

**WSR 24-17-016**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-151—Filed August 8, 2024, 2:15 p.m., effective August 12, 2024]

Effective Date of Rule: August 12, 2024.

Purpose: This emergency rule is needed to close recreational salmon fishing seasons and prohibit possession onboard a vessel in Catch Record Card Area 1 beginning August 12, 2024.

Citation of Rules Affected by this Order: Repealing WAC 220-313-07500X.

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 purpose of this rule is to close recreational salmon fishing in Area 1. Catches to date and projections through August 11, 2024, show that the coho quota for this area is likely to be attained by August 11. 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: August 8, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-313-07500Y Pacific Ocean salmon—Seasons—Closed areas.**

Effective August 12 through September 30, 2024, the provisions of WAC 220-313-075 regarding recreational salmon seasons for Marine Areas 1 through 4 shall be as described below. All other provisions of WAC 220-313-075 not addressed herein remain in effect unless otherwise amended:

- (1) **Catch Record Card Area 1:** Closed to fishing for salmon. It is unlawful to possess salmon onboard a vessel, including in transit.
- (2) **Catch Record Card Area 2:** Open August 12 through September 15, 2024:
- (a) Daily limit of 2 salmon including no more than one Chinook.
  - (b) Release wild coho.
  - (c) Chinook minimum length 22 inches.
  - (d) Coho minimum length 16 inches.
  - (e) Grays Harbor Control Zone is closed. See WAC 220-306-040 for area definition.
- (3) **Catch Record Card Area 3:** Open August 12 through September 15, 2024:
- (a) Daily limit of 2 salmon.
  - (b) Release chum and wild coho.
  - (c) Chinook minimum length 24 inches.
  - (d) Coho minimum length 16 inches.
- (4) **Catch Record Card Area 4:** Open August 12 through September 15, 2024:
- (a) Daily limit of 2 salmon.
  - (b) Release chum and wild coho.
  - (c) Chinook minimum length 24 inches.
  - (d) Coho minimum length 16 inches.
  - (e) No chinook retention allowed in waters east of the Bonilla-Tatoosh line.

REPEALER

The following section of Washington Administrative Code is repealed, effective August 12, 2024:

WAC 220-313-07500X Pacific Ocean salmon—Seasons—Closed areas. (24-125)

WSR 24-17-017  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE

[Order 24-149—Filed August 8, 2024, 2:19 p.m., effective August 18, 2024]

Effective Date of Rule: August 18, 2024.

Purpose: This emergency rule is needed to open fall Chinook retention seasons in the Snake 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: The 2024 Columbia River forecasted return of Upriver Bright adults is 261,800, with a significant portion of these fish expected to return to the Snake River. This forecast is large enough to allow for Chinook harvest in the Snake River. The Upriver Bright stock primarily returns to the Hanford Reach and Snake River sections of the Columbia River and the *United States v. Oregon* Management Agreement reaches only to the confluence of the Snake River. There is no Endangered Species Act component in this section of the Columbia River, and Washington has its own fishery management and evaluation plan with Idaho for the Snake River itself. Because of these factors, the opening of this fishery by emergency rule is needed to maintain concurrency with Idaho's salmon rules and season openings for the Snake River.

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: July 8, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-05000I Freshwater exceptions to statewide rules—Eastside.** Effective August 18 through October 31, 2024, the following provisions of WAC 220-312-050, regarding salmon seasons in the Snake

River shall be open as follows. All other provisions of WAC 220-312-050 remain in effect unless modified by emergency rule:

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

Salmon: Effective September 5 through October 27, 2024:

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

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

(c) Barbless hooks required.

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

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

Salmon: Effective August 18 through October 15, 2024:

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

(b) Barbless hooks required.

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

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

Salmon: Effective August 18 through October 31, 2024:

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

(b) Barbless hooks required.

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

**WSR 24-17-018**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-148—Filed August 8, 2024, 2:22 p.m., effective August 8, 2024, 2:22 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule:

- (1) Closes the following areas to commercial spot shrimp harvest:
  - (a) Shrimp Management Regions 1B and 2E effective one hour after official sunset on August 9, 2024.
  - (b) Subarea 23A-W effective one hour after official sunset on August 11, 2024.
- (2) Closes the Shrimp Management Region 2E to commercial nonspot shrimp harvest effective one hour after official sunset on August 9, 2024.
- (3) Closes all areas open to commercial spot shrimp harvest August 20 through 22, 2024, to allow staff to assess catch data to ensure consistency with comanager agreements and coordinate remaining fisheries with the industry.
- (4) Designates the commercial spot shrimp catch accounting periods and catch limits.
- (5) Implements a reduced pot limit in Region 5 congruent with RCW 77.50.100.
- (6) Designates the commercial nonspot shrimp catch accounting periods and biweekly catch limit for harvest from Subregions 1B and 1C and Region 2E.

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

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

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

Reasons for this Finding: Permanent rules regulating state commercial shrimp harvest in Puget Sound and the Strait of Juan de Fuca require the adoption of harvest seasons contained in this emergency rule. This emergency rule is necessary to prosecute state commercial shrimp pot fisheries in Puget Sound. This rule closes a quota area to commercial harvest following the projected attainment of the available harvest. This rule allows harvesters to respond to dynamic changes in market conditions and promotes full utilization of both the commercial spot and nonspot shares. These rules are in congruence with comanager agreements. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 8, 2024.

Kelly Susewind  
Director

NEW SECTION

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

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

(1) Spot Shrimp Pot Harvest:

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

<b>Geographical Management Unit (WAC 220-320-140; WAC 220-320-120)</b>	<b>Open Period</b>
Subregion 1A	Closed.
Subregion 1B	Immediately, through August 9, 2024.
Subregion 1C	Closed.
Region 2E	Immediately, through August 9, 2024.
Region 2W	Immediately, through August 20, 2024; August 22, 2024, until further notice.
Subarea 23A-E	Closed.
Subarea 23A-W	Immediately, through August 11, 2024.
Subarea 23A-C and MSFS Catch Area 23B	Closed.
Subarea 23A-S and MSFS Catch Area 23D	Immediately, through August 20, 2024; August 22, 2024, until further notice.
MFSF Catch Area 23C	Immediately, through August 20, 2024; August 22, 2024, until further notice.
MFSF Catch Area 25A, excluding the Discovery Bay Shrimp District	Closed.
Discovery Bay Shrimp District	Closed.
MFSF 29 (Straits - Neah Bay)	Immediately, through August 20, 2024; August 22, 2024, until further notice.
Subarea 26B-1 and MFSF Catch Area 26C	Immediately, through August 20, 2024; August 22, 2024, until further notice.
Subarea 26B-2	Immediately, through August 20, 2024; August 22, 2024, until further notice.
Region 5	Immediately, through August 20, 2024; August 22, 2024, until further notice.
MFSF Catch Area 26D	Closed.
MFSF Catch Areas 28A, 28B, 28C, and 28D	Closed.

(b) The first spot shrimp catch accounting period starts one hour before official sunrise on May 1, 2024, through one hour after official sunset on July 30, 2024.

(c) It is unlawful for the combined total harvest during the first spot shrimp accounting period to have exceeded 4,800 pounds of spot shrimp per license from all Puget Sound shrimp management regions combined.

(d) The second spot shrimp catch accounting period starts one hour before official sunrise on July 31, 2024, through one hour after official sunset on August 20, 2024.

(e) It is unlawful for the combined total harvest during the first and second spot shrimp accounting periods to have exceeded 5,300 pounds of spot shrimp per license from all Puget Sound shrimp management regions combined.

(f) Harvesters may deploy no more than 50 spot shrimp pots per license in Shrimp Management Region 5.

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

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

(2) Non-spot shrimp pot harvests:

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

Geographical Management Unit (WAC 220-320-140; WAC 220-320-120)	Open Period
Subregion 1A	Immediately, until further notice.
Subregion 1B	Closed.
Subregion 1C	Closed.
Region 2E	Immediately, through August 9, 2024.
Region 2W	Immediately, until further notice.
Region 3, not including Discovery Bay Shrimp District	Immediately, until further notice.
Discovery Bay Shrimp District	Immediately, until further notice.
Region 4	Closed
Region 5	Closed
Region 6	Closed

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

Period Number	Start Date	End Date
1	5/1/2024	5/14/2024
2	5/15/2024	5/28/2024
3	5/29/2024	6/11/2024
4	6/12/2024	6/25/2024
5	6/26/2024	7/9/2024
6	7/10/2024	7/23/2024
7	7/24/2024	8/6/2024
8	8/7/2024	8/20/2024
9	8/21/2024	9/3/2024
10	9/4/2024	9/17/2024

Period Number	Start Date	End Date
11	9/18/2024	10/1/2024
12	10/2/2024	10/15/2024

(c) It is unlawful for total harvest of non-spot shrimp to exceed 1,400 pounds per non-spot shrimp catch accounting period from subregions 1B, 1C, and Region 2E combined during catch accounting periods 1 through 12.

(d) There is no weekly harvest limit of non-spot shrimp from subregion 1A, Region 2W, Region 3, or the Discovery Bay Shrimp District.

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

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

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

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

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

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

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

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

#### REPEALER

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

WAC 220-340-52000Y Commercial shrimp pot fishery—Puget Sound. (24-144)



**WSR 24-17-021**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-150—Filed August 8, 2024, 3:31 p.m., effective August 11, 2024]

Effective Date of Rule: August 11, 2024.

Purpose: This emergency rule is necessary to open hatchery Chinook retention opportunities in Catch Record Card Areas 7 and 10.

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 open one day of hatchery Chinook retention in Catch Record Card Area 7 and two days of hatchery Chinook retention in Area 10.

Catch estimates for the Marine Area 7 summer Chinook fishery indicate that through August 4, 92 percent of the harvest quota (1,997 of 2,181), 40 percent of unmarked encounters (1,523 of 3,845), and 53 percent of sublegal encounters (1,142 of 2,141) have been reached.

Catch estimates for the Marine Area 10 summer Chinook fishery indicate that through August 4, 76 percent (2,392 of 3,166) of the harvest quota, and 68 percent of sublegal encounters (4,427 of 6,477) have been reached.

Based on daily catch rates, sufficient quota remains to allow for this additional opening of the 2024 summer Chinook season in Areas 7 and 10. 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: August 8, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-313-06000D Puget Sound salmon—Saltwater seasons and daily limits.** Effective August 11 through August 13, 2024, salmon

rules for Catch Record Card Area 7 and Area 10 shall be modified as described herein. All other provisions of WAC 220-313-060 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

**(1) Catch Record Card Area 7, except waters listed as closed to salmon fishing in WAC 220-313-020 during the effective time period (Bellingham Bay, Samish Bay, and Southern Rosario Strait and eastern Strait of Juan de Fuca); and waters of Lummi Bay east of a line from Gooseberry Point to Sandy Point:**

Salmon: Effective August 13, 2024 (one day): Daily limit 2 including no more than 1 Chinook. Release chum, sockeye, wild Chinook, and wild coho.

**(2) Catch Record Card Area 10, except waters of Shilshole Bay southeast of a line from Meadow Point to West Point; waters of Elliot Bay east of a line from West Point to Alki Point up to a line from Duwamish Head to Pier 91; waters of Sinclair Inlet and Port Orchard south of the Manette Bridge in Bremerton, south of a line true west from Battle Point, and west of a line drawn true south from Point White; and year-round piers (Bremerton Boardwalk, Illahee State Park, Seacrest Pier, and Waterman Pier):**

Salmon: Effective August 11 through August 12, 2024: Daily limit 2 including no more than 1 Chinook. Release chum, sockeye, and wild Chinook.

**WSR 24-17-026**  
**EMERGENCY RULES**  
**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Developmental Disabilities Administration)

[Filed August 12, 2024, 11:29 a.m., effective August 12, 2024, 11:29 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The developmental disabilities administration (DDA) is adopting new sections of rule on an emergency basis to implement E2SSB 5440 (2023), which directs the department of social and health services to develop a process for connecting individuals who have been found not competent to stand trial due to an intellectual or developmental disability to available wraparound services and supports in community-based settings. This subsequent emergency rule supersedes the emergency rule filed as WSR 24-15-010.

Citation of Rules Affected by this Order: New WAC 388-848-0010, 388-848-0020, 388-848-0030, 388-848-0040, 388-848-0050, 388-848-0060, 388-848-0070, 388-848-0080, 388-848-0090, 388-848-0100, 388-848-0110, 388-848-0120, 388-848-0130, and 388-848-0140.

Statutory Authority for Adoption: RCW 34.05.350 (1)(a).

Other Authority: RCW 10.77.060 (See ESSSB [E2SSB] 5440).

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 implement the program established under E2SSB 5440, which is intended for people in need of immediate support after being deemed incompetent or nonreformable in order to inform those individuals of services available and ensure preservation of their health and safety by providing necessary services as quickly as possible. This is the third emergency filing on these sections and is necessary to keep the rules enacted until DDA can complete the permanent rule-making process. DDA is progressing through the permanent process and plans to repeat external review.

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 14, 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 14, 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 14, Amended 0, Repealed 0.

Date Adopted: August 6, 2024.

Katherine I. Vasquez  
Rules Coordinator

SHS-5019.7

**Chapter 388-848 WAC  
CIVIL TRANSITIONS PROGRAM**

**PURPOSE**

NEW SECTION

**WAC 388-848-0010 What is the civil transitions program?** The civil transitions program is a voluntary program for people referred to the developmental disabilities administration by the behavioral health administration as a result of a determination that the person is not competent to stand trial under RCW 10.77.084 and not likely restorable due to a diagnosis of intellectual or developmental disability.

**DEFINITIONS**

NEW SECTION

**WAC 388-848-0020 What definitions apply to this chapter?** The following definitions apply to this chapter:

"Client" means a person who has a developmental disability as defined in RCW 71A.10.020 and who has been determined eligible by DDA to receive services under chapter 388-823 WAC.

"Community first choice" or "CFC" is a Medicaid state plan program as defined in chapter 388-106 WAC.

"Conditional services" means supportive housing services and community first choice services that may be available to a participant on an interim basis while awaiting a DDA-eligibility determination. Conditional services are limited to funds allocated for the program's purpose.

"Conditionally eligible" means a status assigned to a civil transitions program participant while the person awaits a DDA eligibility determination.

"Developmental disability" is defined in RCW 71A.10.020.

"DDA" means the developmental disabilities administration within the department of social and health services.

"Participant" means a person receiving services through the civil transitions program.

"Supportive housing" means wraparound housing stability services or a combination of rental assistance and wraparound housing stability services administered by DDA and intended to stabilize and support participants to live successfully in the community.

"Supportive housing agreement" means a contract between the participant and the supportive housing provider that sets rules and expectations for living in the home, participating in wraparound housing stability services, or both.

"Termination" means an action taken by DDA that ends DDA eligibility, DDA services, or both.

"Wraparound housing stability services" means support that helps a participant by:

- (1) Preparing for and transitioning to housing;
- (2) Providing guidance to help the participant maintain tenancy once housing is secured; and
- (3) Navigating community resources.

## PROGRAM ELIGIBILITY AND REFERRAL

### NEW SECTION

**WAC 388-848-0030 Who is eligible to enroll in the civil transitions program?** To be eligible for enrollment in the civil transitions program, a person must:

- (1) Be determined not competent to stand trial and not likely restorable under RCW 10.77.084 due to an intellectual or developmental disability;
- (2) Be referred to the developmental disabilities administration by the behavioral health administration; and
- (3) Be one of the following:
  - (a) Not a current DDA client and apply for a DDA eligibility determination under chapter 388-823 WAC no more than 30 days after enrolling in the civil transitions program;
  - (b) A current DDA client who is not eligible for residential habilitation services under chapter 388-845 WAC; or
  - (c) A current DDA client who is eligible for residential habilitation services under chapter 388-845 WAC or residential services from an adult family home but is awaiting a service provider.

### NEW SECTION

**WAC 388-848-0040 How does a supportive housing provider determine if they can safely meet a participant's needs?** To determine whether they can safely meet a participant's needs, the supportive housing provider reviews participant information, such as:

- (1) The participant's referral packet;
- (2) Information gathered from the participant, collateral contacts, or case manager; and
- (3) Composition of participants currently supported in the provider's shared housing.

NEW SECTION

**WAC 388-848-0050 How long after DDA receives a referral may a person enroll in the civil transitions program?** (1) After DDA contacts a person referred to the civil transitions program, the person has up to 90 days to enroll. For the purpose of this section, enrollment occurs on the earlier of:

- (a) Submission of an eligibility application; or
  - (b) Authorization of a conditional service.
- (2) If DDA is unable to contact the person, DDA will keep the referral active for 90 days.
- (3) If the person declines DDA services, DDA will keep the referral active for 90 days.

NEW SECTION

**WAC 388-848-0060 What services are available to a civil transitions program participant?** (1) A participant who is not a DDA client upon program enrollment may request supportive housing services while awaiting an eligibility determination under chapter 388-823 WAC and is considered conditionally eligible.

(2) A participant who is not a DDA client upon program enrollment may request community first choice services under chapter 388-106 WAC while awaiting an eligibility determination under chapter 388-823 WAC.

(3) A participant who is a DDA client will be referred to DDA services for which the client may be eligible. If the client is unable to access residential habilitation services, the client may request supportive housing.

NEW SECTION

**WAC 388-848-0070 Are supportive housing services available everywhere in Washington state?** Supportive housing services are limited to areas of Washington state with contracted providers and support services available.

NEW SECTION

**WAC 388-848-0080 Must a participant sign a supportive housing agreement?** To receive supportive housing services, an eligible participant must sign and adhere to a supportive housing agreement.

NEW SECTION

**WAC 388-848-0090 Are there limits to how long a participant may receive conditional services?** (1) If a participant is found ineligible for DDA services, the participant may receive conditional services for no more than six months from the first date of service.

(2) A participant who is a DDA client may receive:

(a) Supportive housing services through the civil transitions program for up to one year if appropriated funds are available; and

(b) Community first choice services as long as the client meets eligibility criteria under WAC 388-106-0277.

(3) DDA may extend supportive housing services beyond one year for a participant who is a DDA client if:

(a) The participant is in the process of transitioning to residential habilitation services or CFC residential services; and

(b) Appropriated funds are available.

**SERVICE TERMINATION**NEW SECTION

**WAC 388-848-0100 When may DDA terminate a participant's supportive housing services?** DDA may terminate a participant's supportive housing services if:

(1) The participant has acquired housing or is receiving residential habilitation services through DDA;

(2) The participant no longer needs the service;

(3) The participant does not adhere to conditions of the supportive housing agreement;

(4) The participant fails to follow applicable rules, laws, or court orders; or

(5) Legislative funding for the civil transitions program is no longer available.

NEW SECTION

**WAC 388-848-0110 When may DDA terminate a participant's community first choice services?** If a participant is determined not DDA-eligible, the participant may receive community first choice services for no more than six months from the first date of service.

**PROVIDER REQUIREMENTS**NEW SECTION

**WAC 388-848-0120 Who can apply to become a provider of wrap-around housing stability services?** To apply to become a provider of wraparound housing stability services, a person or entity must be one of the following DDA-contracted providers in good standing:

(1) An alternative living provider under chapter 388-829A WAC;  
(2) A community engagement provider under WAC 388-845-0655;  
(3) A foundational community supports provider under chapter 182-559 WAC; or

(4) A supported living, group home, or group training home provider under chapters 388-101 and 388-101D WAC.

NEW SECTION

**WAC 388-848-0130 Is a provider a mandatory reporter?** (1) A provider supporting a participant in the civil transitions program is a mandatory reporter under chapter 74.34 RCW.

(2) In addition to mandatory reports to agents under chapter 74.34 RCW, the provider must also report to DDA an incident involving a participant that includes an allegation of abuse, improper use of restraint, neglect, personal or financial exploitation, or abandonment.

**ADMINISTRATIVE HEARING RIGHTS**NEW SECTION

**WAC 388-848-0140 Does a participant have a right to an administrative hearing?** A participant has a right to an administrative hearing in accordance with chapter 388-02 WAC and WAC 388-825-120 through 388-825-165.



**WSR 24-17-033**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-152—Filed August 12, 2024, 2:35 p.m., effective August 12, 2024, 2:35 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule is needed to add two days to the recreational crab seasons in Marine Areas 4 east of the Bonilla-Tatoosh line, 5, 6, 7, 8-1, 8-2, 9, and 12 north of Ayock Point.

Citation of Rules Affected by this Order: Repealing WAC 220-330-04000N; and amending WAC 220-330-040.

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

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

Reasons for this Finding: This emergency rule adds two days to the previously announced recreational crab seasons in Marine Areas 4 east of the Bonilla-Tatoosh line, 5, 6, 7, 8-1, 8-2, 9, and 12 north of Ayock Point. August 27 and 28 were added to keep the summer season length similar with previous years (Labor Day falls on September 2 in 2024.) The previously announced seasons for Marine Areas 10 and 11 are unchanged. This rule is necessary to achieve the 50/50 harvest defined by the federal court order. Marine Area 12 south of a line projected due east from Ayock Point and Marine Area 13 will be closed. 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: August 12, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-330-04000P Crab—Areas and seasons—Personal use.** Notwithstanding the provisions of WAC 220-330-040, effective immediately through September 30, 2024, it is unlawful to fish for crab for personal use in Puget Sound in all waters of Marine Areas, 4 east of the

Bonilla-Tatoosh line, 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12 and 13, except as provided herein:

(1) **Marine areas 4 east of the Bonilla-Tatoosh line, 5, 6, 8-1, 8-2, and 9:** Effective immediately, through August 21, 2024, it is permissible to fish for crab for personal use on Thursdays, Fridays, Saturdays, Sundays, and Mondays. From August 22 through September 2, 2024, it is permissible to fish for crab for personal use each day.

(2) **Those waters of Marine Area 7 south** and west of a line projected from Village Point, Lummi Island, through the navigation buoy just east of Matia Island, thence to the buoy at Clements Reef, thence to the easternmost point of Patos Island, thence running along the northern shore of Patos Island to the westernmost point of Patos Island, thence true west to the international boundary and south of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island: Effective immediately, through August 21, 2024, it is permissible to fish for crab for personal use on Thursdays, Fridays, Saturdays, Sundays, and Mondays. From August 22 through September 2, 2024, it is permissible to fish for crab for personal use each day. From September 5 through September 30, 2024, it is permissible to fish for crab for personal use on Thursdays, Fridays, Saturdays, Sundays, and Mondays.

(3) **Those waters of Marine Area 7 north** and east of a line projected from Village Point, Lummi Island through the navigation buoy just east of Matia Island thence to the buoy at Clements Reef thence to the easternmost point of Patos Island, running along the northern shoreline of Patos Island and from the westernmost point of Patos Island true west to the international boundary and north of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island: Effective August 15 through August 21, 2024, it is permissible to fish for crab for personal use on Thursdays, Fridays, Saturdays, Sundays, and Mondays. From August 22 through September 2, 2024, it is permissible to fish for crab for personal use every day. From September 5 through September 30, 2024, it is permissible to fish for crab for personal use on Thursdays, Fridays, Saturdays, Sundays, and Mondays.

(4) **Marine Area 10:** Effective 12:01 a.m. immediately through 11:59 p.m. August 26, 2024, it is permissible to fish for crab for personal use on Sundays, and Mondays.

(5) **Marine Area 11:** Effective 12:01 a.m. immediately through 11:59 p.m. August 26, 2024, it is permissible to fish for crab for personal use on Sundays, and Mondays.

(6) **The portion of Marine Area 12 north of a line projected due east from Ayock Point:** Effective immediately, through August 21, 2024, it is permissible to fish for crab for personal use on Thursdays, Fridays, Saturdays, Sundays, and Mondays. From August 22 through September 2, 2024, it is permissible to fish for crab for personal use every day.

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

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

REPEALER

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

WAC 220-330-04000N Crab—Areas and seasons—Personal use.  
(24-97)

**WSR 24-17-034**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-153—Filed August 13, 2024, 8:14 a.m., effective August 15, 2024]

Effective Date of Rule: August 15, 2024.

Purpose: The purpose of this emergency rule is to close shoreline fishing for game fish in a portion of the Rimrock Reservoir and to close fishing for game fish in South Fork Tieton 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 limit impacts on Endangered Species Act threatened bull trout which stage in the reservoir near the mouth of the South Fork Tieton River. Recent estimates of bull trout spawning have indicated population declines and this measure is intended to decrease mortality from incidental bull trout catch. 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: August 13, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-05000V Freshwater exceptions to statewide rules—Eastside.** Effective August 15 through December 1, 2024, the following provisions of WAC 220-312-050, regarding fishing seasons in Rimrock Reservoir and Tieton River, South Fork shall be modified as follows. All other provisions of WAC 220-312-050 remain in effect unless modified by emergency rule:

**(1) Rimrock Reservoir (Lake):** From the intersection of USFS Rd 1200 (Tieton Reservoir Rd) and USFS Rd 1203 to the intersection of USFS Rd 1200 (Tieton Reservoir Rd) and USFS Rd 1000:

Game fish: Closed to shoreline (bank) fishing.

**(2) South Fork Tieton River:** From the mouth to USFS Rd 1070 bridge, including that portion that flows through the lakebed of Rimrock Reservoir lying north of the bridge on USFS Rd 1200 (Tieton Reservoir Rd):

Game fish: Closed to fishing.

## WSR 24-17-047

## EMERGENCY RULES

## DEPARTMENT OF ECOLOGY

[Order 24-04—Filed August 14, 2024, 7:46 a.m., effective August 14, 2024, 7:46 a.m.]

Effective Date of Rule: Immediately upon filing.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Issuance of a formal emergency drought declaration, directed by the governor and signed by ecology director.

Purpose: The department of ecology (ecology) is adopting a new emergency rule chapter 173-167 WAC, Emergency drought funding. This emergency rule provides eligibility criteria for grant funds to alleviate hardship resulting from the drought declared on April 16, 2024. This new rule making is being reissued and will be in effect August 14, 2024.

The emergency rule will be effective through December 12, 2024. If needed, ecology may adopt subsequent emergency rules.

Under the authority of RCW 70A.02.120(2), the director of ecology determined that in the event this emergency rule is considered to be a significant agency action under the Healthy Environment for All (HEAL) Act; this emergency rule is exempt from the requirements of RCW 70A.02.060, including the requirement to complete an environmental justice assessment. The exemption was signed by the director on April 16, 2024, and it was determined that any delay in adopting this emergency rule would be likely to cause serious harm to the public interest.

Please visit our website for information and supporting documents <https://www.ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-167-2024>.

Citation of Rules Affected by this Order: New chapter 173-167 WAC.

Statutory Authority for Adoption: Chapter 43.83B RCW, Drought conditions.

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: An emergency rule is necessary to protect public health and safety and promote timelines that are in the best interest of the public. Once the rule is in place, ecology may distribute funds to alleviate hardship. Drought can cause immediate impacts to public welfare. To address these impacts, drought funding needs to be administered in a timely manner.

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 13, 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 13, 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: August 14, 2024.

Laura Watson  
Director

OTS-4763.4

**Chapter 173-167 WAC**  
**EMERGENCY DROUGHT FUNDING**

NEW SECTION

**WAC 173-167-180 Purpose and applicability.** (1) Ecology is authorized to provide funding to public entities to implement projects and measures that alleviate undue hardship caused by drought conditions negatively affecting:

- (a) The delivery of safe and reliable drinking water supplies;
- (b) The survival of fish and wildlife; and
- (c) The viability of agricultural activities and livestock operations.

(2) This chapter establishes criteria for grant eligibility, selection, issuance, and performance, and applies to projects under which ecology may disburse funds for addressing undue hardship caused by drought conditions.

(3) Provisions in this chapter supplement provisions of chapter 173-166 WAC. In the event of any conflict between this rule and chapter 173-166 WAC, the provisions of this chapter control.

NEW SECTION

**WAC 173-167-190 Definitions.** Definitions only apply to this chapter:

- (1) "Agreement effective date" means the date on which the grant agreement becomes effective, as specified in the agreement.
- (2) "Agreement signature date" means the date the grant agreement is signed by ecology.
- (3) "Applicant" means an entity that applies for a grant.
- (4) "Budget" means, for the purpose of grant agreements, a breakdown of eligible costs by task.
- (5) "Ecology" means the Washington state department of ecology.
- (6) "Grant agreement" or "agreement" means the formal, written, contractual document that details the terms and conditions, scope of work, budget, and schedule of the grant, signed by authorized signatories of the recipient and ecology.
- (7) "Recipient" means an entity that has a grant agreement.

(8) "Scope of work" means the tasks, deliverables, and timelines of the grant agreement.

#### NEW SECTION

**WAC 173-167-200 Funding limitations.** (1) Ecology will administer grants in accordance with the *Administrative Requirements for Recipients of Ecology Grants and Loans*. (Publication No. 23-01-002.) Revised July 2023.

(2) Applicants must provide cost-share totaling 50 percent of the total eligible cost of the project.

(3) If an applicant is seeking funding for a public water system to address the immediate undue hardship arising from drought conditions, applicants that serve an economically disadvantaged community qualify for an exemption from the cost-share requirement. For the purposes of this rule, an economically disadvantaged community is defined by meeting one of the following:

(a) Communities ranked as a nine or 10 on the Washington state environmental health disparities map; or

(b) Communities at an 80th percentile or above for the demographic index of "people of color" and "low income" indicators on the Environmental Protection Agency's EJScreen environmental justice screening and mapping tool; or

(c) Applicant is, or the public water system serves, a federally recognized tribe.

(4) The department will provide no more than 25 percent of the total funds available to any single entity or any single project with funding authorized under this chapter.

#### NEW SECTION

**WAC 173-167-210 Application.** (1) All applicants must use the electronic system identified by ecology to apply for grants. Applicants without access to the electronic system must use a process approved by ecology.

(2) The applicant must complete the application process and provide all required information, including:

(a) Applicant information;

(b) Project location and description;

(c) Requested funding amount and budget for the project;

(d) Description of project benefit(s), including:

(i) Problem(s) or need(s) the project would address;

(ii) Timing and the extent to which the project is expected to address the identified needs;

(iii) Quantity of water, acreage, and number of residences affected by the proposed project, as applicable;

(iv) Method(s) used to determine project benefits; and

(v) Metrics for project success, including quantitative metrics if available.

(e) Scope of work for the project;

(f) Any other information required by ecology to evaluate the project.



(3) Ecology may request additional information to assist in the application evaluation process and may remove an application from further consideration if the application is incomplete.

NEW SECTION

**WAC 173-167-220 Eligible public entities for grant funding under this chapter.** (1)(a) County, or city governmental agencies.

- (b) Federally recognized tribes.
  - (c) Public utility districts, formed under chapter 54.04 RCW.
  - (d) Water and sewer districts, formed under chapter 57.02 RCW.
  - (e) Conservation districts, formed under chapter 89.08 RCW.
  - (f) Irrigation districts, formed under chapter 87.03 RCW.
  - (g) Port districts formed under chapter 53.04 RCW.
  - (h) Watershed management partnerships formed under RCW 39.34.200.
- (2) State agencies are not eligible for grants under RCW 43.83B.415 (1)(c); state agencies may receive funding through inter-agency agreements to address drought hardship under RCW 43.83B.410(6).

NEW SECTION

**WAC 173-167-230 Eligibility for funding.** (1) An activity or project for response to emergency drought conditions must be partially or completely within the area of a drought declaration order by ecology, which can be found at (a map of the drought declaration area can be viewed at <https://ecology.wa.gov/Water-Shorelines/Water-supply/Water-availability/Statewide-conditions/Drought-response>).

(2) One or more of the following must be partially or completely within the area of a drought declaration order by ecology:

- (a) The public water system's service area;
- (b) The geographic area where irrigated agriculture or livestock are located;
- (c) The source of water, or the water body, that supplies water to the entity applying for funding.

(3) The reduction in water supply caused by drought must cause, or is expected to cause, undue hardship, as described under WAC 173-167-260.

(4) Funding may be granted if the following conditions are met:

- (a) The proposed project or measure must be for an established beneficial use of water and not used for irrigation of new acreage or another new or expanded use.
- (b) Water derived from the project or measure must be put to beneficial use and address the current water shortage during the drought declaration.
- (c) The proposed project or measure cannot impair existing water rights, including instream and out-of-stream rights.
- (d) The applicant must obtain all required permits and approvals for the proposed project prior to initiating work.
- (e) If an applicant is seeking funding for a public water system, the applicant must obtain Washington department of health approval of the proposed project.
- (f) If an applicant is on behalf of a public water system, the system must describe water conservation actions or demonstrate that

the applicant has already made reasonable efforts to address their water supply shortage through conservation measures.

NEW SECTION

**WAC 173-167-240 Waiver.** To expedite drought relief projects and measures, ecology can approve funding or compensation under this chapter without complying with:

- (1) Notice of publication;
- (2) The State Environmental Policy Act; and
- (3) Competitive bidding requirements.

NEW SECTION

**WAC 173-167-250 Eligible projects or measures.** (1) Eligible projects or measures include, but are not limited to:

- (a) Leasing or acquiring water rights providing an uninterrupted water supply for instream or out-of-stream use;
- (b) Establishing emergency interties or other alternate source(s) of supply;
- (c) Obtaining an emergency supply of potable water from trucks or bottles;
- (d) Addressing fish hatchery or migration barriers caused by drought conditions;
- (e) The cost of providing personnel necessary to implement the activities identified in this section.

(2) (a) Ecology retains the discretion to fund an eligible project for less than the amount requested or deny a grant request for an eligible project. Situations where ecology may reduce or deny a grant request for an eligible project include, but are not limited to, incomplete application submittal, unavailability of sufficient funding for a project, or evidence that information submitted in an application is false or inaccurate.

(b) The department is not obligated to fund projects that do not provide sufficient benefit to alleviating hardship caused by drought or water unavailability. Projects must show substantial benefit from securing water supply, availability, or reliability relative to project costs.

NEW SECTION

**WAC 173-167-260 Undue hardship.** Undue hardship will be evaluated by considering:

(1) The short-term and long-term economic, public health, or environmental effects the water shortage would have in the absence of drought relief on agricultural crops, livestock operations, public water system safety and reliability, or instream fish and wildlife resources.

(2) The degree to which current drought conditions are directly responsible for the effects described as undue hardship.

(3) The amount of water shortage experienced or forecast for each applicant.

NEW SECTION

**WAC 173-167-270 Grant agreement.** (1) Ecology will work with the recipient to prepare the grant agreement.

(2) A grant agreement issued and managed in ecology's electronic system must include, at a minimum:

- (a) Project description;
- (b) Expected outcomes;
- (c) Project budget and funding distribution;
- (d) Agreement effective date and expiration date;
- (e) Description of tasks, deliverables, and timelines;
- (f) Contact information for ecology and the recipient;
- (g) Signatures of authorized signatories;
- (h) General terms and conditions that specify requirements related, but not limited to:
  - (i) Amendments and modifications;
  - (ii) Assignment limits on transfer of rights or claims;
  - (iii) Inadvertent discovery plan for human remains and/or cultural resources;
  - (iv) Compliance with all laws;
  - (v) Conflict of interest;
  - (vi) Disputes;
  - (vii) Environmental data standards;
  - (viii) Governing law;
  - (ix) Indemnification;
  - (x) Independent status of the parties to the agreement;
  - (xi) Order of precedence for laws, rules, and the agreement;
  - (xii) Property rights, copyrights, and patents;
  - (xiii) Records, audits, and inspections;
  - (xiv) Recovery of funds;
  - (xv) Severability;
  - (xvi) Suspension;
  - (xvii) Sustainable practices;
  - (xviii) Termination;
  - (xix) Third-party beneficiary;
  - (xx) Waiver of agreement provisions.
- (i) Special terms and conditions, if any;
- (j) Agreement-specific terms and conditions, if any;
- (k) Other items, if any, necessary to meet the goals of the grant program.

(3) All grant agreements under this chapter will include the latest version, as of the original agreement date, of ecology's grant general terms and conditions.

(4) Ecology may choose to extend a grant agreement at its sole discretion.

NEW SECTION**WAC 173-167-280 Performance standards—General provisions.** (1)

Nothing in this chapter influences, affects, or modifies existing ecology programs, rules, or enforcement of applicable laws and rules relating to activities funded by a grant.

(2) Ecology, or an auditor authorized by the state of Washington, may audit or inspect a recipient's grant agreements, records, and activities.

(3) New ecology grant agreements signed after the effective date of this chapter must be managed using ecology's designated electronic system. A recipient who cannot access the electronic system to meet a deadline or agreement requirements must use a process approved by ecology.

(4) Ecology may perform site visits to monitor the project, evaluate performance, and document compliance or any other conditions of the agreement.

(5) Recipients must:

(a) Follow all applicable accounting and auditing laws and rules related to grants;

(b) Use funds according to the agreement;

(c) Use funds according to the recipient's own policies and procedures, and according to all applicable laws and rules;

(d) Comply with all applicable laws, rules, orders, and permits when carrying out activities authorized by the agreement;

(e) Obtain prior approval for equipment purchases over the amount specified in the agreement.

(6) As specified in the grant agreement, the recipient must submit the following to ecology:

(a) Progress reports;

(b) Payment requests;

(c) Equipment and materials purchase reports, including receipts;

(d) Documentation of project implementation;

(e) A final closeout report;

(f) Any other required information.

(7) Ecology will:

(a) Follow all applicable accounting and auditing laws and rules related to grants;

(b) Monitor projects and review progress reports to assure compliance with applicable laws, rules, orders, permits, and terms and conditions of the agreement;

(c) Confirm receipt of required documentation and satisfactory completion of the project before approving final payment.

NEW SECTION**WAC 173-167-290 Closing out the agreement.** (1) The recipient

must follow the closeout requirements in the agreement.

(2) Ecology is not obligated to reimburse the recipient the final payment if the recipient does not meet all closeout requirements within the time frames in the agreement.

(3) Ecology will close out the grant agreement when it determines the recipient has met the requirements or when the agreement has been terminated (see WAC 173-167-300).

NEW SECTION

**WAC 173-167-300 Termination of agreement.** (1) Failure by the recipient to comply with a grant agreement may result in termination of the agreement.

(2) Ecology will attempt to contact the recipient regarding any issues with agreement compliance prior to terminating an agreement.

(3) Ecology's ability to make payments is contingent on availability of funding.

(4) Ecology will document the termination of an agreement.

**WSR 24-17-052**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-154—Filed August 14, 2024, 12:07 p.m., effective August 16, 2024]

Effective Date of Rule: August 16, 2024.

Purpose: The purpose of this emergency rule is to close Chinook retention in the Columbia River, from Priest Rapids Dam to Chief Joseph Dam, Chelan River, and Entiat River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-06000R and 220-312-05000R; and amending WAC 220-312-060 and 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 necessary to close Chinook retention in the Columbia River from Priest Rapids Dam to Chief Joseph Dam, Chelan River, and Entiat River. The nontreaty harvest share for summer Chinook has been met in the Columbia River above Priest Rapids Dam.

There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 0, Repealed 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: August 14, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-06000S Freshwater exceptions to statewide rules—Columbia River.** Effective August 16 through October 15, 2024, the provisions of WAC 220-312-060 regarding recreational salmon seasons from Priest Rapids Dam to Chief Joseph 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) Priest Rapids Dam to Rock Island Dam:** August 16 through August 31, 2024:

Salmon: Daily limit 4. Release all salmon other than sockeye.

**(2) Rock Island Dam to the boundary markers 400 feet downstream of the Rocky Reach Dam fish ladders:** Immediately, through October 15, 2024:

Salmon: Daily limit 4. Release all salmon other than sockeye.

**(3) Rocky Reach Dam to Wells Dam:** August 16 through October 15, 2024:

Salmon: Daily limit 4. Release all salmon other than sockeye.

**(4) Wells Dam to Highway 173 Bridge at Brewster:** August 16 through September 30, 2024:

Salmon: Daily limit 4. Release all salmon other than sockeye.

**(5) A line drawn between Gun Club Road and Pelican Point to Chief Joseph Dam:** August 16 through October 15, 2024:

Salmon: Daily limit 4. Release all salmon other than sockeye.

#### NEW SECTION

**WAC 220-312-05000W Exceptions to statewide rules—Eastside.** The following provisions of WAC 220-312-050 regarding Chelan River and Entiat River recreational salmon seasons shall be modified as described below. All other provisions of WAC 220-312-050 not addressed herein, and unless otherwise amended by emergency rule, remain in effect:

**(1) Chelan river (Chelan County); from the railroad bridge to the Chelan P.U.D. safety barrier below the powerhouse:** Effective August 16 through October 15, 2024:

Salmon: Closed

**(2) Entiat River (Chelan County); from mouth (railroad bridge) upstream:** Effective August 16 through September 30, 2024:

Salmon: Closed.

#### REPEALER

The following sections of Washington Administrative Code are repealed, effective August 16, 2024:

WAC 220-312-06000R Freshwater exceptions to statewide rules—Columbia River. (24-130)

WAC 220-312-05000R Exceptions to statewide rules—Eastside. (24-112)

**WSR 24-17-055**  
**EMERGENCY RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed August 15, 2024, 8:49 a.m., effective August 15, 2024, 8:49 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule making is to extend the apportionment advance request and payout periods for school districts and charter schools, and to establish requirements for repayment assurance and apportionment advance repayment schedules for funds received. As a result of enrollment declines, expiring access to federal COVID[-19] relief, unanticipated rise in uncontrollable costs, and other unforeseen events, many districts have experienced unprecedented financial difficulties. Extending the apportionment request, payout, and repayment periods would allow districts to access funds that are essential for the continuity of operations, maintenance, and other education services.

Citation of Rules Affected by this Order: Amending WAC 392-121-436, 392-121-438, and 392-121-443.

Statutory Authority for Adoption: RCW 28A.150.290, 28A.710.220.

Other Authority: RCW 28A.510.250.

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: Given the unprecedented financial effects of enrollment declines, expiring access to federal COVID[-19] relief, unanticipated rise in uncontrollable costs, and other unforeseen events, the immediate adoption of this emergency rule to extend districts' and charter schools' access to apportionment advances is necessary for the preservation of public health, safety, and the general welfare.

The office of superintendent of public instruction will also conduct permanent rule making concerning the extension of apportionment advance request, payout, and repayment periods.

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 3, 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: August 15, 2024.

Chris P. S. Reykdal  
State Superintendent of Public Instruction



## OTS-5363.1

AMENDATORY SECTION (Amending WSR 15-18-078, filed 8/28/15, effective 9/28/15)

**WAC 392-121-436 Emergency advance payments—School district application.** The board of directors of a school district or a charter school board may apply for any emergency advance on the school district's or charter school's basic education allocation. The application shall take the form of a resolution adopted by the board setting forth the following:

- (1) The nature of the unforeseen condition requiring the advance;
- (2) The amount requested to be advanced;
- (3) The net cash and investment balance of the general fund as of the date of the resolution;
- (4) A forecast of the general fund receipts, disbursements, and net cash and investment balance for each month remaining in the fiscal year; ~~((and))~~
- (5) A disclosure of any existing or planned general fund revenue anticipation notes ~~((-))~~;
- (6) A disclosure of any existing or planned general fund loan to or from another fund of the school district or charter school; and
- (7) A written acknowledgment that funds advanced will be repaid in accordance with WAC 392-121-443, subject to approval by the superintendent of public instruction.

AMENDATORY SECTION (Amending WSR 15-18-078, filed 8/28/15, effective 9/28/15)

**WAC 392-121-438 Emergency advance payments—Approval criteria.** The superintendent of public instruction shall approve requests for an emergency advance if the following conditions are met:

- (1) The unforeseen condition causing the need for the emergency advance could not have been anticipated by a reasonably prudent person.
- (2) It is probable that if the emergency advance is not made that the school district or charter school will be on:
  - (a) An interest-bearing, warrant-issuing basis within two months following the receipt of the resolution; and
  - (b) Warrant interest for at least three months from September through June.
- (3) The school district or charter school shall not have:
  - (a) Cash investments of the general fund during the months it estimates that it would pay warrant interest except for the emergency advance; or
  - (b) Inter-fund loans from the general fund to any other funds during the months it estimates that it would pay warrant interest; or
  - (c) Any existing or anticipated general fund revenue anticipated notes.

Applications and payouts for apportionment advances can be processed only during the months of October through July. Advance requests for the months of May and June shall not be approved if the superintendent of public instruction determines that the school district

or charter school would be short paid at the end of the fiscal year due to lack of appropriation of funds after considering transfer authority.

AMENDATORY SECTION (Amending WSR 15-18-078, filed 8/28/15, effective 9/28/15)

**WAC 392-121-443 Emergency advance payments—Repayment of advances.** Repayments of advances will be accomplished by a reduction in the school district's or charter school's apportionment payments ~~((en))~~. Under RCW 28A.510.250, all apportionment advances must be repaid during the apportionment year in which the funds are advanced. The repayment requirements are defined as follows:

(1) For advances received before June, at least 50 percent of the amount advanced must be repaid in or before June ~~((in))~~ of the current school year, with the remaining balance repaid no later than August of the current school year.

(2) For advances received in June, at least 50 percent of the amount advanced must be repaid in July of the current school year, with the remaining balance paid in August of the current school year.

(3) For advances received in July, the full balance must be repaid in August of the current school year.

(4) In no instance can an apportionment advance be repaid and re-approved in the subsequent month.

**WSR 24-17-057**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-155—Filed August 15, 2024, 9:31 a.m., effective August 15, 2024, 9:31 a.m.]

Effective Date of Rule: Immediately upon filing.

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

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

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

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

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

Reasons for this Finding: This rule sets nontreaty commercial tangle net fisheries for fall 2024 in the mainstem. The 2024 nontreaty fall fisheries plan was developed in conjunction with the annual North of Falcon management process. These fisheries are consistent with the *U.S. v. Oregon* Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with compact action of July 18, and August 14, 2024. 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 0; Federal Rules or Standards: New 1, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

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

Number of Sections Adopted on the Agency's own Initiative: New 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: August 15, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-358-03000F 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 Gillnet:**

Open Dates	Open Days	Open Time	Open Duration
Immediately - August 15	Wednesday (night)	9:00 pm - 6:00 am	9 hrs
August 18 - August 19	Sunday (night)	9:00 pm - 6:00 am	9 hrs
August 20 - August 21	Tuesday (night)	9:00 pm - 6:00 am	9 hrs
August 22 - August 23	Thursday (night)	9:00 pm - 6:00 am	9 hrs
August 25 - August 26	Sunday (night)	9:00 pm - 6:00 am	9 hrs
August 27 - August 28	Tuesday (night)	9:00 pm - 6:00 am	9 hrs
August 29 - August 30	Thursday (night)	9:00 pm - 6:00 am	9 hrs

(a) **Area:** Catch Reporting Areas 1E and 1D (Zones 4-5). The deadline at the lower end of Area 1E (Zone 4) is defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation Buoy #1 and continuing to the Washington shore. Sanctuaries: Washougal and Sandy River.

(b) **Gear:** Drift gillnets only. 9-inch minimum mesh size restriction. Multiple net rule NOT in effect, which means nets not authorized for this fishery may not be onboard. Lighted buoys required.

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

**(2) Emerging Commercial Fishery - Mainstem Seine:**

Open Dates	Open Days	Open Time	Open Duration
Immediately - August 30	Monday - Friday	6:00 am - 4:00 pm	10 hrs
September 3 - September 6	Tuesday - Friday	6:00 am - 4:00 pm	10 hrs
September 9 - October 31	Monday - Friday	7:00 am - 5:00 pm	10 hrs

(a) **Area:** Catch Reporting Areas 1A, 1B, and 1C (Zones 1-3). The deadline at the upper end of Area 1C (Zone 3) is defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation Buoy #1 and continuing to the Washington shore. Sanctuaries: Elokomina-B, Cowlitz, Kalama-B, Lewis-B and Select Area commercial fishing sites.

(b) **Gear:** Beach seines or purse seines only. Only one seine net per primary vessel. Mesh size restricted to a 3.5-inch maximum (inside of knot to outside of knot using hand tension stretched measure). Net material to consist of 3-strand nylon; twine size  $\geq$ #12. Seines may include a bunt of 1.0-2.0 inch knotless mesh. Net length not to exceed 200 fathoms (NOT including associated lead nets). Net depth not to exceed 200 meshes (approximately 50 feet). Seine and lead lines may not be connected. Lead nets must be retrieved daily. No restrictions on corkline, leadline or use of stringers and slackers. A chafing strip panel consisting of non-monofilament webbing (such as nylon seine web or polyethylene trawl web) is allowed on bottom of net; maximum panel depth is 5-feet. Chafing mesh not to exceed 3.5-inch stretched measure for beach and 5-inch stretched measure for purse. There are no restrictions associated with hangings used to connect the net to the chafing panel or the net or chafing panel to the leadline or corkline. 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. Lead net (optional for both gear types). Only one lead net is allowed per fishing operation. Lead nets may not exceed 100 fathoms in length. Lead nets may be constructed of 3-strand nylon webbing, twine size  $\geq$ #12,  $\leq$ 3.5-inch mesh size (inside of knot to outside of knot using hand tension stretched measure) OR nylon or cotton webbing with mesh size  $\geq$ 14-inches. Lead nets may not be vertically slackened. Seine net and lead net may not be connected. Lead nets must be retrieved daily.

(c) **Allowable Possession and Sales:** Subject to IFQs as defined on individual permits. Except as noted below, allowable sales limited to adipose fin-clipped Chinook, adipose fin-clipped Coho, sockeye, and pink salmon and shad. All legal adult Chinook and legal adult Coho caught must be kept and sold. Adult salmon defined in WAC 220 300-010. Retained Chinook and Coho must have a healed scar at the location of the adipose-clipped fin.

(d) **Handling of Catch:** Hand sorting or use of a knotless dip net is required when sorting fish. All fish must be sorted and/or released prior to removing entire seine from water. Dry sorting not permitted.

(e) **Sort time not to exceed 75 minutes.**

(i) Beach seine - defined as the elapsed time from when the outer towed end of the net first contacts the shore or block until the net is emptied of fish.

(ii) Purse Seine - defined as the elapsed time from when all rings are pursed and out of the water until the net is emptied of fish.

(f) **Observer Program:** Agency observers must be present during all fishing operations.

**(3) Mainstem Tangle Net:**

Open Dates	Open Days	Open Time	Open Duration
September 16 - September 18	Monday, Wednesday	4:00 am - 10:00 pm	18 hrs
September 20 - October 25	Fridays	4:00 am - 6:00 pm	14 hrs
September 23 - October 31	Mondays, Tuesdays, Wednesdays, Thursdays	4:00 am - 10:00 pm	18 hrs

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

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

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

(d) **Regulations:** Regulations typically in place for mark-selective commercial fisheries are in effect, including but not limited to: net length, use of recovery boxes, limited soak times, red corks, tangle-net certification, etc.

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

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

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

(h) **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.

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

(j) **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.

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

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

Open Dates	Open Days	Open Time	Open Duration
August 26 - August 30	Monday, Thursday (night)	7:00 pm - 7:00 am	12 hrs
September 2 - October 31	Monday, Tuesday, Wednesday, Thursday (night)	4:00 pm - 10:00 am	18 hrs

(a) **Area:**

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

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

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

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

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

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

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

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

Open Dates	Open Days	Open Time	Open Duration
August 26 - August 30	Monday, Thursday (night)	7:00 pm - 7:00 am	12 hrs
September 2 - October 31	Monday, Tuesday, Wednesday, Thursday (night)	6:00 pm - 10:00 am	16 hrs

(a) **Area:** The Blind Slough Select Area is defined as waters of Blind Slough and Gnat Creek from a north-south line represented by regulatory markers at the mouth of Blind Slough upstream to a regulatory marker in Gnat Creek located approximately 0.5 miles southeasterly (upstream) of the Barendse Road Bridge. The Knappa Slough Select Area is defined as waters of Knappa Slough, Calendar Slough, and Big Creek Slough bounded to the north (upstream) by a line projecting from a regulatory marker on the eastern shore of Karlson Island to the northernmost regulatory marker at the mouth of Blind Slough and bounded to the west (downstream) by a line projecting southerly from a regulatory marker on the southwestern tip of Karlson Island through regulatory markers on the western tips of Minaker Island to a marker on the Oregon shore. The waters of Knappa Slough within a 100-foot radius of the railroad bridge crossing Big Creek are closed.

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

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

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

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

Open Dates	Open Days	Open Time	Open Duration
September 16 - October 11	Monday, Tuesday, Wednesday, Thursday (night)	6:00 pm - 9:00 am	15 hrs
October 14 - October 31	Monday, Wednesday (night)	6:00 pm - 9:00 am	15 hrs



Open Dates	Open Days	Open Time	Open Duration
November 4 - November 28	Monday, Wednesday (night)	5:00 pm - 8:00 am	15 hrs

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

(b) **Gear:** Gillnets with a maximum mesh size restriction of 6-inches. Maximum net length is 100 fathoms. No weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed. No nets can be tied off to stationary structures. Nets may not fully cross the navigation channel. It is unlawful to operate in any river, stream or channel any gillnet gear longer than three-fourths the width of the river, stream, or channel. "River, stream, or channel width" is defined as bank-to-bank, where the water meets the banks, regardless of the time of tide or the water level. This emergency provision shall supersede the permanent regulation and all other regulations that conflict with it. Nets not specifically authorized for use may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Nets fished any time between official sunset and official sunrise must have lighted buoys on both ends of the net. If the net is attached to the boat, then one lighted\_buoy on the end of the net opposite the boat is required.

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

(7) **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.

(8) **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)).

(9) **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 unnecessary underscoring in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

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

WAC 220-358-03000E Columbia River seasons below Bonneville. (24-134)

**WSR 24-17-058**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-156—Filed August 15, 2024, 9:48 a.m., effective August 15, 2024, 9:48 a.m.]

Effective Date of Rule: Immediately upon filing.

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

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

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

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

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

Reasons for this Finding: This rule sets the 2024 Columbia River treaty fall season commercial fisheries for nontreaty buyers. This rule is consistent with actions of the Columbia River Compact on July 18 and August 14, 2024. Conforms state rules with tribal rules. The general public welfare is protected with the immediate opening of nontreaty buyers purchasing fish from treaty fisheries. This harvest opportunity allows for the tribal use and public access to the resource as well as the maintenance of sustainable fish populations. There is insufficient time to promulgate permanent regulations.

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

Columbia River fisheries are monitored very closely to ensure consistency with court orders and ESA guidelines. Because conditions

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

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

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

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

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

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

Date Adopted: August 14, 2024.

Kelly Susewind  
Director

#### NEW SECTION

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

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

(a) Season: 6:00 AM August 19 through 6:00 PM August 22

6:00 AM August 26 through 6:00 PM August 30

6:00 AM September 2 through 6:00 PM September 6

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

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

(c) Standard sanctuaries applicable to gillnet gear. The standard Spring Creek Hatchery Sanctuary is in place.

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

(a) Season: Immediately, until further notice.

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

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

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

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

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

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

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

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

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

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

(c) Allowable sale: Salmon (any species), steelhead, shad, carp, catfish, walleye, bass, and yellow perch. Sturgeon from 38 to 54 inches fork length in the Bonneville Pool may be kept for subsistence.

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

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

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

## REPEALER

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

WAC 220-359-02000E Columbia River salmon seasons above Bonneville Dam. (24-133)

**WSR 24-17-069**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-158—Filed August 15, 2024, 4:25 p.m., effective August 15, 2024, 4:25 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is increase the Chinook landing limit for the coastal commercial salmon troll fishery.

Citation of Rules Affected by this Order: Repealing WAC 220-354-30000E; 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, the remaining quota sufficient for an increase to the landing and possession limits for Chinook. 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: August 15, 2024.

Kelly Susewind  
Director

NEW SECTION

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

Notwithstanding the provisions of WAC 220-354-300, WAC 220-353-050, and WAC 220-354-010, effective immediately, 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 Area 1 open: Immediately through September 30, 2024.
- (2) Salmon Management and Catch Reporting areas 2, 3, and that portion of Area 4 west of 125°05'00"W longitude and south of 48°23'00"N latitude open: Immediately through September 15, 2024.
- (3) Landing and possession limits:  
From August 15, 2024, until further notice, landing and possession limit of 25 Chinook and 100 marked coho per vessel per landing week, defined as Thursday through Wednesday.
- (4) The Cape Flattery and Columbia River Control Zones are closed. The Salmon Troll Yelloweye Rockfish Conservation Area is closed.
- (5) All retained coho must be marked with a healed adipose fin clip.
- (6) No chum retention north of Cape Alava, WA in August and September.
- (7) Minimum size for Chinook salmon is 27 inches in length (20 1/2 inches frozen dressed). Minimum size for coho salmon is 16 inches in length (12 inches frozen dressed). No minimum size for pink, sockeye or chum salmon.
- (8) 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.
- (9) 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 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.
- (10) 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, coho, and halibut catch aboard, and destination with approximate time of delivery.
  - (c) Vessels may not land fish east of Tongue Point, Oregon.
- (11) 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, coho, 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, coho, 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 effective immediately:

WAC 220-354-30000E Coastal salmon troll seasons—  
Commercial. (24-146)

**WSR 24-17-070**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-157—Filed August 15, 2024, 4:30 p.m., effective August 19, 2024]

Effective Date of Rule: August 19, 2024.

Purpose: The purpose of this emergency rule is to open four days of salmon fishing in Catch Record Card Area 1.

Citation of Rules Affected by this Order: Repealing WAC 220-313-07500Y; and amending WAC 220-313-075.

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 purpose of this rule is to reopen recreational salmon fishing in Area 1. The fishery was closed on August 12 due to coho catch approaching the quota for the area, but sufficient quota remains to allow reopening the area for several days. 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: August 15, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-313-07500Z Pacific Ocean salmon—Seasons—Closed areas.**

Effective August 19 through September 30, 2024, the provisions of WAC 220-313-075 regarding recreational salmon seasons for Marine Areas 1 through 4 shall be as described below. All other provisions of WAC 220-313-075 not addressed herein remain in effect unless otherwise amended:

- (1) **Catch Record Card Area 1:**



- (a) Open August 19 through August 22, 2024:
  - (i) Daily limit of 2 salmon including no more than one Chinook.
  - (ii) Release wild coho.
  - (iii) Chinook minimum length 22 inches.
  - (iv) Coho minimum length 16 inches.
- (b) August 23, 2024, until further notice: Closed to fishing for salmon. It is unlawful to possess salmon onboard a vessel, including in transit.
- (2) **Catch Record Card Area 2:** Open August 19 through September 15, 2024:
  - (a) Daily limit of 2 salmon including no more than one Chinook.
  - (b) Release wild coho.
  - (c) Chinook minimum length 22 inches.
  - (d) Coho minimum length 16 inches.
  - (e) Grays Harbor Control Zone is closed. See WAC 220-306-040 for area definition.
- (3) **Catch Record Card Area 3:** Open August 19 through September 15, 2024:
  - (a) Daily limit of 2 salmon.
  - (b) Release chum and wild coho.
  - (c) Chinook minimum length 24 inches.
  - (d) Coho minimum length 16 inches.
- (4) **Catch Record Card Area 4:** Open August 19 through September 15, 2024:
  - (a) Daily limit of 2 salmon.
  - (b) Release chum and wild coho.
  - (c) Chinook minimum length 24 inches.
  - (d) Coho minimum length 16 inches.
  - (e) No chinook retention allowed in waters east of the Bonilla-Tatoosh line.

REPEALER

The following section of Washington Administrative Code is repealed, effective August 19, 2024:

WAC 220-313-07500Y Pacific Ocean salmon—Seasons—Closed areas. (24-151)

**WSR 24-17-119**  
**EMERGENCY RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed August 19, 2024, 11:09 a.m., effective August 19, 2024, 11:09 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The office of superintendent of public instruction (OSPI) is adopting emergency rule making in the area of student discipline with revisions that are intended to: (1) Update statutory definitions of discipline that are in alignment with current law; (2) require school boards to establish policies for reporting and notification when classroom exclusions occur; (3) clarify the scope of authority for teachers when administering classroom exclusions; (4) make evident the standards and procedures that educators must follow to maintain an optimal learning environment for all students; (5) promote the involvement of families as integral partners in helping students to be successful; and (6) ensure manageable data and reporting requirements from each level of the system, where applicable (i.e., classroom, school, district, state, etc.). Adopting these rule updates before the beginning of the 2024-25 school year would allow these critical changes involving the health and safety of both students and educators to take effect immediately.

Citation of Rules Affected by this Order: Amending WAC 392-190-048, 392-400-010, 392-400-020, 392-400-025, 392-400-110, 392-400-330, 392-400-335, 392-400-510, 392-400-515, 392-400-520, 392-400-525, 392-400-530, 392-400-610, 392-401-020, and 392-401-040.

Statutory Authority for Adoption: RCW 28A.300.046, 28A.600.010, 28A.600.015, 28A.600.020.

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 timing of the COVID-19 pandemic disrupted the planned comprehensive rollout of revised student discipline rules and professional development for educators at all levels of the K-12 education system. Unclear sections of the rules, coupled with new challenges in student behavior and mental health following the pandemic, require immediate intervention to preserve the K-12 instructional environment as students and educators return to the classroom this fall. OSPI is also replacing the prejudicial term "emergency expulsion" with the term "emergency removal" in the context of student discipline in compliance with legislative mandates under RCW 28A.600.495.

OSPI will soon initiate permanent rule making concerning these clarifications.

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 15, 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: August 19, 2024.

Chris P. S. Reykdal  
State Superintendent of Public Instruction

### OTS-5253.1

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

**WAC 392-190-048 Access to course offerings—Student discipline and corrective action.** At least annually, each school district and public charter school must review data on corrective and disciplinary actions taken against students within each school disaggregated by sex, race, limited-English proficiency (i.e., English language learners), and disability, including students protected under Section 504 of the Rehabilitation Act of 1973 and the Individuals with Disabilities Education Act. This review must include, but is not limited to, short-term suspensions, long-term suspensions, expulsions, and emergency (~~expulsions~~) removals. In reviewing this data, each school district or public charter school must determine whether it has disciplined or applied corrective action to a substantially disproportionate number of students within any of the categories identified in this section. If a school district or public charter school finds that it has disciplined or applied corrective action to a substantially disproportionate number of students who are members of one of the categories identified in this section, the school district or charter school must take prompt action to ensure that the disproportion is not the result of discrimination.

### OTS-5777.1

AMENDATORY SECTION (Amending WSR 18-16-081, filed 7/30/18, effective 8/31/18)

**WAC 392-400-010 Purpose.** The purpose of this chapter is to ensure that school districts in Washington:

(1) Provide a safe and supportive learning environment for all students;

(2) Provide due process to students;

~~((2))~~ (3) Implement culturally responsive discretionary and nondiscretionary discipline policies and procedures that provide opportunity for all students to achieve personal and academic success;

~~((3))~~ (4) Engage school personnel, students, parents, families, and the community in decisions related to the development and implementation of discretionary and nondiscretionary discipline policies and procedures;

~~((4))~~ (5) Ensure fairness and equity in the administration of discretionary and nondiscretionary discipline;

~~((5))~~ (6) Administer discretionary discipline in ways that respond to the needs and strengths of students, support students in meeting behavioral expectations, and keep students in the classroom to the maximum extent possible;

~~((6))~~ (7) Provide educational services that students need to complete their education without disruption; and

~~((7))~~ (8) Facilitate collaboration between school personnel, students, and families regarding nondiscretionary discipline to ensure successful reentry into the classroom following a suspension or expulsion ~~(; and~~

~~(8) Provide a safe and supportive learning environment for all students).~~

AMENDATORY SECTION (Amending WSR 18-16-081, filed 7/30/18, effective 8/31/18)

**WAC 392-400-020 Application.** (1) This chapter establishes the minimum procedural and substantive due process rights of students when they may be subject to discipline in Washington school districts. A school district may establish additional due process protections for students consistent with federal statutes and regulations, state statutes, common law, and rules prescribed by the office of superintendent of public instruction.

(2) This chapter must be construed in a manner consistent with the following laws and rules:

(a) RCW 28A.600.010 through 28A.600.022 and 28A.320.211, regarding the administration of student discipline;

(b) RCW 28A.300.042, regarding the collection, reporting, and disaggregation of student-level discipline data;

(c) Chapter 392-190 WAC, prohibiting unlawful discrimination in Washington public schools, including the requirement under WAC 392-190-048 that school districts annually review disaggregated discipline data to identify and address disproportionality in the administration of discipline on the basis of sex, race, limited-English proficiency (i.e., English learners), and disability, including students protected under Section 504 of the Rehabilitation Act of 1973 and Part B of the Individuals with Disabilities Education Act;

(d) WAC 392-172A-05140 through 392-172A-05175, and 34 C.F.R. Part 300.530 through 300.536, regarding the discipline of students with disabilities under the Individuals with Disabilities Education Act; and

(e) ~~((RCW 28A.165.035, regarding the state menu of best practices and strategies for behavior; and~~

~~(f))~~ RCW 28A.415.410 ~~((and 28A.415.420))~~, regarding training to support school personnel in implementing discipline policies and procedures and gaining knowledge and skills in cultural competence.

AMENDATORY SECTION (Amending WSR 18-16-081, filed 7/30/18, effective 7/1/19)

**WAC 392-400-025 Definitions.** As used in this chapter the terms:

(1) "Behavioral violation" means a student's behavior that violates a school district's discipline policy adopted under WAC 392-400-110.

(2) "Classroom exclusion" means the exclusion of a student from a classroom (~~(or)~~) and instructional or activity area for a discretionary behavioral violation(~~s, subject to the requirements in WAC 392-400-330 and 392-400-335. Classroom exclusion does not include actions that result in missed instruction for a brief duration when:~~

~~(a) A teacher or other school personnel attempts other forms of discipline to support the student in meeting behavioral expectations; and~~

~~(b) The student remains under the supervision of the teacher or other school personnel during such brief duration))~~ that creates a disruption of the educational process in violation of the district disciplinary policies subject to the requirements in WAC 392-400-110.

(3) "Culturally responsive" has the same meaning as "cultural competency" in RCW 28A.410.270.

(4) (~~"Discipline" means any action taken by a school district in response to behavioral violations.~~) "Discretionary discipline" means a disciplinary action taken by a school district for student behavior that violates rules of student conduct adopted by a school district board of directors under RCW 28A.600.015(6).

(5) "Disruption of the educational process" means the interruption of classwork, the creation of disorder, or the invasion of the rights of a student or group of students.

(6) "Emergency (~~expulsion~~) removal" means the removal of a student from school because the student's presence poses an immediate and continuing danger to other students or school personnel, or an immediate and continuing threat of material and substantial disruption of the educational process, subject to the requirements in WAC 392-400-510 through 392-400-530.

(7) "Expulsion" means a denial of admission to the student's current school placement in response to a behavioral violation, subject to the requirements in WAC 392-400-430 through 392-400-480.

(8) "Length of an academic term" means the total number of school days in a single trimester or semester, as defined by the school board.

(9) (~~"Other forms of discipline" means actions used in response to behavioral violations, other than classroom exclusion, suspension, expulsion, or emergency expulsion, which may involve the use of best practices and strategies included in the state menu for behavior developed under RCW 28A.165.035.~~) "Nondiscretionary discipline" means:

(a) Violations of RCW 28A.600.420;

(b) An offense listed in RCW 13.04.155;

(c) Two or more violations of RCW 9A.46.120, 9.41.280, 28A.600.455, 28A.635.020, or 28A.635.060 within a three-year period; or

(d) Behavior that adversely impacts the health or safety of other students or educational staff. RCW 28A.600.015.

(10) "Parent" has the same meaning as in WAC 392-172A-01125.

(11) "School business day" means any calendar day, except Saturdays, Sundays, or any federal, state, or school holiday, when the of-

office of the superintendent of a school district is open to the public for business.

(12) "School board" means the governing board of directors of a local school district.

(13) "School day" means any day or partial day that students are in attendance at school for instructional purposes.

(14) "Suspension" means a denial of attendance in response to a behavioral violation from any subject or class, or from any full schedule of subjects or classes, but not including ~~((classroom exclusions,))~~ expulsions ~~((,))~~ or emergency ~~((expulsions))~~ removals.

(a) "In-school suspension" means a suspension in which a student is excluded from the student's regular educational setting but remains in the student's current school placement for up to ~~((ten))~~ 10 consecutive school days, subject to the requirements in WAC 392-400-430 through 392-400-475.

(b) "Long-term suspension" means a suspension in which a student is excluded from school for more than ~~((ten))~~ 10 consecutive school days, subject to the requirements in WAC 392-400-430 through 392-400-475.

(c) "Short-term suspension" means a suspension in which a student is excluded from school for up to ~~((ten))~~ 10 consecutive school days, subject to the requirements in WAC 392-400-430 through 392-400-475.

AMENDATORY SECTION (Amending WSR 18-16-081, filed 7/30/18, effective 7/1/19)

**WAC 392-400-110 Discipline policies and procedures—Development, review, and distribution.** (1) **School district policies and procedures ~~((beginning in the 2019-20 school year))~~**. ~~((Before the commencement of the 2019-20 school year))~~ Pursuant to RCW 28A.600.010, a school district must adopt ~~((written policies and procedures for supporting students in meeting behavioral expectations and administering discipline in accordance with this chapter))~~ and make available to each pupil, teacher, and parent in the district reasonable written policies and procedures regarding pupil conduct, discipline, and rights, including, but not limited to, classroom exclusions, short-term suspensions, long-term suspensions, emergency removals, and expulsions. The policies and procedures must:

(a) Clearly state the types of behaviors for which discretionary and nondiscretionary discipline, including classroom exclusion, suspension, emergency removal, and expulsion, may be administered;

(b) Have a real and substantial relationship to the lawful maintenance and operation of the school district including, but not limited to, the preservation of the health and safety of students and employees and the preservation of an educational process that is conducive to learning;

(c) Provide for early involvement of parents in efforts to support students in meeting behavioral expectations;

(d) Provide that school personnel make every reasonable attempt to involve parents and students in the resolution of behavioral violations for which discipline may be administered;

(e) ~~((Identify other forms of discipline that school personnel should administer before or instead of administering classroom exclusion, suspension, or expulsion to support students in meeting behavio-~~

ral expectations. Administering other forms of discipline may involve the use of best practices and strategies included in the state menu for behavior developed under RCW 28A.165.035;)) Ensure the highest consideration is given to the judgment of qualified certificated educators regarding conditions necessary to maintain the optimum learning atmosphere as outlined in: RCW 28A.410.270, 28A.410.278, 28A.405.100, 28A.410.260, and 28A.415.443;

(f) Recognize that educators create an environment that welcomes all students and families, recognizing that the school belongs to them and the community. School faculty, staff, and administration highlight and center community expertise for learning partnerships. RCW 28A.410.260 and 28A.415.443;

(g) Identify school personnel with the authority to administer classroom exclusions, suspensions, expulsions, and emergency ((expulsions, and other forms of discipline)) removals;

~~((g))~~ (h) Establish appeal and review procedures related to the administration of suspensions, expulsions, and emergency ((expulsions)) removals, consistent with WAC 392-400-430 through 392-400-530;

~~((h))~~ (i) Establish grievance procedures to address parents' or students' grievances related to the administration of ((classroom exclusions and other forms of)) discretionary and nondiscretionary discipline, including discipline that excludes a student from transportation or extra-curricular activity. The procedures must, at a minimum, include an opportunity for the student to share the student's perspective and explanation regarding the behavioral violation;

~~((i))~~ (j) Describe the types of educational services the school district offers to students during a suspension or expulsion and the procedures to be followed for the provision of educational services under WAC 392-400-610;

~~((j))~~ (k) Provide for reengagement meetings and plans, consistent with WAC 392-400-710;

~~((k))~~ (l) Provide a process for students who have been suspended or expelled to petition for readmission; and

~~((l))~~ (m) Be consistent with the model policy developed under RCW 28A.345.090.

**(2) Development and review.** A school district must develop and periodically review discretionary and nondiscretionary discipline policies and procedures with the participation of school personnel, students, parents, families, and the community. During the development and review of discretionary and nondiscretionary discipline policies and procedures, the school district must use disaggregated data collected under RCW 28A.300.042 to:

(a) Monitor the impact of the school district's discipline policies, procedures, and practices; and

(b) Update the school district's discretionary and nondiscretionary discipline policies and procedures to improve fairness and equity in the administration of discipline.

**(3) Distribution of policies and procedures.** A school district must make discretionary and nondiscretionary discipline policies and procedures available to families and the community. The school district must annually provide the district's discretionary and nondiscretionary discipline policies and procedures to all district personnel, students, and parents, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964. The school district must ensure district employees and contractors are knowledgeable of the discretionary and nondiscretionary discipline policies and procedures.

AMENDATORY SECTION (Amending WSR 18-16-081, filed 7/30/18, effective 8/31/18)

**WAC 392-400-330 Classroom and instructional or activity area exclusions—Conditions and limitations.** (1) **Authority to administer classroom and instructional or activity area exclusions.** Discretionary discipline leading to a classroom exclusion as determined by the school district's written procedures per RCW 28A.600.010 must give the highest consideration to the judgment of qualified certificated educators regarding the conditions necessary to maintain the optimum learning experience.

~~((a) **Teacher authority.** A teacher may exclude a student from the teacher's classroom or instructional or activity area for behavioral violations that disrupt the educational process while the student is under the teacher's immediate supervision, subject to the requirements in this section and WAC 392-400-335.~~

~~(b) **Other school personnel authority.** A school district may authorize other school personnel to exclude a student from a classroom or instructional or activity area for behavioral violations of the district's discipline policy adopted under WAC 392-400-110 or 392-400-225, subject to the requirements in this section and WAC 392-400-335.~~

~~(2) **Other forms of discipline.** The teacher or other school personnel must first attempt one or more other forms of discipline to support the student in meeting behavioral expectations, unless the student's presence poses an immediate and continuing danger to other students or school personnel, or an immediate and continuing threat of material and substantial disruption of the educational process. In administering other forms of discipline, the teacher or other school personnel may consider using best practices and strategies included in the state menu for behavior developed under RCW 28A.165.035.~~

~~(3) **Limitations on classroom exclusion.**~~

~~(a)) (2) A teacher may exclude a student from the teacher's individual classroom and instructional or activity area while the student is under the teacher's immediate supervision, subject to the requirements in WAC 392-400-110. A classroom exclusion does not include actions that result in missed instruction for a brief duration when:~~

~~(a) A teacher or other school personnel uses evidence-based classroom management practices outlined in RCW 28A.410.270, 28A.405.100, and 28A.410.260 to support the student in meeting behavioral expectations; and~~

~~(b) The student remains under the supervision of the teacher or other school personnel during such brief duration.~~

~~(3) **Duration of classroom exclusion.**~~

~~(a) A classroom exclusion may be administered for all or any portion of the balance of the school day ((in which the student was excluded from the student's classroom or instructional or activity area. When a student is excluded from the student's classroom or instructional or activity area for longer than the balance of the school day, the school district must provide notice and due process for a suspension, expulsion, or emergency expulsion under this chapter)), or up to the following two days, or until the principal or designee and teacher have conferred, whichever occurs first.~~

~~(b) **(Removal from school.** A student may not be removed from school during a classroom exclusion unless the school district pro-~~



~~vides notice and due process for a suspension, expulsion, or emergency expulsion under this chapter.~~

~~(4)) A classroom exclusion that exceeds this time period, and if such students have repeatedly disrupted the learning of other students, may be considered a suspension in accordance with this chapter and must provide for early involvement of parents in attempts to improve the student's behavior.~~

~~(4) The procedures shall assure, pursuant to RCW 28A.400.110, that all staff work cooperatively toward consistent enforcement of proper student behavior throughout each school, as well as within each classroom.~~

~~(5) **Assignments and tests.** The school district must provide the student an opportunity to make up any assignments and tests missed during the classroom exclusion.~~

AMENDATORY SECTION (Amending WSR 18-16-081, filed 7/30/18, effective 8/31/18)

**WAC 392-400-335 Classroom exclusion—Notice and procedure.**

~~((Following a classroom exclusion under WAC 392-400-330:~~

~~(1) **Notice to principal.** The teacher or other school personnel must report the classroom exclusion, including the behavioral violation that led to the classroom exclusion, to the principal or designee as soon as reasonably possible.~~

~~(2) **Notice to parents.** The teacher, principal, or designee must notify the student's parents regarding the classroom exclusion as soon as reasonably possible. The school district must ensure that this notification is in a language the parents understand, which may require language assistance for parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.~~

~~(3) **Emergency circumstances.** When a teacher or school personnel administers a classroom exclusion on the grounds that the student's presence poses an immediate and continuing danger to other students or school personnel, or an immediate and continuing threat of material and substantial disruption of the educational process:~~

~~(a) The teacher or other school personnel must immediately notify the principal or designee; and~~

~~(b) The principal or designee must meet with the student as soon as reasonably possible and administer appropriate discipline.) School boards must ensure they have a policy that determines when a teacher or other school personnel shall report a classroom exclusion to a principal, principal designee, and parent. School district policies under this section must ensure:~~

~~(1) The teacher communicates and collaborates with students, families, and all educational stakeholders in an ethical and professional manner to promote student learning. WAC 392-400-110.~~

~~(2) Regardless of how the notice is provided to the parents, guardians, or families (electronically, face-to-face), the school district must ensure that this notification is in a language that the parents understand, which may require language assistance for parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.~~

AMENDATORY SECTION (Amending WSR 19-12-050, filed 5/31/19, effective 7/1/19)

**WAC 392-400-510 Emergency ((expulsions)) removals—Conditions and limitations.** A school district may immediately remove a student from the student's current school placement, subject to the following requirements:

(1) **Sufficient cause.** The school district must have sufficient cause to believe that the student's presence poses:

(a) An immediate and continuing danger to other students or school personnel; or

(b) An immediate and continuing threat of material and substantial disruption of the educational process.

(2) **Determination of immediate and continuing threat of disruption.** For purposes of this section, an immediate and continuing threat of material and substantial disruption of the educational process means:

~~((a))~~ The student's behavior results in an extreme disruption of the educational process that creates a substantial barrier to learning for other students across the school day ~~(; and~~

~~(b) School personnel have exhausted reasonable attempts at administering other forms of discipline to support the student in meeting behavioral expectations).~~

(3) **Time limit.** An emergency ~~((expulsion))~~ removal may not exceed ~~((ten))~~ 10 consecutive school days. An emergency ~~((expulsion))~~ removal must end or be converted to another form of discipline within ~~((ten))~~ 10 school days from the start of the emergency ~~((expulsion))~~ removal.

(4) **Conversion.** If a school district converts an emergency ~~((expulsion))~~ removal to a suspension or expulsion, the district must:

(a) Apply any days that the student was emergency ~~((expelled))~~ removed before the conversion to the total length of the suspension or expulsion; and

(b) Provide the student and parents notice and due process under WAC 392-400-430 through 392-400-480.

(5) **Reporting.** All emergency ~~((expulsions))~~ removals, including the reason the student's presence poses an immediate and continuing danger to other students or school personnel, must be reported to the district superintendent or designee within ~~((twenty-four))~~ 24 hours after the start of the emergency ~~((expulsion))~~ removal.

AMENDATORY SECTION (Amending WSR 18-16-081, filed 7/30/18, effective 7/1/19)

**WAC 392-400-515 Emergency ((expulsions)) removals—Notice to student and parents.** (1) **Initial notice.** After an emergency ~~((expulsion))~~ removal, the school district must attempt to notify the student's parents, as soon as reasonably possible, regarding the reason the district believes the student's presence poses an immediate and continuing danger to other students or school personnel, or an immediate and continuing threat of material and substantial disruption of the educational process.

(2) **Written notice.** Within ~~((twenty-four))~~ 24 hours after an emergency ~~((expulsion))~~ removal, a school district must provide written notice of the emergency ~~((expulsion))~~ removal to the student and

parents in person, by mail, or by email. The written notice must include:

(a) The reason the student's presence poses an immediate and continuing danger to students or school personnel, or poses an immediate and continuing threat of material and substantial disruption of the educational process;

(b) The duration and conditions of the emergency (~~(expulsion)~~) removal, including the dates on which the emergency (~~(expulsion)~~) removal will begin and end;

(c) The opportunity to receive educational services during the emergency (~~(expulsion)~~) removal under WAC 392-400-610;

(d) The student's and parents' right to an informal conference with the principal or designee under WAC 392-400-520; and

(e) The student's and parents' right to appeal the emergency (~~(expulsion)~~) removal under WAC 392-400-525, including where and to whom the appeal must be requested.

(3) **Language assistance.** The school district must ensure the initial and written notices required under this section are provided in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

AMENDATORY SECTION (Amending WSR 18-16-081, filed 7/30/18, effective 7/1/19)

**WAC 392-400-520 Emergency (~~(expulsions)~~) removals—Optional conference with principal.** (1) **Requesting a conference.** If a student or the parents disagree with the school district's decision to administer an emergency (~~(expulsion)~~) removal, the student or parents may request an informal conference with the principal or designee to resolve the disagreement. The request for an informal conference may be made orally or in writing.

(2) **Time limit.** The principal or designee must hold the conference within three school business days after receiving the request, unless otherwise agreed to by the student and parents.

(3) **Conference.** During the informal conference, the principal or designee must provide students and parents the opportunity to share the student's perspective and explanation regarding the events that led to the emergency (~~(expulsion)~~) removal.

(4) **Language assistance.** The school district must ensure the conference is held in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

(5) **Right to appeal.** An informal conference must not limit a student's or parents' right to appeal the emergency (~~(expulsion)~~) removal under WAC 392-400-525.

AMENDATORY SECTION (Amending WSR 19-12-050, filed 5/31/19, effective 7/1/19)

**WAC 392-400-525 Emergency ((expulsions)) removals—Appeal.** (1) **Requesting an appeal.** A student or the parents may appeal an emergency ((expulsion)) removal to the school district superintendent or designee orally or in writing.

(2) **Time limit.** A school district may establish a time limit to appeal an emergency ((expulsion)) removal. Appeal time limits must be no less than three school business days from the date the school district provides the written notice of the emergency ((expulsion)) removal.

(3) **Notice.** Within one school business day after receiving the appeal request, unless otherwise agreed to by the student and parents, the superintendent or designee must provide the student and parents written notice in person, by mail, or by email of:

- (a) The time, date, and location of the appeal hearing;
- (b) The name(s) of the official(s) presiding over the appeal;
- (c) The student's and parents' rights to inspect the student's education records under subsection (6) of this section;
- (d) The student's and parents' rights to inspect any documentary or physical evidence and a list of any witnesses that will be introduced at the hearing under subsection (6) of this section; and
- (e) The student's and parents' rights under subsection (7) of this section.

(4) **Appeal hearing.** The school district must hold an appeal hearing as soon as reasonably possible, but no later than two school business days after the date the superintendent or designee received the appeal request, unless otherwise agreed to by the student and parents.

(5) **Presiding official(s).** The school board may designate the superintendent, a hearing officer, or a discipline appeal council, if established under WAC 392-400-475, to hear and decide appeals under this section. The presiding official(s) may not be involved in the student's behavioral violation or decision to emergency ((~~expel~~) remove) the student and must be knowledgeable about the rules in this chapter and of the school district's discipline policies and procedures.

(6) **Evidence and witnesses.**

(a) Upon request, the student, parents, and school district may inspect any documentary or physical evidence and a list of any witnesses that will be introduced at the appeal hearing. The school district, student, or parents must make the information available as soon as reasonably possible, but no later than the end of the school business day before the appeal hearing.

(b) Upon request, the student and parents may review the student's education records. The school district must make the records available as soon as reasonably possible, but no later than the end of the school business day before the appeal hearing.

(c) If a witness for the school district cannot or does not appear at the appeal hearing, the presiding official(s) may excuse the witness's nonappearance if the district establishes that:

(i) The district made a reasonable effort to produce the witness; and

(ii) The witness's failure to appear is excused by fear of reprisal or another compelling reason.

(7) **Student and parent rights.** The student and parents have the right to:

- (a) Be represented by legal counsel;
- (b) Question witnesses;
- (c) Share the student's perspective and provide explanation regarding the events that led to the emergency (~~(expulsion)~~) removal; and
- (d) Introduce relevant documentary, physical, or testimonial evidence.

(8) **Recording of hearing.** The appeal hearing must be recorded by analog, digital, or other type of recording device. The school district must provide the recording to the student or parents upon request.

(9) **Appeal decision.** The school district must provide a written decision to the student and parents in person, by mail, or by email within one school business day after the appeal hearing. The written decision must include:

- (a) The findings of fact;
- (b) A determination whether the student's presence continues to pose:
  - (i) An immediate and continuing danger to students or school personnel; or
  - (ii) An immediate and continuing threat of material and substantial disruption of the educational process.

(c) Whether the school district will end the emergency (~~(expulsion)~~) removal or convert the emergency (~~(expulsion)~~) removal to a suspension or expulsion. If the school district converts the emergency (~~(expulsion)~~) removal to a suspension or expulsion, the district must provide the student and parents notice and due process under WAC 392-400-430 through 392-400-480; and

(d) Notice of the student's and parents' right to request review and reconsideration of the appeal decision under WAC 392-400-530, including where and to whom to make the request.

(10) **Language assistance.** The school district must ensure that any appeal proceedings, notices, and decisions are provided in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

AMENDATORY SECTION (Amending WSR 19-12-050, filed 5/31/19, effective 7/1/19)

**WAC 392-400-530 Emergency (~~(expulsions)~~) removals—Review and reconsideration.** (1) **Requesting review.** The student or parents may request that the school board or discipline appeal council, if established under WAC 392-400-475, review and reconsider the school district's appeal decision under WAC 392-400-525. The student or parents may request the review orally or in writing.

(2) **Time limit.** A school district may establish a time limit for parents and students to request a review under this section. The time limit must be no less than five school business days from the date the school district provided the written appeal decision to the student and parents under WAC 392-400-525.

(3) **Review procedure.**

(a) In reviewing the school district's decision, the school board or discipline appeal council must consider all documentary and physical evidence related to the events that led to the emergency (~~(expulsion)~~) removal, any records from the appeal under WAC 392-400-525, relevant state law, and the district's discipline policy adopted under WAC 392-400-110.

(b) The school board or discipline appeal council may request to meet with the student or parents, the principal, witnesses, or school personnel to hear further arguments and gather additional information.

(c) The decision of the school board or discipline appeal council must be made only by board or council members who were not involved in the events that led to the emergency (~~(expulsion)~~) removal, the decision to emergency (~~(expel)~~) remove the student, or the appeal decision under WAC 392-400-525. If the discipline appeal council presided over the appeal under WAC 392-400-525, the decision must be made by the school board.

(4) **Decision.** The school board or discipline appeal council must provide a written decision to the student and parents in person, by mail, or by email within five school business days after receiving the request for review and reconsideration. The written decision must identify:

(a) Whether the school board or discipline appeal council affirms or reverses the school district's decision that the student's presence posed:

(i) An immediate and continuing danger to students or school personnel; or

(ii) An immediate and continuing threat of material and substantial disruption of the educational process.

(b) If the emergency (~~(expulsion)~~) removal has not yet ended or been converted, whether the school district will end the emergency (~~(expulsion)~~) removal or convert the emergency (~~(expulsion)~~) removal to a suspension or expulsion. If the school district converts the emergency (~~(expulsion)~~) removal to a suspension or expulsion, the district must provide the student and parents notice and due process under WAC 392-400-430 through 392-400-480.

(5) **Language assistance.** The school district must ensure that any review proceedings and decision are in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

AMENDATORY SECTION (Amending WSR 18-16-081, filed 7/30/18, effective 8/31/18)

**WAC 392-400-610 Educational services during suspension, expulsion, or emergency (~~(expulsion)~~) removal.** (1) **Educational services.**

(a) A school district may not suspend the provision of educational services to a student in response to behavioral violations.

(b) During the suspension, expulsion, or emergency (~~(expulsion)~~) removal of a student, a school district must provide the student the opportunity to receive educational services. The educational services must enable the student to:

(i) Continue to participate in the general education curriculum;

(ii) Meet the educational standards established within the district; and

(iii) Complete subject, grade-level, and graduation requirements.

(c) When providing a student the opportunity to receive educational services under this section, the school district must consider:

(i) Meaningful input from the student, parents, and the student's teachers;

(ii) Whether the student's regular educational services include English language development services, special education, accommodations and related services under Section 504 of the Rehabilitation Act of 1973, or supplemental services designed to support the student's academic achievement; and

(iii) Access to any necessary technology, transportation, or resources the student needs to participate fully in the educational services.

(d) A school district may provide educational services to the student in an alternative setting or modify the suspension or expulsion on a case-by-case basis. An alternative setting should be comparable, equitable, and appropriate to the regular educational services a student would have received without the exclusionary discipline. Example alternative settings include alternative high schools, one-on-one tutoring, and online learning.

(2) **Notice.** As soon as reasonably possible after administering a suspension or expulsion, a school district must provide written notice to the student and parents about the educational services the district will provide. The school district must provide the written notice in person, by mail, or by email. The notice must include:

(a) A description of the educational services that will be provided; and

(b) The name and contact information for the school personnel who can offer support to keep the student current with assignments and course work as required under this section.

(3) **Exclusions for up to five days.** For students subject to suspension or emergency (~~expulsion~~) removal for up to five consecutive school days, a school district must provide at least the following:

(a) Course work, including any assigned homework, from all of the student's regular subjects or classes;

(b) Access to school personnel who can offer support to keep the student current with assignments and course work for all of the student's regular subjects or classes; and

(c) An opportunity for the student to make up any assignments and tests missed during the period of suspension or emergency (~~expulsion~~) removal.

(4) **Exclusions for six to (~~ten~~) 10 days.** For students subject to suspension or emergency (~~expulsion~~) removal for six to (~~ten~~) 10 consecutive school days, a school district must provide at least the following:

(a) Course work, including any assigned homework, from all of the student's regular subjects or classes;

(b) Access to school personnel who can offer support to keep the student current with assignments and course work for all of the student's regular subjects or classes. School personnel must make a reasonable attempt to contact the student or parents within three school business days following the start of the suspension or emergency (~~expulsion~~) removal and periodically thereafter until the suspension or emergency (~~expulsion~~) removal ends to:

(i) Coordinate the delivery and grading of course work between the student and the student's teacher(s) at a frequency that would al-

low the student to keep current with assignments and course work for all of the student's regular subjects or classes; and

(ii) Communicate with the student, parents, and the student's teacher(s) about the student's academic progress.

(c) An opportunity for the student to make up any assignments and tests missed during the period of suspension or emergency (~~expulsion~~) removal.

(5) **Long-term suspensions and expulsions.** For students subject to expulsion or suspension for more than (~~ten~~) 10 consecutive school days, a school district must provide educational services in accordance with WAC 392-121-107.

(6) **Language assistance.** The school district must ensure that notices and communications required under this section are provided in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

## OTS-5254.1

AMENDATORY SECTION (Amending WSR 22-13-056, filed 6/8/22, effective 8/1/22)

**WAC 392-401-020 Excused absences.** (1) Absences due to the following reasons must be excused:

(a) Physical health or mental health symptoms, illness, health condition or medical appointment for the student or person for whom the student is legally responsible. Examples of symptoms, illness, health conditions, or medical appointments include, but are not limited to, medical, counseling, mental health wellness, dental, optometry, pregnancy, and behavioral health treatment (which can include in-patient or out-patient treatment for chemical dependency or mental health);

(b) Family emergency including, but not limited to, a death or illness in the family;

(c) Religious or cultural purpose including observance of a religious or cultural holiday or participation in religious or cultural instruction;

(d) Court, judicial proceeding, court-ordered activity, or jury service;

(e) Post-secondary, technical school or apprenticeship program visitation, or scholarship interview;

(f) State-recognized search and rescue activities consistent with RCW 28A.225.055;

(g) Absence directly related to the student's homeless or foster care/dependency status;

(h) Absences related to deployment activities of a parent or legal guardian who is an active duty member consistent with RCW 28A.705.010;

(i) Absences due to suspensions, expulsions or emergency (~~expulsions~~) removals imposed pursuant to chapter 392-400 WAC if the student is not receiving educational services and is not enrolled in qualifying "course of study" activities as defined in WAC 392-121-107;



- (j) Absences due to student safety concerns, including absences related to threats, assaults, or bullying;
  - (k) Absences due to a student's migrant status;
  - (l) Absences due to an approved activity that is consistent with district policy and is mutually agreed upon by the principal or designee and a parent, guardian, or emancipated youth; and
  - (m) Absences due to the student's lack of necessary instructional tools, including internet access or connectivity.
- (2) In the event of emergency school facility closure due to COVID-19, other communicable disease outbreak, natural disaster, or other event when districts are required to provide synchronous and asynchronous instruction, absences due to the following reasons must be excused:
- (a) Absences related to the student's illness, health condition, or medical appointments due to COVID-19 or other communicable disease;
  - (b) Absences related to caring for a family member who has an illness, health condition, or medical appointment due to COVID-19, other communicable disease, or other emergency health condition related to school facility closures;
  - (c) Absences related to the student's family obligations during regularly scheduled school hours that are temporarily necessary because of school facility closures, until other arrangements can be made; and
  - (d) Absences due to the student's parent's work schedule or other obligations during regularly scheduled school hours, until other arrangements can be made.
- (3) Districts may define additional categories or criteria for excused absences. A school principal or designee has the authority to determine if an absence meets the criteria in subsections (1) and (2) of this section and school district policy for an excused absence.

AMENDATORY SECTION (Amending WSR 21-17-088, filed 8/13/21, effective 9/13/21)

**WAC 392-401-040 Student absences—General requirements.** (1)

Students shall not be considered absent if:

- (a) The student has been suspended, expelled, or emergency (~~expelled~~) removed pursuant to chapter 392-400 WAC;
  - (b) Are receiving educational services as required by RCW 28A.600.015 and chapter 392-400 WAC; and
  - (c) The student is enrolled in qualifying "course of study" activities as defined in WAC 392-121-107.
- (2) A school or district shall not convert or combine tardies into absences that contribute to a truancy petition.

**WSR 24-17-124**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-159—Filed August 19, 2024, 4:24 p.m., effective August 21, 2024]

Effective Date of Rule: August 21, 2024.

Purpose: The purpose of this emergency rule is to close recreational coastal salmon fishing in Marine Area 3.

Citation of Rules Affected by this Order: Repealing WAC 220-313-07500Z; and amending WAC 220-313-075.

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 purpose of this rule is to close recreational salmon fishing in Area 3. Coho catch for Area 3 is projected to be near the quota for the area by August 20, and would likely be exceeded if the fishery remained open. 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: August 19, 2024.

Amy H. Windrope  
for Kelly Susewind  
Director

NEW SECTION

**WAC 220-313-07500A Pacific Ocean salmon—Seasons—Closed areas.**

Effective August 21 through September 30, 2024, the provisions of WAC 220-313-075 regarding recreational salmon seasons for Marine Areas 1 through 4 shall be as described below. All other provisions of WAC 220-313-075 not addressed herein remain in effect unless otherwise amended:

- (1) **Catch Record Card Area 1:**

- (a) Open August 21 through August 22, 2024:
  - (i) Daily limit of 2 salmon including no more than one Chinook.
  - (ii) Release wild coho.
  - (iii) Chinook minimum length 22 inches.
  - (iv) Coho minimum length 16 inches.
- (b) August 23, 2024, until further notice: Closed to fishing for salmon. It is unlawful to possess salmon on board a vessel, including in transit.
- (2) **Catch Record Card Area 2:**
  - Open August 19 through September 15, 2024:
    - (a) Daily limit of 2 salmon including no more than one Chinook.
    - (b) Release wild coho.
    - (c) Chinook minimum length 22 inches.
    - (d) Coho minimum length 16 inches.
    - (e) Grays Harbor Control Zone is closed. See WAC 220-306-040 for area definition.
  - (3) **Catch Record Card Area 3:** Closed to fishing for salmon. It is unlawful to possess salmon on board a vessel, including in transit.
  - (4) **Catch Record Card Area 4:**
    - Open August 19 through September 15, 2024:
      - (a) Daily limit of 2 salmon.
      - (b) Release chum and wild coho.
      - (c) Chinook minimum length 24 inches.
      - (d) Coho minimum length 16 inches.
      - (e) No chinook retention allowed in waters east of the Bonilla-Tatoosh line.

#### REPEALER

The following section of the Washington Administrative Code is repealed, effective August 21, 2024:

WAC 220-313-07500Z Pacific Ocean salmon—Seasons—Closed areas. (24-157)

**WSR 24-17-129**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-160—Filed August 20, 2024, 10:45 a.m., effective August 20, 2024, 10:45 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule:

(1) Implements the hardclosure dates agreed to with comanagers for commercial shrimp harvest in Puget Sound by management area.

(2) Designates the commercial spot shrimp catch accounting periods and catch limits.

(3) Implements a reduced pot limit in Region 5 congruent with RCW 77.50.100.

(4) Designates the commercial nonspot shrimp catch accounting periods and biweekly catch limit for harvest from Subregions 1B and 1C and Region 2E.

Citation of Rules Affected by this Order: Repealing WAC 220-340-52000Z and 220-340-53000C; and amending WAC 220-340-520 and 220-340-530.

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

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

Reasons for this Finding: Permanent rules regulating state commercial shrimp harvest in Puget Sound and the Strait of Juan de Fuca require the adoption of harvest seasons contained in this emergency rule. This emergency rule is necessary to prosecute state commercial shrimp pot fisheries in Puget Sound. This rule closes a quota area to commercial harvest following the projected attainment of the available harvest. This rule allows harvesters to respond to dynamic changes in market conditions and promotes full utilization of both the commercial spot and nonspot shares. These rules are in congruence with comanager agreements. There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 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: August 20, 2024.

Kelly Susewind  
Director

NEW SECTION**WAC 220-340-52000A Commercial shrimp pot fishery—Puget Sound.**

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

(1) Spot Shrimp Pot Harvest:

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

<b>Geographical Management Unit (WAC 220-320-140; WAC 220-320-120)</b>	<b>Open Period</b>
Subregion 1A	Closed.
Subregion 1B	Closed.
Subregion 1C	Closed.
Region 2E	Closed.
Region 2W	Immediately, through September 15, 2024.
Subarea 23A-E	Closed.
Subarea 23A-W	Closed.
Subarea 23A-C and MSFS Catch Area 23B	Closed.
Subarea 23A-S and MSFS Catch Area 23D	Immediately, through September 15, 2024.
MFSF Catch Area 23C	Immediately, through September 15, 2024.
MFSF Catch Area 25A, excluding the Discovery Bay Shrimp District	Closed.
Discovery Bay Shrimp District	Closed.
MFSF 29 (Straits - Neah Bay)	Immediately, through September 15, 2024.
Subarea 26B-1 and MFSF Catch Area 26C	Immediately, through September 15, 2024.
Subarea 26B-2	Immediately, through September 15, 2024.
Region 5	Immediately, through August 31, 2024.
MFSF Catch Area 26D	Closed.
MFSF Catch Areas 28A, 28B, 28C, and 28D	Closed.

(b) The first spot shrimp catch accounting period starts one hour before official sunrise on May 1, 2024, through one hour after official sunset on July 30, 2024.

(c) It is unlawful for the combined total harvest during the first spot shrimp accounting period to have exceeded 4,800 pounds of spot shrimp per license from all Puget Sound shrimp management regions combined.

(d) The second spot shrimp catch accounting period starts one hour before official sunrise on July 31, 2024, through one hour after official sunset on August 20, 2024.

(e) It is unlawful for the combined total harvest during the first and second spot shrimp accounting periods to have exceeded 5,300 pounds of spot shrimp per license from all Puget Sound shrimp management regions combined.

(f) Harvesters may deploy no more than 50 spot shrimp pots per license in Shrimp Management Region 5.

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

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

(2) Non-spot shrimp pot harvests:

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

<b>Geographical Management Unit (WAC 220-320-140; WAC 220-320-120)</b>	<b>Open Period</b>
Subregion 1A	Immediately, through October 15, 2024.
Subregion 1B	Closed.
Subregion 1C	Closed.
Region 2E	Closed.
Region 2W	Immediately, through October 15, 2024.
Region 3, not including Discovery Bay Shrimp District	Immediately, through October 15, 2024.
Discovery Bay Shrimp District	Immediately, through October 15, 2024.
Region 4	Closed
Region 5	Closed
Region 6	Closed

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

<b>Period Number</b>	<b>Start Date</b>	<b>End Date</b>
<b>1</b>	5/1/2024	5/14/2024
<b>2</b>	5/15/2024	5/28/2024
<b>3</b>	5/29/2024	6/11/2024
<b>4</b>	6/12/2024	6/25/2024
<b>5</b>	6/26/2024	7/9/2024
<b>6</b>	7/10/2024	7/23/2024
<b>7</b>	7/24/2024	8/6/2024
<b>8</b>	8/7/2024	8/20/2024
<b>9</b>	8/21/2024	9/3/2024
<b>10</b>	9/4/2024	9/17/2024
<b>11</b>	9/18/2024	10/1/2024
<b>12</b>	10/2/2024	10/15/2024

(c) It is unlawful for total harvest of non-spot shrimp to exceed 1,400 pounds per non-spot shrimp catch accounting period from subregions 1B, 1C, and Region 2E combined during catch accounting periods 1 through 12.

(d) There is no weekly harvest limit of non-spot shrimp from subregion 1A, Region 2W, Region 3, or the Discovery Bay Shrimp District.

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

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

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

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

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

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

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

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

NEW SECTION

**WAC 220-340-53000D Commercial shrimp trawl fishery—Puget Sound.**

Notwithstanding the provisions of WAC 220-340-530, effective immediately until further notice, it is unlawful to fish for shrimp for commercial purposes using beam trawl gear in Puget Sound except as provided for in Tables a, b, and c of this section:

(a) Non-spot shrimp beam trawl harvest is permitted starting one hour before official sunrise on the hard season opening dates listed for each of the areas detailed below.

<b>Geographic Area Description (WAC 220-320-140(3); WAC 220-320-120)</b>	<b>Open period</b>
Catch Area 20A outside of those waters north and east of a line from Point Roberts Light (48.9716°, -123.0838°) to Sandy Point Light at the Lummi Reservation (48.7868°, -122.7124°)	Immediately, through October 15, 2024.
Those waters within the Lummi-Sinclair Triangle.	Immediately, through October 15, 2024.
Those waters of South Lopez Sound.	Immediately, through October 15, 2024.
All waters within subregion 1B, excluding those waters of South Lopez Sound, the Lummi-Sinclair Triangle, and Catch Area 20B.	Immediately, through October 15, 2024.
Subarea 23A East, MFSF Catch Areas 23B, and MFSF Catch Area 25A outside of the Discovery Bay Shrimp District.	Immediately, through September 30, 2024.
Subarea 23A West	Immediately, through September 30, 2024.
MFSF Catch Area 23C	Immediately, through September 30, 2024.
MFSF Catch Area 29	Immediately, through September 30, 2024.

(b) Non-spot shrimp beam trawl harvest is permitted starting one hour before official sunrise in the areas detailed below contingent on the harvester bringing a WDFW on-board observer on the first trip of the area. If by-catch sampling criteria are not met these areas will open on the later dates described in WAC 220-340-530 (5) (d) and (5) (e) .

<b>Geographic Area Description (WAC 220-320-140(3); WAC 220-320-120)</b>	<b>Open period</b>
Those waters within the Rosario Box.	Immediately, through October 15, 2024.
Those waters of Catch Area 22A within subregion 1B, excluding the Rosario Box and South Lopez Sound.	Immediately, through October 15, 2024.
Those waters of Catch Area 20B within subregion 1B.	Closed.

(c) Non-spot shrimp beam trawl harvest is not permitted in the areas of Shrimp Management Regions 1 and 3 detailed below.

<b>Geographic Area Description (WAC 220-320-140(3); WAC 220-320-120)</b>
Discovery Bay Shrimp District
Sequim Bay CSMA
MFSF Catch Area 23D
Subregion 1A

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

REPEALER

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

- WAC 220-340-52000Z Commercial shrimp pot fishery—Puget Sound. (24-148)
- WAC 220-340-53000C Commercial shrimp trawl fishery—Puget Sound. (24-110)

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



**WSR 24-17-139**  
**EMERGENCY RULES**  
**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Developmental Disabilities Administration)

[Filed August 21, 2024, 7:54 a.m., effective August 21, 2024, 7:54 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The developmental disabilities administration (DDA) is adopting a new chapter of rules on an emergency basis to implement ESSB 5950 (2024), which directs the department of social and health services (DSHS) to "to operate a staff-secure, voluntary, and transitional treatment facility specializing in services for adolescents over the age of 13 who have complex developmental, intellectual disabilities, or autism spectrum disorder and may also have a mental health or substance use diagnosis." Services must be provided at the property of Lake Burien and be implemented in a way that prioritizes discharge to a less restrictive community-based setting.

The emergency rules will establish service eligibility criteria, responsibilities for involved parties, administrative hearing rights, and more.

Citation of Rules Affected by this Order: New WAC 388-843-0010, 388-843-0015, 388-843-0020, 388-843-0025, 388-843-0100, 388-843-0110, 388-843-0120, 388-843-0160, 388-843-0170, and 388-843-0180.

Statutory Authority for Adoption: RCW 34.05.350 (1)(a), 71A.12.030.

Other Authority: 2023-2025 Supplemental operating budget (ESSB 5950, sections 203 (1)(nn) and 227(44)).

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: In the 2024 legislative session, the legislature has authorized and directed DSHS/DDA "to operate a staff-secure, voluntary, and transitional treatment facility specializing in services for adolescents over the age of 13 who have complex developmental, intellectual disabilities, or autism spectrum disorder and may also have a mental health or substance use diagnosis." The legislature has specified that "[t]hese individuals require intensive behavioral supports and may also be in need of behavioral health services."

Currently there are a significant number of children admitted to acute care facilities without medical need to remain. There are also children who have been sent out-of-state, away from their families, for services because no other option was available in Washington state to provide the necessary level of support. These children have an immediate need, which can be met by the youth transitional care facility, for age-appropriate, holistic, cooccurring disorder treatment and therapies.

From January 1, 2024, to present, DDA data show that there were 77 DDA-eligible youth with a diagnosis of intellectual and developmental disabilities, autism spectrum disorder, and a mental health diagnosis under the age of 18 who were hospitalized and unable to discharge due to a lack of appropriate placement or supports as determined by the youth's treating professional. The youth transitional care facility (YTCF) will provide specialized treatment using adap-

tive, evidence-based treatment modalities to meet the needs of this population. YTCF was created to fill the gap in the continuum of care for youth with these cooccurring diagnoses.

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 10, 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 10, Amended 0, Repealed 0.

Date Adopted: August 20, 2024.

Katherine I. Vasquez  
Rules Coordinator

**SHS-5052.2**

**Chapter 388-843 WAC  
YOUTH TRANSITIONAL CARE FACILITY**

**PURPOSE**

NEW SECTION

**WAC 388-843-0010 What is a youth transitional care facility?** A youth transitional care facility is a staff-secure, voluntary, and transitional treatment facility that:

(1) Specializes in services for youth who have complex developmental, intellectual disabilities, or autism spectrum disorder and may also have a mental health or substance use diagnosis.

(2) Supports youth who require intensive behavioral supports and who may also need behavioral health services.

(3) Provides services in a way that supports the youth to transition to a less restrictive community-based setting.

## DEFINITIONS

NEW SECTION

**WAC 388-843-0015 What definitions apply to this chapter? Admission team** means an interdisciplinary group at a youth transitional care facility who reviews a youth's application and supporting documentation to determine if there is capacity to safely serve the youth at the facility and to establish an admission date.

**DCYF** means the department of children, youth, and families.

**DDA** means the developmental disabilities administration within the department of social and health services.

**Dedicated review committee** means a committee of subject matter experts that reviews a youth's eligibility for specialized treatment at a youth transitional care facility.

**Genetic condition** means a condition that is the result of variants in the genome and impairs the cognitive or developmental growth or abilities of the youth.

**Individualized treatment plan** means a detailed plan that documents treatment activities that uses the youth's strengths and protective factors to support treatment activities, therapies, training, and future planning customized to address the youth's needs as a whole person. The individualized treatment plan is continuously reassessed and changed based on the youth's treatment progress and evolving needs.

**Neurological condition** means a neurological condition that affects the brain, spinal cord, or system, and impairs the cognitive or developmental growth or abilities of the youth.

**Neurodevelopmental disorder** means types of disorders that influence how the brain functions and alters neurological development, causing difficulties in social, cognitive, and emotional functioning.

**Psychiatric diagnosis** means a clinically significant condition that affects the person's ability to think, regulate their emotions or behaviors, and represents a dysfunction in psychological, biological, or developmental processes underlying their mental functioning. Clinically trained professionals evaluate conditions and make diagnostic determinations consistent with the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition Text Revision (DSM-5-TR) or the International Classification of Diseases, 10th Edition (ICD-10) or their successors.

**Specialized treatment** means adapted mental health modalities and rehabilitative interventions through an interdisciplinary approach to support youth with complex developmental disabilities, intellectual disabilities, or autism spectrum disorder who may also have a mental health or substance use diagnosis.

**Youth transitional care facility or facility** means the staff-secure and voluntary facility offering specialized treatment and rehabilitative interventions for eligible youth.

**ELIGIBILITY**NEW SECTION

**WAC 388-843-0020 Who is eligible for specialized treatment at a youth transitional care facility?** (1) A youth is eligible for specialized treatment at a youth transitional care facility if the dedicated review committee determines or verifies the youth:

(a) Is DDA-eligible under chapter 388-823 WAC or is assessed to have a diagnosed neurodevelopmental disorder, or another neurological condition or other genetic condition;

(b) Is over age 13 but under age 18;

(c) Has accessed all appropriate and available less restrictive services and the youth's assessed health care needs exceed what is available in the community;

(d) Has a serious psychiatric diagnosis;

(e) Experiences a severity, intensity, and frequency of behavior that:

(i) Significantly impairs the youth's functioning; and

(ii) Prevents the youth from being safely supported in a less restrictive setting; and

(f) Needs and is likely to benefit from specialized treatment due to their complex developmental disabilities, intellectual disabilities, and behavioral health needs.

(2) For the purposes of this section, "appropriate" means a less restrictive service recommended by the youth's treating professional.

(3) The facility will not admit or detain a youth who declines or refuses to be admitted to the facility.

NEW SECTION

**WAC 388-843-0025 If a youth is determined eligible for specialized treatment, how will the admission team at the facility determine if they are able to support the youth?** (1) The facility's admission team will review the application and supporting documentation to evaluate the youth's treatment needs.

(2) Eligibility for services at a youth transitional care facility does not entitle an individual to services in a youth transitional care facility.

(3) The youth's admission to a transitional care facility is dependent upon each of the following:

(a) Available capacity.

(b) Appropriate staffing to meet the youth's assessed treatment needs.

(c) Determination by a facility that they can safely serve the youth.

(d) Available funding.

**RIGHTS AND RESPONSIBILITIES**NEW SECTION

**WAC 388-843-0100 What is the parent or legal representative's responsibility while a youth is receiving services at a youth transitional care facility?** While a youth receives services at a youth transitional care facility, the youth's parent or legal representative must:

- (1) Enroll the youth in the local school district where the facility is located and sign a consent to exchange information;
- (2) Participate in the development and ongoing assessment of the youth's individual educational plan and maintain regular communication with the facility and school representatives;
- (3) Provide consent to administer prescribed psychotropic medications following discussion with treating provider of risks and benefits;
- (4) Attend and participate in:
  - (a) The development of the individualized treatment plan;
  - (b) Treatment team meetings;
  - (c) The DDA annual assessment, if applicable, including the person-centered service plan; and
  - (d) Implementation of the individualized treatment plan when the interdisciplinary team has determined that a parent or a legal representative's involvement is necessary to achieve a youth's treatment goals and facilitate transition to a less restrictive setting;
- (5) Manage, or appoint a representative payee to manage, the youth's social security or supplemental security income in accordance with federal social security rules, including ensuring that the youth is not over federal resource limits; and
- (6) Arrange for transportation to and from the facility when Medicaid transportation is not available.

NEW SECTION

**WAC 388-843-0110 What are the responsibilities of the department of children, youth, and families while a dependent youth is receiving services at a youth transitional care facility?** While a dependent youth receives services at a youth transitional care facility, the department of children, youth, and families (DCYF) must:

- (1) Enroll the youth in the local school district where the facility is located;
- (2) Identify a court-ordered educational liaison who will sign documents for school and participate in meetings, including individual education plan meetings, unless the parent is serving in that capacity;
- (3) Before admission, provide the following documentation of authority to administer psychotropic medications if prescribed:
  - (a) Consent from the youth's parent or legal representative; or

- (b) Court-ordered approval;
- (4) Identify a DCYF representative who is able to make decisions on behalf of the youth to attend medical and dental appointments and provide consents;
- (5) Attend and participate in:
  - (a) The development and implementation of the individualized treatment plan;
  - (b) Treatment team meetings; and
  - (c) The DDA annual assessment, if applicable, including the person-centered service plan;
- (6) Manage, or appoint a representative payee to manage, the youth's social security or supplemental security income in accordance with federal social security rules, including ensuring that the youth is not over federal resource limits; and
- (7) Notify DDA before any change to a youth's dependency status.

#### NEW SECTION

**WAC 388-843-0120 What are the responsibilities of a youth transitional care facility when a youth is approved for admission?** When a youth is approved for admission to the youth transitional care facility, the facility must:

- (1) Provide adequate staff to meet the youth's assessed treatment needs;
- (2) Develop and implement an individualized treatment plan;
- (3) Maintain regular communication with school representatives and attend school-related meetings;
- (4) Participate in the youth's individualized education program and collaborate with the school, legal representative, and parent or educational liaison to ensure timely and continuous access to a free and appropriate public education in the least restrictive environment;
- (5) Maintain regular communication with the youth's legal representative;
- (6) Maintain a youth rights policy in accordance with chapter 71A.26 RCW; and
- (7) Support the youth in maintaining contact with their parent or legal representative.

#### **DISCHARGE AND TERMINATION**

#### NEW SECTION

**WAC 388-843-0160 When may a youth transitional care facility discharge a youth?** The youth transitional care facility may discharge a youth if the facility determines:

- (1) The youth turns 18;

- (2) The youth or the youth's legal representative requests discharge;
- (3) The youth no longer requires specialized treatment under the direction of a physician;
- (4) The youth has achieved the treatment goals established at admission;
- (5) The youth presents a health or safety risk to the youth or others in the treatment environment; or
- (6) The facility is unable to meet the youth's assessed treatment needs.

### ADMINISTRATIVE HEARING RIGHTS

#### NEW SECTION

**WAC 388-843-0170 May a youth or legal representative appeal a DDA decision regarding specialized treatment?** If DDA determines a youth is not eligible to receive specialized treatment at a youth transitional care facility, the youth or legal representative can request an appeal through the office of administrative hearings.

#### NEW SECTION

**WAC 388-843-0180 May a youth or legal representative appeal a youth transitional care facility decision for specialized treatment?** A youth or legal representative does not have a right to appeal a facility:

- (a) Termination of services due to lack of funding, capacity, or staffing; or
- (b) Determination under WAC 388-843-0160 (3)-(6).