

**WSR 25-01-016**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-278—Filed December 5, 2024, 5:16 p.m., effective December 6, 2024]

Effective Date of Rule: December 6, 2024.

Purpose: This emergency rule will open a winter recreational crab season in Marine Area 10 and maintain other previously announced Puget Sound recreational crab seasons.

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

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

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

Reasons for this Finding: This rule opens the recreational crab season in Marine Area 10. Agreement between comanagers was recently reached to increase the quota in Marine Area 10. Summer recreational harvest estimates indicate that sufficient quota remains in Marine Area 10 to open recreational crab harvest beginning December 6. Marine Areas 4 east of the Bonilla-Tatoosh line, 5, 6, 7, 8-1, 8-2, 9, and 12 north of a line projected true east from Ayock Point have been open since October 1, and will remain open through December 31, 2024. Marine Area 11 has been open since November 4, and will remain open through December 31, 2024. Marine Area 12 south of a line projected due east from Ayock Point and Marine Area 13 will remain closed until further notice. This rule is necessary to ensure an orderly fishery, manage the fishery within court-ordered sharing requirements, and meet conservation objectives. 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: December 5, 2024.

Amy Windrope  
for Kelly Susewind  
Director

NEW SECTION

**WAC 220-330-04000S Crab—Areas and seasons—Personal use.** Notwithstanding the provisions of WAC 220-330-040, effective December 6 through December 31, 2024, it is unlawful to fish for crab for personal use in Puget Sound in all waters of Marine Areas 4 east of the Bonilla-Tatoosh line, 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12 and 13, except as provided herein:

(1) **Marine areas 4 east of the Bonilla-Tatoosh line, 5, 6, 8-1, 8-2, and 9:** Effective 12:01 a.m. December 6, through 11:59 p.m. December 31, it is permissible to fish for crab for personal use seven days a week.

(2) **Those waters of Marine Area 7 south** and west of a line projected from Village Point, Lummi Island, through the navigation buoy just east of Matia Island, thence to the buoy at Clements Reef, thence to the easternmost point of Patos Island, thence running along the northern shore of Patos Island to the westernmost point of Patos Island, thence true west to the international boundary and south of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island: Effective 12:01 a.m. December 6, through 11:59 p.m. December 31, it is permissible to fish for crab for personal use seven days a week.

(3) **Those waters of Marine Area 7 north** and east of a line projected from Village Point, Lummi Island through the navigation buoy just east of Matia Island thence to the buoy at Clements Reef thence to the easternmost point of Patos Island, running along the northern shoreline of Patos Island and from the westernmost point of Patos Island true west to the international boundary and north of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island: Effective 12:01 a.m. December 6, through 11:59 p.m. December 31, it is permissible to fish for crab for personal use seven days a week.

(4) **Marine Area 10:** Effective 12:01 a.m. December 6, through 11:59 p.m. December 31, it is permissible to fish for crab for personal use seven days a week.

(5) **Marine Area 11:** Effective 12:01 a.m. December 6, through 11:59 p.m. December 31, it is permissible to fish for crab for personal use seven days a week.

(6) **The portion of Marine Area 12 north of a line projected due east from Ayock Point:** Effective 12:01 a.m. December 6, through 11:59 p.m. December 31, it is permissible to fish for crab for personal use seven days a week.

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

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

REPEALER

The following section of Washington Administrative Code is repealed, effective December 6, 2024:

WAC 220-330-04000R Crab—Areas and seasons—Personal use.  
(24-253)

WSR 25-01-021  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE

[Order 24-279—Filed December 6, 2024, 2:37 p.m., effective December 12, 2024]

Effective Date of Rule: December 12, 2024.

Purpose: This emergency rule opens recreational razor clam seasons.

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

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

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

Reasons for this Finding: Survey results show that adequate clams are available in Razor Clam Areas 1, 3, 4, and 5 for recreational harvest. The Washington department of health has certified clams from these Razor Clam Areas 1, 3, 4, and 5 to be safe for human consumption. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: December 6, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-330-16000Y 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 December 12 through December 18, 2024, razor clam digging is permissible in Razor Clam Areas defined in WAC 220-330-160 on dates and during times listed below:

Razor Clam Area	Date	Time
Area 1	December 12 through December 18	From 12:01 p.m. to 11:59 p.m.
Area 2	Closed	Closed

Razor Clam Area	Date	Time
Area 3	December 12 through December 18	From 12:01 p.m. to 11:59 p.m.
Area 4	December 12, 15, and 16	From 12:01 p.m. to 11:59 p.m.
Area 5	December 13, 14, 17 and 18	From 12:01 p.m. to 11:59 p.m.
Area 6	Closed	Closed
Area 7	Closed	Closed

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

REPEALER

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

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

**WSR 25-01-024**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-280—Filed December 6, 2024, 4:46 p.m., effective December 9, 2024]

Effective Date of Rule: December 9, 2024.

Purpose: This emergency rule closes commercial sea cucumber harvest in Sea Cucumber District 2-1.

Citation of Rules Affected by this Order: Repealing WAC 220-340-73000U; and amending WAC 220-340-730.

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

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

Reasons for this Finding: This emergency rule closes commercial sea cucumber harvest in District 2-1, following projected attainment of share. 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: December 6, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-340-73000V Sea cucumbers** Effective December 9, 2024, until further notice, the following provisions of WAC 220-340-730 regarding Puget Sound commercial sea cucumber harvest seasons and landing limits shall be as described herein. All other provisions of WAC 220-340-730 not addressed herein, and unless otherwise amended, remain in effect:

(1) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber District 1, Monday through Sunday of each week.

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

REPEALER

The following section of the Washington Administrative Code is repealed, effective December 9, 2024:

WAC 220-340-73000U Sea cucumbers (24-277)

## WSR 25-01-047

## EMERGENCY RULES

## DEPARTMENT OF ECOLOGY

[Order 24-04—Filed December 11, 2024, 7:52 a.m., effective December 11, 2024, 7:52 a.m.]

Effective Date of Rule: Immediately upon filing.

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

Purpose: Ecology is adopting a new emergency rule, chapter 173-167 WAC, Emergency drought funding. This emergency rule provides eligibility criteria for grant funds to alleviate hardship resulting from the drought declared on April 16, 2024. This new rule making is being reissued for the third time in 2024 so that there will be no break in grant resource availability for 2024 drought impacts. The emergency rule will be in effect until April 10, 2025. If needed, ecology may adopt subsequent emergency rules.

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

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

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

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

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

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

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 13, Amended 0, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 13, Amended 0, Repealed 0.

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

Date Adopted: December 11, 2024.

Laura Watson  
Director

OTS-4763.4

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

NEW SECTION

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

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

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

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

NEW SECTION

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

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



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

#### NEW SECTION

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

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

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

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

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

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

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

#### NEW SECTION

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

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

(a) Applicant information;

(b) Project location and description;

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

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

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

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

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

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

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

(e) Scope of work for the project;

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

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

NEW SECTION

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

(b) Federally recognized tribes.

(c) Public utility districts, formed under chapter 54.04 RCW.

(d) Water and sewer districts, formed under chapter 57.02 RCW.

(e) Conservation districts, formed under chapter 89.08 RCW.

(f) Irrigation districts, formed under chapter 87.03 RCW.

(g) Port districts formed under chapter 53.04 RCW.

(h) Watershed management partnerships formed under RCW 39.34.200.

(2) State agencies are not eligible for grants under RCW 43.83B.415 (1)(c); state agencies may receive funding through inter-agency agreements to address drought hardship under RCW 43.83B.410(6).

NEW SECTION

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

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

(a) The public water system's service area;

(b) The geographic area where irrigated agriculture or livestock are located;

(c) The source of water, or the water body, that supplies water to the entity applying for funding.

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

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

(a) The proposed project or measure must be for an established beneficial use of water and not used for irrigation of new acreage or another new or expanded use.

(b) Water derived from the project or measure must be put to beneficial use and address the current water shortage during the drought declaration.

(c) The proposed project or measure cannot impair existing water rights, including instream and out-of-stream rights.

(d) The applicant must obtain all required permits and approvals for the proposed project prior to initiating work.

(e) If an applicant is seeking funding for a public water system, the applicant must obtain Washington department of health approval of the proposed project.

(f) If an applicant is on behalf of a public water system, the system must describe water conservation actions or demonstrate that

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

NEW SECTION

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

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

NEW SECTION

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

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

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

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

NEW SECTION

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

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

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

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

NEW SECTION

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

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

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

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

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

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

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

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

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

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

(5) Recipients must:

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

(b) Use funds according to the agreement;

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

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

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

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

(a) Progress reports;

(b) Payment requests;

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

(d) Documentation of project implementation;

(e) A final closeout report;

(f) Any other required information.

(7) Ecology will:

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

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

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

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

must follow the closeout requirements in the agreement.

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

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

NEW SECTION

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

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

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

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

**WSR 25-01-060**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-281—Filed December 11, 2024, 1:58 p.m., effective December 12, 2024]

Effective Date of Rule: December 12, 2024.

Purpose: This emergency rule will require release of hatchery steelhead in the Nooksack River and its forks through December 31, 2024, and then close all fishing beginning January 1, 2025.

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

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

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

Reasons for this Finding: This emergency rule is necessary to close hatchery steelhead retention in the Nooksack River and its forks. The 2024-25 hatchery steelhead forecast is 58 fish, well below the 160 fish broodstock goal. These in-season conservation measures are needed to ensure future sport and treaty steelhead fishing opportunities. 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: December 11, 2024.

Amy H. Windrope  
for Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-04000E Freshwater exceptions to statewide rules—Puget Sound.** Effective December 12, 2024, through January 31, 2025, hatchery steelhead retention rules and recreational fishing seasons for Nooksack River and its forks shall be modified as described herein. All other provisions of WAC 220-312-040 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

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

(a) December 12 through December 31, 2024: Hatchery steelhead: Release hatchery steelhead.

(b) January 1 through January 31, 2025: All species: Closed Waters.

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

(a) December 12 through December 31, 2024: Hatchery steelhead: Release hatchery steelhead.

(b) January 1 through January 31, 2025: All species: Closed Waters.

(3) **Nooksack River, North Fork (Whatcom County)**, from Highway 9 Bridge to Nooksack Falls:

(a) December 12 through December 31, 2024: Hatchery steelhead: Release hatchery steelhead.

(b) January 1 through January 31, 2025: All species: Closed Waters.

(4) **Nooksack River, South Fork (Whatcom County)**, from mouth to Skookum Creek: December 12 through December 31, 2024: Hatchery steelhead: Release hatchery steelhead.



**WSR 25-01-066**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-282—Filed December 11, 2024, 4:21 p.m., effective December 11, 2024, 4:21 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to amend commercial crab fishing regulations in Puget Sound.

**WAC 220-340-45500Q:**

- (1) Opens Region 2-East on December 13, 2024, at 8:00 a.m.
- (2) Opens Region 2-West on December 13, 2024, at 8:00 a.m.
- (3) Closes Region 3-4 on December 13, 2024.

**WAC 220-340-47000M:**

- (1) Increases the Region 1 pot limit to 60 pots per license.
- (2) Sets the Region 2-East pot limit to 20 pots per license.
- (3) Sets the Region 2-West pot limit to 20 pots per license.
- (4) Maintains current pot limits in Regions 3-2, 3-3, and 3-4.

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

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

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

Reasons for this Finding: Regions 2-East and 2-West will open on December 13, 2024, at 8:00 a.m. to harvest the remaining available quota in those areas. Region 3-4 will close on December 13, 2024, due to quota attainment. The Region 1 pot limit will be increased to 60 pots per license. This rule maintains current pot limit levels in Regions 3-2, 3-3, and 3-4. There is sufficient allocation remaining to allow continued harvest in Puget Sound commercial crab fisheries in Regions 1, 3-2, and 3-3, until further notice. These provisions are in conformity with agreed management plans with applicable tribes. Comanagement plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. Further adjustments 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 2, Amended 0, Repealed 2.

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

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

Date Adopted: December 11, 2024.

Amy H. Windrope  
for Kelly Susewind  
Director

NEW SECTION

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

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

<b>Geographical Management Unit (WAC 220-320-110)</b>	<b>Open Period</b>
Region 1, MFSF Catch Areas 21A, 21B, and 22B	Immediately, until further notice.
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	Immediately, until further notice.
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	December 13, 2024, until further notice.
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	December 13, 2024, until further notice.
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	December 13 through December 16, 2024.
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	December 13 through December 16, 2024.
Subregion 3-1	Closed, 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)).	Immediately, until further notice.
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	Immediately, until further notice.
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	Immediately, 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	Immediately, until further notice.
Subregion 3-4	Immediately, through December 13, 2024.

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

NEW SECTION

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

Notwithstanding the provisions of 220-340-470, effective Immediately, until further notice:

Effective during the "Open period" listed in WAC 220-340-45500P it is unlawful for any person to harvest crabs with more than the "Pot limit" per license per buoy tag number indicated within each "geographical management unit".

<b>Geographical Management Unit (WAC 220-320-110)</b>	<b>Pot limit</b>
Region 1, MFSF Catch Areas 21A, 21B, and 22B	60
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	60
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	20
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	20
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	20
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	20
Subregion 3-1	0
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)).	60
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	20
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	20
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	0
Subregion 3-3	50
Subregion 3-4	50

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

#### REPEALER

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

- WAC 220-340-45500P Commercial crab fishery—Seasons and areas—Puget Sound. (24-273)
- WAC 220-340-47000L Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas. (24-273)

**WSR 25-01-081**  
**EMERGENCY RULES**  
**SEATTLE COLLEGES**

[Filed December 13, 2024, 8:36 a.m., effective December 13, 2024, 8:36 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Requesting an additional extension to allow time for permanent rule to be adopted on December 24, 2024. To bring Seattle College's (college) student conduct code, chapter 132F-121 WAC, into compliance with the new Title IX final rule governing sex discrimination grievance procedures recently adopted by the United States Department of Education and to update the code to ensure its prohibited conduct and procedures adequately protect the interests of the college's community and the constitutional and procedural rights of individual students.

Citation of Rules Affected by this Order: Amending WAC 132F-121-270, 132F-121-280, 132F-121-290, 132F-121-300, 132F-121-310, 132F-121-330, 132F-121-340, and 132F-121-350.

Statutory Authority for Adoption: RCW 34.05.010(16), 28B.50.140(13).

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: To bring the college's student conduct code, chapter 132F-121 WAC, into compliance with a new final rule issued by the United States Department of Education pursuant to its authority under Title IX of the Education Amendment of 1972 and to update other provisions of the student conduct code to reflect current uses and needs of the college's district and its students.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 8, 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 0, Repealed 0.

Date Adopted: December 13, 2024.

Lorine Hill  
Interim Director of Compliance

**OTS-5793.2**

AMENDATORY SECTION (Amending WSR 23-12-052, filed 6/1/23, effective 7/2/23)

**WAC 132F-121-110 Student misconduct.** Misconduct for which the campuses may impose sanctions includes, but is not limited to, any of the following:

(1) Discriminatory conduct. Discriminatory conduct which harms or adversely affects any member of the college community because of their race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status, religion; creed; genetic information; sexual orientation; age; gender identity; gender expression; veteran's status; or any other legally protected classification.

(2) Sexual misconduct. Sexual misconduct includes sexual harassment, sexual intimidation, sexual violence, domestic violence, and dating violence. Sexual misconduct may also include acts of ~~((sexual))~~ sex-based harassment and sex discrimination prohibited under Title IX. See WAC 132F-121-280.

(a) ~~((Sexual))~~ Sex-based harassment is a form of ~~((sexual))~~ sex discrimination consisting of unwelcome, gender-based, verbal, written, electronic and/or physical conduct. ~~((Sexual))~~ Sex-based harassment does not need to be sexual in nature and can include offensive remarks about a person's gender. There are two types of ~~((sexual))~~ sex-based harassment:

(i) Hostile environment ~~((sexual harassment occurs when the conduct is sufficiently severe and/or pervasive and so objectively offensive that it has the effect of altering the terms or conditions of employment or substantially limiting the ability of a student to participate in or benefit from the college's educational and/or social programs and/or student housing))~~ is unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

(A) The degree to which the conduct affected the complainant's ability to access the recipient's education program or activity;

(B) The type, frequency, and duration of the conduct;

(C) The parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;

(D) The location of the conduct and the context in which the conduct occurred; and

(E) Other sex-based harassment in the recipient's education program or activity.

(ii) Quid pro quo harassment ~~((occurs when an individual, in a position of real or perceived authority, conditions the receipt of a benefit upon granting of sexual favors))~~ is an employee, agent, or other person authorized by the college to provide an aid, benefit, or service under the college's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.

(b) Sexual exploitation. Taking nonconsensual or abusive sexual advantage of another for the respondent's own advantage or benefit, or to benefit or take advantage of anyone other than the one being ex-

exploited, when the behavior does not otherwise constitute one of the other sexual misconduct offenses described herein. Examples of sexual exploitation may include, but are not limited to:

- (i) Invading another person's sexual privacy;
- (ii) Prostituting another person;
- (iii) Nonconsensual photography and digital or video recording of nudity or sexual activity, or nonconsensual audio recording of sexual activity;
- (iv) Unauthorized sharing or distribution of photographs or digital or video recording of nudity or sexual activity, or audio recording of sexual activity, unless otherwise protected by law;
- (v) Engaging in voyeurism. A person commits voyeurism if they knowingly view, photograph, record, or film another person, without that person's knowledge and consent, while the person being viewed, photographed, recorded, or filmed is in a place where the person has a reasonable expectation of privacy;

(vi) Knowingly or recklessly exposing another person to a significant risk of sexually transmitted disease or infection; or

(vii) Causing the nonconsensual indecent exposure of another person, as defined by subsection (21) of this section.

(c) Sexual violence. Sexual violence is a type of sexual discrimination and harassment. Nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, dating violence, incest, statutory rape, and stalking are all types of sexual violence.

(i) Nonconsensual sexual intercourse (anal, oral, or vaginal), however slight, with any object, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(ii) Nonconsensual sexual contact (fondling) is any (~~intentional~~) actual or attempted sexual touching, however slight, with any object or body part, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(d) Consent: Knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity. Each party has the responsibility to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact. A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or reasonably should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct. Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

(e) Domestic violence includes (~~asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law, and, includes conduct that causes emotional, psychological, physical, and sexual trauma~~) physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, coercive control, damage or destruction of personal

property, stalking, or any other conduct prohibited under RCW 10.99.020, committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW 26.55.010.

~~(f) Dating violence means ((violence by a person who has been in a romantic or intimate relationship with the victim, and includes conduct that causes emotional, psychological, physical, and sexual trauma. Whether there was such relationship will be gauged by its length, type, and frequency of interaction))~~ physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person:

(i) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(ii) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(A) The length of the relationship;

(B) The type of relationship; and

(C) The frequency of interaction between the persons involved in the relationship.

~~(g) Stalking is ((intentional and repeated following of another person, which places that person in reasonable fear that the perpetrator intends to injure, intimidate, or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that person is frightened, intimidated, or harassed, even if the perpetrator lacks such an intent))~~ engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(i) Fear for their safety or the safety of others; or

(ii) Suffer substantial emotional distress.

(3) Harassment. Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct not otherwise protected by law, that is directed at a person because of their membership in a protected class 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; religion; creed; genetic information; sexual orientation; gender identity; gender expression; veteran's status; or any other legally protected classification, and includes sexual harassment. Harassing conduct may include, but is not limited to, physical conduct, verbal, written, social media and electronic forms of communication not otherwise protected by law.

(4) Academic dishonesty. Any act of course-related dishonesty including, but not limited to, cheating or plagiarism.

(a) Cheating includes, but is not limited to, using, or attempting to use, any material, assistance, or source which has not been authorized by the instructor to satisfy any expectation or requirement in an instructional course, or obtaining, without authorization, test questions or answers or other academic material that belong to another.

(b) Plagiarism includes, but is not limited to, using another person's ideas, words, or other work in an instructional course without properly crediting that person.

(c) Academic dishonesty also includes, but is not limited to, submitting in an instructional course either information that is known to be false (while concealing that falsity) or work that is substantially the same as that previously submitted in another course (without the current instructor's approval).

(5) Other dishonesty. Any other act of dishonesty related to district operations. Such acts include, but are not limited to:

(a) Forgery, alteration, or misuse of any district document, record, or instrument of identification;

(b) Tampering with an election conducted by or for district students; or

(c) Furnishing false information, or failing to furnish correct information, in response to the request or requirement of a district officer or employee.

(6) Obstruction or disruption of (a) any instruction, research, administration, disciplinary proceeding, or other district activity, whether occurring on or off district property, or (b) any other activity that is authorized to occur on district property, whether or not actually conducted by the district.

(7) Assault, physical abuse, verbal abuse, threat(s), intimidation, harassment, or other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property.

(8) Bullying is unwelcome conduct, whether verbal, physical or otherwise, including "cyber" bullying that is objectively offensive and sufficiently severe, or persistent, and/or pervasive, that it has the effect of substantially limiting the ability of an individual to participate in or benefit from the colleges' educational and/or social programs, and/or student housing. Bullying behavior is conduct that is not otherwise protected by law. Bullying may be top-down, perpetuated by someone with greater positional power towards another with lesser positional power; bottom-up, perpetuated by someone with lesser positional power towards someone with greater positional power; or peer-to-peer. Petty slights, annoyances, offensive utterances, and isolated incidents (unless extremely serious) typically do not qualify as bullying.

(9) Cyber misconduct. Cyberstalking, cyberbullying, or online harassment. Use of electronic communications including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, and social media sites, to harass, abuse, bully or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person. Prohibited activities include, but are not limited to, unauthorized monitoring of another's email communications directly or through spyware, sending threatening emails, disrupting electronic communications with spam or by sending a computer virus, sending false messages to third parties using another's email identity, nonconsensual recording, including images or videos of a sexual nature, and nonconsensual distribution of such material.

~~(10) ((Stalking. Stalking is intentional and repeated following of another person, which places that person in reasonable fear that the perpetrator intends to injure, intimidate, or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that person is frightened, intimidated, or har-~~



assed, even if the perpetrator lacks such an intent.)) Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(a) Fear for their safety or the safety of others; or

(b) Suffer substantial emotional distress.

(11) Attempted or actual damage to, or theft or misuse of, real or personal property or money of (a) the district or state, (b) any student or district officer, employee, or organization, or (c) any other person or organization lawfully present on district property, or possession of such property or money after it has been stolen.

(12) Failure to comply with the direction of a district officer or employee who is acting in the legitimate performance of their duties, or failure to properly identify oneself to such a person when requested to do so.

(13) Participation in any activity which unreasonably disrupts the operations of the district or infringes on the rights of another member of the district community, or leads or incites another person to engage in such an activity.

(14) Weapons. Carrying, holding, wearing, exhibiting, displaying or drawing of any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, explosive device, or any other weapon apparently capable of producing bodily harm is prohibited on the college campus, subject to the following exceptions:

(a) Commissioned law enforcement personnel or legally authorized military personnel while in performance of their duties;

(b) A student with a valid concealed weapons permit may store a firearm in their vehicle parked on campus in accordance with RCW 9.41.050, provided the vehicle is locked and the weapon is concealed from view; or

(c) The president or the president's designee 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 therein.

(d) This prohibition does not apply to the possession and/or use of disabling chemical sprays when possessed and/or used for self-defense.

(15) Hazing. Hazing includes any act committed as part of a person's recruitment, initiation, pledging, admission into, or affiliation with a student organization, athletic team, or living group, or any pastime or amusement engaged in with respect to such an organization, athletic team, or living group that causes, or is likely to cause, bodily danger or physical harm, or serious psychological or emotional harm, to any student or other person attending a public or private institution of higher education or other postsecondary educational institution in this state, including 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, regardless of the person's willingness to participate. "Hazing" does not include customary athletic events or other similar contests or competitions. Hazing includes, but is not limited to, any initiation into a student organization or any pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student.

(16) Alcohol. The use, possession, delivery, or sale of any alcoholic beverage, except as permitted by law, applicable college poli-

cies, or authorized by chancellor or a college president, or being observably under the influence of alcohol.

(17) Drugs.

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

(b) Other drugs. The use, possession, delivery, sale or being under the influence of any legend drug, including anabolic steroids, androgens, or human growth hormones as defined in chapter 69.41 RCW, or any other controlled substance under chapter 69.50 RCW, except as prescribed for a student's use by a licensed practitioner.

(18) Obstruction of the free flow of pedestrian or vehicular movement on district property or at a district activity.

(19) Conduct which is disorderly, lewd, or obscene.

(20) Breach of the peace, or aiding, abetting, or procuring a breach of the peace.

(21) Indecent exposure. The intentional or knowing exposure of a person's genitals or other private body parts when done in a place or manner in which such exposure is likely to cause affront or alarm. Breastfeeding or expressing breast milk is not indecent exposure.

(22) The use of tobacco, electronic cigarettes, and related products is prohibited in any building owned, leased or operated by the college, including 25 feet from entrances, exits, windows that open, and ventilation intakes of such buildings, and where otherwise prohibited. "Related products" include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, water pipes, hookahs, chewing tobacco, and snuff.

(23) Theft or other misuse of computer time or other electronic information resources of the district. Such misuse includes but is not limited to:

(a) Unauthorized use of such resources or opening of a file, message, or other item;

(b) Unauthorized duplication, transfer, or distribution of a computer program, file, message, or other item;

(c) Unauthorized use or distribution of someone else's password or other identification;

(d) Use of such time or resources to interfere with someone else's work;

(e) Use of such time or resources to send, display, or print an obscene or abusive message, text, or image;

(f) Use of such time or resources to interfere with normal operation of the district's computing system or other electronic information resources;

(g) Use of such time or resources in violation of applicable copyright or other law;

(h) Adding to or otherwise altering the infrastructure of the district's electronic information resources without authorization; or

(i) Failure to comply with the district's electronic use policy.

(24) Unauthorized possession, duplication, or other use of a key, keycard, or other restricted means of access to district property, or unauthorized entry onto or into district property.

(25) Abuse or misuse of any of the procedures relating to student complaints or misconduct including, but not limited to:

(a) Failure to obey a subpoena;

(b) Falsification or misrepresentation of information;

(c) Disruption, or interference with the orderly conduct, of a proceeding;

(d) Interfering with someone else's proper participation in a proceeding;

(e) Destroying or altering potential evidence, or attempting to intimidate or otherwise improperly pressure a witness or potential witness;

(f) Attempting to influence the impartiality of, or harassing or intimidating, a student conduct committee member; or

(g) Failure to comply with any disciplinary sanction(s) imposed under this student conduct code.

(26) Safety violations. The operation of any motor vehicle on district property in an unsafe manner or in a manner which is reasonably perceived as threatening the health or safety of another person. Safety violation includes any nonaccidental conduct that interferes with or otherwise compromises any college policy, equipment, or procedure relating to the safety and security of the campus community, including tampering with fire safety equipment and triggering false alarms or other emergency response systems.

(27) Violation of any other district rule, requirement, or procedure including, but not limited to, any that is posted in electronic form, the district's traffic and parking rules, or the requirements for carpool parking.

(28) Violation of any federal, state, or local law, rule, or regulation, including any hate crime.

(29) Ethical violation. The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking a course or is pursuing as an educational goal or major.

In addition to initiating discipline proceeding for violation of the student conduct code, the college may refer any violations of federal, state or local laws to civil and criminal authorities for disposition. The college shall proceed with student disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.

(30) Attempting to commit any of the foregoing acts of misconduct or aiding, abetting, inciting, encouraging, or assisting another person to commit any of the foregoing acts of misconduct.

(31) Retaliation. Retaliation (~~(against any individual for reporting, providing information, exercising one's rights or responsibilities, or otherwise being involved in the process of responding to, investigating, or addressing allegations or violations of federal, state or local law, or college policies including, but not limited to, student conduct code provisions prohibiting discrimination and harassment)~~) means intimidation, threats, coercion, or discrimination against any person by the college, a student, or an employee or other person authorized by the college to provide aid, benefit, or service under the college's education program or activity, for the purpose of interfering with any right or privilege secured by college policies and procedures prohibiting sex discrimination, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part, including in an informal resolution process, in these investigation procedures, and any disciplinary proceeding for sex discrimination. Nothing in this definition precludes the college from requiring an employee to provide aid, bene-

fit, or service under the college's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing.

AMENDATORY SECTION (Amending WSR 21-10-027, filed 4/26/21, effective 5/27/21)

**WAC 132F-121-270 Sex discrimination—Supplemental student conduct code and procedures—Order of precedence.** This supplemental ((procedure applies to allegations of sexual harassment subject to Title IX jurisdiction pursuant to regulations promulgated by the United States Department of Education. See 34 C.F.R. Part 106. To the extent these supplemental hearing procedures conflict with the Seattle Colleges' standard disciplinary procedures, WAC 132F-121-110 through 132F-121-260, these supplemental procedures shall take precedence. The Seattle Colleges may, at its discretion, contract with an administrative law judge or other person to act as presiding officer and assign such presiding officer to exercise any or all of the duties in lieu of the student conduct committee and committee chair)) student conduct code and procedure applies to allegations of sex discrimination arising on or after August 1, 2024, subject to Title IX jurisdiction pursuant to regulations promulgated by the United States Department of Education. See 34 C.F.R. Part 106. To the extent these supplemental hearing procedures conflict with the college's standard student conduct code and procedure, WAC 132F-121-110 through 132F-121-260, these supplemental student conduct code and procedure shall take precedence.

AMENDATORY SECTION (Amending WSR 23-12-052, filed 6/1/23, effective 7/2/23)

**WAC 132F-121-280 ((Prohibited conduct under Title IX.)) Sex discrimination—Prohibited conduct and definitions.** Pursuant to RCW 28B.50.140(13) and Title IX of the Education Amendments Act of 1972, 20 U.S.C. Sec. 1681, the Seattle Colleges may impose disciplinary sanctions against a student or student group who commits, attempts to commit, or aids, abets, incites, encourages, or assists another person to commit, an act(s) of (("sexual harassment.")) "sex discrimination."

For purposes of this supplemental procedure, (("sexual harassment" encompasses the following conduct:

(1) Title IX quid pro quo harassment. Quid pro quo harassment occurs when a student in their capacity as an employee of the Seattle Colleges conditions the provision of an aid, benefit, or service of the Seattle Colleges on an individual's participation in unwelcome sexual conduct.

(2) Title IX hostile environment. Unwelcome sexual or gender-based conduct that a reasonable person would find to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the Seattle Colleges' educational programs or activities, or employment.

(3) Sexual assault. Sexual assault includes the following conduct:

~~(a) Nonconsensual sexual intercourse. Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.~~

~~(b) Nonconsensual sexual contact. Any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.~~

~~(c) Incest. Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of 18.~~

~~(d) Statutory rape. Consensual sexual intercourse between someone who is 18 years of age or older and someone who is under the age of 16.~~

~~(4) Domestic violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW 26.50.010.~~

~~(5) Dating violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person:~~

~~(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and~~

~~(b) Where the existence of such a relationship shall be determined based on a consideration of the following factors:~~

~~(i) The length of the relationship;~~

~~(ii) The type of relationship; and~~

~~(iii) The frequency of interaction between the persons involved in the relationship.~~

~~(6) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.) the following definitions apply.~~

(1) "Complainant" means the following individuals who are alleged to have been subjected to conduct that would constitute sex discrimination:

(a) A student or employee; or

(b) A person other than a student or employee who was participating or attempting to participate in the college's education program or activity at the time of the alleged discrimination.

(2) "Pregnancy or related conditions" means:

(a) Pregnancy, childbirth, termination of pregnancy, or lactation;

(b) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or

(c) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

(3) "Program" or "programs and activities" means all operations of the college.

(4) "Relevant" means related to the allegations of sex discrimination under investigation. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decision maker in determining whether the alleged sex discrimination occurred.

(5) "Remedies" means measures provided to a complainant or other person whose equal access to the college's educational programs and activities has been limited or denied by sex discrimination. These measures are intended to restore or preserve that person's access to educational programs and activities after a determination that sex discrimination has occurred.

(6) "Respondent" is a student who is alleged to have violated the student conduct code.

(7) "Sex discrimination." The term "sex discrimination" includes sex-based harassment, and may occur when a respondent causes more than de minimis (insignificant) harm to an individual by treating them different from a similarly situated individual on the basis of: Sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Conduct that prevents an individual from participating in an education program or activity consistent with the person's gender identity subjects a person to more than de minimis harm on the basis of sex.

(a) Sex-based harassment. "Sex-based harassment" is a form of sex discrimination and means sexual harassment or other harassment on the basis of sex, including the following conduct:

(i) Quid pro quo harassment. A student, employee, agent, or other person authorized by the college to provide an aid, benefit, or service under the college's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.

(ii) Hostile environment. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

(A) The degree to which the conduct affected the complainant's ability to access the college's education program or activity;

(B) The type, frequency, and duration of the conduct;

(C) The parties' ages, roles within the college's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;

(D) The location of the conduct and the context in which the conduct occurred; and

(E) Other sex-based harassment in the college's education program or activity.

(iii) Sexual violence. "Sexual violence" includes nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, incest, statutory rape, domestic violence, dating violence, and stalking.

(A) Nonconsensual sexual intercourse is any sexual intercourse (anal, oral, or vaginal), however slight, with any object, by a person

upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(B) Nonconsensual sexual contact (fondling) is any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(C) Incest is sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of 18.

(D) Statutory rape (rape of a child) is nonforcible sexual intercourse with a person who is under the statutory age of consent.

(E) Domestic violence is physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, coercive control, damage or destruction of personal property, stalking or any other conduct prohibited under RCW 10.99.020, committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington.

(F) Dating violence is physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

(I) The length of the relationship;

(II) The type of relationship; and

(III) The frequency of interaction between the persons involved in the relationship.

(G) Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or to suffer substantial emotional distress.

(b) "Consent." For purposes of this code, "consent" means knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity.

(i) Each party has the responsibility to make certain that the other has consented before engaging in the activity.

(ii) For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

(iii) A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct.

(iv) Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

(c) "Title IX retaliation" means intimidation, threats, coercion, or discrimination against any person by a student, for the purpose of interfering with any right or privilege secured by Title IX, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in a sex discrimination investigation, proceeding, or hearing under this part, including during an informal resolution process, during a Title IX investigation, or during any disciplinary proceeding involving allegations of sex discrimination.

(8) "Student employee" means an individual who is both a student and an employee of the college. When a complainant or respondent is a student employee, the college must make a fact-specific inquiry to determine whether the individual's primary relationship with the college is to receive an education and whether any alleged student conduct code violation including, but not limited to, sex-based harassment, occurred while the individual was performing employment-related work.

(9) "Student group" 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.

(10) "Supportive measures" means reasonably available, individualized and appropriate, nonpunitive and nondisciplinary measures offered by the college to the complainant or respondent without unreasonably burdening either party, and without fee or charge for purposes of:

(a) Restoring or preserving a party's access to the college's educational program or activity, including measures that are designed to protect the safety of the parties or the college's educational environment; or providing support during the college's investigation and disciplinary procedures, or during any informal resolution process; or

(b) Supportive measures may include, but are not limited to: Counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of campus; restriction on contact applied to one or more parties; a leave of absence; change in class, work, housing, or extra-curricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to sex-based harassment.

(11) "Title IX coordinator" is the administrator responsible for processing complaints of sex discrimination, including sex-based harassment, overseeing investigations and informal resolution processes, and coordinating supportive measures, in accordance with college policy.

AMENDATORY SECTION (Amending WSR 21-10-027, filed 4/26/21, effective 5/27/21)

**WAC 132F-121-290** ~~((Title IX jurisdiction.))~~ **Sex discrimination—Jurisdiction.** ~~((1))~~ This supplemental procedure applies only if the alleged misconduct ~~((÷~~

~~(a) Occurred in the United States;~~



~~(b) Occurred during a Seattle Colleges' educational program or activity; and~~

~~(c) Meets the definition of sexual harassment as that term is defined in this supplemental procedure.~~

~~(2) For purposes of this supplemental procedure, an "educational program or activity" is defined as locations, events, or circumstances over which the Seattle Colleges exercised substantial control over both the respondent and the context in which the alleged sexual harassment occurred. This definition includes any building owned or controlled by a student organization that is officially recognized by the Seattle Colleges.~~

~~(3) Proceedings under this supplemental procedure must be dismissed if the decision maker determines that one or all of the requirements of subsection (1)(a) through (c) of this section have not been met. Dismissal under this supplemental procedure does not prohibit the Seattle Colleges from pursuing other disciplinary action based on allegations that the respondent violated other provisions of the Seattle Colleges' student conduct code, WAC 132F-121-110.~~

~~(4) If the student conduct officer determines the facts in the investigation report are not sufficient to support Title IX jurisdiction and/or pursuit of a Title IX violation, the student conduct officer will issue a notice of dismissal in whole or part to both parties explaining why some or all of the Title IX claims have been dismissed.) meets the definition of "sex discrimination" as that term is defined in WAC 132F-121-280 and occurs:~~

~~(1) On college premises;~~

~~(2) At or in connection with college programs or activities; or~~

~~(3) Off college premises, if in the judgment of the college, the conduct has an adverse impact on the college community, the pursuit of its objectives, or the ability of a student or staff to participate in the college's programs and activities.~~

AMENDATORY SECTION (Amending WSR 21-10-027, filed 4/26/21, effective 5/27/21)

**WAC 132F-121-300 Sex discrimination—Dismissal and initiation of discipline.** ~~((1) Upon receiving the Title IX investigation report from the Title IX coordinator, the student conduct officer will independently review the report to determine whether there are sufficient grounds to pursue a disciplinary action against the respondent for engaging in prohibited conduct under Title IX.~~

~~(2) If the student conduct officer determines that there are sufficient grounds to proceed under these supplemental procedures, the student conduct officer will initiate a Title IX disciplinary proceeding by filing a written disciplinary notice with the chair of the student conduct committee and serving the notice on the respondent and the complainant, and their respective advisors. The notice must:~~

~~(a) Set forth the basis for Title IX jurisdiction;~~

~~(b) Identify the alleged Title IX violation(s);~~

~~(c) Set forth the facts underlying the allegation(s);~~

~~(d) Identify the range of possible sanctions that may be imposed if the respondent is found responsible for the alleged violation(s); and~~

~~(e) Explain that the parties are entitled to be accompanied by their chosen advisors during the hearing and that:~~

~~(i) The advisors will be responsible for questioning all witnesses on the party's behalf;~~

~~(ii) An advisor may be an attorney; and~~

~~(iii) The Seattle Colleges will appoint the party an advisor of the Seattle Colleges' choosing at no cost to the party, if the party fails to do so.~~

~~(3) Explain that if a party fails to appear at the hearing, a decision of responsibility may be made in their absence.))~~ (1) Any member of the college community may file a complaint against a student or student group for conduct which may constitute sex discrimination.

(2) The college's Title IX coordinator or designee shall review, process, and, if applicable, investigate complaints or other reports of sex discrimination, including sex-based harassment. The disciplinary process for allegations of sex discrimination, including sex-based harassment, against a student shall be addressed through the student conduct code.

(3) Both the respondent and the complainant in cases involving allegations of sex discrimination shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the disciplinary process and to appeal any disciplinary decision.

(4) When a summary suspension is imposed pursuant to WAC 132F-121-250, the complainant shall be notified that a summary suspension has been imposed on the same day that the summary suspension notice is served on the respondent. The college will also provide the complainant with timely notice of any subsequent changes to the summary suspension order.

(5) The student conduct officer shall review the investigation report provided by the Title IX coordinator, and determine whether, by a preponderance of the evidence, there was a violation of the student conduct code; and if so, what disciplinary sanction(s) and/or remedies will be recommended. The student conduct officer shall, within five business days of receiving the investigation report, serve respondent, complainant, and the Title IX coordinator with a written recommendation, setting forth the facts and conclusions supporting their recommendation. The time for serving a written recommendation may be extended by the student conduct officer for good cause.

(a) The complainant and respondent may either accept the student conduct officer's recommended finding and disciplinary sanction(s) or request a hearing before a student conduct committee.

(b) The complainant and respondent shall have 21 calendar days from the date of the written recommendation to request a hearing before a student conduct committee.

(c) The request for a hearing may be verbal or written, but must be clearly communicated to the student conduct officer.

(d) The student conduct officer shall promptly notify the other party of the request.

(e) The student conduct officer may recommend dismissal of the complaint if:

(i) The college is unable to identify respondent after taking reasonable steps to do so;

(ii) Respondent is not participating in the college's educational programs or activities;

(iii) The complainant has voluntarily withdrawn any or all of the allegations in the complaint, and the Title IX coordinator has de-

clined to initiate their own complaint. In cases involving allegations of sex-based harassment, the complainant must withdraw their complaint in writing;

(iv) The college determines that, even if proven, the conduct alleged by the complainant would not constitute sex discrimination; or

(v) The conduct alleged by the complainant falls outside the college's disciplinary jurisdiction.

(f) If no request for a full hearing is provided to the student conduct officer, the student conduct officer's written recommendation shall be final and implemented immediately following the expiration of 21 calendar days from the service of the written recommendation.

(g) Upon receipt of the student conduct officer's written recommendation, the Title IX coordinator or their designee shall review all supportive measures and, within five business days, provide written direction to the complainant and respondent as to any supportive measures that will be implemented, continued, modified, or terminated. If either party is dissatisfied with the supportive measures, the party may seek review in accordance with the college's Title IX investigation procedure.

(h) If the respondent is found responsible for engaging in sex discrimination, the Title IX coordinator shall also take prompt steps to coordinate and implement any necessary remedies to ensure that sex discrimination does not recur and that complainant has equal access to the college's programs and activities.

AMENDATORY SECTION (Amending WSR 21-10-027, filed 4/26/21, effective 5/27/21)

**WAC 132F-121-310 Sex discrimination—Prehearing procedure.**

~~((1) Upon receiving the disciplinary notice, the chair of the student conduct committee will send a hearing notice to all parties, in compliance with WAC 132F-121-180. In no event will the hearing date be set less than ten days after the Title IX coordinator provided the final investigation report to the parties.~~

~~(2) A party may choose to have an attorney serve as their advisor at the party's own expense. This right will be waived unless, at least five days before the hearing, the attorney files a notice of appearance with the committee chair with copies to all parties and the student conduct officer.~~

~~(3) In preparation for the hearing, the parties will have equal access to all evidence gathered by the investigator during the investigation, regardless of whether the Seattle Colleges intends to offer the evidence at the hearing.)~~ (1) For cases involving allegations of sex discrimination, including sex-based harassment, members of the student conduct committee must receive training on serving impartially, avoiding prejudgment of facts at issue, conflicts of interest, and bias. The chair must also receive training on the student conduct process for sex discrimination cases, as well as the meaning and application of the term, "relevant," in relations to questions and evidence, and the types of evidence that are impermissible, regardless of relevance in accordance with 34 C.F.R. §§ 106.45 and 106.46.

(2) In sex discrimination cases, the college may, in its sole and exclusive discretion, contract with an administrative law judge or other qualified person to act as the presiding officer, authorized to

exercise any or all duties of the student conduct committee and/or committee chair.

(3) In cases involving allegations of sex discrimination, the complainant has a right to participate equally in any part of the disciplinary process, including appeals. Respondent and complainant both have the following rights:

(a) Notice. The college must provide a notice that includes all information required in WAC 132F-121-180 as well as a statement that the parties are entitled to an equal opportunity to access relevant and permissible evidence, or a description of the evidence upon request.

(b) Advisors. The complainant and respondent are both entitled to have an advisor present, who may be an attorney retained at the party's expense.

(c) Extensions of time. The chair may, upon written request of any party and a showing of good cause, extend the time for disclosure of witness and exhibit lists, accessing and reviewing evidence, or the hearing date, in accordance with the procedures set forth in subsection (4)(b) of this section.

(d) Evidence. In advance of the hearing, the student conduct officer shall provide reasonable assistance to the respondent and complainant in accessing and reviewing the investigative report and relevant and not otherwise impermissible evidence that is within the college's control.

(e) Confidentiality. The college shall take reasonable steps to prevent the unauthorized disclosure of information obtained by a party solely through the disciplinary process, which may include, but are not limited to, directives by the student conduct officer or chair pertaining to the dissemination, disclosure, or access to evidence outside the context of the disciplinary hearing.

(4) In cases involving allegations of sex-based harassment, the following additional procedures apply:

(a) Notice. In addition to all information required to be provided in a prehearing notice pursuant to WAC 132F-121-180, the prehearing notice must also inform the parties that:

(i) The respondent is presumed not responsible for the alleged sex-based harassment;

(ii) The parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decision maker;

(iii) They may have an advisor of their choice, who may be an attorney, to assist them during the hearing;

(iv) They are entitled to an equal opportunity to access relevant and not otherwise impermissible evidence in advance of the hearing; and

(v) The student conduct code prohibits knowingly making false statements or knowingly submitting false information during a student conduct proceeding.

(b) Extensions of time. The chair may, upon written request of any party and a showing of good cause, extend the time for disclosure of witness and exhibit lists, accessing and reviewing evidence, or the hearing date. The party requesting an extension must do so no later than 48 hours before any date specified in the notice of hearing or by the chair in any prehearing conference. The written request must be served simultaneously by email to all parties and the chair. Any party may respond and object to the request for an extension of time no later than 24 hours after service of the request for an extension. The

chair will serve a written decision upon all parties, to include the reasons for granting or denying any request. The chair's decision shall be final. In exceptional circumstances, for good cause shown, the chair may, in their sole discretion, grant extensions of time that are made less than 48 hours before any deadline.

(c) Advisors. The college shall provide an advisor to the respondent and any complainant, if the respondent or complainant have not otherwise identified an advisor to assist during the hearing.

(d) Evidence. In advance of the hearing, the student conduct officer shall provide reasonable assistance to the respondent and complainant in accessing and reviewing the investigative report and relevant and not otherwise impermissible evidence that is within the college's control.

(e) Confidentiality. The college shall take reasonable steps to prevent the unauthorized disclosure of information obtained by a party solely through the disciplinary process, which may include, but are not limited to, directives by the student conduct officer or chair issuing directives pertaining to the dissemination, disclosure, or access to evidence outside the context of the disciplinary hearing.

(f) Separate locations. The chair may, or upon the request of any party, must conduct the hearing with the parties physically present in separate locations, with technology enabling the committee and parties to simultaneously see and hear the party or the witness while that person is speaking.

(g) Withdrawal of complaint. If a complainant wants to voluntarily withdraw a complaint, they must provide notice to the college in writing before a case can be dismissed.

AMENDATORY SECTION (Amending WSR 23-12-052, filed 6/1/23, effective 7/2/23)

**WAC 132F-121-330 Sex discrimination—Presentation of evidence.**

~~((The introduction and consideration of evidence during the hearing is subject to the following procedures and restrictions:~~

~~(1) Relevance: The committee chair shall review all questions for relevance and shall explain on the record their reasons for excluding any question based on lack of relevance.~~

~~(2) Relevance means that information elicited by the question makes facts in dispute more or less likely to be true.~~

~~(3) Questions or evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant and must be excluded, unless such question or evidence:~~

~~(a) Is asked or offered to prove someone other than the respondent committed the alleged misconduct; or~~

~~(b) Concerns specific incidents of prior sexual behavior between the complainant and the respondent, which are asked or offered on the issue of consent.~~

~~(4) No negative inference: The committee may not make an inference regarding responsibility solely on a witness's or party's absence from the hearing or refusal to answer questions.~~

~~(5) Privileged evidence: The committee shall not consider legally privileged information unless the holder has effectively waived the privilege. Privileged information includes, but is not limited to, information protected by the following:~~

~~(a) Spousal/domestic partner privilege;~~  
~~(b) Attorney-client and attorney work product privileges;~~  
~~(c) Privileges applicable to members of the clergy and priests;~~  
~~(d) Privileges applicable to medical providers, mental health therapists, and counselors;~~  
~~(e) Privileges applicable to sexual assault and domestic violence advocates; and~~

~~(f) Other legal privileges identified in RCW 5.60.060.)~~ In cases involving allegations of sex-based harassment, the complainant and respondent may not directly question one another or other witnesses. In such circumstances, the chair will determine whether questions will be submitted to the chair, who will then ask questions of the parties and witnesses, or allow questions to be asked directly of any party or witnesses by a party's attorney or advisor. The committee chair may revise this process if, in the chair's determination, the questioning by any party, attorney, or advisor, becomes contentious or harassing.

(1) Prior to any question being posed to a party or witness, the chair must determine whether the question is relevant and not otherwise impermissible; and must explain any decision to exclude a question that is deemed not relevant, or is otherwise impermissible. The chair will retain for the record copies of any written questions provided by any party.

(2) The chair must not permit questions that are unclear or harassing; but shall give the party an opportunity to clarify or revise such a question.

(3) The chair shall exclude and the committee shall not consider legally privileged information unless the individual holding the privilege has waived the privilege. Privileged information includes, but is not limited to, information protected by the following:

(a) Spousal/domestic partner privilege;  
(b) Attorney-client communications and attorney work product privilege;  
(c) Clergy privileges;  
(d) Medical or mental health providers and counselor privileges;  
(e) Sexual assault and domestic violence advocate privileges; and  
(f) Other legal privileges set forth in RCW 5.60.060 or federal law.

(4) The chair shall exclude and the committee shall not consider questions or evidence that relate to the complainant's sexual interests or prior sexual conduct, unless such question or evidence is offered to prove someone other than the respondent committed the alleged conduct, or is evidence of specific instances of prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

(5) The committee may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The committee must not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

AMENDATORY SECTION (Amending WSR 21-10-027, filed 4/26/21, effective 5/27/21)

**WAC 132F-121-340 Sex discrimination—Initial order.** (~~(1)~~ In addition to complying with ~~WAC 132F-121-210~~ the student conduct committee will be responsible for conferring and drafting an initial order that:

- ~~(a) Identifies the allegations of sexual harassment;~~
- ~~(b) Describes the grievance and disciplinary procedures, starting with filing of the formal complaint through the determination of responsibility, including notices to parties, interviews with witnesses and parties, site visits, methods used to gather evidence, and hearings held;~~
- ~~(c) Makes findings of fact supporting the determination of responsibility;~~
- ~~(d) Reaches conclusions as to whether the facts establish whether the respondent is responsible for engaging in sexual harassment in violation of Title IX;~~
- ~~(e) Contains a statement of, and rationale for, the committee's determination of responsibility for each allegation;~~
- ~~(f) Describes any disciplinary sanction or conditions imposed against the respondent, if any;~~
- ~~(g) Describes to what extent, if any, complainant is entitled to remedies designed to restore or preserve complainant's equal access to the Seattle Colleges' education programs or activities; and~~
- ~~(h) Describes the process for appealing the initial order to the Seattle Colleges' president.~~

~~(2) The committee chair will serve the initial order on the parties simultaneously.)~~ In cases involving sex-based harassment, the initial decision shall be served on all parties simultaneously, as well as the Title IX coordinator.

AMENDATORY SECTION (Amending WSR 23-12-052, filed 6/1/23, effective 7/2/23)

**WAC 132F-121-350 Sex discrimination—Appeals.** (~~(1)~~ All parties, including the student conduct officer in their capacity as a representative of the college, have the right to appeal from the determination of responsibility and/or from a dismissal, in whole or part, of a formal complaint during the investigative or hearing process. Appeals must be in writing and filed with the president's office within 21 days of service of the initial order or notice of dismissal. Appeals must identify the specific findings of fact and/or conclusions of law in the initial order or dismissal that the appealing party is challenging and must contain argument as to why the appeal should be granted. Failure to file a timely appeal constitutes a waiver of the right to appeal and the initial order or dismissal shall be deemed final.

~~(2) Upon receiving a timely appeal, the president's office will serve a copy of the appeal on all parties, who will have 10 days from the date of service to submit written responses to the president's office addressing issues raised in the appeal. Failure to file a timely response constitutes a waiver of the right to participate in the ap-~~

~~peal. Upon receipt of written responses, the president's office shall serve copies of the responses to the other parties.~~

~~(3) Parties receiving a copy of the responses shall have five days in which to submit a written reply addressing issues raised in the responses to the president's office.~~

~~(4) The president or their delegate, based on their review of parties' submissions and the hearing or investigative record, will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether a dismissal is affirmed or denied, or if the disciplinary sanctions and conditions imposed in the initial order are affirmed, vacated, or amended, and, if amended, set forth the new disciplinary sanctions and conditions.~~

~~(5) The president's office shall serve the final decision on the parties simultaneously.~~

~~(6) All administrative decisions reached through this process may be judicially appealed pursuant to applicable provisions of chapter 34.05 RCW including, but not limited to, the timelines set forth in RCW 34.05.542.) (1) Any party, including a complainant in sex-based harassment cases, may appeal the committee's decision to the president by filing a written appeal with the appropriate vice president's office (appeal authority) within 21 calendar days of service of the committee's decision. Failure to file a timely appeal constitutes a waiver of the right and the decision shall be deemed final.~~

~~(2) The written appeal must identify the specific findings of fact and/or conclusions of law in the decision that are challenged and must contain argument why the appeal should be granted. Appeals may be based upon, but are not limited to:~~

~~(a) Procedural irregularity that would change the outcome;~~

~~(b) New evidence that would change the outcome and that was not reasonably available when the initial decision was made; and~~

~~(c) The investigator, decision maker, or Title IX coordinator had a conflict of interest or bias for or against a respondent or complainant individually or respondents or complainants generally.~~

~~(3) Upon receiving a timely appeal, the appeal authority will promptly serve a copy of the appeal on all nonappealing parties, who will have 10 business days from the date of service to submit a written response addressing the issues raised in the appeal to the president or a designee, and serve it on all parties. Failure to file a timely response constitutes a waiver of the right to participate in the appeal.~~

~~(4) If necessary to aid review, the appeal authority may ask for additional briefing from the parties on issues raised on appeal. The appeal authority's review shall be restricted to the hearing record made before the student conduct committee and will normally be limited to a review of those issues and arguments raised in the appeal.~~

~~(5) The appeal authority shall serve a written decision on all parties and their attorneys, if any, within 20 calendar days after receipt of the appeal. This decision shall be final and subject to judicial review pursuant to chapter 34.05 RCW, Part V.~~

~~(6) In cases involving allegations of sex-based harassment, the appeal decision must be served simultaneously on all parties and the Title IX coordinator.~~

~~(7) The appeal authority shall not engage in an ex parte communication with any of the parties regarding an appeal.~~



**WSR 25-01-097**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-283—Filed December 13, 2024, 2:56 p.m., effective December 16, 2024]

Effective Date of Rule: December 16, 2024.

Purpose: This emergency rule will limit where commercially harvested Dungeness crab may be landed.

Citation of Rules Affected by this Order: Amending WAC 220-340-420.

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

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

Reasons for this Finding: This rule is necessary to limit where commercial Dungeness crab may be landed in Washington. Limiting landings from Oregon into ports in southern Washington provides access to landing areas in Washington in a manner that minimizes enforcement concerns with transiting Dungeness crab through areas that are closed to commercial harvest in Washington. 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: December 13, 2024.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-340-42000A Commercial crab fishery—Unlawful acts.**

Notwithstanding the provisions of WAC 220-340-420, effective December 16, 2024, until further notice:

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

(2) All other provisions of WAC 220-340-420 remain in effect.

**WSR 25-01-101**  
**EMERGENCY RULES**  
**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Developmental Disabilities Administration)

[Filed December 16, 2024, 8:09 a.m., effective December 19, 2024]

Effective Date of Rule: December 19, 2024.

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

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

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

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

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

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

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

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

population. YTCF was created to fill the gap in the continuum of care for youth with these cooccurring diagnoses.

This is the second CR-103E filed on these rules and is necessary to keep them in effect until DDA completes the permanent rule-making process. DDA has filed a CR-101 proposal under WSR 24-18-015, is progressing through the process, and is preparing the rules for external parties review.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 10, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 10, Amended 0, Repealed 0.

Date Adopted: December 10, 2024.

Katherine I. Vasquez  
Rules Coordinator

**SHS-5052.2**

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

**PURPOSE**

NEW SECTION

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

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

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

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

## DEFINITIONS

NEW SECTION

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

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

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

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

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

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

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

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

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

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

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

**ELIGIBILITY**NEW SECTION

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

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

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

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

(d) Has a serious psychiatric diagnosis;

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

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

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

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

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

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

NEW SECTION

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

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

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

(a) Available capacity.

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

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

(d) Available funding.

## RIGHTS AND RESPONSIBILITIES

### NEW SECTION

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

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

### NEW SECTION

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

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

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

#### NEW SECTION

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

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

#### **DISCHARGE AND TERMINATION**

#### NEW SECTION

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

- (1) The youth turns 18;

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

### ADMINISTRATIVE HEARING RIGHTS

#### NEW SECTION

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

#### NEW SECTION

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

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



**WSR 25-01-124**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 24-284—Filed December 16, 2024, 4:31 p.m., effective December 16, 2024, 4:31 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to amend commercial crab fishing regulations in Puget Sound.

WAC 220-340-45500R closes Region 2-West on December 18, 2024.

WAC 220-340-47000N changes pot limit in closed Region 3-4 to zero and maintains current pot limits in Regions 1, 2-East, 2-West, 3-2, and 3-3.

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

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

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

Reasons for this Finding: Region 2-West will close to harvest on December 18, 2024, due to quota attainment. There is sufficient allocation remaining to allow continued harvest in Puget Sound commercial crab fisheries in Regions 1, 2-East, 3-2, and 3-3, until further notice. These provisions are in conformity with agreed to management plans with applicable tribes. Comanagement plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. Further adjustments 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 2, Amended 0, Repealed 2.

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

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

Date Adopted: December 16, 2024.

Kelly Susewind  
Director

NEW SECTION

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

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

<b>Geographical Management Unit (WAC 220-320-110)</b>	<b>Open Period</b>
Region 1, MFSF Catch Areas 21A, 21B, and 22B	Immediately, until further notice.
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	Immediately, until further notice.
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	Immediately, until further notice.
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	Immediately, until further notice.
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	Immediately, through December 18, 2024.
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	Immediately, through December 18, 2024.
Subregion 3-1	Closed, 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)).	Immediately, until further notice.
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	Immediately, until further notice.
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	Immediately, until further notice.
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Closed, due to ongoing public health concerns.
Subregion 3-3	Immediately, until further notice.
Subregion 3-4	Closed, until further notice.

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

NEW SECTION

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

Effective during the "Open period" listed in WAC 220-340-45500R it is unlawful for any person to harvest crabs with more than the "Pot limit" per license per buoy tag number indicated within each "geographical management unit".

<b>Geographical Management Unit (WAC 220-320-110)</b>	<b>Pot limit</b>
Region 1, MFSF Catch Areas 21A, 21B, and 22B	60
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	60
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	20
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	20
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	20

Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	20
Subregion 3-1	0
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)).	60
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	20
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	20
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	0
Subregion 3-3	50
Subregion 3-4	0

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

REPEALER

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

- WAC 220-340-45500Q Commercial crab fishery—Seasons and areas—Puget Sound. (24-282)
- WAC 220-340-47000M Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas. (24-282)

## WSR 25-01-147

## EMERGENCY RULES

## HEALTH CARE AUTHORITY

(Public Employees Benefits Board)

[Admin #2024-03.04—Filed December 18, 2024, 8:23 a.m., effective December 18, 2024, 8:23 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The health care authority (agency) is refiling WAC 182-12-5200 When is a retiring employee or a retiring school employee who separates from employment eligible to enroll in public employees benefits board (PEBB) retiree insurance coverage, as authorized in HB 1008, chapter 164, Laws of 2023, 68th legislature, 2023 regular session.

Citation of Rules Affected by this Order: New WAC 182-12-5200.

Statutory Authority for Adoption: HB 1008, chapter 164, Laws of 2023, 68th legislature, 2023 regular session.

Other Authority: RCW 41.05.021 and 41.05.160.

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

Reasons for this Finding: This emergency rule making is necessary to implement HB 1008, chapter 164, Laws of 2023, while the authority conducts the permanent rule-making process.

This filing continues the emergency rules filed under WSR 24-18-023, filed on August 23, 2024. Since the filing of this emergency rule, the agency adopted permanent rules under WSR 24-18-080, effective January 1, 2025. This emergency refiling covers the gap between the expiration of the emergency rules and the effective date of the 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 1, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: December 18, 2024.

Wendy Barcus  
Rules Coordinator

**OTS-4906.3**

NEW SECTION

**WAC 182-12-5200 When is a retiring employee or a retiring school employee who separates from employment eligible to enroll in public employees benefits board (PEBB) retiree insurance coverage?** (1) A retiring employee or a retiring school employee who meet the definition of a separated employee as defined in RCW 41.05.011 (25)(a) or (b) is eligible to continue enrollment or defer enrollment in public employees benefits board (PEBB) insurance coverage as a retiree if they meet procedural and substantive eligibility requirements as described in WAC 182-12-171 (1), (2), and (3), except as described in subsection (2) of this section.

(2) Effective January 1, 2024, the exceptions for a retiring employee and a retiring school employee to immediately begin receiving a monthly retirement plan payment to meet the substantive eligibility requirements as described in WAC 182-12-171 (2)(a), (c)(ii), and (d), and 182-12-5110 (4)(b), will include the following:

(a) A retiring employee or a retiring school employee who is a member of a Plan 3 retirement plan, also called a separated employee, must meet their Plan 3 retirement eligibility criteria; and

(b) A retiring employee or a retiring school employee who is a member of the teachers' retirement system Plan 2, school employees' retirement system Plan 2, or public employees' retirement system Plan 2, also called a separated employee, who separates from employment on or after January 1, 2024, and who is at least age 55 and have at least 20 years of service.

(3) The exceptions described in subsection (2) of this section apply to an employee or a school employee who is determined to be retroactively eligible for a disability retirement as described in WAC 182-12-211 (1)(c).