and:
  - (a) DDA-developed specialty training; or
  - (b) Forty hours of DDA residential services curriculum.
- (3) (~~(All)~~) Exempt community residential staff must maintain current CPR and first aid training certificates as required under WAC 388-829-0050. (~~(This training must be completed in person and within sixty days of hire.)~~)
- (4) (~~(All)~~) Exempt community residential staff must complete (~~(twelve)~~) 12 hours of continuing education per year.

AMENDATORY SECTION (Amending WSR 17-14-090, filed 6/30/17, effective 8/1/17)

**WAC 388-829-0050 What is basic training?** Basic training is (~~(seventy)~~) 70 hours of required training that must include:

- (1) Forty hours of DDA residential services curriculum, which includes:
  - (a) Blood-borne pathogen requirements under WAC 296-823-12005; and
  - (b) DDA specialty training requirements; and
- (2) Thirty hours of additional topics related to one or more of the following:
  - (a) Population-specific training(~~(7)~~)..
  - (b) (~~(Capable caregiver)~~) Specialty training under (~~(chapter 388-112)~~) WAC 388-112A-0450 related to mental health or WAC 388-112A-0440 dementia(~~(7)~~)..
  - (c) (~~(CPR and)~~) First aid training and certification (~~(as described in WAC 388-829-0040; or)~~) which must be completed no more than 60 days after date of hire and kept current.
  - (d) Cardiopulmonary resuscitation (CPR) training and certification which must be completed no more than 60 days after date of hire and kept current. The skills demonstration portion must be completed in-person.
  - (e) On-the-job training hours, including client-specific training, when the instructor is a trained peer coach as described in WAC 388-829-0060.

(3) For an employee hired on or after February 1, 2024, a provider must ensure that the new employee complies with the in-person CPR requirement under subsection (2) of this section.

(4) For an employee hired before February 1, 2024, who is CPR-certified but did not complete training in-person, the employee must meet the in-person CPR requirement no later than December 1, 2024, regardless of when the certification expires.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-101D-0105      Staff training within six months of employment.

## WSR 24-11-151

## EMERGENCY RULES

## HEALTH CARE AUTHORITY

(Public Employees Benefits Board)

[Admin #2024-03.03—Filed May 22, 2024, 8:50 a.m., effective May 22, 2024, 8:50 a.m.]

Effective Date of Rule: Immediately upon filing.

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

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

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

Other Authority: RCW 41.05.021 and 41.05.160.

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

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

This filing continues the emergency rules filed under WSR 24-03-141, filed on January 21, 2024. The agency is finalizing the revisions on the PEBB chapters and is preparing to file CR-102 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 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: May 22, 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 Washing-

ton state educational service district, that ends participation in PEBB or school employees benefits board (SEBB) insurance coverage, is no longer eligible to continue enrollment in PEBB retiree insurance coverage if they enrolled after September 15, 1991.

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

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

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

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

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

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

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

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

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

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

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

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

(e) PEBB health plan coverage may continue unless the subscriber requests to terminate enrollment as described in subsection (5) of this section, or premiums and applicable premium surcharges are no longer paid as described in (d) of this subsection. If PEBB health



plan coverage is terminated for these reasons, the subscriber and their enrolled dependents will not be eligible to reenroll under this section.

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

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

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

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

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

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

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

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

## WSR 24-11-153

## EMERGENCY RULES

## DEPARTMENT OF HEALTH

[Filed May 22, 2024, 9:56 a.m., effective May 22, 2024, 9:56 a.m.]

Effective Date of Rule: Immediately upon filing.

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

The department of health (department) is continuing emergency rules that establish new WAC 246-809-020, 246-809-070, 246-809-071, and 246-809-072 in chapter 246-809 WAC, Licensure for mental health counselors, marriage and family therapists, and social workers.

These emergency rules implement section 7 of 2SHB 1724 (chapter 425, Laws of 2023), which was codified as RCW 18.225.180. These emergency rules: (1) Establish a new program to facilitate placement of associates with qualified supervisors (referred to as the "directory"), (2) set requirements for individual providers and facilities to be listed in the directory, and (3) set minimum standards for supervision of associates.

These rules continue without change emergency rules filed on September 28, 2023, under WSR 23-20-055, and continued on January 26, 2024, under WSR 24-04-011. The department will continue these emergency rules until the directory and supervision standards are adopted through the permanent rule-making process. The department filed the preproposal statement of inquiry (CR-101) to begin the permanent rule making on December 27, 2023, under WSR 24-02-038.

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

Statutory Authority for Adoption: RCW 18.225.040; and 2SHB 1724 (chapter 425, Laws of 2023), codified as RCW 18.225.180.

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

Reasons for this Finding: This emergency rule is necessary to support the Washington state behavioral health workforce, which is increasingly strained. By establishing and continuing the directory and supervision standards through emergency rule, the department will facilitate associates finding supervisors that can support their professional development, completing supervised experience requirements, and becoming licensed as independent providers. Additionally, the statutory authority for the directory was designated by the legislature as necessary for the immediate preservation of the public health, or safety, or general welfare. Pursuant to section 33 of 2SHB 1724, the department is implementing the directory immediately.

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

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

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

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

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

Date Adopted: May 22, 2024.

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

#### OTS-4907.4

#### NEW SECTION

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

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

(2) The supervisor must:

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

(3) A licensure candidate must:

- (a) Confirm that a potential supervisor meets the approved supervisor requirements for the licensure candidate's intended profession;
  - (b) Maintain documentation of work done and supervision provided; and
  - (c) Periodically submit to the department documentation of supervision hours completed.
- (4) A candidate seeking licensure as a licensed marriage and family therapist or licensed social worker must ensure that any supervision hours under a licensed mental health counselor or other equally qualified licensed mental health practitioner comply with the requirements in WAC 246-809-130 or 246-809-330, as applicable.

#### NEW SECTION

- WAC 246-809-070 Licensed counselor supervisor directory.** (1) Effective October 1, 2023, the licensed counselor supervisor directory (directory) is established.
- (2) The purpose of the directory is to facilitate placement of associates seeking supervisors with eligible providers or facilities for postgraduate supervision as required by WAC 246-809-130, 246-809-230, and 246-809-330.
- (3) The directory shall not be made available for any commercial purpose consistent with RCW 42.56.070(8).
- (4) A provider or facility shall be removed from the directory:
- (a) When a department audit shows the provider or facility no longer meets directory requirements as established in WAC 246-809-071 or 246-809-072;
  - (b) Upon the request of the provider or facility; or
  - (c) For other good cause as determined by the department.
- (5) Participation in the directory is not required to be a supervisor under WAC 246-809-134, 246-809-234, or 246-809-334.

#### NEW SECTION

- WAC 246-809-071 Individual licensed counselor supervisor directory application.** To be listed in the licensed counselor supervisor directory, an individual provider shall:
- (1) Hold a license or retired active license that permits treatment of individuals in the state of Washington without restrictions, in an eligible profession, including:
    - (a) Mental health counselor, marriage and family therapist, or social worker under chapter 18.225 RCW;
    - (b) Psychologist under chapter 18.83 RCW;
    - (c) Physician practicing as a psychiatrist under chapter 18.71 RCW; or
    - (d) Psychiatric nurse practitioner under chapter 18.79 RCW.
  - (2) Submit a completed application on forms provided by the department;
  - (3) Submit verification of meeting the following education requirements:
    - (a) A minimum of 15 clock hours of training in clinical supervision obtained through:
      - (i) A supervision course;

- (ii) Continuing education credits on supervision;
- (iii) Supervision of supervision; or
- (iv) Any combination of these; and
- (b) Twenty-five hours of experience in supervision of clinical practice; and
- (4) Meet any other qualifications as required by law.

NEW SECTION

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

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

**WSR 24-11-156**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-76—Filed May 22, 2024, 10:21 a.m., effective May 22, 2024, 10:21 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this rule is to correct a previous filing (WSR 24-11-093) in order to allow fishing from a vessel for species other than salmon and steelhead in the Columbia River from Beacon Rock to the Hamilton Island boat ramp.

Citation of Rules Affected by this Order: Repealing WAC 220-312-03000N and 220-312-06000I; and 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 filing corrects the previous filing of WSR 24-11-093 that inadvertently closed fishing from a vessel, only hand-cast lines from shore allowed for all species from Beacon Rock to Bonneville Dam rather than specifically salmon and steelhead. The intent is to specifically close fishing for salmon and steelhead from a vessel, hand-cast lines from shore only. This will affect the section of river from Beacon Rock to Hamilton Island boat ramp, as fishing from a vessel is closed for all species by permanent rule from Hamilton Island boat ramp to Bonneville Dam (WAC 220-312-060 (m)(i)). All other rules from WSR 24-11-093 are carried forward.

The *U.S. v. Oregon* technical advisory committee (TAC) met most recently on Monday, May 13 to review the upriver spring Chinook return and upgraded the forecast to 122,400 adults at the Columbia River mouth compared to the preseason forecast of 121,000 adults. Additionally, the run-size preupdate buffer of 30 percent has been lifted. This rule extends the 2024 spring recreational salmon and steelhead season in the mainstem Columbia River from the Rocky Point/Tongue Point line upstream to Bonneville Dam. Additionally, this rule aligns the Deep River salmon and steelhead daily bag limit with the mainstem lower 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 compact/joint state actions of February 21, April 4, April 9, and May 15, 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 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: May 22, 2024.

Kelly Susewind  
Director

## NEW SECTION

**WAC 220-312-03000P Freshwater exceptions to statewide rules—Southwest.** Effective May 25 through May 27, and June 12 through June 15, 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 220-312-06000J Freshwater exceptions to statewide rules—Columbia.** Effective May 25 through May 27 and June 12 through June 15, 2024, the provisions of WAC 220-312-060 regarding Columbia River salmon and steelhead seasons from the Rocky Point/Tongue Point line upstream to 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 projected line from Rocky Point on the Washington bank through red buoy 44 to the red navigation marker 2 at Tongue Point on the Oregon Bank 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.**

Salmon and steelhead: Effective May 25 through May 27, and June 12 through June 15, 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.

**(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:**

Salmon and steelhead: Effective May 25 through May 27, and June 12 through June 15, 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. Closed to angling from a floating device or by any method except hand-cast lines from shore.

REPEALER

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

WAC 220-312-03000N Freshwater exceptions to statewide rules—Southwest. (24-69)

WAC 220-312-06000I Freshwater exceptions to statewide rules—Columbia. (24-69)