

WSR 22-22-005
EMERGENCY RULES
COMMUNITY COLLEGES
OF SPOKANE

[Filed October 20, 2022, 2:14 p.m., effective October 20, 2022, 2:14 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend chapter 132Q-10 WAC, Standards of conduct for students, in order to be compliant with HB 1751, "Sam's Law," hazing prevention.

Citation of Rules Affected by this Order: Amending WAC 132Q-10-101(20) [132Q-10-105], 132Q-10-120, and 132Q-10-218.

Statutory Authority for Adoption: RCW 28B.50.140; chapter 34.05 RCW; HB 1751 ("Sam's Law," hazing prevention).

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: College is required to comply with HB 1751; some provisions of the law became effective fall 2022.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 20, 2022.

John O'Rourke
Grants and Contracts Manager

OTS-4160.1

AMENDATORY SECTION (Amending WSR 15-15-161, filed 7/21/15, effective 8/21/15)

WAC 132Q-10-105 Definitions. For the purposes of this chapter, the following terms shall mean:

(1) "Accused student" means any student accused of violating the standards of conduct for students.

(2) "Appeals board" is a district-wide board composed of one administrator from each college appointed by the chief executive of that college. The appeals board considers appeals from a student conduct board's determination or from the sanctions imposed by the student

conduct officer. The appeals board is convened by the student conduct officer.

(3) The "chief student services officer" is the vice president of student services of Spokane Community College or of Spokane Falls Community College, or a person designated by the college president to be responsible for the administration of the standards of conduct for students. The chief student services officer also serves as the Title IX coordinator for matters regarding conduct of Community Colleges of Spokane (CCS) students.

(4) "College" means Spokane Community College, Spokane Falls Community College, and all locations of CCS.

(5) "College official" includes any person employed by the college performing assigned duties with the exception of work study students.

(6) "College premises" includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the Community Colleges of Spokane (including adjacent streets and sidewalks).

(7) "College president" includes the president of Spokane Falls Community College and the president of Spokane Community College. Each president is authorized to designate a chief student service officer on behalf of his or her respective institutions.

(8) "Complainant" means any member of CCS, including employee(s), contractor(s), visitor(s), or guest(s) who submits a report alleging that a student violated the standards of conduct for students. When students believe they have been victimized by another student's misconduct, they have the same rights under these standards as are provided to the complainant, even if another member of CCS submitted the charge itself. For the purposes of complaints involving sexual misconduct, the "complainant" is the alleged victim of sexual misconduct even if the complaint is filed by a third party including, but not limited to, complaints filed by CCS, SFCC, or SCC.

(9) "Disciplinary action" is the process by which discipline is imposed against a student, members of a student organization, or a student organization for a violation of the standards of conduct for students by a student conduct officer, the student conduct board, the student conduct administrative panel, the appeals board, or a faculty member.

(10) "Disciplinary appeal" is the process by which an aggrieved student can appeal the discipline imposed by the chief student services officer, the student conduct officer, the student conduct board, or the student conduct administrative panel. Appeals of all appealable disciplinary action shall be determined by the appeals board.

(11) "Disciplinary hearing" is the process during which an accused student has the opportunity to respond to a complaint alleging a violation(s) of the standards of conduct for students. The accused student has the opportunity to explain what he or she did and to provide evidence that is relevant to the complaint. Alleged misconduct that would not result in suspension in excess of ~~((ten))~~ 10 instructional days or an expulsion shall be reviewed through a brief adjudicative proceeding held by the student conduct officer or the student conduct board.

(12) "Faculty member" means a teacher, counselor, or librarian or person who is otherwise considered by the college to be a member of its faculty.

(13) "Filing" is the process by which a document is officially delivered to a school official responsible for facilitating a disci-

plinary review. Unless expressly specified otherwise, filing shall be accomplished by:

(a) Hand delivery of the document to the school official or school official's assistant; or

(b) By sending the document by email and first class mail to the recipient's college email and office address. Papers required to be filed with the college shall be deemed filed upon actual receipt during office hours at the office of the specified official.

(14) "Instructional day" means Monday through Friday, except for federal or state holidays, when students are in attendance for instructional purposes.

(15) "Member of CCS" includes any person who is a student, faculty member, college official, guest, contractor, or visitor of CCS. A person's status in a particular situation is determined by the chief student services officer.

(16) "Notice" or "service" is the process by which a document is officially delivered to a party. Unless expressly specified otherwise, service upon a party shall be accomplished by:

(a) Hand delivery of the document to the party; or

(b) By sending the document by email and by certified mail or first class mail to the party's last known address. Service is deemed complete upon hand delivery of document or upon the date the document is emailed and deposited into mail.

(17) "Respondent" is the student against whom disciplinary action is initiated.

(18) "Sexually violent conduct" is a sexual or gender-based violation of the standards of conduct for students including, but not limited to:

(a) Nonconsensual sexual activity including sexual activity for which clear and voluntary consent has not been given in advance; and sexual activity with someone who is incapable of giving valid consent because, for example, she or he is underage, sleeping, incapacitated due to alcohol or drugs, has an intellectual or other disability that prevents the individual from having the capacity to give consent, or is subject to duress, threat, coercion or force.

(b) Sexual assault, domestic violence, dating violence, and sexual or gender-based stalking;

(c) Nonphysical conduct such as indecent liberties, sexual exploitation, indecent exposure, sexual exhibitionism, sex or gender-based digital media stalking, sexual or gender-based online harassment, sexual or gender-based cyberbullying, nonconsensual posting or recording of a sexual activity, and nonconsensual distribution of a recording of a sexual activity.

(19) "Student" includes a person taking courses at or through the college, either full time or part time. For the purposes of the standards of conduct for students, the term applies from the time of application for admission through the actual receipt of a degree or certificate, even though conduct may occur before classes begin or after classes end. The term also applies during the academic year, during periods between terms of actual enrollment and includes individuals who are not officially enrolled for a particular quarter but have a continuing relationship with the college (including suspended students), and students participating in study abroad programs. "Student" also includes "student organization" and persons who withdraw after allegedly violating the standards of conduct for students.

(20) "Student organization" (~~means any number of persons who have complied with the formal requirements for college recognition,~~

~~such as clubs and associations, and are recognized by the college as such~~) is a student organization, athletic team, or living group including, but not limited to, student clubs and organizations formally recognized as such, members of a class or student cohort, and student performance groups.

(21) "Student conduct administrative panel" is a panel appointed by the president of the college to hear initial complaints referred by the student conduct officer involving allegations of sexual misconduct or other misconduct which may result in a suspension of more than ~~((ten))~~ 10 instructional days or dismissal/expulsion from the college. The panel shall consist of three faculty members appointed by the president and two members of the administration, but not the vice president of student services, appointed by the president at the beginning of the academic year. One of the members of the administration shall serve as the chair of the committee. If that individual is not available for a hearing or has a conflict of interest, the other member of the administration shall chair the individual hearing. The chairs shall receive annual training on protecting victims and promoting accountability in cases involving allegations of sexual misconduct. The student conduct officer convenes the board and appoints the chair for each hearing. Hearings may be held by a quorum of three members of the committee so long as one faculty member and one administrator are included on the hearing panel. Committee action may be taken upon a majority vote of all committee members attending the hearing.

(22) "Student conduct board" is a board appointed by the president of the college to hear initial complaints referred by the student conduct officer to determine whether a student has violated the general standards of conduct for students, and to impose sanctions when a violation has been committed for misconduct that would result in discipline involving an academic suspension of ~~((ten))~~ 10 instructional days or less or a discipline not involving dismissal or expulsion from the college. The board shall have at least one member from the respective groups: Faculty, students, and administration. The student conduct officer convenes the board and appoints the chair. Hearings may be held by a quorum of three members of the committee so long as one faculty member and one student are included on the hearing panel. Committee action may be taken upon a majority vote of the committee members attending the hearing.

(23) "Student conduct officer" means the individual or individuals designated by the college president to facilitate and coordinate student conduct matters pursuant to these standards of conduct for students.

(24) "Title IX coordinator" means the vice president of student services for the college or his/her designee who is responsible for coordinating Title IX matters regarding students of CCS who is also known as the chief student services officer.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-105, filed 7/21/15, effective 8/21/15.]

AMENDATORY SECTION (Amending WSR 15-15-161, filed 7/21/15, effective 8/21/15)

WAC 132Q-10-120 Jurisdiction of the standards of conduct for students. The standards of conduct for students apply to conduct that occurs on college premises, at college-sponsored activities, and to off-campus conduct that adversely affects CCS's educational environment and/or the pursuit of its objectives as set forth in its mission. Jurisdiction extends to locations in which students are engaged in official college activities including, but not limited to, athletic events, activities funded by associated students, training internships, cooperative and distance education, online education, study abroad programs, practicums, supervised work experiences, any other college-sanctioned social or club activities, and/or foreign or domestic travel associated with any of these events or activities. Students are responsible for their conduct from the time of application for admission through the actual receipt of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment. These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending. The college student conduct officer, or their designee, has sole discretion, on a case-by-case basis to determine ((what)) whether the student conduct ((occurring off campus adversely impacts the college and/or the pursuit of its objectives)) code will be applied to conduct by students or student groups that occurs off campus.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-120, filed 7/21/15, effective 8/21/15.]

AMENDATORY SECTION (Amending WSR 15-15-161, filed 7/21/15, effective 8/21/15)

WAC 132Q-10-218 Hazing. ~~((1) Conspiring to engage in hazing or participating in hazing of another.~~

~~(a) Hazing means any activity expected of someone joining a group (or maintaining full status in a group) that causes or is likely to cause a risk of mental, emotional and/or physical harm, regardless of the person's willingness to participate.~~

~~(b) Hazing activities may include the following: Abuse of alcohol during new member activities; striking another person whether by use of any object or one's body; creation of excessive fatigue; physical and/or psychological shock; and morally degrading or humiliating games or activities that create a risk of bodily, emotional, or mental harm.~~

~~(c) Hazing does not include practice, training, conditioning and eligibility requirements for customary athletic events such as intramural or club sports and intercollegiate athletics, or other similar contests or competitions, but gratuitous hazing activities occurring as part of such customary athletic event or contest are prohibited.~~

~~(2) Washington state law prohibits hazing which may subject violators to criminal prosecution under RCW 28B.10.901.~~

~~(3) Washington state law (RCW 28B.10.901) provides sanctions for hazing.)~~ (1) Hazing is any act committed as part of:

(a) A person's recruitment, initiation, pledging, admission into, or affiliation with a student group;

- (b) Any pastime or amusement engaged in with respect to such a student group; or
- (c) That causes or is likely to cause, bodily danger or physical harm or serious psychological or emotional harm, to any student.
- (2) Examples of hazing include, but are not limited to:
- (a) Causing, directing, coercing, or forcing a person to consume any food, liquid, alcohol, drug, or other substance which subjects the person to risk of such harm;
- (b) Humiliation by the ritual act;
- (c) Striking another person with an object or body part;
- (d) Causing someone to experience excessive fatigue, or physical and/or psychological shock; or
- (e) Causing someone to engage in degrading or humiliating games or activities that create a risk of serious psychological, emotional, and/or physical harm.
- (3) "Hazing" does not include customary athletic events or other similar contests or competitions.
- (4) Consent is not a valid defense against hazing.
- (5) No student may conspire to engage in hazing or participate in the hazing of another. State law provides that hazing is a criminal offense, punishable as a misdemeanor.
- (6) Washington state law provides that:
- (a) Any student group that knowingly permits hazing is strictly liable for harm caused to persons or property resulting from hazing. If the organization, association, or student living group is a corporation whether for-profit or nonprofit, the individual directors of the corporation may be held individually liable for damages.
- (b) Any person who participates in the hazing of another shall forfeit any entitlement to state-funded grants, scholarships, or awards for a period of time determined by the college.
- (c) Student groups that knowingly permit hazing to be conducted by its members or by others subject to its direction or control shall be deprived of any official recognition or approval granted by the college.
- (d) Student groups found responsible for violating the code of student conduct, college anti-hazing policies, or state or federal laws relating to hazing or offenses related to alcohol, drugs, sexual assault, or physical assault will be disclosed in a public report issued by the college setting forth the name of the student group, the date the investigation began, the date the investigation ended, a finding of responsibility, a description of the incident(s) giving rise to the finding, and the details of the sanction(s) imposed, including the beginning and end dates of the sanction(s).
- (7) As described in WAC 132Q-10-140, a student organization and/or individual members may be subject to appropriate sanctions for student conduct violations.
- (8) Additional disciplinary sanctions for hazing violations can be found in WAC 132Q-10-400.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-218, filed 7/21/15, effective 8/21/15.]

WSR 22-22-006

EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed October 20, 2022, 2:18 p.m., effective October 20, 2022, 2:18 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 246-945-010 Prescription and chart order—Minimum requirements. The pharmacy quality assurance commission (commission) is adopting emergency rules to reduce burdens on practitioners prescribing Schedule II substances during the coronavirus disease 2019 (COVID-19) outbreak. Because a federal public health emergency is set to be in effect until at least January 2023, this extension will continue to reduce the burden on practitioners through the end of the federal public health emergency. This adopted emergency rule will extend WSR 22-13-180 filed on June 22, 2022. This emergency rule was originally filed on April 21, 2020, under WSR 20-09-133. It was re-filed on July 10, 2020, after the commission's new chapter went into effect under WSR 20-15-058. This emergency rule will continue the existing emergency rule amending WAC 246-945-010 to increase the duration of time a practitioner has to deliver a signed prescription of a Schedule II substance to the pharmacy from seven days to 15 days when a prescription is dispensed in an emergency. It also defines what a "signed prescription" means and allows for a practitioner to accomplish this requirement through paper, electronic transmission, facsimile, photograph, or scanned copy. These alternative methodologies support patients, practitioners, and pharmacists' efforts to practice social distancing and to help mitigate communal spread.

Citation of Rules Affected by this Order: Amending WAC 246-945-010.

Statutory Authority for Adoption: RCW 18.64.005; chapter 69.50 RCW.

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 immediate amendment of this existing rule is necessary for the preservation of public health, safety, and general welfare. This rule would allow patients and providers, especially pain patients, to limit their COVID-19 exposure both in the broader community and in the various health care settings. Interested parties and leaders from the pain community have highlighted this is an immediate need for Washingtonians. This emergency rule has been in effect since April 21, 2020. This emergency rule allows more time and more avenues for complying with the requirements during the ongoing COVID-19 pandemic, reducing burdens on practitioners and pharmacists, and sustaining patient access during this difficult time. The emergency rules follow guidance from the United States Drug Enforcement Agency and will help address this problem and reduce barriers for providers and patient populations in need of Schedule II prescriptions throughout the federal public health emergency. Observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to public interest.

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

Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: October 20, 2022.

Teri Ferreira, RPh
Pharmacy Quality Assurance Chair

OTS-2391.1

AMENDATORY SECTION (Amending WSR 20-12-072, filed 6/1/20, effective 7/1/20)

WAC 246-945-010 Prescription and chart order—Minimum requirements. (1) For the purposes of this section, prescription does not include chart orders as defined in RCW 18.64.011(3).

(2) For the purposes of WAC 246-945-010 through 246-945-013, prescription includes written and electronic prescriptions.

(3) A prescription for a noncontrolled legend drug must include, but is not limited to, the following:

(a) Prescriber's name;

(b) Name of patient, authorized entity, or animal name and species;

(c) Date of issuance;

(d) Drug name, strength, and quantity;

(e) Directions for use;

(f) Number of refills (if any);

(g) Instruction on whether or not a therapeutically equivalent generic drug or interchangeable biological product may be substituted, unless substitution is permitted under a prior-consent authorization;

(h) Prescriber's manual or electronic signature, or prescriber's authorized agent signature if allowed by law; and

(i) If the prescription is written, it must be written on tamper-resistant prescription pad or paper approved by the commission pursuant to RCW 18.64.500;

(4) A prescription for a controlled substance must include all the information listed in subsection (1) of this section and the following:

(a) Patient's address;

(b) Dosage form;

(c) Prescriber's address;

(d) Prescriber's DEA registration number; and

(e) Any other requirements listed in 21 C.F.R., Chapter II.

(5) A chart order must meet the requirements of RCW 18.64.550 and any other applicable requirements listed in 21 C.F.R., Chapter II.

(6) A controlled substance listed in Schedule II can only be dispensed pursuant to a valid prescription in accordance with WAC 246-945-011 unless there is an "emergency."

(a) For the purposes of this subsection, an "emergency" exists when the immediate administration of the drug is necessary for proper treatment and no alternative treatment is available, and further, it is not possible for the practitioner to provide a written or electronic prescription for the drug at that time.

(b) If a Schedule II drug is dispensed in an emergency, the practitioner must deliver a signed prescription to the dispenser within ~~((seven))~~ fifteen days after authorizing an emergency oral prescription or if delivered by mail it must be postmarked within the ~~((seven))~~ fifteen day period, and further the pharmacist must note on the prescription that it was filled on an emergency basis.

(c) For the purposes of this subsection, a "signed prescription" shall be either:

(i) A paper prescription;

(ii) An electronic prescription;

(iii) A copy of the paper prescription sent via facsimile to the pharmacy; or

(iv) A photograph or scanned copy of the paper prescription sent to the pharmacy.

(7) A controlled substance listed in Schedule III, IV, or V, can only be dispensed pursuant to a valid prescription in accordance with WAC 246-945-011, or an oral prescription. An oral prescription for a controlled substance listed in Schedule III, IV, or V must be promptly reduced to a written or electronic prescription that complies with WAC 246-945-011.

(8) A noncontrolled legend drug can only be dispensed pursuant to a valid prescription in accordance with WAC 246-945-011, or an oral prescription. An oral prescription for a noncontrolled legend drug must be promptly reduced to a written or electronic prescription that complies with WAC 246-945-011.

[Statutory Authority: RCW 18.64.005, 18.64.080, 18.130.075, 18.64.043, 18.64.044, 18.64.045, 18.64.046, 18.64.370, 18.64.460, 69.50.310, 18.64.011, 18.64.245, 18.64.470, 18.64.255, 18.64.205, 18.64.253, 18.64.410, 18.64.500, 18.64.590. WSR 20-12-072, § 246-945-010, filed 6/1/20, effective 7/1/20.]

**WSR 22-22-007
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 22-247—Filed October 20, 2022, 2:47 p.m., effective October 20, 2022, 2:47 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends recreational razor clam rules.

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

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

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

Reasons for this Finding: This emergency rule is needed to open the recreational razor clam season. Survey results show that adequate clams are available for recreational harvest in Razor Clam Areas 1, 3, and 4. Washington department of health has certified clams from this beach to be safe for human consumption. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: October 20, 2022.

Kelly Susewind
Director

NEW SECTION

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

(1) Effective 12:01 p.m. October 24 through 11:59 p.m. October 30, 2022, razor clam digging is permissible in Razor Clam Areas defined in WAC 220-330-160 during afternoon and evening tides on dates and times listed below:

Razor Clam Area	Date	Time
Area 1	October 24 through October 30	From 12:01 p.m. to 11:59 p.m.

Razor Clam Area	Date	Time
Area 2	Closed	Closed
Area 3	October 24 through October 30	From 12:01 p.m. to 11:59 p.m.
Area 4	October 24, 26, 28, and 30	From 12:01 p.m. to 11:59 p.m.
Area 5	Closed	Closed
Area 6	Closed	Closed
Area 7	Closed	Closed

(2) It is unlawful to dig for razor clams at any time in the Long Beach and Copalis Beach Clam sanctuaries defined in WAC 220-320-130.

[]

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. October 31, 2022:

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

WSR 22-22-008
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-246—Filed October 20, 2022, 2:42 p.m., effective October 22, 2022]

Effective Date of Rule: October 22, 2022.

Purpose: Amend recreational fishing rules for the Dungeness and Gray Wolf rivers.

Citation of Rules Affected by this Order: Repealing WAC 220-312-02000V.

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 Dungeness River was closed due to unseasonably dry weather and extreme low water conditions. Expected precipitation and a forecasted rise in flows will allow fish to move upstream to spawning grounds and fishing to reopen. 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 0, Amended 0, Repealed 1.

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

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

Date Adopted: October 20, 2022.

Kelly Susewind
Director

REPEALER

The following section of the Washington Administrative Code is repealed effective October 22, 2022:

WAC 220-312-02000V Freshwater exceptions to statewide rules—Puget Sound. (22-239)

WSR 22-22-010
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-245—Filed October 20, 2022, 4:39 p.m., effective October 21, 2022, 8:00 p.m.]

Effective Date of Rule: October 21, 2022, 8:00 p.m.

Purpose: The purpose of this emergency rule is to close commercial crab fishing in all areas of Puget Sound.

WAC 220-340-45500N: (1) Closes Puget Sound commercial crab harvest in Crab Management Regions 1, 2-East, 2-West, 3-1, 3-2, 3-3, and 3-4 at 8:00 p.m. on October 21, 2022, until October 28, 2022, at 8:00 a.m.; and (2) closes Port Angeles Harbor to commercial crab harvest due to public health decrees.

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

WAC 220-352-34000X: Requires compliance with quick reporting requirements in the event that a fish receiving ticket is not submitted or received by the department using an electronic fish ticket application.

Citation of Rules Affected by this Order: Repealing WAC 220-340-45500M, 220-340-47000K, and 220-352-35400W [220-352-34000W]; and amending WAC 220-340-455, 220-340-470, and 220-352-340.

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: To ensure accurate catch reporting as agreed to in comanager management plans, the Puget Sound commercial crab fishery will close in Regions 1, 2-East, 2-West, 3-1, 3-2, 3-3, and 3-4, from October 21, 2022, at 5:00 p.m. until October 27, 2022, at 8:00 a.m. These provisions are in conformity with agreed-to management plans with applicable tribes. These management plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. Further adjustment of season structure may be made pending updated harvest data. There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 3, Amended 0, Repealed 3.

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

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

Date Adopted: October 20, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-45500N Commercial crab fishery—Seasons and areas—Puget Sound. Notwithstanding the provisions of WAC 220-340-455,

(1) Effective October 21, 2022, at 8:00 p.m., the following Geographical Management Units are closed to commercial crab fishing: Crab Management Region 1, 2E, 2W, 3-1, 3-2, 3-3, and 3-4.

(2) Harvest of Dungeness crab in Puget Sound is permitted during the "Open period" indicated in the following table. Harvest for these areas is allowed starting one hour before official sunrise until further notice. Any closures will take effect one hour after official sunset unless otherwise indicated.

Geographical Management Unit (WAC 220-320-110)	Open Period
Region 1, MFSF Catch Areas 21A, 21B, and 22B	October 28, 2022, until further notice
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	October 28, 2022, until further notice
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	October 28, 2022, through February 1, 2023
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	October 28, 2022, through December 31, 2022
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	October 28, 2022, through February 15, 2023
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	October 28, 2022 through February 15, 2023
Subregion 3-1	October 28, 2022, until further notice
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	October 28, 2022, until further notice
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	October 28, 2022, until further notice
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	October 28, 2022, until further notice
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Closed, due to on-going public health concerns.
Subregion 3-3	October 28, 2022, until further notice
Subregion 3-4	October 28, 2022, until further notice

[]

NEW SECTION

WAC 220-340-47000L Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas

Notwithstanding the provisions of 220-340-470,

(1) Effective during the "Open period" listed in amended section of WAC 220-340-455 above it will be unlawful for any person to harvest

crabs with more than the "Pot limit" per license per buoy tag number indicated within each "geographical management unit".

Geographical Management Unit (WAC 220-320-110)	Pot limit
Region 1, MFSF Catch Areas 21A, 21B, and 22B	30
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	30
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	30
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	30
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	30
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	20
Subregion 3-1	30
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	30
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	20
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	20
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	0
Subregion 3-3	30
Subregion 3-4	30

[]

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

NEW SECTION

WAC 220-352-34000X Puget Sound crab—Additional reporting requirements. Notwithstanding the provisions of WAC 220-352-340,

(1) Unless original receivers have submitted, and the department has received a fish ticket through an electronic fish ticket reporting application the original receiver is required to provide a Quick Report within 24 hours of landing.

[]

REPEALER

The following sections of the Washington Administrative Code are repealed effective 8:00 p.m. October 21, 2022:

- WAC 220-340-45500M Commercial crab fishery—Seasons and areas—Puget Sound. (22-233)
- WAC 220-340-47000K Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas. (22-233)
- WAC 220-352-35400W Puget Sound crab—Additional reporting requirements.

Reviser's note: The section above appears as filed by the agency pursuant to RCW 34.08.040; however, the reference to WAC 220-352-35400W is probably intended to be WAC 220-352-34000W.

WSR 22-22-014

EMERGENCY RULES

HEALTH CARE AUTHORITY

[Filed October 21, 2022, 8:05 a.m., effective October 21, 2022, 8:05 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The health care authority is revising this section to allow for payment of office visits for clients under the alien emergency medical (AEM) program when the visit is specifically for the assessment and treatment of the COVID-19 virus.

Citation of Rules Affected by this Order: Amending WAC 182-507-0115.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

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

Reasons for this Finding: This rule making is in response to the Governor's Proclamation 20-05 declaring a state of emergency for all counties throughout the state of Washington because of the coronavirus disease 2019 (COVID-19) and the secretary of the federal department of health and human services declaration of a public health emergency related to COVID-19. This emergency rule making is necessary to preserve the public health, safety, and general welfare by allowing payment for the office visit for an AEM client for the assessment and treatment of the COVID-19 virus.

This emergency filing replaces the emergency rules filed under WSR 22-14-017 on June 24, 2022. The agency is refiled to continue the emergency rule. The agency's CR-101 preproposal statement of inquiry, filed under WSR 20-15-077, remains in effect while the agency continues to monitor the changing conditions presented by COVID-19 and its variants.

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

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

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

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

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

Date Adopted: October 21, 2022.

Wendy Barcus
Rules Coordinator

OTS-2140.1

AMENDATORY SECTION (Amending WSR 12-24-038, filed 11/29/12, effective 12/30/12)

WAC 182-507-0115 Alien emergency medical program (AEM). (1) A person nineteen years of age or older who is not pregnant and meets the eligibility criteria under WAC 182-507-0110 is eligible for the alien emergency medical program's scope of covered services described in this section if the person meets ~~((a) and (b) or (c))~~ the requirements of (a) of this subsection, as well as the requirements of either (b), (c), or (d) of this subsection:

(a) The medicaid agency determines that the primary condition requiring treatment ~~((meets the definition of))~~ is an emergency medical condition as defined in WAC 182-500-0030, and the condition is confirmed through review of clinical records; and

(b) The person's qualifying emergency medical condition is treated in one of the following hospital settings:

(i) Inpatient;

(ii) Outpatient surgery;

(iii) Emergency room services, which must include an evaluation and management (E&M) visit by a physician; or

(c) Involuntary Treatment Act (ITA) and voluntary inpatient admissions to a hospital psychiatric setting that are authorized by the agency's inpatient mental health designee (see subsection (5) of this section); or

(d) For the assessment and treatment of the COVID-19 virus, the agency covers one physician visit provided in any outpatient setting, including the office or clinic setting, or via telemedicine, online digital or telephonic services to assess/evaluate and test, if clinically indicated, as follows:

(i) If the test is positive, in addition to the services described in (b) of this subsection and subsection (2)(b) of this section, any medically necessary services to treat, including:

(A) Follow-up office visits;

(B) Medications, prior authorization requirements may apply;

(C) Respiratory services and supplies; and

(D) Medical supplies, prior authorization requirements may apply.

(ii) If a test is negative, any treatment described in (d)(i)(A) through (B) of this subsection, as a precautionary measure for an anticipated positive test result.

(e) The coverage described in (d) of this subsection is in effect only during the time period, as determined by the agency in its sole discretion, that a public health emergency related to COVID-19 exists.

(2) If a person meets the criteria in subsection (1) of this section, the agency will cover and pay for all related medically necessary health care services and professional services provided:

(a) By physicians in their office or in a clinic setting immediately prior to the transfer to the hospital, resulting in a direct admission to the hospital; and

(b) During the specific emergency room visit, outpatient surgery or inpatient admission. These services include, but are not limited to:

(i) Medications;

(ii) Laboratory, X-ray, and other diagnostics and the professional interpretations;

(iii) Medical equipment and supplies;

(iv) Anesthesia, surgical, and recovery services;

(v) Physician consultation, treatment, surgery, or evaluation services;

(vi) Therapy services;

(vii) Emergency medical transportation; and

(viii) Nonemergency ambulance transportation to transfer the person from a hospital to a long term acute care (LTAC) or an inpatient physical medicine and rehabilitation (PM&R) unit, if that admission is prior authorized by the agency or its designee as described in subsection (3) of this section.

(3) The agency will cover admissions to an LTAC facility or an inpatient PM&R unit if:

(a) The original admission to the hospital meets the criteria as described in subsection (1) of this section;

(b) The person is transferred directly to this facility from the hospital; and

(c) The admission is prior authorized according to LTAC and PM&R program rules (see WAC 182-550-2590 for LTAC and WAC 182-550-2561 for PM&R).

(4) The agency does not cover any services, regardless of setting, once the person is discharged from the hospital after being treated for a qualifying emergency medical condition authorized by the agency or its designee under this program. Exceptions:

(a) For admissions to treat COVID-19 or complications thereof, the agency will cover up to two postdischarge physician follow-up visits, regardless of how the visits are conducted or where they are conducted.

(b) Pharmacy services, drugs, devices, and drug-related supplies listed in WAC 182-530-2000, prescribed on the same day and associated with the qualifying visit or service (as described in subsection (1) of this section) will be covered for a one-time fill and retrospectively reimbursed according to pharmacy program rules.

(5) Medical necessity of inpatient psychiatric care in the hospital setting must be determined, and any admission must be authorized by the agency's inpatient mental health designee according to the requirements in WAC 182-550-2600.

(6) There is no precertification or prior authorization for eligibility under this program. Eligibility for the AEM program does not have to be established before an individual begins receiving emergency treatment.

(7) Under this program, certification is only valid for the period of time the person is receiving services under the criteria described in subsection (1) of this section. The exception for pharmacy services is also applicable as described in subsection (4) of this section.

(a) For inpatient care, the certification is only for the period of time the person is in the hospital, LTAC, or PM&R facility - The admission date through the discharge date. Upon discharge the person is no longer eligible for coverage.

(b) For an outpatient surgery or emergency room service the certification is only for the date of service. If the person is in the hospital overnight, the certification will be the admission date through the discharge date. Upon release from the hospital, the person is no longer eligible for coverage.

(8) Under this program, any visit or service not meeting the criteria described in subsection (1) of this section is considered not within the scope of service categories as described in WAC 182-501-0060. This includes, but is not limited to:

(a) Hospital services, care, surgeries, or inpatient admissions to treat any condition which is not considered by the agency to be a qualifying emergency medical condition, including but not limited to:

(i) Laboratory X-ray, or other diagnostic procedures;
(ii) Physical, occupational, speech therapy, or audiology services;

(iii) Hospital clinic services; or

(iv) Emergency room visits, surgery, or hospital admissions.

(b) Any services provided during a hospital admission or visit (meeting the criteria described in subsection (1) of this section), which are not related to the treatment of the qualifying emergency medical condition;

(c) Organ transplants, including preevaluations, post operative care, and anti-rejection medication;

(d) Services provided outside the hospital settings described in subsection (1) of this section including, but not limited to:

(i) Office or clinic-based services rendered by a physician, an ARNP, or any other licensed practitioner;

(ii) Prenatal care, except labor and delivery;

(iii) Laboratory, radiology, and any other diagnostic testing;

(iv) School-based services;

(v) Personal care services;

(vi) Physical, respiratory, occupational, and speech therapy services;

(vii) Waiver services;

(viii) Nursing facility services;

(ix) Home health services;

(x) Hospice services;

(xi) Vision services;

(xii) Hearing services;

(xiii) Dental services;

(xiv) Durable and nondurable medical supplies;

(xv) Nonemergency medical transportation;

(xvi) Interpreter services; and

(xvii) Pharmacy services, except as described in subsection (4) of this section.

(9) The services listed in subsection (8) of this section are not within the scope of service categories for this program and therefore the exception to rule process is not available.

(10) Providers must not bill the agency for visits or services that do not meet the qualifying criteria described in this section. The agency will identify and recover payment for claims paid in error.

[Statutory Authority: RCW 41.05.021. WSR 12-24-038, § 182-507-0115, filed 11/29/12, effective 12/30/12. WSR 12-13-056, recodified as § 182-507-0115, filed 6/15/12, effective 7/1/12. Statutory Authority: RCW 74.04.050, 74.08.090, and 2009 c 564 §§ 1109, 201, 209. WSR 10-19-085, § 388-438-0115, filed 9/17/10, effective 10/18/10.]

WSR 22-22-017
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-249—Filed October 21, 2022, 9:41 a.m., effective October 22, 2022]

Effective Date of Rule: October 22, 2022.

Purpose: Amend recreational fishing rules for the Wallace River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-04000L; and amending WAC 220-312-040.

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

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

Reasons for this Finding: With forecasted rain and increasing flows predicted and most of the Chinook spawning complete in the Wallace River, conditions are improved for allowing fishing to resume in Wallace River. This emergency rule is needed to reopen the Wallace River. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: October 21, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000U Freshwater exceptions to statewide rules—Puget Sound. Effective October 22 through November 30, 2022, the following provisions of WAC 220-312-040 regarding fishing seasons for Wallace River shall be modified during the dates and in locations listed and described herein. All other provisions of WAC 220-312-040 not addressed herein, or unless otherwise amended, remain in effect:

Wallace River (Snohomish County): From the mouth (farthest downstream RR bridge) to Wallace Falls:

Salmon: Daily limit of two coho.

[]

REPEALER

The following section of the Washington Administrative Code is repealed effective October 22, 2022:

WAC 220-312-04000L Freshwater exceptions to statewide rules—Puget Sound. (22-193)

WSR 22-22-019
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-248—Filed October 21, 2022, 10:00 a.m., effective October 21, 2022, 10:00 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules for the Skagit and Cascade rivers.

Citation of Rules Affected by this Order: Repealing WAC 220-312-04000S; and amending WAC 220-312-040.

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

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

Reasons for this Finding: There is sufficient remaining state share of harvestable coho to sustain additional sport fishing opportunity. Incidental Chinook encounters remain within conservation guidelines. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: October 21, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000T Freshwater exceptions to statewide rules—Puget Sound. Effective immediately until further notice, the following provisions of WAC 220-312-040 regarding fishing seasons for the Cascade River and Skagit River shall be modified in locations listed, as described herein. All other provisions of WAC 220-312-040, not addressed herein, or unless otherwise amended, remain in effect:

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

- (a) Use of bait (including scent or flavoring) is prohibited.
- (b) Anti-snagging rules.
- (c) Night closure.

(d) Closed to all fishing Sundays, Mondays, and Tuesdays until further notice.

(e) Daily limit 4 coho. Min. size 12". Release all other species.

(2) Skagit River (Skagit County):

(a) From the mouth (a line projected from the terminus of the jetty with McGlinn Island to the white monument on the easterly end of Ika Island, then to a white monument on the westerly end of Craft Island, then to a white monument near the corner of the levee on the westerly side of Dry Slough, and then to a white monument on the easterly side of Tom Moore Slough) to Cascade River Rd. (Marblemount Bridge):

Effective immediately, until further notice: All species: Bait is prohibited.

(3) Skagit River From the mouth to Cascade River Rd. Bridge (Marblemount Bridge).

(a) Salmon

i. Minimum size 12"

ii. Daily limit 2

iii. Release Chinook and chum

[]

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-312-04000S Freshwater exceptions to statewide rules—Puget Sound. (22-236)

WSR 22-22-025
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed October 24, 2022, 10:10 a.m., effective October 26, 2022]

Effective Date of Rule: October 26, 2022.

Purpose: Amending WAC 388-06-0030, 388-06-0500, 388-06-0510, 388-06-0525 and 388-06-0530; new WAC 388-06-0550; and repealing WAC 388-06-0520, 388-06-0535, and 388-06-0540 in chapter 388-06 WAC 120-day provisional hire—Pending FBI background check results. The department of social and health services (department) was granted rule-making authority in ESHB 1120 (chapter 203, Laws of 2021) to reinstate the fingerprinting requirement for providers that were temporarily suspended by the governor's proclamation due to the public health emergency. The proposal also amends other rules in chapter 388-06 WAC to ensure there is consistency with one another and they do not conflict with current background check rules in chapter 388-113 WAC, Disqualifying crimes and negative actions.

Citation of Rules Affected by this Order: New WAC 388-06-0550; repealing WAC 388-06-0520, 388-06-0535 and 388-06-0540; and amending WAC 388-06-0030, 388-06-0500, 388-06-0510, 388-06-0525, and 388-06-0530.

Statutory Authority for Adoption: RCW 43.20A.710, 43.43.837, 74.08.090, 74.09.520, and 74.39A.056.

Other Authority: ESHB 1120, chapter 203, Laws of 2021.

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

Reasons for this Finding: The department needs an emergency WAC prior to the end of the governor's proclamation since it reduces future capacity issues by decreasing the backlog of providers who need to complete fingerprinting. Additionally, this allows the department to complete permanent rules with the emergency rule in place. The department filed a preproposal under WSR 22-07-064 and a CR-102 proposal under WSR 22-20-088.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 5, Repealed 3.

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 1, Amended 5, Repealed 3.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 5, Repealed 3.

Date Adopted: October 24, 2022.

Katherine I. Vasquez
Rules Coordinator

SHS-4874.7

AMENDATORY SECTION (Amending WSR 15-05-030, filed 2/10/15, effective 3/13/15)

WAC 388-06-0030 What is the purpose of this chapter? (1) WAC 388-06-500 through ~~((388-06-0540 defines))~~ 388-06-0550 define when ((the one hundred twenty-day provisional hire is allowed by DSHS)) an applicant, long-term care worker, or service provider may have unsupervised access to vulnerable adults and children pending the results of a fingerprint-based background check required by RCW 74.39A.056 or RCW 43.43.837.

(2) WAC 388-06-0700 through 388-06-0720 ~~((describes))~~ describe the responsibilities of the background check central unit.

[Statutory Authority: RCW 43.43.832, 43.20A.710, and 43.43.837. WSR 15-05-030, § 388-06-0030, filed 2/10/15, effective 3/13/15.]

AMENDATORY SECTION (Amending WSR 01-15-019, filed 7/10/01, effective 8/10/01)

WAC 388-06-0500 What is the purpose of the ~~((one hundred twenty))~~ 120-day provisional ((hire)) period? The ~~((one hundred and twenty))~~ 120-day provisional ((hire)) period allows ~~((an employee))~~ applicants, long-term care workers, and service providers to have unsupervised access to vulnerable adults and children ~~((, juveniles and vulnerable adults on a provisional basis))~~ pending the results of ~~((their Federal Bureau of Investigation (FBI))~~) a fingerprint-based background check.

[Statutory Authority: Chapter 43.20A RCW, RCW 72.05.440 and 74.15.030. WSR 01-15-019, § 388-06-0500, filed 7/10/01, effective 8/10/01.]

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.

AMENDATORY SECTION (Amending WSR 01-15-019, filed 7/10/01, effective 8/10/01)

WAC 388-06-0510 What definitions apply to ~~((one hundred twenty))~~ 120-day provisional ((hires)) period rules? ~~((("Agency" means any agency of the state or any private agency providing services to children, juveniles, and vulnerable adults.~~

~~((("Background check central unit (BCCU)" means the DSHS program responsible for conducting background checks for DSHS administrations.~~

~~((("Disqualified" means the results of an individual's background check disqualifies them from a position which will or may provide unsupervised access to children, juveniles, and vulnerable adults.~~

~~((("Entity" means, but is not limited to, a licensed facility, a corporation, a partnership, a sole proprietorship, or a contracted or certified service provider.~~

~~"Hire" means engagement by an agency, entity or a hiring individual to perform specific agreed duties as a paid employee, a contract employee, a volunteer, or a student intern.~~

~~"Hiring individual" means a DSHS client who is eligible to hire an individual to provide in-home service with state funding.~~

~~"Individual" means an employee, a contract employee, a volunteer, or a student intern.~~

~~"Qualified" means an individual can be hired into a position that includes unsupervised access to children, juveniles, and vulnerable adults because the results of their background check are not disqualifying.~~

~~"Unsupervised access" means that:~~

~~(1) An individual will or may have the opportunity to be alone with a child, juvenile, or a vulnerable adult; and~~

~~(2) Neither a qualified employee, contract employee, volunteer, or student intern of the agency, or entity nor a relative or guardian of the child, juvenile or vulnerable adult is present)) "Applicant" has the same meaning as defined in RCW 43.43.830.~~

~~"Completed fingerprint check" means the applicant has a final fingerprint notification from the background check central unit that is not disqualifying.~~

~~"Long-term care worker" has the same meaning as defined in RCW 74.39A.009.~~

~~"Service provider" means entities, facilities, agencies, businesses, or individuals who are licensed, certified, authorized, or regulated by, receive payment from, or have contracts or agreements with, the department of social and health services or its designee, to provide services to vulnerable adults or children.~~

[Statutory Authority: Chapter 43.20A RCW, RCW 72.05.440 and 74.15.030. WSR 01-15-019, § 388-06-0510, filed 7/10/01, effective 8/10/01.]

AMENDATORY SECTION (Amending WSR 14-14-026, filed 6/24/14, effective 7/25/14)

WAC 388-06-0525 When are ((individuals)) applicants, long-term care workers, and service providers eligible for the ((one hundred twenty)) 120-day provisional ((hire)) period? ~~((Individuals)) Applicants, long-term care workers, and service providers are eligible for the ((one hundred twenty)) 120-day provisional ((hire immediately. The signed)) period once they have passed a state name and date of birth background check ((application and fingerprinting process must be completed as required by the applicable DSHS program)) and have scheduled their appointment to have their fingerprints taken for the fingerprint-based background check.~~

[Statutory Authority: RCW 43.43.832, 74.15.030 and 43.43.837. WSR 14-14-026, § 388-06-0525, filed 6/24/14, effective 7/25/14. Statutory Authority: RCW 43.43.832 and 74.39A.056 as amended by 2012 c 164 and 2012 c 1. WSR 12-21-053, § 388-06-0525, filed 10/15/12, effective 12/25/12. Statutory Authority: RCW 43.43.832, 74.39A.055, 74.39A.050, 74.39A.095, 74.39A.260, 43.20A.710, and 43.43.837. WSR 10-16-083, § 388-06-0525, filed 7/30/10, effective 8/30/10. Statutory Authority: Chapter 43.20A RCW, RCW 72.05.440 and 74.15.030. WSR 01-15-019, § 388-06-0525, filed 7/10/01, effective 8/10/01.]

AMENDATORY SECTION (Amending WSR 01-15-019, filed 7/10/01, effective 8/10/01)

WAC 388-06-0530 When does the ~~((one hundred twenty))~~ 120-day provisional ((hire)) period begin? The ~~((one hundred twenty))~~ 120-day provisional ((hire may begin from either:
~~(1)) period begins on the date ((of hire of an individual; or~~
~~(2) After completion of a state background check on an individu-~~
~~al.~~
The agency, entity, or hiring individual makes this decision)) an applicant, long-term care worker, or service provider begins providing care to a vulnerable adult or child.

[Statutory Authority: Chapter 43.20A RCW, RCW 72.05.440 and 74.15.030. WSR 01-15-019, § 388-06-0530, filed 7/10/01, effective 8/10/01.]

NEW SECTION

WAC 388-06-0550 How does the state of emergency declared in response to the COVID-19 pandemic affect the provisional period for applicants, long-term care workers, and service providers? Notwithstanding WAC 388-06-0530, applicants, long-term care workers, and service providers who began providing care to vulnerable adults between November 1, 2019, and April 30, 2022, will have until August 28, 2022, to complete the fingerprint background check. Providers who begin providing care on or after May 1, 2022, are subject to the rules set forth in WAC 388-06-0525 and WAC 388-06-0530.

[]

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 388-06-0520 Who is responsible for approving the one hundred twenty-day provisional hire?
- WAC 388-06-0535 Who approves one hundred twenty-day provisional hire extensions?
- WAC 388-06-0540 Are there instances when the one hundred twenty-day provisional hire is not available?

WSR 22-22-026
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed October 24, 2022, 10:13 a.m., effective October 25, 2022]

Effective Date of Rule: October 25, 2022.

Purpose: The department is amending WAC 388-484-0006 TANF/SFA time limit extensions. These amendments broaden TANF time limit extension hardship criteria to mitigate impacts of the COVID-19 pandemic through June 30, 2023, as provided in the 2022 supplemental operating budget (chapter 297, Laws of 2022); and implement a time limit extension hardship category related to the state's unemployment rate per HB 1755 (chapter 24, Laws of 2022).

Citation of Rules Affected by this Order: Amending WAC 388-484-0006.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.770, 74.08.090, 74.08A.010, 74.08A.015.

Other Authority: 2022 supplemental operating budget, sec. 205 (1) (b) (iii), chapter 297, Laws of 2022; and HB 1755, chapter 24, Laws of 2022.

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

Reasons for this Finding: Families approaching and exceeding the 60-month lifetime TANF time limit will have access to benefits needed to sustain basic needs, thus this emergency adoption is necessary to preserve public health, safety, and welfare.

These amendments implement policies per the 2022 supplemental operating budget (chapter 297, Laws of 2022) and HB 1755 (chapter 24, Laws of 2022), effective July 1, 2022.

The department is actively undertaking appropriate procedures to permanently adopt these amendments. Refer to CR-101, WSR 22-14-060 filed on June 29, 2022, and CR-102, WSR 22-20-108 filed on October 5, 2022.

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 1, 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 1, Repealed 0.

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

Date Adopted: October 13, 2022.

Katherine I. Vasquez
Rules Coordinator

SHS-4924.3

AMENDATORY SECTION (Amending WSR 21-22-053, filed 10/28/21, effective 11/28/21)

WAC 388-484-0006 TANF/SFA time limit extensions. (1) **What happens after I receive (~~(sixty)~~) 60 or more months of TANF/SFA cash assistance?**

After you receive (~~(sixty)~~) 60 or more months of TANF/SFA cash assistance according to WAC 388-484-0005, you may qualify for additional months of cash assistance. We call these additional months of TANF/SFA cash assistance a hardship TANF/SFA time limit extension.

(2) **Who is eligible for a hardship TANF/SFA time limit extension?**

You are eligible for a hardship TANF/SFA time limit extension if you are on TANF, are otherwise eligible for TANF, or are an ineligible parent, and you have received (~~(sixty)~~) 60 cumulative months of TANF and:

(a) You are approved for one of the exemptions from mandatory participation according to WAC 388-310-0350 (1)(a) through (d) or you are an ineligible parent who meets the criteria for an exemption from mandatory WorkFirst participation; or

(b) You:

(i) Are a supplemental security income recipient or a Social Security disability insurance recipient; or

(ii) Are at least (~~(sixty-five)~~) 65 years old, blind as defined by the Social Security Administration or disabled as determined under chapter 388-449 WAC; or

(iii) Have an open child welfare case with a state or tribal government and this is the first time you have had a child dependent under RCW 13.34.030 in this or another state or had a child a ward of a tribal court; or

(iv) Are working in unsubsidized employment for (~~(thirty-two)~~) 32 hours or more per week; or

(v) Document that you meet the family violence option criteria in WAC 388-61-001 and are participating satisfactorily in specialized activities needed to address your family violence according to a service plan developed by a person trained in family violence or have a good reason, as described in WAC 388-310-1600(3) for failure to participate satisfactorily in specialized activities; or

(vi) Are homeless by reason of hardship, including when your family includes a child or youth who is without a fixed regular, and adequate nighttime residence as described in the federal McKinney-Vento Homeless Assistance Act (Title 42, U.S.C. 11434a(2), chapter 119, subchapter VI, part B) as it existed on January 1, 2020; or

(vii) Are an active TANF recipient from July 1, 2021, through June 30, (~~(2022)~~) 2023; or

(viii) Beginning July 1, 2022, are an active TANF recipient, when Washington state employment security department's most recently published unemployment rate is seven percent or above.

(~~(viii)~~) (ix) Do not qualify for other time limit extension criteria in this section and received TANF during a month on or after March 1, 2020, when the (~~(state's)~~) Washington state employment security department's unemployment rate was at seven percent or above. The extension provided for under this subsection (2)(b) (~~(viii)~~) (ix) is equal to the number of months that you received TANF on or after March

1, 2020, when the ~~((state's))~~ Washington state employment security department's unemployment rate was at seven percent or above.

(3) Who reviews and approves a hardship time limit extension?

(a) Your case manager or social worker will review your case and determine whether a hardship time limit extension type will be approved.

(b) This review will not happen until after you have received at least ~~((fifty-two))~~ 52 months of assistance but before you reach your time limit or lose cash assistance due to the time limit.

(c) Before you reach your time limit or lose cash assistance due to the time limit, the department will send you a notice that tells you whether a hardship time limit extension will be approved when your time limit expires and how to request an administrative hearing if you disagree with the decision.

(4) When I have an individual responsibility plan, do my Work-First participation requirements change when I receive a hardship TANF/SFA time limit extension?

(a) Even if you qualify for a hardship TANF/SFA time limit extension you will still be required to participate as required in your individual responsibility plan (WAC 388-310-0500). You must still meet all of the WorkFirst participation requirements listed in chapter 388-310 WAC while you receive a hardship TANF/SFA time limit extension.

(b) If you do not participate in the WorkFirst activities required by your individual responsibility plan, and you do not have a good reason under WAC 388-310-1600, the department will follow the sanction rules in WAC 388-310-1600.

(5) Do my benefits change if I receive a hardship TANF/SFA time limit extension?

(a) You are still a TANF/SFA recipient or an ineligible parent who is receiving TANF/SFA cash assistance on behalf of your child and your cash assistance, services, or supports will not change as long as you continue to meet all other TANF/SFA eligibility requirements.

(b) During the hardship TANF/SFA time limit extension, you must continue to meet all other TANF/SFA eligibility requirements. If you no longer meet TANF/SFA eligibility criteria during your hardship time limit extension, your benefits will end.

(6) How long will a hardship TANF/SFA time limit extension last?

(a) We will review your hardship TANF/SFA time limit extension and your case periodically for changes in family circumstances:

(i) If you are extended under WAC 388-484-0006 (2)(a), (b)(i) or (ii) then we will review your extension at least every ~~((twelve))~~ 12 months;

(ii) If you are extended under WAC 388-484-0006 (2)(b)(iii), (iv), (v), or (vi) then we will review your extension at least every six months.

(b) Your hardship TANF/SFA time limit extension may be renewed for as long as you continue to meet the criteria to qualify for a hardship time limit extension.

(c) If during the extension period we get proof that your circumstances have changed, we may review your case and determine if you continue to qualify for a hardship TANF/SFA time limit extension. When you no longer qualify for a hardship TANF/SFA time limit extension we will stop your TANF/SFA cash assistance. You will be notified of your case closing and will be given the opportunity to request an administrative hearing before your benefits will stop.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.770, 74.08.090, 74.08A.010 and 2021 c 334, 2021 c 239. WSR 21-22-053, § 388-484-0006, filed 10/28/21, effective 11/28/21. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.770, 74.08.090, 2020 c 320 and C.F.R. 20 § 416.2095 through 416.2099. WSR 21-12-077, § 388-484-0006, filed 5/28/21, effective 7/1/21. Statutory Authority: RCW 41.05.021, 74.04.050, 74.04.055, 74.04.057, 74.08.025, 74.08.090, 74.09.035, 74.09.530, 74.62.030, chapters 74.08A, and 74.12 RCW. WSR 20-05-046, § 388-484-0006, filed 2/13/20, effective 3/15/20. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and 74.08A.010. WSR 15-24-056, § 388-484-0006, filed 11/24/15, effective 1/1/16. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, chapters 74.08A and 74.12 RCW, 2011 1st sp.s. c 42, and 2011 1st sp.s. c 2. WSR 12-05-039, § 388-484-0006, filed 2/10/12, effective 3/12/12. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and chapters 74.08A and 74.12 RCW. WSR 10-24-013, § 388-484-0006, filed 11/18/10, effective 12/19/10. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and chapter 74.08A RCW. WSR 06-10-034, § 388-484-0006, filed 4/27/06, effective 6/1/06. Statutory Authority: RCW 74.08.090, 74.04.050, and 74.08A.340. WSR 03-24-057, § 388-484-0006, filed 12/1/03, effective 1/1/04. Statutory Authority: RCW 74.08A.010(4), 74.08A.340, 74.08.090, 74.04.050. WSR 02-12-068, § 388-484-0006, filed 5/31/02, effective 6/1/02.]

WSR 22-22-030

EMERGENCY RULES

HEALTH CARE AUTHORITY

[Filed October 24, 2022, 4:06 p.m., effective October 24, 2022, 4:06 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The agency is amending these rules to align with the Additional Ukrainian Supplemental Appropriations Act (AUSAA), Public Law 117-128. AUSAA provides for resettlement assistance, entitlement programs, and other benefits available to refugees for Ukrainian populations and other non-Ukrainian people in response to their displacement from Ukraine and entry into the United States.

Citation of Rules Affected by this Order: Amending WAC 182-503-0535 and 182-507-0135.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Other Authority: Public Law 117-128.

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: Emergency rules are necessary to allow for immediate assistance to Ukrainian refugees and certain other people from Ukraine who have relocated to the state of Washington while the permanent rule-making process is conducted.

This filing replaces the emergency rules filed under WSR 22-14-050 on June 28, 2022. Since the last emergency filing, the agency completed the rule-making process and filed permanent rules under WSR 22-20-074, effective October 31, 2022. The agency is refiled to continue the emergency rules to cover the gap until the permanent rules take effect.

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

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

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

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

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

Date Adopted: October 24, 2022.

Wendy Barcus
Rules Coordinator

OTS-3918.3

AMENDATORY SECTION (Amending WSR 22-08-002, filed 3/23/22, effective 4/23/22)

WAC 182-503-0535 Washington apple health—Citizenship and immigration status. (1) Definitions.

(a) **Nonqualified alien** means someone who is lawfully present in the United States (U.S.) but who is not a qualified alien, a U.S. citizen, a U.S. national, or a qualifying American Indian born abroad.

(b) **Qualified alien** means someone who is lawfully present in the United States and who is one or more of the following:

(i) A person lawfully admitted for permanent residence (LPR).

(ii) An abused spouse or child, a parent of an abused child, or a child of an abused spouse who no longer resides with the person who committed the abuse, and who has one of the following:

(A) A pending or approved I-130 petition or application to immigrate as an immediate relative of a U.S. citizen or as the spouse of an unmarried LPR younger than 21 years of age.

(B) Proof of a pending application for suspension of deportation or cancellation of removal under the Violence Against Women Act (VAWA).

(C) A notice of prima facie approval of a pending self-petition under VAWA. An abused spouse's petition covers his or her child if the child is younger than 21 years of age. In that case, the child retains qualified alien status even after he or she turns 21 years of age.

(iii) A person who has been granted parole into the U.S. for one year or more, under the Immigration and Nationality Act (INA) Section 212 (d) (5), including public interest parolees.

(iv) A member of a Hmong or Highland Laotian tribe that rendered military assistance to the U.S. between August 5, 1964, and May 7, 1975, including the spouse, unremarried widow or widower, and unmarried dependent child of the tribal member.

(v) A person who was admitted into the U.S. as a conditional entrant under INA Section 203 (a) (7) before April 1, 1980.

(vi) A person admitted to the U.S. as a refugee under INA Section 207.

(vii) A person who has been granted asylum under INA Section 208.

(viii) A person granted withholding of deportation or removal under INA Section 243(h) or 241 (b) (3).

(ix) A Cuban or Haitian national who was paroled into the U.S. or given other special status.

(x) An Amerasian child of a U.S. citizen under 8 C.F.R. Section 204.4(a).

(xi) A person from Iraq or Afghanistan who has been granted one of the following:

(A) Special immigrant status under INA Section 101 (a) (27);

(B) Special immigrant conditional permanent resident; or

(C) Parole under Section 602 (b) (1) of the Afghan Allies Protection Act of 2009 or Section 1059(a) of the National Defense Authorization Act of 2006.

(xii) An Afghan granted humanitarian parole between July 31, 2021, and September 30, 2022, their spouse or child, or a parent or guardian of an unaccompanied minor who is granted parole after September 30, 2022, under Section 2502 of the Extending Government Funding and Delivering Emergency Assistance Act of 2021.

(xiii) A citizen or national of Ukraine (or a person who last habitually resided in Ukraine) who, under section 401 of the Additional Ukraine Supplemental Appropriations Act, 2022 (AUSAA), was:

(A) Granted parole into the United States between February 24, 2022, and September 30, 2023; or

(B) Granted parole into the United States after September 30, 2023, and is:

(I) The spouse or child of a person described in (b) (xiii) (A) of this subsection; or

(II) The parent, legal guardian, or primary caregiver of a person described in (b) (xiii) (A) of this subsection who is determined to be an unaccompanied child under section 462 (g) (2) of the Homeland Security Act of 2002 or section 412 (d) (2) (B) of the Immigration and Nationality Act.

(xiv) A person who has been certified or approved as a victim of trafficking by the federal office of refugee resettlement, or who is:

(A) The spouse or child of a trafficking victim of any age; or

(B) The parent or minor sibling of a trafficking victim who is younger than 21 years of age.

~~((xiv))~~ (xv) A person from the Federated States of Micronesia, the Republic of Palau, or the Republic of the Marshall Islands living in the United States in accordance with the Compacts of Free Association.

(c) **U.S. citizen** means someone who is a United States citizen under federal law.

(d) **U.S. national** means someone who is a United States national under federal law.

(e) **Undocumented person** means someone who is not lawfully present in the U.S.

(f) **Qualifying American Indian born abroad** means someone who:

(i) Was born in Canada and has at least 50 percent American Indian blood, regardless of tribal membership; or

(ii) Was born outside of the United States and is a member of a federally recognized tribe or an Alaska Native enrolled by the Secretary of the Interior under the Alaska Native Claims Settlement Act.

(2) **Eligibility.**

(a) A U.S. citizen, U.S. national or qualifying American Indian born abroad may be eligible for:

(i) Apple health for adults;

(ii) Apple health for kids;

(iii) Apple health for pregnant women; or

(iv) Classic medicaid.

(b) A qualified alien who meets or is exempt from the five-year bar may be eligible for:

(i) Apple health for adults;

(ii) Apple health for kids;

(iii) Apple health for pregnant women; or

(iv) Classic medicaid.

(c) A qualified alien who neither meets nor is exempt from the five-year bar may be eligible for:

(i) Alien medical programs;

(ii) Apple health for kids;

(iii) Apple health for pregnant women; or

(iv) Medical care services.

(d) A nonqualified alien may be eligible for:

(i) Alien medical programs;

(ii) Apple health for kids;

- (iii) Apple health for pregnant women; or
- (iv) Medical care services.
- (e) An undocumented person may be eligible for:
 - (i) Alien medical programs;
 - (ii) State-only funded apple health for kids; or
 - (iii) State-only funded apple health for pregnant women.

(3) **The five-year bar.**

- (a) A qualified alien meets the five-year bar if he or she:
 - (i) Continuously resided in the U.S. for five years or more from the date he or she became a qualified alien; or
 - (ii) Entered the U.S. before August 22, 1996, and:
 - (A) Became a qualified alien before August 22, 1996; or
 - (B) Became a qualified alien on or after August 22, 1996, and has continuously resided in the U.S. between the date of entry into the U.S. and the date he or she became a qualified alien.
- (b) A qualified alien is exempt from the five-year bar if he or she is:
 - (i) A qualified alien as defined in subsection (1)(b)(vi) through ~~((xiv))~~ (xv) of this section;
 - (ii) An LPR, parolee, or abused person, who is also an armed services member or veteran, or a family member of an armed services member or veteran, as described below:
 - (A) An active-duty member of the U.S. military, other than active-duty for training;
 - (B) An honorably discharged U.S. veteran;
 - (C) A veteran of the military forces of the Philippines who served before July 1, 1946, as described in Title 38 U.S.C. Section 107; or
 - (D) The spouse, unremarried widow or widower, or unmarried dependent child of an honorably discharged U.S. veteran or active-duty member of the U.S. military.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 22-08-002, § 182-503-0535, filed 3/23/22, effective 4/23/22; WSR 21-19-029, § 182-503-0535, filed 9/9/21, effective 10/10/21; WSR 15-10-002, § 182-503-0535, filed 4/22/15, effective 5/23/15. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155. WSR 14-16-052, § 182-503-0535, filed 7/29/14, effective 8/29/14.]

OTS-3917.3

AMENDATORY SECTION (Amending WSR 22-08-002, filed 3/23/22, effective 4/23/22)

WAC 182-507-0135 Immigration status requirement for refugee medical assistance (RMA). (1) An individual is eligible for refugee medical assistance (RMA) if the individual provides documentation issued by the United States Citizenship and Immigration Services (USCIS) to show that the individual is:

- (a) Admitted as a refugee under section 207 of the Immigration and Nationalities Act (INA);

(b) Paroled into the United States as a refugee or asylee under section 212 (d) (5) of the INA;

(c) Granted conditional entry under section 203 (a) (7) of the INA;

(d) Granted asylum under section 208 of the INA;

(e) Admitted as an Amerasian immigrant from Vietnam through the orderly departure program, under section 584 of the Foreign Operations Appropriations Act, incorporated in the FY88 continuing resolution P.L. 100-212;

(f) A Cuban-Haitian entrant who was admitted as a public interest parolee under section 212 (d) (5) of the INA;

(g) Certified as a victim of human trafficking by the federal Office of Refugee Resettlement (ORR);

(h) An eligible family member of a victim of human trafficking certified by ORR who has a T-2, T-3, T-4, or T-5 visa; or

(i) Admitted as special immigrant from Iraq or Afghanistan under one of the following:

(i) Special immigrant status under section 101 (a) (27) of the INA;

(ii) Special immigrant conditional permanent resident; or

(iii) Parole under section 602 (b) (1) of the Afghan Allies Protection Act of 2009 or section 1059(a) of the National Defense Authorization Act of 2006.

(j) An Afghan granted humanitarian parole between July 31, 2021, and September 30, 2022, their spouse or child, or a parent or guardian of an unaccompanied minor who is granted parole after September 30, 2022, under section 2502 of the Extending Government Funding and Delivering Emergency Assistance Act of 2021;

(k) A citizen or national of Ukraine (or a person who last habitually resided in Ukraine) who, under section 401 of the Additional Ukraine Supplemental Appropriations Act, 2022 (AUSAA), was:

(i) Granted parole into the United States between February 24, 2022, and September 30, 2023; or

(ii) Granted parole into the United States after September 30, 2023, and is:

(A) The spouse or child of a person described in (k) (i) of this subsection; or

(B) The parent, legal guardian, or primary caregiver of a person described in (k) (i) of this subsection who is determined to be an unaccompanied child under section 462 (g) (2) of the Homeland Security Act of 2002 or section 412 (d) (2) (B) of the Immigration and Nationality Act.

(2) A permanent resident alien meets the immigration status requirements for RCA and RMA if the individual was previously in one of the statuses described in subsection (1) (~~(a) through (i)~~) of this section.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 22-08-002, § 182-507-0135, filed 3/23/22, effective 4/23/22. Statutory Authority: RCW 41.05.021 and 2011 1st sp.s. c 15. WSR 12-19-001, § 182-507-0135, filed 9/5/12, effective 10/6/12.]

WSR 22-22-037
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-250—Filed October 25, 2022, 4:13 p.m., effective October 26, 2022]

Effective Date of Rule: October 26, 2022.

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

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

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

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

Reasons for this Finding: This rule is necessary to add commercial purse seine and gillnet fishery openings targeting chum salmon in Puget Sound Salmon Management and Catch Reporting Areas 10 and 11. The latest in-season run size estimate for South Sound chum salmon based on test fishing is large enough to allow full fleet openings. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: October 25, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-354-12000N Puget Sound salmon—Purse seine—Open periods. Effective 7:00 AM until 6:00 PM, October 26, 2022 the following provisions of WAC 220-354-120 regarding commercial Purse Seine open periods in Puget Sound Salmon Management and Catch Reporting Areas 10 and 11 shall be as follows. All other provisions of WAC 220-354-120 not contained herein remain in effect unless otherwise altered by emergency rule:

Areas	Open/Closed	Time	Date(s)
10, 11	Open	7 AM - 6 PM	10/26/2022

[]

NEW SECTION**WAC 220-354-16000Y Puget Sound salmon—Gillnet—Open periods.**

Effective October 26 through October 28, 2022, the following provisions of WAC 220-354-160 regarding commercial gillnet open periods for Puget Sound Salmon Management and Catch Reporting Areas 10 and 11 shall be as described below. All other provisions of WAC 220-354-160 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

Area	Open/Closed	Time	Date(s)
10, 11	Open	5 PM - 9 AM	Opening 10/26 - 10/27, 2022
10, 11	Open	5 PM - 9 AM	Opening 10/27 - 10/28, 2022

[]

WSR 22-22-040
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-252—Filed October 25, 2022, 5:06 p.m., effective October 26, 2022]

Effective Date of Rule: October 26, 2022.

Purpose: The purpose of this emergency rule is to return Green River (Cowlitz County) fishing seasons to permanent rules as listed in the 2022/23 Washington Sport Fishing Rules pamphlet.

Citation of Rules Affected by this Order: Repealing WAC 220-312-03000T; and amending WAC 220-312-030.

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

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

Reasons for this Finding: This emergency rule is necessary to return Green River (Cowlitz County) and Washougal River to permanent rules as listed in the 2022/23 Washington Sport Fishing Rules pamphlet.

Broodstock collection at the North Toutle hatchery has improved and is expected to meet broodstock needs. Previous low water conditions in the Green River have improved to acceptable levels in the reach from the mouth to the hatchery, allowing for improved spawning activity and fish movement upstream. Now that broodstock needs are being met, and river conditions have improved, returning fisheries in the Green River to permanent rules is justified.

Washougal River Chinook returns have improved, and continued closure of the fall Chinook fishery is no longer needed to ensure the 2022 broodstock collection goal will be met; returning fisheries in the Washougal River to permanent rules is justified.

Cowlitz River and Lewis River rules are carried forward from WSR 22-21-089, filed October 14, 2022.

There is insufficient time to file permanent rules.

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

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

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

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

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

Date Adopted: October 25, 2022.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-03000U Freshwater exceptions to statewide rules—Southwest. Effective October 26 through December 31, 2022, the provisions of WAC 220-312-030 regarding Cowlitz River, Lewis River, and Washougal River fishing seasons shall be modified during times and as described below. All other provisions of WAC 220-312-030, not addressed herein, remain in effect unless otherwise amended by emergency rule:

(1) Cowlitz River (Cowlitz/Lewis Co.); from the mouth to 400 feet or posted markers below the Barrier Dam:

Effective immediately, through December 31, 2022: Salmon: Daily limit 6. Up to 4 adults may be retained. Release all salmon other than hatchery coho.

(2) Lewis River (Clark/Cowlitz Co.):

(a) From the mouth to Colvin Creek:

Effective immediately, through December 31, 2022: Salmon: Daily limit 6. Up to 4 adults may be retained, including no more than 2 Chinook. Release all salmon other than Chinook and hatchery coho.

(b) From Colvin Creek to overhead power lines below Merwin Dam:

(i) Effective immediately, through October 31, 2022: Salmon: Daily limit 6. Up to 4 adults may be retained, including no more than 2 Chinook. Release all salmon other than Chinook and hatchery coho.

(ii) Effective November 1 through December 15, 2022: All species: Closed

(iii) Effective December 16 through December 31, 2022: Salmon: Daily limit 6. Up to 4 adults may be retained, including no more than 2 Chinook. Release all salmon other than Chinook and hatchery coho.

[]

REPEALER

The following section of Washington Administrative Code is repealed, effective October 26, 2022:

WAC 220-312-03000T Freshwater exceptions to statewide rules—Southwest. (22-241)

WSR 22-22-043
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed October 26, 2022, 11:11 a.m., effective October 26, 2022, 11:11 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 388-71-0876 When must long-term care workers who were working or hired during the COVID-19 public health emergency complete training, including required specialty training? and 388-112A-0081 When must long-term care workers who were working or hired during the COVID-19 public health emergency complete training, including required specialty training?. The department of social and health services (department) is requiring that long-term care workers (LTCWs) complete training and certification by certain dates in response to the COVID-19 public health emergency. The department divided the group of LTCWs into cohorts based on the employee's date of hire or rehire. The rule requires each cohort to complete the requirements by deadlines in rule with the "oldest" LTCWs having the first deadline and then working through the groups chronologically. The department is extending the deadline of the first cohort by folding them into the second cohort deadline.

Citation of Rules Affected by this Order: Amending WAC 388-71-0876 and 388-112A-0081.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520, and 74.39A.074.

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: Long-term care workers hired or rehired during the COVID-19 public health emergency are required to complete certain training and certification requirements within specific deadlines. Interested persons have reported that the number of LTCWs in cohort #1 that still need training and certification far exceeds the number that can be trained by the current deadline. This will result in LTCWs failing to complete the requirements in time and create risk to clients being able to access qualified workers for provision of their personal care services. To prevent this, the department is extending the training and certification deadlines to those of cohort #2, which has far fewer workers in need of training.

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 2, Repealed 0.

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

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

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

Date Adopted: October 26, 2022.

Katherine I. Vasquez
Rules Coordinator

SHS-4951.1

AMENDATORY SECTION (Amending WSR 22-12-081, filed 5/31/22, effective 7/1/22)

WAC 388-71-0876 When must long-term care workers who were working or hired during the COVID-19 public health emergency complete training, including required specialty training? (1) Unless exempt from training as described in WAC 388-71-0839 or ((WAC) 388-112A-0090), a long-term care worker affected by the COVID-19 public health emergency must complete training, including required specialty training, as follows:

Worker hired or rehired during the time frame of:	Must complete basic training no later than:
((8/17/2019 to 9/30/2020	10/31/2022))
((10/1/2020)) 8/17/2019 to 4/30/2021	1/31/2023
5/1/2021 to 3/31/2022	4/30/2023
4/1/2022 to 9/30/2022	8/31/2023
10/1/2022 - 12/31/2022 or the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later	9/30/2023 or within 120 days after the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later
After the end of the COVID-19 training waivers established by gubernatorial proclamation or beginning 1/1/2023, whichever is later	Standard training

(2) Unless exempt from certification as described in WAC 246-980-025, a worker affected by the COVID-19 public health emergency who is required to be certified as a home care aide must obtain certification as follows:

Worker hired or rehired during the time frame of:	Must be certified as a home care aide no later than:
((8/17/2019 to 9/30/2020	1/19/2023))
((10/1/2020)) 8/17/2019 to 4/30/2021	4/21/2023
5/1/2021 to 3/31/2022	7/19/2023
4/1/2022 to 9/30/2022	11/19/2023

10/1/2022 - 12/31/2022 or the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later	12/19/2023 or within 200 days after the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later
After the end of the COVID-19 training waivers established by gubernatorial proclamation or beginning 1/1/2023, whichever is later	Standard training

(3) "Hired" and "rehired" as used in this section mean the date of hire as defined in chapter 246-980 WAC. A long-term care worker is considered rehired if they held previous employment as a long-term care worker and did not have an active home care aide credential when hired during the time frames outlined in subsection (1) of this section.

(4) If a long-term care worker is limited-English proficient, the worker may request an additional 60 days to obtain certification.

(5) Nothing in this section prevents a long-term care worker hired between 8/17/2019 and 9/30/2022 from completing training or obtaining certification in advance of the deadlines stipulated in subsections (1) or (2) of this section.

[Statutory Authority: RCW 74.08.090 and 74.09.520. WSR 22-12-081, § 388-71-0876, filed 5/31/22, effective 7/1/22.]

AMENDATORY SECTION (Amending WSR 22-12-081, filed 5/31/22, effective 7/1/22)

WAC 388-112A-0081 When must long-term care workers who were working or hired during the COVID-19 public health emergency complete training, including required specialty training? (1) Unless exempt from training as described in WAC 388-71-0839 or ((WAC) 388-112A-0090, a long-term care worker affected by the COVID-19 public health emergency must complete training, including required specialty training, as follows:

Worker hired or rehired during the time frame of:	Must complete basic training no later than:
((8/17/2019 to 9/30/2020	10/31/2022))
((10/1/2020) 8/17/2019 to 4/30/2021	1/31/2023
5/1/2021 to 3/31/2022	4/30/2023
4/1/2022 to 9/30/2022	8/31/2023
10/1/2022 - 12/31/2022 or the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later	9/30/2023 or within 120 days after the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later

After the end of the COVID-19 training waivers established by gubernatorial proclamation or beginning 1/1/2023, whichever is later	Standard training
--	-------------------

(2) Unless exempt from certification as described in WAC 246-980-025, a worker affected by the COVID-19 public health emergency who is required to be certified as a home care aide must obtain certification as follows:

Worker hired or rehired during the time frame of:	Must be certified as a home care aide no later than:
((8/17/2019 to 9/30/2020	1/19/2023))
((10/1/2020) 8/17/2019 to 4/30/2021	4/21/2023
5/1/2021 to 3/31/2022	7/19/2023
4/1/2022 to 9/30/2022	11/19/2023
10/1/2022 - 12/31/2022 or the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later	12/19/2023 or within 200 days after the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later
After the end of the COVID-19 training waivers established by gubernatorial proclamation or beginning 1/1/2023, whichever is later	Standard training

(3) "Hired" and "rehired" as used in this section mean the date of hire as defined in chapter 246-980 WAC. A long-term care worker is considered rehired if they held previous employment as a long-term care worker and did not have an active home care aide credential when hired during the time frames outlined in subsection (1) of this section.

(4) If a long-term care worker is limited-English proficient, the worker may request an additional 60 days to obtain certification.

(5) Nothing in this section prevents a long-term care worker hired between 8/17/2019 and 9/30/2022 from completing training or obtaining certification in advance of the deadlines stipulated in subsections (1) or (2) of this section.

[Statutory Authority: RCW 74.08.090 and 74.09.520. WSR 22-12-081, § 388-112A-0081, filed 5/31/22, effective 7/1/22.]

WSR 22-22-045
EMERGENCY RULES
GREEN RIVER COLLEGE

[Filed October 26, 2022, 1:42 p.m., effective October 26, 2022, 1:42 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The Washington state legislature passed HB 1751 referred to as "Sam's Law," which took effect June 9, 2022. The law requires colleges to take several actions to prevent hazing, including modifying the code of student conduct.

Citation of Rules Affected by this Order: New WAC 132J-126-125; and amending WAC 132J-126-030 and 132J-126-090.

Statutory Authority for Adoption: RCW 28B.50.140.

Other Authority: HB 1751.

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

Reasons for this Finding: HB 1751 became effective June 9, 2022, and the law requires colleges to modify their student conduct code fall quarter 2022, to implement anti-hazing provisions. The Green River College board of trustees adopted these emergency rules in an open public meeting on September 15, 2022, and approved the emergency rules becoming effective upon filing.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 2, 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 2, Repealed 0.

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

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

Date Adopted: September 15, 2022.

George P. Frasier
Vice President for College Advancement

OTS-4045.1

AMENDATORY SECTION (Amending WSR 15-15-071, filed 7/13/15, effective 8/13/15)

WAC 132J-126-030 Definitions. The following definitions shall apply for the purpose of this student conduct code:

"Assembly" is any overt activity engaged in by two or more persons, the object of which is to gain publicity, advocate a view, petition for a cause or disseminate information to any person, persons, or groups of persons.

"Business day" means a weekday, excluding weekends and college holidays.

"Cheating" is defined as intentional deception in producing or creating academic work. Cheating includes, but is not limited to:

- (a) Intentional plagiarism;
- (b) Selling or giving your own completed work to others who intend to turn it in as their own;
- (c) Purchasing or accepting the work of others with the intent of turning it in as your own;
- (d) Acquiring and/or using teachers' editions of textbooks, without the permission of the specific instructor, in order to complete your course assignments;
- (e) Obtaining or attempting to obtain an examination prior to its administration;
- (f) Referring to devices, materials or sources not authorized by the instructor;
- (g) Receiving assistance from another person when not authorized by the instructor;
- (h) Providing assistance to another person when not authorized by the instructor;
- (i) Taking an examination for another person;
- (j) Obtaining or attempting to obtain another person to take one's own examination;
- (k) Falsifying laboratory results or copying another person's laboratory results; and
- (l) Falsifying or attempting to falsify the record of one's grades or evaluation.

"College" means Green River College.

"College facilities" includes all buildings, structures, grounds, office space, and parking lots.

"College groups" shall mean individuals or groups who are currently enrolled students or current employees of the college, or guests of the college who are sponsored by a recognized student organization, employee organization, or the administration of the college.

"College official" includes any person employed by the college, performing assigned administrative or professional responsibilities.

"College premises" shall include all campuses of the college, wherever located, and includes all land, buildings, facilities, vehicles, equipment, and other property owned, used, or controlled by the college.

"Complainant" means any person who submits a charge alleging that a student violated the student code. When a student believes that she/he has been a victim of another student's misconduct, the student who believes she/he has been a victim will have the same rights under this student code as are provided to the complainant, even if another member of the college community submitted the charge himself or herself.

"Conduct review officer" is the vice president of student affairs or other college administrator designated by the president to be responsible for receiving and for reviewing or referring appeals of student disciplinary actions in accordance with the procedures of this code. The president is authorized to reassign any and all of the conduct review officer's duties or responsibilities as set forth in this chapter as may be reasonably necessary.

"Disciplinary action" is the process by which the student conduct officer imposes discipline against a student for a violation of the student conduct code.

"Disciplinary appeal" is the process by which an aggrieved student can appeal the discipline imposed by the student conduct officer.

Disciplinary appeals from a suspension in excess of ten instructional days or a dismissal are heard by the student conduct appeals board. Appeals of all other appealable disciplinary action shall be reviewed through brief adjudicative proceedings.

"Expressive activity" includes, but is not necessarily limited to, informational picketing, petition circulation, the distribution of informational leaflets or pamphlets, speech making, demonstrations, rallies, appearances of speakers in outdoor areas, protests, meetings to display group feelings or sentiments and/or other types of assemblies to share information, perspectives or viewpoints.

"Fabrication" is defined as intentional misrepresentation of an activity done by a student for an academic project or practicum. Fabrication includes, but is not limited to:

- (a) Counterfeiting data, research results, information, or procedures with inadequate foundation in fact;
- (b) Counterfeiting a record of internship or practicum experiences;
- (c) Submitting a false excuse for absence or tardiness; and
- (d) Unauthorized multiple submission of the same work; sabotage of others' work.

"Faculty member" means any person hired by the college to conduct classroom, counseling, or teaching activities or who is otherwise considered by the college to be a member of its faculty.

"Filing" is the process by which a document is officially delivered to a college official responsible for facilitating a disciplinary review. Unless otherwise provided, filing shall be accomplished by:

- (a) Hand delivery of the document to the specified college official or college official's assistant; or
- (b) By sending the document by email and first class mail to the specified college official's office and college email address.

Papers required to be filed shall be deemed filed upon actual receipt during office hours at the office of the specified college official.

"May" is used in the permissive sense.

"Member of the college community" includes any person who is a student, faculty member, college official or any other person employed by the college. A person's status in a particular situation shall be determined by the vice president of student affairs or designee.

"Noncollege groups" shall mean individuals, or combinations of individuals, who are not currently enrolled students or current employees of the college and who are not officially affiliated or associated with, or invited guests of a recognized student organization, recognized employee group, or the administration of the college.

"Organization" means number of persons who have complied with the formal requirements for college recognition/registration.

"Plagiarism" is defined as using others' original ideas in your written or spoken work without giving proper credit.

- (a) Ideas include, but are not limited to:
 - (i) Facts;
 - (ii) Opinions;
 - (iii) Images;
 - (iv) Statistics;
 - (v) Equations;
 - (vi) Hypotheses;
 - (vii) Theories.
- (b) Plagiarism can occur in two ways: Intentional and unintentional.

(c) Ways that intentional plagiarism occur include, but are not limited to:

- (i) Turning in someone else's work as your own;
- (ii) Copying words or ideas from someone else without giving credit;
- (iii) Failing to put a quotation in quotation marks;
- (iv) Giving incorrect information about the source of a quotation;
- (v) Changing words but copying the sentence structure of a source without giving credit;
- (vi) Copying so many words or ideas from a source that it makes up the majority of your work, whether you give credit or not.

(d) Unintentional plagiarism may occur when a student has tried in good faith to document their academic work but fails to do so accurately and/or thoroughly. Unintentional plagiarism may also occur when a student has not had course work covering plagiarism and documentation and is therefore unprepared for college academic writing or speaking.

"Policy" means the written regulations of the college as found in, but not limited to, the student code, the college web page and computer use policy, and catalogs.

"Respondent" is the student against whom disciplinary action is initiated.

"Service" is the process by which a document is officially delivered to a party. Unless otherwise provided, service upon a party shall be accomplished by:

- (a) Hand delivery of the document to the party; or
- (b) By sending the document by email and by certified mail or first class mail to the party's last known address.

Service is deemed complete upon hand delivery of the document or upon the date the document is emailed and deposited in the mail.

"Shall" is used in the imperative sense.

"Student" includes all persons taking courses at or through the college, whether on a full-time or part-time basis, and whether such courses are credit courses, noncredit courses, online courses, or otherwise. Persons who withdraw after allegedly violating the code, who are not officially enrolled for a particular term but who have a continuing relationship with the college, or who have been notified of their acceptance for admission are considered students.

"Student conduct officer" is a college administrator designated by the president or vice president of student affairs to be responsible for implementing and enforcing the student conduct code. The president or vice president of student affairs is authorized to reassign any and all of the student conduct officer's duties or responsibilities as set forth in this chapter as may be reasonably necessary.

"Student group" for purposes of this code, is a student organization, athletic team, or living group including, but not limited to, student clubs and organizations, members of a class or student cohort, student performance groups, and student living groups within student housing.

"The president" is the president of the college. The president is authorized to delegate any and all of his or her responsibilities as set forth in this chapter as may be reasonably necessary.

"Vice president of student affairs" means the college administrator who reports to the college president, who serves as the college's student judicial affairs administrator, and who is responsible for administering the student rights and responsibilities code. The vice

president of student affairs may designate a student conduct officer to fulfill this responsibility.

[Statutory Authority: RCW 28B.50.140 and 34.02.353 [34.05.353]. WSR 15-15-071, § 132J-126-030, filed 7/13/15, effective 8/13/15. Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-030, filed 12/3/14, effective 1/3/15.]

AMENDATORY SECTION (Amending WSR 14-24-129, filed 12/3/14, effective 1/3/15)

WAC 132J-126-090 Conduct—Student responsibilities. Any student or student group shall be subject to disciplinary action as provided for in this chapter, who either as a principal actor, aide, abettor, or accomplice as defined in RCW 9A.08.020:

Materially and substantially interferes with the personal rights or privileges of others or the educational process of the college;

Violates any provision of this chapter; or

Commits any prohibited act including, but not limited to, the following:

(1) **Academic dishonesty.** Any act of academic dishonesty including, but not limited to, cheating, plagiarism, and fabrication. In academically honest writing or speaking, the student documents his/her source of information whenever:

Another person's exact words are quoted;

Another person's idea, opinion or theory is used through paraphrase; and

Facts, statistics, or other illustrative materials are borrowed.

In order to complete academically honest work, students should:

Acknowledge all sources according to the method of citation preferred by the instructor;

Write as much as possible from one's own understanding of the materials and in one's own voice;

Ask an authority on the subject, such as the instructor who assigned the work; and

Seek help from academic student services such as the library and/or writing center.

(2) **Tobacco, electronic cigarettes, and related products.** The use of tobacco, electronic cigarettes, and related products are not allowed on college campus. In addition to the main campus, this also includes any building and premises owned, leased or operated by the college outside of the main campus. "Related products" include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, and snuff.

(3) **Alcohol.** The use, possession, delivery, sale, or being visibly under the influence of any alcoholic beverage, except as permitted by law and applicable college policies.

(4) **Drugs/substance abuse.**

(a) Any student who, while in any college facility or participating in a college-related program, uses, possesses, consumes, is demonstrably under the influence of, or sells any narcotic drug or controlled substance as defined in RCW 69.50.101, in violation of law or in a manner which significantly disrupts a college activity. For purposes

of this section, "sell" includes the statutory meaning in RCW 69.50.410.

(b) **Marijuana.** The use, possession, delivery, sale, or being visibly under the influence of marijuana or the psychoactive compounds found in marijuana and intended for human consumption, regardless of form, is prohibited. While state law permits the recreational use of marijuana, federal law prohibits such use on college premises or in connection with college activities.

(5) **Conduct at college functions.** Any student who significantly disrupts or obstructs any teaching, research, administration, disciplinary proceedings, other college activities, including its public service functions on or off campus, or of other authorized noncollege activities when the conduct occurs on college premises.

(6) **Theft; stolen property; robbery.** Any student who, while in any college facility or participating in a college-related program, commits or attempts to commit theft as defined in RCW 9A.56.020, or possesses stolen property as defined in RCW 9A.56.140, or commits or attempts to commit robbery as defined in RCW 9A.56.190.

(7) **Damaging property.**

(a) Any student who causes or attempts to cause physical damage to property owned, controlled or operated by the college, or to property owned, controlled or operated by another person while said property is located on college facilities.

(b) Any student who in this or any other manner is guilty of malicious mischief in violation of RCW 9A.48.070 through 9A.48.100.

(8) **Abuse; intimidation.** Physical abuse, verbal abuse, threats, intimidation, coercion, and/or other conduct which threatens or endangers the health or safety of any person.

(9) **Hazing.** (~~Hazing, defined as an act which endangers the mental or physical health or safety of a student, or which destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in, a group or organization. The express or implied consent of the victim will not be a defense. Apathy or acquiescence in the presence of hazing are not neutral acts; they are violations of this rule.~~)

(a) Hazing is any act committed as part of:

(i) A person's recruitment, initiation, pledging, admission into, or affiliation with a student group;

(ii) Any pastime or amusement engaged in with respect to such a student group; or

(iii) That causes, or is likely to cause, bodily danger or physical harm, or serious psychological or emotional harm, to any student.

(b) Examples of hazing include, but are not limited to:

(i) Causing, directing, coercing, or forcing a person to consume any food, liquid, alcohol, drug, or other substance which subjects the person to risk of such harm;

(ii) Humiliation by ritual act;

(iii) Striking another person with an object or body part;

(iv) Causing someone to experience excessive fatigue, or physical and/or psychological shock; or

(v) Causing someone to engage in degrading or humiliating games or activities that create a risk of serious psychological, emotional, and/or physical harm.

(c) "Hazing" does not include customary athletic events or other similar contests or competitions.

(d) Consent is not a valid defense against hazing.

(10) **Failure to comply.** Failure to comply with directions of college officials, campus safety officers, or law enforcement officers acting in performance of their duties and/or failure to identify oneself to these persons when requested to do so.

(11) **Possession of keys.** Unauthorized possession, duplication or use of keys to any college premises or unauthorized entry to or use of college premises.

(12) **Policy violation.** Violation of any college policy, rule, or regulation published in hard copy or available electronically on the college website.

(13) **Violation of laws.** Violation of any federal, state, or local law.

(14) **False alarms.** Falsely setting off or otherwise tampering with any emergency safety equipment, alarm, or other device established for the safety of individuals and/or college facilities.

(15) **Harassment.** Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, that is directed at a person because of such person's protected status and that is sufficiently serious as to deny or limit, and that does deny or limit, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for other campus community members. Protected status includes a person's race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age (40+); religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally protected classification. See "Sexual misconduct" for the definition of "sexual harassment." Harassing conduct may include, but is not limited to, physical conduct, verbal, written, social media and electronic.

(16) **Sexual misconduct.**

(a) Sexual misconduct is any sexual activity with another that is unwanted and nonconsensual. Sexual misconduct includes physical contact as well as voyeurism.

(b) Consent to sexual activity requires that, at the time of the act, there are actual words or conduct demonstrating freely given agreement to sexual activity, silence or passivity is not consent. Even if words or conduct alone seem to imply consent, sexual activity is nonconsensual when:

(i) Force or blackmail is threatened or used to procure compliance with the sexual activity; or

(ii) The person is unconscious or physically unable to communicate his or her unwillingness to engage in sexual activity; or

(iii) The person lacks the mental capacity at the time of the sexual activity to be able to understand the nature or consequences of the act, whether that incapacity is produced by illness, defect, the influence of alcohol or another substance, or some other cause.

(c) A person commits voyeurism if, for the purpose of arousing or gratifying the sexual desire of any person, he or she knowingly views, photographs, or films another person, without that person's knowledge and consent, while the person being viewed, photographed, or filmed is in a place where he or she has a reasonable expectation of privacy.

(d) The term "sexual harassment" means unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature that is sufficiently serious as to deny or limit, and that does deny or limit, based on sex, the ability of a student to partici-

pate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for other campus community members.

(e) The term "sexual intimidation" incorporates the definition of "sexual harassment" and means threatening or emotionally distressing conduct based on sex including, but not limited to, nonconsensual recording of sexual activity or the distribution of such recording.

(17) **Sexual violence.** The term "sexual violence" incorporates the definition of "sexual harassment" and means a physical sexual act perpetrated without clear, knowing, and voluntary consent, such as committing a sexual act against a person's will, exceeding the scope of consent, or where the person is incapable of giving consent, including rape, sexual assault, sexual battery, sexual coercion, sexual exploitation, gender- or sex-based stalking. The term further includes acts of dating or domestic violence. A person may be incapable of giving consent by reason of age, threat or intimidation, lack of opportunity to object, disability, drug or alcohol consumption, or other cause.

(18) **Weapons and fireworks.** Possession or use of fireworks anywhere on campus; possession, holding, wearing, transporting, storage or presence of any firearm, dagger, sword, knife, or any other cutting or stabbing instrument, or club, or incendiary device, or explosive, or any facsimile weapons, or any other weapon apparently capable of producing bodily harm and/or property damage is prohibited on the college campus, subject to the following exceptions:

(a) Commissioned law enforcement personnel, legally authorized military personnel, or bank-related security personnel required by their office to carry such weapons or devices.

(b) Possession or use of disabling chemical sprays when used for self-defense.

(c) The president may authorize possession of a weapon on campus upon a showing that the weapon is reasonably related to a legitimate pedagogical purpose. Such permission shall be in writing and shall be subject to such terms or conditions incorporated in the written permission.

(19) **Demonstrations.** Participating in an on-campus or off-campus demonstration, riot, or activity that disrupts the normal operations of the college and/or infringes on the rights of other members of the college community; leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area.

(20) **Disorderly conduct.** Conduct that is disorderly, lewd, indecent, or obscene; breach of peace; or aiding, abetting, or procuring another person to breach the peace on college premises or at functions sponsored by, or participated in by, the college or members of the college community. Disorderly conduct includes, but is not limited to, any unauthorized use of electronic or other devices to make an audio or video record of any person while on college premises without his/her prior knowledge, or without his/her effective consent when such a recording is in a place or situation where he or she has a reasonable expectation of privacy. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room, or restroom.

(21) **Discriminatory conduct.** Discriminatory conduct which harms or adversely affects any member of the college community because of his/her race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age (40+); religion; creed; genetic information; sexual orien-

tation; gender identity; veteran's status; or any other legally protected classification.

(22) **Stalking.** Stalking, defined as intentionally and repeatedly harassing or following a person and intentionally or unintentionally placing the person being followed or harassed in fear of physical harm to one's self or property or physical harm to another person or another's property.

(23) **Improper use of technology.** Theft or other abuse of computer facilities and resources including, but not limited to:

(a) Unauthorized entry into a file, to use, read, or change the contents, or for any other purpose.

(b) Unauthorized transfer of a file.

(c) Use of another individual's identification and/or password.

(d) Use of computing facilities and resources to interfere with the work of another student, faculty member, or college official.

(e) Use of computing facilities and resources to view or send obscene or abusive messages.

(f) Use of computing facilities and resources to interfere with normal operation of the college computing system.

(g) Use of computing facilities and resources in violation of copyright laws.

(h) Any violation of the Student Affairs Policy SA-24 - Student Acceptable Computer Use.

(24) **Forgery or alteration of records.** Any student who, while in any college facility or participating in a college-related program, engages in forgery, as defined in RCW 9A.60.020.

(25) **Disruption of conduct process.** Abuse of the student conduct system including, but not limited to:

(a) Falsification, distortion, or misrepresentation of information before a student conduct officer.

(b) Disruption or interference with the orderly conduct of a student conduct hearing proceeding.

(c) Institution of a student conduct code proceeding in bad faith.

(d) Attempting to discourage an individual's proper participation in, or use of, the student conduct system.

(e) Attempting to influence the impartiality of a member of a student conduct officer prior to, and/or during the course of, the student conduct hearing proceeding.

(f) Harassment (verbal or physical) and/or intimidation of a member of a student conduct officer prior to, during, and/or after a student conduct hearing proceeding.

(g) Failure to comply with the sanction(s) imposed under the student code.

(h) Influencing or attempting to influence another person to commit an abuse of the student conduct code system.

(26) **False complaint.** Filing a formal complaint falsely accusing another student or college employee with violating a provision of this chapter.

(27) **Classroom conduct.** Any student who significantly disrupts any college class and makes it unreasonably difficult to conduct the class in an orderly manner shall be subject to disciplinary action. An instructor/faculty member may impose any of the following actions for classroom conduct:

(a) Warning: An oral or written notice to a student that college and/or classroom expectations about conduct have not been met.

(b) Reprimand: A written notice which censures a student for improper conduct and includes a warning that continuation or repetition of improper conduct shall result in further disciplinary action.

(c) Summary suspension for a maximum of two days: As defined in WAC 132J-126-230.

At any time, severe misconduct or continued misconduct shall be just cause for the matter to be forwarded immediately to the vice president of student affairs or designee for further action.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-090, filed 12/3/14, effective 1/3/15.]

NEW SECTION

WAC 132J-126-125 Hazing prohibited—Sanctions. (1) Hazing by a student or a student group is prohibited pursuant to WAC 132-126-090(9).

(2) No student may conspire to engage in hazing or participate in hazing of another. State law provides that hazing is a criminal offense, punishable as a misdemeanor.

(3) Washington state law provides that:

(a) Any student group that knowingly permits hazing is strictly liable for harm caused to persons or property resulting from hazing. If the organization, association, or student living group is a corporation whether for profit or nonprofit, the individual directors of the corporation may be held individually liable for damages.

(b) Any person who participates in the hazing of another shall forfeit any entitlement to state-funded grants, scholarships, or awards for a period of time determined by the college.

(c) Student groups that knowingly permits hazing to be conducted by its members or by others subject to its direction or control shall be deprived of any official recognition or approval granted by the college.

(d) Student groups found responsible for violating the code of student conduct, college antihazing policies, or state or federal laws relating to hazing or offenses related to alcohol, drugs, sexual assault, or physical assault will be disclosed in a public report issued by the college setting forth the name of the student group, the date the investigation began, the date the investigation ended, a finding of responsibility, a description of the incident(s) giving rise to the finding, and the details of the sanction(s) imposed.

[]

WSR 22-22-046
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-253—Filed October 26, 2022, 3:57 p.m., effective November 1, 2022]

Effective Date of Rule: November 1, 2022.

Purpose: The purpose of this emergency rule is to close Catch Record Card Area 11 salmon seasons Thursday through Saturday each week, from November 1 through December 31, 2022.

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: The Marine Area 11 winter Chinook fishery is scheduled to open November 1, with a total encounters limit of 1,093, an unmarked encounters limit of 256, and a sublegal encounters limit of 732 Chinook. A reduction in open days was agreed to by the Washington department of fish and wildlife, the Puget Sound recreational fishery advisors, and representatives of the Marine Area 11 community to extend the season as long as possible. The winter Chinook season is scheduled to close December 31.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: October 26, 2022.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-313-06000J Puget Sound salmon—Saltwater seasons and daily limits. Effective November 1 through December 31, 2022, for Catch Record Card Area 11, except year-round piers listed in WAC 220-313-060 (9)(g), the following provisions of WAC 220-313-060 regarding salmon seasons shall be modified as described below. All other

provisions of WAC 220-313-060 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

- (a) Open Sunday through Wednesday each week:
 - (i) Daily limit 2, including no more than 1 Chinook.
 - (ii) Release coho, chum, and wild Chinook.
- (b) Closed Thursday through Saturday each week.

[]

WSR 22-22-056
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-254—Filed October 27, 2022, 4:50 p.m., effective October 27, 2022, 4:50 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to open Cascade River coho fisheries seven days per week.

Citation of Rules Affected by this Order: Repealing WAC 220-312-04000T; and amending WAC 220-312-040.

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

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

Reasons for this Finding: This emergency rule is necessary to open Cascade River coho fisheries seven days per week. Treaty coho fisheries in the Cascade River have concluded; therefore, weekly closure days are no longer necessary to avoid gear conflicts.

This rule also carries forward Skagit River rules previously filed in WSR 22-22-019, on October 21, 2022.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: October 27, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000V Freshwater exceptions to statewide rules—Pugget Sound. Effective immediately, through November 30, 2022, the following provisions of WAC 220-312-040 regarding fishing seasons for the Cascade River and Skagit River shall be modified in locations listed, as described herein. All other provisions of WAC 220-312-040, not addressed herein, or unless otherwise amended, remain in effect:

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

Salmon:

- (a) Open daily.
- (b) Daily limit 4. Release all fish other than coho.
- (c) Anti-snagging rules in effect.
- (d) Night closure in effect.

(2) Skagit River (Skagit County); from the mouth (a line projected from the terminus of the jetty with McGlenn Island to the white monument on the easterly end of Ika Island, then to a white monument on the westerly end of Craft Island, then to a white monument near the corner of the levee on the westerly side of Dry Slough, and then to a white monument on the easterly side of Tom Moore Slough) to Cascade River Rd. (Marblemount Bridge):

- (a) All species: Bait is prohibited.
- (b) Salmon: Daily limit 2. Release Chinook and chum.

[]

REPEALER

The following section of Washington Administrative Code is repealed, effective immediately, 2022:

WAC 220-312-04000T Freshwater exceptions to statewide rules—Puget Sound. (22-248)

WSR 22-22-057
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-255—Filed October 27, 2022, 4:53 p.m., effective October 28, 2022]

Effective Date of Rule: October 28, 2022.

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

WAC 220-340-45500P:

(1) Opens Puget Sound commercial crab harvest in Crab Management Regions 1, 2-East, 2-West, 3-1, 3-2, 3-3, and 3-4 at 8:00 a.m. on October 28, 2022.

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

WAC 220-340-42000K:

(1) Opens all areas with commercial harvest opportunity in Puget Sound to barging of pots, effective October 28 through 30, 2022. Describes Puget Sound pot barging reporting requirements.

Citation of Rules Affected by this Order: Repealing WAC 220-340-45500N; and amending WAC 220-340-455 and 220-340-420.

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

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

Reasons for this Finding: There is sufficient allocation available in Regions 1, 2-West, 2-East, 3-1, 3-2, 3-3, and 3-4 to accommodate this opening. These provisions are in conformity with agreed-to management plans with applicable treaty Indian tribes. These management plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty Indian tribes and outlined in the management plans. There is insufficient time to adopt permanent rules. Further adjustment of season structure may be made pending updated harvest data.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 0, Repealed 1.

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

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

Date Adopted: October 27, 2022.

Kelly Susewind
Director

NEW SECTION**WAC 220-340-45500P Commercial crab fishery—Seasons and areas—Puget Sound.** Notwithstanding the provisions of WAC 220-340-455:

Commercial harvest of Dungeness crab in Puget Sound is allowed during the "Open period" indicated in the following table. On the opening date harvest will be permitted starting at 8:00 a.m. Harvest on all other days is allowed starting one hour before official sunrise until further notice. Any closures will take effect one hour after official sunset unless otherwise indicated.

Geographical Management Unit (WAC 220-320-110)	Open Period
Region 1, MFSF Catch Areas 21A, 21B, and 22B	October 28, 2022, until further notice
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	October 28, 2022, until further notice
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	October 28, 2022, through February 1, 2023
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	October 28, 2022, through December 31, 2022
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	October 28, 2022, through February 15, 2023
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	October 28, 2022, through February 15, 2023
Subregion 3-1	October 28, 2022, until further notice
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120 (6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	October 28, 2022, until further notice
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	October 28, 2022, until further notice
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	October 28, 2022, until further notice
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Closed, due to on-going public health concerns.
Subregion 3-3	October 28, 2022, until further notice
Subregion 3-4	October 28, 2022, until further notice

[]

NEW SECTION**WAC 220-340-42000K Commercial crab fishery—Unlawful acts.** Notwithstanding the provisions of WAC 220-340-420:

(1) Effective 8:00 a.m. October 28, 2022 until 7:59 a.m. October 30, 2022 it is permissible to deploy Dungeness crab pots for commercial purposes in Crab Management Regions 1, 2 East, 2 West, 3-1, 3-2, and 3-3 from a vessel not designated on a person's Puget Sound crab license, provided that the primary or alternate operator designated on the license is on board the non-designated vessel ("barge" vessel), and prior notice has been given as provided below. Crab pots may only be deployed during daylight hours.

(2) Puget Sound commercial crab license holders that intend to barge must send an email to crab.report@dfw.wa.gov, detailing the following information:

(a) Name and license number of licensed owner.

(b) Name of designated primary operator if different from licensed owner.

- (c) Name of alternate operator if used to deploy pots from a non-designated vessel.
- (d) Buoy brand number and number of pots to be deployed from a non-designated vessel.
- (e) Name and identification numbers (WN and/or Coast Guard) of the non-designated vessel.
- (f) Region or Set Location

[]

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-340-45500N Commercial crab fishery—Seasons and areas—Puget Sound. (22-245)

WSR 22-22-058
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-251—Filed October 27, 2022, 5:04 p.m., effective October 29, 2022]

Effective Date of Rule: October 29, 2022.

Purpose: The purpose of this emergency rule is to return most coastal, Willapa Bay, and Grays Harbor tributaries to permanent rules as listed in the 2022/23 Washington Sport Fishing Rules pamphlet. Closures are maintained in the Queets River system and release of all Chinook is required in areas open to salmon on the north coast.

Citation of Rules Affected by this Order: Repealing WAC 220-312-02000U; and amending WAC 220-312-020.

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: Recent rain events have increased stream flows sufficiently to allow salmon migration to continue upstream, thereby allowing most recreational fisheries in Willapa Bay, Grays Harbor, and north coast tributaries to return to permanent rules as listed in the 2022/23 Washington Sport Fishing Rules pamphlet, with some exceptions.

Continued Chinook conservation concerns require that waters with the Queets River system (Clearwater and Salmon rivers) remain closed to fishing until further notice and release of all Chinook will be required in areas open for salmon in Bogachiel, Calawah, Dickey, Hoh, Quillayute, Upper Quinault, and Sol Duc rivers. These measures will assist in achieving Chinook spawning and escapement goals, as normal spawn timing has been impacted greatly by lack of water due to dry weather conditions over summer and into fall.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: October 27, 2022.

Kelly Susewind
Director

NEW SECTION**WAC 220-312-02000W Freshwater exceptions to statewide rules—**

Coast. Effective October 29, 2022, until further notice, recreational fishing seasons shall be modified in areas and during times as described herein. All other provisions of WAC 220-312-020 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

- (1) **All species:** Effective immediately through October 30, 2022: The following areas, including ALL tributaries to listed areas are Closed Waters:
- (a) **Bear Creek (Clallam Co.)** (Bogachiel Tributary)
 - (b) **Bear Creek (Clallam Co.)** (Sol Duc Tributary)
 - (c) **Beaver Creek (Clallam Co.)**
 - (d) **Big River (Clallam Co.)**, outside of Olympic National Park.
 - (e) **Bogachiel River (Clallam Co.)**, from the mouth to Olympic National Park boundary.
 - (f) **Calawah River, (Clallam Co.)**, including the North and South Forks, from the mouth upstream to the Olympic National Park boundary.
 - (g) **Cedar Creek (Jefferson Co.)**, outside of Olympic National Park
 - (h) **Dickey River (Clallam Co.)** from the Olympic National Park boundary upstream including East and West forks.
 - (i) **Goodman Creek (Jefferson Co.)**, outside of Olympic National Park boundary.
 - (j) **Hoh River (Jefferson Co.)**, from Olympic National Park boundary upstream to Olympic National Park boundary below mouth of South Fork Hoh River.
 - (k) **Hoh River, South Fork (Jefferson Co.)**, outside of Olympic National Park boundary.
 - (l) **Kalaloch Creek (Jefferson Co.)** outside Olympic National Park boundary.
 - (m) **Mosquito Creek (Jefferson Co.)** from Olympic National Park boundary upstream.
 - (n) **Quillayute River (Clallam Co.)**, from Olympic National Park boundary upstream to confluence of the Sol Duc and Bogachiel rivers.
 - (o) **Quinault River, Upper (Grays Harbor/Jefferson Co.)**, from the mouth at upper end of Quinault Lake upstream to Olympic National Park boundary.
 - (p) **Sol Duc River (Clallam Co.)**, from mouth upstream to the National Park Boundary.
 - (q) **Sooes River (Tsoo-Yess River) (Clallam Co.)**, outside of the Makah Indian Reservation.
 - (r) **Thunder Creek (Clallam Co.)**
- (2) **All species:** Effective immediately, until further notice: The following areas, including ALL tributaries to listed areas are Closed Waters:
- (a) **Clearwater River (Jefferson Co.)**, from the mouth to Snahapish River.
 - (b) **Salmon River (Jefferson Co.)**, from outside Quinault Indian Reservation and Olympic National Park.
- (3) **Salmon:**
- (a) **Bogachiel River (Clallam Co.)**, from the mouth to Hwy. 101 Bridge:
- Effective October 31 through December 15, 2022: Daily limit 3. Up to 1 adult may be retained. Release sockeye and Chinook.

(b) Calawah River (Clallam Co.), from the mouth to Hwy. 101

Bridge:

Effective October 31 through December 15, 2022: Daily limit 3. Up to 1 adult may be retained. Release sockeye and Chinook.

(c) Dickey River (Clallam Co.), from Olympic National Park boundary upstream to the confluence of the East and West forks:

Effective October 31 through December 15, 2022: Daily limit 3. Up to 1 adult may be retained. Release sockeye and Chinook.

(d) Hoh River (Jefferson Co.), from Olympic National Park boundary upstream to Morgans Crossing boat launch:

Effective October 31 through November 30, 2022: Daily limit 2. Up to 1 adult may be retained. Release Chinook.

(e) Quillayute River (Clallam Co.), from Olympic National Park boundary upstream to confluence of the Sol Duc and Bogachiel rivers:

Effective October 31 through December 15, 2022: Daily limit 6. Up to 3 adults may be retained, including no more than 1 wild coho. Release sockeye and Chinook.

(f) Quinault River, Upper (Grays Harbor/Jefferson Co.), from the mouth at upper end of Quinault Lake upstream to Olympic National Park boundary:

Effective October 31 through November 30, 2022: Daily limit 6. Up to 2 adults may be retained. Release sockeye, chum, and Chinook.

(g) Sol Duc River (Clallam Co.), from the mouth to concrete pump station at Sol Duc Hatchery:

Effective October 31 through December 15, 2022: Daily limit 6. Up to 3 adults may be retained, including no more than 1 wild coho. Release sockeye and Chinook.

[]

REPEALER

The following section of Washington Administrative Code is repealed, effective October 29, 2022:

WAC 220-312-02000U Freshwater exceptions to statewide rules—Coast. (22-230)

WSR 22-22-059
EMERGENCY RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed October 28, 2022, 8:36 a.m., effective October 28, 2022, 8:36 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: In 2022, the Washington state legislature passed 2SHB 1988, chapter 185, Laws of 2022, and ESSB 5714, chapter 161, Laws of 2022. 2SHB 1988 and ESSB 5714 allow for tax deferrals on investment projects in clean technology manufacturing, clean alternative fuels production, and renewable energy storage, as well as solar canopies when the project meets certain labor standards and is certified by the department of labor and industries (L&I), supporting Washington's clean energy economy and transitioning to a clean, affordable, and reliable energy future.

The emergency rules address:

- Standards for certification for:
 - o Procurement from and contracts with women-owned, minority-owned, and veteran-owned businesses, which will include a requirement that the recipient of the deferral consult with the office of minority and women's business enterprises and the department of veterans affairs to develop a plan to meet the standards or good faith efforts;
 - o Procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations;
 - o Apprenticeship utilization;
 - o Preferred entry for workers living in the area where the project is being constructed;
 - o Payment of prevailing wages; and
 - o Project labor agreements and community workforce agreements.
- Requirements for and processes related to application, records and documentation, and certification.
- Reorganizing and adding to the definition section, to provide clarity on each type of qualifying clean energy project identified under the rules, as well as which definitions apply to different sections of chapter 296-140 WAC, Clean energy labor standards certification.
- Clarifies that the labor standard for procurement from and contracts with women-, minority-, or veteran-owned businesses is based on the percent of contract dollars awarded. The clarification is also made to the requirement under WAC 296-140-002 for Category 1 clean energy projects under RCW 82.08.962 and 82.12.962.

Citation of Rules Affected by this Order: New WAC 296-140-005, 296-140-006, 296-140-007 and 296-140-008; and amending WAC 296-140-001, 296-140-002, and 296-140-004.

Statutory Authority for Adoption: RCW 82.89.070 and 82.90.060.

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: L&I is required to adopt emergency and permanent rules to implement both of these bills. These emergency rules will provide criteria necessary to certify labor standard requirements in order to qualify for tax deferral on investment projects in clean technology manufacturing, clean alternative fuels production, and renewable energy storage, as well as solar canopies while permanent rules are being developed. L&I filed a CR-101 (WSR 22-13-148) on June 21, 2022, and was required to have rules in place by July 1, 2022. An initial emergency rule (WSR 22-14-094) was filed on July 1, 2022. This rule making renews the emergency rules while the permanent rule-making process continues.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 4, Amended 3, Repealed 0.

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

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 4, Amended 3, Repealed 0.

Date Adopted: October 28, 2022.

Joel Sacks
Director

OTS-3903.4

AMENDATORY SECTION (Amending WSR 21-21-043, filed 10/13/21, effective 11/13/21)

WAC 296-140-001 Definitions. (1) (~~"Category 1 clean energy project" means a project to:~~

~~(a) Develop a facility capable of generating not less than 1000 watts AC of electricity using any of the following principal sources of power: Fuel cells; wind; biomass energy; geothermal resource; tidal or wave energy; or technology that converts otherwise lost energy from exhaust;~~

~~(b) Develop solar energy systems capable of generating not less than 500 kilowatts AC of electricity.~~

~~(2) "Category 2 clean energy project" means a project to develop solar energy systems capable of generating more than 100 kilowatts AC, but no more than 500 kilowatts AC of electricity.~~

~~(3))~~ The following definitions apply to the entire chapter:

(a) "Community workforce agreement (CWA)" means a prehire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is an agreement described in 29 U.S.C. Sec. 158(f). To establish the terms and conditions for employment on a single construction project, the CWA must be a single agreement covering

all labor organizations representing the building and construction employees involved in the project and covers all contractors and subcontractors working on the project.

~~((4))~~ (b) "Department" means the department of labor and industries.

~~((5))~~ (c) "Good faith efforts" means the efforts by the project developer or its designated principle contractor that maximize the likelihood that the project will be built in compliance with the standards for certification. The totality of the circumstances and factors will be reviewed to determine good faith. Good faith efforts are not necessary when the standard requirements have been met.

~~((6))~~ (d) "Labor hours" means the total hours of laborers, workers, or mechanics receiving an hourly wage who are directly employed by the contractor and all subcontractors working upon the project. Labor hours does not include hours worked by foremen, superintendents, or owners except where the hours worked are counted in satisfying the required apprentice to journey supervision ratio as required by apprenticeship standards.

~~((7))~~ (e) "Local resident" means Washington laborers, workers, or mechanics receiving an hourly wage who live within 50 miles of the project being constructed unless the project is being constructed in a rural county, then it is defined as Washington workers who live within 200 miles of the project.

~~((8))~~ "~~Machinery and equipment~~" means ~~fixtures, devices, and support facilities that are integral and necessary to the generation of electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust.~~ "~~Machinery and equipment~~" does not include:

~~(a) Hand-powered tools;~~

~~(b) Property with a useful life of less than one year;~~

~~(c) Repair parts required to restore machinery and equipment to normal working order;~~

~~(d) Replacement parts that do not increase productivity, improve efficiency, or extend the useful life of machinery and equipment;~~

~~(e) Buildings; or~~

~~(f) Building fixtures that are not integral and necessary to the generation of electricity that are permanently affixed to and become a physical part of a building.~~

~~(9))~~ (f) "Minority-owned business" means a business certified with the office of minority and women's business enterprises (OMWBE) as a minority business enterprise (MBE) or a minority women business enterprise (MWBE) under chapter 326-20 WAC.

~~((10))~~ (g) "Person" has the same meaning as in RCW 82.04.030.

(h) "Project labor agreement (PLA)" means a prehire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is an agreement described in 29 U.S.C. Sec. 158(f). To establish the terms and conditions for employment on a single construction project, the PLA must be a single agreement covering all labor organizations representing the building and construction employees involved in the project and covers all contractors and subcontractors working on the project.

~~((11))~~ (i) "Registered apprentice" means an apprentice registered in an apprenticeship program approved by the Washington state apprenticeship and training council according to chapters 49.04 RCW and 296-05 WAC.

~~((12))~~ (j) "Rural county" has the same definition as RCW 82.14.370(5).

~~((13))~~ (k) "Women-owned business" means a business certified with the office of minority and women's business enterprises (OMWBE) as a women business enterprise (WBE) or a minority women business enterprise (MWBE) under chapter 326-20 WAC.

~~((14))~~ (l) "Veteran-owned business" means a business certified by the Washington state department of veteran affairs under RCW 43.60A.190 or a business considered a veteran-owned business under 38 C.F.R. Part 74.

(2) The following definitions apply to WAC 296-140-002 through 296-140-004:

(a) "Category 1 clean energy project" means a project under RCW 82.08.962 and 82.12.962 to:

(i) Develop a facility capable of generating not less than 1,000 watts AC of electricity using any of the following principal sources of power: Fuel cells, wind, biomass energy, geothermal resource, tidal or wave energy, or technology that converts otherwise lost energy from exhaust;

(ii) Develop solar energy systems capable of generating not less than 500 kilowatts AC of electricity.

(b) "Category 2 clean energy project" means a project under RCW 82.08.962 and 82.12.962 to develop solar energy systems capable of generating more than 100 kilowatts AC, but no more than 500 kilowatts AC of electricity.

(c) "Machinery and equipment" means fixtures, devices, and support facilities that are integral and necessary to the generation of electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust. "Machinery and equipment" does not include:

(i) Hand-powered tools;

(ii) Property with a useful life of less than one year;

(iii) Repair parts required to restore machinery and equipment to normal working order;

(iv) Replacement parts that do not increase productivity, improve efficiency, or extend the useful life of machinery and equipment;

(v) Buildings; or

(vi) Building fixtures that are not integral and necessary to the generation of electricity that are permanently affixed to and become a physical part of a building.

(3) The following definitions apply to WAC 296-140-005 and 296-140-006:

(a) "Eligible investment project" means an investment project of at least \$2,000,000 in either qualified buildings or qualified machinery and equipment, or both, for any of the following new, renovated, or expanded:

(i) Manufacturing operations;

(ii) Facilities to produce clean fuels, subject to the limitations in RCW 82.89.010 (8)(d), renewable hydrogen, green electrolytic hydrogen, or green hydrogen carriers; or

(iii) Storage facilities.

(b) "Green electrolytic hydrogen" means hydrogen produced through electrolysis and does not include hydrogen manufactured using steam reforming or any other conversion technology that produces hydrogen from a fossil fuel feedstock.

(c) "Green hydrogen carrier" means a chemical compound, created using electricity or renewable resources as energy input and without

use of fossil fuel as a feedstock, from renewable hydrogen or green electrolytic hydrogen for the purposes of transportation, storage, and dispensing of hydrogen.

(d) (i) "Initiation of construction" means the date that a building permit is issued under the building code adopted under RCW 19.27.031 for:

(A) Construction of the eligible investment project, if the underlying ownership of the building vests exclusively with the person receiving the economic benefit of the deferral;

(B) Construction of the eligible investment project, if the economic benefits of the deferral are passed to a lessee as provided in RCW 82.89.020;

(C) Tenant improvements for the eligible investment project, if the economic benefits of the deferral are passed to a lessee as provided in RCW 82.89.020.

(ii) "Initiation of construction" does not include soil testing, site clearing and grading, site preparation, or any other related activities that are initiated before the issuance of a building permit for the construction of the foundation of the building.

(iii) If the investment project is a phased project, "initiation of construction" applies separately to each phase.

(e) "Investment project" means an investment in either qualified buildings or qualified machinery and equipment, or both, including labor and services rendered in the planning, installation, and construction of the project.

(f) "Manufacturing" has the same meaning as "to manufacture" in RCW 82.04.120.

(g) "Manufacturing operation" means manufacturing tangible personal property exclusively incorporated as an ingredient or component of or used in the generation of:

(i) Passenger cars, light duty trucks, medium duty passenger vehicles, buses, commercial vehicles as defined in RCW 46.04.140, or motorcycles that emit no exhaust gas from the onboard source of power, other than water vapor;

(ii) Charging and fueling infrastructure for electric, hydrogen, or other vehicle types that emits no exhaust gas from the onboard source of power, other than water vapor;

(iii) Renewable and green electrolytic hydrogen, including preparing renewable and green electrolytic hydrogen for distribution or converting it to a green hydrogen carrier;

(iv) Clean fuel with associated greenhouse gas emissions not exceeding 80 percent of the 2017 levels established under RCW 70A.535.020 or its successor statute under chapter 70A.535 RCW;

(v) Electricity from renewable resources; or

(vi) Storage facilities.

(h) "Operationally complete" means the eligible investment project is capable of being used for its intended purpose as described in the application.

(i) "Qualified buildings" means construction of new structures, and expansion or renovation of existing structures for the purpose of increasing floor space or production capacity, used for manufacturing, including plant offices and warehouses or other buildings for the storage of raw materials or finished goods if the facilities are an essential or an integral part of a factory, mill, plant, or laboratory used for manufacturing. If a qualified building is used partly for manufacturing and partly for other purposes, the applicable tax defer-

ral must be determined by apportionment of the costs of construction under rules adopted by the department.

(j) "Qualified machinery and equipment" means all new industrial fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing operation. "Qualified machinery and equipment" includes: Computers; software; data processing equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control, monitor, or operate the machinery.

(k) "Recipient" means a person receiving a tax deferral under chapter 82.89 RCW.

(l) "Renewable resource" has the same meaning as in RCW 82.08.816.

(m) "Storage facility" means a facility that:

(i) Accepts electricity as an energy source and uses a chemical, thermal, mechanical, or other process to store energy for subsequent delivery or consumption in the form of electricity; or

(ii) Stores renewable hydrogen, green electrolytic hydrogen, or green hydrogen carrier for subsequent delivery or consumption.

(4) The following definitions apply to WAC 296-140-007 and 296-140-008:

(a) "Eligible area" means a qualifying commercial center.

(b) "Eligible investment project" means an investment project that is located, as of the date the application required by RCW 82.90.030, is received by the department, in an eligible area.

(c) (i) "Initiation of construction" means the date that a building permit is issued under the building code adopted under RCW 19.27.031 for:

(A) Construction of the eligible investment project, if the underlying ownership of the building vests exclusively with the person receiving the economic benefit of the deferral;

(B) Construction of the eligible investment project, if the economic benefits of the deferral are passed to a lessee as provided in RCW 82.90.080; or

(C) Tenant improvements for the eligible investment project, if the economic benefits of the deferral are passed to a lessee as provided in RCW 82.90.080.

(ii) "Initiation of construction" does not include soil testing, site clearing and grading, site preparation, or any other related activities that are initiated before the issuance of a building permit for the construction of the foundation of the building.

(iii) If the investment project is a phased project, "initiation of construction" applies separately to each phase.

(d) "Investment project" means an investment in a qualified solar canopy including labor and services rendered in the planning, installation, and construction of the project.

(e) "Operationally complete" means the solar canopy has received its final electrical inspection and is connected to the electrical grid.

(f) "Qualified solar canopy" means construction of a new solar canopy that has an area of at least 50,000 square feet.

(g) "Qualifying commercial center" means a property currently used for retail, industrial, office, or other commercial purposes, containing a parking area or other area dedicated for both vehicle use and placement of a solar canopy.

(h) "Recipient" means a person receiving a tax deferral under chapter 82.90 RCW.

(i) "Solar canopy" means an elevated structure, or multiple structures, containing a solar energy system, as defined in RCW 82.16.110, with a nameplate capacity of at least one megawatt of alternating current.

"Solar canopy" includes the solar energy system, power lines, and any equipment required to connect the solar canopy to the electrical grid.

[Statutory Authority: RCW 82.08.962 and 82.12.962. WSR 21-21-043, § 296-140-001, filed 10/13/21, effective 11/13/21.]

AMENDATORY SECTION (Amending WSR 21-21-043, filed 10/13/21, effective 11/13/21)

WAC 296-140-002 Labor standard certification for Category 1 clean energy projects under RCW 82.08.962 and 82.12.962. (1) To qualify for department certification for the 50 percent retail sales and use tax remittance for machinery and equipment installed and the labor and services rendered in respect to installing the machinery and equipment, a Category 1 clean energy project must meet the following minimum requirements:

(a) Standard for procurement from and contracts with women, minority, or veteran-owned businesses.

(i) Have 21 percent of the contract((s)) dollars awarded to women-owned businesses, minority-owned businesses, or veteran-owned businesses; or

(ii) Good faith efforts which include, but are not limited to:

(A) Proactive outreach to firms that are women, minority, and veteran-owned businesses; advertising in local community publications and publications appropriate to identified firms;

(B) Participating in community job fairs, conferences, and trade shows;

(C) Identification of interested women, minority, and veteran-owned businesses that have the capability to perform the work of the contract;

(D) Providing reasonable time for women, minority, and veteran-owned businesses to fully and meaningfully respond to bid solicitations, that includes providing adequate information about the plans, specifications, and requirements of the contract along with timely responses to subcontractor inquiries and proposals;

(E) Apportioning contract work items into economically feasible units to facilitate women, minority, and veteran-owned businesses' participation and where possible, establishing flexible time frames for performance to encourage participation;

(F) Adequately researching interested subcontractors and their capabilities before rejecting their proposals; and

(G) Not relying on price alone in the selection of subcontractors and considering reasonable quotes from women, minority, and veteran-owned businesses, even if other quotes are less expensive.

(b) Standard for procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations.

(i) Awards contracts to businesses that have no findings of violation of federal or state wage and hour laws and regulations in a final and binding order by an administrative agency or court of competent jurisdiction in the 24 month period prior to the bid date; or

(ii) Good faith efforts which include, but are not limited to:

(A) Efforts to hire contractors with a history of compliance with wage and hour laws.

(B) Adequately researching interested subcontractors and their wage and hour history before rejecting their proposals.

(C) If the only qualified contractor is one that does not meet the standard, requiring remedial measures that allow for ongoing review of compliance with wage and hour laws.

(c) Standard for apprenticeship utilization.

(i) Have a minimum of 15 percent of the project's labor hours performed by registered apprentices; or

(ii) Good faith efforts which include, but are not limited to:

(A) The project developer or its designated principle contractor or subcontractors participate in state-approved apprenticeship programs but no apprentices were available or not enough apprentices were available during the project. It is expected that contractors participate in apprenticeship programs for occupations where they have employees being trained;

(B) If apprentices are not available for dispatch at the beginning of the project, it is expected that the contractor check back with the program periodically to see if apprentices are available;

(C) The following situations do not meet the requirements for good faith efforts:

(I) Falling short of the requirement due to subcontractors not using apprentices;

(II) Not using a state-approved apprenticeship program while you are trying to get your own program approved by the Washington state apprenticeship and training council;

(III) Not using a state-approved apprenticeship program due to cost;

(IV) Not using a state-approved apprenticeship program because you are an out-of-state contractor;

(V) Not replacing an apprentice that quit or was fired; or not using enough apprentices because certain work is too dangerous or the apprentices do not have the appropriate skills.

(d) Standard for preferred entry for workers living in the area where the project is being constructed:

(i) Have a minimum of 35 percent of total labor work hours performed by local residents except for projects located in rural counties, which may have a minimum of 20 percent of total labor hours by local residents; or

(ii) Good faith efforts which include, but are not limited to:

(A) Listing the job with the local Washington WorkSource office in advance of the start of the project or contract;

(B) Requesting the dispatch of local workers through union halls;

(C) Informing community partners/organizations of opportunities in advance of the start of the project or contract;

(D) Developing an employment hiring plan prior to the start of the project detailing how the local hiring requirements will be met; and

(E) Designating a jobs coordinator to be responsible for the local hire requirements with the experience and qualifications necessary

to identify and recruit local workers, and provide referrals as appropriate to comply with local hire requirements.

(2) To qualify for department certification for the 75 percent retail sales and use tax remittance for machinery and equipment installed and the labor and services rendered in respect to installing the machinery and equipment, a Category 1 clean energy project must meet the following minimum requirements:

(a) Meet the standards for certification for the 50 percent tax remittance under WAC 296-140-002(1); and

(b) Pay all workers performing labor hours on the project wages not less than prevailing wages as determined by the department under chapter 39.12 RCW.

(3) To qualify for department certification for the 100 percent retail sales and use remittance for machinery and equipment installed and the labor and services rendered in respect to installing the machinery and equipment, a Category 1 clean energy project must have a signed PLA or CWA for the project prior to construction starting on the project. Separately meeting the standards for certification for the 50 percent and 75 percent tax remittance under subsections (1) and (2) of this section are not required.

(4) The inability to meet any of the standards based on conflicts with state or federal law may constitute good faith.

[Statutory Authority: RCW 82.08.962 and 82.12.962. WSR 21-21-043, § 296-140-002, filed 10/13/21, effective 11/13/21.]

AMENDATORY SECTION (Amending WSR 21-21-043, filed 10/13/21, effective 11/13/21)

WAC 296-140-004 Application, records and documentation, and certification for Category 1 and Category 2 clean energy projects under RCW 82.08.962 and 82.12.962.

(1) For Category 1 and Category 2 clean energy projects under RCW 82.08.962 and 82.12.962, businesses applying for department certification must complete an application in a form required by the department prior to the start of the project.

(2) Businesses must maintain records and documentation open to review to verify compliance with the labor standards or the good faith efforts. Records and documentation include, but are not limited to:

(a) Standard for procurement from and contract((s)) dollars with women, minority, or veteran-owned businesses:

(i) A list of all businesses that have had contracts on the project, including information about their certifications for the women-owned businesses, minority-owned businesses, or veteran-owned businesses that have been contracted with on the project, including:

(A) A description of the work of the contract;

(B) The dollar amount of the contract;

(ii) Written confirmation from each women-owned business, minority-owned business, or veteran-owned business that it is participating in the contract;

(iii) Documentation and evidence to support good faith efforts as necessary; and

(iv) Other records and documentation requested by the department.

(b) Standard for procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations.

(i) A list of all the businesses contracted with, including the unified business identifier number, the federal employer identification number, other identifying information requested by the department, and information obtained concerning their federal and state wage and hour laws and regulations compliance history;

(ii) A copy of documents related to the contract invitation or bid such as the contract solicitation, bid request, or request for proposal; a copy of the responding bids, proposals, or offer; and a copy of any final contracts and amendments;

(iii) A description of the process used to determine prospective contractors' compliance with federal and state wage and hour laws and regulations;

(iv) Documentation and evidence to support good faith efforts as necessary; and

(v) Other records and documentation requested by the department.

(c) Standard for apprenticeship utilization.

(i) The name, occupational title, and registration number for each registered apprentice;

(ii) The number of apprentices and labor hours worked, categorized by occupational title and employer;

(iii) The number of journey level workers and labor hours worked, categorized by occupational title and employer;

(iv) Copies of weekly or monthly reporting forms and payroll records used to capture the required information;

(v) A statement affirming the hours reported meeting the definition of "labor hours" as defined by WAC 296-140-001;

(vi) Documentation and evidence to support good faith efforts as necessary; and

(vii) Other records and documentation requested by the department.

(d) Standard for preferred entry by local workers.

(i) The total number of workers performing labor hours on the project;

(ii) The total number of workers performing labor hours hired who meet the definition of a local worker under WAC 296-140-001 for the job category selected;

(iii) Employment records that contain the address of individuals hired to work on the project;

(iv) Documentation and evidence to support good faith efforts as necessary; and

(v) Other records and documentation requested by the department.

(e) Standard for payment of prevailing wages.

(i) Documentation showing all workers performing labor hours on the project were paid not less than chapter 39.12 RCW prevailing rates of wage; and

(ii) Payroll records. For projects that are also public works, labor and industries public work reporting online system for the project will eliminate the need to maintain documents and is acceptable as the system of record.

(f) Records and documents for a standard PLA or CWA. A signed copy of the PLA or CWA for the project.

(3) The department may require periodic reporting of compliance in a form and method prescribed by the department. Where a project seeking certification under this rule is also a public works project, public works reporting requirements may satisfy reporting requirements.

(4) For Category 1 clean energy projects seeking certification for the 50 and 75 percent tax remittance and Category 2 clean energy projects seeking certification for the 50 percent tax remittance, businesses must submit notice of project completion in a form required by the department. After receiving the notice of competition, the department will determine if the certification standards are met based on a review of the documentation as requested by the department. If the standards were met, the department will issue the certification to the applicant.

(5) For Category 1 clean energy projects seeking certification for the 100 percent tax remittance, the department will issue certification upon the receipt of the required application for certification and a signed copy of the PLA or CWA for the project. In the event there are separate PLAs or CWAs for different phases of construction, all PLAs and CWAs for the project must be submitted to the department before the start of each phase and the department will not certify the project until the PLAs or CWAs for the construction and installation of the energy producing equipment have all been signed.

[Statutory Authority: RCW 82.08.962 and 82.12.962. WSR 21-21-043, § 296-140-004, filed 10/13/21, effective 11/13/21.]

NEW SECTION

WAC 296-140-005 Labor standard certification for projects in clean technology manufacturing, clean alternative fuels production, and renewable energy storage under chapter 82.89 RCW. (1) To qualify for department certification for the 50 percent reduction in the amount of deferred state sales and use tax to be repaid for under RCW 82.89.060, the eligible investment projects must meet the following minimum requirements:

(a) Standard for procurement from and contracts with women, minority, or veteran-owned businesses.

(i) Consult with OMWBE and DVA to develop a plan to meet the standards or good faith efforts before the initiation of construction of the investment project; and

(ii) Have 15 percent of contracts awarded to minority and women-owned businesses and five percent of contracts awarded to veteran-owned businesses; or

(iii) Demonstrate good faith efforts included in the plan required by (a)(i) of this subsection. Good faith efforts which include, but are not limited to:

(A) Proactive outreach to firms that are women, minority, and veteran-owned businesses; advertising in local community publications and publications appropriate to identified firms and with the office of minority and women's business enterprises;

(B) Participating in community job fairs, conferences, and trade shows;

(C) Identification of interested women, minority, and veteran-owned businesses that have the capability to perform the work of the contract;

(D) Providing reasonable time for women, minority, and veteran-owned businesses to fully and meaningfully respond to bid solicitations, that includes providing adequate information about the plans,

specifications, and requirements of the contract along with timely responses to subcontractor inquiries and proposals;

(E) Apportioning contract work items into economically feasible units to facilitate women, minority, and veteran-owned businesses' participation and where possible, establishing flexible time frames for performance to encourage participation;

(F) Adequately researching interested subcontractors and their capabilities before rejecting their proposals; and

(G) Not relying on price alone in the selection of subcontractors and considering reasonable quotes from women, minority, and veteran-owned businesses, even if other quotes are less expensive.

(H) Other efforts identified by OMWBE or DVA included in the plan required by (a) (i) of this subsection.

(b) Standard for procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations.

(i) Awards contracts to businesses that have no findings of violation of federal or state wage and hour laws and regulations in a final and binding order by an administrative agency or court of competent jurisdiction in the 24-month period prior to the bid date; or

(ii) Good faith efforts which include, but are not limited to:

(A) Efforts to hire contractors with a history of compliance with wage and hour laws;

(B) Adequately researching interested subcontractors and their wage and hour history before rejecting their proposals; and

(C) If the only qualified contractor is one that does not meet the standard, requiring remedial measures that allow for ongoing review of compliance with wage and hour laws.

(c) Standard for apprenticeship utilization.

(i) Have a minimum of 15 percent of the project's labor hours performed by registered apprentices; or

(ii) Good faith efforts which include, but are not limited to:

(A) The project developer or its designated principle contractor or subcontractors participate in state-approved apprenticeship programs but no apprentices were available or not enough apprentices were available during the project. It is expected that contractors participate in apprenticeship programs for occupations where they have employees being trained;

(B) If apprentices are not available for dispatch at the beginning of the project, it is expected that the contractor check back with the program periodically to see if apprentices are available;

(C) The following situations do not meet the requirements for good faith efforts:

(I) Falling short of the requirement due to subcontractors not using apprentices;

(II) Not using a state-approved apprenticeship program while you are trying to get your own program approved by the Washington state apprenticeship and training council;

(III) Not using a state-approved apprenticeship program due to cost;

(IV) Not using a state-approved apprenticeship program because you are an out-of-state contractor;

(V) Not replacing an apprentice that quit or was fired; or

(VI) Not using enough apprentices because certain work is too dangerous or the apprentices do not have the appropriate skills.

(d) Standard for preferred entry for workers living in the area where the project is being constructed:

- (i) Have a minimum of 35 percent of total labor work hours performed by local residents except for projects located in rural counties, which may have a minimum of 20 percent of total labor hours by local residents; or
- (ii) Good faith efforts which include, but are not limited to:
 - (A) Listing the job with the local Washington WorkSource office in advance of the start of the project or contract;
 - (B) Requesting the dispatch of local workers through union halls;
 - (C) Informing community partners/organizations of opportunities in advance of the start of the project or contract;
 - (D) Developing an employment hiring plan prior to the start of the project detailing how the local hiring requirements will be met; and
 - (E) Designating a jobs coordinator to be responsible for the local hire requirements with the experience and qualifications necessary to identify and recruit local workers, and provide referrals as appropriate to comply with local hire requirements.
- (2) To qualify for department certification for the 75 percent reduction in the amount of deferred state sales and use tax to be repaid under RCW 82.89.060, the eligible investment projects must meet the following minimum requirements:
 - (a) Meet the standards for certification for the 50 percent reduction in the amount of deferred state sales and use tax to be repaid under RCW 82.89.060, under subsection (1) of this section; and
 - (b) Pay all workers performing labor hours on the project wages not less than prevailing wages as determined by the department under chapter 39.12 RCW.
- (3) To qualify for department certification for the 100 percent reduction in the amount of deferred state sales and use tax to be repaid under RCW 82.89.060, the eligible investment projects must have a signed PLA or CWA for the project prior to the initiation of construction of the investment project on the project. Separately meeting the standards for certification for the 50 percent and 75 percent certification under subsections (1) and (2) of this section are not required.
- (4) The inability to meet any of the standards based on conflicts with state or federal law may constitute good faith.

[]

NEW SECTION

- WAC 296-140-006 Application, records and documentation, and certification for projects in clean technology manufacturing, clean alternative fuels production, and renewable energy storage under chapter 82.89 RCW.** (1) Recipients applying for department certification under chapter 82.89 RCW, must complete an application in a form required by the department prior to the initiation of construction of the investment project.
- (2) Businesses must maintain records and documentation open to review to verify compliance with the labor standards or the good faith efforts. Records and documentation include, but are not limited to:
- (a) Standard for procurement from and contracts with women, minority, or veteran-owned businesses:
 - (i) A list of all businesses that have had contracts on the project, including information about their certifications for the wom-

en-owned businesses, minority-owned businesses, or veteran-owned businesses that have been contracted with on the project, including:

(A) A description of the work of the contract;

(B) The dollar amount of the contract;

(ii) Written confirmation from each women-owned business, minority-owned business, or veteran-owned business that it is participating in the contract;

(iii) A copy of the plan to meet the standards or good faith efforts developed in consultation with OMWBE or DVA;

(iv) A copy of OMWBE's or DVA's review to determine compliance with the plan; and

(v) Other records and documentation requested by the department.

(b) Standard for procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations.

(i) A list of all the businesses contracted with, including the unified business identifier number, the federal employer identification number, other identifying information requested by the department, and information obtained concerning their federal and state wage and hour laws and regulations compliance history;

(ii) A copy of documents related to the contract invitation or bid such as the contract solicitation, bid request, or request for proposal; a copy of the responding bids, proposals, or offer; and a copy of any final contracts and amendments;

(iii) A description of the process used to determine prospective contractors' compliance with federal and state wage and hour laws and regulations;

(iv) Documentation and evidence to support good faith efforts as necessary; and

(v) Other records and documentation requested by the department.

(c) Standard for apprenticeship utilization.

(i) The name, occupational title, and registration number for each registered apprentice;

(ii) The number of apprentices and labor hours worked, categorized by occupational title and employer;

(iii) The number of journey level workers and labor hours worked, categorized by occupational title and employer;

(iv) Copies of weekly or monthly reporting forms and payroll records used to capture the required information;

(v) A statement affirming the hours reported meeting the definition of "labor hours" as defined by WAC 296-140-001;

(vi) Documentation and evidence to support good faith efforts as necessary; and

(vii) Other records and documentation requested by the department.

(d) Standard for preferred entry by local workers.

(i) The total number of workers performing labor hours on the project;

(ii) The total number of workers performing labor hours hired who meet the definition of a local worker under WAC 296-140-001 for the job category selected;

(iii) Employment records that contain the address of individuals hired to work on the project;

(iv) Documentation and evidence to support good faith efforts as necessary; and

(v) Other records and documentation requested by the department.

(e) Standard for payment of prevailing wages.

(i) Documentation showing all workers performing labor hours on the project were paid not less than chapter 39.12 RCW prevailing rates of wage; and

(ii) Payroll records. For projects that are also public works, labor and industries public work reporting online system for the project will eliminate the need to maintain documents and is acceptable as the system of record.

(f) Records and documents for a standard PLA or CWA. A signed copy of the PLA or CWA for the project.

(3) The department may require periodic reporting of compliance in a form and method prescribed by the department. Where a project seeking certification under this rule is also a public works project, public works reporting requirements may satisfy reporting requirements.

(4) For eligible investment projects seeking certification for the 50 and 75 percent reduction in the amount of deferred state sales and use tax to be repaid under RCW 82.89.060, recipients must submit notice of the project is operationally complete in a form required by the department. After receiving the notice project is operationally complete, the department will determine if the certification standards are met based on a review of the documentation as requested by the department. If the standards were met, the department will issue the certification to the applicant.

(5) For eligible investment projects seeking certification for the 100 percent reduction in the amount of deferred state sales and use tax to be repaid under RCW 82.89.060, the department will issue certification upon the receipt of the required application for certification and a signed copy of the PLA or CWA for the project. In the event there are separate PLAs or CWAs for different phases of construction, all PLAs and CWAs for the project must be submitted to the department before the start of each phase and the department will not certify the project until the PLAs or CWAs for all phases have all been signed.

[]

NEW SECTION

WAC 296-140-007 Labor standard certification for solar canopies placed on large-scale commercial parking lots and other similar areas under chapter 82.90 RCW. (1) To qualify for department certification for the 50 percent reduction in the amount of deferred state sales and use tax to be repaid under RCW 82.90.060, the eligible investment projects must meet the following minimum requirements:

(a) Standard for procurement from and contracts with women, minority, or veteran-owned businesses.

(i) Consult with OMWBE and DVA to develop a plan to meet the standards or good faith efforts; and

(ii) Have 15 percent of contract dollars awarded to minority and women-owned businesses and five percent of contract dollars awarded to veteran-owned businesses; or

(iii) Demonstrate good faith efforts included in the plan required by (a)(i) of this subsection. Good faith efforts which include, but are not limited to:

(A) Proactive outreach to firms that are women, minority, and veteran-owned businesses; advertising in local community publications and publications appropriate to identified firms and with the office of minority and women's business enterprises;

(B) Participating in community job fairs, conferences, and trade shows;

(C) Identification of interested women, minority, and veteran-owned businesses that have the capability to perform the work of the contract;

(D) Providing reasonable time for women, minority, and veteran-owned businesses to fully and meaningfully respond to bid solicitations, that includes providing adequate information about the plans, specifications, and requirements of the contract along with timely responses to subcontractor inquiries and proposals;

(E) Apportioning contract work items into economically feasible units to facilitate women, minority, and veteran-owned businesses' participation and where possible, establishing flexible time frames for performance to encourage participation;

(F) Adequately researching interested subcontractors and their capabilities before rejecting their proposals; and

(G) Not relying on price alone in the selection of subcontractors and considering reasonable quotes from women, minority, and veteran-owned businesses, even if other quotes are less expensive.

(H) Other efforts identified by OMWBE or DVA included in the plan required by (a) (i) of this subsection.

(b) Standard for procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations.

(i) Awards contracts to businesses that have no findings of violation of federal or state wage and hour laws and regulations in a final and binding order by an administrative agency or court of competent jurisdiction in the 24-month period prior to the bid date; or

(ii) Good faith efforts which include, but are not limited to:

(A) Efforts to hire contractors with a history of compliance with wage and hour laws;

(B) Adequately researching interested subcontractors and their wage and hour history before rejecting their proposals; and

(C) If the only qualified contractor is one that does not meet the standard, requiring remedial measures that allow for ongoing review of compliance with wage and hour laws.

(c) Standard for apprenticeship utilization.

(i) Have a minimum of 15 percent of the project's labor hours performed by registered apprentices; or

(ii) Good faith efforts which include, but are not limited to:

(A) The project developer or its designated principle contractor or subcontractors participate in state-approved apprenticeship programs but no apprentices were available or not enough apprentices were available during the project. It is expected that contractors participate in apprenticeship programs for occupations where they have employees being trained;

(B) If apprentices are not available for dispatch at the beginning of the project, it is expected that the contractor check back with the program periodically to see if apprentices are available;

(C) The following situations do not meet the requirements for good faith efforts:

(I) Falling short of the requirement due to subcontractors not using apprentices;

(II) Not using a state-approved apprenticeship program while you are trying to get your own program approved by the Washington state apprenticeship and training council;

(III) Not using a state-approved apprenticeship program due to cost;

(IV) Not using a state-approved apprenticeship program because you are an out-of-state contractor;

(V) Not replacing an apprentice that quit or was fired; or

(VI) Not using enough apprentices because certain work is too dangerous or the apprentices do not have the appropriate skills.

(d) Standard for preferred entry for workers living in the area where the project is being constructed:

(i) Have a minimum of 35 percent of total labor work hours performed by local residents except for projects located in rural counties, which may have a minimum of 20 percent of total labor hours by local residents; or

(ii) Good faith efforts which include, but are not limited to:

(A) Listing the job with the local Washington WorkSource office in advance of the start of the project or contract;

(B) Requesting the dispatch of local workers through union halls;

(C) Informing community partners/organizations of opportunities in advance of the start of the project or contract;

(D) Developing an employment hiring plan prior to the start of the project detailing how the local hiring requirements will be met; and

(E) Designating a jobs coordinator to be responsible for the local hire requirements with the experience and qualifications necessary to identify and recruit local workers, and provide referrals as appropriate to comply with local hire requirements.

(2) To qualify for department certification for the 75 percent reduction in the amount of deferred state sales and use tax to be repaid under RCW 82.90.060, the eligible investment projects must meet the following minimum requirements:

(a) Meet the standards for certification for the 50 percent reduction in the amount of deferred state sales and use tax to be repaid under RCW 82.90.060, under WAC 296-140-005(1); and

(b) Pay all workers performing labor hours on the project wages not less than prevailing wages as determined by the department under chapter 39.12 RCW.

(3) To qualify for department certification for the 100 percent reduction in the amount of deferred state sales and use tax to be repaid under RCW 82.90.060, the eligible investment projects must have a signed PLA or CWA for the project prior to construction starting on the project. Separately meeting the standards for certification for the 50 percent and 75 percent certification under subsections (1) and (2) of this section are not required.

(4) The inability to meet any of the standards based on conflicts with state or federal law may constitute good faith.

[]

NEW SECTION

WAC 296-140-008 Application, records and documentation, and certification for solar canopies placed on large-scale commercial parking

lots and other similar areas under chapter 82.90 RCW. (1) Recipients applying for department certification for solar canopies placed on large-scale commercial parking lots and other similar areas under chapter 82.90 RCW must complete an application in a form required by the department prior to the initiation of construction of the investment project.

(2) Businesses must maintain records and documentation open to review to verify compliance with the labor standards or the good faith efforts. Records and documentation include, but are not limited to:

(a) Standard for procurement from and contracts with women, minority, or veteran-owned businesses:

(i) A list of all businesses that have had contracts on the project, including information about their certifications for the women-owned businesses, minority-owned businesses, or veteran-owned businesses that have been contracted with on the project, including:

(A) A description of the work of the contract;

(B) The dollar amount of the contract;

(ii) Written confirmation from each women-owned business, minority-owned business, or veteran-owned business that it is participating in the contract;

(iii) A copy of the plan to meet the standards or good faith efforts developed in consultation with OMWBE or DVA;

(iv) A copy of OMWBE's or DVA's review to determine compliance with the plan; and

(v) Other records and documentation requested by the department, OMWBE or DVA.

(b) Standard for procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations.

(i) A list of all the businesses contracted with, including the unified business identifier number, the federal employer identification number, other identifying information requested by the department, and information obtained concerning their federal and state wage and hour laws and regulations compliance history;

(ii) A copy of documents related to the contract invitation or bid such as the contract solicitation, bid request, or request for proposal; a copy of the responding bids, proposals, or offer; and a copy of any final contracts and amendments;

(iii) A description of the process used to determine prospective contractors' compliance with federal and state wage and hour laws and regulations;

(iv) Documentation and evidence to support good faith efforts as necessary; and

(v) Other records and documentation requested by the department.

(c) Standard for apprenticeship utilization.

(i) The name, occupational title, and registration number for each registered apprentice;

(ii) The number of apprentices and labor hours worked, categorized by occupational title and employer;

(iii) The number of journey level workers and labor hours worked, categorized by occupational title and employer;

(iv) Copies of weekly or monthly reporting forms and payroll records used to capture the required information;

(v) A statement affirming the hours reported meeting the definition of "labor hours" as defined by WAC 296-140-001;

(vi) Documentation and evidence to support good faith efforts as necessary; and

(vii) Other records and documentation requested by the department.

(d) Standard for preferred entry by local workers.

(i) The total number of workers performing labor hours on the project;

(ii) The total number of workers performing labor hours hired who meet the definition of a local worker under WAC 296-140-001 for the job category selected;

(iii) Employment records that contain the address of individuals hired to work on the project;

(iv) Documentation and evidence to support good faith efforts as necessary; and

(v) Other records and documentation requested by the department.

(e) Standard for payment of prevailing wages.

(i) Documentation showing all workers performing labor hours on the project were paid not less than chapter 39.12 RCW prevailing rates of wage; and

(ii) Payroll records. For projects that are also public works, labor and industries public work reporting online system for the project will eliminate the need to maintain documents and is acceptable as the system of record.

(f) Records and documents for a standard PLA or CWA. A signed copy of the PLA or CWA for the project.

(3) The department may require periodic reporting of compliance in a form and method prescribed by the department. Where a project seeking certification under this rule is also a public works project, public works reporting requirements may satisfy reporting requirements.

(4) For eligible investment projects seeking certification for the 50 and 75 percent reduction in the amount of deferred state sales and use tax to be repaid under RCW 82.90.060, recipients must submit notice of the project is operationally complete in a form required by the department. After receiving the notice project is operationally complete, the department will determine if the certification standards are met based on a review of the documentation as requested by the department. If the standards were met, the department will issue the certification to the applicant.

(5) For eligible investment projects seeking certification for the 100 percent reduction in the amount of deferred state sales and use tax to be repaid under RCW 82.90.060, the department will issue certification upon the receipt of the required application for certification and a signed copy of the PLA or CWA for the project. In the event there are separate PLAs or CWAs for different phases of construction, all PLAs and CWAs for the project must be submitted to the department before the start of each phase and the department will not certify the project until the PLAs or CWAs for all phases have all been signed.

[]

WSR 22-22-060
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed October 28, 2022, 9:35 a.m., effective October 28, 2022, 9:35 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department is extending the amendment of the rule listed below to ensure certified community residential services and supports (CCRSS) providers are not significantly impeded from providing services and support to clients during the COVID-19 pandemic. Governor Inslee's Proclamation 20-18 and subsequent extensions identified that the pandemic has resulted in disruptions of long-term care systems, including the ability to safely conduct inspections. The governor's proclamations included the suspension of licensing inspections for all long-term care settings with the exception of CCRSS settings. Current rule states the department may conduct an on-site certification evaluation for each service provider at any time, but at least once every two years. The amendment lengthens the amount of time to complete certification evaluations that are currently suspended for consistency and safety across all programs regulated by the department. The amendment will allow the department additional time to complete certification evaluations when it is safe and practical to do so. In addition, under the rule development phase of rule making, the department recently concluded discussions with stakeholders about adding language to the rules to explain the circumstances and time periods under which suspension of rules due to the COVID-19 pandemic is necessary. The department previously filed the CR-101 and CR-102 and is continuing in the process of permanent rule making. In the meantime, the department is extending the emergency rule under RCW 34.05.350.

Citation of Rules Affected by this Order: Amending WAC 388-101-3130.

Statutory Authority for Adoption: RCW 71A.12.030 and 71A.12.080.

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 threat of COVID-19 to our most vulnerable populations is significant, especially for those receiving long-term care services in their homes and congregate settings, such as CCRSS settings. Current CCRSS rules ensure the department may conduct on-site certification evaluations of each CCRSS service provider at any time, but at least every two years. Due to the suspension of certification evaluations, as proclaimed for all other long-term care settings related to the COVID-19 pandemic, the amendment will allow for additional time to complete the certification evaluations as the pandemic subsides.

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

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

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

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

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

Date Adopted: October 27, 2022.

Katherine I. Vasquez
Rules Coordinator

SHS-4821.1

AMENDATORY SECTION (Amending WSR 08-02-022, filed 12/21/07, effective 2/1/08)

WAC 388-101-3130 Certification evaluation. (1) The department may conduct an on-site certification evaluation of each service provider at any time (~~(, but at least once every two years)~~).

(2) During certification evaluations the service provider's administrator or designee must:

(a) Cooperate with department representatives during the on-site visit;

(b) Provide all contractor records, client records, and other relevant information requested by the department representatives;

(c) Ensure the service provider's administrator or designee is available during any visit to respond to questions or issues identified by department representatives; and

(d) Ensure the service provider's administrator or designee is present at the exit conference.

[Statutory Authority: Chapter 71A.12 RCW. WSR 08-02-022, § 388-101-3130, filed 12/21/07, effective 2/1/08.]

WSR 22-22-061
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed October 28, 2022, 9:55 a.m., effective October 28, 2022, 9:55 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This rule making is necessary to ensure WAC 388-107-0630 is consistent with the requirements of chapter 388-112A WAC for training and home care aide certification, to support the health and safety of residents in this setting, and to benefit enhanced services facilities business owners.

Citation of Rules Affected by this Order: Amending WAC 388-107-0630.

Statutory Authority for Adoption: RCW 70.97.230.

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: During the COVID-19 pandemic, this rule was suspended to allow enhanced services facilities to hire home care aides who could not meet the training requirements of chapter 388-112A WAC, which was suspended under the Governor's Proclamation 20-10. The department has since adopted rules to address the backlog of home care aides needing training or testing for certification, or both, caused by the COVID-19 pandemic. The training rules allow additional time for home care aides to be trained and certified by requiring them to complete training requirements by certain dates based on their initial hire date. This amendment to WAC 388-107-0630 will align enhanced services facilities requirements with the newly adopted requirements in chapter 388-112A WAC.

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

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

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

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

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

Date Adopted: October 28, 2022.

Katherine I. Vasquez
Rules Coordinator

SHS-4944.1

AMENDATORY SECTION (Amending WSR 18-20-040, filed 9/25/18, effective 10/26/18)

WAC 388-107-0630 Training and home care aide certification requirements. (1) Under RCW 18.88B.041 and chapter 246-980 WAC, certain individuals including registered nurses, licensed practical nurses, certified nursing assistants, or persons who are in an approved certified nursing assistant program are exempt from long-term care worker training requirements.

(2) Continuing education requirements are outlined in chapter 388-112A WAC; registered nurses and licensed practical nurses are exempt from the long-term care worker continuing education requirement.

(3) The enhanced services facility must ensure staff persons meet training requirements in effect on the date hired, including requirements described in chapter 388-112A WAC, unless exempt under RCW 18.88B.041.

(4) The enhanced services facility must ensure all enhanced services facility administrators, or their designees, and caregivers who are not exempt under subsection (1) of this section meet the long-term care worker training requirements of chapter 388-112A WAC, including but not limited to:

- (a) Orientation and safety;
- (b) Basic training;
- (c) Specialty for dementia and, mental illness (~~and~~) or developmental disabilities or both when serving residents with any of those primary special needs;
- (d) Cardiopulmonary resuscitation and first aid; and
- (e) Continuing education.

(5) The enhanced services facility must ensure that all staff receives appropriate training and orientation to perform their specific job duties and responsibilities.

(6) The enhanced services facility must ensure the following staff obtains home care aide certification (~~, unless exempt under WAC 246-980-070~~) if required by this section, chapters 246-980, or 388-112A WAC:

- (a) All long-term care workers (~~, within two hundred days of hire~~);
- (b) All enhanced services facility applicants, before licensure;
- (c) All enhanced services facility administrators (~~(within two hundred days of hire,)~~); and
- (d) Any other staff who will provide direct care and services to residents.

[Statutory Authority: Chapter 70.97 RCW. WSR 18-20-040, § 388-107-0630, filed 9/25/18, effective 10/26/18; WSR 14-19-071, § 388-107-0630, filed 9/12/14, effective 10/13/14.]

WSR 22-22-064
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-256—Filed October 28, 2022, 3:13 p.m., effective October 29, 2022]

Effective Date of Rule: October 29, 2022.

Purpose: The purpose of this emergency rule is to open recreational coho seasons in the Snohomish River system.

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

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

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

Reasons for this Finding: This action is necessary to open recreational coho fisheries in the Snohomish, Skykomish, and Snoqualmie rivers. In-season observations indicate Snohomish River system spawning escapement is predicted to exceed the target goal of 46,000 fish. Current estimates predict approximately 53,000 to 62,000 coho to return to the spawning grounds. At such numbers, a recreational harvest fishery is warranted.

Fishery managers will continue to monitor Snohomish system coho returns; seasons will be adjusted accordingly. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: October 28, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000W Freshwater exceptions to statewide rules—Puget Sound. Effective October 29 through November 6, 2022, provisions of WAC 220-312-040 regarding salmon seasons for Snohomish, Skykomish, and Snoqualmie rivers shall be as described below. All other provisions of WAC 220-312-040 not addressed herein, or unless otherwise amended by emergency rule remain in effect:

(1) **Skykomish River (Snohomish Co.):** From the mouth to confluence of North and South Forks:

Salmon: Daily limit 2. Release all salmon other than coho.

(2) **Snohomish River (Snohomish Co.):** From the mouth (Burlington-Northern RR bridges) (including all channels, sloughs, and interconnected waterways, but excluding all tributaries) to confluence of the Skykomish and Snoqualmie rivers (all channels):

Salmon: Daily limit 2. Release all salmon other than coho.

(3) **Snoqualmie River (King/Snohomish Co.):** From the mouth to Snoqualmie Falls:

Salmon: Daily limit 2. Release all salmon other than coho.

[]

WSR 22-22-065
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-258—Filed October 28, 2022, 3:47 p.m., effective October 28, 2022, 3:47 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to open gillnet and purse seine fisheries in Puget Sound Salmon Management and Catch Reporting Areas 10 and 11 and close Area 12C.

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

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

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

Reasons for this Finding: This rule is necessary to add commercial purse seine and gillnet fishery openings targeting chum salmon in Puget Sound Salmon Management and Catch Reporting Areas 10 and 11. The latest in-season runsize estimate for South Sound chum salmon based on test fishing is large enough to allow full fleet openings. A closure in Area 12C is necessary to minimize geographic overlap with tribal fisheries while harvestable fish remain available in Areas 12 and 12B. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: October 28, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-354-12000P Puget Sound salmon—Purse seine—Open periods. Effective 7:00 AM until 6:00 PM, November 1, 2022, the following provisions of WAC 220-354-120 regarding commercial Purse Seine open periods in Puget Sound Salmon Management and Catch Reporting Areas 10 and 11 shall be as follows. All other provisions of WAC 220-354-120 not contained herein remain in effect unless otherwise altered by emergency rule:

Areas	Open/Closed	Time	Date(s)
10, 11	Open	7 AM - 6 PM	11/01/2022
12C	Closed	7AM - 6PM	11/01/2022

[]

NEW SECTION

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

Effective October 31, 2022, the following provisions of WAC 220-354-160 regarding commercial gillnet open periods for Puget Sound Salmon Management and Catch Reporting Areas 10 and 11 shall be as described below. All other provisions of WAC 220-354-160 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

Area	Open/Closed	Time	Date(s)
10, 11	Open	5 PM - 9 AM	Opening 10/31 - 11/01/2022
10, 11	Open	5 PM - 9 AM	Opening 11/2 - 11/3/2022
12C	Closed	6 AM - 6 PM	10/31/2022 and 11/2/2022

[]

WSR 22-22-066
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-257—Filed October 28, 2022, 3:51 p.m., effective October 28, 2022, 3:51 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to open recreational chum salmon retention in Catch Record Card Areas 10 and 11.

Citation of Rules Affected by this Order: Repealing 220-313-06000J; and amending WAC 220-313-060.

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

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

Reasons for this Finding: This rule is necessary to open recreational harvest seasons for chum salmon in Catch Record Card Areas 10 and 11. The in-season estimate of chum returns to Puget Sound indicate that there are sufficient returning numbers to allow for recreational harvest in most areas of Catch Record Card Areas 10 and 11. Sinclair Inlet and Commencement Bay areas remain closed to chum retention. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: October 28, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-313-06000K Puget Sound salmon—Saltwater seasons and daily limits. Effective immediately, until further notice, salmon retention rules and weekly open periods for Catch Record Card Areas 10 and 11 shall be modified during times and in areas described herein. All other provisions of WAC 220-313-060 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

(1) Marine Area 10: Salmon:

Entire Area except 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:

Immediately through October 31, 2022: Daily limit 2. Release Chinook.

(2) Marine Area 11: Salmon:

(a) Entire area except waters of Commencement Bay east of a line from the Cliff House Restaurant to Sperry Ocean Dock, Dash Point Dock, Les Davis Pier, Des Moines Pier, Redondo Pier, and Point Defiance Boathouse Dock:

(i) Immediately through October 31, 2022: Daily limit 2. Release Chinook.

(ii) November 1 through December 31, 2022:

(A) Open Sunday through Wednesday each week. Closed Thursdays through Saturdays.

(B) Daily limit 2. Up to 1 hatchery Chinook may be retained. Release coho and wild Chinook.

(b) Waters of Commencement Bay east of a line from the Cliff House Restaurant to Sperry Ocean Dock:

(i) Immediately through October 31, 2022: Daily limit 2. Release Chinook and chum.

(ii) November 1 through December 31, 2022:

(A) Open Sunday through Wednesday each week. Closed Thursdays through Saturdays.

(B) Daily limit 2. Up to 1 hatchery Chinook may be retained. Release coho, chum and wild Chinook.

(c) Dash Point Dock, Les Davis Pier, Des Moines Pier, Redondo Pier, and Point Defiance Boathouse Dock:

Immediately through December 31: Open daily. Daily limit 2. Up to 1 Chinook may be retained.

[]

REPEALER

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

WAC 220-313-06000J Puget Sound salmon—Saltwater seasons and daily limits. (22-253)

WSR 22-22-081

EMERGENCY RULES

HEALTH CARE AUTHORITY

[Filed November 1, 2022, 7:49 a.m., effective November 1, 2022, 7:49 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The agency is expanding the eligibility period for refugee medical assistance from eight months to 12 months for persons whose date of eligibility is on or after October 1, 2021. This expansion requires amendments to WAC 182-504-0015 Washington apple health—Certification periods for categorically needy programs and 182-507-0130 Refugee medical assistance.

Citation of Rules Affected by this Order: New WAC 182-504-0015 and 182-507-0130.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Other Authority: 45 C.F.R. 400.211.

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

Reasons for this Finding: The director of the federal Office of Refugee Resettlement is authorized to determine the eligibility period for refugee medical assistance by publishing a final notice in the Federal Register. The director published such a notice on March 28, 2022 (87 F.R. 17312), which is the effective date of the eligibility period expansion. This emergency filing is necessary to implement this expansion immediately until the permanent rules take effect.

This emergency filing replaces the emergency rules filed under WSR 22-14-102 on July 5, 2022. The agency is refiling to continue the emergency rules until the permanent rules take effect. Since the last emergency filing, the agency completed the permanent rule-making process and filed the permanent rules under WSR 22-21-072, effective November 13, 2022.

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

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

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

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

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

Date Adopted: November 1, 2022.

Wendy Barcus
Rules Coordinator

OTS-3932.1

AMENDATORY SECTION (Amending WSR 22-12-033, filed 5/24/22, effective 6/24/22)

WAC 182-504-0015 Washington apple health—Certification periods for categorically needy programs. (1) A certification period is the period of time we determine that you are eligible for a categorically needy (CN) Washington apple health program. Unless otherwise stated in this section, the certification period begins on the first day of the month of application and continues through the end of the last month of the certification period.

(2) For a newborn eligible for apple health, the certification period begins on the child's date of birth and continues through the end of the month of the child's first birthday.

(3) If you are eligible for apple health based on pregnancy, the certification period continues through the last day of the month the pregnancy ends. After-pregnancy coverage begins the first day of the month, following the end of the pregnancy, and ends the last day of the 12th month from the time after-pregnancy coverage began.

(4) If you are newly eligible for apple health coverage and had a pregnancy end within the last 12 months, your certification period for after-pregnancy coverage:

(a) Begins the first day of the month you are eligible; and

(b) Ends the last day of the 12th month following the end of your pregnancy.

(5) If you are eligible for the refugee program, the certification period ends at the end of the (~~eighth~~) 12th month following your date of entry to the United States.

(6) For all other CN coverage, the certification period is 12 months.

(7) If you are a child, eligibility is continuous throughout the certification period regardless of a change in circumstances, unless a required premium (described in WAC 182-505-0225) is not paid for three consecutive months, or you:

(a) Turn age 19;

(b) Move out-of-state; or

(c) Die.

(8) When you turn 19, the certification period ends after the re-determination process described in WAC 182-504-0125 is completed, even if the 12-month period is not over, unless:

(a) You are receiving inpatient services (described in WAC 182-514-0230) on the last day of the month you turn 19;

(b) The inpatient stay continues into the following month or months; and

(c) You remain eligible except for turning age 19.

(9) A retroactive certification period is described in WAC 182-504-0005.

(10) Coverage under premium-based programs included in apple health for kids as described in chapter 182-505 WAC begins no sooner than the month after creditable coverage ends.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 22-12-033, § 182-504-0015, filed 5/24/22, effective 6/24/22; WSR 17-12-017, § 182-504-0015, filed 5/30/17, effective 6/30/17. Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155. WSR 14-16-052, § 182-504-0015, filed 7/29/14, effective 8/29/14. WSR 11-24-018, recodified as §

182-504-0015, filed 11/29/11, effective 12/1/11. Statutory Authority: RCW 74.04.050, 74.04.057, and 74.08.090, and Apple Health for Kids Act (ESHB 2128); 42 U.S.C. 1305; Public Law 111-3 (Children's Health Insurance Program Reauthorization Act of 2009). WSR 11-03-001, § 388-416-0015, filed 1/5/11, effective 2/5/11. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.402, 74.09.470, and 2008 session law. WSR 09-07-086, § 388-416-0015, filed 3/17/09, effective 4/17/09. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.530, 74.09.700, and 2007 c 5. WSR 08-05-018, § 388-416-0015, filed 2/12/08, effective 3/14/08. Statutory Authority: RCW 74.04.050, 74.08.090, 74.09.530, and 74.09.700. WSR 06-24-036, § 388-416-0015, filed 11/30/06, effective 1/1/07. Statutory Authority: RCW 74.08.090, 74.09.530, and 74.09.415. WSR 05-19-031, § 388-416-0015, filed 9/12/05, effective 10/13/05. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 2004 c 54. WSR 04-21-064, § 388-416-0015, filed 10/18/04, effective 11/18/04. Statutory Authority: RCW 74.08.090, 74.09.530, and 2003 c 10. WSR 04-03-019, § 388-416-0015, filed 1/12/04, effective 2/12/04. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090 and 74.09.450. WSR 00-08-002, § 388-416-0015, filed 3/22/00, effective 5/1/00. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-416-0015, filed 7/31/98, effective 9/1/98. Formerly 388-509-0970, 388-521-2105, 388-522-2210 and 388-522-2230.]

OTS-3927.1

AMENDATORY SECTION (Amending WSR 20-21-008, filed 10/8/20, effective 11/8/20)

WAC 182-507-0130 Refugee medical assistance (RMA). (1) You are eligible for refugee medical assistance (RMA) if all the following conditions are met. You:

- (a) Meet immigration status requirements of WAC 182-507-0135;
- (b) Have countable resources below (~~one thousand dollars~~) \$1,000 on the date of application;
- (c) Have countable income equal to or below (~~two hundred~~) 200 percent of the federal poverty level (FPL) on the date of application. The following income is not considered when determining eligibility for RMA:
 - (i) Resettlement cash payments made by the voluntary agency (VOLAG);
 - (ii) Income of a sponsor is not counted unless the sponsor is also part of your assistance unit; and
 - (iii) Income received after the date of application.
- (d) Provide the name of the VOLAG which helped bring you to the United States so that the department of social and health services (DSHS) can promptly notify the VOLAG (or sponsor) about the medical application.

(2) If you receive refugee cash assistance (RCA) you are eligible for RMA as long as you are not otherwise eligible for medicaid or a children's health care program as described in WAC 182-505-0210. You do not have to apply for or receive RCA in order to qualify for RMA.

(3) You are not eligible to receive RMA if you are:

(a) Already eligible for medicaid or a children's health care program as described in WAC 182-505-0210;

(b) A full-time student in an institution of higher education unless the educational activity is part of a DSHS-approved individual responsibility plan (IRP); or

(c) A nonrefugee spouse of a refugee.

(4) If approved for RMA, the agency or its designee issues an approval letter in both English and your primary language. The agency or its designee also sends a notice every time there are any changes or actions taken which affect your eligibility for RMA.

(5) You may be eligible for RMA coverage of medical expenses incurred during the three months prior to the first day of the month of the application. Eligibility determination will be made according to medicaid rules.

(6) If you are a victim of human trafficking you must provide the following documentation and meet the eligibility requirements in subsections (1) and (2) of this section to be eligible for RMA:

(a) Adults, (~~(eighteen)~~) 18 years of age or older, must provide the original certification letter from the United States Department of Health and Human Services (DHHS). No other documentation is needed. The (~~eight-month~~) eligibility period will be determined based on the entry date on your certification letter;

(b) A child victim under the age of (~~(eighteen)~~) 18 does not need to be certified. DHHS issues a special letter for children. Children also have to meet income eligibility requirements;

(c) A family member of a certified victim of human trafficking must have a T-2, T-3, T-4, or T-5 visa (derivative T-Visas), and the family member must meet eligibility requirements in subsections (1) and (2) of this section.

(7) The entry date for an asylee is the date that asylum status is granted. For example, you entered the United States on December 1, 1999, as a tourist, then applied for asylum on April 1, 2000, interviewed with the asylum office on July 1, 2000, and were granted asylum on September 1, 2000. The date of entry is September 1, 2000, and that is the date used to establish eligibility for RMA.

(8) (a) RMA ends on either:

(i) The last day of the eighth month from the month you entered the United States if you entered the United States on or before September 30, 2021. For example, if you entered the United States on (~~May 28, 2011~~) September 30, 2021, you are eligible through the end of (~~December 2011~~) April 2022; or

(ii) The last day of the 12th month from the month you entered the United States if you entered the United States on or after October 1, 2021. For example, if you entered the United States on October 25, 2021, you are eligible through the end of September 2022.

(b) You may receive RMA benefits for more months if you are in a category of persons for whom the federal Office of Refugee Resettlement has extended the eligibility period.

(9) If you are approved for RMA you are continuously eligible through the end of the (~~eight month after your entry to the United States~~) initial RMA certification period, regardless of an increase in income.

(10) The agency, or its designee, determines eligibility for medicaid and other medical programs for your spouse when the spouse arrives in the United States. If the spouse is not eligible for medicaid due to your countable income, the spouse is still eligible for RMA

~~((for eight months following the spouse's entry into the United States))~~ under subsection (8) of this section.

(11) If you disagree with a decision or action taken on the case by the agency, or its designee, you have the right to request a review of the case action(s) or request an administrative hearing (see chapter 182-526 WAC). The request must be received by the agency, or its designee, within (~~ninety~~) 90 days of the date of the decision or action.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 20-21-008, § 182-507-0130, filed 10/8/20, effective 11/8/20. Statutory Authority: RCW 41.05.021 and 2011 1st sp.s. c 15. WSR 12-19-001, § 182-507-0130, filed 9/5/12, effective 10/6/12. WSR 12-02-034, recodified as § 182-507-0130, filed 12/29/11, effective 1/1/12. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.320, Pub. L. No. 110-181, National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 111-08, the Omnibus Appropriations Act of 2009, Division F, Title VI, Section 602; Office of Refugee Resettlement State Letter 09-17 from April 9, 2009; and federal guidance issued on May 15, 2009, by the Food and Nutrition Service, United States Department of Agriculture. WSR 09-21-046, § 388-466-0130, filed 10/14/09, effective 11/4/09. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08A.320, 74.08.090, and Public Law 110-161 Section 525; Public Law 110-181 Section 1244; FNS Admin Notice 08-17; State Letter 04-12 from the Office of Refugee Resettlement. WSR 08-14-116, § 388-466-0130, filed 6/30/08, effective 8/1/08. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057. WSR 04-05-010, § 388-466-0130, filed 2/6/04, effective 3/8/04. Statutory Authority: RCW 74.08.090, 74.08A.320. WSR 00-21-065, § 388-466-0130, filed 10/16/00, effective 11/1/00.]

WSR 22-22-089
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed November 1, 2022, 3:56 p.m., effective November 1, 2022, 3:56 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this filing is to create regulations for the services provided at the Rainier School.

Citation of Rules Affected by this Order: New WAC 388-829Z-005, 388-829Z-010, 388-829Z-015, 388-829Z-020, 388-829Z-025, 388-829Z-030, 388-829Z-035, 388-829Z-040, 388-829Z-045, 388-829Z-050, 388-829Z-055, 388-829Z-060, 388-829Z-065, 388-829Z-070, 388-829Z-075, 388-829Z-080, 388-829Z-085, and 388-829Z-090.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.120.

Other Authority: RCW 71A.20.020, 71A.20.050.

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 for preserving the health, safety, and general welfare of clients receiving emergency transitional support services at Rainier School. Clients currently receiving these services were originally admitted to Rainier School in response to the COVID-19 public health emergency. With the declared state of emergency ending, these rules are intended to inform clients about the service they are receiving and the future of that service.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 18, 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 18, Amended 0, Repealed 0.

Date Adopted: November 1, 2022.

Katherine I. Vasquez
Rules Coordinator

SHS-4953.2

Chapter 388-829Z WAC
EMERGENCY TRANSITIONAL SUPPORT SERVICES

NEW SECTION

WAC 388-829Z-005 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(5) and who DDA has determined eligible to receive services under chapter 71A.16 RCW. For purposes of notification, informed consent, and decision-making requirements, the term "client" includes the client's legal representative to the extent of the representative's legal authority.

"DDA" means the developmental disabilities administration, an administration of the department of social and health services, its employees, and authorized agents.

"Direct support professional" means a person who interacts directly with a client while the client receives emergency transitional support services.

"DSHS" or "the department" means the state of Washington department of social and health services, its employees, and authorized agents.

"Legal representative" means a person's legal guardian, limited guardian when the subject matter is within the scope of the limited guardianship, attorney-at-law, attorney-in-fact, or any other person who is authorized by law to act for another person.

"Provider" means the state-operated entity on the Rainier School campus providing emergency transitional support services.

"State of emergency" means an emergency proclaimed as such by the governor pursuant to RCW 43.06.010.

[]

NEW SECTION

WAC 388-829Z-010 What is the purpose of this chapter? This chapter establishes rules for emergency transitional support services. These state-funded services, administered by DDA at Rainier School, were created in direct response to a state of emergency declared by the governor.

[]

ELIGIBILITYNEW SECTION

WAC 388-829Z-015 Who may receive emergency transitional support services? To receive emergency transitional support services, a person must:

- (1) Be eligible for DDA services under chapter 388-823 WAC;
- (2) Be age 18 or older; and
- (3) Have been admitted to Rainier School on or before October 15, 2022, because:
 - (a) The client was hospitalized, or hospitalization was imminent, without medical need during the declared state of emergency; and
 - (b) There were no safe discharge options immediately available to the client.

[]

PROVIDER QUALIFICATIONS

NEW SECTION

WAC 388-829Z-020 What are the minimum requirements for direct support professionals providing emergency transitional support services? To provide emergency transitional support services, a direct support professional must:

- (1) Have a high school diploma or GED equivalent, unless hired before September 1, 1991;
- (2) Be age 18 or older; and
- (3) Have a current background check as required by WAC 388-829Z-025.

[]

NEW SECTION

WAC 388-829Z-025 Who must have a background check? (1) A direct support professional, volunteer, and any other employee who may have unsupervised access to a DDA client must have a background check.

(2) Any person required to have a background check under this section must have a nondisqualifying background check result every two years, or more frequently if required by DSHS.

[]

NEW SECTION

WAC 388-829Z-030 What will disqualify a direct support professional or a volunteer from working in a capacity that may involve access to DDA clients? (1) Criminal convictions and pending charges that disqualify a direct support professional or a volunteer from working with DDA clients are listed in chapter 388-113 WAC.

(2) A volunteer or person employed by an emergency transitional support services provider who receives a DSHS background check with a disqualifying result is prohibited from any unsupervised access to DDA clients.

[]

SERVICE DELIVERY

NEW SECTION

WAC 388-829Z-035 What services and activities must be a part of emergency transitional support services? The provider must provide the following services and activities at no cost to the client:

- (1) A furnished home environment, including a private bedroom;
- (2) Access to a safe outdoor area for recreation;
- (3) Support accessing social and recreational opportunities in the community;
- (4) Access to physical and behavioral health services prescribed by the client's treating professional;
- (5) Three nutritious meals and two snacks per day;
- (6) Bedding and towels;
- (7) Access to laundry facilities; and
- (8) Access to a telephone and a place to make private calls.

[]

NEW SECTION

WAC 388-829Z-040 What policies and procedures must the provider have? (1) The provider must develop and implement policies and procedures that address:

- (a) Client rights, including a client's right to file a complaint or suggestion without interference;
- (b) Reporting requirements for suspected abuse, neglect, financial exploitation, and abandonment;
- (c) Client protections when there have been allegations of abuse, neglect, financial exploitation, or abandonment;
- (d) Emergent situations that may pose a danger or risk to the client or others;
- (e) Response to a missing person and other client emergencies;
- (f) Emergency response plans for natural and other disasters;
- (g) Client access to medical, mental health, and law enforcement resources;
- (h) Notifications to client's primary caregiver, legal representative, or relatives in case of emergency;

(i) Client grievances, including timelines, possible remedies, and information about how to submit unresolved grievances to the department; and

(j) Aspects of medication management, including:

(i) Supervision of medication; and

(ii) Client refusal.

(2) The provider must train employees on its policies and procedures, maintain current written policies and procedures, and make them available upon request to all employees, clients, client legal representatives, and DDA.

[]

NEW SECTION

WAC 388-829Z-045 What requirements must be met before a provider transports a client? Before transporting a client, a provider or direct support professional must have:

(1) Automobile insurance coverage under chapter 46.30 RCW; and

(2) A valid driver's license under chapter 46.20 RCW.

[]

NEW SECTION

WAC 388-829Z-050 How must the provider regulate the water temperature at Rainier School? (1) The provider must regulate the water temperature at Rainier School as follows:

(a) Maintain the water temperature in the household between 105 degrees and 120 degrees Fahrenheit; and

(b) Check the water temperature at least once every six months.

(2) The provider must document compliance with these requirements.

[]

NEW SECTION

WAC 388-829Z-055 What records must the provider keep? (1) For each client, the provider must keep the following information:

(a) The client's name and address;

(b) The name, address, and telephone number of the client's primary guardian or legal representative;

(c) A copy of the client's most recent person-centered service plan;

(d) Nurse delegation records, if applicable;

(e) Progress notes;

(f) Incident reports, if applicable;

(g) Medication documentation, including a medication intake form and medication administration records, if applicable;

(h) A list of the client's personal property upon arrival, acquisition of new property - other than consumables, and property at departure; and

(i) A record of money or gift cards managed by the provider on behalf of the client, if applicable.

(2) An emergency transitional support services provider must also keep the following:

(a) Water temperature monitoring records;

(b) Direct support professional training records; and

(c) Direct support professional time sheets specific to locations worked.

[]

NEW SECTION

WAC 388-829Z-060 How must a provider report suspected abuse and neglect? A provider must immediately report suspected abandonment, abuse, financial exploitation, or neglect of vulnerable adults to:

(1) Adult protective services using the DSHS online reporting tool or by calling 1-877-734-6277 (TTY: 1-800-977-5456); and

(2) Law enforcement agencies as required under chapter 74.34 RCW, including when there is reason to suspect sexual or physical abuse.

[]

TERMINATION

NEW SECTION

WAC 388-829Z-065 When may DDA terminate a client's emergency transitional support services? DDA may terminate a client's emergency transitional support services if:

(1) The client chooses not to receive the service;

(2) The service no longer meets the client's health and safety needs; or

(3) The service is not funded by the legislature, or the program lacks sufficient capacity.

[]

NEW SECTION**WAC 388-829Z-070 What are a client's notice and appeal rights?**

(1) DDA must provide 30 days' advance notice for termination of emergency transitional support services.

(2) A client does not have a right to appeal termination of emergency transitional support services if the basis for termination is a lack of funding or lack of capacity.

[]

CERTIFICATIONNEW SECTION

WAC 388-829Z-075 What are the certification requirements for providers of emergency transitional support services? (1) The provider of emergency transitional support services must be certified by DDA no more than 90 days after the first date of service delivery.

(2) DDA certifies the provider through a certification evaluation.

(3) DSHS-contracted evaluators conduct the certification evaluations.

(4) The provider must participate in a certification evaluation at least once every 12 months.

[]

NEW SECTION

WAC 388-829Z-080 What if the emergency transitional support services provider disagrees with a certification evaluation or certification decision? If an emergency transitional support services provider disagrees with a certification evaluation or certification decision under this chapter, the provider may request an informal dispute resolution meeting with DDA by:

(1) Submitting a written request to DDA no more than 10 days after receiving the final certification letter and report; and

(2) Including a written statement that identifies the challenged action, describes the provider's concerns, and lists regulations and contract standards cited.

[]

NEW SECTION

WAC 388-829Z-085 What happens if the provider is found to be out of compliance? (1) If DDA finds in its evaluation that the emergency transitional support services provider is out of compliance with any part of this chapter, the provider and DDA must develop a plan of correction.

(2) The plan of correction must:

(a) Outline methods for the provider to comply with the required corrections; and

(b) Provide a time frame for the provider to complete the corrective actions.

[]

NEW SECTION

WAC 388-829Z-090 When may DDA stop admission authorization for emergency transitional support services? DDA may stop admission authorization for emergency transitional support services if:

(1) The provider demonstrates inadequate performance or inability to deliver quality care that jeopardizes the client's health, safety, or well-being;

(2) The provider does not complete the corrective actions within the agreed upon time frame;

(3) The provider fails to comply with the requirements of this chapter; or

(4) DDA has substantial evidence that a client's health, safety, or well-being is at risk.

[]

WSR 22-22-090
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-260—Filed November 1, 2022, 4:01 p.m., effective November 3, 2022]

Effective Date of Rule: November 3, 2022.

Purpose: The purpose of this emergency rule is to close commercial purse seine fisheries in Puget Sound Salmon Management and Catch Reporting Areas 12, 12B, and 12C.

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

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

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

Reasons for this Finding: This rule is necessary to close commercial purse seine fishery openings targeting chum salmon in Puget Sound Salmon Management and Catch Reporting Areas 12, 12B, and 12C. In-season information suggests that all citizens fishers are close to the harvestable share of chum at the given agreed-to runsize levels. Fishery information from this week will be evaluated and inform future commercial openings for chum. 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: November 1, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-354-120000Q Puget Sound salmon—Purse seine—Open periods. Effective 7:00 AM until 6:00 PM, November 3, 2022, the following provisions of WAC 220-354-120 regarding commercial Purse Seine open periods in Puget Sound Salmon Management and Catch Reporting Areas 12, 12B, and 12C shall be as follows. All other provisions of WAC 220-354-120 not contained herein remain in effect unless otherwise altered by emergency rule:

Areas	Open/Closed	Time	Date(s)
12, 12B, 12C	Closed	7 AM - 6 PM	11/03/2022

[]

WSR 22-22-091
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-261—Filed November 1, 2022, 4:14 p.m., effective November 2, 2022]

Effective Date of Rule: November 2, 2022.

Purpose: The purpose of this emergency rule is to open an additional period of commercial gillnet fisheries targeting chum in Puget Sound Salmon Management and Catch Reporting Areas 10 and 11.

Citation of Rules Affected by this Order: Repealing WAC 220-354-16000Z; and amending WAC 220-354-160.

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

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

Reasons for this Finding: This rule is necessary to add commercial gillnet fishery openings targeting chum salmon in Puget Sound Salmon Management and Catch Reporting Areas 10 and 11. The latest in-season runsize estimate for South Sound chum salmon based on test fishing is large enough to add an additional opening. 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: November 1, 2022.

Kelly Susewind
Director

NEW SECTION

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

Effective November 2 through November 4, 2022, the following provisions of WAC 220-354-160 regarding commercial gillnet open periods for Puget Sound Salmon Management and Catch Reporting Areas 10 and 11 shall be as described below. All other provisions of WAC 220-354-160 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

Area	Open/Closed	Time	Date(s)
10, 11	Open	5 PM - 9 AM	Opening 11/2 - 11/4/2022

[]

REPEALER

The following section of Washington Administrative Code is repealed effective November 2, 2022:

WAC 220-354-16000Z Puget Sound salmon—Gillnet—Open periods. (22-258)